



Commercial Motor Vehicle Review Board (CMVRB)

Annual Report

July 1, 2015 to June 30, 2016
Fiscal Year (FY) 2016

Prepared by:

*Florida Department of Transportation
Commercial Vehicle Operations and
Traffic Incident Management Program
605 Suwannee Street, MS 90
Tallahassee, Florida 32399-0450
(850) 410-5600*

Overview

Chapter 316, *Florida Statutes (FS)*, and Rule 14A, *Florida Administrative Code (FAC)*, provide for an appeal process for commercial carriers who have received citations¹. This process provides the carriers with an opportunity to be heard before the Commercial Motor Vehicle Review Board (Board). The Board does not adjudicate guilt. Rather, the Board serves to grant relief where appropriate.

The Board consists of three permanent members:

- Florida Department of Transportation (FDOT) Secretary,
- Director of the Department of Highway Safety and Motor Vehicles, and
- Commissioner of the Department of Agriculture and Consumer Services.

And four additional members:

- Member representing the agriculture industry as appointed by the Commissioner of the Department of Agriculture,
- Member from the road construction industry as appointed by the Governor,
- Member from the trucking industry as appointed by the Governor, and
- Member with a general business or legal background as appointed by the Governor

The fiscal year (FY) 2016 members were:

- Chairman of the Board, Secretary Jim Boxold (represented by Paul Clark and Jeffery Frost),
- Executive Director Terry Rhodes (represented by David Helton and Tod Browning),
- Commissioner Adam Putnam (represented by Daniel Williamson).
- Member from the agriculture industry, Philip McMillan,
- Member from the road construction industry, vacant,
- Member from the trucking industry, Jared Fritts, and
- Member with a general business or legal background, John McTyre

Any person who wishes to have a penalty, which was issued pursuant to Section 316.516, 316.545, 316.550, or 316.3025, *FS*, considered by the Board shall file a written request for hearing before the Board. The request must be received by the Board no later than 60 days after the date the citation was issued. Only penalties that have been paid will be considered by the Board. It is the Board's responsibility to consider testimony or other evidence that supports modification, cancellation, or revocation of penalties imposed pursuant to Section 316.516, 316.545, 316.550, or 316.3025, *FS*.

Rule 14A-1.004(4), *FAC*, allows for persons, firms, or corporations assessed a penalty for violations of Section 316.516, 316.545, 316.550, or 316.3025, *FS*, that have complied with all applicable requirements

¹ Citation, in the context of this report, refers to commercial motor vehicle citations.

of the rule to appear in person, through an authorized representative, or through legal counsel. Parties have an opportunity to present to the Board any written or oral evidence relating to the Board's consideration of these matters.

Members of the Board may direct questions to any witness at any time during the proceedings, and only testimony and evidence pertinent to the Board's action is allowed. Irrelevant and immaterial or unduly repetitious testimony or evidence is not permitted.

In each case, after the conclusion of both presentations and all inquiries by the Board Members, the Board renders a decision regarding the penalties imposed. Written confirmation of that decision is sent to the protesting parties within thirty (30) days. Pursuant to Rule 14A-1.004(7), *FAC*, the Board's decision is final. A rehearing may be requested if additional evidence is presented pursuant to a request from the Board. Parties may request a rehearing by filing such a request within 14 days of the date of the Board's decision letter.

Fiscal Year 2016 Board Modifications

In June 2015, House Bill 0145 was signed into effect by Governor Scott which modified Section 316.545, *FS*, thus modifying the structure of the Board and its practices. Modifications include providing for the appointment of additional Board members by the Governor and the Commissioner of Agriculture; and also requires the Department of Transportation to provide meeting space and video conference capability at each district office to enable a person requesting a hearing to appear remotely before the Board. Members appointed pursuant to s. 316.545(7)(b) *FS* shall each serve a 2-year term.

Per Section 316.545(7)(e) *FS*, four members of the Board constitute a quorum, and the vote of four members shall be necessary for any action taken by the Board. Due to a delay in the appointment of new members which resulted in a lack of a quorum, the October 2015 board meeting was cancelled. There was a significant increase in case load during November and December 2015 as a direct result.

Beginning November 2015, the Board began providing a meeting space located within each FDOT district office (Chipley, Lake City, Deland, Bartow, Tampa, Ft. Lauderdale, and Miami) enabling those requesting a hearing to appear remotely before the Board regardless of the physical location of the Board proceeding.

