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Trucking and Transportation – What’s Next for Distribution?

Distributors across the country are dealing with increasing freight costs, driven largely by the lack of experienced drivers and increasing costs of regulations. This issue brief will discuss various changes happening and proposed that will increase the number of experienced drivers and decrease the cost of regulations on the trucking industry.

DRIVE Safe Act (H.R. 1374 & S. 569)

The U.S. freight industry is experiencing a chronic shortage of qualified truck drivers who are imperative to moving products through the interstate supply chain network. The American Trucking Association estimated that trucking companies will need to hire an additional 890,000 drivers over the next 10 years in order to meet market demands. This makes it even more important to foster an efficient policy framework between intrastate commerce and interstate commerce since the current regulatory framework thus far has a complex dynamic for federal and state regulators to adhere.

Currently, 48 states have lowered the age for commercial licenses to 18 for intrastate commerce. However, under federal law, a commercially licensed driver must be the age of 21 or older in order to cross state lines, meaning freight transportation companies are unable to utilize their entire workforce.

This year, a bipartisan set of lawmakers in the Senate and House introduced legislation to address the urgent shortage of truck drivers affecting the movement and cost of our nation’s commerce called the *Developing Responsible Individuals for a Vibrant Economy Act*, or the DRIVE-Safe Act.

The DRIVE-Safe Act has a two-pronged approach: it lowers the antiquated age restrictions on interstate transportation for commercially licensed drivers from 21 to 18 and strengthens safety-training standards across the industry. The bill creates a multi-step apprenticeship program that includes in-depth training and performance benchmarks that each candidate must satisfy. The bill also mandates candidates to complete 400 hours of on-duty time, and 240

hours of driving time supervised by an experienced commercial licensed driver. All of the trucks used for this training must be equipped with the latest safety technology including active braking collision mitigation systems, front-facing video event capture, and a speed governor of 65 miles per hour or below.

The growing shortage of highly trained truck drivers is affecting the transportation and cost of goods for all consumers. Introducing younger drivers into the trucking profession with a chance to get the training they need in order to safely operate will help alleviate the truck driver job shortages the industry is currently experiencing.

The DRIVE-Safe Act is a step in the right direction to modernizing, improving, and expanding the freight transportation industry in the U.S.

California Meal and Rest Break Laws

The state of California adopted a set of laws regarding meal and rest break requirements that would mandate drivers to stop more frequently while providing no direct safety benefits. The law mandated employers to provide drivers with a 30-minute meal break before the driver completed five hours of work and also required a paid 10-minute rest break for every four-hour work period or “major fraction thereof.” During both meal and rest breaks, drivers would be prohibited from having any duties or responsibilities of any form.

These rules have been proven to complicate compliance, enabling trial lawyers to leverage even the smallest technical violations in order to obtain outlandish verdicts and settlements in class-action lawsuits. Insofar, in 2014 the 9th Circuit Federal Court of Appeals found that California’s meal and rest break laws were not preempted under the Federal Aviation Administration Authorization Act of 1994.

After this onerous court ruling along with no federal legislative solution, in 2018 the American Trucking Association filed a petition with the U.S. Department of Transportation (U.S. DOT) under 49 U.S.C section 31141. This unique law allows the transportation secretary to review state laws that are applicable to drivers of commercial motor vehicles and deem them preempted by federal law if: (1) the state law has no safety benefit; (2) the state law is incompatible with a regulation of the secretary; or (3) enforcement of the state law would cause an unreasonable burden on interstate commerce. In 2008, a similar petition was filed and was denied.

On December 21, 2018, the Federal Motor Carrier Safety Administration along with the transportation secretary decided that federal law does preempt California’s meal and rest breaks law for truck drivers. According to the U.S. DOT, this is because the California law offers no additional safety to drivers or carries; are incompatible with the hours-of-service regulations enforced by the U.S DOT; and causes an unreasonable burden to drivers and carries engaging in interstate commerce.

Trucking Innovation and Future Regulations

In 2018, the U.S. Department of Transportation (U.S. DOT) announced that they will “no longer assume” that the driver of a commercial truck is a human, and the agency will even “adapt the definitions of ‘driver’ and ‘operator’ to recognize that such terms do not refer exclusively to a human, but may in fact include an automated system.”

These statements were a part of a 70-page document that outlined the agency’s latest interpretation of the existing federal laws and regulations that govern autonomous vehicles. Even though the document does not constitute the legal definition of “rulemaking”, it does highlight where the federal government will, and will not, intervene in the rollout of driverless trucks.

This document from U.S. DOT does, however, highlight a departure from previous versions in 2016 and 2017 that acknowledges the new kind of safety risk autonomous trucks could present, even if they’ll reduce the number of collisions overtime.

Autonomous trucks generally operate at what is known as Level 2, an engineering standard that includes technologies such as automatic braking, acceleration, and some amount of steering. By comparison, basic cruise control would amount to Level 0, while features such as lane-assist or adaptive cruise control would be considered Level 1. However, most autonomous trucks being deployed would be operating at Level 4, otherwise known as “high automation.”

Even though the U.S. DOT is taking a light-touch approach thus far to regulating the autonomous truck industry—deferring to industry creating their own standards, rather than bureaucrats—nearly half of the American population are still “very” or “somewhat” concerned about sharing the road with a driverless vehicle, according a survey by [Pew](#).

Therefore, it is imperative for regulators and policymakers at both the federal and state levels to find a general consensus as to how autonomous trucks will be regulated from an intrastate commerce and interstate commerce standpoint. This will ensure a seamless integration of this emerging technology in order to mitigate potential service disruptions down the road.

What can NAHAD members expect?

Distributors across the country are urging Congress to fill the gap for qualified truckers. Demand is increasing in the market and it is imperative to bring in qualified workers to fill these jobs. Introducing younger drivers into the trucking industry by rigorous training and eliminating bad policy between intrastate commerce and interstate commerce is the first step. The second step is to oppose harmful regulations such as California’s Meal and Rest Break and support helpful regulations such as the DOT’s trucking innovation changes.

Many organizations are supporting passage of the DRIVE Safe Act and watching regulations coming from DOT carefully to ensure the U.S. has the truckers we need to move products across the country. Creating a fairer system for truckers will provide a better incentive for future generations to build a life in the much-needed trucking industry.