

132714

FMCSA - 98 - 3297 - 28
FMCSA - 98 - 3298 - 22
FMCSA - 98 - 3299 - 23

IV

107TH CONGRESS
1ST SESSION

H. RES. 152

Urging the President to continue to delay granting Mexico-domiciled motor carriers authority to operate in the United States beyond the commercial zone until the President certifies that such carriers are able and willing to comply with United States motor carrier safety, driver safety, vehicle safety, and environmental laws and regulations; that the United States is able to adequately enforce such laws and regulations at the United States-Mexico border and in each State; and that granting such operating authority will not endanger the health, safety, and welfare of United States citizens.

IN THE HOUSE OF REPRESENTATIVES

MAY 24, 2001

Mr. OBERSTAR (for himself, Mr. BORSKI, Mr. BROWN of Ohio, Mr. GEPHARDT, Mr. TOWNS, Mr. HOLDEN, Mr. DINGELL, Mr. FILNER, Mr. RODRIGUEZ, Mr. LIPINSKI, Mr. PASCARELL, Mr. BACA, Mr. HONDA, Mr. BALDACCI, Mr. QUINN, Ms. BERKLEY, Mr. CLEMENT, Mr. RAHALL, Mr. CRAMER, Mr. DEFazio, Mr. CUMMINGS, Mr. COSTELLO, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. NADLER, Mr. SANDLIN, Mr. MCGOVERN, Ms. MILLENDER-MCDONALD, Mr. MATHESON, Mr. LARSEN of Washington, Mr. BERRY, Mrs. DAVIS of California, and Mr. MASCARA) submitted the following resolution; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Ways and Means, Energy and Commerce, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

RESOLUTION

Urging the President to continue to delay granting Mexico-domiciled motor carriers authority to operate in the United States beyond the commercial zone until the

President certifies that such carriers are able and willing to comply with United States motor carrier safety, driver safety, vehicle safety, and environmental laws and regulations; that the United States is able to adequately enforce such laws and regulations at the United States-Mexico border and in each State; and that granting such operating authority will not endanger the health, safety, and welfare of United States citizens.

Whereas, in 1982, Congress imposed a two-year moratorium on granting operating authority to Mexico-domiciled motor carriers outside the border commercial zones because of concerns regarding the safe operation of such carriers and authorized the President to remove or modify the moratorium if such action were in the national interest;

Whereas the President extended the moratorium in 1984, 1986, 1988, 1990, and 1992, because of safety concerns and because it was in the United States national interest;

Whereas, in 1994, the North American Free Trade Agreement provided a schedule for the United States, Mexico, and Canada to establish a Land Transportation Standards Subcommittee and develop compatible safety standards for the parties' truck and bus operations; to be permitted to establish enterprises in other parties' countries; and to be permitted to obtain operating authority for cross-border trucking and bus services to and from United States-Mexico border States and throughout the United States, Mexico, and Canada;

Whereas the United States, Mexico, and Canada have not agreed to compatible safety standards for truck and bus operations and have not implemented the cross-border

services and investment provisions of the North American Free Trade Agreement;

Whereas, in 1995, Congress extended the President's authority, pursuant to the Bus Regulatory Reform Act of 1982, to restrict access of Mexico-domiciled motor carriers to the United States and the President extended the moratorium because of continued safety and security concerns regarding Mexico-domiciled motor carriers operating in the United States;

Whereas the President intends to open the United States to Mexico-domiciled trucks and buses on January 1, 2002;

Whereas, in 1999, 5,380 people died and an additional 142,000 people were injured in accidents in the United States involving 475,000 large trucks and such large truck accidents imposed a total cost on society of more than \$34,000,000,000;

Whereas the United States Department of Transportation Inspector General issued reports in December 1998, November 1999, and May 2001 finding that far too few Mexico-domiciled trucks are being inspected at the United States-Mexico border, too few inspected trucks comply with United States safety standards, and the United States does not have a consistent enforcement program that provides reasonable assurances of the safety of Mexico-domiciled trucks entering the United States;

