



**Testimony of Lewie Pugh, Executive Vice President
Owner-Operator Independent Drivers Association
before the
United States House of Representatives, Committee on Transportation & Infrastructure,
Subcommittee on Highways & Transit
“Freight Forward: Overcoming Supply Chain Challenges to Deliver for America”
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Chairman Crawford, Ranking Member Norton, and members of the Subcommittee, my name is Lewie Pugh and I am the Executive Vice President of the Owner-Operator Independent Drivers Association (OOIDA). Prior to working at OOIDA, I was a small-business trucker for nearly 23 years with 2.5 million miles of safe driving. Before operating my own trucking business, I drove a truck during my service in the United States Army. I still proudly hold a Commercial Driver’s License (CDL). In short, I’ve been a trucker my entire career.

About OOIDA

The Owner-Operator Independent Drivers Association (OOIDA) is the largest trade association representing the views of small-business truckers and professional truck drivers. OOIDA has over 150,000 members located in all fifty states that collectively own and operate more than 240,000 individual heavy-duty trucks. OOIDA’s mission is to promote and protect the interests of our members on any issues that impact their economic well-being, working conditions, and the safe operation of commercial motor vehicles (CMVs) on our nation’s highways.

Small trucking businesses, like those we represent, account for 96 percent of registered motor carriers in the United States, making them a key component of the nation’s supply chain. We are undoubtedly the safest and most diverse operators on our nation’s roads. Every region of our country and segment of our economy relies upon long-haul truck drivers. Our members are an integral part of the global supply chain and have a unique perspective on the many challenges our nation faces in moving freight in the safest, most efficient manner.

Introduction

Though the supply chain is slowly improving after experiencing significant disruptions during the COVID-19 pandemic, there are many inefficiencies that have persisted or worsened in recent years. While some policies that are broadly supported by the trucking industry would help improve efficiency, other stakeholders have used Washington's recent focus on the topic to portray or recast self-serving policies as supply chain improvements. In reality, these proposals will not promote the safe, efficient movement of freight. In some cases, these policies will make matters worse.

It's not realistic to believe Congress can legislate or the Administration can regulate the supply chain to produce optimal efficiency, but there are major steps that can and should be taken to improve conditions and productivity for small trucking businesses, owner-operators, and professional drivers. That said, it is clear to OOIDA the supply chain will never function optimally when our members struggle to find safe parking, are detained at loading facilities for hours on end, aren't being fully paid for the time they work, face a flood of new and costly regulations, and can't even access restrooms when picking up or dropping off critical freight. If you want to improve supply chain functionality through legislation, you must find the political courage to address these pervasive problems.

Truck Parking

The lack of adequate truck parking creates unsafe conditions for all highway users and negatively affects supply chain performance. Finding a safe place to park is something most people take for granted, but it's a daily struggle for hundreds of thousands of long-haul truckers. In 2015, the Federal Highway Administration's (FHWA) Jason's Law Survey recognized the lack of truck parking had become a serious highway safety concern. Unfortunately, the problem has only worsened since then. Congress' failure to address this issue in the Infrastructure Investment and Jobs Act (IIJA) was a major misstep, but we appreciate that members and leadership of this Committee have consistently shown a determination to help solve the current crisis. However, nearly two years after the enactment of IIJA, states and local communities across the U.S. are still struggling to maintain existing capacity, let alone keep pace with growing demand.

Increasingly, drivers are forced to spend more and more of their on-duty time finding a place to park rather than keeping goods moving. In 2016, the American Transportation Research Institute (ATRI) estimated that drivers sacrifice an average of 56 minutes of available drive time each day in their search for a safe place to park.¹ There is no indication conditions have improved since the ATRI study. In fact, it is more likely the productive time wasted looking for parking has increased since 2016.

