S. HRG. 116–576

KEEP ON TRUCKIN': STAKEHOLDER PERSPECTIVES ON TRUCKING IN AMERICA

HEARING

BEFORE THE

SUBCOMMITTEE ON TRANSPORTATION AND SAFETY

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE

ONE HUNDRED SIXTEENTH CONGRESS

SECOND SESSION

FEBRUARY 4, 2020

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ONE HUNDRED SIXTEENTH CONGRESS

SECOND SESSION

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KEEP ON TRUCKIN': STAKEHOLDER PERSPECTIVES ON TRUCKING IN AMERICA

TUESDAY, FEBRUARY 4, 2020

U.S. SENATE,
SUBCOMMITTEE ON TRANSPORTATION AND SAFETY,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:09 a.m., in room SH–216, Hart Senate Office Building, Hon. Deb Fischer, Chairman of the Subcommittee, presiding.

Present: Senators Fischer [presiding], Thune, Moran, Capito, Young, Scott, Lee, Duckworth, Blumenthal, and Peters.

OPENING STATEMENT OF HON. DEB FISCHER, U.S. SENATOR FROM NEBRASKA

Senator FISCHER. The hearing will come to order. Good morning. Welcome to today's hearing of the Senate Subcommittee on Transportation and Safety. Both by weight and by volume, trucks move more freight domestically in the United States than any other form of transportation. This includes first and last mile connections, long-haul transportation, and everything in between. It is also a major source of employment across our country.

The trucking industry is a key component of our transportation network and it is vital to our economy. Today, we are going to hear from stakeholders about the current state of trucking, and how Federal policy could aid in its safety, efficiency, and productivity, particularly as Congress considers a Surface Transportation Reauthorization.

Federal trucking policy has gone through many changes in the past decade, including changes in both the industry and regulatory changes at the Federal Motor Carrier Safety Administration. Of the many trucking issues I hear about from Nebraskans, hours of service is at the top of the list. The concerns I hear from truckers are consistent. These regulations are inflexible and do not reflect real world situations.

Further, because the trucking industry is so diverse, a one-size-fits-all approach fails to provide common sense solutions for each of the different types of operations. Congress requires FMCSA to enforce hours of service requirements to ensure drivers don't drive while they are fatigued and have delegated significant authority to FMCSA to develop these requirements. Most recently, FMCSA issued a notice of proposed rulemaking to update the hours of service requirements.

I am encouraged that the agency is taking steps to update us regulations and that interested stakeholders have made their comments known to the agency. One group in particular that has faced challenges with the hours of service regulations is our livestock haulers. They have the critical responsibility of moving live, perishable products.

For that reason, livestock haulers can easily find themselves in a regulatory bind between the hours of service requirement and animal welfare lives. While the hours of service regulations have received significant attention, several other regulatory changes are worth discussing today. Recent regulations set to go into effect include the entry-level driver-training rule and the drug and alcohol clearinghouse, both of which will improve safety. However, in both cases, FMCSA has had to delay parts of these rules.

I look forward to hearing from the witnesses more about the intended impact of these rules on safety. Additionally, the FAST Act required FMCSA to take down the safety measure system, those scores, from public view. After a study by the National Academy of Sciences, FMCSA is now considering how to move forward with this program. I expect to hear from the witnesses about the impact SMS and the broader compliance-safety accountability program has on trucking.

Other areas impacting truckers and the trucking industry include the availability of safe truck parking, advances in vehicle and load matching technology, freight availability, and the amount of time that truckers spend detained while they are waiting for loads.

Here to provide input on the state of trucking and feedback on trucking regulations are Chris Spear from the American Trucking Association, Jake Parnell representing the Livestock Marketing Association, Lewie Pugh from the Owner-Operator Independent Drivers Association, Dawn King from the Truck Safety Coalition, and Sergeant John Samis from the Commercial Vehicle Safety Association.

I want to thank the witnesses for traveling today to participate in this hearing. I know all of you are widely respected within your organizations, and you have unique experiences and perspectives that are valuable to us as we continue our work to improve the safety and efficiency of America's trucking industry. I look forward to your testimony. And now I would like to invite my colleague and Ranking Member Duckworth to offer her opening remarks.

STATEMENT OF HON. TAMMY DUCKWORTH,
U.S. SENATOR FROM ILLINOIS

Senator DUCKWORTH. Thank you, Chairman Fischer, and I want to apologize to everyone for being late this morning. For a former soldier, missing your SP time is really an embarrassing thing, so thank you for your patience, and thank you to the Chairman for holding today's hearing. I also want to thank all of our witnesses for joining us today to discuss some of the challenges and opportunities facing U.S. commercial trucking industry.

As I said during last week's hearing, our global competitiveness is closely tied to a safe, reliable, and efficient transportation network. The nexus between interstate commerce and commercial trucking clearly demonstrates the close relationship between Fed-

eral infrastructure investments and our Nation's economic prosperity.

Of the 18.6 billion tons of freight goods that were moved across the United States in 2018, 12 billion tons valued more at more than $12 trillion were moved by truck. Illinois is at the epicenter of our Nation's freight transportation network, offering unparalleled access to global markets. Over 1.2 trillion tons of freight, valued at nearly $3 trillion, move through Illinois each year and trucks carry over half of that tonnage, about 664 million tons valued at more than $1 trillion.

Investing in my State's freight infrastructure keeps goods flowing through the entire system and delivers a tremendous return on investment for industries and customers in all 50 States. Yet, the most important aspect of any efficient transportation network is safety. Unfortunately, safety remains a work in progress and we have a long way to go. Bottom line, we can and we must do better. Our nation endured 36,560 roadway fatalities in 2018, including 4,951 fatalities involving large trucks. While it is technically accurate that large truck fatalities declined 69 percent from 1982 to 2017, it is important to recognize that over the last decade, for which we have data, from 2009 to 2018, large truck fatalities have actually increased by 47 percent.

We need to keep a close eye on evolving trends and their impacts on roadway users. And right now, safety trends suggest a reason for concern. Meanwhile, Federal agencies like FMCSA, NHTSA, and GAO are pursuing a number of data collection efforts, including pilot programs and investigations to analyze the impacts of safety-related trucking initiatives.

These agencies and others like them should have the opportunity to provide Congress with the technical analysis and stakeholder feedback needed to minimize uncertainty associated with untested initiatives. As we move toward FAST Act reauthorization, Congress should prioritize and promote the use of new safety technologies designed to reduce hazards for law enforcement and enhance supply chain efficiencies.

We should also consider and reinforce the important role that states play in commercial trucking and provide the necessary space for critical collaborations and partnerships to develop for the benefit of improved safety outcomes.

Finally, Congress should continue to promote meaningful benchmarks and metrics designed to enhance safety and performance while informing future policy discussions. I look forward to debating these and other important topics with an eye toward safety as this Committee works in a bipartisan manner to establish and reform surface transportation policies.

Again, I want to thank today's witnesses and our Chairman, and I look forward to your testimony.

Senator FISCHER. Thank you, Senator Duckworth. At this time, we will recognize witnesses for their opening testimony. And I would like to recognize Senator Peters who has the, really, pleasure and honor to introduce our witness from Michigan today.

STATEMENT OF HON. GARY PETERS,
U.S. SENATOR FROM MICHIGAN

Senator PETERS. Thank you, Madam Chair. Thank you for the opportunity. I would like to extend a very warm welcome to our witness, a native Michigander, Dawn King. Nearly 15 years after suffering from a terrible tragedy that took the life of her father, Ms. King has made it her life's work to advocate for measures to improve safety on our roadways.

Ms. King currently serves as the President of the Truck Safety Coalition. It is a partnership between Citizens for Reliable and Safe Highways Foundation and Parents Against Tired Truckers. In this role, Ms. King is a passionate and a tireless advocate for safety legislation and an invaluable voice for victims on both the state as well as the Federal level.

Ms. King hails from Davisburg, Michigan, just Northwest of Detroit, and is here with her husband Bruce who also advocates on truck safety issues. Thank you Dawn for your testimony today and thank you Bruce for taking time to meet with me earlier this morning and for your work on these very important issues.

I look forward to your testimony as well as the testimony of all the members of this very distinguished panel. Thank you, Madam Chair.

Senator FISCHER. Thank you, Senator Peters. Ms. King, you are recognized.

STATEMENT OF DAWN KING, PRESIDENT,
TRUCK SAFETY COALITION (TSC); AND BOARD MEMBER,
CITIZENS FOR RELIABLE AND SAFE HIGHWAYS (CRASH)

Ms. KING. Good morning, Chairman Fischer, Ranking Member Duckworth, and the other members of the Subcommittee. My name is Dawn King and I am President of the Truck Safety Coalition, and I am also a Board member of CRASH, which along with Parents Against Tired Truckers forms TSC. Thank you very much for the opportunity to testify this morning.

I am here today to give a voice to thousands of survivors, victims and families like mine, who have had a loved one killed or seriously injured in a tragic but preventable truck crash. Here in the hearing room, we have another victim's family member, Tracy Kenichi, whose daughter and unborn granddaughter were killed on the beltway in D.C.—several years ago, and she is here to provide support as well.

I am here because my father Bill Badger was killed two days before Christmas in 2004 by a tired trucker who fell asleep at the wheel. Every year thousands of people are dying needlessly in truck crashes. The National Highway Traffic Safety Administration's most recent data show that 4,951 people were killed in 2018. That is nearly a 50 percent increase from 2009.

Additionally, 151,000 people were injured and 885 truck occupants were killed, the highest since 1989. Yet even with this horrendous rise in truck crash fatalities, important and life-saving truck safety laws and regulations are under relentless and repeated attacks in Congress and the Administration. I assure you these safety rollbacks and repeals would never be tolerated in any other mode of transportation, especially one with such an unaccept-

able death and injury toll. For example, FMCSA is proposing unsafe changes to the hours of service regulations. Furthermore, every session of Congress there are attempts to exempt special interests from the hours of service rules.

My written statement goes into detail about how harmful these proposals will be to safety and we urge you to oppose each of these attacks. Even more difficult to understand is the introduced legislation, the so-called DRIVE-Safe Act which lowers the minimum age from 21 to 18 to allow teens to drive in interstate commerce. There is ample research showing teen drivers have significantly higher crash rates and are much less safe than older drivers.

There is absolutely no evidence that introducing teen drivers will in any way improve safety. TSC strongly opposes this change and so does the American public. Today, Advocates for Highway and Auto Safety released an opinion poll that shows that 62 percent of the public opposes this change. What we should be doing is focusing on what can be done to promote truck safety. Crash avoidance technologies like automatic emergency braking have been proven through years of use by leading truck companies to reduce the numbers of crashes and mitigate the severity.

Several bills, including S. 2700, the Protecting Roadside First Responders Act, have been introduced to require the installation of this life-saving technology. We commend Senator Duckworth for her leadership in co-sponsoring that legislation with Senator Durbin. Additionally, there is clear and convincing evidence that speed limiters make trucking safer. This life-saving technology is not new and has been used in other countries for years.

In the U.S., it has been a standard component on most trucks since the late 1990s. Many truck companies voluntarily set their trucks to a safe speed, but all trucks should be using speed limiters. And truck underride crashes are some of the most horrific crashes imaginable, particularly when violent intrusion occurs into the passenger compartment. We urge Senate passage of bipartisan legislation, S. 665, the Stop Underrides Act, which would strengthen rearguards as well as improve underride protections on all sides of the tractor-trailer. This bill is sponsored by Senator Gillibrand and co-sponsored by many members of this committee including Senators Duckworth, Markey, Udall, Blumenthal, and Peters.

All of these technologies can prevent serious and deadly crashes. However, when a crash involves a truck company that is underinsured, the results can be devastating. Today, the minimum amount of insurance required per truck, per crash, no matter how many victims, is only $750,000. That was set 40 years ago and it has never been increased. Many victims of truck crashes struggle to pay for lifelong medical and rehab expenses. We urge Senate introduction and support for H.R. 3781, the Insurance Act. This bill will increase the minimum insurance required and account for medical cost inflation, which then would be indexed every 5 years.

In conclusion, the families of victims and the survivors of large truck crashes remain hopeful that members of this committee will make sure that safety never takes a backseat to industry profits or political pressure.

And, I would like to take a moment right now to wish my dad a happy birthday. Had he not been killed 15 years ago by a tired

trucker in a completely preventable crash, he would be turning 91 today. I can't call him. I cannot talk to him tonight, like I would have. I cannot send him a card, but I can offer this testimony. Thank you for the opportunity to testify, and I am pleased to answer your questions.

[The prepared statement of Ms. King follows:]

PREPARED STATEMENT OF DAWN KING, PRESIDENT, TRUCK SAFETY COALITION (TSC); AND BOARD MEMBER, CITIZENS FOR RELIABLE AND SAFE HIGHWAYS (CRASH)

Introduction

Good morning Chairman Fischer, Ranking Member Duckworth and Members of the Subcommittee.

My name is Dawn King and I am the President of the Truck Safety Coalition (TSC) as well as a board member of the Citizens for Reliable and Safe Highways (CRASH) Foundation, which along with Parents Against Tired Truckers (PATT) forms TSC. I appreciate the invitation and the opportunity to testify this morning before the Subcommittee.

I am from Davisburg, Michigan, so I am heartened that another Michigander, Senator Peters, serves on this Subcommittee. Unfortunately, I am not here before this Subcommittee today to represent families from my state but also everyone from every state who everyday uses our roads and highways. I am here today to give a voice to survivors and victims of large truck crashes and to families, like mine, who have lost a loved one in these preventable and tragic catastrophes.

My father, Bill Badger, was killed fon December 23, 2004, just over the Georgia state border, by a tired trucker who fell asleep at the wheel and crashed into his car. At the time of the crash, Dad was on his way to the airport to fly to New Jersey and join me and my siblings for Christmas. That year, was particularly tough for us since our Mom had passed away in July. The truck driver, who fell asleep and smashed into Dad's car, stated that he had been driving all night in order to get to Atlanta by 7:00 a.m. so that he could be assigned to another truck which was headed to Florida in order to be with his family for Christmas. In the end, however, neither my family nor his were whole that holiday.

Shortly after Dad's crash, my family and I were fortunate enough to connect with the Truck Safety Coalition. This wonderful organization is a partnership between Citizens for Reliable and Safe Highways (CRASH) Foundation and Parents Against Tired Truckers (PATT). Our shared mission is to reduce the number of deaths and injuries caused by truck-related crashes, provide compassionate support to truck crash survivors and families of truck crash victims, and educate the public, policymakers and media about truck safety issues.

Truck Crashes, Injuries, and Deaths Have Been on the Rise Since 2009

The National Highway Traffic Safety Administration's (NHTSA) most recent release of data shows that fatal crashes involving at least one large truck killed 4,951 people in 2018. To put this figure in perspective for you: it is approximately 2.5 times as many people as the total number of individuals who have served in the U.S. Senate since 1789.[1]

Since 2009, fatalities from crashes involving at least one large truck have gone up 46.5 percent, with 42 out of the 50 states experiencing increases. Unsurprisingly, the subset of states with truck speed limits of 75 mph or more saw the largest spike in deaths, rising 66.5 percent in that same time.

In that same 9-year time frame, truck crash injuries have tripled from an all-time low of 51,000 (which is still staggeringly high) to 151,000. This is an unacceptable and unconscionable trend.

Amidst this significant increase in deaths and injuries and this marked decline in truck safety, the Truck Safety Coalition and our volunteers hope that members of this Subcommittee will oppose specific anti-safety policies that are being considered by Congress and the U.S. Department of Transportation. Additionally, we urge you to support numerous lifesaving measures that can significantly reduce the death and injury toll on our roads. Truck crash deaths and injuries are a major public health problem and we urgently need Congress to direct the implementation of data-driven solutions to address the pervasive but preventable problems, like driver fatigue, distraction, and speeding, that contribute to so many truck crashes. My statement today seeks to inform Members and the public about both the dangerous poli-

[1] *https://fas.org/sgp/crs/misc/R44762.pdf*

cies that will further exacerbate truck safety and available safety solutions that could dramatically improve truck safety for motorists and commercial drivers.

Now is Not the Time to Weaken Truck Safety Rules and Permit Special Interest Rollbacks of Proven Safety Reforms

FMCSA Should Abandon Efforts to Weaken the Hours of Service Rules

Last year, the Federal Motor Carrier Safety Administration (FMCSA) issued a notice of proposed rulemaking (NPRM) requesting comments on unstudied, unsafe proposed changes to the Hours of Service (HOS) regulations, including:

- Extending by two hours the maximum window during which driving is permitted under the *adverse driving conditions* exemption to the HOS rules;
- Extending the driving window from 12 hours to 14 hours and extending the distance from 100 air miles to 150 air miles for the *short haul exemption;*
- Allowing drivers to split their required 10 hours off-duty into two periods: one period of at least seven consecutive hours in the *sleeper berth* and the other period of not less than two consecutive hours, either off-duty or in the sleeper berth; and
- Requiring a *30 minute break* after eight hours of driving time instead of on-duty time, and allowing the requirement to be satisfied by an on-duty break from driving, rather than requiring an off-duty break;
- Allowing *split duty period:* one off-duty break of at least 30 minutes, but no more than three hours, that would pause a truck driver's 14-hour working window, provided the driver takes 10 consecutive hours off-duty at the end of the work shift.

FMCSA's Proposed Change = Unsafe and Unwarranted—Adverse Driving Conditions:

- *Extend by two hours the maximum window during which driving is permitted under the adverse driving conditions exemption to the HOS rules.*

In the NPRM, the FMCSA asserted that this proposed change to the adverse driving conditions exemption would not increase driving time or vehicle miles traveled (VMT), thus there would be no safety concern. Yet, this ignores the effect that longer shifts have on injury risks and error rates.

There is compelling research that found lengthening a work day results in increased injury risk to a worker. One study found that injury risks go up after eight hours on task, with a 30 percent increase on a 12-hour task.[2] This validates the findings from an earlier major meta-analysis of relative risk of performance lapses over the course of different shift durations that found risk was approximately doubled after 12 hours of work and trebled after 14 hours of work.[3] More recently, a study was performed to identify associated factors with multidimensional driving risks, specifically focusing on fatigue, sleep quality, daytime sleepiness, and health status among Korean occupational drivers; one of the key findings: "those working for longer than 12 hours per day . . . were a vulnerable group."[4]

Even if a driver logs the same number of hours on duty or driving, this proposed change would result over a longer elapsed time which would result in a longer day overall.

FMCSA's Proposed Change—Short Haul Operations:

- *Extend the driving window from 12 hours to 14 hours, and*
- *Extend the distance from 100 air miles to 150 air miles.*

This proposed change will result in more truck drivers being able to be considered "short-haul" drivers which ultimately means fewer carriers being required to use electronic logging devices. Based on the FMCSA's own reasoning in finalizing the ELD mandate, this will greatly diminish safety. In fact, the agency noted in October 2017 in the Federal Register that "[the ELD] rule improves commercial motor vehicle (CMV) safety . . . for both motor carriers and driver by increasing the use of

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[2] Folkard, Simon, and David A. Lombardi. "Modeling the Impact of the Components of Long Work Hours on Injuries and 'Accidents.'" *American Journal of Industrial Medicine,* vol. 49, no. 11, Nov. 2006, pp. 953–963., doi:10.1002/ajim.20307.

[3] Folkard, Simon. Time On Shift Effects In Safety: A Mini-Review, Abstract in the Shiftwork International Newsletter, May 1995, 12:1, Timothy Monk, ed., presentations from the 12th International Symposium On Night-and Shiftwork, Ledyard, CN, June 13–18, 1995.

[4] Kwon,S.,Kim,H.,Kim,G.S.,Cho,E.,2019.Fatigue and poor sleep are associated with driving risk among Korean occupational drivers. J.Transp.Health14,100572. *https://doi.org/10.1016/j.jth.2019.100572.*

ELDs within the motor carrier industry, which will, in turn, improve compliance with applicable HOS rules."[5]

Considering the aforementioned finding, it is critical that the agency provide compelling evidence that expanding the number of long-haul truck drivers who would be eligible to employ the short-haul exception, if this proposed change is promulgated, will actually improve commercial motor vehicle safety.

Several years ago, the Insurance Institute for Highway Safety (IIHS) conducted a study that found a statistically significant 383 percent increase in crash risk for drivers operating under a short-haul exemption. In light of this startling statistic, it seems unlikely that the FMCSA will furnish data showing that this proposed change will benefit to CMV safety. In fact, our streets and roads will be even more dangerous and the change should be summarily rejected.

FMCSA's Proposed Change—Sleeper Berth:

- *Allow drivers to split their required 10 hours off-duty into two periods: one period of at least seven consecutive hours in the sleeper berth and the other period of not less than two consecutive hours, either off-duty or in the sleeper berth.*

The split sleep berth exception must ensure that a truck driver has enough time to achieve restorative sleep.[6] A recent study published in Transportation Research Part F, indicates that "in previous studies, sleeping duration less than seven hours has been associated with increased cases of drowsy driving crashes among truck drivers (Tzamalouka *et al.,* 2005). Drivers who were partially sleep deprived (sleeping less than 4-h daily) were found to be at 4.8 folds higher risk of falling asleep at the wheel as compared to the sufficiently sleeping (6–8 h) drivers.

Similarly, Maia *et al.,* (2013) also found that as compared to the drivers taking appropriate sleep of 7 h, the drivers taking short (6 h) and very short (<5 h) duration of sleep were at 2 and 3.8 times higher risk of drowsy driving respectively."

Based on these compelling studies, the FMCSA should immediately rescind this alarming proposed change until they can provide undisputed research and information disproving the adverse effects of sleeping less than seven hours.

FMCSA's Proposed Change—30-Minute Break:

- *Require a break after eight hours of driving time instead of on-duty time, and*
- *Allow the requirement to be satisfied by an on-duty break from driving, rather than requiring an off-duty break.*

At a time when truck occupant deaths are at their highest levels since 1989, the FMCSA must provide convincing evidence and peer-reviewed research that removing the requirement of a 30-minute break after 8 hours of on-duty time will improve safety, for truck drivers and the general public.

The FMCSA acknowledges in their NPRM that these proposed "changes to the 30-minute break provision . . . do not involve any increase to the 11-hour driving limit." While this may be true, this change could result in a driver working 11 hours before he can take a 30-minute break. This is unquestionably dangerous. A 2013 study found "that time-on-task across 14 hours of work impacts risk. The risk of being involved in a [safety critical event] generally increased as work hour increased. That is, driving time that occurred later in the driver's workday, due to performing non-driving tasks earlier in the workday, had a negative safety effect."[7]

Other research corroborates the notion that extending continuous time on task, which this change would do, has a deleterious effect on safety. Simo Salminen, a senior researcher at the Finnish Institute of Occupational Health, reviewed eight studies that showed the "risk of occupational injury was 41 percent higher for 10-hour working days compared to 8-hour working days . . . [and] when working more than 12 hours per day, three studies showed a 98 percent increase in involvement in occupational injury. The results of this study showed that shift work considerably increased the risk of occupational injury in the USA . . . *Extended working hours was related to elevated risk of occupational injury"* (emphasis added).[8]

No data has been provided to determine the safety benefit of substituting a full 30-minute off-duty break with the proposed 30-minute on-duty break. Specifically,

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[5] 80 FR 78293

[6] Sando, T., Mtoi, E., Moses, R.; Potential Causes of Driver Fatigue: A Study on Transit Bus Operators in Florida, Transportation Research Board 2011 Annual Meeting, Nov. 2010

[7] Susan A. Soccolich, Myra Blanco, Richard J. Hanowski, Rebecca L. Olson, Justin F. Morgan, Feng Guo, Shih-Ching Wu. An analysis of driving and working hour on commercial motor vehicle driver safety using naturalistic data collection, *Accident Analysis & Prevention,* Volume 58, 2013, Pages 249–258,

[8] Salminen, Simo. "Shift Work and Extended Working Hours as Risk Factors for Occupational Injury." *The Ergonomics Open Journal, vol. 3, 2010, pp. 14–18.*

the FMCSA has not assessed the impact of a potential change on worker performance at the end of the day, whether it is a 14-hour day or a 17-hour that could be achieved if the split-duty proposal is promulgated.

FMCSA's Proposed Change—Split-Duty Period:

- *Allow one off-duty break of at least 30 minutes, but no more than three hours, that would pause a truck driver's 14-hour working window, provided the driver takes 10 consecutive hours off-duty at the end of the work shift.*

This proposed change would extend a truck driver's day to 17 hours elapsed time. While there are no studies examining the effect on safety of this longer day, it is worth reiterating: "driving time that occurred later in the driver's workday, due to performing non-driving tasks earlier in the workday, had a negative safety effect."[9]

The proposal also does not limit the use of the 17-hour window throughout the workweek. This is extremely troubling considering that the FMCSA has not studied the effects this will have on cumulative fatigue, which has been acknowledged as a serious, but ultimately preventable, safety concern.

Lastly, our organization is concerned that this may be used by high risk carriers and/or in concert with existing exceptions, like the one that exists for the transportation of livestock. Used together by a high risk carrier, this could allow an unsafe truck driver to operate well over 24 hours continuously because "time spent working within the 150 air-mile radius does not count toward the driver's daily and weekly limit."[10]

Each of these proposed changes threatens safety by themselves, but if they are used in combination and without restrictions on which carriers may employ them, the results could be devastating. We hope that the Members of the Subcommittee will urge the FMCSA to immediately withdraw all five of these proposals.

Exemptions to the HOS Rules for Agricultural Commodities Sacrifice Safety and Undermine Commercial Motor Vehicle Enforcement Efforts

Transporters of agricultural commodities and farm supplies for agricultural purpose already enjoy exceptions to the Hours of Service and Electronic Logging Devices rules. Unfortunately, efforts by Congress and inappropriate actions taken by the FMCSA have expanded the scope of exemptions.

Prior to the enactment of MAP–21, drivers transporting "agricultural commodities" and "farm supplies for agricultural purposes"[11] within a 100 air-mile radius (~115 miles) were exempt from the Hours of Service (HOS) regulations. Following enactment of MAP–21, the regulatory exception was extended to 150 air-mile radius (~172.5 miles). Then, on May 31, 2018, the FMCSA released regulatory guidance applicable to all transporters of agricultural commodities, 49 CFR 395.1(k)(1), but does not address "farm supplies for agricultural purposes" under 49 CFR 395.1(k)(2) or (3).

The Truck Safety Coalition strongly opposed these past congressional actions as well as the agency's inappropriate use of regulatory guidance to further expand the agricultural commodity exception to life-saving rules that help prevent truck driver fatigue. Below are critical reasons:

- *Exemptions to HOS Regulations Weaken Safety*—Exemptions to Federal motor carrier safety regulations compromise safety, erode uniformity, and weaken enforcement efforts.
- *Regulatory Changes Cannot Occur Through Issuance of Guidance* —The FMCSA's does not have the legal authority to enact such a regulatory change through a guidance. The statute and ensuing regulation denote that the exception for transporters of agricultural commodities is for drivers engages in trips within the 150 air-mile radius, not beyond it. Moreover, the guidance creates a legal definition of source without legislation or a rulemaking.
- *The Regulatory Guidance is Unstudied and Unsafe*—Permitting drivers to operate within a 172 mile radius of a source, which includes not only farms and ranches but also intermediate storage and loading facilities, during planting and harvesting periods, which are year round in some states, will contribute totruck driver fatigue. The public shares the roads with large trucks, including

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[9] Susan A. Soccolich, Myra Blanco, Richard J. Hanowski, Rebecca L. Olson, Justin F. Morgan, Feng Guo, Shih-Ching Wu. An analysis of driving and working hour on commercial motor vehicle driver safety using naturalistic data collection, *Accident Analysis & Prevention,* Volume 58, 2013, Pages 249–258

[10] *https://www.fmcsa.dot.gov/hours-service/elds/eld-hours-service-hos-and-agriculture-exemptions*

[11] Quoted terms are defined in 49 CFR 395.2

haulers of agricultural commodities, and these changes put motorists and truck drivers at risk of death and serious injury.

The Truck Safety Coalition urges the Members of the Subcommittee to review the FMCSA's Regulatory Guidance Exempting Transporters of Agricultural Commodities from Hours of Service and Electronic Logging Device Mandates, and to oppose any additional efforts to further expand this dangerous special interest exemption.

Research and Data Clearly Warn About the Dangers of Teenage Truckers

The Truck Safety Coalition strongly oppose efforts to change Federal requirements to allow drivers under the age of 21 to operate commercial motor vehicles in interstate commerce for several reasons:

(1) Years of research and data clearly show that 18–20-year-old drivers have significantly higher crash rates;

(2) The impetus for this change—a shortage of truck drivers—is a myth perpetuated by those with a pecuniary interest in lowering the legal age for interstate truck operations;

(3) The FMCSA has not analyzed data from the 48 states that could provide data on the safety records of 18–20 year old drivers who currently operate in intrastate commerce;

(4) The So-Called DRIVE-Safe Act is anything but safe. The so-called protections are meaningless and insufficient.

The Available Data Show that 18–20 Year-Old Drivers are More Likely to Crash

Research that examined the effect of age on the operation of a large truck found that commercial motor vehicle (CMV) drivers under the age of 19 are four times more likely to be involved in fatal crashes, and that CMV drivers between the ages of 19 to 20 are six times more likely to be involved in fatal crashes.[12] These statistics alone should stop legislation from moving advancing with this pernicious policy.

However, there is even more compelling and convincing data that show *all drivers* ages 18 to20 are less safe and more likely to crash than an older driver. Based on 2017 Federal crash data analyzed by the Insurance Institute for Highway Safety, teen drivers ages 18 to 19 are 2.3 times more likely than drivers aged 20 and older (up to age 84) to be in a fatal crash and nearly 3.5 times more likely to be involved in any police reported crash.[13] Moreover, a recent report analyzing 10 years of fatal crash data involving teen drivers from the Governors Highway Safety Association revealed two other disconcerting data points about 18 to 20 year old drivers: (1) 19-year-olds accounted for the greatest number of teen drivers killed during this 10-year period, followed by 20-and 18-year olds; and, (2) older teens (18–20-years-old) were twice as likely as their younger counterparts to be involved in a fatal crash between midnight and 6 a.m.[14]

The Impetus for This Change—A Shortage of Truck Drivers—is a Myth Perpetuated by Those with a Pecuniary Interest in Lowering the Legal Age for Interstate Truck Operations

There is no truck driver shortage. According to the Bureau of Labor Statistics Report, "*Is the U.S. labor market for truck drivers broken?*" from September 2018: "The occupation of truck driving is often portrayed by the industry and in the popular press as beset by high levels of turnover and persistent "labor shortages" . . . [But] a deeper look does not find evidence of a secular shortage." [15]

Additionally, an investigative report by Barron's, "*Busting the 'Truck Shortage' Myth,*" found that the Truck Driver Shortage Analysis from which this myth derives was "vague about its methodology, simply asserting that a shortage exists and will get worse over time as demand rises and existing truck drivers retire." [16]

Upon reading the Barron's expose, the Truck Safety Coalition reviewed the American Trucking Associations' (ATA) Truck Driver Shortage Analysis from 2015, 2017,

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[12] Campbell, K. L., Fatal Accident Involvement Rates by Driver Age For Large Trucks, Accid. Anal. & Prev. Vol 23, No. 4, pp. 287–295 (1991).

[13] 2017 FARS Data analyzed by the Insurance Institute for Highway Safety. See data analysis at *https://www.iihs.org/topics/teenagers*

[14] Governors Highway Safety Association. 2017. Mission Not Accomplished: Teen Safe Driving, the Next Chapter *https://www.ghsa.org/sites/default/files/2016-12/FINAL_TeenReport16.pdf*

[15] Stephen V. Burks and Kristen Monaco, "Is the U.S. labor market for truck drivers broken?," Monthly Labor Review, U.S. Bureau of Labor Statistics, March 2019, *https://doi.org/10.21916/mlr.2019.5.*

[16] Klein, Matthew C. "Busting the 'Trucker Shortage' Myth." Barron's, Barrons, 14 Mar. 2019, *www.barrons.com/articles/busting-the-trucker-shortage-myth-51552589481.*

and 2019 as well as *The U.S. Truck Driver Shortage: Analysis and Forecasts* prepared for the ATA by Global Insight, Inc. in May of 2005. While the latter report has formed the underlying basis on which the shortage myth is predicated, there are several assumptions the 2005 report makes that did not come to fruition and should thus call into question the accuracy of any report, study, or assertion by trucking interests that references it.

The FMCSA Has Not Analyzed Data from the 48 states that Could Provide Statistics on the Safety Records of 18–20 Year-Old Drivers who Currently Operate in Intrastate Commerce

Collecting safety data from the 48 states where truck drivers ages 18 to 20 can operate within state lines should be the agency's first step before moving forward with this potentially risky pilot program. Doing so would help the agency determine if these 18–20 year old drivers are, in fact, as safe as or safer than the average truck driver who operates in interstate commerce.

Currently, all but two states allow teen truck drivers to operate in intrastate commerce so there should be adequate data on the relative crash risks of teen truckers that operate within state lines.

For example, the Truck Safety Coalition requested data on truck driver by age from the state of New York. Their data revealed that from 2009 to 2017, there was a 12.6 percent increase in the total number of truck drivers involved in crashes within New York, but for truck drivers age 18–20 involved in crashes in NY that figure jumped 17.8 percent in that same time.[17] Clearly, figures like this undermine arguments that younger truck drivers will be as safe as or safer than older drivers.

The So-Called DRIVE-Safe Act is Anything But Safe. So-called Protections are Meaningless and Insufficient

The Truck Safety Coalition strongly opposes all efforts to lower the driving age for interstate trucking, including enactment of the so-called "DRIVE-Safe Act" (H.R. 1374/S. 569).

The probationary period, which is far too short, requires teen truckers to train on commercial vehicles equipped with certain safety technologies. While the legislation denotes that these younger, less safe drivers must learn to operate trucks equipped with automatic emergency braking (AEB) and heavy vehicle speed limiters, there is nothing in the bill requiring them to do so after their brief probation. The consequence of this could be deadly. A teen trucker, who learned to drive a big-rig where the speed is limited at 65 mph and equipped AEB may be operating a truck without those technologies.

TSC strongly opposes the FMCSA's pilot program as well as currently introduced legislation to allow teen truckers to operate in interstate commerce. In the face of ample research showing that teen drivers are much less safe and more likely to crash than their older cohorts, the FMCSA has furnished no evidence that introducing this age demographic of truck drivers to interstate operations will in any way improve safety. In fact, the opposite will occur.

Urgent Action Needed Now to Strengthen Truck Safety Rules, Promote Data-Driven Strategies and Require Proven Safety Technologies

Research and Practice Prove the Effectiveness of Automatic Emergency Braking and Speed Limiters to Reduce Truck Crash Deaths and Injuries.

Automatic emergency braking (AEB) is a commercial motor vehicle safety technology that has been proven through years of use by leading trucking companies to reduce the number of crashes their truck drivers are involved in and to mitigate the severity of truck crashes that do occur.

The Truck Safety Coalition, along with Advocates for Highway and Auto Safety (Advocates) and the Center for Auto Safety, filed a petition to initiate a rulemaking that would mandate automatic emergency braking. The National Highway Traffic Safety Administration (NHTSA) granted this petition in October of 2015. Since then, several pieces of legislation, including the Safe Roads Act (H.R. 3773) and the Protecting Roadside First Responders Act (S. 2700 / H.R. 4871) have been introduced to require the installation and use of this lifesaving technology with minimum performance requirements. We commend Sen. Tammy Duckworth, Ranking Member, of this Subcommittee for her leadership in co-sponsoring this legislation with Sen. Richard Durbin.

The safety benefits of AEB technology are well known. In the United States, some motor carriers have been using AEB for at least 10 years and have established beyond question its effectiveness and reliability. For example, Con-way (now a part

[17] Data retrieved from Institute for Traffic Safety Management & Research

of XPO Logistics) saw reductions in their rear-end crashes after they equipped their trucks with AEB. The company performed an internal study to determine the extent to which a suite of safety technologies (AEB, electronic stability control (ESC), and lane departure warning) installed on the trucks in its fleet reduced the frequency of various types of collisions. They found that trucks equipped with the suite of safety systems had a lower crash rate and frequency of engagement in risky driving behavior compared to vehicles without such systems; these trucks exhibited a 71 percent reduction in rear-end collisions and a 63 percent decrease in unsafe following behaviors.[18] Similarly, Schneider National, a major trucking company, experienced a 69 percent decrease in rear-end crashes and 95 percent reduction in rear-end collision claims since it began equipping all new tractors with OnGuard Collision Mitigation Systems in 2012.[19]

In the past, a major concern with requiring this technology had been cost. Previously cited figures pegged the price of AEB at around $2,500. However, this figure is grossly inaccurate. A September 2018 study by the NHTSA found that the incremental cost of automatic emergency braking systems to the end-user (i.e a truck driver) is $70.80–$316.18.[20] We expect that when AEB becomes standard equipment on all newly manufacturer trucks that the cost will drop significantly as it has with other safety equipment required on cars and buses.

Additionally, there is convincing and evidence confirming that *speed limiters* make trucking safer.

This life-saving technology is not new, and has actually been a standard component in most trucks' engine control modules since the late 1990s. This is because so many other countries, like Germany, United Kingdom, and France, already require their use on commercial motor vehicles. In light of this fact, most trucks in the United States would not require a retrofit to have this technology but would instead simply need to have their speed limiter set.

It should not come as a surprise that many of the most profitable trucking companies voluntarily set their trucks to safe speeds. Speed limiters also help motor carriers save significant money on fuel as well as on maintenance costs for tires and brakes, which last longer by limiting excessive speeding that can exacerbate normal wear and tear. More importantly, it improves the safety of their fleet and reduces the maximum potential damage their trucks can cause in the event they do crash.

The research confirms what these trucking companies know from practice: speed limiters make trucks safer. The FMCSA's own road-based study from 2012 found that heavy trucks not using their speed limiters were involved in highway-speed crashes at twice the rate of those using them.

Several years later, the Province of Ontario conducted a study to review the effectiveness of requiring large trucks to use speed limiters. The Province found that the incidence of heavy trucks speeding in a crash dropped a dramatic 73 percent following implementation of the speed limiter mandate. Another important finding of this study was that it directly debunked the claim that speed differentials would lead to an increase in overall crashes involving big rigs. In fact, the study found no evidence of such an increase.

Increasing the Minimum Levels of Insurance Required by Motor Carriers is Long Overdue. Too Many Families Have Suffered Since 1980.

The minimum level of insurance of $750,000 for commercial motor carriers has not been increased in the U.S. in 40 years. Neither has it been adjusted for inflation or, more appropriately, for medical cost inflation. Consequently, some families not only face the physical and emotion hardship of losing a loved one but also the financial devastation caused by under-insured motor carriers.

According to the legislative intent of the Motor Carrier Act of 1980 (Pub. L 96–296), minimum levels of insurance were meant to serve as a barrier to entry for unsafe carriers and to shift the burden of oversight from the government to the private sector (*i.e.,* the insurers). Sadly, insurers fail to apply appropriate scrutiny because the amounts are so abysmally low.

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[18] National Transportation Safety Board. 2015. The Use of Forward Collision Avoidance Systems to Prevent and Mitigate Rear-End Crashes. Special Investigation Report NTSB/SIR–15–01. Washington, DC.

[19] Dr. Christopher B. Lofgren, Chief Executive Officer, Schneider National at Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security Hearing on February 15, 2017, Moving America: Stakeholder Perspectives on our Multimodal Transportation System. *https://www.commerce.senate.gov/public/index.cfm/hearings?ID=059064F8-8D58-4725-98BC-61CC53DBCB08*

[20] NHTSA. September 2018. Cost and Weight Analysis of Heavy Vehicle Forward Collision Warning (FCW) and Automatic Emergency Braking (AEB) Systems for Heavy Trucks. Final Report. *https://www.regulations.gov/document?D=NHTSA-2011-0066-0092*

In order to remedy this issue, we urge Senate introduction of a companion bill to the INSURANCE Act (H.R. 3781), which increases this minimum to account for medical cost inflation and then index it to that measure every five years. Since 1980, truck weight limits have increased significantly as have speed limits for trucks; the combination of these two changes has resulted in an increase in crash severity.

Strengthening Rear Underride Guards and Requiring Side Underride Guards are Long Overdue.

In a truck underride crash, a passenger vehicle travels under the trailer, bypassing the crumple zone and airbag deployment safety features. As you can imagine, or if you've seen this type of crash, the results are catastrophic, especially when passenger compartment intrusion occurs. In order to prevent this type of collision, trailers can be equipped with energy-absorbing rear and side underride guards that would protect car occupants from going underneath at certain speeds.

While rear underride guards are required, crash tests conducted by the Insurance Institute for Highway Safety (IIHS) clearly demonstrate that the rear underride guards mandated for trailers by NHTSA in 1998 performed poorly. Furthermore, there are underride guards available today that far exceed the proposed force requirement by up to 70 percent.

In light of this important finding coupled with the known safety benefits of rear underride guards, there has been a recent push to strengthen the requirements for rear underride guards in the U.S. After two Roundtable events hosted at IIHS, which brought together safety advocates, engineers, and trucking interests, major progress on rear underrides has occurred in two ways: (1) Eight out of the eight leading trailer manufacturers have developed rear underride guards that qualify for the IIHS ToughGuard rating, which greatly exceeds the existing Federal standard by preventing underride crashes at 100, 50, and 30 percent overlaps at 35 mph, and (2) there is growing consensus in support, evidenced by Mr. Pugh noting just last week that "We [OOIDA] agree to the rear guards. We don't have a problem with that."[21]

We urge Senate passage of bi-partisan legislation, the Stop Underrides Act (S. 665), which would not only strengthen the requirement for rear underride guards, but would comprehensively improve underride protections on all sides of a tractor-trailer. This bill is sponsored by Sen. Kirsten Gillibrand and co-sponsored by many Members of the Commerce, Science and Transportation Committee including Sen. Tammy Duckworth, Sen. Ed Markey, Sen. Tom Udall, Sen. Gary Peters and Sen. Richard Blumenthal.

Conclusion

On behalf of the Truck Safety Coalition and our volunteers, I urge Congress to advance these bills and provide the much-needed actions and oversight to improving truck safety. To rollback truck safety protections and pass bills that degrade safety will lead to more crashes, deaths, injuries and costs. Before this week is over nearly 100 people will needlessly die in a truck crash, the equivalent of a major airplane crash and hundreds of families will mourn the loss of a loved one just like I did when my father was killed.

The families of victims and survivors of large truck crashes remain hopeful that Members of this Subcommittee will ensure that safety never takes a back seat to profits or political pressure. Too many families in your states and across the country are depending on you to make the right decision to keep us safe as we share the roads with large trucks.

To close, I want to take this opportunity to wish my dad a happy birthday. Had he not been needlessly killed by a tired trucker 15 years ago, he would have turned 91 years old today. I love you Dad.

Thank you for the opportunity to testify before you today and I am pleased to answer your questions.

Senator FISCHER. Thank you, Ms. King. Next, I would like to introduce Chris Spear, the President and CEO of the American Trucking Associations, which represents the 50 state trucking associations and other trucking industry stakeholders. Welcome, Mr. Spear.

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[21] *https://www.wusa9.com/article/news/investigations/underrides/truckers-open-to-tougher-underride-standards-with-a-catch/65-ffa5d38f-b7b6–48aa-9eba-6ee139a78718*

STATEMENT OF CHRIS SPEAR, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN TRUCKING ASSOCIATION

Mr. SPEAR. Thanks, Chairman Fischer, Ranking Member Duckworth, and Subcommittee members. For 87 years, ATA remains the largest national trade organization representing the trucking industry. With affiliates in all 50 states, our membership encompasses over 34,000 motor carriers and suppliers, represents every sector of the industry, and 80 percent of ATA membership is comprised of small carriers. Trucking moves 70 percent of the Nation's freight tonnage worth over $10 trillion.

More than 80 percent of U.S. communities rely exclusively on trucks for their freight needs. The trucking industry is 7.7 million people strong, accounting for one in every 18 jobs in the U.S., where a truck driver is the top job in 29 States. My written testimony focuses on safety and technology, workforce development, and infrastructure, and it is grounded in data.

From 1980 to 2017, America witnessed a 71 percent drop in combination truck involved fatal crashes, yet fatalities on our Nation's highways climbed in recent years. We can and we must do better. The cause is clear, distracted driving. Seventy percent of large truck crashes had no truck driver related factors recorded, fueled largely by the growing addiction to speeding and texting.

Technology is key: including ELDs, cameras, automated emergency braking, and adaptive cruise control. Like pilots and planes, we will continue to see drivers in trucks, a future based not on driverless technology, but driver-assist solutions. We applaud the Secretary of Transportation for her leadership on technology, including preserving the seven bands of 5.9-gigahertz spectrum for safety, connecting cars, trucks, and infrastructure using AEB to save lives. The FCC wants to hand this spectrum to big cable so you can download YouTube videos faster. Please stop the shameless assault on public safety.

We need more tools to populate the FMCSA's drug and alcohol clearinghouse, including technology that detects marijuana impairment. Employers must be allowed to use hair testing as a sole screening method. It has been three years since this Committee instructed HHS to issue such rules. Sounds to me like a few cubicle dwelling bureaucrats are now thumbing their noses at you and public safety by keeping this scientifically proven and successfully deployed method from enforcing the law that you passed. They need to be held accountable.

Trucking is now short 60,800 drivers and must hire 1.1 million new drivers over the next decade, made harder by a 50-year low unemployment. We need more women, minorities, veterans, exiting service men and women, and a focus on improving the safety and health and wellness of our current workforce. We need access to the next generation of drivers. Forty-nine states currently allow an 18-year-old to drive a Class A commercial vehicle, making it legal to drive an 850 miles stretch of California, yet it is federally illegal to drive from Providence, Rhode Island to Rehoboth, Massachusetts, a mere 10 miles.

The heavily bipartisan DRIVE-Safe Act would require 400 hours of apprenticeship training and safety technology. Forty-nine states require none of this, making the DRIVE-Safe Act a step towards

safety and ATA recommends its immediate passage. Lastly, America cannot lead with a Third World infrastructure. Trucking is 4 percent of the vehicles on our roads. We pay half the tab into the highway trust fund and are willing to pay more. Here is why.

Trucking now losses $70 billion each year sitting in congestion. That is 425,000 drivers sitting idle for an entire year, 67 million tons of CO_2 being emitted. Passenger vehicle drivers now lose $1,600 a year due to traffic and repairs. These are the costs of doing nothing.

Under ATA's Build America Fund, one nickel, one nickel a year for 4 years would generate $340 billion in new revenue, shoring up the soon to go broke highway trust fund without adding a dime to the deficit. It is immediate. It is conservative. Less than $0.01 on the dollar to administer it versus $0.35 on the dollar for tolls. Business and labor are 100 percent behind the Build America Fund, and you passing it would be a major victory for America's roads and the millions of voters that use them each day. Thank you.

[The prepared statement of Mr. Spear follows:]

PREPARED STATEMENT OF CHRIS SPEAR, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN TRUCKING ASSOCIATIONS

Chairman Fischer, Ranking Member Duckworth, and members of the distinguished subcommittee, thank you for providing the American Trucking Associations (ATA)[1] with the opportunity to testify before you today. I would like to begin my testimony by recognizing your leadership and focus on improving the safety and efficiency of our Nation's highways. The trucking industry stands ready to work hand-in-hand with this subcommittee, Congress, and the Administration to assist in the development of a well-funded surface transportation reauthorization bill, and bring an end to the continuous cycle of underinvestment in our Nation's infrastructure, which results in significant harm to both our economy and the safety of the motoring public. Under your guidance, we remain hopeful that Federal action can solve this growing national crisis.

ATA is an 87-year old federation and the largest national trade organization representing the trucking industry, with affiliates in all 50 states. ATA's membership encompasses over 34,000 motor carriers and suppliers directly and through affiliated organizations. Our association represents every sector of the industry, from Less-than-Truckload to Truckload, agriculture and livestock to auto haulers, and from the large motor carriers to the owner operator and mom-and-pop one truck operations. In fact, despite the claims by some that ATA only represents the "mega-carriers," 80 percent of our membership is comprised of small-sized carriers, whereas only 2 percent of our membership would be considered large-sized carriers. And, our federation has members in every state, congressional district and community.

Trucking is the focal point of the United States' supply chain. This year, our industry will move 70 percent of the Nation's freight tonnage, and over the next decade will be tasked with moving three billion more tons of freight than it does today while continuing to deliver the vast majority of goods.[2] More than 80 percent of U.S. communities rely exclusively on trucks for their freight transportation needs. In 2017, the goods moved by trucks were worth more than $10 trillion.[3] The trucking industry is also a significant source of employment, with 7.7 million people working in various trucking-related occupations, accounting for 1 in every 18 jobs in the U.S.[4] Furthermore, "truck driver" is the top job in 29 states.[5]

Without trucks, our cities, towns and communities would fail to thrive and flourish, and would lack key necessities including food and drinking water; there would

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[1] *American Trucking Associations is the largest national trade association for the trucking industry. Through a federation of 50 affiliated state trucking associations and industry-related conferences and councils, ATA is the voice of the industry America depends on most to move our Nation's freight. Follow ATA on Twitter or on Facebook. Trucking Moves America Forward.*

[2] *Freight Transportation Forecast 2018 to 2029.* American Trucking Associations, 2018.

[3] *2017 Commodity Flow Survey Preliminary Report.* U.S. Census Bureau, Dec. 7, 2018.

[4] *American Trucking Trends 2018,* American Trucking Associations.

[5] *https://www.marketwatch.com/story/keep-on-truckin-in-a-majority-of-states-its-the-most-popular-job-2015-02-09*

not be clothes to purchase, nor parts to build automobiles and fuel to power them. The rail, air and water intermodal sectors would not exist in their current form without the trucking industry to support them. Trucks are central to our Nation's economy and our way of life, and every time the government makes a decision that affects the trucking industry, those impacts are also felt by everyday Americans and the millions of businesses that could not exist without trucks.

We appreciate the subcommittee's focus today on the trucking industry, as it is the nexus connecting infrastructure, interstate commerce and safety. As Congress looks towards the next surface transportation reauthorization bill, many of the topics addressed today will shape the drafting of a legislative and regulatory framework that trucking will operate under in the years to come.

The trucking industry is on the cusp of a transformation in the movement of freight-one that you and your colleagues will lead and greatly influence. Radical technological change will, in the near future, allow trucks to move more safely and efficiently, and with less impact on the environment than we ever dared to imagine. Yet we are facing headwinds, due almost entirely to government action or, in some cases, inaction, which will slow or cancel out entirely the benefits of innovation. Failure to maintain and improve the highway system that your predecessors helped to create will destroy the efficiencies that have enabled U.S. manufacturers and farmers to continue to compete with countries that enjoy far lower labor and regulatory costs and standards.

For the purpose of this hearing, I will focus my testimony on three key areas that will have the greatest and most immediate impact on the trucking industry: (1) Safety and Technology; (2) Workforce Development; and (3) Infrastructure.

ATA looks forward to working with this subcommittee, and each and every Member of Congress, as we pursue the legislative and regulatory framework that will ensure our Nation's surface transportation needs are met. That framework must be grounded in safety, science, data and training. We commend you for holding this important hearing, to the benefit of the trucking industry, interstate commerce, and the millions of Americans and U.S. businesses that rely on the safe and efficient movement of our Nation's goods.

1) SAFETY & TECHNOLOGY:

The safety of our Nation's roads and bridges, and that of the motoring public, is unquestionably of paramount importance. Safety, which anchors the foundation of the trucking industry, shapes our core values and decision-making. That is why the trucking industry invests approximately $10 billion annually in safety initiatives, including onboard vehicle technologies such as electronic logging devices, collision avoidance systems, and video-event recorders. Investments also include driver safety training, driver safety incentive pay, and compliance with safety regulations (*e.g.,* pre-employment and random drug tests and motor vehicle record checks). While some of these investments are made to meet a myriad of regulatory requirements, many of them are voluntary, progressive safety initiatives adopted by our members. And, they are paying dividends in highway safety. That being said, there is still more work to be done, and we are committed to the goal of accident and fatality-free highways.

Chairman Fischer and Ranking Member Duckworth, the below section highlights the trucking industry's safety record, and the many ways in which our members continually work to improve upon it. Our members work persistently to adopt processes and best practices that will make their fleets even safer. Meaningful improvements will require an acknowledgement of the principal causes of truck crashes and a commitment to making appropriate, data-driven countermeasures the highest priority.

➢ *THE TRUCKING INDUSTRY'S SAFETY RECORD:*

Since 1980, when the trucking industry was deregulated, both the number of fatal truck crashes and rate of fatalities have declined dramatically:[6]

- From 1980–2017, there has been a 69 percent decrease in the large truck-involved fatal crash rate;
- From 1980–2017, there has been a 71 percent decrease in the combination truck-involved fatal crash rate; and
- In 2017, 72 percent of large truck crashes had no truck driver-related factors recorded in multiple-vehicle crashes.

[6] *Large Truck and Bus Crash Facts 2017,*Trends chapter, Table 4, page 7, Federal Motor Carrier Safety Administration, Washington, D.C. *https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/safety/data-and-statistics/461861/ltcbf-2017-final-5-6-2019.pdf.*

The decline in large truck-involved fatal crashes since 1980 is due, in part, to industry-supported initiatives, many of which were used prior to becoming a mandated Federal regulation. For example, the use of Electronic Logging Devices (ELDs) was prevalent in ATA member fleets dating back to the early 2000s. Now, federally mandated use of ELDs has already had a positive effect on safety.

ATA members support the use and deployment of additional initiatives that will improve safety, such as a requirement for states to provide an employment notification system to alert employers of drivers' moving violations and license suspensions in a timely fashion, the use of alternative testing specimens to detect drug use, and vehicle safety technologies that create a safer environment for all.

And in a recent example of our ongoing commitment to safety, this past fall ATA updated its decade-old speed governing policy to reflect a more holistic approach on speed governing that recognizes safety technologies widely deployed in fleets today. The updated policy includes provisions for the use of Automatic Emergency Braking and Adaptive Cruise Control technology. Further, the policy includes a direction that the Department of Transportation conduct a recurring 5 year review of speed governing regulations to ensure that the regulations are appropriate and consistent with currently deployed technologies. Through this new policy, ATA believes that the development and promotion of important safety technologies, coupled with speed control measures, will result in the greatest positive impact on road safety.

