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For Immediate Release:
Dec. 2, 2005

Contact: Angela Bradbery (202) 588-7741
Valerie Collins (202) 588-7742

Appeals Court Excoriates FMCSA for Woefully Inadequate Truck and Bus Driver Training Rule

Rule Is “So at Odds” With Government’s Own Safety Information That It Must Be Rewritten, Court Says

WASHINGTON, D.C. – A federal rule establishing training requirements for truck and bus drivers is “so at odds” with safety information assembled by the government that it should be thrown out and redone, the U.S. Court of Appeals for the District of Columbia ruled today.

In a scathing opinion that excoriates the agency for disregarding data and offering “patently illogical” reasoning, Senior Circuit Judge Harry T. Edwards said that the Federal Motor Carrier Safety Administration (FMCSA) “has adopted a rule with little apparent connection to the inadequacies it purports to address.” The rule, issued in May 2004, “completely ignores” data about “practical, on-the-road training.” The court deemed the agency’s analysis “frail.”

The rule was supposed to set minimum training requirements for commercial motor vehicle operators, including drivers of trucks and buses. Instead of requiring that drivers have on-the-road training in such things as backing, driving in severe weather, controlling skids and passing other vehicles, though, the rule merely requires training in driver wellness, driver qualifications, hours of service and whistleblower protection.

“Today’s D.C. Court of Appeals decision, in yet another unanimous opinion against the agency, is a clear rebuke to the FMCSA,” said Jackie Gillan, vice president of Advocates for Highway and Auto Safety, which filed the suit. “Once again, the courts have stepped in and overturned a major rulemaking of this agency because of serious defects. This shows that the agency lacks the expertise to issue a valid, worthwhile safety regulation, and that the agency is negligent in producing effective safety policies.”

Added Joan Claybrook, president of Public Citizen, which represented Advocates in court, “The Federal Motor Carrier Safety Administration has been reprimanded now twice in the past 18 months by the U.S. Court of Appeals for totally inadequate truck driver safety regulations. This damning decision, which sends the agency back to the drawing board, should be a wake-up call that its statutory priority is public safety, not accommodating the trucking industry. This is a lawless agency.” (The other decision regarded trucker hours of service.)

Concerned about driver safety, Congress in 1991 directed the Secretary of Transportation to begin a formal process investigating the need for minimum training requirements for entry-level truck and bus drivers. The agency was to issue a rule by December 1993 or submit a report to Congress explaining why a rule was not necessary.

In a study published in 1995, the agency found that commercial motor vehicle drivers were not being adequately trained. In fact, it found that only 8.1 percent of heavy truck carriers and 18.5 percent of bus operators provided entry-level drivers with adequate training. The agency held a public hearing in 1996 on the issue, but then did nothing for seven years.

In November 2002, Public Citizen, Citizens for Reliable and Safe Highways, Parents Against Tired Truckers, and Teamsters for a Democratic Union filed a petition in court seeking an order directing the government to fulfill Congress' mandate and issue a rule. As part of a settlement, the U.S. Department of Transportation agreed to issue a rule by May 31, 2004.

However, when FMCSA produced the rule, it appeared to give no consideration to the reams of information it had gathered documenting the inadequacies of driver training and the need for on-the-road training for entry-level commercial drivers. Its final rule calls for just 10 hours of training, none of it on the road.

“The agency has entirely failed,” the opinion said. “It largely ignored the evidence ... and abandoned the recommendations ... without reasonable explanation; and it adopted a final rule whose terms have almost nothing to do with an ‘adequate’ CMV [commercial motor vehicle] training program. FMCSA simply disregarded the volumes of evidence that extensive, on-street training enhances CMV safety.”

“It was unreasonable for the agency to promulgate a rule on mandatory entry-level training that did not require the drivers to receive at least minimally adequate training in the skills and knowledge necessary to drive a truck or bus,” said Adina Rosenbaum, the Public Citizen attorney who handled the case. “We are pleased that the court recognized the complete disconnect between the evidence before the agency and the agency’s final rule.”

Also opposing the rule as petitioners in the case were the United Motorcoach Association and the Owner-Operator Independent Drivers Association.

A copy of the opinion is available at <http://www.citizen.org/documents/decision.pdf>.

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