

Testimony and Supplemental Material

for

Hearing on S. 1501, the Motor Carrier Safety Improvement Act of 1999

September 29, 1999, at 9:30 a.m.

From the National Conference of State Transportation Specialists and

the Illinois Commerce Commission

Dated: September 27, 1999

On behalf of the National Conference of State Transportation Specialists, and the Illinois Commerce Commission, and especially on behalf of the motorists we deal with every day, I would like to commend the Committee for its concern over trucking safety as shown by this hearing today.

The National Conference of State Transportation Specialists (NCSTS) is a national organization whose members are state agencies engaged in transportation regulatory functions. These state agencies include state departments of transportation, public utility commissions, public service commissions, departments of motor vehicles and state commerce commissions. In addition to many other activities the NCSTS provides oversight of and assistance to states participating in the Single State Registration System (SSRS) established by Congress in the Intermodal Surface Transportation Efficiency Act of 1991 and implemented through rules adopted by the Interstate Commerce Commission (ICC) on May 18, 1993. The NCSTS, through its SSRS Steering Committee, promotes uniformity in the administration of the rules and has served as the focal point for communication of state concerns and interests to the Federal Highway Administration (FHWA).

Since the trucking deregulation in 1994, the states have become increasingly concerned about the safety of the motoring public in an environment of unsafe trucks and trucking operations. In Illinois alone, we issue licenses to over 100 new motor carriers per month. Many of these new license holders are seriously under financed and represent a considerable safety concern. Our experience is repeated in every state in the union. The NCSTS states have dealt with this problem for years, and it is from this perspective that I appear before you this morning.

NCSTS and the state of Illinois are in favor of most of Senate Bill 1501, and congratulate

Congress for addressing motor carrier safety. But I would like to direct my remarks to a specific section of the bill and two separate actions being proposed. Section 6, subsection (g) Motor Carrier Safety Initiatives proposes two significant actions which if approved would significantly impact the safety compliance and enforcement activities of the thirty-eight participating SSRS states. The first action would strike the last sentence of subsection (d) of Section 13908 of Title 49, United States Code, which would eliminate the statutory requirement for fees to be collected and distributed to the states. Approximately \$95 million dollars of state funds are at risk. The second action calls on the US DOT to create a unified federal program that subsumes the states' current SSRS registration program. In effect, the current language gives the Federal Highway Administration, or its successor, the authority to federalize a successful state registration program and possibly eliminate or reduce state revenues.

On behalf of the states, I want to emphasize that we are in favor of a Uniform Carrier Registration System (UCR). We have advocated this for years and have demonstrated to representatives of the FHWA how it could be done rapidly, at virtually not additional cost and in a manner that avoids the need to create a new federal bureaucracy. The states' proposal would provide the public with vastly more effective protection from uninsured trucking companies because it would be enforced at the roadside. Our proposal would provide Congress and the United States Department Of Transportation (US DOT) with accurate and reliable motor carrier demographic information for the first time. We believe this last point is very important. Were Congress to ask US DOT for accurate information about the trucking industry and FHWA sent out a survey to its carriers of record, about half of them would be returned "address unknown". This is because the FHWA database has never been updated, whereas the state databases are refreshed each year via annual registration renewals.

The States have been disappointed that the FHWA has not proceeded with the 13908 rulemaking called for in the ICC Termination Act. As far as the states are concerned, none of the implementing problems FHWA alleges are more than minor and could easily be overcome. Language in SB 1501, which directs FHWA to complete rulemaking within a year, is a sound idea.

Representatives of the States have met many times with representatives of the American Trucking Association (ATA), but despair of ever getting ATA to agree to the creation of an effective enforcement program. The prospect of getting a federally mandated fee cut at the expense of the states seems to be their only objective. For our part, we think it is extraordinary that a motor carrier safety bill could be the vehicle to cut \$95 million of revenue the states use to enforce safety. And please understand that is exactly what elimination of state revenues under the current state registration program would accomplish. It would lead to a diminution of each state's overall safety reach.

