



## Owner-Operator Independent Drivers Association

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The Honorable Peter DeFazio  
Chairman  
Committee on Transportation and Infrastructure  
2165 Rayburn House Office Building  
Washington, DC 20515

The Honorable Sam Graves  
Ranking Member  
Committee on Transportation and Infrastructure  
2165 Rayburn House Office Building  
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Chairman DeFazio and Ranking Member Graves,

Since 1973, the Owner-Operator Independent Drivers Association (OOIDA) has been advancing and protecting the rights of small-business motor carriers and professional drivers. OOIDA is a critical stakeholder for all issues affecting trucking, with a unique focus on those directly impacting small-business truckers. The Highway Bill Reauthorization process presents fresh challenges and opportunities for the trucking industry and OOIDA is eager to work with the Transportation and Infrastructure Committee on policies that matter most to professional drivers.

Last year's House-passed highway bill, H.R. 2, the Moving Forward Act, included some helpful provisions for OOIDA members, but the bill was marred by several harmful policies that must be modified or removed in this year's reauthorization to ensure the continued success and viability of small business truckers. OOIDA adamantly opposed H.R. 2 when it moved through the House last year and our position will not change if the same bill is introduced in 2021. In fact, we will vigorously oppose any legislation that includes policies that harm our members, especially an unnecessary increase to motor carriers' minimum liability insurance requirements. Below, we have outlined ways to improve H.R. 2 in a manner that better supports small trucking businesses.

Among OOIDA's top priorities are:

### **Minimum Insurance Requirements for Motor Carriers (Section 4408)**

OOIDA, along with more than 60 other organizations in the trucking, agriculture, materials, manufacturing and towing industries, have serious concerns about a controversial provision added to last year's bill that would have increased minimum liability insurance requirements for motor carriers from \$750,000 to \$2,000,000. Such an increase is wholly unnecessary, would do nothing to improve highway safety, and would have a severe negative impact on businesses well beyond traditional trucking companies.

Federal research, authorized by your Committee, has demonstrated such an increase is entirely unnecessary. As required by MAP-21, the Federal Motor Carrier Safety Administration (FMCSA) commissioned the John A. Volpe National Transportation Systems Center (Volpe) to research this issue in greater detail. In 2014, Volpe released its report, which explained, "The vast majority of CMV-caused crashes have relatively small cost

consequences, and the costs are easily covered with the limits of mandatory liability insurance.” Volpe adds, “A small share exceed the mandatory minimum but are often covered by other insurance or assets.” In fact, this study determined today’s minimum insurance level adequately covers damages in all but 0.6% of crashes. When considering the current industry norm of carrying \$1,000,000 in coverage, that number shrinks to 0.03%.

What studies haven’t shown is any improvement to safety associated with increasing insurance requirements. There is no reputable research indicating an increase of any amount would help reduce crash rates. Proposals to raise minimum liability coverage are nothing more than an opportunity for the policy’s most ardent supporters - trial lawyers - to receive higher payouts from settlements at the expense of American businesses, many of which are still struggling due to the economic disruption and uncertainty caused by COVID-19. This policy does not belong in legislation that is designed to support economic recovery and encourage growth. Additionally, its inclusion will prevent the bill from garnering any substantial bipartisan support.

### **Parking for Commercial Motor Vehicles (Section 1308)**

We appreciated the Committee’s inclusion of \$250 million for commercial motor vehicle parking projects. Federal investment is necessary to help solve the ongoing truck parking crisis, which has resulted in safety hazards for professional drivers, the motoring public, and law enforcement officials. However, OOIDA favors a multi-year authorization with significantly higher levels of investment that focus exclusively on expanding truck parking capacity. We have worked with industry stakeholders and members of the Committee to introduce H.R. 2187, the bipartisan Truck Parking Safety Improvement Act, which sets aside \$755 million from the Highway Trust Fund (HTF) for truck parking capacity expansion projects. We encourage the Committee to include this important proposal in this year’s legislation.

The need for more parking is a direct result of Congress deregulating trucking long ago, which resulted in tremendous growth in the industry and lower prices for consumers. The need for more parking was predictable and preventable. Washington should have done more to prepare for today’s shortage, which undermines the efficiency of the entire supply chain.

