

STATEMENT OF RICHARD LANDIS  
ASSOCIATE ADMINISTRATOR FOR MOTOR CARRIERS  
FEDERAL HIGHWAY ADMINISTRATION  
BEFORE THE  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION  
UNITED STATES SENATE

February 18, 1986

I am pleased to appear here today on behalf of the Federal Highway Administration (FHWA) to discuss the issue of alcohol and drug abuse in the commercial motor vehicle sector of the transportation community. This hearing affords an excellent opportunity to focus attention on a significant problem confronting motor carriers, drivers of commercial motor vehicles and the traveling public.

Authority

The Secretary of Transportation has delegated to the FHWA the statutory authority to regulate the qualifications of commercial vehicle drivers and the safety of trucks and buses operating in interstate and foreign commerce. This authority includes the safety provisions of title 49, United States Code, as well as the Motor Carrier Safety Act of 1984. Pursuant to these statutes the FHWA has promulgated rules and standards pertaining to motor carrier companies and commercial vehicle drivers to cover preemployment checks, periodic physical examinations, disqualification criteria for use or possession of alcohol or other drugs, including driving traffic record check, previous employment record, and validation of driver experience claimed, and the transportation of contraband.

### The Rules

The Federal Motor Carrier Safety Regulations (FMCSR), 49 CFR Parts 390-399, establish special requirements for motor carriers and drivers engaged in interstate and foreign commerce. The effect of these rules reaches well beyond interstate and foreign commerce because the regulations have been adopted by thirty-three (33) States for application to intrastate carriers and drivers. Moreover, many carriers establish their own rules which are more stringent than the minimum Federal requirements.

In order to drive in interstate or foreign commerce, an individual must be examined by a physician to determine medical qualification of the driver. Any individual who is clinically diagnosed as dependent upon alcohol or a Schedule 1 drug or other substance (as defined by the Drug Enforcement Administration), an amphetamine, narcotic, or any other habit-forming drug, is not physically qualified to drive, and a medical physician may not certify such an individual as qualified to drive. Drivers are required to be medically recertified every 2 years.

Driver applicants must also furnish information to the motor carrier about all accidents in which the applicant has been involved in the preceding three years, all violations of motor vehicle laws or ordinances (other than parking, but including drunk or drugged driving) of which the individual was convicted or forfeited bond during the preceding 3 years, and all information related to a denial, revocation, or suspension of driving

privilege. The regulations also require the motor carriers to annually review the driving record of each of its drivers and for each driver to sign a certificate stating his record of violations for the year.

Drivers who have had their licenses revoked or suspended are disqualified from operating in interstate or foreign commerce until their privilege to drive has been restored. Some drivers now carry more than one license to spread out their record of violations to lessen the chance that any one license will be revoked. This has been a major issue for the Department and we are looking at ways to address the problem of multiple licenses.

Further, a driver who is convicted of (or who forfeits a bond) certain offenses is disqualified for 1 year from driving in interstate or foreign commerce, if it is a first offense. These offenses include: operating a motor vehicle while under the influence of alcohol, a Schedule I drug or other substance (as defined by the Drug Enforcement Administration), an amphetamine, a narcotic drug, a formulation of an amphetamine, or a derivation of a narcotic drug. Repeat offenders are treated more harshly with a 3-year disqualification.

The FMCSR further prohibits the operation of a commercial motor vehicle by an individual using alcohol or other drugs. Section 392.4 provides that no driver shall be on duty (not just driving) and possess, be under the influence of, or use any Schedule 1 drug or

substance, narcotic or any derivative thereof, amphetamine or any formulation thereof, or any other substance which renders a driver incapable of safely operating a motor vehicle. A motor carrier that allows a driver to go on duty after using alcohol or drugs is also in violation of the regulations. The provisions of this regulation do not apply to a driver who possesses or uses a drug under the instructions of a physician who has advised the driver that the substance will not affect the driver's ability to safely operate a motor vehicle.

