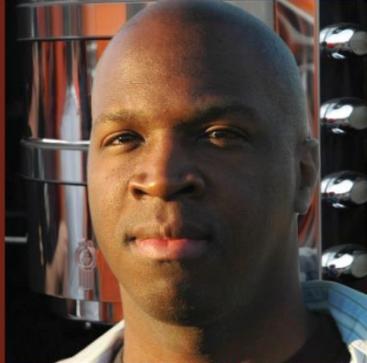
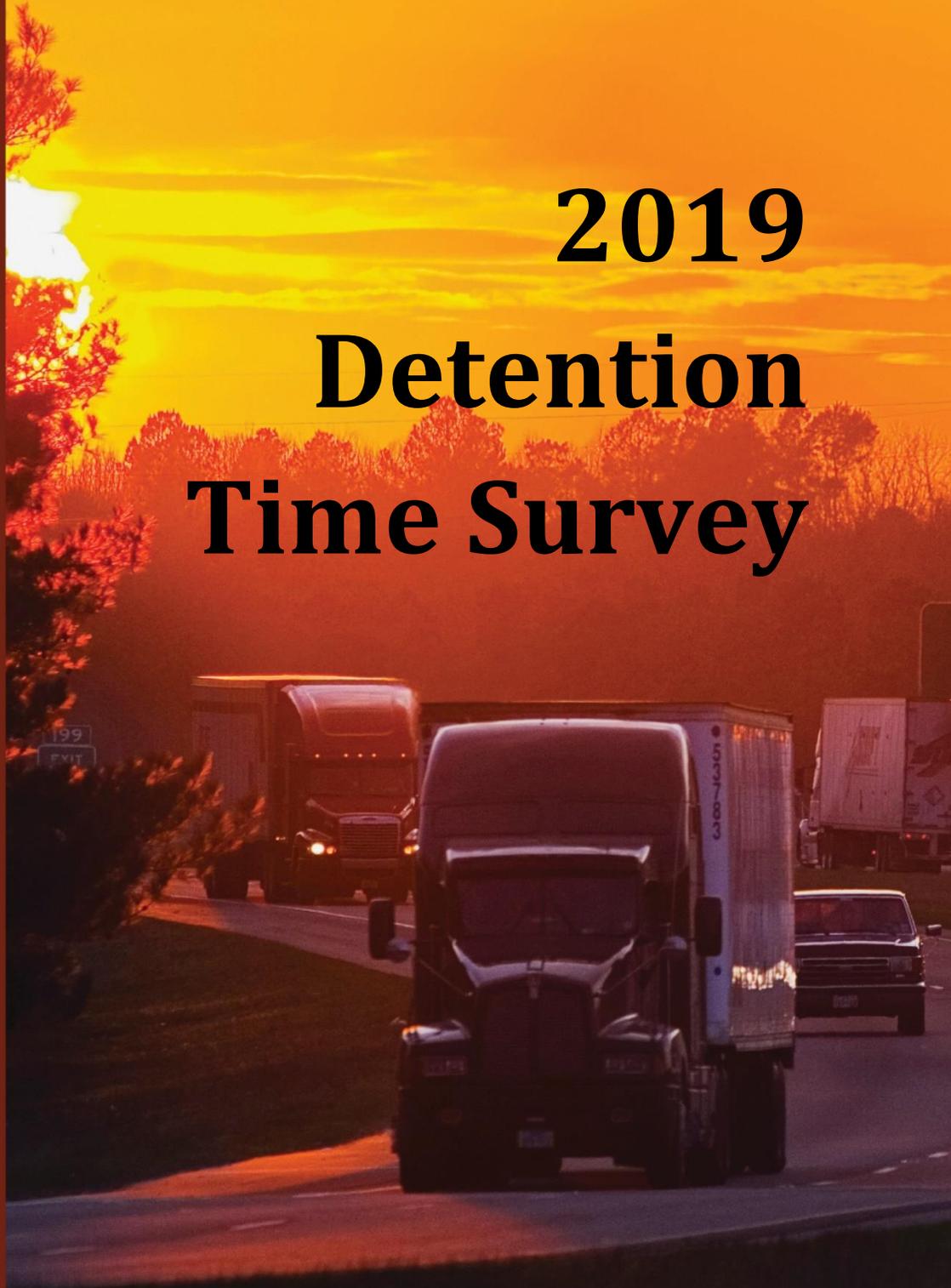


Owner-Operator Independent Drivers Association Foundation
A subsidiary of Owner-Operator Independent Drivers Association Inc.



2019 Detention Time Survey



2/19/20

2019 Detention Time Survey

February 2020



OOIDA Foundation, Inc.
One OOIDA Dr.
Grain Valley, MO 64029
FoundationDept@ooida.com

Introduction

In response to Section 5501 of the Fixing America's Surface Transportation Act of 2015 (FAST Act), entitled "Delays in Goods Movement," the DOT Office of Inspector General (OIG) published a report on January 31, 2018 concerning the effects of driver detention on the economy, the efficiency of the transportation system, motor carrier safety, and the livelihood of truck drivers. The OIG found that a 15-minute increase in the average dwell time, meaning the total time a truck spent at a facility, increases the average expected crash rate by 6.2 percent, resulting in an additional 6,509 crashes per year.¹ Moreover, every 5-percentage point increase in the number of stops experiencing detention, defined in the report as the time spent at a facility in excess of 2-hours, increased the crash risk by 4.7 percent.

