Statement of

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Before the

COMMITTEE ON TRANSPORTATION & INFRASTRUCTURE
SUBCOMMITTEE ON HIGHWAYS & TRANSIT
U.S. HOUSE OF REPRESENTATIVES

Regarding

The Future of Commercial Motor Vehicle Safety: Technology, Safety Initiatives, and the Role of Federal Regulation

APRIL 29, 2015

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On behalf of

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Chairman Graves, Ranking Member Norton and distinguished Members of the Subcommittee, thank you for inviting me to testify on matters of importance to our nation's truck drivers and the tens of thousands of small business trucking professionals who are members of the Owner-Operator Independent Drivers Association (OOIDA).

My name is Danny Schnautz, and I have been involved with trucking literally since birth, as my first ride in a tractor trailer was with my father at three days old. After working part-time as an intrastate driver while in high school and college, I spent more than three years as a full-time truck driver. During this time, I hauled freight of all types across the lower 48 states, pulling vans, flatbeds, and intermodal containers. I still hold an active Commercial Driver's License with all endorsements from the State of Texas.

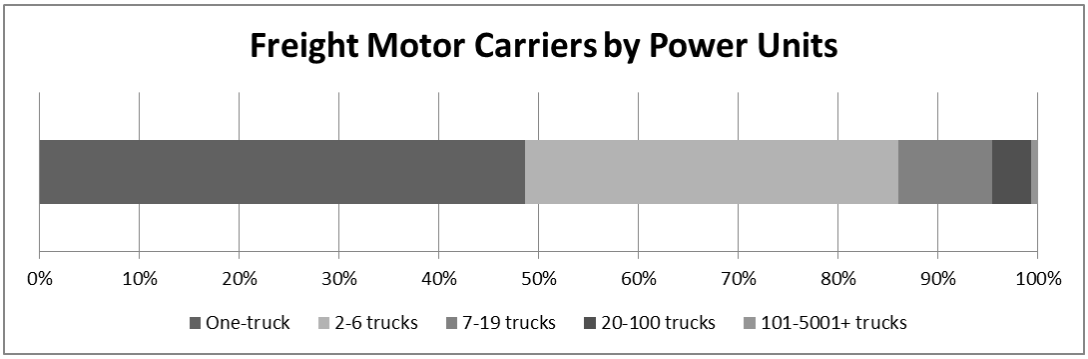
For the past 25 years, I have worked in the field of trucking operations and management. I currently serve as Vice President of Clark Freight Lines, Inc., a Pasadena, Texas-based company with 170 drivers and power units plus hundreds of trailers. I am also an active commercial/instrument airplane pilot, a licensed Texas Peace Officer for 23 years, and currently a Captain in the Harris County (Texas) Sheriff's Office Reserve. In May 2010, I was appointed to the Federal Motor Carrier Safety Administration's Motor Carrier Safety Advisory Committee.

OOIDA is the national trade association representing the interests of independent owner-operators and professional drivers on all issues that affect small business truckers. The more than 150,000 members of OOIDA are small business men and women in all 50 states and every Congressional district who collectively own and operate more than 200,000 individual heavy-duty trucks. The average small business trucker has driven more than 20 years and 2 million accident-free miles.[1] To put that in perspective, the average passenger car driver would need to drive for at least 150 years to reach that level of experience and safety out on the highway.[2] They are professional drivers in the truest sense of the word, and are committed to supporting their families through the safe operation of their small businesses.

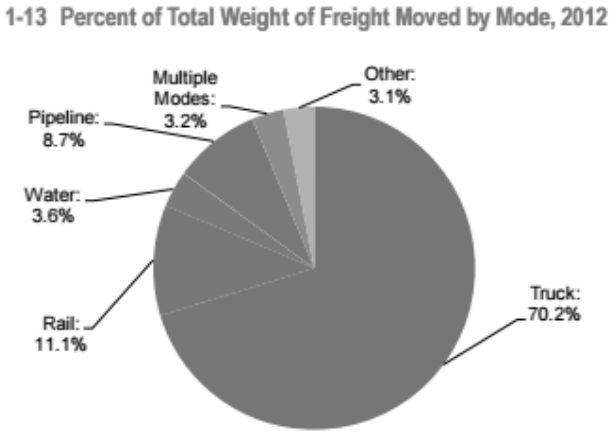
As you may know, OOIDA members and their small business trucking peers make up the overwhelming majority of the trucking industry, especially in the long-haul segment. Trucking is a small business industry, with nearly 90 percent of all carriers having fleets of six trucks or less, and roughly half of all interstate carriers being one-truck, one-driver operations, according to data from the Department of Transportation. Any policies that are disadvantageous to small business truckers or otherwise target them would have potentially large negative economic impacts for all Americans, as trucks move close to 70 percent of our nation's freight.

[1] OOIDA Foundation, Inc., Owner-Operator Member Profile 2014, http://www.ooida.com/OOIDA%20Foundation/RecentResearch/owner-operator-member-profile.asp.

[2] Based on the "Average Annual Miles Per Driver" of 13,476 miles driven per year as calculated by the Federal Highway Administration; see http://www.fhwa.dot.gov/ohim/onh00/bar8.htm.



In addition to general freight, OOIDA members and small business truckers frequently haul the loads that large trucking companies do not find advantageous to haul. Flatbed loads such as steel coils, construction materials and heavy equipment, refrigerated freight (especially fresh produce), and other specialized cargos are often moved by owner-operators and other small business truckers. OOIDA members and their peers are the connection for tens of thousands of companies, large and small, urban and rural to the global marketplace. It is estimated that small business carriers exclusively haul in the neighborhood of 40 percent of freight moved by truck in the United States.