Whereas the General Accounting Office issued reports in April 1997 and March 2000 confirming serious safety deficiencies among Mexico-domiciled trucks entering the United States and inadequate United States safety inspection resources;

Whereas the Federal Motor Carrier Safety Administration reports that there were approximately 4,500,000 northbound truck crossings into the United States from Mexico during fiscal year 2000;

Whereas State and Federal safety officials performed inspections on 46,000 Mexico-domiciled trucks in fiscal year 2000, or one percent of such crossings;

Whereas the Federal Motor Carrier Safety Administration reports that, during fiscal year 2000, more than one-third (36 percent) of Mexico-domiciled trucks inspected at the United States-Mexico border had significant safety problems that required the trucks or drivers to be removed from service and that this safety out-of-service rate is 50 percent greater than the nationwide rate for United States-domiciled trucks;

Whereas, in a May 2001 audit, the Department of Transportation Inspector General reports that the Federal Motor Carrier Safety Administration does not have an implementation plan to ensure safe opening of the United States-Mexico border to commercial vehicles;

Whereas, in a May 2001 audit, the Department of Transportation Inspector General finds that a direct correlation exists between the condition of Mexico-domiciled trucks entering the United States and the level of inspection resources at the border;

Whereas, in a May 2001 audit, the Department of Transportation Inspector General reports that the border States do not have permanent truck inspection facilities at 25 of the 27 southern border crossings accounting for 79 percent of the truck traffic from Mexico (3,580,000 northbound crossings in fiscal year 2000) and that exist-

ing inspection areas lack sufficient and safe space to perform inspections and park out-of-service vehicles;

Whereas the Department of Transportation has not developed and implemented border staffing standards for Federal and State motor carrier safety inspectors even though the Motor Carrier Safety Improvement Act of 1999 specifically required that such standards be developed and implemented by December 9, 2000;

Whereas, in a May 2001 audit, the Department of Transportation Inspector General reports that there are only 50 Federal safety inspectors at the United States-Mexico border, less than 36 percent of the minimum number of Federal safety inspectors that the Inspector General estimated were needed in 1998 (139 inspectors);

Whereas, in a May 2001 audit, the Department of Transportation Inspector General reports that their 1998 estimate of a need for 139 Federal border safety inspectors was a conservative number that did not account for expanded hours of commercial port operations, continued commercial traffic growth, and a fully opened border;

Whereas the Department of Transportation anticipates that border States will shoulder greater responsibility for international truck safety inspection and enforcement;

Whereas, in a May 2001 audit, the Department of Transportation Inspector General reports that the border States do not provide inspectors during all commercial vehicle operating hours at 25 of the 27 southern border crossings accounting for 79 percent of the truck traffic from Mexico (3,580,000 northbound crossings in fiscal year 2000);

Whereas Federal and State governments share important enforcement responsibilities under provisions of title 49, United States Code, and the Motor Carrier Safety Improvement Act of 1999 relating to the safety and operation of foreign motor carriers and drivers in the United States;

Whereas the United States Department of Transportation has failed to issue a number of critical regulations relating to the safety and operation of foreign motor carriers and drivers in the United States as required by the Motor Carrier Safety Improvement Act of 1999;

Whereas State governments have not complied with provisions of the Motor Carrier Safety Improvement Act of 1999 relating to the safety and operation of foreign motor carriers and drivers in the United States;

Whereas there is no systematic method currently in place for verifying registration information of Mexico-domiciled trucks to control access at the United States-Mexico border;

Whereas, in a May 2001 audit, the Department of Transportation Inspector General reports that Federal safety inspectors at 20 of 27 southern border crossings did not have dedicated telephone lines to access databases, such as those databases validating a commercial driver's license;

Whereas, in a May 2001 audit, the Department of Transportation Inspector General reports that inspectors in border States that account for 77 percent of truck traffic from Mexico did not routinely review the certificates of registration because State laws are not compatible with Federal motor carrier safety law requirements regarding op-

erating authority and that, according to State officials in such border States, legislation has not been enacted to provide for enforcement against motor carriers that operate in such States without a certificate of registration or operate beyond the authority granted;

