



NATIONAL AUTOMOBILE DEALERS ASSOCIATION
 8400 Westpark Drive • McLean, Virginia 22102
 703/821-7040 • 703/821-7041

FEDERAL HIGHWAY
 ADMINISTRATION

Legal & Regulatory Group

QA
 19980

MAY
 96 ~~APR 9~~ A7:40
 May 6, 1996

LEGS./REGS. DIV.

Docket Clerk, Room 4232
 Office of Chief Counsel
 Federal Highway Administration (FHWA)
 400 Seventh Street, SW
 Washington, DC 20590

FHWA-97-2277-5

Re: Safety Performance History of New Drivers; 49 CFR
 Parts 382, 383, 390, and 391; Docket No. MC-96-6.

Ladies and Gentlemen:

The American Truck Dealers Division (ATD) of the National Automobile Dealers Association represents 2,100 heavy and medium duty truck dealers. ATD members are primarily engaged in the retail sale of new and used trucks and highway tractors, both foreign and domestically produced. They are also engaged in truck service, repair and parts sales.

Earlier this year, the FHWA issued a notice outlining several proposed changes to its driver safety performance history regulations. 61 Fed. Reg. 10548, et seq. (March 14, 1996). The proposal is intended, in part, to implement Section 114 of the Hazardous Materials Transportation Authorization Act (the Act), Pub. L. No. 103-311, 108 Stat. 1677 (1994). Expanded driver employment history investigations will provide employers with better information to evaluate prospective or newly hired driver/employees. The proposed mandate that previous employers provide requested information is essential. Improving the ability of prospective employers to obtain better information will facilitate their being able to recognize when prospective or newly hired driver/employees must be restricted legally from performing safety sensitive functions and/or when other discretionary actions should be taken.

ATD supports the FHWA's proposal to restrict investigations to "former employers" that are or were "motor carriers." In addition, ATD supports the FHWA's proposal to restrict inquiries regarding prior accidents to "accidents" as defined in 49 CFR §390.5. However, when promulgating these changes, the FHWA should clearly set out its discretion to do so given the Act's seemingly less restrictive language.

DOCKET MC-96-6-4
 PAGE 1 OF 2

Docket Clerk, Room 4232
Office of Chief Counsel
Federal Highway Administration (FHWA)
May 6, 1996
Page 2

The proposal includes a provision allowing drivers the opportunity to review and comment on information obtained through safety performance history investigations. ATD suggests that the final rule include a specific period (i.e. three working days) for drivers to review and comment on collected information, thereby providing the benefit of certainty for all parties involved. Moreover, ATD urges the FHWA to include a model information request/driver consent and authorization form in the final rule (49 CFR §391.23). This form would serve to provide prior employers with a specific list of information being requested, to give prospective employers all the authority needed to make required investigations, and to release prospective employers from any liability arising out of making those investigations.

On behalf of ATD, I thank the FHWA for the opportunity to comment on this matter.

Respectfully submitted,



Douglas I. Greenhaus
Director, Environment, Health and Safety

DOCKET MC-96-6-4
PAGE 2 **OF** 2