In terms of revenue impacts, the OIG concluded detention time costs for-hire truck drivers \$1.1 to \$1.3 billion a year, reducing the annual earnings per driver between \$1,281 and \$1,534 per year—a reduction between 3.0 and 3.6 percent. In comparison, motor carriers lose approximately \$250.6 million to \$302.9 million in net income every year, equating a total net loss of \$1.35 to \$1.60 billion for the trucking industry overall.

Section 5501 also directed the Federal Motor Carrier Safety Administration (FMCSA) to issue regulations concerning the data collection on delays experienced by truck drivers before loading and unloading their truck. Though FMCSA plans to collect relevant data through a reporting form on its website that will allow drivers and carriers to submit data on detention voluntarily, the Agency has no plans to verify the data nor to conduct a detailed analysis. According to an FMCSA official, "the costs of rigorous data collection and analysis would likely outweigh the benefit and the Agency primarily views detention as a market efficiency problem best addressed by private industry rather than through government action."²

The Owner-Operator Independent Drivers Association (OOIDA), the largest non-profit trade association representing the interests of approximately 160,000 owner-operators and professional drivers, disagrees with the Agency's statement. OOIDA has long held that detention time is not only a financial burden on small business owners and professional truck drivers, but it also creates a negative impact on safety, as detention time can put a strain on a driver's hours-of-service (HOS) limits or pressure a driver to continue to operate even when they feel it is safer to stop. OOIDA agrees with OIG's conclusions and believes that a 6.2 percent increase in crashes is a significant safety concern, which means that the issue of detention time is more than a "market efficiency problem" and that it falls directly under FMCSA's domain.

To demonstrate these harmful effects, as well as to verify the conclusions from the OIG report, the OOIDA Foundation (OOFI), whose mission statement is to fight for the rights of all truck drivers through research

¹ 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).

² *Ibid.*, pg. 4

and education, continues to reach out to OOIDA members in order to gather valuable information concerning detention.

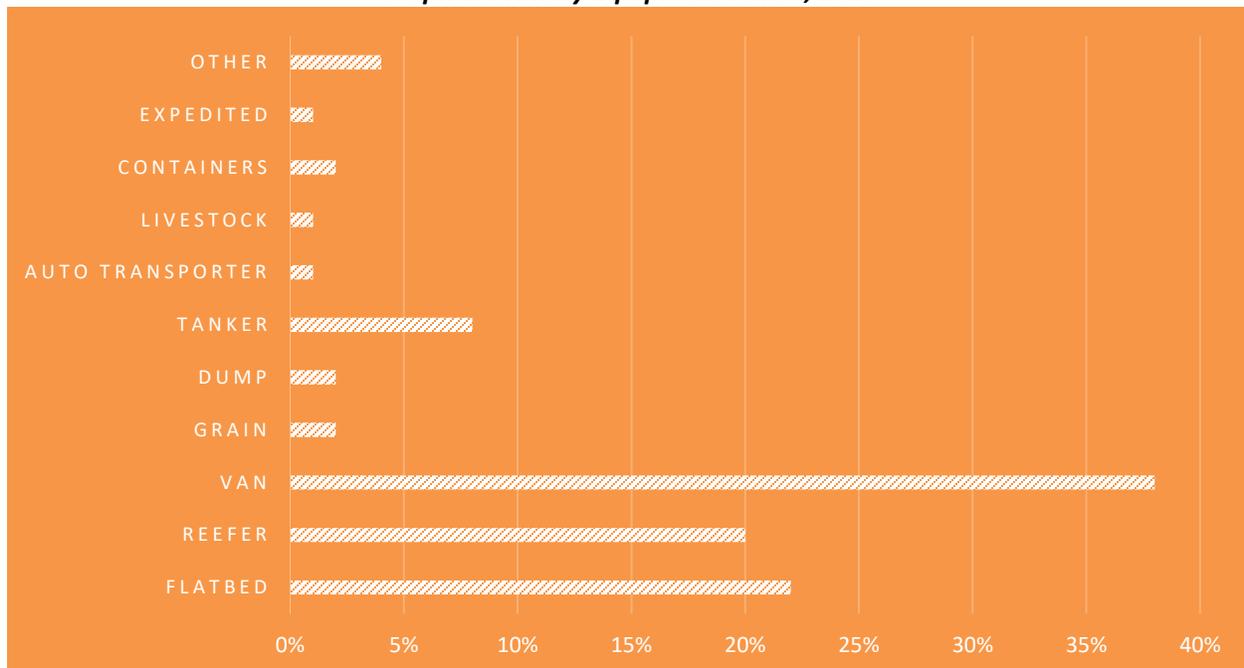
The following *Detention Time Study Survey* is especially important, as it directly captures information from the perspective of the small business owner and professional employee driver. Moreover, the study includes questions concerning how owner-operators and drivers define the issue of detention, as well as their professional opinions concerning what they believe would be the best way to measure or track detention and what would be the best way to solve the detention time issue. The survey also seeks information regarding another section of the FAST Act, Section 5515, which required FMCSA to study the safety effects of CMV operators who commute more than 150 minutes in a single trip. Ultimately, the survey helps to highlight the prevalence of detention time and the economic impact that it has upon the industry, especially among OOIDA members.

