



Statement of

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Hearing on

Keep on Truckin':
Stakeholder Perspectives on Trucking in America

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Chairman Fischer, Ranking Member Duckworth, and members of the distinguished subcommittee, thank you for providing the American Trucking Associations (ATA)¹ with the opportunity to testify before you today. I would like to begin my testimony by recognizing your leadership and focus on improving the safety and efficiency of our nation's highways. The trucking industry stands ready to work hand-in-hand with this subcommittee, Congress, and the Administration to assist in the development of a well-funded surface transportation reauthorization bill, and bring an end to the continuous cycle of underinvestment in our nation's infrastructure, which results in significant harm to both our economy and the safety of the motoring public. Under your guidance, we remain hopeful that federal action can solve this growing national crisis.

ATA is an 87-year old federation and the largest national trade organization representing the trucking industry, with affiliates in all 50 states. ATA's membership encompasses over 34,000 motor carriers and suppliers directly and through affiliated organizations. Our association represents every sector of the industry, from Less-than-Truckload to Truckload, agriculture and livestock to auto haulers, and from the large motor carriers to the owner operator and mom-and-pop one truck operations. In fact, despite the claims by some that ATA only represents the "mega-carriers," 80 percent of our membership is comprised of small-sized carriers, whereas only 2 percent of our membership would be considered large-sized carriers. And, our federation has members in every state, congressional district and community.

Trucking is the focal point of the United States' supply chain. This year, our industry will move 70% of the nation's freight tonnage, and over the next decade will be tasked with moving three billion more tons of freight than it does today while continuing to deliver the vast majority of goods.² More than 80% of U.S. communities rely exclusively on trucks for their freight transportation needs. In 2017, the goods moved by trucks were worth more than \$10 trillion.³ The trucking industry is also a significant source of employment, with 7.7 million people working in various trucking-related occupations, accounting for 1 in every 18 jobs in the U.S.⁴ Furthermore, "truck driver" is the top job in 29 states.⁵

Without trucks, our cities, towns and communities would fail to thrive and flourish, and would lack key necessities including food and drinking water; there would not be clothes to purchase, nor parts to build automobiles and fuel to power them. The rail, air and water intermodal sectors would not exist in their current form without the trucking industry to support them. Trucks are central to our nation's economy and our way of life, and every time the government makes a decision that affects the trucking industry, those impacts are also felt by everyday Americans and the millions of businesses that could not exist without trucks.

We appreciate the subcommittee's focus today on the trucking industry, as it is the nexus connecting infrastructure, interstate commerce and safety. As Congress looks towards the next surface transportation reauthorization bill, many of the topics addressed today will shape the drafting of a legislative and regulatory framework that trucking will operate under in the years to come.

The trucking industry is on the cusp of a transformation in the movement of freight- one that you and your colleagues will lead and greatly influence. Radical technological change will, in the near future, allow trucks to move more safely and efficiently, and with less impact on the environment than we ever dared to imagine. Yet we are facing headwinds, due almost entirely to government action or, in some cases, inaction, which will slow or cancel out entirely the benefits of innovation. Failure to maintain and improve the highway

¹ *American Trucking Associations* is the largest national trade association for the trucking industry. Through a federation of 50 affiliated state trucking associations and industry-related conferences and councils, ATA is the voice of the industry America depends on most to move our nation's freight. Follow ATA on [Twitter](#) or on [Facebook](#). [Trucking Moves America Forward](#).

² *Freight Transportation Forecast 2018 to 2029*. American Trucking Associations, 2018.

³ *2017 Commodity Flow Survey Preliminary Report*. U.S. Census Bureau, Dec. 7, 2018.

⁴ *American Trucking Trends 2018*, American Trucking Associations.

⁵ <https://www.marketwatch.com/story/keep-on-truckin-in-a-majority-of-states-its-the-most-popular-job-2015-02-09>

system that your predecessors helped to create will destroy the efficiencies that have enabled U.S. manufacturers and farmers to continue to compete with countries that enjoy far lower labor and regulatory costs and standards.

For the purpose of this hearing, I will focus my testimony on three key areas that will have the greatest and most immediate impact on the trucking industry: 1) Safety and Technology; 2) Workforce Development; and 3) Infrastructure.

ATA looks forward to working with this subcommittee, and each and every Member of Congress, as we pursue the legislative and regulatory framework that will ensure our nation's surface transportation needs are met. That framework must be grounded in safety, science, data and training. We commend you for holding this important hearing, to the benefit of the trucking industry, interstate commerce, and the millions of Americans and U.S. businesses that rely on the safe and efficient movement of our nation's goods.

1) SAFETY & TECHNOLOGY:

The safety of our nation's roads and bridges, and that of the motoring public, is unquestionably of paramount importance. Safety, which anchors the foundation of the trucking industry, shapes our core values and decision-making. That is why the trucking industry invests approximately \$10 billion annually in safety initiatives, including onboard vehicle technologies such as electronic logging devices, collision avoidance systems, and video-event recorders. Investments also include driver safety training, driver safety incentive pay, and compliance with safety regulations (*e.g.*, pre-employment and random drug tests and motor vehicle record checks). While some of these investments are made to meet a myriad of regulatory requirements, many of them are voluntary, progressive safety initiatives adopted by our members. And, they are paying dividends in highway safety. That being said, there is still more work to be done, and we are committed to the goal of accident and fatality-free highways.

Chairman Fischer and Ranking Member Duckworth, the below section highlights the trucking industry's safety record, and the many ways in which our members continually work to improve upon it. Our members work persistently to adopt processes and best practices that will make their fleets even safer. Meaningful improvements will require an acknowledgement of the principal causes of truck crashes and a commitment to making appropriate, data-driven countermeasures the highest priority.

➤ *THE TRUCKING INDUSTRY'S SAFETY RECORD:*

Since 1980, when the trucking industry was deregulated, both the number of fatal truck crashes and rate of fatalities have declined dramatically:⁶

- From 1980-2017, there has been a 69% decrease in the large truck-involved fatal crash rate;
- From 1980-2017, there has been a 71% decrease in the combination truck-involved fatal crash rate; and
- In 2017, 72% of large truck crashes had no truck driver-related factors recorded in multiple-vehicle crashes.

The decline in large truck-involved fatal crashes since 1980 is due, in part, to industry-supported initiatives, many of which were used prior to becoming a mandated federal regulation. For example, the use of Electronic Logging Devices (ELDs) was prevalent in ATA member fleets dating back to the early 2000s. Now, federally mandated use of ELDs has already had a positive effect on safety.

⁶ *Large Truck and Bus Crash Facts 2017*, Trends chapter, Table 4, page 7, Federal Motor Carrier Safety Administration, Washington, D.C. https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/safety/data-and-statistics/461861/l_tcbf-2017-final-5-6-2019.pdf.

ATA members support the use and deployment of additional initiatives that will improve safety, such as a requirement for states to provide an employment notification system to alert employers of drivers' moving violations and license suspensions in a timely fashion, the use of alternative testing specimens to detect drug use, and vehicle safety technologies that create a safer environment for all.

And in a recent example of our ongoing commitment to safety, this past fall ATA updated its decade-old speed governing policy to reflect a more holistic approach on speed governing that recognizes safety technologies widely deployed in fleets today. The updated policy includes provisions for the use of Automatic Emergency Braking and Adaptive Cruise Control technology. Further, the policy includes a direction that the Department of Transportation conduct a recurring 5 year review of speed governing regulations to ensure that the regulations are appropriate and consistent with currently deployed technologies. Through this new policy, ATA believes that the development and promotion of important safety technologies, coupled with speed control measures, will result in the greatest positive impact on road safety.

➤ **TRUCK CRASH CAUSATION STUDY AND CRASH DATA:**

For the trucking industry to continue improving upon our safety record, we must focus more research and attention on the causes of truck-involved crashes, with a particular emphasis on countermeasures. Specifically, according to multiple studies, data, and other indicators, the vast majority of large truck-involved crashes are the result of driver behavior and errors. Furthermore, data indicates that other motorists, not the professional truck driver, are more likely to be at fault. According to a Federal Motor Carrier Safety Administration (FMCSA) report, 70% of fatal crashes involving a large truck and a passenger vehicle are initiated by the actions of, or are the fault of, passenger motorists.⁷ The American Automobile Association (AAA) conducted their own version of this study and found that in truck-related crashes, the critical factor leading to the crash was attributed to the passenger vehicle driver 75% of the time.⁸ Additionally, the AAA study found that in 10,732 fatal car-truck crash records from 1995-98, the car drivers were more likely to be cited for multiple unsafe acts. The study found that 36% of car drivers were cited for two or more unsafe acts, versus 11% of truck drivers.⁹

In June 2019 when I testified before the House Transportation & Infrastructure Subcommittee on Highways & Transit, I reiterated ATA's desire for an updated Large Truck Crash Study. ATA was pleased to see FMCSA's recent announcement that it will conduct a Large Truck Crash Causal Factors Study (LTCCFS).¹⁰ It has been nearly 15 years since the last major investigation into the causes of, and contributing factors to, crashes involving commercial motor vehicles. In the intervening time, data has shown an uptick in the rates of truck-involved crashes.¹¹ To better understand this increase, we need accurate data that can direct our efforts and resources to deploy appropriate countermeasures.

