Testimony of Monte Wiederhold
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before the
United States House of Representatives Committee on Small Business
"Highway to Headache: Federal Regulations on the Small Trucking Industry"
November 29, 2017

Chairman Chabot, Ranking Member Velazquez, and Members of the Committee, thank you for providing me the opportunity to testify today. My name is Monte Wiederhold and I began my career as a professional truck driver in 1973. I have been a small business owner since 1993 and I am the President of B L Reever Transport, Inc., located in Maumee, Ohio. My business is a small fleet, employing only 7 truckers, who like me, are owner-operators. Additionally, I have been a member of the Owner-Operator Independent Drivers Association (OOIDA) since 1983 and currently serve on the organization's Board of Directors. I am also a proud constituent of Chairman Chabot's and appreciate his interest in this subject and long-time support for professional drivers.

Small trucking businesses represent 96% of registered motor carriers in the United States. We are undoubtedly the safest and most diverse operators on the nation's roads. Our activities impact all sectors of the American economy on a daily basis. We move everything and anything – from agricultural products and household goods to military equipment and energy resources.

Despite representing such a sizeable portion of the trucking industry, the federal government has never fully grasped the importance of our diversity, and continues to burden small business truckers with a "one-size-fits-all" approach to regulations. Time and time again, this approach punishes small businesses, stifles competition, and overregulates an industry deregulated by design. Too often, these costly and burdensome regulations are advanced at the behest of corporate motor carriers, who use the legislative and regulatory process to gain competitive advantages over smaller operators like me.

Frequently, regulations promoted by these large fleets are disingenuously billed as silver bullet solutions to enhancing highway safety, despite a distinct lack of reputable evidence to support their claims. In reality, they are economic weapons used to squeeze smaller competitors out of the trucking industry by increasing their operating costs. Continuance of the "one-size-fits-all" approach has left the federal government complicit in driving the safest truckers on the road out of the industry through overregulation.

Electronic Logging Devices (ELDs)

While Congress and the new administration has recently been successful in providing relief for small trucking businesses on several key matters, it has surprisingly failed to adequately address serious concerns involving the most disruptive and expensive trucking regulation in history - the electronic logging device or ELD mandate.

The ELD mandate is estimated to cost a whopping $1.8 billion annually, yet provides no safety or economic benefit for small-business truckers or the wide range of customers who rely on truck transportation. The rulemaking was approved based upon the false premise that ELDs will

increase compliance with Hours-of-Service (HOS) regulations and thereby reduce the risk of fatigue-related crashes. Simply reviewing the poor safety records of large fleets that have utilized ELDs for years will expose the fact these devices do not achieve those purported safety benefits. Even analysis by the Federal Motor Carrier Safety Administration (FMCSA) in 2011 and 2014 determined there is no discernable improvement to highway safety or decrease in HOS violations related to ELDs.

The small number of large carriers that benefit from the utilization of ELDs are already using the technology to monitor their productivity. As a result, implementation of the mandate will force small businesses to bear a majority of the nearly $2 billion price tag associated with the installation of these devices. For owner-operators, these costs will supplant a portion of investments otherwise devoted to maintenance, equipment, and other critical safety upgrades.

While small-business truckers are adamant the ELD mandate must be repealed, we are also concerned by serious complications associated with its implementation, which is currently scheduled for December 18, 2017. Many significant technological concerns remain unresolved, including the certification of devices, connectivity problems in remote areas of the country, cybersecurity vulnerabilities, and the ability of law enforcement to access information. Perhaps most alarming, ELD manufacturers are currently able to self-certify technology without validation by FMCSA, creating vast uncertainty within the regulated community.

As owner-operators, some of the truckers who drive for B L Reever will be purchasing their own devices, based on their unique needs and budgets. Throughout their decision-making process, they have shared considerable concerns with me about the self-certification of devices and the uncertainty it causes. Unfortunately, the lack of FMCSA validation has created an atmosphere in which drivers have more confidence in identifying devices that are not wise investments than those that will ensure compliance.

FMCSA has also failed to adequately train law enforcement. Recently, the Commercial Vehicle Safety Alliance (CVSA), which represents motor vehicle safety officials, announced they would conduct ‘soft’ enforcement of the mandate through April 2018. Because the serious concerns of professional drivers have not been satisfactorily addressed, we believe it would be reasonable and responsible for Congress and the Department of Transportation (DOT) to pursue a delay in implementation or suspend the mandate until these problems are fully resolved.

Concerns involving the ELD mandate and its flawed implementation are not isolated to OOIDA and small-businesses truckers. Over 30 organizations, representing a wide range of industries, have joined our calls for delaying the regulation. Many more, including large fleets who championed the mandate, have encountered serious difficulties with the regulation and pursued exemptions from its requirements. The sheer number of businesses desperate for relief perfectly illustrates what happens when the federal government recklessly embraces the “one-size-fits-all” approach to trucking regulations.