In addition to creating supply chain inefficiencies, the truck parking shortage is negatively affecting highway safety for our members and those with whom they share the road. Truckers find it increasingly difficult to rest when they are tired or need to comply with rigid federal hours-of-service (HOS) regulations. Too often, they are forced to park in hazardous locations, such as highway shoulders, exit ramps and even vacant lots. This creates safety issues not only for truckers, but for the motoring public and enforcement officers.

Thankfully, a bipartisan group of Representatives led by Reps. Mike Bost (R-IL), a member of this Committee, and Angie Craig (D-MN), have again introduced the Truck Parking Safety Improvement Act (H.R. 2367) to help solve this growing problem. The bill would authorize over \$750 million to expand

¹ American Transportation Research Institute, *Managing Critical Truck Parking Case Study – Real World Insights from Truck Parking Diaries* (December 2016).

truck parking capacity across the country. Funding would help state and local governments build new rest areas and truck parking facilities, while also helping public entities convert existing spaces – such as inspection sites, weigh stations and closed rest areas – into truck parking locations. The bill also includes opportunities for communities to work with private entities to expand capacity.

It is not often that seemingly every stakeholder in our industry unifies behind a piece of legislation like we have with H.R. 2367. The bill is supported by OOIDA, American Trucking Associations (ATA), Women in Trucking, Truckload Carriers Association, National Association of Small Trucking Companies, Transportation Intermediaries Association, Institute for Safer Trucking, and the National Motorists Association. Our organizations recognize federal leadership is necessary to end the truck parking crisis and believe H.R. 2367 should be a priority for this Committee when advancing solutions to improve supply chain efficiency.

While there are many factors contributing to the current truck parking crisis, the federal government shares some responsibility for exacerbating the problem and should be an active participant in solving it. The inflexibility of federal HOS requirements combined with the Congressionally-mandated Electronic Logging Device (ELD) rule means that drivers' movements are tracked down to the second. As a result, drivers are placed in no-win situations when they must choose between parking in an unsafe location, or risk being ticketed by law enforcement, struck by a passing vehicle, or violating federal HOS regulations by continuing to drive to a safer location.

If the Committee is looking for commonsense, bipartisan solutions to improve supply chain efficiency, it is abundantly clear passage of Truck Parking Safety Improvement Act must be a priority. Nearly identical legislation passed this Committee last year with unanimous bipartisan support. We applaud members and leaders of this panel for remaining committed to resolving this longstanding problem in the 118th Congress. We encourage lawmakers to cosponsor H.R. 2367 and look forward to it be marked-up in the coming months.

ATA's Speed Limiter Mandate

Several years ago, the American Trucking Associations (ATA) petitioned the Federal Motor Carrier Safety Administration (FMCSA) to impose a speed limiter mandate that would restrict all heavy-duty CMVs to a single top speed across the country. After lying dormant for years due to widespread opposition among truckers, FMCSA has relaunched this rulemaking with the support of some large motor carriers and activists with no experience behind the wheel. This mandate would limit all heavy-duty trucks to a speed as low as 60 miles per hour (mph).

Make no doubt, the type of speed limiter mandate proposed by ATA and being pursued at FMCSA would exacerbate supply chain challenges. By prohibiting hundreds-of-thousands of trucks from traveling at the posted speed limit determined by states, this mandate will literally slow down freight movement across the country. For example, OOIDA members currently operate roughly 240,000 heavy vehicles on our nation's roads. Based on our members' strong reaction to the proposal, we suspect very few, if any, currently use speed limiters. Limiting just our members to a maximum speed as low as 60 mph would alone have a profound impact on the movement of goods in our economy, but the rulemaking will impact countless other CMVs. To make matters worse, if ATA's speed limiter mandate is implemented, more trucks will be needed to carry the same amount of freight in the same amount of time, which increases road congestion and can further slow freight movement.

While some ATA members have voluntarily chosen to utilize speed limiters to manage their fleets, more closely monitor fuel consumption, or reduce the number of speeding violations issued to their drivers,

small business truckers do not need or want to use the devices and strongly oppose the federal government forcing them to do so. As demonstrated by the nearly 16,000 comments submitted to FMCSA during the initial phase of their rulemaking, opposition among professional drivers remains substantial. Truckers understand these devices will decrease efficiency and safety.