Summary of Fiscal Year 2016

The Florida Highway Patrol, Office of Commercial Vehicle Enforcement, and FDOT, Office of Maintenance Motor Carrier Size and Weight, issued 75,171 citations during FY 2016. This is a decrease from last fiscal year's total of 80,109 citations issued. Of the citations issued this fiscal year, only 1064 were protested and met the criteria to be heard before the Board, which is a 21% decrease in the number of citations heard by the CMVRB in the previous fiscal year.

Figures 1 through 5 illustrate a summary of the outcomes of Board hearings for this fiscal year as well as comparisons to the previous three.

Figure 1 - FY 2016 Percentage of Cases Granted Relief

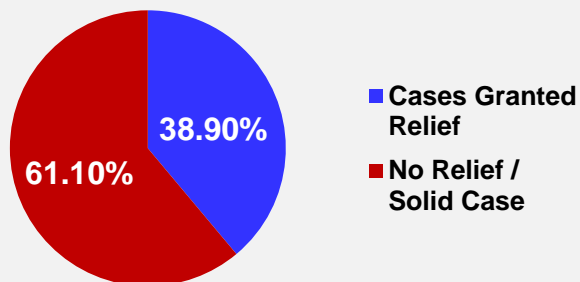
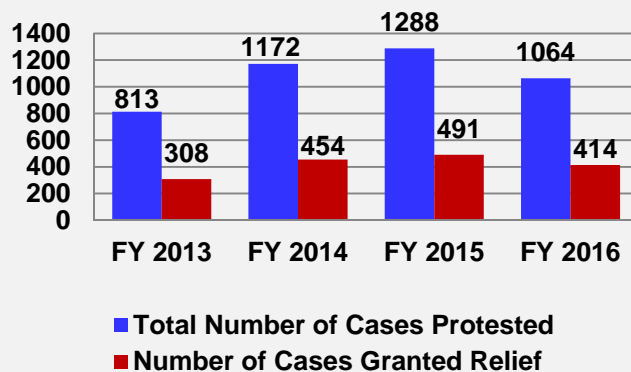


Figure 2 - FY Comparison - Number of Cases Granted Relief

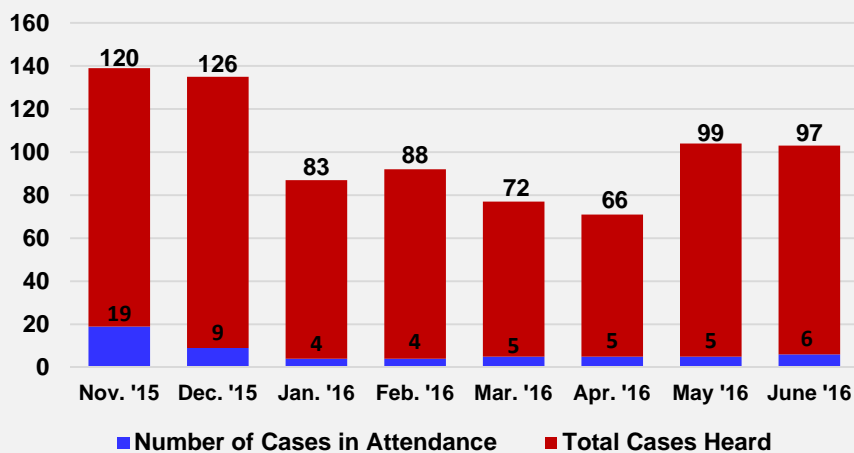


Number of Cases Granted Relief	Total Number of Cases Protested
414	1064

Note: 152 cases were granted full relief and 262 cases were issued partial relief.

Fiscal Year	Percentage of Cases Granted Relief	Percentage of Solid Cases
2013	37.88%	62.12%
2014	38.74%	61.26%
2015	38.12%	61.88%
2016	38.90%	61.10%

Figure 3 - Number of Cases Utilizing Video Conference



Month	Number of Cases Utilizing Video Conference	Percentage of Cases Utilizing Video Conference
Nov. '15	19	15.83%
Dec. '15	9	7.14%
Jan. '16	4	4.81%
Feb. '16	4	4.54%
Mar. '16	5	6.94%
Apr. '16	5	7.57%
May '16	5	5.05%
June '16	6	6.18%

