



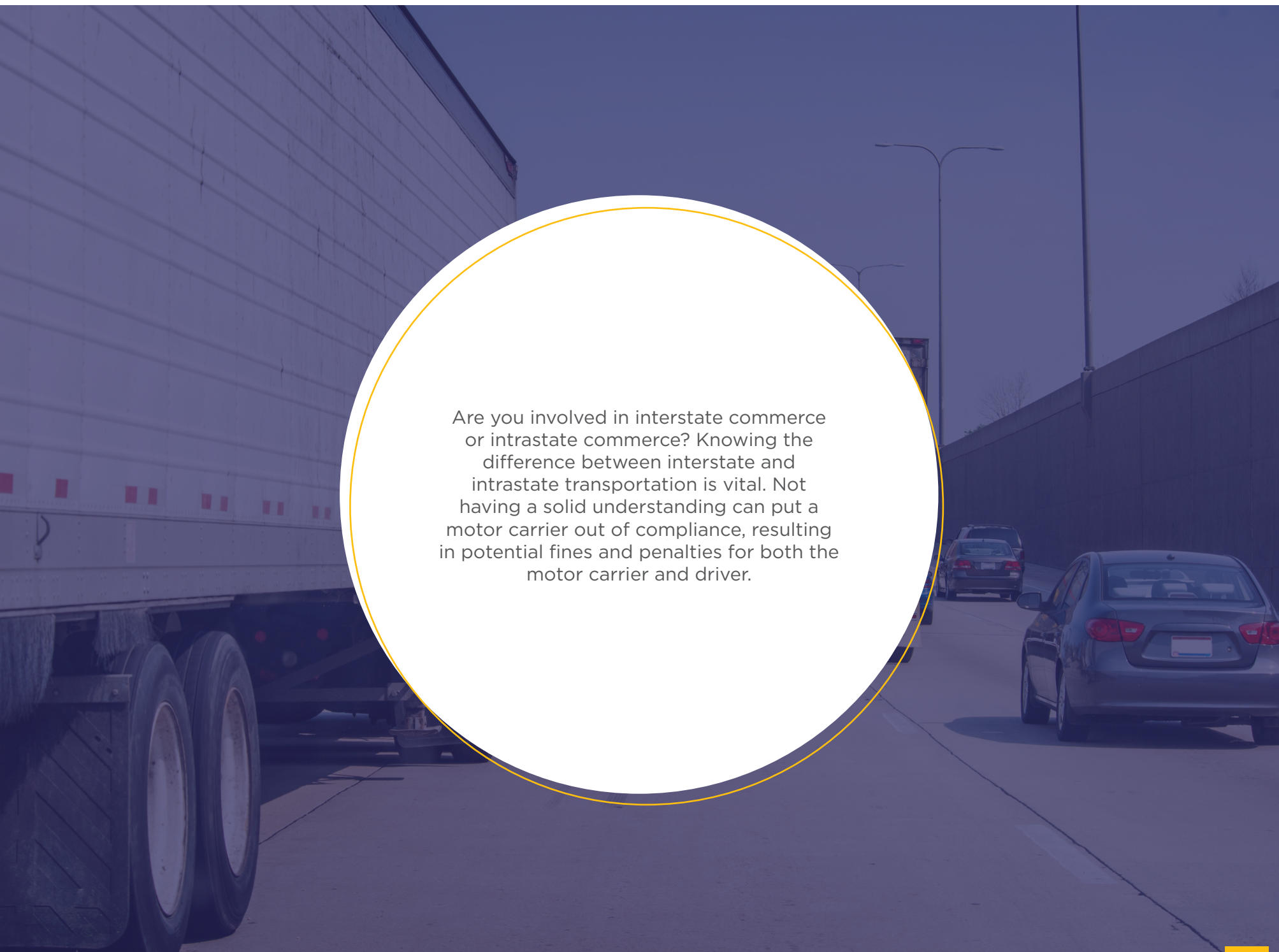
QUARTERLY SPECIAL REPORT

INTERSTATE VS INTRASTATE

*UNDERSTANDING
COMPLIANCE REQUIREMENTS*



TRANSPORT



Are you involved in interstate commerce or intrastate commerce? Knowing the difference between interstate and intrastate transportation is vital. Not having a solid understanding can put a motor carrier out of compliance, resulting in potential fines and penalties for both the motor carrier and driver.

INTERSTATE COMMERCE

The Federal Motor Carrier Safety Administration (FMCSA) defines interstate commerce in 390.5 of the Federal Motor Carrier Safety Regulations (FMCSRs) as trade, traffic, or transportation in the United States:

- ▶ Between a place in a state and a place outside of such state (including a place outside of the United States);
- ▶ Between two places in a state through another state or a place outside of the United States; or
- ▶ Between two places in a state as part of trade, traffic, or transportation originating or terminating outside the state or the United States.

So who exactly does this apply to and when does it apply? This definition applies to drivers and vehicles that:

- ▶ Cross state lines;
- ▶ Travel over the border into and/or from Canada or Mexico; and
- ▶ Travel between two places within the same state, but the cargo or passengers are part of a trip that began or will end in another state or foreign country.





INTRASTATE COMMERCE

The FMCSA defines intrastate commerce in 390.5 of the FMCSRs as any trade, traffic, or transportation in any state which is not described in the term “interstate commerce.”

