

# Surface Transportation Reauthorization: Commercial Trucking Issues

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# Surface Transportation Reauthorization: Commercial Trucking Issues

Trucks carry approximately 65% of the nation's freight when measured by weight and 75% of the nation's freight when measured by cargo value. If Congress considers reauthorizing surface transportation funding programs, numerous policy questions pertaining to the commercial operation of trucks may arise, including the following:

- Should Congress consider a ban on or the regulation of lease-purchase agreements between trucking firms and their drivers involved in these arrangements as recommended by a task force created by Congress to study and report on the matter? The task force's examination reflected concerns that a truck driver involved in this type of agreement might encounter circumstances that could lead to safety lapses in the truck's repair and maintenance and in the judgement of the driver, who may be under financial stress from working toward ownership of the vehicle.
- Should Congress weigh in on differing executive branch interpretations of how an independent contractor versus an employee driver are to be defined? During the first Trump Administration and the Biden Administration, the Department of Labor initiated differing rulemakings regarding classification of workers as either independent contractors or employees.
- What might the federal role, if any, be in reducing excessive wait times for truck drivers at warehouses (i.e., detention time), which reduce driver earnings and may induce unsafe driving behavior? Excessive detention time is a policy concern because it is an inefficient use of trucking resources. For example, it reduces the quality of life for truckers because they are often not paid for detention time; if they are paid, the payment is less than what they would earn when driving with a payload.
- Should truck brokers be required to reveal their commission to truck drivers on every transaction? The Federal Motor Carrier Safety Administration (FMCSA) is reviewing nearly 7,000 comments filed in response to its notice of proposed rulemaking that would affect how transactions between truckers and brokers are conducted. In its proposed rule, FMCSA would require brokers to keep transaction records electronically, and brokers would have to make their records available to the trucker when requested, not automatically.
- How may third-party litigation financiers contribute to insurance costs for truckers? Litigation finance refers to third parties that fund legal disputes (usually providing funding to the plaintiff) in exchange for receiving part of the payout from a lawsuit, such as crash-related litigation. According to news reports, third-party litigation financing is contributing to a near "breakdown" of the liability insurance market, causing insurers to withdraw coverage in some U.S. states and making it difficult for truckers, in particular, to obtain insurance coverage.
- How might Congress help protect consumers from unscrupulous household goods movers? Congress has addressed fraud in the personal household goods moving market in multiple highway reauthorization legislation. One common type of fraud in this business is when a mover requires unjustified additional payment from a customer at the destination point before the mover will unload the truck.
- How might Congress maintain or change hazardous materials safety training grants to adjust the amount of information collected and the reporting burden on grant recipients? A handful of different federal grant programs are used to improve hazmat response training. Congress could consider consolidating these programs to improve the efficiency of funds disbursement and to reduce the reporting requirements for grantees since a grantee might receive funds from different programs for the same activity but must file separate reports for each grant program.

Congress may debate these selected issues, as surface transportation bills typically include policy provisions regarding the FMCSA and the Pipeline and Hazardous Materials Safety Administration, two federal agencies within the Department of Transportation that have authority over trucking operations.

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## Introduction

With surface transportation funding authorizations set to expire on September 30, 2026, Congress may debate surface transportation bills that include policy provisions regarding the Federal Motor Carrier Safety Administration (FMCSA) and the Pipeline and Hazardous Materials Safety Administration (PHMSA). FMCSA and PHMSA—two agencies in the U.S. Department of Transportation (DOT)—are involved in the federal regulation of commercial trucking.<sup>1</sup> This report discusses commercial trucking operational matters that Congress, in the Infrastructure Investment and Jobs Act (IIJA; P.L. 117-58), requested experts to study, other issues Congress sought to address in prior surface transportation reauthorization legislation, and additional selected issues. These issues include truck lease-purchase agreements, classification of truck drivers as independent contractors or employees, detention time at warehouses, transparency of truck broker transactions, insurance costs, household goods moving fraud, cargo theft, and hazmat safety.

The trucking industry typically is procyclical in terms of business cycles, meaning it performs better during economic upturns and worse during downturns. In this sense, the performance of the trucking industry may be a barometer of economic policies. Trucks carry roughly 65% of the nation's freight when measured by weight and 75% of the nation's freight when measured by cargo value.<sup>2</sup> Congress is deliberating trucking policy during an uncertain time for the industry. On the one hand, if significant reshoring were to occur because of import tariffs,<sup>3</sup> trucking demand may increase, as the manufacturing sector particularly relies on this transportation mode. If lowering the import tariffs of U.S. trading partners were to boost U.S. exports, the trucking industry also would experience a positive effect. On the other hand, trucks carry imports, and tariffs could dampen import volumes and slow domestic production if manufacturing input prices were to increase. A consensus among oil analysts, which truckers follow for the price of diesel, is that there will be weakening demand for oil if tariffs slow down world production of goods and commerce.<sup>4</sup> Regardless of the trajectory of demand for commercial trucking, the issues discussed in this report are relevant to the industry and may be of interest to Congress.