ATA plans to coordinate with FMCSA to design a study that can be an effective tool in evaluating the causal factors contributing to truck-involved accidents. At this juncture, we particularly highlight the need for FMCSA to use a sufficiently large sample size that includes all segments of our industry and reflects

⁷ *Financial Responsibility Requirements for Commercial Motor Vehicles*, U.S. Department of Transportation, Federal Motor Carrier Safety Administration, January 2013, page xii, footnote 2.

⁸ Kostyniuk LP, Streff FM, Zakrajsek J. *Identifying Unsafe Driver Actions that Lead to Fatal Car-Truck Crashes*. Washington DC: AAA Foundation for Traffic Safety, April, 2002.

⁹ Ibid.

¹⁰ 85 Fed. Reg. 2481 (January 15, 2020).

¹¹ *Large Truck and Bus Crash Facts 2017*, Trends chapter, Table 4, page 7, U.S. Department of Transportation, Federal Motor Carrier Safety Administration, Washington, D.C. <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/safety/data-and-statistics/461861/ltrcbf-2017-final-5-6-2019.pdf>.

real-world applications. Understanding the role of driver behavior in crash causation will shed additional light on how FMCSA's use of enforcement funding and resulting activity can be most cost-effective.

Just as a LTCCFS will help identify the cause of large truck crashes, unified electronic crash report data will help to provide accurate and timely data on truck-involved crashes. Several states have already adopted electronic collection of crash reports, and many of those have seen the ability to provide more timely and accurate information to stakeholders. Real-time data allows law enforcement and transportation safety professionals to respond more quickly to escalating trends and "hot spots," and helps ensure limited resources are allocated to areas with the greatest need. ATA supports federal funding for states to adopt electronic crash report data collection, along with funding support to upgrade existing systems, implement NHTSA's Model Minimum Uniform Crash Criteria data fields, and training of staff on new systems.

➤ ***ELECTRONIC LOGGING DEVICES:***

ATA was pleased to see the ELD rule go into full effect last December and adamantly opposes any legislative efforts that seek to undermine it. Many ATA members have used ELDs long before initial implementation of the ELD rule in December 2017. Accordingly, we whole-heartedly support the industry-wide adoption of ELDs, and the significant impact this critical technology has on improving public safety—a technology requirement that was fully litigated, widely debated, congressionally-mandated, and reaffirmed by FMCSA's denial of several ELD exemption requests.¹² Compared to the outdated pen and paper methods of tracking driver hours, ELDs are a modern-day technology that have proven to be more accurate, easier to enforce, more difficult to falsify, and – most importantly – have and will continue to save lives.

Opponents of the ELD implementation argue that the device has made highways unsafe by not allowing a driver to rest when tired. ATA, with its core principles rooted in a strong commitment to highway safety, would adamantly oppose any device that does not allow a driver to rest when tired. The simple fact is that ELDs have not changed the hours-of-service (HOS) rules that have been in place since the early 2000's. The requirements governing how long a driver may operate a commercial vehicle, or the minimum amount of time a driver must be off-duty, were not affected by the implementation of ELDs. ELDs have simply replaced the traditional "paper log" with an electronic version that automatically records a driver's duty status based on electronic data from the vehicle's engine and GPS location data.

There is, however, irrefutable evidence that ELD technology has proven effective in improving safety and increasing compliance. Since the December 18, 2017, ELD implementation date, HOS violations have dropped by more than half the violation rate prior to ELD enforcement.¹³ Now that the ELD grandfather period—allowing fleets to use Automatic Onboard Recording Devices (AOBRD) in lieu of an ELD—has come and gone, fleets have adopted the required technology and are compliant. We note, for example, that due to FMCSA's partnership with industry to conduct an effective awareness campaign, the final deadline for enforcement passed largely without consequence. And since April 1, 2018, less than 1% of the over 5 million driver roadside inspections have resulted in a driver being cited for not having an ELD or grandfathered AOBRD.¹⁴ FMCSA's 2014 report titled "Evaluating the Potential Safety Benefits of Electronic HOS Records" quantified the benefits of ELD use, finding that carriers using ELDs saw an 11.7% reduction in crash rate and a 50 percent reduction in HOS violations compared to those who had

¹² 83 Fed. Reg. 63194 (December 7, 2018).

¹³ Federal Motor Carrier Safety Administration, Electronic Logging Device Hours-of-Service Violation Information Graphic. Retrieved January 27, 2020, from <https://eld.fmcsa.dot.gov/File/Open/18f45f72-df16-e41b-e053-0100007fe49a>.

¹⁴ Ibid.

not adopted this safety technology. The study concluded that “the results show a clear safety benefit, in terms of crash and HOS violation reductions for trucks equipped with ELDs.”¹⁵

➤ **HOURS OF SERVICE:**

As the trucking industry has adjusted to the December 2017 implementation of ELDs, concerns have been raised by varying segments of the industry regarding the need for greater flexibility in commercial motor vehicle operators HOS. While HOS regulations are designed to provide the framework for the safe and efficient movement of goods, there has come to light the need for increased HOS flexibility to provide drivers the ability to adjust to changing road and weather conditions, congestion and sensitive truck loads.

As such, ATA applauds FMCSA’s recent Notice of Proposed Rulemaking (NPRM), which, in various ways, will give drivers the flexibility necessary to safely and efficiently manage operations. As FMCSA advances this NPRM to a final rulemaking, ATA emphasizes that any new flexibilities should be based on sound evidence and sufficient data to assure safety. Data that supports how changes to HOS improve safety is—and should always be—foremost in any rulemaking. Changes that lack the proper data and science supporting a safety benefit should not be considered.

Additionally, while ATA would encourage the subcommittee to exert its oversight role in considering and reviewing FMCSA’s final rulemaking, we caution the subcommittee on dangerous and reactive legislation that is not grounded in safety, science or data, such as S.1255, the Transporting Livestock Across America Safely Act. The legislation as drafted is a dangerous overreach, more than doubling the number of hours currently deemed safe for continuous commercial motor vehicle operation. While ATA understands and appreciates that livestock and agricultural haulers are a unique sector of the industry facing distinctive HOS challenges that should be reviewed and safely addressed, more than 24 hours of straight driving is not safe in a car, and it is even less so while transporting a trailer filled with livestock. This bill, and others like it, threaten the safety of the motoring public traveling on our highways, and should be rejected outright by this subcommittee and Congress.

➤ **EMPLOYER NOTIFICATION SYSTEM:**

ATA believes FMCSA should establish a national employer notification system to provide motor carrier employers with timely alerts to driver license actions, such as suspensions, revocations, and convictions for moving violations. Use of this system should be voluntary, at least initially. Under the current process, motor carriers often are not notified about drivers’ convictions in a timely manner. Employers are required to check each driver’s record once per year, and this check may reveal violations committed up to 11 months earlier. Employees are required to notify their employer of a violation of any State or local traffic law (other than a parking violation) within 30 days of a conviction, and of a license suspension, revocation, or cancellation within one day. However, they are often reluctant to do so because of the potential negative ramifications on their employment. FMCSA estimates that at least 50% of drivers may not notify employers of convictions and licensing actions within the required time-frames.¹⁶

In 2007, a pilot ENS program was conducted to assess the feasibility, cost, safety impact, and benefits of such a system. The pilot program, tested in Colorado and Minnesota, allowed motor carriers to register, with the driver’s express permission, which enabled them to receive timely electronic notification of driver convictions and suspensions. The results of the pilot indicated that a nationwide ENS was needed and could have significant safety and monetary benefits for motor carriers. In 2012, the Moving Ahead

¹⁵ 79 Fed. Reg. 27041 (May 12, 2014).

¹⁶ *Driver Violation Notification Service Feasibility Study*, U.S. Department of Transportation, Federal Motor Carrier Safety Administration, July 2005, figure 1, page 1.

for Progress in the 21st Century Act (MAP-21) supported FMCSA's plans to develop and implement a national driver record notification system for commercial vehicle operators. ATA supports a standardized ENS approach and advocates for a national ENS system.

➤ ***DRUG AND ALCOHOL CLEARINGHOUSE:***

Since the late 1990s, ATA has supported the establishment of a database to close a known loophole in existing regulations that allows CDL drivers who test positive for prohibited substances to escape the consequences of their actions. As a result of the 2012 highway reauthorization legislation (MAP-21), FMCSA published a final rule in December 2016 creating a Drug and Alcohol Clearinghouse that would act as a central repository for drug and alcohol violations of CDL drivers, allowing carriers to search this clearinghouse when hiring a driver for the first time and on an annual basis. On January 6, 2020, the clearinghouse became operational; however, it experienced significant connectivity issues due to the high number of users accessing the system. FMCSA has worked to address these issues, and on January 22, 2020, announced the system had been returned to full functionality.

However, given these initial difficulties, ATA urges Congress to take the necessary steps ensure the problems experienced during the initial rollout of the clearinghouse do not reoccur, and that any current or future problems are resolved expeditiously. Furthermore, FMCSA should address what steps are being taken to ensure a high level of compliance with the clearinghouse requirements from both a motor carrier and laboratory reporting standpoint.

