



On The Move

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SEPTA ADOPTS NEW RULES TO DEFEAT FLSA LAWSUIT, WHILE REFUSING TO ADDRESS THE REAL PROBLEM, MORE TIME IN THE SCHEDULE

For years, SEPTA bus and trolley Operators have been giving the Authority a gift that kept on giving, until recently. Operators started early every day, performing some of their reporting and vehicle inspection tasks off the clock while receiving just ten minutes in compensation to perform more than twenty minutes of work.

In 2006, while in office, and again in 2011, while out of office, Local 234 President Willie Brown promoted the initiation of lawsuits against SEPTA to recover back pay under the Fair Labor Standards Act. The 2006 case involved payment for work performed prior to the start of a swing run operator's second half. The 2011 case involved work performed by all SEPTA operators at the start of the work day.

Prior to settling the swing run case, SEPTA added 10 paid minutes to the schedule for performing the CDL Inspection prior to the start of the second half. The 2011 case settled for back pay and damages, but SEPTA refused to correct the underlying problem---an insufficient amount of time in the schedule to perform all of the required work.

New FLSA lawsuit has full support of Local 234

As a result, on October 28, 2015, eleven, recently hired SEPTA operators, with the assistance of Local 234, initiated a third lawsuit to recover back pay still owed and to fix the underlying problem which is the need to add more paid time to the schedule. The new suit has the full cooperation and support of President Willie Brown and the Local. Over a thousand operators have already consented to join the case. At this stage the suit is being handled by the Local's in-house counsel, but it is expected that a law firm will have to get involved as the demands of the litigation grow. Given SEPTA's response, that's what you can expect.

Here's what SEPTA is doing. Two days after the filing of the new FLSA suit, Mike Liberi, SEPTA's Chief Surface Transportation Officer, issued a Notice directing all surface transportation employees as follows:

Operators are required to report for duty and pick up their transfers at their scheduled report time. Any Operator reporting prior to their scheduled report time will not be acknowledged as having reported and will be asked to return at their scheduled report time to report.

Under the new rule, you cannot report to the window *and start work early*. However, you are still required to perform all of your reporting tasks---getting your transfers, checking the bulletin board for detours, picking up, filling out and depositing your CDL Inspection Checklist, filling out your Waybill, locating your vehicle, walking to your vehicle and performing a proper CDL Inspection. Under the new rule, all of your reporting and inspection tasks must be performed *on the clock*, after your scheduled report, even if it takes more than 10 minutes to do the work.

As soon as Liberi's notice went up, every operator who joined the new lawsuit realized that SEPTA was trying to cut its losses and wiggle out from under additional back pay claims. Moreover, everyone realized that the problem with the new rule is that *the numbers just don't add up*. We all know that it takes *at least* twelve minutes to perform a proper CDL Inspection. We all know that the reporting tasks take another ten minutes.

Operators have to follow the NEW RULES, but still perform all the work

Just because you have to wait until your scheduled report time to start work, doesn't mean you are excused from performing all of the work SEPTA requires, especially the CDL Inspection. The alternative would be to short change or short-cut the CDL Inspection. Then you could have a big problem, because the failure to perform a proper CDL Inspection is a violation of state law. This can lead to the loss of your CDL license and your job as a SEPTA operator. Placing yourself at risk in this way is not a wise thing to do.

The CDL Inspection is a legal mandate. As a result, the inspection must be done and it must be done according to the book. No operator can afford to risk their job by violating the law and the safety of the riding public. So remember, you must inspect your vehicle and insure that the following items are in compliance with state law:

Service/parking brakes	Vehicle Registration & Insurance Card
Air Pressure	Seat belt
Steering Mechanism	Chock
Lights and Reflectors	Doors
Horn	Radios
Windshield Wipers	P.A. System
Rear Vision Mirrors	Destination signs
Wheels, Rims and Tires	Fare box
Emergency Equipment	Signed Previous VCR
Lift/Securement device	

We don't want to see any of our members getting into disciplinary trouble. So, start work at your scheduled report time, complete all of your reporting tasks and conduct a proper CDL Inspection. If you are told to skip over any of the inspection requirements, or if you are rushed or harassed by SEPTA supervision, keep a log and immediately contact a union representative.

SEPTA's new rule is testing the intelligence and strength of our bus and trolley operators. It's a test that we must pass. If not, SEPTA will conclude that it can get over on the Local and its' members at the bargaining table, because we lack the will to fight for what is rightfully ours.