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FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

Before the

U.S. Department of Transportation
Federal Motor Carrier Safety Administration

Docket No. FMCSA-2000-7017-19
Safety Requirements for Operators of Small Passenger-Carrying Commercial Motor
Vehicles Used in Interstate

April 11, 2001

Comments of the
Transportation Trades Department, AFL-CIO

The Transportation Trades Department, AFL-CIO (TTD) is pleased to submit comments in response to the above captioned Federal Motor Carrier Safety Administration (FMCSA) proceeding pertaining to Small Passenger Carrying Commercial Motor Vehicles (CMV). TTD, its 33 affiliated unions,¹ and the millions of transportation workers that are represented by these unions have long been committed to transporting safely the traveling public and we appreciate the opportunity to present our views.²

At the outset, we concur with the comments of the Amalgamated Transit Union (ATU) stressing that more must be done to adequately address the unsafe operation of all commercial passenger vans providing both intrastate and interstate service. We urge you to consider the important proposals offered by ATU for improving transit safety, and specifically, for reducing accidents and fatalities involving these small passenger carrying commercial motor vehicles. The ATU's proposals are based on more than a century of experience advancing the safety interests of transit workers and passengers.

¹ Attached at 1 is a complete list of TTD affiliated unions.

² Attached at 2 is a policy resolution adopted at TTD's 2000 Convention outlining transportation labor's concerns on a range of transportation safety issues.

Transportation Trades Department, AFL-CIO

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Sonny Hall, President • Patricia Friend, Secretary-Treasurer • Edward Wytkind, Executive Director

GENERAL VIEWS

TTD supports the FMCSA's effort to require motor carriers operating commercial motor vehicles designed to transport nine or more passengers (including the driver), in interstate commerce to comply with the Federal Motor Carrier Safety Regulations (FMCSRs) when they are directly compensated for such services, and when the transportation of any passenger exceeds 75 miles. We believe that issuance of this final rule is an essential first step in closing an important safety gap in regulations that hold small van operators to lower safety standards than those imposed on larger size interstate bus operations. However, we believe more needs to be done to ensure that all commercial passenger vans meet the appropriate safety standards. With that said, we would make four additional suggestions regarding implementation of the rule:

1. FMCSA should move quickly to finalize the proposed rule to ensure that passenger-carrying vans ("camionetas") along the U.S.-Mexico border meet the appropriate safety standards.

2. FMCSA should apply all applicable regulations, including drug and alcohol testing and commercial drivers license requirements, to all covered passenger-carrying commercial vans.

3. FMCSA must ensure that by limiting the applicability of the Federal Motor Carrier Safety Regulations to only those operators that are directly compensated for their services that it is not creating an unnecessary loophole.

4. FMCSA must be willing to regulate motor carriers operating small passenger-carrying vans interstate, irrespective of the distance traveled.

"CAMIONETAS" ALONG THE U.S.-MEXICO BORDER

TTD, together with its affiliated truck and bus unions, was among the earliest to oppose opening the U.S.- Mexico border to unencumbered foreign carrier traffic and to warn our government that the design of any land transport provision in the North America Free Trade Agreement (NAFTA) had to focus on the enforcement of U.S. safety and labor standards. Mexican buses and passenger vans have safety problems similar to those of Mexican trucks. Very few are inspected and those that are have more than twice the out-of-service rate compared to U.S. vehicles.

In February 2001, a NAFTA dispute resolution panel reviewing cross border trucking issues ruled that the U.S. violated its NAFTA obligations by refusing to permit foreign truck operators from Mexico to service points beyond the border zone.³ The Panel recommended that the U.S. start

³ Attached at 3 is a policy resolution opposing the dispute panel decision adopted by the TTD Executive Committee which is comprised of the presidents and senior officers representing the organization's 33 affiliated unions.

processing foreign motor carrier applications on a case-by-case basis. Unfortunately, despite a number of serious unresolved safety issues along the border, the United States appears to be moving to comply with this Panel decision. On March 22, staff from Department of Transportation (DOT) and the United States Trade Representative (USTR) met with representatives from the Mexican Departments of Transportation and Communication (SCT) and Trade (SECON) to discuss implementation of the land transport provisions of the NAFTA. The U.S. presented a series of proposals that could see the border open by year-end and reports indicate that the DOT will conclude passenger carrier negotiations at the same time as the trucking negotiations.