Analysis of the Detention Time Survey

Detention time, or in particular the period that a driver is not paid while he or she waits to be loaded or unloaded, is an issue of primary concern for the trucking industry and one that must be addressed. In response to the OOFI's online survey, more than one thousand respondents expressed their professional opinions and experience with detention, many of whom feel that detention time not only impacts their financial livelihood but that it also negatively impacts safety on the roadways.

A majority of the 1,202 respondents described their type of operation as being a leased-on owner-operator (43%) followed by those operating under their own-authority (35%) and company drivers (13%). Participants were predominately truckload carriers who traveled in the North Central, South Central, and South East regions of the United States, hauling primarily a van trailer, a flatbed trailer, or a refrigerated trailer, also called a reefer. These statistics align closely with other OOFI surveys.

Graph 1: Primary Equipment Pulled, 2019

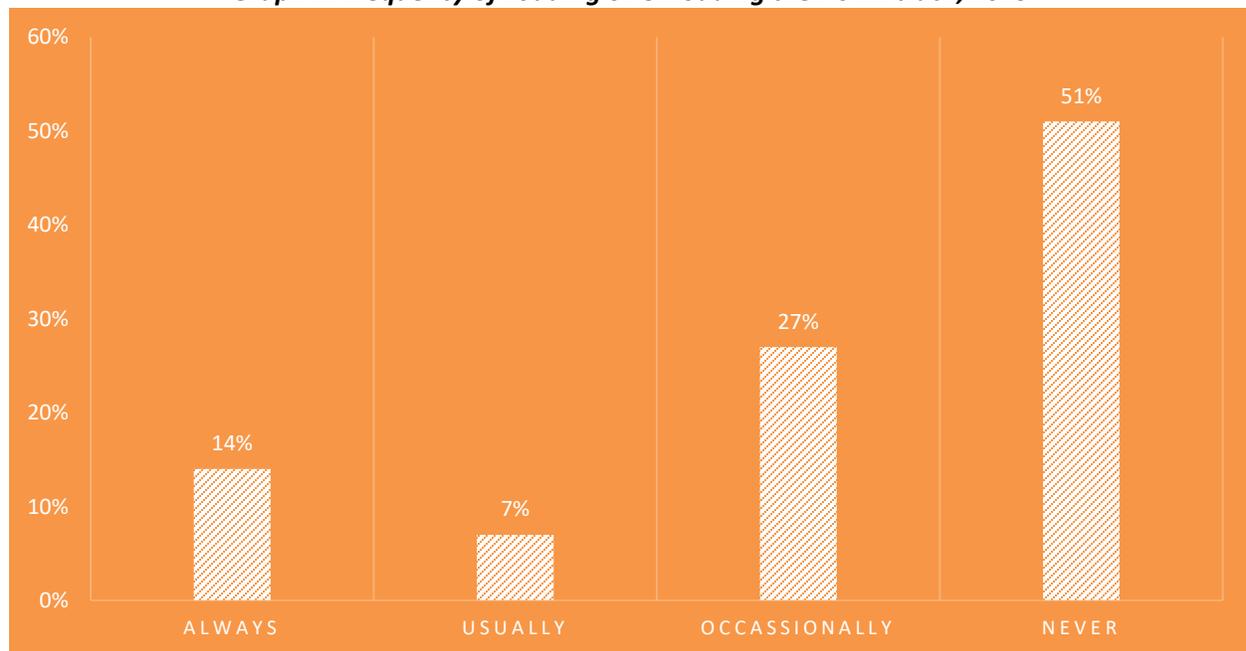


It is quickly evident when studying the issue of detention time that there are two areas of particular concern which exacerbate the problem. The first is the method of compensation, as very few drivers receive pay for all the hours that they work. While the Fair Labor Standards Act requires employers to pay covered non-exempt employees at least the federal minimum wage for all hours worked during the workweek and overtime pay for all hours worked over 40 in a workweek, truck drivers are exempt from the FLSA under Section 13(b)(1). In other words, truckers are not entitled to overtime pay if they operate a vehicle over 10,000 pounds. A majority of OOIDA members (81%) are in favor of removing the exemption, and 61 percent believe this will help address the detention time issue. However, fleet owner

members expressed the opposite, as 72 percent were not in favor of lifting the exemption and only 29 percent felt it would help to address detention.

Consistent with other OOFI surveys, the industry continues to receive compensation primarily on a per mile or per trip basis. However, the primary method of compensation varies greatly depending on the type of operation. Although owner-operators under their own authority receive compensation per trip, leased-on owner-operators predominately receive payment based on a percentage of the load, while company drivers are paid per mile. The average pay overall for those who receive compensate per mile, per trip, or based on a percentage was \$1.55 per mile, \$1,600 per trip, and 71 percent of the load, respectively. While all methods of compensation experienced a decrease in pay, which coincides with OOFI's *Freight Rate Survey*, pay per mile saw the largest drop. Decreasing 14%, from \$1.82 in 2018 to \$1.55 in 2019.

Graph 2: Frequency of Loading or Unloading their own truck, 2019



The second area of concern focuses on the HOS regulations, which determines the maximum number of hours that a driver is able to drive and work in a given period. Depending on a motor carrier's type of operation, a driver may operate up to either 60 hours in seven days or 70 hours in eight days. This rule, called the 60/70 hour rule, is not based on a set calendar week but on a "floating" seven- or eight-day period. If a carrier operates each day of the week, which most owner-operators do, then the 70 hour/8 day rule applies to them, meaning a driver is not allowed to drive more than 70 hours in any eight consecutive day period until he or she has dropped below the 70 hour/8 day limit. Thus, every moment a shipper or receiver holds up a driver at dock, waiting to load or unload, can wreak havoc on his or her HOS. This is exacerbated by the fact that there is very little value placed upon a driver's time, which only

serves to push truckers to operate longer, faster, and harder in order to make up the difference due to missed compensation. Again, this is a significant safety concern.

