

**STATEMENT OF
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U.S. DEPARTMENT OF TRANSPORTATION**

BEFORE THE

**U.S. SENATE
COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION**

SEPTEMBER 20, 2012

Mr. Chairman, Senator DeMint, and members of the Committee, thank you for the opportunity to appear before you today to discuss the business practices in the household goods moving industry. The Federal Motor Carrier Safety Administration (FMCSA) takes very seriously its responsibilities to help protect consumers that utilize the services of the moving industry through its Household Goods Program, which is why we continue to educate consumers, build partnerships with States and other Federal agencies, and take necessary enforcement action on unsafe and non-compliant moving companies.

The primary mission of the FMCSA is to reduce crashes, injuries and fatalities involving large trucks and buses. FMCSA's 1,100 employees are responsible for monitoring the safety performance of over 525,000 active motor carriers, of which approximately 4,000 transport household goods. Additionally, the Agency is responsible for ensuring the compliance of over

21,000 brokers to the Agency's safety and consumer protection rules. Of these brokers, approximately 500 are household goods brokers. Each year, the Agency performs compliance reviews on about two percent of the motor carrier industry, which is about 16,000 compliance reviews per year. About 400 of these compliance reviews are performed on household good carriers, which is about ten percent of the household good carrier population each year.

Over the last ten years, the Agency has expanded its household goods program by establishing strategic partnerships with States and other Federal agencies, implementing a vetting program to catch unscrupulous carriers, and conducting enforcement actions on egregious offenders. Over time, FMCSA became aware that there were an increasing number of moving-related Web sites hosted by household goods brokers engaging in unfair business practices.

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) directed the Agency to require a broker to provide shippers with specific information whenever it has contact with a shipper or potential shipper. The Agency included these requirements as part of the "Brokers of Household Goods Transportation by Motor Vehicle" final rule that became effective on January 28, 2011. This rule helps ensure that individual shippers who arrange for transportation of household goods through brokers receive necessary information regarding their rights and responsibilities in connection with interstate household goods moves. The rule requires all household goods brokers to: (1) provide customers with full disclosure that they are not motor carriers; (2) provide customers with the same "rights and responsibilities" documents that household goods motor carriers are required to provide; (3) display a U.S. Department of Transportation (USDOT) number on their advertisements and internet Web sites; and (4) obtain a surety bond or trust fund of \$25,000.

Core Priorities

The FMCSA has a number of initiatives and programs underway aimed at achieving our core safety and compliance mission. We have three goals that are the strategic framework and focus of our efforts and resources:

1. Raise the safety bar to enter the industry;
2. Require operators to maintain high safety standards to remain in the industry; and
3. Remove high-risk operators from our roads and highways.

Raise the Safety Bar

In April 2009, FMCSA implemented a vetting program to thoroughly review applications from household goods motor carriers, brokers, and freight forwarders before granting operating authority. The vetting process is an in-depth investigation of the applicant to determine if it is a reincarnated carrier, broker, or freight forwarder, or has affiliations with unsafe or non-compliant entities. The Agency compares information about the applicant to data in our Motor Carrier Management Information System, which contains an overall company profile, in addition to information on the safety fitness of commercial motor carriers and hazardous material shippers subject to the Federal Motor Carrier Safety and Commercial Regulations (FMCSRs & FMCCRs) and the Hazardous Materials Regulations (HMRs). It then investigates any red flags in new applications that may indicate an unscrupulous or unsafe carrier is attempting to reincarnate, or begin operations under another name. Since the inception of the program, the Agency has vetted and approved more than 2,400 applications of the more than 3,700 applications it has received. Of the remaining applications, approximately 700 were rejected and 500 were withdrawn.

The new surface transportation reauthorization law, Moving Ahead for Progress in the 21st Century (MAP-21), sets forth requirements that greatly improve the standard for entry into the

industry. MAP-21 directs the Secretary of Transportation to issue distinctive registration numbers to a person for each authority they request to provide transportation or services such as brokering or freight forwarding. MAP-21 also increases the level of financial responsibility necessary to be registered as a broker, from \$10,000 in surety bonds or other financial instruments to \$75,000 in order to help address claims from failure to pay freight charges under a contract or agreement. Household goods motor carriers will also be required to successfully pass an examination to demonstrate knowledge of safety and consumer protection regulations before entering the industry.