Many states use SSRS money for the local match for the Motor Carrier Safety Assistance Programs. Others use it directly for their state police, administer their insurance oversight, such as Illinois' Public Guardian program, and for a wide range of safety activities. I have attached to my written remarks an analysis of how much revenue each state collects and how that revenue is used. The States take exception to a handout ATA distributed recently which purported to demonstrate that the states were not using monies collected for safety purposes. We believe that our figures and other information that States can provide would show that the information purported by ATA is inaccurate and that the states do use a preponderance of the monies collected for safety.

Historically, the States needed a duplicative registration system in order to obtain the necessary information to enforce state and federal registration and insurance requirements. The stakes were too high to depend on the outdated information in the Federal databases. Strides in technology have now rendered duplicative systems as burdensome and unnecessary. But that is not a blanket endorsement for a strictly federal solution to state registration. Technology has not eliminated the need for states to continue to enforce registration and insurance requirements within their borders at the roadside nor the need to have accurate and real time data available to do so. The states have relied on the funding from state registration under the Single State Registration System (SSRS) and its predecessor Cab Card Stamp program to fund motor carrier regulatory and safety programs for almost thirty-five years. These state funds were not federalized until 1995 by

Section 13908 of the Interstate Commerce Commission Termination Act. It is anomalous to propose to jeopardize almost \$95 million in safety funding in a bill that is intended to promote and improve motor carrier safety. To eliminate SSRS funding would set back safety enforcement and compliance in most of the SSRS participating states. A number of the states use SSRS funding as the match for MCSAP funding.

It is our understanding that this proposal, at least in part, is being put forward because USDOT has said that it has been unable to develop a UCR that would keep the states whole with respect to SSRS funding. The ICC Termination Act required USDOT to develop a single online data system in cooperation with the states. The states, through NCSTS, have been trying to work with DOT over the last three years to do just that. In all that time no one from DOT has ever said that they were unable to develop a UCR that did not keep the states funding intact. Never once did anyone from DOT come to the states and ask for assistance in this area. Regardless of DOT's position we know that it is possible to develop a UCR that is effective, efficient and keeps the states funding intact. More important than the question of whether or not it is possible to develop a UCR that maintains the states funding is whether or not the funding is required to promote motor carrier safety and compliance. If the funding is necessary and the states believe it is, then a way must be found to keep the funding intact. On the other hand if the funding were determined not to be an integral part and necessary for the states to carry out their motor carrier safety functions it should be eliminated regardless of the ease or difficulty in integrating it in to a UCR system. We are concerned that if US DOT is relieved of the requirement of maintaining the states funding derived from SSRS it will take the easy way out and ignore it in their development of the UCR.

On October 24, 1996 the NCSTS submitted its comments in response to the FHWA advance notice of proposed rulemaking (ANPR) published in the Federal Register, Volume 61, No. 166, August 26, 1996. Since that time representatives of NCSTS, on behalf of the conference and in the interests of its member state agencies, have participated in an almost continuous dialog with all interested and affected parties in an effort to come to a resolution that would meet the needs of FHWA and state agencies and be the least burdensome, economically and administratively, on

both the motor carrier and insurance industries. Over the last three years, NCSTS representatives have met with FHWA administrators, American Trucking Association and other motor carrier industry representatives, insurance company representatives and congressional staff members in an effort to better communicate our interests and concerns, better understand the interests and concerns of other affected parties and work together to try to develop a proposal that met the interests and concerns of all the parties.

NCSTS and its member states are committed to the development and implementation of a UCR that meets the needs of all concerned parties. To this end, NCSTS adopted "Recommendations for a Unified Carrier Registration System" at the NCSTS 1998 annual conference in San Antonio. This document varies little in substance from the views presented in NCSTS original response to the ANPR in October 1996, but does incorporate some of the ideas and concerns that surfaced subsequent to the original submission. Representatives from twenty-seven of the thirty-eight SSRS participating states were present at the San Antonio meeting adopting the recommendations for a UCR without opposition (copy attached). After the San Antonio meeting the ATA gave its written support to the UCR document but has since withdrawn that support.

During the almost three year process since the ANPR was originally released fully thirty-six of thirty-eight SSRS participating states have been involved in the NCSTS effort. While NCSTS does not presume to speak officially for any state, we feel confident that the system as proposed by NCSTS will be embraced by a significant majority of SSRS participating states and represents the interests and needs of most, if not all, of the states.