According to the survey results, 87 percent of respondents indicated that they comply with the 70 hour/8 day rule. However, in 2018,³ a majority of both those who operate under the 60 hour/7 day rule and those who operate under the 70 hour/8 day rule indicated that they spend between 11 and 20 hours *each week* waiting to have their truck loaded or unloaded. In other words, those complying with the 60-hour rule spend approximately 18% to 33% of their possible compensated drive time in detention, while those complying with the 70-hour rule spend 16% to 29% of their compensated drive time in detention. These types of situations can ultimately create the incentive for drivers to operate longer and push harder, such as foregoing rest breaks, in order to make up for lost compensation and reach their desired destinations. It can also force drivers to park in unsafe and or unsecure locations if they run out of hours.

Table 1: Hours per week waiting to load and unload by HOS Rule, 2018⁴

Hours	60 hour /7 day rule	70 hour/8 day rule
0 to 2 hours	13%	6%
3 to 5 hours	16%	14%
6 to 10 hours	24%	30%
11 to 20 hours	31%	36%
21 to 30 hours	13%	8%
31+ hours	3%	5%

The trucking industry has traditionally defined detention as any time spent waiting to load or unload in excess of two hours, thereby if a driver spends five hours waiting to load at a dock, the first two hours would be considered free, while the remaining three would be classified as detention. Although members indicated that shippers and receivers utilize this customary definition in general, they presented additional definitions for detention time, which included anything in excess of a half hour to an hour and all time spent at a pick-up or delivery location, including when their truck first enters the yard.

Several members commented that while they are often penalized by a shipper or receiver if they are late for their pick-up or delivery time, shippers and receivers ought to be held accountable for breaking appointment times. One member stated, "If a driver is not getting unloaded at his or her appointment time, detention should start right then." However, members also understood that certain commodities might take longer to load or unload than others. One member defined detention as, "Any time over a period generally deemed adequate to load or unload in a given situation or setting. Dry box, as I pull, should never exceed two hours barring complications."

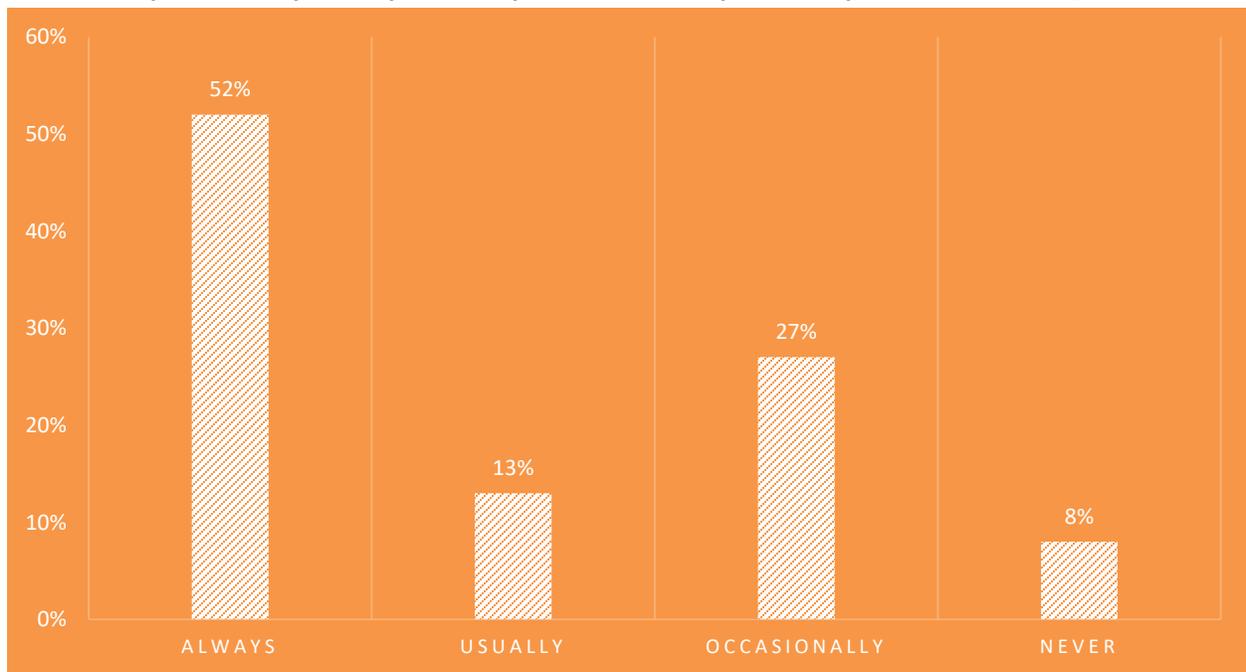
³ This question was not presented correctly in the 2019 survey. As a result, we are reporting the statistics from 2018 to help fill in the data gap. However, it is important to note that 11 to 20 hours of detention time per week has remained consistent over the years.

