



Owner-Operator Independent Drivers Association

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April 2, 2024

The Honorable Sue Lawless
Acting Deputy Administrator
Federal Motor Carrier Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, D.C. 20590

Re: Docket # FMCSA-2023-0115, “Commercial Driver's License Requirements: Increased Flexibility for Testing and for Drivers after Passing the Skills Test”

Dear Acting Deputy Administrator Lawless:

The Owner-Operator Independent Drivers Association (OOIDA) is the largest trade association representing the views of small-business truckers and professional truck drivers. OOIDA has approximately 150,000 members located in all fifty states that collectively own and operate more than 240,000 individual heavy-duty trucks. OOIDA’s mission is to promote and protect the interests of its members on any issues that might impact their economic well-being, working conditions, and the safe operation of commercial motor vehicles (CMVs) on our nation’s highways.

Currently, far too many new drivers are entering the trucking industry and driving on the nation’s roads without the basic skills to safely operate a commercial vehicle. With that in mind, we question the agency’s proposal amending commercial driver’s license (CDL) regulations that would weaken driver training standards and fail to improve highway safety. We disagree with the Federal Motor Carrier Safety Administration’s (FMCSA) justification that the proposed changes will further address CMV driver shortages, enhance supply chain stability, and provide appropriate regulatory relief without impacting safety. We are also curious about FMCSA’s decision to revise these regulations in the interest of “efficiency and convenience of CDL issuance,” rather than analyzing if they would improve safety. FMCSA should be finding ways to bolster training requirements, not dilute them.

The Notice of Proposed Rulemaking (NPRM), informed by the American Trucking Associations’ (ATA) 2020 petition that FMCSA codify three CDL-related waivers issued (and subsequently reissued) in response to the COVID-19 pandemic, is another example of large carriers using the false premise of a driver shortage to take advantage of intended safety regulations.

ATA has claimed a perpetual driver shortage for nearly 40 years. However, the historical market pattern of the trucking industry provides overwhelming evidence that ATA's claim of a long-term shortage is meritless.^{1,2} ATA's own data and previous estimates demonstrate the notion of a shortage is not based on any sound evidence. In 2015, ATA estimated that there would be a shortage of about 160,000 drivers in 2023. In ATA's 2022 update³, they revised their estimate for 2023's shortage to about 60,000 drivers, a 62.5 percent reduction. These shortage claims are grossly inaccurate and should not be used as the basis for policy reforms.

FMCSA has previously stated that, "There is a shortage of qualified CDL and commercial learner's permit (CLP) holders to meet the demands of the U.S. supply chain. The low supply of truck drivers continues to strain the efficient movement of goods from the ports to our roadways." Let's be clear - there is no driver shortage. Instead, consistently high turnover creates the perception of a shortage. In fact, the White House has stated, "the low supply of drivers is driven by high turnover and low job quality. Turnover in trucking routinely averages 90 percent for some carriers and drivers spend about 40 percent of their workday waiting to load and unload goods – hours that are typically unpaid."⁴ Rather than proposing ways to expedite the CDL training/administration processes, FMCSA should focus on solutions to address high turnover rates by strengthening driver training programs.

CLP Holders Who Have Passed the Skills Test

49 CFR 383.25(a)(1) requires that a CLP holder must be accompanied by the holder of a valid CDL who has the proper CDL group and endorsement(s) necessary to operate the CMV. The CDL holder must at all times be physically present in the front seat of the vehicle next to the CLP holder while operating a CMV on public roads or highways and must have the CLP holder under observation and direct supervision. This regulation is designed to properly ensure that inexperienced drivers will have sufficient training, instruction, and oversight as they learn the job. In the 2011 final rule on CDL Testing and CLP Standards, the agency noted that, "safety considerations outweigh convenience during driver training."

The NPRM fails to explain how the CLP holder will be adequately mentored if the CDL holder is not in the passenger seat. Given the minimum nature of current entry-level driver training (ELDT) standards, inexperienced drivers will face countless conditions, scenarios, and other challenges they had absolutely no training for during their first months and even years on the road. Eliminating 383.25(a)(1) ignores the fact that well-trained, more experienced drivers have better safety records and can pass their knowledge along to less seasoned drivers.

OOIDA is aware that some carriers use recent truck school graduates as co-drivers in team operations to improve productivity for the carrier while paying the CLP driver less than a CDL driver. The agency

¹ Burks, Stephen V. and Kildegaard, Arne and Monaco, Kristen A. and Miller, Jason, When is High Turnover Cheaper? A Simple Model of Cost Tradeoffs in a Long-Distance Truckload Motor Carrier, with Empirical Evidence and Policy Implications. IZA Discussion Paper No. 16477, Available at SSRN: <https://ssrn.com/abstract=4587413>

² Stephen V. Burks and Kristen Monaco, "Is the U.S. labor market for truck drivers broken?," *Monthly Labor Review*, U.S. Bureau of Labor Statistics, March 2019, <https://doi.org/10.21916/mlr.2019.5>.