As a result, it is likely that there could be an even greater flow of “camionetas” in service along the border. These vehicles and drivers often provide the same transportation services over the same routes as large bus companies, but with the benefit of not having to comply with the same safety regulations. The drivers operate unregulated for longer hours than their bus counterparts in vans that undergo an enormous amount of wear and tear on a daily basis. The passengers that use the services of these carriers do so for a number of reasons. However, their decision to use these carriers should not be interpreted as a waiver of their rights to the same protection and safety assurances that they would receive by traveling on a major bus line. The possibility of the border opening makes it even more urgent for FMCSA to quickly implement this rule.

Additionally, the Congressional intent of the Motor Carrier Safety Improvement Act of 1999 (MCSIA)⁴ was to require the FMCSA to make safety regulations applicable to all camionetas and not just those traveling greater than 75 miles. For those reasons, we strongly urge the FMCSA to make all FMCSRs applicable to all for-hire, commercial passenger vans designed or used to carry nine to 15 passengers, including the driver, from Mexico to the United States and vice versa.

COMMERCIAL DRIVERS LICENSE AND DRUG/ALCOHOL TESTING REQUIREMENTS

The proposed rule exempts the drivers of these CMVs from the requirement to hold a commercial drivers license and to fall under mandatory drug and alcohol testing. We believe that FMCSRs, including commercial drivers license (CDL) and drug and alcohol testing requirements, should be made applicable to all commercial passenger vehicles designed to transport nine or more passengers, including the driver, regardless of distance traveled.

The connection between CDL and the drug and alcohol testing requirements and the safe operation of all commercial motor vehicles has long been identified by the DOT and the Congress. For example, the Federal Transit Administration (FTA) has applied its requirements to van service contractors of local transit agencies providing transportation services for the elderly and disabled

⁴ See Section 212 Motor Carrier Safety Improvement Act of 1999.

passengers.⁵ Additionally, Congress in passing the MCSIA made clear its concern for the safety records of these small vans. Nowhere in this measure does the Congress suggest that certain safety regulations be waived. As such, we would argue that FMCSA should attempt to meet this Congressional intent by applying all FMCSRs to these commercial passenger vans. We, therefore, urge the FMCSA to follow these Congressional and administrative precedents and include CDL and drug and alcohol testing regulations in its final rule covering commercial passenger vans.

DRIVERS NOT DIRECTLY COMPENSATED

Under the proposed regulations, operators not directly compensated would be exempt from the rule. This would exempt those who operate hotel/motel shuttles, rental car shuttles, and off airport long term parking lots. While these operators do not directly charge for transportation, the fee is indirectly built into the cost of the car rental, parking, or the hotel room. We believe a more balanced approach would be, as ATU stated in its comments, to apply the regulations to transportation for compensation in smaller vehicles provided by entities that are “primarily engaged in providing surface transportation.” Such a rule would reach those entities that are actually in business to provide compensated transportation, but try to avoid detection through lack of advertising or vehicle markings. Likewise, it would not include those entities that provide transportation as an ancillary benefit. We urge the FMCSA to adopt such a rule.

75 MILE THRESHOLD

Under the proposed rulemaking safety regulations would only apply to operators of commercial motor vehicles if the distance is greater than 75 miles. This number is based on the FMCSA’s analysis of accident rates for small CMVs that has indicated that a majority of accidents occurred at this distance or greater. We believe that this approach has unnecessarily limited the application of the rule by putting in the 75 mile threshold, and has left a significant number of vehicles and operators exempt from safety regulations.

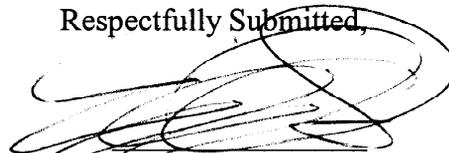
Using FMCSA’s own data, a significant minority of accidents do occur at a level below the 75 mile threshold. By exempting these CMVs from coverage, FMCSA goes against the general practice at DOT across all modes of transportation, of promoting safety measures based on the lowest numbers of personal injuries and deaths. Moreover, the Congressional intent in creating the FMCSA in 1999 was surely to reduce the number of crashes in all commercial motor vehicles and not just a select or arbitrary number of CMVs. We urge the FMCSA to address this safety issue by making the proposed rule applicable to all commercial passenger vans designed to transport between nine and 15 persons, irrespective of distance traveled.