➢ *TRUCK CRASH CAUSATION STUDY AND CRASH DATA:*

For the trucking industry to continue improving upon our safety record, we must focus more research and attention on the causes of truck-involved crashes, with a particular emphasis on countermeasures. Specifically, according to multiple studies, data, and other indicators, the vast majority of large truck-involved crashes are the result of driver behavior and errors. Furthermore, data indicates that other motorists, not the professional truck driver, are more likely to be at fault. According to a Federal Motor Carrier Safety Administration (FMCSA) report, 70 percent of fatal crashes involving a large truck and a passenger vehicle are initiated by the actions of, or are the fault of, passenger motorists.[7] The American Automobile Association (AAA) conducted their own version of this study and found that in truck-related crashes, the critical factor leading to the crash was attributed to the passenger vehicle driver 75 percent of the time.[8] Additionally, the AAA study found that in 10,732 fatal car-truck crash records from 1995–98, the car drivers were more likely to be cited for multiple unsafe acts. The study found that 36 percent of car drivers were cited for two or more unsafe acts, versus 11 percent of truck drivers. [9]

In June 2019 when I testified before the House Transportation & Infrastructure Subcommittee on Highways & Transit, I reiterated ATA's desire for an updated Large Truck Crash Study. ATA was pleased to see FMCSA's recent announcement that it will conduct a Large Truck Crash Causal Factors Study (LTCCFS).[10] It has been nearly 15 years since the last major investigation into the causes of, and contributing factors to, crashes involving commercial motor vehicles. In the intervening time, data has shown an uptick in the rates of truck-involved crashes.[11] To better understand this increase, we need accurate data that can direct our efforts and resources to deploy appropriate countermeasures.

ATA plans to coordinate with FMCSA to design a study that can be an effective tool in evaluating the causal factors contributing to truck-involved accidents. At this juncture, we particularly highlight the need for FMCSA to use a sufficiently large sample size that includes all segments of our industry and reflects real-world applications. Understanding the role of driver behavior in crash causation will shed additional light on how FMCSA's use of enforcement funding and resulting activity can be most cost-effective.

Just as a LTCCFS will help identify the cause of large truck crashes, unified electronic crash report data will help to provide accurate and timely data on truck-involved crashes. Several states have already adopted electronic collection of crash reports, and many of those have seen the ability to provide more timely and accurate

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[7] *Financial Responsibility Requirements for Commercial Motor Vehicles, U.S. Department of Transportation, Federal Motor Carrier Safety Administration,* January 2013, page xii, footnote 2.

[8] Kostyniuk LP, Streff FM, Zakrajsek J. *Identifying Unsafe Driver Actions that Lead to Fatal Car-Truck Crashes.* Washington DC: AAA Foundation for Traffic Safety, April, 2002.

[9] Ibid.

[10] 85 Fed. Reg. 2481 (January 15, 2020).

[11] *Large Truck and Bus Crash Facts 2017,*Trends chapter, Table 4, page 7, U.S. Department of Transportation, Federal Motor Carrier Safety Administration, Washington, D.C. *https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/safety/data-and-statistics/461861/ltcbf-2017-final-5-6-2019.pdf.*

information to stakeholders. Real-time data allows law enforcement and transportation safety professionals to respond more quickly to escalating trends and "hot spots," and helps ensure limited resources are allocated to areas with the greatest need. ATA supports Federal funding for states to adopt electronic crash report data collection, along with funding support to upgrade existing systems, implement NHTSA's Model Minimum Uniform Crash Criteria data fields, and training of staff on new systems.

➢ *ELECTRONIC LOGGING DEVICES:*

ATA was pleased to see the ELD rule go into full effect last December and adamantly opposes any legislative efforts that seek to undermine it. Many ATA members have used ELDs long before initial implementation of the ELD rule in December 2017. Accordingly, we whole-heartedly support the industry-wide adoption of ELDs, and the significant impact this critical technology has on improving public safety—a technology requirement that was fully litigated, widely debated, congressionally-mandated, and reaffirmed by FMCSA's denial of several ELD exemption requests.[12] Compared to the outdated pen and paper methods of tracking driver hours, ELDs are a modern-day technology that have proven to be more accurate, easier to enforce, more difficult to falsify, and—most importantly—have and will continue to save lives.

Opponents of the ELD implementation argue that the device has made highways unsafe by not allowing a driver to rest when tired. ATA, with its core principles rooted in a strong commitment to highway safety, would adamantly oppose any device that does not allow a driver to rest when tired. The simple fact is that ELDs have not changed the hours-of-service (HOS) rules that have been in place since the early 2000s. The requirements governing how long a driver may operate a commercial vehicle, or the minimum amount of time a driver must be off-duty, were not affected by the implementation of ELDs. ELDs have simply replaced the traditional "paper log" with an electronic version that automatically records a driver's duty status based on electronic data from the vehicle's engine and GPS location data.

There is, however, irrefutable evidence that ELD technology has proven effective in improving safety and increasing compliance. Since the December 18, 2017, ELD implementation date, HOS violations have dropped by more than half the violation rate prior to ELD enforcement.[13] Now that the ELD grandfather period—allowing fleets to use Automatic Onboard Recording Devices (AOBRD) in lieu of an ELD—has come and gone, fleets have adopted the required technology and are compliant. We note, for example, that due to FMCSA's partnership with industry to conduct an effective awareness campaign, the final deadline for enforcement passed largely without consequence. And since April 1, 2018, less than 1 percent of the over 5 million driver roadside inspections have resulted in a driver being cited for not having an ELD or grandfathered AOBRD.[14] FMCSA's 2014 report titled "Evaluating the Potential Safety Benefits of Electronic HOS Records" quantified the benefits of ELD use, finding that carriers using ELDs saw an 11.7 percent reduction in crash rate and a 50 percent reduction in HOS violations compared to those who had not adopted this safety technology. The study concluded that "the results show a clear safety benefit, in terms of crash and HOS violation reductions for trucks equipped with ELDs."[15]

➢ *HOURS OF SERVICE:*

As the trucking industry has adjusted to the December 2017 implementation of ELDs, concerns have been raised by varying segments of the industry regarding the need for greater flexibility in commercial motor vehicle operators HOS. While HOS regulations are designed to provide the framework for the safe and efficient movement of goods, there has come to light the need for increased HOS flexibility to provide drivers the ability to adjust to changing road and weather conditions, congestion and sensitive truck loads.

As such, ATA applauds FMCSA's recent Notice of Proposed Rulemaking (NPRM), which, in various ways, will give drivers the flexibility necessary to safely and efficiently manage operations. As FMCSA advances this NPRM to a final rulemaking, ATA emphasizes that any new flexibilities should be based on sound evidence and sufficient data to assure safety. Data that supports how changes to HOS improve

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[12] 83 Fed. Reg. 63194 (December 7, 2018).

[13] Federal Motor Carrier Safety Administration, Electronic Logging Device Hours-of-Service Violation Information Graphic. Retrieved January 27, 2020, from *https://eld.fmcsa.dot.gov/File/Open/18f45f72-df16-e41b-e053-0100007fe49a.*

[14] Ibid.

[15] 79 Fed. Reg. 27041 (May 12, 2014).

safety is—and should always be—foremost in any rulemaking. Changes that lack the proper data and science supporting a safety benefit should not be considered.

Additionally, while ATA would encourage the subcommittee to exert its oversight role in considering and reviewing FMCSA's final rulemaking, we caution the subcommittee on dangerous and reactive legislation that is not grounded in safety, science or data, such as S.1255, the Transporting Livestock Across America Safely Act. The legislation as drafted is a dangerous overreach, more than doubling the number of hours currently deemed safe for continuous commercial motor vehicle operation. While ATA understands and appreciates that livestock and agricultural haulers are a unique sector of the industry facing distinctive HOS challenges that should be reviewed and safely addressed, more than 24 hours of straight driving is not safe in a car, and it is even less so while transporting a trailer filled with livestock. This bill, and others like it, threaten the safety of the motoring public traveling on our highways, and should be rejected outright by this subcommittee and Congress.

➢ *EMPLOYER NOTIFICATION SYSTEM:*

ATA believes FMCSA should establish a national employer notification system to provide motor carrier employers with timely alerts to driver license actions, such as suspensions, revocations, and convictions for moving violations. Use of this system should be voluntary, at least initially. Under the current process, motor carriers often are not notified about drivers' convictions in a timely manner. Employers are required to check each driver's record once per year, and this check may reveal violations committed up to 11 months earlier. Employees are required to notify their employer of a violation of any State or local traffic law (other than a parking violation) within 30 days of a conviction, and of a license suspension, revocation, or cancellation within one day. However, they are often reluctant to do so because of the potential negative ramifications on their employment. FMCSA estimates that at least 50 percent of drivers may not notify employers of convictions and licensing actions within the required time-frames.[16]

In 2007, a pilot ENS program was conducted to assess the feasibility, cost, safety impact, and benefits of such a system. The pilot program, tested in Colorado and Minnesota, allowed motor carriers to register, with the driver's express permission, which enabled them to receive timely electronic notification of driver convictions and suspensions. The results of the pilot indicated that a nationwide ENS was needed and could have significant safety and monetary benefits for motor carriers. In 2012, the Moving Ahead for Progress in the 21st Century Act (MAP–21) supported FMCSA's plans to develop and implement a national driver record notification system for commercial vehicle operators. ATA supports a standardized ENS approach and advocates for a national ENS system.

➢ *DRUG AND ALCOHOL CLEARINGHOUSE:*

Since the late 1990s, ATA has supported the establishment of a database to close a known loophole in existing regulations that allows CDL drivers who test positive for prohibited substances to escape the consequences of their actions. As a result of the 2012 highway reauthorization legislation (MAP–21), FMCSA published a final rule in December 2016 creating a Drug and Alcohol Clearinghouse that would act as a central repository for drug and alcohol violations of CDL drivers, allowing carriers to search this clearinghouse when hiring a driver for the first time and on an annual basis. On January 6, 2020, the clearinghouse became operational; however, it experienced significant connectivity issues due to the high number of users accessing the system. FMCSA has worked to address these issues, and on January 22, 2020, announced the system had been returned to full functionality.

However, given these initial difficulties, ATA urges Congress to take the necessary steps ensure the problems experienced during the initial rollout of the clearinghouse do not reoccur, and that any current or future problems are resolved expeditiously. Furthermore, FMCSA should address what steps are being taken to ensure a high level of compliance with the clearinghouse requirements from both a motor carrier and laboratory reporting standpoint.

➢ *COMPLIANCE, SAFETY, ACCOUNTABILITY:*

Compliance, Safety, Accountability (CSA) was launched by FMCSA in 2010 as a way to use data to streamline enforcement programs and target the least safe motor carriers for enforcement intervention. Since its inception, the methodology behind CSA "scores" have been called into question with regard to their correlation with

[16] *Driver Violation Notification Service Feasibility Study,* U.S. Department of Transportation, Federal Motor Carrier Safety Administration, July 2005, figure 1, page 1.

future crash risk. The relationship between scores and crash risk is a reflection of the many methodology and data problems that plague the system. These include the flawed weighting of violations, a lack of data on a large portion of the motor carrier population, and the scoring of carriers on all crashes they are involved in, regardless of fault. In light of these issues, Congress requested that both the Government Accountability Office (GAO) and the DOT Inspector General's (I.G.) office conduct reviews of the CSA program and its scoring methodology. Both entities confirmed that the system is still grappling with serious flaws. In December 2015, Congress passed the FAST Act, which removed motor carrier's CSA scores from public view while the National Academies of Science (NAS) conducted a thorough review of CSA.[17] The FAST Act also stipulated that FMCSA must prepare a corrective action plan to address the shortcomings identified by the study and remove carriers' CSA scores from public view until the study and resulting implementation plan were completed.

In June 2018, FMCSA released their corrective action plan responding to the NAS review of CSA.[18] FMCSA indicated that they would pursue a different methodology, known as an Item Response Theory (IRT), and would conduct testing of the IRT methodology to determine its accuracy in identifying motor carriers who are at risk for future crashes. As of the date of this testimony, the agency has yet to implement any changes to the CSA program. Motor carriers seek changes to this program so that they are not mischaracterized by a flawed scoring system that has proven ineffective in identifying unsafe carriers. Congress should continue to monitor FMCSA's corrective actions, and ensure that any changes to the CSA system are available for stakeholder review and comment, prior to implementation. During the period of time that such changes are made, CSA scores should continue to remain hidden from public view.

➢ *HAIR TESTING:*

An increasing number of motor carriers are conducting pre-employment and random drug tests using drivers' hair as a testing sample. Hair tests provide a better, longer picture of an applicant's past drug use and are more difficult than other testing methods to subvert. However, since urine is the only sample type permitted under DOT regulations, companies that voluntarily conduct hair tests must do so in addition to mandatory urine tests. This duplicated time and expense deters fleets from adopting this more effective testing method. To help eliminate this redundancy and incentivize more fleets to conduct hair testing, ATA strongly supports the recognition of hair testing as a federally-accepted drug testing method.

The Substance Abuse and Mental Health Services Administration (SAMHSA) has long expressed an interest in recognizing hair testing as a federally-accepted drug testing method, and has been developing guidelines to recognize hair testing since the early 2000s. Unfortunately, progress has been inexcusably slow. As a result, in 2015 as part of the FAST Act. Congress directed the Secretary of the Department of Health and Human Services (HHS) to "issue scientific and technical guidelines for hair testing as a method of detecting the use of controlled substances for purpose of section 31306 of Title 49, United States Code" by December 4, 2016.[19] Unfortunately, this Congressionally-mandated deadline is now more than 3 years overdue. However, ATA is encouraged that HHS is finally working to address the Congressional mandate by sending proposed guidelines to the Office of Management and Budget (OMB) for review.

The development of standards by HHS will pave the way for regulated employers to use this testing method and allow them to identify a higher number of safety-sensitive employees who violate both Federal drug testing and medical qualification regulations. Additionally, having hair testing as a recognized alternative drug testing method would give motor carriers the ability to report positive hair test results to drivers' subsequent prospective employers through FMCSA's now-implemented Commercial Driver's License Drug and Alcohol Clearinghouse.

ATA applauds the Commerce Committee for continuing to take a proactive approach on this issue, most recently considering and approving S.2979, the Preventing Opioid and Drug Impairment in Transportation. The legislation requires Federal entities to study impaired driving countermeasures and to provide employers with the necessary tools to deter prohibited drug use. That includes a require-

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[17] The National Academies of Sciences, Engineering, and Medicine. 2017. Improving Motor Carrier Safety Measurement. Washington, DC: The National Academies Press. doi: *https://doi.org/10.17226/24818.*

[18] The National Academy of Sciences Correlation Study, Corrective Action Plan Report to Congress. Retrieved January 27, 2020, from *https://cms8.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/mission/policy/407251/nas-correlation-study-corrective-action-plan-enclosure-final-june-2018.pdf.*

[19] Fixing America's Surface Transportation Act § 5402, (2015).

ment for the National Highway Traffic Safety Administration (NHTSA) to investigate ways to better detect and reduce impaired driving, and a requirement for the U.S. DOT to lead a study on the use of roadside oral fluid drug screening. The bill also works to advance the long-overdue development of Federal hair testing guidelines by requiring status updates from both the Office of Management and Budget and the Department of Health and Human Services.

ATA urges Congress and this subcommittee to apply further pressure on HHS to pave the way toward adoption of this important safety initiative. Unfortunately, while this country in recent years has seen prescription opioid abuse grow to an epidemic, and a correlated uptick of drug-impaired driving, we continue to wait for these critical technical guidelines to be completed, so that DOT can recognize the use of hair testing as a federally-accepted drug testing method.

➢ *MARIJUANA LEGALIZATION & IMPLICATIONS FOR ROAD SAFETY:*

The recent marijuana legalization efforts have uniquely challenged our industry, and have led to critical issues of workplace and highway safety. Since 1991, DOT has required mandatory alcohol and controlled substance drug testing for employees in safety-sensitive positions in all transportation modes. As states move to legalize marijuana, the trucking industry, just like the rest of American society, is evaluating and considering changes with respect to marijuana laws. Our members also recognize that public opinion toward marijuana legalization has dramatically shifted over the last two decades. However, trends and popular opinion don't always lead to good policy, and while debates about decriminalization are timely, policies that limit employer drug testing programs to the detriment of transportation safety will result in more crashes, injuries, and fatalities.

An example of this can be found in S.2227, the Marijuana Opportunity Reinvestment and Expungement (MORE) Act of 2019, legislation also introduced in the House and recently approved by the House Judiciary Committee. While well-intentioned, the MORE Act neglects to recognize the significant impact removing marijuana from the schedule of controlled substances will have on both highway and workplace safety. Unlike with alcohol, there is no national enforceable impairment standard for marijuana. With no established consensus on an impairment threshold, employers are unable to measure levels of impairment, which complicates our industry's best efforts to maintain road and workplace safety. Employers must be able to test for marijuana as a condition of employment, especially when an employee's use could adversely impact the safety of our Nation's roads, bridges, and motoring public. Before Congress legalizes recreational marijuana use, Congress must consider the safety implications of this legislation by establishing the necessary tools to protect highway and workplace safety. We stand ready to assist Congress in this timely effort.

➢ *AUTOMATED VEHICLE TECHNOLOGIES:*

As I have testified before the Commerce Committee in the past, the trucking industry remains firmly supportive of automated vehicle (AV) technologies, which we believe will help make our industry's workplace, the roads and bridges crisscrossing this country, safer. For decades, truck manufacturers and suppliers have improved safety and efficiency technologies that demonstrate real improvements to freight transportation and lifesaving goals. As technical solutions have grown, and as costs have become more reasonable, policymakers and regulators are trying to catch up to the market-driven innovation and proliferating technologies. New technology companies and traditional equipment suppliers are also developing automated and connected vehicle technology specifically for the trucking industry, further accelerating the development of commercial motor vehicles equipped with automated driving systems (ADS).[20]

While the full impact of automated vehicles on workforce training and labor regulation is not yet clear—as the effect of automation on trucking and logistics operations is still developing along with the technology—ATA does not perceive this technology to be completely "driverless" for the trucking industry, but instead a vital driver-assist tool in monitoring and operating freight deliveries. We expect that there will continue to be a role for drivers in trucking for the foreseeable future and have confidence in how the role of drivers with automation will be modified and adjusted as the technologies continue to advance.

ATA also believes that it is crucial to include the trucking industry in any regulatory or legislative framework that directs the development and testing of auto-

[20] (January 30, 2019). *Self-Driving Truck Startup Embark Releases Performance Data.* Retrieved from *https://www.ttnews.com/articles/self-driving-truck-startup-embark-releases-performance-data.*

mated vehicle technologies. ATA continues to engage with the FMCSA and other agencies within U.S. DOT, as well as other stakeholder advisory groups on automated and connected vehicles to ensure that the trucking industry's perspective is considered as future policies are developed. ATA continues to work with State Trucking Associations, state legislators, and transportation officials as policies, regulations, and research emanate from cities, states, universities, and businesses. As a founding member of the Partnership for Transportation Innovation & Opportunity, ATA has also engaged with other stakeholders to study and address workforce issues related to automated trucks. Additionally, the safety impacts of automated or assisted braking and steering systems are being studied and will likely show significant improvements in mitigating crashes and injuries.[21]

As the Commerce Committee continues to pursue comprehensive AV legislation in conjunction with the House Energy & Commerce Committee, we caution that ATA cannot support legislative endeavors that fail to take a multi-modal approach to AV legislation. Legislation creating a Federal role overseeing the advancement, development and deployment of automated vehicle technologies should capture all road users, including passenger vehicles, commercial trucks, buses, pedestrians and bicyclists, as well as the supporting infrastructure.

➢ *CONNECTIVITY & 5.9 GHz TRANPSORATION SAFETY SPECTRUM:*

The safety benefits from advancing automated truck technology also parallels the importance of intelligent transportation systems. Plans for deploying dedicated short-range communication (DSRC) devices on vehicles to enable vehicle-to-vehicle (V2V) and vehicle-to-infrastructure (V2I) communications—collectively known as V2X—have significant future safety benefits to next generation U.S. transportation.[22] Much work has been done by Federal and state governments, research institutions, technical standards organizations, and technology companies to develop V2X protocols and applications for single and combination vehicles.[23] These V2X technologies are dependent on a 5.9 GHz spectrum that remains dedicated to vehicle safety applications.

Unfortunately, recent actions taken by the Federal Communications Commission (FCC) to reallocate the 5.9 GHz spectrum would turn back the clock on highway safety. The proposal released by the FCC in December 2019 rejects the foresight the Commission demonstrated when originally allocating spectrum for improving traveler safety, decreasing traffic congestion, and reducing air pollution. Rather, this new proposal seeks to increase the already large spectrum allocation for Wi-Fi so that it can be used for connecting our TVs, thermostats, baby monitors, refrigerators, washing machines, toys, and even toilets, because the FCC believes that connected consumer devices are evolving quickly and are more widely deployed than the vehicle communications services in the 5.9 GHz spectrum. It should be no surprise that developing and deploying technology to allow cars and trucks from different manufacturers to communicate critical safety information with each other as well as with pedestrians, cyclists, traffic signals, work zones, and other roadway infrastructure while traveling at highway speeds and in traffic jams would evolve more slowly than connected household devices. This is not a reasonable justification for prioritizing faster Internet speeds for connecting consumer devices and streaming infotainment over saving lives and reducing the environmental impact of our transportation system.

It is also disappointing to see how little regard the FCC's proposal shows for the significant work and investment by industry and all levels of government to develop and deploy technology to improve the safety and efficiency of our transportation system under the existing FCC rules. The FCC's proposal effectively throws out the one technology –DSRC—that has already been deployed in the 5.9 GHz spectrum, and severely limits the bandwidth available for the evolution of an alternative technology—Cellular Vehicle to Everything (C–V2X). Furthermore, the proposal jettisons the work done in good faith to test concepts that would retain the 5.9 GHz spectrum for vehicle safety communications while allowing for sharing with unlicensed devices, "despite the fact that ongoing testing has shown promising results."[24]

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[21] (May 22, 2019). *Development of Baseline Safety Performance Measures for Highly Automated Commercial Vehicles.* Retrieved from *https://www.fmcsa.dot.gov/research-and-analysis/technology/development-baseline-safety-performance-measures-highly-automated.*

[22] Chang, J. (2016, July). *Summary of NHTSA heavy-vehicle vehicle-to-vehicle safety communications research.* (Report No. DOT HS 812 300). Washington, DC: National Highway Traffic Safety Administration.

[23] (October 4, 2018). *Preparing for the Future of Transportation Automated Vehicles 3.0.* Retrieved from *https://www.transportation.gov/av/3*

[24] Ibid. paragraph 10

The FCC's proposal to reallocate the 5.9 GHz band shows a clear bias toward supporting unlicensed operations, while seeking to avoid the need to require use of dynamic frequency selection interference mitigation technologies for the reallocated spectrum.[25] Contrast this to the proposal's treatment of incumbent DSRC and potential future C–V2X operations in the 5.9 GHz band, which would be severely curtailed and subject to harmful interference from the effectively unfettered Wi-Fi and other unlicensed use that would be allowed to operate in adjacent channels.[26] The proposal seems predestined to ultimately result in a full takeover of the band for unlicensed use.

ATA has long sought to advance the deployment of wireless communication technologies as a means of improving road safety and connectivity while reducing crash risk and road fatalities. ATA strongly believes that retaining the full 75 MHz spectrum of the 5.9 GHz band for V2X technology to improve safety and reduce traffic congestion and emissions is the right policy outcome, and this position has broad support as noted recently by the House Committee on Transportation and Infrastructure (T&I).[27] ATA concurs with the T&I Committee's recommendation that the FCC reconsider its approach in the NPRM. ATA further recommends that the FCC coordinate more closely with DOT to better understand and account for the implications that changes to the existing rules in 5.9 GHz band would have for transportation safety before taking further action.

➢ *MISGUIDED SAFETY TECHNOLOGY MANDATES:*

While discussing safety technologies that our industry utilizes, both mandated and voluntarily, I also urge this subcommittee to use caution and best judgement as you consider technology mandates on the trucking industry that, while well intentioned, may lead to unintended consequences and negative impacts on both the industry and road safety. An example of this can be found in recent legislative attempts to mandate an unproven device known as a "side underride guard" on the trucking industry. Introduced in both the House[28] and Senate[29], the Stop Underrides Act calls for mandating these devices on the sides and front of virtually all commercial vehicles, including the retrofitting of already manufactured and in-service vehicles.

This legislation seeks to address a certain type of truck-involved accident through a highly prescriptive industry-wide mandate. Regrettably, the bill is not based on science, data or identified safety benefit. Moreover, it ignores potential technical issues a mandate of this nature raises, as well as the other technologies that address these and other crashes, such as automatic emergency braking, camera monitoring systems, and adaptive turning assist. And, the bill ignores the diversity of our industry. In trucking, we know that one size does not fit all, and that investments in certain technologies that one company makes may not make sense for another. Standards for new and in-service truck equipment should be based on sound economic and engineering principles that enhance safety, take into account real-world operations, and weigh possible unintended consequences.

The Stop Underrides Act also fails to consider numerous complicating factors, such as engineering tradeoffs involving weight, strength, and effectiveness of side guards. Advocates for mandating side underride guards have reiterated that these devices have been tested. To our knowledge, the only testing that has been accomplished involves a closed course, at well below highway speeds, during perpendicular side impact crashes into a stationary trailer. In 2019, ATA staff witnessed firsthand that these crash tests were successful in stopping the vehicle from penetrating underneath the side of the trailer within a controlled test environment. What we have not witnessed is the results of a crash during a realistic highway scenario—at highway speeds, with a moving truck and trailer, and with other traffic and road environment factors present. For instance, a concern remains that a side underride guard may successfully stop a passenger car from going underneath the trailer, but the potential for that car to bounce off the underride guard and trailer and strike other vehicles is a realistic scenario that needs to be addressed via research, and not conjecture.

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[25] Ibid, paragraph 17.

[26] DOT, NHTSA, Vehicle-to-Vehicle Communications Research Project (V2V–CR), Pre-Final Version, (Dec. 2019), available at *https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/v2v-cr_dsrc_wifi_baseline_cross-channel_interference_test_report_pre_final_dec_2019-121219-v1-tag.pdf.*

[27] Letter to Chairman Pai and Commissioners O'Rielly, Carr, Rosenworcel, and Starks, (Jan. 22, 2020), available at *https://transportation.house.gov/imo/media/doc/2020-01-22%20Full%20TI%20Letter%20to%20FCC.pdf.*

[28] *https://www.congress.gov/bill/116th-congress/house-bill/1511/all-info.*

[29] *https://www.congress.gov/bill/116th-congress/senate-bill/665.*

Furthermore, the bill raises significant operational issues related to ground clearance, moveable trailer axles, and the diversity of truck and trailer designs. For example, the ridged specified design of side underrides would not work well with tank and bulk trailers that are cylindrical in size and require underbelly accessibility; flatbed trailers, which unloaded, are naturally curved to suppress weight; and intermodal trailers that are shipped and locked onto specifically designed chassis for hauling. Simply put, these glaring operational concerns do not signify real world applicability, nor do they justify an industry-wide mandate.

The Stop Underrides Act also places focus solely on mitigating a crash *after* it has happened, as compared to focusing on efforts—such as safety technologies that are available today—on *preventing* the crash from happening in the first place. All parties should be focused on crash avoidance that can be achieved by enhancing vehicle-to-vehicle (V2V) connectivity. In NHTSA's January 2017 V2V Notice of Proposed Rulemaking for light-duty vehicles, the Agency estimates that four safety applications enabled by the proposed rule could avoid or mitigate 89 percent of light duty vehicle crashes.[30] NHTSA is currently also conducting research on V2V for heavy vehicles and estimates that 70 percent of crashes involving trucks occurred in scenarios that could be addressed by V2V systems.[31]

Our industry needs to be diligent in directing safety-related resources, leveraging industry investments to result in the greatest potential benefit to highway safety, which is the only way we can hope to achieve the goal of accident and fatality-free highways. In testimony provided at the June 2019 "State of Trucking in America" hearing before the House T&I Subcommittee on Highways and Transit, advocates for the Stop Underrides Act stated that "combining all new trailer orders with currently registered trailers puts the total number of commercial trailers in the United States at well over 12 million."[32] Equipping the estimated 12 million trailers with a side underride guard, identified in testimony as costing $2,900 would equate to approximately $34.8 billion spent on underride guards. This staggering figure would result in what is likely the largest unfunded mandate on a private sector industry in U.S. history. Furthermore, when combined with the expected cost of labor in installing these guards, this mandate would exceed the industry's annual net revenue, essentially putting trucking out of business and grinding our economy to a halt.

ATA strongly recommends that Congress and Federal Regulators work collaboratively with the industry to incentivize safety investments, allowing motor carrier to make the right investments that provide the greatest overall benefit the safety of our roads, bridges and motoring public. However, misguided and legislative mandates like the Stop Underrides Act detract from our shared goal of improved safety.

2) WORKFORCE DEVELOPMENT:

➢ *THE DRIVE SAFE ACT IS NEEDED TO EXPAND THE DRIVING WORKFORCE:*

It is no secret that the trucking industry is currently experiencing a significant, nationwide shortage of qualified drivers. This fact is overwhelmingly supported by legitimate data. The driver shortage is real, as the Nation is short 60,800 truck drivers today, and over the next decade will need to hire nearly 1.1 million total new drivers to account for increasing demand and the industry's aging workforce.[33] Therefore, ATA urges this subcommittee and Congress to address this growing problem now by enacting the DRIVE Safe Act (S.569, H.R. 1374). This legislation is a common-sense solution that eliminates the obsolete regulatory barriers preventing capable, qualified Americans from entering the trucking workforce. Moreover, the DRIVE Safe Act is not just a workforce replenishment tool—it's a job creation and safety enhancement bill.

ATA supports lowering the minimum age requirement for interstate truck driving from 21 to 18—but only for qualified apprentices that satisfy the safety, training, and technology requirements spelled out in the DRIVE Safe Act. This bill would lower the minimum age requirement for the interstate operation of commercial motor vehicles from 21 to 18—but only for properly qualified apprentices who:

(1) satisfy a minimum of 400 hours of training and 11 performance benchmarks;

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[30] 82 Fed. Reg. 3863 (January 17, 2017).

[31] Chang, J. (2016, July). Summary of NHTSA heavy-vehicle vehicle-to-vehicle safety communications research. (Report No. DOT HS 812 300). Washington, DC: National Highway Traffic Safety Administration.

[32] (June 12, 2019). Retrieved from: *https://transportation.house.gov/imo/media/doc/Testimony-Young.pdf*

[33] *Id.* The average age of a truck driver is 49, 7 years older than that of the typical U.S. worker.

(2) complete those hours of training under the supervision of an experienced driver; and

(3) train in trucks equipped with technology and enhanced safety features, such as Automatic Emergency Braking (AEB), event recorders/cameras, speed-limiters, and automatic transmissions.

Current law permits an 18-year-old to drive a truck over 850 miles from San Diego, California to Crescent City, California. 18-year-olds are also legally able to drive a truck over 830 miles from Brownsville, Texas to Perryton, Texas. However, 18-year-olds are prohibited from driving a truck from Providence, Rhode Island to Rehoboth, Massachusetts—a mere 10 miles. As this subcommittee is aware, forty-nine states and the District of Columbia already allow 18, 19, and 20-year-old CDL holders to operate commercial motor vehicles (CMVs) in intrastate commerce. Given that forty-nine states and the District of Columbia have already determined that 18 to 20-year-old drivers do not inherently pose a significant safety risk to other intrastate motorists, it defies logic that these same 18 to 20-year-olds are legally unable to drive across state lines.

The notion that 18 to 20-year-old drivers lack the general maturity, skill, and judgment necessary to operate a CMV is erroneously dismissive and discriminatory. As the subcommittee is aware, our Nation's military currently allows 18, 19, and 20-year-old service members to operate heavy duty machinery, equipment, and vehicles—demonstrating that properly-designed training can enable U.S. sailors (whose average age is younger than 20 years old) to operate a $4 billion aircraft carrier.[34] Despite myriad examples of 18, 19, and 20-year-old members of the Armed Services with whom we entrust our national security and defense, the nay-sayers argue, that there is something intrinsic about 18, 19, and 20-year-olds (often characterized derisively as "teens and novices") that renders them inherently unsafe—and thus, categorically incapable of learning how to operate CMVs safely in interstate commerce.

In 2015, Congress correctly and soundly rejected this notion when it passed the FAST Act, which was signed by President Obama on December 4, 2015—mandating, among other things, language championed by Chairman Fischer, the Under 21 Military Pilot Program.[35] The very premise of the Under 21 Military Pilot is the recognition that certain 18, 19, and 20-year-olds, with proper training, can learn how to operate CMVs safely in interstate commerce. ATA fully supports and agrees with this premise.

Moreover, building off of this premise, ATA also agrees with FMCSA that the training provided by the military for 18, 19, and 20-year-olds serving in the seven Military Occupational Specialty (MOS) codes[36] identified by FMCSA for the purposes of the Under 21 Military Pilot Program *is* effective in vetting, teaching, and preparing qualified service members to operate CMVs safely in interstate commerce as 18, 19, and 20-year-old civilians. Consistent with these views, ATA believes that the enhanced training standards of the DRIVE Safe Act can be equally effective as the training provided in the seven MOS codes referenced above, in vetting, teaching, and preparing qualified 18, 19, and 20-year-old *non-military* drivers to operate CMVs safely in interstate commerce. Given the many similarities between the training regimen of those seven MOS codes and the training regimen of the DRIVE Safe Act,[37] Congress should have a similar level of *ex ante* confidence in the safety prospects of the latter as the level of *ex ante* confidence Congress expressed in mandating the former.

➢ *TRAINING—NOT AGE—IS PARAMOUNT:*

For the past twenty years,[38] opponents of 18–20 year old drivers have recycled severely flawed, limited, and outdated data—largely relying upon on a single study

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[34] National U.S. Navy Aircraft Carrier Month, *2018 Talking Points, https://aircraftcarrier.com/wp-content/uploads/2018/10/Talking-Points-2018.pdf,* at 5.

[35] 83 Fed. Reg. 31633 (July 6, 2018).

[36] 88M Motor Transport Operator (Army); 92F Fueler (Army); 2T1 Vehicle Operations (Air Force); 2Fo Fueler (Air Force); 3E2 Pavement and Construction Equipment (Air Force); E.O. Equipment Operator (Navy); and 3531 Motor Vehicle Operator (Marine Corps).

[37] E.g. Training Hours (160 hours minimum for the 7 MOS versus 400 hours minimum for DRIVE Safe); both training regiments require Performance Based Training, and Supervised Training, etc.

[38] OOIDA, May 21, 2001, Docket ID FMCSA–2000–8410–1608, *https://www.regulations.gov/document?D=FMCSA-2000-8410-1608,* at 8; Advocates of Highway and Auto Safety, May 21, 2001, Docket ID FMCSA–2000–8410–1466, *https://www.regulations.gov/document?D=FMCSA-2000-8410–1466,* at 4; Todd Spencer, OOIDA, August 9, 2019, Docket ID FMCSA–2018–0346–1020, *https://www.regulations.gov/document?D=FMCSA-2018-0346-1020;* Under Pressure: The State of Trucking in America; Hearing before the Committee on Transportation and Infrastruc-

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released 28 years ago in 1991 by K.L. Campbell ("the Campbell Study")[39] to justify the proposition that "CMV drivers under the age of 21 are over-involved in fatal crashes by a factor of six when compared to older drivers."

However, the subcommittee may be interested to know that Campbell himself warned that his study was a mere estimate of accident rates that were calculated using an admittedly incomplete, non-matching batch of "data" from 1980–84 and from 1986 that was of insufficient sample size and obtained in part via telephone survey estimates.[40] He explicitly cautioned: When considering possible conclusions based on the results of these analyses, the reader must remember the mismatch in time periods between the involvements and the travel.[41]

The only other CMV-specific "data" that opponents of 18, 19, and 20-year-old drivers consistently cite is derived from a 1996 study by Daniel Blower ("the Blower Study"),[42] which similarly relies on flawed, limited, and outdated data. Specifically, the Blower Study:

- was limited to data from Michigan, supplemented by data from North Carolina "because of certain [unspecified] problems with the Michigan data;"[43]
- conflated two age group which FMCSA separates out in the Under 21 Military Pilot as the control and test groups; and
- purposely compared—i.e. cherry-picked—this conflated group of younger drivers against the group of drivers in the flattest part of the accident curve.[44]

In contrast, in collecting and presenting the state data for the 2019 FMCSA notice and request for comments entitled, "Commercial Driver's Licenses; Pilot Program To Allow Drivers Under 21 To Operate Commercial Motor Vehicles in Interstate Commerce,"[45] ATA adopted FMCSA's approach of comparing the safety performance of 18–20 year olds against that of 21–24 year olds. Most of these 18 to 20-year-old drivers for whom comparative data is available appear to *already* achieve equivalent—if not superior—levels of safety than that of their older counterparts on critical safety measures such as crash rates,[46] particularly when compared to drivers aged 21,

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ture, Subcommittee on Highways and Transit, House, 116th Cong. (June 12, 2019) (Testimony of Cathy Chase, Advocates for Highway and Auto Safety), *https://transportation.house.gov/imo/media/doc/Testimony-Chase.pdf.*

[39] Kenneth L. Campbell, *Fatal Accident Involvement Rates By Driver Age for Large Trucks,* University of Michigan Transportation Research Institute (September 1990), *https://deepblue.lib.umich.edu/bitstream/handle/2027.42/29197/0000251.pdf?sequence=1&isAllowed=y.*

[40] Campbell, at 290. Specifically, Campbell was very careful to caution the following: (1) "Since the travel survey was mostly conducted in 1986, the time period for the exposure does not match the time period of the accidents . . .."; (2) "Obviously, it would have been more desirable to have travel data for the same period of time as the involvements, but the availability of funding and other problems preclude a better match at this time."; and (3) "It will be another year before the 1986 TIFA file is complete, and several years of accident data are needed to produce sufficient sample sizes.".

[41] *Id.* at 2 and 5.

[42] Daniel Blower, *The Accident Experience of Younger Truck Drivers,* Great Lakes Center for Truck and Transit Research (May 1996), *https://deepblue.lib.umich.edu/handle/2027.42/1147.*

[43] ibid

[44] First, Blower simultaneously claims that "accident involvement rates were calculated by the population of CDL-holders, using drivers with a CDL in Michigan and accidents in Michigan"1 while also stating that "because of certain problems with the Michigan data . . . and to boost confidence in the findings, accident data from North Carolina were used also." The reader is left to wonder what exactly was problematic with the Michigan data; why did the findings of the study need a boost in confidence to begin with; and why North Carolina's data rather than data from other state(s) is sufficient to address those deficiencies, among other questions.

Also, Blower claims that "there are not enough 19-to-20 year old CDL-holders, so 21-year olds are added to establish this population of young drivers. . . . Those 22 to 24 . . . probably share many characteristics with the younger drivers. This group was included in the project in order to increase sample sizes where necessary." This questionably constituted group of "younger drivers" was compared against the age group of drivers which the author knew had the lowest accident rates—specifically "truck drivers 30–49 years old [who] are clearly in the flat part of the accident rate curve." Evidently, this cherry-picked comparison was intentional: "the purpose of the project is essentially to compare drivers on the steep part of the curve with drivers in the flat area. . . . Accordingly, only drivers 18 to 24 and 30 to 49 are included in the study."

[45] 84 Fed. Reg. 21895 (May 15, 2019).

[46] In response to FMCSA's May 15th, 2019, notice published at 84 Fed. Reg. 21895, ATA requested from its federation of state trucking associations data from their respective State Driver Licensing Agencies four points of data: (1) the number of 18, 19, and 20 year old CDL holders in the state; (2) the number of crashes associated with 18, 19, and 20 year old CDL holders in the state, over the past three years, broken down by Fatal Crashes, Injury Crashes, and Property Damage Only (PDO) Crashes; (3) the number of 21, 22, 23, and 24-year-old CDL holders in the state; and (4) the number of crashes associated with 21, 22, 23 and 24 year old CDL holders in the state, over the past three years, broken down by Fatal, Injury, and PDO Crashes. Unless otherwise noted, "crash rates" were calculated by ATA, by dividing the number of crash-

22, 23, and 24, with whom they are closest in age.[47] This pattern is consistent with broader trends in Federal crash data encompassing passenger vehicles as well as CMVs. Specifically, according to NHTSA's *Traffic Safety Facts* Annual Report, in each of the past six years for which NHTSA has data—*i.e.,* 2012, 2013, 2014, 2015, 2016, and 2017—male drivers in the 16–20 age range had a *lower* involvement rate in fatal crashes than male drivers in the 21–24 age range.[48]

Significantly, these 18-to-20-year-old drivers operating CMVs in intrastate commerce are already achieving this baseline level of safety *without* the benefit of having trained under the enhanced training and technology standards of the DRIVE Safe Act. Thus, if Congress were to enact the DRIVE Safe Act, lawmakers should have every expectation to observe similar, if not better, safety performance by 18, 19, and 20-year-old interstate drivers relative to their older counterparts—the latter of whom are not required to have their CMVs equipped with the DRIVE Safe Act's vehicle safety technologies, which have the potential to prevent or significantly reduce the number and severity of crashes.

➢ *THE DRIVE SAFE ACT IS NOT JUST PRO–SAFETY—ITS ALSO PRO-JOBS:*

With an average salary of $45,570, and excellent benefits, such as paid leave, health insurance, and 401(k)s, trucking provides a stable, good-paying career to Americans.[49] However, these types of fulfilling careers are out of reach for many otherwise-qualified 18 to 20-year-olds because, unlike other blue-collar professions, there are many barriers to entry for new truck drivers beyond the minimum age requirement, such as CDL testing standards, strict drug and alcohol testing regimes, and safe and clean driving records. If motor carriers could reach potential truck driver candidates straight out of high school, the trucking industry would be in a better position to help candidates develop the skills, habits, and attitudes necessary for a long and satisfying career in the trucking industry.

Significantly, even though the minimum age for interstate driving is 21, the reality is that the average age of entry-level drivers enrolled at private truck driver training schools is actually 35.[50] This means that many drivers entering our industry may be on the back end of their second, third, or fourth careers, pursuing a job in trucking as an opportunity of last resort. As such, the trucking industry is unable to tap into the ambitions of the next generation's workforce and replenish its aging workforce with younger workers. Unfortunately, blue-collar professions are still stigmatized in our society and culture, which place a disproportionate emphasis on four-year-degree colleges at the expense of vocational schools or the skilled trades.

Unlike other blue-collar professions, however, the trucking industry faces an additional barrier to entry in the form of FMCSA's regulations that require an individual to be at least 21 years old in order to operate a CMV in interstate commerce. This means that other blue collar industries essentially get at least a three year head start in advance of the trucking industry in the ability to recruit, hire, and train—straight out of school—the already-limited subset of students who, for a variety of reasons, decide to forego a four-year-degree and significant student loan debt.

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es associated with CDL holders of a particular age group in a state, by the total number of CDL holders of that age group in the state. Significantly, the data received from the states do not appear to distinguish whether the CDL holder was at-fault in the crash in question. In addition, the data received from the states may include crashes that fall outside the ambit of the Federal Motor Carrier Safety Regulations' (FMCSRs) definition of "accident." Also, unless otherwise noted, the data may not distinguish between crashes that occurred in a commercial or non-commercial vehicle. What is more, the crash rates are not based on vehicle miles travelled (VMT). However, these limitations held true across the board for data ATA received for both 18–20 year old CDL holders as well as 21–24 year old CDL holders—thus, allowing for a comparison of the safety performance of those two cohorts of drivers, under the uniform metric of "crash rates" as that term is defined in this document.

[47] These two age groups are the ones selected by the Agency for comparison of safety performance in the Under 21 Military Pilot Program, and ATA would recommend that FMCSA similarly design the pilot program that is the subject of this Notice by comparing the safety performance of 18–20 year old interstate drivers (Covered Drivers) with that of 21–24 year old interstate drivers (Control Group).

[48] National Highway Traffic Safety Administration, *Traffic Safety Facts* Annual Report, Table 62, Driver Involvement Rates per 100,000 Licensed Drivers by Age, Sex, and Crash Severity, *https://cdan.nhtsa.gov/tsftables/tsfar.htm#; see also* Bureau of Labor Statistics, *Labor Force Statistics from the Current Population Survey, https://www.bls.gov/cps/cpsaat11.htm.* (showing that ninety-four percent of truck drivers are male).

[49] Bureau of Labor Statistics, *https://www.bls.gov/oes/2018/may/oes533032.htm*

[50] Commercial Vehicle Training Association, 2018 Legislative Agenda, *https://cvta.org/wp-content/uploads/CVTA-Legislative-Agenda-2018.pdf,* at 3.

Meanwhile, 4.6 million Opportunity Youth[51] in this country are neither employed nor in school, even as the Nation is short 60,800 truck drivers. As mentioned earlier, over the next decade, the industry will need to hire nearly 1.1 million total new drivers, considering retirement and the industry's aging workforce.[52] An update to the minimum age requirement coupled with the right safety parameters is well overdue.

In light of the proven safety performance of 18–20 year old drivers who are already allowed to operate trucks in 49 U.S. states,[53] and given the threats that the driver shortage poses to the cost of moving freight and to supply chain efficiencies, ATA urges Congress to address this problem now, by including the DRIVE Safe Act (S.569, H.R. 1374) in any forthcoming surface transportation reauthorization package.

➢ *OTHER WORKFORCE DEVELOPMENT INITIATIVES CONGRESS SHOULD CONSIDER:*

ATA also supports other legislative initiatives designed to bring greater attention to the growing driver shortage, and attract a new workforce into the industry. These include efforts to raise greater awareness of job opportunities in the trucking industry, as well as legislation that will bring an important focus to the advancement of female representation and participation in the industry. Two such bills are S.2858, the Promoting Women in Trucking Workforce Act and H.R. 5118, the Promoting Service in Transportation Act.

S.2858, the Promoting Women in Trucking Workforce Act, introduced by two leaders on the Commerce Committee, Senators Moran and Baldwin, rightly notes that although women currently make up 47 percent of the U.S. workforce, they make up less than 7 percent of truck drivers, and only a quarter of all transportation and warehousing jobs in trucking. Of the 3.5 million truck drivers in 2018, only 234,234 of them were women. While the trucking industry has taken great strides over the last decade in increasing the female workforce, growing the number of women truck drivers by 68 percent since 2010, women remain underrepresented in the industry.

Through the establishment of a Women of Trucking Advisory Board under the leadership of the FMCSA, the legislation will bring greater attention to the recruitment, training, mentorship, and outreach to women in the trucking industry. This in turn will lead to increased female representation in trucking and greater industry diversity, while providing another tool to help the trucking industry confront and stem its growing driver shortage.

H.R. 5118, the Promoting Service in Transportation Act, introduced by Rep. Rick Larsen, is a further crucial step that will enhance the use of broadcast, digital and print media public service announcement campaigns to promote job opportunities, and also encourage improved diversity in the transportation workforce. Empowering individuals to seek rewarding careers enjoys broad bipartisan support, and this bill would help promote job opportunities for a wide swath of diverse individuals in the trucking industry.

ATA supports both of these important legislative efforts, and encourages their inclusion in any forthcoming safety title to accompany a surface transportation reauthorization bill.

3) INFRASTRUCTURE:

➢ *THE COST OF INACTION:*

A well-maintained, reliable and efficient network of highways is crucial to the delivery of the Nation's freight and vital to our country's economic and social well-being. However, the road system is rapidly deteriorating, and costs the average motorist nearly $1,600 a year in higher maintenance and congestion expenses.[54] Highway congestion also adds nearly $75 billion to the cost of freight transportation each

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[51] The Aspen Institute Forum for Community Solutions, *Who Are Opportunity Youth? https://aspencommunitysolutions.org/who-are-opportunity-youth/*.

[52] *Id.* The average age of a truck driver is 49, 7 years older than that of the typical U.S. worker.

[53] *Id.* at 19–30 (11 out of 12 states for which data could be obtained within the comment period, 18–20 year old CDL holders had *lower* or *equivalent* crash rates than their 21–24 year old counterparts in the past 3 years).

[54] *Bumpy Road Ahead: America's Roughest Rides and Strategies to make our Roads Smoother,* The Road Information Program, Oct. 2018; *2015 Urban Mobility Scorecard.* Texas Transportation Institute, Aug. 2015.

year.[55] In 2016, truck drivers sat in traffic for nearly 1.2 billion hours, equivalent to more than 425,000 drivers sitting idle for a year.[56]

The Highway Trust Fund (HTF), the primary source of Federal revenue for highway projects, safety programs and transit investments, is projected to run short of the funds necessary to maintain current spending levels by FY2021.[57] While an average of approximately $43 billion per year is expected to be collected from highway users over the next decade, nearly $62 billion will be required annually to prevent significant reductions in Federal aid for critical projects and programs.[58] It should be noted that a $62 billion annual average Federal investment *still* falls well short of the resources necessary to provide the Federal share of the expenditure needed to address the Nation's surface transportation safety, maintenance and capacity needs.[59] According to the American Society of Civil Engineers, the U.S. spends less than half of what is necessary to address these needs. As the investment gap continues to grow, so too will the number of deficient bridges, miles of roads in poor condition, number of highway bottlenecks and, most critically, the number of crashes and fatalities attributable to inadequate roadways.

These are impacts that serve as a brake on economic growth and job creation nationwide. Chairman Fischer and Ranking Member Duckworth, a first-world economy cannot survive a third-world infrastructure system. As such, the Federal government has a Constitutional responsibility to ensure that the resources are available to address this self-imposed and completely solvable situation. The Commerce Clause does not represent an antiquated 18th century ideal; it is what binds us as a nation. *E Pluribus Unum*—out of many, one.

➢ *THE BUILD AMERICA FUND:*

ATA's proposed solution to the highway funding crisis is the Build America Fund (BAF). The BAF would be supported with a new 20 cent per gallon fee built into the price of transportation fuels collected at the terminal rack, to be phased in over four years. The fee will be indexed to both inflation and improvements in fuel efficiency, with a five percent annual cap. We estimate that the fee will generate nearly $340 billion over the first 10 years. It will cost the average passenger vehicle driver just over $100 per year once fully phased in.[60] We also support a new fee on hybrid and electric vehicles, which underpay for their use of the highway system or do not contribute at all.

Under the BAF proposal, the first tranche of revenue generated by the new fee would be transferred to the HTF. Using a FY 2020 baseline, existing HTF programs would be funded at authorized levels sufficient to prevent a reduction in distributed funds, plus an annual increase to account for inflation.

Second, a new National Priorities Program (NPP) would be funded with an annual allocation of $5 billion, plus an annual increase equivalent to the percentage increase in BAF revenue. Each year, the U.S. Department of Transportation would determine the location of the costliest highway bottlenecks in the Nation and publish the list. Criteria could include the number of vehicles; amount of freight; congestion levels; reliability; safety; or, air quality impacts. States with identified bottlenecks could apply to USDOT for project funding grants on a competitive basis. Locations could appear on the list over multiple years until they are addressed.

The funds remaining following the transfer to the HTF and the NPP would be placed into the Local Priorities Program (LPP). Funds would be apportioned to the states according to the same formula established by the Surface Transportation Block Grant Program, including sub-allocation to local agencies. Project eligibility would be the same as the eligibility for the National Highway Freight Program or National Highway Performance Program, for highway projects only.

This approach would give state and local transportation agencies the long-term certainty and revenue stability they need to not only maintain, but also begin to improve their surface transportation systems. They should not be forced to resort to costly, inefficient practices—such as deferred maintenance—necessitated by the unpredictable Federal revenue streams that have become all too common since 2008. Furthermore, while transportation investment has long-term benefits that extend

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[55] *Cost of Congestion to the Trucking Industry: 2018 Update.* American Transportation Research Institute, Oct. 2018.

[56] *Ibid.*

[57] The Budget and Economic Outlook 2020–2030, *January 2020* Congressional Budget Office.

[58] *Ibid.*

[59] *2015 Status of the Nation's Highways, Bridges, and Transit: Conditions & Performance.* USDOT, Dec. 2016; see also *2017 Infrastructure Report Card.* American Society of Civil Engineers, 2017.

[60] Federal Highway Administration, *Highway Statistics 2016,* Table VM–1. Average light-duty vehicle consumed 522 gallons of fuel.

beyond the initial construction phase, it is estimated that our proposal would add nearly half a million annual jobs related to construction nationwide.[61]

The fuel tax is the most immediate, cost-efficient and conservative mechanism currently available for funding surface transportation projects and programs. Collection costs are less than one percent of revenue.[62] Our proposal will not add to the Federal debt or force states to resort to detrimental financing options that could jeopardize their bond ratings. Unlike other approaches that simply pass the buck to state and local governments by giving them additional "tools" to debt-finance their infrastructure funding shortfalls for the few projects that qualify, the BAF will generate real money that can be utilized for any federal-aid project.

While some have suggested that a fuel tax is regressive, the economic harm of failing to enact our proposal will be far more damaging to motorists. The $100 per year the average car driver is expected to pay under this proposal pales in comparison with the $1,600 they are now forced to pay annually due to additional vehicle maintenance, lost time, and wasted fuel that has resulted from underinvestment in our infrastructure. Borrowing billions of dollars each year from China to debt finance the HTF funding gap—a cost imposed on current and future generations of Americans who will be forced to pay the interest—is far more regressive than the modest fee needed to avoid further blowing up our already massive national debt.

There is also a perception that the fuel tax is no longer a viable revenue source due to the availability of electric vehicles and improvements in vehicle fuel efficiency. This notion is belied by the facts. According to the Congressional Budget Office's latest estimates, revenue from fuel taxes will drop less than 8 percent over the next decade, or about $3 billion.[63] A modest increase in the fuel tax, or a new fee on alternative fuel vehicles, can easily recover these lost revenues.

Finally, ATA supports repeal of the Federal excise tax (FET) on trucking equipment, provided the revenue it generates for the HTF is replaced. This antiquated 12 percent sales tax, which was adopted in 1917 to defray the costs of World War I, is a barrier to investment in the cleanest, safest trucks available on the market. In fact, when the FET was first adopted, it was applied to all vehicles, and now is imposed only on heavy trucks. Income from the FET has varied widely, mostly in response to economic conditions. Over the past decade revenue has ranged between $1.5 billion during the recession year of 2008 and $4.6 billion in 2015. This variability contributes to mismatches between federal-aid money authorized and revenue available for appropriation. In fact, the first bail-out of the HTF, in 2008, was necessitated largely by an unanticipated drop in FET revenue.

➢ *TRUCK–ONLY FEES:*

We strongly caution against discriminatory funding schemes that place the burden of supporting our infrastructure solely on the back of the trucking industry. Forcing the industry to cover the entire gap between available revenue and infrastructure funding needs will jeopardize economic stability, cripple our Nation's supply chain, and threaten to decimate recent economic gains. Moreover, it will irreparably fracture the broad stakeholder support that has facilitated the advancement of past highway bills. Therefore, any discriminatory funding schemes, like a truck-only vehicle miles traveled (VMT) tax, must be dismissed as a misguided and prejudiced funding gimmick.