For so many of these companies, trucks owned and operated by small business truckers are their only competitive option to receive raw materials, equipment, and goods for sale, as well as to ship out finished products to customers. A healthy small business trucking segment—one where carriers are able to thrive and not just survive—is a good thing for our nation's economy. Many factors can put the health of small business truckers at risk: general economic forces, burdensome regulatory policies, and actions by large carrier competitors to use those regulatory policies for competitive advantage. Further, industry compensation practices, which by and large do not value a driver's time, force the individual driver to pay the cost of many of the inefficiencies within the goods movement system.

A TURNING POINT FOR COMMERCIAL MOTOR VEHICLE SAFETY

OOIDA appreciates the Subcommittee holding this hearing, as it comes at an extremely critical time for the future of commercial motor vehicle safety policy in the United States. In the minds of small business truckers, the Federal Motor Carrier Safety Administration (FMCSA) lacks a reasoned or coherent understanding of the key factors behind safety on our nation's highways. This has resulted in an approach where issues related to compliance with the letter of every single regulation drives policy and enforcement activities, instead of the carrier's or driver's crash history. This occurs even when a regulation likely has zero connection to highway safety.

To OOIDA's knowledge, despite the fact that the FMCSA spends somewhere between seven and nine million dollars a year on research, the agency has never conducted any research activity that has sought out motor carriers and professional drivers who do not crash, learned what they did that helped them have this stellar safety record, and then developed policies that encouraged such safety-focused actions. As someone with experience in other modes of transportation, I feel such an approach to highway safety is fundamentally flawed, and misses opportunities to achieve greater safety results at a lower regulatory burden, especially to small business carriers.

Instead, the agency makes a connection between any non-compliance with a regulatory requirement – no matter how small – and some level of causal relationship to the crash. This occurs no matter if the driver or motor carrier was at fault, even in clear no-fault situations such as when an individual decides to commit suicide by truck. The focus is on all regulations, including those that clearly have no impact on highway safety, such as form-and-manner issues with a logbook, if a license plate light is out, or other minor issues that have been in regulation for decades with no effectiveness review. The FMCSA has even divined an increased crash risk related to when a blanket is not present in a sleeper cab. Professional drivers know that the mere presence of a violation during a crash does not mean it had any role to do with causing the crash, and focusing on those violations instead of the actual cause of the crash is a huge missed safety opportunity.

This focus on a carrier or driver's compliance with each of the FMCSA's hundreds of regulations rather than the actual crash history of a carrier or driver is the genesis for many of the FMCSA's most recent, most costly, and most flawed regulatory and enforcement policies, including:

- **restrictive hours-of-service regulations** that, when combined with industry compensation practices, limit a driver's ability to make safety-focused decisions;

- **development and implementation of the Compliance, Safety, Accountability (CSA) program**, which inaccurately and unfairly paints safe small carriers as unsafe, reducing their access to business and opening them up to additional enforcement activities, while carriers that crash more frequently are all but ignored;

- **advancing regulatory mandates such as electronic logging devices (ELDs) and speed limiters** that cannot be justified through safety improvements and/or have significant negative safety implications; and

- **focusing on technologies over trained and/or experienced drivers** who have a strong record of not getting into crashes.

A carrier following the FMCSA's playbook: speed limiters, ELDs, and other steps can have a fantastic *compliance* record, but can still have a horrible *crash* record. The FMCSA's own data shows this to be the case, especially with some of the nation's largest motor carriers – motor carriers who frequently make public statements that they are safety leaders and come before Congress and the FMCSA arguing for more costly mandates on the entire industry. As the CEO of a major motor carrier recently stated: "We were compliant, and we were legal, but we weren't safe."[3]

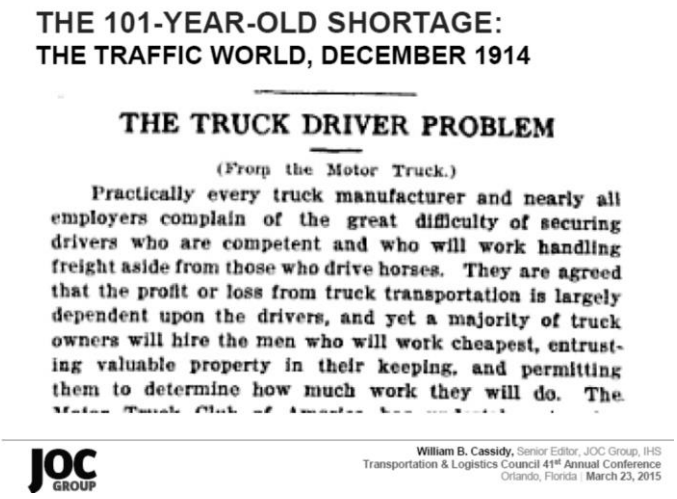
This represents a seriously flawed path forward for motor carrier safety, especially when considering the many other forces impacting the industry. One of OOIDA's greatest concerns is that the FMCSA's focus on regulatory compliance – and the issuance of even more regulations in the aim of improving compliance with those regulations – will prove too costly and burdensome for many experienced small business truckers with millions of miles of crash-free driving records. These individuals and small carriers will be priced out of the industry, removing the safest drivers and carriers that trucking needs to retain.