⁴ Note, this is for 2018

Many members stated that it is reasonable to assume some delay in getting loaded or unloaded, but they also mentioned that no one goes to work for free. One member commented, “The time that I am at a shipper or receiver is time that I am on the clock. I don’t think that I should have to give free time to get loaded or unloaded. It makes as much sense as people working in an office to go to work and work for two hours before they clock in and start getting paid for the day. Nobody wants to work for eight hours and get paid for six. But as a driver and owner-operator, I have to.” Another member wrote, “No other job in the world would expect anyone to work for free.” The vast majority of participants (87%) want to eliminate the traditional definition of detention.

Over the previous two years, 52 percent respondents have indicated that they always attempt to receive compensation for detention time compared with 44 percent in 2017. The remaining 48 percent vary between usually, occasionally, and never attempting to receive detention time pay, primarily because they believe that they will not receive it anyway (38%) or because they do not have much waiting time (29%). Several members commented that if they experience unreasonable detention time at a shipper or receiver, they refuse to haul loads to their facilities again. Overall, 18 percent of members stated that they do not collect any detention time pay. However, 10 percent of those who attempt to receive detention pay do not receive it at all. For those who do receive detention pay, owner-operators under their own authority collect about \$76 an hour on average, while leased-on owner-operators and company drivers receive \$66 and \$32, respectively. These wages however are far from the hourly rate that members consider to be fair, which is approximately \$110 for owner-operators and \$50 for company drivers.

Graph 3: How often do you attempt to receive compensation for Detention Time, 2019



When it comes to compensation per mile, those who always attempt to collect detention time pay earn the most as shown in **Graph 4**. Moreover, these members not only believe that they should receive more compensation for detention time, but they also collect more detention pay on average than their counterparts. For example, those who always attempt to collect pay for when they are detained receive \$75 an hour compared to approximately \$50 an hour for those members who usually and occasionally attempt to collect, and about \$47 an hour for those who never make an attempt.

Graph 4: Compensation per mile compared to the frequency in which members attempt to collect detention time pay, 2019



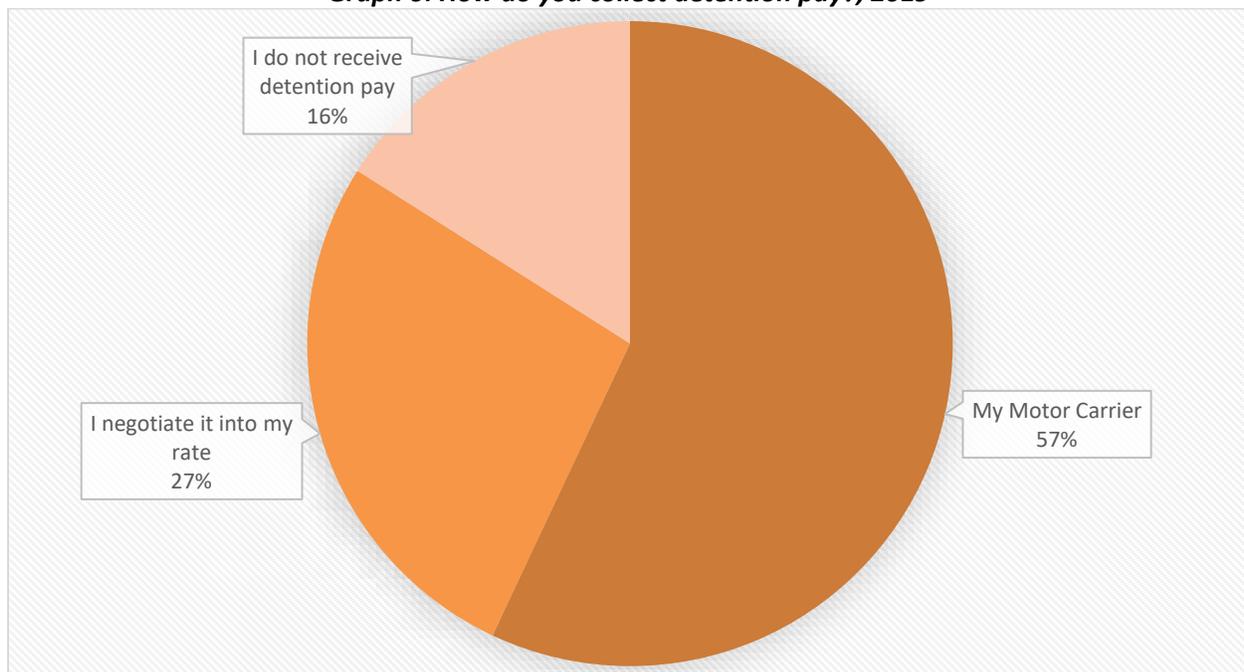
Graph 5: Detention time pay collected per hour compared to the frequency in which members attempt to collect detention time pay, 2019



It is important to note however that even those who receive detention time pay do not always receive it on all loads, nor do they receive pay for all the time they spend waiting to load or unload at a facility. Moreover, even though a majority of members receive some level of compensation for detention time, this is often not enough to make up for missed opportunities. Overall, 54 percent of respondents stated that they lose one to two loads per *week* because of detention. For those who receive compensation per trip, this could equal \$83,200 (\$1,600 average pay per trip × 1 load × 52 weeks) to \$166,400 (\$1,600 average pay per trip × 2 loads × 52 weeks) per year, or \$6,933 to \$13,867 per month.