## Lease-Purchase Agreements

Congress has expressed interest in truck *lease-purchase agreements* since these arrangements were found to burden truck drivers. In the IIJA (§23009), Congress directed DOT and the Department of Labor (DOL) to set up a truck leasing task force (TLTF) composed of industry officials. The TLTF was requested to examine lease-purchase agreements between truck carriers and their drivers. In this type of “rent-to-own” arrangement, a truck-owning firm and a driver working for it may enter into an agreement in which the employee can work toward ownership of the truck the employee drives. Some Members of Congress have inquired whether truck drivers

<sup>1</sup> The Federal Motor Carrier Safety Administration's (FMCSA's) commercial regulations are codified at 49 U.S.C. §§13101-14916. The agency's safety regulations not covered in this report are codified at 49 U.S.C. §§31100-31504.

<sup>2</sup> DOT, Bureau of Transportation Statistics, “Freight Facts and Figures: Moving Goods in the United States,” 2025, <https://data.bts.gov/stories/s/Moving-Goods-in-the-United-States/bcyt-rqmu>; and CRS Report R48594, *Surface Freight Transportation: Modal Options*, by Ben Goldman.

<sup>3</sup> Office of the U.S. Trade Representative, “Ambassador Jamieson Greer Remarks at the Reindustrialize Summit in Detroit, Michigan,” July 2025, <https://ustr.gov/about/policy-offices/press-office/speeches-and-remarks/2025/july/ambassador-jamieson-greer-remarks-reindustrialize-summit-detroit-michigan>.

<sup>4</sup> Reuters, “Oil Price Outlook Weakens on OPEC+, Lingering Trade Concerns,” May 30, 2025, <https://www.reuters.com/business/energy/oil-price-outlook-weakens-opec-hikes-lingering-trade-concerns-2025-05-30/>.

are being taken advantage of through these arrangements because such drivers often are paid less than if they were company drivers with no lease-purchase agreements.<sup>5</sup> Drivers may find it impossible to earn enough from driving to pay off the truck and take complete ownership of the vehicle from the employer. The TLTF's examination reflected concerns that a truck driver involved in this type of agreement might encounter circumstances that could lead to safety lapses in the truck's repair and maintenance and in the judgement of the driver, who may be under financial stress from working toward ownership of the vehicle.

In 2010, southern California ports implemented the Clean Trucks Program, in which higher emitting older trucks would be replaced by lower emitting newer trucks. Truck drivers entered into lease-purchase agreements because they did not have the capital to purchase the required new, low-emission trucks.<sup>6</sup> A 2017 article described these port drivers' difficulties in making a living under these agreements.<sup>7</sup> The Clean Trucks Program is one of the issues Congress directed the TLTF to examine.

In January 2025, the TLTF released its findings and recommended that Congress outlaw lease-purchase arrangements.<sup>8</sup> The first page of the report states, in part, the following:<sup>9</sup>

The negative impact of inequitable truck lease-purchase programs offered and managed by motor carriers and related companies is a problem with which truck drivers and other industry stakeholders have struggled for decades. The negative impacts of inequitable lease-purchase programs affect individual drivers (especially new drivers), the trucking workforce, the health of the industry, and roadway safety. Enumerable drivers report serious financial, professional, and psychological harms due to these programs.

TLTF's findings are clear. It formed a consensus to recommend that such arrangements, whereby a motor carrier controls the work, compensation, and debts of the driver, should be prohibited. Lease-purchase programs are regularly established to enrich motor carriers at the expense of drivers. These programs promote a race-to-the-bottom in driver compensation and treatment, pushing qualified drivers out of the profession. Currently there are no effective checks on these programs or remedies for drivers harmed by them. Litigation, currently the only avenue for relief, can provide some remedy for the drivers involved, but has not led to reform of these programs.

The task force recommended that if Congress chooses not to ban lease-purchase agreements, then FMCSA and other federal agencies be given the necessary funding and authority to provide oversight and regulation to protect truck drivers who are entered into these arrangements.<sup>10</sup> It has

<sup>5</sup> U.S. Congress, House Committee on Transportation and Infrastructure, *Assessing the Implementation and Impacts of the Clean Truck Programs at the Port of Los Angeles and the Port of Long Beach*, hearing, 111<sup>th</sup> Cong., 2<sup>nd</sup> sess., May 5, 2010, H.Hrg. 111-110, pp. 582-585, <http://govinfo.gov/content/pkg/CHRG-111hhrg56421/pdf/CHRG-111hhrg56421.pdf>.

<sup>6</sup> U.S. Congress, House Committee on Transportation and Infrastructure, *Assessing the Implementation and Impacts of the Clean Truck Programs at the Port of Los Angeles and the Port of Long Beach*, hearing, 111<sup>th</sup> Cong., 2<sup>nd</sup> sess., May 5, 2010, H.Hrg. 111-110, pp. 582-585, <http://govinfo.gov/content/pkg/CHRG-111hhrg56421/pdf/CHRG-111hhrg56421.pdf>.

<sup>7</sup> "Rigged. Forced into Debt. Worked Past Exhaustion. Left with Nothing," *USA Today*, June 16, 2017, <https://www.usatoday.com/pages/interactives/news/rigged-forced-into-debt-worked-past-exhaustion-left-with-nothing/>.

<sup>8</sup> For a list of the task force members' biographies, see DOT, FMCSA, "Truck Leasing Task Force (TLTF) Members," October 25, 2024, <https://www.fmcsa.dot.gov/advisory-committees/tlft/tlft-members>.

