



**TESTIMONY
OF
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Before the

U.S. Senate Committee on Commerce, Science, and Transportation's
Subcommittee on Surface Transportation and Merchant Marine
Infrastructure, Safety, and Security

"Opportunities and Challenges for Improving Truck Safety on our
Highways"

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Chairman Blumenthal, Ranking Member Blunt, and Members of the Subcommittee:

My name is William G. “Jack” Dawson. I have been a professional truck driver for 32 years. For the last 15 years, I have been an employee of United Parcel Service (UPS) in Dallas, Texas where I currently serve as a shop steward for Teamsters Local 745 and as a safety trainer for new employees, post-accident drivers, and annual training in the Smith System for Driver Improvement. I am here today representing the 1.4 million members of the International Brotherhood of Teamsters (IBT), particularly some 600,000 members who daily perform jobs along America’s roadways. These hardworking men and women deserve to have a workplace that is as safe as any office in America yet, they must contend with crumbling roads, long hours, bigger trucks, increasing congestion, insufficiently trained drivers, and in many cases poor compensation – all of which add pressure to an already stressful occupation. In order to protect all individuals who utilize American roads, Congress must commit itself to providing safe, reliable highways by passing a long-term, 6-year transportation reauthorization bill that addresses these issues and those outlined below.

Due to a lack of proper investment, American highways are crumbling. Poor road conditions lead to delayed shipments and lost economic opportunities. We are falling behind in the global economy and cannot afford to allow our infrastructure to degrade any further if America is to stay competitive. A 6-year bill will provide the certainty necessary to help rebuild our roads and bridges and improve safety. Reauthorization must also consider policy issues that improve highway safety and protect those who travel our nation’s roads.

Hours-of-Service Regulations

Commercial Motor Vehicle operators endure many pressures while driving and already work long hours. We cannot afford to add to driver fatigue by rolling back hours-of-service regulations which were carefully crafted over the course of more than two decades of rulemaking, several court challenges, thousands of pages of research and studies on proper sleep habits, rest periods, fatigue, and the best ways to ensure that truck drivers operate safely on our highways. No stakeholder is entirely satisfied with the final rule, but with any regulation, the Federal Motor Carrier Safety Administration strived to strike a fair balance that maintains a safe work environment for drivers and yet isn't overly burdensome to the operations of motor carriers. Initially, the Teamsters Union had gone to court over the increase in driving time from 10 to 11 hours and took issue with the 34-hour restart provision. In fact, the union felt so strongly that 34 hours did not provide adequate rest, that a majority of our members covered under our National Master Freight Agreement (NMFA) are not subject to the 34-hour restart provision. A Memorandum of Understanding was signed by the signatories to the NMFA that prohibits those companies from subjecting their drivers to the restart provision. With that exception, other Teamster members do operate under the restart provision, but its use once a week versus continually goes a long way in combating driver fatigue.

We have seen recently the effects of exhaustion by pushing drivers to the limits of the hours-of-service regulations. The high-profile accident in June which injured actor-comedian Tracy Morgan brought to the public's attention the danger of tired sleep deprived truck drivers operating 80,000 lb. rigs on our highways. The driver of a Walmart tractor trailer fell asleep and rammed into the limousine bus carrying Morgan and his entourage, causing 1 fatality and seriously injuring the actor as well as 3 others. Despite countless other fatal accidents involving fatigued drivers,

this one accident shined a spotlight on the issue of compliance with HOS regulations and driver fatigue. The driver admitted that he had been awake for the previous 24 hour period and that he fell asleep just prior to hitting Morgan's bus. According to the National Transportation Safety Board's (NTSB) preliminary report, the truck driver was just 28 minutes shy of the maximum 14-hour on-duty period when the collision occurred and had he reached his destination, likely would have exceeded his maximum on-duty limit.¹

Four days earlier, during a subcommittee markup, Senator Susan Collins (R-ME) offered language to the FY 2015 Transportation HUD Appropriations bill which would suspend two critical elements of the HOS regulations that help mitigate driver fatigue, especially cumulative fatigue. Unfortunately, the Collins amendment was adopted in committee. One provision suspends the current limitation on the use of the 34-hour restart provision, while the other suspends the mandated two consecutive 1am to 5am rest periods. Limiting the restart to once every 168 hours plays a key role in holding down the number of hours that a driver can work in a week. Without this limitation, the number of hours that a driver can work is increased from the current 70 hours per week to 80 hours per week – twice the number of hours that most Americans work in a week's time. And the 34-hour restart is 14 hours short of the normal weekend that most workers have off to rest, recuperate and tend to personal business. Most of us cherish our weekend—those 2 days off that we can spend with our families but imagine returning to work on a Sunday afternoon instead of Monday morning. That's what truck drivers face with the 34 hour restart.