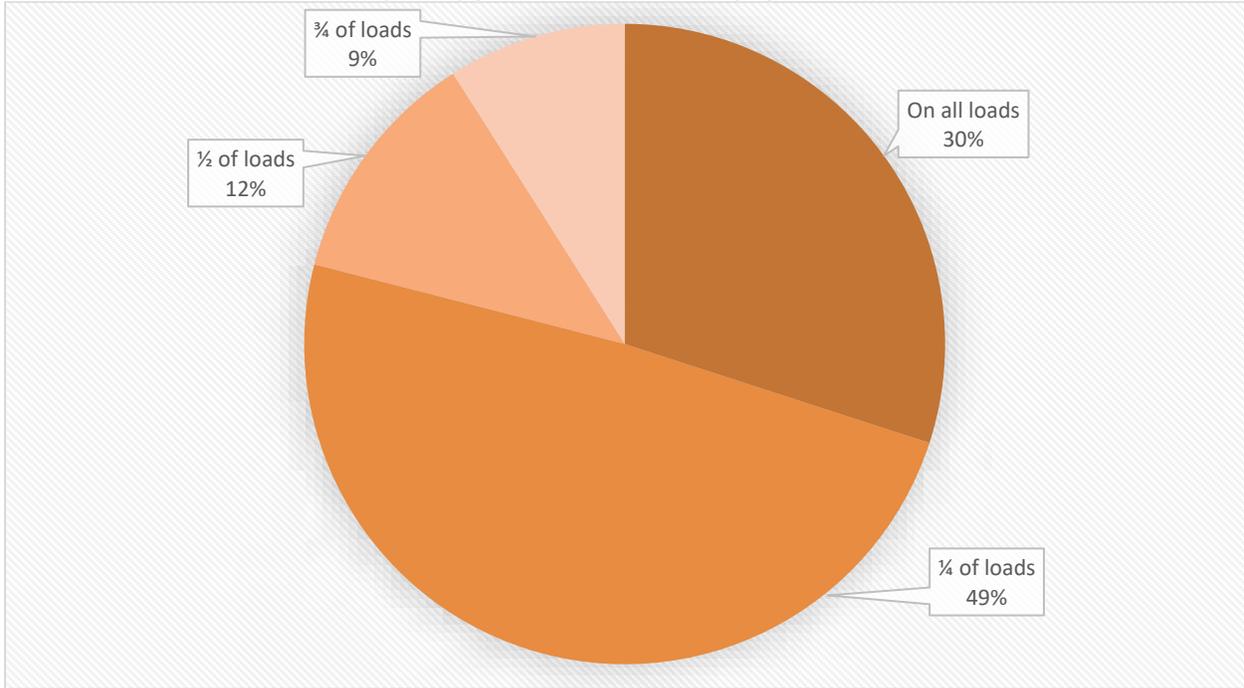
According to the National Highway Traffic Safety Administration (NHTSA), the average travel speed for heavy trucks on roads with varying posted speed limits from 55 mph to 75 mph is between 62 mph and 69 mph.⁵ However, it is very difficult for over-the-road truckers to average more than 45 mph due to traffic congestion around and in metropolitan areas. Thus, for those who receive compensation per mile, a driver could potentially lose \$69.75 per hour spent waiting to load or unload their truck (45 mph × 1 hour = 45 miles × \$1.55 per mile). Hence, those who spend approximately 11 to 20 hours a week in detention are effectively losing the possibility to earn \$767 to \$1,195 per week or \$39,884 to \$62,140 a year. In some cases, truckers stated that unpaid detention accounted for 10 percent of their total income. “Detention time is crucial to my operation. The time to load or offload affects me considerably. I am a one truck company. My next load depends on detention. If I’m held up, I can lose thousands of dollars for loads missed.”