Mandating that the trucking industry bear the brunt of our Nation's infrastructure investment via a truck-only VMT tax is unfair, imbalanced, and runs counter to public interest. In terms of feasibility, there are ample reasons why a truck-only VMT is an ill-conceived and dangerous solution, especially when compared to other available funding streams. First, experts agree that proper implementation of a VMT tax will require at least a decade to generate revenue because the relevant technology has yet to be fully developed, large-scale field testing has not been conducted, data privacy and security issues have not been addressed, and VMT enforcement mechanisms have not been implemented to combat the expected evasion. With the Highway Trust Fund edging closer to insolvency each day, we cannot afford to wait more than a decade to provide a new funding stream intended to pay for a five year bill.

Second, a VMT fee would require individual accounts for each taxed vehicle. Even if applied only to trucking, this would affect as many as 36 million vehicles, which

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[61] *A Framework for Infrastructure Funding.* American Transportation Research Institute, Nov. 2017.

[62] *Ibid.*

[63] Congressional Budget Office, *Budget and Economic Outlook: 2019–2029,* January 2019.

would impose an overwhelming administrative cost and the burden of creating and monitoring 36 million individual accounts.[64]

Third, the concept of using ELDs to track and report truck miles traveled is untenable, as Federal law prohibits government agencies from using ELDs for any purpose other than Hours of Service compliance.[65] Further complicating this concept is the fact that only 28 percent of commercial motor vehicles are legally required to be equipped with ELDs.[66]

Finally, a truck-only VMT tax would not only cause irreparable harm to the trucking industry, but would prompt uncertainty in the supply chain and increase cost of moving freight, making domestic manufacturers and farmers less competitive and goods more expensive. The impact would reverberate throughout our cities, towns, and communities where trucks deliver vital necessities, including food and drinking water, clothes to purchase, parts to build automobiles, and fuel to power them.

➢*TOLLS:*

ATA opposes the expansion of Interstate highway tolling authority and highway "asset recycling." Interstate tolls are a highly inefficient method of funding highways, and extremely costly for motorists. One study found that converting all Interstate highways into toll roads would cost more than $55 billion.[67] Tolling also forces traffic onto secondary roads, which are weaker and less safe.

Forcing states to resort to tolls by starving them of Federal funds is far more regressive than the $2.00 a week motorists would pay under the Build America Fund proposal. One needs only look to I–66 in Northern Virginia, where tolls average more than $12.00 per roundtrip and can sometimes exceed $46.00, to understand the potential impacts on lower-or middle-income Americans.[68] To put this into perspective, even if motorists only paid the average toll, the cost of a 10-mile trip over an eight day period on I–66 is equivalent to their cost for an entire year under ATA's BAF proposal for all roads and bridges.

Furthermore, tolls distort the business model for companies that rely on Interstate highway traffic for a significant share of their revenue. Motels, restaurants, truck stops and other roadside establishments would be devastated by the imposition of tolls. Often they are the largest employers in rural areas and small towns, and if they are forced to cut back or close down, this could cause a ripple effect through surrounding communities. Nor are the effects likely to be confined to the state that imposes the tolls. Indiana, for example, seriously considered statewide Interstate tolls using a Federal exemption that allows tolling of replacement or reconstructed bridges. These tolls would have not only severely hurt businesses in Indiana, but also in neighboring states that rely on Indiana highways for freight services.

The exceptions to the Federal ban on Interstate tolls have evolved over the decades into a confusing, incoherent mess that serve neither state transportation agencies, nor the public, very well. It is time to establish a rational system that protects the public from the negative impacts of tolls.

➢ *THE TRUCK DRIVER PARKING SHORTAGE:*

Research and feedback from carriers and drivers suggest there is a significant shortage of available parking for truck drivers in certain parts of the country. Given the projected growth in demand for trucking services, this problem will likely worsen. There are significant safety benefits from investing in truck parking to ensure that trucks are not parking in unsafe areas due to lack of space.

Funding for truck parking is available to states under the current federal-aid highway program, but truck parking has not been a priority given a shortage of funds for essential highway projects. Therefore, ATA supports the creation of a new discretionary grant program with dedicated funding from the federal-aid highway program for truck parking capital projects

➢ *FREIGHT PROGRAMS:*

With the creation of two new freight funding programs, the FAST Act recognized the critical role that the Federal government plays in facilitating the efficient movement of freight in interstate commerce, a role memorialized by the U.S. Constitu-

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[64] *American Trucking Trends 2019.* American Trucking Associations.

[65] *Issues and Options for a Tax on Vehicle Miles Traveled by Commercial Trucks.* Congressional Budget Office, Oct. 2019.

[66] Ibid.

[67] *Renewing the National Commitment to the Interstate Highway System: A Foundation for the Future (2018).* Transportation Research Board, National Academy of Sciences, p. 6–13.

[68] *http://www.66expresslanes.org/documents/66_express_lanes_january_2018_performance_ereport.pdf*

tion. Both the Nationally Significant Freight and Highway Projects Program (AKA INFRA) and the National Highway Freight Program provided dedicated funds for projects that improved traffic flow and safety on transportation facilities with significant freight volumes.

These programs should be continued, with higher funding levels. Furthermore, ATA opposes increasing the 10 percent cap on funding for non-highway projects, or the expansion of eligibility for non-highway projects. Given that trucks carry 71 percent of the Nation's freight and that, unlike other modes, trucking companies cannot directly fund their infrastructure, the Federal government has a special responsibility to ensure that highways critical to serving the country's interstate commerce needs are safe, well-maintained and efficient.

➢*GRANTS FOR THE ADOPTION AND UPGRADE OF AUTOMATED SIZE AND WEIGHT PERMITTING SYSTEMS:*

Some commercial motor vehicles and some military vehicles exceed standard size and weight limitations for operating on public highways and must apply for and receive oversize/overweight (OS/OW) permits from the states in which they need to operate. These types of vehicles are uniquely and vitally important to expeditious military and emergency relief operations. However, timely issuance of OS/OW permits across multiple states is inconsistent, even during normal business hours. Reliability of timely permit issuance is particularly concerning during nights, weekends and holidays when states' offices issuing the permits are generally not open. This results in trucks having to park on the state border, greatly increased cost of service, and adds hundreds of unnecessary miles and critical hours getting to destination with urgently needed supplies.

Some states have successfully addressed this issue by automating their permit-issuing system for OS/OW loads traversing highways that are appropriate for those vehicles. The Federal Highway Administration issued a report, *Best Practices in Permitting Oversized and Overweight Vehicles,* demonstrating that states that automate their OS/OW permitting systems improved highway safety, protected infrastructure, reduced overhead, and increased state revenues. However, mostly due to budget constraints, several states do not have these systems, or their systems are inadequate.

ATA recommends providing Federal grants of up to $2 million per state for the purpose of creating or upgrading automated permitting systems. While these expenses are eligible under FMCSA's High Priority Innovative Technology Deployment (ITD) Program, this program is over subscribed. ATA proposes to set aside funds from the ITD program for automated permitting systems, provided it receives sufficient additional funds to ensure that funding for other important programs is not affected.

CONCLUSION:

Chairman Fischer, Ranking Member Duckworth, and members of the subcommittee, thank you again for providing ATA with the opportunity to testify before you today. As you have likely ascertained in my testimony, the trucking industry is under increasing pressure, and in many ways at an operational crossroads. Too often, our Federal government is mired in squabbling about yesterday's problems rather than leading the way to address tomorrow's. Your leadership toward the challenges of today and the future are vital to our continued economic strength and to the families and businesses that benefit from it.

The actions of this subcommittee, Congress and the Administration over the next several months could help steer our great industry towards tremendous advancements in safety, efficiency and productivity by providing the resources and regulatory framework that will make our fleets safer and more connected. Congressional leadership would also allow our industry to meet the growing driver shortage head-on, and recruit a workforce for the next generation of trucking. Finally, your actions could prevent the continued decay of our infrastructure and sense of national decline, and help us return to the national sense of a "shining city on a hill," where the roads to that city are not scarred by potholes and collapsing bridges.

Alternatively, inaction or misguided action will grind the wheels of the trucking industry and our national economy to a screeching halt. Our roads would become less safe. And we would be ceding our global leadership in freight movement to countries that are making the necessary investments in infrastructure. Of equal or greater concern, we would be failing to improve the well-being and quality of life of our citizens and society.

Our unwavering hope is that Congress and the Administration will now roll up their sleeves, make the tough decisions, and work together to support infrastructure, the economy, and the industry that moves it. ATA and the trucking industry stand ready to work with you on these major issues. Under your leadership and

guidance, we believe that the important and necessary steps can and will be taken to facilitate and support the continued movement of our economy.

Senator FISCHER. Thank you, Mr. Spear. Next, I would like to welcome Mr. Lewie Pugh, who is the Executive Vice President of the Owner-Operator Independent Drivers Association, a role he was elected to in 2018. He began his career in trucking in 1992 as a motor transport operator in the United States Army Reserve. Welcome, sir.

STATEMENT OF LEWIE PUGH, EXECUTIVE VICE PRESIDENT, OWNER-OPERATOR INDEPENDENT DRIVERS ASSOCIATION

Mr. PUGH. Thank you. Good morning. I am Lewie Pugh, the Executive Vice President of the Owner-Operator Independent Drivers Association. Prior to working at OOIDA, I was a small business operator and trucker for nearly 23 years with roughly two-and-a-half million safe miles of driving. Prior to that, I was a truck driver in the United States Army. I still proudly hold my CDL. In short, my entire career has been in trucking.

From the perspective of small business motor carriers and professional drivers, the state of the trucking industry is dysfunctional. This is because too many people who know virtually nothing about trucking have an oversized role in shaping trucking policies. Drivers feel the negative effects of this firsthand, myself included.

The hours of service rules are broken. There are hundreds of regulations that have nothing to do with highway safety. The lack of available truck parking is a national crisis. Enforcement is often motivated by profit, and drivers work extremely long hours for notoriously low pay. If you ask most drivers, what Congress has done recently to help their profession the answer would be simple, nothing.

In fact, most of our members would tell you that Congress enacts laws that drive truckers away from the industry and decreases highway safety. This isn't a partisan attack against Republicans or Democrats, but yet an honest reflection on how truckers view Congress. Don't get me wrong, while Washington has contributed its fair share of the dysfunction in trucking, there is plenty to go around—plenty of blame.

Too many drivers are forced to haul cheap freight. Too many motor carriers mistreat drivers and under pay them. Too many shippers and receivers detain drivers for extended periods of time. Too many enforcement agencies prioritize profits over safety. Too many safety advocates seek mandates that do not work. Too many motors don't even attempt to operate safely around big trucks.

I make these claims on first-hand experience. I have seen it and I have lived it. We are all responsible for creating this mess so we are all responsible for fixing it as well. As Congress considers the next highway bill, there are several ways to make a positive difference. Repeal the failed DOT mandate. Repeal the overtime exemption for drivers in the Fair Labor Standards Act. Provide dedicated funding for new truck parking capacity. Create a fair process for drivers to appeal inspections written in error. And fix the Nation's crumbling infrastructure in an equitable way.

You should abandon meaningless, unproven, unsafe policies. Do not mandate speed limiters. Do not mandate front and side

underride guards. Do not mandate higher insurance minimum. Do not enact VMTs for trucks only, and do not expand tolling authority. And do not pass the Drive Say Act. I want to take a moment to focus on the DRIVE-Safe Act. Contrary to what other associations repeat constantly, there is no driver shortage. The notion of a driver shortage isn't supported by facts, data, or reputable research. In other words, it is a myth. We oppose this bill because it is a solution in search of a problem and we urge Congress to reject it.

Washington has allowed truck policy to be overly influenced by executives looking to maximize profits, activists who like to regulate truckers into oblivion, State and local governments who view truckers as rolling piggy banks, and self-proclaimed experts who don't even know what the inside of the cab of a truck looks like. This has to change. Most truckers don't wear suits on a daily basis. They don't have advanced degrees in engineering and economics, but they know trucking. Truckers aren't the problem, they are the solution and Congress should treat them accordingly.

Thankfully, some lawmakers such as Chairwoman Fisher and Congressman Brian Babin who see much of the dysfunction in our industry and understand that just maybe it is time to start listening to what real truckers have to say. We appreciate being a part of this hearing. We have some sensible ideas on how to fix the industry and improve highway safety, and I look forward to sharing them with you.

[The prepared statement of Mr. Pugh follows:]

TESTIMONY OF LEWIE PUGH, EXECUTIVE VICE PRESIDENT, OWNER-OPERATOR INDEPENDENT DRIVERS ASSOCIATION

Chairwoman Fischer, Ranking Member Duckworth, and members of the Subcommittee, my name is Lewie Pugh and I am the Executive Vice President of the Owner-Operator Independent Drivers Association (OOIDA). Prior to working at OOIDA, I was a small-business trucker for nearly 23 years with 2.5 million miles of safe driving. Before operating my own trucking business, I drove a truck during my service in the United States Army. I still proudly hold a Commercial Driver's License (CDL). In short, I've been a trucker my entire career.

About OOIDA

OOIDA has represented the interests of owner-operators and professional drivers for over 45 years. We were created by truckers to ensure their voices were being heard in Washington and beyond. Decades later, we continue to be led by men and women who make their living behind the wheel. Today, we have over 160,000 members across the United States and Canada. No other organization participating in today's hearing knows truckers like we do.

Small trucking businesses like those we represent account for 96 percent of registered motor carriers in the U.S. We are undoubtedly the safest and most diverse operators on our Nation's roads. Our activities impact all sectors of the American economy on a daily basis. We move everything and anything—from agricultural products and household goods to military equipment and energy resources.

Introduction

From our perspective as small-business motor carriers and professional drivers, we can see that the trucking industry is dysfunctional.

In large part, this is because too many people who know very little about trucking have an oversized role in shaping trucking policy. Drivers feel the negative effects of this firsthand, especially OOIDA members.

This dysfunction is apparent in seemingly every aspect of our industry. For example, the hours-of-service (HOS) rules are broken. They fail to reflect the realities of trucking and have done nothing to improve highway safety since their implementation. Our members comply with hundreds of other ineffectual regulations that have no impact on highway safety. Despite the U.S. Department of Transportation

(USDOT) noting that the lack of truck parking had become a serious highway safety concern back in 2015, nothing has been done to address the growing crisis our members face every day. Law enforcement agencies have become too comfortable prioritizing revenue over safety. And drivers continue to work extremely long hours with notoriously low pay.

If you ask most drivers what Congress has done recently to improve their profession, I regret to inform you the answer is "nothing". In fact, most of our members would tell you that Congress generally enacts laws that not only drive people away from the industry, but decrease highway safety. This isn't a partisan attack against Republicans or Democrats, and we're by no means suggesting we don't fully appreciate the support we've received from individual Members of Congress on certain policies. In fact, we sincerely appreciate the efforts of elected officials like Chairman Wicker, who has spent much of his tenure in Washington fighting against bigger and heavier trucks. Instead, this is an honest reflection of how truckers view the legislative branch as a whole.

Don't get me wrong—while Washington has contributed its fair share to the dysfunction in trucking, there is plenty of blame to go around.

Too many drivers are forced to haul cheap freight; too many motor carriers mistreat and underpay drivers; too many shippers and receivers detain drivers for excessive periods of time; too many safety advocates seek mandates that don't work; and too many motorists don't even attempt to operate safely around big trucks.

I make these claims based on firsthand experience. I've seen it. I've lived it.

OOIDA acknowledges all stakeholders are responsible for creating this mess, and believes we're all responsible for fixing it as well.

As Congress considers the next highway bill, there are several ways you can make a positive difference for American truckers:

- Repeal the failed electronic logging device mandate;
- Repeal the overtime exemption for drivers in the Fair Labor Standards Act;
- Provide dedicated funding for new truck parking capacity;
- Create a fair process for drivers to appeal inspection violations written in error; and
- Fix the Nation's crumbling infrastructure in an equitable way.

You should also abandon unsafe, unproven, and unfair proposals:

- DO NOT mandate speed limiters;
- DO NOT mandate front and side underride guards;
- DO NOT mandate higher insurance minimums;
- DO NOT enact a truck-only vehicle miles traveled tax or expand tolling authority; and
- DO NOT pass the DRIVE-Safe Act.

I want to take a moment to focus on the DRIVE-Safe Act, which I will address in greater detail later in this testimony. Contrary to what other associations repeat constantly, there is no driver shortage that requires passage of this bill. The notion of a driver shortage isn't supported by facts, data, or reputable research. In other words, it's a myth. We oppose this bill because it's a solution in search of a problem. We urge Congress to flatly reject it.

Unfortunately, the DRIVE-Safe Act is symbolic of Washington's approach to trucking. For too long, Congress has allowed policy to be overly influenced by executives looking to maximize profits, activists who'd like to regulate truckers into oblivion, state and local governments who view truckers as rolling piggybanks, and self-proclaimed "experts" who don't even know what the inside of a truck looks like. This has to change.

Most of our members don't wear suits on a daily basis. Most of our members don't have advanced degrees in economics or engineering. But they know trucking. Congress needs to understand truckers aren't the problem, they are the solution—and treat them accordingly.

Thankfully, there are lawmakers—such as Chairwoman Fischer and Congressman Brian Babin—who see much of the dysfunction in our industry and understand that maybe it's time to listen to what real truckers have to say.

OOIDA appreciates being part of this hearing. We have some great ideas on how to fix many of the problems facing our industry, while simultaneously improving highway safety.

Electronic Logging Devices and Hours-of-Service Reform

Today's truckers are subject to more regulations and greater enforcement than ever before, and while compliance with those regulations has never been higher, crash rates are still moving in the wrong direction. A prime example of this problem is the electronic logging device (ELD) mandate.

This massively expensive rulemaking, disguised as a silver bullet to improve safety, has driven many experienced truckers out of the industry. The roughly $2 billion in costs associated with the mandate have imposed financial and compliance burdens on American businesses of all sizes, especially small carriers who are forced to spend their resources on installation, compliance, and service fees for equipment that has not shown any proven safety benefit. We urge the Committee to repeal the ELD rulemaking or consider commonsense legislation that would exempt small-business carriers and drivers who have exhibited a proven history of safety.

Since December 2017, the implementation of the ELD mandate has highlighted the need for substantive hours-of-service (HOS) reform. Currently, the HOS regulations that dictate a truck driver's work schedule are overly complex, provide virtually no flexibility, and in no way reflect the physical capabilities or limitations of individual drivers. They effectively force drivers to be on the road when they are tired or fatigued, during busy travel times such as morning and afternoon rush hour, during adverse weather and road conditions, or when they simply are not feeling well.

The Federal Motor Carrier Safety Administration's (FMCSA) 2019 Notice of Proposed Rulemaking (NPRM) represents a welcomed shift toward developing regulations that better reflect the realities of trucking and improve safety for all highway users. OOIDA strongly supports the agency's approach, which will provide drivers more opportunities to rest when they are tired, to stay off the road during adverse driving conditions, and to maintain greater control over their own schedules. The provisions included in the NPRM will deliver much needed flexibility for drivers and notably do not increase the maximum allowable driving time.

However, in order to maximize the safety benefits of these changes, drivers should have sole discretion over how and when they use each of the provisions. In response to the proposal, OOIDA submitted the following feedback:

- OOIDA supports the split-duty provision which would allow drivers to "pause" the 14-hour clock for up to 3 consecutive hours once per duty period.
- OOIDA recommends eliminating the 30-minute rest break rule altogether. However, as an alternative, drivers should be allowed to split the 30-minute break into smaller segments, such as multiple 5 or 10 minute periods.
- OOIDA supports the 7/3 split sleeper-berth provision, but recommends the agency also include 6/4 and 5/5 options.
- OOIDA supports both changes to the short haul exceptions, which will extend the driving window from 12 to 14 hours and expand the air mile radius from 100 to 150 air miles. We also recommend allowing drivers using the short haul exception to end their work shift at a different location than their original dispatch.
- OOIDA supports extending the duty period from 14 to 16 hours for drivers that use the adverse driving provision. We also recommend expanding and clarifying conditions that would qualify for the adverse driving provision.

OOIDA applauds all of the Senators that supported greater HOS flexibility in a May 2019 letter to FMCSA. We encourage Members of Congress to continue constructively engaging in the HOS rulemaking process and avoid disrupting what our members hope will produce the most positive improvements to truck safety regulations in recent memory. Meaningful HOS reform will not only help the trucking industry and benefit highway safety, but can drive economic growth across the country, creating new opportunities and greater job security for millions of hard-working Americans.

Coercion

As FMCSA is finalizing its HOS reforms, Congress should also be aware of a significant safety issue facing drivers—coercion. Coercion occurs when a motor carrier, shipper, receiver, or transportation intermediary threatens to, or actually does, take action against a driver who refuses to violate Federal safety regulations. Those coercing drivers are typically in positions of power, and drivers often feel pressure to engage in unsafe behavior to avoid losing their job or pay. This jeopardizes the safety of the driver as well as others on the road.

Congress has recognized the dangers of coercion and previously enacted legislation that explicitly prohibited the practice. FMCSA finalized a rule in 2015 that es-

tablished standards for what constitutes coercion, a method for truckers to report complaints, and a process for the agency to assess and take action on these complaints.

Unfortunately, in our members' experience, this process has been wholly ineffective. Some of our members have never received a response to their complaint or have been told FMCSA had lost track of their submission. A lack of confidence in this system has discouraged drivers from reporting unsafe practices.

With FMCSA finalizing regulatory reforms that will give drivers more flexibility in their schedules, it is critical they retain sole discretion over how these flexibilities are used. Congress, through its oversight of FMCSA, should make sure bad actors within our industry are being held accountable for any coercive practices. Drivers want to operate as safely as possible, but need meaningful support from the Federal government to ensure they aren't pressured to violate regulations.

Highway Funding

As Congress considers solutions for the impending shortfall within the Highway Trust Fund (HTF), it must account for any proposal's impact on small-business truckers. America's truckers understand that the economic success and competitiveness of both their operations and the Nation depend on a safe, reliable, and well-funded transportation system. Accordingly, OOIDA supports efforts to increase HTF revenues so long as it is done in a fair and equitable way. Congress must steer clear of any proposals that would put an oversized financial burden on truckers, who already pay more than their fair share.

A recent report by the Congressional Budget Office (CBO) found HTF revenues derived from the trucking industry through the heavy-vehicle and tire taxes are actually projected to increase over the next decade. Between the current diesel tax and these supplemental taxes, the trucking industry is estimated to increase its contributions to the HTF over this 10 year period.[1] Furthermore, the costs of administering the existing Federal fuel taxes are extremely low—estimated to be less than 1 percent of all revenues collected.[2] Congress should be looking to build on this relatively stable and predictable system. Therefore, OOIDA prefers boosting dedicated revenues to the HTF through reasonable and impartial increases to Federal gasoline and diesel taxes.

We are steadfastly opposed to several proposals that would disproportionately burden truckers. One potential funding mechanism we are concerned with is a vehicle miles traveled (VMT) tax. While this concept may sound appealing in theory, there are far too many questions and uncertainties for Congress to begin implementing any sort of VMT program in the next highway bill. There will be significant costs associated with a VMT tax as well, and implementation and administrative fees are likely to be at least ten times as high as the current fuel tax system.[3] Like the current fuel taxes, a VMT system would also fail to remain viable if not indexed to inflation.

We are also particularly concerned about proposals that would single out the trucking industry for a truck-only VMT. This would assure that truckers pay an unfairly high cost to prop up the HTF. We also oppose any efforts to utilize ELDs to impose a VMT on motor carriers. Small-business truckers have already borne a significant and disproportionate cost for complying with the ELD mandate, and utilizing the devices to facilitate a VMT program would create new costs and greater privacy issues.

OOIDA also remains opposed to the expansion of tolling. Tolling systems lack the efficiency and effectiveness of current funding mechanisms. Research has shown that tolling is an extremely wasteful method of generating revenue compared to fuel taxes, with as much as 30 percent of funds going to administrative costs[4] rather than the construction and rehabilitation of roads and bridges. Additionally, toll roads consistently fail to meet revenue projections, creating unanticipated funding shortfalls, which can lead to deteriorating road conditions and early toll rate increases. In some states, tolling revenue is even used to prop-up urban transit systems, which is frustrating for truckers. In Pennsylvania, tolls on the state's turnpike will increase in 11 straight years to generate sufficient revenue to support some of the state's non-highway infrastructure. Truckers predominantly pay tolls out-of-pocket, as shippers seldom reimburse charges under the freight rate system. For

[1] CBO, Issues and Options for a Tax on Vehicle Miles Traveled by Commercial Trucks (2019).
[2] Transportation Research Board, Costs of Alternative Revenue Generation Systems, Report 689 (National Highway Cooperative Research Program, 2011).
[3] CBO, Issues and Options for a Tax on Vehicle Miles Traveled by Commercial Trucks (2019).
[4] Transportation Research Board, Costs of Alternative Revenue Generation Systems, Report 689 (National Highway Cooperative Research Program, 2011).

small trucking businesses, any expansion of tolling, especially on major highways like interstates, will directly undercut their bottom line.

We are also closely monitoring proposals to repeal the Federal Excise Tax (FET). Any FET repeal must include a practical pay-for to offset for the lost HTF revenues it would create. Our members are concerned that some suggested offsets would generate inequitable financial burdens among motor carriers, leaving primarily small-business truckers and owner-operators—who are less likely to purchase new trucks than their larger competitors—to make up the difference.

Compensation and Misclassification

Like all hard-working Americans, drivers want to be appropriately compensated for their work. For decades, driver compensation has been eroding, making careers in trucking less appealing to new entrants and less sustainable for experienced truckers.

Currently, drivers are exempt from overtime pay through the Fair Labor Standards Act (FLSA). This exemption was implemented in the 1930s to prevent drivers from working too many hours, but today, it simply prevents them from receiving adequate compensation for the work they do. It also contributes to problems with excessive detention time because shippers, receivers, and others in the industry have no financial incentive to load and unload trucks in an efficient manner. Simply put, this exemption makes it the law that a driver's time should be less valued than other professions. The FLSA exemption for truck drivers is outdated and should be repealed.

OOIDA is committed to working with Congress as it examines and potentially addresses other issues related to driver compensation, such as employee classification. Without question, some truck drivers are misclassified, including some of our members. At the same time, the owner-operator business model has a well-established history and has provided millions of drivers the opportunity to be true independent contractors and small-business entrepreneurs. Congress should therefore avoid jeopardizing this beneficial model when addressing misclassification issues arising from the advent of the "gig economy."

In trucking, misclassification is generally done through "lease-purchase" agreements which are arrangements where motor carriers lease a vehicle to a driver with the promise of fair compensation, future ownership of the truck, and "independence" from traditional employer-employee requirements. The most problematic lease-purchase schemes are generally those that require the driver to lease their truck to the motor carrier when both are effectively the same entity. Through lease-purchase agreements, motor carriers avoid providing employee benefits, paying applicable taxes, and complying with other labor and employment laws.

That said, the trucking industry is incredibly complex, and any potential legislation to address misclassification should not only account for its diversity, but also the host of Federal regulations that small-business truckers must comply with. It's important to remember the majority of owner-operators are true independent contractors—they own their equipment, negotiate their contracts, and control their terms of work.

Unfortunately, ill-conceived legislation involving misclassification has the potential to disrupt the livelihood of small-business truckers. Our members have already experienced this disruption in California with the enactment of AB5. This policy has pushed many motor carriers to sever ties with independent owner-operators from the state. Given the unique nature of the trucking industry, we urge Congress to consult with independent owner-operators before considering any legislation that could negatively impact their businesses and compensation.

The Driver Shortage Myth and DRIVE-Safe Act

Far too many Members of Congress have accepted the driver shortage myth, which illustrates a troubling lack of understanding about our industry. Taking a closer look at what's actually occurring in trucking will reveal there is no driver shortage at all. It will also show that embracing some of the solutions proposed by those peddling the myth will only compound many of the actual problems facing our industry.

OOIDA strongly opposes efforts that would lower the minimum age requirement for truckers engaged in interstate commerce. S. 569, the DRIVE-Safe Act, presents obvious safety concerns for the new truck drivers it hopes to attract, as well as the traveling public who would share the road with them. Younger drivers—especially teenagers—generally lack the maturity and experience to operate a commercial motor vehicle (CMV) at the safest levels. Research indicates CMV drivers under the age of 19 are four times more likely to be involved in fatal crashes than all truck drivers, and CMV drivers between the ages of 19–20 are six times more likely to

be involved in fatal crashes compared to all truck drivers. The DRIVE-Safe Act would allow these young drivers to make cross-country trips, requiring them to drive in terrain and weather conditions they may find completely unfamiliar. We acknowledge operational challenges exist for drivers near border cities, such as Kansas City, MO, and Kansas City, KS. However, operating across state lines in the greater Kansas City area is much different than driving across the country on a routine basis.

While these clear safety implications alone should dissuade elected officials from lowering minimum age requirements, professional drivers understand there are long-standing problems within the trucking industry that such a change would only worsen. For decades, our country's largest motor carriers and the trade associations in Washington that represent them have touted the myth of a driver shortage as a means to promote policies designed to maintain the cheapest labor supply possible. Over the same period, driver compensation has remained relatively stagnant, failing to increase at a rate that keeps pace with inflation. Experience tells us many of those entities pushing for S. 569 would simply use it to take advantage of a new pool of drivers—teenagers, who would be subjected to poor working conditions, predatory lease-to-own schemes, and woefully inadequate compensation.

Rather than developing legislation to allow more teenagers behind the wheel of 80,000 pound trucks, Congress should be taking steps to reverse the incessantly high driver turnover rate, which remains precariously high among many large truckload carriers. Reviewing the American Trucking Associations' (ATA) quarterly reports on driver turnover, you'll discover the rates among large carriers are particularly troubling—generally falling anywhere between 70 and 100 percent annually since 2011. In their most recent report, the organization estimated the annualized rate for 2019 through the third quarter at 96 percent. Further dispelling the driver shortage myth, the ATA's press release on the December 2019 report explains, "Large carriers reduced the number of drivers they employed, in keeping with lackluster freight levels. . ." It continues, "During the first two quarters of the year, larger carriers added drivers, but in the third quarter they started *right-sizing their fleets* [emphasis added]."[5] By no means does this sound like an industry suffering from a shortage of drivers.

Evidence from multiple Federal agencies also helps dispel this myth. By FMCSA's estimates, there are over 400,000 new CDLs issued annually, which shows there is certainly no shortage of new entrants to the industry.[6] Additionally, a 2019 analysis from the Bureau of Labor Statistics found the labor market for truckers is similar to that of other blue-collar professions, and that while there is certainly a high rate of turnover in some parts of the trucking industry, there doesn't appear to be evidence of a shortage.[7]

The perpetual churn of truckers driven by large fleets is also detrimental to safety, as those who leave the workforce are immediately replaced with less experienced individuals in an effort to keep labor costs as low as possible and avoid improving difficult working conditions. Without addressing the underlying circumstances that have led to excessive churn, we anticipate turnover rates will remain high or even increase—no matter the age of the driver.

Though allowing CDL holders under the age of 21 to engage in interstate commerce is unlikely to reduce driver turnover or improve safety, we appreciate the DRIVE-Safe Act's approach to robust new entrant training. Aspects of the minimum standards included in the legislation, especially 240 hours of mandatory behind-the-wheel experience, are a good starting point for enhancing Federal training requirements for current entry-level drivers, regardless of age. Ensuring properly trained drivers are entering the workforce is paramount to improving highway safety and reducing crashes. It will also help ensure those beginning a career in trucking are better prepared for the challenges and demands of the profession, which is another critical element to reducing turnover rates.

However, we are greatly concerned about provisions within the bill that permit drivers as young as 21 to train new drivers. This approach is dangerously insufficient. Only the most experienced truckers with a thorough history of safe driving should be permitted to train anyone getting behind the wheel of a CMV for the first time.

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[5] American Trucking Associations, *Turnover Rate at Truckload Carriers Rose in Third Quarter,* December 19, 2019, *https://www.trucking.org/article/Turnover-Rate-at-Truckload-Carriers-Rose-in-Third-Quarter.*

[6] FMCSA, Regulatory Evaluation of Entry-Level Driver Training Notice of Proposed Rulemaking Regulatory Impact Analysis Initial Regulatory Flexibility Analysis (March 2016).

[7] Bureau of Labor Statistics, Monthly Labor Review, *Is the U.S. labor market for truck drivers broken?* (March 2019).

OOIDA is eager to work with elected officials on legislation that helps make trucking a viable and sustainable career choice for Americans who are prepared to enter the driver workforce. However, we will continue to dispel the driver shortage myth and oppose bills like the DRIVE-Safe Act that are built upon it. This proposal jeopardizes driver and highway safety in an effort to provide corporate motor carriers the cheap labor they crave.

The Truck Parking Crisis

In 2015, the Federal Highway Administration's (FHWA) Jason's Law survey report recognized the lack of truck parking had become a serious highway safety concern.[8] Unfortunately, the problem has only worsened since then. States and local communities across the U.S. are struggling to maintain existing capacity, let alone keep pace with increasing demand. Today, professional drivers encounter truck parking shortages in every corner of the country. Absent Federal involvement, the problem will continue to worsen.

Professional drivers regularly report difficulty accessing safe parking for CMVs, especially during times of high demand. Surveys of our members routinely reveal most truckers have been forced to drive beyond the point where they feel safe and alert simply because they could not find a place to park. This not only jeopardizes their own safety, but also the well-being of the motoring public with whom they share the road. Truckers are commonly placed in no-win situations where they must decide to park in an unsafe or illegal location—such as a vacant lot—or violate Federal HOS regulations by continuing to search for a safer and legal alternative.

Forcing truckers to spend excessive amounts of time searching for parking is certainly a serious safety concern for all highway users, but the current crisis also creates additional hazards for the motoring public. As a last resort, drivers who are unable to find adequate parking reluctantly park in hazardous road-side locations, such as the shoulders of highways and interstate entry and exit ramps. This creates serious safety risks for law enforcement officials as well. Often, they are faced with the dilemma of allowing a tired trucker to rest in a dangerous location or ordering them to relocate when they are out of drivable hours.

OOIDA has spent the last year working with our industry partners and Members of Congress to develop a solution to this growing safety concern. Too many Federal dollars have been spent recently on technology-based solutions that fail to address the root of the problem. We've determined Federal investment in the expansion of trucking parking capacity is key. Soon, bipartisan legislation will be introduced in the House that would establish a competitive discretionary grant program—funded through existing highway safety programs—for truck parking projects across the country. With a focus on increasing capacity, the bill would provide funding for the construction of new rest areas and truck parking facilities, while also helping public entities convert existing spaces—such as inspection sites, weigh stations, and closed rest areas—into truck parking locations.

While this Committee may not maintain jurisdiction over this specific proposal, your support for addressing this national safety concern is vital. The truck parking crisis is a problem that affects every segment of our industry—from the largest fleets to single truck operators. Addressing the shortage has also been identified as a priority by the law enforcement community. It's not often so many industry stakeholders are in agreement on how to begin solving a problem—let alone agreeing the problem exists in the first place.

OOIDA believes providing Federal investment in the expansion of truck parking capacity must be a top priority for Congress in the development of the next highway bill. Addressing this problem will certainly demonstrate to professional drivers that Congress understands one of the most significant challenges they face on a daily basis and wants to help. Additionally, members of this Committee have shown particular interest in expanding the role of women in our industry. Our female members often identify the lack of safe parking as a factor that not only prevents other women from beginning a career in trucking, but discourages many experienced drivers from remaining behind the wheel.

Speed Limiters

Efforts to mandate the use of speed limiters on CMVs is an example of a proposal that may initially sound effective, but in reality would likely lead to higher crash rates. As a result, OOIDA adamantly opposes S. 2033, the *Cullum Owings Large Truck Safe Operating Speed Act of 2019.*

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[8] Jason's Law Truck Parking Survey Results and Comparative Analysis, Office of Freight Management and Operations, Federal Highway Administration, United States Department of Transportation.

Highways are safest when all vehicles are moving at the same relative rate of speed. Establishing a one-size-fits-all mandate limiting CMVs to a certain rate (S. 2033 favors 65 miles per hour) would create dangerous speed differentials between heavy trucks and other vehicles. Decades of highway research shows greater speed differentials increase interactions between truck drivers and other road users. Studies have consistently demonstrated that increasing interactions between vehicles directly increases the likelihood of crashes.[9,10] Speed limiters also create dangerous driving conditions, including challenges navigating merges and running blockades (known as elephant races) that increase "road rage" among other drivers. Arbitrary speed limits make it difficult for truck drivers to switch lanes to accommodate merging traffic at entrance ramps—or to merge themselves. Other drivers often react to these situations in aggressive and unpredictable ways, creating unnecessary hazards for themselves and our members.

Not only would mandated speed limiters increase road hazards, they would do nothing to prevent speeding in some of the most safety sensitive situations. In certain road conditions, such as inclement weather or construction zones, well-trained drivers know to reduce their speed to maintain safe operation. Since the safest speed in these scenarios is often below 65 mph, speed limiters would likely have a very limited impact on preventing crashes. Moreover, most truck-related crashes occur on roads with a posted limit below 65 mph, rendering the supposed benefits of proposals like S. 2033 meaningless.

In addition to increasing crash rates, this legislation would disadvantage America's small-business motor carriers. In their proposed 2016 rulemaking on speed limiters, FMCSA and the National Highway Traffic Safety Administration (NHTSA) admitted that "this joint rulemaking could put owner-operators and small fleet owners. . .at a disadvantage in some circumstances."[11] One remaining competitive advantage for small trucking companies over their larger competitors is the lack of a need to speed limit trucks for fleet management purposes. Instead, small trucking businesses are able to operate at the speeds determined to be safe by state officials, which in many cases is above 65 mph. Indeed, FMCSA and NHTSA concluded that as a result of losing this advantage, "some of the affected owner-operators would work for trucking companies as independent contractors. If all of the affected owner-operators worked for trucking companies as independent contractors, they would lose $54 million in labor income." Smaller carriers working at the behest of the larger fleets is not ideal for safety, consumers, or the trucking industry.

Our members will tell you they have experienced countless scenarios when their expertise and discretion was needed to avoid an accident or other dangerous situations. In many of these instances, speed limiters would curtail their ability to safely respond to hazards. Rather than mandating speed limiters, the most efficient and cost-effective means to promote safer roads is simply enforcing existing speed limits, which Congress authorized states to set based on their own unique factors.

Underride Guards

OOIDA strongly opposes efforts to mandate the installation of side and front underride guards on all CMVs and trailers that exceed 10,000 pounds in gross vehicle weight (GVW), including S. 665, the *Stop Underrides Act.*

Over the last several decades, NHTSA has considered numerous options involving underride guards, but has consistently concluded Federal mandates would be impractical and costly, thus outweighing any perceived safety benefits. The *Stop Underrides Act* intentionally disregards this reality and ignores the safety, economic, and operational concerns we have raised with its sponsors and supporters. Furthermore, in April 2019, the Government Accountability Office (GAO) issued a report on truck underride guards that indicated more data and research was necessary to fully understand the scope of this type of crash and how they can be prevented. The report also highlighted many of the concerns our members, trailer manufacturers, and law enforcement officials have about the equipment.

To be clear, we agree the existing rear underride guard on trailers—commonly referred to as a "DOT Bumper" in the United States—could be enhanced to reduce the risk of rear underrides for automobiles. If the Canadian standard was applied in the U.S. on the manufacture of new trailers, we would not oppose it. Unfortunately, S. 665 goes too far even in this regard. The bill would mandate truckers in-

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[9] David Solomon, *Accidents on Main Rural Highways Related to Speed, Driver, and Vehicle,* Bureau of Public Roads (1964).

[10] Johnson and Pawar, Cost-Benefit Evaluation of Large Truck-Automobile Speed Limits Differentials on rural Interstate Highways, Mack-Blackwell Rural Transportation Center (2005).

[11] FMCSA and NHTSA, Parts and Accessories Necessary for Safe Operation; Speed Limiting Devices, *https://www.regulations.gov/document?D=FMCSA-2014-0083-0003.*

stall rear guards on trailers that can't physically accommodate them, such as low boys, household goods trailers, auto transporters, etc. The mandate would also retroactively apply to all trailers, including those nearing the end of their service.

However, our biggest concern with S. 665 remains the required installation of side underride guards. While existing technologies may reduce passenger compartment intrusion in certain situations, the bill fails to recognize numerous other issues limiting the real world practicality of side underride guards. For example, installation of the equipment would unquestionably create challenges for truckers navigating grade crossings and high curbs, backing in to sloped loading docks, properly utilizing spread-axle trailer configurations, conducting DOT-required trailer inspections, and accessing vital equipment located under the trailer—such as brakes. GAO's report notes, "Representatives from several trailer manufacturers, trucking industry organizations, and police departments we spoke with cited challenges with the use of side underride guards that would need to be addressed prior to widespread adoption by the industry."[12] S. 665 would also mandate side underride guards on equipment that can't physically accommodate them, such as intermodal, bulk, specialized, and flatbed trailers.

Additionally, S. 665 requires the installation of front underride guards on CMVs. Admittedly, we're less familiar with these devices because they aren't currently commercially available in the U.S. However, similar to the side underride guard provisions, this requirement would likely be extremely problematic. GAO's report also notes, "Representatives from a tractor manufacturer that operates in both the U.S. and the European Union told us that front guard designs currently used in the European Union would not be compatible with conventional tractors used in the U.S., stating that these guards would need to be installed in the same space that the bumper, frame, and some equipment—including crash avoidance technologies—already occupy."

We would also point out the bill would require the creation of performance standards for underride devices. Meaning, if an underride guard fails to meet the standard while in operation, the vehicle would be placed out of service and unable to operate. We have no idea how a trucker would get a side underride guard, weighing approximately 1,000 pounds, delivered to the roadside. Nor do we have any idea how the equipment would be installed safely on the roadside.

In sum, the bill mandates devices that aren't practical, don't physically work, and would create serious operational difficulties for our members. We should also note that the bill impacts millions of CMVs, trailers, straight trucks, and other vehicles. With an estimated price tag of tens of billions of dollars, S. 665 would be the costliest Federal trucking mandate in history.

Minimum Insurance Requirements

Recently, trial lawyers and their allies in Congress have proposed legislation to increase the minimum level of financial responsibility for trucking companies operating in interstate commerce. While working to gather support for their proposal, organizations like the American Association for Justice (AAJ) have shared wholly misleading information about this issue. OOIDA would like set the record straight on the real impact a minimum insurance level increase would have on highway safety and the catastrophic effect that would have on small trucking businesses.

Federal law currently requires motor carriers engaged in interstate commerce to carry at least $750,000 in liability coverage ($5 million for those hauling hazardous materials). However, the vast majority of carriers are insured at $1 million or more. Having additional coverage is obviously not required, but the insurance industry tends to naturally adjust levels based on market conditions. If enacted, the AAJ's latest proposal—H.R. 3781 (the INSURANCE Act)—would increase minimums from $750,000 to a whopping $4,923,154. Small-business truckers would quickly see their premiums at least triple.

Contrary to claims by those who will benefit financially from an increase in insurance minimums (*i.e.,* trial lawyers), this will do absolutely nothing to improve highway safety. Supporters of the proposal have no reputable research indicating it would. And they never will, because there is no correlation between insurance coverage and highway safety. In fact, increasing insurance minimums would likely force many owner-operators—who are collectively among the safest, most experienced drivers on the road—out of the industry because premiums would become unaffordable. As a result, legislation like H.R. 3781 would actually decrease highway safety, not improve it.

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[12] GAO, Truck Underride Guards Improved Data Collection, Inspections, and Research Needed, GAO–19–264 (Washington, D.C.: March 2019)

Proponents of the bill believe today's insurance requirements need to be increased simply because they haven't been raised since the 1980s. This erroneously assumes the insurance industry only provides coverage at the federally-mandated levels. Again, most motor carriers are insured at least $250,000 above the minimum threshold because that's what the market dictates.

AAJ and their allies want you to believe the rising cost of healthcare for those involved in a crash justifies an increase in insurance minimums. Unfortunately, research indicates this is patently false.

As required by MAP–21, FMCSA commissioned the John A. Volpe Transportation Systems Center (Volpe) to research this issue in greater detail. In 2014, Volpe released its report, which explained, "The *vast majority* of CMV-caused crashes have relatively small cost consequences, and the costs are easily covered with the limits of mandatory liability insurance [emphasis added]." If you're wondering if this includes some of the most costly crashes, Volpe adds, "A small share exceed the mandatory minimum but are often covered by other insurance or assets." There are certainly catastrophic crashes that exceed today's requirements. However, Volpe helps put these rare occurrences into perspective by stating, "A final portion of high-cost crashes would fall outside compensation instruments even if the minimum liability were raised." In short, these exceptional cases are often times so expensive that no level of insurance would cover them. We would also point out that, according to Volpe, only 0.06 percent of crashes result in damages that exceed today's minimum coverage limits.[13]

So what is the point of H.R. 3781?

It should come as no surprise that AAJ is pursuing this bill, as trial lawyers typically receive 30–40 percent of a judgment or settlement against a motor carrier—and sometimes more. For AAJ, this is a shrewd, if not unabashedly transparent effort—mandating an increase in coverage limits will exponentially boost their judgment and settlements.

What remains most important is proposals to increase minimum insurance rates for motor carriers will do nothing to improve highway safety. Rather, it imposes yet another unnecessary and expensive Federal mandate that will force the safest and most experienced truckers off the road, while further lining the pockets of our Nation's trial lawyers. There are so many other proven ways to reduce crashes and improve safety without eviscerating the livelihood of our Nation's hard-working, small-business truckers.

Automatic Emergency Braking

Automatic emergency braking (AEB) systems have garnered increased attention lately because of their potential to improve highway safety. We agree technology like AEB is promising, but efforts to mandate new CMVs be equipped with the systems are premature. While AEB is designed to help reduce or prevent rear-end collisions, this technology is still in its infancy and can create new challenges and dangers for drivers, such as false or unexpected system activation. In fact, several of our members who chose to utilize AEB later reported deactivating the systems because of operational difficulties.

For small-business truckers, AEB technology is also very expensive and studies have shown it is not clear that the benefits of these systems currently outweigh the costs.[14]

Legislation introduced in the House—H.R. 3773, the Safe Roads Act—would require AEB systems on all new CMVs, including every truck and vehicle involved in interstate commerce that has a vehicle weight or GVWR of at least 10,001 pounds. Not only does this encompass all tractor trailers, but also many pickup trucks and other heavy-duty vehicles.

Again, an industry-wide mandate is entirely premature at a time when AEB technology has yet to be perfected. In fact, improvements to the technology are likely to expand AEB's deployment without a Federal mandate, provided truckers can trust these systems are reliable, cost-effective solutions to reducing crashes.

Compliance, Safety, Accountability Reform

Since the inception of the Compliance, Safety Accountability (CSA) and Safety Measurement System (SMS) programs in 2010, there has been a steady increase in truck related crashes, injuries, and fatalities. Congress must continue holding FMCSA accountable in improving SMS/CSA methodology. The agency must imple-

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[13] Kent Hymel *et al.,* Financial Responsibility Requirements for Commercial Motor Vehicles, John A. Volpe Transportation Systems Center (2013).

[14] K. Grove *et al., Field Study of Heavy-Vehicle Crash Avoidance Systems,* NHTSA (June 2016).

ment recommendations from the 2017 National Academy of Sciences (NAS) review in a way that accurately reflects crash risk and crash causation. The NAS study proposed that FMCSA should investigate data on carrier characteristics such as methods and levels of driver compensation to improve SMS/CSA. OOIDA supports a Federal study reviewing the impacts of driver compensation and safety.

As FMCSA works to implement the NAS recommendations, OOIDA opposes efforts that would return CSA scores to public view before the agency's reforms are completed. Publicly posting an analysis of violations developed under CSA while the system is still being improved is extremely problematic. Rather than creating arbitrary timeframes for the availability of data, Congress should focus its efforts on ensuring FMCSA is establishing a program that is fair, reliable, and actually based on safety.

Detention Time

Generally, if the truck's wheels are not moving, drivers are not getting paid. As a result, many drivers spend countless unpaid on-duty hours being detained by shippers and receivers because Congress and FMCSA have failed to address excessive detention time. For far too long, the trucking industry has typically defined detention as any time spent waiting to load or unload in excess of two hours. This line of thinking completely discounts the value of a driver's time. Any updated definition or set of standards estimating reasonable detention periods must instead prioritize the driver's time. Shippers and receivers should not be awarded a complimentary two-hour grace period at the driver's expense.

Detention time is both a safety and financial concern for small-business truckers and professional drivers. A 2018 USDOT Inspector General (OIG) report estimated that a 15-minute increase in average dwell time—the total time spent by a truck at a facility—increases the average expected crash rate by 6.2 percent. The study also estimated that detention time is associated with reductions in annual earnings of $1.1 billion to $1.3 billion for for-hire CMV drivers in the truckload sector and that detention reduces net income by $250.6 million to $302.9 million annually for motor carriers in that sector.[15]

These findings from the OIG report echo what OOIDA members have been dealing with for years. According to a 2018 survey of our members, a majority of both those who operate under the 60 hour/7-day rule and those who operate under the 70 hour/8-day rule indicated they spend between 11 and 20 hours each week waiting to load or unload their truck. In other words, those operating under the 60-hour rule spend approximately 18 percent to 33 percent of their possible drive time in detention, while those under the 70-hour rule spend 16 percent to 29 percent of their time detained. This uncompensated time means individual drivers are effectively losing $865 to $1,500 per week.[16]

The OIG study also concluded that, "accurate industrywide data on driver detention do not currently exist because most industry stakeholders measure only time spent at a shipper or receiver's facility beyond the limit established in shipping contracts. Available electronic data cannot readily discern detention time from legitimate loading and unloading tasks, and are unavailable for a large segment of the industry." OOIDA supports FMCSA's efforts to collaborate with industry stakeholders to develop and implement a plan to better collect and analyze reliable, accurate, and representative data on the frequency and severity of driver detention times.

As the agency gathers more information, we hope that both FMCSA and Congress will take substantive action to reduce excessive loading and unloading times and offset current safety and economic costs associated with detention time.

Entry-Level Driver Training

OOIDA has supported national entry-level driver training (ELDT) standards for decades. In our opinion, the best way to promote safety is to improve driver training requirements. Currently, too many new drivers enter the industry without the basic skills to safely operate a CMV.

Following MAP–21, which mandated minimum training requirements for individuals operating a CMV, OOIDA was an active participant in FMCSA's Entry-Level Driver Training Advisory Committee (ELDTAC). Composed of twenty-six industry members, the ELDTAC was tasked with conducting a negotiated rulemaking to es-

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[15] U.S. DOT Office of Inspector General, *Estimates Show Commercial Driver Detention Increases Crash Risks and Costs, but Current Data Limit Further Analysis,* U.S. Department of Transportation (Jan 2018).

[16] Owner-Operator Independent Drivers Association Foundation, *2018 Detention Time Survey* (Jan 2019).

tablish, for the first time, national training standards for drivers. FMCSA published a final ELDT rulemaking in December 2016, implementing many of the ELDTAC recommendations. While far from sufficient, the ELDT final rule set a curriculum of benchmarks that potential drivers needed to meet, created adequate minimum qualifications for training instructors, and outlined essential processes for registering training providers that would hold schools and instructors accountable for their performance. The ELDT rule established a February 7, 2020, compliance date, giving the agency, states, and industry stakeholders more than three years to prepare for its implementation.

Regrettably, just last week, with less than ten days before the training standards were set to go into effect, FMCSA announced a two-year delay of the entire ELDT rulemaking. The agency explained, "the extension is necessary so that FMCSA can complete the IT infrastructure to support the Training Provider Registry (TPR), which will allow training providers to self-certify, request listing on the TPR, and upload the driver-specific ELDT completion information to the TPR. Completion of the TPR technology platform is also necessary before driver-specific ELDT completion information can be transmitted from the TPR to the State Driver Licensing Agencies (SDLAs). This delay also provides SDLAs time to make changes, as necessary, to their IT systems and internal procedures to allow them to receive the driver ELDT completion information transmitted from the TPR." Because the ELDT rule would immediately begin improving CMV safety, we find this reasoning to be unsatisfactory—especially considering the agency and SDLAs had more than sufficient time to prepare the necessary systems for the scheduled 2020 rollout. OOIDA encourages lawmakers to hold FMCSA accountable in completing the IT infrastructure so there are no further delays.

In the interim period, OOIDA would like to work with Congress and FMCSA to improve the shortcomings of the original 2016 final rulemaking. We believe that the requirements could best be bolstered by establishing a minimum number of hours of behind-the-wheel (BTW) training. A robust ELDT program that features mandatory BTW experience will improve safety and reduce crashes among entry-level CMV drivers.

Autonomous Vehicles

While OOIDA acknowledges the benefits that autonomous vehicles (AVs) may eventually bring, we believe lawmakers and the Federal government must take careful and proper steps to ensure that AVs optimally serve both the general public and CMV drivers. Professional drivers will likely be the first to experience the technology's shortcomings or deficiencies outside of controlled testing scenarios, potentially creating serious safety concerns for our members and the driving public. Additionally, OOIDA members and millions more working in other segments of trucking face a particularly uncertain future, as technology may first diminish the quality of their jobs, and then threaten to displace them completely. Unlike many of the industries involved in the proliferation of AV technology, truckers will probably not experience significant economic gains under a looming autonomous revolution.

Like all other safety systems and technologies, our members want to know that AVs will perform dependably. Unfortunately, DOT's recent AV 4.0 guidelines fall short of providing a thorough research, development, and deployment environment to ensure that AVs, including autonomous CMVs, can operate safely. AV 4.0 continues to rely on self-certification and a voluntary reporting system as the way to balance and promote safety and innovation. This system fails to ensure the transparency that is necessary for all stakeholders, including professional drivers, to evaluate the performance of AVs. Without this transparency, it will be extremely difficult for drivers to assess manufacturers' claims about these new technologies and how they will impact a driver's safety and livelihood.

As the Committee considers addressing AVs, we believe any legislation should be limited to motor vehicles weighing less than 10,000 pounds. The safe operation of an automobile differs greatly from that of a heavy vehicle. The introduction of autonomous technology to both types of vehicles will present distinct safety challenges and concerns that should be addressed and regulated on separate paths. Features unique to the trucking industry, including how changing technology may affect the jobs of millions of American drivers, merits the development and consideration of policies specific to heavy vehicles.

