

**BEFORE THE UNITED STATES SENATE**

**COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION**

**STATEMENT OF LINDA BAUER DARR**  
**PRESIDENT AND CHIEF EXECUTIVE OFFICER**  
**AMERICAN MOVING AND STORAGE ASSOCIATION**

**ON**

**CONSUMER ABUSES IN THE HOUSEHOLD GOODS MOVING INDUSTRY**

**Washington, D.C., September 20, 2012**

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The American Moving and Storage Association (“AMSA”) is pleased to make this statement on consumer abuses by unscrupulous rogue groups posing as legitimate household goods movers and brokers. AMSA congratulates the Committee for focusing on this important consumer protection issue, and we are pleased to join you in the fight against rogue operators that harm consumers and our industry.

AMSA is the national trade association for the moving and storage industry. AMSA represents more than 4,200 members, including interstate moving and storage companies, local movers, international movers, industry suppliers and state moving associations.

The household goods moving and storage industry has a unique and profound impact on consumers. The industry consists of 7,000 companies operating at 13,900 locations, and executing approximately 800,000 interstate household goods moves annually. Beyond the numbers, though, is the fact that these moves involve consumers entrusting most or all of their possessions, to professional movers for safe transportation and delivery over hundreds or thousands of miles.

Although the vast majority of these moves are performed without significant problems, there is a rogue element inserting itself into the marketplace that takes advantage of their unique position of trust to rob consumers. According to the GAO, the Department of Transportation receives approximately 3,000 consumer complaints related to household goods movers annually, some involving egregious offenses. There are also additional complaints reported elsewhere, such as with AMSA, BBB and various other consumer complaint websites. While the number of complaints is statistically small when compared to the total number of moves performed without incident, when problems arise they can be substantial for consumers.

The Committee’s investigation leading up to this hearing underscores the seriousness of the problem. That investigation focused on four companies that had a combined total of 109 complaints documented by MoveRescue, a program discussed in more detail later in

my testimony. The most serious of the complaints involved holding shipments hostage, while other complaints primarily involve disputed charges, delivery delays and damaged shipments.

AMSA believes that ensuring a strong, compliant household goods moving industry is available to household goods consumers is one way to continue to combat the ongoing problem of criminals preying on those consumers. AMSA has taken effective action to help protect the public by drawing sharp distinctions between the legitimate moving industry and the criminals merely posing as movers. One way that AMSA does this is to ensure that its members adhere to a strong code of conduct. Under AMSA's recently launched ProMover<sup>sm</sup> program, AMSA moving company members must agree to comply with AMSA's stringent Code of Ethics, FMCSA/STB regulations, and other relevant business standards. Upon compliance with these standards, the moving companies are then certified as ProMovers by AMSA. AMSA annually monitors performance of its members and terminates the membership of operators who engage in repeated or egregious violations of the Code of Ethics, the FMCSA/STB regulations, or has a pattern of unresolved consumer complaints. As an example of the seriousness of our intent, we kicked out over 200 members in the first year of the ProMover program.

In fact, AMSA terminated the membership of Budget Van Lines, one of the companies identified for investigation by the Commerce Committee. That termination, which occurred prior to the Committee's investigation, was made because of consumer complaints and the company's low Better Business Bureau rating.

AMSA will continue to take action on its own to promote ethical conduct by household goods movers in order to distinguish its members from the criminal element imposing itself on our industry. However, AMSA believes that a strong federal regulatory effort is also essential to deal effectively with the problem of criminals posing as household goods movers.

Responding to a request from this Committee, the GAO undertook an examination of regulation of the household goods industry and how the changes in rules enacted in SAFETEA-LU, enacted in 2005, impacted the effectiveness of that regulation. In its report to the Committee entitled, Household Goods Moving Industry: Progress Has Been Made in Enforcement, But Increased Focus on Consumer Protection Is Needed (October, 2009) GAO found generally that the FMCSA had made limited progress in dealing with household goods consumer abuses, and that the SAFETEA-LU changes had little impact on that progress. GAO made recommendations for improvements in four categories of consumer protection – enforcement; establishing and maintaining partnerships; consumer education; and enhanced data collection regarding consumer complaints.

