

TESTIMONY BEFORE  
THE  
SENATE ENVIRONMENT AND PUBLIC WORKS  
COMMITTEE  
October 25, 1979

Good morning. I would like to thank you, Mr. Chairman, and the Members of this Committee for the opportunity to testify on the truck size and weight issue. Accompanying me today is Mr. Don Trilling, Director of the Office of Intermodal Transportation in the Office of the Secretary. Also with us today are

Today I would like to discuss some of the things which we are doing in the truck size and weight area and our legislative initiatives designed to meet the pressing problems which face us.

S. 1689

I would like to begin my testimony today by discussing S. 1689 introduced by Senator Randolph for the Administration. The key issues in the size and weight area are energy savings and highway maintenance costs, and we believe the Administration bill appropriately balances these considerations.

The motor transportation industry has been especially affected by recent fuel shortages, both by the limited availability of diesel fuel and by price increases. Independent truckers demonstrated their frustration with this situation by temporarily suspending their operations a few months ago and by threatening to do so again.

The independent truckers feel strongly that one way to address this problem is for the Federal Government to establish uniform weight and length

limits on Federal-aid highways. As you know, current Federal law establishes permissible maximum weight limits for the Interstate System of 20,000 pounds on a single axle, 34,000 on a tandem axle, and 80,000 pounds gross weight. The allowable gross weight is calculated by applying the so-called bridge formula.

By incorporating the number of axles and the wheelbases between axle groups for each vehicle configuration, the calculated, allowable, gross weight is often less than the maximum 80,000-pound limit.

While some States, by virtue of grandfather provisions, can permit higher overall weights on higher axle weights, 13 States and the District of Columbia have chosen not to raise truck weight limits to the permissible maximum. Because a number of these States straddle major east-west or north-south transportation arteries, it is difficult for a truck driver to travel legally from coast to coast, or to reach the central Northeastern markets, with a full load of 80,000 pounds.

At the urging of the Administration during the extreme fuel shortage period this summer, six States and the District of Columbia originally took action to temporarily increase their gross vehicle weight limits, but in four of these States the action was declared illegal or has expired. Also, their beginning and expiration dates were not uniform and have resulted in misunderstandings by many truckers as to required fees and applicability of the relief.

S. 1689 is designed to address the problem of lack of uniformity during national emergency conditions which results from some States not having temporarily increased their gross vehicle weight limits. This bill would establish national standards regarding the weight and length of vehicles using the Interstate System during Presidentially declared 90-day fuel emergency periods.

Fuel shortages are a nationwide problem which require a nationwide response. During a period of fuel emergency the benefits to be derived from uniform size and weight limits will offset possible local adverse impacts upon highway pavement and bridges.

The 80,000-pound permissive maximum limit established in 1975 was viewed as a means of increasing productivity and of saving fuel, responding to the effects of the 1973 oil embargo. At the time of that increase, the available evidence indicated that the axleload increases would result in a 20 percent increase in pavement maintenance costs. We believe that increased maintenance costs attributable to temporary weight increases pursuant to S. 1689 will be acceptable in view of the temporary nature of those increases and the fact that they will be imposed only during a national fuel emergency. Further, we believe that any such increases will be offset to some extent by fuel and efficiency savings which will result from the uniform standards.

However, we believe that consideration of whether Federal law should permanently mandate an 80,000-pound weight limit in all States should await the results of the uniform weight limit study called for by section 161 of the Surface Transportation Assistance Act of 1978.

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The total Department effort in this study is comprehensive and will address such issues as the cost and benefits of uniformity, including economic impacts upon States and regions, the effects upon modal competition, the impacts upon the design, rehabilitation and maintenance of highway and bridge facilities, and the effects on energy consumption, highway safety,

and environmental conditions. The analysis and findings from this effort will be closely integrated with the highway user cost allocation study which is being performed by the Federal Highway Administration. We are currently working with the Office of the Secretary to identify ways to ensure this integration. We will coordinate requests for data and information from the States and provide for State participation in both studies as required by law.

#### HIGHWAY COST ALLOCATION STUDY

The Cost Allocation Study required by Section 506 of the Surface Transportation Assistance Act of 1978 is now underway. In part, the study will analyze costs and impacts on roadway construction and maintenance associated with different vehicle classes. The Highway Cost Allocation Study Plan was submitted to Congress on June 27, 1979. The plan gives specifics on the study's scope, cost assignment procedures, data needs, and budget requirements. The study approach is strongly based on guidelines developed by the Congressional Budget Office.

This study will be coordinated with the study of truck size and weight limitations required by Section 161 of the Surface Transportation Assistance Act. Possible change in allowable size and weights will be considered and the recommended tax structure for heavy vehicles will be based on the cost attributable to them.

### SECTION 211 STUDY OF OUTSIZED VEHICLES

On September 10 the Secretary transmitted a report to the Congress as required by section 211 of the Surface Transportation Assistance Act. This report was a review of the relative safety of the operation of vehicles with unusual configuration characteristics. The study indicates that the current procedures for controlling the use of these vehicles are adequate and new legislation in this regard is not required at this time.