Whereas, in a November 1999 audit, the Department of Transportation Inspector General specifically identified 254 Mexico-domiciled motor carriers that were operating illegally beyond the commercial zones in 24 States and, in a May 2001 audit, states that the Federal Motor Carrier Safety Administration's fiscal year 2000 inspection data indicate that Mexico-domiciled motor carriers continue to be inspected at roadside outside the commercial zones and border States;

Whereas the Motor Carrier Safety Improvement Act of 1999 increased fines for foreign motor carriers intentionally operating without authority to not more than \$10,000 and 6-month disqualification for an initial operating authority violation and not more than \$25,000 and permanent disqualification for a pattern of intentional operating authority violations;

Whereas, in a May 2001 audit, the Department of Transportation Inspector General reports that the Federal Motor Carrier Administration's assessed fines for such operating authority violations have remained constant, averaging \$500 to \$1,000;

Whereas the United States and Mexico have not reached an agreement providing reciprocal rights for intercity bus service and terminal access;

Whereas the Government of Mexico has no systematic safety rating process in place to evaluate the safety fitness of Mexico-domiciled motor carriers;

Whereas the Government of Mexico has no domestic roadside inspection program;

Whereas the Government of Mexico does not have specific hours-of-service regulations for Mexico-domiciled truck drivers operating in Mexico, seriously jeopardizing United States citizens if such drivers arrive at the United States-Mexico border sleep-deprived and fatigued but are still allowed to drive 10 consecutive hours in the United States before resting;

Whereas despite a United States-Mexico agreement in 1998 that United States standards for drug and alcohol testing will apply to Mexico-domiciled motor carriers, Mexico does not have a laboratory, certified to United States standards, to perform drug testing, and the Government of Mexico has not implemented a credible and enforceable drug and alcohol testing program;

Whereas the Government of Mexico allows much higher truck weights than currently permitted in the United States and has no functioning system of commercial vehicle size and weight monitoring and certification;

Whereas the general lack of truck weigh stations at southern border crossings impedes efforts to ensure that Mexico-domiciled trucks operating in the United States comply with United States truck size and weight regulations;

Whereas, in an April 2001 report, the Congressional Research Service questioned the adequacy and reliability of information systems that might help United States enforcement officers review applications of Mexico-domiciled

motor carriers for operating authority or audit Mexico-domiciled drivers operating in the United States;

Whereas there is no reasonable amount of accessible historical information available upon which to evaluate the safety of Mexico-domiciled motor carriers and drivers currently operating and seeking authority to operate in the United States;

Whereas because of a lack of reliable, populated databases that compile licensing and driving records of Mexico-domiciled truck drivers and the licensing, safety records, and violations assessed against their trucks and the inability to obtain financial records and do on-site inspections and audits, the American trucking insurance industry, which is expected to insure Mexico-domiciled motor carriers, has not been able to obtain the information and do the inspections necessary prior to insuring Mexico-domiciled motor carriers, as required by Federal motor carrier safety laws;

Whereas under the North American Free Trade Agreement, Mexico-domiciled trucks are required to meet United States safety and environmental standards for heavy-duty trucks, including standards governing weight, brakes, and emissions, which are stricter in the United States than in Mexico;

Whereas a Mexico-domiciled heavy-duty truck that uses roads in the United States outside the commercial zones and that is engaged in interstate commerce or imported into the United States is subject to regulation by the National Highway Traffic Safety Administration pursuant to chapter 301 of title 49, United States Code;

Whereas motor vehicle safety laws prohibit any person from introducing into interstate commerce or importing into the United States any heavy-duty truck or other motor vehicle unless a label or tag is permanently affixed to such vehicle certifying compliance with all applicable Federal motor vehicle safety standards;

Whereas there is no procedure for ensuring that a label or tag certifying safety compliance is permanently affixed to a heavy-duty truck that is imported into or manufactured in Mexico and sold to a Mexico-domiciled motor carrier that then introduces such truck into interstate commerce or imports such truck into the United States;

