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ACCOMPANIED BY KENNETH L. PIERSON,
DIRECTOR, BUREAU OF MOTOR CARRIER SAFETY,
FEDERAL HIGHWAY ADMINISTRATION,
BEFORE THE SENATE COMMITTEE ON COMMERCE,
SCIENCE AND TRANSPORTATION,
SUBCOMMITTEE ON SURFACE TRANSPORTATION
HEARING ON S. 2174, "THE MOTOR CARRIER SAFETY ACT OF 1983"

February 9, 1984

Mr. Chairman, Members of the Committee:

I am pleased to appear before this Committee to discuss S. 2174 the "Motor Carrier Safety Act of 1983." Ken Pierson, Director of the Bureau of Motor Carrier Safety, Federal Highway Administration, is with me and will also be available to respond to your questions. Secretary Dole asked me to express her regret at not being able to attend this morning's hearing and to assure the Committee that she believes S. 2174 would provide vital improvements for the Department's motor carrier safety program. The Secretary has also asked me to submit for the record a letter stating the Department's position on this bill.

Before turning to the substance of S. 2174, Mr. Chairman, I am pleased to advise the Subcommittee that Secretary Dole recently awarded \$6.9 million in Federal safety grants. These grants, which went to 40 States, are designed to improve State monitoring and enforcement of commercial motor vehicle rules. We expect grants this year to total \$8 million. Moreover, as a recognition of the importance of this program, the President's budget seeks a doubling of the size of this program in fiscal year 1985. I should note that this program is a direct outgrowth of the work of this Committee as part of last year's nickel gas tax increase. We can all take pride in this cooperative Federal-State effort.

DOT, and Secretary Dole in particular, have placed a high priority on improving safety in all forms of transportation -- especially in highways, where more than 90% of all transportation-related fatalities occur. Thus, we have been pleased to work with the Committee and its staff to fashion a motor carrier bill that would provide the tools necessary to ensure the operational safety of carriers in interstate commerce, without imposing new burdens or paperwork on the industries or impinging on the rightful prerogatives of the States. S. 2174 is designed to provide increased protection for the traveling public and motor carrier employees by reducing the risks of accidents involving commercial motor vehicles.

Background

The Federal government has regulated the operations of motor carriers in interstate commerce since 1935, and safety has been a prime consideration since the issuance of the first interstate motor carrier certificate of convenience and necessity in 1936. In 1939, the Interstate Commerce Commission issued the first set of motor carrier safety regulations applicable to for-hire carriers, and in 1940, extended those rules to private motor carriers.

Three and one-half years ago, Congress enacted the Motor Carrier Act of 1980, which reversed nearly a half-century of economic regulation of the trucking industry and stimulated competition for carriers and shippers alike. Congress opened up similar competitive opportunities for the intercity bus industry with the passage of the Bus Regulatory Reform Act of 1982. But

Congress did not intend in any way to deregulate motor carrier safety; and DOT shares your view that the Federal government should continue to improve its efforts to assure the safe operation of trucks and buses in interstate commerce. The safety sanctions contained in the original 1935 Act have changed little over the ensuing 49 years. The penalty provisions for violations of the Federal Motor Carrier Safety Regulations, generally speaking, provide for criminal fines of not more than \$5,000 for recordkeeping violations; civil penalties of not more than \$500 for recordkeeping violations by common and contract carriers only; and criminal fines of \$100 to \$500 for all other types of violations.

When the ICC first issued motor carrier safety rules in 1936, they applied to about 100,000 business entities, almost all sole proprietorships or family-held businesses. Today, those safety rules, which are now enforced by DOT's Bureau of Motor Carrier Safety, apply to more than 200,000 business entities, including transcontinental carriers and large private carrier fleets, as well as smaller truck and bus companies.

The Safety Record

Motor carriers subject to Federal safety regulations are required to submit reports of accidents involving more than \$2,000 in property damage, or involving any fatality or injury requiring treatment away from the scene. DOT converts these reports to an automated data base and tracks the trends in the safety of operation of motor carriers of property and passengers. This data base is developed from some 30,000 reported accidents each year,

including an average of 750 intercity passenger bus accidents. These accidents represent a serious societal cost to the Nation. For example, in 1982, the 31,759 reported truck accidents resulted in 2,479 fatalities, 25,779 injuries, and \$321 million in property damage.