### SECTION 123 STUDY ON SPECIAL PERMITS AND FINES AND PENALTIES

Section 123(a) and (b) of the Surface Transportation Assistance Act requires the Secretary, in cooperation with the States, to inventory the States' existing systems of penalties for violation of vehicle weight laws and their existing systems for the issuance of overweight special permits.

Information for the inventories has been obtained from the respective State highway organizations both in written form (printed materials and summaries) and by consultations with appropriate State officials. To date, a total of 41 States, the District of Columbia and Puerto Rico have been consulted.

The penalty statutes and practices for violation of vehicle weight laws are being analyzed in the following nine categories: penalty for first offense, penalty for second and subsequent offenses, court of jurisdiction, responsibility for the violation (owner or operator), unloading procedure, load shifting procedure, bond posting requirements, suspension of operator's license and penalty by points, and other penalties.

The overweight permit inventory information is being examined in the following eight categories: agency responsible for the issuance of special permits, application procedures, written regulations, permits for divisible/indivisible loads, type of permit and fee, use of fee, weight restrictions, and penalties for violation.

We have made satisfactory progress on this report, after some initial delay, and a report should be submitted by January 1, 1980.

#### SIZE AND WEIGHT CERTIFICATION REGULATION

On March 9, 1979, the Federal Highway Administration (FHWA) issued a Notice of Proposed Rulemaking (NPRM) setting forth the requirements for administering a program of vehicle size and weight enforcement on Federal-aid highways, including the annual certification by the State required by 23 U.S.C. 141. This rulemaking incorporated the changes made by section 123 of the Surface Transportation Assistance Act.

The proposed regulations augment the prescriptive approach of the existing regulation, which has not been sufficient to gauge State efforts. The proposed regulation requires each State to formulate an enforcement plan which, once approved by FHWA, will become the benchmark against which enforcement accomplishments can be measured. We expect to work closely with the States in developing their enforcement plan. We will evaluate each program each year and assess accomplishments and shortcomings through the certification review process.

Under the proposed regulation, the FHWA will formally notify the States of any program deficiencies in advance. The regulation also establishes a procedure for the imposition of penalties. The procedure

incorporates the opportunity for informal resolution when a State feels that certification results can be explained or when additional efforts can be instituted. Failing informal resolution a hearing is provided prior to any final action on a penalty.

The comment period on this regulation closed in June. Twenty comments have been received, the majority from State organizations (highway/transportation, highway patrol, or motor vehicle departments). The comments indicated mixed reactions to the proposal, with the greatest concern centering around increasing Federal program requirements in a traditionally State activity. Concern was evidenced that reporting requirements be reasonable. [The desirability of the need for explicit criteria or guidelines was also cited as a weakness of the proposed rule.] These comments are under review and will be considered as we develop the final rule.

When we issue the final rule, we will publish guidelines which will give the States an idea of the questions which they should address in developing an enforcement program. In general, we strongly feel that a minimum program should possess a 24 hour, high volume weighing capacity (permanent scales or weighing in motion equipment); sufficient portable scales should be available to reduce by-passing of the high-volume equipment; one State agency should be designated to coordinate State enforcement activity; and sufficient funding should be available to provide for shift differential or overtime pay in order that around-the-clock weighing can be maintained.

#### CURRENT CERTIFICATION ACTIVITIES

As you are aware, 14 States were notified last year by the Secretary that he was considering the cut-off of project approval for Federal-aid

projects due to questionable compliance with the enforcement requirements of 23 U.S.C. 141. These States were offered the opportunity for an informal hearing at which they could show cause why the Secretary should not take this contemplated action. Twelve other States were sent letters indicating that they had potential program deficiencies.

Each of the 14 States subject to penalty requested and was granted an informal hearing. One State submitted revised certification data at its hearing which resulted in the State's removal from this category. Each of the remaining 13 States made commitments to increase efforts. Based on these commitments, no State was subjected to program sanctions last year. I submitted a report to the Public Works Committee of both the House and the Senate and the State highway departments in all of the States at the conclusion of the informal hearings which also included discussions held with a number of other States on enforcement efforts.

Most of the States have indicated a degree of good faith by beginning the implementation of the commitments made at the hearings. However, further efforts are underway to bring our assessments of these States up to date.

Review of the certifications on January 1, 1979, has now been completed. In general, citations for overweight vehicles nationwide have increased by approximately 10 percent, from 536,460 to 581,837, which indicates that many of the States have shown improvement in the ability to detect violators. Based on an analysis of the various elements of the certification, including vehicles weighed, citations issued, and equipment used in weight enforcement programs, 4 States, Delaware, Texas, Massachusetts and Wyoming were notified that they could lose a portion of their section 104

apportionment for continuing program weakness. Informal hearings have been held with Delaware, Texas and Massachusetts and a hearing is scheduled with Wyoming in the near future. Delaware and Texas revealed significant improvements in detecting and deterring violators and, based on these improvements as well as indications of future activity, I have determined that no funds will be withheld from these States. Massachusetts indicated a willingness to implement improvements and I am awaiting a program prospectus from that State prior to making a final decision. I have informed the Governor of Wyoming that I am reserving from obligation 10 percent of apportioned funds for a period of 60 days pending a review of Wyoming's enforcement program.