Whereas motor vehicle safety laws require a manufacturer of a heavy-duty truck or other motor vehicle to report any safety-related defect or noncompliance with applicable Federal motor vehicle standards to the Secretary of Transportation;

Whereas there is no procedure for requiring a heavy-duty truck manufacturer to report safety-related defects or safety standard noncompliance to the Secretary of Transportation with regard to a heavy-duty truck that is sold to a Mexico-domiciled motor carrier that then introduces such vehicle into interstate commerce or imports such truck into the United States;

Whereas the Clean Air Act (42 U.S.C. 7401 et seq.) confers authority to the Administrator of the Environmental Protection Agency to prescribe by regulation standards applicable to the emission of any air pollutant from any class of motor vehicle or motor vehicle engine which, in the Administrator's judgment, causes or contributes to air pollution and may reasonably be anticipated to endanger public health or welfare;

Whereas under such authority the Administrator has prescribed standards applicable to heavy-duty trucks;

Whereas the Clean Air Act confers authority to the Administrator to regulate, control, or prohibit the manufacture, introduction into commerce, or offering for sale of any fuel or fuel additive for use in a motor vehicle or motor vehicle engine if, in the judgment of the Administrator, the emission product of such fuel or fuel additive causes or contributes to air pollution which may reasonably be anticipated to endanger the public health or welfare;

Whereas under such authority the Administrator has prescribed regulations and controls on fuels and fuel additives used in motor vehicles and motor vehicle engines including heavy-duty trucks; and

Whereas, in March 2001, the North American Commission for Environmental Cooperation reports that trade resulting from the North American Free Trade Agreement contributes significantly to air pollution, particularly nitrous oxide and particulate matter (PM-10): Now, therefore, be it

1 *Resolved,*

2 **SECTION 1. DELAY ON GRANT OF OPERATING AUTHORITY.**

3 The House of Representatives calls on the President
4 to continue to delay granting Mexico-domiciled motor car-
5 riers authority to operate in the United States beyond the
6 commercial zone until—

7 (1) the President certifies that such carriers are
8 able and willing to comply with United States motor
9 carrier safety, driver safety, vehicle safety, and envi-

1 ronmental laws and regulations; that the United
2 States is able to adequately enforce such laws and
3 regulations at the United States-Mexico border and
4 in each State; and that granting such operating au-
5 thority will not endanger the health, safety, and wel-
6 fare of United States citizens;

7 (2) the Secretary of Transportation specifically
8 certifies to Congress that—

9 (A) the safety of United States citizens
10 traveling on United States roads and highways
11 will not be jeopardized by granting such oper-
12 ating authority;

13 (B) United States standards governing
14 commercial motor carrier safety and environ-
15 mental protection have not been reduced in
16 order to allow access for Mexico-domiciled
17 trucks and buses to travel throughout the
18 United States;

19 (C) the Federal Motor Carrier Safety Ad-
20 ministration has developed and is implementing
21 a plan to ensure safe opening of the United
22 States-Mexico border to commercial vehicles;

23 (D) Mexico-domiciled trucks and buses will
24 achieve a level of operational safety that is at
25 least equal to that of United States- and Can-

1 ada-domiciled trucks and buses operating in the
2 United States when such Mexico-domiciled vehi-
3 cles are operating on United States roads and
4 highways;

5 (E) permanent inspection facilities are
6 operational at all United States-Mexico com-
7 mercial motor vehicle border crossings;

8 (F) the United States has a consistent and
9 fully funded inspection and enforcement pro-
10 gram that provides reasonable assurances of the
11 safety of Mexico-domiciled trucks, buses, and
12 drivers entering the United States;

13 (G) the number of full-time Federal safety
14 inspectors at the United States-Mexico border
15 has increased and is maintained at a level not
16 less than the number of positions necessary as
17 recommended by the Department of Transpor-
18 tation Inspector General in a 2001 audit;

