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PUBLICATION OF THE NEW MEXICO TRUCKING ASSOCIATION

## Epic P08 FEATURE Adventures

FOR NEW MEXICO YOUTH!  
A CATALYST FOR POSITIVE LIFE CHANGE.

### ALSO IN THIS ISSUE

Ignoring Work Zone Speed Limits Is Risky and Dangerous  
Surge in Nuclear Verdicts Plagues the Trucking Industry  
Behind the Lights





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**NMTA Managing Director / 2013–2023**

# Reality of Taxation

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As the 2023 session closed and all the different legislators had their moment in the sun (on TV), I can't help but wonder what the average New Mexican thought.

Unfortunately, most don't pay attention to the impact that some of the bills that get passed in the governor's office do to the average citizen on a daily basis.

People normally focus on the issues that hit them on a personal level. We in the industry sometimes only look at our direct interests at specific moments, and that's wrong.

State politics affect everyone. What I mean is, take a simple diesel tax increase or a weight and distance increase, and the average citizen will say, "I don't own a semi, so that does not affect me." (New Mexico is only one of four states that has weight and distance tax on CMVs.)

WRONG! Every increase, no matter how small it sounds, gets passed on to the end consumer — that's you and me!

If you had the ability to follow a product from creation to final destination, I truly believe you would be shocked on how many times it gets taxed before it even reaches its final point.

Due to our tax codes, that problem is worse in New Mexico. Many of our elected officials have been unsuccessfully trying for years to correct this issue. Some voters believe they have been corrected; I am not one of them.

Now knowing that reading the New Mexico tax code can only be as exciting as watching paint dry, I doubt that the average Joe will embark on that task anytime soon. But, do yourself at least a little bit of knowledge seeking, and the next time someone says, "That does not affect me," realize that in the world of taxation and reality, **IT DOES!!!!**



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# A SAFE PLACE TO DRIVE

The New Mexico State Police Commercial Vehicle Enforcement Bureau anticipates another successful Challenge Competition this year while working in cooperation with the New Mexico Trucking Association. There will be an abundance of new competitors this year, ready to showcase their knowledge in the hopes of representing New Mexico at the North American Inspectors Championship in Columbus, Ohio.

There have been exciting new changes in the past few months thanks to the efforts of New Mexico State Police Chief Tim Johnson and the MCSAP staff. New Mexico State Police has expanded their efforts to reduce crashes and bridge the gap between enforcement and the industry with the implementation of the Commercial Vehicle Enforcement Strike Team. These specialized officers around the state are not only dedicated to the safe operation of commercial motor vehicles, but also to educate and assist any motor carrier with safety presentations and general Q&A of rules and regulations. If any of this is of interest, please reach out if you'd like more information or to schedule a training.

As summer approaches, we look forward to continuing our combined efforts to make New Mexico a safe place to travel and a safer place to conduct commercial vehicle commerce.

Best Regards,  
 Joe J. Romero, Captain  
 New Mexico State Police  
 Commercial Vehicle Enforcement Bureau





# *Epic* Adventures for New Mexico Youth! *A Catalyst for Positive Life Change.*

LifeQuest and The 4:13 Journey, serving NM's youth...  
one relationship at a time.

**W**hat a thrill to have the opportunity for  
LifeQuest and its many programs to be a  
part of New Mexico Trucking this month.  
Who better represents American values of God,  
family, and community than our truck drivers?



As residents of the amazing state of New Mexico, we have the privilege of living in the land of breathtaking sunsets, gorgeous landscapes, and magnificent skies. But unfortunately, we also live in a state where our youth are in very serious trouble. In crises, actually! As you may be aware, for six of the last seven years, **New Mexico has been ranked dead last in United States' "child wellbeing" and has been labeled the worst state to raise a child.** Maybe we need to print a bumper sticker that says "Thank God for Mississippi, or New Mexico would be last EVERY year!" Youth violence, school dropouts, poor education, violent crime, and drugs EVERYWHERE are the culture in which our kids are growing up. And NO young person is immune.