A speed limiter mandate may be thought of as something affecting only the long-haul trucking industry, but FMCSA's proposal would apply to every commercial motor vehicle weighing over 26,000 pounds. OOIDA has assembled a coalition of numerous organizations whose members would be negatively affected by this mandate, including the Agricultural Retailers Association, American Farm Bureau Federation, American Pipeline Contractors Association, Associated Equipment Distributors, Customized Logistics and Delivery Association, Distribution Contractors Association, Livestock Marketing Association, Mid-West Truckers Association, Motor Carriers of Montana, National Asphalt Pavement Association, National Association of Small Trucking Companies, National Cattlemen's Beef Association, National Hay Association, National Ready Mixed Concrete Association, National Stone Sand and Gravel Association, National Utility Contractors Association, Nevada Trucking Association, North American Punjabi Trucking Association, Power and Communication Contractors Association, Texas Trucking Association, Towing and Recovery Association of America, United States Cattlemen's Association, and Western States Trucking Association.

When considering the impact this rule would have on the supply chain, it is important to remember not all of these organizations represent traditional motor carriers. Many operate smaller, lighter duty vehicles that would also be slowed by the requirement. The large carriers who support ATA's speed limiter proposal want you to believe the rule will have a minimal impact on trucking and the supply chain, but those claims can be easily dismissed when you understand the true scope of who will be slowed.

ATA's speed limiter mandate is wholly unnecessary, as there is already a mechanism in place to address unsafe vehicle speeds: speed limits set and enforced by the states. In 1995, Congress repealed the national speed limit and gave states the power to establish speed limits for their roads. Since then, states have been able to design their roadways and set top speeds according to what they have determined to be safest for their specific needs and conditions. FMCSA's ongoing rulemaking would trample the states' long-standing authority.

By establishing a one-size-fits-all federal mandate restricting CMVs to a speed as low as 60 mph, this regulation would also undoubtedly lead to higher crash rates by creating dangerous speed differentials between CMVs and other vehicles, such as automobiles. Decades of highway research shows greater speed differentials increase interactions between trucks and cars, and studies have consistently demonstrated that increasing interactions between vehicles directly increases the likelihood of crashes.

Since the mid-1990's, many states have taken steps to reduce speed differentials on their roads. FMCSA's proposal would instantly reverse many of these improvements. In fact, if the agency settles on a 60 mph limit for heavy vehicles, which is favored among some large motor carriers and anti-truck activists, split speeds would immediately be created in every state with the exception of California and Hawaii. In many states, this mandate would create split speed limits on two-lane rural roads, which are particularly hazardous. In these conditions, passenger vehicles that want to travel at the posted limit get stuck behind slower-moving trucks, increasing the number of passes they must make.

In addition to slowing down the movement of freight and increasing crash rates, a speed limiter mandate would make it more difficult for businesses to attract and retain drivers. Upon reviewing the nearly 16,000 public comments already submitted to the agency by stakeholders, it is crystal clear drivers do not want to operate speed limited trucks, as it takes control of the vehicle out of their hands. Speed limiting trucks also increases pressure and stress on drivers to complete their work. Truckers required to operate

below the posted speed limit must drive longer hours to cover the same distance, which increases their fatigue and places even greater stress on them to comply with burdensome HOS regulations.

Furthermore, FMCSA readily admits this rulemaking will disadvantage small businesses, making it more difficult for our members to continue operating and harder for the next generation of owner-operators to launch their own trucking businesses. Similarly, members of this Committee must be cautious to support ATA's latest maneuvering on speed limiters, which includes a proposal to create different speed maximums for motor carriers based on what types of supplementary equipment or devices they utilize. This proposal is brazenly designed to further squeeze small businesses to the benefit of corporate motor carriers, forcing our members to purchase costly technology they don't need just to move at the same speed as their large competitors.

