



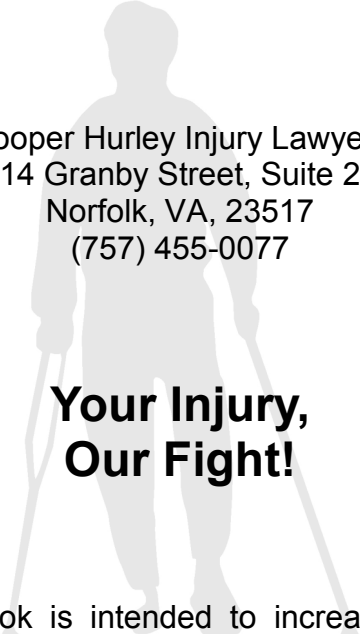
**COOPER HURLEY**  
INJURY LAWYERS



# YOUR RIGHTS WHEN YOU ARE INJURED IN TRUCKING ACCIDENTS

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# KNOW YOUR RIGHTS WHEN YOU ARE INJURED IN TRUCKING ACCIDENTS

A light gray silhouette of a person standing and using two crutches. The person is facing forward, and the crutches are positioned under their arms, extending to the ground.

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## **Your Injury, Our Fight!**

This book is intended to increase your knowledge of your rights if you are injured in a trucking accident. This book does not constitute formal legal advice or create any type of attorney-client relationship.

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## Trucking In Virginia

Large commercial trucks are a common sight on major highways in Virginia and surrounding states. Interstate 95 – which runs top-to-bottom through Virginia and all the way down into Florida – is a major trucking route prone to serious tractor-trailer accidents. Interstate 64 is used by big rigs traveling from the ports of Hampton Roads to Western Virginia. Interstate 81 through Winchester and Roanoke is another major truck route.

The number of truck accident has increased 20 percent in the last two decades, according to the Federal Motor Carrier Safety Administration.

If you have been injured in an accident involving a big rig, chance are, your injuries will be more serious than if you had been hit by a car. Fatalities are more common.

Where truckers are to blame you may have grounds for a personal injury claim against the driver or the trucking company. You may have grounds to file a wrongful death lawsuit if a loved one has been killed.



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## **Why Do Trucking Accidents Occur?**

The trucking business is one of America's most competitive industries and there's a shortage of truck drivers.

Because of this heavy competition, many trucking companies place far too much pressure on their drivers, often imposing unrealistic schedules on deliveries.

When a trucker's paycheck is contingent upon how quickly they make a delivery, or how many miles they drive in a day, it's easy to see why some truck drivers make compromises and operate their vehicles in unsafe circumstances.

## **The Most Common Causes of Trucking Accidents**

Truck drivers lose control of their vehicles far too often. There are a number of circumstances in which a trucker or a company may be to blame. They include:

- Speeding
- Fatigued drivers
- Overloaded trailers
- Improperly-secured loads
- Defective brakes
- Drug use
- Inadequate maintenance



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## Who Can Be Liable After a Trucking Accident

Many people wrongly believe you can sue only the truck driver after an accident. In fact, other parties can be liable. Those who can be held responsible for your injuries include:

- The truck's driver
- The owner of the truck or trailer
- The person or a company that was leasing the truck or trailer from the owner
- The manufacturer of the big rig or related equipment like tires, or Another part of the truck that caused the accident or contributed to its seriousness
- The shipping company or loader of the truck's cargo (in cases involving improper loading)
- The broker or agent who arranged the transportation

Trucking cases can be complicated because the trucking, hauling, and leasing companies will often dispute whose insurance will compensate the victim. An experienced trucking injury law firm like Cooper Hurley with knowledge of the laws of different states, can sort out the liability and insurance coverage minefield.

## **What to Do After a Trucking Accident**

As soon as a trucking accident occurs the lawyers for the trucking company will be working to make a case that it was your fault or not their client's responsibility. Any fault by the injured person can affect them and stop them recovering money in Virginia.

### **Steps to take after an accident**

- Contact 911 – Everyone should be examined by a medical professional if there is any chance they are hurt. The police will need to write up a report.
- Don't talk down your injuries. Never say "I'm OK," if you are not sure. Symptoms can set in later.
- Take pictures – Photos of the accident will be valuable evidence if you decide to file a personal injury case. Include your injuries, all vehicle damage, road conditions, and environmental factors that may have contributed to the accident.
- Collect contact information – You will need the name, address, insurance information, and license information from every driver involved in the accident, as well as the contact information of any witnesses at the scene.
- Contact your insurance company – Your insurance company may send an adjustor to the scene.
- Call an experienced tractor-trailer crash lawyer to find out your rights.