### **Tolling and Congestion Pricing (Section 1110)**

OOIDA opposes provisions included in H.R. 2 that would divert tolling revenue to non-highway assets. As the HTF is already suffering from a lack of adequate and sustainable funding, it is unconscionable that Congress would allow the diversion of more resources away from activities that benefit the limited number of users currently paying in to the system. Additionally, placing greater responsibility on highway users to further prop-up public transportation, after providing transit agencies tens-of-billions of dollars in taxpayer support throughout the COVID-19 pandemic, is unacceptable. The Committee must take steps to not only limit the tolling of currently non-tolled highways, but ensure revenue is being used exclusively for the maintenance of the tolled asset. Furthermore, H.R. 2 fails to place any restrictions on states’ ability to impose discriminatory truck-only tolls or levy blatantly excessive fees that are used to fund unrelated activities.

OOIDA also has serious concerns about the expansion of congestion pricing included in H.R. 2, especially on segments of the National Highway System that are currently non-tolled. Because truckers often have very little control over their schedules, congestion pricing is particularly problematic for owner-operators and independent drivers. Due to the rigidity of current federal hours of service requirements, truckers routinely have no other choice than to drive through metropolitan areas during periods of high congestion. Shippers and receivers also have little regard for a driver’s schedule, frequently requiring loading and unloading to occur at times when nearby roads are most congested. Additionally, unlike other highway users, truckers often lack the ability to choose alternate routes to avoid congestion due to size and weight restrictions, heavy vehicle prohibitions and other limitations on ancillary roads.

The Committee must recognize that conditions beyond the control of professional drivers, including federal and state rules, often contribute to their inability to avoid areas or times of high congestion. Without changes to these conditions, congestion pricing may have little to no effect on CMVs other than to squeeze even more revenue out of motor carriers. If the Committee continues to push for expanded congestion pricing, accommodations must be made for the trucking industry.

#### **Automatic Emergency Braking (Section 4404)**

OOIDA questions the Committee's rush to implement an Automatic Emergency Braking (AEB) mandate. We believe this section creates arbitrary deadlines for the adoption of technology that remains flawed. We appreciate the Committee's recognition that AEB systems, especially for heavy vehicles, have still not been perfected and drivers have encountered serious problems with the technology while on the road. We support language in Section 4404 that would require deficiencies to be reviewed prior to the development of a standard. However, we believe all deficiencies should be remedied before the technology is mandated across our industry – not simply those that USDOT determines to be 'practical'. This is the only way to develop a standard that provides the reliability truckers need and deserve.

Additionally, OOIDA members have routinely shared practical concerns with current AEB technology, including difficulty controlling trucks in inclement weather when systems are activated, unwarranted activations, and highly distracting warnings and false alarms. This section must go further to fully address the apprehensions of the men and women who will eventually be forced to utilize these systems. Simply consulting with representatives of the driver community does not guarantee truckers' concerns will be prioritized during a rulemaking. While we appreciate the Committee's rejection of a retrofit provision in this section, we remain skeptical about how an AEB mandate will benefit small business truckers.

#### **Underride Protection (Section 4405)**

Side underride guards remain an unproven technology and present legitimate operational challenges for drivers. They also increase costs for trucking businesses, while displacing payload due to existing weight restrictions for CMVs. Unfortunately, we view Section 4405 as the first step to a side underride guard mandate for any vehicle weighing 10,000 lbs. or more, despite the fact USDOT has routinely denied efforts to move forward with a standard due to many real-world problems with the equipment that remain unresolved. Additionally, the lack of any language to prevent a retrofit requirement in a potential future standard is extremely problematic for our members.

Though we do appreciate the Committee's interest in conducting further research on side underride guards, this authorization must explicitly include a thorough analysis of not only the potential impact to highway safety, but the many logistical, financial and economic concerns of small business truckers. We support the elimination of language regarding side underrides in a highway bill, but if the Committee does address the issue, any provisions must be focused exclusively on gathering additional research and improving crash reporting.

Furthermore, the Advisory Committee on Underride Protection authorized by this section falls short of ensuring equity among stakeholders. More equal representation would undoubtedly help this Committee develop dependable and thorough reports and recommendations that take into account the differing views of safety advocates and professional drivers. Representatives with little no experience in trucking or expertise in safety equipment should not outnumber the positions dedicated to those within the professional driver community.

## **Compliance, Safety, Accountability (Section 4202)**

Motor carriers' safety data should not be publicly available until the methodology for generating ratings has proven to be fair and accurate, and scores actually reflect the crash experience of carriers. When Compliance, Safety, Accountability (CSA) scores were widely accessible, many motor carriers lost business due to unfair ratings and were targeted by unscrupulous trial lawyers looking to make a quick buck. A Congressionally-mandated review provided numerous recommendations for fixing CSA, including improving data quality and collection, analyzing information on how driver turnover rates and levels of compensation impact safety, and promoting transparency guidelines. Until these changes have been fully implemented by FMCSA and proven reliable, returning CSA scores to public view would have devastating impacts for the trucking industry, especially smaller carriers that could be put out of business with a single erroneous inspection or violation.