19 (H) all United States-Mexico border com-
20 mercial motor vehicle crossings are manned by
21 safety inspectors during all hours of commercial
22 vehicle operations;

23 (I) all Mexico-domiciled trucks and buses
24 entering the United States will undergo a level-
25 1 commercial motor vehicle safety inspection by

1 Federal or State inspectors at least once every
2 90 days;

3 (J) the average out-of-service rate of Mex-
4 ico-domiciled trucks and buses inspected at the
5 United States-Mexico border is comparable with
6 the average out-of-service rate of United States-
7 domiciled and Canada-domiciled trucks and
8 buses operating in the United States;

9 (K) the Department of Transportation and
10 the States have taken all necessary actions to
11 implement the following provisions of the Motor
12 Carrier Safety Improvement Act of 1999 (Pub-
13 lic Law 106–159) and other laws relating to the
14 safety and operation of foreign motor carriers
15 and drivers in the United States:

16 (i) section 13902(e) of title 49,
17 United States Code, authorizing the De-
18 partment to place a vehicle out of service
19 if the carrier is operating without registra-
20 tion or beyond the scope of its registration
21 and prohibiting foreign motor carriers
22 from operating vehicles in interstate com-
23 merce within the United States without
24 evidence of registration;

1 (ii) section 31144(c) of such title re-
2 quiring the Department to require, by reg-
3 ulation, that motor carriers who are grant-
4 ed new operating authority undergo a safe-
5 ty review within 18 months of commencing
6 operations;

7 (iii) section 210(b) of such Act (49
8 U.S.C. 31144 note; 113 Stat. 1765), re-
9 quiring the Department to initiate a rule-
10 making to establish minimum requirements
11 for applicant motor carriers, including for-
12 eign motor carriers, to ensure they are
13 knowledgeable about Federal motor carrier
14 safety standards, including administration
15 of a proficiency exam;

16 (iv) section 31148 of title 49, United
17 States Code, requiring the Department to
18 complete a rulemaking by December 9,
19 2000, to improve training and provide for
20 the certification of motor carrier safety
21 auditors, including private contractors, to
22 conduct safety inspection audits;

23 (v) section 212 of such Act (113 Stat.
24 1766), requiring the Department to com-
25 plete a rulemaking by December 9, 2000,

1 to determine to what extent Federal motor
2 carrier safety regulations should apply to
3 small commercial passenger carrying vans
4 transporting between 9 and 15 passengers
5 including the driver and, at a minimum, to
6 apply such regulations to “camionetas”;

7 (vi) sections 218(a) and 218(b) of
8 such Act (49 U.S.C. 31133 note; 113 Stat.
9 1767), requiring that border staffing
10 standards be developed and implemented
11 for Federal and State motor carrier safety
12 inspectors not later than December 9,
13 2000;

14 (vii) section 219(a) of such Act (49
15 U.S.C. 14901 note; 113 Stat. 1768), pro-
16 viding that foreign motor carriers that op-
17 erate without authority outside of the com-
18 mercial zone will be liable for specified civil
19 penalties and may be disqualified from op-
20 erating in the United States;

21 (viii) section 219(d) of such Act (49
22 U.S.C. 14901 note; 113 Stat. 1768), pro-
23 hibiting foreign motor carriers from leasing
24 their commercial motor vehicles to any
25 other carrier to transport property in the

1 United States during the period in which a
2 suspension, condition, restriction, or limita-
3 tion imposed under section 13902(e) of
4 title 49, United States Code, applies to
5 such carrier;

6 (ix) revision of Application Form for
7 Mexican Motor Carriers: To Operate Be-
8 yond Commercial Zones, as published in
9 the Federal Register of May 3, 2001 (66
10 Fed. Reg. 22371), and as modified there-
11 after;

12 (x) revision of Application Form for
13 Mexican Motor Carriers: NAFTA, as pub-
14 lished in the Federal Register of May 3,
15 2001 (66 Fed. Reg. 22328), and as modi-
16 fied thereafter; and