There are many other challenges that will need to be reconciled before AVs can be safely deployed, including questions about liability, cybersecurity, automation bias, insurance, and more. Small-business truckers and professional drivers possess the knowledge and experience that will be necessary to properly identify these concerns. While we are still years away from fully automated trucks, decisions made today will have a significant impact on how these technologies are deployed, and

ultimately, on the livelihood of professional truck drivers and the economy at large. We look forward to working with elected officials, Federal regulators, and our industry partners to ensure AV policies are developed in responsible manner that takes into account the perspective of American truckers.

Truck Size and Weight

Congress should oppose calls to increase truck size and weight limits on our roads. Increasing the gross vehicle weight limit above 80,000 pounds would not only diminish safety and accelerate the deterioration of highway conditions, but would also have a dramatic impact on small trucking businesses that would be forced to modify their equipment at great cost just to remain viable, with virtually no return on their investment. Furthermore, allowing longer combination trailers, known as 'twin 33s', on our roads would only benefit a handful of large corporate motor carriers, but would have a negative impact on safety, infrastructure, and the rest of the trucking industry. It would be unwise to take action that would increase infrastructure repair costs at a time when available funding is already dwindling.

We oppose any wholesale changes to size and weight limits, as well as any pilot programs or industry-, region-, or corridor-specific exemptions. These one-off exemptions still present the same concerns described above, cause confusion for law enforcement, and increase the likelihood that Congress will one day move to increase overall limits.

We appreciate Chairman Wicker's recognition of the problems created by longer and heavier trucks and are thankful for his long-standing efforts to oppose any increases. We look forward to working with the Committee as there will inevitably be continued efforts to pursue these misguided measures.

DataQ

The Federal Government allows truck drivers, motor carriers, and others to request a review of FMCSA-issued data, such as violations and inspection reports that might be incorrect or incomplete. This is commonly referred to as a Request for Data Review, or DataQ. Under Federal law, states have the authority to establish their own review process, and unfortunately, nearly all of them have established a system that does not provide due process for truck drivers or motor carriers. Furthermore, in order to be eligible for certain safety grant funding, states are required to establish a system that collects accurate and complete data.[17] We believe that many states are failing to live up to this standard.

Under the current system, reviews and additional appeals in many states are considered by the same person or agency who issued the initial violation. This creates an inherent conflict of interest. Very few law enforcement officers are willing to admit they made a mistake, and as a result, truckers are often denied an appeal even if they are correct about an erroneous violation. This is problematic because violations remain on a driver's or carrier's safety record and can negatively impact the employability of a driver and increase insurance costs. In many cases, this can put a driver or a small carrier out of business. In one particularly egregious instance, an OOIDA member spent thousands of dollars in legal fees to get a correction for a violation issued for a Federal regulation *that does not even exist.*

As a matter of fairness and due process, Congress should examine ways to provide greater transparency and impartiality in the DataQ process. This is not a revolutionary idea. FMCSA, in its manual for best practices, recommends that states, "implement a 'DataQs Review Council' to provide a fair and impartial secondary review of original decisions."[18] While many states have failed to do this, Arizona and Minnesota are two states that have implemented a review process that we believe provides a good starting point for other states to emulate.

In addition to providing due process to truckers, it is also in Congress' interest to have an accurate DataQ process because it will ensure that accurate safety data is utilized during future policy development. If the citations issued and data collected by state agencies cannot be trusted, then it undermines FMCSA's safety efforts more broadly.

Unified Carrier Registration (UCR)

Administered by the Federal and state governments through a partnership with the motor carrier industry, the Unified Carrier Registration (UCR) program is an outdated and imbalanced system by which various taxes levied on motor carriers are collected and distributed to 41 participating states. The system was established in

[17] 49 CFR § 350.201.

[18] FMCSA, DataQs Analyst Guide, Best Practices for Federal and State Agency Users (2nd Edition, 2014).

the 2005 highway bill for the purpose of maintaining a single national register of motor carriers conducting interstate travel, and it should be repealed in the next reauthorization.

OOIDA has many concerns with the system, starting with the significant inequity in the assessment of fees. The current tax structure is particularly burdensome and costly for single truck operators and small fleets, who represent approximately 96 percent of registered motor carriers, but often have limited resources compared to large fleets. Inequalities are inherent between and within the arbitrary fee brackets of the program. As a result, small motor carriers unfairly and unjustifiably pay more per truck than their larger competitors.

In addition to concerns about inequality, we believe the system lacks the transparency and accountability to merit the trust and support of motor carriers and Congress. In fact, the lack of any meaningful Federal oversight has allowed UCR to become an out-of-control bureaucracy, rife with nepotism among public officials and private contractors. If members of this Committee took a closer look at the structure, operations, and decision-making of UCR and its board, we are certain you would share our disgust for the program.

To make matters worse, it is difficult to determine precisely what programs UCR taxes are supporting within participating states. We do know many states use UCR revenue as a non-federal match for Motor Carrier Safety Assistance Program (MCSAP) funding, which is devoted primarily to enforcement. Essentially, these states are utilizing a federally-authorized tax on motor carriers to leverage additional Federal funding for the policing of them.

Through our participation in the UCR board, we have pushed for reform of the system and opposed countless proposals that perpetuate the program's lack of fairness, transparency, and accountability. Unfortunately, the UCR board, which is dominated by state officials, appears incapable or unwilling to address these concerns. As a result, Congressional action is warranted and overdue.

Many of our members believe the system no longer meets its objectives and favor eliminating it entirely in the next highway bill. Absent its repeal, a Federal audit of how states are using UCR revenue and MCSAP funding would be a constructive first step to determining if the system remains necessary. Since its inception, UCR has never been audited by the USDOT OIG. Congressional oversight of UCR is also badly needed and should occur more regularly. Since its launch, the system has never been the focus of a Congressional hearing. At the very least, Congress should work with industry stakeholders to identify ways the system can be reformed to enhance transparency and improve value to the truckers who pay UCR fees.

Thank you for consideration of our testimony. OOIDA appreciates being part of this hearing. We believe these proposals can help fix many of the problems facing our industry, while simultaneously improving highway safety.

Sincerely,

LEWIE PUGH,
Executive Vice President,
Owner-Operator Independent Drivers Association, Inc.

Senator FISCHER. Thank you, Mr. Pugh. Next, we have Mr. Jake Parnell, who is the Manager of the Cattlemen's Livestock Market in California. He is also Director of the Livestock Marketing Association. Welcome, Mr. Parnell.

STATEMENT OF JAKE PARNELL, MANAGER, CATTLEMAN'S LIVESTOCK MARKET ON BEHALF OF THE LIVESTOCK MARKETING ASSOCIATION

Mr. PARNELL. Thank you, Chairman Fischer, Ranking Member Duckworth, members of the Subcommittee. Thank you for inviting me to testify about a stakeholder's perspective on the trucking industry and its related regulatory environment. Specifically, we appreciate the input from agriculture as a whole and in particular, the livestock industry were sought. My name is Jake Parnell. I manage Cattlemen's Livestock Market in Galt, California. I am testifying today on behalf of the members of the Livestock Marketing Association, an organization that I serve on the Board of Directors and a Member of the Transportation subcommittee.

Livestock Market serves as a hub to gather and sell livestock from farmers and ranchers in a competitive bidding environment. I am also a member of the National Cattlemen's Beef Association, manage my own 500 head herd of commercial cattle, and run between 1,000 and 2,000 yearlings who are grazed on the West coast. Every Wednesday in Galt, livestock are trucked to our livestock market.

Our market stimulates local economies and facilitates buyers gathering loads of livestock to be shipped to the next part of the production chain. The cornerstone for our business is the ability to gather livestock from farmers, ranchers, and dairymen who raise them and market them to buyers throughout the United States. This movement of livestock is entirely dependent upon the use of a very limited population of highly skilled haulers who drive livestock commercial motor vehicles. It might surprise you to hear that livestock producers and livestock auction markets are specifically impacted by transportation laws and regulations.

For example, in California, which ranks fourth in total number of cattle, there is only one major feed yard. So the cattle we raise in most cases must be transported to the Pacific Northwest or more commonly the Midwest for feeding and processing. Time is everything for the well-being of the animals while being transported. The key to safely hauling livestock, especially in times of great heat and humidity, is to stop as infrequent as possible and to keep the trailer moving to provide ventilation.

Unfortunately, although the majority of livestock calls can be concluded within the time-frame of the outlined hours of service regulation, livestock located in states outside of the center part of the country cannot reach their destination safely in an 11-hour drive time. When a driver runs out of time while hauling live animals, they are given a grim prospects of unloading livestock. If they can find somewhere willing to receive them or they must leave them on the trailer for a 10 hour stretch to suffer from the elements, lack of ventilation, and possible injury.

A hauler of live animals cannot unload on the side of the road or a local hotel. There are a few public pin systems along highways and the owners and managers of private feed yards and livestock markets rarely accept livestock in transit due to liability, staffing, and bio security concerns. Further, the act of loading and unloading livestock have been reported to be more stressful than the effect of transport itself. The drivers that transport the animals work hard at safety.

A livestock hauler is forced by the nature of their cargo to drive more cautiously than a conventional cargo hauler because the live animals move throughout the trailer and can be severely injured if the driver turns too suddenly or drives too fast. Safety is so important to the livestock industry that many livestock haulers have participated in additional specialized training, including the Beef Industries Master Cattle Transporter Program, which provides instruction on proper animal handling, transportation methods, and focus on preventing driver fatigue.

Due to all of this, livestock haulers boast a fantastic safety record. For instance, a study conducted by the FMCSA and the National Highway Traffic Safety Institute showed that 1,123 accidents

involve trucks hauling cargo and a mere 5 involve livestock transporters. Similarly, trucks involved in fatal accidents, Fact book 2008, a report conducted by the Transportation Research Institute, shows that of the 4,352 trucks involved in fatal accidents, livestock haulers accounted for just 0.6 percent.

With this great track record of safety in mind, American agriculture needs some help. The current hours of safety provide too rigid, one-size-fits-all framework, increase freight cost, and a shortage of qualified drivers can result in cattle in the coasts and in the Southeast being severely discounted. This can lead to producer and livestock hauler drop out and can be felt by the American consumer trying to put an affordable meal on their table.

Live animal haulers need more flexibility in order to safely get there live cargo to its destination. The LMA sincerely appreciates the several members of this subcommittee, many of whom also serve on the Senate Ag committee, for their assistance and diligent work toward safe and practical solutions for our Nation's agriculture haulers.

[The prepared statement of Mr. Parnell follows:]

PREPARED STATEMENT OF JAKE PARNELL, MANAGER, CATTLEMAN'S LIVESTOCK MARKET ON BEHALF OF THE LIVESTOCK MARKETING ASSOCIATION

I. Introduction

Chairman Fischer, Ranking Member Duckworth, and Members of the Subcommittee, thank you for inviting testimony about stakeholder perspectives on the trucking industry and related regulatory environment. Specifically, we appreciate that input from agriculture as a whole and the livestock industry in particular were sought.

The individuals who raise and sell livestock take great interest in the regulatory structure surrounding the safe transport of those animals. As such, the industry, Congressional partners, and the Federal Motor Carrier Safety Administration (FMCSA) continue to work together to seek and communicate understanding of Hours of Service (HOS) rules while finding safe and appropriate flexibilities for this specialized subset of haulers. It continues to be clear that rigid, one-size-fits all HOS requirements do not work when hauling live animals. We appreciate the recognition of Congress and the Agency that livestock haulers face unique challenges and look forward to continuing to work together to find solutions for this targeted segment of drivers.

II. Background

This testimony is provided by Jake Parnell, Manager, Cattleman's Livestock Market. Mr. Parnell testifies on behalf of the Livestock Marketing Association (LMA), an organization for which he serves on the board of directors and a member of the transportation subcommittee. LMA is the leading national trade organization for more than 800 livestock marketing businesses located throughout the United States. LMA represents more than 75 percent of the regularly selling local livestock auction markets in the U.S. Livestock auction markets serve as a hub to gather and sell livestock for farmers and ranchers in a competitive bidding environment. This stimulates economies in local communities and provides farmers and ranchers the opportunity to receive a good price for their livestock. It also facilitates buyers gathering loads of livestock to be shipped to the next part of the production chain.

Mr. Parnell has managed Cattleman's Livestock Market (CLM) in Galt, California since February 2007. CLM markets between 80,000 and 100,000 head of cattle annually, of which over half end up in the Midwest for feeding or growing. Mr. Parnell is a member of the National Cattlemen's Beef Association and, as a producer, manages over 500 commercial cows, 50 registered and show-type cows, and between 1000 and 2000 yearling steers and heifers that are grazed annually between California, Nevada, Oregon, and Washington.

III. Impact of Transportation Laws and Regulations on Agriculture and the Livestock Industry

The cornerstone of livestock auction businesses is selling livestock on behalf of farmers, ranchers, and dairymen to buyers who gather loads to be shipped to the next phase of production. This movement drives the economy of California and other states across the country. This movement is also dependent upon the use of a very limited population of highly skilled drivers who tend to be independent owner-operators. While the Agency has safety oversight of more than 500,000 motor carrier companies and 5 million active commercial driver's license holders operating across the nation, it estimates that only 3 percent of trucks on the road are agricultural haulers and less than 1 percent are livestock haulers.

A. Structure of Livestock Hauling Business

Livestock auction markets, farmers, and ranchers are particularly impacted by transportation laws and regulations. Livestock markets serve as a hub and gathering point for nearly 46 million head of livestock each year. *See* 2018 Annual Report, Packers and Stockyards Program (available at *https://www.ams.usda.gov/sites/default/files/media/PSDAnnualReport2018.pdf*). Livestock, primarily cattle, but also sheep, goats, and others, are trucked to market for sale and then hauled again to the country's highest quality grazing lands and feedyards in the central and southern plains. Livestock do not travel frequently in their lifetimes, but when they do, they can travel significant distances. For example, according to a survey conducted as part of the Beef Quality Assurance program, the mean distance traveled by feeder calves to Texas and Nebraska feedyards was approximately 467.89 miles. This is a significant average given the immense quantity of "local" cattle raised within Texas, Nebraska, and their neighboring states, which need not travel significant distances to arrive at a feedyard.

Many animals, not born in the center of the country must travel great distances. In California, which ranks fourth in total cattle numbers, 11,000 ranches raise about 600,000 head of beef cows and over 1.78 million dairy cows, generating over $308 million in 2015 to the state alone. Because there is only one major feedyard in California, these cattle, in many cases must be transported to the central plains for feeding and processing, which is a significant drive.

On the other side of the country, one quarter of the Nation's cow herd is located in the Southeast. Most farmers in this area have small herds, typically fewer than 20 head, and depend upon the services rendered by livestock markets and livestock dealers to gather their small calf crops into marketable groups. These calves must be shipped quickly and safely to grasslands and feedyards in the central and southern plains. The weather and access to feedstuffs in these regions are uniquely suited to successful cattle feeding. Time is everything for the wellbeing of the animals being transported. (Schwartzkopf-Genswein, Ahola, Edwards-Callaway, Hale, and Paterson, 2016) ("From an animal welfare perspective, the total duration an animal is transported is more important than the total distance it travels."). Animals can sustain long distances of travel if they are expediently and carefully transported by skilled drivers.

B. Stopping with Livestock is Impractical

The key to safely hauling live animals, especially in times of great heat and humidity, is to stop as infrequently as possible and to keep the trailer moving to provide ventilation. The trailer environment has been identified as having the greatest effect on animal welfare during transport. (Mitchell and Kettlewell, 2008). In North America, transport trailers are ventilated by perforations in the aluminum walls of the trailer as well as openings in the roof. Consequently, the potential to have poor welfare outcomes is significant if the trailer is not moving, especially under extreme weather conditions. The association between decreased animal welfare and increased transport duration is well established and includes greater in-transit weight loss, lameness, incidence of nonambulatory cattle, and death, as well as increased morbidity in the feedyard upon arrival.

The majority of livestock hauls can be concluded within the time-frame outlined by HOS regulations without significant stops which limit airflow. However, unfortunately, for livestock located in or heading to states outside the center of the country, this is not the case. When a driver "runs out of time" while hauling live animals, they are given the grim prospects of unloading the livestock or leaving them on the trailer for a 10-hour stretch.

Unlike the haulers of non-living products, a livestock hauler cannot merely find a safe place to park for their 10-hour rest and leave the cargo on the trailer. Leaving animals on a trailer to suffer from the elements, lack of ventilation, and probable injury is unacceptable.

Simply unloading the animals for 10 consecutive hours of rest is also not a good option. First, there is often nowhere to unload them. A hauler of live animals cannot simply unload their charges on the side of the road or at a local hotel. There are no pen systems available along major American highways, and the owners of feedyards and livestock markets are extremely hesitant to accept livestock in transport due to liability, staffing, and biosecurity concerns.

With respect to biosecurity, facility and livestock owners, as well as state and Federal animal health officials, spend significant time creating and following procedures to minimize risk of animal diseases spreading. This includes laws requiring certain livestock crossing state lines travel with interstate certificates of veterinary inspection that detail where the load came from and where it is going. The trouble with unloading livestock at some waypoint along the trip is that it is almost impossible for a driver to know where they will need to stop in 11 hours with any measure of certainty. These movement documents and the disease traceability programs associated with them are in place to track and prevent contagious disease outbreaks in this country. Every time animals in-transit are unnecessarily unloaded and penned next to other animals in-transit, the risk of disease spread increases.

Furthermore, these locations are rarely equipped to handle and house species other than cattle, providing a challenge to haulers of horses, sheep, goats, and pigs. For those hauling bees and fish, the situation is even more challenging as these animals cannot be unloaded at all while in transit. Additional challenges exist if livestock are to be exported over the road to Canada or Mexico, as stringent trailer sealing and biosecurity measures are required for these exports. This process would be complicated by a rest period necessitating that the doors to the trailer be opened before they reach their destination across the border.

Even if a location is willing to take animals in, unloading and re-loading those animals has a negative impact on their wellbeing. The act of loading and unloading have been reported to be more stressful (elevated heart rate and stress-related hormones such as cortisol) than the effect of transport itself. (Camp *et al.,* 1981). Animals that are unloaded, "rested," and then re-loaded will not have rested at all. *See* Recommendations for Cattle Transport Duration in the U.S.—Executive Summary. Capable animal handlers, such as livestock transporters, know that loading and unloading is extremely stressful, therefore, it is recommended that handling during these events be conducted slowly, gently, and quietly. (Grandin, 2014). Unloading and re-loading livestock in transit takes significant time. González *et al.,* (2012) reported loading and unloading times for commercially transported cattle to be on average 20 and 30 minutes with maximums of 5 and 3 hours, respectively.

C. Livestock Haulers are Rare, Skilled, and Have a Proven Track Record of Safety

Not just anyone can be a livestock hauler; many see themselves as cattlemen/women first and truckers second. Our drivers are often part of small businesses consisting of an owner-operator or perhaps a few trucks. Their trailers are designed exclusively for the transport of livestock, which means when a driver decides to become a livestock hauler, they are usually unable to haul other types of cargo. As such, there is very little cross-over between the haulers of live animals and the haulers of traditional cargo, which can lead to serious trucker shortages, especially during peak sale seasons.

The drivers that transport our animals work hard to further the interests of motorists and the wellbeing of the animals with which they are charged. Simply put, a livestock hauler is required by the nature of their live cargo to drive slower and more cautiously than a conventional cargo hauler because the live animals being hauled can move throughout the trailer and can be severely injured if the driver turns too suddenly, drives too fast, or stops too quickly. Safety of other motorists, our drivers, and the animals they haul is so important to the livestock industry that many livestock haulers have participated in additional specialized training, including the pork industry's Transport Quality Assurance (TQA) program and the beef industry's Master Cattle Transporter (MCT) program.

Due to all of this, livestock haulers boast a fantastic safety record. For instance, the Large Truck Crash Causation Study, conducted by the FMCSA and the National Highway Traffic Safety Institute, showed that of 1,123 accidents involving trucks hauling cargo, a mere five involved livestock transporters. Similarly, Trucks Involved in Fatal Accidents Factbook 2008, a report conducted by the Transportation Research Institute, shows that of 4,352 trucks involved in fatal accidents, livestock haulers accounted for just 0.6 percent.

IV. Outreach and Enforcement Continue to be a Challenge

Although we appreciate the increased efforts FMCSA and carrier enforcement have made with respect to outreach and training, additional work in these spaces

is necessary to keep drivers and livestock safe. It continues to be apparent that carrier enforcement requires specific training on what to do with livestock in-transit when a livestock hauler is taken out of service. It is simply unacceptable for live animals to suffer by being left to stand on a hot, stagnant trailer because of driver non-compliance. As such, we would strongly support continued coordination and cooperation between the Agency and industry to create plans for these situations and to troubleshoot issues as they arise. Some states have a head start with the livestock industry and transportation officials already making plans for these situations while others have not broached the topic.

V. Need for Relief

Incompatibilities between the HOS rules and the live animal hauling industry highlighted by the Electronic Logging Device (ELD) mandate have caused considerable disruption and freight price increases. Many farms and ranches are not within 11 hours of where the animals they raise must be shipped. Live animal haulers can safely travel greater distances than prescribed by HOS if they are allowed to more naturally manage their rest and work times.

The current HOS provide a too-rigid one-size-fits-all framework for transportation that results in live animals being left to stand for 10 hours at a time on trailers leading to significant mortality losses or being unloaded at midway pen systems presenting challenges from logistics, liability, animal welfare, and biosecurity standpoints. The reality is that the current HOS rules and the strict compliance with those regulations made necessary by ELDs will result in cattle on the coasts, in the Southeast, and the rangelands of the Northwest experiencing a regional discount or, even worse, being unmarketable or wholly unprofitable to raise. This will lead to livestock haulers, farmers, and ranchers going out of business. It will also be felt in a very real way by the American consumer trying to put an affordable meal on the table.

The goal of the HOS regulations is to prevent driver fatigue and therefore reduce the number and severity of both fatal and non-fatal accidents. The long record of safe operation by the agricultural commodity hauling industry is evidence of the seriousness which the industry takes these issues.

VI. Requested Relief

Perishable commodity haulers need more flexibility in order to safely get their cargo to its destination. The LMA sincerely appreciates several members of this subcommittee for their assistance and diligent work toward safe and practical solutions for our Nation's agricultural haulers.

The LMA participates in regular conversations with the FMCSA in conjunction with a cross-industry coalition of associations. The coalition continues to participate in public hearings and comment periods, representing the needs of livestock haulers, marketers, and producers. We appreciate the Agency's efforts to create workable solutions for the trucking industry as a whole, as evidenced by the Notice of Proposed Rulemaking (NPRM) published on August 23, 2019, which sought stakeholder input on proposed changes to the HOS. Unfortunately, as described in the coalition's comments to the NPRM, the modifications proposed do not specifically address the unique challenges faced by our drivers, and additional solutions are necessary.

On October 15, 2018, the coalition also filed a request for a 5-year program specific to livestock haulers for modified HOS in exchange for extra training and documentation requirements. At present, the Agency has not acted on that request.

The LMA and the rest of our agricultural coalition would also encourage Congress to support a technical amendment and clarification to apply the agricultural exemption found in 49 CFR 395.1(k)(1) to the both the source and destination of a livestock haul to account for unloading and wait time at livestock processing facilities, which can equate to delays of more than 1 hour.

We are confident driver and animal safety can both be preserved and even improved through logical, data-driven flexibilities.

VII. Conclusion

In the end, agricultural haulers and livestock transporters are sincerely concerned with the impact transportation regulations—both new and old—are having on our country's safe and economical food supply. Rigid HOS requirements do not work for livestock haulers. We appreciate the recognition of Congress and the Agency that livestock haulers are unique and look forward to continuing to work together to find solutions for this targeted segment of drivers. The safety of our roadways is of great importance and it can be coupled with practical solutions to address the need for humane and efficient transportation of live animals.

Senator FISCHER. Thank you, sir. Finally, I would like to welcome Sergeant John Samis with the Delaware State Police. He is the President of the Commercial Vehicle Safety Alliance. Welcome, sir.

STATEMENT OF SERGEANT JOHN SAMIS, DELAWARE STATE POLICE; AND PRESIDENT, COMMERCIAL VEHICLE SAFETY ALLIANCE

Mr. SAMIS. Good morning, Chairman Fischer, Ranking Member Duckworth, and members of the Subcommittee. Thank you for inviting me to participate in today's discussion. As a Sergeant with the Delaware State Police, I supervise our CMV enforcement program and serve as President of the Commercial Vehicle Safety Alliance, which represents people who enforce CMV safety regulations throughout North America.

As the trucking industry continues to evolve, technology is playing a leading role in constantly redefining the industry. The enforcement community must prepare for the future of trucking in order to meet our shared goal of reducing crashes and fatalities involving CMVs. In my written testimony, we highlight the progress made under the FAST Act and propose a number of recommendations aimed at further improving CMV safety. One of the most significant things Congress can do to help improve safety is provide the enforcement community with the flexibility and resources needed to address a growing industry that becomes more sophisticated by the day. CVSA members work with industry and FMCSA to reduce crashes and save lives.

Enforcement officials inspect vehicles, interact with drivers, review motor carriers, and work to ensure that those operating on our roadways do so safely. The roadside enforcement program has helped to significantly reduce the number of crashes and fatalities that involve CMVs. However, the program provides only the foundation for a comprehensive approach to reaching zero fatalities.

States build on that program with initiatives designed to meet their unique needs all with the goal of eliminating CMV involved crashes. Enforcement is only a portion of what the states do. There are outreach and education campaigns, technology deployments, and a focus on crash prevention and high-risk areas, as well as other creative programs designed to help industry understand and comply with safety requirements. Congress can help by giving the states the flexibility and funding needed to address their own, unique safety needs, meeting their core responsibility of conducting inspections and ensuring regulatory compliance by also innovating to keep pace with industry. For example, we are asking Congress to make two small changes to the grant programs that help fund State CMV enforcement activities.

First, we are asking for an additional year to spend grant funds. We are also asking that FMCSA like FHWA be given the authority to reallocate unspent funds rather than return them to the treasury. We need to keep every dollar allocated to critical safety programs where they belong. In addition, states need the tools to operate an effective program. Given the growing size and complexity of the trucking industry, jurisdictions do not have the resources to inspect every vehicle, driver, and motor carrier on a regular basis.

As a result, inspectors interact with only a fraction of the trucks on the road. To maximize resources, jurisdictions use a combination of methods and technologies to identify vehicles, drivers, and carriers for intervention. Work is being done to update crash causation and reporting data to give jurisdictions better information on which to build their program.

If we can better understand where, why, and how crashes are occurring, we can do more to prevent them. CVSA encourages Congress to provide DOT with the resources necessary to maintain the data set that will inform the next generation of safety programs. Specifically, CVSA supports funding an update to the crash causation study. In addition, it is important that regulations keep pace with the evolving motor carrier industry.

For example, as we move to more and more advanced safety systems and CMVs, the enforcement community must have the resources to effectively regulate industry. CVSA has asked NHTSA to consider establishing a universal electronic identifier for all CMVs. The ability to electronically identify each truck from a short-range would revolutionize the roadside inspection program and improve roadway safety.

Finally, as you draft transportation safety policy for the next decade, please consider how the enforcement community will implement those policies. Establishing new policies without considering the practical impact can lead to inconsistency and unnecessary tension between industry and enforcement. CVSA is asking Congress to incorporate an implementation window requirement in any future exemption. This will allow states time to receive guidance and train inspectors, leading to greater uniformity, which benefits both industry and enforcement.

Thank you for including me in today's discussion. We, like our partners in industry and at DOT, are committed to saving lives. To reach that goal, it is important that everyone involved have the tools needed to do their part. For the states, that means program flexibility and funding to support comprehensive and innovative programs that take dangerous drivers, vehicles, and carriers off the roadway. Thank you.

[The prepared statement of Mr. Samis follows:]

PREPARED STATEMENT OF SERGEANT JOHN SAMIS, DELAWARE STATE POLICE; AND PRESIDENT, COMMERCIAL VEHICLE SAFETY ALLIANCE

Introduction

Chairman Fischer, Ranking Member Duckworth and Members of the Subcommittee, thank you for inviting me to participate in today's important discussion on "Keep on Truckin': Stakeholder Perspectives on Trucking in America."

My name is John Samis. I am a sergeant with the Delaware State Police, and I currently serve as president of the Commercial Vehicle Safety Alliance (CVSA). CVSA is a nonprofit association comprised of local, state, provincial, territorial and Federal commercial motor vehicle safety officials and industry representatives. We represent the state agencies responsible for the administration and enforcement of commercial motor carrier safety regulations in the United States (U.S.), Canada and Mexico. We work to improve commercial motor vehicle safety and uniformity by bringing truck and bus regulatory, safety and enforcement agencies together with industry representatives to solve highway transportation safety problems. Every state in the U.S., all Canadian provinces and territories, the country of Mexico, and all U.S. territories and possessions are members of CVSA.

As Congress begins work on the next surface transportation bill, this timely hearing will hopefully provide members with valuable insight into the incredibly com-

plex world of regulating the trucking industry to ensure safety, while also providing for the efficient flow of goods across the country. My testimony will provide a snapshot of the current state of commercial motor vehicle safety and enforcement initiatives, as well as outline our recommendations on how best to move forward to meet our shared goal of preventing crashes, injuries and fatalities related to commercial motor vehicles on our Nation's roadways.

Background

CVSA represents the men and women responsible for removing dangerous vehicles, drivers and motor carriers from our roadways. Congress provides funding to the states through the Motor Carrier Safety Assistance Program (MCSAP) to support the states' commercial motor vehicle safety and enforcement programs. States use the funds to conduct inspection and enforcement activities, train enforcement personnel, purchase necessary equipment, update software and other technology, and conduct outreach and education campaigns to raise awareness and improve commercial motor vehicle safety issues. The funds are used, in part, to pay the salaries of more than 13,000 full and part time commercial motor vehicle safety professionals. These people conduct more than 3.5 million commercial motor vehicle roadside inspections, 64,000 new entrant safety audits and 6,000 compliance reviews each year.[1]

The states' work through MCSAP saves lives every day, keeping dangerous vehicles, and unqualified and unsafe drivers off the Nation's roads. According to the Federal Motor Carrier Safety Administration (FMCSA), the agency regulates 560,809 motor carriers, 6.6 million commercial drivers and 12.2 million commercial motor vehicles.[2] The state and local agencies that receive MCSAP funding are responsible for ensuring those motor carriers, vehicles and drivers operate safely. Furthermore, the commercial motor vehicle enforcement landscape is constantly evolving and changing as Congress and FMCSA work to refine and improve the Federal Motor Carrier Safety Regulations (FMCSR). As we look ahead to the future of the commercial motor vehicle industry, it is apparent that states will need every resource available to keep pace with an ever-growing and ever-changing industry.

The FAST Act, Where We Stand Today and How to Move Forward

Significant progress for commercial motor vehicle safety was made in the Fixing America's Surface Transportation (FAST) Act of 2015. The bill included a major overhaul of and increased funding for MCSAP. In addition, the bill included a number of changes to the regulatory processes at FMCSA, directives to reduce redundancies and improve information systems, and a number of necessary studies on relevant commercial motor vehicle related issues. As a result, today we have more streamlined programs, are able to spend more of our time on implementing the programs, rather than reporting on them, and are working towards improved data collection and analysis.

Motor Carrier Safety Assistance Program Changes

Perhaps the most significant provision within Title V of the FAST Act were the changes made to MCSAP. The bill completely rewrote Sections 31102, 31103, 31104 and 31313 of Title 49 of U.S. Code, which are the sections dealing with MCSAP, making a number of organizational and programmatic changes. The goal of the consolidation and reorganization was to reduce the administrative burden for both FMCSA and the states by reducing the number of grant programs and focusing the bulk of the program in the formula grant, which is more quickly administered and more stable than competitive grants. Fewer grant programs means fewer applications for the states to submit and report on and for FMCSA to review and administer, cutting down on unnecessary paperwork and streamlining the grant process. Though, of course, there is always room for improvement.

CVSA strongly supported the changes to MCSAP implemented in the FAST Act. The changes, most of which were effective beginning in fiscal 2017, have provided states with additional flexibility in how they spend their MCSAP grant funds, streamlined the grant application process, eliminated redundancies between overlapping programs and reduced the administrative burden on states, allowing them to spend more time doing the work of the program and less time on administrative activities. This flexibility is critical, giving states the ability to design a comprehen-

[1] "2019 Pocket Guide to Large Truck and Bus Statistics." Federal Motor Carrier Safety Administration. January 2020. *http://www.fmcsa.dot.gov/safety/data-and-statistics/commercial-motor-vehicle-facts*

[2] "2019 Pocket Guide to Large Truck and Bus Statistics." Federal Motor Carrier Safety Administration. January 2020. *http://www.fmcsa.dot.gov/safety/data-and-statistics/commercial-motor-vehicle-facts*

sive commercial motor vehicle safety program that utilizes creative solutions to address issues unique to each state, while also meeting all program requirements.

Meanwhile, as we approach the end of the FAST Act authorization cycle, FMCSA is working to finalize implementation of some of the bill's provisions. The FAST Act included a requirement that FMCSA convene a group to evaluate the current MCSAP allocation formula. The group was tasked with recommending a new formula that will better allocate MCSAP funds to where they are most needed. The group's recommendations were finalized in April of 2017 and a notice of proposed rulemaking outlining the new proposed structure was published last fall. Once complete, the new MCSAP formula will have a tremendous impact on the efficacy of the new MCSAP structure.

We are hopeful that the final rule will be published early this year and work can begin on putting the new formula in place. FMCSA will need time to adjust their programs accordingly and states will need to be able to plan for any changes in funding levels based on the new formula. States are currently receiving funds based on an interim formula, which was intended to serve as a short-term place holder. As such, many jurisdictions are reluctant to make longer-term changes to their programs (such as expanding initiatives and hiring new staff) before they know what funding will look like in the future. As a result, innovative programs and technology deployments are being placed on hold.

In addition, the agency is in the process of finalizing the move to a three-year cycle for the state's commercial vehicle safety plans. These plans document how the state has met their safety goals for the past year and how MCSAP funds for the coming fiscal year will be spent in order to meet target goals for enhancing safety. Moving to a three-year cycle for the reporting will reduce the administrative burden on states and free up more time and resources for other priorities.

The states and agency are both still adjusting and adapting to the new structure, processes and requirements, as well as waiting for the final few pieces to be put in place. However, overall, feedback to date has been largely positive. We'd like to thank this committee for their work in putting those changes in place. As we evaluate the outcome of the FAST Act changes and look towards the next highway bill, CVSA has identified a few small adjustments related to MCSAP funding that could be made to build on this progress. These recommendations are discussed in the following section.

Motor Carrier Safety Assistance Program Funding

The commercial motor vehicle enforcement landscape is constantly evolving and changing as Congress and FMCSA work to refine and improve the FMCSRs, and industry advances. Despite these challenges, MCSAP, as administered by the states, has been successful in improving safety on our Nation's roadways, in spite of a steady increase in the number of commercial motor vehicles operating on those roads. New and expanded responsibilities mean improvements in safety, but only to the extent the states have the resources to effectively implement those policies. Recognizing this, Congress included in the FAST Act higher levels of funding for MCSAP and other commercial motor vehicle-related grants. I'd like to take a moment, on behalf of CVSA and its membership, to thank the Members of this Committee for recognizing that fact and for helping to ensure the higher funding levels in the FAST Act.

While the states are appreciative of the higher funding levels, states experience an ongoing delay and lack of consistency in the timing of funding disbursement, which prevents many from being able to fully capitalize on the increases. In fiscal 2019, some grant funds under MCSAP were allocated to the states as late as September, just days before the end of the first year of the grant.

There are a number of factors that contribute to these delays and result in complications for the states. Allocation of MCSAP funds are tied to the annual appropriations process, which, as you know, has become more delayed each year. If the process worked as it should, appropriations for the fiscal year would be finalized long before October 1 of each year and FMCSA would have time to run the formulas and award funds, in full, at the start of each fiscal year. Instead, continuing resolutions force the agency to disburse the funds in phases until a final bill is approved and the remaining funds can be released. The issue is further complicated by the fact that many states do not follow the Federal fiscal calendar (most start July 1), which impacts their reporting and tracking process. When funds do become available, the grant review and approval process takes too long, further delaying receipt of funds for safety programs. It can take weeks and sometimes months for the agency to get the necessary approvals to award the funds to the states. This unpredictable, piecemeal approach to funding makes planning and management of state programs difficult.

Relying on the appropriations cycle to determine funding levels on a year-to-year basis does not allow the states to plan long-term. State agencies will be reluctant to fill positions, continue enforcement programs or engage in bold new initiatives if they cannot be confident that Federal funds will come in a timely manner, at the approved levels. These delays can also leave a state with too little time to spend the funds, once they are awarded. If states are unable to spend the funds in the grant period of performance, they are forced to deobligate the money, returning it to FMCSA. FMCSA, in turn, is required to return unspent funds at the end of each grant period of performance. Requiring FMCSA to return the funds to the treasury takes much needed funding away from critical safety programs and makes long term funding for states even more unreliable.

To help address this issue, we are asking, first, that states be given an extra year to spend grant funds, to account for the delays that consume most of the first eligible year of the grant. In addition, we are asking that FMCSA be given the authority, like other agencies, to keep the unspent funds and reallocate them. This will provide states with more flexibility and stability, which in turn will result in stronger, more robust programs. Simply put, these are funds that Congress allocated to be spent on critical commercial motor vehicle safety programs. We should not let process and circumstances prevent those much-needed funds from being used by the states. Unspent funds should remain within MCSAP, for FMCSA to reallocate to states that can quickly and effectively spend the money. Finally, recognizing that future funding for MCSAP is directly tied to the long-term solvency of the Highway Trust Fund, CVSA supports ongoing efforts to identify sustainable, long-term revenue sources to address the Highway Trust Fund insolvency, in order to ensure stability for MCSAP, as well as other important safety-related programs.

Clarity in the Regulatory Framework

Clear, enforceable rules are the cornerstone of an effective regulatory framework designed to ensure safety on our roadways. It is imperative that those subject to the FMCSRs understand their responsibilities and that those tasked with enforcing safety regulations can do so effectively to ensure the quality and uniformity of the more than four million roadside inspections conducted annually throughout North America. Over time, additional regulatory authority, coupled with changes to the industry and technological advancements can result in inconsistent, outdated and redundant regulatory language.

Unfortunately, regulatory activity at the agency—one of FMCSA's basic responsibilities—has come to a near standstill, and the necessary work of maintaining and updating the regulations is suffering. High profile initiatives, such as implementation of the electronic logging device rule, can consume the agency's resources, especially when those efforts are met with a high volume of exemption requests. In an effort to address the growing backlog and delays, the agency has come to rely heavily on the use of regulatory guidance to address necessary clarifications to the regulations, using guidance documents or frequently asked questions (FAQs) to correct technical errors in published rules or to clarify vague regulatory language within the safety regulations while improvements to the regulations make their way through the rulemaking process. However, the number of full rulemakings that can make it through the agency in any given year is limited by staff and funding, and a number of higher profile rules tend to push simple technical changes back in the queue, some never to be published. As a result, a disconnect has evolved between written regulation, regulatory guidance, interpretations and FAQs.

To help address these inconsistencies, the FAST Act required FMCSA to conduct a regular review of active guidance documents and routinely incorporate appropriate guidance into the regulations in a timely manner, a requirement that was supported by CVSA. This process, once complete, will help clarify a number of inconsistencies in regulation. This, in turn, will help improve the quality and uniformity of the more than four million roadside inspections conducted annually throughout North America.

However, reforming the regulatory guidance process will only address a portion of the issue. The underlying regulations must be updated and maintained regularly, in order to keep pace with advancements in industry and safety. For example, as regulators evaluate the impacts of automated driving systems on interstate transportation, they should consider the effects of this technology on the enforcement community and provide clear, uniform and enforceable standards. It is imperative that the regulations be updated to account for driver-assisted and, eventually, driverless vehicles. These updates to the regulations need to be put in place now, so they are complete and well understood before wide-spread deployment of automated commercial motor vehicles are on our roadways. This does not necessarily mean

NEW regulations; only that existing regulations must be adjusted to accommodate the future of the trucking industry.

Likewise, a number of petitions from CVSA and other organizations calling for various technical corrections, updates and adjustments to the FMCSRs sit before the agency, unaddressed. There are a number of factors that contribute to the growing delay in regulatory action at FMCSA, and many of these factors are outside the agency's control. The result is that critical work maintaining the FMCSRs, something only the agency can do, is falling behind. CVSA strongly encourages Congress to ensure that FMCSA is given the resources needed to prioritize the day-to-day maintenance of the regulations, meet obligations set forth by Congress and prepare for the future.

Exemptions

Another challenge facing the enforcement community is inconsistency in the regulations caused by exceptions, exemptions and waivers. The Federal safety regulations help reduce or prevent truck and bus crashes, fatalities and injuries by establishing minimum credentialing and vehicle mechanical fitness requirements to ensure interstate motor carriers and drivers operate safely. The regulations are developed in consultation with enforcement, industry and subject matter experts, and are intended to establish a clear set of rules by which all motor carriers must abide. The states, in partnership with FMCSA, work to enforce those regulations consistently and correctly.

In order to become a commercial motor vehicle inspector, an individual must go through rigorous training. Once certified, an inspector must conduct a minimum number of inspections each year to maintain their certification. Inspectors must also attend annual in-service refresher training and are trained after every regulatory update or change. Significant training and continuing education ensure inspectors and roadside enforcement officials fully understand and effectively communicate the regulations they enforce.

Clarity, consistency, uniformity and enforceability are the cornerstones of an effective regulatory framework. Confusion and inconsistencies create more work for the enforcement community and have the potential to frustrate the motor carrier industry. Inconsistencies and exceptions within the regulations require more training and create more opportunities for mistakes, which in turn require additional resources to correct. Unfortunately, however, the FAST Act included a number of legislative exemptions from the safety regulations. CVSA is generally opposed to the inclusion of exemptions in legislation. We recognize there may be instances when exemptions are appropriate and do not compromise safety; however, overall, CVSA believes exemptions have the potential to undermine safety and complicate enforcement. Every new exemption is an opportunity for confusion and inconsistency in enforcement, diverting scarce resources from other activities and undermining the program's effectiveness. While CVSA has no specific opposition to many of the exemptions on an individual basis, complications have already surfaced regarding their implementation.

Problems begin with the adoption of exemptions. While the exemptions were made effective at the Federal level upon enactment of the bill, that is not necessarily the case at the state level. The states cannot enforce Federal laws and regulations, and instead adopt Federal regulatory policy into their own state law and code. Some states adopt Federal rules by reference, allowing them to automatically adopt Federal changes immediately. However, many states do not adopt by reference and must go through either a legislative or regulatory process to make the Federal regulatory changes effective at the state level. This process takes time, especially in states where the legislature does not meet annually.

Even in states where adoption is automatic by reference, there is still a delay in the practical implementation of an exemption. Jurisdictions must be made aware of the change and its impacts. In many cases, interpretations and guidance from the related Federal agency on the parameters and definitions of the exemption are necessary. For example, a number of the exemptions to commercial motor vehicle size and weight limits included in the FAST Act required guidance from the Federal Highway Administration (FHWA). FHWA worked quickly to provide the guidance to the states, but even so, the document was not circulated until February of 2016, which left industry and the enforcement community wondering how the exemptions would work in the meantime and, at times, creating conflicts during roadside inspections.

Finally, once the exemption has been analyzed and guidance provided, state enforcement personnel must be trained on the new exemptions. Inspectors must be taken away from important enforcement and education efforts and brought into the classroom to be trained on the changes. Practically speaking, this takes time. This

guidance and the subsequent training are critical to ensuring the exemption is interpreted and enforced uniformly.

Recognizing these challenges, FMCSA has a policy in place that allows states three years to adopt changes to the FMCSRs. While states work hard to adopt the changes as quickly as possible, the three-year window allows enough time for the states to go through their process and for inspectors to be properly trained. Moving forward, CVSA encourages Congress to consider including an 18-month implementation window or some other mechanism that allows other Federal agencies enough time to provide any necessary guidance on the exemption and the states enough time to adopt the changes and train inspectors and enforcement personnel. We understand the exemptions are intended to relieve industry of a certain regulatory responsibility, but if the exemption cannot be implemented correctly and consistently, industry and the enforcement community both suffer. CVSA looks forward to working with Congress and our partners in the motor carrier industry to identify a solution to this issue that meets the industry's needs while also allowing for clear, uniform application and enforcement of the regulations.

Hours-of-Service

General

One area of the regulations that presents a significant challenge for the enforcement community is the hours-of-service requirements. Recently, and motivated partially by the electronic logging device requirement, there has been a lot of discussion about the need for additional 'flexibility' in the hours-of-service rules. CVSA does not have expertise in fatigue data and will not weigh in on all the proposed changes being discussed. However, it should be noted that the Federal hours-of-service requirements exist to help prevent and manage driver fatigue. While sleep cannot be regulated, the hours-of-service rules set forth a framework that, if followed, allow drivers to get the rest necessary to operate their vehicles safely. It is important that the hours-of-service requirements continue to focus on fatigue management and safety, factoring in the best available fatigue data. Recognizing that the motor carrier industry is diverse, it is critical that the regulations account for significant variances within segments of the industry, while keeping exemptions to a minimum, in order to ensure uniform enforcement.

Agricultural Commodities

Currently, consideration is being given to whether or not the agricultural industry should be given additional flexibility within the hours-of-service regulations. CVSA has concerns with several of the proposals being discussed, as for many of them 'flexibility' translates to additional on-duty and driving time. Additional driving and on-duty time will expose drivers to a greater risk of fatigue, putting themselves and the public at risk. Operators in the agricultural industry already have a number of exemptions in place today that allow them to drive well past the current limits. The hours-of-service framework exists to prevent exactly this type of excessive driving that causes fatigue.

Some in the industry point to a low level of annual crashes as justification for the additional driving time. However, this argument fails to recognize that the relatively low level of crashes is likely due, in part, to the fatigue management of the very hours-of-service framework they are seeking relief from. Further, the data used fails to account for the safety impacts of recent changes made by FMCSA to the 150-air-mile agricultural commodity exemption. The guidance on the 150-air-mile agricultural commodity exemption that was issued in May 2018 changed how on-duty and driving time is recorded once a driver leaves the 150 air-mile radius. Prior to the change, if a driver left the 150 air-mile radius, they had to record all driving and on-duty time that occurred within the 150 air-mile radius. Under the new guidance, all on-duty activities and driving that occur within the 150 air-mile radius is recorded as off-duty time, even if the driver leaves the 150 air-mile radius. So, in theory, a driver could be on-duty and/or drive within the 150 air-mile radius for 8 hours, leave it and only then start their clock. For agricultural carriers, this change significantly increases the amount of time they are able to work and drive, exposing them to increased risk of fatigue. This significant change and the subsequent impacts on crash rates have not been evaluated. Further expanding the distance of the current air-mile radius exemption or expanding the workday in general at this point will only result in more tired drivers.

CVSA also supports requiring that the agricultural community now be required to install electronic logging devices. They have been exempted from the requirement, as they argued the mandate would have a disproportionate impact on their industry, due to the rigid nature of the hours-of-service rules. Given that FMCSA has pro-

vided additional flexibility within the rules themselves, we believe it's time for this sector of the industry to adopt electronic logging devices.

We recognize the nature of the commodities they are hauling—they are live animals and/or perishable products. The enforcement community is not seeking to penalize the agricultural community or hurt their business. We live in these communities. These are our neighbors, friends and relatives. We recognize that complying with safety regulations can make business more difficult and require adjustments and additional expense. But fatigue does not vary based on what a driver is hauling and compliance with the safety regulations is part of the requirements to operate in commerce.

Personal Conveyance

Another hours-of-service issue that is related to the regulatory guidance matter discussed above is the "personal conveyance" designation under the hours-of-service rules. In June of 2018, FMCSA published new guidance providing a new interpretation of how to apply and use the "personal conveyance" designation. To be able to log personal conveyance time as off-duty, commercial motor vehicle drivers must meet several conditions as outlined in the regulatory guidance. These include being relieved of all on-duty activities and responsibilities and ensuring that the off-duty trip is personal in nature. While these conditions present certain parameters to drivers and enforcement, the guidance it offers is incomplete because it does not provide a maximum distance and/or time that a driver can travel under the "personal conveyance" designation.

Under the revised guidance, a driver could, in theory, drive hundreds of miles over the course of several hours all under the designation of "personal conveyance." This presents the opportunity for increased driver fatigue and risk on our roadways, as drivers may decide to travel hundreds of miles in order to strategically relocate to an alternate location after driving a full day. When combined with the ability to operate under personal conveyance while laden, this new guidance also provides an opportunity for drivers to abuse personal conveyance time in order to circumvent the hours-of-service regulations. Further, the allowance of laden vehicles for personal conveyance use makes it much more difficult for a roadside inspector to determine the intent of a driver at the time of inspection. Inspectors are consistently seeing blatant abuse of this designation and we have heard feedback from drivers and motor carriers who indicate they are receiving pressure from shippers to use the designation incorrectly in order to deliver loads faster.

CVSA has petitioned the agency to provide a clear, set distance that is permissible under the personal conveyance designation. In setting clear guidelines on the use of personal conveyance, CVSA recommended that FMCSA look to the standard set in Canada, which allows drivers to use a vehicle for personal conveyance purposes for a maximum of 75 km per day (approximately 46 miles), unladen. While 46 miles may not be the appropriate distance here in the U.S., it demonstrates that setting a fixed distance is feasible. FMCSA should set a quantifiable distance that drivers are allowed to log as personal conveyance.

Data Quality

Uniform, timely and accurate data is the cornerstone of the Motor Carrier Safety Assistance Program. Enforcement personnel, along with state and Federal agencies, use information on a motor carrier's past performance to help prioritize motor carriers for roadside inspections and compliance reviews. Performance data from the commercial motor vehicle industry is used to identify trends and problem areas, and to craft enforcement and education initiatives to target specific safety problems. Data is not only used to evaluate whether or not enforcement is being conducted uniformly, but also to determine whether or not a particular safety program or concept is successful. Data is used to determine whether enforcement funds are being used in the most efficient, effective manner possible. In order to effectively and efficiently perform these activities, the states and the Federal government must be able to rely on the data being compiled in the various systems being accurate and as uniform as possible, in order to make comparisons.

As technology and data collection continues to advance and improve, our state programs will only grow in their reliance on data. Congress recognized this fact and included a number of provisions in the FAST Act having to do with improving FMCSA's information technology (IT) systems and data quality. Section 5504 of the bill directed the Comptroller General to conduct a comprehensive analysis of FMCSA's IT and data collection and management systems and to make recommendations on how to improve both the functionality of the systems and the quality of the data collection and analysis. In addition, Section 5224 directed FMCSA to implement certain hardcoding and smart logic standards within the in-

spection software, in order to improve the data quality coming from inspection reports.

CVSA is following the implementation of both requirements closely and looks forward to working with the agency as they move forward. Finally, many within the transportation industry recognize that the we need better data on crashes. FMCSA has begun gathering information on the costs and parameters associated with updating the agency's crash causation study. If completed, this study would give jurisdictions better information on which to build their programs. If we can better understand where, why and how crashes are occurring, we can do more to prevent them. CVSA encourages Congress to provide DOT the resources to maintain the data sets that will inform the next generation of safety programs. Specifically, CVSA supports funding an update to the crash causation study.

Safety Technology

General

As budgets continue to tighten and technology continues to advance, it is imperative that those in the safety and enforcement communities take full advantage of technological advancements that improve safety and demonstrate a net benefit to society. CVSA supports legislation and policies that encourage the deployment of safety technologies proven, through independent research, to improve commercial motor vehicle safety, either through preventing crashes or mitigating the severity of crashes. CVSA also supports giving states the flexibility to deploy technology that helps support effective enforcement programs.

Universal Electronic Vehicle Identifier

Given the growing size and complexity of the trucking industry, jurisdictions do not have the resources necessary to inspect every vehicle, driver and motor carrier operating on our roadways on a regular basis. In order to maximize resources, jurisdictions use a combination of methods to identify vehicles, drivers and motor carriers for intervention and enforcement. As a result, inspectors interact with only a small fraction of the commercial motor vehicles currently operating on our roadways. However, technologies exist today that would allow enforcement to identify nearly all commercial motor vehicles electronically, while those vehicles are in motion. If this concept were universally deployed, it would revolutionize the way commercial motor vehicle roadside monitoring, inspection and enforcement are conducted.

Requiring a universal electronic vehicle identifier on all commercial motor vehicles would, in time, eliminate the need to stop a commercial motor vehicle to review driver information and inspect the vehicle, improving efficiencies for the enforcement community and the motor carrier industry. It would improve the effectiveness of enforcement programs while reducing costs, for both enforcement and industry, all while improving safety. CVSA has petitioned the National Highway Traffic Safety Administration (NHTSA) and FMCSA to issue an advance notice of proposed rulemaking to explore the feasibility of requiring all commercial motor vehicles be equipped with technology that allows them to be identified electronically by enforcement. Deployment of this technology would revolutionize the way commercial motor vehicle roadside inspection and enforcement are conducted, exponentially growing the program and improving roadway safety.

While many questions still exist surrounding this concept, establishing a universal electronic vehicle identifier requirement for all commercial motor vehicles will have tremendous benefit. Jurisdictions will save time and see improved efficiencies as inspectors are able to more accurately identify vehicles, drivers and motor carriers in need of an intervention while allowing safe, compliant vehicles and drivers to deliver their freight more quickly and efficiently. Most importantly, establishing a universal electronic vehicle identifier requirement for all commercial motor vehicles would benefit the public by improving safety, helping to take unsafe vehicles, drivers and motor carriers off the roadways. As industry continues to grow and more people take to the roads, it is imperative that we leverage technology where possible to improve the efficacy of our enforcement programs.

Further, the need for a universal electronic vehicle identifier becomes more critical as the industry moves forward to implement driver assistive truck platooning, increasingly advanced driver assistance systems, and partially or fully automated driving systems, which will require new methods and levels of safety checks. As driver assistive technologies evolve in commercial motor vehicle use, the proper identification and monitoring of these commercial motor vehicles becomes increasingly necessary. No matter the method, this proposed requirement would enable efficient identification and inspection/screening of vehicle systems to help ensure safe operation of commercial motor vehicles, including those being operated with or with-

out a human operator on board. CVSA encourages Congress to direct NHTSA to initiate the rulemaking so this important discussion can begin.

Automated Driving Systems

Finally, much of the discussion on safety technology in the transportation arena currently revolves around the deployment of commercial motor vehicles equipped with various levels of automation. As the industry moves ahead with deployment of automated driving system technology and other technologies and as Congress and the administration consider mandating certain systems, it is important that consideration be given to the practical aspects roadside. It is imperative that Federal agencies and lawmakers keep pace with technical developments by consulting with industry and the enforcement community to determine the necessary guidelines for safe operation on public roadways.