¹ National Transportation Safety Board (NTSB), *Highway Investigation Preliminary Report* (NTSB, 2014), http://www.nts.gov/investigations/fulltext/HWY14MH012_preliminary.html.

What you may not know about truck drivers is that it is exceedingly difficult to have any sort of normal schedule. When we aren't on the road where we are away from our homes and families, we may still be on call. At UPS, when I am not acting as a trainer, I am subject to duty as a driver in a group called the "extra board." I am required to be available to answer the phone at midnight, 5am, 10am, 1pm, 6pm, and 8pm should I be needed to complete a run. These schedules don't exactly allow for stability and the long hours we drive can wear you down. The one tool we have at our disposal to combat the type of exhaustion that causes accidents is the hours-of-service regulations. I cannot imagine why anyone would want to suspend rules which are in place to ensure the safety of everyone on the road by mitigating truck driver fatigue.

Today, our roads are more congested than ever. Drivers have less time to make critical decisions on changing lanes and shorter distances to slow down or stop. Drivers must be more alert, and driving in congested traffic is more stressful and tiring. Yet, without the limitation on the restart provision, drivers can be forced to work longer and longer hours, putting their safety and that of the public at greater risk. The Teamsters Union strongly opposes this proposed change in the current restart provision.

Suspending the required consecutive rest periods of 1am to 5am is an equally dangerous step. Numerous studies have shown that back-of-the clock work is more tiring and can lead to cumulative fatigue. This consecutive rest period requirement is designed to give drivers rest when their body clock tells them they need it most – during their regular circadian rhythm. Those advocating for suspending this part of the regulation have argued that more trucks will be on the road during daylight hours when roads are more congested. That would suggest that every truck driver would start his truck at 5:15 am and hit the road simultaneously. For the most part,

work and delivery schedules vary. Not all truck drivers start their work day at the same time. In addition, while there is less automobile traffic at night, there are also many trucks pulled off the side of the road, in truck plazas, and at rest stops, with drivers asleep, mostly because their body clock is telling them that they are tired. The 1am to 5am provision is an important element in defeating cumulative fatigue, and DOT should have ample time to study the effects of these regulations, enacted one year ago, before any changes are implemented that diminish highway safety.

Truck Size and Weight

In 2012 it is estimated that more than 3,802 fatalities involving trucks occurred.² That number is unacceptably high and the United States cannot afford further compromising safety by increasing the lengths and weight of commercial vehicles. Increased truck size and weight not only causes greater wear on highways but also stress on drivers who need greater stopping distances which are hard to judge and perform on congested roadways. Likewise, entrance and exit ramps are not designed for longer, heavier trucks and may cause issues for drivers attempting to get up to speed in order to merge.

Map-21 authorized a Comprehensive Truck Size and Weight study to examine the effects of bigger heavier trucks on highway safety and the infrastructure. That Comprehensive Study is underway, and Congress should not be entertaining any individual state or highway exemptions or piecemeal special interest exemptions until it sees what the results are. To preempt this study Congress would be turning its back on a study that it authorized. For these reasons, the Teamsters Union opposes the exemptions for Idaho, Wisconsin and Mississippi included in the

² National Highway Traffic Safety Administration (NHTSA), *Fatality Analysis Reporting System: Fatal Crashes by Vehicle Type* (Washington, D.C.: NHTSA, 2014), <http://www.fars.nhtsa.dot.gov/Vehicles/VehiclesAllVehicles.aspx>.

House-passed FY 2015 Transportation HUD Appropriations bill, and they should be soundly rejected by the Senate.