Even more concerning, it loses sight of the broader goals of commercial motor vehicle safety policy, which is to reduce crashes. At some point, more and more regulations and enforcement actions end up having the opposite results on highway safety, as drivers worry more about complying with minor regulatory requirements and government micromanagement of their operations instead of focusing on actions that actually have an appreciable impact on improving highway safety. Even more worrisome, does a *compliance-focused* system allow carriers who crash to "game the system" and look good on a compliance basis, while actually having poor performance on the road in terms of crashes?

Further, compliance-focused actions could result in unintended consequences that lead to crashes. Indeed, one could argue that this past summer, where several high profile crashes involved trucks operated by drivers for companies that have multiple layers of technology to ensure regulatory compliance, saw the beginning stages of those opposite results. A driver focused on ensuring that they do not go one second over an hours-of-service limitation speeds while in traffic, or a driver with decades of accident-free experience is forced out of the trucking industry by a medical examiner over fears of sleep apnea, even though a driver's personal

[3] *Fleet Owner*, "Paying by the Mile Caused Fatigue, Crashes and Fatalities," April 24, 2015, http://fleetowner.com/driver-management-resource-center/paying-mile-caused-fatigue-crashes-and-fatalities.

physician does not deem the driver at risk. In many situations, professional drivers are operating safely in spite of regulatory requirements. These are not steps forward for highway safety.



This focus on compliance comes at a time when trucking as an industry faces significant human resources challenges. This is not the driver shortage that so many large carriers continue to argue is looming. The very same arguments were made at the dawn of the trucking era. Instead, it is one largely of the mega-carrier's own making. The shortage in trucking is a shortage of individuals who will do the work of a truck driver – especially an over-the-road driver – while facing the risk that comes with the job and the employer and enforcement scrutiny for compensation that has not just remained stagnant, but has dropped in real terms over the past decades. According to transportation researcher Kenny Vieth, it's not a driver shortage, it's a driver-pay shortage. "Trucking is a hard job - and that won't change. But one thing you can change is to pay them more," says Vieth.[4]

Trucking also faces the prospect of significant generational change as many of the industry's most skilled and most experienced drivers will be retiring from the industry in the coming decades. This is a fact that is born out in data from OOIDA membership, where the average small business trucker is over 55 years of age.[5] This is why OOIDA is so supportive of establishing entry-level driver training standards. An unsafe driver can be compliant with the FMCSA regulations, and when compliance is the focus, these unsafe operations can slip through the cracks.

Despite what some may argue, so-called "safety technologies" are not a sliver bullet solution to these issues and challenges. In many cases and when looked at across the entire trucking industry, they may very likely make matters worse in terms of real highway safety. Use of technology should not be employed as an rationale to justify actions such as using lower-skilled or younger drivers, structuring driver pay in such a way that only those who will work for bottom of the barrel compensation will want to enter the trucking industry, or advancing requirements on an entire industry in the name of safety when no benefits, only costs, will be levied on the 80 to 90 percent of trucking that is small business.

[4] *Land Line*, "Wage War?," October 9, 2014, http://www.landlinemag.com/Story.aspx?StoryID=27802#.VTz_g9JViko.
[5] OOIDA Foundation, Inc., Owner-Operator Member Profile 2014.

Instead of today's focus on regulatory compliance, OOIDA argues that the best future for CMV safety begins with policymakers, enforcement officials, the truck and bus industry, and other stakeholders coming together to find the answer to an important question: what are the key factors behind CMV crashes? Once an unbiased, experience and data-driven answer to that question is arrived at, a new regulatory structure, one based upon addressing those key issues, should be developed. Such development should occur in a collaborative manner, focused on reducing crashes across the entire industry, and not pitting one segment of the industry against each other, or favoring one means to an end over another. New entrant drivers and carriers should meet a strong – but fair – standard, and the focus of regulatory and enforcement policy should be on the only outcome that matters: reducing at-fault truck crashes.

COMPLIANCE ALONE DOES NOT EQUAL SAFETY

Small business truckers have an inherent interest in supporting efforts to address safety issues caused by unsafe operators, whether they are motor carriers, truck and bus drivers, or passenger car drivers. We share the highways with these companies and motorists. That is why OOIDA supported the broad goal of the FMCSA's CSA program when it was first proposed in the mid-2000s. However, the FMCSA's development and execution of CSA has been fundamentally flawed, with negative impacts to small business motor carriers and highway safety. This can be seen in real-life CSA and crash data from a number of motor carriers.

Below is a comparison of average crash rates for eight of the largest truckload motor carriers and those of one-truck carriers based upon data from the FMCSA. Even at an average level, the crash rate for these large carriers on a per –truck basis is nearly double that of the entire fleet of one-truck owner-operator motor carriers. In some cases, the crash rate for a large carrier exceeds the owner-operator population by two-and-one-half times. Unfortunately, due to the FMCSA's "*compliance-focused*" approach to addressing highway safety, these carriers are largely under less scrutiny than a one-truck owner-operator or even a fleet like the one I work for, despite the fact that they have thousands of trucks on our nation's highways every single day.