In particular, a dialog with the enforcement community is needed on the requirements and capabilities of this technology to self-monitor vehicle systems' safety status and interact with law enforcement. Each new requirement in the regulations will come with a corresponding item on the roadside inspector's checklist. If a vehicle is required to have a particular component or piece of technology, thought must be given to how the enforcement community will effectively inspect the component or function, and in the pursuit of maintaining safety on our public roadways, ensure compliance with that requirement. Regulations should be clearly written and enforceable. With appropriate Federal standards in place, these technologies have great potential to increase roadway safety.

5.9 GHz Spectrum Band

CVSA is following with interest the ongoing discussion regarding the possible release of a portion of the 5.9 GHz Spectrum Band. CVSA, along with many other organizations in the transportation safety realm, have grave concerns regarding the Federal Communications Commission's proposal to reallocate the majority of the 5.9 GHz band for unlicensed devices. The U.S. Department of Transportation (DOT), which has also weighed in against the move, has research that indicates this proposal would also likely cause significant interference with vehicle to everything (V2X) technologies operating in the remaining spectrum, which could render the spectrum useless for transportation safety. We are on the cusp of the next revolution in transportation, with potential for real safety benefits from connected and smarter vehicles, along with more sophisticated and effective enforcement tools. It is critical that this portion of the spectrum remain dedicated to life saving safety technology.

Under 21-Year Old Drivers

As freight volumes continue to increase, some of our industry partners struggle to find qualified drivers to fill vacancies. As a result, discussions are occurring around the idea of allowing 18 to 20-year old drivers to operate commercial motor vehicles interstate. Last year, FMCSA issued a notice requesting comment on how the agency might structure a pilot program to explore the impacts of this change. CVSA filed comments, noting that there is value in conducting such a pilot program to assess the impacts of allowing younger drivers to operate in interstate commerce. However, careful consideration to the program's structure is necessary to ensure the outcome provides relevant data on which to make future policy determinations.

In the notice, FMCSA proposed including a number of safety technology requirements in the pilot program. CVSA has long been a strong proponent of policies that will help deploy proven safety technologies. It is critical that FMCSA conduct a pilot program that will provide reliable, accurate data on which to base future policy determinations. If the agency includes safety technologies in the pilot, the results will likely be skewed, as participants will perform better as a result of the safety technology. The program results would not be reflective of the actual commercial motor vehicle driving fleet and would not serve as a sound basis for future policy decisions. Consideration must be given to how the program is implemented, ensuring the pilot is reflective of how any future program would work. So, if additional safety technologies are required and, based on that structure, the agency determines that allowing younger drivers to operate in interstate commerce is a safe and prudent decision, those same technologies should be required for all younger drivers to operate going forward. Similarly, if the agency places additional restrictions on the motor carriers or drivers themselves, those same requirements should be part of any permanent program that is put into place.

It has been suggested that before younger drivers are allowed to operate interstate, FMCSA should examine data on intrastate driver performance, as drivers under the age of 21 are allowed to operate intrastate in every state in the country. While this data may prove to be informative, it is critical that it be considered under

the right context. Intrastate movements by drivers under 21 years of age are not likely comparable to long haul commercial motor vehicle loads. Many of these intrastate trips are short haul, with drivers returning home every night. In addition, in many cases, these moves will take place either in extremely rural areas or in densely populated urban centers, both of which come with a unique set of challenges and exposure considerations. This does not mean that the data cannot be reviewed and incorporated, only that any conclusions being drawn from such data take into consideration and account for these factors. Finally, like many others, CVSA supports prohibiting these younger drivers from transporting passengers or hazardous materials, as a crash involving either poses a more significant risk than general cargo.

Detention Time

Drivers continue to face challenges at pickup and delivery locations, resulting in delays that impact their hours of service and productivity. The FAST Act included a provision calling for DOT to study the issue of driver detention time. This a well-documented challenge, with clear impacts on motor carrier safety, particularly with regards to fatigue management. CVSA encourages Congress to work with stakeholders to address the ongoing issue with driver detention time.

Truck Parking

Related is the ongoing challenge of providing commercial motor vehicle drivers with adequate, safe parking facilities, strategically placed throughout the U.S. This is a critical commercial motor vehicle safety issue. Parking facilities need to be available to drivers who are trying to comply with hours-of-service requirements, as well as those who are fatigued. Without adequate parking facilities, drivers are faced with either driving over hours or parking in an unsafe location. CVSA supports investments that address the Nation's truck parking shortage.

Conclusion

The FAST Act included a number of changes that will have a positive impact on the Nation's roadway safety and work has been completed or is currently underway to implement a majority of those requirements. However, there is more work to be done, as recent traffic fatality data reflects an upward trend in crashes and fatalities involving commercial motor vehicles. As this committee considers the state of the trucking industry and begins development of the next surface transportation bill, we encourage you to give strong consideration to the role the enforcement community will play in any policy changes or new programs, and to ensure that the states and FMCSA are given the resources and flexibility to maintain their core programs while also building upon them and keeping pace with industry. As the state agencies responsible for commercial motor vehicle enforcement, we look forward to working with the Members of this Committee, FMCSA, our industry partners and other stakeholders to continue working towards our shared goal of preventing deaths, injuries and crashes on the Nation's roadways. We are committed to meeting our mission.

Senator FISCHER. Thank you, Sergeant. And thank you to all the panel members for your opening statements. I would like to begin my questions with Mr. Spear and Mr. Pugh. I share many of the sentiments that both of you expressed regarding the need for more flexible hours of service requirements across the trucking industry.

I also appreciate the efforts that we have seen from the FMCSA to update those requirements. Could each of you briefly explain what you see as the key change that is going to be needed in the hours of service requirements to help provide truckers with the flexibility they need while also making sure that we don't see any kind of negative impact on safety.

Mr. PUGH. Yes, I think one of the key facts is—one of the things that was petitioned for was the 3-hour, be able to extend your clock by 3 hours as far as if you would need to take a nap, traffic, something to that effect. But with that being said, there needs to be the added protection for the driver to where the driver has control of that time and not a motor carrier, not a shipper, or not a receiver, or anything of that effect.

If the driver feels that he needs to take a nap or there is unsafe conditions, weather conditions or whatever, he has that opportunity to do it but not before us to do it, again, by a carrier or someone like that. With that being said, that is where the current version comes in. FMCSA has the hotline and that is the one thing we have been asking for is for FMCSA to be a little stricter on that. At OOIDA, we never hear anything coming back from any of the complaints that are being filed by us for our members. So that is the one main concern. Put the power in the driver's hands. Give him that added extra flexibility.

Senator FISCHER. Thank you. Mr. Spear.

Mr. SPEAR. Yes, Chair. I want to be quick to point out that this is a live rulemaking. It is one that we do believe is necessary, but we haven't seen the final product yet. So I don't want to prejudge it. In the advanced notice of proposed rulemaking, we see the four parts that the Department has proposed looking at. We are encouraged that it is moving in the right direction. They have taken all the comments, and it was voluminous, back, digested it and we believe, you know, this year we will see a final product.

Without seeing the results of those comments yet, it has been a bit difficult to predict what it is going to say, but I do think it needs to reflect the realities that are happening out on the road. The flexibility that the industry and the drivers need, we share that concern. Adverse driving conditions, when a driver can take the 30 minute break when they are tired, not when the Government tells them they are tired, split sleeper berth.

Common sense really needs to prevail here. The rule really needs to reflect reality, not something that is designed from a set of cubicles here in Washington, D.C. So we are optimistic that this rule will do that. I like the fact that they took such time and attention to all the comments across the spectrum. Once we see the final product, it will be something I think we can comment more on in detail.

Senator FISCHER. OK. I assume your Association made comments?

Mr. SPEAR. Yes, definitely.

Senator FISCHER. And were those the points that you made, that you had in your testimony?

Mr. SPEAR. Indeed, yes.

Senator FISCHER. Thank you. Mr. Parnell, you mentioned in your testimony that livestock haulers must receive additional transport training. Specifically, you mentioned the Transport Quality Assurance Program for the pork industry and the Master Cattle Transporter Program for the beef industry. Can you elaborate on the training that these programs provide, particularly as it would help with truck safety.

Mr. PARNELL. I can't—you know these programs that have been developed through the beef quality assurance program with NCBA and the couple of other programs that you highlighted, it takes it from step one all the way through the transportation. So it starts with the, you know, many times truckers are involved in the loading of their actual freight, the live animals on the truck.

Talks about the handling of the, the handling of the animals once they get on the roadway, the need to drive probably slower because

a lot of what we do is in, you know, very rural conditions and not always paved roads. It talks about there are parts of the program that teach them about judging their own fatigue and how to handle that, and the proper times, and again it goes back to some flexibility. When they need to have a chance to pull over and take a nap.

Senator FISCHER. Can you specifically address the flexibility that would be needed when you are hauling livestock. For example, if there is a rule that says you have to pull over at a certain time, what does that involve? Do you have to unload?

Mr. PARNELL. Well, yes, to do it the correct way, safely for the animals, you would have to pull over either—unload those animals at a facility that can handle those animals.

Senator FISCHER. And how many of those facilities do you usually run across as you are transporting across country?

Mr. PARNELL. Close to highway, there is not very many. It is a very challenging part.

Senator FISCHER. Thank you, sir. I would like to recognize Senator Duckworth.

Senator DUCKWORTH. Thank you, Chairwoman Fisher. And Illinois is one of the Nation's largest pork producers so I am very sympathetic to the challenges, but I do want to start off by talking about the 5.9-gigahertz spectrum.

In response to my question last week about DOT's First Responder Safety Technology Pilot Program Under Secretary Szabat stated that this new program is designed to demonstrate the benefits of V2X technologies for emergency response vehicles using the 5.9-gigahertz safety band.

In December, the Federal Communications Commission released a proposal to reallocate more than half of this 5.9-gigahertz band to unlicensed operations like Wi-Fi. And Mr. Spare, you touched on this.

In the interest of time though, by a quick show of hands. Who here has concerns with the recent actions taken by the FCC to reallocate the 5.9 gigahertz band?

[Raised hands.]

Senator DUCKWORTH. Thank you. With a quick yes or no, those who raised your hands, do you oppose FCC's proposal?

Mr. SAMIS. Yes.

Mr. SPEAR. Yes.

Senator DUCKWORTH. Anyone else?

[No response.]

Senator DUCKWORTH. OK, thank you. Sergeant Samis, thank you for your service protecting us, not just Delaware's roadways, but I am sure you extend beyond the state as well. One of my priorities is working to reduce and eliminate law enforcement fatalities from roadside accidents. Last year, Chairman Fischer and I asked a Government Accountability Office to review State level move over laws.

Our Subcommittee is seeking to better understand how these policies are working and to examine opportunities for the Federal Government to enhance these State initiatives. In addition, Senator Durbin and I recently introduced the Protecting Roadside First Responders Act to promote the development and use of safety tech-

nologies that reduce accident risk for those who need to stop along busy highways.

Your testimony mentioned the benefits of deploying universal electronic vehicle identifiers for commercial vehicles. Could you please address how these identifiers could improve public safety? And what do you say to stakeholders who raise privacy concerns?

Mr. SAMIS. First of all, thank you for your work to help protect my brothers and sisters in law enforcement. That is greatly appreciated. To your question, given the size of the motor carrier industry, jurisdictions do not have the resources necessary to inspect every vehicle out there on the roadway, obviously. To maximize the resources, states must prioritize enforcement activities and utilize technology to continue to increase efficiency.

With the universal electronic vehicle identifier, it would help us identify which trucks or carriers might be more likely to have issues, and then we can concentrate our efforts on those carriers.

As far as the privacy concerns go, the universal electronic vehicle identifier would not transmit any data other than a specific truck is going down the roadway and then we would take that specific truck's identifier and run it through the systems that we are already currently using to identify the carrier and their safety record. So, privacy does not seem to be a concern to CVSA.

Senator DUCKWORTH. Thank you. And I want to commend Chairman Fischer and others for their efforts to expand career opportunities for service members and veterans. We should do more to break down barriers for those who have served our Nation. However, I am wary of claims about workforce shortages in the transportation sector or any sector when there hasn't been a meaningful increase in wages.

After all, increasing wages is the free market's response to labor shortages, relaxing safety standards is not. And that has been my concern with the push by some aviation stakeholders to weaken pilot training standards put in place after the tragic crash of Colgan flight 33407. So instead of increasing wages, they want to allow pilots to fly with less hours of training.

FMCSA is developing a pilot program to understand the safety impacts of allowing 18 to 20 year old drivers to operate large trucks for the purpose of interstate commerce. Ms. King, what data is available or unavailable that could inform Congress about the safety of proposals to expand trucking to those with the least amount of experience?

Ms. KING. Well, like what has already been said, there are at least 48 states that allow 18-year-olds to drive semi-trucks within their state boundaries. So, there is data available already on what the crash levels are for younger drivers, and we believe that FMCSA and DOT should be studying that data before they just extend this offering to 18-year-olds to drive interstate.

We also believe that these young people would be the new hires and they are not likely to get the comfortable job where they get to drive the 10-mile route back and forth and they are home every night with their family. Nobody who is in their first job gets the best routes, and so we are concerned that the younger drivers will end up on the longer routes that will take them into states they

are not familiar with. So we really believe that the crash data that is within the states needs to be studied first.

Senator DUCKWORTH. Thank you. And I would like to give Mr. Pugh a chance to talk a little bit about young, especially military drivers because having had a—by the way, I am a military driver license myself. I know the quality of the young drivers, especially those coming out the military who can be just as capable. Would you like to address that?

Mr. PUGH. Yes. I will be more than happy to. I would agree that the 18 to 20 year olds, we don't feel that they are safe. As someone who had a CDL, drove a truck at a farm and got my CDL through the service, I would agree that I learned the skills on how to operate a truck and maneuver a truck very well in the United States Army and I am thankful for that.

But I still think there is further training it needs to be issued because driving a truck and military life, as I am sure you are well aware, is much, much different from driving trucks in civilian life. You were usually in convoy, you were usually—had people overseeing where you were going you were going. You were usually on designated routes and you weren't just turned loose.

When I turned 21 and went to work as a civilian trucker, I was just turned loose. And again, I was fortunate to have been trained with the skill, but as far as the knowledge in the real world, the knowledge of what is out there, I was lucky I didn't have any accidents or anything happen. But that is real world knowledge that would have been nice to add a little more training on before I was just turned loose.

I would like to follow up too with, hiring these younger drivers, who is going to hire them? Because who is going to insure them? Because that was one of the biggest problems, I had at 21 years old stepping out of the United States Army with a CDL. I only found two motor carriers at the time that would give me a job. And as Ms. King said, it wasn't a very good job. Then at 22, I bought my own truck and then I struggled with finding carriers that would lease me because of my age and my lack of experience even though I owned the truck and trailer.

And I was fortunate enough to find opportunities, but I was 25 years old until the doors pretty much opened for me to drive for anybody or everybody. And I understand why because it is dangerous. I needed those years to learn and train because there was and is no training. We need more training out there.

Senator DUCKWORTH. Thank you. I am way over time. Mr. Spear, if you could submit a response via written format, I would really appreciate that.

Mr. SPEAR. More than happy.

Senator DUCKWORTH. Thank you, Chairwoman. You are very generous.

Senator FISCHER. Thank you, Senator Duckworth.

Senator Lee.

STATEMENT OF HON. MIKE LEE,
U.S. SENATOR FROM UTAH

Senator LEE. Thank you, Madam Chairman. Thank you for all being here and for your insight today. Mr. Parnell, I would like to

start with you. In your written testimony, you have pointed out some of the unintended consequences of strict hours of service rules. These are rules that are certainly well intentioned, and they are also rules that sometimes being the one-size-fits-all tools that they are, can put some undue and impractical consequences on all commercial drivers.

And sometimes they don't necessarily yield the benefit that we want. Sometimes, for example, they can actually cause and increase harm by encouraging drivers to stop in places where they shouldn't be stopping or where it is not safe for them to stop along the side of the road on an interstate highway, for example, in order to comply with an overly rigid regulatory structure. That can cause safety problem.

And this is of course, setting aside the issue that Senator Fischer mentioned a moment ago of the harm and the stress that can come from doing that when you are dealing with livestock or when you are dealing with insects like bees, that can cause some very significant problem. As Congress considers updating its hours of service requirements, where do you see the biggest need for reform across all commercial operations?

Mr. PARNELL. Excuse me, as it relates directly to agriculture and like we talked about, the part I am most familiar with, which is hauling livestock, we are just very unique. We are hauling a perishable product, a product that can be injured.

And the flexibility—I know there has been numerous options or different, you know, legislative answers that have been put out there in the last Congress, some have been reintroduced this Congress, and LMA and NCBA, we petitioned FMCSA for a five-year test project that they have not given a public decision on yet. I think it has been out for comment. We introduced it 18 months ago. Twelve months ago, they introduced it to comment, and we haven't really heard back about that yet.

That increased some hours of service, drive time, and flexibility a little bit. There are specific solutions. You know, for me, and you talked about not having the safest place to pull over, not the safest place to drive fatigued—we talked about regulation 49 CFR 39.1, which is the Ag commodity exemption. We have talked about that exemption on the end of hauls.

So as they get close to where they are going, if the roads, if it is dark and they are on narrow roads, tough roads, they can just pull over and have that flexibility to get to the part of their destination very safe.

Senator LEE. It also appears that there is some ambiguity within the hours of service regulations as to what constitutes on-duty versus off-duty time. And it appears that even rest stops, even rest breaks can still be considered a count against the 14-hour clock. How might Congress provide better definitions, to better clarify those definitions? Do you think that is something we should clarify?

Mr. PARNELL. I think it is something that needs to be clarified and especially in our industry because there are various times when we asked our specialized haulers to stop and check their loads and make sure everything is safe, and they are still on the clock during that 10 or 15 minute time working against them.

Well, to me whose livelihood is dependent on that livestock traveling safely, I want them to check, but because it also affects my livelihood, the increased price that would take. If we had to switch trucks or do other things with the hours of service—I also want them to be able to make it there safely and on time. So yes, I do think we need to do that.

Senator LEE. Mr. Spear, at the Competitive Enterprise Institute has estimated that Federal regulations, while this is impossible to quantify with precision, but they have estimated that in 2016, compliance with Federal regulations cost the American economy just under $2 trillion a year just in that year alone.

Within Federal infrastructure projects, this ends up costing not only consumers but it also ends up costing drivers, moms and dads trying to get home just to be with their kids who were stuck in traffic, and it also costs State Governments additional money to comply with Federal regulations. There are many estimates that put it at about 20 percent.

When you are using Federal funds, the Federal regulations you have to comply with often increase the cost of that Federal project by about 20 percent as compared to what it would be if you were using State funds. There are instances that I have heard of where it can be more like 30 or 40 percent in particular projects.

So, this means that Federal dollars are sometimes being used to fund a project that is unable to go as far as it would otherwise. You know, sometimes regulations are necessary but not all regulations are unnecessary and they create harmful barriers to innovation and competition that end up harming consumers, drivers, commercial and otherwise.

What do you think of the greatest regulatory costs in your industry, and what challenges—what are some of the challenges that you face that you consider necessary to address?

Mr. SPEAR. I think ,simply put infrastructure is safety. And we need to look at it through that lens. We talk about regulations, we talk about infrastructure, but they really are synonymous. They are the same. Because if you have good infrastructure, you have less traffic, you have less accidents, you have more space in between the vehicles to do the things they need to do. You also have obviously lower cost and impact not just on the industry, but the economy.

So, infrastructure, having more of it, and well designed, well engineered, really breeds good safety policy. In terms of the regulatory side, we are not fearful of regulation. What we do ask for is clear and concise regulation. When you have ambiguity, you have litigation, and that adds costs on our industry—horrendous cost.

So the balance between that and maintaining good safety regulations that have a true and measurable impact, we recommend supporting that. What we do think though is that having expanded safety policy apply to infrastructure would be a good thing. We lose $70 billion a year as an industry sitting in traffic, and we are only 4 percent of the vehicles on the road. That is, as I said earlier, over 425,000 drivers sitting idle for an entire year.

In terms of the environmental impact, think about this for a minute. Environmentalist don't want to speed up the permitting process. I cannot possibly understand why because if you have

more efficient infrastructure, you have less congestion. That is 67 million tons of CO_2 being emitted just sitting in traffic. If those trucks are moving, they are not going to emit like that.

One modern truck today off the lot emits the same amount of diesel particulate matter as 60 trucks in 1988. We are doing all the right things. We are buying the newer, safer, more energy and environmentally friendly equipment but without infrastructure, you are going to have bad environmental policy, bad safety policy.

So they are all connected in one another. And the cost of all that, the impact on the industry and the economy goes down, the more you invest in it.

Senator LEE. Thank you very much. Thank you, Madam Chair.

Senator FISCHER. Thank you, Senator Lee.

Senator Young.

STATEMENT OF HON. TODD YOUNG,
U.S. SENATOR FROM INDIANA

Senator YOUNG. Madam Chair and Ranking Member, thank so much for holding this important hearing. Our employment is reaching historic lows and national investment climate remains incredibly strong. And we have this substantial driver shortage in this country. And progressively, this threatens the long-term economic stability of our country. We want to maintain this longest period of economic expansion in American history.

Back home in Indiana, we like to call the crossroads of America, and I have heard from countless constituents, both drivers, other workers, and employers about the detrimental impact that this driver shortage has on the ability to efficiently receive and deliver freight. The truck driver shortage is exacerbated by a rule mentioned by Mr. Spear that prevents 18 to 20 year old drivers from crossing state lines.

Currently, 48 states allow people to obtain a commercial driver's license and drive trucks at age 18, but Federal regulations prevent those drivers from crossing state lines until they turn 21. So if you are from the State of Indiana, you can drive a truck up to Jeffersonville, Indiana or New Albany, Indiana but you can't cross a river, the Ohio River and go into Louisville. You can drive into Dearborn County, Indiana, but you can't go over to Cincinnati or vice versa. So you can drive it up to Lake County in the Northwest, you can't go to Chicago.

One can understand how this would really disrupt our commerce and threaten our economic expansion. That is why I have introduced the DRIVE-Safe Act with Senator Tester and a number of my colleagues on a broadly bipartisan basis that would establish an apprenticeship program that will address this driver shortage, create new career opportunities for young Hoosiers and young folks around America, and substantially raise training standards to ensure safety on our roads.

As we look toward reauthorization of the highway bill, I encourage my colleagues to support this important truck safety and workforce development bill. Mr. Spear, can you touch on the pilot programs that DOT has already undertaken to address this issue, and reiterate why it is important that we pass the DRIVE-Safe Act to safely address the truck driver shortage.

Mr. SPEAR. Certainly Senator and thank you for your leadership on this issue and the commentary. The Department of Transportation, I believe, agrees with the policy, the path that you are taking legislatively. Putting out the pilot program for military personnel in this age bracket is one-step. It is also an agency looking at broadening that pilot to non-military personnel. But I want to take a step back on this for a moment just so that we have some context, OK.

We are spending all our time talking about age. OK, let's just say 18, 19, 20, but you are legal at 21. OK, so one-year differential and you are legal. It is really not about age, it is about training. Your bill has 400 hours of apprenticeship-based training of which 240 hours you have to have an experienced driver in the cab. You have technology, speed governors, you got cameras, and you got mitigation collision controls on that truck. Not one of the four—it is actually 49 now. Alaska just adopted.

So 49 states allow you to drive a Class 8 at 18 years old, you just can't cross state lines. Your bill puts all this training on top of that plus all this technology in addition to that. This is a step toward safety. What I want to know from everybody that is opposing this bill, where were they on the 49 states that allow you to drive 850 miles in California but can't go 10 miles from Providence, Rhode Island into Rehoboth, Massachusetts? That has got to be the dumbest policy I have ever seen.

You remedy it with training and you remedy it with technology. That is exactly what your bill does; it is exactly what the DOT is doing. You served in the military. Thank you for that. I have four kids. My oldest two, Army. I've got one who's going to commission next year as a Second Lieutenant in the Army. I have another one who's just started her plebe year at the United States Military Academy at West Point.

I sleep pretty well at night. I don't know about my wife. She worries as mothers do but I don't. Why? Because I know they are getting the training they need to go off and protect our country, to fight for our freedom. How are we willing to allow 18-year-olds to go off and do that, but we can't teach them how to cross state lines in a Class 8? This bill is responsible. It is safety-minded. It is the right thing to do.

Senator YOUNG. Thank you, Mr. Spear. You had me until West Point as a Naval Academy graduate. So I will allow you to have the last word but I do ask unanimous consent to enter this letter showing broad bipartisan national support for this safety legislation into the record.

Senator FISCHER. Without objection.

[The information referred to follows:]

February 3, 2020

Hon. ROGER WICKER,
Chairman,
Committee on Commerce, Science, and Transportation,
United States Senate,
Washington, DC.

Hon. MARIA CANTWELL,
Ranking Member,
Committee on Commerce, Science, and Transportation,
United States Senate,
Washington, DC.

Dear Chairman Wicker and Ranking Member Cantwell:

As the Senate Commerce, Science and Transportation Committee begins its work on the safety title to accompany a surface transportation reauthorization bill, the

undersigned organizations write to express strong support for the DRIVE-Safe Act (S.569), and to urge its inclusion in the forthcoming title. This strongly bipartisan legislation, which is currently cosponsored by more than one third of the Senate, will provide the opportunity for young Americans to become truck drivers, giving them access to good paying jobs in an industry that needs them, while ensuring and promoting safety.

Though 48 states currently allow individuals to obtain a commercial driver's license at 18, they are prohibited from driving in interstate commerce, crossing state lines, until they are 21. The DRIVE-Safe Act would change this through a two-step apprenticeship program that creates a path for these drivers to enter the industry. As the name implies, however, the legislation's first priority is safety. In order to qualify, candidates must complete at least 400 hours of additional training, more than what is required for any other CDL holder in the Nation.

Seventy percent of the Nation's freight is carried by commercial trucks, yet as our economy strengthens, motor carriers are having difficulty finding the drivers they need to handle growing capacity. According to a recent estimate, the Nation needs an additional 60,800 truck drivers immediately, a shortage that is expected to grow to more than 160,000 by 2028. In fact, when anticipated driver retirement numbers are combined with the expected growth in capacity, over the next decade, the trucking industry will need to hire roughly 1.1 million new drivers, or an average of nearly 110,000 per year.[1] As a result of the driver shortage, companies in supply chains across the economy are facing higher transportation costs leading to increased prices for consumers on everything from electronics to food.

Trucks used in the program established by the DRIVE-Safe Act would be required to be outfitted with the latest safety technology including active braking collision mitigation systems, forward-facing event recording cameras, speed limiters set at 65 miles per hour or less and automatic or automatic manual transmissions. Drivers training within the program will be accompanied by an experienced driver throughout the process.

The DRIVE-Safe Act will help our Nation's freight continue to move while preserving and enhancing the safety of our highway system. It will help fill desperately needed jobs and provide younger Americans with the opportunity to enter a profession where they can earn an average of $53,000 a year with full benefits.

Thank you for your attention and thoughtful consideration of this important and timely legislation. We look forward to working with you to include the DRIVE-Safe Act in the Senate Commerce Committee's forthcoming safety title to accompany a surface transportation reauthorization package.

Sincerely,

Agricultural Retailers Association
American Apparel & Footwear Association
American Bakers Association
American Beverage Association
American Chemistry Council
American Coatings Association
American Forest and Paper Association
American Foundry Society
American Frozen Food Institute
American Supply Association
American Trucking Associations
Associated Grocers of New England
Associated Equipment Distributors
Arizona Beverage Association
Auto Care Association
Beverage Association of Tennessee
Brick Industry Association
Commercial Vehicle Training Association
Consumer Brands Association
Convenience Distribution Association
Florida Beverage Association
FMI
Foodservice Equipment Distributors Association
Forest Resources Association
Georgia Beverage Associaton
HDDA: Heavy Duty
Heating, Air-Conditioning, & Refrigeration Distributors International

[1] Truck Driver Shortage Analysis 2019, American Trucking Associations

Hoosier Beverage Association
Intermodal Association of North America
International Association of Plastics Distribution
International Bottled Water Association
International Dairy Foods Association
International Foodservice Distributors Association
International Warehouse Logistics Association
Kansas Beverage Association
Maine Beverage Association
Michigan Soft Drink Association
Minnesota Beverage Association
National Association of Chemical Distributors
National Association of Electrical Distributors
National Association of Manufacturers
National Association of Truckstop Operators
National Association of Wholesaler-Distributors
National Automatic Merchandising Association
National Beer Wholesalers Association
National Council of Chain Restaurants
National Council of Farmer Cooperatives
National Franchisee Association
National Grain and Feed Association
National Grocers Association
National Lumber and Building Material Dealers Association
National Milk Producers Federation
National Oilseed Processors Association
National Potato Council
National Private Truck Council
National Propane Gas Association
National Ready Mixed Concrete Association
National Restaurant Association
National Retail Federation
National Stone, Sand and Gravel Association
National Waste and Recycling Association
New England Fuel Institute
New Hampshire Beverage Association
New Hampshire Grocers Association
North Carolina Beverage Association
Ohio Beverage Association
Pet Industry Distributors Association
Petroleum Marketers Association of America
Plumbing Manufacturers International
Portland Cement Association
Power Transmission Distributors Association
Printing Industries of America
Retail Industry Leaders Association
Service Station Dealers of America and Allied Trades
SNAC International
Southeastern Lumber Manufacturers Association
Textile Care Allied Trade Associations
The Fertilizer Institute
Tire Industry Association
Truck Renting and Leasing Association
Virginia Beverage Association
Wine and Spirits Wholesalers of America
Wisconsin Beverage Association
World Millwork Alliance
UPS
U.S. Chamber of Commerce

Senator YOUNG. Thank you, Chairman.
Senator FISCHER. Thank you, Senator Young. Senator Capito.

STATEMENT OF HON. SHELLEY MOORE CAPITO,
U.S. SENATOR FROM WEST VIRGINIA

Senator CAPITO. Thank you, Madam Chair, and thank the Ranking Member, and thank the panel. I am going to start with you, Mr. Spear, because you mentioned something in your response to Senator Young's question on training and different aspects of the technology that is available for the newer driver or the untrained driver.

I was approached a couple probably six, eight months ago from a couple who lost their son who was rear-ended by a truck traveling in excessive speed on interstate. And one of the proposals that they have put forward to honor their son's life is to have a Governor on your semi that won't let you exceed the legal speed limit. What is your position on that?

Mr. SPEAR. We actually just revisited this position partly because my staff, our members, and I felt that the eleven-year-old policy that we had was outdated. It was 65 governed, but it was not just trucks but cars. So what happens is, if you govern trucks at 65 and you don't include cars, states like Texas and South Dakota, where speeds exceed 80 miles an hour for cars, you can drive legally which means you could probably do a little faster and not get pulled over. There is a big differential between what that truck is going and what the car is going.

And if people are speeding and they are texting, that is a recipe for an accident, possibly a fatality. So the differential is a big concern of ours. We believe that technology has a role to play. So we looked at the policy. We upgraded it just last year. It is still 65 for trucks, but up to 70, if you have certain technologies within that equipment.

Senator CAPITO. But let me just ask you that though, but that is not on trucks as we have now is a requirement or an option or anything? Just in the training?

Mr. SPEAR. Yes. A lot of our fleets govern at various speeds, some 65—some lower than that. Some 67 some at 70, but we have plenty of fleets in our membership that govern. We do, and they train to that.

Senator CAPITO. Yes, I didn't mean to interrupt. I just wanted to make a clarification on that. Does anybody else have a comment on that?

Ms. KING. I do.

Senator CAPITO. Yes, go ahead.

Ms. KING. I don't think that the differential is that big an issue. We already have differential lines. Our freeways, there is no freeway out there that everybody is going 65 or everyone is going 70, and most of us are driving 80, and many trucks are speed limited to 65. And, we don't see that that has been a real issue. In Ontario, they mandated speed limiters, and they did a study recently that showed they had a 73 percent reduction in speed related truck crashes.

Senator CAPITO. Thank you. Thank you. I——

Mr. PUGH. Excuse me.

Senator CAPITO. Yes?

Mr. PUGH. I need to follow up as well. As someone who actually drove a truck, speed limiters are not a good thing from the driver's

perspective. Due to the fact that there has been many occasions that someone driving up the highway, and I am sure you have all realized in your car that once in a while I need the ability to get myself out of harm's way. Whether that is speeding up momentarily or whatever to get away from something to be safer for myself and the people around me.

If I am governed, I don't have that control. I have heard over and over here about training fees, 18 to 20 year old. We need training for no matter what your age is and proper training, and I hear about technology. All these things are wonderful things and they have their place but nothing can replace a trained driver. And a trained driver knows how to control the truck, knows how to operate. They don't want their trucks to be limited because they want to run down the highway at 100 miles an hour. They don't want their truscks to be limited because they want to have the control of their vehicle and be in complete control of their vehicle.

Senator CAPITO. Thank you. Well that brings me to another question that I have which is the AV capabilities of truck. Now, I see a great future here in a lot of different circumstances, but the circumstance I describe, a crowded interstate, at night or in bad weather is hard for me to imagine a large. Some of these interstates have a very high percentage of trucks, particularly at night when a lot of drivers are driving, understandably. How do you see the AV technology with trucks and heavier weight vehicles, Mr. Spear?

Mr. SPEAR. Promising. We really applaud the Secretary of Transportation for her 4.0 guidance in the space. It is much needed. It needs to include not just cars but trucks and all cars. All 25 auto manufacturers agreed to put automated emergency breaking as standard on every vehicle come 2022.

So in two years we are going to have AEB on all cars being produced. You still have speeding. You still have texting. You still have distracted driving. Two-thirds of the accidents that involve our trucks are caused by passenger vehicles, and it is usually distracted driving as the root cause. We would love the 5.9, 7 channels preserved for safety.

If you are connecting the cars, the trucks, and the infrastructure, it matters that that driver and the passenger vehicle is texting and not paying attention, but the technology, being able to talk to the truck, see it coming, and apply that AEB is going to save lives. That will take a dramatic reduction in the 40,000 fatalities every year on our highways and prevent those accidents from happening.

Senator CAPITO. Thank you, Madam Chair.

Senator FISCHER. Thank you, Senator Capito. Senator Thune.

STATEMENT OF HON. JOHN THUNE,
U.S. SENATOR FROM SOUTH DAKOTA

Senator THUNE. Thank you, Chairman Fischer, and thanks for having this hearing. These are subjects that are very important to rural states like South Dakota. And several panelists have mentioned the potential benefits of new technologies to truck safety. The efficiency of motor carrier inspections can improve quality of life for drivers. Sergeant Samis, could you provide some examples

of how new technologies can help improve the inspection process for both drivers and the law enforcement community?

Mr. SAMIS. Yes, sir. It is important to remember that we are tasked with enforcing the regulations and ensuring compliance by the motor carrier industry, but there will never be enough resources for law enforcement to touch all the people out there on the roadway. There are a vast number of trucks and trucking companies out there.

One of the things that we are looking to do is introduce the universal electronic identifier, which would help us identify trucks and focus our resources on the bad actors.

Senator THUNE. Mr. Spear, you mentioned in your testimony the importance of technology such as automatic emergency braking and lane keep assist to improving truck safety. What can Congress do to incentivize the adoption of these technologies in the trucking fleet?

Mr. SPEAR. Be tech neutral. Let innovation thrive. It is so far ahead of anything we are doing in the Government and it is a good thing if it is channeled toward safety, if it is channeled toward things that eliminate congestion. There is so much in combination with infrastructure and safety policy that technology can solve. We don't want to restrain it but you do need to keep pace with it and make certain that it doesn't cause a ripple effect.

Right now, you have a lot of localities from Uber in Pittsburgh doing testing grounds to states like Michigan, you know, California, and Nevada. You have a lot of pockets of technology being developed. But in the end it is going to be going over state lines, cars and trucks. We are governed by interstate commerce rules. I don't need a patchwork of 50 different regimes governing what technology you should comply with and what you shouldn't.

So having a seamless standard is really, really important, so that if there is anything that I would recommend to this committee is maintaining that seamless one standard fabric and not creating a whole patchwork because that is really going to cause a lot of disruption to the economy, certainly to our industry if that happens.

Senator THUNE. Mr. Parnell, together with former Senator Nelson, I had sent a letter to FMCSA urging the agency to thoroughly consider a 2018 petition submitted by livestock haulers requesting modification to certain hours of service regulations.

In response, FMCSA provided official notice and requested public comments on the petition in February 2019. You mentioned in your testimony that FMCSA has not taken any further action on this petition. In conversations with the agency, has FMCSA further action is forthcoming?

Mr. PARNELL. Thank you for your consistent support of our industry and of the lifestyle haulers. We did comment on that petition 12 months ago when they released it for comment. We also commented on the new proposed rulemaking, in particular the adverse weather conditions. To us, some of the adverse weather conditions are heat and humidity when it comes to hauling livestock and having to stop on the side of the road.

So we are continuing to, you know, be involved in that process. In conversations with the agency, they have not indicated to us when an actual decision or ruling on our petition might be levied

but we continue to be hopeful that they will recognize our petition and support it.

Senator THUNE. Just as a follow-up on that, do you have any additional suggestions for actions that FMCSA could take to accommodate the specific circumstances of livestock haulers while maintaining still very high levels of safety?

Mr. PARNELL. I get it. I am a dad of three young children, a 5-year-old and twin 4-year-olds. I would take them on these rural roads with me. They would go out to shipments with me and we deal with, you know, livestock haulers, Ag trucks, any kind of trucks. I get the concern for safety but the safety of the product that is our livelihood is really important as well. And so I think we continue with the thoughts and that petition, some flexibilities on our service.

Maybe the, you know, Ag exemption for the 150 miles at the end to let these guys finish their hauls. There are options out there. There are options that have been introduced in legislation that I understand that we would love to work through and find that proper solution to give our kind of unique industry the help it needs.

Senator THUNE. OK. Very quickly, Sergeant Samis, you mentioned in your testimony the changes made to the Motor Carrier Safety Assistance Program, or MCSAP, to reduce administrative burdens for both FMCSA and the states and implementing motor carrier safety enforcement. As the next reauthorization approaches, which is upon us, what additional flexibility can we provide states to assist in improving commercial motor vehicle safety?

Mr. SAMIS. One of the challenges we face is the limited time to spend the funds that we are granted. The biggest help we could receive is more time to spend that money and allowing FMCSA to redistribute unspent funds rather than return them if the states have to give them back. Those funds were allocated for safety programs and we would like to keep them for their intended use.

Ms. KING. Could I just piggyback on Mr. Spears comment on technology? You asked what Congress could do in relation to that. I think it is important that we recognize safety technology has promise but we also need Congress to require minimum performance standards so that we don't have several different AEB technologies out there and we know what AEB should be doing.

Senator THUNE. Thank you. Thank you all very much.

Mr. PUGH. May I follow up on that as well?

Senator THUNE. Yes.

Mr. PUGH. Thank you. I will be brief. You asked what Congress could do for the safety of drivers? I have heard about the safety of cattle. I have heard about the safety of the motoring public. And I agree that is all very important. I have heard no one talked about the safety of the driver. Truckers do die too. Truckers know better than anyone out there, how dangerous the highways are. I saw horrific things when I drove a truck on the road so truckers get it, truckers want to be safe.

What Congress can do, one thing they can do is find some funding, some dedicated funding, support the bill that OOIDA is working on right now in Congress, is getting ready to come out, for places to park. That is one of the biggest crisis we have in trucking right now is parking. Our drivers are forced to follow rigid hours

of service; they are forced to use DLDs. Just like the cows need a safe place to be, so do our truckers.

Senator THUNE. Alright, good answer. Thank you. Madam Chair, thank you.

Senator FISCHER. Thank you, Senator Thune. Thank you to the panel members today for a very good discussion. Appreciate you being here. The hearing record will remain open for two weeks, and during this time Senators are asked to submitting any questions for the record. Upon receipt, the witnesses are requested to submit their written answers to the Committee as soon as possible.

Again, thank you for a good hearing today. We are adjourned.

[Whereupon, at 11:26 a.m., the hearing was adjourned.]

A P P E N D I X

INTELLIGENT TRANSPORTATION SOCIETY OF AMERICA
January 31, 2020

Hon. DEB FISCHER,
Chairman,
Subcommittee on Transportation and Safety,
Committee on Commerce, Science, and Transportation,
United States Senate,
Washington, DC.

Hon. TAMMY DUCKWORTH,
Ranking Member,
Subcommittee on Transportation and Safety,
Committee on Commerce, Science, and Transportation,
United States Senate,
Washington, DC.

Dear Chairman Fischer and Ranking Member Duckworth:

In anticipation of the Subcommittee on Transportation and Safety's upcoming hearing entitled "Keep on Truckin': Stakeholder Perspectives on Trucking in America," the Intelligent Transportation Society of America (ITS America) writes to emphasize how new and developing Vehicle-to-Everything (V2X) technologies that rely on dedicated spectrum—known as the 5.9 GHz band—can dramatically reduce truck fatalities and crashes. According to the to the National Highway Traffic Safety Administration, 70 percent of crashes involving trucks could be mitigated by V2X technologies.

A problem with a solution—but it is not that simple. The Federal Communications Commission (FCC) has recently proposed giving away a majority of that spectrum, and it has done so without any data or analysis. The FCC is prepared to sacrifice safer roads so that unlicensed devices can operate in the 5.9 GHz band. It is a reckless decision that will put truck drivers, other road users, and first responders at risk.

The Commission has made several flawed arguments to support its proposal.

First, the Commission says that the automotive industry has not done anything with the 5.9 GHz band since it was allocated for transportation safety in 1999. However, while the initial allocation occurred in 1999, it was not until 2008 that the transportation industry and incumbent satellite technologies reached a spectrum sharing agreement allowing V2X technologies to operate in the band without interference. Then, in 2012, Section 6406 of the Middle Class Tax relief and job Creation Act of 2012 required the National Telecommunications and Information Administration to study whether unlicensed devices could also operate in the 5.9 GHz band, increasing regulatory uncertainty about the future of the band. Next, Congress requested testing in 2015 regarding the operation of these unlicensed devices to ensure they would not interfere with incumbent transportation safety technologies, testing that has still not been completed by the Commission to this day. Finally, in 2018, two FCC Commissioners actually wrote a letter to Toyota, which was planning to deploy V2X in its vehicles starting in 2021, to suggest that the FCC could re-channelize the 5.9 GHz band, and warning Toyota to keep that in mind "when committing capital expenditures to DSRC technology." As this timeline shows, there has been significant regulatory uncertainty surrounding the 5.9 GHz band, and the FCC's own actions have delayed deployment of these lifesaving technologies. Despite all of this, as of 2018 there were roughly 60 V2X deployments in more than 30 states around the country.

Second, the Commission relied on an economic analysis claiming that opening up the 5.9 GHz band to unlicensed devices would provide $189.9 billion in benefits but failed to adequately consider the economic effects of retaining the 5.9 GHz band for transportation safety. While the Commission notes that the economic analysis did not estimate the potential loss of value from a reduction in spectrum for V2X, the Department of Transportation has stated that there are $800 billion in annual economic costs from the loss of life, injuries, and other quality of life factors that result from the more than 37,000 lives lost on our Nation's roadways each year, much of

which could be averted with lifesaving V2X technologies. That figure also does not include the significant economic benefits of reducing traffic congestion, another benefit of V2X technologies, which costs the Nation more than $140 billion annually according to the Department of Transportation.

Third, the Commission states that automated vehicles will make the safety benefits of V2X technologies unnecessary. However, V2X technologies have applications that cannot be performed by un-connected automated vehicles, such as being able to communicate with vehicles that are out of line-of-sight, providing road hazard warnings from roadside infrastructure, and allowing automated vehicles to coordinate actions rather than making decisions individually.

Additionally, both the public and private sectors have invested hundreds of millions of dollars in developing and deploying V2X technologies. V2X is up and running today in more than 30 states and dozens of cities across the country. The FCC's action would completely undermine much of this investment, discarding the significant advances that states, localities, and private companies have made in recent years. For example—

- Wyoming Department of Transportation (WYDOT) is deploying CV technology along the 402 miles of I–80 where winter wind speeds and gusts result in trucks blowing over and often lead to road closures. WYDOT's V2X pilot focuses on commercial vehicle operators by developing applications to support advisories including roadside alerts, parking notifications, and dynamic travel guidance. WYDOT is equipping 400 vehicles, a combination of fleet vehicles and commercial trucks, with on-board units (OBUs). Of the 400 vehicles, at least 150 will be heavy trucks that are expected to be regular users of I–80. In addition, of the 400 equipped-vehicles, 100 WYDOT fleet vehicles, snowplows, and highway patrol vehicles will be equipped with OBUs and mobile weather sensors.
- Driver-assistive truck platooning enabled by Vehicle-to-Vehicle (V2V) and Vehicle-to-Cloud (V2C) communications allows a follow truck to react to the lead truck safety systems, braking, and acceleration. Using connected vehicle technology, trucks can safely operate at closer distances to form a platoon. This kind of connected "cooperative" automation improves safety as well as fuel efficiency and emissions. Deployment of commercial truck platooning can also increase the efficiency of today's freight transportation without the need for additional investment in or modifications to today's highway infrastructure. Since 2018, a number of U.S. truck OEMs and technology companies have been running commercial trials of truck platooning, working with major trucking fleets. These systems combine best-available truck safety systems with V2V, making trucks much safer in both individual operation and when paired in platoons. Truck platooning systems using V2V have been developed in the U.S. by companies such as Kenworth, Peterbilt, Volvo Trucks, Navistar, and Peloton Technology. Currently, truck platooning systems using V2V continue to move freight in the United States as part of customer fleet activity, setting the stage for growing commercial use of platooning.
- V2X technologies can also enhance automated driving systems, which can provide numerous economic, environmental, and societal benefits, such as decreased congestion and fuel consumption, and increased access for older adults and people with disabilities. While today's automated driving systems rely on lidar sensors and mapping data, future ADS technologies will rely on V2X to provide accurate information on speed, heading, status of brake pedal, and more. In the future, V2X communication will instantaneously alert an autonomous vehicle about objects it cannot directly see, which is vital for safety and facilitates better decision making by these autonomous vehicles.

V2X technologies are not only saving lives, they are improving operational performance of our roads—weather and pavement condition, how signals are directing traffic, and even the location of potential hazards at intersections and other critical road safety hotspots. V2X applications include red light violation warnings, reduced speed zone warnings, curve speed warnings, and spot weather impact warnings. V2X soon will support other applications that will disseminate the condition of the infrastructure, such as bridge integrity, and may even collect data from vehicles that describe pavement condition.

Even Secretary of Transportation Elaine Chao asked the FCC to reconsider its proposal. It "jeopardizes the significant transportation safety benefits that the allocation of this Band was meant to foster," she wrote in a letter to FCC Chairman Ajit Pai. The U.S. Department of Transportation's research shows that the FCC proposal would likely cause significant interference with V2X technologies operating in

the remaining spectrum, which could in effect render the spectrum useless for transportation safety.

For the reasons noted above, ITS America urges the Senate Committee on Commerce, Science, and Transportation to use its FCC oversight authority to direct the Commission to reconsider the approach in the NPRM that reallocates spectrum within the 5.9 GHz band for unlicensed use, such as Wi-Fi. It is unfathomable that we would literally give away the best safety tool we have—and with it, our best chance to save tens of thousands of lives every year.

Sincerely,

SHAILEN P. BHATT,
President and CEO,
Intelligent Transportation Society of America.

Cc: U.S. Senate Committee on Commerce, Science, and Transportation
Ron Thaniel, ITS America Vice President of Legislative Affairs, *rthaniel@itsa.org*

AMERICAN PROPERTY CASUALTY INSURANCE ASSOCIATION
February 3, 2020

Hon. DEB FISCHER,
Chair
Senate Subcommittee on Transportation and Safety,
Washington, DC.

Hon. TAMMY DUCKWORTH,
Ranking Member,
Senate Subcommittee on Transportation and Safety,
Washington, DC.

Dear Chair Fischer and Ranking Member Duckworth:

The American Property Casualty Insurance Association (APCIA) commends the Committee for holding today's hearing entitled "Keep on Truckin': Stakeholder Perspectives on Trucking in America."

APCIA represents nearly 60 percent of the U.S. property casualty insurance and reinsurance market, with the broadest cross-section of home, auto, and business insurers of any national trade association. APCIA members protect families, communities, and businesses in the U.S. and across the globe. More specifically, APCIA members write approximately 70 percent of the commercial auto insurance coverage in the United States, which includes commercial trucking. As such, our members have a strong interest in today's hearing.

APCIA and the property casualty insurance industry have long prioritized the importance of highway safety. The industry remains actively engaged in advancing technology to make commercial and personal vehicles safer, supporting policies to reduce distracted and impaired driving (including cannabis-related impairment), and improving and modernizing the Nation's infrastructure to ensure the safety of our roads and highways.

The industry actively participates in the leading commercial and personal auto and highway safety organizations, including The Governors Highway Safety Association, Advocates for Highway and Auto Safety, the Insurance Institute for Highway Safety (IIHS), and the Federal Motor Carrier Safety Administration's *Our Roads, Our Safety* partnership. Our industry is committed to enhancing safety on the Nation's roads, including promoting safe driving for large trucks and buses, and reducing injuries and deaths.

Unfortunately, the frequency and economic severity of crashes remains high. Several factors seem to be combining and magnifying their individual impacts. Among the most disturbing is the increasing frequency of distracted driving related to smartphone use. Other contributing factors include a deteriorating highway infrastructure, road congestion, and 'distracted walking,' with individuals literally walking into moving vehicles.

At the same time, costs related to crashes continue to increase. Some increased costs—such as those associated with repairing advanced safety technology systems on modern vehicles—help save lives and reduce injuries.

Other factors such as medical inflation, exploiting the judicial system, and lawsuit abuse do not serve such noble purposes. As recently reported by the *Wall Street Journal,* lawsuit abuse is nearing a crisis and is forcing some trucking operators to shut down.[1]

In 2019, APCIA surveyed our members on the most worrisome liability trends. APCIA members ranked transportation liability and legal costs as the second most worrisome sector in terms of increasing frequency and severity among various prod-

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[1] *https://www.wsj.com/articles/surging-truck-insurance-rates-hit-freight-operators-11578934834*

uct categories (second only to increases in construction liability costs). Currently, APCIA is undertaking a more comprehensive analysis, aimed at determining some of the causes for the negative trends in this sector.

Commercial trucking operations play a vital role in the U.S. economy by ensuring that products reach the shelves of retailers, goods arrive at the consumer's doorstep, and parts and supplies reach manufacturers. Artificially increasing costs to trucking companies through abusive litigation practices will not only directly impact those companies, it will cause repercussions for the broader economy. We urge the Committee to consider the costs of abusive litigation on the trucking sector and look forward to working with the Committee and truckers to address this problem.

As noted, APCIA also believes that mitigation will play a crucial role in reversing these trends and, most importantly, save lives and reduce injuries and damage that negatively impact consumers and business. Consequently, we are also very supportive of the Committee's examination of efforts to make America's roads and vehicles safer.

Thank you for the opportunity to present our views.

Sincerely,

NATHANIEL F. WIENECKE,
Senior Vice President.

PREPARED STATEMENT OF CATHERINE CHASE, PRESIDENT,
ADVOCATES FOR HIGHWAY AND AUTO SAFETY

Introduction

Advocates for Highway and Auto Safety (Advocates) is a coalition of public health, safety and consumer organizations, insurers and insurance agents that promotes highway and auto safety through the adoption of Federal and state laws, policies and regulations. Advocates is unique both in its board composition and its mission of advancing safer vehicles, safer motorists and road users, and safer roads.

We thank Chairman Fischer and Ranking Member Duckworth for the opportunity to submit this written testimony to the hearing record. Throughout this hearing, "Keep on Truckin': Stakeholder Perspectives on Trucking in America," we encourage the Chairman, Ranking Member and all members of the Subcommittee to think through the perspective that all motorists, both truck drivers and everyone sharing the roads with them, are in fact "stakeholders". Recent crashes including those that seriously injured Tracy Morgan and killed James McNair on the New Jersey Turnpike, a crash that occurred near Grand Island, Nebraska that claimed the life of a 72-year old woman, a horrific tragedy that injured 12 and claimed the lives of four young woman near Hamel, Illinois in 2017, and less recent crashes including the one that took the life of Truck Safety Coalition's president Dawn King's father, Bill Badger, demonstrate the vulnerability of motorists and must serve as a clarion call to Congress to advance proven safety solutions with great urgency.

Large Truck Crash Deaths Continue to Skyrocket

Fatal truck crashes continue to occur at an alarmingly high rate. In 2018, crashes involving large trucks killed 4,951 people—a staggering increase of 46 percent since a low in 2009.[1] Additionally, 148,000 people were injured in crashes involving large trucks in 2017, the latest year for which data is available. In fatal two-vehicle crashes between a large truck and a passenger motor vehicle, 96 percent of the fatalities were occupants of the passenger vehicle.[2] The cost to society from crashes involving large trucks and buses was estimated to be $135 billion in 2017—amounting to a "crash tax" of over $400 per American.[3]

A number of identified and persistent problems are contributing to these crashes, deaths and injuries. However, solutions are available that can help to reverse these grim statistics. Unfortunately, many of these safety advances continue to languish and worse yet, certain segments of the industry are relentless in their efforts to roll back, weaken and degrade essential rules and regulations. This deadly and costly trend will only be reversed with proactive action taken by our Nation's leaders.

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[1] Traffic Safety Facts: Research note, 2018 Fatal Motor Vehicle Crashes: Overview, NHTSA, Oct. 2019, DOT HS 812 826; and Traffic Safety Facts 2017: A Compilation of Motor Vehicle Crash Data, NHTSA, Sep. 2019, DOT HS 812 806. (2017 Annual Report). Statistics are from the U.S. Department of Transportation unless otherwise noted.

[2] 2017 Annual Report.

[3] 2019 Pocket Guide to large Truck and Bus Statistics, FMCSA, Jan. 2020, RRA–19–012.