## **Fatigued Truck Drivers**

Tiredness is a major cause of trucking accidents. Even though federal trucking laws prohibit truckers from driving for more than 11 consecutive hours without a break, many drivers cut corners in order to make a delivery on time and receive their paycheck. Fatigue can cause many drivers to:

- Falsify their log books
- Fall asleep at the wheel
- Use drugs to stay awake
- Speed or engage in reckless driving habits

### **Who is Liable?**

When you are involved in an accident with a fatigued truck driver, there can be a number of liable parties:

- The driver himself can be held liable for violating federal trucking laws.
- The company the trucker works for can be held liable for forcing their driver to meet impossible demands, or knowingly allowing unsafe driving.

## **Overloaded Trailers and Improperly Secured Loads**

The maximum weight for a fully loaded tractor-trailer under federal law is 80,000 pounds. Research by the University of Michigan found a big-rig loaded to capacity is twice as likely to be involved in a fatal tractor trailer accident than a truck weighing 50,000 pounds.

Loads that are not correctly secured on a truck can fall off, hitting other vehicles or causing an obstruction in the roadway.

Poorly secured loads can fall onto the road causing a dangerous obstruction. There are specific requirements related to loads being tied down.

An improperly secured load represents negligence and can lead to lawsuits against a trucker, a loading or packing company or a trucking company.



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## **Federal Rules Related to Truck Driver Hours**

New rules related to the time truckers can spend on the road were implemented in July 2013. The rules:

- Limit the maximum average work week for truck drivers to 70 hours, a decrease from an 82 hour maximum.
- Allows truck drivers who reach the maximum 70 hours of driving within a week to resume if they rest for 34 consecutive hours.
- Require truck drivers to take a 30-minute break during the first eight hours of a shift.

Truckers are also submitted to an 11-hour daily driving limit and 14-hour work day. Companies that violate the rules face a fine of \$11,000 per offense.

Many trucking companies may seek to cut corners. If you are hit and hurt by a driver who is in violation of the rules, it will strengthen your injury case if safety rule violations can be proved.

## **Other Federal Motor Carrier Safety Administration Rules**

The FMCSA has a comprehensive set of rules related to trucking companies and drivers. They include:

- Requirements for workplace drug and alcohol testing for truck drivers
- Special training requirements for truck drivers of certain vehicles
- Rules for the transportation of hazardous materials
- Rule requiring the annual safety inspections of trucks
- Rules on the preservation of records

An experienced Virginia trucking accident lawyer can find out if rules have been breached in the course of building a case against a driver, a trucking company or another party.

## **The Commercial Driver's License**

Driving a commercial motor vehicle is a major responsibility. It requires special skills and knowledge. Most drivers must obtain their commercial driver's license (CDL) through their home state. It's illegal to have a license from more than one state. Special endorsements may be required for driving any of the following vehicles:

- A truck with double or triple trailers
- A truck with a tank
- Trucks carrying hazardous materials
- A passenger vehicle

The state of Virginia has age and medical certification requirements for drivers applying for a CDL. You must be at least 18 to obtain an intrastate CDL and age 21 to obtain a CDL.

In some cases drivers involved in an accident, or the trucking company, may have failed to comply with the strict requirements.

## **Truck Drivers and Cell Phones**

The federal rules that apply to truck drivers and cell phone use are different from those that apply to car drivers.

Truck drivers are prohibited from texting while driving irrespective of the laws of a state. Texting means manually entering alphanumeric text into, or reading text from, an electronic device. This includes SMS and email and surfing the Internet.

The driver of a commercial vehicle is also prohibited from reaching for or holding a cell phone, as well as pressing more than a single button.

Truck drivers who use a mobile phone while driving can only operate a hands-free phone.

An experienced trucking injury attorney can request or subpoena records and find out if a trucker was violating laws relating to cell phone use.

