



November 25, 2013

[THOUGHT LEADERS | THE DC VELOCITY Q & A](#)

Queen of the road: interview with Lana Batts

Lana Batts' appeal stems from her lifelong love of trucking and her ability to speak the language of the guys and gals on the road. Now, she's tackling a new and thorny issue: driver pre-screening.

By **Mark B. Solomon**

Lana R. Batts and trucking are joined at the axle. Reared in a Montana trucking family, Batts came east 40 years ago to take a job with the American Trucking Associations (ATA). She spent 20 years there, rising to the post of senior vice president for government affairs. Batts helped guide the industry through an unprecedented multiyear transition to deregulation, becoming the voice of the profession in the process. Her legacy at ATA remains unmatched despite her being gone since 1994.

Batts has been involved in numerous endeavors over the past two decades. Today, she is co-president of Driver iQ, a Tulsa, Okla.-based company that conducts background screenings of drivers. She spoke recently with Senior Editor Mark B. Solomon about her work and the industry's outlook, peppering her comments with the sharp wit and candor that has long endeared her to the folks behind the wheel.

Q: How did you get involved in the trucking industry?

A: I've been involved in trucking my whole life. My father owned a livestock trucking business in Billings, Mont. My first "real" job was with the American Trucking Associations. My husband was in the Air Force at the time and was assigned to Washington, D.C., after a tour of duty in the Philippines. I couldn't find a job so I called my father, who was an officer in what is now the Truckload Carriers Association. He called ATA and I was offered a job as a junior analyst. I was the highest-paid female and the lowest-paid professional.

My first real break came after three weeks on the job. The energy crisis of 1973 broke and ATA was looking for someone on the staff who could spell diesel. I remembered "i" before "e" except after "c," volunteered, and got the job. It was great because no one knew any more than I did. It became a high-profile job with no one second-guessing my decisions, and it launched my career. From then on, all the right people died or retired at the right time.

Q: This has long been a male-dominated field. However, women have made inroads in recent years.

Where has the most progress been made, and in what areas does progress have yet to be made?

A: Women who have made inroads have not been afraid to volunteer for tough jobs. But the surest way for women to make progress is to work in areas such as sales that have measurable goals. Too many women still find themselves in women-dominated fields, such as human resources, where there are not objective

DC VELOCITY REPRINTS

This copy is for your personal, non-commercial use only. It is protected by copyright laws and is the property of AGiLE Business Media, LLC. To order customized, presentation-ready copies for distribution to your colleagues, clients or customers, contact Jill Kaletha, FosteReprints, at (866) 879-9144 or jillk@fosterprinting.com.

measurements. Unfortunately, until women move into operations with line positions, they will never make it into the front office.

Q: It is no secret that truckers face significant regulatory headwinds on various fronts. Does this reflect aggressive policies of this administration, or was this bound to happen regardless of who occupied the White House?

A: Most of trucking's issues are on the political agenda, regardless of the party in power. This means energy, environment, and safety. Many of the issues addressed by the Obama administration such as truck driver hours of service and CSA [the Compliance Safety and Accountability initiative for rating drivers] began under Republican administrations. But this administration always seems to "balance" the scales against business, and by extension, trucking. In essence, this administration likes employees, not employers.

Q: The Federal Motor Carrier Safety Administration (FMCSA) was heavily criticized for basing its new hours-of-service rule not on good science or economics, but on politics. Congress has now taken steps to ensure that the agency's proposals on driver sleep apnea will be part of a rulemaking and not take the form of guidelines that might not require it to use hard numbers to justify its actions. Does this mark a turning point in Congress's recognition of industry concerns that safety regulations have become too onerous and threaten its viability?

A: No. What it does is address the industry's concerns that this wasn't going to be handled through a formal rulemaking. FMCSA originally wanted to issue "guidelines" on sleep apnea and not go through the regular rulemaking process. Guidelines result in a continuously moving target, subjecting the carriers to heavy-handed enforcement and ultimately resulting in the courts' codifying the decision through litigation. In essence, guidelines sidestep the process of vigorous debate among all participants and don't require the agencies to do real cost-benefit analysis. At least under a rulemaking, the agencies have to disclose their analysis, no matter how flawed.

Q: Can you describe Driver iQ, and how it came into being?