<sup>9</sup> DOT, FMCSA, Truck Leasing Task Force (TLTF), *Findings on Common Leasing Arrangements Available to Drivers of Commercial Motor Vehicles Including Lease-Purchase Agreements: Report to Congress and U.S. Secretaries of Transportation and Labor*, January 2025, <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2025-01/TLTF%20Cover%20and%20Enclosure%20FINAL%201-16-25.pdf> (hereinafter FMCSA, TLTF Report to Congress, 2025).

<sup>10</sup> FMCSA, TLTF Report to Congress, 2025, pp. 12-16.

been reported that the American Trucking Associations believe the truck carrier perspective was inadequately represented on the task force—which included one carrier out of nine members—and that these agreements should not be broadly banned, as drivers have successfully started their own trucking businesses under them.<sup>11</sup> H.R. 5423 would ban predatory lease-purchase agreements, which would respond to the TLTF recommendation.

## Independent Contractor Versus Employee Driver Classification

During the first Trump Administration and the Biden Administration, DOL initiated differing rulemakings regarding classification of workers as either independent contractors or employees.<sup>12</sup> Many truck drivers are classified as independent contractors. The lease-purchase agreements discussed above typically involve the signing of an independent contractor agreement between the driver and trucking firm, in addition to signing the lease-purchase agreement. However, there are many independent contractor agreements that do not involve a lease-purchase agreement with a trucking firm. According to the TLTF, carriers may benefit from employing truckers classified as independent contractors versus employee drivers:<sup>13</sup>

Carriers save money when they misclassify drivers as independent contractors, avoiding contributions to government programs that benefit workers, such as Medicare, Social Security, unemployment insurance, and workers' compensation. Carriers achieve additional savings by failing to provide other benefits, such as retirement and health care plans and contributions.

At a May 2025 congressional hearing, the American Trucking Associations (ATA), representing trucking firms, testified in support of the current Trump Administration's decision to return to the first Trump Administration's 2021 interpretation of how to classify workers as either independent contractors or employees. In the same hearing, ATA stated its support for the Modern Worker Empowerment Act (H.R. 1319), which supports the independent contractor model, and its opposition to the Protecting the Right to Organize (PRO) Act (H.R. 20).<sup>14</sup> ATA further urged Congress to enact legislation that would address the classification issue so as to avoid "regulatory whiplash" from one Administration to the next. At the hearing, Representative Greg Casar cited a 2025 Economic Policy Institute study that estimated the dollar losses for truck drivers classified as independent contractors versus employee drivers.<sup>15</sup> This issue has played out in states across the country. For example, in California, a state law—which trucking groups have opposed in court—establishes criteria by which a worker is determined to be an independent contractor or employee.<sup>16</sup> A similar regulation is being debated in New Jersey.<sup>17</sup> In both of these states, which are homes to the nation's largest container ports, the question of worker classification is

<sup>11</sup> Eric Miller, "Task Force Critical of Truck Lease-Purchase Deals," *Transport Topics*, January 28, 2025, <https://www.ttnews.com/articles/truck-lease-purchase-drivers>.

<sup>12</sup> CRS Legal Sidebar LSB11156, *Department of Labor's 2024 Independent Contractor Rule*, by Jon O. Shimabukuro.

<sup>13</sup> FMSCA, TLTF Report to Congress, 2025, p. 6.

<sup>14</sup> Testimony of Nathan Mehrens, vice president for workforce policy, American Trucking Associations, in U.S. Congress, House Committee on Education and Workforce, Subcommittee on Workforce Protections, *Empowering the Modern Worker*, hearing, 119<sup>th</sup> Cong., 1<sup>st</sup> sess., May 20, 2025.

<sup>15</sup> Economic Policy Institute, "Misclassifying Workers as Independent Contractors is Costly for Workers and States," January 22, 2025, <https://www.epi.org/publication/misclassifying-workers-2025-update/>.

<sup>16</sup> Mark Schremmer, "Ninth Circuit Upholds California's AB5," *Land Line*, July 2025, p. 42.

<sup>17</sup> Michael Angell, "New Jersey's Proposed Worker Classification Rule Hangs Over Port Truckers," *Journal of Commerce*, S&P Global, August 7, 2025.

paramount for drayage truck drivers.<sup>18</sup> The Teamsters Union has long sought to unionize drayage drivers.

### **The International Brotherhood of Teamsters**

The International Brotherhood of Teamsters (Teamsters Union) supports the employee driver model and is opposed to the independent contractor model. Although the Teamsters Union now represents a smaller portion of the truck driver workforce than before trucking deregulation in 1980,<sup>19</sup> it plays a significant role in the trucking industry. In the early 1970s, the Teamsters Union is estimated to have represented 80% of the trucking workforce; today, four large national truck carriers have unionized drivers. UPS is the single largest employer of Teamsters Union members in the United States; this includes employees other than truck drivers, such as warehouse workers.<sup>20</sup> Historically, the less-than-truckload (LTL) segment of the industry was associated with Teamsters Union drivers, but today two LTL carriers are unionized, and there has been speculation that these two carriers could merge.<sup>21</sup> In 2024, there were a dozen LTL carriers with revenues topping one billion.<sup>22</sup> Yellow Transportation, an LTL carrier that went bankrupt in 2023 and received a \$700 million federal loan during the first Trump Administration, accounted for about 22,000 Teamsters Union truck drivers. Truck carriers that specialize in hauling new automobiles to car dealers were also components of the Teamsters Union; today, one of the three large unionized national carriers remains in operation.<sup>23</sup> Other national shipping companies with at least a portion of their employees being Teamsters members are DHL, Amazon, and Sysco Corporation, although the majority could be warehouse workers rather than truck drivers.

