



1625 PRINCE STREET

ALEXANDRIA, VA 22314

703-299-5700

**TESTIMONY OF BRIAN EVANS, CTB
PRESIDENT & CEO
L&L FREIGHT SERVICES, INC.**

ON BEHALF OF

THE TRANSPORTATION INTERMEDIARIES ASSOCIATION

BEFORE THE

**U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON SMALL BUSINESS
SUBCOMMITTEE ON CONTRACTING AND THE WORKFORCE**

NOVEMBER 21, 2013

**“WRONG WAY: THE IMPACT OF FMCSA’S HOURS-OF-SERVICE
REGULATIONS ON SMALL BUSINESS”**

Chairman Hanna, Ranking Member Meng, and members of the House Small Business Committee, thank you for the opportunity to speak with you today regarding concerns affecting small businesses arising from the FMCSA's Hours-of-Service Rules.

My name is Brian Evans; I am the owner of a small business transportation brokerage. I serve as the President, and CEO for L&L Freight Services located in Cabot, Arkansas, and I am a 20-year veteran of the transportation, freight brokerage, and supply chain management sectors. I come from a family owned, blue collar, small business and prior to working in the brokerage industry; I drove over-the-road almost 1,000,000 accident free miles.

Additionally, I serve on the Board of Directors for the Transportation Intermediaries Association (TIA). TIA represents more than 1,400 member companies; of which 70 percent of these companies are small family owned businesses.

TIA is the professional organization of the \$162 billion third-party logistics industry. TIA is the only organization exclusively representing transportation intermediaries of all disciplines doing business in domestic and international commerce.

Like the FMCSA, one of our primary missions is promoting safe practices. As an organization, TIA has sought to work with FMCSA to make the Hours-of-Service regulations the best possible tool for the Agency to improve safety for the motoring public by reducing truck driver fatigue.

Freight brokers, interchangeably referred to as “transportation intermediaries,” third party logistics companies (“3PLs”), and non-asset based logistics companies, are professional businesses that act similarly to “travel agents” for freight. Freight brokers serve tens of thousands of US businesses and manufacturers (shippers) and motor carriers (carriers), bringing together the shippers’ need to move cargo, with the corresponding capacity and equipment offered by rail and motor carriers, or, depending on a company’s authorities, air and ocean carriers as well.

We are an incredibly “green” industry, and have contributed to U.S. economic growth in innumerable ways. Freight broker businesses are generally growth businesses, finding new ways to serve our manufacturing and distributing customers every year. By matching capacity with available shipments, we dramatically reduce the empty miles trucks drive between shipments, saving fuel and adding money to the bottom lines of carriers and shippers. Our industry has helped lower logistics costs as a percent of GDP by several percentage points since deregulation.

Transportation intermediaries are primarily, non-asset based companies whose expertise is providing mode and carrier neutral transportation arrangements for shippers with the underlying asset owning and operating carriers. They get to know the details of a shipper’s business, then tailor a package of transportation services, sometimes by various modes of transportation, to meet those needs. Transportation intermediaries bring a targeted expertise to meet the shipper’s transportation needs.

Many shippers in recent years have streamlined their acquisition and distribution operations. They have reduced their in-house transportation departments, and have chosen to deal with only a few “core carriers” directly. Increasingly, they have contracted out the function of arranging transportation to intermediaries or third party logistics experts. Every Fortune 100 Company now has at least one third party logistics company (3PL) as one of its core carriers. Since the intermediary or 3PL, in turn, may have relationships with dozens, or even thousands, of underlying carriers, the shipper has many service options available to it from a single source by employing an intermediary.

Shippers count on transportation intermediaries to arrange and report on the smooth and uninterrupted flow of goods from origin to destination. Most carriers rely upon brokers to operate as supplements to their sales force, and in some cases, their entire sales force. Whatever the case, brokers keep carriers’ equipment filled and moving. There are more than 15,000 licensed freight brokers in operation, and they range from small, family owned businesses to multi-billion dollar, publicly traded corporations.

Unfortunately, the new HOS regulations were a solution in search of a problem. No one wants unsafe trucks or drivers on the road. There is no one with a greater interest of the security of a driver than his or her employer. To that end, TIA has a standing committee that has published and regularly updates, a carrier selection framework. TIA recommends that every broker and shipper have in place a written carrier selection policy for hiring carriers. Safety improvements by the industry under the previous hours-of-service rules, reduced accidents,

allowed the market to become more efficient, and allowed American business to be more competitive.

The new rules are overly complicated, will reduce productivity, and have no effect on reducing accidents beyond the previous level. In the 24th annual State of Logistics report authored by Rosalyn Wilson, she estimates a loss of productivity between 2% and 10% for the transportation industry. This significant amount of loss of productivity could lead companies to expand their near shoring ventures into neighboring countries; thus relocating valued American transportation jobs to foreign nations.

I have spoken with many of my carrier customers who are experiencing a major loss of productivity due to the new restart provision. This rule is resulting in around five fewer loads per week or a reduction of 3% in capacity for their fleets. The cost of this loss of efficiency is felt by the business and ultimately passed on to the consumer.

We are not suggesting that increased safety be traded for increased efficiency. We are stating that safety improvement was achieved under the old rules, and the new rules will not result in dramatically increased carrier safety. According to a report disseminated by the U.S. Department of Transportation in March of 2013¹, police reported commercial motor vehicle traffic crashes actually decreased 3% between the years 2009 and 2011.

As you know, there is a pressing shortage of drivers. The new HOS rule will have a twofold effect. It will chase out qualified drivers and deter future motor carriers from entering

¹ U.S. Department of Transportation. Federal Motor Carrier Safety Administration. Commercial Motor Vehicle Facts – March 2013.

the industry, because the rules limit the number of loads a carrier can handle. The rule will likely also require drivers to operate during peak hours of operations, thereby increasing congestion and reducing safety.

The American Transportation Research Institute (ATRI) recently released their 2013 edition of the “Critical Issues in the Trucking Industry.” The report places the new HOS regulations as this year’s top concern for the trucking industry. It further examines the 34-hour restart provision and states, “Many in the industry believe that these new HOS rules will have a negative impact of productivity. Additionally, there are concerns that the safety benefits that FMCSA expects these changes to generate will not materialize.”² ATRI estimates that the changes to the restart provision alone would cost the industry \$189 million dollars, as opposed to the \$133 million benefit projected by the FMCSA.³

The FMCSA’s concerns about driver health and safety are to be applauded. The new HOS rules, however, fail to demonstrate that further restrictions will lead to any measurable decrease in crashes or injuries beyond that already being achieved with the previous measures. TIA supports the passage of H.R. 3413, the “TRUE Safety Act.” TIA urges the Agency to examine the negative effects of the 34-hour restart provision and consider amending the rule to give transportation the flexibility they need to ensure safety.

² American Transportation Research Institute. Critical Issues in the Trucking Industry – 2013. October 2013.

³ American Transportation Research Institute. Assessing the Impacts of the 34-Hour Restart Provisions. June 2013.

I appreciate the opportunity to testify before the subcommittee today on the concerns of the new HOS rules and its effects on small business owners whether a third-party logistics provider, motor carriers, or the entire supply chain. I would be happy to answer any questions.