The GAO report, along with the experience of AMSA and its members, were the building blocks for AMSA's consumer protection legislative proposal for the federal transportation program reauthorization bill. Unfortunately, only a portion of AMSA's household goods consumer protection proposal was included in the recently enacted

MAP-21. We still believe that our proposal provides the best possible path to meaningful reduction in household goods consumer abuses. AMSA's proposal has three components:

### **Entry**

All applicants for new household goods authority would be required to pass a written proficiency examination demonstrating their understanding of, and ability to comply with, FMCSA's household goods consumer protection regulations, would be required to show compliance with tariff filing requirements, and also impose increased levels of financial responsibility and filing fees. After meeting these requirements, applicants would be granted provisional registration, which would only become final after the registrant passes an FMCSA consumer protection audit demonstrating that it is conducting its business in compliance with the FMCSA household goods regulations and has not had a pattern of substantiated customer service complaints filed against it based on regulatory violations.

### **Enforcement**

FMCSA would be directed to strengthen its enforcement approach in three areas and would be given the resources needed to do so. These three areas are: 1) carrying out consumer protection audits required for new operators and, where warranted, existing operators; 2) the hiring of additional federal household goods compliance inspectors with more focus on civil penalty and authority revocation cases where there are repeated and/or serious consumer protection violations; and 3) establishment of a new joint federal/private sector program based on the existing industry Move Rescue program, through which consumers can get advice and assistance, particularly in household goods hostage situations.

MoveRescue has performed a uniquely beneficial role in protecting consumers. Started in 2003 by UniGroup, Inc., parent company of licensed movers United Van Lines and Mayflower Transit, MoveRescue provides free advice and assistance to consumers needing help or information concerning household goods moves. Many of these callers have been victimized by criminals posing as movers and need immediate assistance to recover their wrongfully withheld household goods. The program features an educational website, toll-free hotline staffed with knowledgeable representatives, and access to a network of transportation attorneys, who make their services available on a pro bono basis. In extreme cases of hostage goods or abandonment, MoveRescue works with agents for United and Mayflower to "rescue" shipments and return the goods to their rightful owners. MoveRescue also coordinates informally with FMCSA to support the agency's enforcement efforts. AMSA's proposal would enhance that partnership by establishing a clear, formal role for FMCSA, devoting more resources to the effort and making the program truly nationwide in coverage, involving more licensed, legitimate movers, providing expanded marketing and greater awareness by consumers, and giving consumers real-time, immediate help and advice from customer assistance specialists during a difficult and stressful time.

## **Education**

Movers are required to provide consumers with specific guidance on their rights and responsibilities according to federal law. We support the concept, but the process and primary document are complex, lengthy (60 pages), and often outdated. Consumers just don't read the educational material. Therefore, we propose that FMCSA be directed to convene a panel of education experts, industry personnel, and consumer advocates to develop recommendations on how to make the consumer educational effort more understandable and user-friendly.

The Senate Commerce Committee's transportation reauthorization bill incorporated many of these proposals, and they were included in the Senate passed version of MAP-21:

- Applicants for new household goods operating authority are required to demonstrate, through passage of a proficiency exam, the ability to comply with household goods consumer protection regulations, estimating, consumers' rights, and options for limitations of liability for loss and damage.
- If applicant successfully completes the application and testing, it gets operating authority, but must undergo an FMCSA consumer protection review within 18 months and is subject to authority revocation if the results are unsatisfactory.
- FMCSA is required to implement a Joint Assistance Program to educate HHG consumers, assist consumers with timely resolution of hostage situations, and improve implementation, monitoring, coordination of Federal/State enforcement activities; FMCSA may partner with one or more HHG motor carrier industry groups to carry out the program.
- Civil penalties assessed by the Secretary may be paid to aggrieved shipper in hostage situations. Secretary may order, after notice and opportunity for hearing, that hostage goods be returned to shipper. Secretary may withhold or reduce civil penalties as part of a settlement agreement.
- FMCSA is directed to convene a task force of education experts, industry personnel, and consumer experts to make recommendations regarding condensing and simplifying existing consumer protection information into a format that can be easily used by a consumer and the use of state-of-the-art education techniques/technologies, including the internet.

The entry provisions and part of the enforcement provisions of the Senate bill were the only parts to make it into the enacted version of MAP-21. Applicants for household goods authority are required to pass a household goods consumer protection proficiency examination, in addition to the safety examination required of all applicants. Successful household goods applicants are required to undergo a consumer protection standards review within 18 months of beginning operations.

MAP-21 also gave FMCSA the authority, after an opportunity for notice and proceeding, to order a person holding a household goods shipment hostage to return the shipment to an aggrieved shipper. Finally, MAP-21 gives FMCSA the authority to assign all or a portion of a civil penalty to an aggrieved household goods shipper and to withhold all or part of imposition of a civil penalty, presumably as a bargaining tool to resolve ongoing hostage shipment cases.