Intrastate commerce includes drivers and vehicles that remain exclusively within a state. Travel does not include crossing state lines, travel over the border into and/or from Canada or Mexico, or transporting cargo or passengers that originated in or are destined for another state or country.

UNDERSTANDING THE DIFFERENCE

When it comes to understanding the term interstate commerce, the first two items listed are pretty easy to understand. If you cross a border (either to another state or another country), you are considered to be in interstate commerce. The last item listed is a bit more difficult to understand. What is meant by “travel between two places within the same state, but the cargo is part of a trip that began or will end in another state or foreign country?”

The following examples are situations that could be mistaken for intrastate commerce but are actually instances of interstate commerce.

1. Joe picks up a load at the Los Angeles port. Joe then delivers this load to a warehouse seven miles down the road. Though Joe and the vehicle never crossed a state line, the cargo originated in another country (in this case China). Because the cargo originated in another country, this is considered interstate commerce.

2. Sandy is based in Houston, TX. Sandy delivers goods from a warehouse in Houston to a receiver in Dallas. The goods Sandy delivers from the Houston warehouse originate in Oklahoma City. Though Sandy never crosses the state line, the goods delivered to the receiver in Dallas originated in another state (Oklahoma). Because the intent of the shipment is interstate, Sandy is involved in interstate commerce.



WHAT'S THE BIG DEAL?

The big deal is compliance. As previously stated, if a motor carrier doesn't correctly identify its operations, the motor carrier and its drivers may not be in compliance. Noncompliance can lead to fines and penalties for everyone involved. Worse yet, if an accident occurs and it is discovered that the motor carrier and driver were following more lenient intrastate requirements in error, the consequences will be much greater.

Drivers and motor carriers involved in interstate commerce must comply with Parts 390-397 of the FMCSRs when operating a commercial motor vehicle as defined in 390.5 of the FMCSRs.

This definition covers more than just the heavy truck classes. It includes vehicles that are 10,001 to 26,000 pounds gross vehicle weight rating, gross vehicle weight, gross combination weight rating, or gross combination weight. This definition also includes vehicles of any size that transport an amount of hazardous materials requiring placarding, and certain types of passenger-carrying vehicles.

Areas of regulation that must be complied with include driver qualification, physical exam, hours of service, vehicle inspection and maintenance, and marking/identification.

Intrastate compliance with the FMCSRs varies from state to state. Some states adopt the FMCSRs with no amendments or changes for intrastate operations. Other states adopt portions of the FMCSRs, and compliance varies. In many cases, intrastate adoptions are more lenient than the interstate requirements when it comes to compliance.



INTRASTATE COMPLIANCE VARIES FROM STATE TO STATE

Because of this leniency, a carrier may elect to have certain drivers and vehicles that qualify, follow the intrastate requirements. When doing this, the motor carrier must be careful to make sure its drivers and vehicles comply with the intrastate requirements.

One of the common (and in most cases incorrect) assumptions is that an intrastate driver and vehicle are not subject to compliance with the FMCSRs. This is not necessarily true. The motor carrier needs to make sure compliance with the state's intrastate requirements is understood and followed by all involved.

Electing to have certain drivers and vehicles follow a state's intrastate requirements is a business decision. A motor carrier needs to weigh the pros — including the potential for compliance with fewer of the FMCSRs, with the cons — including having to follow and comply with more than one set of regulations.



TAXATION AND AUTHORITY

The issue of interstate and intrastate commerce is addressed in a different manner when it comes to taxes and authority.

Taxation — In state taxation matters, such as vehicle licensing under the International Registration Plan (IRP) and fuel tax reporting under the International Fuel Tax Agreement (IFTA), the only consideration is where the vehicle itself travels. A vehicle may be in interstate commerce, transporting interstate goods or passengers, but if the vehicle never crosses a state border, it is considered intrastate by IFTA and IRP.

Authority — Motor carriers that operate as both interstate and intrastate for-hire carriers are subject to both the FMCSA interstate operating authority/MC Number requirement as well as the intrastate authority requirements in the state of intrastate operation. An interstate carrier legally registered under the Unified Carrier Registration Agreement (UCR) that is also operating as an intrastate for-hire carrier may be required to obtain intrastate authority from the state of operation, but annual intrastate authority renewals are not required.



FINAL THOUGHTS

The criteria for determining whether an operation is involved in interstate or intrastate commerce can be confusing. Compliance with motor carrier safety, taxation, and authority rules and regulations are dependent on how the requirements apply to your operation.

Not correctly applying and complying with the requirements can have serious consequences, including fines and penalties — or worse — for both the motor carrier and its drivers.



ABOUT THE AUTHOR

Jill Schultz, J. J. Keller & Associates, Inc.

Jill Schultz, Senior Editor, is adept at summarizing complex regulatory topics. She is the go-to person for the state DOT regulations. Jill also specializes in entry-level driver training (ELDT).

Jill has been with J. J. Keller & Associates, Inc., since 1993. She stays on top of the FMCSRs and keeps tabs on requirements in all 50 states in the areas of driver qualification, hours of service, vehicle inspection and maintenance, parts and accessories, and more. Jill is also our resident expert on the federal commercial drivers' license (CDL) requirements. Jill uses her expertise to create content and provide support for J. J. Keller® products and services. Jill's work has been featured in several industry trade publications. She also serves on the board of the National Association of Publicly Funded Truck Driving Schools (NAPFTDS).



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