Graph 6: How do you collect detention pay?, 2019

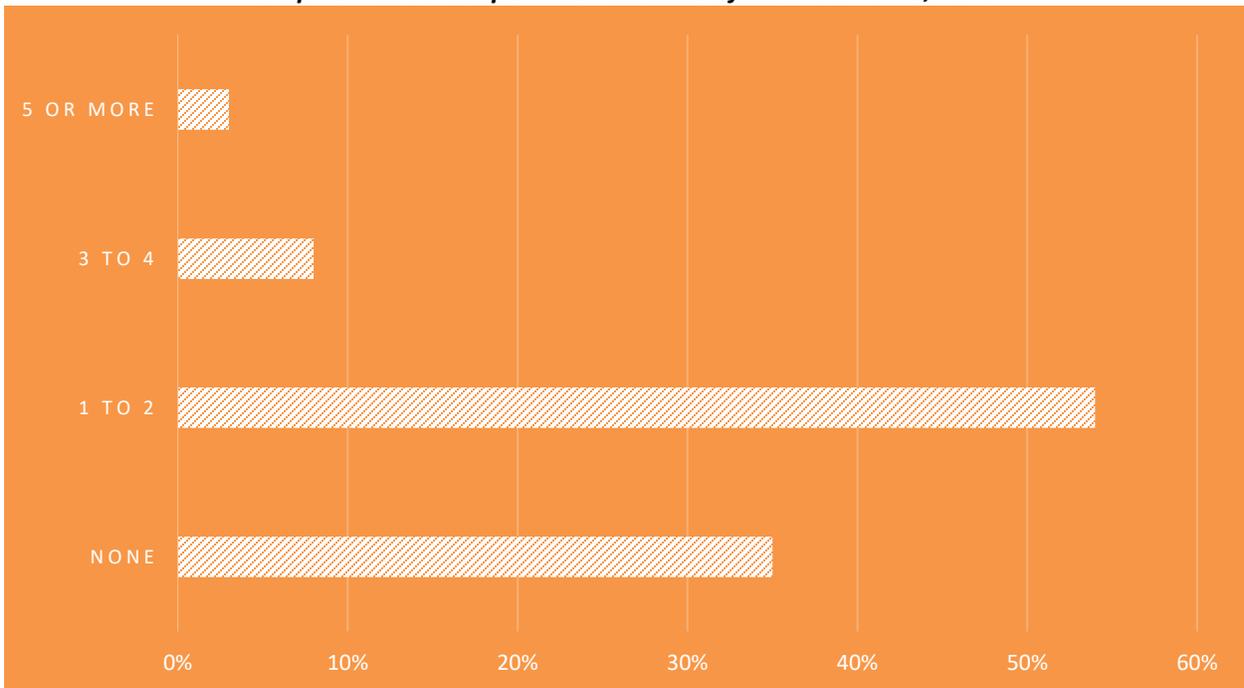


⁵ FMVSS No. 140 Speed Limiting Devices: *Preliminary Regulatory Impact Analysis and Initial Regulatory Flexibility Analysis*, NHTSA (August 2016), pg. 11

Graph 7: If you collect detention pay, it is, 2019



Graph 8: Loads lost per week because of detention time, 2019



When asked to name the top three shippers and receivers who consistently detain drivers for more than two hours, the participants indicated that Walmart was the top offender, followed by grocery warehouses in general for shippers and Kroger for receivers. This was mostly consistent with previous Detention Time Surveys. While the second and third slots for both shippers and receivers have varied slightly over the past three years, Walmart continues to retain the top spot.

Table 2: Top three shippers and receivers who consistently detain drivers for over two hours, 2019

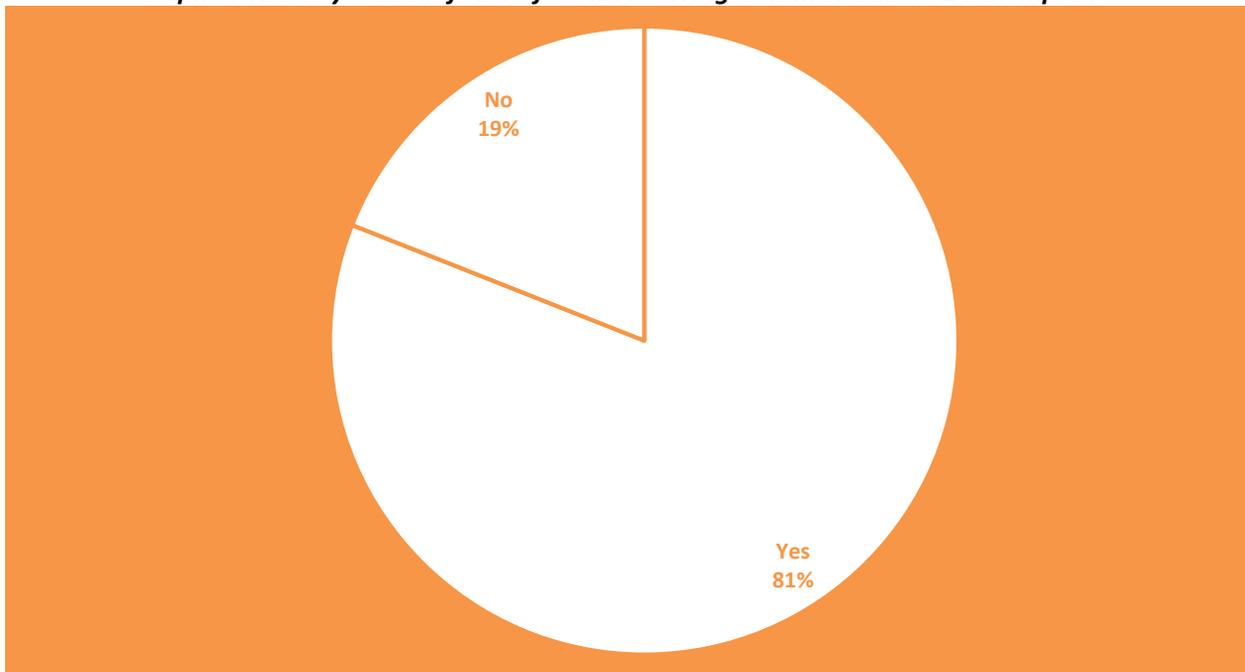
Rank	Shippers	Receivers
1.	Walmart	Walmart
2.	All Grocery Warehouses	Kroeger
3.	Americold	Sysco Foods

The survey also asked members what they thought would be the best method to measure or track detention time. Although some participants were unsure how to respond, many indicated that electronic logging devices were the answer. For not only do ELDs electronically record a driver's record-of-duty-status, but they are also required to track the geographic location of the truck. Both of which could be utilized to measure and verify the time a driver spends waiting to load or unload. One member stated, "Since we are stuck with ELDs, may as well make them useful to us in one way." Nevertheless, other participants recommended utilizing some form of electronic stamp via a smart phone application [i.e., MacroPoint for Truckers], adding a "waiting to load" and "waiting to unload" option in the ELD, a global positioning system, a standard detention time form provided by the carrier, or simply adding a check in and out field on the bill of lading. All of which could be relatively simple to implement.