Maintain High Standards

At FMCSA, we have implemented a multi-layered approach to improving the safety of commercial motor vehicles involved in transporting household goods across State lines, while also ensuring protection against moving fraud and abuses. The main components of our efforts to maintain high standards in the household goods industry are the National Consumer Complaint Database (NCCDB), the Top 100 Household Goods Prioritization list, and our hostage goods resolution program.

The NCCDB maintains complaint information regarding movers and passenger carriers. Complaints can be filed in one of two ways: (1) by calling our toll free hotline, and (2) by filing the complaint electronically on our Protect Your Move Web site.¹ The NCCDB database is an important tool to assist our enforcement partners combating rogue household goods motor carriers.

The FMCSA began capturing complaint data in fiscal year (FY) 2002 and received 1,973 complaints in that year. The complaints peaked in FY 2005 with 3,583 and they numbered 2,851 in calendar year 2011. While we track our progress in reducing complaints, we recognize that it

¹ <https://www.protectyourmove.gov/>

is probable that complaints will increase as we increase our efforts to educate and outreach to consumers.

The Agency's household goods working group, which includes Federal and State enforcement officials, has established an informal "Contributing Partner" effort to assist our State enforcement partners in accessing the NCCDB to view or enter complaint data on motor carriers and brokers.

Remove Unsafe Operators

FMCSA has developed a number of enforcement tools to crack down on those carriers that violate the FMCSRs and the FMCCRs. We have implemented authority to remove from service motor carriers deemed to be unfit or declared an imminent hazard as part of our core safety program. Most recently, we expanded our efforts and established guidance and procedures to revoke the operating authority of motor carriers and brokers that continually violate the safety and/or consumer protection regulations. To combat the problem of hostage loads, we have put into place procedures to revoke the operating authority of those found to have committed violations. Finally, FMCSA is providing public notice this week alerting the household goods industry of our enforcement efforts to suspend or revoke operating authority when carriers either demonstrate a pattern of violating the commercial regulations or hold consumers' goods hostage.

Investigations of Motor Carriers and Brokers

FMCSA is well aware of the four motor carriers and brokers that are at the heart of your Committee's investigation. The Agency conducted a compliance review on Budget Van Lines in January 2011. While this investigation did not result in an enforcement action against Budget Van Lines, it did lead to an investigation of a series of household goods carriers working in

concert with Budget Van Lines that were noncompliant with the household goods regulations. This investigation led the Agency to carriers in California, Florida, Georgia, Maryland, New Jersey, and New York and resulted in enforcement actions for violations of the household goods regulations on eleven motor carriers.

Based on complaints that we received, the Agency has also investigated Able Moving, Inc., and Best Price Moving and Storage, Inc. Able Moving's investigation resulted in an enforcement action for non-compliance with safety regulations while the investigation for Best Price Moving and Storage resulted in no enforcement actions. While Able and Best Price have been on the Agency's Top 100 Prioritization list in the past, currently, there is not enough data to place them on the list as a priority investigation. A preliminary review of Nationwide Relocation shows that the company started as a broker and then acquired motor carriers, many with records of non-compliance. The Agency is currently determining next steps, as a major investigation such as this requires FMCSA to balance this task with its core safety mission for a significant period of time.

Top 100 Carrier List

As discussed above, the Top 100 Household Goods Carrier list utilizes data from both our Safety Measurement System (SMS) and the NCCDB to rank household goods carriers according to their risk of commercial regulatory non-compliance.

The SMS utilizes violation data from roadside inspections and investigations, as well as crash data, to identify those carriers with the highest risk of crashes and compliance problems. This tool is the primary mechanism for FMCSA to prioritize carriers for safety interventions. The data in SMS, when linked with the complaints in the NCCDB, allow us to identify the 100 household goods carriers with the most significant safety and compliance problems to most

effectively utilize our limited resources. These carriers are then targeted for reviews and enforcement, as appropriate.

In FY 2011, FMCSA conducted over 500 investigations of household goods carriers, resulting in approximately 200 enforcement cases. The Top 100 list in itself yielded an enforcement rate of nearly 50 percent clearly showing its effectiveness as a tool to help the Agency focus its limited resources on the most egregious of household goods motor carriers.

