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BEFORE THE SURFACE TRANSPORTATION SUBCOMMITTEE
OF THE
SENATE COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

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Mr. Chairman and members of the Committee, I am pleased to have the opportunity to meet with you today and to provide the Department of Transportation's views on the two proposed bills you are considering today. With me today are Deputy National Highway Traffic Safety Administrator Jeffrey Miller and Associate Administrator for Motor Carriers Richard P. Landis. We appreciate the efforts and cooperation of the Congress, and particularly this Committee, to help improve motor carrier safety. As you know, Secretary Dole has made it her number one priority to improve transportation safety and I am pleased to say that since 1981, the combination truck fatality rate has been declining.

Our common objectives are to improve the safety of our Nation's highways for all users and to be responsive to everchanging conditions affecting the truck and bus industries. However, it is unfortunate that today is one of those occasions when the Department and the Congress disagree about how to best achieve our shared objectives. DOT does not support enactment of S. 747 and S. 861 because we feel they are unnecessary and will not enhance DOT's ability to manage motor carrier safety programs.

S. 747

Creating a separate modal administration would be an expensive and inefficient means of addressing the Department's motor carrier responsibilities. It would result in three agencies within DOT dealing with motor carrier issues -- a motor carrier administration would assume responsibility for regulating motor carrier safety; the National Highway Traffic Safety Administration would continue to establish vehicle manufacturing standards; and the Federal Highway Administration (FHWA) would continue to establish cost allocation, user fees, and highway operating policies directly affecting motor carriers and all other highway users. This would hinder the coordinated planning and implementation of policies associated with motor carrier issues.

Additional staff and resource overhead would be required to support a separate motor carrier administration. Last year GAO estimated that an additional \$2.4 million and 30 staff would be needed annually to support a motor carrier administration under similar legislation introduced in the last Congress. We believe the needs would actually be much higher. Regardless, the organizational structure and the day-to-day working relationship with States would not come close to mirroring what occurs now through FHWA's network of regional and division offices located in all the State Capitals and other major cities. Our current organizational arrangement is responsive to the States and compatible with their motor carrier functions.

The current organizational arrangement within the Department provides the appropriate perspective for the Secretary to address the concerns of the motor carrier industry when formulating transportation policy and making decisions affecting the industry. The Secretary relies on the Federal Highway Administration to take the lead in resolving an array of interrelated motor carrier issues including safety requirements, taxes, cost allocation, and highway investment. Industry's views are balanced within the broader context of highway needs and the concerns of all highway users.

The FHWA Associate Administrator for Motor Carriers serves as the primary focal point in the DOT for contacts with the motor carrier industry on all motor carrier transportation matters. This official is instrumental in proposing new and revised legislation and in developing rules, policies, and procedures to carry out the Department's responsibilities for motor carrier transportation. Through this organizational arrangement, we are providing a high level point of access within the Department for representatives of the motor carrier industry to express their views on significant motor carrier issues.

As a recent example of the cooperation between FHWA and the industry, I want to point to the efforts of the Associate Administrator for Motor Carriers in implementing the Commercial Motor Vehicle Safety Act of 1986 -- landmark legislation sponsored by

Senator Danforth and Senator Hollings of this Committee. The FHWA issued regulations on June 1, 1987 to implement the single license requirements that were effective the beginning of this month. During development of the regulations, FHWA consulted the industry and received recommendations through the National Motor Carrier Advisory Committee which was created five years ago to get direct industry input in our programs. FHWA staff worked closely with representatives of several trade associations and the States to develop and carry out a public information campaign to advise drivers and employers of their shared responsibilities under the new licensing program and, more specifically, to get drivers to turn in multiple licenses. These efforts are paying off. Moreover, we have laid the foundation for continued cooperation among the industry, the States, and FHWA throughout the implementation of the commercial driver's license program.

Quite frankly, the transition to a new, separate administration could also divert resources and distract the attention of senior managers and staff who are working on important motor carrier safety initiatives such as the commercial driver's license program. We have successfully met the deadlines thus far established by the 1986 Act. Over the next year and a half we will establish the clearinghouse on drivers' status and standards for testing and licensing drivers, and for blood alcohol concentration level for when a person is deemed to be driving under the influence of alcohol while operating a commercial motor vehicle. In all candor, the development and implementation of

this important program would likely suffer if the Department's motor carrier operations were to go through a major organizational restructuring during the next two years.