A: Driver iQ is a background screening company dedicated to the transportation industry, and specifically trucking. It was the brainchild of Billie Lee, who had been the president of DAC Services for 14 years before it was sold to USIS and then to HireRight (both background screening firms). She wanted to know if I thought the trucking industry was ready for a competitor in this space. I said an opportunity did exist and that I wanted to be involved if she were serious. We spent several years building a business model and working with industry leaders to see if they'd support it. The feedback was positive, and we launched in April 2011.

The key to successfully providing background screening for the trucking industry is to have a database of driver termination records related to employment, accidents, and substance use and abuse. We have 22 of the top 25 truckload carriers supplying, or in the process of supplying, driver termination records. To date, we have almost 1.5 million termination records in our database, which we call "PRE" or "Previous Records of Employment." In addition, we supply all the records recruiting managers need to review before making a good hiring decision.

Q: Pre-employment screening is a basic component of the hiring process. What has changed to make screening more difficult?

A: Pre-employment screening has changed because the Federal Trade Commission (FTC), which regulates the Fair Credit Reporting Act, and the Equal Employment Opportunity Commission (EEOC) have stepped up their regulation of background screening companies and perceived discrimination against ex-felons. The FTC is more aggressively auditing background screening companies, like Driver iQ, to ensure that background screening reports, which are consumer reports, are timely and accurate, and follow laws protecting consumers' rights in the

way information is gathered and used. That means the driver applicant, who is the consumer in these instances, can object to a report even before a hiring decision has been made, as well as after.

The EEOC has stepped up efforts to eliminate what it calls "disparate impact" on minorities when employers refuse to hire convicted felons or individuals with an arrest record. In essence, employers can only deny employment to ex-felons if the crime has some relation to the job—think vehicular homicide and driving a truck—the crime was committed recently, and the individual has not demonstrated any rehabilitation efforts. The EEOC also frowns on denying employment based in whole or in part on arrest records. As a result, there is more paperwork, and carriers are exposed to higher enforcement fines and a higher degree of potential liability to class-action lawsuits.

Q: What are the red flags that companies should be aware of when screening an applicant?

A: Carriers make mistakes when they rush an applicant through the screening and hiring process. In the past, carriers may have relied solely on criminal record databases to determine if an applicant had a record. Such databases, by definition, contain stale information that does not meet the requirements of the Fair Credit Reporting Act. Thus, it is unacceptable to the FTC. Background screening companies must re-verify that the applicant and the criminal record represent the same individual, and that nothing has happened since the conviction, such as the record's being expunged.

Further, carriers can no longer have a blanket policy that denies employment based solely on the presence of an applicant's criminal record; again, the crime must have some nexus to the job the applicant is applying for. In addition, employers can no longer run criminal checks on a select few without it appearing that they are using the background check to discriminate against a protected class. Carriers must also be aware of local and state laws that might preclude even asking about criminal convictions on the application. For example, in Newark, N.J., employers cannot ask about criminal convictions until after a conditional offer of employment has been made.

Q: It's tough enough these days finding qualified drivers. Will more rigorous screening practices winnow out prospective applicants that in the past might have been hired?

A: Ironically, both the FTC and the EEOC believe their actions will increase the labor pool because applicants won't be denied employment based on faulty reports or age-old crimes. For carriers, however, it has complicated the process and has extended the time from when the application is made to when a carrier can put a driver in a truck.

Q: An analyst recently said tongue-in-cheek that the "mother of capacity shortages is still another year away." We've been waiting for widespread shortages, yet all we've seen are short-lived shortages that are region-specific. Will we see any meaningful crunch in the next two to three years? Have shippers and 3PLs done an effective enough job of re-engineering their supply chains so that a crunch, if one comes, won't matter?

A: I, too, predicted significant capacity shortages after looking at the decline in equipment purchases during the recession, the changing demographics, and upcoming regulatory induced productivity losses. But what I, and others, didn't predict was the sideways nature of the recovery. Everyone seems to be in a holding pattern waiting for something to happen. First, we were waiting for a decision on the debt ceiling. Then it was the election. Then it was ObamaCare. Until there is stability and certainty in the markets, no one is going to make any major, irreversible commitments requiring huge investments.

Regarding 3PLs, I don't believe they have done an effective job to reduce the impact of the capacity crunch. No matter what they "re-engineer," all their algorithms still depend on someone, somewhere, somehow owning a

truck. At this point, there are simply not large enough returns to justify investing in iron. Most new equipment purchases are simply to replace old, inefficient equipment. No new significant capacity has been added since 2007.

© Copyright 2003-2013 DC Velocity, a publication of Agile Business Media, LLC. All rights reserved.