## **Detention Time**

*Detention time* refers to the time a truck driver waits at a warehouse until warehouse personnel are ready to unload or load the driver's truck. An unofficial industry standard is that detention time refers to any amount of time beyond two hours that a truck dwells at a warehouse facility. In other words, up to two hours is considered an acceptable amount of time for either loading or unloading a trailer. The amount of time a truck driver waits can be specified in a contract between a carrier and shipper and may include a compensation rate for the time the trucker is held beyond two hours. Excessive detention time is a policy concern because it is an inefficient use of trucking resources. For example, it reduces the quality of life for truckers because they are often not paid for detention time, or, if they are paid, the payment is less than what they would earn when driving with a payload. In addition, detention time counts toward truck drivers' maximum 14 hours per day of duty time but does not count toward their 11 hours per day of maximum driving time.<sup>24</sup>

<sup>18</sup> *Drayage* refers to trucking shipping containers to and from ports.

<sup>19</sup> The Motor Carrier Act of 1980 (P.L. 96-296).

<sup>20</sup> UPS, "UPS and the Teamsters," <https://about.ups.com/us/en/newsroom/negotiations/negotiations-basics/ups-and-the-teamsters.html>.

<sup>21</sup> The two carriers are ABF Freight and TForce Freight. Less-than-truckload carriers serve shippers with less than a full truckload of cargo by utilizing a network of warehouses to consolidate and deconsolidate shipments from their customers.

<sup>22</sup> See "Top Less-than-Truckload Carriers," data at "Top 100 For-Hire: 2024 Essential Financial and Operating Information for the 100 Largest For-Hire Carriers in North America," *Transport Topics*, accessed September 22, 2025, <https://www.ttnews.com/for-hire/ltl/2024>.

<sup>23</sup> Cassens Corporation is the remaining unionized carrier. Jack Cooper Transport went bankrupt in 2025 when Ford and GM terminated their contracts with the carrier. Allied Transport went bankrupt in 2006.

<sup>24</sup> National Academies of Sciences, Engineering, and Medicine, *Pay and Working Conditions in the Long-Distance Truck and Bus Industries: Assessing for Effects on Driver Safety and Retention* (The National Academies Press, 2024), p. 78.



One researcher has suggested that the federal government may play a potential role in rectifying this inefficiency by collecting and reporting on warehouse facilities similarly to the way that city governments inspect and report on restaurant health standards.<sup>25</sup>

I think that aggregating and collecting data on detention time at our shippers, and also collecting data on their experience, and the dignity with which they are treated at the facilities, [such as being able to use the facility's restrooms], creating that kind of dataset would be very valuable in one obvious way that we could make public, some of these issues that I think we are all acknowledging we see.

But the second way is that it could unlock market potential to improve it, because, without that kind of aggregated dataset, our carrier community can't accurately price in expected detention or expected poor treatment of their drivers at facilities. If we aggregated those rankings, similar to the way we do with restaurants, we could communicate to the carrier community, "This is what you are getting if you do business there, and price it as you need to, to make it worth your time."

The trucking industry may be able to establish its own ranking system for the performance of warehouses. For instance, Uber Freight includes information on the promptness of warehouses in terms of loading/unloading trucks for the benefit of its drivers.<sup>26</sup>

In February 2024, FMCSA issued a notice that it intended to initiate a second round of information gathering on detention time for the purposes of understanding the frequency and severity of the problem, why it occurs, and to identify strategies for reducing detention time within the trucking industry.<sup>27</sup> According to FMCSA, this second round of information collection is to rectify the perceived shortcomings (e.g., small sample size) of the agency's first round of information gathering in 2014.

In September 2025, FMCSA proposed to create a three-year pilot program with about 256 participating truck drivers; over a three-month period, these drivers would be able to extend their 14-hour duty time by up to three hours as a way to mitigate the impacts of detention time.<sup>28</sup> The agency would collect data from the drivers to analyze the effects of this change in hours-of-service requirements.

## Detention Time and Truck Parking Needs

According to one industry analyst, excessive detention time leads to a need for more truck parking areas because those areas are being used for truck staging as well as for driver rest

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<sup>25</sup> Testimony of David HC Correll, Ph.D., research scientist and lecturer, MIT Center for Transportation and Logistics, in U.S. Congress, House Committee on Transportation and Infrastructure, *Industry and Labor Perspectives: A Further Look at North American Supply Chain Challenges*, remote hearing, 117<sup>th</sup> Cong., 1<sup>st</sup> sess., November 17, 2021, H.Hrg. 117-35, p. 49, <https://www.congress.gov/117/meeting/house/114233/documents/CHRG-117hhrg47301.pdf>.