Policies which Could Improve Truck Safety for All Road Users Today

Require automatic emergency braking in all new trucks and cars to prevent and mitigate crashes. According to the National Highway Traffic Safety Administration (NHTSA), from 2003 through 2008, large trucks were the striking vehicle in approximately 32,000 rear-end crashes resulting in 300 fatalities and injuring over 15,000 people annually. In 2015, Advocates, along with the Center for Auto Safety, the Truck Safety Coalition (TSC) and Road Safe America, filed a petition with NHTSA seeking the issuance of a rule to require forward collision avoidance and mitigation braking systems (F–CAM), now more commonly referred to as automatic emergency braking (AEB), on commercial motor vehicles (CMVs) with a gross vehicle weight rating (GVWR) of 10,000 pounds or more.[4] These systems alert the driver to an object in front of the CMV, such as a motor vehicle, and can apply the brakes to stop the CMV if the driver fails to respond. The NHTSA estimated in 2012 that fleetwide adoption of advanced AEB systems in CMVs could save 166 lives per year and prevent 8,361 injuries.[5] Furthermore, the National Transportation Safety Board (NTSB) has recommended that AEB systems be required on all highway vehicles.[6] The agency granted Advocates' petition in October of 2015 but has not undertaken any further regulatory proceedings.[7] This needless delay is unconscionable when crashes could be prevented and lives could be saved by technology which is available and already in many CMVs. The Protecting Roadside First Responders Act (S. 2700/H.R. 4871), co-sponsored by Ranking Member Duckworth, and the Safe Roads Act (H.R. 3773) would require CMVs to be equipped with AEB.

Recommendation: Congress should swiftly pass S. 2700/H.R. 4871 and H.R. 3773 to require NHTSA to set a minimum performance standard and issue a rule requiring CMVs be equipped with AEB.

Prevent or mitigate underride crashes, where a motor vehicle travels underneath the rear or side of a truck trailer. Technology is currently available that can significantly increase the chances that an individual can survive these violent events. For this reason, Advocates supports enactment of the Stop Underrides Act of 2019 (S.665/H.R. 1511). This important legislation will require the current Federal standards for rear underride guards to be upgraded to meet current industry standards as well as the installation of side and front guards.

In 2015, the NHTSA issued a Notice of Proposed Rulemaking (NPRM) to update the standards for rear impact guards that are installed on the rear of trailers.[8] However, the NPRM proposed only to upgrade the Federal standard to meet the Canadian standard which was issued over a decade ago and is substandard given guards currently available in the marketplace which have been shown to have superior performance capabilities. In addition, the agency failed to require that single-unit trucks (SUTs) be equipped with underride guards, instead requiring retroreflective tape on the side and rear. While requiring retroreflective tape is long overdue, it alone is not a sufficient countermeasure. Therefore, in order to properly address the public safety threat posed by rear underride crashes, the Federal motor vehicle safety standards (FMVSS) that apply to rear underride guards should be updated to meet the standards set by the Insurance Institute for Highway Safety (IIHS) in their TOUGHGUARD award and should be applied to SUTs as well as trailers.

The IIHS has also conducted two tests of a side underride guard. The AngelWing guard, made by Airflow Deflector Inc., succeeded in blocking a midsize car traveling 35 miles-per-hour (MPH) from going underneath the side of the trailer. A subsequent test showed it also prevented underride at 40 MPH.[9] In addition, front guards that prevent a truck from overriding or traveling over a passenger motor vehicle when the truck strikes the rear of the vehicle have been in use in the European Union for years. The NTSB has recommended improving comprehensive underride protection.[10] It is time for this lifesaving equipment to finally make its way onto America's roads.

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[4] Petition of Rulemaking: Requesting Issuance of a Rule to Require the Use of Forward Collision Avoidance and Mitigation Systems for Commercial Motor Vehicles, Advocates et. al., Feb. 19, 2015, NHTSA–2015–0099–0001.

[5] Woodroofe, J., *et al.,* Performance Characterization and Safety Effectiveness Estimates of Forward Collision Avoidance and Mitigation Systems for Medium/Heavy Commercial Vehicles, Report No. UMTRI–2011–36, UMTRI (August 2012). Docket No. NHTSA–2013–0067–0001.

[6] NTSB, 2019–2020 Most Wanted List of Transportation Safety Improvements.

[7] 80 FR 62487 (Oct. 16, 2015).

[8] 80 FR 78418 (Dec. 16, 2015).

[9] *iihs.org/topics/large-trucks#truck-underride*

[10] NTSB Safety Recommendations H–10–013, H–14–002, H–14–003, H–14–004.

Recommendation: Congress should promptly pass the Stop Underrides Act (S. 665/ H.R. 1511) which will require the current Federal standards for rear underride guards to be upgraded and the installation of side and front guards.

Mandate speed limiters in large trucks. According to the Federal Motor Carrier Safety Administration (FMCSA), 10,440 people were killed from 2004 to 2013 in crashes where the speed of the CMV likely contributed to the severity of the crash. On average, that is over 1,000 lives lost annually to speeding CMVs. In September of 2016, NHTSA and the FMCSA issued a joint NPRM to require vehicles with a GVWR of more than 26,000 pounds to be equipped with a speed limiting device.[11] The safety benefits of limiting the speed of a CMV are indisputable and the NTSB has recommended that CMVs be equipped with the technology.[12] The NPRM estimated that setting the device at 60 MPH has the potential to save almost 500 lives and prevent nearly 11,000 injuries annually.[13] Setting the speed at 65 MPH could save as many as 214 lives and prevent approximately 4,500 injuries each year.[14] Speed limiters are also already widely used in the industry and their implementation is supported by truck drivers. Research shows that the technology is currently being used by 77 percent of trucks on the road in the United States.[15] Furthermore, a 2007 survey of truck drivers by IIHS found 64 percent of drivers were in favor of a truck speed governor requirement.[16]

Although the public safety benefits of requiring speed limiting devices in CMVs are clear and a majority of the current fleet is already equipped with the technology, the U.S. Department of Transportation (U.S. DOT) continues to delay the issuance of a final rule to require this lifesaving safety equipment. The cost of the proposed requirement is expected to be minimal since most CMVs are already equipped with either mechanical or electronic capability to limit the speed of the vehicle. "Turning on" the speed limiters that are not already engaged or changing the speed control to the limit required by the final rule, involves only a minor maintenance cost.

Recommendation: We urge Congress to enact S. 2033, the Cullum Owings Large Truck Safe Operating Speed Act of 2019, to require that the U.S. DOT issue a final rule requiring all new CMVs to be equipped with speed limiting devices and for those vehicles currently equipped with the technology to engage this lifesaving device.

To obtain a Commercial Driver's License (CDL), a candidate should be required to undergo uniform adequate training. In 2015, Advocates was appointed by the FMCSA to serve on the Entry-Level Driver Training Advisory Committee (ELDTAC) established to complete a negotiated rulemaking on Entry-Level Driver Training (ELDT) for novice CMV operators. The consensus reached by the ELDTAC, as well as the NPRM issued by the FMCSA in March 2016, included the requirement that applicants for a CDL receive a minimum number of hours of behind-the-wheel (BTW) instruction (BTW hours requirement) as part of the core curricula approved for applicants seeking either a Class A or B CDL. As the FMCSA noted in the NPRM, ". . . BTW training for entry-level drivers is uniquely suited to an hours-based approach because it ensures that driver-trainees will obtain the basic safe driving skills necessary to obtain a Class A or Class B CDL and to operate their vehicles safely—skills that can only be obtained after spending a reasonable amount of time *actually driving* a CMV."[17]

However, the final rule issued by the agency in December 2016 removed the BTW hours requirement. Instead, the rule simply requires that candidates demonstrate to their instructor that they are proficient in performing a series of maneuvers while operating a CMV.[18] This does not ensure that CDL applicants who can pass the state CDL skills test will spend any time actually operating a CMV on public roads with an experienced instructor encountering safety critical situations. This type of real-world training and experience for CDL candidates, which several bodies of experts have determined should be required, is needed to enhance the ability of CDL applicants to operate a truck-trailer combination vehicle safely and to avoid crashes.

FMCSA's inability and incessant delays in issuing a rule establishing ELDT for novice CMV operators is simply confounding. In 1991, Congress directed the Sec-

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[11] 81 FR 61942 (Sep. 7, 2016). [SL 2016 NPRM]
[12] NTSB Safety Recommendation H–12–020, H–12–021.
[13] SL 2016 NPRM.
[14] *Id.*
[15] Preliminary Regulatory Impact Analysis (PRIA) and Initial Regulatory Flexibility Analysis, FMVSS No. 140, Speed Limiting Devices, p. 28 (NHTSA, Aug. 2016).
[16] Insurance Institute for Highway Safety (IIHS), Speed limiters in trucks would serve 2 purposes, Status Report, Vol. 45, No. 8 (Aug. 21, 2010).
[17] 81 FR 11944 (Mar. 7, 2016).
[18] 81 F.R. 88732 (Dec. 8, 2016).

retary of Transportation to undertake a rulemaking on the need to require training of all entry-level drivers of CMVs.[19] Although a comprehensive curriculum for ELDT was developed and approved by the Federal Highway Administration (FHWA) in the mid-1980s, in the subsequent decades the agency has failed to respond in a timely fashion to Congressional deadlines or issued insufficient rules that dsid not withstand judicial review. Despite the ELDTAC concluding its work almost five years ago, the latest iteration of the driver training rule is delayed once again as announced by the agency on January 29, 2020.

Recommendation: Congress should direct the FMCSA to amend the ELDT final rule to include a minimum number of BTW training hours to ensure that novice drivers receive adequate training before operating a CMV on public roads.

Data on carrier performance must be collected and publicly available. With fatal truck crashes continuing to occur at an alarmingly high rate unhampered by appropriate accountability, there is insufficient incentive for unsafe carriers to improve their operations. FMCSA's Compliance, Safety, Accountability (CSA) program evaluates the safety and compliance of motor carriers and is designed to identify high risk operations for intervention and improvement. Involvement in previous truck crashes in and of themselves and regardless of "fault" has been found by industry, academia and the government to be an accurate predictor of involvement in future truck crashes. The goal of CSA is to implement more effective and efficient ways for FMCSA, its state partners and the trucking industry to prevent CMV crashes, fatalities, and injuries.

Unfortunately, essential CSA data was removed from public view by section 5223 of the Fixing America's Surface Transportation Act (FAST) Act.[20] The FAST Act also required the National Academies of Sciences, Engineering and Medicine (NASEM) to study the CSA program method for evaluating the safety of motor carriers and commercial vehicle drivers. In 2017, the NASEM study concluded that the method was sound and made several recommendations to improve the CSA program including that FMCSA should continue to collaborate with states and other agencies to improve the collection of data on vehicle miles traveled and on crashes as well as certain characteristics of carriers such as turnover rates.[21] Advocates is not aware of any subsequent action on these proposals, to the detriment of the integrity of CSA and to the danger of the motoring public.

Relatedly, in 2016, the FMCSA issued a NPRM to revise the carrier safety ratings procedures in light of adoption of the CSA program. This rulemaking was intended to allow the agency to better evaluate the safety records of carriers. Advocates supported the agency's action to upgrade the safety fitness determination (SFD) process, which informs the CSA program, by using on-road safety data to evaluate carriers in addition to an agency investigation. This update to the SFD program would have significantly enhanced the FMCSA's ability to identify unsafe carriers because it would have enabled the agency to use data from the carrier's on-road operations, yet the agency withdrew the rulemaking in March of 2017.

Recommendation: Congress should require that the public availability of CSA scores be immediately reinstated while the improvements recommended by the NASEM study are implemented. The public should once again have access to this important safety data on trucking companies without any further delay. Furthermore, Congress should direct the FMCSA to immediately reinstate and complete the safety fitness determination rulemaking.

Promulgate safeguards and regulations to ensure autonomous technology is deployed safely. Autonomous technology offers the promise of significantly reducing crashes involving CMVs. However, the advent of this technology must not be used as a pretext to eviscerate essential safety regulations administered by the FMCSA. The public safety protections provided by the Federal Motor Carrier Safety Regulations (FMCSRs) become no less important or applicable simply because a CMV has been equipped with an autonomous driving system (ADS). In fact, additional substantial public safety concerns are presented by autonomous commercial motor vehicles (ACMVs).

Autonomous technology is still in its infancy as evidenced by fatal and serious crashes involving passenger motor vehicles equipped with automated systems of varying levels. If those incidents had involved ACMVs, the results could have been

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[19] Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, Section 4007(a), Pub. L. 102–240 (1991).

[20] Pub. L. 114–94 (2015).

[21] The National Academies of Sciences, Engineering, and Medicine, 2017.Improving Motor Carrier Safety Measurement, Washington, DC: The National Academies Press. doi: *https://doi.org/10.17226/24818.*

even more catastrophic and the death and injury toll could have been much worse. Some of the most pressing safety shortcomings associated with autonomous vehicle technology, which include the ADS properly detecting and reacting to other road users, driver engagement and cybersecurity, are exponentially amplified by the greater mass and force of an ACMV. As such, it is imperative that ACMVs be subject to comprehensive regulations, including having a licensed driver behind the wheel for the foreseeable future. The development and deployment of these experimental vehicles must also be subject to robust safeguards including sufficient data collection and sharing, performance requirements and enhanced operating authorities, at a minimum.

Recommendation: ACMVs must be subject to robust Federal regulations and minimum performance requirements including that a trained commercial driver be behind the wheel at all times. Critical safety regulations that apply to driver hours-of-service (HOS), licensing requirements, entry level training and medical qualifications should not be weakened. Carriers using ACMVs should also have to apply for additional operating authority and drivers operating an ACMV must have an additional endorsement on their CDL to ensure they have been properly trained to operate an ACMV.

Any Erosion of Current Truck Safety Protections Will Lead to Our Nation's Roads Being More Dangerous and Deadly

Overweight trucks disproportionately damage America's crumbling infrastructure and threaten public safety. Federal limits on the weight and size of CMVs are intended to protect truck drivers, the traveling public and roads and bridges. Yet, provisions allowing larger and heavier trucks that violate or circumvent these Federal laws to operate in certain states or for specific industries have often been tucked into must-pass bills to avoid public scrutiny.

According to the 2017 Infrastructure Report Card from the American Society of Civil Engineers, America's roads receive a grade of "D" and our bridges were given a "C+". [22] Nearly 40 percent of our 615,000 bridges in the National Bridge Inventory are 50 years or older, and one out of 11 is structurally deficient.[23] The U.S. DOT Comprehensive Truck Size and Weight Study found that introducing double 33-foot trailer trucks, known as "Double 33s," would be projected to result in 2,478 bridges requiring strengthening or replacement at an estimated one-time cost of $1.1 billion.[24] This figure does not even account for the additional, subsequent maintenance costs which will result from longer, heavier trucks. In fact, increasing the weight of a heavy truck by only 10 percent increases bridge damage by 33 percent.[25] The FHWA estimates that the investment backlog for bridges, to address all cost-beneficial bridge needs, is $123.1 billion.[26] The U.S. would need to increase annual funding for bridges by 20 percent over current spending levels to eliminate the bridge backlog by 2032.[27]

Raising truck weight or size limits could result in an increased prevalence and severity of crashes. Longer trucks come with operational difficulties such as requiring more time to pass, having larger blind spots, crossing into adjacent lanes, swinging into opposing lanes on curves and turns, and taking a longer distance to adequately brake. In fact, double trailer trucks have an 11 percent higher fatal crash rate than single trailer trucks.[28] Overweight trucks also pose serious safety risk. Not surprisingly, trucks heavier than 80,000 pounds have a greater number of brake violations, which are a major reason for out-of-service violations.[29] According to a North Carolina study by IIHS, trucks with out-of-service violations are 362 percent more likely to be involved in a crash.[30] This is also troubling considering that trac-

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[22] 2017 Infrastructure Report Card—Bridges, American Society of Civil Engineers (ASCE); 2017 Infrastructure Report Card—Roads, ASCE.

[23] 2017 Infrastructure Report Card—Bridges (ASCE).

[24] Comprehensive Truck Size and Weight Limits Study: Bridge Structure Comparative Analysis Technical Report, FHWA, June 2015.

[25] Effect of Truck Weight on Bridge network Costs, NCHRP Report 495, National Cooperative Highway Research Program, 2003.

[26] 2015 Status of the Nation's Highways, Bridges, and Transit: Conditions and Performance, Chapter 7, p. 7–34, FHWA, 2016.

[27] *Id.*

[28] An Analysis of Truck Size and Weight: Phase I—Safety, Multimodal Transportation & Infrastructure Consortium, November 2013; Memorandum from J. Matthews, Rahall Appalachian Transportation Institute, Sep. 29, 2014.

[29] Roadside Inspections, Vehicle Violations: All Trucks Roadside Inspections, Vehicle Violations (2019—Calendar), FMCSA.

[30] Teoh E, Carter D, Smith S and McCartt A, Crash risk factors for interstate large trucks in North Carolina, Journal of Safety Research (2017).

tor-trailers moving at 60 MPH are required to stop in 310 feet—the length of a football field—once the brakes are applied.[31] Actual stopping distances are often much longer due to driver response time before braking and the common problem that truck brakes are often not in adequate working condition.

There is overwhelming opposition to any increases to truck size and weight limits. The public, local government officials, safety, consumer and public health groups, law enforcement, first responders, truck drivers and labor representatives, families of truck crash victims and survivors, and even Congress on a bipartisan level have all rejected attempts to increase truck size and weight. Also, the technical reports released in June 2015 from the U.S. DOT Comprehensive Truck Size and Weight Study concluded there is a "profound" lack of data from which to quantify the safety impact of larger or heavier trucks and consequently recommended that no changes in the relevant truck size and weight laws and regulations be considered until data limitations are overcome.[32]

It is clear that increasing truck size and weight will exacerbate safety and infrastructure problems, negate potential benefits from investments in roads and bridges, and divert rail traffic from privately owned freight railroads to our already overburdened public highways. Despite claims to the contrary, bigger trucks will not result in fewer trucks. Following every past increase to Federal truck size and weight, the number of trucks on our roads has gone up. Since 1982, when Congress last increased the gross vehicle weight limit, truck registrations have more than doubled.[33] The U.S. DOT study also addressed this meritless assertion and found that any potential mileage efficiencies from the use of heavier trucks would be offset in just one year.[34]

Recommendation: Congress should oppose any increases to Federal truck size and weight limits, including mandating double 33 feet trailers, pilot programs and state or industry specific exemptions.

Driver fatigue is a well-known CMV safety problem. The NTSB has repeatedly cited fatigue as a major contributor to truck crashes and included reducing fatigue related crashes in every edition of its Most Wanted List of safety changes since 2016. Currently, truck drivers are permitted to drive up to 11 hours per day for a total of 77 hours per week. These grueling hours can lead to cumulative fatigue and devastating safety consequences. Self-reports of fatigue, which almost always underestimate the problem, document that fatigue in truck operations is a significant issue. In a 2006 driver survey prepared for FMCSA, "65 percent [of drivers] reported that they often or sometimes felt drowsy while driving" and almost half (47.6 percent) of drivers said they had fallen asleep while driving in the previous year.[35] Yet, certain segments of the trucking industry continue to push for further weakening of HOS safety regulations.

One of the most effective tools to help prevent driver fatigue is the use of Electronic Logging Devices (ELDs) to record drivers' HOS. Paper logs are frequently referred to as "comic books" throughout the industry because of the ease in falsifying actual driving and work time. The FMCSA estimates that requiring ELDs will save 26 lives, prevent over 500 injuries and avoid over 1,800 crashes annually. The U.S. DOT also estimates the annualized net benefits of adopting ELDs to be over $1 billion.[36] Congress, recognizing the benefits of ELDs, mandated their use as part of the Moving Ahead for Progress in the 21st Century (MAP–21) Act.[37] In 2015, the FMCSA delivered on this Congressional directive and issued a rule requiring the use of ELDs which went into effect in December 2017.[38] FMCSA reports that since the implementation of the ELD rule, the percentage of driver inspections with an HOS violation has decreased significantly.[39] Despite this compelling evidence, broad support and an established final rule, a vocal minority continues to object to the use of this technology and is filing meritless applications for exemptions from compli-

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[31] Code of Federal Regulations (CFR) Title 49 Part 571 Section 121: Standard No. 121 Air brake systems (FMVSS 121).

[32] Comprehensive Truck Size and Weight Limits Study, Federal Highway Administration (June 2015).

[33] 2017 Annual Report.

[34] Comprehensive Truck Size and Weight Limits Study, Federal Highway Administration (June 2015).

[35] 75 FR 82170 (Dec. 29, 2010), citing Dinges, D.F. & Maislin, G., "Truck Driver Fatigue Management Survey," May 2006. FMCSA–2004–19608–3968.

[36] 80 FR 78292 (Dec. 16, 2015)

[37] Pub. L. 112–141 (2012).

[38] 80 FR 78292 (Dec. 16, 2015)

[39] FMCSA, Electronic Logging Devices: Improving Safety Through Technology, See: *https://eld.fmcsa.dot.gov/*

ance with the Federal law with the FMCSA in a concerted effort to undermine the regulation.

A barrage of legislative and regulatory proposals also continue to target ELDs and HOS rules. For instance, truck drivers hauling livestock or insects are currently exempted from having to use ELDs pursuant to provisions tucked into the Fiscal Year 2020 Further Consolidated Appropriations Act.[40] Allowing certain haulers to skirt the ELD rules jeopardizes the safety of the animals in transport, truck drivers and everyone on the roads with them. It also complicates enforcement efforts.

The FMCSA is preparing to issue a final rule that would dismantle several important safeguards in the HOS regulations including the 30-minute rest break provision.[41] Advocates is especially concerned that the FMCSA also eliminated enhanced driver protections for meal and rest breaks by issuing a decision preempting California law.[42] This egregious agency overstep should be reversed. Further, special interests continue to push Congress to expand working and driving limits or create carve-outs under the guise of "flexibility." These are nothing more than attempts to force drivers to work even more demanding schedules.

Additionally, in 2016, the FMCSA published an ANPRM (Advanced Notice of Proposed Rulemaking) requesting information regarding the potential benefits of regulatory action to address the safety risks posed by CMV drivers who are afflicted with obstructive sleep apnea (OSA).[43] Compelling and consistent research has revealed that drivers afflicted with OSA that is not properly treated are more prone to fatigue and have a higher crash rate than the general driver population. In fact, the Federal Aviation Administration (FAA) considers OSA to be a disqualifying condition unless properly treated.[44] Yet, in August of 2017 the FMCSA withdrew the OSA rulemaking without providing any credible analysis or reasoning for such an ill-advised course of action.[45]

Recommendation: We urge Congress to reject efforts to diminish the rule requiring the use of ELDs and to further erode HOS regulations. Moreover, Congress should direct the FMCSA to issue a rule to ensure that drivers are properly screened for obstructive sleep apnea during the medical examination and that those diagnosed with the condition are receiving the medical treatment necessary to avoid fatigue while operating a CMV on public roads.

"Teen Truckers" pose a major safety threat. Some segments of the trucking industry are pushing to allow teenagers to operate CMVs in interstate commerce in order to alleviate the alleged "driver shortage." A March 2019 U.S. Bureau of Labor Statistics (BLS) analysis found that "the labor market for truck drivers works about as well as the labor markets for other blue-collar occupations" and "a deeper look [at the truck industry labor market] does not find evidence of a secular shortage."[46]

CMV drivers under the age of 19 are four times more likely to be involved in fatal crashes, as compared to CMV drivers who are 21 years of age and older, and CMV drivers ages 19–20 are six times more likely to be involved in fatal crashes (compared to CMV drivers 21 years and older).[47] This alarming reality is not surprising given that generally younger drivers are more likely to be involved in fatal crashes because they lack driving experience and skills, and tend to take greater risks. Development of the brain region vital to decision making, specifically the pre-frontal cortex, may not be fully reached until one's mid-20s.[48]

Diverse stakeholders including safety groups, law enforcement, public health and consumer organizations, truck drivers, some trucking companies, and truck crash victims and survivors oppose efforts to lower the age to operate CMVs in interstate commerce. Additionally, the public has overwhelmingly rejected lowering the minimum age for interstate truck and bus drivers with 62 percent of respondents in opposition, according to a 2020 public opinion poll conducted by Engine's Caravan Survey.[49] Furthermore, in 2001, a petition was filed with FMCSA to lower the age at which a person could obtain a CDL to operate in interstate commerce from 21 to

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[40] Pub. L. 116–94 (2019).
[41] 84 FR 44190 (Aug. 22, 2019).
[42] 83 FR 67470 (Dec. 28, 2018).
[43] 81 FR 12642 (Mar. 10, 2016).
[44] *Id.*
[45] 82 FR 37038 (Aug. 8, 2017).
[46] United States Department of Labor, Bureau of Labor Statistics, Is the U.S. labor market for truck drivers broken? (Mar. 2019).
[47] Campbell, K. L., Fatal Accident Involvement Rates By Driver Age For Large Trucks, Accid. Anal. & Prev. Vol 23, No. 4, pp. 287–295 (1991).
[48] Arian, M, *et al.,* Maturation of the adolescent brain, Neuropsychiatric Disease and Treatment (Apr. 3, 2013).
[49] Engine's Caravan Survey Public Opinion Poll (2020).

18. The FMCSA declined to lower the minimum age for an unrestricted CDL because the agency could not conclude that the safety performance of younger drivers was on par with, or even close to, that of older CMV drivers.

The public strongly rejected the idea with 96 percent of individuals who responded opposing the proposal along with 88 percent of the truck drivers and 86 percent of the motor carriers after the petition was posted in the Federal Register.[50]

Advocates strongly opposes the "DRIVE-Safe Act" (S. 569/H.R. 1374) which would severely jeopardize the safety of all road users by putting teenagers behind the wheel of large trucks in interstate commerce. Provisions in the bill that at first glance would seem to be pro-safety actually could be detrimental. Specifically, certain technologies, such as active braking collision mitigation systems and speed limiters, are only required during the scant probationary period. The result is a teen driver would initially learn to drive in a truck fitted with this technology but after the probationary period, s/he could get behind the wheel of a truck without any of the safety technology and its benefits. The teen driver is then at a safety deficit lacking experience in safely operating trucks without the technology. Furthermore, the technology will not account for some mistakes this age group tends to make. Younger drivers exhibit risky behaviors such as increased levels of distraction, following too closely, violating traffic rules, and not using seatbelts.[51] We welcome the confirmation that the recommended technology provides safety benefits and hope the proponents of the bill will join our efforts to accelerate the adoption of proven safety technologies in all trucks.

The training proposals in this bill are woefully inadequate. The first probationary period only consists of 80 hours of behind-the-wheel training which can be completed in a little over one work week while abiding by HOS requirements. Further, the 160 hours of driving time in the second probationary period can be covered in just an additional two weeks. In comparison, the FAA requires pilots working for passenger airlines to have approximately 1,500 hours of flight time. These paltry training requirements also pale in comparison to other less dangerous jobs. For example, Illinois requires a journeyman plumber to have 4 years of experience as apprentice; Oklahoma requires 4,000 verifiable hours of on the job experience for a residential electrical journeyman; and, barbers licensed in Nebraska must accumulate 1,800 hours of training.

Additionally, the qualifications for the teen truck driver passing the probationary periods are left entirely to the discretion of the employer who is incentivized to get the driver on the road as soon as possible. No standard tests or evaluations given by an independent party are required. Furthermore, a teen truck driver who is involved in a crash or is given a citation for a moving violation during the probationary periods is not disqualified from continuing to operate a truck.

Driving a truck is already one of the most dangerous occupations, according to the Bureau of Labor Statistics. Allowing teenagers to drive trucks in interstate commerce will only serve to exacerbate and export the major problems with truck driver working conditions from a state to the entire Nation. Instead of tapping into an unsafe driving pool of teenagers, improving upon working conditions should result in current, experienced drivers staying on the job and ideally lead to being healthier and more fulfilled in their profession as well as attracting new applicants to the profession.

Recommendation: Attempts to pull teenagers from high school hallways to high speed highways should be rejected by Congress. We urge members to oppose the DRIVE-Safe Act.

Conclusion

Truck crashes continue to occur at an alarmingly high rate. Yet, there is a seemingly unending assault on essential Federal regulations that protect public safety. Meanwhile, rulemakings which would result in proven safety benefits by requiring the installation of lifesaving safety systems languish. Advocates urges Congress to require DOT to focus on this unfinished safety agenda as the immediate solution to reducing deaths and injuries caused by CMV crashes.

Nearly 5,000 people being killed and 150,000 being injured in truck crashes annually cannot continue to be accepted as a societal norm or a cost of traveling on our roads and highways. In addition to "Keep on Truckin'," Advocates looks forward to working together with the Subcommittee members to both preserve current safe-

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[50] Young Commercial Driver Pilot Training Program, Notice of denial of petition to initiate a pilot program, 68 FR 34467, 34469 (June 9, 2003).

[51] Insurance Institute for Highway Safety, Topics, Teenagers, available at: *https://www.iihs.org/topics/teenagers*

guards and regulations and to advance needed improvements so all road users "Keep on Livin'."

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. RICK SCOTT TO DAWN KING

Background. The safety of our communities should always be our top priority. Drunk driving is the number one cause of death on America's roadways. Deaths that are 100 percent preventable. Senator Udall and I have a bill—the RIDE Act (S. 2604)—that promotes the research and development of advanced alcohol detection software and creates a path forward to require the technology in new motor vehicles, which could save thousands of lives every year.

Question 1. Have your associations looked at ways to incorporate technology like this in commercial trucks?

Answer. The Truck Safety Coalition (TSC) supports the prompt enactment of the RIDE Act (S. 2604) and greatly appreciates the leadership of Sen. Scott (R–FL) and Sen. Udall (D–NM) in sponsoring this legislation. It addresses a critical public health and safety issue. Sadly, as the legislation notes, alcohol-impaired driving fatalities represent approximately one third of all highway fatalities in the United States each year. Operating a commercial motor vehicle (CMV) while impaired is a serious public safety issue whether that impairment is caused by alcohol, drugs or fatigue.

In January, the Federal Motor Carrier Safety Administration (FMCSA) instituted the Commercial Driver's License Drug and Alcohol Clearinghouse (Clearinghouse). The Clearinghouse is a nationwide repository of failed test results and has been established to help ensure that employers provide drivers with adequate evaluation and treatment before returning to the cab. In February, FMCSA announced the Clearinghouse had detected and identified nearly 8,000 positive substance abuse tests within the first weeks of operation. Advanced alcohol detection technology that can prevent an impaired individual from operating a CMV has the potential to eradicate the scourge of drunk driving. Based on TSC's decades of advocating for the placement of safety equipment such as automatic emergency braking (AEB) into CMVs the most effective avenue to incorporate this technology into trucks is to require these systems as standard equipment in all new vehicles.

Question 2. What can we do to encourage the trucking industry to implement lifesaving measures like this?

Answer. As noted above, TSC has worked for decades to incorporate life-saving technologies into trucks as a successful strategy to preventing crashes and saving lives. The most effective and fastest way to get this lifesaving technology and others like automatic emergency braking systems, speed limiters and better rear and side underride guards in every truck is by directing the U.S. Department of Transportation to issue a regulation making it standard equipment on all newly manufactured trucks. When the U.S. Department of Transportation issues a Federal safety standard requiring safety technologies in motor vehicles or motor carriers like airbags, rollover prevention technology, rear underride guards, electronic logging devices (ELDs) etc. the safety benefits are realized for every person and the cost is significantly reduced for every company and every independent driver.

While certain safety conscious carriers and drivers have consistently used and promoted the adoption of these systems, many have fought their implementation despite clear and convincing industry data that demonstrates the effectiveness of the equipment. Opposition remains obstinate even when it is shown that these systems also have a substantial economic benefit. For example, despite almost 80 percent of carriers now using some type of speed limiting technology after reporting that they can prevent crashes and reduce operating costs, a fringe segment of the industry has fought universal adoption of this essential safety equipment. As such, TSC believes that a Federal mandate requiring the use of life saving measures, such as was the case with ELDs, remains the most effective course of action. This also reduces the cost of the equipment which is an additional benefit to the industry.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO DAWN KING

Hours of Service. In August 2019, the Department of Transportation published a Notice of Proposed Rulemaking to provide additional flexibility for commercial drivers. The proposed rule includes proposals to allow short haul drivers to be on duty

for longer periods of time, to allow drivers two extra hours of drive time under certain conditions, and to increase flexibility of the rest requirements.

Question 1. Do the Department of Transportation's proposed changes to the Hours of Service Regulations improve safety? What impact do you believe the proposed changes will have on safety for all road users?

Answer.

DOT Proposed Changes Put Industry Profits Ahead of Public Safety

No, safety will certainly not be improved by the U.S. Department of Transportation's (DOT) proposed changes to the Hours-of-Service (HOS) regulations. These changes are unwarranted and unwise and will be a major safety setback for truck drivers and the general public. The Truck Safety Coalition (TSC) strongly opposes this significant weakening of the HOS rules especially at a time when fatal truck crashes continue to increase unabated and driver fatigue remains a major safety problem within the industry for both truck drivers as well as families sharing the road with big rigs.

In 2018, 4,951 people were killed in crashes involving a large truck—equivalent to a major airplane crash every week of the year. Since 2009, the fatality number has increased by 46 percent. Additionally, every year over 100,000 people on average are injured in large truck-related crashes. Crashes involving commercial motor vehicles (CMVs) cost society $135 billion in 2017. In fatal two-vehicle crashes between a large truck and a passenger motor vehicle, 97 percent of the fatalities were occupants of the passenger vehicle.[i]

Moreover, the National Transportation Safety Board (NTSB) has included "driver fatigue on its Most Wanted List of Transportation Safety Improvement for 2019–2020 and has included this critical safety issue on its list since 2016. No other mode of transportation has experienced such a substantial growth in fatalities. Yet, instead of proposing strategies to address this major public health problem, the DOT is poised to substantially weaken HOS rules which will likely result in even more crashes, deaths and injuries.

HOS rules are intended to prevent carriers from requiring drivers to operate over long duty periods which can cause fatigue and raise the risk of crashes. However, over the past decades, segments of the motor carrier industry have relentlessly pushed for a rollback in the rules or exemptions for special carriers in the name of "flexibility" or "efficiency." These attacks grew tremendously after the electronic logging device (ELD) rule, which took effect in December 2017 for most drivers. The regulation replaced paper logbooks—often referred to as "comic books" in the industry because they are falsified so frequently—with accurate electronic recorders. The striking and candid acknowledgment by the FMCSA that the introduction of ELDs, which did not change the HOS rules, is a main impetus for this rulemaking is revealing in the true intention of the proposal to degrade safety.

Groundless claims, inaccurate conclusions from research and erroneous analysis of data are the basis for the proposed changes by the Federal Motor Carrier Administration (FMCSA). In fact, several assertions by the agency in the NPRM directly contradict earlier FMCSA findings.

Driver Fatigue is a Known Safety Problem in the Industry and Ignored by the DOT

Driver fatigue is a well-known commercial motor vehicle (CMV) safety problem. Studies show that driver fatigue is a factor in up to as many as 13 percent of truck crashes. As previously stated, the NTSB has repeatedly cited fatigue as a major contributor to truck crashes and included reducing fatigue related crashes on its 2019/2020 Most Wanted List of Transportation Safety Improvements.

Under the current HOS rules truck drivers can drive up to 11 hours per day (within a 14-hour window) after 10 consecutive hours off duty for a total of 77 hours per week. These grueling hours can lead to cumulative fatigue and devastating safety consequences. In fact, in a 2006 driver survey prepared for FMCSA, "65 percent [of drivers] reported that they often or sometimes felt drowsy while driving" and almost half (47.6 percent) of drivers said they had fallen asleep while driving in the previous year.

Additionally, research by the Insurance Institute for Highway Safety (IIHS) has found that truck drivers behind the wheel for more than eight hours are twice as likely to crash. Truckers' long work hours cause sleep deprivation, disruption of normal sleep/rest cycles and fatigue.

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[i] IIHS, Large Trucks, December 2017, available at *http://www.iihs.org/iihs/topics/t/large-trucks/fatalityfacts/large-trucks*

HOS Changes Proposed by FMCSA will Jeopardize the Safety of Drivers and the Public

The FMCSA proposes a change to the HOS exemption for adverse driving conditions specified in 49 CFR 395.1(b)(1). The present exemption allows drivers two additional hours of driving time when encountering adverse driving conditions. The proposal would extend the driving window from 14 hours to 16 hours when faced with such conditions. The FMCSA acknowledges that the Agency has no data or research on the impact of the current adverse driving condition rule on crash risk or how often it is used by drivers. Nonetheless, the Agency is proposing to extend the driving window so that additional driving can occur later in the duty period (something already associated with increases in crash risk) in response to adverse driving conditions (including snow, sleet, fog and ice, conditions which also increase crash risk). FMCSA's view of the limitation on the driving window as a "penalty" as opposed to an acknowledgement of the dangers of driving later in the duty day and the need for the present limits as established by previous rulemakings is deeply misguided and should in no way be used as justification for this dangerous and needless revision to the current regulation.

Inadequate 30-Minute Break is Under Relentless Attack

FMCSA proposes to tie the rest break requirement specified in 49 CFR 395.3(a)(3)(ii) only to hours driving as opposed to the current requirement which is associated with total time on-duty. The Agency also proposes that the 30-minute rest break can be taken during on-duty not-driving (working) time as opposed to the current rest break requirement which dictates that the break must be taken using an off-duty or sleeper berth period. These revisions will fail to combat acute fatigue and will likely force drivers to work entire duty-periods without a break.

Back Door Attempts to Extend Driving Time Which Will Increase Fatigue and Crashes

The NPRM proposes to allow drivers to extend their 14-hour driving window (specified by 49 CFR 395.3(a)(2)) by using a single off-duty break period, ranging from 30 minutes to 3 hours. The proposal will result in an extension of the driving window and hence driving later in the duty period which is associated with an increased risk of fatigue and crashes. With no evidence to support claims that the provision will not be abused to address operational inefficiencies from traffic or detention time, as opposed to being used to address fatigue itself, there is no valid justification for the proposal.

Question 2. How do you believe hours of service regulations can be improved to ensure that our roads are safe for the travelling public?

Answer. As stated in my testimony, truck driver fatigue is a well-known and well-researched commercial motor vehicle (CMV) safety problem. Studies show that driver fatigue is a factor in up to as many as 13 percent of truck crashes.

There are several actions that the FMCSA can take to improve hours of service (HOS) regulations. One important step is to require that ALL drivers subject to HOS regulations use an electronic logging device or ELD.

Unless Congress rejects persistent and dangerous efforts by special trucking interests to secure exemptions and exclusions from HOS rules in Federal legislation and at DOT, truck driver fatigue will never be seriously or successfully addressed. Under the current HOS rules truck drivers can drive up to 11 hours per day (within a 14-hour window) after 10 consecutive hours off duty for a total of 77 hours per week. This is nearly double the 40-hour work week of most Americans. These grueling hours can lead to cumulative fatigue and devastating safety consequences. In fact, in a 2006 driver survey prepared for FMCSA, "65 percent [of drivers] reported that they often or sometimes felt drowsy while driving" and almost half (47.6 percent) of drivers said they had fallen asleep while driving in the previous year.

One approach to addressing truck driver fatigue is to change the compensation system for truck drivers. Currently, truck drivers are paid by the mile and not by the hour. Furthermore, the Fair Labor Standards Act (FLSA), enacted in 1938, provides an exception for employees of the motor carrier industry. As a result of this drivers do not get paid overtime for working more than 8 hours a day or 40 hours a week. This is further exacerbated by the fact that truck drivers, for the most part, also load and unload their freight, in addition to driving long hours. This compensation scheme has created a system where truck drivers are encouraged to drive as far and as fast as they can in order to meet unreasonable and unsafe delivery times.

One of the major contributions to advancing motor carrier safety would be for Congress to repeal the FLSA exemption for the motor carrier industry. This situation is ripe for abuse by companies to force drivers to drive long hours and long distances with unreasonable demands and deadlines. As a result, truck drivers are fall-

ing asleep behind the wheel. This is exactly the scenario that resulted in my father's death.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TAMMY DUCKWORTH TO DAWN KING

Fatigue: The National Transportation Safety Board (NTSB) has repeatedly cited fatigue as a contributing factor in crashes involving commercial vehicles. Drivers with less than seven hours of sleep can face crash risks similar to alcohol-impaired driving.

Question 1. What steps should Congress consider to help reduce the number of fatigue-related crashes?

Answer. Every day on average, 13 people are killed, and more than 400 people are injured in large truck crashes and driver fatigue is a major contributing cause. These fatalities are equivalent to a major airplane crash every other week of the year.

As I stated in my testimony, my family is the victim of a horrific crash caused by a trucker who fell asleep at the wheel and killed my father, Bill Badger on December 23, 2004—2 days before Christmas. He was on his way to the airport to catch a plane to spend the holidays with us.

Overall truck crash deaths and injuries, including those that are fatigue-related, can be significantly reduced and mitigated with commonsense Federal actions. These include a variety of strategies such as changing the compensation system for truck drivers by removing the exemption from the Fair Labor Standards Act (FLSA) for the motor carrier industry, requiring lifesaving technologies on all trucks, and strongly rejecting all attempts in Congress and at DOT to roll back safety laws by allowing unwarranted exemptions to HOS and ELD rules. Furthermore, Congress should oppose lowering the minimum age of 21 for interstate commercial drivers and allowing bigger, heavier and longer monster trucks on our streets and roads.

We urge Congress to reject all efforts to enact special interest exemptions and rollbacks to HOS rules and the requirement for electronic logging devices (ELDs). In addition, we support Federal safety standards requiring trucks be equipped with effective and affordable safety technologies that already are required on trucks in other countries. These include:

- *Speed Limiter Requirement*
  - From 2004 to 2013, 10,440 people killed in crashes where the speed of the CMV likely contributed to the severity of the crash (FMCSA)
  - More than 1,000 lives lost on average annually to speeding CMVs.
  - 2012: NTSB recommended equipping CMVs with the technology.

TSC strongly supports enactment of the Cullum Owings Large Truck Safe Operating Speed Act (S. 2033) which requires speed limiters on all new trucks. Additionally, all trucks already equipped with speed limiting devices but are not using the technology must activate them and all speed limiters be set at a maximum speed limit of 65 miles per hour.

- *Crash Avoidance Technology*
  - Automatic emergency braking (AEB) can prevent and mitigate crashes in which a large truck is the striking vehicle.
  - According to the National Highway Traffic Safety Administration (NHTSA), from 2003 through 2008, large trucks were the striking vehicle in approximately 32,000 rear-end crashes resulting in 300 fatalities and injuring over 15,000 people annually.
  - The NHTSA estimated in 2012 that fleetwide adoption of advanced AEB systems in CMVs could save 166 lives per year and prevent 8,361 injuries. Furthermore, the National Transportation Safety Board (NTSB) has recommended that AEB systems be required on all highway vehicles.
  - In 2015, TSC and other safety groups filed a petition with NHTSA to issue a rule requiring AEB on all CMVs. NHTSA granted the petition but there has been no further regulatory action.

TSC urges Congress to pass the Protecting Roadside First Responders Act (S. 2700/H.R. 4871) and the Safe Roads Act of 2019 (H.R. 3773) to require NHTSA to set a minimum performance standard and issue a rule requiring CMVs be equipped with AEB.

- *Underride Crashes*

- In 2016, 424 of the 2,056 passenger vehicle occupants killed in large truck crashes died when their vehicles struck the rear of a large truck. It's not known how many of these were underride crashes.
- A 2010 analysis by the Insurance Institute for Highway Safety (IIHS) of fatal crashes involving the rear of a truck found that 82 percent involved underride.
- Technology is currently available which can significantly increase the likelihood that individuals can survive violent crashes during which a motor vehicle travels under the rear or side of a truck trailer.

TSC strongly supports enactment of The Stop Underrides Act (S. 665/H.R. 1511). This bipartisan legislation requires current Federal standards for rear underride guards to be upgraded as well as requires the installation of side and front guards.

- *Improve Training Requirements for Entry-Level Drivers*
  - Currently there is no Federal requirement that Commercial Driver's License (CDL) candidates receive a minimum number of hours of behind-the-wheel instruction as part of entry-level driver training. Adequate training requirements are needed for CDL applicants.
  - In 2015 the Entry-Level Driver Training Advisory Committee comprised of industry, law enforcement drivers and safety groups endorsed a minimum number of hours of behind-the-wheel training be established but this important recommendation was stripped from the final rule issued by FMCSA.

TSC recommends that Congress enact a legislative requirement to include this important aspect of the rule.

- *Restore Public Accessibility of Safety Data*
  - Fatal crashes occur at an alarmingly high rate with insufficient accountability.
  - FMCSA's Compliance, Safety, Accountability (CSA) program evaluates the safety and compliance of motor carriers and is designed to identify high risk operations for intervention and improvement.
  - Involvement in previous truck crashes and regardless of "fault" is an accurate predictor of involvement in future truck crashes.
  - Some of the CSA data was removed from public view as part of the FAST Act.

TSC supports adoption of provisions in the FY2020 House THUD bill that would restore public access to this important data.

- *Truck Safety will be Seriously Jeopardized for Everyone by Allowing Teen Truckers in Interstate Commerce.*
  - CMV drivers under the age of 19 are four times more likely to be involved in fatal crashes, as compared to CMV drivers who are 21 years of age and older, and CMV drivers ages 19–20 are six times more likely to be involved in fatal crashes (compared to CMV drivers 21 years and older). This alarming reality is not surprising given that generally younger drivers are more likely to be involved in fatal crashes because they lack driving experience and skills and tend to take greater risks.
  - The public overwhelmingly rejects lowering the minimum age for interstate truck and bus drivers. According to a recent 2020 public opinion poll by Engine's Caravan Survey 62 percent of respondents oppose lowering the minimum age from 21 to 18.
  - In 2001, a petition was filed with FMCSA to lower the CDL minimum age to 18 years old. The FMCSA declined the petition because the agency could not conclude that the safety performance of younger drivers was on par with, or even close to, that of older CMV drivers.
  - So-called pro-safety provisions in the DRIVE-Safe Act, (S. 569/H.R. 1374) are inadequate and could be detrimental. For example, technologies such as active braking collision mitigation systems and speed limiters, are only required during a brief probationary period. A teen driver would initially learn to drive in a truck fitted with this technology but after the probationary period there is no guarantee that the teen trucker would be operating a truck with any of the safety technology and its benefits.

TSC strongly opposes enactment of the DRIVE-Safe Act, (S. 569/H.R. 1374) which would lower the age for an Interstate CDL from 21 to 18.

- *Increasing the Minimum Level of Insurance will Increase Safety*

- The minimum level of insurance of $750,000 for commercial motor carriers has not been increased in the U.S. in 40 years. Neither has it been adjusted for inflation or, more appropriately, for medical cost inflation. Consequently, some families not only face the physical and emotion hardship of losing a loved one but also the financial devastation caused by under-insured motor carriers.
- According to the legislative intent of the Motor Carrier Act of 1980 (Pub. L 96–296), minimum levels of insurance were meant to serve as a barrier to entry for unsafe carriers and to shift the burden of oversight from the government to the private sector (*i.e.,* the insurers). Sadly, insurers fail to apply appropriate scrutiny because the amounts are so abysmally low.

TSC urges Senate introduction of companion legislation and passage of House legislation, the INSURANCE Act, H.R. 3781, which increases this minimum to account for medical cost inflation and then index it to that measure every five years.

Safety Technologies. Technologies like emergency braking and lane-departure warnings can improve safety and reduce the number of crashes on our roadway.

Question 2. What can Congress or NHTSA do to ensure drivers, especially commercial vehicle drivers, become more familiar and confident using these safety technologies?

Answer. Many companies already are equipping their truck fleets with affordable and available crash avoidance technologies like automatic emergency braking (AEB), speed limiters, and lane departure warning that are working well by reducing certain crashes and readily accepted by drivers. In fact, a 2007 survey of truck drivers by IIHS found 64 percent of drivers were in favor of a truck speed governor requirement. Requiring each of these technologies as standard equipment in all new trucks will achieve the dual goals of providing more familiarity to drivers and confidence in their use.

Establishing a regulatory standard for each technology ensures that no matter the differences in each individual system it must meet minimum performance requirements. Thus, no matter what cab a truck driver gets into, the operator knows the system will perform as intended. Additionally, the best and most effective way to increase familiarity with any technology is to increase use. By requiring these systems in all new trucks, drivers will gain even more invaluable experience with these lifesaving and highly effective technologies.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. RICHARD BLUMENTHAL TO DAWN KING

The lack of information about national road restrictions on smartphone-based navigation applications. In recent years, many drivers have shifted from using standalone global position system (GPS) units to smartphone-based navigation applications like Waze, Google Maps, or Apple Maps. These services offer valuable directions for passenger traffic but do not currently make information about national road restrictions like those on height, weight, or hazardous materials available to users.

As a result, commercial vehicle operators that rely on these applications are often directed to enter restricted roadways, which can cause accidents that adversely impact traffic patterns, inflict damage to roadways and overpasses, and even result in fatalities.

As more commercial vehicle drivers use these applications, we can expect accidents and damage to roadways to increase, unless a solution is found.

In Connecticut, the Merritt Parkway prohibits travel by commercial vehicles because of low overpass clearances along the road. Unfortunately, commercial vehicles frequently travel on the parkways and strike their bridges. In fact, oversized vehicles struck the King Street Bridge in Greenwich, Connecticut nearly 150 times in the last decade. In 2017, a man died after rear-ending a truck that stopped short of the Stanwich Road Bridge in Greenwich, Connecticut. Similar crashes are common in other areas of the country as well.

I have written to the companies that manage these applications—asking them to help solve this issue by providing clear and timely notification to commercial vehicle drivers about restrictions in their route. So far, their response is inadequate, and they do not seem to appreciate the gravity of this issue.

Question 1. As I consider a legislative response to address this issue, I am interested to hear from you about ways we can effectively deal with the presence of trucks on roads with posted restrictions.

Answer. There are several actions that can address the presence of trucks on roads with posted restrictions. First, Congress should reject any further exemptions from Federal truck size and weight limits. These misguided loopholes have resulted in a dangerous patchwork of regulations making it exceedingly difficult for truck drivers to determine what routes permit certain types of configurations and loads. Second, these incidents highlight the need for better training for new truck drivers. Specifically, effective pre-trip planning. Establishing the correct route is an essential part of pre-trip planning that every truck driver should undertake before embarking. In addition, as noted in the question, more funding for states to post signage informing drivers of restrictions is also important. Finally, several safety technologies can also help to ameliorate this problem. Vehicle-to-Infrastructure (V2I) technology can provide drivers with timely information about the roads they are travelling including any restrictions on the weight or height of the vehicle. Also, automatic emergency braking (AEB) which can stop a vehicle before it strikes an object could help avoid or mitigate crashes such as the tragedy that occurred in 2017 in Greenwich. Again, AEB should be standard equipment on all trucks. It will not only avert crashes resulting in property damage, but more importantly, it will save lives.

Question 2. I know that we will need companies like Apple and Google to take the issue seriously, but is there more that we can do to address these concerns outside of direct engagement from the tech companies, such as increased funding to states to enhance signage and preventative warnings?

Answer. Outside of the direct engagement with tech companies, the countermeasures and solutions outlined above can help to address this issue. In addition, several truck specific navigations systems that are currently available alert drives to road restrictions such as those related the height and weight of the vehicle.

The benefits of side underride guards. Recently, Texas A&M was contracted by NHTSA to research the best design for a side guard. In April 2018, they published their results and recommended an aluminum brace system would be the most effective at stopping a car at many different angles. The total weight (both sides) of this aluminum side brace system was 252 pounds.

Question 3. In addition to saving lives and thereby reducing insurance costs, would a new rule requiring these braces also potentially create jobs by American aluminum producers and manufacturers across America?

Answer. TSC strongly supports enactment of S. 665, the Stop Underrides Act, and appreciate the co-sponsorship of Sen. Blumenthal for this important truck safety bill. When the U.S. Department of Transportation issues a Federal safety standard requiring safety technologies in motor vehicles or motor carriers like airbags, rollover prevention technology, rear underride guards, electronic logging devices (ELDs) etc. the safety benefits are realized for every person, the costs are significantly reduced for every company and every independent driver and the technology frequently contributes to the U.S. economy.

With America facing the prospect of a significant economic downturn due to the Coronavirus pandemic it will be essential that we preserve and create manufacturing jobs in the United States. In addition, standardization of a technology also significantly lowers manufacturing costs because of the increase in the scale of production. A Federal standard is a win/win result for safety, motor carrier companies and drivers and U.S. economy.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DEB FISCHER TO CHRIS SPEAR

Question 1. On the issues of illegal drug use and highway safety, could you please elaborate for the subcommittee on your concerns regarding the industry's inability to use hair testing as a federally accepted drug testing method?

Answer. Thank you for the question Chairman Fischer. As you know, across the country, we are confronted by widespread drug abuse, and, in particular, over the past few years, have seen the outbreak of an opioid epidemic. The fact that FMCSA's newly established Drug and Alcohol Clearinghouse registered more than 8,000 DOT drug and alcohol violations in less than its first two months of operation confirms that this remains an ongoing challenge to road safety.

To confront the issue of illegal drug use head on, many proactive trucking companies have adopted hair testing as a tool to detect drug abuse into their company policies. Despite the benefits of hair testing, which include a longer detection window compared to traditional urinalysis, ease of collection, and a decreased likelihood

of an adulterated sample, hair testing is not a federally-accepted alternative drug testing method.

As you also know, the FAST Act, which was enacted in December 2015, mandated that HHS issue technical guidelines for the adoption of hair testing as a federally-accepted alternative drug testing method within 1 year of the bill's enactment. Unfortunately, that deadline, which was December 4, 2016, is now well over 3 years past due! While we were pleased that HHS recently submitted proposed guidelines for OMB review this past summer, each day we delay taking the necessary steps to include hair testing as a federally–accepted drug testing method, our roads are less safe. This continued delay is extremely disturbing, and I implore the agency to finalize these critical safety guidelines.

Question 2. As you noted in your testimony, it has been three years since this committee, and the FAST Act, instructed HHS to issue such rules. Can you elaborate further on the trucking industry's concerns for this ongoing delay, and recommendations for this subcommittee on what steps should be taken to advance this issue?

Answer. This ongoing delay undermines the potential for FMCSA's newly-established Commercial Driver's License Drug and Alcohol Clearinghouse to fully capture the breadth of drivers who are prohibited from operating a CMV based on DOT drug and alcohol program violations. Federal recognition of hair testing as an accepted alternative drug testing method would give motor carriers the ability to report positive hair test results to drivers' subsequent prospective employers through FMCSA's CDL Drug and Alcohol Clearinghouse. This would be a significant step towards greater road safety, and, unfortunately, one that our industry is unable to take until hair testing is recognized as a federally-accepted drug testing method.

For that reason, as well as the ones raised above, ATA continues to urge Congress and the subcommittee to increase its engagement and oversight with HHS to provide hair testing guidelines, which will provide trucking companies with an extremely effective safety tool. Moreover, the guidelines should align with the Congressional directive included in the FAST Act.

Question 3. The FAST Act required FMCSA to remove the Safety Measurement System scores from public view due to flaws in the system. FMCSA is currently reviewing other options for gathering and interpreting enforcement data as part of its SMS program. What impact would SMS scores have on your members if that information is available publically before FMCSA is able to complete its review and update the system?