Both ATA and FMCSA are aware that decades of research on the topic of speed has consistently led to the same conclusion: roads are safest when all vehicles are moving the same relative rate of speed. ATA has chosen to ignore this reality because a speed limiter mandate would benefit their large, corporate members by slowing down smaller competitors. It is more perplexing why FMCSA has chosen to ignore this research as well, as they are responsible for improving motor carrier safety, not developing regulations that will increase crash rates or picking economic winners and losers. In fact, FMCSA's current rulemaking is a stark contrast from its previous position on this matter. In 2011, Julie Cirillo, a former Assistant Administrator and Chief Safety Officer at FMCSA, stated in a sworn affidavit,

“Jurisdictions responsible for ensuring the safety of the travelling public should not take any action that could result in creating an unsafe situation. Included in these actions would be the establishment and enforcement of differential speed limits for passenger cars and commercial vehicles. Adherence to differential speed limits creates a situation where a significant percentage of traffic is operating more slowly than general traffic. The studies described herein establish that this is *always unsafe* [emphasis added].”

The factors that led to this conclusion have not changed since 2011. Instead, perhaps the agency has lost track of its mission in trying to appease large motor carriers and anti-trucking activists, after their efforts to include a speed limiter mandate in IJA were rejected on a bipartisan, bicameral basis.

Earlier this month, Rep. Josh Brecheen (R-OK) introduced the Deregulating Restrictions on Interstate Vehicles and Eighteen Wheelers Act (DRIVE Act), H.R. 3039. This bill would stop FMCSA from moving forward with this reckless rulemaking that drivers vehemently oppose. We encourage every member of the Committee to support this legislation, which will prevent supply chains from slowing and crash rates from increasing.

Detention Time

Small-business truckers and professional drivers face numerous operational and infrastructure bottlenecks on a daily basis. Excessive detention time is chief among the chokepoints that contribute to supply chain inefficiencies. Many drivers spend countless on-duty hours delayed by shippers and receivers because Congress and FMCSA have failed to sufficiently address the growing problem of excessive detention time. For too long, the trucking industry has typically defined detention as any time spent waiting to load or unload in excess of two hours. Essentially, it has become readily accepted that drivers will likely be detained for a minimum of two hours, simply because the market has failed to solve the problem and Washington has yet to take the matter seriously. This completely devalues a driver's time and work.

The U.S. Department of Transportation (USDOT) must collect better information on detention time to demonstrate precisely what role it plays in supply chain delays. OOIDA strongly support efforts to gather and publicly disseminate accurate information on detention time. Comprehensive collection and publication of loading, unloading, and delay times among shippers and receivers would be beneficial for both drivers and motor carriers, helping them improve trip planning, load selection, and other operational considerations. Additionally, a public database or website with estimates of detention time could improve efficiency throughout the marketplace by incentivizing shippers and receivers to improve their own efficiency to attract drivers and motor carriers.

In addition to creating significant inefficiencies in the supply chain, detention time is both a safety and financial concern for professional drivers. A 2018 USDOT Inspector General (OIG) report estimated that a 15-minute increase in average dwell time—the total time spent by a truck at a facility—increases the average expected crash rate by 6.2 percent. The study also estimated that detention time is associated with reductions in annual earnings of \$1.1 billion to \$1.3 billion for for-hire CMV drivers in the truckload sector and reduces net income by \$250.6 million to \$302.9 million annually for motor carriers in that sector.²

These findings from the OIG report echo what OOIDA members have been experiencing for years. According to 2020 survey results from the OOIDA Foundation, drivers operating under the 70 hour/8-day rule spend 17% to 29% of their time in detention. This uncompensated time means individual drivers are effectively losing \$907 to \$1,512 per week.³ This can ultimately create the incentive for drivers to operate longer and push harder, foregoing rest breaks or pauses when they are tired, in order to make up for compensation lost to detention time.