S. 861

I now turn to S. 861, the proposed Truck and Bus Safety Act of 1987. We fully agree with the objectives of the bill. As I stated at the outset of my testimony, safety is the top priority with the Department and we have been working diligently to reduce deaths, injuries and property damage from transportation crashes. We are gratified to see that the fatality rate for crashes involving combination trucks--in deaths per 100 million vehicle miles--is lower than it was in 1981 (from 6.65 to 5.84). Nevertheless, we believe that any fatalities are too many and we are continuing to seek ways to further reduce the fatality rate.

The bill has three main provisions. First, it would require the Secretary within one year to issue regulations that would remove the commercial zone exemption from the motor carrier safety regulations for interstate motor carriers and drivers operating in the zones. Second, it would require the Secretary to issue regulations within nine months that establish methods for using on-board monitoring devices to record speed, driving time and other information in order to improve safety. Third, it would require the Secretary to complete rulemaking within nine months on the need to adopt methods for improving braking standards for trucks, that include methods to improve brake timing and to use anti-lock systems and load

proportioning valves on trucks and truck trailers manufactured after July 1, 1987. I want to report on our activities and progress in each of these areas.

Commercial Zone Exemption

In 1985, we published an Advance Notice of Proposed Rulemaking (ANPRM) on this subject. I want to emphasize that we are proposing to eliminate the exemption from the safety regulations, but we strongly favor and fully intend that exemptions from economic regulation continue. In response to the comments we had received on the ANPRM, we published, on July 13, 1987, just two days ago, a Notice of Proposed Rulemaking (NPRM) to do just that.

Twelve States are already regulating motor carrier safety within commercial zones with State regulations that are compatible with Federal safety regulations. Our proposed rule recognizes and relies on these States' regulations within their jurisdiction, so the 12 States or others who adopt compatible rules would not be affected by our proposed elimination of the commercial zone exemption and could continue their current practices without Federal intervention. Other States participating in the MCSAP program would be required to regulate the safety operation of interstate motor carriers and drivers now covered by the commercial zone exemption. The FHWA also would begin full compliance and enforcement activities.

The recognition of these 12 States is one of the differences between our proposed rule and S. 861. Another difference is the "grandfathering" of motor carriers and drivers now operating under the commercial zone exemption. S. 861 would grandfather carriers and drivers, who operated under the exemption a year prior to enactment of the bill and did not have a traffic control violation during the three years before enactment, for as long as they do not commit a violation. Our proposed rule would grandfather selected drivers for a 2-year period -- such as drivers who are under age or would not be medically certified under certain Federal safety regulations (except those who are drug or alcohol dependent). We would not grandfather motor carriers or drivers who transport hazardous materials; they would be subject to the safety regulations immediately. We believe our approach is straightforward from a safety and enforcement standpoint, while recognizing that we are affecting individuals' livelihood.

We strongly agree with Members of Congress and this Committee that the commercial zone exemption has outlived its intended benefit. We fully expect that we will issue a final rule within the time frame proposed in the bill. We believe it can be repealed administratively and does not require statutory action.

On-Board Monitoring Devices

On-board monitoring devices represent a case where Federal regulations should be responsive to changes in technology. There are currently some motor carriers using these devices to record

information about vehicle speed, fuel use, and operation which is helpful to improve fleet and vehicle utilization, thereby reducing operating costs and increasing productivity. From the regulatory side, the requirement for a driver to use a daily log book to record work time dates back to 1940 under an Interstate Commerce Commission rule. While the format has changed over the years the principle and purpose of the driver's log is the same -- the driver writes the times of starting and stopping work, and enforcement officers use the log largely to determine that a person is not driving excessively to minimize the probability of fatigue-related accidents. Unfortunately, the log has become widely referred to by drivers as the "comic book."