➤ ***COMPLIANCE, SAFETY, ACCOUNTABILITY:***

Compliance, Safety, Accountability (CSA) was launched by FMCSA in 2010 as a way to use data to streamline enforcement programs and target the least safe motor carriers for enforcement intervention. Since its inception, the methodology behind CSA "scores" have been called into question with regard to their correlation with future crash risk. The relationship between scores and crash risk is a reflection of the many methodology and data problems that plague the system. These include the flawed weighting of violations, a lack of data on a large portion of the motor carrier population, and the scoring of carriers on all crashes they are involved in, regardless of fault. In light of these issues, Congress requested that both the Government Accountability Office (GAO) and the DOT Inspector General's (I.G.) office conduct reviews of the CSA program and its scoring methodology. Both entities confirmed that the system is still grappling with serious flaws. In December 2015, Congress passed the FAST Act, which removed motor carrier's CSA scores from public view while the National Academies of Science (NAS) conducted a thorough review of CSA.¹⁷ The FAST Act also stipulated that FMCSA must prepare a corrective action plan to address the shortcomings identified by the study and remove carriers' CSA scores from public view until the study and resulting implementation plan were completed.

In June 2018, FMCSA released their corrective action plan responding to the NAS review of CSA.¹⁸ FMCSA indicated that they would pursue a different methodology, known as an Item Response Theory (IRT), and would conduct testing of the IRT methodology to determine its accuracy in identifying motor carriers who are at risk for future crashes. As of the date of this testimony, the agency has yet to implement any changes to the CSA program. Motor carriers seek changes to this program so that they are not mischaracterized by a flawed scoring system that has proven ineffective in identifying unsafe carriers. Congress should continue to monitor FMCSA's corrective actions, and ensure that any changes to the CSA system are available for stakeholder review and comment, prior to implementation. During the

¹⁷ The National Academies of Sciences, Engineering, and Medicine. 2017. Improving Motor Carrier Safety Measurement. Washington, DC: The National Academies Press. doi: <https://doi.org/10.17226/24818>.

¹⁸The National Academy of Sciences Correlation Study, Corrective Action Plan Report to Congress. Retrieved January 27, 2020, from <https://cms8.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/mission/policy/407251/nas-correlation-study-corrective-action-plan-enclosure-final-june-2018.pdf>.

period of time that such changes are made, CSA scores should continue to remain hidden from public view.

➤ **HAIR TESTING:**

An increasing number of motor carriers are conducting pre-employment and random drug tests using drivers' hair as a testing sample. Hair tests provide a better, longer picture of an applicant's past drug use and are more difficult than other testing methods to subvert. However, since urine is the only sample type permitted under DOT regulations, companies that voluntarily conduct hair tests must do so in addition to mandatory urine tests. This duplicated time and expense deters fleets from adopting this more effective testing method. To help eliminate this redundancy and incentivize more fleets to conduct hair testing, ATA strongly supports the recognition of hair testing as a federally-accepted drug testing method.

The Substance Abuse and Mental Health Services Administration (SAMHSA) has long expressed an interest in recognizing hair testing as a federally-accepted drug testing method, and has been developing guidelines to recognize hair testing since the early 2000s. Unfortunately, progress has been inexcusably slow. As a result, in 2015 as part of the FAST Act, Congress directed the Secretary of the Department of Health and Human Services (HHS) to "issue scientific and technical guidelines for hair testing as a method of detecting the use of controlled substances for purpose of section 31306 of Title 49, United States Code" by December 4, 2016.¹⁹ Unfortunately, this Congressionally-mandated deadline is now more than 3 years overdue. However, ATA is encouraged that HHS is finally working to address the Congressional mandate by sending proposed guidelines to the Office of Management and Budget (OMB) for review.

The development of standards by HHS will pave the way for regulated employers to use this testing method and allow them to identify a higher number of safety-sensitive employees who violate both federal drug testing and medical qualification regulations. Additionally, having hair testing as a recognized alternative drug testing method would give motor carriers the ability to report positive hair test results to drivers' subsequent prospective employers through FMCSA's now-implemented Commercial Driver's License Drug and Alcohol Clearinghouse.

ATA applauds the Commerce Committee for continuing to take a proactive approach on this issue, most recently considering and approving S.2979, the Preventing Opioid and Drug Impairment in Transportation. The legislation requires federal entities to study impaired driving countermeasures and to provide employers with the necessary tools to deter prohibited drug use. That includes a requirement for the National Highway Traffic Safety Administration (NHTSA) to investigate ways to better detect and reduce impaired driving, and a requirement for the U.S. DOT to lead a study on the use of roadside oral fluid drug screening. The bill also works to advance the long-overdue development of federal hair testing guidelines by requiring status updates from both the Office of Management and Budget and the Department of Health and Human Services.

ATA urges Congress and this subcommittee to apply further pressure on HHS to pave the way toward adoption of this important safety initiative. Unfortunately, while this country in recent years has seen prescription opioid abuse grow to an epidemic, and a correlated uptick of drug-impaired driving, we continue to wait for these critical technical guidelines to be completed, so that DOT can recognize the use of hair testing as a federally-accepted drug testing method.

¹⁹ Fixing America's Surface Transportation Act §5402, (2015).

➤ **MARIJUANA LEGALIZATION & IMPLICATIONS FOR ROAD SAFETY:**

The recent marijuana legalization efforts have uniquely challenged our industry, and have led to critical issues of workplace and highway safety. Since 1991, DOT has required mandatory alcohol and controlled substance drug testing for employees in safety-sensitive positions in all transportation modes. As states move to legalize marijuana, the trucking industry, just like the rest of American society, is evaluating and considering changes with respect to marijuana laws. Our members also recognize that public opinion toward marijuana legalization has dramatically shifted over the last two decades. However, trends and popular opinion don't always lead to good policy, and while debates about decriminalization are timely, policies that limit employer drug testing programs to the detriment of transportation safety will result in more crashes, injuries, and fatalities.

An example of this can be found in S.2227, the Marijuana Opportunity Reinvestment and Expungement (MORE) Act of 2019, legislation also introduced in the House and recently approved by the House Judiciary Committee. While well-intentioned, the MORE Act neglects to recognize the significant impact removing marijuana from the schedule of controlled substances will have on both highway and workplace safety. Unlike with alcohol, there is no national enforceable impairment standard for marijuana. With no established consensus on an impairment threshold, employers are unable to measure levels of impairment, which complicates our industry's best efforts to maintain road and workplace safety. Employers must be able to test for marijuana as a condition of employment, especially when an employee's use could adversely impact the safety of our nation's roads, bridges, and motoring public. Before Congress legalizes recreational marijuana use, Congress must consider the safety implications of this legislation by establishing the necessary tools to protect highway and workplace safety. We stand ready to assist Congress in this timely effort.

➤ **AUTOMATED VEHICLE TECHNOLOGIES:**

As I have testified before the Commerce Committee in the past, the trucking industry remains firmly supportive of automated vehicle (AV) technologies, which we believe will help make our industry's workplace, the roads and bridges crisscrossing this country, safer. For decades, truck manufacturers and suppliers have improved safety and efficiency technologies that demonstrate real improvements to freight transportation and lifesaving goals. As technical solutions have grown, and as costs have become more reasonable, policymakers and regulators are trying to catch up to the market-driven innovation and proliferating technologies. New technology companies and traditional equipment suppliers are also developing automated and connected vehicle technology specifically for the trucking industry, further accelerating the development of commercial motor vehicles equipped with automated driving systems (ADS).²⁰

While the full impact of automated vehicles on workforce training and labor regulation is not yet clear—as the effect of automation on trucking and logistics operations is still developing along with the technology—ATA does not perceive this technology to be completely “driverless” for the trucking industry, but instead a vital driver-assist tool in monitoring and operating freight deliveries. We expect that there will continue to be a role for drivers in trucking for the foreseeable future and have confidence in how the role of drivers with automation will be modified and adjusted as the technologies continue to advance.

ATA also believes that it is crucial to include the trucking industry in any regulatory or legislative framework that directs the development and testing of automated vehicle technologies. ATA continues to engage with the FMCSA and other agencies within US DOT, as well as other stakeholder advisory groups

²⁰ (January 30, 2019). *Self-Driving Truck Startup Embark Releases Performance Data*. Retrieved from <https://www.ttnews.com/articles/self-driving-truck-startup-embark-releases-performance-data>.

on automated and connected vehicles to ensure that the trucking industry's perspective is considered as future policies are developed. ATA continues to work with State Trucking Associations, state legislators, and transportation officials as policies, regulations, and research emanate from cities, states, universities, and businesses. As a founding member of the Partnership for Transportation Innovation & Opportunity, ATA has also engaged with other stakeholders to study and address workforce issues related to automated trucks. Additionally, the safety impacts of automated or assisted braking and steering systems are being studied and will likely show significant improvements in mitigating crashes and injuries.²¹

As the Commerce Committee continues to pursue comprehensive AV legislation in conjunction with the House Energy & Commerce Committee, we caution that ATA cannot support legislative endeavors that fail to take a multi-modal approach to AV legislation. Legislation creating a federal role overseeing the advancement, development and deployment of automated vehicle technologies should capture all road users, including passenger vehicles, commercial trucks, buses, pedestrians and bicyclists, as well as the supporting infrastructure.