When studying this issue, there is one particular flaw that exacerbates the problem. While the Fair Labor Standards Act (FLSA) generally requires employers to pay covered non-exempt employees at least the federal minimum wage for all hours worked during the work week and overtime pay for all hours worked over 40 in a work week, truck drivers are unfairly exempted from the law's overtime guarantee under Section 13(b)(1). This outdated exemption was implemented in the 1930s to prevent truckers from working too many hours, but today it simply prevents them from receiving adequate compensation for the work they do.

Exempting drivers from guaranteed overtime pay increases problems with detention time because shippers, receivers, and others in the supply chain have little to no financial incentive to load and unload trucks in an efficient manner. If a shipper or receiver knows they won't be responsible for paying overtime, they simply don't care as much about respecting a driver's time. If repealed, drivers would either be fairly compensated for the extra hours they work, or shippers and receivers would find ways to reduce delays to avoid paying overtime. Simply put, the current law ensures that a driver's time is less valued than other professions and enables inefficiencies to persist, and even worsen. If Congress is serious about fixing pervasive problems in the supply chain, this absolutely must change.

A majority of OOIDA members (79 percent) are in favor of removing the exemption, especially company drivers (96 percent), and 60 percent believe this will help address the detention time issue.⁴ Removing the motor carrier exemption enables truckers to be fairly paid during all work-related hours, not just when the truck is in motion. Better pay will encourage more experienced, safer drivers to stay in the industry.

² U.S. DOT Office of Inspector General, *Estimates Show Commercial Driver Detention Increases Crash Risks and Costs, but Current Data Limit Further Analysis*, U.S. Department of Transportation (Jan 2018).

³ Owner-Operator Independent Drivers Association Foundation, *2020 Detention Time Survey* (December 2020).

⁴ Ibid.

OOIDA championed bipartisan, bicameral legislation in 2022 that would have removed this unfair and outdated exemption. As this Committee is looking for ways to reduce regulations that hamper supply chain performance, eliminating this 85-year-old exemption is an obvious step. We hope to have legislation reintroduced this summer and encourage all members of this Committee to become cosponsors. Your support for repealing the FLSA exemption for truckers is perhaps the most meaningful step you can take as a lawmaker to help reduce excessive detention time.

Restroom Access

Members of Congress have rightfully recognized truckers as the backbone of America's supply chain. But in order for drivers to do their job, they need to have their basic human needs met. This includes access to restrooms at the facilities where they pick up or deliver freight.

Shippers and receivers denying truckers access to restroom facilities was a problem prior to COVID-19, but conditions worsened for our members during the pandemic. Unfortunately, as the nation emerges from the disruption and uncertainty of COVID-19, many restrictive policies involving restroom access remain in place. The persistence of excessive detention time compounds this problem, with some of our members reporting they were routinely denied access to a restroom facility while waiting several hours to be loaded or unloaded. While women drivers are especially harmed by these unnecessarily harsh policies, their prevalence is making it more difficult to maintain careers in trucking for everyone.

In response to this unacceptable situation, OOIDA and our friends at Women in Trucking have worked closely with Rep. Troy Nehls (R-TX), a member of this Committee, to introduce legislation that would provide truckers the same access to restrooms that customers and employees currently enjoy at facilities where our members pick up or deliver loads. The bipartisan legislation, cosponsored by Rep. Chrissy Houlahan (D-PA), does not require businesses to construct new restroom facilities or provide special treatment to truckers. It simply ensures one of the most basic needs of those who make their living on the road is being met.

We strongly encourage members of the Committee to cosponsor this important legislation, which will demonstrate to professional drivers that their lawmakers not only understand the challenges they routinely face on the road, but are willing to take the necessary steps to help solve these problems.