No person may consume an intoxicating beverage, or be under the influence of an intoxicating beverage, within 4 hours before going on duty or operating a vehicle. Commercial vehicle drivers are prohibited from possessing or consuming an intoxicating beverage, or being under the influence of an intoxicating beverage, while on duty or operating a vehicle. Motor carriers are prohibited from permitting or requiring a driver to operate a vehicle if the driver appears to have consumed an intoxicating beverage within the preceding 4 hours.

The FHWA is presently conducting a proposed rulemaking to revise the drug rule and medical standard to prohibit the simple use of drugs as contrasted to the present requirement of a clinical diagnosis of drug dependency. This rule was published on October 1, 1985 and some 214 commenters have submitted their views to the docket. Our preliminary review of the docket found an overwhelming majority of commenters in support of the proposed

5

tightening of the rules. The commenters included States, physicians, motor carriers, trade associations, and individuals.

### Use in the Industry

A review of the studies on the issue of alcohol and drug use on the public highways reveals that the bulk of the literature relates to automobile drivers rather than commercial vehicle drivers. However, the resulting trends can reasonably be projected to include the commercial drivers. For instance, studies have shown an increased incidence of drug presence in highway collisions.

A little over 2 years ago, the FHWA's Bureau of Motor Carrier Safety (BMCS) conducted a review of recent alcohol studies. From this review we determined that in fatal crashes the percentage of commercial vehicle drivers with measurable blood alcohol had jumped from a historical 3-5% to just above 14% in 1980.

A recent report published by the Insurance Institute for Highway Safety noted that more than 25 different drugs were found in the blood of young California men (age 15-34) who were killed while driving non-commercial motor vehicles. One or more kinds of drugs were found in the blood of 81% of the 440 drivers tested. Eighty-seven percent (87%) of the drivers with one drug in their blood were found to have been responsible for their crashes, while 96% of those with two or more kinds of drugs evident were found at fault in their accidents.

While we are not aware of any documented clinical studies discussing the use or abuse of drugs by drivers of commercial vehicles, we have found many reports based on individual carriers'

experience in the preemployment drug screening of prospective new employees.

For example, a laboratory which performs drug screening for several major carriers indicates that it has found that 13-18% of drug screenings done for reexaminations were positive. This has occurred even where carriers have given employees 30-60 days advance notice that the drug screening was to be conducted.

Another carrier which did drug screening on 863 persons (including current employees, casuals, and job applicants) found that 118 of the tests (17%) were positive. A carrier screening applicants in a major Midwestern city found that 47% of the applicants had positive drug screens.

In a separate incident, the safety director of a motor carrier, while making spot checks of his company's tractors, found evidence of marijuana use. An ensuing in-depth investigation resulted in the discharge of 50% of the drivers at the terminal involved.

#### Future Actions

We believe our current rulemaking will give motor carrier management new tools to screen out individuals who abuse alcohol or other drugs and who use drugs illegally. We do not want these people operating commercial vehicles on our highways.

Moreover, the significant increase in roadside inspections conducted by the States under the Motor Carrier Safety Assistance Program as authorized by the Surface Transportation Assistance Act of

1982 will go a long way towards intercepting and removing drivers operating vehicles while under the influence of drugs or alcohol.

Finally, the requirement in the new Motor Carrier Act of 1984 to review, revise, and readopt the Federal Motor Carrier Safety Regulations provides an opportunity to reexamine the regulatory standards currently on the books, and strengthen them where required. As an example, DOT is considering the feasibility and effectiveness of a mandatory drug screening requirement for drivers of hazardous materials and cargo tanks.

Since enforcement of the laws against highway drug and alcohol abuse is primarily a State function, we do not believe more legislation at the Federal level is needed unless it specifically makes the job for State and local officers easier. For example, we are examining ways to assist the States in improving licensing, screening, and disqualification systems for drivers in intrastate commerce. Some of the ways include conduct of research into improved licensing methods, upgrading the National Driver Register, and promoting State adoption of administrative disqualification of unfit drivers as is done at the Federal level.

Again, we appreciate the opportunity to express our views, and we gladly offer our assistance to the Committee and its staff in working out new solutions to our current drug and alcohol abuse problems in the motor carrier industry.

That concludes my prepared statement. I will be pleased to answer any questions you may have.