



A bold voice for transportation workers

FATIGUED DRIVING IS DANGEROUS DRIVING

Driver fatigue presents one of the greatest safety threats to commercial bus and truck drivers, their passengers, and the people with whom they share the roads. This problem will not go away without further action by the federal government and the rethinking of the current deregulatory approach. In fact, the number of people killed in fatal crashes involving large trucks and buses has actually increased, reaching 5,005 deaths in 2017, compared to 3,193 just eight years earlier. The role of fatigue in these tragedies is clear – the Federal Motor Carrier Safety Administration’s (FMCSA) Large Truck Crash Causation Study found that approximately 13% of all fatal accidents involving at least one large truck were directly caused by fatigue, a number that far outpaces accidents caused by drug or alcohol use, illegal maneuvers, and driver distraction.

The science on fatigued driving could not be clearer – operators that are not well rested have slower reaction times and are more prone to accidents, not to mention the negative cumulative health impacts of chronic fatigue on drivers. In light of these facts and disturbing statistics, it is incumbent on legislators and regulators to take action to reduce fatigue among commercial motor vehicle drivers.

To start, Congress must close the intercity bus driver loophole in the Fair Labor Standards Act (FLSA). This gap in the law prevents bus drivers from receiving the overtime pay they would normally be due if they were treated like the vast majority of American workers. This loophole incentivizes unsafe operating practices within the industry, allowing unscrupulous employers to demand grueling shifts and workweeks, knowing it will come at no additional cost. Combined with the general low wages, the lack of overtime pay frequently drives operators to seek second jobs during times the regulations expect them to be resting, further compounding operator fatigue. Congress can immediately reduce accidents and fatalities on the nation’s roadways by closing this loophole and providing bus drivers the overtime they earn.

Closing loopholes in current law is an important step toward improving road safety. However, this will be ineffectual unless FMCSA and Congress reject efforts to roll back or weaken the underlying laws and regulations intended to fight fatigue. For instance, FMCSA recently solicited information on how it could pursue flexibility within its hours of service regulations for property-carrying drivers. Any efforts to degrade current hours of service requirements are shortsighted and needlessly put drivers and the public at risk. FMCSA must also not, as it considers in its request, abdicate critical fatigue mitigation requirements to employers who are driven by profit interests.

We also urge FMCSA to reject progressively more bold and nonsensical hours of service waivers that have been filed to the agency. Last year, FMCSA waived critical 30-minute rest break requirements for oil tank truck drivers. The agency agreed with industry that the time drivers spend monitoring the unloading of highly flammable petroleum products, time during which drivers are prohibited by regulation from leaving their vehicles, was “restful”. In response to our opposition

to the waiver, FMCSA stated that we failed to consider the “regulatory difficulties confronted by tank-truck carriers,” and ignored any fatigue concerns. The agency also waived duty time requirements for AFSCME represented garbage truck drivers without meaningfully addressing the impacts on safety for those workers. Currently, two railroad associations await a response to their request to keep CMV drivers on duty for shifts up to 24 hours in the event that the employer makes an arbitrary decision that drivers are needed. These attacks on hours of service protections only serve to increase fatigue among drivers, worsening safety on our roads and denying dignified working conditions to employees.

Finally, we are deeply troubled by FMCSA’s recent decision to preempt the State of California’s rules concerning meal and rest breaks. As TTD outlined in comments filed to the docket, we firmly believe California has the right to set workplace health and safety standards for employees within its state, and that the petitioners failed to demonstrate a need for federal preemption. Meal and rest breaks can serve as an additional tool to combat fatigue among commercial motor vehicles operators in conjunction with – and not contradicting nor infringing upon – federal standards. Further, California’s policy is particularly beneficial to bus drivers who have no federal protections at all for breaks during their shift. The federal government should not interfere in States’ ability to create complimentary protections that individual states have deemed beneficial to their residents.

Reducing fatigue for commercial motor vehicle drivers must continue to be a high priority for both legislators and regulators. Meaningful reductions in fatigue translate immediately to reductions in avoidable accidents, injuries and fatalities – a goal that every American shares. At the same time, current protections must not be weakened or eliminated to satisfy business interests at a direct cost to safety.

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