The Myth of the Driver Shortage

Since the late 1980's, large motor carriers have been attempting to convince Congress our nation suffers from a shortage of drivers. Over the last 30+ years, organizations like ATA have consistently peddled this false narrative in an effort to distract from their members' embarrassingly high driver turnover rates, which routinely exceed 90%. More recently, large carriers have approached current disruptions in the supply chain as a new and promising opportunity to further engrain the myth and advance the dangerous legislative proposals they have built upon it.

Far too many Members of Congress, including many on this Committee, have readily accepted the driver shortage myth, which illustrates a troubling lack of understanding about our industry among policymakers. Over the last several years, ATA has consistently touted a shortage of as many as 80,000 drivers, despite a distinct lack of evidence. Rather than trusting ATA's dubious claims, lawmakers should focus on information provided by federal experts at the Bureau of Labor Statistics (BLS). A 2019 report by BLS found that "the market for truck drivers works about as well as that for other blue-collar

occupations, and that, broadly speaking, we should expect that if wages rise when the labor market for truck drivers is too tight, the potential for any long-term shortages will be ameliorated.”⁵

Acceptance of the driver shortage myth could have major safety and economic consequences for highway users and professional drivers.

Over the objections of OOIDA, organized labor, and safety advocacy groups, Congress recently authorized the Safe Driver Apprenticeship Pilot Program in IIJA. Since the pilot program’s launch in January 2022, large carriers and others looking for the cheapest driver workforce have struggled mightily to find 18, 19, and 20-year-olds interested in participating. In fact, USDOT reported in March that only 4 drivers had registered to participate since the program launched 7 months earlier. That’s right - just 4 drivers are enrolled in the program, despite significant investment in advertising and promotion done by FMCSA. The ATA, who clamored for the inclusion of this initiative in IIJA and called it the “gold standard” for driver training, is now claiming the required use of inward facing cameras is preventing greater registration among driver candidates. This is despite the fact that one of their largest members recently announced that they will equip all of their tractors with driver-facing cameras.⁶

These claims are laughable. ATA and its members have spent decades making the profession of driving as unappealing and unsustainable to new drivers in an effort to keep their labor costs as low as possible. For decades, they have done little to meaningfully increase compensation or improve working conditions for employee drivers, going so far as convincing members of this Committee that the federal government should step-in to provide tax incentives to supplement truckers’ compensation rather than pay their own drivers competitive wages. Now, they are reaping what they have sowed. Teen drivers may not have the maturity to operate CMVs at the safest levels, but they have enough sense to see a bad deal when it’s offered to them. Large carriers will continue to struggle to find participants in the Safe Driver Apprenticeship Pilot Program, but it’s not because of any requirements imposed by the Biden Administration.

While promoting policies designed to create the cheapest driver workforce possible, large carriers are simultaneously ignoring many of the factors that contribute to their excessively high turnover rates among current drivers. Recent minor increases in driver compensation may be good for large fleets’ public relations and recruiting, but drivers remain grossly underpaid after decades of stagnant wages. ATA boasts the average compensation for a professional driver is currently \$50,000, but they fail to mention drivers typically work 70 to 80 hours each week to earn it. Not only that, but when taking inflation into account, wages have remained stagnant over the last 20 years.

These wages aren’t competitive with other, less-skilled professions that feature remarkably better working conditions. As a result, it should come as no surprise that new entrants are spending less and less time behind the wheel before looking for better opportunities in different fields. Other drivers may choose to remain in the industry, but begin careers at carriers who better prioritize driver retention through more competitive compensation and improved working conditions. In fact, ATA’s own analysis shows less-than-truckload (LTL) carriers, who generally offer better pay and working conditions, have annual turnover rates closer to 14%.

Rather than expanding the driver pool to include teenagers, Congress should pursue policies that promote competitive pay for drivers and address many of the challenges that make careers in trucking unsustainable.

⁵ Bureau of Labor Statistics, *Is the U.S. labor market for truck drivers broken?* (March 2019)

⁶ Avila, Larry. “JB Hunt Rolls out Driver-Facing Cameras.” *Transport Dive*, 26 Apr. 2023, <https://www.transportdive.com/news/jb-hunt-driver-facing-cameras-ATRI-issues-opportunities-report/647985/>.