While considering ways to improve highway safety, this Committee must also meet the challenges of rebuilding our deteriorating highway and bridge infrastructure and meet our country's transportation needs of the future. The issues of truck size and weight play a central role in that decision-making process. Proponents of heavier trucks claim that adding a sixth axle will mitigate highway pavement damage. While that may be true if the axle is employed properly, a sixth axle does nothing to alleviate the increased weight on our nation's bridges, half of which are more than 40 years old with one-in-four classified as structurally deficient or functionally obsolete.

The claim that increasing trucks weights will result in fewer trucks on the road is unfounded. Each time there has been an increase in truck weight, truck traffic has grown, as shippers take advantage of cheaper rates and divert freight from rail to trucks. Our current highway system is not designed for bigger heavier trucks. These trucks need longer merge lanes to get up to speed, redesigned on-and-off ramps to accommodate longer combination vehicles, and greater stopping distances on a highway network that becomes more congested every day. The total stopping distance for an 80,000 lb. truck traveling at 55mph is 335 feet compared to 225 feet for a passenger car. At 65mph, that stopping distance for a truck increases to 525 feet versus 316 feet for an automobile. As you can imagine, it is very difficult to judge those distances in congested traffic.³

The trucking industry has used its influence in the state legislatures to increase both truck weights and trailer lengths on non-federal highways. That in turn has led

³ National Safety Council' Defensive Driving Course for Professional Truck Drivers.

to demands from frustrated state residents, who don't want to share their local roads with bigger trucks to increase truck size and weight on the interstate system, so that big truck traffic can be diverted from state roads that aren't equipped to handle it.

The Teamsters Union continues to support the *Safe Highways and Infrastructure Preservation Act*, or SHIPA. This legislation extends the current state and federal weight limits on the Interstate system to the non-Interstate highways on the National Highway System and prohibits further increases. The legislation recognizes and protects the states' existing grandfathered rights to allow certain differences in truck axle and gross weights than the maximum weight allowed in federal law. It essentially takes a "snapshot" of what states currently permit and freezes those weights and lengths. We believe this action will improve safety and protect our infrastructure investment.

Comprehensive Truck Size and Weight Study

The Teamsters Union, along with other safety community stakeholders, has been working with the Department of Transportation to address significant deficiencies and weaknesses in the process and methods used to conduct the Comprehensive Truck Size and Weight study mandated by MAP-21. This study to determine the impact of longer heavier trucks on safety and infrastructure will be the authoritative document on this issue for the next decade. It will guide many of the policy decisions that Congress makes in this area for years to come. For that reason, we have asked that significant issues raised by the Transportation Research Board Peer Review Committee and us be immediately addressed before the study moves forward.

Unfortunately, the provision mandated that the study be completed in a two-year period. The last truck size and weight study took six years to complete, and so, from the beginning, DOT was under extreme time limitations to finish the study. As a result, the agency has taken numerous shortcuts that have added to the questionable process and expected results.

Dot has failed to meet mandatory deadlines imposed by Congress on dozens of regulatory proceedings and other studies. Why the agency has chosen this particular study to meet its deadline requirements is questionable.

The DOT study is not considering the effects of Turnpike Doubles or Rocky Mountain Doubles on our highways. These are the most common longer combination vehicles on our highways, especially in the east. Instead, DOT is examining triple trailers which operate in a limited number of states (13) in the west under very different driving and highway conditions than in other parts of the country, especially the east coast. You can't compare driving on Interstate 95 in Virginia or the Capital Beltway where there are exits every mile and heavy congestion with a four-lane highway in Montana where traffic is lighter and exits are more spread out. Yet, the data gathered in the study may be used to potentially justify longer, heavier trucks. Another issue is that there has been no attempt to obtain input from drivers. Who better knows about the operation of these trucks than the drivers themselves?

The study is also taking a static picture of freight volume and not accounting for the enormous freight increase projected for the future. The Federal Highway Administration predicts a 48% freight tonnage increase by 2040. And the study is predicated on the false assumption that bigger, heavier trucks will mean fewer trucks on the highway. The more freight you can put on one truck, the cheaper it

becomes compared to rail and other modes. More freight will be diverted to trucks, which means more, not fewer trucks on the road. Historically, that's exactly what has happened every time there has been an increase in truck size and weight.