➤ **CONNECTIVITY & 5.9 GHz TRANSPORTATION SAFETY SPECTRUM:**

The safety benefits from advancing automated truck technology also parallels the importance of intelligent transportation systems. Plans for deploying dedicated short-range communication (DSRC) devices on vehicles to enable vehicle-to-vehicle (V2V) and vehicle-to-infrastructure (V2I) communications – collectively known as V2X – have significant future safety benefits to next generation U.S. transportation.²² Much work has been done by federal and state governments, research institutions, technical standards organizations, and technology companies to develop V2X protocols and applications for single and combination vehicles.²³ These V2X technologies are dependent on a 5.9 GHz spectrum that remains dedicated to vehicle safety applications.

Unfortunately, recent actions taken by the Federal Communications Commission (FCC) to reallocate the 5.9 GHz spectrum would turn back the clock on highway safety. The proposal released by the FCC in December 2019 rejects the foresight the Commission demonstrated when originally allocating spectrum for improving traveler safety, decreasing traffic congestion, and reducing air pollution. Rather, this new proposal seeks to increase the already large spectrum allocation for Wi-Fi so that it can be used for connecting our TVs, thermostats, baby monitors, refrigerators, washing machines, toys, and even toilets, because the FCC believes that connected consumer devices are evolving quickly and are more widely deployed than the vehicle communications services in the 5.9 GHz spectrum. It should be no surprise that developing and deploying technology to allow cars and trucks from different manufacturers to communicate critical safety information with each other as well as with pedestrians, cyclists, traffic signals, work zones, and other roadway infrastructure while traveling at highway speeds and in traffic jams would evolve more slowly than connected household devices. This is not a reasonable justification for prioritizing faster internet speeds for connecting consumer devices and streaming infotainment over saving lives and reducing the environmental impact of our transportation system.

It is also disappointing to see how little regard the FCC's proposal shows for the significant work and investment by industry and all levels of government to develop and deploy technology to improve the safety and efficiency of our transportation system under the existing FCC rules. The FCC's proposal effectively throws out the one technology – DSRC – that has already been deployed in the 5.9 GHz

²¹ (May 22, 2019). *Development of Baseline Safety Performance Measures for Highly Automated Commercial Vehicles*. Retrieved from <https://www.fmcsa.dot.gov/research-and-analysis/technology/development-baseline-safety-performance-measures-highly-automated>.

²² Chang, J. (2016, July). *Summary of NHTSA heavy-vehicle vehicle-to-vehicle safety communications research*. (Report No. DOT HS 812 300). Washington, DC: National Highway Traffic Safety Administration.

²³ (October 4, 2018). *Preparing for the Future of Transportation Automated Vehicles 3.0*. Retrieved from <https://www.transportation.gov/av/3>

spectrum, and severely limits the bandwidth available for the evolution of an alternative technology – Cellular Vehicle to Everything (C-V2X). Furthermore, the proposal jettisons the work done in good faith to test concepts that would retain the 5.9 GHz spectrum for vehicle safety communications while allowing for sharing with unlicensed devices, “despite the fact that ongoing testing has shown promising results.”²⁴

The FCC’s proposal to reallocate the 5.9 GHz band shows a clear bias toward supporting unlicensed operations, while seeking to avoid the need to require use of dynamic frequency selection interference mitigation technologies for the reallocated spectrum.²⁵ Contrast this to the proposal’s treatment of incumbent DSRC and potential future C-V2X operations in the 5.9 GHz band, which would be severely curtailed and subject to harmful interference from the effectively unfettered Wi-Fi and other unlicensed use that would be allowed to operate in adjacent channels.²⁶ The proposal seems predestined to ultimately result in a full takeover of the band for unlicensed use.

ATA has long sought to advance the deployment of wireless communication technologies as a means of improving road safety and connectivity while reducing crash risk and road fatalities. ATA strongly believes that retaining the full 75 MHz spectrum of the 5.9 GHz band for V2X technology to improve safety and reduce traffic congestion and emissions is the right policy outcome, and this position has broad support as noted recently by the House Committee on Transportation and Infrastructure (T&I).²⁷ ATA concurs with the T&I Committee’s recommendation that the FCC reconsider its approach in the NPRM. ATA further recommends that the FCC coordinate more closely with DOT to better understand and account for the implications that changes to the existing rules in 5.9 GHz band would have for transportation safety before taking further action.

➤ **MISGUIDED SAFETY TECHNOLOGY MANDATES:**

While discussing safety technologies that our industry utilizes, both mandated and voluntarily, I also urge this subcommittee to use caution and best judgement as you consider technology mandates on the trucking industry that, while well intentioned, may lead to unintended consequences and negative impacts on both the industry and road safety. An example of this can be found in recent legislative attempts to mandate an unproven device known as a “side underride guard” on the trucking industry. Introduced in both the House²⁸ and Senate²⁹, the Stop Underrides Act calls for mandating these devices on the sides and front of virtually all commercial vehicles, including the retrofitting of already manufactured and in-service vehicles.

This legislation seeks to address a certain type of truck-involved accident through a highly prescriptive industry-wide mandate. Regrettably, the bill is not based on science, data or identified safety benefit. Moreover, it ignores potential technical issues a mandate of this nature raises, as well as the other technologies that address these and other crashes, such as automatic emergency braking, camera monitoring systems, and adaptive turning assist. And, the bill ignores the diversity of our industry. In trucking, we know that one size does not fit all, and that investments in certain technologies that one company makes may not make sense for another. Standards for new and in-service truck equipment should be based on sound economic and engineering principles that enhance safety, take into account real-world operations, and weigh possible unintended consequences.

²⁴ Ibid. paragraph 10

²⁵ Ibid, paragraph 17.

²⁶ DOT, NHTSA, Vehicle-to-Vehicle Communications Research Project (V2V-CR), Pre-Final Version, (Dec. 2019), available at https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/v2v-cr_dsrc_wifi_baseline_cross-channel_interference_test_report_pre_final_dec_2019-121219-v1-tag.pdf.

²⁷ Letter to Chairman Pai and Commissioners O’Rielly, Carr, Rosenworcel, and Starks, (Jan. 22, 2020), available at <https://transportation.house.gov/imo/media/doc/2020-01-22%20Full%20TI%20Letter%20to%20FCC.pdf>.

²⁸ <https://www.congress.gov/bill/116th-congress/house-bill/1511/all-info>.

²⁹ <https://www.congress.gov/bill/116th-congress/senate-bill/665>.

The Stop Underrides Act also fails to consider numerous complicating factors, such as engineering tradeoffs involving weight, strength, and effectiveness of side guards. Advocates for mandating side underride guards have reiterated that these devices have been tested. To our knowledge, the only testing that has been accomplished involves a closed course, at well below highway speeds, during perpendicular side impact crashes into a stationary trailer. In 2019, ATA staff witnessed firsthand that these crash tests were successful in stopping the vehicle from penetrating underneath the side of the trailer within a controlled test environment. What we have not witnessed is the results of a crash during a realistic highway scenario—at highway speeds, with a moving truck and trailer, and with other traffic and road environment factors present. For instance, a concern remains that a side underride guard may successfully stop a passenger car from going underneath the trailer, but the potential for that car to bounce off the underride guard and trailer and strike other vehicles is a realistic scenario that needs to be addressed via research, and not conjecture.

Furthermore, the bill raises significant operational issues related to ground clearance, moveable trailer axles, and the diversity of truck and trailer designs. For example, the ridged specified design of side underrides would not work well with tank and bulk trailers that are cylindrical in size and require underbelly accessibility; flatbed trailers, which unloaded, are naturally curved to suppress weight; and intermodal trailers that are shipped and locked onto specifically designed chassis for hauling. Simply put, these glaring operational concerns do not signify real world applicability, nor do they justify an industry-wide mandate.

The Stop Underrides Act also places focus solely on mitigating a crash *after* it has happened, as compared to focusing on efforts—such as safety technologies that are available today—on *preventing* the crash from happening in the first place. All parties should be focused on crash avoidance that can be achieved by enhancing vehicle-to-vehicle (V2V) connectivity. In NHTSA’s January 2017 V2V Notice of Proposed Rulemaking for light-duty vehicles, the Agency estimates that four safety applications enabled by the proposed rule could avoid or mitigate 89% of light duty vehicle crashes.³⁰ NHTSA is currently also conducting research on V2V for heavy vehicles and estimates that 70% of crashes involving trucks occurred in scenarios that could be addressed by V2V systems.³¹

Our industry needs to be diligent in directing safety-related resources, leveraging industry investments to result in the greatest potential benefit to highway safety, which is the only way we can hope to achieve the goal of accident and fatality-free highways. In testimony provided at the June 2019 “State of Trucking in America” hearing before the House T&I Subcommittee on Highways and Transit, advocates for the Stop Underrides Act stated that “combining all new trailer orders with currently registered trailers puts the total number of commercial trailers in the United States at well over 12 million.”³² Equipping the estimated 12 million trailers with a side underride guard, identified in testimony as costing \$2,900 would equate to approximately \$34.8 billion spent on underride guards. This staggering figure would result in what is likely the largest unfunded mandate on a private sector industry in U.S. history. Furthermore, when combined with the expected cost of labor in installing these guards, this mandate would exceed the industry’s annual net revenue, essentially putting trucking out of business and grinding our economy to a halt.

