



## **CROSS-BORDER TRANSPORTATION PROGRAMS PUT THE PUBLIC AT RISK**

Since the early days of the Bush Administration, the President has sought to grant Mexico-domiciled motor carriers unfettered access to U.S. highways. In pursuing this policy through a recent "pilot program," the Administration has ignored the safety and security threats posed by allowing poorly regulated and virtually un-inspected trucks to enter unencumbered onto American highways. This is a dangerous initiative that must be stopped and which could result in expansion into the bus sector.

The continuation of the pilot program is contrary to law and does not address the numerous safety and security problems embodied in the poorly conceived cross-border transport provisions of the North American Free Trade Agreement (NAFTA). If the flawed cross-border pilot project is allowed to continue, U.S. bus companies and their employees will be the next to face unfair competition from operators that evade U.S. regulatory requirements including key safety rules.

NAFTA, signed in 1992, includes a provision allowing unlimited bus and truck operations between the United States and Mexico. Fortunately, these provisions have not been implemented in the face of bipartisan congressional opposition. Despite arguments to the contrary, Mexico has never been able to demonstrate that its bus carriers adhere to hours of service limits, fulfill drug and alcohol testing requirements, carry proper insurance, and operate vehicles and employ drivers that meet U.S. safety standards. In addition, enforcement facilities at the border and inspection programs are simply not adequate for the increased cross-border traffic that implementation of the NAFTA transport provisions would produce.

Ignoring these basic problems, last fall the Bush Administration went ahead with the pilot project to allow commercial truck traffic beyond the border zone despite the objections of transportation labor. Congress responded by including language in the omnibus spending bill passed at the end of 2007 to prohibit the use of federal funds to establish the pilot program. The provision cutting off funding to the pilot project received considerable congressional support. The Senate voted 75 to 23 in favor while the House passed a ban on a 411 to 3 vote. During consideration of the measure, advocates on both sides of the debate clearly agreed that the proposal would end the pilot program. On December 26, 2007, President Bush signed the bill into law. Amazingly, the Bush Administration immediately refused to halt implementation of the pilot program. In defending its actions, the Administration asserted that Congress instructed it not to "establish" a new program but did not prohibit continuing the ongoing pilot project. This dispute is now being debated in federal court.

While the Bush Administration argues over legal nuances, the reality is that the demonstration project was specifically rejected by Congress because it lacks adequate safety rules and fails to guarantee vigorous enforcement. Specifically, the pilot program allows Mexican drivers to enter and operate in the U.S. with a Mexican Commercial Driver's License (CDL) and by passing a drug and alcohol test administered by Mexican authorities and collection facilities. However, the Federal Motor Carrier

Safety Administration (FMCSA) has not adequately evaluated either Mexico's CDL program or its drug and alcohol testing procedures to ensure that they meet U.S. standards. For example, Mexico lacks a single laboratory certified to provide specimen analysis. Congress also instructed DOT to look at differences between the corresponding U.S. and Mexican laws and regulations. FMCSA never met this specific mandate and by going forward with the pilot initiative is ignoring explicit congressional directives.

The DOT Inspector General reported in Senate testimony that serious data problems were found in FMCSA's own repository of Mexican driver convictions that occur in the U.S. Known as the 52nd State System, this database allows American officials to disqualify Mexican commercial drivers operating in the U.S. for the same offenses that would lead to the disqualification of a U.S. commercial driver. Currently the system contains faulty information, which makes it difficult to effectively enforce the safety rules that are a condition of the pilot project.

The serious safety issues posed by Mexican trucking operations are illustrated by problems with Trinity Industries de Mexico which originally was accepted into the pilot project. This Mexican carrier reported 1,123 safety violations in the year before the pilot project began. The company was forced to drop out of the pilot program when these problems came to light.

As the Bush Administration moves forward in its drive to open the border to all commercial traffic, bus drivers are concerned that the safety and operational problems not addressed in the current pilot project will only be repeated. In fact, given that bus operators from Mexico will be carrying passengers and the border will eventually be opened to hazmat freight, the potential for deadly accidents is indeed significant. It is also relevant that FMCSA's oversight and enforcement of the domestic curbside bus industry have been called into question by established companies, Members of Congress and transportation labor. If FMCSA can't adequately police current domestic operators, we doubt that it will be able to ensure the safe and legal entry of Mexican-domiciled bus operators. Finally, there have been repeated allegations that Mexican bus operators entering this country today illegally go beyond the commercial zone and engage in cabotage – point-to-point domestic service – which is specifically prohibited. Regulators must clamp down on these rogue operations before a broader opening of the border is even considered.

The cross-border pilot project exposes U.S. highway users to safety and security threats. Transportation labor calls on the Administration to stop defying an act of Congress and to terminate this ill-advised pilot program. We will continue to mobilize transportation workers in opposition to this Administration's cross-border transportation policies.

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