**LifeQuest is doing something to see this change ... one youth and one relationship at a time.**

At LifeQuest USA, we are a faith-based nonprofit, comprised of a dedicated staff and volunteers who serve youth throughout the state of New Mexico in MANY different capacities. For starters, we serve and work with incarcerated and adjudicated youth in juvenile detentions facilities throughout the state. But we are currently hyper focused on working with youth BEFORE they get into trouble, with the primary goal of **being a catalyst in their lives to help set them on the right path while equipping them with the tools and resources they need to reach their absolute HIGHEST POTENTIAL.**

With the work we do in the juvenile detention facilities, we provide Bible studies, Character Development classes, a three-day seminar called Ready4Life, and GED tutoring. We have also provided College and Career Fairs as well as Christmas parties every year. Yet every function we perform within those juvenile facilities has one main function ... to see a one-on-one mentoring relationship develop between a staff or volunteer from LifeQuest and a youth. And



that relationship doesn't end when that youth is released from incarceration. We're still talking with many youth that are now well into young adulthood, and we're helping them navigate life. And what a savings to the New Mexico taxpayer! **Did you know that the cost to incarcerate one youth for one year in New Mexico exceeds \$250,000?** So, if our efforts help just four kids from getting incarcerated again this year after being released, we have helped save the taxpayers of New Mexico over a million dollars! And we've been doing those things for over 20 years now.

**But all of that wasn't enough.** We, as a board and staff, had talked for years about how to influence young people BEFORE they get into trouble. In response to that question, in 2020 LifeQuest launched a new program called **The 4:13 Journey.** This 12-week outreach takes youth on a journey of discovery, using the spirit of adventure and the challenge of the great outdoors as a catalyst to help them develop strong character so they can reach their highest potential. We are currently conducting the fifth 4:13 Journey program, and in the fall of 2023 we will expand to three different sites to do three 4:13 programs. These 12 weeks include a classroom setting once a week where positive character traits are taught including integrity, love, compassion, and forgiveness just to name a few. Then, every other week, we provide EPIC adventures for the youth, from hiking, rock climbing, and rappelling, to music and equestrian adventures.

And then, for every youth that successfully completes **The 4:13 Journey, our capstone adventure is an EPIC hike of the Grand Canyon.** It's amazing to see these youth step out of their comfort zones and accomplish something they thought they could never do! It's an excellent way to provide a great foundation for their future!

**How is it all working? Better to let the mother of one of our youth tell that in her own words. This is what Kim had to say:**



“The 12 weeks of the 4:13 Journey were an amazing experience for me and my 12-year-old son. I wish I could say he was not at risk of being incarcerated. As a mom, I wanted a healthy upbringing for my child. But circumstances led to an abusive relationship with my ex-husband and finding my young children hiding in closets and under beds. It’s been seven years since we left. I had hoped leaving would give my son room to heal. As he moved into his 12<sup>th</sup> year, he started showing aggression toward me and continued to take his aggression out on things. His heart was angry and he showed such sensitivity toward any correction. It scared me to see him showing tendencies modeled from his father.

“Finding LifeQuest was an answer to prayer. Knowing he was exposed to a real experience of thriving through adversity has brought me to tears many times. He learned life skills from people who have been where he has been, opened his ears and heart to hear the teaching, and feel the love. Teaching him a new way to handle past hardship. He was shown a new way to live by being in the outdoors and creating goals and meeting them. I saw my child who was stuck in his room and stuck in his anger have a desire to create and live.

Unknown to me, he loves to bake; during the 12 weeks he started baking. Planning, researching, spending birthday money on supplies, and creating amazing pastries and desserts. The motivation I see in him to live, not just exist, and to thrive instead of just survive is life-changing. Today, he has a clean room. I know that doesn’t sound like much, but it is significant to me because he does this on his own. Taking responsibility for himself and his things. He has been accepted into honors class because his teachers said he had the skill but they hadn’t seen the motivation until now.

It’s not that we don’t have struggles. He still gets angry and has a tendency to want to give up. But for these 12 weeks, he was able to experience life and feel success. We now have open communication

and ways he can regulate his anger. I’ve seen him change spiritually. He has moved from seeing the church and the Bible as dos and don’ts to learning scripture and asking questions. I’ve seen anger turn to kindness because he understands hurt. He came home from LifeQuest asking questions about the Bible and paying attention to the sermons at church.

