



ADVOCATES
FOR HIGHWAY
& AUTO SAFETY

**STATEMENT OF CATHERINE CHASE
PRESIDENT
ADVOCATES FOR HIGHWAY AND AUTO SAFETY**

ON

**“KEEP ON TRUCKIN’: STAKEHOLDER PERSPECTIVES ON
TRUCKING IN AMERICA”**

SUBMITTED TO THE

**UNITED STATES SENATE
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
SUBCOMMITTEE ON TRANSPORTATION AND SAFETY**

FEBRUARY 4, 2020

Introduction

Advocates for Highway and Auto Safety (Advocates) is a coalition of public health, safety and consumer organizations, insurers and insurance agents that promotes highway and auto safety through the adoption of federal and state laws, policies and regulations. Advocates is unique both in its board composition and its mission of advancing safer vehicles, safer motorists and road users, and safer roads.

We thank Chairman Fischer and Ranking Member Duckworth for the opportunity to submit this written testimony to the hearing record. Throughout this hearing, “Keep on Truckin’: Stakeholder Perspectives on Trucking in America,” we encourage the Chairman, Ranking Member and all members of the Subcommittee to think through the perspective that all motorists, both truck drivers and everyone sharing the roads with them, are in fact “stakeholders”. Recent crashes including those that seriously injured Tracy Morgan and killed James McNair on the New Jersey Turnpike, a crash that occurred near Grand Island, Nebraska that claimed the life of a 72-year old woman, a horrific tragedy that injured 12 and claimed the lives of four young woman near Hamel, Illinois in 2017, and less recent crashes including the one that took the life of Truck Safety Coalition’s president Dawn King’s father, Bill Badger, demonstrate the vulnerability of motorists and must serve as a clarion call to Congress to advance proven safety solutions with great urgency.

Large Truck Crash Deaths Continue to Skyrocket

Fatal truck crashes continue to occur at an alarmingly high rate. In 2018, crashes involving large trucks killed 4,951 people – a staggering increase of 46 percent since a low in 2009.¹ Additionally, 148,000 people were injured in crashes involving large trucks in 2017, the latest year for which data is available. In fatal two-vehicle crashes between a large truck and a passenger motor vehicle, 96 percent of the fatalities were occupants of the passenger vehicle.² The cost to society from crashes involving large trucks and buses was estimated to be \$135 billion in 2017 – amounting to a “crash tax” of over \$400 per American.³

A number of identified and persistent problems are contributing to these crashes, deaths and injuries. However, solutions are available that can help to reverse these grim statistics. Unfortunately, many of these safety advances continue to languish and worse yet, certain segments of the industry are relentless in their efforts to roll back, weaken and degrade essential rules and regulations. This deadly and costly trend will only be reversed with proactive action taken by our Nation’s leaders.

Policies which Could Improve Truck Safety for All Road Users Today

Require automatic emergency braking in all new trucks and cars to prevent and mitigate crashes. According to the National Highway Traffic Safety Administration (NHTSA), from 2003

¹ Traffic Safety Facts: Research note, 2018 Fatal Motor Vehicle Crashes: Overview, NHTSA, Oct. 2019, DOT HS 812 826; and Traffic Safety Facts 2017: A Compilation of Motor Vehicle Crash Data, NHTSA, Sep. 2019, DOT HS 812 806. (2017 Annual Report). Statistics are from the U.S. Department of Transportation unless otherwise noted.

² 2017 Annual Report.

³ 2019 Pocket Guide to large Truck and Bus Statistics, FMCSA, Jan. 2020, RRA-19-012.