⁵ 49 U.S.C. 5310 (e) (1).

FINAL OBSERVATIONS

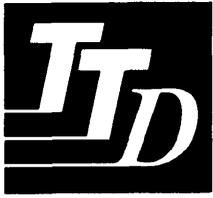
One of transportation labor's main objectives is to promote and enact federal transportation policy that will improve and enhance safety for passengers and workers. We believe that the proposed rule is a step in the right direction but that more must be done to ensure that all commercial passenger vans comply with vitally important federal safety regulations. For that reason, we urge that you adopt our recommendations and those of our affiliated unions for improving the safety requirements for operators of commercial passenger vans.

Respectfully Submitted,



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April 11, 2001

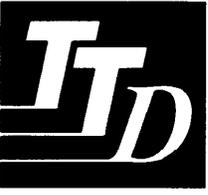


TTD AFFILIATES

The following labor organizations are members of and represented by the TTD:

*Air Line Pilots Association
Amalgamated Transit Union
American Federation of State, County and Municipal Employees
American Federation of Teachers
Association of Flight Attendants
American Train Dispatchers Department
Brotherhood of Locomotive Engineers
Brotherhood of Maintenance of Way Employes
Brotherhood of Railroad Signalmen
Communications Workers of America
Hotel Employees and Restaurant Employees Union
International Association of Fire Fighters
International Association of Machinists and Aerospace Workers
International Brotherhood of Boilermakers, Blacksmiths, Forgers and Helpers
International Brotherhood of Electrical Workers
International Brotherhood of Teamsters
International Longshoremen's Association
International Longshoremen's and Warehousemen's Union
International Organization of Masters, Mates & Pilots, ILA
International Union of Operating Engineers
Marine Engineers Beneficial Association
National Air Traffic Controllers Association
National Association of Letter Carriers
National Federation of Public and Private Employees
Office and Professional Employees International Union
Professional Airways Systems Specialists
Retail, Wholesale and Department Store Union
Service Employees International Union
Sheet Metal Workers International Association
Transportation • Communications International Union
Transport Workers Union of America
United Mine Workers of America
United Steelworkers of America*

March 2001



CRUSADING FOR A SAFER TRANSPORTATION SYSTEM

Far too many workers and members of the public – a minimum of 40,000 every year since the 1960s – lose their lives in our transportation system. Millions more are injured. While about half the fatalities occur in passenger automobile accidents, the nation and our government must never rest as there is great room for improvement across all modes. For transportation labor, reducing the death and injury toll at our job sites and more generally in our industry will be our battle cry in the 21st Century.

Reports indicate that the transportation industry's overall injury and fatality rate is dropping even as miles traveled and volume of cargo and passengers rise. This has given cover to special interests in Washington to hide under suspect figures with pre-packaged messages on why aggressive government enforcement and regulation are not needed. That is why many of the major transportation associations, especially the American Trucking Associations (ATA) and the Association of American Railroads (AAR), have used their allies in the Republican Leadership to stonewall much needed legislative safety reforms to curb injury and death rates. On a range of safety issues, workers have suffered as leaders in the Congress refuse to buck their staunch allies in the business community.

Although some significant advancements in transportation safety have been made during the Clinton Administration, there is a great deal still to be done, especially with the changing transportation industry and its customers' reliance on time-sensitive inventories and demand for better on time performance. For workers the demands of today's industry translate into enormous pressure to get goods and people to their destination on time and safely. This in turn is narrowing the margin of safety – a growing problem that must be addressed by policy leaders and which we will emphasize as part of our unified safety agenda.

Truck and Bus Operations

Motor carrier safety issues have grabbed the headlines as the nation's policy leaders grapple with questions of fatigue, inadequate safety inspections, severe hazards posed by Mexican carriers entering our southern borders, and the economic factors that are forcing certain trucking operators – particularly so-called "independent" operators – to drive excessive hours for little compensation under unsafe working conditions.

