Question:

This question has come up a couple of times recently about Iowa Code 321.176A: Persons Exempt from a Commercial Driver’s License Requirements. The questions revolve around #2 2. A fire fighter while operating a fire vehicle for a volunteer or paid fire organization or a peace officer, as defined in section 801.4, while operating a commercial motor vehicle for a law enforcement agency, under conditions necessary to preserve life or property or to execute related governmental functions.

Specifically our members are curious about the times when a firefighter is driving a truck to a training session, a parade, or to a school for fire prevention awareness. We also have need to drive our apparatus back to the factory from time to time for maintenance which might include crossing state lines. Some are interpreting the law to mean the non-CDL drivers would only be allowed to drive the apparatus to an emergency scene and would require a CDL driver for all other situations.

I'm under the impression that most fire departments have operated under the assumption that anytime a firefighter drives an apparatus falls under "executing related governmental functions." However, Fire Chief's are concerned that if an accident were to occur while someone was driving during a non-emergency situation that it would fall outside the law.

If I could get some clarification on the law I’ll pass it on to our members

Response from the DOT:

Here is a response that was formulated by our Office Director Mark Lowe:

1. Are fire trucks and ambulances subject to DOT inspections annually? Is there an annual requirement to get the brakes adjusted on fire trucks? In short, the answer is no inspection is required for government operated fire trucks and ambulances. For fire trucks and ambulances operated by private companies who provide contracted services, the answer is “possibly”. The Code of Iowa does not include an annual inspection requirement. For commercial vehicles (10,001 or more GVWR), Iowa adopts the Federal Motor Carrier Safety Regulations (FMCSR)- Parts 390-399 via section 321.449 of the Iowa Code and IAC 761.520. The FMCSR’s do have an annual inspection requirement for CMV’s, located in 396.17. This applies to all vehicles with a GVWR 10,001 or more unless specifically excepted. Government operated vehicles are specifically excepted in section 390.3(f)(2) of the FMCSR’s, which excepts them from Parts 390 – 399 of the FMCSR’s. In addition, section 390.3(f)(5) excepts from Parts 390 – 399 “the operation of fire trucks and rescue vehicles while involved in emergency and related operations”. There are six written interpretations in the FMCSR’s regarding fire trucks, rescue vehicles, and emergency operations that discuss when the exception would be applicable. Rather than repeating extensive text here, we have included a link to the FMCSA website: http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrruletext.aspx?reg=390.3&guidence=Y. Please see questions 26 to 31.

The same holds true for the brake adjustment question. Government operated vehicles are specifically excepted from Part 393 (where the brake requirements are located) by the same exception in 390.3(f)(2). Contracted may need to comply – see exception 390.3(f)(5). The FMCSR’s do not have an “annual” requirement to adjust brakes, but rather standards that say the brakes
must be properly adjusted at all times – and that may mean several brake adjustments during the year, depending on usage and the type of brake system.

2. In regards to CDLs, when are fire truck operators exempt from having a CDL? Section 321.176A of the Iowa Code exempts from the commercial driver’s license requirements “[a] fire fighter while operating a fire vehicle for a volunteer or paid fire organization . . . under conditions necessary to preserve life or property or to execute related governmental functions.” Can they return from a call and drive the apparatus? There are no Iowa appellate court decisions or attorney general opinions that provide guidance on the scope of the exemption. Returning from a call would appear to be permitted as the execution of related governmental functions, but an agency may wish to consult with its respective city or county attorney for additional guidance specific to the agency’s activities to determine whether a specific operation is within this exemption. Is training an exemption that is allowed? We know for non emergency functions (parades, etc.) a CDL is required. Again, there are no Iowa appellate court decisions or attorney general opinions that provide guidance on the scope of the exemption. Training would seem to be a related government function that would be within the exemption, but an agency again may wish to consult with its respective city or county attorney for additional guidance specific to the agency’s activities to determine whether a specific operation is within this exemption.

3. Are ambulance drivers required to have a Class D chauffeurs license? The answer to this question is found in section 321.1(8) of the Iowa Code. “A person is not a chauffeur when the operation is by a volunteer fire fighter operating fire apparatus, or is by a volunteer ambulance or rescue squad attendant operating ambulance or rescue squad apparatus. If a volunteer fire fighter or ambulance or rescue squad operator receives nominal compensation not based upon the value of the services performed, the fire fighter or operator shall be considered to be receiving no compensation and classified as a volunteer.”

4. Is there any difference between a municipal fire department or a private/non-profit fire department as far as the exemptions from a CDL or DOT Requirements? Please see the response to Question 1 (vehicles) and Questions 2 and 3 (drivers).

Ultimately my (Ofc Schipper) recommendation is to consult with respective city or county attorneys for guidance as it is somewhat open to interpretation and there is no clear case law, that I am aware of, that has addressed this issue. The possibility of civil action being taken, if an operator were to not have the correct drivers license or CDL and an accident occurred, would concern me. I hope this information is useful and have a great day.

Ofc Schipper