through 2008, large trucks were the striking vehicle in approximately 32,000 rear-end crashes resulting in 300 fatalities and injuring over 15,000 people annually. In 2015, Advocates, along with the Center for Auto Safety, the Truck Safety Coalition (TSC) and Road Safe America, filed a petition with NHTSA seeking the issuance of a rule to require forward collision avoidance and mitigation braking systems (F-CAM), now more commonly referred to as automatic emergency braking (AEB), on commercial motor vehicles (CMVs) with a gross vehicle weight rating (GVWR) of 10,000 pounds or more.⁴ These systems alert the driver to an object in front of the CMV, such as a motor vehicle, and can apply the brakes to stop the CMV if the driver fails to respond. The NHTSA estimated in 2012 that fleetwide adoption of advanced AEB systems in CMVs could save 166 lives per year and prevent 8,361 injuries.⁵ Furthermore, the National Transportation Safety Board (NTSB) has recommended that AEB systems be required on all highway vehicles.⁶ The agency granted Advocates' petition in October of 2015 but has not undertaken any further regulatory proceedings.⁷ This needless delay is unconscionable when crashes could be prevented and lives could be saved by technology which is available and already in many CMVs. The Protecting Roadside First Responders Act (S. 2700/H.R. 4871), co-sponsored by Ranking Member Duckworth, and the Safe Roads Act (H.R. 3773) would require CMVs to be equipped with AEB.

Recommendation: Congress should swiftly pass S. 2700/H.R. 4871 and H.R. 3773 to require NHTSA to set a minimum performance standard and issue a rule requiring CMVs be equipped with AEB.

Prevent or mitigate underride crashes, where a motor vehicle travels underneath the rear or side of a truck trailer. Technology is currently available that can significantly increase the chances that an individual can survive these violent events. For this reason, Advocates supports enactment of the Stop Underrides Act of 2019 (S.665/H.R. 1511). This important legislation will require the current federal standards for rear underride guards to be upgraded to meet current industry standards as well as the installation of side and front guards.

In 2015, the NHTSA issued a Notice of Proposed Rulemaking (NPRM) to update the standards for rear impact guards that are installed on the rear of trailers.⁸ However, the NPRM proposed only to upgrade the federal standard to meet the Canadian standard which was issued over a decade ago and is substandard given guards currently available in the marketplace which have been shown to have superior performance capabilities. In addition, the agency failed to require that single-unit trucks (SUTs) be equipped with underride guards, instead requiring retroreflective tape on the side and rear. While requiring retroreflective tape is long overdue, it alone is not a sufficient countermeasure. Therefore, in order to properly address the public safety threat posed by rear underride crashes, the federal motor vehicle safety standards (FMVSS) that apply to rear underride guards should be updated to meet the standards set by the Insurance Institute for Highway Safety (IIHS) in their TOUGHGUARD award and should be applied to SUTs as well as trailers.

⁴ Petition of Rulemaking: Requesting Issuance of a Rule to Require the Use of Forward Collision Avoidance and Mitigation Systems for Commercial Motor Vehicles, Advocates et. al., Feb. 19, 2015, NHTSA-2015-0099-0001.

⁵ Woodroffe, J., et al., Performance Characterization and Safety Effectiveness Estimates of Forward Collision Avoidance and Mitigation Systems for Medium/Heavy Commercial Vehicles, Report No. UMTRI-2011-36, UMTRI (August 2012). Docket No. NHTSA-2013-0067-0001.

⁶ NTSB, 2019-2020 Most Wanted List of Transportation Safety Improvements.

⁷ 80 FR 62487 (Oct. 16, 2015).

⁸ 80 FR 78418 (Dec. 16, 2015).

The IIHS has also conducted two tests of a side underride guard. The AngelWing guard, made by Airflow Deflector Inc., succeeded in blocking a midsize car traveling 35 miles-per-hour (MPH) from going underneath the side of the trailer. A subsequent test showed it also prevented underride at 40 MPH.⁹ In addition, front guards that prevent a truck from overriding or traveling over a passenger motor vehicle when the truck strikes the rear of the vehicle have been in use in the European Union for years. The NTSB has recommended improving comprehensive underride protection.¹⁰ It is time for this lifesaving equipment to finally make its way onto America's roads.

Recommendation: Congress should promptly pass the Stop Underrides Act (S. 665/H.R. 1511) which will require the current federal standards for rear underride guards to be upgraded and the installation of side and front guards.