We are aware that to fully implement a truly unified carrier registry system that meets the needs of all of the concerned parties will require legislation in addition to rulemaking. NCSTS and its member states are prepared to work with FHWA, the motor carrier and insurance industries and congress to implement, monitor and maintain a unified carrier registry. The States believe that state infrastructure is in place to gather the most accurate industry data, make the data available to enforcement officers and provide the best service to the industry in the process. States are use to gathering and entering data into single national databases for vehicle inspections, issuing US DOT

numbers to purely intrastate operations and implementation of national clearinghouses. States have also been exchanging data between states for a number of years.

States have developed business plans and are preparing detailed deployment plans to implement Commercial Vehicle Information Systems and Networks (CVISN) for the Intelligent Transportation System (ITS)/Commercial Vehicle Operations (CVO). Within these plans, state computer systems will integrate national core infrastructure systems that include the Commercial Drivers License Information System, clearinghouses for fuel tax, licensing and hazardous materials information, the Safety and Fitness Electronic Records (SAFER) system, the UCR and other state and federal agencies with state roadside enforcement. This system will allow for compliance verification of motor carriers' vehicles traveling on the highways at highway speeds. States will be able to use this information and its limited resources to focus on non-compliant and unsafe operations. Implementation of CVISN has been slow because federal funding has only been approved for a few core states. It appears that some additional funding could be available to the states in this bill to begin integration of state systems and access to the UCR.

Section 6, subsection (g) of this bill would add a deadline for an operational system and implement a uniform carrier registration no later than one year after the date of enactment of the Motor Carrier Safety Improvement Act of 1999. The States are committed to implement a new UCR as quickly as possible but would recommend that the timing of the implementation coincide with the current calendar year process for registration renewals for interstate carriers. Implementing a new system at the beginning of a calendar year would create less confusion in the industry and allow a smoother transition from one program to another.

Recommendations for a Unified Carrier Registration System

The following summary represents the NCSTS's Interstate Registration Committee recommendations for combining of the ICC/FHWA insurance system, US DOT numbering system, ICC/FHWA registration system and the Single State Registration System into a single national on-line system as reference in section 13908 of the I.C.C. Termination Act. The information is consistent with the original NCSTS' response to Federal Highway Administration's advanced notice of proposed rulemaking and serves to update and clarify the states recommendations for a Unified Carrier Registration System. It is the states' intention to present these recommendations to Federal Highway Administration and then aggressively lobby for adoption of this plan with the Public, Congress, Industry and Federal Highway Administration.

National System

Proposal: The States would collect and enter registration information into a single on-line database maintained by the Federal Highway Administration, and/ the States, or an outside vendor on their behalf of the FHWA and the States. States would continue to enforce compliance with registration and other requirements under a cooperative Federal/State agreement. All State registration processes would be subject to Federal oversight. Each State would be bound by a standard and uniform set of rules for the accuracy and veracity of data it enters.

Access to registration and other information maintained in this system will be available to all government entities at no cost and will be accessible to the insurance industry and other interested parties for a fee. The data access fee would be used for administration of the program. The registration program would apply to interstate for-hire carriers, private carriers, freight forwarders, brokers and, at the option of the States, carriers operating exclusively in intrastate commerce. A national numbering system preferably the USDOT number will be utilized. When fully implemented, no in-cab or vehicle specific registration credential will be issued by the States. All interstate vehicles will be required to display the USDOT number, and State's will also have

the option of using the USDOT number for carriers' operating exclusively in intrastate commerce. All registrants will be required to provide proof of financial responsibility. A fee would be collected and retained by the States for administering and enforcing federal safety fitness and financial responsibility requirements. Designation of Process Agents would be filed with the registration forms.

Justification: The States have proven that they can quickly and efficiently implement a national interstate registration program and administer that program in an efficient and accurate manner. Other trucking-related programs in this country such as safety enforcement, fuel tax collection, vehicle licensing, Commercial Vehicle Information Systems and Networks (CVISN) and others are moving towards base-state systems.