Ultimately, in order to address the issue of detention time, some members stated that proper planning coupled with honoring appointment times could help solve many of the problems that carriers and drivers experience today. Others stated carriers and drivers either need to push for and demand detention time pay in their contracts or freight rates, or simply quit doing business with those entities that are the worst offenders. Most members however believed that brokers, shippers, and receivers would not honor detention time pay unless there was some form of motivation or incentive, whether it is through a federally mandated fine or by contracting with other brokers, shippers, and receivers who will ensure detention pay. One member wrote, "Shippers and receivers have too much control and will never police themselves and will not convert to efficient systems unless forced to do so."

Although most drivers and owner-operators are weary of more regulations, several members recommended introducing language into the federal regulations requiring either penalties for shippers, receivers, and carriers who do not compensate for detention, establishing a fixed hourly wage, or both. Additional suggestions included removing or changing the hours of service regulations or eliminating the federal exemption on overtime and minimum wage for truck drivers. In the end, members believe that brokers, shippers, receivers, and even carriers, need to assume some responsibility for the economic and safety effects of detention. Members indicated that while some carriers collect detention time pay, they do not always pass it on to the driver.

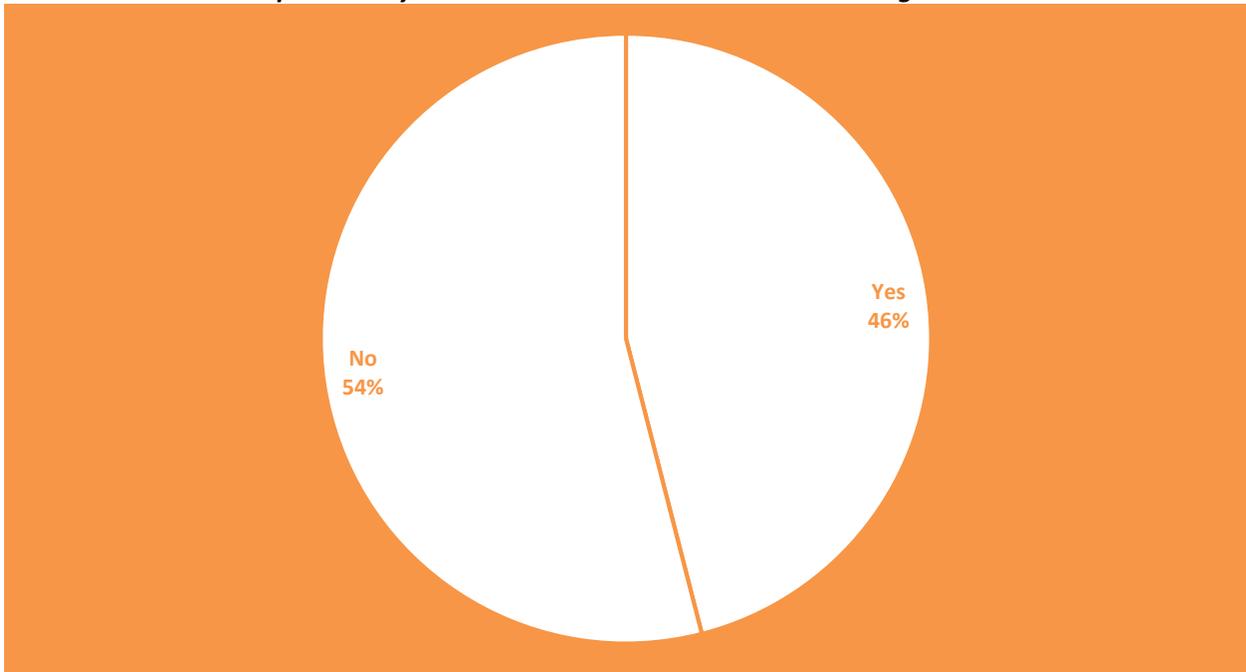
Graph 9: Would you be in favor of OOIDA striving to remove the FSLA exemption?



In June 2014, a Walmart truck rear-ended a limo van carrying seven people on the New Jersey Turnpike, killing one and seriously injuring four others. The truck driver, while operating within the HOS limits, had driven twelve hours to work before the start of his 14-hour on-duty clock. In response to the incident, Congress directed FMCSA in Section 5515 of the FAST Act (Pub. L. 114-94, 129 Stat. 1312, 1557 (Dec 4, 2015)) to “conduct a study on the safety effects of motor carrier operator commutes exceeding 150 minutes” (subsection (a)). In November 2017, the Agency published a proposed information collection to survey truck driver commuting practices. Thus OOFI reached out to members of OOIDA to ascertain the seriousness of this issue and its possible impacts on safety.

According to the survey results, 46 percent of OOIDA members commute to a terminal or truck in order to begin work. This was especially predominant for company drivers (69%) and those pulling dry van trailers (53%). Those who do commute however do so approximately three days per week on average, while traveling for thirty minutes or less at a time. The majority of respondents also indicated that they drive themselves when commuting to work (93%). This data suggests that while many do commute, very few if any exceed 150 minutes.

Graph 10: Do you commute to a terminal or truck to begin work?



Graph 11: Time spent commuting to work