<sup>26</sup> Alex Lockie, "Uber Freight Says AI Will Crack Down on Freight Fraud, Detention Times," *Overdrive*, October 3, 2023, <https://www.overdriveonline.com/business/article/15635501/uber-freight-says-ai-will-crack-down-on-freight-fraud-detention-times>.

<sup>27</sup> DOT, FMCSA, "Agency Information Collection Activities; Approval of a New Information Collection Request: Impact of Driver Detention Time on Safety and Operations," 89 *Federal Register* 12413, February 16, 2024.

<sup>28</sup> DOT, FMCSA, "Hours of Service of Drivers; Pilot Program to Allow Commercial Drivers to Pause Their 14-Hour Driving Window," 90 *Federal Register* 44872, September 17, 2025. On the same day, FMCSA announced a related pilot concerning flexibility in sleeper berth time (see DOT, FMCSA, "Hours of Service of Drivers; Pilot Program to Allow Commercial Drivers to Split Sleeper Berth Time," 90 *Federal Register* 44790, September 17, 2025).



areas.<sup>29</sup> Congress has appropriated specific funding to increase truck parking areas, as data indicate that truckers often spend time looking for rest areas, which may increase driver fatigue.<sup>30</sup>

Warehouse operators may treat truck driver time as a free good, expecting the truck to be available within a short time when operators are ready for loading/unloading.<sup>31</sup> This expectation may incentivize truckers to stage delivery at a nearby truck parking area so that they can reach the facility easily when called. In other words, warehouse operators are not concerned with how efficiently the trucker has reached its availability point, but that it is readily available when called on.<sup>32</sup>

## Truck Broker Transactions

FMCSA is reviewing nearly 7,000 comments filed in response to its notice of proposed rulemaking that would affect how transactions between truckers and brokers are conducted.<sup>33</sup> When freight rates collapsed in spring 2020 during the initial months of the COVID-19 pandemic, some truckers parked their rigs outside the White House in protest.<sup>34</sup> The truckers claimed that truck brokers, who match up truckers looking for cargo to haul and shippers with cargo to move, were taking too large a portion of shippers' payments and failing to disclose their receipts. While freight rates have since recovered, the dispute over truck broker commissions has festered. The lack of transaction disclosure is said to facilitate double brokering, meaning that the initial broker has contracted with a second broker to find a trucker, which some argue contributes to freight fraud. Combating double brokering is one of the action items FMCSA listed in a June 27, 2025, press release.<sup>35</sup> Issues concerning truck broker transactions may be of interest to Congress as it considers surface transportation legislation.

Truck brokers, whose activities are regulated under federal law (49 U.S.C. §13102(2)), generally cater to small trucking firms and independent drivers who own their trucks. These types of firms and drivers often do not have salespeople to scout for business and generally rely on brokers to find loads. By one estimate, truck brokers handle about 20% of truck freight, with 5,000 truck brokers handling the majority of that 20%, although there are an estimated 25,000 total active truck brokers.<sup>36</sup> Many truck brokers are one-person firms; others are large firms that provide freight forwarding or third-party logistics services in air, ocean, and rail transportation modes. The general practice is for brokers to offer truckers a specific rate (i.e., flat rate) to haul a load from one place to another.

<sup>29</sup> Steve Viscelli, Ph.D., "Short- and Long-Term Perspectives on Trucking," at the 2022 Delmarva Freight Summit, online, June 10, 2022, [https://capture.udel.edu/media/2022+Delmarva+Freight+Summit/1\\_4soz1c7c](https://capture.udel.edu/media/2022+Delmarva+Freight+Summit/1_4soz1c7c). His analysis of the relationship between detention time and truck parking is at the 1 hour 24-minute mark.

<sup>30</sup> DOT, Federal Highway Administration, Office of Freight Management and Operations, "Truck Parking," [https://ops.fhwa.dot.gov/Freight/infrastructure/truck\\_parking/index.htm](https://ops.fhwa.dot.gov/Freight/infrastructure/truck_parking/index.htm).

<sup>31</sup> Viscelli, "Short- and Long-Term Perspectives on Trucking."

<sup>32</sup> A search of the International Warehouse Logistics Association's website ([www.ilwa.com](http://www.ilwa.com)) did not reveal a warehouse industry perspective on detention time.

<sup>33</sup> DOT, FMCSA, "[Docket No. FMCSA-2023-0257] RIN 2126-AC63 Transparency in Property Broker Transactions," updated November 19, 2024, <https://www.fmcsa.dot.gov/regulations/docket-no-fmcsa-2023-0257-rin-2126-ac63-transparency-property-broker-transactions>.

<sup>34</sup> John Gallagher, "Trucker Rally for Fair Rates Gets Whitehouse Attention," *FreightWaves*, May 4, 2020.

<sup>35</sup> DOT, FMCSA, "Supporting America's Truck Drivers," fact sheet, <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2025-06/Supporting%20America's%20Truck%20Drivers%20-%20Fact%20Sheet.pdf>.

<sup>36</sup> Eric Johnson, "Truckload Visibility Vendor Gets Funding to Expand Sensor Network," *Journal of Commerce*, S&P Global, February 3, 2025.