The States have the infrastructure in place to administer the renewals, registration and enforcement processes. Problem resolution, whether enforcement related or simply a matter of clerical "housekeeping" issues will be better addressed as a local, State problem. The carrier community will have adequate access to essential services only if the program is administered by the States.

Single State Processing

Proposal: Each state would serve as the registration point for motor carriers domiciled in their state. Currently, 38 states administer the Single State Registration System for carriers located in their State, neighboring states and foreign countries. These 38 States will be able to continue to register all carriers in the new system. States not currently participating in SSRS will also be able to register carriers.

Justification: The vast majority of the interstate and intrastate carriers are small operations. These motor carriers need access to local officials for assistance and service. It is also efficient to provide service at the local level. Carriers can achieve compliance more quickly at the State level

and thus enter the marketplace and provide greater economic benefit. The federal Government is currently allocating millions of dollars in funds to effectuate Electronic One-Stop Shopping in the States. Consolidating this program with those efforts makes sense. A State system will also allow states to voluntarily apply federal requirements to intrastate operations thus eliminating duplication and promoting national uniformity.

Registration

Proposal: Registration will be renewed periodically and will be applicable to all for-hire, private motor carriers, brokers and freight forwarders.

By incorporating all private and exempt motor carrier operations into the registration system, states will voluntarily waive any future State-specific interstate registration requirements for these carriers. Motor carriers would be required to file a Designation of Process Agent for Service of Process. The States would issue the USDOT number in conjunction with this registration. States will be encouraged to issue a USDOT number to intrastate only carriers.

Justification: The renewal process will enhance the accuracy of motor carriers demographic information, and serve to verify a companies' continuing safety fitness to operate, and compliance with financial responsibility requirements. Filing of Designation of Process Agents would continue to protect the public in case of any legal actions taken.

Insurance

Proposal: Financial responsibility data will eventually be electronically transmitted by insurance companies into a central database. Insurance companies may initially submit proof of financial responsibility at the State level during a transition period. All registrants will be required to provide proof of financial responsibility. The limits of liability will be established by Federal Highway Administration. Self-insurance capability will continue at the federal level or at the state

level if available. Notice of non-compliance, warning, suspension and revocation will be administered and enforced by the States. A Certificate of Insurance filing and maintenance fee will be established.

Justification: Financial responsibility is the key to effective administration and roadside enforcement efforts. The system provides for interactive electronic filing of certificates of insurance. This process allows the insurance industry immediate real time access of filing of certificates and cancellations and promotes an exchange of information that serves the public interest. Electronic filings and State access to this system will encourage non-duplicative filings of similar information for intrastate operations and combined filing requirements. and state access to this system will encourage non-duplicative filings of similar information for intrastate operations and combined filing requirements.

State Funding

Proposal: All registrants will pay annual fees. Fees collected will be used for carrier safety fitness and financial responsibility compliance, registration processing, and administration and roadside enforcement. A company based fee, calculated by fleet size, would be implemented in the transition period and the current per vehicle fee will be phased out. Each State would continue to receive at least the same level of funding received in the federal fiscal year 1995. Monthly distribution of company fees would be based on each State's percentage of total dollars for the year 1995. Each state will submit that percentage of its total monthly revenues to each other State. The annual fee would include administrative costs incurred in registering previously excluded motor carriers or other costs associated with establishing this program. The amount of fees needed for this program will not exceed the 1995 level plus the additional administrative costs associated with this program. The shift to carrier based fees would be phased in over three years. For the first and second year the per-vehicle fee and vehicle credentials requirements will remain under the SSRS program for the for-hire carriers. All other registrants will be charged a nominal filing fee. In the third year, a new per company based fee will be in place. The Single

State Registration System will be discontinued at that time.

Justification: Time will be needed for States and Federal Highway Administration to review, upgrade or develop new systems. This time will also be needed to write procedures, develop processes, and forms and implement rules and regulations at the federal and state level. State legislation may be needed. Some state legislatures meet every two years. States will need to develop an accurate database of the carriers that will be incorporated into this new system. When the exact number can be determined, the company base fee structure can be determined. States do not need, or desire, new or additional revenue as a result of implementing this new system.