Carriers	Power Units	Crashes in 12 month period	Crash Rate per 100 PU
8 "Mega" Truckload Carriers	79,218	7,526	9.5
National One-Truck Carrier	138,750	7,720	5.56

It is important to look beyond a straight comparison between "mega carriers" and small carriers. As such, the OOIDA Foundation analyzes crash rates and CSA's Safety Management System (SMS) "scores" under individual Behavioral Analysis and Safety Improvement Categories

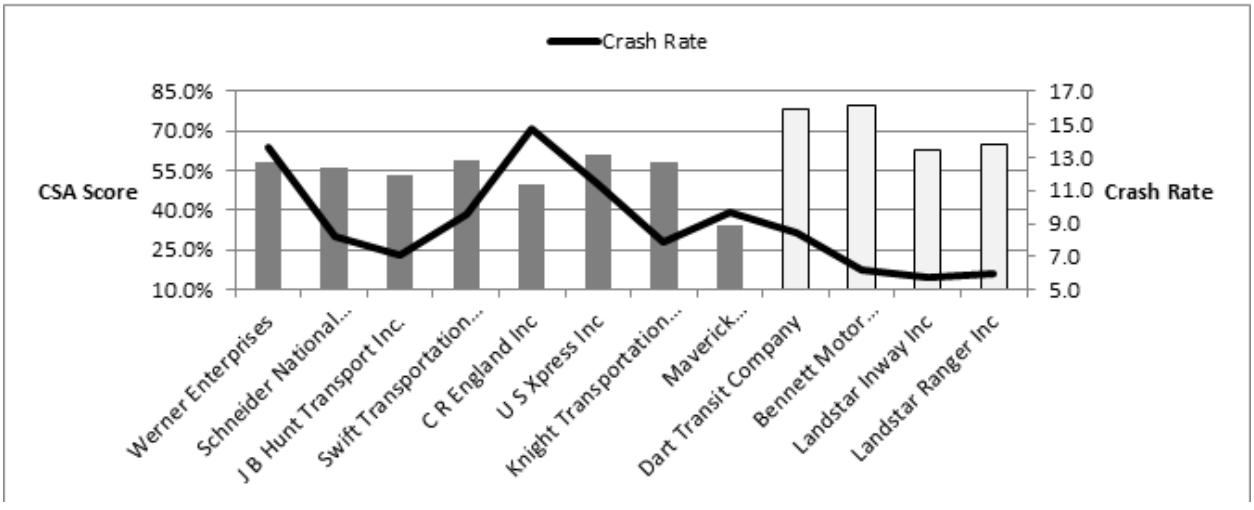
(BASICs) for large carriers who largely use employee trucks and drivers (asset carriers) and large carriers that predominately contract with owner-operators (non-asset carriers).[6]

The scores under the HOS BASIC indicated that the asset carriers should be better safety performers both in terms of compliance with regulations and crashes. The average percentile score for the asset carriers was 23%, while non-asset carriers had an average score of 45.3%, with lower scores "better" under CSA. With asset carriers showing greater compliance with the HOS regulations, according to the FMCSA and CSA methodology, this should result in a better safety performance in terms of reduced crashes.

The OOIDA Foundation then compared the crash rate per 100 PUs and per 100 MVMT between the asset and non-asset carriers. In most cases, the asset carriers had a higher crash rate. Overall, the average crash rate per 100 PUs was 10.28 for asset carriers and 7.36 for non-asset carriers, whereas the crash rate per 100 MVMT was .10 and .08, respectively. Although the asset carriers have a better HOS Compliance score within CSA's SMS, their actual on-the-road crash rate is much higher.

Not only does this put into significant question the efficacy of many of the compliance focused measures taken by large carriers such as ELDs, but the analysis also calls into question the efficacy of the entire CSA program as a way to direct the resources of the FMCSA and state enforcement officials. This point is further highlighted by comparing asset and non-asset based carriers across another BASIC: vehicle maintenance (non-asset carriers are represented by the lighter bars on the right).

Vehicle Maintenance BASIC compared to crash rate per 100 PUs



[6] OOIDA Foundation, Inc., "Examination of Publically Available Data from FMCSA on CSA Scores and Motor Carriers," November 25, 2014, http://www.ooida.com/OOIDA%20Foundation/WhitePapers/WhitePapers.asp.

It is not only OOIDA who have found fundamental flaws with the FMCSA's approach with CSA. While the FMCSA has recently argued otherwise, in a 2014 report, the Government Accountability Office stated that flaws in the CSA program resulted in the FMCSA identifying "many carriers as high risk that were not later involved in a crash, potentially causing the FMCSA to miss opportunities to intervene with carriers that were involved in crashes."[7]

A COMPLIANCE-ONLY FOCUS TARGETS SMALLER CARRIERS & REDUCES FOCUS ON SAFETY

OOIDA believes that a system needs to be in place that identifies high-risk carriers and intervenes in order to improve those carriers' safety practices or pull them off the road. That system needs to be accurate, and it needs to be fair. CSA is not that system. As noted by GAO, much of data flowing into CSA is inaccurate or misrepresentative and the methodology used by FMCSA to identify at-risk carriers is fundamentally flawed.

To put into context the flaws of CSA, especially when it is applied over the FMCSA's current regulatory and enforcement system, take the example of one of Clark Freight's trucks, which was inspected by a Texas State Trooper on April 15, 2015. The truck and chassis were in stellar condition, but my company received an "inspection violation" because the enforcement official determined that the decals for two digits of the truck's USDOT number were torn and un-readable. Instead of just a message to get the decals fixed or even a "fix-it ticket," the enforcement official issued a violation. Further, a readable DOT number has absolutely nothing to do with highway safety. No accident has ever been prevented because of a readable DOT number, and no accident has ever been caused by an unreadable DOT number.