Hostage Loads

The FMCSA is also working hard to combat the problem of household goods carriers holding consumers goods and demanding additional payment. These situations, known as “hostage loads,” are particularly egregious offenses on the consumer. Many consumers unwittingly fall prey to unscrupulous motor carriers who take advantage and exploit the consumer. Consumers also often hire moving companies with the lowest estimate, instead of confirming that the company is safe and has a good customer service record.

Consumers are often unaware of the regulatory requirements that are in place to protect them. Despite an increased focus in outreach, too many times consumers fall victim to rogue operators who are willing to disregard regulations. FMCSA attempts to address each and every hostage load complaint with some level of investigation which could include a full onsite investigation when necessary.

MAP-21 provided the Agency with important new tools to combat problems of hostage goods situations. Beginning October 1, 2012, FMCSA will have the authority to require the return of hostage goods loads to consumers and may also direct a portion of a civil penalty to reimburse consumers for their financial losses. FMCSA is beginning to implement these new authorities and believes they will provide further strength to our household goods program.

Reincarnated or Chameleon Carriers

It is a common practice in the motor carrier industry for some motor carriers to establish a new identity once FMCSA shuts the company down because it is not fit, willing, or able to comply with applicable safety regulations. The practice of reincarnating to avoid negative safety performance history or enforcement action causes an unacceptable risk of harm to the public because it hinders the Agency's ability to enforce Federal safety regulations and carry out its safety mission. A recent amendment to the Agency's Rules of Practice, effective May 29, 2012, provided procedures for the Agency to issue out-of-service orders and/or record consolidation orders when carriers are deemed to be reincarnated or affiliated companies that have been created to evade complying with an FMCSA order or a regulatory requirement, paying a civil penalty, or responding to an enforcement action to avoid being linked with a negative enforcement history.

The issue of reincarnated carriers among the household goods industry has become an increasing challenge. A recent investigation revealed a household goods motor carrier that was affiliated with several other entities that were all controlled by the same corporate officials. For each of these affiliated businesses, the NCCDB revealed numerous complaints. In an effort to address these types of issues, FMCSA is pursuing the affiliated motor carriers and it is considering the feasibility of suspending their operating authority.

Broker Activities

On January 28, 2011, FMCSA's new requirements pertaining to brokers who arrange for the transportation of household goods in interstate or foreign commerce went into effect. The rule requires, among other things, that when the Unified Registration System final rule becomes effective, all household goods brokers display a USDOT number on their advertisements and

internet Web sites. In an effort to facilitate this requirement in advance of the full compliance date, the Agency has already issued USDOT numbers internally to all brokers in the database.

The rule also provided regulatory authority to address many of the concerns that we commonly face with problematic or unethical brokers. For example, brokers are required to clearly state that they are not a motor carrier in their advertisements. This has been a consistent problem because unscrupulous brokers are aware that consumers prefer to deal with the motor carrier directly.

MAP-21 sets forth requirements for higher standards for compliance and gives the Agency additional tools for enforcement. It increases the registration requirements and directs the Secretary of Transportation to issue distinctive registration numbers to motor carriers, brokers, or freight forwarders. It prohibits a motor carrier from brokering transportation services from other motor carriers unless the motor carrier is also a registered broker. MAP-21 also provides effective periods for registration and requires a broker or freight forwarder to provide a minimum financial security of \$75,000 dollars and to evaluate if that amount is sufficient every 5 years.

Outreach

Another layer in our multifaceted approach to increasing safety and consumer protection is the implementation of an aggressive outreach program. The cornerstone of this effort is the “Protect Your Move” Web site, which serves as a first line defense to protect the consumer. The site contains a wealth of information for consumers to use while planning a move as well as a variety of consumer protection bulletins, “The Moving Fraud Protection Checklist,” and a public service announcement. FMCSA recognizes that those hiring moving companies are a diverse group – college graduates venturing into new careers, employees changing jobs, or individuals who are moving during retirement. The Web site targets materials for all these groups. Public

awareness of the Protect Your Move Web site is building. During the first 9 months of FY 2012 (October 1 through June 30, 2012), there were over 6,300,000 Web site hits compared to approximately 3,600,000 during the same period in FY 2011. This represents a 74 percent increase. We understand that moving is a stressful time, and our goal at FMCSA is to ensure that the consumer is protected to the fullest extent.