I want to emphasize that we have seen no evidence that the recent economic deregulation of the trucking and bus industries has had any effect at all on safety compliance. Indeed, there has been little change in the number and types of violations of our motor carrier safety regulations, despite the considerable increase in numbers of new carriers over the past three years.

Accident rates for carriers subject to Federal jurisdiction have remained rather constant -- about 3.0 per million miles of travel for trucks and 0.6 per million miles for intercity buses. While those rates are low, the problem is still a serious one, given the number of commercial vehicles on the highways and the annual mileage traveled by these vehicles each year. We believe this performance can and must be improved.

The Solutions

We believe that improvements along the lines of S. 2174, coupled with the new Motor Carrier Safety Assistance Program authorized by the Surface Transportation Assistance Act of 1982, and our proposal to transfer the Bureau of Motor Carrier Safety into a new National Traffic Safety Administration, will go a long way toward focusing the Department's

resources and enlisting State assistance in a concerted national strategy to reduce motor carrier accidents substantially. From the results of our 1979-1982 four-State demonstration program, in which stepped-up State motor carrier safety enforcement efforts resulted in an average 30 percent decrease in truck-involved accidents, we are confident significant improvements are possible.

Views on the Bill

We certainly share your view on the need for review and revision of motor carrier safety regulations; for restating and improving the penalty provisions; for annual State inspections; for heavy truck research; and for special studies on truck occupant protection and emergency warning devices.

The Department has long sought statutory authority to punish violations of Federal motor carrier safety regulations as civil penalties, including authority for significant fines. At present, DOT has civil penalty authority only with respect to reporting and filing violations, and even this limited authority does not reach private carriers. While current law does permit us to punish violations with criminal penalties, that authority is unworkable in many instances. As you know, in order to obtain a conviction and impose criminal penalties, a prosecutor must prove, to the satisfaction of a court, that a violation was knowingly and willfully committed, thereby frustrating the imposition of penalties in many cases. Further, because of heavy criminal case loads in many districts around the Nation, cases may be several years old before they come to trial. We believe the general civil

penalty authority of S. 2174 will greatly increase our ability to punish serious violations of our safety regulations and, just as importantly, improve our ability to deter violations of those rules in the first place.

However, we would like to make one observation concerning this provision. It would appear that the provision as currently drafted could be interpreted as creating civil penalty authority for only two classes of violations: (1) recordkeeping, and (2) a substantial health or safety violation which could reasonably lead to or has resulted in serious personal injury or death. This latter class would then require the Department to identify certain regulations as more "substantial" than others, and would deny civil penalty authority for violations of the "less substantial" regulations. In our view, that distinction is unnecessary, and could hamper our enforcement efforts. We believe that all the Federal Motor Carrier Safety Regulations are designed to promote and protect public safety. To avoid any possible confusion, we recommend clarifying the provision to provide that civil penalties may be imposed for any violations. The penalties should be based, in part, on the severity and nature of the particular violation.

We also have some concern about the preemptive aspects of section 11 concerning State regulation. Section 11(a) allows more stringent commercial motor vehicle safety requirements by States if the Secretary determines that there is a compelling local safety need for the State regulation, that the State requirements are not incompatible with Federal safety requirements, and that they will not unduly burden interstate commerce. Because of concerns about preemption, we believe that the burden of proof in section 11(a) should be

reversed. This would permit a State to adopt or continue a more stringent law or regulation unless the Secretary found, after notice and opportunity for comment, that the State rule would unduly burden interstate commerce. Moreover, the current language of section 11(a) would burden us with numerous petitions from a variety of sources for administrative findings as to the "acceptability" of State requirements, and require expenditure of limited resources in staffing out such determinations. Since we also recognize the need in interstate commerce for consistency in safety standards among the States to avoid unnecessary delays and costs to truck and intercity bus operators, we would be pleased to work with the Committee on revised language for this section.

Conclusion

On balance, we believe S. 2174 is a very positive bill, and its passage will be most helpful to DOT in fulfilling our responsibility for motor carrier safety and improving safety on the public highways. Your Committee is to be commended for its efforts; we will be pleased to work with you to assure prompt action.