Currently, the scores generated by CSA, whether high or low, have no causal relationship with crashes and are in no way an accurate or effective way to measure the safety of a motor carrier. In fact, many owner-operators have no score at all due to a lack of inspections or violations. In this case, the public availability of scores may erroneously convince shippers and brokers that carriers without a score are somehow a risk, when in reality they may be some of the safest operators on the road.

Furthermore, the National Academy of Science Review of Commercial Motor Vehicle Driver Fatigue, Long-Term Health, and Highway Safety highlighted several faults with CSA. Specifically, it addressed shortcomings with the assessment of fatigue due to the limited information available on drivers who work for small carriers and owner-operators. It also indicated that, "data available to researchers on various causal factors are a patchwork, with some of the most essential variables being either not recorded, imperfectly captured, or recorded but without the information needed to evaluate their linkages to crash risk." The review determined precisely what our industry has known about CSA since its inception, "the statistical methods used in analyzing the available data often fail to take adequate account of confounding influences." To make matters worse for small carriers, the Government Accountability Office has found that even the foundational data for CSA derived from Safety Measurement System fails to precisely predict crash risk, because, "a substantial portion of regulatory violations in SMS cannot be empirically linked to crash risk for individual carriers."

Until all the flaws associated with CSA have been fully resolved, the Committee's rush to publicly post data is not only hasty, but entirely unfair to small carriers. We encourage the Committee to remove any provisions from this section that would make motor carriers' records available to the public until the system has been proven reliable and trustworthy.

## **Screening for Obstructive Sleep Apnea (Section 4308)**

OOIDA strongly opposes Section 4308. There is insufficient data demonstrating a relationship between moderate-to-severe obstructive sleep apnea (OSA) and crashes involving a CMV. Yet in recent years, many drivers have been forced to undergo unnecessary and expensive sleep tests based solely on their neck size or body mass index. Misleading or misapplied federal guidelines have taken safe drivers off the road to visit sleep specialists for testing and procedures that were never recommended by their own personal physician. In many cases, drivers have to pay all of the costs associated with screening, evaluation, and treatment of OSA. If they are diagnosed with OSA, drivers have limited flexibility in determining what types of treatment plans will work best for them before they can receive medical certification.

We agree with USDOT's 2017 assertion that current safety programs are the appropriate avenues to address OSA. However, FMCSA should implement practical guidelines for OSA rather than moving forward with a burdensome rulemaking that would mandate every single CMV driver be screened.

### **Hours of Service (Section 4306)**

The Committee must not include any provisions like Section 4306 that reduce flexibility in federal hours of service requirements or roll back any of the reforms that were implemented by FMCSA in September 2020, especially changes to updated personal conveyance guidance. Additionally, FMCSA must be required to advance the proposed split-duty period and split-sleeper berth pilot programs that were announced by the agency in August 2020 and January 2021.

### **National Surface Transportation System Funding Pilot (Section 5402)**

Before moving forward with a national VMT program, there are many practical questions that must be answered about the implementation and administration of such a program. OOIDA is open to further discussion and research about VMT and other possible alternative HTF funding methods, however, many OOIDA members have experienced frustration due to excessive operating costs in states that currently utilize VMT taxes. When establishing a national VMT pilot program with participation from motor carriers, the Committee must make certain a core objective of the program includes replacing all existing taxes and fees motor carriers and commercial motor vehicles currently pay into the HTF. A VMT program should not be a new tax levied on top of the numerous fees motor carriers currently pay into the system that other highway users do not.

### **Entry-Level Driver Training (Section 4303)**

We strongly support the Committee's inclusion of Section 4303. Unfortunately, full implementation of new Entry-Level Driver Training (ELDT) requirements has already been delayed, prolonging improvements to highway safety. Congress must not allow any further delay of these important standards. Section 4303 will not only help keep FMCSA on track, but will ensure the public is fully aware of the agency's progress.

This year's bill must also require FMCSA to move toward mandatory behind-the-wheel (BTW) training for new drivers. At a minimum, 30 hours of BTW training should be compulsory – a threshold that was agreed upon by 24 of 26 industry stakeholders who participated in the agency's negotiated rulemaking on ELDT standards. However, the many large carriers who are currently promoting the DRIVE-Safe Act on Capitol Hill are actively pushing Congress to mandate an initial minimum of 80 hours of BTW training for new drivers. While we strongly oppose the DRIVE-Safe Act, the application of this requirement for all drivers entering our industry would certainly help improve safety on our highways and should be embraced by the Committee.