Against a backdrop of inaction by the Congressional majority and political opposition by major employer groups, the newly created Federal Motor Carrier Safety Administration (FMCSA) is under pressure to bring greater focus to training, education and technology research. Across the board, the FMCSA will need significant resources to support a proper level of safety oversight and specifically, to ensure the proper implementation of the safety reforms successfully pushed by transportation unions – including stiffer penalties on law breaking foreign operators – in the Motor Carrier Safety Improvement Act. In 1999, TTD affiliates strongly supported strengthening the legislative and

regulatory framework supporting the Department of Transportation's (DOT) safety programs which, prior to the FMCSA's creation, drew fire from the Congress following a scathing report by the DOT Inspector General. We are hopeful that the debate that led to the FMCSA's creation indicates a new found understanding that federal agencies must not become captive to the businesses and operators they regulate.

Transportation labor has many concerns with regard to the FMCSA's proposed rewrite of hours of service rules currently open for public comment. While recognizing the need to consider reforms to these 40 year old regulations, the benchmark against which any such changes should be measured includes the need for meaningful employee fatigue counter measures, improvements in safety, a consideration of the rule's economic effects on carrier operations and their employees, and a recognition of the unique operational needs of the specific motor carrier sectors covered by the rule and the considerable differences between truck and bus operators. Transportation labor intends to participate vigorously in this rulemaking and will offer sensible modifications to the DOT proposal reflecting the views already expressed publicly by the Teamsters, the Amalgamated Transit Union and other TTD member unions.

Unfortunately, elements of the trucking industry, led by the ATA, refuse to participate in a serious and honest debate about truck safety and hours of service regulations and instead want its Congressional allies to stifle DOT action by quashing the agency's rulemaking until a proposal emerges more to its liking. Transportation labor condemns the ATA's actions and will continue to oppose the association's attempt to hide under "science" claims as it peddles proposals to allow already fatigued workers to drive more consecutive hours with less rest.

We will also continue to emphasize that perverse federal independent contractor policy is dooming independent drivers such as the nation's 40,000 port truck drivers to excessive hours and low wages and denying them the basic right to collectively bargain over wages, benefits and working conditions. The fact is that the current operating regime, the result of two decades of deregulation, has forced drivers to work longer and longer hours with less time for rest. This regime also inspired an explosion of new entrants among the ranks of independent drivers who struggle under intolerable working conditions that will only worsen unless they are empowered to form a union, collectively bargain and create an economic environment for themselves in which excessive consecutive hours behind the wheel is no longer an imperative to stay afloat.

Shippers and receivers are also to blame and should be held accountable for establishing unrealistic schedules, placing impossible demands on drivers and their employers and, in the worst cases, shipping poorly or unidentified hazardous materials that endanger drivers and the communities through which they travel.

Mass Transit and School Bus Transportation

Over the next two decades, continued record growth in mass-transit demand will lead to heightened public and private concerns for transit safety and security. Evidence continues to demonstrate that

industry employees face a number of safety and health hazards including growing rates of violence and assault, inadequate training and diseases associated with occupational stress. Today, more than ever before, we must ensure that the necessary resources are directed to the development and implementation of a comprehensive program to improve the safety of transit workers and the riding public.

The Transportation Equity Act for the 21st Century (TEA-21), enacted in 1998, made important strides with the approval of a new \$5 million National Transit Institute (NTI) transit employee safety training program, funds to help intercity bus companies comply with critically important Americans with Disabilities Act (ADA) requirements, and a new study on school bus transportation safety. We will seek to have these programs expanded in the next reauthorization legislation.

Looking ahead to the next reauthorization of transit safety programs, our government should take on the problem of increased violence with a law making assaults on transit workers a federal crime. Currently, transit workers do not have the same legal protections as those provided to aviation workers regarding workplace violence. This distinction is short sighted and should be corrected. Fortunately, legislation has been introduced in the Congress giving transit workers parity with aviation workers by making crimes against transit operators, vehicles or facilities federal crimes allowing violators to be prosecuted and tried in federal court. By working for passage of this legislation and other measures that increase safety in mass transit, we will ensure the safety of bus, rail and ferry operators and toll booth collectors as well as the several million passengers who ride transit daily.

We also continue to support the issuance of a final rule closing an important safety gap in regulations that hold small van operators to lower safety standards than those imposed on larger size interstate bus operations. The final rule must definitively apply federal safety standards to interstate commercial passenger vans that transport nine or more passengers. Moreover, we believe that the pending federal study of safety issues involving intrastate passenger vans will justify application of federal standards to this category of commercial operators as well.