Federal regulation (49 C.F.R. §371.3(c)) requires that the amounts paid by the shipper to the broker, and the broker to the trucker, be made known to all three parties. Some truckers claim that brokers require them to waive this requirement as a condition of doing business, meaning that the broker rate is undisclosed to the trucker. Some truckers petitioned FMCSA to prohibit brokers from requiring a waiver and to require that drivers receive an electronic copy of the broker's rate agreement with the shipper within 48 hours of delivering the load.<sup>37</sup> Brokers responded with a petition calling for FMCSA to repeal the current regulation, which can be met by the broker making a paper copy of the transaction available at its office.<sup>38</sup> In its proposed rule, FMCSA would require brokers to keep transaction records electronically, and brokers would have to make their records available to the truckers when requested, not automatically.<sup>39</sup>

The regulation (49 C.F.R. §371.3(c)) originates from the economic deregulation of the trucking industry in 1980, when the Interstate Commerce Commission (ICC) proposed a transaction transparency requirement. The ICC's notice of proposed rulemaking suggests that the transparency requirement was instituted as a safeguard at a time when Congress was deregulating the industry and the ICC was eliminating other broker regulatory requirements.<sup>40</sup> The Motor Carrier Act of 1980 (P.L. 96-296), which deregulated truck rates and entry into the industry, was signed into law on July 1, 1980. On October 17, 1980, the ICC finalized the rule it had proposed in May.<sup>41</sup>

Brokers contend the regulation is outdated and should be repealed, and truck drivers contend present market conditions make the regulation more relevant. On the one hand, brokers contend that §371.3(c) no longer reflects how brokers and truckers typically negotiate rates.<sup>42</sup> They contend that in 1980, truckers and brokers typically negotiated the commission percentage for the broker on a shipment-by-shipment basis. Today, brokers claim, they mostly negotiate rates with shippers on a time and volume basis, not per individual shipment. Brokers assert that their markups are partly to cover the cost of marketing themselves to shippers (i.e., planning and solving logistical issues and providing technological services, particularly for medium- and large-sized shippers). Without these efforts, brokers claim, owner-operators would not be able to participate in the trucking market for larger shippers. Brokers argue that trucking is a competitive market with minimal market entry cost for both truckers and brokers and that competition is the best market regulator. For example, truckers know how many miles and how much fuel will be required for a shipment, and current trucking rates are widely known among market participants. Since truckers are free to "take it or leave it," they are the ones who collectively determine market rates. On the other hand, truckers contend that frequently they find loads have been "double-brokered" (and thus two intermediaries have to be compensated rather than one).<sup>43</sup> They argue that just as real estate brokers reveal their commission percentage to home buyers or sellers,

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<sup>37</sup> DOT, FMCSA, "Owner-Operator Independent Drivers Association, Small Business in Transportation Coalition Petitions for Rulemaking; Transparency in Property Broker Transactions," 85 *Federal Register* 51145, August 19, 2020.

<sup>38</sup> DOT, FMCSA, "Transportation Intermediaries Association Petition for Rulemaking Concerning Property Broker Transaction Records and Regulatory Guidance Concerning Dispatch Services," 85 *Federal Register* 75280, November 25, 2020.

<sup>39</sup> DOT, FMCSA, "Transparency in Property Broker Transactions," 90 *Federal Register* 9702, February 18, 2025.

<sup>40</sup> Interstate Commerce Commission (ICC), "Property Broker Practices," 45 *Federal Register* 31140, May 12, 1980.

<sup>41</sup> ICC, "Property Broker Practices," 45 *Federal Register* 68941, October 17, 1980.

<sup>42</sup> Transportation Intermediaries Association, "How Can I Oppose the FMCSA's Rate Transparency NPRM?," November 21, 2024, <https://news.tianet.org/how-can-i-oppose-the-fmcsas-rate-transparency-nprm/>.

<sup>43</sup> Land Line Media, "Podcast: OOIDA Makes the Case for Broker Transparency," January 23, 2025, <https://landline.media/podcast/podcast-oida-makes-the-case-for-broker-transparency/>.

brokers should do the same in the trucking industry. Transaction transparency would provide market intelligence that would support the negotiating power of truckers.

## Insurance Costs

The cost of insurance is a long-standing issue for truckers. Federal regulations require that trucking companies have at least \$750,000 in liability insurance (\$5 million if carrying hazardous materials [hazmat]), while states can require a higher minimum.<sup>44</sup> The trucking industry has cited the rise of the “litigation finance industry” as a cause of rising insurance premiums and the ability to obtain insurance. Litigation finance refers to third parties that fund legal disputes (usually providing funding to the plaintiff) in exchange for receiving part of the payout from a lawsuit, such as crash-related litigation. Relatedly, the Staged Accident Fraud Prevention Act of 2025 (H.R. 2662) would make it a federal crime to stage an accident with a commercial vehicle. A number of news reports have asserted that third-party litigation financing is contributing to a near “breakdown” of the liability insurance market, causing insurers to withdraw coverage in some U.S. states and making it difficult for truckers, in particular, to obtain insurance coverage.<sup>45</sup> According to the Government Accountability Office, the litigation finance industry gained a foothold in the United States around 2010.<sup>46</sup> Legislation was introduced in the 117<sup>th</sup> Congress in the House and Senate to require disclosure of third-party funding, and a House committee held a hearing on the industry in 2023.<sup>47</sup>