Mandate speed limiters in large trucks. According to the Federal Motor Carrier Safety Administration (FMCSA), 10,440 people were killed from 2004 to 2013 in crashes where the speed of the CMV likely contributed to the severity of the crash. On average, that is over 1,000 lives lost annually to speeding CMVs. In September of 2016, NHTSA and the FMCSA issued a joint NPRM to require vehicles with a GVWR of more than 26,000 pounds to be equipped with a speed limiting device.¹¹ The safety benefits of limiting the speed of a CMV are indisputable and the NTSB has recommended that CMVs be equipped with the technology.¹² The NPRM estimated that setting the device at 60 MPH has the potential to save almost 500 lives and prevent nearly 11,000 injuries annually.¹³ Setting the speed at 65 MPH could save as many as 214 lives and prevent approximately 4,500 injuries each year.¹⁴ Speed limiters are also already widely used in the industry and their implementation is supported by truck drivers. Research shows that the technology is currently being used by 77 percent of trucks on the road in the United States.¹⁵ Furthermore, a 2007 survey of truck drivers by IIHS found 64 percent of drivers were in favor of a truck speed governor requirement.¹⁶

Although the public safety benefits of requiring speed limiting devices in CMVs are clear and a majority of the current fleet is already equipped with the technology, the U.S. Department of Transportation (U.S. DOT) continues to delay the issuance of a final rule to require this lifesaving safety equipment. The cost of the proposed requirement is expected to be minimal since most CMVs are already equipped with either mechanical or electronic capability to limit the speed of the vehicle. "Turning on" the speed limiters that are not already engaged or changing the speed control to the limit required by the final rule, involves only a minor maintenance cost.

Recommendation: We urge Congress to enact S. 2033, the Cullum Owings Large Truck Safe Operating Speed Act of 2019, to require that the U.S. DOT issue a final rule requiring all new CMVs to be equipped with speed limiting devices and for those vehicles currently equipped with the technology to engage this lifesaving device.

⁹ iihs.org/topics/large-trucks#truck-underride

¹⁰ NTSB Safety Recommendations H-10-013, H-14-002, H-14-003, H-14-004.

¹¹ 81 FR 61942 (Sep. 7, 2016). [SL 2016 NPRM]

¹² NTSB Safety Recommendation H-12-020, H-12-021.

¹³ SL 2016 NPRM.

¹⁴ *Id.*

¹⁵ Preliminary Regulatory Impact Analysis (PRIA) and Initial Regulatory Flexibility Analysis, FMVSS No. 140, Speed Limiting Devices, p. 28 (NHTSA, Aug. 2016).

¹⁶ Insurance Institute for Highway Safety (IIHS), Speed limiters in trucks would serve 2 purposes, Status Report, Vol. 45, No. 8 (Aug. 21, 2010).

To obtain a Commercial Driver’s License (CDL), a candidate should be required to undergo uniform adequate training. In 2015, Advocates was appointed by the FMCSA to serve on the Entry-Level Driver Training Advisory Committee (ELDTAC) established to complete a negotiated rulemaking on Entry-Level Driver Training (ELDT) for novice CMV operators. The consensus reached by the ELDTAC, as well as the NPRM issued by the FMCSA in March 2016, included the requirement that applicants for a CDL receive a minimum number of hours of behind-the-wheel (BTW) instruction (BTW hours requirement) as part of the core curricula approved for applicants seeking either a Class A or B CDL. As the FMCSA noted in the NPRM, “...BTW training for entry-level drivers is uniquely suited to an hours-based approach because it ensures that driver-trainees will obtain the basic safe driving skills necessary to obtain a Class A or Class B CDL and to operate their vehicles safely—skills that can only be obtained after spending a reasonable amount of time *actually driving* a CMV.”¹⁷

However, the final rule issued by the agency in December 2016 removed the BTW hours requirement. Instead, the rule simply requires that candidates demonstrate to their instructor that they are proficient in performing a series of maneuvers while operating a CMV.¹⁸ This does not ensure that CDL applicants who can pass the state CDL skills test will spend any time actually operating a CMV on public roads with an experienced instructor encountering safety critical situations. This type of real-world training and experience for CDL candidates, which several bodies of experts have determined should be required, is needed to enhance the ability of CDL applicants to operate a truck-trailer combination vehicle safely and to avoid crashes.

FMCSA’s inability and incessant delays in issuing a rule establishing ELDT for novice CMV operators is simply confounding. In 1991, Congress directed the Secretary of Transportation to undertake a rulemaking on the need to require training of all entry-level drivers of CMVs.¹⁹ Although a comprehensive curriculum for ELDT was developed and approved by the Federal Highway Administration (FHWA) in the mid-1980s, in the subsequent decades the agency has failed to respond in a timely fashion to Congressional deadlines or issued insufficient rules that did not withstand judicial review. Despite the ELDTAC concluding its work almost five years ago, the latest iteration of the driver training rule is delayed once again as announced by the agency on January 29, 2020.