I’ve prayed for my son since he was born. I dedicated my parenthood to teach him about God’s word. But LifeQuest put my words and prayers in live-action. Strangers loving him, teaching him about character, and giving a real example of love, life, skills, and motivation to be what God calls him to be.

This experience has moved him out of the path to incarceration. Anger makes a person do horrible things. Through LifeQuest, my son has exchanged anger for motivation. That’s a heart change. That’s peace for this mother who wants and prays for God’s perfect will for her children.”

**For more information about LifeQuest USA and how you can be involved, please visit the website at [www.lifequestusa.org](http://www.lifequestusa.org).**

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*Space is limited please RSVP*

# IGNORING WORK ZONE SPEED LIMITS IS **RISKY** AND **DANGEROUS**

## STATE POLICE ISSUE HUNDREDS OF DOUBLE-FINE CITATIONS NEAR I-25/ LA BAJADA CONSTRUCTION ZONE

BY MARISA MAEZ, NMDOT Communication Director

**If you have driven on I-25 heading north or southbound through the La Bajada construction zone lately, you have probably noticed state police vehicles parked in the median at the bottom of the sweeping hill or patrolling the area.**

This past July, the New Mexico Department of Transportation (NMDOT) and Mountain States Constructors Inc. began a slope mitigation, road stabilization project on La Bajada outside Santa Fe. The project is expected to be completed in November 2024.

Drivers have seen and will continue to see various lane closures and lane restrictions, which means minor delays and inconveniences to commuters, haulers, and travelers. As always, in any construction zone, reduced speed limits are posted to protect construction crews and drivers. At La Bajada, as motorists approach the project site, the speed limit drops from 75 mph to 65 and eventually 55 in the heart of the construction zone.

“Speed limits are not suggestions,” said Transportation Secretary Ricky Serna. “You can’t continue to hit 80 between those orange barrels. It’s flat out dangerous and selfish. Drivers are flying up and down the hill putting the workers and other drivers at risk. It’s got to stop.”

If drivers are going to ignore the speed limits, then New Mexico State Police will certainly get motorists’ attention when they’re pulled over and slapped with a citation in a double-fine zone. Since the project began seven months ago, police have responded to six crashes and issued more than 1,800 citations in the area. Most of them were for speeding.



The latest stats from the Federal Highway Association (FHWA), show in 2020 there were 857 work zone fatalities in 2020; 680 involved drivers and passengers. Speed was a contributing factor in more than 37% of those work zone deaths. That same year, 117 workers were killed in work zones nationwide.

Every spring, FHWA sponsors National Work Zone Awareness Week to bring attention to motorist and worker safety in work zones. This year’s event takes place April 17-21. The theme is “You play a role in work zone safety. Work with us!”







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SURGE IN


# Nuclear Verdicts

PLAGUES THE TRUCKING INDUSTRY

BY MOLLY MUTH, *E&M Consulting, Inc.*







**N**uclear verdicts are defined as verdicts with awards in excess of \$10 million. The number of nuclear verdicts in the trucking industry has recently skyrocketed, drawing concern from motor carriers. The average size of verdicts greater than \$1 million rose from \$2.3 million in 2010 to \$22.3 million in 2018, nearly a 1,000% increase.<sup>1</sup> According to the American Transportation Research Institute (ATRI), some cases are based on a failure to comply with Federal Motor Carrier Safety Regulations (FMCSRs), but many juries rule in favor of plaintiffs even when motor carriers adhere to FMCSRs — and this leads to devastating outcomes for fleets.<sup>2</sup> Frequently, courts cite hours-of-service violations, lack of clean driving history and driver fatigue as reasons to decide in favor of the plaintiffs.<sup>3</sup>