The link between transit industry labor practices and safety must also be examined. We believe that correcting unsafe labor practices may offer a greater opportunity to improve transit safety. It is beyond question that experienced long term drivers are among the safest in the industry, leading to the likely conclusion that increased turnover rates contribute to higher accident rates. Similarly, we believe the government must assess the impact on safety of relative wage rates, over reliance on part-time workers and chronically low maintenance staffing levels. This can be accomplished by changing the methodology used to collect and analyze industry accident data.

Finally, transportation labor will work to advance a school bus transportation safety agenda. The range of issues in need of attention includes:

- ◆aging bus fleets;
- ◆inadequate safety and other types of training for drivers and passengers;

- ◆lack of enforcement of state and local traffic laws coupled with a need to establish national standards that have proven effective;
- ◆rail-crossing education;
- ◆a shortage of qualified drivers; and
- ◆inadequate measures to curb the higher rate of accidents that occur outside the bus during boarding and exiting.

Transportation labor will work with its school bus transportation affiliates to support a policy agenda that improves the margin of safety for the 24 million children transported daily by thousands of drivers in 450,000 school buses.

NAFTA Cross -Border Safety

As we look to the future the issue of ensuring safety on our highways from unsafe foreign trucks and buses is only likely to grow. The most clear example of that today is the effort by elements of the trucking industry and its Congressional allies to implement the currently suspended land transportation provisions of the North American Free Trade Agreement (NAFTA).

For a decade transportation unions have led the fight to keep American borders closed to unsafe foreign traffic permitted under NAFTA until Mexican trucks and buses demonstrate an ability to live up to U.S. laws and regulations. Various government studies have shown what we have known since the Bush Administration negotiated these provisions: very few trucks or buses are inspected at the U.S.-Mexico border and the small percentage that are checked violate U.S. safety standards. Moreover, investigators have found the states – especially Texas – to be ill-prepared to provide adequate facilities, personnel and infrastructure to undertake proper inspection and surveillance of vehicles crossing into the United States. These problems and many more have prompted the Administration and a majority in the Congress to oppose lifting the current restrictions on cross-border movements.

We are pleased that the Clinton Administration heeded our safety concerns when it blocked implementation of the cross-border transport provisions in December 1995 and then again in January 2000 when NAFTA would have opened up the entire U.S. highway network to virtually uninhibited foreign carrier traffic. The fact is that the NAFTA transportation provisions are not only flawed, but have proven unenforceable and impossible to implement with any confidence.

With so much uncertainty surrounding the elections, transportation labor will remain vigilant in making the case to the new Congress and the new President that current border restrictions must remain in place as a means of protecting U.S. highway users including truck and bus drivers from untold hazards posed by the potential flood of unsafe foreign operators entering our country under NAFTA.

Getting Rail Safety Back On Track

Although solutions to major rail safety problems continue to elude policy leaders, transportation labor commends the Federal Railroad Administration's (FRA) efforts under current Administrator Jolene Molitoris to raise the bar on rail safety. The FRA has instituted a number of reforms such as the development of the Safety Assurance and Compliance Program (SACP) that have resulted in a safer rail system. While rail safety has improved during the Clinton Administration, the industry, led by its multi-million dollar lobby group, continues to immobilize efforts to enact comprehensive rail safety legislation. Despite industry led stonewalling, TTD member unions will not rest until our government acts to change a century old management culture that must be modernized to more accurately reflect the realities of this dangerous occupation.

Fatigue continues to present serious safety hazards for rail workers as the industry perpetuates a work environment that stresses on-time performance over safety and places extraordinary pressure on non-operating employees who perform sensitive maintenance, inspection and repair work. For operating employees, the current hours of service regulations clearly do not provide an adequate level of protection. Although transportation labor encourages collaboration on this issue through the collective bargaining process, it is still vitally important to establish benchmarks in the law requiring limits on the number of consecutive days train crews may be available for work by guaranteeing a minimum of 72 off-duty hours following each seven days of work or availability.

An accurate and reliable accident and injury reporting system is also crucial. First and foremost, we call for protections for workers who report hazardous incidents and situations as well as stiff fines and penalties against employers that harass or intimidate workers who speak out on workplace dangers. It is unconscionable the extremes that rail carriers go to in order to under report accidents and incidents and then fill their mantles with Harriman safety awards.