Recommendation: Congress should direct the FMCSA to amend the ELDT final rule to include a minimum number of BTW training hours to ensure that novice drivers receive adequate training before operating a CMV on public roads.

Data on carrier performance must be collected and publicly available. With fatal truck crashes continuing to occur at an alarmingly high rate unhampered by appropriate accountability, there is insufficient incentive for unsafe carriers to improve their operations. FMCSA’s Compliance, Safety, Accountability (CSA) program evaluates the safety and compliance of motor carriers and is designed to identify high risk operations for intervention and improvement. Involvement in previous truck crashes in and of themselves and regardless of “fault” has been found by industry, academia and the government to be an accurate predictor of involvement in future truck crashes. The goal of CSA is to implement

¹⁷ 81 FR 11944 (Mar. 7, 2016).

¹⁸ 81 F.R. 88732 (Dec. 8, 2016).

¹⁹ Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, Section 4007(a), Pub. L. 102-240 (1991).

more effective and efficient ways for FMCSA, its state partners and the trucking industry to prevent CMV crashes, fatalities, and injuries.

Unfortunately, essential CSA data was removed from public view by section 5223 of the Fixing America's Surface Transportation Act (FAST) Act.²⁰ The FAST Act also required the National Academies of Sciences, Engineering and Medicine (NASEM) to study the CSA program method for evaluating the safety of motor carriers and commercial vehicle drivers. In 2017, the NASEM study concluded that the method was sound and made several recommendations to improve the CSA program including that FMCSA should continue to collaborate with states and other agencies to improve the collection of data on vehicle miles traveled and on crashes as well as certain characteristics of carriers such as turnover rates.²¹ Advocates is not aware of any subsequent action on these proposals, to the detriment of the integrity of CSA and to the danger of the motoring public.

Relatedly, in 2016, the FMCSA issued a NPRM to revise the carrier safety ratings procedures in light of adoption of the CSA program. This rulemaking was intended to allow the agency to better evaluate the safety records of carriers. Advocates supported the agency's action to upgrade the safety fitness determination (SFD) process, which informs the CSA program, by using on-road safety data to evaluate carriers in addition to an agency investigation. This update to the SFD program would have significantly enhanced the FMCSA's ability to identify unsafe carriers because it would have enabled the agency to use data from the carrier's on-road operations, yet the agency withdrew the rulemaking in March of 2017.

Recommendation: Congress should require that the public availability of CSA scores be immediately reinstated while the improvements recommended by the NASEM study are implemented. The public should once again have access to this important safety data on trucking companies without any further delay. Furthermore, Congress should direct the FMCSA to immediately reinstate and complete the safety fitness determination rulemaking.

Promulgate safeguards and regulations to ensure autonomous technology is deployed safely. Autonomous technology offers the promise of significantly reducing crashes involving CMVs. However, the advent of this technology must not be used as a pretext to eviscerate essential safety regulations administered by the FMCSA. The public safety protections provided by the Federal Motor Carrier Safety Regulations (FMCSRs) become no less important or applicable simply because a CMV has been equipped with an autonomous driving system (ADS). In fact, additional substantial public safety concerns are presented by autonomous commercial motor vehicles (ACMVs).

Autonomous technology is still in its infancy as evidenced by fatal and serious crashes involving passenger motor vehicles equipped with automated systems of varying levels. If those incidents had involved ACMVs, the results could have been even more catastrophic and the death and injury toll could have been much worse. Some of the most pressing safety shortcomings associated with autonomous vehicle technology, which include the ADS properly detecting and reacting to other road users, driver engagement and cybersecurity, are exponentially amplified by

²⁰ Pub. L. 114-94 (2015).

²¹ The National Academies of Sciences, Engineering, and Medicine, 2017. Improving Motor Carrier Safety Measurement, Washington, DC: The National Academies Press. doi: <https://doi.org/10.17226/24818>.

the greater mass and force of an ACMV. As such, it is imperative that ACMVs be subject to comprehensive regulations, including having a licensed driver behind the wheel for the foreseeable future. The development and deployment of these experimental vehicles must also be subject to robust safeguards including sufficient data collection and sharing, performance requirements and enhanced operating authorities, at a minimum.