CSA can also take something as simple as a logbook paperwork error and turn it into something that looks like a safety issue. Common sense dictates that filling out paperwork incorrectly does not indicate whether or not a truck is safe, but not according to CSA. Because CSA puts emphasis on compliance with almost entire DOT rulebook, carriers are forced often times to work on compliance with paperwork rules instead of safety. At our recent safety meeting at Clark Freight a few weeks ago, we had over 60 of our drivers in attendance. One of the main topics was addressing "form-and-manner" violations on logbooks, which are largely relics of when the trucking marketplace was under the regulation of the Interstate Commerce Commission, which ended in the 1980s. We spent time and money to work on proper completion of a form, rather than breaking down the preventative actions a driver should have taken to avoid a crash, highlighting proper following distance, ways to mitigate road rage, or any other topic that would actually relate to safety outcomes.

[7] Government Accountability Office, "Modifying the Compliance, Safety, Accountability Program Would Improve the Ability to Identify High Risk Carriers," February 3, 2014, http://www.gao.gov/products/GAO-14-114.

For many violations, no ticket or fine is issued by enforcement officials, yet the violation shows on the carrier's CSA information. This means carriers or drivers have no opportunity to challenge the validity or fairness of the enforcement officer's claims before a court. The only way I can challenge this violation is through a process called DATAQs, which in many cases puts the responsibility for reviewing challenged violations right back to the very enforcement officials that issued the initial violation.

The perception from violations like this is that we run unsafe trucks, regardless that the truck had all brakes working, more than thirty lights fully operational, no air leaks, 18 tires properly inflated and with tread, 100 lug nuts tight on the wheels, windshield clear, etc. These situations have a clear negative impact on motor carrier safety, as highlighted by the GAO:

> *"**A relatively small difference in the number of violations could change a carrier's status from 'insufficient information', to "prioritized for intervention**"*

> *"**A majority of carriers identified as 'high risk' by the FMCSA "did not crash at all**, meaning that a minority of carriers in this group were responsible for all the crashes. As a result, **FMCSA may devote significant intervention resources to carriers that do not pose as great a safety risk as other carriers**, to which FMCSA could direct these resources."*[8]

It also has an impact on the truck marketplace, especially when the trial bar gets involved. CSA scores, no matter how many disclaimers and explanations are provided by the FMCSA, are seen in and out of the industry as a reflection of an individual motor carrier's safety record. The GAO, the DOT's Inspector General, and other independent and industry observers have stated clearly that these scores under the current CSA methodology are inaccurate, and do not reflect a carrier's safety performance. Despite this, and the flaws within CSA, the FMCSA continues to make CSA scores public. The result is a system that publicizes negative and inaccurate data that unduly affects a carrier's ability to earn business. Contrary to popular belief, cases of inaccurate data are not outliers or isolated events; it is a big group consisting of businesses and drivers who suffer daily as a result of being wrongly characterized as unsafe. This problem of faulty data being made accessible to the public has been made even worse with FMCSA's introduction of a mobile phone app, QC Mobile.

An overreliance on compliance by the FMCSA also has impacts in the universe of motor carrier operations, as carriers are given less incentives by regulatory and enforcement to take actions that truly maximize highway safety. For instance, instead of ensuring that drivers are empowered to take rest breaks when they are tired, carriers are instead focused on maximizing the productivity of drivers. Another example is driver pay practices are also focused on maximizing driver productivity instead of adequately compensating a driver for their time in a way that maximizes safety.

[8] Government Accountability Office, page 24.

TECHNOLOGY ALONE DOES NOT EQUAL SAFETY

Many large fleets have and are increasingly utilizing various forms of technology marketed as improving highway safety. A sample list of these systems includes:

- Electronic stability control
- Speed limiters
- Electronic logging devices
- Lane departure warning systems
- Crash avoidance technology
- Driver-facing camera systems

There may be benefits in the use of these technologies in certain situations and operations, and some small carriers utilize these systems. However, their deployment should never be done in lieu of investments in driver training, a focus on building a company-wide positive safety culture, ensuring that drivers are valued, adequately compensated, and empowered to make safety-conscious decisions like pulling over to avoid traffic or bad weather.

There are many reasons why large fleets deploy these systems: managing drivers, reducing liability, and improving fuel economy are some of the most common. Speed limiters collectively improve fuel efficiency of large fleets (especially those employing a higher percentage of newer drivers); electronic logging devices are used track the productivity of drivers; and forward collision warning in addition to stability control systems have shown some success in mitigating accidents. The success or failure of this technology should show in reduced at-fault crash rates for carriers that use it. While I do not begrudge carriers who use these systems, the proof should be in their results, not their potential from a study. Further, for an owner-operator who has been driving accident-free for several decades without incident and without having used any of this technology, perhaps it would be behoove regulators to look to these professionals to learn about safe trucking. No amount of technology can replace experienced truck drivers; in certain situations it can help, but its limitations must be recognized by carriers and regulators alike.

Those limitations can also result in negative safety consequences. For instance, NHTSA and FMCSA continue working on their joint rulemaking to mandate that all trucks utilize speed limiting settings. However, as outlined in a letter from OOIDA on April 24, 2015, speed limiters create ibn many cases significant differentials in speeds traveled between trucks and other vehicles on the road. Speed differentials lead to interactions between vehicles as those traveling faster overtake those moving slower, and these interactions are a significant contributor to crashes. A significant body of DOT-funded and independent research over the years has shown the safety benefit of uniform speeds on our nation's highways. A major reason our Interstate system is the safest part of our highway system – despite the fact that it generally permits the fastest speeds of any roads – is that vehicles of all types generally move at a relatively uniform speed.