EPA Regulations

In recent months, the Environmental Protection Agency (EPA) has unleashed a regulatory blitz on small-business truckers. The agency finalized a Nitrous Oxide (NO_x) emissions rulemaking in December 2022 that implements stringent emissions standards for new commercial trucks beginning in Model Year 2027. OOIDA and other industry stakeholders warned EPA that this hurried timeline would not ensure vehicle affordability or reliability, which are critical to supporting the purchase and operation of cleaner vehicles among small trucking businesses.

OOIDA strongly supported the U.S. Senate's recent actions to overturn the flawed 2022 NO_x emissions rule, led by Sen. Deb Fischer (R-NE). We urge the House to follow suit. Rep. Troy Nehls (R-TX) recently introduced H.J.Res. 53, which mirrors Sen. Fischer's efforts by nullifying EPA's final rule. We encourage all members to support this important resolution, which will protect our members from EPA's overly costly and aggressive regulations.

In March, EPA granted a waiver for California mandating that 40 percent of tractor-trailers and other big rigs sold in the state be all-electric. In April, the agency released its Phase 3 greenhouse gas (GHG) proposal. Small business truckers have been shocked by this regulatory blitz. With these moves, our members are again facing higher projected costs for new vehicles and insufficient lead-up time to properly implement manufacturing standards. The Phase 3 rule is also a blatant attempt to force consumers into purchasing electric vehicles while a national charging infrastructure network remains absent for heavy-duty commercial trucks. Professional drivers are skeptical of EV costs, mileage range, battery weight and safety, charging time, and availability. It's baffling that the EPA is pushing forward with more impractical emissions timelines without first addressing these overwhelming concerns with electric CMVs.

All of these regulations maintain an impractical approach to achieving emissions reductions that discounts the contributions of the trucking industry, ignores realities from previous flawed emissions rulemakings, and does not account for the economic impacts on small trucking businesses. Clean air is a priority for everyone, including truckers, but the technology used in heavy-duty trucks to improve air quality has to be affordable and reliable. Small-business truckers and owner-operators should not be used as test cases for trialing new technology while pricing them out of business in the process. Unfortunately, this has become commonplace for EPA when pursuing trucking regulations.

Underride Guards

On April 21st, the National Highway Traffic Safety Administration (NHTSA) followed through on an IIJA requirement by announcing an Advanced Notice of Proposed Rulemaking to better understand the overall effectiveness, and assess the feasibility, benefits, costs, and other impacts of installing side underride guards on trailers and semitrailers. The preliminary research provided by NHTSA indicated that the annual cost of the mandate would be as much \$1.2 billion, making it one of the most expensive mandates ever imposed on our industry. The agency also estimated an industry-wide mandate would save fewer than 20 lives per year. The resulting cost per life saved would fall in the range of \$73.5 million to \$103.7 million. These estimates reinforce OOIDA's long-standing position that a side underride guard mandate is cost-prohibitive and are consistent with previous research conducted by NHTSA that led the agency to the same conclusion on multiple occasions.

While existing technologies may reduce passenger compartment intrusion in certain situations, the rulemaking fails to recognize numerous other issues limiting the real-world practicality of side underride guards. For example, installation of the equipment would unquestionably create challenges for truckers navigating grade crossings and high curbs, backing in to sloped loading docks, properly utilizing spread-axle trailer configurations, conducting USDOT-required trailer inspections, and accessing vital equipment located under the trailer – such as brakes. Additionally, the weight of side underride guards with the strength to prevent intrusion would displace valuable payload, reducing the earnings of truckers.

This rulemaking process is a perfect example of what happens when trucking policy is developed by those who have no knowledge of how to operate a CMV, including device manufacturers who stand to profit from the federal government mandating the use of their products, safety advocates who have no training or experience behind the wheel of a heavy vehicle, and uninformed lawmakers.