Recommendation: ACMVs must be subject to robust federal regulations and minimum performance requirements including that a trained commercial driver be behind the wheel at all times. Critical safety regulations that apply to driver hours-of-service (HOS), licensing requirements, entry level training and medical qualifications should not be weakened. Carriers using ACMVs should also have to apply for additional operating authority and drivers operating an ACMV must have an additional endorsement on their CDL to ensure they have been properly trained to operate an ACMV.

Any Erosion of Current Truck Safety Protections Will Lead to Our Nation's Roads Being More Dangerous and Deadly

Overweight trucks disproportionately damage America's crumbling infrastructure and threaten public safety. Federal limits on the weight and size of CMVs are intended to protect truck drivers, the traveling public and roads and bridges. Yet, provisions allowing larger and heavier trucks that violate or circumvent these federal laws to operate in certain states or for specific industries have often been tucked into must-pass bills to avoid public scrutiny.

According to the 2017 Infrastructure Report Card from the American Society of Civil Engineers, America's roads receive a grade of "D" and our bridges were given a "C+."²² Nearly 40 percent of our 615,000 bridges in the National Bridge Inventory are 50 years or older, and one out of 11 is structurally deficient.²³ The U.S. DOT Comprehensive Truck Size and Weight Study found that introducing double 33-foot trailer trucks, known as "Double 33s," would be projected to result in 2,478 bridges requiring strengthening or replacement at an estimated one-time cost of \$1.1 billion.²⁴ This figure does not even account for the additional, subsequent maintenance costs which will result from longer, heavier trucks. In fact, increasing the weight of a heavy truck by only 10 percent increases bridge damage by 33 percent.²⁵ The FHWA estimates that the investment backlog for bridges, to address all cost-beneficial bridge needs, is \$123.1 billion.²⁶ The U.S. would need to increase annual funding for bridges by 20 percent over current spending levels to eliminate the bridge backlog by 2032.²⁷

Raising truck weight or size limits could result in an increased prevalence and severity of crashes. Longer trucks come with operational difficulties such as requiring more time to pass,

²² 2017 Infrastructure Report Card – Bridges, American Society of Civil Engineers (ASCE); 2017 Infrastructure Report Card – Roads, ASCE.

²³ 2017 Infrastructure Report Card – Bridges (ASCE).

²⁴ Comprehensive Truck Size and Weight Limits Study: Bridge Structure Comparative Analysis Technical Report, FHWA, June 2015.

²⁵ Effect of Truck Weight on Bridge network Costs, NCHRP Report 495, National Cooperative Highway Research Program, 2003.

²⁶ 2015 Status of the Nation's Highways, Bridges, and Transit: Conditions and Performance, Chapter 7, p. 7-34, FHWA, 2016.

²⁷ *Id.*

having larger blind spots, crossing into adjacent lanes, swinging into opposing lanes on curves and turns, and taking a longer distance to adequately brake. In fact, double trailer trucks have an 11 percent higher fatal crash rate than single trailer trucks.²⁸ Overweight trucks also pose serious safety risk. Not surprisingly, trucks heavier than 80,000 pounds have a greater number of brake violations, which are a major reason for out-of-service violations.²⁹ According to a North Carolina study by IIHS, trucks with out-of-service violations are 362 percent more likely to be involved in a crash.³⁰ This is also troubling considering that tractor-trailers moving at 60 MPH are required to stop in 310 feet – the length of a football field – once the brakes are applied.³¹ Actual stopping distances are often much longer due to driver response time before braking and the common problem that truck brakes are often not in adequate working condition.