Vehicle Stability Systems/Advanced Safety Technologies

While avoiding fatigue in drivers and preventing bigger, heavier trucks from operating on our nation's roads is important to ensuring highway safety, it is equally important that the vehicles truck drivers operate have the necessary safety equipment installed. Equipping trucks with the latest safety technologies will eventually help reduce truck crashes. Brake Stroke Monitoring Systems, Vehicle Stability Systems, Lane Departure Warning Systems and Collision Warning Systems are all devices that can help drivers avoid accidents. However, it is important to provide the proper training so that these systems are not a distraction to the driver, that the driver understands the warning signal(s), knows what evasive action to take, and the driver does not overcompensate or defeat the assistance of the device. These systems must be used for the purpose for which they are designed and not as a tool to harass the driver.

Training

Due to a shortage of qualified drivers, safety standards and training have been on the decline. From what I have seen, many companies are just trying to put a body in the seat—they want the CDL certified driver without the proper training. These companies are outfitting vehicles with automatic transmissions and telling new drivers to operate the rigs like a car—but these aren't cars, these are vehicles with long stopping distances that are complicated to maneuver.

At UPS, we are fortunate enough to have a strong training program for our new drivers. And our local union gives us discretion as to how long that training period length should be. Additionally, we require all drivers to have a retraining period annually. Most of my time lately has been spent working with new hires. All of these guys have previous driving experience but many drop out after a day of training because they think it's too hard. Our training program includes 16 to 24 hours, depending on skill level, behind the wheel with the trainee teaching them defensive driving techniques to keep them out of an accident. Not all companies have this type of dedication to safety and training, but it should be mandatory.

Expanded training for all motor carriers helps to promote safe roads and there should be money available to properly train the drivers who transport goods and people. The Administration's bill, The *Grow America Act*, establishes a grant program that provides funds for commercial motor vehicle driver training which the Teamsters wholeheartedly support as a necessary means to increase the number of safe truck drivers on the road.

Detention Time

The driver shortage may also be derived from the poor compensation and working conditions that truckers receive. The Bureau of Labor Statistics estimates that the average yearly salary for a full time truck driver is \$36,970. When considering the long, stressful, and erratic work schedules these drivers have, the compensation drivers collect may not be enough to attract new drivers to the industry. Detention times especially may cut into the pay a truck driver receives. The prospect of drivers waiting long periods to have their trailers loaded or unloaded at shipping and receiving facilities is becoming more the norm rather than the exception. For the most part, Teamster drivers are compensated for the time they are left waiting,

and for that reason, detention time is not as prevalent in the union trucking sector. Unfortunately, that is not the case with owner-operators or non-union drivers. The longer they wait, the more time they lose in on-duty time, which can then effect the time they have left to drive. Drivers then feel pressured to drive beyond their Hours-of-Service limits, risking highway safety by driving fatigued. Those fatigued drivers are then sharing the road with our members. A Government Accountability Office study from 2011 indicated that about 80 percent of the drivers who are “detained” indicated that detention time impacts their capability to comply with Hours-of-Service regulations.⁴

Reasons for detention time vary, from lack of sufficient loading facilities to products not being ready for shipment. Whatever the reason, drivers suffer the consequences – reduced driving time and lost revenue for drivers and carriers.

The Teamsters Union was pleased that the Administration’s bill, the *Grow America Act*, attempts to address the problem of detention by authorizing the Secretary to require property and passenger motor carriers to compensate drivers under certain circumstances for on-duty (not driving) periods at no less than the minimum wage. This may encourage shipping and receiving facilities to create better efficiencies, but it doesn’t fully solve the problem. Those drivers that are independent owner operators, for example, have no employer to pay them for detention time. These are sometimes the drivers who experience the longest delays. Especially in the ports, whether they are misclassified independent owner-operators or employees of motor carriers, drivers line up and can wait for hours to pick up a container. While we are encouraged by the Administration’s proposal,

⁴ Government Accountability Office, *Commercial Motor Carriers: More Could Be Done to Determine Impact of Excessive Loading and Unloading Wait Times on Hours of Service Violations* (DC: Government Accountability Office, 2011), <http://www.gao.gov/assets/320/315297.pdf>.

the Teamsters Union would suggest that the Administration find some way to cover all drivers including independent owner-operators and that the Secretary “shall”, not “may” by regulation require motor carriers to compensate drivers at not less than the minimum wage for detention time.