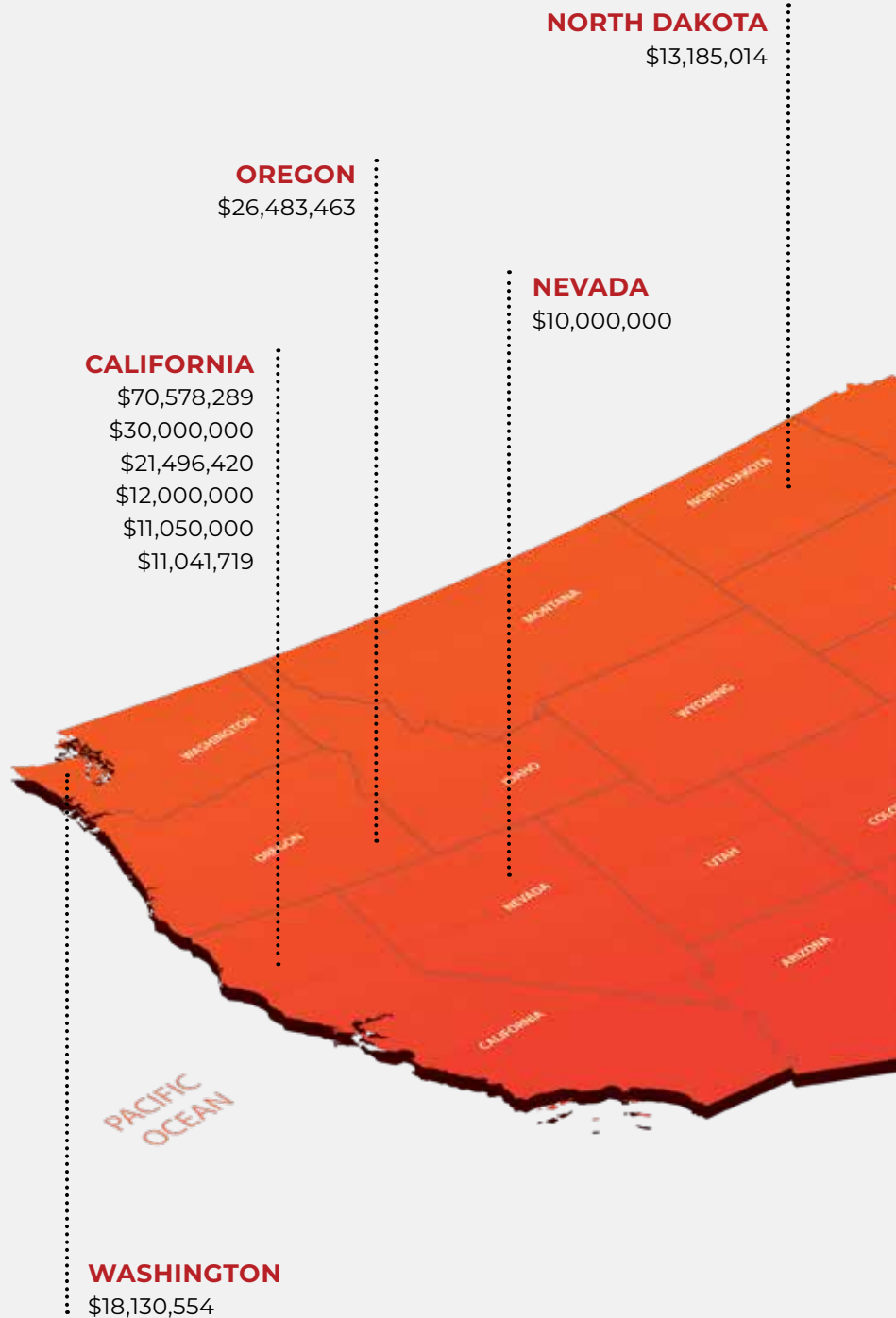
**With rising costs, motor carriers — particularly smaller companies — are scaling back their insurance coverages. Purchasing less coverage can leave carriers vulnerable to being hit with a nuclear verdict that puts them out of business.**

One result of nuclear verdicts has been an increase in the price of insurance for motor carriers. In the commercial trucking market, insurance rates have increased by an average of 20-25% annually over the past two years, and excess or umbrella liability has increased by over 75% in price.<sup>4</sup> These price increases are in part due to the prevalence of nuclear verdicts in the trucking industry. With rising costs, motor carriers — particularly smaller companies — are scaling back their insurance coverages. Purchasing less coverage can leave carriers vulnerable to being hit with nuclear verdicts that put them out of business.<sup>5</sup> Insurance price hikes affect all parts of the system; motor carriers raising prices leads to higher transportation costs and increased consumer prices.<sup>6</sup>