There is overwhelming opposition to any increases to truck size and weight limits. The public, local government officials, safety, consumer and public health groups, law enforcement, first responders, truck drivers and labor representatives, families of truck crash victims and survivors, and even Congress on a bipartisan level have all rejected attempts to increase truck size and weight. Also, the technical reports released in June 2015 from the U.S. DOT Comprehensive Truck Size and Weight Study concluded there is a “profound” lack of data from which to quantify the safety impact of larger or heavier trucks and consequently recommended that no changes in the relevant truck size and weight laws and regulations be considered until data limitations are overcome.³²

It is clear that increasing truck size and weight will exacerbate safety and infrastructure problems, negate potential benefits from investments in roads and bridges, and divert rail traffic from privately owned freight railroads to our already overburdened public highways. Despite claims to the contrary, bigger trucks will not result in fewer trucks. Following every past increase to federal truck size and weight, the number of trucks on our roads has gone up. Since 1982, when Congress last increased the gross vehicle weight limit, truck registrations have more than doubled.³³ The U.S. DOT study also addressed this meritless assertion and found that any potential mileage efficiencies from the use of heavier trucks would be offset in just one year.³⁴

Recommendation: Congress should oppose any increases to federal truck size and weight limits, including mandating double 33 feet trailers, pilot programs and state or industry specific exemptions.

Driver fatigue is a well-known CMV safety problem. The NTSB has repeatedly cited fatigue as a major contributor to truck crashes and included reducing fatigue related crashes in every edition of its Most Wanted List of safety changes since 2016. Currently, truck drivers are permitted to drive up to 11 hours per day for a total of 77 hours per week. These grueling hours

²⁸ An Analysis of Truck Size and Weight: Phase I – Safety, Multimodal Transportation & Infrastructure Consortium, November 2013; Memorandum from J. Matthews, Rahall Appalachian Transportation Institute, Sep. 29, 2014.

²⁹ Roadside Inspections, Vehicle Violations: All Trucks Roadside Inspections, Vehicle Violations (2019 – Calendar), FMCSA.

³⁰ Teoh E, Carter D, Smith S and McCart A, Crash risk factors for interstate large trucks in North Carolina, Journal of Safety Research (2017).

³¹ Code of Federal Regulations (CFR) Title 49 Part 571 Section 121: Standard No. 121 Air brake systems (FMVSS 121).

³² Comprehensive Truck Size and Weight Limits Study, Federal Highway Administration (June 2015).

³³ 2017 Annual Report.

³⁴ Comprehensive Truck Size and Weight Limits Study, Federal Highway Administration (June 2015).

can lead to cumulative fatigue and devastating safety consequences. Self-reports of fatigue, which almost always underestimate the problem, document that fatigue in truck operations is a significant issue. In a 2006 driver survey prepared for FMCSA, “65 percent [of drivers] reported that they often or sometimes felt drowsy while driving” and almost half (47.6 percent) of drivers said they had fallen asleep while driving in the previous year.³⁵ Yet, certain segments of the trucking industry continue to push for further weakening of HOS safety regulations.

One of the most effective tools to help prevent driver fatigue is the use of Electronic Logging Devices (ELDs) to record drivers’ HOS. Paper logs are frequently referred to as “comic books” throughout the industry because of the ease in falsifying actual driving and work time. The FMCSA estimates that requiring ELDs will save 26 lives, prevent over 500 injuries and avoid over 1,800 crashes annually. The U.S. DOT also estimates the annualized net benefits of adopting ELDs to be over \$1 billion.³⁶ Congress, recognizing the benefits of ELDs, mandated their use as part of the Moving Ahead for Progress in the 21st Century (MAP-21) Act.³⁷ In 2015, the FMCSA delivered on this Congressional directive and issued a rule requiring the use of ELDs which went into effect in December 2017.³⁸ FMCSA reports that since the implementation of the ELD rule, the percentage of driver inspections with an HOS violation has decreased significantly.³⁹ Despite this compelling evidence, broad support and an established final rule, a vocal minority continues to object to the use of this technology and is filing meritless applications for exemptions from compliance with the federal law with the FMCSA in a concerted effort to undermine the regulation.

A barrage of legislative and regulatory proposals also continue to target ELDs and HOS rules. For instance, truck drivers hauling livestock or insects are currently exempted from having to use ELDs pursuant to provisions tucked into the Fiscal Year 2020 Further Consolidated Appropriations Act.⁴⁰ Allowing certain haulers to skirt the ELD rules jeopardizes the safety of the animals in transport, truck drivers and everyone on the roads with them. It also complicates enforcement efforts.