Answer. First and foremost, thank you Chairman Fischer for your relentless efforts to reform and improve the CSA program. As you are likely aware, while ATA has been generally supportive of the CSA program, ATA remains fundamentally opposed to the publication of CSA Safety Measurement System (SMS) scores until peer-reviewed research confirms a strong, statistically significant relationship between individual motor carriers' scores and future crash risk. This is because third parties, including shippers, brokers, insurers, banks, and others, have come to rely on these scores to make safety-based business decisions, despite identified shortcomings that undermine the accuracy of CSA's relative scoring system. Publishing inaccurate and misleading SMS scores does not accomplish the fundamental goal of the program, which is to identify and ultimately predict motor carriers that pose the greatest risk to safety. ATA firmly believes that decisions and determinations regarding safety should be firmly rooted in reliable, credible data, and until FMCSA can confirm with certainty that their SMS methodology is accurate, the flawed datasets should remain unavailable to the public.

Publicizing SMS scores prematurely would ultimately roll back your important legislative efforts in the FAST Act to repair the flawed CSA scoring system—a system that both the GAO and NAS found to be inaccurate due to its reliance on incomplete and unsound data to develop motor carrier safety scores. Your language included in the FAST Act directed a full diagnostics and reboot of the CSA system, which FMCSA has undertaken and continues to implement. Our hope and expectation is that the revised scoring system is not made public until FMCSA is able to complete its review and update the system.

Background: Drivers can be detained at shipping and receiving facilities beyond an agreed on amount of time, known as detention time. In 2018, the DOT Inspector General found that a 15-minute increase in dwell time at a facility increases a driver's expected crash rate, on average, by 6.2 percent. Additionally, less time driving means less pay for the driver.

Question 4. What efforts are currently being taken by trucking stakeholders to work with shippers to lower detention time?

Answer. As an initial matter, it is important to note that the conclusions of the 2018 DOT Inspector General report were based on data that was collected before a Congressional mandate, which required most commercial drivers to record their limited duty hours using tamperproof electronic devices tied to their truck's engine control module, went into effect. Thus, the conclusions the Inspector General drew about the impact of detention time on safety are of limited value today. Excessive detention time could theoretically impact safety when drivers are incentivized to make up time that they "lost" to detention by working beyond the hours-of-service parameters that FMCSA has determined are consistent with highway safety. Before the introduction of electronic logging devices to record a driver's hours of service, most drivers recorded their duty hours with pencil and paper and could avoid those limits relatively easily. By contrast, today's electronic logging devices are not easily falsified. Thus, the IG's conclusions about the effects of detention time on safety do not consider the technological advancements that most drivers utilize today on a daily basis, and therefore do not represent the current operating environment.

Absent another option, carriers typically use financial tactics to minimize detention time at shipper facilities. Carriers do this by charging some of the costs associated with detention time back to the shipper in the form of fees for excessive detention. Detention charges are a market-based mechanism that provide incentives to the shipper to remedy such inefficiencies at customer facilities. However, in the highly competitive trucking industry, many motor carriers do not have the leverage to shift detention time costs to their customers. In these instances, shippers are unmotivated to improve the efficiency of their operations and truck drivers are powerless to seek remediation.

Question 5. Are there steps that Congress could take to address this issue without heavy-handed mandates?

Answer. In general, ATA does not believe this market efficiency problem can be solved by Congressional mandates. The Federal Motor Carrier Safety Administration is currently seeking to collect data that will help better quantify and understand the magnitude of the detention time program. (See Docket FMCSA–2019–0054.) In ATA's view, if those or similar efforts are successful in developing a clearer picture of the problem, as well as the costs it imposes on the supply chain, they may allow primary stakeholders—motor carriers and shippers—to more effectively bargain for market-based mitigation solutions.

However, when the shipper is the government and/or shipper terminals are housed within government-owned or -controlled facilities, Congress may be in a position to directly promote efficiencies that will benefit the entire supply chain. In the first case—the shipment of government freight—Congress could promote efficiency by requiring government shippers to bear some or all of the costs of detention that they impose on carriers. In the case of secure government facilities, Congress can ensure that uniform procedures and credentialing requirements mitigate intake bottlenecks. In the second case—ports or other access-controlled major facilities—additional infrastructure investments, as well as uninform credentialing requirements, would translate to increased capacity and less detention time for motor carriers.

Response to Written Questions Submitted by Hon. Rick Scott to Chris Spear

Background: The safety of our communities should always be our top priority.

Drunk driving is the number one cause of death on America's roadways. Deaths that are 100 percent preventable. Senator Udall and I have a bill—the *RIDE Act* (S. 2604)—that promotes the research and development of advanced alcohol detection software and creates a path forward to require the technology in new motor vehicles, which could save thousands of lives every year.

Question 1. Mr. Spear and Ms. King, have your associations looked at ways to incorporate technology like this in commercial trucks?

Answer. Senator Scott, first let me thank you for bringing attention to this important issue, and for your work with Senator Udall on the RIDE Act. Drunk driving continues to be a leading cause of fatalities on our Nation's roads, and the trucking industry shares your concern for this, and all other causes of road fatalities.

ATA and the trucking industry strongly support the research and development of safety technology like advanced alcohol detection software. In fact, many ATA members currently have trucks equipped with alcohol detection devices, and we support those members who choose to install this technology in efforts to improve safety.

Additionally, there are several driver impairment prevention technology suppliers in the industry that are expanding in-cab advanced safety features which monitor, detect, and alert drivers and supervisors of necessary corrective actions. ATA con-

tinues to collaborate with suppliers as well as motor carriers to determine steps that the industry can take to better incorporate technology in commercial trucks.

Question 2. What can we do to encourage the trucking industry to implement life-saving measures like this?

Answer. As mentioned above, many ATA members have already begun implementing alcohol detection devices and other in-cab advanced safety features. Additionally, ATA is currently working with the Federal Motor Carrier Safety Administration on a long-term commercial vehicle advanced safety technology program with a focus on making the trucking industry safer. The program is called "Tech-Celerate Now," and its mission is to equip all commercial trucks with available advanced safety technologies that have industry-recognized safety benefits, but are not required by law. This agency and stakeholder collaboration will both encourage and incentivize the trucking industry to implement important, life-saving vehicle technologies, and ATA encourages Members of Congress to support models like the Tech-Celerate Now program to further promote innovation aimed at improving the safety of our Nation's roads and bridges.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO CHRIS SPEAR

Freight Movement. Trucks moved nearly 12 billion tons of cargo in 2018—over 60 percent of our Nation's freight. That number is expected to increase to nearly 13.8 billion tons by 2030. But our current infrastructure is in disrepair—the American Society of Engineers estimate that the lack of investment in our surface transportation system costs households and businesses nearly $147 billion a year.

Truckers are spending valuable time they could be otherwise moving goods sitting in miles of traffic due to congestion at our Nation's ports and blocked grade crossings. Infrastructure reforms must be a high priority if we are going to keep our trucks moving and cut down on freight congestion.

Question 1. Do you agree that we should lift the multimodal cap in the INFRA program in order to address congestion at multimodal connectors? Why or why not?

. Answer. Lifting the cap would actually reduce the amount of money available for connector roadways, and ATA therefore opposes lifting the cap or otherwise increasing the amount of money available for non-highway projects under INFRA. Reducing the amount of INFRA money available to address these deficiencies by funneling money away from roadway projects would eliminate a key revenue source for these critical arteries. Furthermore, grade crossing projects are eligible under INFRA. Therefore lifting the cap would not increase the money available for grade crossings.

While intermodal connectors are an essential part of the freight distribution system, many are neglected and are not given the financial attention they deserve in spite of their importance to the Nation's economy. According to the Federal Highway Administration (FHWA), just 9 percent of freight intermodal connectors are in good or very good condition, 19 percent are in mediocre condition, and 37 percent are in poor condition. Furthermore, FHWA found that congestion on freight intermodal connectors causes 1,059,238 hours of truck delay annually, and 12,181,234 hours of automobile delay. The average speed on a connector in poor condition is 22 percent lower than on connectors in fair or better condition. Congestion on freight intermodal connectors adds nearly $71 million to freight transportation costs each year. We urge Congress to set aside adequate funding for freight intermodal connectors to ensure that these critical arteries are given the attention and resources they deserve.

Truck Parking. I have heard from many of my constituents in law enforcement and the trucking community that truck parking is a huge challenge. In my home state of Washington, 46 percent of truck drivers say they drive fatigued as a result of insufficient parking. When truck stops are full, or when there is inadequate parking available, trucks often park on highway ramps or shoulders, creating a safety risk for all road users.

Parking in unsafe areas also puts truck drivers at risk. A Federal survey found that 90 percent of drivers have struggled to find safe parking at night, and according to a Washington Department of Transportation study, 59 percent of truckers reported they are *frequently* concerned with safety—day or night.

This is also an issue of freight mobility. With trucks lined up for miles waiting to get into our ports and across grade crossings, that is time that could be otherwise spent moving goods across the country. With freight movement expected to rise 40

percent in the next decade—up to $26 trillion—we have to address this issue if we're going to keep our economy moving in the right direction.

Question 2. How should we be addressing the issue of truck parking in a transportation reauthorization bill?

Answer. Insufficient truck parking is an issue that unites the entire trucking industry. Several prominent trucking organizations, including the American Trucking Associations and the Owner-Operator Independent Drivers Association, all support H.R. 6104, the Truck Parking Safety Improvement Act, and would strongly encourage the bill's inclusion in a transportation reauthorization bill. H.R. 6104, was recently introduced by Representatives Bost (R–IL) and Craig (D–MN), and would dedicate existing highway funding to projects that expand truck parking capacity. This legislation would establish a competitive discretionary grant program and allot hundreds of millions of dollars in existing highway safety program funding for truck parking projects across the Nation.

While truck parking is eligible for funding under the Federal-aid highway program, parking projects are rarely given priority due to the lack of overall funding for other core highway programs. Absent Federal investment in truck parking capacity expansion, shortages will become even more severe, decreasing safety for all highway motorists.

Teen Drivers. The American Trucking Associations support the DRIVE Act, which would allow drivers under the age of 21 operate interstate commercial vehicles. This legislation would require teen drivers to obtain behind the wheel training, as well as, require trucks they are trained in to be equipped with safety technology such as automatic emergency brakes.

Question 3. Are you concerned that teen drivers, who would be trained on trucks with advanced safety technologies, may not be fully prepared to drive a commercial vehicle that is not equipped with advanced safety technology?

Answer. The American Trucking Associations is not at all concerned about the qualifications or capabilities of these highly-trained younger drivers. Currently, 18 to 20-year-old drivers are permitted to drive commercial vehicles not equipped with advanced safety technology in forty-nine states and the District of Columbia. By the nature of this fact, forty-nine states and the District of Columbia have already determined that 18 to 20-year-old drivers are safe and mature enough to obtain a commercial driver's license (CDL) and drive trucks intrastate. Curiously, this same confidence in 18 to 20-year-old drivers does not extend to interstate commerce, though all other variables remain the same. If anything, the DRIVE Safe Act should make lawmakers more confident in the safety performance by 18, 19, and 20-year-old interstate drivers relative to their similarly-aged intrastate driving counterparts—the latter of whom are not required to have their CMVs equipped with the DRIVE Safe Act's vehicle safety technologies, which have the potential to prevent or significantly reduce the number and severity of crashes.

Moreover, in current practice, our Nation's military allows 18-, 19-, and 20-year-old service members to operate heavy-duty machinery, equipment, and vehicles. With properly-designed training—which may or may not include the use of advanced driver assistance features—a great many U.S. sailors operate much more complex equipment than a heavy-duty vehicle, including $4 billion aircraft carriers.[1] Such is the case for a large segment of the armed forces.

Despite myriad examples of 18, 19, and 20-year-old servicemembers with whom we entrust our national security and defense, some argue,[2] in essence, that there is something intrinsic about 18, 19, and 20-year-olds that somehow renders them inherently unsafe—and thus, categorically incapable of being trained to operate CMVs safely in interstate commerce.

In 2015, Congress correctly and soundly rejected this notion when it passed the FAST Act, which was signed by President Obama on December 4, 2015—mandating, among other things, the Under 21 Military Pilot Program[3]—which, as we understand it, unfortunately has not yet been able to gather enough eligible participating drivers to generate reportable data. However, the very premise of the Under 21

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[1] National U.S. Navy Aircraft Carrier Month, *2018 Talking Points, https://aircraftcarrier.com/wp-content/uploads/2018/10/Talking-Points-2018.pdf,* at 5.

[2] Todd Spencer, OOIDA, August 9, 2019, Docket ID FMCSA–2018–0346–1020, *https://www.regulations.gov/document?D=FMCSA-2018-0346-1020;* Lorraine Martin, National Safety Council, June 14, 2019, Docket ID FMCSA–2018–0346–0308, *https://www.regulations.gov/document?D=FMCSA–2018–0346–0308;* Insurance Institute for Highway Safety (IIHS), May 21, 2001, Docket ID FMCSA–2000–8410–515, *https://www.regulations.gov/document?D=FMCSA-2000-8410-0515;* Advocates of Highway and Auto Safety, May 21, 2001, Docket ID FMCSA–2000–8410–1466, *https://www.regulations.gov/document?D=FMCSA-2000-8410-1466.*

[3] 83 Fed. Reg. 31633 (July 6, 2018).

Military Pilot is the recognition that certain 18, 19, and 20-year-olds, with proper training, can learn how to operate commercial motor vehicles (CMVs) safely in interstate commerce. ATA fully supports and agrees with this premise.

Question 4. What data exists demonstrating that drivers under the age of 21 are as safe as, or safer, than drivers 21 years old and older, and how does that data reflect on or translate to the cross-country or long-distance routes that the DRIVE Act would permit for those drivers?

Answer. As I stated in my testimony, forty-nine states and the District of Columbia already allow 18-, 19-, and 20-year-old commercial driver's license (CDL) holders to operate CMVs in intrastate commerce. Most of these drivers for whom comparative data is available appear to already achieve equivalent—if not superior—levels of safety than that of their older counterparts on critical safety measures such as crash rates, particularly when compared to drivers aged 21, 22, 23, and 24, with whom they are closest in age.[4]

This pattern is consistent with broader trends in Federal crash data encompassing passenger vehicles as well as CMVs. Specifically, according to the National Highway Traffic Safety Administration's (NHTSA) Traffic Safety Facts Annual Report, in each of the past six years for which NHTSA has data—i.e., 2012, 2013, 2014, 2015, 2016, and 2017—male drivers in the 16–20 age range had a lower involvement rate in fatal crashes than male drivers in the 21–24 age range.[5]

Significantly, these 18-to-20-year-old drivers operating CMVs in intrastate commerce are already achieving this baseline level of safety without the benefit of having trained under the enhanced training and technology standards of the DRIVE Safe Act. Thus, if Congress were to enact the DRIVE Safe Act, lawmakers should have every expectation to observe similar, if not better, safety performance by 18-, 19-, and 20-year-old interstate drivers relative to their older counterparts—the latter of whom are not required to have their CMVs equipped with the DRIVE Safe Act's vehicle safety technologies, which have the potential to prevent or significantly reduce the number and severity of crashes.

Table 1—Driver Involvement Rates In Fatal Crashes Per 100,000 Licensed Drivers

By Age and Sex (2012–2017)

		Male	
Year	Age	Drivers	Involvement Rate
2012	16–20	2,962	*48.53*
	21–24	3,539	49.33
2013	16–20	2,767	*44.23*
	21–24	3,440	47.41
2014	16–20	2,697	*45.28*
	21–24	3,510	48.31
2015	16–20	2,944	*49.28*
	21–24	3,723	51.22
2016	16–20	3,090	*50.72*
	21–24	3,897	53.31
2017	16–20	2,993	*49.02*
	21–24	3,655	50.32

[4] These two age groups are the ones selected by the Agency for comparison of safety performance in the Under 21 Military Pilot Program, and ATA would recommend that FMCSA similarly design the pilot program that is the subject of this Notice by comparing the safety performance of 18–20 year old interstate drivers (Covered Drivers) with that of 21–24 year old interstate drivers (Control Group).

[5] National Highway Traffic Safety Administration, *Traffic Safety Facts* Annual Report, Table 62, Driver Involvement Rates per 100,000 Licensed Drivers by Age, Sex, and Crash Severity, *https://cdan.nhtsa.gov/tsftables/tsfar.htm#; see also* Bureau of Labor Statistics, *Labor Force Statistics from the Current Population Survey, https://www.bls.gov/cps/cpsaat11.htm.* (showing that ninety-four percent of truck drivers are male).

While this data does not isolate the safety performance of CMV drivers versus that of passenger vehicle drivers, the data does contradict the tired argument that drivers under the age of 21 as a whole are somehow inherently less safe than drivers 21 years old and above. This most recent NHTSA data from 2012 through 2017 also serves to properly contextualize and allay concerns associated with older NHTSA data.[6]

If anything, the abovementioned pattern of data established in each of the past six years with respect to the most severe form of crashes—i.e., those involving a fatality—suggests that 18, 19 and 20-year-old drivers as a group may be safer than drivers aged 21, 22, 23, and 24. Further supporting this impression in the CMV context (in light of the abovementioned NHTSA data concerning male drivers) is that ninety-four percent of truck drivers are male.[7]

Question 5. Your testimony points to a driver shortage in the trucking industry. How many new drivers, who would not have otherwise entered the industry, do you estimate will enter the industry because of the DRIVE Act?

Answer. Over the past 15 years, the trucking industry has struggled with a shortage of truck drivers. First documented in 2005, the shortage was roughly 20,000 workers. By the end of 2018, the truck driver shortage reached a new record high of 60,800 qualified applicants. ATA cannot provide the exact figure for how much of the gap DRIVE Safe covers, but one thing is certain: it prepares America's workforce today for its need's tomorrow.

Over the next decade, the trucking industry will need to hire roughly 1.1 million new drivers, or an average of nearly 110,000 per year. Replacing retiring truck drivers will be by far the largest factor, accounting for over half of new driver hires (54 percent). The second largest factor will be industry growth, accounting for 25 percent of new driver hires. As an industry and a nation, we need to be reaching drivers earlier in their careers—equipping them with the skills and training necessary to safely and efficiently operate on America's roadways. The DRIVE Safe Act begins that transition and can help close the gap in skills and opportunity that currently challenge our industry in the years ahead.

There are many reasons for the current driver shortage, but one of the largest factors is the relatively high average age of the existing workforce. According to the Bureau of Labor Statistics, the average age of a commercial truck driver in the U.S. is 55 years old. Today, motor carriers struggle to find enough qualified drivers, which makes the impact of the shortage seem much worse than the numbers in this report. Many carriers, despite being short drivers, are highly selective in hiring drivers because they have made safety and professionalism their highest priorities.

ATA has consistently argued that the driver shortage is one of finding qualified drivers.[8] In 2012 and 2015, for example, ATA reported in its Driver Shortage Analyses that 88 percent of fleets said they were getting enough applicants, but most were simply not qualified.[9] ATA reported further that "the shortage probably feels much worse to most trucking companies because of their hiring standards. Because of many companies' strong focus on safety, many otherwise eligible candidates are disqualified as a result of poor driving history or other related factors."[10]

Given that most carriers find most driver candidates over the age of 21 to be unqualified, it would not be surprising if most carriers also found most driver candidates under the age of 21 to be unqualified as well. For both age groups of driver candidates, driver characteristics other than age have to be considered to identify a subset of candidates within those age groups who can demonstrate an ability to learn how to become safe, professional drivers through supervised, performance-based training, and through trucks equipped with modern-day safety technologies. For the reasons mentioned above, ATA believes that the criteria outlined in the DRIVE Safe Act are precisely tailored for this very purpose.

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[6] Governors Highway Safety Association, July 11, 2019, Document ID FMCSA–2018–0346–0379, *https://www.regulations.gov/document?D=FMCSA-2018-0346-0379* (citing, to support most of its arguments, a GHSA analysis of older NHTSA data, while correctly pointing out that "many studies have also documented that most truck crashes involving passenger vehicles are the fault of the passenger motorist"), at 2–3.

[7] Bureau of Labor Statistics, *Labor Force Statistics from the Current Population Survey, https://www.bls.gov/cps/cpsaat11.htm.*

[8] American Trucking Associations, Truck Driver Shortage Analysis 2015, *https://www.trucking.org/ATA%20Docs/News%20and%20Information/Reports%20Trends%20and%20Statistics/10%206%2015%20ATAs%20Driver%20Shortage%20Report%202015.pdf,* at 3; American Trucking Associations, Truck Driver Shortage Analysis 2017, *http://progressive1.acs.playstream.com/truckline/progressive/ATAs%20Driver%20Shortage%20Report%202017.pdf,* at 3.

[9] *Id.*

[10] ATA Truck Driver Shortage Analysis 2015, at 6.

Question 6. The FAST Act of 2015 required FMCSA to conduct a pilot program for drivers younger than 21 years of age with military training. FMCSA is also pursuing a second pilot program for non-military drivers under 21 years of age. Do you agree that the data obtained through these pilot programs would be important to consider in guiding national policy regarding interstate drivers younger than 21 years of age?

Answer. ATA agrees with the Federal Motor Carrier Safety Administration (FMCSA) that training provided by the military for 18, 19, and 20-year-olds serving in the seven Military Occupational Specialty (MOS) codes [11] identified by FMCSA for the purposes of the Under 21 Military Pilot Program is effective in vetting, teaching, and preparing qualified service members to operate CMVs safely in interstate commerce as 18, 19, and 20-year-old civilians.

Significantly, in denying the Truckload Carrier Association's (TCA) petition for an under 21 driver pilot program in 2003, FMCSA itself left open the possibility that certain 18, 19, and 20-year-old drivers may be able to learn to how to operate CMVs safely in interstate commerce—and the Agency did not limit this potentially qualified subset of 18, 19 and 20-year-old drivers to those who received training in the military.[12] Specifically, the Agency correctly determined in 2003 that "we do not believe. . .this universe of drivers are all unfit to operate a CMV in interstate commerce." [13] As the Agency also noted in 2003, other key stakeholders agreed with this assessment.[14]

Consistent with these views, ATA believes that the enhanced training standards of the DRIVE Safe Act can be at least as equally effective as the training provided in the seven MOS codes referenced above, in vetting, teaching, and preparing qualified 18, 19, and 20-year-old non-military drivers to operate CMVs safely in interstate commerce. Given the many similarities between the training regimen of those seven MOS codes and the training regimen of the DRIVE Safe Act,[15] Congress should have a similar level of ex ante confidence in the safety prospects of the latter as the level of ex ante confidence Congress expressed in mandating the former.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TAMMY DUCKWORTH TO CHRIS SPEAR

Women in Trucking: Recent reports show low levels of women participating in the trucking industry.

Question 1. What is your organization doing to incentivize women to join the trucking industry? What institutional barriers, if any, exist?

Answer. The American Trucking Associations has long been a leading advocate and champion for the promotion and advancement of female representation in the trucking workforce. Whether as drivers, technicians, safety directors, executives, or company owners, ATA and our member companies are committed to promoting this important cause.

Regrettably, the fact remains that although women currently make up 47 percent of the U.S. workforce, they make up less than 7 percent of truck drivers, and only a quarter of all transportation and warehousing jobs in trucking. While the trucking industry has taken great strides over the last decade in increasing the female workforce, growing the number of women truck drivers by 68 percent since 2010, women remain underrepresented in the industry.

ATA has worked to promote the female trucking workforce through our image programs; America's Road Team and Trucking Moves America Forward. Using these programs we amplify the many women professional drivers through social media, television interviews and career fairs. We also work closely with our member companies to promote their women drivers, and many of those member companies have accepted the challenge to recruit more women into the industry. For example, ATA

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[11] 88M Motor Transport Operator (Army); 92F Fueler (Army); 2T1 Vehicle Operations (Air Force); 2Fo Fueler (Air Force); 3E2 Pavement and Construction Equipment (Air Force); E.O. Equipment Operator (Navy); and 3531 Motor Vehicle Operator (Marine Corps).

[12] 68 Fed. Reg. 34467 (June 9, 2003).

[13] *Id.* at 34470.

[14] Specifically, according to the Agency, the joint statement of the American Automobile Association, the American Association of Motor Vehicle Administrators (AAMVA), the Commercial Vehicle Safety Alliance (CVSA), and the National Association of Governor's Highway Safety Representatives stated that the challenges associated with "younger [CMV] drivers can be overcome by effective training, real-world driving experience, and mentoring."

[15] *e.g.,* Training Hours (160 hours minimum for the 7 MOS versus 400 hours minimum for DRIVE Safe); both training regiments require Performance Based Training, and Supervised Training, etc.

member Prime, Inc. has the Highway Diamonds program, whose mission is to employ and support female drivers at Prime while recognizing and reducing challenges women may face in the transportation industry.

ATA has also worked with Congress to address this issue, championing the Promoting Women in Trucking Workforce Act, introduced by Senators Moran (R–KS) and Baldwin (D–WI) in the Senate, and Rep. Gallagher (R–WI) in the House. This important legislation will bring greater attention to the recruitment, training, mentorship, and outreach to women in the trucking industry. This in turn will lead to increased female representation in trucking and greater industry diversity, while providing another tool to help the trucking industry confront and stem its growing driver shortage.

Question 2. What can Congress do to help increase the number of women in the trucking industry?

Answer. We believe that an important action that House and Senate should take is enacting the Promoting Women in Trucking Workforce Act this Congress. Through the establishment of a Women of Trucking Advisory Board under the leadership of the Federal Motor Carrier Safety Administration, the Promoting Women in Trucking Workforce Act marks a significant step in legislative effort to encourage greater female participation in the trucking workforce.

Automatic Emergency Braking. Automatic Emergency Braking (AEB) systems provide a warning to the driver when a truck comes too close to another vehicle from behind and automatically applies the brakes if the driver fails to do so. The National Highway and Transportation Safety Administration (NHTSA) estimated in 2012 that advanced AEB systems could save 166 lives per year and prevent 8,361 injuries per year. A 2018 NHTSA study found that AEB systems have an incremental cost to the end-user of $71 to $316. The American Trucking Association (ATA) recently updated its policies that recognize the benefits of automatic emergency braking.

Question 3. Does ATA support the efforts to ensure AEB technology is installed on all new commercial vehicles?

Answer. ATA supports efforts to ensure that AEB technology is installed on new commercial vehicles, and is currently working with the Department of Transportation (DOT) to ensure every motor vehicle over 10,000 lbs. and fleet or owner operator has this capability. ATA is also working with DOT to ensure that these groups also have access to any other advanced driver assistance system (ADAS) technology that has the potential to save lives.

As you may know, safety is the top priority for the U.S. trucking industry. In many segments of the U.S. transportation industry, companies are voluntarily testing and integrating critical safety features into current fleets, and, in many cases, are achieving compliance beyond that required by Federal regulations. As a result of an historic agreement between DOT and the majority of the U.S. automobile manufacturing market, AEB will be standard on virtually all light-duty vehicles by 2022.

Motor carriers are continuing to test collision avoidance systems (CAS), like AEB, in a variety of operating environments and real-world situations, and a wide variety of research studies have already shown significant safety benefits. ATA supports AEB for all new vehicles (Class 1–8) and commends commercial motor vehicle fleets that have chosen to equip CAS on trucks. The FAST Act (Section 5222) required a Beyond Compliance Program that would reward motor carriers in these areas, but that mandate has not yet been enacted. ATA encourages Congress to support measures that would instruct the Federal government to partner with industry to achieve voluntary compliance and improve road safety. Recently, ATA was awarded a significant DOT contract to begin an incentivized carrier-based program that will expedite CAS technology adoption in trucks. ATA believes this will be a meaningful and positive step to improve the safety of U.S. motor carriers and road transportation, in general.

Congestion: As your written testimony highlights, highway congestion adds nearly $75 billion to the cost of freight transportation each year. America's Transportation Infrastructure Act (S.2302) provides $200 million in competitive grants for States and local governments to advance innovative, integrated, and multimodal solutions to address congestion relief in our most congested metropolitan areas to address roadway congestion (Section 1404).

Question 4. While this is a small step towards reducing overall highway congestion, do you support these efforts to combat congestion?

Answer. Certain aspects of the Section 1404 program are likely to effectively reduce congestion. For example, traffic incident management, work zone management,

and better traffic signal timing are well-established, proven techniques for improving mobility. Some of the other eligible activities are either untested or have been found to be ineffective. Efforts to shift single occupant vehicle drivers to alternative modes, for example, have largely failed to produce measurable reductions in congestion.

Pricing of highways is largely untested in the United States outside of HOT lanes or expressway applications where drivers have a choice to utilize toll-free lanes. Specifically, with regard to trucks, pricing is unlikely to shift freight to alternative modes or to off-peak hours because these costs are not generally passed on to shippers and receivers, who determine both mode choice and pick-up and delivery times. ATA is adamantly opposed to the expansion of Interstate tolling authority under Sec. 1404(d)(6). Tolling existing Interstates will shift vehicles to less safe, less well-constructed surface streets not intended for heavy traffic. Tolling is also an extremely inefficient revenue source, with an average of 16 percent of total revenue going toward collection costs; by contrast, collection costs for the fuel tax are only around one percent.

Question 5. What additional recommendations would you make to further reduce congestion on our roadways?

Answer. According to research conducted by the American Transportation Research Institute (ATRI), 89 percent of trucking congestion occurs on just 12 percent of the Interstate Highway System. ATRI also identifies the top 100 highway freight bottlenecks on an annual basis. Congress should focus funding on addressing those parts of the Interstate system that cause the majority of congestion. To that end, ATA's Build America Fund proposal would dedicate $5 billion annually toward addressing these major freight bottlenecks.

Question 6. What role does preserving the 5.9 Ghz safety band play in efforts to reduce roadway congestion and air pollution?

Answer. Vehicle-to-infrastructure (V2X) communications in the 5.9 GHz band provide benefits in safety, mobility, and reduced emissions. The National Highway Traffic Safety Administration (NHTSA) estimates that just four Dedicated Short Range Communication (DSRC) -based vehicle-to-vehicle (V2V) applications could avoid or mitigate nearly 89 percent of light duty vehicle crashes, which would have benefits for all road users. While NHTSA is currently conducting research on V2V for use in heavy vehicles, the agency estimates that 70 percent of crashes involving trucks occur in scenarios that could be addressed by V2V systems. Preventing these crashes will not only improve safety, but also enhance mobility by reducing the congestion associated with crashes and emergency response. These efficiencies would, in turn, reduce the emissions and fuel consumption that would have otherwise resulted because of vehicles stopped in traffic caused by the crash.

Driver-assistive truck platooning enabled by dedicated short range communication (DSRC) technology—currently available on the 5.9 GHz safety band—improves fuel efficiency, provides safety benefits, and stimulates greater business efficiency in trucking. Truck platooning systems, a V2V communication, wirelessly connect the braking and acceleration systems between trucks to enable the trucks to travel closer together, which improves aerodynamics and, increases fuel economy for all vehicles involved. Truck platooning is operational in some fleets and has been demonstrated by FHWA and the U.S. military.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. AMY KLOBUCHAR TO CHRIS SPEAR

Human Trafficking. Truckers are often the first line of defense against human trafficking. Last Congress, I introduced the Combating Human Trafficking in Commercial Vehicles Act with Senator Thune to require the Department of Transportation to designate a human trafficking prevention coordinator and to increase outreach and education efforts at the Federal Motor Carrier Safety Administration. Our legislation was signed into law in January 2018.

Question. Can you speak to ATA's efforts to educate drivers on how to detect and help prevent human trafficking?

Answer. ATA and our member companies take our role as frontline fighters against human trafficking very seriously. Truck drivers are the eyes and ears of the Nation's highways, and as such, we work very closely with our member companies to provide truck drivers with the appropriate training and education necessary to deal with this type of heinous crime.

ATA serves on the Board of Truckers Against Trafficking, supporting their efforts on education, information-sharing, and amplifying resources to fight human traf-

ficking. Many of ATA's members are also actively involved in the Department of Homeland Security's Blue Campaign. Furthermore, numerous ATA members, as well as our federation of 50 state trucking associations, have made tremendous efforts to increase driver education and training on how to identify and prevent human trafficking.

In recent years, the industry has made nearly 2,500 calls to the national hotline to report possible instances of trafficking. Those calls generated nearly 700 active cases, which, in turn, helped to identify and rescue more than 1,240 victims.

Finally, ATA's America's Road Team Captains—a group of professional truck drivers with impeccable driving records and a dedication to road safety—travel the country educating the general public on important trucking safety issues, including the realities of human trafficking and how to report it effectively.

We are also aware of the key role Congress has played in drawing greater attention to combatting human trafficking, and appreciate that you have been a longtime leader in this fight. For that reason, we were so pleased to present you with the 2020 Hero Award from our Trucking Cares Foundation earlier this year, in recognition of leadership to combat human trafficking. As the sponsor of S.1536, the Combating Human Trafficking in Commercial Motor Vehicles Act, and a champion of several other human trafficking legislative efforts, we thank and appreciate your ongoing work, and look forward to continuing to work closely with you and your colleagues, as well as law enforcement, to stem the tide of human trafficking.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. RICHARD BLUMENTHAL TO CHRIS SPEAR

The lack of information about national road restrictions on smartphone-based navigation applications. In recent years, many drivers have shifted from using standalone global position system (GPS) units to smartphone-based navigation applications like Waze, Google Maps, or Apple Maps. These services offer valuable directions for passenger traffic but do not currently make information about national road restrictions like those on height, weight, or hazardous materials available to users.

As a result, commercial vehicle operators that rely on these applications are often directed to enter restricted roadways, which can cause accidents that adversely impact traffic patterns, inflict damage to roadways and overpasses, and even result in fatalities. As more commercial vehicle drivers use these applications, we can expect accidents and damage to roadways to increase, unless a solution is found.

In Connecticut, the Merritt Parkway prohibits travel by commercial vehicles because of low overpass clearances along the road. Unfortunately, commercial vehicles frequently travel on the parkways and strike their bridges. In fact, oversized vehicles struck the King Street Bridge in Greenwich, Connecticut nearly 150 times in the last decade. In 2017, a man died after rear-ending a truck that stopped short of the Stanwich Road Bridge in Greenwich, Connecticut. Similar crashes are common in other areas of the country as well.

I have written to the companies that manage these applications—asking them to help solve this issue by providing clear and timely notification to commercial vehicle drivers about restrictions in their route. So far, their response is inadequate and they do not seem to appreciate the gravity of this issue.

Question 1. As I consider a legislative response to address this issue, I am interested to hear from you about ways we can effectively deal with the presence of tucks on roads with posted restrictions.

Answer. Truck drivers are tested and trained regularly to operate the vehicle they are assigned and the route they are provided to safely deliver freight. Not all states test truck drivers the same nor do they have consistent signage for capable routes. Some truck drivers do travel interstate and are sometimes forced to drive on unknown roads due to rerouting from accidents and construction.

There are currently many truck driver routing apps and services available to the industry. Apps and services connect directly with electronic logging devices for those operations that require them, are purchasable through smartphone applications, and can be fitted by the truck OEM or another third-party solutions provider. ATA encourages smart route planning through available technology and routine driver-dispatcher training practices.

Question 2. I know that we will need companies like Apple and Google to take the issue seriously, but is there more that we can do to address these concerns outside of direct engagement from the tech companies, such as increased funding to states to enhance signage and preventative warnings?

Answer. Similar to government funded projects for high railroad crossings where long wheel base trucks and automobiles would get hung up and in danger of an oncoming train, tracking and testing states lowered bridges and other infrastructure types that certain trucks are forbidden to drive near and providing open source data would allow all tech companies that can provide solutions to have a fair market. And yes, increasing state funding to enhance signage and warnings would help too. Also, consider that many onboard vehicle technologies are integrating artificial intelligence to recognize these signs and warnings so working closer with the industry on this topic is highly recommended.

The benefits of side underride guards. Recently, Texas A&M was contracted by NHTSA to research the best design for a side guard. In April 2018, they published their results and recommended an aluminum brace system would be the most effective at stopping a car at many different angles. The total weight (both sides) of this aluminum side brace system was 252 pounds.

Question 3. In addition to saving lives and thereby reducing insurance costs, would a new rule requiring these braces also potentially create jobs by American aluminum producers and manufacturers across America?

Answer. ATA is not equipped to comment on the workforce implications of increased side underride guard manufacturing on aluminum producers at this time. However, I would note that the Texas A&M study referenced in your question preamble, and the findings they produced, were based on computer-modulated testing, not real-world testing or even prototyped tested. The research does not consider the unintended consequences the trucking industry has regularly discussed with government agencies, and it does not consider the relatively small percentage of accidents that occur on highways compared to rear-end and front-end accidents.

While this technology may successfully stop a passenger car from going underneath a trailer, there remains outstanding concern for how this technology could work in real-world operations. Specifically, there is significant confusion and concern about what may happen in a crash during a realistic highway scenario—at highway speeds, with a moving truck and trailer, and with other traffic present. For instance, while a side underride guard may successfully stop a passenger car from going underneath a trailer, the potential for that car to bounce off the trailer and strike other vehicles is a concern that should be researched.

I raise this with you because it brings us back to the reality, recognized by the industry, and confirmed by government agencies, that more research is required on this technology before Congress can responsibly consider mandating the installation of these guards for real world operations. As you know, in April 2019, the Government Accountability Office (GAO) published a report, as requested by Members of Congress, reviewing the topic of underride crashes. As a result of a yearlong investigation, including numerous interviews with State and Federal Government, Local Police Departments, Foreign Governments, and over 29 industry groups, including those supportive of this mandate, GAO concluded that more research should be conducted by DOT on this issue. ATA agrees with GAO's findings and their recommendation that DOT conduct additional research on side underride guards.

The shortage of safe overnight parking spots for truck drivers to rest. We all know how important it is for truck drivers to get a good night's sleep after a long day on the road. Driver fatigue remains a leading factor in large truck crashes, which killed nearly 5,000 Americans last year alone. Well-rested drivers are more alert and focused and are better able to react to changes on the road ahead of them.

In order to get a good night's sleep, truck drivers need to be able to conveniently locate a safe, legal place to park overnight. But this has become an increasingly difficult task, particularly in states like Connecticut that are located along highly trafficked interstate corridors.

The American Transportation Research Institute's 2019 annual report identified the lack of truck parking as a significant issue facing the trucking industry. The report showed commercial truck drivers ranked the lack of truck parking as one of their greatest concern, because of the daily challenges it creates and the risks it poses on their personal safety.

With few spaces available, drivers are often forced to park in overcrowded lots or park illegally along shoulders, off ramps, or in empty parking lots—spaces that are at best unconducive to a good night's sleep and at worst pose a threat to the driver's safety. I've also heard from many owner-operators that while conditions have been worsening for years, the parking shortage has now reached a crisis stage.

Question 4. This is clearly a nationwide issue—in a 2015 survey conducted by the Federal Highway Administration, thirty-seven state DOT's reported that they have

a problem with truck parking in their state. How has the lack of available safe, legal truck parking places impacted your members?

Answer. Parking scarcity impacts operational efficiency and directly relates to safety. The American Transportation Research Institute's (ATRI) annual industry survey, Critical Issues in the Trucking Industry, shows truck parking steadily increasing in rank since 2012. According to the survey, truck parking began as the 8th most important issue in 2012 and has remained in the top ten ever since.

With regard to operational efficiency, ATRI driver respondents reported "giving up" an average of 56 minutes of available drive time per day parking rather than risking not being able to find a safe, legal sport to park later down the road. This unused drive time reduces a driver's productivity by 9,300 revenue-earning miles annually, which translates to about $4,600 in lost wages annually. These productivity losses may reduce driver wages by up to 10 percent.

With regard to safety, if available parking cannot be found within a driver's available hours of service (HOS), they may be forced to park in an illegal or unsafe location, or they may continue to drive while fatigued. Unauthorized parking creates a safety hazard for truck drivers and other motorists by exposing trucks to traffic conditions in locations where trucks are not designed to be parked. Moreover, parking on roadway shoulders or entrance/exit ramps is illegal in most locations.

Beyond the operational efficiency and safety issues, the parking shortage makes a tough job even more difficult. There is a serious shortage of qualified truck drivers, particularly over-the-road drivers who often sleep in their trucks. The lack of available parking is a key issue when it comes to recruiting and retaining over-the-road truck drivers.

Question 5. As Congress considers the best way to invest in infrastructure improvements, what do you feel we can do legislatively to help address this serious highway safety issue?

Answer. Insufficient truck parking is an issue that unites the entire trucking industry. Several prominent trucking organizations, including the American Trucking Associations and the Owner-Operator Independent Drivers Association, all support H.R. 6104, the Truck Parking Safety Improvement Act, and would strongly encourage the bill's inclusion in a transportation reauthorization bill. H.R. 6104, was recently introduced by Representatives Bost (R–IL) and Craig (D–MN), and would dedicate existing highway funding to projects that expand truck parking capacity. This legislation would establish a competitive discretionary grant program and allot hundreds of millions of dollars in existing highway safety program funding for truck parking projects across the Nation.

While truck parking is eligible for funding under the Federal-aid highway program, parking projects are rarely given priority due to the lack of overall funding for other core highway programs. Absent Federal investment in truck parking capacity expansion, shortages will become even more severe, decreasing safety for all highway motorists.

The benefits of strengthening rear underride guards. An aluminum plate which could be retrofit on tractor trailers to strengthen rear underride guards was recently crash tested at 38 mph. It prevented underride and Passenger Compartment Intrusion. If this had been a real life crash, the car occupants would have survived.

Question 6. How might the trucking industry benefit from the installation of this device on large trucks?

Answer. The safety of our Nation's roads and bridges, and the motoring public, is unquestionably of paramount importance. Safety anchors the very foundation of the trucking industry, shaping its core values and decision-making. Each year, the trucking industry invests approximately $10 billion annually in safety initiatives, including truck onboard technologies such as electronic logging devices, collision avoidance systems, and video-event recorders. Investments also include driver safety training, driver safety incentive pay, and compliance with safety regulations (*e.g.,* pre-employment and random drug tests, and motor vehicle record checks). While some of these investments are made to meet a myriad of regulatory requirements, many of them are voluntary and progressive safety initiatives that pay high dividends in highway safety.

ATA believes that every opportunity to add a device to a commercial vehicle to save lives should be taken, so long as the device has been thoroughly researched, tested, and approved for deployment either through retrofit or on new vehicles only. Furthermore, we understand the heartfelt concerns and passion in advocacy of the family members who have experienced unfathomable tragedy. However, proposed requirements for trucks to install underride guards, however well-intentioned, are highly prescriptive mandates that are not based on science, data, or safety benefit at this time. These proposals ignore the potential technical issues that a blanket

mandate raises, as well as other technologies that currently exist to address these crashes, such as automatic emergency braking, camera monitoring systems, and adaptive turning assist. Finally, these proposals ignore the diversity of the industry. In trucking, we know that one size does not fit all, and that investments in certain technologies that one company makes may not make sense for another. Standards for new and in-service truck equipment should be based on sound economic and engineering principles that demonstrably enhance safety, take into account real-world operations, and weigh possible unintended consequences.

Another reality of this technology is that it places focus solely on mitigating a crash after it has happened, as compared to focusing on efforts—such as safety technologies that are available today—to prevent the crash from happening in the first place. All parties should be focused on crash avoidance that can be achieved by enhancing vehicle-to-vehicle (V2V) connectivity. In NHTSA's January 2017 V2V Notice of Proposed Rulemaking for light-duty vehicles, the Agency estimates that four safety applications enabled by the proposed rule could avoid or mitigate 89 percent of light duty vehicle crashes. NHTSA is currently also conducting research on V2V for heavy vehicles, and estimates that 70 percent of crashes involving trucks occur in scenarios that could be addressed by V2V systems.

The trucking industry's efforts to gut state laws granting rest breaks to truck drivers and weaken Federal hours of service regulations. Over 20 states—including Connecticut—provide workers with mandatory meal and rest breaks. These laws have existed for nearly a century in some states and are critical for all kinds of workers, protecting them from workplace fatigue and related accidents, injury and death. These laws also apply to commercial truck drivers, with some exemptions.

There is an effort now underway to preempt—or effectively gut—these meal and rest break laws so as to maximize the workday of truck drivers, making them even more fatigued. We have seen this happen in California and the process is currently underway in Washington State.

Question 7. Mr. Spear—your testimony indicates that you believe the Federal hours of service are too stringent, and you are asking to lessen or even eliminate these Federal regulations—while at the same time, you are asking the FMCSA to systematically preempt each state's meal and rest break law as applied to commercial motor carriers.

It seems to me what you are really saying is that you want no regulation of any kind. Little to no Federal regulation, and no state laws or regulations. How does this help or improve safety on U.S. roads?

Answer. My testimony did not suggest in any way that ATA or the trucking industry is seeking to eliminate the Federal regulations governing commercial driver hours of service. Quite to the contrary, ATA strongly supports uniform, Federal regulation of driver hours driven by the evidence of what best promotes safety while allowing for the efficient movement of our Nation's freight. In fact, ATA was a leading supporter of the Congressional requirement that commercial trucks be equipped with electronic devices that record driving time—precisely because we believe it's crucial for all drivers to adhere to those rules. My testimony merely spoke to a small number of ways in which we feel the Federal rules can be improved on the margins to provide greater flexibility without compromising highway safety or driver welfare.

ATA has, and will continue to support, a robust hours-of-service (HOS) framework that makes sense for both drivers and motor carriers. This includes support for needed flexibilities that give drivers and motor carriers the capability to calibrate HOS in way that makes sense for their own operations. As I stated in my testimony, ATA supports FMCSA's recent Notice of Proposed Rulemaking, which would give drivers and motor carriers more flexibility to adjust HOS when confronted with variable road conditions or severe traffic congestion.

Let me be clear: this support for the NPRM does not mean ATA opposes HOS. Quite the contrary, HOS rules exist to ensure drivers obtain the rest they need to safely operate a CMV. Yet, much of the emerging literature and scientific data now suggest the structure of those restful hours can be more flexible, achieving an equivalent, if not greater level of safety than can be achieved with the current HOS ruleset. ATA has found supportive data, for example, showing drivers can safely split their sleeper berth periods into 7 and 3-hour segments, rather than the exclusive 8-and 2-hour segments proscribed by current Federal regulation. ATA supports these proposed changes precisely because the empirical evidence points to a positive association between more flexible fatigue management and safety.

In effect, ATA's position is not to weaken HOS, but to make the current rules stronger and better aligned with the needs of a 21st Century workforce. As such, in the two decades since HOS rules were first substantially changed, shifts in ecommerce, technology, and trade have transformed how far and how fast trucks

move. Given research and data that shows sleep schedules can be safely adjusted—why not revise the Federal requirements to make them better-suited to freight movement and consumer demand? In short, ATA does not ask FMCSA to eliminate rules because they are too stringent, but to eliminate ones that are no longer based on strong scientific data or evidence.

With respect to your question relating to the preemption of State meal and rest break laws for motor carriers operating interstate commerce, I would like to make clear that ATA is not "asking the FMCSA to systematically preempt each state's meal and rest break law as applied to commercial motor carriers." We have asked FMCSA to preempt one state's break law—that of California. Our affiliated Washington Trucking Association has also asked FMCSA to preempt Washington's very similar break law, which we support.

We sought preemption of California's break rules (and support preemption of Washington's similar rules) because they are extremely onerous—depriving drivers and carriers alike of a considerable portion of the daily productivity the FMCSA has determined, in its expert view and at Congress's command, to be consistent with the demands of highway safety and driver welfare—with no offsetting safety or welfare benefits. Unlike the rules promulgated by FMCSA, California's break rules were not developed with highway safety or commercial driver welfare in mind, much less through careful study of the developing science surrounding fatigue management and its relationship to crash risk. Instead, they are arbitrary in nature—enacted not by California's Department of Transportation but by its Industrial Wage Commission, and not specific to the trucking industry, much less commercial drivers. And as FMCSA concluded when it reviewed those rules, their very arbitrariness undermines highway safety and driver welfare, because by making it more likely that drivers will be forced to take breaks when they don't need them, they will be less likely to take them when they do need them; and against a background of a serious shortage of truck parking, drivers will find it harder to find safe and legal parking when they do need to rest, forcing them to choose between driving longer while fatigued, or creating a serious safety hazard by parking in places such as highway ramps.

In short, ATA supports a single, nationally uniform set of rules developed by the expert agency that Congress charged with doing so—not a cumbersome patchwork of rules cobbled together by 50 states without so much as a thought about their effects on highway safety or the movement of freight in interstate commerce.

The need for adequate insurance limits for trucking companies. In 1980, Congress enacted the Motor Carrier Act to set insurance minimums for commercial truck drivers. In 1980, the insurance minimum was set at $750,000 per accident. The intent of Congress was to increase the minimums regularly to keep pace with inflation, according to report language in the bill.

However, Congress has not updated this amount for almost 40 years. In fact, the $750,000 amount, if adjusted for inflation in today's dollars, would be over $2.4 million, a difference of about $1.65 million. That is a staggering difference.

As you may also know, commercial motor vehicle crashes cost our country upwards of $130 billion in 2016, which American taxpayers ultimately pay for when the costs of truck crashes exceed the minimum insurance amount.

Question 8. Mr. Spear—you have stated in your testimony that your organization opposes increasing trucking insurance minimums, even to keep pace with inflation. So, what would have me tell a family that lost a loved one in a trucking crash, and is now unable to fully recover because they are forced to split $750,000 with all families involved in the crash?

Answer. ATA emphatically believes that when a motor carrier acts wrongly, and its wrongful actions harm those with whom we share the roads, it should be held accountable and the victims made whole. That said, for any realistic level of minimum insurance requirements, there will always, unfortunately, be some outlier cases that fall outside them. The challenge from a public policy perspective is to set insurance requirements so that they will fully cover an overwhelmingly large share of crashes, while taking into account the costs of insurance and their impacts on the supply chain. ATA supports an evidence-based approach to insurance requirements that will strike that proper balance.

And the simple fact is that the best available evidence indicates that an overwhelmingly large share of truck crashes—all but approximately one tenth of one percent—are within the current insurance minimums. *See K. Hymel et al., Financial Responsibility Requirements for Commercial Motor Vehicles 36 (Volpe Transportation Center, 2013).* That remaining one tenth of a percent represents a long tail of outliers, which means steeply diminishing returns from increased insurance levels in terms of capturing additional crashes.

It is worth bearing in mind, in this context, that there is no federally mandated minimum insurance level for passenger cars, and no state car insurance minimum is anywhere near as high as the Federal commercial minimum. Thus, the hypothetical family in the question posed would be far less likely to be able to fully recover if they were involved in a passenger car crash—which is of course far more common than a trucking crash. Such situations are undeniably tragic, but we don't require passenger cars to carry millions in insurance coverage—even though it is hardly inconceivable that they might occasionally inflict millions in damages—because Congress and state legislatures have implicitly made the policy judgment that doing so would increase the costs of driving—to the point of making driving unaffordable for many—out of proportion to any benefits.

To be sure, commercial vehicles—because they are commercial—can fairly be expected to be held to a higher financial responsibility standard than a private motorist, as indeed they are. But ATA does not favor arbitrary increases that are unsupported by the data. And as FMCSA itself has recognized, the available data do not demonstrate that insurance increases would be net beneficial. *See Financial Responsibility for Motor Carriers, Freight Forwarders, and Brokers, 82 Fed. Reg. 25753, 25754 (June 5, 2017).*

Question 9. Knowing that there has not been an increase in almost four decades and knowing the amount in today's dollars is three times the amount of the cap, can you honestly tell me in good faith that $750,000 is enough to sufficiently cover a multi vehicle crash with multiple fatalities?

Answer. The fact that the current minimum insurance level was set in 1980 does not, in and of itself, mean that it is inadequate today. The implication that it does rests on an unstated—and unsupported—premise that the level was precisely right when it was set in 1980, and ignores the tremendous strides in highway safety that have been achieved in the intervening years, making crashes less frequent, and less likely to result in fatalities or serious injuries when they do occur. As explained above, those minimums are sufficient to cover all but a fraction of a percent of truck crashes today. Arbitrarily increasing those minimums to adjust them for inflation might mean that some small (though unknown) addition number of outlier crashes were certain to be covered—but to make that adjustment without knowing the benefits it would produce, or the effect it would have on the supply chain and American consumers, would be irresponsible. And it would still leave many of those fraction-of-a-percent outliers uncovered, particularly at a time when the trucking industry is seeing a trend of eight-and nine-figure verdicts.

Indeed, if the goal were truly to be 100 percent certain that every truck-involved crash will be within required insurance minimums, that minimum would have to be set north of $280 million. *See M. Singleton, Historic $280,065,000 verdict delivered in wrongful death suit Madere v. Schnitzer (Aug. 23, 2019), https://www.wrbl.com/news/local-news/280-million-verdict-delivered-in-wrongful-death-suit-madere-v-schnitzer/*. Nobody is suggesting a mandatory minimum like that, because the costs would self-evidently be astronomical in relation to the benefit. And that, in turn belies the notion that the idea of arbitrarily raising insurance minimums to track inflation is really about making certain that every crash will be fully covered. The actual effect of such an arbitrary increase—aside from an additional tiny fraction of a percent of potential additional crashes covered—will be to increase the current feeding frenzy the trial bar is enjoying at the expense of motor carries and the supply chain, as plaintiffs' lawyers further inflate their already-inflated claims to take advantage of a larger pot of insurance money.

Question 10. When the damages exceed this outdated cap, do you think it is fair for someone else, like the American taxpayer, to pick up the tab when it is your member's driver who was solely responsible?

Answer. We believe fairness for the American taxpayer, consumer and motoring public is achieved when our civil justice system results in just compensation, proportionate to actual responsibility, rooted in the facts of a particular case.

Unfortunately, in an increasing number of jurisdictions across the U.S., these basic principles are being upended by a system of "jackpot justice." As with the hypothetical posed in the above question, we see cases being litigated not on the facts of what actually happened in a particular highway accident, but rather on sensationalized theories that seek to inflame juries by putting an entire industry on trial. This pursuit of disproportionate and arbitrary nuclear verdicts by the plaintiffs' bar erodes fairness, perverts justice, and harms the American taxpayer, consumer and motoring public. The costs are both human and economic and have created an exploding crisis in commercial insurance markets across the country, with skyrocketing rates that are forcing motor carriers and insurance providers out of business, disrupting the supply chain, and increasing the cost of living.

The implied presumption in your question that arbitrarily raising current minimum insurance levels to cover an extreme minority of outlier cases—devoid of any evidence of the benefits and costs—will somehow bring fairness to the American taxpayer is unfounded. To the contrary, we believe it will exacerbate the growing costs being inflicted on society by the gross lawsuit abuse perpetrated by a trial industry motivated by profit.