We will also continue to advance a rail safety agenda that provides for improvements at highway-rail crossings, adequate funding for safety inspector staffing, noise mitigation for high-speed rail, improved locomotive cab working conditions addressing air quality, air conditioning, vibration and noise, safe carrier-provided transportation to and from work sites and improved on-site housing, and safeguards against management abuse of new on-board recording devices and other employee surveillance techniques.

Safe Skies

Our U.S. aviation system – operating at near capacity as it struggles to keep pace with the demand for air travel – still remains the safest in the world. However, without critical investment for modernization and additional safety and security standards, we are perilously close to reversing decades of progress. The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21) represents an historic advancement for air safety and infrastructure improvement but leaves behind plenty of unfinished business. By enacting stronger funding guarantees in support of the Airport Improvement Program (AIP), the nation can now better address some of the critical funding shortfalls that contribute to major capacity crises at airports.

Unfortunately, AIR-21 did not extend guaranteed funding to Federal Aviation Administration (FAA) operations – such as air traffic control and certification programs. This leaves a large and critical segment of the industry subject to the annual and partisan appropriations process. While transportation labor supports dedicating the trust fund for its intended purpose, aviation investment, we continue to believe that the Congress must finish the job by providing guaranteed funding for staffing, training and modernization of the air traffic control system and the federal employees who support that system. To do any less, compromises not only the workers who operate and maintain the system, but also the safety of all those who rely on air travel.

AIR-21 also made strides in legislating important safety initiatives including granting whistleblower protections to aviation workers, studying cabin air quality, improving safety standards at small airports and dealing with unruly and aggressive passengers. It also created a new official public-private oversight body to debate and consider aircraft repair station issues and moved forward technology advancements such as collision avoidance systems for cargo aircraft and runway safety initiatives. All of these initiatives are important but much remains to be accomplished in the field of aviation safety.

Globalization is posing a threat to the policy safety net that ensures Americans can fly on U.S. operated *and* maintained airlines as globalists believe the U.S. should turn over ownership responsibilities to the highest foreign bidder and highly sensitive maintenance functions to the cheapest facility abroad. This is an unacceptable outcome of globalization and one which we will work fiercely against. As such, we can ill-afford to allow highly skilled U.S. airline mechanics to be placed at a competitive disadvantage as the lure of cheap labor costs inspire airlines to move maintenance overseas – all at the expense of safety. Transportation labor will continue its call for the highest standards for maintenance facilities worldwide and will draw more attention to the safety hazards associated with the excessive use of poorly regulated subcontractors to perform domestic maintenance work. We know the American public will accept no less.

Other safety hazards continue to pose a threat to passengers and aviation workers. For example, transportation labor supports the FAA's commitment to address the issue of runway incursions. We recognize that crowded airports, overcapacity and system problems create a potentially dangerous situation on our runways, and we are committed to exploring new means to ensure runway safety. We also continue our call for the FAA and the aviation industry to address the threat of injury to flight crews and passengers due to cumbersome and excessive carry-on bags. Further, we urge the FAA to mandate regulations for the use of child safety seats on board aircraft and to finally move in accordance with established Occupational Safety and Health Administration (OSHA) regulations to protect flight attendants from workplace injuries. These workers are put at risk of disease and injury on the job by blood-borne pathogens, heavy carry-on bags, poorly designed food and beverage carts, and other occupational hazards that for 25 years have been ignored by the FAA. We also support aviation union efforts to develop proposals to provide adequate rest/work schedules for flight crews.

Finally, our aviation system must not fall prey to safety and security breaches on the ground because we fail to insist on high-quality, well-trained airport security personnel. It is an often overlooked fact that security screeners at our nation's airports – our first line of defense against aviation security threats – are among the most poorly compensated, under-trained workers in the U.S. workforce. With such tedious yet stressful work, inadequate training, disgraceful wages and lack of benefits, it is no wonder turnover rates among security screening personnel are as high as 400 percent. It is clear that the low-cost approach airlines take toward their responsibility of providing screening services puts profits ahead of safety. With such a critical component of aviation security a low priority for airlines, it begs the question of whether such services should be moved under public jurisdiction. In any case, transportation labor firmly believes that the right to freely choose union representation and to bargain collectively is the only hope for security screeners to improve working conditions, compensation and the overall safety and security of the system.