### **Driver Detention Time (Section 4304)**

OOIDA supports Section 4304. Excessive detention time is both a safety and financial concern for small-business truckers and professional drivers. A 2018 USDOT Inspector General 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 commercial motor vehicle drivers in the truckload sector and that detention reduces motor carriers' annual net income by \$250.6 million to \$302.9 million.

While this section will help reduce excessive detention time for truckers, we encourage the Committee to consider strengthening this provision by adding language that mirrors Section 5507 of H.R. 2410 from the 114th Congress. The addition of this text will further ensure drivers are fully compensated for their work.

Furthermore, the Committee should work with the Committee on Education & Labor to repeal the overtime exemption for motor carriers in the Fair Labor Standards Act.

### **Driver Recruitment (Section 4307)**

Over the last few years, there has been a rapid growth of Canadian and Mexican drivers with B-1 Temporary Business Visitor visas who work exclusively on U.S. long-haul trucking operations. In these cases, American carriers and their foreign subsidiaries are recruiting and employing underqualified Canadian and Mexican drivers to push down wages and employment opportunities for workers. The consequences of the B-1 employment model include regular cabotage violations and the lowering of labor standards for U.S. truckers. OOIDA applauds the Committee for taking meaningful steps to address this growing problem, which threatens American jobs and highway safety. We encourage you to keep this section intact in the next reauthorization.

### **Motor Carrier Safety Grants (Section 4101)**

The authorization levels included in H.R. 2 represent a significant increase in funding for states to perform CMV oversight and enforcement activities. These funding levels more than compensate for the revenue derived from motor carriers through the federally-authorized Unified Carrier Registration program (UCR). UCR is an outdated program that no longer serves its intended purpose. In fact, its purpose for existing was eliminated several years ago when Congress moved insurance reporting into FMCSA. It continues to exist for no other purpose than to provide a slush fund for participating states, filled by the arbitrary collection fees from each truck on the road. The program is burdensome and unfair to small motor carriers, and lacks transparency and accountability due to insufficient federal oversight. Many of the states that receive funding through UCR cannot demonstrate the revenue is even being used to promote highway safety.

With the increased authorization levels in H.R. 2, states would still see an overall jump/plus up in federal assistance for motor carrier safety activities if the UCR program was eliminated. OOIDA strongly encourages the Committee to repeal the unnecessary UCR program in the next surface transportation reauthorization.

### **Motor Carrier Safety Operations and Programs (Section 4102)**

In this year's bill, improvements to several information management systems that support professional drivers must be prioritized, including the National Consumer Complaint Database (NCCDB). Currently, drivers have little faith in the NCCDB due to its perceived ineffectiveness. As a result, few drivers are using the system to file complaints, which often include violations of federal safety requirements. Greater investment in the system would help the NCCDB become a reliable resource for drivers to report incidents of coercion, unsafe practices by motor carriers and unscrupulous brokers.

This hotline was originally established as a means for CMV drivers to report instances where they were being asked or forced to violate a safety regulation or engage in unsafe actions. Since its inception, the NCCDB has never had adequate funding or appropriate staffing to accomplish its intended purpose. Modeled after the NHTSA hotline, this should be a reliable and effective resource for drivers to report unsafe situations.

Other systems that must be prioritized include the National Registry of Certified Medical Examiners, the Drug & Alcohol Clearinghouse and the Entry-Level Driver Training provider registry. Recently, FMCSA announced a 4-year delay of the Medical Examiner's Certification Integration rule that was originally finalized in 2015 and supposed to be implemented by 2018. The continued failures of FMCSA's IT infrastructure are simply unacceptable.

### **Motor Carrier Safety Advisory Committee (Section 4201)**

The inclusion of small business motor carriers on this panel ensures representation for smaller trucking businesses, which comprise the vast majority of motor carriers registered in the U.S. We applaud the Committee for including this important requirement. Further demonstrating the need for the inclusion of small business

truckers, FMCSA appointed 9 new members to the panel in January 2021, none of which represent small carriers (5 trucks or less).