**Nuclear Verdict Cases in Recent Years**

Most recently, in 2020, the case of Washington v. Top Auto Express, Inc. resulted in an award of \$411,726,608 to the plaintiffs in a Florida court.<sup>7</sup> The professional driver for Top Auto Express was attempting to avoid a collision when he jackknifed. After the semitruck jackknifed, an 18-crash pileup ensued, and there were eight hospitalizations as a result. A motorcyclist named Duane Washington attempted to avoid the pileup by driving onto the median, but he hit a stopped truck,

**2019 Nuclear Verdicts Map**







Source: <https://topverdict.com/lists/2019/united-states/top-50-truck-accident-verdicts>

which was in the emergency lane without any lights on. Washington was thrown from his motorcycle and sustained life-threatening injuries.<sup>8</sup> The \$411 million award is the highest in trucking-related verdicts; the amount was increased due to a lack of cooperation and responses from Top Auto Express. The jury trial only concerned the damages portion of the award due to the finding of liability from the judge, who expressed the need for severe sanctions, citing that Top Auto Express abandoned the case.<sup>9</sup> *Washington v. Top Auto Express, Inc.* will certainly become a landmark case in the future of nuclear verdicts for the trucking industry.

The 2019 case, *Cuevas v. Rai Transport Inc.*, awarded \$70,578,289 to a California family involved in a crash with a tractor-trailer owned by RAI Transport.<sup>10</sup> The RAI professional driver, Amarjit Aulakh, allegedly ran a red light and crashed into the Cuevas family's SUV. While all three people riding in the SUV survived, two sustained traumatic brain injuries, and the other had minor injuries. At the time of the accident, Aulakh's commercial driver's license was suspended. Additionally, Aulakh was involved in 14 crashes prior to the crash associated with this case. With more than \$70.5 million in damages, the case had the highest personal injury verdict in Kern County's history.<sup>11</sup>

Another 2019 case — *Estate of Madere v. Greenwich Ins. Co., et al.* — awarded \$280,065,000 to the remaining family of five people killed in an Alabama crash with a semitruck.<sup>12</sup> The lawsuit was filed in Georgia. Schnitzer Southeast (parent company Schnitzer Steel) was the carrier, and the professional driver of the truck involved in the crash was Kenneth Cathey. The plaintiffs claimed that Cathey fell asleep at the wheel, causing him to cross into oncoming traffic. Cathey claimed he swerved to avoid hitting a dog; Cathey's account has since been disputed.<sup>13</sup> After crossing into the opposite lane, the truck



hit a car carrying five people, including 58-year-old Judy Madere. All five people died. The jury awarded Madere's family \$280 million: \$150 million for Madere's life, \$30 million for Madere's pain and suffering, \$100 million for punitive damages and \$65,000 for attorneys' fees.<sup>14</sup> Schnitzer Southeast planned to appeal the outcome, which was thought to be the largest in trucking history at the time it was decided.

In 2018, the case of *Blake v. Ali, et al.* awarded \$89,600,000 to the surviving members of a family in Texas connected to a fatal crash.<sup>15</sup> The truck involved in the crash was owned by Werner Enterprises Inc. The Werner Enterprises professional driver was a trainee, driving during a winter storm warning with a trainer in the vehicle. A pickup truck traveling the opposite direction hit black ice and lost control, spinning into the Werner truck's lane and resulting in a crash. In the pickup truck were plaintiff Jennifer Blake, driver Zaragoza Salinas and three children. Blake suffered a serious brain injury, and her 14-year-old son and 12-year-old daughter were seriously injured. Blake's 7-year-old son died.<sup>16</sup> Werner Enterprises argued that its professional drivers did nothing wrong —