The FMCSA is preparing to issue a final rule that would dismantle several important safeguards in the HOS regulations including the 30-minute rest break provision.⁴¹ Advocates is especially concerned that the FMCSA also eliminated enhanced driver protections for meal and rest breaks by issuing a decision preempting California law.⁴² This egregious agency overstep should be reversed. Further, special interests continue to push Congress to expand working and driving limits or create carve-outs under the guise of “flexibility.” These are nothing more than attempts to force drivers to work even more demanding schedules.

Additionally, in 2016, the FMCSA published an ANPRM (Advanced Notice of Proposed Rulemaking) requesting information regarding the potential benefits of regulatory action to

³⁵ 75 FR 82170 (Dec. 29, 2010), citing Dinges, D.F. & Maislin, G., “Truck Driver Fatigue Management Survey,” May 2006. FMCSA–2004–19608–3968.

³⁶ 80 FR 78292 (Dec. 16, 2015)

³⁷ Pub. L. 112-141 (2012).

³⁸ 80 FR 78292 (Dec. 16, 2015)

³⁹ FMCSA, Electronic Logging Devices: Improving Safety Through Technology, See: <https://eld.fmcsa.dot.gov/>

⁴⁰ Pub. L. 116-94 (2019).

⁴¹ 84 FR 44190 (Aug. 22, 2019).

⁴² 83 FR 67470 (Dec. 28, 2018).

address the safety risks posed by CMV drivers who are afflicted with obstructive sleep apnea (OSA).⁴³ Compelling and consistent research has revealed that drivers afflicted with OSA that is not properly treated are more prone to fatigue and have a higher crash rate than the general driver population. In fact, the Federal Aviation Administration (FAA) considers OSA to be a disqualifying condition unless properly treated.⁴⁴ Yet, in August of 2017 the FMCSA withdrew the OSA rulemaking without providing any credible analysis or reasoning for such an ill-advised course of action.⁴⁵

Recommendation: We urge Congress to reject efforts to diminish the rule requiring the use of ELDs and to further erode HOS regulations. Moreover, Congress should direct the FMCSA to issue a rule to ensure that drivers are properly screened for obstructive sleep apnea during the medical examination and that those diagnosed with the condition are receiving the medical treatment necessary to avoid fatigue while operating a CMV on public roads.

“Teen Truckers” pose a major safety threat. Some segments of the trucking industry are pushing to allow teenagers to operate CMVs in interstate commerce in order to alleviate the alleged “driver shortage.” A March 2019 U.S. Bureau of Labor Statistics (BLS) analysis found that “the labor market for truck drivers works about as well as the labor markets for other blue-collar occupations” and “a deeper look [at the truck industry labor market] does not find evidence of a secular shortage.”⁴⁶

CMV drivers under the age of 19 are four times more likely to be involved in fatal crashes, as compared to CMV drivers who are 21 years of age and older, and CMV drivers ages 19-20 are six times more likely to be involved in fatal crashes (compared to CMV drivers 21 years and older).⁴⁷ This alarming reality is not surprising given that generally younger drivers are more likely to be involved in fatal crashes because they lack driving experience and skills, and tend to take greater risks. Development of the brain region vital to decision making, specifically the pre-frontal cortex, may not be fully reached until one’s mid-20s.⁴⁸

Diverse stakeholders including safety groups, law enforcement, public health and consumer organizations, truck drivers, some trucking companies, and truck crash victims and survivors oppose efforts to lower the age to operate CMVs in interstate commerce. Additionally, the public has overwhelmingly rejected lowering the minimum age for interstate truck and bus drivers with 62 percent of respondents in opposition, according to a 2020 public opinion poll conducted by Engine’s Caravan Survey.⁴⁹ Furthermore, in 2001, a petition was filed with FMCSA to lower the age at which a person could obtain a CDL to operate in interstate commerce from 21 to 18. The FMCSA declined to lower the minimum age for an unrestricted CDL because the agency could not conclude that the safety performance of younger drivers was on par with, or even close to, that of older CMV drivers.

⁴³ 81 FR 12642 (Mar. 10, 2016).

⁴⁴ *Id.*

⁴⁵ 82 FR 37038 (Aug. 8, 2017).

⁴⁶ United States Department of Labor, Bureau of Labor Statistics, Is the U.S. labor market for truck drivers broken? (Mar. 2019).