Last week, OOIDA submitted a request to DOT to exempt small trucking businesses with exemplary safety records from the mandate for a period of five years. Under the request, only motor carriers defined by the Small Business Administration (SBA) as a small-trucking business

would qualify for relief from the $2 billion regulation. Additionally, the request stipulates that only motor carriers with a record of no at-fault crashes would be exempted and those with an 'Unsatisfactory' safety rating from FMCSA would not be eligible.

If granted, this exemption would provide temporary regulatory relief to America's safest professional drivers, who have already demonstrated exceptional safety records that far exceed the large fleets who have been utilizing ELDs for years. Furthermore, it would prevent small trucking businesses, who operate on the slimmest of margins, from installing and maintaining costly fleet management devices that provide them no economic or productivity benefits.

Because this request is undoubtedly consistent with the Trump Administration's efforts to provide regulatory relief for American businesses of all sizes, we are hopeful DOT will grant it prior to the mandate's December 18th implementation deadline.

Hours-of-Service

All the negative attention associated with the ELD mandate has exposed the fact today's Hours-of-Service (HOS) requirements are a significant and foundational problem for anyone involved in trucking. HOS standards are poorly designed and do not allow truckers to operate in the safest and most responsible manner. The overly rigid and restrictive requirements fail to provide the flexibility drivers need to rest when they are fatigued, avoid congestion and evade dangerous highway conditions. Instead, these rules force truckers to drive farther and faster.

Drivers' frustration with HOS is extensive throughout our industry, with many truckers feeling as though they are constantly racing against the clock. Because we are typically paid by the mile, rather than the hour, today's HOS requirements effectively penalize drivers for stopping to rest, addressing equipment issues or even eating. With concerns about my daily allotment of drivable hours evaporating, I have skipped meals on the road to ensure I am able to reach my destination without jeopardizing compliance. Excessive waiting times for loading and unloading also use up a great deal of these available hours, as shippers and receivers have no incentive to refrain from wasting a driver's time. And they often do so since it costs them nothing to make a driver wait. Truckers often are told by policy-makers to "plan our days better", but that is virtually impossible in a setting where the rest of the supply chain is not held to the same regulations. Shippers and receivers care nothing about the 14-hour clock, making trucks essentially rolling warehouses that they will load or unload when convenient.

Unfortunately, all the problems associated with HOS are compounded by the lack of adequate truck parking in every corner of the country – one of the most serious and overlooked safety issues in trucking. On the road, I routinely begin my quest for an increasingly elusive open parking space with about 60 minutes left on my clock for fear my hours will expire before I find a safe location to stop. While I am not compensated for the time needed to find safe parking, I would certainly be penalized if I exceeded my HOS while searching. The lack of sufficient parking, coupled with the rigidity of HOS requirements, effects not only the safety, but the finances of drivers.

In recent years, Congress has taken steps to improve HOS, but more can be done to create a system that benefits both drivers and highway safety. Unlike other issues that often generate contention among large and small motor carriers, efforts to modernize HOS requirements would likely garner broad support, as the current standards burden businesses of all sizes and varieties.

While professional drivers are dismayed by the lack of relief Washington has provided on the ELD mandate and what little progress has been made on HOS, we are pleased by recent developments in other policy areas that affect our operations on a daily basis.

EPA Greenhouse Gas Emissions, Phase 2

Earlier this month, the Environmental Protection Agency (EPA) indicated it intends to exempt glider kits from Phase 2 of its greenhouse gas emissions standards for heavy vehicles. This news was applauded by owner-operators, who are more frequently purchasing glider kits because of their reliability and affordability. Excessive and costly federal regulations like Phase 2 have dramatically altered small businesses' ability to purchase new or recently owned trucks. Since 2002, federal emission reduction standards have increased the cost of a new truck between $50,000 and $70,000, as additional environmental components and systems have become required. Given a glider kit's unique assembly, prices for these vehicles are typically 25-30% less than a new truck, allowing independent owner-operators to save tens of thousands of dollars on their purchase.

While glider kits provide appealing cost savings for drivers, they are also reliable, efficient, and meet all of the required environmental and safety standards necessary for operation. If applied to glider kits, Phase 2 would have completely destroyed the domestic manufacturers of the equipment, jeopardizing quality jobs and eliminating the ability of small trucking businesses to acquire the vehicles that meet their needs.

We are pleased by the EPA's change of heart on the regulation of glider kits, but it's important to remember this unique problem was the result of a much broader issue involving environmental regulation in the trucking industry. As a small-business trucker, fuel is my largest expense. Operating on the slimmest of margins, I am constantly looking to reduce my fuel costs when it makes economic sense to do so. I don't need the EPA to mandate requirements, like Phase 2, to improve my efficiency because I'll make those improvements on my own, when I can afford them. Additionally, truck manufacturers have an economic incentive to develop and market vehicles that help drivers improve efficiency and cut costs. Environmental requirements that provide no improvements to efficiency also disproportionately impact small-business truckers, who, unlike large fleets, are less capable of phasing-in new technology over time or purchasing multiple units at discounted rates.