## Household Goods Movers

Congress has addressed fraud in the personal household goods moving market in multiple highway reauthorization legislation. One common type of fraud in this business is when a mover requires unjustified additional payment from a customer at the destination point before the mover will unload the truck. Some trucking customers, such as cargo owners, ship regularly and are experienced and knowledgeable consumers of trucking services. In contrast, a household is less likely to move frequently and may not be as experienced and educated in truck moving services. Furthermore, unlike a cargo owner, a household goods customer is not likely to provide regular and frequent business to movers, so the mover may be less motivated to seek repeat business or establish a good working relationship with the customer. Thus, much of Congress’s efforts in this sector have been to educate and warn households of common deceptive practices by moving companies. For instance, in the IIJA (§23013), Congress directed FMCSA to better educate consumers on how to deal with movers and to require transparency in the price negotiation between mover and customer to guard against unexpected and deceptive charges at the destination.<sup>48</sup> Another issue that Congress may consider is how to identify penalized carriers that

<sup>44</sup> 49 C.F.R. §387.303T.

<sup>45</sup> “U.S. Liability Insurance on Threshold of Breakdown,” *Financial Times*, June 26, 2025, p. 5. See also David Saric, “What Nationwide’s E&S Commercial Auto Exit Means for the Space,” *Insurance Business*, September 11, 2023; Jerry Theodorou, “Legal System Abuse Hammers Truck Insurance,” *Insurance Journal*, November 4, 2024; and Richard Vanderford, “‘Nuclear Verdicts’ Can Drive Up Cost of Doing Business,” *Wall Street Journal*, December 31, 2024.

<sup>46</sup> Government Accountability Office, *Third-Party Litigation Financing: Market Characteristics, Data, and Trends*, GAO-23-105210, December 20, 2022.

<sup>47</sup> U.S. Congress, House Committee on Oversight and Accountability, *Unsuitable Litigation: Oversight of Third-Party Litigation Funding*, hearing on H.R. 2025/S. 840, 117<sup>th</sup> Cong., 2<sup>nd</sup> sess., September 13, 2023. See also CRS Legal Sidebar LSB10145, *Following the Money: Should Federal Law Require Litigants to Disclose Litigation Funding Agreements?*, by Kevin M. Lewis.

<sup>48</sup> DOT, FMCSA, “Protect Your Move,” <https://www.fmcsa.dot.gov/protect-your-move>. 49 C.F.R. §375.

reregister with FMCSA under a different name, a problem the agency also has had with unsafe or fraudulent truckers carrying non-household goods.

Some Members of the 119<sup>th</sup> Congress have introduced bills that seek to provide further protection for consumers of household goods carriers and address carriers who attempt fraudulent reregistration (S. 337, H.R. 880).

## Cargo Theft

Between January 1, 2025, and December 1, 2025, congressional committees held two hearings and a roundtable on cargo theft. Strategic cargo theft is a new trend in which thieves identify a shipment of high value goods via hacking into shipping electronic communications, disguise themselves as legitimate carriers to steal the goods, and oftentimes do so from outside the country. For instance, a trucker working for criminals may pose as a known carrier when picking up goods at a warehouse. At one of the hearings, a truck carrier testified as follows:<sup>49</sup>

There are several factors and trends that are responsible for this uptick in frequency and sophistication of freight fraud. First, the COVID-19 global pandemic offered criminals a prime opportunity to exploit the vulnerabilities caused by a supply chain thrown into chaos by dramatic shifts in global supply and demand. Second, the digitization of domestic and international supply chains has created new vulnerabilities and thus opportunities for [Organized Theft Groups] to exploit gaps using sophisticated and ever-evolving cyber capabilities. These groups can steal freight remotely by exploiting the technology that has been embedded into supply chains to move cargo more efficiently. Third, the erosion of traditional in-person direct business transactions—a past staple of traditional supply chain relationships—has created further opportunities for exploitation. Doing business with unknown companies and drivers has become normalized given that more shipments are now brokered via load boards and online platforms. This has made it relatively easy for the criminals to pose as legitimate brokers or carriers and fraudulently engage in business transactions with unwitting supply chain partners. Finally, the lack of coordinated investigations and prosecutions has emboldened these actions. Thieves have quickly realized that federal, state, and local law enforcement do not have the resources to stop them nor the interest to pursue sweeping investigations.

Other hearing witnesses testified that FMCSA's difficulties in screening new entrants in the trucking industry, specifically the agency's inability to prevent reincarnated or fraudulent carriers from obtaining operating authority,<sup>50</sup> contribute to the cargo theft problem.<sup>51</sup> Some witnesses suggested that FMCSA serve as the federal agency coordinator with the Federal Bureau of Investigation and Homeland Security Investigations to lead federal efforts to prevent and investigate cargo theft, at least in the trucking sector. Witnesses also raised FMCSA's National Consumer Complaint Database as a missed opportunity to identify fraudulent truckers because most truckers are not aware of the database's function or have experienced that FMCSA does not

<sup>49</sup> Written testimony of Donna Lemm, chief strategy officer, IMC Logistics, Senate Committee on the Judiciary, *Beyond the Smash and Grab: Criminal Networks and Organized Theft*, hearing, 119<sup>th</sup> Cong., 1<sup>st</sup> sess., July 15, 2025.