### **Automated Commercial Vehicle Reporting (Section 5311)**

OOIDA remains concerned about the safety performance of autonomous vehicles (AVs), their real-world practicability, and their effect on the trucking workforce. The use of unproven automated technologies on our highways poses a significant threat to all road users, including small-business truckers. As such, the development of AVs should be met with mandatory data transparency from manufacturers. This will help educate consumers, the industry, and regulators about the true performance and reliability of autonomous technology. We strongly support Section 5311, which would establish a repository for motor carriers, shippers, technology companies, and other entities to submit information to USDOT on testing, demonstrations, or commercial operations of an automated commercial motor vehicle on public roads.

### **Truck Size & Weight/Twin 33s**

We applaud the Committee for excluding controversial increases in truck size and weight from H.R. 2. Increasing the gross vehicle weight limit above 80,000 pounds would not only diminish safety and accelerate the deterioration of highway conditions, but would also have a dramatic impact on small trucking businesses who would have to modify their equipment at great cost just to remain viable, with virtually no return on their investment. Various USDOT studies have revealed crash involvement rates for vehicles configured with a sixth axle to carry 91,000 pounds were consistently higher than the rate for five-axle control trucks. Furthermore, allowing longer combination trailers, known as ‘twin 33s’, on our roads would only benefit a handful of large corporate motor carriers, but would have a negative impact on safety, infrastructure, and the rest of the trucking industry.

### **Auto Transporters**

We support clarifying the federal definition of a traditional automobile transporter. In 2004, FHWA incorrectly required that to be considered a traditional automobile transporter, the power unit (i.e. the truck) must be capable of carrying cargo. That interpretation isn’t supported by legislative and regulatory history, and FHWA itself has no record as to why this change was made via agency guidance.

We continue to strongly oppose bigger/heavier trucks. Some have erroneously categorized our efforts to clarify the definition of an automobile transporter as a push for bigger/heavier trucks, but that’s an inaccurate assessment and certainly not our goal. We are simply working to address an incorrect agency interpretation of a rule that dates back to the mid 1980’s that has unnecessarily created a new regulatory burden on a small segment of the trucking industry. In your surface transportation reauthorization, we encourage the Committee to include the contents of legislative proposals OOIDA championed in the House last year that would properly remedy this problem.

### **Broker Reform**

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. In the wake of historically low freight rates at the onset of the COVID-19 pandemic, OOIDA petitioned the agency to finally address broker transparency in a meaningful way. Besides better enforcing transparency provisions already on the books, OOIDA believes federal regulators should also promulgate rules that will require brokers to automatically provide transaction records within 48 hours after the contractual service has been completed and prohibit brokers from including stipulations in their contracts that force a carrier to waive their rights to access the transaction records. These

changes will foster a more transparent and fair working environment between brokers and motor carriers, and we encourage the Committee to include these requirements in the next highway bill.

Additionally, the Committee must compel FMCSA to move forward with the Broker & Freight Forwarder Financial Responsibility rulemaking process that went dormant since an initial proposal in November 2018.

### **Speed Limiters**

We commend the Committee for not taking any steps toward mandating the use of speed limiting technology on CMVs in H.R. 2. We strongly encourage you to take the same approach in 2021. Research has consistently indicated speed limiters create dangerous speed differentials among vehicles, which leads to a greater number of interactions among highway users and increases the likelihood of crashes. In fact, research shows the safest road conditions are when all vehicles are moving at the same relative rate of speed. Understanding these realities, states across the country have steadily moved away from split speeds between small vehicles and CMVs on their highways. The inclusion of any speed limiter mandate in the next highway bill would undo many of these positive reforms. Rather than safety devices, speed limiters are fleet management tools that offer no benefits to small carriers and owner-operators.

### **Under-21 Drivers**

In 2020, the Committee did what is best for highway safety and long-term careers in trucking by not including any provisions to allow drivers under the age of 21 to enter the long-haul industry. OOIDA remains strongly opposed to efforts to lower the minimum age requirement for truckers engaged in interstate commerce. Dropping the interstate CDL age from 21 presents obvious safety concerns for potential new truck drivers as well as the traveling public who would share the road with them. Younger drivers – especially teenagers – generally lack the maturity and experience to operate a CMV at the safest levels. Research has consistently shown that CMV drivers under 21 are more likely to be involved in crashes. Rather than developing legislation to allow more teenagers behind the wheel of commercial trucks, Congress should be taking steps to reverse the incessantly high driver turnover rate, which remains above 90% among large truckload carriers. We acknowledge operational challenges that exist for drivers near border cities, such as Kansas City, MO, and Kansas City, KS. However, operating across state lines in Kansas City is much different than driving across country from Florida to California. We continue to discourage the Committee from including proposals like the DRIVE-Safe Act in the next reauthorization.

We look forward to working with the Committee as the reauthorization process continues.

Thank you,



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