17 (xi) accelerated Safety Monitoring
18 System and Compliance Initiative for
19 Mexican Motor Carriers Operating in the
20 United States, as published in the Federal
21 Register of May 3, 2001 (66 Fed. Reg.
22 22415), and as modified thereafter;

23 (L) the United States and Mexico have
24 signed an agreement providing reciprocal rights

1 for any intercity bus service and terminal ac-
2 cess;

3 (M) with respect to Mexico-domiciled
4 motor carriers currently operating or seeking
5 authority to operate in the United States, the
6 Government of Mexico has in place and oper-
7 ational a systematic safety rating process to
8 evaluate the safety fitness of Mexico-domiciled
9 motor carriers;

10 (N) with respect to Mexico-domiciled motor
11 carriers currently operating or seeking author-
12 ity to operate in the United States, the Govern-
13 ment of Mexico has in place and operational a
14 domestic roadside inspection program;

15 (O) with respect to Mexico-domiciled motor
16 carriers currently operating or seeking author-
17 ity to operate in the United States, the Govern-
18 ment of Mexico has issued and implemented a
19 credible and enforceable drug and alcohol test-
20 ing program that meets United States stand-
21 ards;

22 (P) with respect to Mexico-domiciled motor
23 carriers currently operating or seeking author-
24 ity to operate in the United States, the Govern-
25 ment of Mexico has issued and implemented

1 hours of service regulations for Mexico-domi-
2 ciled drivers, including requirements for audited
3 log books;

4 (Q) permanent weigh stations are oper-
5 ational at all United States-Mexico border
6 crossings to ensure that Mexico-domiciled
7 trucks operating in the United States are in
8 compliance with United States truck size and
9 weight regulations;

10 (R) with respect to Mexico-domiciled motor
11 carriers currently operating or seeking author-
12 ity to operate in the United States, the Govern-
13 ment of Mexico has in place and operational an
14 accessible safety database to record accidents,
15 infractions, and inspections of Mexico-domiciled
16 motor carriers and drivers;

17 (S) there is a reasonable amount of acces-
18 sible historical information available upon which
19 to evaluate the safety of Mexico-domiciled
20 motor carriers and drivers currently operating
21 and seeking authority to operate in the United
22 States; and

23 (T) the manufacturer of heavy-duty trucks
24 that are imported into or manufactured in Mex-
25 ico, sold to a Mexico-domiciled motor carrier

1 and proposed for introduction or delivery into
2 interstate commerce or importation into the
3 United States, is in compliance with any notice,
4 certification, or disclosure requirement of, or
5 safety standard issued pursuant to, chapter 301
6 of title 49, United States Code, to the same ex-
7 tent that such requirement or standard applies
8 to any heavy-duty truck manufacturer regulated
9 by the National Highway Traffic Safety Admin-
10 istration under that chapter; and

11 (3) the Administrator of the Environmental
12 Protection Agency specifically certifies to Congress
13 that the Administrator has taken all necessary steps
14 to ensure that the manufacturer, owner, and oper-
15 ator of Mexico-domiciled trucks operating outside a
16 commercial zone comply with any notice, certifi-
17 cation, disclosure requirement of, or environmental
18 standard issued pursuant to the Clean Air Act (42
19 U.S.C. 7401 et seq.) to the same extent that such
20 requirement or standard applies to any heavy-duty
21 truck or heavy-duty truck engine regulated by the
22 Environmental Protection Agency.

1 **SEC. 2. MEXICO-UNITED STATES AGREEMENT AND JOINT**
2 **ACTIONS.**

3 The House of Representatives calls on the Govern-
4 ments of Mexico and the United States—

5 (1) to agree to uniform application to United
6 States- and Mexico-domiciled motor carriers and
7 drivers of the highest standards regarding safety,
8 environmental protection, and driver competency, li-
9 censing, and hours of service;

10 (2) to improve truck and bus inspection and en-
11 forcement programs and increase the number of
12 trucks and buses that are inspected; and

13 (3) to consider truck and bus safety to be of
14 paramount importance to the relationship between
15 the United States and Mexico.

○