Port Worker Safety

Our nation's port system benefits every sector of the transportation industry and is the most efficient and safest in world. However, port employees still face a number of safety and health hazards. At the start of new century, it is critical that we ensure our government adopts appropriate measures to improve the safety and health of our nation's port workers. One issue that needs to be immediately addressed is a prohibition on vertical tandem lifts. This practice – lifting two empty containers together, one on top of the other, connected by semi-automatic twist locks – is dangerous. While there have been no major injuries or deaths due to vertical tandem lifts, there are several instances of close calls where containers have been dangling in air from a cable or have fallen to the dock near longshore workers.

We urge OSHA to improve the safety and health standards of longshore and other port workers. A major improvement in safety conditions for port workers would be a ban on vertical tandem lifts. Our port employees are an essential element of our nation's security and economic growth. As such, their safety is a priority as we work to convince our government to raise the bar of safety throughout the transportation industry.

Ergonomics

Ergonomic workplace safety issues will remain high on our agenda until the new OSHA ergonomic standard is fully implemented. Transportation labor has been a strong proponent for establishing a national ergonomic standard in response to government data showing that transportation workers rank among the highest in suffering from the debilitating effects of ergonomic disorders. We will continue to fight to ensure that this new ergonomic rule is fully implemented, that transportation employers like UPS fail in their attempt to delay government action, and that all transportation workers are covered by the final rule.

Hazardous Materials

From training for maintenance and repair workers, drivers and locomotive engineers who may be the first on an accident scene to accurate placarding and labeling on all vehicles, hazardous materials safety issues and the policy regime dictating how to respond to releases are a major safety concern across all the modes. Adequate funding for training, staffing and technological advancements for hazardous materials emergency response and prevention programs are a necessary investment as we become more and more dependent on a transportation network that shares already constrained capacity between growing passenger and freight needs.

We are strongly opposed to efforts by certain hazardous materials transporters to remove OSHA jurisdiction over hazardous material worker protection enforcement. TTD and its member unions recognize the important shared responsibility between the Department of Transportation and OSHA to protect transportation workers involved in the highly sensitive field of transporting toxic and hazardous substances. At a minimum, this shared responsibility must be maintained to ensure the health and safety of workers and the communities through which hazardous materials travel. Moreover, the federal government must direct significantly more resources to the highly acclaimed hazardous materials training programs operated by a number of transportation unions including the Teamsters, the rail unions and the International Association of Fire Fighters.

THEREFORE, BE IT RESOLVED THAT TTD AFFILIATED UNIONS WILL:

- Call on the Clinton Administration to complete action this year on pending measures and regulations addressing unsafe foreign aircraft repair stations, the need for OSHA protections for flight attendants, meaningful rest and duty time rules for pilots, workplace ergonomics standards, and the link between transit industry labor practices and safety;
- Push the DOT and its modal agencies to implement transportation labor supported truck, highway, transit and aviation safety reforms embodied in TEA-21, the Motor Carrier Safety Improvement Act and AIR-21;
- Work to break the political logjam caused by transportation industry opposition on Capitol Hill to meaningful Congressional action on long overdue rail and hazardous materials safety reauthorization legislation;
- Oppose Senate Republican attempts to bar the DOT from moving forward on new hours of service regulations and instead use the rulemaking process to call for substantive revisions to the DOT proposed rule that better reflect the safety and health needs of truck and bus drivers;
- Combat any attempts to ignore the growing body of evidence against lifting the presently suspended NAFTA truck and bus provisions and ensure that the new President stays the course and rebuffs any calls to reverse cross-border transportation safety policy that has been in effect since December 1995;

Develop a broad set of policy proposals to address the growing problem of violence against transportation workers and passengers;

Aggressively pursue better and expanded whistleblower protections for all transportation workers, especially those currently denied any protection whatsoever such as waterway workers and mariners;

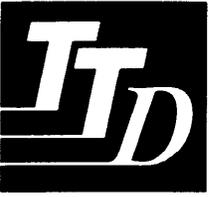
Convene a summit of transportation unions and outside safety and health experts with a mission to identify priority transportation safety problems and challenges, best practices and research needs; and

Prepare and advance a multi-modal transportation safety agenda as part of transportation labor's transition strategy with the new President of the United States.