ATA strongly recommends that Congress and Federal Regulators work collaboratively with the industry to incentivize safety investments, allowing motor carrier to make the right investments that provide the

³⁰ 82 Fed. Reg. 3863 (January 17, 2017).

³¹ Chang, J. (2016, July). Summary of NHTSA heavy-vehicle vehicle-to-vehicle safety communications research. (Report No. DOT HS 812 300). Washington, DC: National Highway Traffic Safety Administration.

³²(June 12, 2019). Retrieved from: <https://transportation.house.gov/imo/media/doc/Testimony-Young.pdf>

greatest overall benefit the safety of our roads, bridges and motoring public. However, misguided and legislative mandates like the Stop Underrides Act detract from our shared goal of improved safety.

2) **WORKFORCE DEVELOPMENT:**

➤ ***THE DRIVE SAFE ACT IS NEEDED TO EXPAND THE DRIVING WORKFORCE:***

It is no secret that the trucking industry is currently experiencing a significant, nationwide shortage of qualified drivers. This fact is overwhelmingly supported by legitimate data. The driver shortage is real, as the nation is short 60,800 truck drivers today, and over the next decade will need to hire nearly 1.1 million total new drivers to account for increasing demand and the industry's aging workforce.³³ Therefore, ATA urges this subcommittee and Congress to address this growing problem now by enacting the DRIVE Safe Act (S.569, H.R.1374). This legislation is a common-sense solution that eliminates the obsolete regulatory barriers preventing capable, qualified Americans from entering the trucking workforce. Moreover, the DRIVE Safe Act is not just a workforce replenishment tool—it's a job creation and safety enhancement bill.

ATA supports lowering the minimum age requirement for interstate truck driving from 21 to 18—but only for qualified apprentices that satisfy the safety, training, and technology requirements spelled out in the DRIVE Safe Act. This bill would lower the minimum age requirement for the interstate operation of commercial motor vehicles from 21 to 18—but only for properly qualified apprentices who:

- (1) satisfy a minimum of 400 hours of training and 11 performance benchmarks;
- (2) complete those hours of training under the supervision of an experienced driver; and
- (3) train in trucks equipped with technology and enhanced safety features, such as Automatic Emergency Braking (AEB), event recorders/cameras, speed-limiters, and automatic transmissions.

Current law permits an 18-year-old to drive a truck over 850 miles from San Diego, California to Crescent City, California. 18-year-olds are also legally able to drive a truck over 830 miles from Brownsville, Texas to Perryton, Texas. However, 18-year-olds are prohibited from driving a truck from Providence, Rhode Island to Rehoboth, Massachusetts—a mere 10 miles. As this subcommittee is aware, forty-nine states and the District of Columbia already allow 18, 19, and 20-year-old CDL holders to operate commercial motor vehicles (CMVs) in intrastate commerce. Given that forty-nine states and the District of Columbia have already determined that 18 to 20-year-old drivers do not inherently pose a significant safety risk to other intrastate motorists, it defies logic that these same 18 to 20-year-olds are legally unable to drive across state lines.

The notion that 18 to 20-year-old drivers lack the general maturity, skill, and judgment necessary to operate a CMV is erroneously dismissive and discriminatory. As the subcommittee is aware, our nation's military currently allows 18, 19, and 20-year-old service members to operate heavy duty machinery, equipment, and vehicles—demonstrating that properly-designed training can enable U.S. sailors (whose average age is younger than 20 years old) to operate a \$4 billion aircraft carrier.³⁴ Despite myriad examples of 18, 19, and 20-year-old members of the Armed Services with whom we entrust our national security and defense, the nay-sayers argue, that there is something intrinsic about 18, 19, and 20-year-olds (often characterized derisively as “teens and novices”) that renders them inherently unsafe—and thus, categorically incapable of learning how to operate CMVs safely in interstate commerce.

³³ *Id.* The average age of a truck driver is 49, 7 years older than that of the typical U.S. worker.

³⁴ National U.S. Navy Aircraft Carrier Month, 2018 Talking Points, <https://aircraftcarrier.com/wp-content/uploads/2018/10/Talking-Points-2018.pdf>, at 5.

In 2015, Congress correctly and soundly rejected this notion when it passed the FAST Act, which was signed by President Obama on December 4, 2015—mandating, among other things, language championed by Chairman Fischer, the Under 21 Military Pilot Program.³⁵ The very premise of the Under 21 Military Pilot is the recognition that certain 18, 19, and 20-year-olds, with proper training, can learn how to operate CMVs safely in interstate commerce. ATA fully supports and agrees with this premise.

Moreover, building off of this premise, ATA also agrees with FMCSA that the training provided by the military for 18, 19, and 20-year-olds serving in the seven Military Occupational Specialty (MOS) codes³⁶ identified by FMCSA for the purposes of the Under 21 Military Pilot Program *is* effective in vetting, teaching, and preparing qualified service members to operate CMVs safely in interstate commerce as 18, 19, and 20-year-old civilians. Consistent with these views, ATA believes that the enhanced training standards of the DRIVE Safe Act can be equally effective as the training provided in the seven MOS codes referenced above, in vetting, teaching, and preparing qualified 18, 19, and 20-year-old *non-military* drivers to operate CMVs safely in interstate commerce. Given the many similarities between the training regimen of those seven MOS codes and the training regimen of the DRIVE Safe Act,³⁷ Congress should have a similar level of *ex ante* confidence in the safety prospects of the latter as the level of *ex ante* confidence Congress expressed in mandating the former.

➤ **TRAINING - NOT AGE - IS PARAMOUNT:**

For the past twenty years,³⁸ opponents of 18-20 year old drivers have recycled severely flawed, limited, and outdated data—largely relying upon on a single study released 28 years ago in 1991 by K.L. Campbell (“the Campbell Study”)³⁹ to justify the proposition that “CMV drivers under the age of 21 are over-involved in fatal crashes by a factor of six when compared to older drivers.”

However, the subcommittee may be interested to know that Campbell himself warned that his study was a mere estimate of accident rates that were calculated using an admittedly incomplete, non-matching batch of “data” from 1980-84 and from 1986 that was of insufficient sample size and obtained in part via telephone survey estimates.⁴⁰ He explicitly cautioned: When considering possible conclusions based on the results of these analyses, the reader must remember the mismatch in time periods between the involvements and the travel.⁴¹

³⁵ 83 Fed. Reg. 31633 (July 6, 2018).

³⁶ 88M Motor Transport Operator (Army); 92F Fueler (Army); 2T1 Vehicle Operations (Air Force); 2Fo Fueler (Air Force); 3E2 Pavement and Construction Equipment (Air Force); E.O. Equipment Operator (Navy); and 3531 Motor Vehicle Operator (Marine Corps).

³⁷ E.g. Training Hours (160 hours minimum for the 7 MOS versus 400 hours minimum for DRIVE Safe); both training regiments require Performance Based Training, and Supervised Training, etc.

³⁸ OOIDA, May 21, 2001, Docket ID FMCSA-2000-8410-1608, <https://www.regulations.gov/document?D=FMCSA-2000-8410-1608>, at 8; Advocates of Highway and Auto Safety, May 21, 2001, Docket ID FMCSA-2000-8410-1466,

<https://www.regulations.gov/document?D=FMCSA-2000-8410-1466>, at 4; Todd Spencer, OOIDA, August 9, 2019, Docket ID FMCSA-2018-0346-1020, <https://www.regulations.gov/document?D=FMCSA-2018-0346-1020>; Under Pressure: The State of Trucking in America; Hearing before the Committee on Transportation and Infrastructure, Subcommittee on Highways and Transit, House, 116th Cong. (June 12, 2019) (Testimony of Cathy Chase, Advocates for Highway and Auto Safety), <https://transportation.house.gov/imo/media/doc/Testimony-Chase.pdf>.

³⁹ Kenneth L. Campbell, *Fatal Accident Involvement Rates By Driver Age for Large Trucks*, University of Michigan Transportation Research Institute (September 1990), <https://deepblue.lib.umich.edu/bitstream/handle/2027.42/29197/0000251.pdf?sequence=1&isAllowed=y>.

⁴⁰ Campbell, at 290. Specifically, Campbell was very careful to caution the following: (1) “Since the travel survey was mostly conducted in 1986, the time period for the exposure does not match the time period of the accidents”; (2) “Obviously, it would have been more desirable to have travel data for the same period of time as the involvements, but the availability of funding and other problems preclude a better match at this time.”; and (3) “It will be another year before the 1986 TIFA file is complete, and several years of accident data are needed to produce sufficient sample sizes.”.

⁴¹ *Id.* at 2 and 5.