³ Bob Costello, "Driver Shortage Update 2022," ATA (October 2022), [Available here.](#)

⁴ <https://www.whitehouse.gov/briefing-room/statements-releases/2022/04/04/fact-sheet-the-biden-administrations-unprecedented-actions-to-expand-and-improve-trucking-jobs/>.

acknowledges, “Motor carriers could experience opportunity cost savings if team drivers can work more efficiently when a driver with a CLP can operate the CMV after passing the skills test but before receiving the CDL credential. For example, a CDL holder could rest in the sleeper berth while the CLP driver with proof of a passing CDL skills test could operate the vehicle in a wage-earning capacity. FMCSA also indicates, “they do not know how many CLP drivers pass their skills test but do not immediately receive their CDL credential, nor does FMCSA know the number of vehicle miles or trips that might be impacted by this rule. As such, FMCSA cannot estimate the cost savings that could result from this provision but anticipates that any cost savings would be below one percent of annual revenue for most motor carriers.”

Typically, CLP holders receive less wages than an experienced CDL driver. This further points to the economic motivations behind ATA’s petition, as the CLP driver could potentially receive the lower wages for the maximum duration of time before the CLP expires.

Eligibility To Take the CDL Skills Test

The 14-day waiting period for CLP holders to take the CDL skills test was also adopted in the May 2011 final rule on CDL Testing and CLP Standards. The agency explained, “the mandatory waiting period was necessary to allow applicants to obtain sufficient behind-the-wheel (BTW) training in preparation for the skills test.” FMCSA also encouraged CLP holders to train for as long as necessary to gain sufficient CDL driving skills. We oppose permanently waiving the 14-day waiting period in order to preserve training opportunities as much as possible.

The agency should only remove the 14-day waiting period if they first amend ELDT requirements to include a minimum level of BTW training. In 2015, OOIDA participated in FMCSA’s Entry-Level Driver Training Advisory Committee (ELDTAC). Composed of 26 industry members, the ELDTAC was established to conduct a negotiated rulemaking on ELDT regulations and requirements. ELDTAC overwhelmingly supported establishing a minimum number of BTW hours in the rulemaking. As such, the Notice of Proposed of Rulemaking originally contained a 30-hour BTW benchmark which was regrettably omitted in the final rulemaking. BTW training provides greater opportunity to evaluate the skills of the entry-level driver and for the trainer to offer corrective actions as compared to the brief evaluation that the examiner is able to conduct. These hours expose the entry-level driver to multiple road signs and various traffic/roadway situations, providing an opportunity for the instructor to correct deficiencies.

Since the final ELDT rule does not have a minimum number of BTW hours, FMCSA should not weaken training opportunities by eliminating the 14-day waiting period for CLP holders to take the CDL skills test absent other appropriate agency actions.

CDL Skills Testing for Out-of-State Applicants

FMCSA, in conjunction with state drivers licensing agencies (SDLAs), must present more information about how different states are administering CDL skills tests and what information is available regarding pass/fail rates, procedures for re-taking exams upon failure, and other irregularities between states’ testing data.

We realize that that uniform national ELDT requirements are now in place, but before making any changes, FMCSA must have a better understanding of how the standards are being implemented at various training locations throughout the country. FMCSA should share any findings from the pending agency review of the ELDT Trainer registry to determine what degree ELDT regulatory objectives have been met, how ELDT implementation has influenced SDLA skills test pass rates, and how accurate and timely data transmission is between training providers, FMCSA, and SDLAs, among other questions. While we understand the intent of alleviating CDL delays and waiting times, we must ensure all states are meeting minimum ELDT standards. Again, safety considerations should outweigh convenience during driver training.

Third-Party Knowledge Examiners and Testers

OOIDA has historically raised concerns about the reliance and expanded use of third-party knowledge examiners and skills testers as we continue seeing instances of third-party examiner fraud and bribery.^{5,6}

Certainly, more oversight is warranted as more and more states increasingly utilize third-party examiners. We are hopeful the proposed training, auditing, and monitoring changes will eliminate fraudulent third-party examiner activity, but FMCSA must offer further specifics about how these proposals will be implemented and ensure that necessary compliance can be achieved.

If applied altogether, the changes that FMCSA has proposed would weaken highway safety objectives. The combination of skills testing flexibility, eliminating the 14-day waiting period for CLP holders to take the skills test, and removing requirements for a CDL holder to train CLP holders in the vehicle could reopen loopholes that were supposed to be eliminated via the final ELDT rule. In theory, an individual could be on the road and driving unsupervised in a condensed time period with insufficient assurances that they've received the necessary training given the minimal nature of current ELDT rules.

Too many new drivers are entering the trucking industry without the basic skills to safely operate a commercial vehicle. As such, we question the agency's proposal amending CDL regulations that would weaken driver training standards and fail to improve highway safety. Moving forward, we urge FMCSA to share findings from the pending agency review of the ELDT Trainer registry to determine what degree ELDT regulatory objectives have been met and how ELDT regulations can be improved.

Thank you,



Todd Spencer
President & CEO
Owner-Operator Independent Drivers Association, Inc.

⁵ <https://www.oig.dot.gov/library-item/39003>.

⁶ <https://www.freightwaves.com/news/3rd-party-tester-sentenced-to-2-years-in-cdl-bribery-scheme>.