The issue before us is how well on-board recorders serve the purpose of the driver's log and contribute to the safe operation of large trucks. In 1978, the FHWA conducted research on the tachograph, an on-board electro-mechanical device linked to a truck's drive train that produces accurate paper records of time, speed and other operating data. The FHWA study, however, deemed the device not to be tamper-resistant. It also found that the tachographs limitation to just a single paper record, as well as its inability to record driver activities when a vehicle was stopped, were additional drawbacks.

In April 1985, the FHWA granted a waiver to Frito-Lay, Inc., to use on-board computers for recording driver's hours-of-service in lieu of the handwritten driver's log. At the time, there was only one U.S. manufacturer of the devices. The device showed promise of being driver-interactive and tamper-resistant, so the driver's

hours-of-service record would be reliable. Frito-Lay managers also began to realize the utility of the information recorded by the device in improving productivity.

As a result of increasing interest and technical advances, the FHWA issued an ANPRM on July 13, 1987, to request comments on the use of on-board computers in trucks. We are especially interested in seeking comments on issues which we have not been able to fully assess from the experience of individual carriers -- such as the extent to which they are tamperproof, have the capability of providing information to enforcement officers, whether they are practical for small carriers, and their direct safety benefits. The same day we issued the ANPRM we issued waivers for six additional fleets to test these devices and use them in lieu of driver logs.

We recognize the potential usefulness of on-board computers and similar devices to the industry and are seeking ways that they can best be used to meet industry needs and satisfy the hours-of-service requirements. Quite frankly, we are not ready to mandate them for all drivers and carriers as suggested by this legislation and groups such as the Insurance Institute for Highway Safety. There is currently limited, competitive availability of these systems in the U.S., with each device running about \$1,000 per vehicle. With over 3 million vehicles potentially impacted by mandatory requirements, the costs to the industry would be substantial. We believe the rulemaking process and further practical experience can help address many of the complex technical, cost, and safety ramifications. We view the case-by-case

petition and waiver process as inefficient and unmanageable in the long run and will work aggressively towards a final rule on the use of on-board computers.

New Braking Technology

On the subject of improved braking for trucks, we believe that the necessary braking technology may now exist, but we oppose the regulatory approach mandated by S. 861. The rulemaking under S. 861 would have potentially serious consequences for several rulemaking actions under the National Traffic and Motor Vehicle Safety Act.

The requirement to include "faster brake timing" in the rulemaking could delay rulemaking already in progress on brake timing. NHTSA issued a Notice of Proposed Rulemaking (NPRM) in mid-1985 to improve timing on trucks and trailers. The agency has completed its review of the comments and is preparing a final rule which we expect to be issued this fall. If enacted, S. 861 would effectively preclude the issuance of this forthcoming final rule on brake timing because it shifts the focus to faster brake timing, rather than on effective timing. The concept of effective timing relates to compatibility between the brake systems of tractors and trailers. It is extremely important for proper brake functioning and to reduce wear on brake systems. We believe it would be ill-advised to suspend that rulemaking as S. 861 would appear to direct.

By contrast, the determination of the need for antilock brakes within a nine-month period would be a precipitous decision on this complicated issue. When lockup occurs and a tire begins to skid, it not only produces lower stopping friction, but the wheel loses its ability to provide directional stability to the vehicle. Brake lockup on the rear wheels of a truck often means that it will swing around and brake lockup on the drive wheels of a combination vehicle will result in a "jackknife." The antilock device is intended to keep the wheels rolling under strong braking action, just short of the lockup and skid point, while the load proportioning valve is intended to distribute the braking load in proportion to the loads on the axles.

Let me tell you some of the things we think a good braking system should be able to do:

First, it should be able to meter brake pressure to give optimal braking, not only on panic stops, but on normal controlled slowing and stopping. Second, it needs to operate with a wide variation of vehicle weight on the axle, from empty to fully loaded. Third, it should be operable under all road conditions from firm and dry to wet or icy. Fourth, it should allow for a variety of tractor-trailer and multiple trailer configurations. Fifth, it should be tough, reliable and relatively easy to maintain, so that it will remain operational under typical U.S. usage. Sixth, it should have fail-safe characteristics, such that a failure of the system does not precipitate a crash. And finally, it should be testable and inspectable so that the operator, as well as highway safety

inspectors, can be sure that it is operating properly. With all of the above, antilock systems or any other braking technologies will have to be affordable, so that they will not place an undue financial burden on the trucking industry.