Hair Testing

Improving truck safety includes keeping drivers who are unfit for duty off the road which includes testing drivers for substance abuse. The method of drug and alcohol testing using hair presents some interesting challenges for the trucking industry. While not necessarily linking the use of drugs and alcohol to impairment, it does give prospective employers the opportunity to identify those prospective drivers that may show a proclivity to abuse drugs. For that reason, we could support the use of hair testing for drug use in pre-employment testing if the science supports this method of testing and is certified by the Department of Health and Human Services. Since there are numerous questions about racial bias, hair color bias, effect of hair treatments, privacy issues and certain patented processes for testing, we would strongly oppose any end-around approval of this method of testing by congressional action, without the express approval of this method by the agencies designated to properly review and evaluate this testing procedure through the regulatory process

Mexico Cross-Border Trucking Pilot Program

Out of concern for roadway safety in the United States, the International Brotherhood of Teamsters has consistently been opposed to broadly opening our nation’s highways to Mexico domiciled trucking companies until we can be assured that Mexican trucks and drivers meet U.S. safety standards and can operate

safely on our highways. As the Mexican Cross-Border Trucking Pilot Program approaches a three-year statutory limitation in October, the IBT is concerned about the data collected during the program's duration and the potential use of the data in justifying an opening of the border to all Mexico domiciled motor carriers. In the three years of the pilot program, the Federal Motor Carrier Safety Administration (FMCSA) has had difficulty obtaining the number of participating companies and data the agency originally indicated would be necessary for accurate results. The DOT Inspector General estimated that at least 46 carriers would be needed to obtain a target of 4,100 inspections within 3 years to provide a statistically valid analysis of program participants' safety performance. With only three months to go in the study, there are only 13 participants, mostly very small carriers with one or two trucks and one or two drivers. This is not a representative sample of the Mexican trucking industry. And, while FMCSA has exceeded the number of inspections needed by approximately 1000, 84 percent of the inspections come from only 2 trucking companies. Before we grant Mexican trucking companies broader operating authority, FMCSA and Congress must ensure that statistically valid data supports that action.

The Teamsters Union is also very concerned about the provision in the *Grow America Act* that removes the requirement that certain safety audits and compliance investigations of Mexico-domiciled motor carriers be conducted on-site in Mexico. While we can appreciate the DOT's concern for safety of its personnel, in light of State Department travel warnings and alerts for the safety and security of Agency personnel, an on-site visit can reveal much more about the safety culture of a motor carrier than simply reviewing a stack of paperwork. Maintenance and repair facilities can be examined, for example, along with personal observations that agency personnel can make seeing drivers and their

trucks first hand. The fact that the lives of agency personnel may be in danger by conducting on-site visits to Mexico-domiciled motor carriers perhaps answers another question as to why U.S. motor carriers have not taken advantage of the reciprocity of the pilot program. This suggested shortcut does nothing to enhance the safety of Mexico-domiciled carriers and drivers.

Minimum Insurance for Motor Carriers

For too long, the minimum insurance for motor carriers has remained at \$750,000. Since that standard was passed 34 years ago, the minimum insurance would need to be increased to \$4.4 million to keep up with the inflation of medical costs and property damage. Accidents involving motor carriers and passenger vehicles can easily reach into the millions of dollars. The Teamsters support a bill introduced by Rep. Matt Cartwright to raise liability coverage to \$4,422,000 and index it to inflation of medical costs to prevent any future degradation of value.

National Hiring Standard for Motor Carriers

The Teamsters Union has serious concerns about legislation that has been introduced in the House of Representatives, H.R. 4727, to create a National Hiring Standard for Motor Carriers. While we appreciate the concern and frustration that shippers and brokers experience in different states in determining what constitutes a safe motor carrier, the legislation is overly broad in that it imposes no liability at all for negligent selection of a motor carrier or “a claim or cause of action *related to* negligent selection under state or federal law, which seems to broaden the

potential scope of the exemption from liability. We are not aware of any situation in which Congress has simply banned states from imposing liability where there is no corresponding federal remedy for the potential injury. While there are insurance coverage mandates in most states, there can be and are circumstances in which coverage either doesn't exist or is inadequate. We fail to see how this legislation would contribute to any increase in motor carrier or highway safety. Merely relying on the Department of Transportation's (DOT) safety rating system in hiring a motor carrier should not necessarily excuse anyone from liability in the event of an accident. DOT has many other data bases that provide information concerning the safety record of motor carriers that can be utilized

