



Oppose Efforts to Reduce Supply Chain Accountability and Safety

Background:

Oppose efforts “to enhance interstate commerce by creating a national hiring standard for motor carriers, and for other purposes.” This is an attempt to reduce supply chain accountability and safety.

Objectionable language that will reduce supply chain accountability and safety:

Inadequate requirements to qualify for a “standard” and limit on liability:

The entity will qualify if they ensure that the carrier is:

1. registered with and authorized by the Federal Motor Carrier Safety Administration (FMCSA) to operate as a motor carrier or household goods motor carrier, if applicable;
2. has the minimum insurance coverage required by Federal regulation; and,
3. does not have an unsatisfactory rating under the current rating or any future safety fitness determination rule.

Broad restrictions on admittance of data as evidence in civil action against shippers and brokers:

1. In general, only evidence of an entity’s compliance with subsection (a) may be admitted as evidence or otherwise used in a civil action for damages resulting from a claim of negligent selection or retention of such motor carrier against the entity.
2. All other motor carrier data created or maintained by the FMCSA including safety measurement system data or analysis of such data, may not be admitted into evidence in a case or proceeding in which it is asserted or alleged that an entity’s selection or retention of a motor carrier was negligent.

Truck Safety Coalition (TSC) Position:

The TSC adamantly opposes efforts to limit shipper and broker responsibility/liability. Safety cannot be accomplished until the entire supply chain is accountable. The required actions identified in these repeated efforts set a standard for shippers and brokers at such a very low threshold that it would actually serve to reduce safety accountability. The three actions required are so easily attained that many high-risk and chameleon carriers would qualify under this set of criteria.

The language included in these efforts promote a race to the bottom by allowing shippers and brokers to use the bare minimum of information in determining which carrier to use. None of the criteria specified reflect on the current safety performance of a carrier. If safety is removed from the hiring decision, as it would be with these ridiculously low standards, it would lead to low-cost, unsafe carriers being selected, exposing the public to physical and financial risk. With low insurance coverage for the carrier and liability protections for whomever made the carrier selection, damage costs will go uncovered and the taxpayer will have to pick up the costs.

As to what data should be allowed in a civil action, it is for a judge to determine what is relevant to a case. This amendment language would result in families and other affected parties (local city or county) not having access to critical information, and therefore adversely impacting their access to justice.



Safety Concerns:

Safety should be the focus for the entire supply chain and efforts to reduce shipper broker liability would take safety out of the equation in the decision making process.

- **We should be elevating standards for carrier selection, not lowering them.** This was the purpose of many of the MAP-21 provisions, which included amended financial security requirements for property brokers and created new requirements for freight forwarders by setting a minimum financial security of \$75,000 and extended the bond requirement to freight forwarders.
- **Minimum levels of insurance for trucks and motor coaches have not been increased in over 35 years and are woefully insufficient.** Bare minimum compliance should not be accepted as a standard of safety.
 - The minimum amounts set by Congress as the absolute floor are too low. They do not provide the intended underwriting supervision and protection for the public.
 - The low original minimum amounts have provided less coverage for truck crash related damages as inflation, and especially medical care inflation, has increased.
 - Truck size, weight, and speed have all increased during this time-period, which can lead directly to increased crash severity (higher kinetic energy).
- **A satisfactory rating assigned at one point in time is the bare minimum that allows a carrier to operate.** A carrier or driver that has not yet been prohibited from driving cannot be assumed to uphold safe practices. Many ratings are 10 or 15 years old. Based on the amendment's language, this could mean that a shipper or broker could ignore a carrier's recent performance based data during the selection process. Shippers and brokers should consider all information available to them in determining the safety of a carrier, rather than relying on criteria that does not reflect current operations. A review of safety should include:
 - the last two years of violations that have a high correlation to crash risk, such as unsafe driving and hours of service data;
 - crash history including the number and severity of crashes;
 - carrier out of service rates for both vehicles and drivers;
 - credit ratings and references;
 - safety audit results;
 - company safety and fatigue management plans.

Summary

Attempts to limit shipper broker liability should be rejected as it has been in past sessions of Congress. Safety should be a key part of any purchasing decision by shippers and brokers. The "standards" offered contain no safety performance data and unfairly restrict other parties who may have been adversely impacted in a truck crash.