## **What You Can Claim For If You are Injured in an Accident with a Truck**

In Virginia a jury or judge can award you money for the following losses:

1. Any bodily injury sustained and how those injuries affect your health including the severity and length of time you are injured.
2. Any physical pain and mental anguish suffered in the past or the future
3. Any scarring and humiliation and embarrassment due to the scarring.
4. Any inconveniences that may be caused in the future due to the injury  
Medical expenses caused as a result of the accident and future medical expenses.
5. Any lost earnings.
6. And decrease of earning capacity that may be reasonably expected to be sustained in the future.
7. Any damage to property.

## WRONGFUL DEATH

Accidents involving 18 wheelers often prove to be serious. If a loved one loses their life in a crash involving a truck, surviving family members can make a negligence claim against the insurance company of the trucker and the trucking company.

In a Virginia wrongful death lawsuit you can claim compensation for:

- Medical expenses
  - Reasonable funeral expenses
  - Projected future income of the deceased
  - Health insurance and other work benefits
  - Projected future financial contributions (e.g. tuition and mortgages)
  - Loss of the value of services to the family (e.g. household chores and yard work)
  - Any sorrow, mental anguish, and loss of solace suffered by beneficiaries.
- Beyond these financial considerations, a wrongful death lawsuit will also seek to gain compensation for “loss of solace,” the unique loss experienced by spouses and children of the deceased.



## **Our Attorney's Past Trucking Verdicts and Settlements**

We cannot guarantee that you will receive particular results as each case is unique. We promise, though, that we will work tirelessly on your case to seek the jury verdict or settlement that you deserve.

- \$5 Million to Hampton Woman – Our client was hit and seriously injured with broken bones and internal injuries in Gloucester County, VA. She was hit by a commercial truck owned by a construction company.
- \$3.5 Million Settlement in Wrongful Death Case – A car passenger was rear-ended by a dump truck on I-64 in Norfolk. He lost his life in a fire. The settlement went to his child.
- \$900,000 for a brain injury – A tractor trailer collided with a passenger vehicle, causing a severe traumatic brain injury for a passenger. The case was settled before trial.
- \$800,000 in a case where our client was a co-driver of a big rig which clipped another truck in the rain on the highway and was rear-ended by another commercial vehicle.
- \$650,000 in broken leg case – Our client's leg was broken in two places when the tread separated on a MACK truck with worn tires and came into her lane in North Carolina.
- \$550,000 in the case of a sailor who suffered serious injuries after he was hit by an out-of-control truck in Newport News

## SUMMARY

Accidents involving commercial trucks are different from other auto accidents. Due to the weight of big rigs, injuries are consistently more serious and more fatal accidents occur.

If you are a car driver, a motorcyclist, or a fellow truck driver, you may suffer terrible injuries in an accident involving a truck and you will need to make sure you get full compensation for your injuries. Fortunately trucking companies must keep higher insurance limits than regular cars, so there is more likely to be coverage for serious and permanent injuries.

Due to the serious nature of injuries in these accidents, or the need to file a wrongful death lawsuit, it's vital to hire experienced injury lawyers such as Cooper Hurley with a long background in representing injured clients in trucking collisions.



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## ABOUT COOPER HURLEY INJURY LAWYERS

**John Cooper**



John Cooper has represented injured people for over 24 years and focuses his practice exclusively on personal injury cases including truck accidents. He is licensed to help those who have been hurt in trucking accidents in Virginia, North Carolina and West Virginia.

John serves on the Board of Governors for the Virginia Trial Lawyers Association. He holds a top “AV” rating from Martindale Hubbell, a national lawyer assessment service and is listed among VA “Super Lawyers” for injury law. He is a member of the Multi-Million Dollar Advocates Roundtable and is Ranked 10 of 10 (“Superb”) by AVVO, a national lawyer assessment service.

**Jim Hurley**



Jim Hurley has represented personal injury clients since 1993 including many people injured by trucks. He has tried approximately 100 jury trials and been involved in thousands of litigation matters.

Jim Hurley is licensed in Virginia and Florida. He holds a top “AV” rating from Martindale Hubbell, reflecting a reputation among judges and lawyers for the highest level of skills and ethics in accident and injury law. Jim Hurley is a member of the Multi-Million Dollar Advocates Roundtable.

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Law partners, John Cooper and Jim Hurley, have more than 40 years' combined experience as personal injury lawyers. Cooper Hurley Injury Lawyers are devoted to providing the quality representation in handling accident and injury cases for individuals harmed by trucks. Our lawyers belong to the Multimillion Dollar Advocates Forum.



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