By limiting trucks to 65 MPH, there are a number of scenarios where differences in speed traveled create safety hazards, especially in areas of the country where highway speed limits exceed 65 MPH. There are areas in the country where speed limits of 70 MPH or more can

create speed differentials of up to 25 MPH between speed-limited trucks and automobiles—and even as high as 85 MPH in parts of my home state of Texas—increasing the likelihood and the severity of rear-end collisions. Indeed, a major carrier who uses speed limiters recently stated in testimony that the most common crash their trucks are involved in are those where another vehicle rear-ends their truck.

It is also important to note that the majority of speed-related crashes occur where the posted speed limit is 55 MPH or less, thus calling into question whether or not speed limiters will reduce the most commonly occurring speed-related crashes. So many states have eliminated car-truck speed-limit differentials over the past 15 years. Texas, Illinois, and Ohio have enacted legislation to eliminate speed differentials on their interstates. Kansas, Maine and Virginia have also enacted legislation to reduce or eliminate speed differentials on their interstates and other roadways. OOIDA fears that much of this progress in highway safety will be undermined with the adoption of a speed limiter mandate that once again creates speed differentials that state governments sought to eliminate.

The concerns with speed limiters highlight the negative and unintended consequences that can come with an overreliance on technology to achieve highway safety results. As the OOIDA Foundation has shown, experienced drivers for large owner-operator carriers drive an average of 1.72 million miles between crashes, while technology-focused carriers on average drive 500,000 fewer miles between crashes.[9] These statistics, which reflect real on-the-road safety performance, certainly point to a reality where safety technology replacing career, dedicated, safe, knowledgeable, and experienced drivers is wishful thinking.

Concerns with "Beyond Compliance" Concepts - Recently, the FMCSA announced that it would be taking public comment on a "Beyond Compliance" structure to provide incentives for motor carriers who exceed basic regulatory compliance requirements.[10] OOIDA has serious concerns about the impact of such a program, especially if it is structured in a way that will allow a carrier who is using safety technologies to improve compliance-based evaluations to avoid appropriate scrutiny by the FMCSA and state enforcement officials despite the fact that they have an above average crash rate.

Further, many of the potential "Beyond Compliance" actions that the FMCSA is considering giving carriers "credit" for are technologies like those listed above that will be utilized by large carriers for driver and liability management purposes. Smaller and mid-sized motor carriers will generally not see an additional safety value in utilizing these technologies, and if they will, the carrier does not need a government incentive to encourage their adoption.

If the FMCSA was focused on evaluating carriers based upon their at-fault crash records, then no separate incentive would be necessary, as the proof of their effectiveness would be in a reduction

[9] OOIDA Foundation, Inc., "Examination of Publically Available Data from FMCSA on CSA Scores and Motor Carriers."
[10] 80 Fed. Reg. 22770 (April 23, 2015).

in at-fault crashes. Some carriers have arguably deployed these systems and seen crashes reduced, but many others have not or have seen their crash rates remain stable while the quality of drivers working for the carrier continues to decrease. This is why the bulk of insurance carriers do not provide "credit" for these systems in premium rates, as any benefit will be seen in reduced crash-related insurance claims.

If the FMCSA adopts any type of "Beyond Compliance" program, it must not be structured in a way where purchase of technology results in a lower CSA SMS BASIC score. Carrier after carrier uses speed limiters, yet they still have speeding violations and the same holds true with use HOS violations and ELDs. The proof should be shown in a reduction of at-fault crashes, which will benefit carriers and highway safety alike.

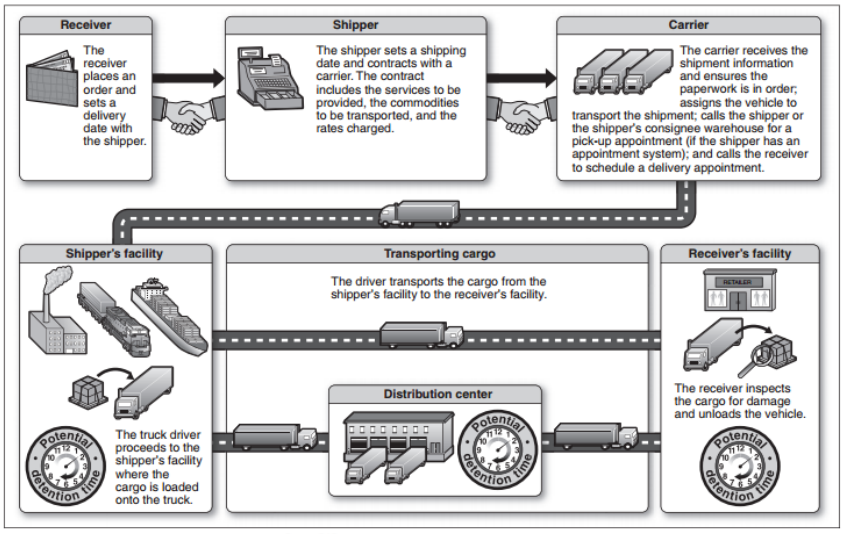
Reward carriers that don't crash - Instead of rewarding the use of technology or spending a lot of energy developing a "Beyond Compliance" program that may let unsafe carriers avoid needed enforcement scrutiny, highway safety would be better served if the FMCSA actually rewarding and recognizing carriers and drivers that operate safely without crashes.

