

Do's and Don'ts Following a Commercial Trucking Accident



Do's and Don'ts Following a Commercial Trucking Accident

➤ Drivers

- **Prepare for and practice what to do in the event of a serious accident.**
 1. Remain Calm
 2. Stop
 3. Secure the Scene
 4. Get Help
 5. Get Witness Information
 6. Notify Your Company
 7. Take Photographs

Do's and Don'ts Following a Commercial Trucking Accident

1. Remain Calm

- Take a deep breath
- Do not admit fault..not even a simple “I’m Sorry.”

2. Stop

- Do not move from the crash site.
- Do not start the engine or drive until the electronic recording device has been downloaded.

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3. Secure the Scene

- Failure to properly secure the scene can result in major liability issues.
 - The Federal Motor Carrier Safety Regulations state that if you are going to be stopped for more than ten (10) minutes you have to put reflectors out right away. One reflector should be positioned ten (10) feet behind the vehicle, a second one hundred (100) feet behind. The third reflector should be positioned one hundred (100) feet in front of the vehicle if you are not on a divided highway, or one hundred (100) feet behind the second reflector if you are on a divided highway.

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4. Get Help

- In most cases, call 911 with your cell phone.
 - Do not admit guilt to the operator!
- First Aid training, if trained.

5. Get Witness Information

- Do not get aggressive or harassing.
- Name, phone number, license plate number.

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6. Notify Your Company

- Drivers should give a neutral statement.
- Make sure the person taking the call is trained and prepared.
- Any messages, anything they say, any notes they write, can be used in court.
- Do not give recorded statements to anyone, including an insurance adjuster or investigator hired by the company.

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7. Take Photographs

- Use your cell phone.
 - Train drivers on how to use the time stamp feature.
- Take photographs from all sides of the vehicle – their own and any others involved.
 - Get close-ups.
 - Take a panoramic photograph of the scene.

Do's and Don'ts Following a Commercial Trucking Accident

➤ Company

– **The initial investigation is crucial and time sensitive.**

1. Post-Accident Testing
2. Preservation of Evidence
3. The Vehicle
4. The Accident Scene.
5. Witnesses
6. Data Collection Devices on Vehicles
7. Wireless Communications and Global Positioning
8. Accident Records

Do's and Don'ts Following a Commercial Trucking Accident

1. Post-Accident Testing

- Following a “DOT Recordable or Reportable” accident, trucking companies must test for alcohol and controlled substances.
 - The alcohol test must be conducted within eight (8) hours of the accident; however, if the alcohol test is not administered within two (2) hours, the company must prepare and maintain on file a record stating why the test was not promptly administered.
 - The controlled substances test must be administered within thirty-two (32) hours of the accident and if it is not timely administered, the company must prepare and maintain the same record.

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2. Preservation of Evidence

– Preserve the following:

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| <ul style="list-style-type: none">• Handbooks• Manuals• Operating Procedures• Training/Educational Material• Hiring Policies & Procedures• Drug/Alcohol Test Documents• Qualification/Personnel File• Driver's Daily Logs• Information on the Driver's Duty Status (bills of lading, carrier pros, freight bills, etc.) | <ul style="list-style-type: none">• Audit/Inspection Documents• Company Audit Procedures/Methods• Driver Paychecks• Preventability Documents• "Out-of-Service" Documents• All Investigative Reports• Safety Rating Documents• Insurance Policies (primary and excess)• Company's certificate of authority, license and/or permit | <ul style="list-style-type: none">• Safety Meeting Registers/Documents• Company's Accident Documents• Any and all Photographs and Videos, including "Dash Cam" Videos |
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Do's and Don'ts Following a Commercial Trucking Accident

3. The Vehicle

- Capture Detailed Photographs and Videos.
- The Company's Investigator or Accident Reconstructionist.

4. The Accident Scene

- The Investigator or Accident Reconstructionist should investigate the scene as soon as possible.
- Your investigator should take as many photographs and measurements of the scene as possible.
- The attributes of the roadway and the surrounding area are part of the physical evidence at the scene.
- Any evidence that is not permanently affixed to the accident scene should be photographed, identified on the diagram, bagged and cataloged. The investigator/accident reconstructionist should canvas the scene out to one hundred (100) yards in order to locate possible evidence.
- Your investigator should canvas the businesses and homes in the area in order to locate possible witnesses.

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5. Witnesses

- Your investigator and attorney should contact any witnesses who have been identified.
- Your attorney should interview the investigating officer and any other first responders who were at the accident scene.
- Emergency medical personnel should also be interviewed.
- Local media should be contacted to determine whether they have or are working on a press release of the accident.

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6. Data Collection Devices on Vehicles

- Engine data recording devices, collectively referred to by the general public as “black boxes”, contain indispensable information.
- Most electronically controlled diesel engines on heavy trucks are equipped with an electronic control module or unit (ECM/ECU) that is mounted on the block of the diesel engine.
 - The ECM is referred to as the “brain” of the engine since it controls all aspects of engine operation.
 - Most ECM's have built in memory capabilities which record data about the operation of the vehicle.
 - Most ECM's record data automatically when the driver applies the brakes in an emergency.

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7. Wireless Communication and Global Positioning

- Many trucking companies are contracting with outside service providers for wireless communications and global satellite positioning services used to communicate with and track their fleet.
- This information should be preserved following an accident in order to evaluate and defend allegations such as speeding or the driver exceeding his hours of service.

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8. Accident Records

- For each “DOT Recordable or Reportable” accident, the company must maintain an accident register containing the following specific information:
 - a) Date of Accident
 - b) City or town in which or most near where the accident occurred
 - c) Driver's name
 - d) Number of injuries
 - e) Number of fatalities
 - f) whether hazardous materials, other than fuel, spilled from or were released from the vehicle.

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9. Accident Review

- Commercial carriers are required to review all DOT Recordable or Reportable accidents in order to determine whether the accident was preventable on the part of their driver.
 - The review is done by an accident review committee that is usually comprised of the safety director, terminal managers and at least one driver.
 - The safety director will generally conduct an investigation and present evidence to the review committee for consideration.
 - Votes regarding whether the accident was “chargeable,” “non-chargeable,” “preventable,” or “non-preventable” are usually cast by secret ballot.