Resolution No. C00-19

Adopted July 21, 2000

For more information, call: 202/628-9262



ATTACHMENT 3

NAFTA TRUCKING DISPUTE PANEL DECISION IMPERILS SAFETY

For almost a decade, transportation labor has opposed the phase-in of the land transportation provisions of the North American Free Trade Agreement (NAFTA) which call for opening the U.S. border to free-flowing Mexican truck and bus traffic. The agreement was supposed to allow these foreign carriers to enter the border states beginning in December 1995 and eventually the entire U.S. in 2000. But the federal government, supported by a bipartisan Congress, has kept the border closed to NAFTA transportation traffic due to myriad highway safety concerns that remain unresolved to this day.

Studies by the Department of Transportation's Inspector General (IG) and the General Accounting Office (GAO), a congressional watchdog agency, have concluded that far too many safety hazards remain unresolved and that the U.S. is ill-prepared to handle the massive influx of foreign traffic that would result from opening the border. A substantial majority in Congress has publicly stated its many concerns over safety and strong opposition to allowing the NAFTA cross-border transportation provisions to go into effect.

TTD's Executive Committee is on record strongly opposing the border opening, and throughout the past decade has commented on various aspects of this issue and participated in aggressive advocacy against multinational corporations and certain elements of the transportation industry that ignore this public health and safety issue as they pursue opening America's border to unencumbered Mexican truck and bus movements.

A NAFTA dispute resolution panel reviewing the trucking issues has now ruled that the U.S. violated its NAFTA obligations by refusing to permit foreign truck operators from Mexico to service points beyond the border zone. This decision confirms a preliminary ruling issued in November 2000. With the panel's findings, this issue could result in the imposition of trade sanctions by Mexico against the U.S. We submit that no sanctions imposed under arcane trade agreement procedures are onerous enough to negate the very serious public health and safety threats that American highway users would face if NAFTA transportation provisions are implemented. Any trade sanctions that the U.S. may face as a result of this dispute resolution process cannot outweigh public safety in America.

Both the IG and GAO findings conclusively prove that Mexican transportation companies are ill-prepared to comply with all U.S. laws and regulations. These same studies have also exposed the fact that our own government is not prepared to carry out its enforcement and inspection responsibilities at the border and on American highways. Simply because an international trade dispute panel is willing to dismiss this tremendous body of evidence and rule against the U.S. does not negate the facts:

- only 1 percent of the several million Mexican motor carriers entering the U.S. border is inspected;
- of the few inspected, almost half are removed from service due to serious safety deficiencies;

- inspection staffing and infrastructure are grossly inadequate at most U.S.-Mexico border crossing points;
- our own Department of Labor has not implemented any programs to ensure that if the border opens Mexican motor carrier companies and their workers will abide by U.S. labor, wage and safety standards; and
- Mexico lacks comparable drug and alcohol-testing requirements, hours-of-service and fatigue regulations, and a database to track safety violations of its carriers and drivers.

Transportation labor views the dispute panel's actions as undermining the democratic rights of American citizens and their elected national, state, and local representatives to protect the national interest. The dispute panel erred in faulting the United States for choosing highway safety over an ill-conceived and unenforceable trade regime. Six years of sound bipartisan safety policy decisions by the previous administration and Congress must not be set aside at the expense of public health and safety.

We urge the President to stand up for highway safety, and not bow to an unelected and unaccountable panel of so-called trade experts.

THEREFORE, BE IT RESOLVED THAT TTD AFFILIATED UNIONS WILL:

- Urge the Bush Administration and Congress to stand up for public health and safety and keep the border closed to unsafe NAFTA truck and bus traffic – regardless of the sanctions that may ultimately be imposed by Mexico on the U.S.;
- Ensure that decision-makers know that neither Mexico nor the U.S. is prepared for the inspection, enforcement and other responsibilities required for safe transportation between the two countries; and
- Wage an aggressive education campaign in Congress and with all transportation union members to ensure they are armed with the facts and ready to speak out in the event the President decides to open U.S. highways to unsafe foreign trucks and buses.

Resolution No. W01-05
Adopted February 11, 2001