We strongly support the tougher entry requirements, and while the enforcement provisions can be useful tools for FMCSA, we continue to believe that the implementation of a comprehensive joint assistance program, and adding additional household goods compliance inspectors would be a better approach, and provide more timely assistance and potential relief to victimized consumers. We also think that the enhancement of consumer education contemplated by the Senate bill is important. Hopefully, these provisions can be added in the next authorization bill. AMSA will certainly continue to press for them.

It is important to emphasize that the provisions contained in AMSA's proposal and in MAP-21 are of limited benefit if FMCSA does not have the resources to implement them effectively, and to enforce compliance with household goods consumer protections. FMCSA does its best with available resources and, as GAO noted, has made enforcement improvements, but FMCSA simply does not have what it needs to do the job right. Effective enforcement of household goods consumer protections will require additional "cops on the beat"... household goods compliance inspectors. Despite increased efforts and commitment, FMCSA still only has a handful of household goods inspectors, yet there are thousands of registered movers and who knows how many rogues operating in the household goods moving marketplace without the appropriate authority. AMSA's proposal called for \$3 million annually to hire additional FMCSA household goods inspectors. We continue to believe that this is needed, at a minimum. We recognize that the FMCSA budget is limited and the trucking industry is large, but we also believe that the consumer protection and personal safety aspects of the moving industry warrant special attention. We are not moving widgets or working with experienced shippers, so the margin for "mischief" is large and must be addressed.

There are two other related household goods enforcement issues that need to be addressed. The first concerns enforcement of FMCSA's new household goods broker rules. Legitimate brokers can perform an important function as intermediaries between consumers and reputable movers, if consumers are adequately educated about brokers' role in the moving process. But in the internet age, unscrupulous brokers can easily engage in deceptive practices such as not making it clear to consumers that they are not movers, inaccurate estimates and the use of unauthorized household goods carriers. In 2011, FMCSA addressed these practices by adopting regulations containing a number of important, common sense protections advocated by AMSA.

These rules essentially require that brokers provide the same consumer protection information as required of household goods movers and they focus on transparency, ending bogus estimates and unauthorized carrier abuses. Among the most important

protections are requirements that a broker arrange for household goods moves to be performed by licensed household goods carriers, with whom the broker has a written agreement; that estimates be based on the carrier's published tariff; that such estimates be based on physical surveys if the shipments are within 50 miles of the carrier's place of business, or the physical survey must be waived by the consumer in writing; and that broker internet sites include prominent disclosures about the brokers' role and the names of FMCSA authorized household goods carriers with whom the broker has a written agreement.

These are important new protections, but they are only beneficial to the public if they are effectively enforced. AMSA believes that it is important that FMCSA have a focused household goods enforcement program for monitoring and enforcing these rules, and that Congress provide sufficient resources to support the enforcement program.

Container companies that act as household goods movers are a good example of the widespread non-compliance with household goods broker regulations. It is reported that some container companies may be operating as household goods brokers, but are marketing themselves as household goods movers and contracting with freight carriers to haul the containers. These companies do not have household goods broker authority and often do not comply with the relevant household goods broker rules.

A second area of concern is that some freight carriers are moving household goods shipments for consumers across state lines while attempting to evade regulation as household goods movers. These freight carriers are relying on the so-called "Limited Service Exclusion" that excludes carriers from the definition of "Household Goods Motor Carrier" if such carriers do not provide certain services, such as packing and loading, to their customers. However, there are reports that these carriers do, in fact, offer or supply packing and loading services through providers believed to be operating as their apparent or actual agents, while not registering with FMCSA as household goods motor carriers, or complying with that agency's household goods consumer protection regulations.

The consequence of these reported practices is that interstate household goods shippers using these services are being denied important consumer protections. They do not have protections ensuring accurate estimates based on published tariffs of licensed household goods movers, relevant consumer protection information, timely and full performance by licensed household goods movers, and adequate remedies for non-compliance that are otherwise available to household goods shippers using authorized household goods carriers or brokers. AMSA has brought this issue to FMCSA's attention and urged FMCSA to investigate these suspected violations and enforce the regulations appropriately.

In conclusion, AMSA and its members will continue to do everything we can to eliminate the consumer abuses caused by criminals posing as household goods movers, to distinguish those bad actors from legitimate, licensed movers, and to hold hard-working, legitimate companies accountable for compliance with the law. AMSA knows that FMCSA is committed to enforcing its household goods broker and consumer protection

regulations, but it needs adequate resources to be effective. AMSA appreciates what the Committee has done to give AMSA the tools that it needs and to shine a light on the abuses that must be stopped. AMSA looks forward to working with the Committee and FMCSA to give all shippers of household goods the protection they deserve.

I am happy to answer any questions members of the Committee might have.