The Web site also includes links to the NCCDB so that consumers can research registration status and complaint history of household goods motor carriers and brokers before hiring them. This database allows the consumer to review and examine the motor carrier's safety and complaint data. Other features on the Web site include: (1) a regulatory webpage for our enforcement partners and industry with appropriate Federal regulations and statutes; (2) a State and local government resource webpage offering information to the consumer whose problems are beyond FMCSA's jurisdiction; and (3) a summary of the new broker requirements.

Partnerships

To combat the problem of unsafe and rogue moving companies, FMCSA is constantly reaching out to Federal, State, and local law enforcement agencies to develop partnerships to enhance enforcement and combat consumer fraud.

As a result of discussions with the Government Accountability Office, FMCSA reviewed the Federal Trade Commission's (FTC) approach to consumer protection and is making changes in the interstate household goods consumer protection efforts to clearly articulate the Department's goal of ensuring consumer protection within its mission. These discussions led to the proposed sharing of FTC's investigative database, the "Consumer Sentinel Complaints Database." FMCSA also reviewed FTC's enforcement strategies and implemented collaborative

efforts to provide outreach to inform consumers who contact FTC on household goods moving fraud.

A second relationship was forged with the Federal Maritime Commission (FMC) and a formal memorandum of understanding to formalize collaboration efforts on enforcement activities combating household goods fraud and unscrupulous motor carrier operations. This partnership allows FMCSA to be involved in enforcement on international movements of household goods. While this partnership is new, the Agency is eagerly pursuing opportunities to fight rogue motor carriers with the support of FMC.

Another Federal collaboration to combat fraudulent motor carrier operations is with the Office of the Inspector General (OIG). The OIG has been given access to FMCSA's complaint databases, and they are using the data to target motor carriers with numerous complaints of fraud. To date, the OIG has completed several investigations on motor carriers with fraudulent activities. The OIG recently used data from the NCCDB to conduct an investigation and indict a large motor carrier operation. Through our collaborative efforts, FMCSA assisted in the criminal case by providing expert testimony during the trial.

FMCSA also has an aggressive campaign to solicit full State law enforcement partners to work directly with FMCSA to enforce Federal commercial regulations within their jurisdictions. To facilitate this effort, FMCSA has provided numerous training opportunities to States that are interested in receiving household goods enforcement training. To date, Louisiana, Ohio, Indiana, California, New Jersey, Michigan, South Carolina, and Texas have received training on household goods enforcement. Of those States trained, Louisiana, Ohio, and Texas have signed memorandums of agreements – becoming full enforcement partners with FMCSA. As a result, each of these States may conduct household goods compliance reviews on interstate motor

carriers. In accordance with the provisions of SAFETEA-LU, they will have the ability to retain the financial penalties from any pending enforcement action.

Household Goods Working Group

As outlined in SAFETEA-LU, the Agency established a working group of State attorneys general, State consumer protection administrators, and Federal and local law enforcement officials to enhance the Federal-State partnership on issues involving the interstate transportation of household goods. The statute further required that the working group make legislative and regulatory recommendations to the Secretary concerning enforcement efforts. The workgroup identified three priority areas for enhanced outreach coordination:

1. General Communication and Information Sharing;
2. Information Sharing Related to Federal Laws and Regulations; and
3. Enforcement-Specific Communication and Information Sharing.

To fully implement these goals, the Agency is continually engaging the enforcement community and providing updated regulatory, legal, and investigative information. As mentioned earlier, FMCSA has provided State Partners and Contributing Partners access to the NCCDB through the “Protect Your Move” website. The database allows partners to view household goods enforcement information that can benefit their investigations.

The FMCSA has issued a call for all States to become contributing household goods enforcement partners, which allows them access to the NCCDB to directly input complaints from consumers related to interstate moves.

Conclusion

Thank you for the opportunity to appear before you today. Over the last few years, FMCSA has made significant progress in executing its commercial enforcement program. We

have a good program with limited resources. The goal of our dedicated staff and partners is to protect consumers and protect the highways. We are continuing to build on these successes and enhancing the program through data-driven decision making. We look forward to executing the provisions in MAP-21 that increase FMCSA's ability to raise the safety bar to enter the industry, require operators to maintain high safety and ethical standards to remain in the industry, and to allow FMCSA to remove high-risk operators from our roads and highways.