The only other CMV-specific “data” that opponents of 18, 19, and 20-year-old drivers consistently cite is derived from a 1996 study by Daniel Blower (“the Blower Study”),⁴² which similarly relies on flawed, limited, and outdated data. Specifically, the Blower Study:

- was limited to data from Michigan, supplemented by data from North Carolina “because of certain [unspecified] problems with the Michigan data;”⁴³
- conflated two age group which FMCSA separates out in the Under 21 Military Pilot as the control and test groups; and
- purposely compared—i.e. cherry-picked—this conflated group of younger drivers against the group of drivers in the flattest part of the accident curve.⁴⁴

In contrast, in collecting and presenting the state data for the 2019 FMCSA notice and request for comments entitled, “Commercial Driver’s Licenses; Pilot Program To Allow Drivers Under 21 To Operate Commercial Motor Vehicles in Interstate Commerce,”⁴⁵ ATA adopted FMCSA’s approach of comparing the safety performance of 18-20 year olds against that of 21-24 year olds. Most of these 18 to 20-year-old drivers for whom comparative data is available appear to *already* achieve equivalent—if not superior—levels of safety than that of their older counterparts on critical safety measures such as crash rates,⁴⁶ particularly when compared to drivers aged 21, 22, 23, and 24, with whom they are closest in age.⁴⁷ This pattern is consistent with broader trends in federal crash data encompassing passenger vehicles as well as CMVs. Specifically, according to NHTSA’s *Traffic Safety Facts* Annual Report, in each of the past six years for which NHTSA has data—i.e., 2012, 2013, 2014, 2015, 2016, and 2017—

⁴² Daniel Blower, *The Accident Experience of Younger Truck Drivers*, Great Lakes Center for Truck and Transit Research (May 1996), <https://deepblue.lib.umich.edu/handle/2027.42/1147>.

⁴³ *ibid*

⁴⁴ First, Blower simultaneously claims that “accident involvement rates were calculated by the population of CDL-holders, using drivers with a CDL in Michigan and accidents in Michigan”⁴⁴ while also stating that “because of certain problems with the Michigan data . . . and to boost confidence in the findings, accident data from North Carolina were used also.” The reader is left to wonder what exactly was problematic with the Michigan data; why did the findings of the study need a boost in confidence to begin with; and why North Carolina’s data rather than data from other state(s) is sufficient to address those deficiencies, among other questions.

Also, Blower claims that “there are not enough 19-to-20 year old CDL-holders, so 21-year olds are added to establish this population of young drivers Those 22 to 24 . . . probably share many characteristics with the younger drivers. This group was included in the project in order to increase sample sizes where necessary.” This questionably constituted group of “younger drivers” was compared against the age group of drivers which the author knew had the lowest accident rates—specifically “truck drivers 30-49 years old [who] are clearly in the flat part of the accident rate curve.” Evidently, this cherry-picked comparison was intentional: “the purpose of the project is essentially to compare drivers on the steep part of the curve with drivers in the flat area Accordingly, only drivers 18 to 24 and 30 to 49 are included in the study.”

⁴⁵ 84 Fed. Reg. 21895 (May 15, 2019).

⁴⁶ In response to FMCSA’s May 15th, 2019, notice published at 84 Fed. Reg. 21895, ATA requested from its federation of state trucking associations data from their respective State Driver Licensing Agencies four points of data: (1) the number of 18, 19, and 20 year old CDL holders in the state; (2) the number of crashes associated with 18, 19, and 20 year old CDL holders in the state, over the past three years, broken down by Fatal Crashes, Injury Crashes, and Property Damage Only (PDO) Crashes; (3) the number of 21, 22, 23, and 24-year-old CDL holders in the state; and (4) the number of crashes associated with 21, 22, 23 and 24 year old CDL holders in the state, over the past three years, broken down by Fatal, Injury, and PDO Crashes. Unless otherwise noted, “crash rates” were calculated by ATA, by dividing the number of crashes associated with CDL holders of a particular age group in a state, by the total number of CDL holders of that age group in the state. Significantly, the data received from the states do not appear to distinguish whether the CDL holder was at-fault in the crash in question. In addition, the data received from the states may include crashes that fall outside the ambit of the Federal Motor Carrier Safety Regulations’ (FMCSRs) definition of “accident.” Also, unless otherwise noted, the data may not distinguish between crashes that occurred in a commercial or non-commercial vehicle. What is more, the crash rates are not based on vehicle miles travelled (VMT). However, these limitations held true across the board for data ATA received for both 18-20 year old CDL holders as well as 21-24 year old CDL holders—thus, allowing for a comparison of the safety performance of those two cohorts of drivers, under the uniform metric of “crash rates” as that term is defined in this document.

⁴⁷ These two age groups are the ones selected by the Agency for comparison of safety performance in the Under 21 Military Pilot Program, and ATA would recommend that FMCSA similarly design the pilot program that is the subject of this Notice by comparing the safety performance of 18-20 year old interstate drivers (Covered Drivers) with that of 21-24 year old interstate drivers (Control Group).

male drivers in the 16-20 age range had a *lower* involvement rate in fatal crashes than male drivers in the 21-24 age range.⁴⁸

Significantly, these 18-to-20-year-old drivers operating CMVs in intrastate commerce are already achieving this baseline level of safety *without* the benefit of having trained under the enhanced training and technology standards of the DRIVE Safe Act. Thus, if Congress were to enact the DRIVE Safe Act, lawmakers should have every expectation to observe similar, if not better, safety performance by 18, 19, and 20-year-old interstate drivers relative to their older counterparts—the latter of whom are not required to have their CMVs equipped with the DRIVE Safe Act’s vehicle safety technologies, which have the potential to prevent or significantly reduce the number and severity of crashes.

➤ ***THE DRIVE SAFE ACT IS NOT JUST PRO-SAFETY – ITS ALSO PRO-JOBS:***

With an average salary of \$45,570, and excellent benefits, such as paid leave, health insurance, and 401(k)s, trucking provides a stable, good-paying career to Americans.⁴⁹ However, these types of fulfilling careers are out of reach for many otherwise-qualified 18 to 20-year-olds because, unlike other blue-collar professions, there are many barriers to entry for new truck drivers beyond the minimum age requirement, such as CDL testing standards, strict drug and alcohol testing regimes, and safe and clean driving records. If motor carriers could reach potential truck driver candidates straight out of high school, the trucking industry would be in a better position to help candidates develop the skills, habits, and attitudes necessary for a long and satisfying career in the trucking industry.

Significantly, even though the minimum age for interstate driving is 21, the reality is that the average age of entry-level drivers enrolled at private truck driver training schools is actually 35.⁵⁰ This means that many drivers entering our industry may be on the back end of their second, third, or fourth careers, pursuing a job in trucking as an opportunity of last resort. As such, the trucking industry is unable to tap into the ambitions of the next generation’s workforce and replenish its aging workforce with younger workers. Unfortunately, blue-collar professions are still stigmatized in our society and culture, which place a disproportionate emphasis on four-year-degree colleges at the expense of vocational schools or the skilled trades.

Unlike other blue-collar professions, however, the trucking industry faces an additional barrier to entry in the form of FMCSA’s regulations that require an individual to be at least 21 years old in order to operate a CMV in interstate commerce. This means that other blue collar industries essentially get at least a three year head start in advance of the trucking industry in the ability to recruit, hire, and train—straight out of school—the already-limited subset of students who, for a variety of reasons, decide to forego a four-year-degree and significant student loan debt. Meanwhile, 4.6 million Opportunity Youth⁵¹ in this country are neither employed nor in school, even as the nation is short 60,800 truck drivers. As mentioned earlier, over the next decade, the industry will need to hire nearly 1.1 million total new drivers, considering retirement and the industry’s aging workforce.⁵² An update to the minimum age requirement coupled with the right safety parameters is well overdue.

⁴⁸ National Highway Traffic Safety Administration, *Traffic Safety Facts* Annual Report, Table 62, Driver Involvement Rates per 100,000 Licensed Drivers by Age, Sex, and Crash Severity, <https://cdan.nhtsa.gov/tsftables/tsfar.htm#>; see also Bureau of Labor Statistics, *Labor Force Statistics from the Current Population Survey*, <https://www.bls.gov/cps/cpsaat11.htm>. (showing that ninety-four percent of truck drivers are male).

⁴⁹ Bureau of Labor Statistics, <https://www.bls.gov/oes/2018/may/oes533032.htm>

⁵⁰ Commercial Vehicle Training Association, 2018 Legislative Agenda, <https://cvta.org/wp-content/uploads/CVTA-Legislative-Agenda-2018.pdf>, at 3.

⁵¹ The Aspen Institute Forum for Community Solutions, *Who Are Opportunity Youth?* <https://aspencommunitysolutions.org/who-are-opportunity-youth/>.

⁵² *Id.* The average age of a truck driver is 49, 7 years older than that of the typical U.S. worker.

In light of the proven safety performance of 18-20 year old drivers who are already allowed to operate trucks in 49 U.S. states,⁵³ and given the threats that the driver shortage poses to the cost of moving freight and to supply chain efficiencies, ATA urges Congress to address this problem now, by including the DRIVE Safe Act (S.569, H.R. 1374) in any forthcoming surface transportation reauthorization package.