OOIDA's membership rolls are filled with thousands of drivers with millions and millions of miles of safe and accident-free driving experience. These men and women represent the best in our trucking industry, yet with the exception of a few comments in a speech, their commitment to safety is rarely acknowledged and never rewarded. The same goes for small carriers, those who with a collective crash rate half of that of large carriers that the FMCSA points to as "safety leaders." The safety leaders are small owner-operator carriers, with drivers who are incentivized to operate safely not because of some government program, but because it is their truck, their business, and their personal safety on the line.

A focus on rewarding carriers and drivers for lower crash rates would also allow a much more comprehensive examination of commercial motor vehicle safety issues and policies. Instead of simply focusing on HOS compliance and "we believe" predictions about the safety benefits of cutting an hour of driving time here and adding a requirement for a 30-minute break there, a full and broad-based examination of driver fatigue could occur and drivers could be empowered to drive when safety is maximized and rest when they are tired, when they encounter traffic, or when experiencing bad weather. Individual regulatory requirements could be scrutinized for their true impact on crashes, and not just the FMCSA's practice of turning correlation into causation.

Such an examination does not stop of the policies of the FMCSA. Individual motor carriers – and the goods movement industry as a whole – would be more likely to examine into industry practices, eliminating inefficiencies and actions that serve as disincentives for safe operations.

Figure 2: Description of the Steps Typically Involved in Moving Cargo



Source: GAO.

Driver detention, where drivers are held at the dock for hours at a time, is a huge inefficiency within the goods movement network; however, for the most part neither the shipper nor the receiver feels the economic cost of these inefficiencies. They are all laid at the feet of the driver. Mileage-based pay for employee drivers, which is common-place across the trucking industry, makes the impact of detention time and other inefficiencies even worse. As stated by a carrier executive recently, under mileage-based pay, drivers "shoulder all the inefficiencies of our industry, of the highways, of our dispatch, of our maintenance, everything…if anything stopped them or slowed them down they were bearing the burden."[11] As carriers were forced to increasingly prioritize skilled, experienced, and professional drivers, they would be in a greater position to demand higher rates from shippers, placing a greater value on truckers as the key to safety and trucking as a key factor in our nation's economic success.

THE FOUNDATION FOR CRASH-FOCUSED REGULATIONS & ENFORCEMENT

OOIDA recognizes that such major reforms of commercial motor vehicle policy will not occur overnight. However, Congress can take several positive, pro-safety, and pro-small business steps during the upcoming highway reauthorization bill to set the foundation for this much-needed change. We appreciate the attention that members of the Committee on Transportation & Infrastructure on both sides of the aisle have paid to proposals and priorities of OOIDA and small business truckers. Specific reauthorization priorities include:

Review of FMCSA Regulations – As highlighted above, there is a need to examine current FMCSA regulations to ensure that those being enforced are effective in improving highway safety. OOIDA has proposed a comprehensive review process for individual regulatory provisions, with a focus on ensuring that those seeing enforcement have a statistically-significant causal effect on at-fault truck crashes. This includes the 2013 changes to the HOS regulations as well as the inability to pause the 14-hour on-duty clock.

[11] *Fleet Owner*.

Reform of FMCSA's Rulemaking Process – There is a strong pattern of major shortcomings in the various studies and regulatory evaluations conducted by FMCSA to justify and formulate regulatory policies. New rules are based upon results from studies that only considered a tiny number of participants and lack peer review; are largely fully developed by the agency before it even truly identifies the problem or asks stakeholders how best to address the issue; and the agency takes little to no action to identify lower-cost alternatives for small businesses, basing many of its rules on the experience of the largest carriers. OOIDA has proposed reforms to the rulemaking process that would insure a representative evaluation of proposals.

Ending the Methodological Biases of CSA – OOIDA supports efforts, including legislation introduced by Congressman Lou Barletta, to pull down CSA SMS scores until the FMCSA can make improvements to the accuracy of the data and methodology used by the CSA program and the SMS. Our many concerns with CSA have been outlined above, and the reauthorization bill represents an opportunity for Congress to bring sensible reforms to this program to improve fairness and highway safety.

OTHER HIGHWAY REAUTHORIZATION AND POLICY PRIORITIES FOR 2015

OOIDA supports a robust and long-term highway reauthorization bill that ensures road and bridge repair, improvement, and modernization efforts are funded to the maximum extent possible. Better maintained roads are safer roads, and roads with increased capacity reduce opportunities for interactions – and accidents – between highway users. As such, OOIDA has these additional policy priorities for reauthorization and for 2015:

Entry-Level Driver Training Standards – Congress first called on the DOT to set these standards back in 1991 as part of the Intermodal Surface Transportation Efficiency Act (ISTEA), and safety recommendations from the National Transportation Safety Board (NTSB) on the need entry-level driver training go back to 1975. A 1986 recommendation from NTSB is especially relevant:

> *"Truck driving is a specialized skill, distinct in many ways, and more demanding than operating a smaller vehicle, such as a car. However, far too many people are able to enter the field without having first acquired that skill…"*

OOIDA is pleased to be part of the Entry-Level Driver Training Advisory Committee established by the FMCSA to establish these standards along with other representatives from the trucking and motorcoach industries, training providers, labor, law enforcement, regulators, and others. We appreciate the FMCSA's attention to this important issue, and feel that these standards will be a significant step towards improving highway safety by ensuring that new drivers are better-trained for the challenges of the road.