I also indicated my concern over the decreasing numbers of vehicles weighed or violations cited in the States of Kansas, Nebraska, Tennessee and New Mexico. The FHWA staff met with these States on an informal basis in order to resolve the questions which we have concerning their program. All have explained the reason for the decrease in activity and have indicated a willingness to make future improvements.

The FHWA staff is also reviewing the progress of those States involved in last year's hearings. At the completion of that review, further action will be taken with respect to those States which are not making progress in implementing program improvements.

Finally, special permit practices in several States, New Mexico, Nebraska, Colorado, and South Dakota, which had been issuing special permits to vehicles permitting weights above 80,000 pounds on the Interstate, were thoroughly examined and the States were notified that these practices were inconsistent with 23 U.S.C. 127. The States were informed that they must cease these

practices within a reasonable time or they would lose future Interstate apportionments. New Mexico and Colorado have ceased the issuance of these permits; Nebraska has consented to cease issuing them within the near future; and South Dakota is seeking to establish its grandfather right under 23 U.S.C. 127.

#### SAFETY DEMONSTRATION PROGRAM

Because of our concern about the safety implications of commercial vehicles being operated in a grossly overloaded condition, the Administration sought and Congress authorized in FY 1979's appropriation a Motor Carrier Safety and Weighing Demonstration Program. This demonstration is funded at \$3 million and is intended to test the hypotheses that expanded and improved State weighing and safety inspection efforts will have a measurable effect on weight compliance, and on reversing the adverse trend in truck related highway accidents. Agreements have been reached with the States of Idaho and Utah for participation in the Demonstration Program and negotiations are continuing with Michigan and Alaska for the selection of the final State for entry into the Program.

#### THE GAO REPORT

In its recently issued report "Excessive Truck Weight: An Expensive Burden We Can No Longer Support," the General Accounting Office (GAO) emphasized the need for an improved Federal role which would incorporate an improved certification procedure, a model weight enforcement program, adequate penalties at the State level, and assurances that complete geographic coverage is achieved (particularly within urban areas). In discussing all of these items, the GAO recommends the establishment of a weight enforcement operating group within the FHWA.

We are not in disagreement with the report on any of these items. However, we have some differences of opinion with respect to the manner of implementing these recommendations in order to achieve realistic goals.

The certification procedure has received considerable attention and is currently undergoing a complete revision. The new procedure addresses many of the concerns of the report. One of the major goals of the entire process is to develop a meaningful data base upon which substantive program improvements can be predicated. I must reiterate at this point that we do not agree that criteria can be established to require a specified level of compliance which at the same time are "broad enough to allow States to meet these criteria in a manner best suited to their particular situations." The GAO report recognizes that individual State variances exist.

Under these conditions, it is difficult to ascertain at this time what techniques have been successful in reducing violations. It is going to take us longer to identify whether heavy fines, unloading, 24-hour coverage, fixed scales at State perimeters, or heavy reliance on mobility does in fact effectively discourage violations.

As we work with the States in developing their State enforcement plans, we will identify and incorporate successful techniques. We are also encouraging the participation of the American Association of State Highway and Transportation Officials (AASHTO) and regional groupings such as the Western Association of State Highway and Transportation Officials (WASHTO) and the Southern Association of State Highway and Transportation Officials (SASHTO), in developing appropriate regional strategies for placement of permanent scales and scale design, and for detecting vehicle traffic patterns.

On our part, we will inform the States of penalty structures and techniques which are successful and we will disseminate information on enforcement methods as they become more fully developed and integrated into State budgetary processes.

There is a recognized need for improvement of enforcement efforts, particularly in urban areas and we will concentrate on this in the coming year. The States will be required to provide enforcement information on these areas. Where it can be ascertained that enforcement is lax or nonexistent, the States will be subject to the loss of Federal funding. Each State will be required, in developing an enforcement plan, to coordinate ongoing activities in every jurisdiction within its borders.

The responsibility for coordinating and reviewing the certifications is currently in the Office of Traffic Operations. The program responsibilities in this area are administered consistent with FHWA policy in all other areas. In addition to the personnel in the Office of Traffic Operations, substantial assistance is provided in the weight certification activities by the Office of the Chief Counsel, the Office of Planning, the Bureau of Motor Carrier Safety, and all other operating elements within the FHWA which participate under the umbrella framework of a Size and Weight Task Force. Each region has identified personnel to coordinate size and weight activities and the FHWA Division offices are becoming integrated into this process. This framework provides an identifiable focal point as recommended by the GAO report both for certification review activities and for gathering and disseminating information in connection with enforcement activities.

The goal of the FHWA administrative effort in this respect is to identify successful techniques which can be incorporated on a national basis to achieve consistency in approach and to eventually reduce the incidence of violations in size and weight activities. There is no distinction between the desired goals of the FHWA and the GAO, as expressed in its report.

Thank you for the opportunity to appear before you to discuss these crucial issues. I would be pleased to answer any questions the Committee might have.