New antilock systems have now been developed by European manufacturers, using today's improved electronic circuitry. These systems have begun to be used in European fleets within the last two or three years. American original equipment manufacturers and fleet operators are now using antilocks in a few American fleets on a trial basis and American brake manufacturers have prototype antilock systems undergoing fleet testing.

The Department began test track evaluations of the new systems last year at its Ohio test facility. We are reviewing the initial results and intend to expand and continue this activity.

In the 1978 PACCAR decision, the U.S. Court of Appeals for the 9th Circuit invalidated those portions of NHTSA's airbrake standard which necessitated the use of antilock systems, in large part because the agency had not collected enough data to demonstrate the safety and reliability of the antilock systems on vehicles in use. Now that there are production antilock systems available and additional systems being tested, we can evaluate the reliability of the new systems, consistent with the PACCAR decision. Thus, we are beginning a full-scale field test of an antilock-equipped fleet. We will evaluate antilock systems on 200 vehicles for two years under conditions of

normal commercial use. The fleet will be equipped with several different antilock systems, ranging from the all-wheel sensor systems used on some European vehicles to simpler systems currently under development by U.S. manufacturers. In our truck safety report to Congress, we outlined this test program and the need for each step. The appropriations committees have provided \$1.25 million in our FY 1987 appropriations to begin this testing program, and the House Appropriations Committee has identified \$1.55 million for that purpose in FY 1988.

Our goal, in the field test, is to evaluate antilock systems under American operating conditions, which differ significantly from those in Europe, and to examine methods for ensuring the reliability of such systems. We expect to have preliminary results from the field test by 1990. This time frame will be necessary to examine the reliability issue thoroughly, so that any rulemaking we undertake will avoid the result in the PACCAR case which stemmed from the earlier lack of data on real world safety and reliability.

The third truck braking device mentioned in subsection 4(b) of S. 861 is the load proportioning valve. Although these valves have been used in Europe, the substantial differences between European and American trucks, particularly in the suspension systems, raise questions about the relevance of the European experience as to our vehicles. As in the case of antilocks, the load proportioning valve would require considerably more than nine months to be evaluated properly. At a minimum, we would have to conduct a full field test on

American vehicles under conditions typical of those on American highways. Such a test would be impossible to conduct within the time constraints imposed by S. 861. As we discussed in our truck safety report, we believe antilock systems offer greater potential for improved braking performance, so we are concentrating our resources and testing efforts on that technology. While we will continue to look at the load proportioning systems, the Department believes that the antilock system offers the highest near-term payoff for our research efforts.

SUMMARY

As you can see, we are already well along in doing the things that S. 861 would require of us. We are working on eliminating the commercial zone safety exemption through the regulatory process, we have begun rulemaking on the desirability of on-board recorders, and we are well into the testing program that can lead to improved braking standards using antilock technology. The legislative mandate in S. 861 reduces DOT flexibility to craft appropriate regulatory solutions and sets an unreasonable time frame.

Let us examine the schedule realistically. On the commercial zone exemption, with our NPRM already issued, we may be a little ahead of the S. 861 schedule. It seems quite likely that we can reach a final decision within a year from the time the bill could be enacted.

As for on-board recorders, we are already off to a good start. The results of the current fleet tests are critical to this rulemaking, particularly in demonstrating both the reliability of equipment and its ability to pay for itself in operating efficiency and enhanced safety. We will not be in a position to issue a final rule in nine months as S. 861 would require, but given the very full plate that the Office of Motor Carriers (OMC) staff has to complete the regulations required by the 1984 and 1986 Acts, as well as the commercial zone exemption, a nine month schedule seems impossible to achieve, even under statutory mandate.

The same applies to the antilock device issue. After having had the first rule struck down by the Court of Appeals, NHTSA's caution in this matter is both proper and essential. We are going to have to answer each of the questions the rule failed on before. I am convinced that we are moving as fast as is reasonably possible on the antilock issue now. It would not be prudent to force NHTSA to abandon their test plan to meet an arbitrary rulemaking schedule.

That concludes my formal testimony. I will be glad to answer any questions you may have.