Figure 4 - Percentage of Dollars Granted in Relief

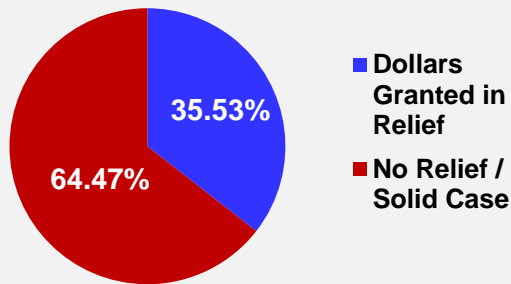
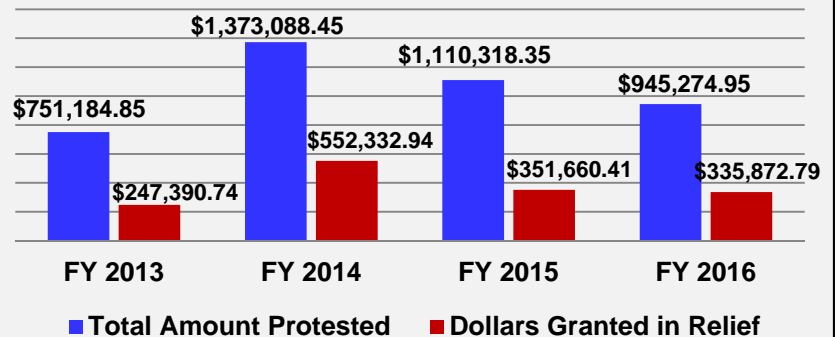


Figure 5 - FY Comparison - Dollars Granted in Relief vs. Total Dollars Protested



Dollars Granted in Relief	Total Amount of Protested Dollars
\$335,872.79	\$945,274.95

Note: \$112,904.60 was given in full relief and \$222,968.19 in partial relief.

Fiscal Year	Percentage of Dollars Granted in Relief
2013	32.93%
2014	40.23%
2015	31.67%
2016	35.53%

Figure 6 summarizes the Board activities for all months in FY 2016.

Figure 6 – FY 2016 Summary of Protested Citations

Month/Yr	Total # Citations	Total Amount of Fines			Total Amount Protested	# of Cases Granted Relief	Total Amount of Refunds			Total Amount of Refunds
		weight	safety	fuel			weight	safety	fuel	
Jul-15	71	\$39,891.60	\$19,600.00	\$2,125.00	\$61,616.60	29	\$14,838.00	\$8,700.00	\$75.00	\$23,613.00
Aug-15	107	\$60,845.55	\$18,200.00	\$2,620.00	\$81,665.55	39	\$28,375.05	\$5,300.00	\$170.00	\$33,845.05
Sep-15	135	\$84,722.20	\$33,190.00	\$2,675.00	\$120,587.20	49	\$32,128.04	\$4,775.00	\$265.00	\$37,168.04
Oct-15										
Nov-15	120	\$64,300.60	\$38,650.00	\$2,805.00	\$105,755.60	53	\$24,234.50	\$10,775.00	\$155.00	\$35,164.50
Dec-15	126	\$96,370.15	\$36,000.00	\$3,910.00	\$136,280.15	58	\$42,847.40	\$8,850.00	\$220.00	\$51,917.40
Jan-16	83	\$55,866.30	\$24,750.00	\$2,655.00	\$83,271.30	36	\$23,554.10	\$5,625.00	\$250.00	\$29,429.10
Feb-16	88	\$61,651.25	\$17,000.00	\$1,910.00	\$80,561.25	30	\$19,434.30	\$2,075.00	\$95.00	\$21,604.30
Mar-16	72	\$28,475.70	\$21,840.00	\$2,130.00	\$52,445.70	32	\$10,488.35	\$7,375.00	\$155.00	\$18,018.35
Apr-16	66	\$38,933.05	\$24,150.00	\$995.00	\$64,078.05	22	\$14,755.30	\$10,900.00	\$30.00	\$25,685.30
May-16	99	\$58,083.25	\$30,490.00	\$3,675.00	\$92,248.25	37	\$22,230.70	\$16,310.00	\$485.00	\$39,025.70
Jun-16	97	\$53,270.30	\$10,890.00	\$2,605.00	\$66,765.30	29	\$18,217.05	\$2,000.00	\$185.00	\$20,402.05
TOTAL	1064	\$642,409.95	\$274,760.00	\$28,105.00	\$945,274.95	414	\$251,102.79	\$82,685.00	\$2,085.00	\$335,872.79

Conclusion

During FY 2016, the Board reviewed 1.4 percent, or 1064, of the 75,171 citations issued; of these, only 0.6 percent, or 414, were awarded either full or partial relief. This is a credit to the dedication and expertise of the sworn law enforcement officers and the non-sworn inspectors ensuring compliance with *Florida Statutes* as they relate to commercial motor vehicles.

The Board's monthly activities have seen a decrease this fiscal year, reviewing on average 97 citations per month; fiscal year 2015 yielded an average of 107 citations monthly. With a predicted increase of commercial motor vehicle traffic over the next several years as well as new laws being heavily enforced, the Board will likely continue to see an increase proportionally with the numbers of citations it reviews annually.