The need to implement side underride guards. In your testimony you state that equipping 12 million trailers with side guard would be cost prohibitive. The figure you state is in regards to the retrofitting of existing trailers on the road. However, if the requirement was modified to just require side guards on *new* trailers—as all the truck safety organizations have signed off on—the cost would be near negligible since the side guard would be integrated into all of the changes included in a brand new trailer.

Question 11. Considering two truck manufactures have already filed patents for side guards on trailers and other companies are currently in the design phase of side guards for their trailers, would you be willing to compromise in requiring new trucks to have side guards?

Answer. This issue still comes down to real world operations and actual safety benefit. Side underride guards remain unproven and untested in realistic highway scenarios at this time, and the unintended consequences of installing this technology has yet to be addressed. Indeed, as the GAO found, more research into this technology is required before mandating new or existing trucks have side underride guards.

As suggested earlier, this technology, which remains unproven, anticipates a crash. We would be better served by investing resources in technologies that will help reduce crash risk altogether. All parties should be focused on crash avoidance that can be achieved by enhancing vehicle-to-vehicle (V2V) connectivity. In NHTSA's January 2017 V2V Notice of Proposed Rulemaking for light-duty vehicles, the Agency estimates that four safety applications enabled by the proposed rule could avoid or mitigate 89 percent of light duty vehicle crashes. NHTSA is currently also conducting research on V2V for heavy vehicles and estimates that 70 percent of crashes involving trucks occur in scenarios that could be addressed by V2V systems.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TAMMY BALDWIN TO CHRIS SPEAR

Women in Trucking. Currently, women make up only one quarter of the trucking workforce and seven percent of all truck drivers, despite accounting for almost half of the United States' workforce. Senator Moran and I have introduced the Promoting Women in Trucking Workforce Act to direct FMCSA to establish an advisory board to identify barriers to entry for women in the trucking industry and submit a report to Congress on the board's findings and recommendations.

Question 1. Please describe the importance of recruiting and retaining women in the trucking industry.

Answer. First and foremost, thank you for joining Senator Moran in introducing the Promoting Women in Trucking Workforce Act. ATA was glad to work closely with your staffs in crafting this important legislation, and endorsing it upon introduction. Our hope and expectation is that the Promoting Women in Trucking Workforce Act will be passed and signed into law this Congress.

As you know, recruiting and retaining women in the trucking workforce is tremendously important. Regrettably, while women currently make up 47 percent of the U.S. workforce, they make up less than 7 percent of truck drivers, and only a quarter of all transportation and warehousing jobs in trucking. While the trucking industry has taken great strides over the last decade in increasing the female workforce, growing the number of women truck drivers by 68 percent since 2010, women remain underrepresented in the industry.

Therefore, it is imperative that we devote greater attention to the recruitment, training, mentorship, and outreach to women in the trucking industry. This in turn will lead to increased female representation in trucking and greater industry diversity, while providing another tool to help the trucking industry confront and stem its growing driver shortage.

Question 2. What more can be done to remove barriers that women face when pursuing careers in trucking?

Answer. An important step that can be taken legislatively would be the enactment of your bill, the Promoting Women in Trucking Workforce Act. Through the establishment of a Women of Trucking Advisory Board under the leadership of the

FMCSA, your legislation will draw greater focus on removing those barriers and encouraging greater female participation in the trucking workforce.

Outside of the legislative arena, ATA will continue to promote the female trucking workforce through our image programs: America's Road Team and Trucking Moves America Forward. Using these programs we amplify the many women professional drivers through social media, television interviews and career fairs. We also work closely with our member companies to promote their women drivers, and many of those member companies have accepted the challenge to recruit more women into the industry. For example, ATA member Prime, Inc. has the Highway Diamonds program, whose mission is to employ and support female drivers at Prime while recognizing and reducing challenges women may face in the transportation industry.

Question 3. What more can be done to improve retention of women's careers in trucking?

Answer. We believe the greater challenge is in encouraging women to enter the trucking workforce, rather than improving retention. Once a part of the industry, female trucking professionals will have the opportunity to secure significant and competitive wage, benefits, paid leave, retirement and insurance packages with a company. Furthermore, they will have the chance to embrace a rewarding and fulfilling career in an industry that literally moves the economy and delivers needed goods to every city, town and neighborhood throughout this great country.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. GARY PETERS TO CHRIS SPEAR

Promoting Careers in the Trucking Industry. I recently introduced *the Promoting Service in Transportation Act,* along with Senators Sullivan, Rosen, Gardner, and Cortez Masto. This legislation would promote careers in transportation including trucking, and—to a point made by Mr. Pugh in his testimony—would encourage a broader pool of Americans to consider transportation careers. The bill has broad support from industry and labor groups—including some of the organizations represented by the witnesses today.

Question. Can you share your thoughts on the value in promoting careers in transportation such as trucking?

Answer. Your introduction of S.3303, the Promoting Service in Transportation Act, is a prudent and timely action that will raise national awareness of career opportunities in the transportation sector—including truck driver jobs that pay an average salary of $45,570, in addition to thousands of dollars in signing bonuses and excellent benefits, such as paid leave, health insurance, and 401(k).

Despite these incentives, the truck driver shortage reached a new record high of 60,800, at the end of 2018. To meet the Nation's freight demand, the industry will need to hire 1.1 million new truck drivers over the next decade—an average of 110,000 per year—to replace retiring drivers and keep up with growth in the economy. Given that stark reality, coupled with the fact that our industry is responsible for delivering goods to almost 80 percent of American communities exclusively, significant steps must be taken to stem the Nation's growing shortage of qualified drivers.

The Promoting Service in Transportation Act is an important step toward increasing recruitment into the trucking industry, and will empower individuals to seek rewarding and long-lasting careers as truck drivers, maintenance technicians, and related occupations. ATA was thrilled to support your efforts to move the bill through the Commerce Committee mark-up process earlier this month, and looks forward to working closely with you to get this much-needed legislation signed into law.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DEB FISCHER TO LEWIE PUGH

Question 1. The FAST Act required FMCSA to remove the Safety Measurement System scores from public view due to flaws in the system. FMCSA is currently in reviewing other options for gathering and interpreting enforcement data as part of its SMS program. What impact would SMS scores have on your members if that information is available publically before FMCSA is able to complete its review and update the system?

Answer. Congress must continue holding FMCSA accountable in improving SMS methodology. One of the major shortcomings of SMS is that it focuses on enforcement of regulations, instead of factors actually related to safe driving. The Government Accountability Office found that SMS scores were significantly flawed, and

these scores do not accurately reflect a carrier's safety or crash risk. The National Academy of Sciences (NAS) review, mandated by the FAST Act, exposed and questioned the lack of quality data, the utilization of invalid subject matter experts, the weighted score methodology, and the lack of transparency that is associated with CSA and SMS. In their recommendations, NAS found, "the current exposure data are missing with high frequency, and data that are collected are likely of unsatisfactory quality." This can be particularly harmful for small carriers with one or two trucks. Because carriers with fewer trucks are subject to fewer inspections, the SMS scores for our members are more likely to be inaccurate and have a more deleterious effect on their overall ratings than larger carriers with thousands of inspections.

If SMS data is published before FMCSA has an opportunity to fix these demonstrated shortcomings, our members would be publicly identified with inaccurate safety scores and classified as less safe than they actually are. This would result in small motor carriers being targeted for safety interventions where none may be necessary. It would also likely result in increased insurance rates and a loss of business among our members, as insurers and potential customers would mistakenly view them as a risk. Additionally, publicly posting flawed SMS data could subject small carriers to frivolous lawsuits and unsustainable litigation fees. We are also concerned this unreliable information could be used as the basis for developing new regulations or legislation that would fail to address real safety problems within our industry.

Background: Drivers can be detained at shipping and receiving facilities beyond an agreed on amount of time, known as detention time. In 2018, the DOT Inspector General found that a 15-minute increase in dwell time at a facility increases a driver's expected crash rate, on average, by 6.2 percent. Additionally, less time driving means less pay for the driver.

Question 2. What efforts are currently being taken by trucking stakeholders to work with shippers to lower detention time?

Answer. We encourage our members to negotiate detention time pay into their contracts so shippers and receivers have a financial incentive to promote efficiency during loading and unloading. Unfortunately, because many of our members are small businesses, they lack the negotiating leverage of larger competitors, making it difficult to guarantee compensation during detention. This has limited their ability to affect change across the industry. For too long, Congress has avoided addressing the issue by counting on market conditions to solve the problem. Unfortunately, that has resulted in worsening conditions for truckers. Congress must now work with all stakeholders to develop policies that will not only improve efficiency within the supply chain, but ensure drivers are paid for all the time they spend completing a haul.

Question 3. Are there steps that Congress could take to address this issue without heavy-handed mandates?

Answer. One step Congress can take to improve detention time is repealing the Fair Labor Standards Act (FLSA) overtime exemption for motor carriers. Federal law appropriately requires drivers to be on-duty while they're being detained, yet Federal law also precludes drivers from being compensated for working extra hours. If shippers and receivers were responsible for paying drivers for all the hours they work during a freight movement, whether directly or through a motor carrier, it would provide financial incentive to improve their operations and minimize detention.

The Federal government must also collect more data on detention time and work to make the information publicly available. OOIDA supports providing public access to expected loading, unloading, and delay times at individual facilities. A national database that drivers and motor carriers could easily access would give them a better understanding of how specific facilities and industries perform, providing drivers an opportunity to avoid problematic locations. This would further incentivize shippers and receivers to improve efficiency.

Additional data could also help Congress develop detention time standards that reflect the diverse nature of the trucking industry.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO LEWIE PUGH

Freight Movement. Trucks moved nearly 12 billion tons of cargo in 2018—over 60 percent of our Nation's freight. That number is expected to increase to nearly 13.8 billion tons by 2030.

But our current infrastructure is in disrepair—the American Society of Engineers estimate that the lack of investment in our surface transportation system costs households and businesses nearly $147 billion a year.

Truckers are spending valuable time they could be otherwise moving goods sitting in miles of traffic due to congestion at our Nation's ports and blocked grade crossings.

These infrastructure reforms must be a high priority if we are going to keep our trucks moving and cut down on freight congestion.

Question 1. Do you agree that we should lift the multimodal cap in the INFRA program in order to address congestion at multimodal connectors? Why or why not?

Answer. No. Truckers experience delays as a result of numerous factors outside their control, including the rigidity of scheduling by shippers and receivers, excessive detention time during loading and unloading, traffic congestion, and inclement weather. Unfortunately, truckers often experience the greatest burdens associated with rampant inefficiencies within the supply chain and unexpected delays in moving freight.

The state of our Nation's infrastructure certainly plays a significant role in these delays as well, which is why OOIDA has long supported efforts to increase Highway Trust Fund (HTF) revenues in a fair and equitable way. The most immediate and practical way to do this in the next highway bill is through reasonable increases to both the gasoline and diesel fuel taxes.

At the same time, our members have concerns about the diversion of funding from the HTF to non-highway projects, and see this as their tax dollars being used to directly benefit other modes, including those with which they compete. OOIDA believes revenues derived from highway users should be exclusively devoted to projects that improve movement on our Nation's roads.

Truck Parking. I have heard from many of my constituents in law enforcement and the trucking community that truck parking is a huge challenge. In my home state of Washington, 46 percent of truck drivers say they drive fatigued as a result of insufficient parking. When truck stops are full, or when there is inadequate parking available, trucks often park on highway ramps or shoulders, creating a safety risk for all road users.

Parking in unsafe areas also puts truck drivers at risk. A Federal survey found that 90 percent of drivers have struggled to find safe parking at night, and according to a Washington Department of Transportation study, 59 percent of truckers reported they are *frequently* concerned with safety—day or night.

This is also an issue of freight mobility. With trucks lined up for miles waiting to get into our ports and across grade crossings, that is time that could be otherwise spent moving goods across the country. With freight movement expected to rise 40 percent in the next decade—up to $26 trillion—we have to address this issue if we're going to keep our economy moving in the right direction.

Question 2. How should we be addressing the issue of truck parking in a transportation reauthorization bill?

Answer. Congress should set aside a portion of HTF dollars for the exclusive purpose of expanding truck parking capacity as part of surface transportation reauthorization legislation. Under existing Federal highway programs, states may use funding to construct truck parking facilities and safety rest areas. Unfortunately, within these programs, truck parking projects are left to compete with other state priorities. As a result, very little Federal funding has been devoted to expanding parking capacity. OOIDA believes the lack of dedicated Federal funding has contributed to the current truck parking crisis.

We're thrilled that bipartisan legislation has been introduced in the U.S. House of Representatives—H.R. 6104, the Truck Parking Safety Improvement Act—that would set-aside funding from existing highway programs for projects that expand truck parking capacity. This solution would help states better prioritize truck parking and improve safety for all highway users. Through our outreach to elected officials in both chambers, we believe there is strong bipartisan support for this approach, and anticipate the introduction of a Senate companion to H.R. 6104 in the near future.

The bill also has broad support from stakeholders in the trucking industry, including the American Trucking Associations, Truckload Carriers Association, National Association of Small Trucking Companies, and the Transportation Intermediaries Association, as well as the National Motorists Association, which represents the motoring public.

Maintaining the status quo will only perpetuate today's crisis, if not worsen conditions for our members and other highway users. We look forward to working with

members of this Subcommittee to develop and advance meaningful solutions like the Truck Parking Safety Improvement Act.

Driver Shortage. The American Trucking Associations states that there is a massive driver shortage in the United States. Their solution to this problem is the DRIVE Act which will allow younger and less experienced drivers on the road.

Question 3. Do you agree with this solution?

Answer. No. To agree with a proposed solution, we must first agree there is a problem, but the "driver shortage" is categorically a myth. Extremely high rates of driver turnover among some large motor carriers is the real problem within our industry. In a March 2019 examination of this issue, the Bureau of Labor Statistics found that while there was "one segment of the trucking labor market (long-distance TL motor freight) that has experienced high and persistent turnover rates for decades, the overall picture is consistent with a market in which labor supply responds to increasing labor demand over time, and a deeper look does not find evidence of a secular shortage." Furthermore, FMCSA issues over 400,000 new CDLs annually. Clearly, there is no shortage of new drivers entering the industry, but rather an unrestrained level of churn. The DRIVE-Safe Act will do nothing to decrease turnover and could even make matters worse by failing to address many of the factors that contribute to it.

If large motor carriers truly want to solve the labor issues they've created within our industry, promoting the DRIVE-Safe Act is certainly not the solution. Instead, they should start by offering drivers compensation that is competitive with motor carriers who don't encounter high levels of churn, as well as other industries hoping to attract the same workers. Large fleets should also begin to improve working conditions as a means to maintain drivers.

OOIDA firmly opposes the DRIVE-Safe Act, not only because it's a solution in search of a problem, but also because it will undoubtedly decrease highway safety. The bill doubles down on the failures of the current system by bringing younger and less experienced drivers into our industry. Younger drivers are proven to be less safe than their more experienced counterparts.

Question 4. Have your drivers seen an increase in wages that one would expect to see in a labor shortage?

Answer. No. Truckers have not seen a meaningful increase in wages in decades. To the contrary, professional drivers' compensation has failed to keep pace with inflation since 1980, effectively slashing truckers' wages by nearly a third. The average truck driver earned $38,618 in 1980, which would equate to approximately $124,000 in 2018. The lack of competitive wages at many large fleets has greatly contributed to their high turnover rates, which in some cases are as high as 90 to 100 percent annually.

Question 5. As a former truck driver, what do you think Congress can do to improve working conditions and make trucking more enticing for new drivers?

Answer. There are numerous steps Congress must take to make careers in trucking more attractive and sustainable for new drivers. One of the major challenges that drivers face on the road is a lack of available truck parking. When they can't find a safe parking space, drivers are often forced to drive past the point where they begin feeling fatigued. Additionally, truckers are commonly placed in no-win situations where they must decide to park in an unsafe or illegal location—such as a vacant lot—or violate Federal hours-of-service regulations by continuing to search for a safer and legal alternative. Providing more parking for truckers would help alleviate one of the major frustrations drivers experience on the job.

Another step Congress should take is eliminating the Fair Labor Standards Act (FLSA) overtime exemption for truck drivers. Federal law appropriately requires drivers to be on-duty while they're being detained, yet also precludes drivers from being compensated for the extra time they spend completing a freight movement. This exemption was implemented in the 1930s to prevent drivers from working too many hours, but today, it simply prevents them from receiving adequate compensation for the work they do.

Congress must also take steps to address excessive detention time, which has been linked to increased crash rates. Many drivers spend countless unpaid on-duty hours being detained due to the inefficiency of others within the supply chain. Creating a financial incentive for shippers and receivers to improve their efficiency in loading and unloading trucks would likely help reduce excessive detention and ensure drivers are being appropriately paid. Another way to address this problem is to collect more data on detention at specific shipping and receiving facilities and work to make this information public. OOIDA supports publicizing expected loading, unloading, and delay times at individual facilities. A national database that drivers

and motor carriers could easily access would incentivize shippers and receivers to improve their operations.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. RICHARD BLUMENTHAL TO LEWIE PUGH

The lack of information about national road restrictions on smartphone-based navigation applications. In recent years, many drivers have shifted from using standalone global position system (GPS) units to smartphone-based navigation applications like Waze, Google Maps, or Apple Maps. These services offer valuable directions for passenger traffic but do not currently make information about national road restrictions like those on height, weight, or hazardous materials available to users.

As a result, commercial vehicle operators that rely on these applications are often directed to enter restricted roadways, which can cause accidents that adversely impact traffic patterns, inflict damage to roadways and overpasses, and even result in fatalities.

As more commercial vehicle drivers use these applications, we can expect accidents and damage to roadways to increase, unless a solution is found.

In Connecticut, the Merritt Parkway prohibits travel by commercial vehicles because of low overpass clearances along the road. Unfortunately, commercial vehicles frequently travel on the parkways and strike their bridges. In fact, oversized vehicles struck the King Street Bridge in Greenwich, Connecticut nearly 150 times in the last decade. In 2017, a man died after rear-ending a truck that stopped short of the Stanwich Road Bridge in Greenwich, Connecticut. Similar crashes are common in other areas of the country as well.

I have written to the companies that manage these applications—asking them to help solve this issue by providing clear and timely notification to commercial vehicle drivers about restrictions in their route. So far, their response is inadequate and they do not seem to appreciate the gravity of this issue.

Question 1. As I consider a legislative response to address this issue, I am interested to hear from you about ways we can effectively deal with the presence of tucks on roads with posted restrictions.

Answer. Better training of drivers would certainly help improve this problem (and many others). Many new drivers are overly-reliant on technology, inadvertently placing them in unsafe scenarios more experienced divers would know to avoid. Improved signage would also help reduce risks, but not if drivers are increasingly dependent on unreliable technology to navigate the safest and most efficient route. Navigation applications have the potential to improve safety on our highways and within our industry, but we agree there are shortcomings with many platforms that must be addressed. OOIDA is eager to work with you and other members of the Subcommittee to ensure greater clarity and uniformity in navigation technology.

Question 2. I know that we will need companies like Apple and Google to take the issue seriously, but is there more that we can do to address these concerns outside of direct engagement from the tech companies, such as increased funding to states to enhance signage and preventative warnings?

Answer. Again, improved driver training must be a part of the solution. However, if Congress is also considering providing additional funding to state and local governments to improve signage, they must also require these entities to promptly update existing signs when highways are rehabilitated. Clearances can change when new pavements are laid, but state and local governments often fail to keep signs accurate. Furthermore, signs must be placed in locations that give truckers the opportunity turn around and choose a more appropriate route. These factors also cause unnecessary hazards for our members and the motoring public.

The shortage of safe overnight parking spots for truck drivers to rest. We all know how important it is for truck drivers to get a good night's sleep after a long day on the road. Driver fatigue remains a leading factor in large truck crashes, which killed nearly 5,000 Americans last year alone. Well-rested drivers are more alert and focused and are better able to react to changes on the road ahead of them.

In order to get a good night's sleep, truck drivers need to be able to conveniently locate a safe, legal place to park overnight. But this has become an increasingly difficult task, particularly in states like Connecticut that are located along highly trafficked interstate corridors.

The American Transportation Research Institute's 2019 annual report identified the lack of truck parking as a significant issue facing the trucking industry. The report showed commercial truck drivers ranked the lack of truck parking as one of

their greatest concern, because of the daily challenges it creates and the risks it poses on their personal safety.

With few spaces available, drivers are often forced to park in overcrowded lots or park illegally along shoulders, off ramps, or in empty parking lots—spaces that are at best unconducive to a good night's sleep and at worst pose a threat to the driver's safety. I've also heard from many owner-operators that while conditions have been worsening for years, the parking shortage has now reached a crisis stage.

Question 3. This is clearly a nationwide issue—in a 2015 survey conducted by the Federal Highway Administration, thirty-seven state DOT's reported that they have a problem with truck parking in their state. How has the lack of available safe, legal truck parking places impacted your members?

Answer. A lack of truck parking has put our members in unsafe situations and more generally, it creates operational challenges. In a survey of our membership, nearly half of respondents said that they "often" or "on a regular basis" drove beyond feeling safe and alert because of a lack of parking. This is a predicament no driver wants to encounter, but entirely too many are on a daily basis. Furthermore, our members are routinely put in no-win situations where they must decide to park in an unsafe or illegal location—such as a vacant lot—or violate Federal hours-of-service regulations by continuing to search for a safer and legal alternative. This creates unneeded stress and complications for them as they try to complete their work in a safe and timely manner.

Question 4. As Congress considers the best way to invest in infrastructure improvements, what do you feel we can do legislatively to help address this serious highway safety issue?

Answer. Congress should set aside a portion of HTF dollars for the exclusive purpose of expanding truck parking capacity as part of surface transportation reauthorization legislation. Under existing Federal highway programs, states may use funding to construct truck parking facilities and safety rest areas. Unfortunately, within these programs, truck parking projects are left to compete with other state priorities. As a result, very little Federal funding has been devoted to expanding parking capacity. OOIDA believes the lack of dedicated Federal funding has contributed to the current truck parking crisis.

We're thrilled that bipartisan legislation has been introduced in the U.S. House of Representatives—H.R. 6104, the Truck Parking Safety Improvement Act—that would set-aside funding from existing highway programs for projects that expand truck parking capacity. This solution would help states better prioritize truck parking and improve safety for all highway users. Through our outreach to elected officials in both chambers, we believe there is strong bipartisan support for this approach, and anticipate the introduction of a Senate companion to H.R. 6104 in the near future.

The bill also has broad support from stakeholders in the trucking industry, including the American Trucking Associations, Truckload Carriers Association, National Association of Small Trucking Companies, and the Transportation Intermediaries Association, as well as the National Motorists Association, which represents the motoring public.

Maintaining the status quo will only perpetuate today's crisis, if not worsen conditions for our members and other highway users. We look forward to working with members of this Subcommittee to develop and advance meaningful solutions like the Truck Parking Safety Improvement Act.

Response to Written Questions Submitted by Hon. Tammy Baldwin to Lewie Pugh

Women in Trucking. Currently, women make up only one quarter of the trucking workforce and seven percent of all truck drivers, despite accounting for almost half of the United States' workforce. Senator Moran and I have introduced the Promoting Women in Trucking Workforce Act to direct FMCSA to establish an advisory board to identify barriers to entry for women in the trucking industry and submit a report to Congress on the board's findings and recommendations.

Question 1. Please describe the importance of recruiting and retaining women in the trucking industry.

Answer. A career in trucking can be rewarding for any driver who works hard and operates safely. The most successful drivers are often able to launch their own small businesses as owner-operators. But the odds of doing either in today's industry are extraordinarily low. Unfortunately, the many factors that prevent Americans from becoming a driver or remaining in our industry long enough to truly succeed

are often compounded for women. Compensation is low and working conditions are difficult—drivers are forced to comply with a dizzying list of regulations, they often have nowhere safe to park when they are fatigued or out of hours, they're needlessly detained for excessive amounts of time due to rampant inefficiencies among shippers and receivers, and other motorists routinely treat them with disdain. Women deserve every opportunity to launch productive and enriching careers in trucking, but recruitment and retention of women drivers will never improve until Congress helps address many of these foundational problems that negatively impact all drivers.

That said, FMCSA has acknowledged women drivers often face a pattern of harassment and assault-related crimes that many of their male counterparts will never experience. This undoubtedly hampers recruitment and limits retention. We support the agency's plan to study the "prevalence, seriousness and nature of the problem of harassment and assaults against minority and female truckers". Completion of this study will help Federal regulators and those within our industry understand many of the problems women uniquely face and work together on solutions to prevent them.

Question 2. What more can be done to remove barriers that women face when pursuing careers in trucking?

Answer. Taking steps to thoroughly understand the challenges women drivers face in today's industry will be extremely helpful. The legislation you have introduced with Sen. Moran, S. 2858, is an important first step toward identifying these challenges and determining the steps that must be taken to improve the recruitment, retention and advancement of women drivers. OOIDA members have already expressed interest in participating in the board established by your bill. We hope we can work with you to ensure our members—those who have overcome many of the barriers that prevent other women from achieving similar success—are active participants on this important panel. Their experiences will not only give policymakers a better understanding of the current hurdles women face, but also a clear idea of what needs to be done to eliminate them.

Question 3. What more can be done to improve retention of women's careers in trucking?

Answer. While FMCSA is taking appropriate steps to address harassment and assaults against women in our industry, many of the measures that will keep female truckers behind the wheel are the same solutions that will improve the retention of all drivers: Better pay, better treatment, and better working conditions. One additional issue that may be particularly important for women truckers is access to safe truck parking. All truckers need a safe place to rest overnight, but for women, who face more serious security risks while on the road, it is especially important to have a safe place to park.

Response to Written Questions Submitted by Hon. Gary Peters to Lewie Pugh

Promoting Careers in the Trucking Industry. I recently introduced *the Promoting Service in Transportation Act,* along with Senators Sullivan, Rosen, Gardner, and Cortez Masto. This legislation would promote careers in transportation including trucking, and—to a point made by Mr. Pugh in his testimony—would encourage a broader pool of Americans to consider transportation careers. The bill has broad support from industry and labor groups—including some of the organizations represented by the witnesses today.

Question 1. Can you share your thoughts on the value in promoting careers in transportation such as trucking?

Answer. Beginning a career as a professional driver provides Americans an opportunity to play a critical role in promoting the safety and prosperity of our Nation. As evidenced by the ongoing COVID–19 emergency, communities across the country are relying on truckers to deliver the medical supplies, food, and other necessities to get them through this extraordinary crisis. We hope the realization that truckers are an integral part of every American's daily life and help ensure their wellbeing will generate greater interest in addressing the problems that currently make trucking a very difficult profession. We support your efforts to promote carriers in transportation, including trucking, through S. 3303. But the greatest way to support careers in trucking is to advance desperately-needed policies that improve compensation and working conditions. We look forward to working with you to advance S. 3303 and other important bills that support America's truckers.

Truck Parking. Thank you for your testimony regarding truck parking.

Question 2. Can you expound upon the challenge of truck-parking and the potential solutions you think we can help focus on at the Federal level?

Answer. A lack of truck parking has put our members in unsafe situations and more generally, it creates operational challenges. In a survey of our membership, nearly half of respondents said that they "often" or "on a regular basis" drove beyond feeling safe and alert because of a lack of parking. This is a predicament no driver wants to encounter, but entirely too many are on a daily basis. Furthermore, our members are routinely put in no-win situations where they must decide to park in an unsafe or illegal location—such as a vacant lot—or violate Federal hours-of-service regulations by continuing to search for a safer and legal alternative. This creates unneeded stress and complications for them as they try to complete their work in a safe and timely manner.

Congress should set aside a portion of HTF dollars for the exclusive purpose of expanding truck parking capacity as part of surface transportation reauthorization legislation. Under existing Federal highway programs, states may use funding to construct truck parking facilities and safety rest areas. Unfortunately, within these programs, truck parking projects are left to compete with other state priorities. As a result, very little Federal funding has been devoted to expanding parking capacity. OOIDA believes the lack of dedicated Federal funding has contributed to the current truck parking crisis.

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The bill also has broad support from stakeholders in the trucking industry, including the American Trucking Associations, Truckload Carriers Association, National Association of Small Trucking Companies, and the Transportation Intermediaries Association, as well as the National Motorists Association, which represents the motoring public.

Maintaining the status quo will only perpetuate today's crisis, if not worsen conditions for our members and other highway users. We look forward to working with members of this Subcommittee to develop and advance meaningful solutions like the Truck Parking Safety Improvement Act.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO JAKE PARNELL

Freight Movement. Trucks moved nearly 12 billion tons of cargo in 2018—over 60 percent of our Nation's freight. That number is expected to increase to nearly 13.8 billion tons by 2030. But our current infrastructure is in disrepair—the American Society of Engineers estimate that the lack of investment in our surface transportation system costs households and businesses nearly $147 billion a year.

Truckers are spending valuable time they could be otherwise moving goods sitting in miles of traffic due to congestion at our Nation's ports and blocked grade crossings. These infrastructure reforms must be a high priority if we are going to keep our trucks moving and cut down on freight congestion.

Question 1. Do you agree that we should lift the multimodal cap in the INFRA program in order to address congestion at multimodal connectors? Why or why not?

Answer. Respectfully, the witness does not have knowledge or expertise necessary to answer this question and defers to others providing testimony who may have such background.

Agricultural Haulers. In your testimony, you indicate the need for livestock haulers to have certain exemptions from Hours of Service regulations, citing data that you state demonstrates livestock haulers are safer than other drivers.

Question 3. Do you have data regarding the safety record of livestock haulers driving for more than 12 hours in a day?

Answer. At this time, this data in the United States is unfortunately limited to the parameters outlined by the existing Hours of Service, which limit drivetime to 11 hours. However, industry would support a pilot program to demonstrate livestock hauler safety when driving more than 12 hours per day.

Question 4. How frequently do livestock haulers find themselves having to unsafely unload their livestock on the side of the road, and how many livestock are

injured or killed every year because drivers did not have a safe place to unload their livestock?

Answer. Livestock haulers have an important responsibility to ensure animal welfare and part of their pre-trip planning is to try to identify places where they can safely unload if need be. Ultimately, it is highly preferred for the drivers to simply reach their destination, rather than having to unload partway along their journey. Nation-wide data on how often livestock haulers are in the situation of having to unload in an unsafe location and how many animals are injured or killed every year because of that situation is not reported.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. RICHARD BLUMENTHAL TO JAKE PARNELL

The lack of information about national road restrictions on smartphone-based navigation applications. In recent years, many drivers have shifted from using standalone global position system (GPS) units to smartphone-based navigation applications like Waze, Google Maps, or Apple Maps. These services offer valuable directions for passenger traffic but do not currently make information about national road restrictions like those on height, weight, or hazardous materials available to users.

As a result, commercial vehicle operators that rely on these applications are often directed to enter restricted roadways, which can cause accidents that adversely impact traffic patterns, inflict damage to roadways and overpasses, and even result in fatalities.

As more commercial vehicle drivers use these applications, we can expect accidents and damage to roadways to increase, unless a solution is found.

In Connecticut, the Merritt Parkway prohibits travel by commercial vehicles because of low overpass clearances along the road. Unfortunately, commercial vehicles frequently travel on the parkways and strike their bridges. In fact, oversized vehicles struck the King Street Bridge in Greenwich, Connecticut nearly 150 times in the last decade. In 2017, a man died after rear-ending a truck that stopped short of the Stanwich Road Bridge in Greenwich, Connecticut. Similar crashes are common in other areas of the country as well.

I have written to the companies that manage these applications—asking them to help solve this issue by providing clear and timely notification to commercial vehicle drivers about restrictions in their route. So far, their response is inadequate and they do not seem to appreciate the gravity of this issue.

Question 1. As I consider a legislative response to address this issue, I am interested to hear from you about ways we can effectively deal with the presence of tucks on roads with posted restrictions.

Answer. Respectfully, the witness does not have knowledge or expertise necessary to answer this question and defers to others providing testimony who may have such background.

Question 2. I know that we will need companies like Apple and Google to take the issue seriously, but is there more that we can do to address these concerns outside of direct engagement from the tech companies, such as increased funding to states to enhance signage and preventative warnings?

Answer. Respectfully, the witness does not have knowledge or expertise necessary to answer this question and defers to others providing testimony who may have such background.

The benefits of side underride guards. Recently, Texas A&M was contracted by NHTSA to research the best design for a side guard. In April 2018, they published their results and recommended an aluminum brace system would be the most effective at stopping a car at many different angles. The total weight (both sides) of this aluminum side brace system was 252 pounds.

Question 3. In addition to saving lives and thereby reducing insurance costs, would a new rule requiring these braces also potentially create jobs by American aluminum producers and manufacturers across America?

Answer. Respectfully, the witness does not have knowledge or expertise necessary to answer this question and defers to others providing testimony who may have such background.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. GARY PETERS TO JAKE PARNELL

Promoting Careers in the Trucking Industry. I recently introduced *the Promoting Service in Transportation Act,* along with Senators Sullivan, Rosen, Gardner, and Cortez Masto. This legislation would promote careers in transportation including trucking, and—to a point made by Mr. Pugh in his testimony—would encourage a broader pool of Americans to consider transportation careers. The bill has broad support from industry and labor groups—including some of the organizations represented by the witnesses today.

Question 1. Can you share your thoughts on the value in promoting careers in transportation such as trucking?

Answer. The witness testifies on behalf of an organization (the Livestock Marketing Association) that does not have developed policy on this legislation.

Livestock Haulers. You noted in your testimony some of the difficult challenges that livestock haulers face—from the welfare and security of the animals to the challenges of not having a place to unload the animals while a driver rests. You also noted how few accidents occur with livestock transporters.

Question 2. Do you or others have information about why livestock haulers appear to have a better safety record?

Answer. A livestock hauler is forced by the nature of their live cargo to drive slower and more cautiously than a conventional cargo hauler because the live animals move throughout the trailer and can be severely injured if the driver turns too suddenly or drives too fast. Safety is so important to the livestock industry that many livestock haulers have participated in additional specialized training, including the beef industry's Master Cattle Transporter (MCT) program, which provide instruction on proper animal handling, transportation methods, and focus on preventing driver fatigue.

Due to all of this, livestock haulers boast a fantastic safety record. For instance, the Large Truck Crash Causation Study, conducted by the FMCSA and the National Highway Traffic Safety Institute, showed that of 1,123 accidents involving trucks hauling cargo, a mere five involved livestock transporters. Similarly, Trucks Involved in Fatal Accidents Factbook 2008, a report conducted by the Transportation Research Institute, shows that of 4,352 trucks involved in fatal accidents, livestock haulers accounted for just 0.6 percent.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DEB FISCHER TO SGT. JOHN SAMIS

Question 1. A concern I hear from truck drivers, especially long-haul drivers, is that law enforcement across different states either focus on certain safety requirements more strictly than others, or that some states are generally more strict than others. Can there be differences in enforcement between states, and if so, is there a reason for that?

Answer. While the jurisdictions strive for uniformity in how the North American Standard Inspection Program is conducted across the country, that does not mean that there will be uniformity in enforcement rates from state to state. There is and always will be differences from jurisdiction to jurisdiction, as states use the best available data to design enforcement programs that are tailored to meet the needs of their specific state and region. Each state and area of the country face unique challenges to highway safety, influenced by differences in prevalent sectors of industry, geography and other factors. With limited resources, states design enforcement programs to address their unique safety challenges and prioritize enforcement of the Federal Motor Carrier Safety Regulations that have demonstrated the largest safety concerns in their area, all with the goal of reducing crashes and fatalities. Focused, tailored enforcement demonstrates an incredible responsiveness and flexibility on behalf of the various enforcement agencies and the ability of these jurisdictions to adapt to the areas of prime safety concern.

There are a number of reasons for differences in enforcement priorities from state to state. Differences may be tied to trends in driver behavior that have been identified and enforcement is trying to combat. For example, a jurisdiction may focus on speeding because they are seeing that many drivers (car and truck) are operating in excess of the posted speed limits. States with high traffic corridors generally focus more on driving violations and driver inspections as opposed to vehicle inspections (*i.e.,* parts of I–95 and I–81).

Some states are "probable cause" states, which means inspection reports will be associated with a primary traffic offense, such as speeding. These states, by their

nature, may have fewer inspections with no violations listed because they must have a reason to pull the vehicle over in the first place. There are also differences due to geographic variances. Mountainous regions will tend to have more brake violations, heavy rain or snow can impact trends.

Diversity in industry results in variance as well. For example, the logging industry in the northeast, versus the agricultural industry in the Midwest. The lengths of hauls are different, vehicle types and configurations are different, traffic patterns and makeup, weather, types of roadways and terrain, etc.

State programs not only include enforcement and inspection activities but also tactics like education, outreach and technology deployments to address the safety challenges. Continued flexibility is needed to enable states to address diverse safety challenges in order to improve highway safety.

Detention time. Drivers can be detained at shipping and receiving facilities beyond an agreed-on amount of time, known as detention time. In 2018, the DOT Inspector General found that a 15-minute increase in dwell time at a facility increases a driver's expected crash rate, on average, by 6.2 percent. Additionally, less time driving means less pay for the driver.

Background: Drivers can be detained at shipping and receiving facilities beyond an agreed on amount of time, known as detention time. In 2018, the DOT Inspector General found that a 15-minute increase in dwell time at a facility increases a driver's expected crash rate, on average, by 6.2 percent. Additionally, less time driving means less pay for the driver.

Question 2. What efforts are currently being taken by trucking stakeholders to work with shippers to lower detention time?

Answer. Drivers continue to face challenges with extended wait times at pickup and delivery locations, facing delays that impact their hours of service and productivity. The issue is a well-documented challenge, with clear impacts on motor carrier safety, particularly with regards to fatigue management. While CVSA is supportive of finding a solution to this problem, the state commercial motor vehicle enforcement programs and CVSA do not have the necessary expertise to propose specific solutions. The motor carrier and shipper/receiver industry are better positioned to offer suggestions.

Question 3. Are there steps that Congress could take to address this issue without heavy-handed mandates?

Answer. While CVSA is supportive of finding a solution to this problem, the state commercial motor vehicle enforcement programs and CVSA do not have the necessary expertise to propose specific solutions. The motor carrier and shipper/receiver industry are better positioned to offer suggestions.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. MARIA CANTWELL TO SGT. JOHN SAMIS

Truck Parking. I have heard from many of my constituents in law enforcement and the trucking community, and from you here today, that truck parking is a huge challenge. In my home state of Washington, 46 percent of truck drivers say they drive fatigued as a result of insufficient parking. When truck stops are full, or when there is inadequate parking available, trucks often park on highway ramps or shoulders, creating a safety risk for all road users.

Parking in unsafe areas also puts truck drivers at risk. A Federal survey found that 90 percent of drivers have struggled to find safe parking at night, and according to a Washington Department of Transportation study, 59 percent of truckers reported they are *frequently* concerned with safety—day or night.

This is also an issue of freight mobility. With trucks lined up for miles waiting to get into our ports and across grade crossings, that is time that could be otherwise spent moving goods across the country. With freight movement expected to rise 40 percent in the next decade—up to $26 trillion—we have to address this issue if we're going to keep our economy moving in the right direction.

Question. How should we be addressing the issue of truck parking in a transportation reauthorization bill?

Answer. CVSA supports investments in technology and infrastructure to address the Nation's truck parking shortage. The availability of adequate parking facilities, strategically placed throughout the U.S., is a critical commercial motor vehicle safety issue. Parking facilities need to be available to drivers who are trying to comply with hours-of-service requirements, as well as those who are fatigued. Without adequate parking facilities, drivers are faced with either driving over hours or parking in an unsafe location. It should be noted that there are a number of technological

solutions being discussed to help better manage the existing available parking. While all options should be explored and every little bit will help, it's important to keep in mind that we need more parking spaces. Technology alone will not solve this problem. While CVSA is supportive of finding a solution to this problem, the state commercial motor vehicle enforcement programs and CVSA do not have the necessary expertise to propose specific solutions. State agencies that manage road design and infrastructure are better positioned to offer suggestions.

RESPONSE TO WRITTENS QUESTION SUBMITTED BY HON. TAMMY DUCKWORTH TO SGT. JOHN SAMIS

Universal electronic vehicle identifier. In your testimony, you mention that law enforcement needs tools like the universal electronic vehicle identifier to improve safety.

Question 1. How would the universal electronic vehicle identifier help law enforcement improve safety?

Answer. The purpose of commercial motor vehicle enforcement is to ensure compliance with the Federal safety regulations. Through enforcement activities, commercial motor vehicle inspectors identify drivers and vehicles who are not operating safely and require them to comply with the safety regulations or discontinue operation. The Federal Motor Vehicle Safety Standards (FMVSS), which dictate manufacturing standards, and the corresponding Federal Motor Carrier Safety Regulations (FMCSR), which outline the in-service maintenance requirements, are in place to provide the minimum requirements for safe operation of commercial motor vehicles. Ensuring compliance with those regulations improves safety. Requiring the creation of a universal electronic vehicle identifier would allow enforcement to reach more of industry and improve their ability to identify unsafe drivers and vehicles for intervention.

Currently, inspectors use screening technology programs and tools, as well as inspection selection procedures and inspector observation to identify inspection targets to be examined during a roadside inspection. Third party screening technologies that are currently in use help to increase the number of vehicles, drivers and motor carriers that the enforcement community comes into contact with; however, some of these technologies are used voluntarily and others are deployed with varying degrees of effectiveness. A universal electronic vehicle identifier would allow law enforcement to be more effective in the inspection selection process, targeting the drivers and carriers who are most in need of intervention, improving safety.

Since technologies exist today that would allow automated roadside identification of nearly all commercial motor vehicles, if this proposed concept were universally deployed, this would revolutionize the way commercial motor vehicle roadside monitoring, inspection and enforcement are conducted. In June 2019, commercial motor vehicle inspectors conducted a 3-day enforcement blitz where 67,072 inspections were conducted in North America. Of those vehicles inspected, 17.9 percent were identified as having safety violations critical enough that they were placed out of service and not permitted to operate without fixing the violation. The deployment of a universal electronic vehicle identifier would improve the effectiveness of enforcement programs while reducing costs, for both enforcement and industry, which in turn will allow enforcement to better identify and prioritize those vehicles and drivers who are operating unsafely.

In order to move forward with full deployment, however, enforcement must have a universal mechanism for electronically identifying all commercial motor vehicles. This can be accomplished with minimal cost and disruption, and the safety and economic benefits will be substantial for the enforcement community, motor carrier industry and driving public.

Hours of Service. In your testimony, you mention the importance of legislation and regulations considering the impact on law enforcement.

Question 2. Are the current hours of service rules clear and enforceable?

Answer. Clear, enforceable rules are the cornerstone of an effective regulatory framework designed to ensure safety on our roadways. Regulations must be written and maintained in a way that they provide clear guidelines to the regulated industry and law enforcement officials. Overall, the current hours-of-service regulations are complicated. However, the trucking industry is a diverse industry and complicated regulations are likely unavoidable. However, steps can be taken to mitigate the complexity. First, continuity is critical. If changes to the regulations are necessary, they should be done as infrequently as possible. Piecemeal changes every year or two make it incredibly difficult for inspectors to remain up to date on the

regulations. Limiting the frequency of updates would help address this and limit the number of training updates necessary.

In addition, the current hours-of-service rules have several provisions that lack clarity and enforceability. This issue is further complicated by the numerous hours-of-service exemptions granted to various portions of the industry and regulatory guidance issued in lieu of updating the underlying regulations.

For example, the current hours-of-service regulations require that drivers take a 30-minute break within the first eight hours of beginning their day. This provision is difficult to effectively enforce, as the inspector has no way of verifying whether or not the driver was legitimately off duty during that time or if he/she used the time to perform other work-related duties, such as fueling, inspection, or loading and unloading times. This provision gives problem drivers, and motor carriers, an opportunity to falsify their record of duty status (RODS) in an attempt to disguise, or conceal, on-duty hours. Enforcing this proposed rule is impossible without supporting documents to either verify, or refute, such entries.

Additionally, exemptions from Federal safety regulations have the potential to undermine safety, while also complicating the enforcement process. Each exemption granted creates an additional complexity to the hours-of-service rules by changing the rules for different motor carriers or segments of the motor carrier industry. For example, the agricultural commodity exemption allows transporters of agricultural commodities to drive within 150 air-miles of their origin without recording any RODS. They only start recording their RODS after leaving the 150 air-mile radius. Not only is this unsafe because it easily creates a scenario where a driver can become fatigued by driving well beyond the hours-of-service limits, but it also requires inspectors and the motor carrier industry to understand the details of the exemption to determine if the driver qualifies for the exemption and, if they do, what portions (if any) of the hours-of-service regulations they are required to follow. This is just one example of the many exemptions, each one further complicating the hours-of-service regulations by providing special subsets of rules for different motor carriers or segments of the motor carrier industry to follow.

Regulatory guidance that never gets adopted as actual regulation further complicates the enforcement process. In an effort to address the growing backlog of needed regulatory updates, the agency has come to rely heavily on the use of regulatory guidance to address necessary clarifications to the regulations, using guidance documents or frequently asked questions (FAQs) to correct technical errors in published rules or to clarify vague regulatory language within the safety regulations while improvements to the regulations make their way through the rulemaking process. However, the number of full rulemakings that can make it through the agency in any given year is limited by staff and funding, and a number of higher profile rules tend to push simple technical changes back in the queue, some never to be published.

As a result, a disconnect has evolved between written regulation, regulatory guidance, interpretations and FAQs. A more recent example of this is the regulatory guidance published in Nov. 2018 on the use of the 'personal conveyance' designation within a driver's hours-of-service records. Personal conveyance is a provision within the regulations that allows for the personal use of a commercial motor vehicle that does not count towards a driver's hours-of-service limits. The intent of this designation is to allow a driver to travel for short distances to do things like find a safe place to park, eat a meal, etc. The published guidance significantly altered how personal conveyance is interpreted and applied, without changing the actual regulations. Most notably, the provision, which provides no maximum on how many miles or hours a driver can operate under personal conveyance, allowed vehicles to be laden with cargo while operating under the personal conveyance designation. This change has made it much more complicated for industry and enforcement to determine when exactly a driver qualifies for personal conveyance. Further, it has made the overall hours-of-service regulations less enforceable because a driver can drive far beyond the hours-of-service limits to further their load while falsely claiming they were using the vehicle for personal use. The actual reason for a driver's movements is very difficult to verify during a roadside inspection when they claim to be operating under personal conveyance, undermining the enforceability of the hours-of-service limits. To address the personal conveyance issue, CVSA supports the establishment of a maximum distance the personal conveyance designation can be used each day.

Clear and enforceable regulations provide both the motor carrier industry and law enforcement with clear direction on how to ensure safety. Clear regulations help improve industry adherence to the rules and enforceability ensures that law enforcement is able to verify compliance.

Underride Guards. In their March 2019 report, Truck Underride Guards: Improved Data Collection, Inspections, and Research Needed (GAO–19–264), the Government Accountability Office (GAO) recommends that USDOT take steps to standardize definitions for underride crashes and data fields, share information with law enforcement to better identify underride crashes, establish annual inspection requirements for rear guards and conduct additional research. DOT concurred with GAO's recommendations.

Question 3. Do you support the DOT and GAO assessment that the number of underride accidents has been undercounted and that better mechanisms for recording these types of accidents is warranted?

Answer. A better mechanism for collecting quality and uniform crash data, including data on underride crashes, is needed. Quality data is a fundamental piece of an effective commercial motor vehicle safety enforcement program. Commercial motor vehicle crash data identifies trends and problem areas that are utilized to craft enforcement and education initiatives to target specific safety problems. Current variances in definitions, data collection methods and data points collected from crashes make comparing data on a national scale difficult. These variances have likely resulted in underreporting of underride crashes, as well as crashes involving fatigue and other crash factors.

To improve the quality of crash data, CVSA encourages the adoption of the Model Minimum Uniform Crash Criteria (MMUCC). The MMUCC provide a standardized data set for describing vehicle crashes. Universal adoption of the MMUCC would allow for a more comparable data set at the national level to better evaluate the causes of crashes to inform policy and program decisions.

Question 4. For roadside inspections examining all parts of a vehicle, including the rear guard, would a standardized set of definitions and procedures benefit law enforcement efforts to determine whether large trucks are operating safely? Please explain.

Answer. Standardized definitions and procedures help ensure that both the law enforcement community and the motor carrier industry understand the minimum safety requirements. Clear, enforceable rules are the cornerstone of an effective regulatory framework designed to ensure safety on our roadways. Regulations must be written and maintained in a way that they provide clear guidelines to the regulated industry and law enforcement officials. One of CVSA's core tenants is enforcement uniformity. Clear standards provide inspectors with the information they need to evaluate commercial motor vehicle safety.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. RICHARD BLUMENTHAL TO SGT. JOHN SAMIS

The lack of information about national road restrictions on smartphone-based navigation applications. In recent years, many drivers have shifted from using standalone global position system (GPS) units to smartphone-based navigation applications like Waze, Google Maps, or Apple Maps. These services offer valuable directions for passenger traffic but do not currently make information about national road restrictions like those on height, weight, or hazardous materials available to users.

As a result, commercial vehicle operators that rely on these applications are often directed to enter restricted roadways, which can cause accidents that adversely impact traffic patterns, inflict damage to roadways and overpasses, and even result in fatalities.

As more commercial vehicle drivers use these applications, we can expect accidents and damage to roadways to increase, unless a solution is found.

In Connecticut, the Merritt Parkway prohibits travel by commercial vehicles because of low overpass clearances along the road. Unfortunately, commercial vehicles frequently travel on the parkways and strike their bridges. In fact, oversized vehicles struck the King Street Bridge in Greenwich, Connecticut nearly 150 times in the last decade. In 2017, a man died after rear-ending a truck that stopped short of the Stanwich Road Bridge in Greenwich, Connecticut. Similar crashes are common in other areas of the country as well.

I have written to the companies that manage these applications—asking them to help solve this issue by providing clear and timely notification to commercial vehicle drivers about restrictions in their route. So far, their response is inadequate and they do not seem to appreciate the gravity of this issue.

Question 1. As I consider a legislative response to address this issue, I am interested to hear from you about ways we can effectively deal with the presence of tucks on roads with posted restrictions.

Answer. CVSA appreciates your efforts to address the issue of commercial motor vehicles traveling on roads that they are not permitted to be on. While CVSA agrees this issue merits attention, the state commercial motor vehicle enforcement programs and CVSA do not have the necessary expertise to propose solutions. State agencies that manage road design and infrastructure are better positioned to offer solutions.

Question 2. I know that we will need companies like Apple and Google to take the issue seriously, but is there more that we can do to address these concerns outside of direct engagement from the tech companies, such as increased funding to states to enhance signage and preventative warnings?

Answer. CVSA appreciates your efforts to address the issue of commercial motor vehicles traveling on roads that they are not permitted to be on. While CVSA agrees this issue merits attention, the state commercial motor vehicle enforcement programs and CVSA do not have the necessary expertise to propose solutions. State agencies that manage road design and infrastructure are better positioned to offer solutions.

The benefits of side underride guards. Recently, Texas A&M was contracted by NHTSA to research the best design for a side guard. In April 2018, they published their results and recommended an aluminum brace system would be the most effective at stopping a car at many different angles. The total weight (both sides) of this aluminum side brace system was 252 pounds.

Question 3. In addition to saving lives and thereby reducing insurance costs, would a new rule requiring these braces also potentially create jobs by American aluminum producers and manufacturers across America?

Answer. While CVSA is supportive of improving crash worthiness standards, we do not have the necessary expertise to speak to the potential job creation of a requirement for aluminum side underride guards.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. GARY PETERS TO SGT. JOHN SAMIS

Question 1. You noted in your testimony that there have been numerous regulatory delays at FMCSA and that your organization has seen many of your petitions and calls for technical corrections go unaddressed. Are these failures to act contributing to safety issues and inefficiencies in the industry?

Answer. The buildup of necessary technical corrections in the safety regulations causes confusion and negatively impacts safety. The purpose of commercial motor vehicle enforcement is to ensure compliance with the Federal safety regulations. Through enforcement activities, commercial motor vehicle inspectors identify drivers and vehicles who are not operating safely and require them to comply with the safety regulations or discontinue operation. Clear, enforceable rules are the cornerstone of an effective regulatory framework designed to ensure safety on our roadways. It is imperative that those subject to the Federal Motor Carrier Safety Regulations (FMCSR) understand their responsibilities and that those tasked with enforcing safety regulations can do so effectively to ensure the quality and uniformity of the more than four million roadside inspections conducted annually throughout North America. Over time, technical errors have resulted in inconsistent, outdated and redundant regulatory language. These errors have compounded to make portions of the regulations challenging to understand which in turn makes it more difficult for industry and enforcement to understand the minimum safety requirements. This results in a lower level of compliance and more difficulty enforcing the regulations, which negatively impacts safety.

There are several factors that have contributed to the growing delay in regulatory action at FMCSA. We recognize that many of these factors are outside the agency's control. However, the result is that the agency is struggling to meet one of its basic responsibilities, which is to maintain the FMCSRs, something only the agency can do, in order to keep pace with industry and ensure that motor carriers are being held to a standard that will ensure the safe operation of vehicles on our Nation's roadways. FMCSA must be given the resources and support to allow the agency to prioritize the day to day maintenance of the regulations, while also meeting obligations set forth by Congress. Allowing this critical responsibility to lapse does a disservice to both the motor carrier industry and the enforcement community and undermines the agency's efforts to improve safety.

Question 2. You noted that in the FAST Act we directed FMCSA to improve its information technology (IT) systems and data quality. You also noted that you're tracking FMCSA's progress on this—can you provide an update on implementation here?

Answer. Effective IT systems are critical for improving safety. These systems ensure that commercial motor vehicle inspectors have the information they need to verify driver, vehicle and motor carrier safety. Additionally, these systems provide the infrastructure to collect data that informs the design of commercial motor vehicle safety programs to make sure resources are being used to target the greatest safety needs. In terms of FMCSA's progress on implementing the FAST Act requirements to improve these IT systems, it is CVSA's understanding that FMCSA will be issuing a request for proposal (RFP) sometime during the second quarter of 2020, soliciting bids to replace the current roadside inspection data collection software, ASPEN. The ASPEN program is a legacy software program that has outlived its life cycle and is in dire need of replacement. ASPEN was developed by the Federal Highway Administration (FHWA), prior to the creation of FMCSA on January 1, 2000, as the data collection tool for the roadside enforcement and inspection community. Through this process FMCSA should select a new software program that is able to improve roadside inspection data by hard-coding violations and implement smart logic to assist with directing the data into the correct format and location, which will greatly enhance the roadside inspection data collection process. In addition, the state's access and management of their roadside enforcement and inspection data is managed through another FMCSA legacy system called SAFETYNET. From CVSA's understanding, the replacement of the SAFETYNET platform may be included in the upcoming RFP.

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