Safety Standards for Commercial Motor Vehicle Drivers

The primary mission of the FMCSA is to prevent Commercial Motor Vehicle (CMV)-related fatalities and injuries. There should be a reasonable expectation that the regulations, especially regulations designed to improve the safety and health of workers/drivers and the public not have an adverse effect on drivers. While there are many provisions of the Administration's *Grow America Act* that we support, the Teamsters Union disagrees with the Administration's proposal to change the minimum safety standards regulations regarding the physical condition of motor carrier operators. The Administration claims that "virtually all occupations have some deleterious effect on the physical condition of those employed and the effects of the job are often difficult to separate from the effects of personal behavior, aging or even genetic disposition," are at odds with the position of most competent health and safety experts. Most experts agree that virtually all occupations have work-related hazards that have the potential to cause work-related illnesses or injuries, if such hazards are not eliminated or controlled. Any rulemaking to control such hazards must consider factors such as age, genetic disposition, etc., to ensure that

the rule is protective for most exposed workers. The change to the CMV safety standard language requiring that the work not have a “significantly adverse effect on the physical condition of the operators” does very little to eliminate the debate on the issue. How is “Significantly adverse effect” defined? This is a solution in search of a problem. And this proposed change will cause many to think that the standard is significantly less stringent.

Financial Reporting

The IBT also disagrees with the Administration’s repeal of financial reporting in the motor carrier title of the *Grow America Act*. One section of the financial reporting form includes maintenance and vehicle parts costs. The expenditures that carriers make on maintaining their fleet may be indicative of their attention to vehicle safety.

It is unreasonable to claim that reporting is overly burdensome and insufficiently useful. The reporting requirements were just revised to eliminate quarterly reporting so the carriers already received significant relief. Also, we and others use the annual reports to assess the state of the industry over time. It’s the only valid, continuous data source that tracks carrier performance available to the public since deregulation. The reports can be manually completed online in a matter of minutes and are not arduous due to technological improvements. All Class I motor carriers capture these data at least annually as part of routine data collection and much, such as miles driven info, is often legally required by other reporting systems anyway (vehicle use tax, etc.). The problem is the data is not available online to the public as it should be –it’s an access issue if it is not being used. The data is valuable to a whole range of users, from academics to insurance companies, and does not expose any trade secrets as it currently stands – it has undergone

numerous revisions over time to eliminate that possibility. Furthermore, motor carriers can request confidentiality (competitive harm) if necessary and there are several exemptions that have already been thoroughly vetted by FMCSA and rulemaking. We believe that FMCSA should beef up enforcement and make the data more useful to the public.

Motor Carrier Safety Advisory Committee

The Teamsters Union supports the provision in the *Grow America Act* that codifies the obligation of the DOT Secretary to maintain the Motor Carrier Safety Advisory Committee (MCSAC). This committee, established by provisions in SAFTEA-LU, has allowed stakeholders to provide significant expertise to the DOT on a variety of issues. The current makeup of the committee is balanced, and this provision identifying specific stakeholders to be represented on the panel will ensure that all sectors of the industry have a voice in advising the Department on vital motor carrier safety issues.

Conclusion

Our members, through collective bargaining, receive better, extended training, more favorable duty periods, and the ability to refuse to operate a vehicle that is not in a safe operating condition which ultimately reduces risks and increases safety. In fact, a 2012 study entitled *Safety Performance Differences between Unionized and Non-union Motor Carriers* concluded that Union Membership has a positive impact on safety and results in fewer crashes compared to non-union carriers. Clearly, the IBT is committed to keeping our drivers and all others with whom they share the road safe. This Committee can help lead the way as you

develop transportation policy that recognizes and addresses the challenges ahead. The Teamsters Union looks forward to working with you to help grow a transportation network that meets the future needs of this country, moves freight efficiently and reduces the risks of accidents and improves the safety of our nation's highways.