### Relationship Between Nuclear Verdicts and Higher Consumer Costs

**NUCLEAR VERDICTS HIT THE INDUSTRY**

**INSURANCE COMPANIES RAISE THEIR PREMIUMS TO OFFSET LITIGATION COSTS**

**MOTOR CARRIERS INCREASE THEIR PRICES TO OFFSET INSURANCE COSTS**

**INCREASED TRANSPORTATION COSTS LEAD TO INCREASED CONSUMER PRICES**

Source: <https://truckingresearch.org/wp-content/uploads/2020/06/ATRI-Understanding-the-Impact-of-Nuclear-Verdicts-on-the-Trucking-Industry-06-2020-2.pdf>



they were traveling under the speed limit and did not lose control — while the plaintiffs argued that the professional driver should not have been driving due to the dangerous weather conditions. Werner Enterprises is appealing the verdict.<sup>17</sup> The verdict did not include any punitive damages.

A 2017 case — *Denton v. Universal Am-Can, Ltd.* — awarded \$54,155,900 to a man and woman injured by a semitrailer rear-ending their vehicle in Indiana.<sup>18</sup> The semitrailer involved in the accident was operated by an employee of Universal Am-Can, Ltd. In the lead up to the accident, traffic ahead of the plaintiffs slowed due to a wrong-way driver on the shoulder of the road. The wrong-way driver did not hit any vehicles. The defendant, professional driver David L. Johnson, rear-ended the plaintiffs' vehicle when the plaintiffs slowed due to the wrong-way driver.<sup>19</sup> While the case began as a negligent driving claim, it later became a negligent hiring action due to Johnson's driving record — a record including a felony conviction, four accidents, three moving violations and one license suspension.<sup>20</sup> The plaintiffs argued that Johnson was negligent by failing to break and that his employer was negligent by hiring Johnson. The verdict for this case awarded \$19,155,900 in compensatory damages and \$35 million in punitive damages to the plaintiffs.<sup>21</sup> This was considered a record-high negligent hiring verdict.

## Industry Response

In response to the major increase in nuclear verdicts, the trucking industry has prioritized researching the issue. The ATRI Research Advisory Committee (RAC) announced in 2019 that it would focus its research on how large verdicts impact the trucking industry. The ATRI RAC survey found that large verdicts do not significantly increase the promotion of safety and may decrease carriers' ability to invest in safety technology.<sup>22</sup> Of course, the trucking industry has always and will always continue to emphasize crash avoidance and safety as the most important factors while driving. Attorneys advise that companies must strictly adhere to safety and operational policies; failing to adhere to FMCSRs will result in unsafe conditions, as well as potential nuclear verdicts. From a litigation standpoint, FMCSRs should be regarded as minimum standards that motor carriers can and should exceed.<sup>23</sup> Documentation of all additional training and precautions is also important for litigation. The trucking industry also wants to see the creation of national testing and compliance standards.

The trucking industry advocates for tort reform to limit the number of nuclear verdicts, particularly when professional drivers are not solely responsible for the crash.<sup>24</sup> In conjunction with the insurance industry, the trucking industry is lobbying for lower caps on settlements, and both industries want to see more restrictions on plaintiffs filing these lawsuits.<sup>25</sup>

**“Of course, the trucking industry has always and will always continue to emphasize crash avoidance and safety as the most important factors while driving.”**

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# Safe

BY EMILY DENIO, E&M Consulting, Inc.

**C**argo theft has a lot of potential for profit. It's not just high-value items being targeted; fraudulent pickups happen no matter the cost. Someone can impersonate a driver and take off with the trailer. Be sure to screen your employees who have access to shipment information.<sup>1</sup> Train your employees to recognize the signs of being tailed and to not leave their keys in the truck. Drivers should park near the front of facilities in well-lit areas of the lot if they are unable to make the delivery in daylight hours.<sup>2</sup> If a driver finds themselves in an unsafe situation, they should stay on main streets, keep doors locked, and notify their company right away.<sup>3</sup> Individual safety is important not only for the driver, but for their company as well. It is critical that professional drivers are able to remain on the road. Planning the trip route and checking the load before and after arrival is recommended.<sup>4</sup> Keep employees informed to increase the security of your cargo and your drivers.

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