⁴⁷ Campbell, K. L., Fatal Accident Involvement Rates By Driver Age For Large Trucks, *Accid. Anal. & Prev.* Vol 23, No. 4, pp. 287-295 (1991).

⁴⁸ Arian, M, et al., Maturation of the adolescent brain, *Neuropsychiatric Disease and Treatment* (Apr. 3, 2013).

⁴⁹ Engine’s Caravan Survey Public Opinion Poll (2020).

The public strongly rejected the idea with 96 percent of individuals who responded opposing the proposal along with 88 percent of the truck drivers and 86 percent of the motor carriers after the petition was posted in the Federal Register.⁵⁰

Advocates strongly opposes the “DRIVE-Safe Act” (S. 569/H.R. 1374) which would severely jeopardize the safety of all road users by putting teenagers behind the wheel of large trucks in interstate commerce. Provisions in the bill that at first glance would seem to be pro-safety actually could be detrimental. Specifically, certain technologies, such as active braking collision mitigation systems and speed limiters, are only required during the scant probationary period. The result is a teen driver would initially learn to drive in a truck fitted with this technology but after the probationary period, s/he could get behind the wheel of a truck without any of the safety technology and its benefits. The teen driver is then at a safety deficit lacking experience in safely operating trucks without the technology. Furthermore, the technology will not account for some mistakes this age group tends to make. Younger drivers exhibit risky behaviors such as increased levels of distraction, following too closely, violating traffic rules, and not using seatbelts.⁵¹ We welcome the confirmation that the recommended technology provides safety benefits and hope the proponents of the bill will join our efforts to accelerate the adoption of proven safety technologies in all trucks.

The training proposals in this bill are woefully inadequate. The first probationary period only consists of 80 hours of behind-the-wheel training which can be completed in a little over one work week while abiding by HOS requirements. Further, the 160 hours of driving time in the second probationary period can be covered in just an additional two weeks. In comparison, the FAA requires pilots working for passenger airlines to have approximately 1,500 hours of flight time. These paltry training requirements also pale in comparison to other less dangerous jobs. For example, Illinois requires a journeyman plumber to have 4 years of experience as apprentice; Oklahoma requires 4,000 verifiable hours of on the job experience for a residential electrical journeyman; and, barbers licensed in Nebraska must accumulate 1,800 hours of training.

Additionally, the qualifications for the teen truck driver passing the probationary periods are left entirely to the discretion of the employer who is incentivized to get the driver on the road as soon as possible. No standard tests or evaluations given by an independent party are required. Furthermore, a teen truck driver who is involved in a crash or is given a citation for a moving violation during the probationary periods is not disqualified from continuing to operate a truck.

Driving a truck is already one of the most dangerous occupations, according to the Bureau of Labor Statistics. Allowing teenagers to drive trucks in interstate commerce will only serve to exacerbate and export the major problems with truck driver working conditions from a state to the entire Nation. Instead of tapping into an unsafe driving pool of teenagers, improving upon working conditions should result in current, experienced drivers staying on the job and ideally lead to being healthier and more fulfilled in their profession as well as attracting new applicants to the profession.

⁵⁰ Young Commercial Driver Pilot Training Program, Notice of denial of petition to initiate a pilot program, 68 FR 34467, 34469 (June 9, 2003).

⁵¹ Insurance Institute for Highway Safety, Topics, Teenagers, available at: <https://www.iihs.org/topics/teenagers>

Recommendation: Attempts to pull teenagers from high school hallways to high speed highways should be rejected by Congress. We urge members to oppose the DRIVE-Safe Act.

Conclusion

Truck crashes continue to occur at an alarmingly high rate. Yet, there is a seemingly unending assault on essential federal regulations that protect public safety. Meanwhile, rulemakings which would result in proven safety benefits by requiring the installation of lifesaving safety systems languish. Advocates urges Congress to require DOT to focus on this unfinished safety agenda as the immediate solution to reducing deaths and injuries caused by CMV crashes.

Nearly 5,000 people being killed and 150,000 being injured in truck crashes annually cannot continue to be accepted as a societal norm or a cost of traveling on our roads and highways. In addition to “Keep on Truckin’,” Advocates looks forward to working together with the Subcommittee members to both preserve current safeguards and regulations and to advance needed improvements so all road users “Keep on Livin’.”