➤ ***OTHER WORKFORCE DEVELOPMENT INITIATIVES CONGRESS SHOULD CONSIDER:***

ATA also supports other legislative initiatives designed to bring greater attention to the growing driver shortage, and attract a new workforce into the industry. These include efforts to raise greater awareness of job opportunities in the trucking industry, as well as legislation that will bring an important focus to the advancement of female representation and participation in the industry. Two such bills are S.2858, the Promoting Women in Trucking Workforce Act and H.R.5118, the Promoting Service in Transportation Act.

S.2858, the Promoting Women in Trucking Workforce Act, introduced by two leaders on the Commerce Committee, Senators Moran and Baldwin, rightly notes that although women currently make up 47% of the U.S. workforce, they make up less than 7% of truck drivers, and only a quarter of all transportation and warehousing jobs in trucking. Of the 3.5 million truck drivers in 2018, only 234,234 of them were women. While the trucking industry has taken great strides over the last decade in increasing the female workforce, growing the number of women truck drivers by 68% since 2010, women remain underrepresented in the industry.

Through the establishment of a Women of Trucking Advisory Board under the leadership of the FMCSA, the legislation will bring greater attention to the recruitment, training, mentorship, and outreach to women in the trucking industry. This in turn will lead to increased female representation in trucking and greater industry diversity, while providing another tool to help the trucking industry confront and stem its growing driver shortage.

H.R.5118, the Promoting Service in Transportation Act, introduced by Rep. Rick Larsen, is a further crucial step that will enhance the use of broadcast, digital and print media public service announcement campaigns to promote job opportunities, and also encourage improved diversity in the transportation workforce. Empowering individuals to seek rewarding careers enjoys broad bipartisan support, and this bill would help promote job opportunities for a wide swath of diverse individuals in the trucking industry.

ATA supports both of these important legislative efforts, and encourages their inclusion in any forthcoming safety title to accompany a surface transportation reauthorization bill.

3) INFRASTRUCTURE:

➤ ***THE COST OF INACTION:***

A well-maintained, reliable and efficient network of highways is crucial to the delivery of the nation's freight and vital to our country's economic and social well-being. However, the road system is rapidly deteriorating, and costs the average motorist nearly \$1,600 a year in higher maintenance and congestion expenses.⁵⁴ Highway congestion also adds nearly \$75 billion to the cost of freight transportation each

⁵³ *Id.* at 19-30 (11 out of 12 states for which data could be obtained within the comment period, 18-20 year old CDL holders had *lower* or *equivalent* crash rates than their 21-24 year old counterparts in the past 3 years).

⁵⁴ *Bumpy Road Ahead: America's Roughest Rides and Strategies to make our Roads Smoother*, The Road Information Program, Oct. 2018; *2015 Urban Mobility Scorecard*. Texas Transportation Institute, Aug. 2015.

year.⁵⁵ In 2016, truck drivers sat in traffic for nearly 1.2 billion hours, equivalent to more than 425,000 drivers sitting idle for a year.⁵⁶

The Highway Trust Fund (HTF), the primary source of federal revenue for highway projects, safety programs and transit investments, is projected to run short of the funds necessary to maintain current spending levels by FY2021.⁵⁷ While an average of approximately \$43 billion per year is expected to be collected from highway users over the next decade, nearly \$62 billion will be required annually to prevent significant reductions in federal aid for critical projects and programs.⁵⁸ It should be noted that a \$62 billion annual average federal investment *still* falls well short of the resources necessary to provide the federal share of the expenditure needed to address the nation's surface transportation safety, maintenance and capacity needs.⁵⁹ According to the American Society of Civil Engineers, the U.S. spends less than half of what is necessary to address these needs. As the investment gap continues to grow, so too will the number of deficient bridges, miles of roads in poor condition, number of highway bottlenecks and, most critically, the number of crashes and fatalities attributable to inadequate roadways.

These are impacts that serve as a brake on economic growth and job creation nationwide. Chairman Fischer and Ranking Member Duckworth, a first-world economy cannot survive a third-world infrastructure system. As such, the federal government has a Constitutional responsibility to ensure that the resources are available to address this self-imposed and completely solvable situation. The Commerce Clause does not represent an antiquated 18th century ideal; it is what binds us as a nation. *E Pluribus Unum* – out of many, one.

➤ **THE BUILD AMERICA FUND:**

ATA's proposed solution to the highway funding crisis is the Build America Fund (BAF). The BAF would be supported with a new 20 cent per gallon fee built into the price of transportation fuels collected at the terminal rack, to be phased in over four years. The fee will be indexed to both inflation and improvements in fuel efficiency, with a five percent annual cap. We estimate that the fee will generate nearly \$340 billion over the first 10 years. It will cost the average passenger vehicle driver just over \$100 per year once fully phased in.⁶⁰ We also support a new fee on hybrid and electric vehicles, which underpay for their use of the highway system or do not contribute at all.

Under the BAF proposal, the first tranche of revenue generated by the new fee would be transferred to the HTF. Using a FY 2020 baseline, existing HTF programs would be funded at authorized levels sufficient to prevent a reduction in distributed funds, plus an annual increase to account for inflation.

Second, a new National Priorities Program (NPP) would be funded with an annual allocation of \$5 billion, plus an annual increase equivalent to the percentage increase in BAF revenue. Each year, the U.S. Department of Transportation would determine the location of the costliest highway bottlenecks in the nation and publish the list. Criteria could include the number of vehicles; amount of freight; congestion levels; reliability; safety; or, air quality impacts. States with identified bottlenecks could apply to USDOT for project funding grants on a competitive basis. Locations could appear on the list over multiple years until they are addressed.

⁵⁵ *Cost of Congestion to the Trucking Industry: 2018 Update*. American Transportation Research Institute, Oct. 2018.

⁵⁶ *Ibid.*

⁵⁷ The Budget and Economic Outlook 2020-2030, *January 2020* Congressional Budget Office.

⁵⁸ *Ibid.*

⁵⁹ *2015 Status of the Nation's Highways, Bridges, and Transit: Conditions & Performance*. USDOT, Dec. 2016; see also *2017 Infrastructure Report Card*. American Society of Civil Engineers, 2017.

⁶⁰ Federal Highway Administration, *Highway Statistics 2016*, Table VM-1. Average light-duty vehicle consumed 522 gallons of fuel.

The funds remaining following the transfer to the HTF and the NPP would be placed into the Local Priorities Program (LPP). Funds would be apportioned to the states according to the same formula established by the Surface Transportation Block Grant Program, including sub-allocation to local agencies. Project eligibility would be the same as the eligibility for the National Highway Freight Program or National Highway Performance Program, for highway projects only.

This approach would give state and local transportation agencies the long-term certainty and revenue stability they need to not only maintain, but also begin to improve their surface transportation systems. They should not be forced to resort to costly, inefficient practices – such as deferred maintenance – necessitated by the unpredictable federal revenue streams that have become all too common since 2008. Furthermore, while transportation investment has long-term benefits that extend beyond the initial construction phase, it is estimated that our proposal would add nearly half a million annual jobs related to construction nationwide.⁶¹

The fuel tax is the most immediate, cost-efficient and conservative mechanism currently available for funding surface transportation projects and programs. Collection costs are less than one percent of revenue.⁶² Our proposal will not add to the federal debt or force states to resort to detrimental financing options that could jeopardize their bond ratings. Unlike other approaches that simply pass the buck to state and local governments by giving them additional “tools” to debt-finance their infrastructure funding shortfalls for the few projects that qualify, the BAF will generate real money that can be utilized for any federal-aid project.

While some have suggested that a fuel tax is regressive, the economic harm of failing to enact our proposal will be far more damaging to motorists. The \$100 per year the average car driver is expected to pay under this proposal pales in comparison with the \$1,600 they are now forced to pay annually due to additional vehicle maintenance, lost time, and wasted fuel that has resulted from underinvestment in our infrastructure. Borrowing billions of dollars each year from China to debt finance the HTF funding gap – a cost imposed on current and future generations of Americans who will be forced to pay the interest – is far more regressive than the modest fee needed to avoid further blowing up our already massive national debt.

There is also a perception that the fuel tax is no longer a viable revenue source due to the availability of electric vehicles and improvements in vehicle fuel efficiency. This notion is belied by the facts. According to the Congressional Budget Office’s latest estimates, revenue from fuel taxes will drop less than 8% over the next decade, or about \$3 billion.⁶³ A modest increase in the fuel tax, or a new fee on alternative fuel vehicles, can easily recover these lost revenues.

Finally, ATA supports repeal of the federal excise tax (FET) on trucking equipment, provided the revenue it generates for the HTF is replaced. This antiquated 12% sales tax, which was adopted in 1917 to defray the costs of World War I, is a barrier to investment in the cleanest, safest trucks available on the market. In fact, when the FET was first adopted, it was applied to all vehicles, and now is imposed only on heavy trucks. Income from the FET has varied widely, mostly in response to economic conditions. Over the past decade revenue has ranged between \$1.5 billion during the recession year of 2008 and \$4.6 billion in 2015. This variability contributes to mismatches between federal-aid money authorized and revenue available for appropriation. In fact, the first bail-out of the HTF, in 2008, was necessitated largely by an unanticipated drop in FET revenue.

⁶¹ *A Framework for Infrastructure Funding*. American Transportation Research Institute, Nov. 2017.