OOIDA's priorities for entry-level driver training standards focus on setting basic, core components of a driver training program for new, long-haul tractor trailer drivers to ensure they are proficient in the knowledge and skills areas needed for safe and compliant driving. Additionally, we are focused on accountability throughout the system and ensuring that instructors and road test examiners are qualified to train and determine the safety performance of a new truck driver.

Halting the FMCSA's Effort to Increase Financial Responsibility Requirements – The FMCSA is currently developing a rulemaking that almost exclusively targets small business truckers by mandating an increase in the amount of financial responsibility or insurance coverage that commercial motor carriers are required to maintain. While they have not specified an amount by which this requirement will increase, they have publicly entertained adjusting and pegging requirements to medical CPI thus bringing the required amount of insurance for general freight to $4.5 million and for hazardous materials higher than $20 million. This is being considered despite the fact that current requirements cover the damages in more than 99 percent of at-fault truck crashes.

The average owner-operator spends approximately $5,000 in annual premiums, and if requirements indeed go up by as much as 500%, premiums could increase to as much as $20,000 assuming insurance companies selling truck insurance are willing to expose themselves to that level of risk. This kind of policy does not weed out the bad actors as some groups may infer, and it will not help victims of catastrophic truck crashes. In fact, we are concerned that such a rulemaking will pull the most experienced truck drivers off the road, thereby making highways less safe as a result.

Improving the Motor Carrier Registration Process – The process used by the FMCSA for motor carrier registration, including application and review, is extremely dated and limited. The flaws of this system allow for unsafe carriers, including reincarnated carriers, to slip through the cracks and operate on our nation's highways.

There was even the case of Devasko Lewis, a carrier owner who was jailed for serious safety violations that resulted in a crash that killed seven people. Lewis was able to reincarnate his carrier by obtaining a new DOT number from prison, not once, but twice.[12] This is a serious oversight by FMCSA, who is only able to conduct audits on four percent of applicants for DOT authority. OOIDA has proposed the following improvements to the registration process: 1) Modernize the "FMCSA Register"; 2) Improve the Application for Operating Authority; 3) Real vetting of applicants for motor carrier authority; and 4) Address Operational Concerns with FMCSA's Registration Process.

[12] *Land Line,* "Georgia man pleads guilty for his role in 'chameleon' carrier scheme," February 3, 2015, http://www.landlinemag.com/Story.aspx?StoryID=28442#.VT5jStJViko

Addressing Implementation Challenges with the Registry of Certified Medical Examiners – In May of last year, FMCSA implemented a certified medical examiner program where CMV operators looking to renew their DOT certification need to go to a DOT certified medical examiner. There have been significant problems with this change, as issues involving the non-uniform training that examiners received from third parties, the lack of knowledge of an individual driver's medical history, and now open door for unscrupulous clinics that will not renew driver certification unless drivers are made to take expensive tests that the clinic offers.

OOIDA has been working with the FMCSA in an attempt to address many of these issues, but frequently the agency is running into regulatory and statutory limitations on their ability to right a wrong and keep a safe and experienced driver operating in the industry.

Oversight of the Cross-Border Trucking Program – It is curious as to why FMCSA believes data collected on its recent cross-border trucking program is sufficient to determine that Mexican-domiciled trucks can safely conduct long-haul trucking operations outside of the commercial border zones of southern Border States. Only 15 carriers participated in this program, with data on roadside inspections and border crossings heavily skewed towards two carriers. FMCSA claims to have data on enterprise carriers—U.S.-based carriers that are at least 55 percent owned by a Mexican person or entity—is more than sufficient to determine that Mexican-domiciled trucks can indeed conduct long-haul operations with the U.S. border. Enterprise and pilot carrier data cannot be compared as the majority of pilot carriers operating within U.S. border zones. Furthermore, 351 out of 918 enterprise carriers were given operating authority by FMCSA during the duration of the pilot program; why weren't these carriers offered an opportunity to participate in the pilot program instead, where vast amounts of useful data were being collected? Why can't FMCSA provide a list of enterprise carriers via its CSA website? The fact that Mexican-domiciled trucks are not being put out of service for violations that warrant such action should be frightening to those who must share the highway with these vehicles.

CONCLUSION

It is difficult to be optimistic about the future of commercial motor vehicles, and trucking in particular. My father continues to be a trucker, working as an independent owner-operator, after over forty years behind the wheel. It is not unusual to see truckers who have been in the industry for multiple generations. But if you were to ask small business truckers and owner-operators whether or not they would want their children to continue the family trade as I have, many would tell you "no." Trucking is stressful enough without excessive and unnecessary regulations compounding the pressure of the job. When trucking critics look at truck crash data, we are immediately assigned blame and mischaracterized as reckless, regardless of the fact that the government's own data shows that the majority of truck-involved accidents are the fault of passenger vehicles. In cases where a truck is involved in an accident where the truck driver is not at fault, it not only counts against his CSA score but that trucker and the carrier are still subject

to lawsuits that are emotionally and financially draining. We are constantly under scrutiny by law enforcement even when we are just doing our jobs, and doing them well.

That is not to say it isn't a rewarding profession. Aside from the everyday challenges of driving a truck, a career in trucking can provide a level of independence not experienced in any other job. Being on the road is not just a career, it is a lifestyle. Drivers take pride in performing a critical function that keeps this great nation going. They take pride in their professionalism, sense of duty, and dedication to safety. They are the eyes and ears of our highways, regularly reporting crimes and accidents—and in many cases, pulling over to help those needing help. This country depends on truckers to do their jobs and it is important for policymakers to understand that making their jobs harder does not create safer highways.