With its recent decision on glider kits, the EPA has signaled it is moving away from its "one-size-fits-all" approach to the Phase 2 rule, but a fundamental change in the agency's overall philosophy on trucking regulations remains necessary.

Minimum Insurance Liability Coverage

In another victory for small-business truckers, the Trump Administration this summer withdrew a proposed rulemaking on increasing the minimum liability insurance level for motor carriers.

Today, motor carriers are required by law to carry $750,000 in liability insurance, though most small trucking businesses maintain policies that provide $1 million in coverage. Despite the fact less than 0.2% of truck-involved accidents result in property and personal injury damages that exceed current minimums, some large motor carriers and trial lawyers have sought to increase levels to well over $4 million. Because many of our nation's largest fleets are self-insured, many would hardly be impacted by these increased costs. This is precisely why several corporate motor carriers support calls for dramatic increases to insurance minimums – they understand a 500% spike in policy premiums would essentially be a death sentence for their small-business competitors like me.

To ensure the survival of hundreds-of-thousands of small trucking businesses, elected officials must follow the administration's lead and reject efforts to dramatically increase minimum liability insurance.

Driver 'Shortage'

Recently, corporate motor carriers have peddled the myth of a national driver shortage as a means to advance legislative and regulatory priorities that would actually harm drivers. The real problem in today's trucking industry is an astronomically high turnover rate and overcapacity of trucks - both perpetuated by large fleets.

In its quarterly report, issued earlier this fall, the American Trucking Associations (ATA) indicated the driver turnover rate among large truckload carriers is a whopping 90%. Some individual fleets are currently experiencing embarrassingly high turnover rates above 100%. With FMCSA reporting over 440,000 new CDL holders entering the workforce each year, the problem clearly isn't finding enough drivers, it's keeping them behind the wheel. This churn of drivers is exacerbated by large fleets, who continue to drive down trucker compensation and do little to improve increasingly difficult working conditions.

Overcapacity is also widespread among the large fleets. While pleading for help from Washington to address the mythical driver shortage, corporate motor carriers routinely blame the overcapacity of trucks within their own fleets for lower than expected earnings. Clearly, there are more trucks on the road than freight to haul.

If I lost a driver in my fleet tomorrow, I would certainly have a difficult time replacing him or her – not because there is a lack of CDL holders looking for employment, but because I prefer to hire drivers who have demonstrated a history of reliability and responsibility. Conversely, corporate motor carriers would rather advance legislative and regulatory proposals that help them put younger, less experienced and poorly trained drivers behind the wheel.

When being sold policies to increase CDL holders in the workforce, Congress must consider the real world implications of these short-sighted proposals. Often, these policies are meant to enhance corporate revenue at the expense of drivers and highway safety.

Unified Carrier Registration System

While not a regulation, I would be remiss not to address drivers' ongoing frustration with the Unified Carrier Registration (UCR) system, a federally-authorized tax imposed on truckers that no longer serves a purpose and is administered with a distinct lack of transparency. I am particularly familiar with the system and its myriad shortcomings because I serve on the UCR's Board of Directors, which is comprised of federal and state officials, as well as representatives of the trucking industry.

The system was established in the 2005 highway bill, known as the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), for the purpose of maintaining a single national register of motor carriers conducting interstate travel. Drivers have many concerns with the system, starting with the significant inequity in the assessment of fees. The current tax structure is particularly burdensome and costly for single truck operators or small fleet carriers, who unjustifiably pay higher taxes per truck than large fleets.

Transparency within the program is severely lacking. Often, it is difficult to determine precisely what programs UCR taxes are supporting within the 41 participating states. We do know many states use UCR revenue as a non-federal match for Motor Carrier Safety Assistance Program (MCSAP) funding, which is devoted primarily to enforcement. Essentially, these states are utilizing a federally-authorized tax on motor carriers to leverage additional federal funding for the policing of them.

Unfortunately, the UCR board, which oversees the entire system, is incapable or unwilling to address the concerns of truckers routinely voiced by their representatives on the panel. The time has come for Washington to take a closer look at the UCR and determine whether the system remains necessary. Since its inception, UCR has never been audited by the DOT Inspector General. A federal audit of how states are using UCR revenue and MCSAP funding would be a constructive first step to determine if the system is meeting its objectives. Congressional oversight of UCR is also badly needed and should occur more regularly. Since its launch, the system has never been the focus of a Congressional hearing. Improved oversight of UCR would help elected officials better understand the system and its impact on motor carriers.

Conclusion

Mr. Chairman, thank you again for the opportunity to testify. Because our industry is so heavily regulated and intrinsically complex, there are many, many more issues I would love to bring to the Committee's attention today. Instead, OOIDA will be submitting more information for the record.

I look forward to hearing my fellow panelists testimony and answering your questions.