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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEBSITE: <http://commerce.senate.gov>

November 16, 2017

The Honorable Elaine Chao
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue Southeast
Washington, DC 20590

Dear Secretary Chao:

In light of the upcoming electronic logging device (ELD) implementation date of December 18, 2017, we have heard from a variety of constituents and stakeholders concerned about how the ELD rule relates to current hours-of-service (HOS) requirements and exemptions. It is our understanding, that some of these same stakeholders have even petitioned the administration for relief.

One exemption in particular remains confusing to stakeholders and would benefit from a greater level of clarification from the U.S. Department of Transportation and the Federal Motor Carrier Safety Administration, before the December ELD implementation date: the HOS exemption found in section 395.1(k) of Title 49, Code of Federal Regulations, regarding agricultural operations. In an effort to provide a clearer sense of how and when the exemption applies and for whom, please provide responses to the items below:

- Provide a detailed definition of the *source* of the agricultural commodities. For instance, does this include where the product is grown or raised as well as a grain silo or point of distribution or sale, such as an auction site for livestock?
- Provide a detailed explanation of the parameters of the 150 air-mile radius exemption. How is the radius set and for how long does it apply? Can the radius change in a 14-hour driving day?
- Provide a detailed explanation of how the exemption relates to the planting and harvesting periods, as determined by each State. For instance, if a state has a set harvesting period from March to December of a given year, would a driver transporting livestock be eligible for the 150 air-mile exemption during February of that year?
- Clarify how the exemption within the 150 air-mile radius from the source interacts with interstate travel. For instance, if the transportation of an eligible commodity under section 395.1(k) moves across state lines while still within the exempted radius, will the original set air-mile radius be recognized in a different state? Given that the exemption extends to the harvesting period determined by the state, if the transportation of an eligible commodity under 395.1(k) extends across state lines within the 150 air-mile radius, which state harvesting period will be recognized?

We would appreciate a timely response to the items above as it will provide needed clarification to our constituents seeking to follow the rules when utilizing the exemption and those enforcing motor carrier requirements. Thank you for your consideration of this request.

Sincerely,



JOHN THUNE
Chairman



DEB FISCHER
United States Senator



M. MICHAEL ROUNDS
United States Senator