IJA also required the launch of the Advisory Committee on Underride Protection, whose membership was recently announced. While OOIDA has a seat at the table, this panel unfortunately gives more influence to representatives who have no clue how to operate a heavy vehicle than to those who understand the serious operational challenges and hazards created by side underride guards. This is no way to develop sound policies.

The NHTSA rulemaking process, coupled with the activity of the advisory committee, represents a massive waste of government time and resources pursuing a regulation that is entirely untenable.

Truck Size & Weight

Time and time again, proposals to increase truck size and weight requirements are floated on Capitol Hill, and the 118th Congress is no different. While these proposals may initially sound like reasonable solutions to improving supply chain efficiency, there are several factors involving bigger and heavier trucks Congress must consider.

USDOT recently conducted a thorough evaluation of increased truck size and weight and issued a final report in 2016 that discouraged policymakers from pursuing increases. The report found that heavier trucks created more safety problems, including a 47 to 400% higher crash rate, a higher out-of-service violation rate, and an 18% higher brake violation rate. These factors alone should convince lawmakers not to advance proposals to increase truck size and weight, but you must also consider how truckers feel about being forced to driver bigger and heavier trucks.

Over the years, truckers have been clear that they do not support increasing the size and weight of the vehicles they operate, due largely to concerns involving highway safety. A 2022 survey of OOIDA members revealed 68% of respondents believed increases would make it more difficult to recruit and retain drivers. In fact, no group representing professional drivers currently supports proposals to increase size and weight, which illustrates the lack of support within the profession.

Broker Transparency

During the initial days of the COVID-19 pandemic, freight rates reached historic lows. Hundreds of truckers protested in front of the White House because some freight brokers consistently fail to comply with federal transparency regulations. For years, small-business truckers have expressed frustration that regulations designed to provide transparency are routinely evaded by brokers or simply not enforced by FMCSA. While freight rates have rebounded, the need for better broker transparency remains urgent.

49 CFR §371.3 mandates that brokers keep transaction records and permits each party to a brokered transaction to review these documents. These regulations are in place to protect motor carriers, brokers, the public, and ultimately ensure the transparent and smooth movement of goods throughout the supply chain. This allows carriers to know precisely how much a shipper paid the broker and how much the broker then paid the carrier. This transparency also helps owner-operators when brokers send them bills regarding disputed claims. Without this information, it is very difficult to know if these charges are legitimate. Unfortunately, many brokers implement hurdles they know will prevent a carrier from ever seeing this information.

To improve broker transparency, OOIDA petitioned FMCSA to do the following:

1. Require brokers to automatically provide an electronic copy of each transaction record within 48 hours after the contractual service has been completed.
2. Explicitly prohibit brokers from including any provisions in their contracts that requires a carrier to waive their rights to access the transaction records as required by 49 CFR §371.3.

Recently, FMCSA announced it would launch a rulemaking to address our petition. If rules are promulgated to improve broker transparency and current regulations are better enforced by DOT, this would support the economic stability of the trucking industry and help develop a more reliable supply chain.

Conclusion

The fortitude of our nation's truck drivers has never faltered even in the face of many challenges, including the COVID-19 pandemic and the current global supply chain crisis. Unfortunately, most of the problems we are witnessing today are not new to small-business truckers that have experienced supply chain dysfunction for decades. In fact, OOIDA, including myself personally, have testified before Congress and discussed many of the issues addressed in this testimony with you and your colleagues. It's frustrating that it's taken a global pandemic and supply chain upheaval to bring some of these issues in to the spotlight, but this Committee should take the opportunity to finally fix these pervasive problems. We support Congress's efforts to address current and future supply chain challenges, but you must start with finally valuing and compensating professional drivers for all of their time and supporting policies that improve their working conditions. While this won't immediately fix all of the supply chain problems, it is an absolutely necessary first step to do so.