⁶² *Ibid.*

⁶³ Congressional Budget Office, *Budget and Economic Outlook: 2019-2029*, January 2019.

➤ **TRUCK-ONLY FEES:**

We strongly caution against discriminatory funding schemes that place the burden of supporting our infrastructure solely on the back of the trucking industry. Forcing the industry to cover the entire gap between available revenue and infrastructure funding needs will jeopardize economic stability, cripple our nation's supply chain, and threaten to decimate recent economic gains. Moreover, it will irreparably fracture the broad stakeholder support that has facilitated the advancement of past highway bills. Therefore, any discriminatory funding schemes, like a truck-only vehicle miles traveled (VMT) tax, must be dismissed as a misguided and prejudiced funding gimmick.

Mandating that the trucking industry bear the brunt of our nation's infrastructure investment via a truck-only VMT tax is unfair, imbalanced, and runs counter to public interest. In terms of feasibility, there are ample reasons why a truck-only VMT is an ill-conceived and dangerous solution, especially when compared to other available funding streams. First, experts agree that proper implementation of a VMT tax will require at least a decade to generate revenue because the relevant technology has yet to be fully developed, large-scale field testing has not been conducted, data privacy and security issues have not been addressed, and VMT enforcement mechanisms have not been implemented to combat the expected evasion. With the Highway Trust Fund edging closer to insolvency each day, we cannot afford to wait more than a decade to provide a new funding stream intended to pay for a five year bill.

Second, a VMT fee would require individual accounts for each taxed vehicle. Even if applied only to trucking, this would affect as many as 36 million vehicles, which would impose an overwhelming administrative cost and the burden of creating and monitoring 36 million individual accounts.⁶⁴

Third, the concept of using ELDs to track and report truck miles traveled is untenable, as federal law prohibits government agencies from using ELDs for any purpose other than Hours of Service compliance.⁶⁵ Further complicating this concept is the fact that only 28% of commercial motor vehicles are legally required to be equipped with ELDs.⁶⁶

Finally, a truck-only VMT tax would not only cause irreparable harm to the trucking industry, but would prompt uncertainty in the supply chain and increase cost of moving freight, making domestic manufacturers and farmers less competitive and goods more expensive. The impact would reverberate throughout our cities, towns, and communities where trucks deliver vital necessities, including food and drinking water, clothes to purchase, parts to build automobiles, and fuel to power them.

➤ **TOLLS:**

ATA opposes the expansion of Interstate highway tolling authority and highway "asset recycling." Interstate tolls are a highly inefficient method of funding highways, and extremely costly for motorists. One study found that converting all Interstate highways into toll roads would cost more than \$55 billion.⁶⁷ Tolling also forces traffic onto secondary roads, which are weaker and less safe.

Forcing states to resort to tolls by starving them of federal funds is far more regressive than the \$2.00 a week motorists would pay under the Build America Fund proposal. One needs only look to I-66 in Northern Virginia, where tolls average more than \$12.00 per roundtrip and can sometimes exceed \$46.00, to understand the potential impacts on lower- or middle-income Americans.⁶⁸ To put this into

⁶⁴ *American Trucking Trends 2019*. American Trucking Associations.

⁶⁵ *Issues and Options for a Tax on Vehicle Miles Traveled by Commercial Trucks*. Congressional Budget Office, Oct. 2019.

⁶⁶ *Ibid.*

⁶⁷ *Renewing the National Commitment to the Interstate Highway System: A Foundation for the Future (2018)*. Transportation Research Board, National Academy of Sciences, p. 6-13.

⁶⁸ http://www.66expresslanes.org/documents/66_express_lanes_january_2018_performance_ereport.pdf

perspective, even if motorists only paid the average toll, the cost of a 10-mile trip over an eight day period on I-66 is equivalent to their cost for an entire year under ATA's BAF proposal for all roads and bridges.

Furthermore, tolls distort the business model for companies that rely on Interstate highway traffic for a significant share of their revenue. Motels, restaurants, truck stops and other roadside establishments would be devastated by the imposition of tolls. Often they are the largest employers in rural areas and small towns, and if they are forced to cut back or close down, this could cause a ripple effect through surrounding communities. Nor are the effects likely to be confined to the state that imposes the tolls. Indiana, for example, seriously considered statewide Interstate tolls using a federal exemption that allows tolling of replacement or reconstructed bridges. These tolls would have not only severely hurt businesses in Indiana, but also in neighboring states that rely on Indiana highways for freight services.

The exceptions to the federal ban on Interstate tolls have evolved over the decades into a confusing, incoherent mess that serve neither state transportation agencies, nor the public, very well. It is time to establish a rational system that protects the public from the negative impacts of tolls.

➤ ***THE TRUCK DRIVER PARKING SHORTAGE:***

Research and feedback from carriers and drivers suggest there is a significant shortage of available parking for truck drivers in certain parts of the country. Given the projected growth in demand for trucking services, this problem will likely worsen. There are significant safety benefits from investing in truck parking to ensure that trucks are not parking in unsafe areas due to lack of space.

Funding for truck parking is available to states under the current federal-aid highway program, but truck parking has not been a priority given a shortage of funds for essential highway projects. Therefore, ATA supports the creation of a new discretionary grant program with dedicated funding from the federal-aid highway program for truck parking capital projects

➤ ***FREIGHT PROGRAMS:***

With the creation of two new freight funding programs, the FAST Act recognized the critical role that the federal government plays in facilitating the efficient movement of freight in interstate commerce, a role memorialized by the U.S. Constitution. Both the Nationally Significant Freight and Highway Projects Program (AKA INFRA) and the National Highway Freight Program provided dedicated funds for projects that improved traffic flow and safety on transportation facilities with significant freight volumes.

These programs should be continued, with higher funding levels. Furthermore, ATA opposes increasing the 10% cap on funding for non-highway projects, or the expansion of eligibility for non-highway projects. Given that trucks carry 71% of the nation's freight and that, unlike other modes, trucking companies cannot directly fund their infrastructure, the federal government has a special responsibility to ensure that highways critical to serving the country's interstate commerce needs are safe, well-maintained and efficient.

➤ ***GRANTS FOR THE ADOPTION AND UPGRADE OF AUTOMATED SIZE AND WEIGHT PERMITTING SYSTEMS:***

Some commercial motor vehicles and some military vehicles exceed standard size and weight limitations for operating on public highways and must apply for and receive oversize/overweight (OS/OW) permits from the states in which they need to operate. These types of vehicles are uniquely and vitally important to expeditious military and emergency relief operations. However, timely issuance of OS/OW permits across multiple states is inconsistent, even during normal business hours. Reliability of timely permit issuance is particularly concerning during nights, weekends and holidays when states' offices issuing the permits are generally not open. This results in trucks having to park on the state border, greatly increased

cost of service, and adds hundreds of unnecessary miles and critical hours getting to destination with urgently needed supplies.

Some states have successfully addressed this issue by automating their permit-issuing system for OS/OW loads traversing highways that are appropriate for those vehicles. The Federal Highway Administration issued a report, *Best Practices in Permitting Oversized and Overweight Vehicles*, demonstrating that states that automate their OS/OW permitting systems improved highway safety, protected infrastructure, reduced overhead, and increased state revenues. However, mostly due to budget constraints, several states do not have these systems, or their systems are inadequate.

ATA recommends providing federal grants of up to \$2 million per state for the purpose of creating or upgrading automated permitting systems. While these expenses are eligible under FMCSA's High Priority Innovative Technology Deployment (ITD) Program, this program is over subscribed. ATA proposes to set aside funds from the ITD program for automated permitting systems, provided it receives sufficient additional funds to ensure that funding for other important programs is not affected.

CONCLUSION:

Chairman Fischer, Ranking Member Duckworth, and members of the subcommittee, thank you again for providing ATA with the opportunity to testify before you today. As you have likely ascertained in my testimony, the trucking industry is under increasing pressure, and in many ways at an operational crossroads. Too often, our federal government is mired in squabbling about yesterday's problems rather than leading the way to address tomorrow's. Your leadership toward the challenges of today and the future are vital to our continued economic strength and to the families and businesses that benefit from it.

The actions of this subcommittee, Congress and the Administration over the next several months could help steer our great industry towards tremendous advancements in safety, efficiency and productivity by providing the resources and regulatory framework that will make our fleets safer and more connected. Congressional leadership would also allow our industry to meet the growing driver shortage head-on, and recruit a workforce for the next generation of trucking. Finally, your actions could prevent the continued decay of our infrastructure and sense of national decline, and help us return to the national sense of a "shining city on a hill," where the roads to that city are not scarred by potholes and collapsing bridges.

Alternatively, inaction or misguided action will grind the wheels of the trucking industry and our national economy to a screeching halt. Our roads would become less safe. And we would be ceding our global leadership in freight movement to countries that are making the necessary investments in infrastructure. Of equal or greater concern, we would be failing to improve the well-being and quality of life of our citizens and society.

Our unwavering hope is that Congress and the Administration will now roll up their sleeves, make the tough decisions, and work together to support infrastructure, the economy, and the industry that moves it. ATA and the trucking industry stand ready to work with you on these major issues. Under your leadership and guidance, we believe that the important and necessary steps can and will be taken to facilitate and support the continued movement of our economy.