<sup>50</sup> For more on *reincarnated* carriers, see Rob Carpenter, "Chameleon Carriers, Fraud Detection, and FMCSA's Evolving Data Strategy," Trucksafe Consulting LLC, November 24, 2025, <https://www.trucksafe.com/post/chameleon-carriers-fraud-detection-and-fmcsa-s-evolving-data-strategy>.

<sup>51</sup> U.S. Congress, House Committee on Transportation and Infrastructure, Subcommittee on Railroads, Pipelines, and Hazardous Materials, *Roundtable: Combating Cargo Theft: Stakeholder Perspectives*, 119<sup>th</sup> Cong., 1<sup>st</sup> sess., April 29, 2025; and U.S. Congress, Senate Committee on Commerce, Science, and Transportation, "Grand Theft Cargo: Examining the Costly Threat to Consumers and the U.S. Supply Chain," hearing, 119<sup>th</sup> Cong., 1<sup>st</sup> sess., February 27, 2025.

act on the information truckers have submitted.<sup>52</sup> In September 2025, DOT published a request for information from industry on the extent of cargo theft and recommendations on how to combat it.<sup>53</sup>

The Combating Organized Retail Crime Act (H.R. 2853, S. 1404), which has 185 cosponsors in the House and 39 in the Senate, includes a number of measures relevant to the transport of retail goods to combat theft.

## Hazmat Safety

PHMSA reports that the annual number of safety incidents involving highway transport of hazmat has increased by 62%, from 15,130 incidents in 2015 to 24,557 in 2024, but the total number of injuries from those incidents has decreased from 157 in 2015 to 37 in 2024.<sup>54</sup> These data suggest that the severity of incidents has declined, emergency response capabilities have improved, or both. However, with the onset of greater oil and natural gas production from horizontal drilling, the petrochemical industry, which heavily deals with hazmat, is booming, along with other industries related to hazmat. PHMSA's FY2025 budget request states the following:<sup>55</sup>

With the rising domestic demand for lithium-ion battery-powered electronics and electric vehicle batteries, as well as international demand for American energy products and chemicals, we anticipate a continuous increase in the volume, number of shipments, and value of hazardous materials shipments.

Hazmat trucking companies fund training for emergency responders to hazmat incidents via an annual registration fee. The annual fee is \$250 for small businesses and is statutorily capped at \$3,000 for large businesses (49 U.S.C. §5108(g)). For registration year 2022-2023, these fees generated nearly \$25 million for federal training grants provided to first responders. An issue before Congress is whether to raise the cap on large businesses to generate more funds for training grants, which is recommended by PHMSA and the Owner-Operator Independent Drivers Association. Congress could seek additional information from PHMSA to assess the need for funding for training.<sup>56</sup> Currently, a handful of different federal grant programs are used to improve hazmat response training, and an option for Congress could be to consolidate these programs. Some proponents contend that such consolidation could improve the efficiency of disbursing the funds and reduce the reporting requirements for grantees, since a grantee might receive funds from different programs for the same activity but must file separate reports for each

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<sup>52</sup> DOT, FMCSA, "National Consumer Complaint Database," <https://nccdb.fmcsa.dot.gov/>.

<sup>53</sup> DOT, Office of the Secretary, "Protecting America's Supply Chain from Cargo Theft-Request for Information," 90 *Federal Register* 45309, September 19, 2025.

<sup>54</sup> DOT, Pipeline and Hazardous Materials Safety Administration (PHMSA), "10 Year Incident Summary Reports," accessed September 1, 2025, <https://portalpublic.phmsa.dot.gov/analytics/saw.dll?Portal>.

<sup>55</sup> DOT, *Budget Estimates Fiscal Year 2025: Pipeline and Hazardous Materials Safety Administration*, 2024, p. 56, [https://www.transportation.gov/sites/dot.gov/files/2024-03/PHMSA\\_FY\\_2025\\_CJ\\_508\\_Compliant.pdf](https://www.transportation.gov/sites/dot.gov/files/2024-03/PHMSA_FY_2025_CJ_508_Compliant.pdf).

<sup>56</sup> DOT, PHMSA, *Hazardous Materials Emergency Preparedness (HMEP) Grant Gap Analysis*, October 15, 2023, <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2024-08/HMEP-Gap-Analysis-Report.pdf>.

grant program.<sup>57</sup> A June 2025 DOT Inspector General report included recommendations to Congress on how PHMSA could improve its oversight of grant funding.<sup>58</sup>

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<sup>57</sup> Commercial Vehicle Safety Alliance, *CVSA Comments for the Record to the U.S. House of Representatives Transportation and Infrastructure Committee's Subcommittee on Highways and Transit*, March 26, 2025, p. 11, <https://cvsa.org/wp-content/uploads/CVSA-Statement-for-the-Record-03.26-Hearing-on-Trucking.pdf>. Comments are in response to U.S. Congress, House Committee on Transportation and Infrastructure, Subcommittee on Highways and Transit, *America Builds: How Trucking Supports American Communities*, hearing, 119<sup>th</sup> Cong., 1<sup>st</sup> sess., March 26, 2025.

<sup>58</sup> DOT, Office of Inspector General, *Opportunities Exist for PHMSA to Improve Procedures and Data Quality to Administer the HazMat Emergency Preparedness Fund and Grant Program More Effectively*, June 23, 2025.