



LEGISLATIVE AGENDA: 2020



2020 LEGISLATIVE AGENDA

TABLE OF CONTENTS

A Letter from President & CEO, Don Lefevé	1
CVTA School Facts & The Commercial Trucking Industry	5
Workforce Innovation & Opportunity (WIOA) Grants	6
Entry-Level Driver Training (ELDT) Final Rule	8
Commercial Driver's License (CDL) Testing Delays	10
18-to-20 Year Old Drivers	12
Automated Vehicle Policy	14

A LETTER FROM THE PRESIDENT & CEO



Don Lefevé
President & CEO

Trucking begins with truck drivers. Truck drivers begin with training. CVTA's 2020 Legislative Agenda is focused on policies that promote safety, workforce development and reducing barriers to those entering and graduating from a commercial driving school.

America has been experiencing a commercial driver shortage. Recent reports suggest that the industry is lacking 60,000 qualified drivers to keep up with demand. This shortage is expected to grow as driver retirements, economic growth, and driver disqualifications grow in the future. As of 2014, commercial truck driving was the number one in-demand occupation in 29 states. Drivers deliver the goods and services Americans rely upon every day.

CVTA's legislative agenda is a constellation of issues that affect our schools. These issues are at the nexus of education and transportation at both the federal and state levels. CVTA fights to ensure that students can enter and exit training without any major impediments. Our member institutions provide our students with quality training and equip them with a skillset to enter and succeed in transportation. Therefore, CVTA's legislative agenda is primarily concerned with the aspects related to training, student funding, and sensible regulations that allow students to equip themselves with the skills needed in their future profession.

For drivers to get the necessary training, schools and motor carriers must have the right policies in place to ensure success. The policies outlined in this document reflect, in our members' judgement, the right policies to ensure that students succeed, in turn ensuring the success of the trucking industry.

Should you have any questions, please do not hesitate to contact us at CVTA. We appreciate your interest in understanding the policy dynamics which promote a regulatory atmosphere where entry-level drivers can thrive.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Lefevé". The signature is fluid and cursive, written in a professional style.

Don Lefevé

ABOUT CVTA

The Commercial Vehicle Training Association (CVTA) is the largest association representing commercial truck driver training programs in the United States. CVTA members represent over 225 training locations in 43 states, training 55,000 commercial driving students annually. Advancing the interests of commercial driver training schools, workforce providers, and employers, CVTA advocates for policies that enhance safety through commercial driver training, enable students to secure employment within the trucking and bus industries, thus further advancing driver professionalism.

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2020 LEGISLATIVE AGENDA

CVTA's 2020 Legislative Agenda embraces three primary themes, in order of importance to our members: **Promoting Safety, Removing Barriers to Entry, and Protecting Workforce Education Investment**. This agenda will allow students to succeed and create safer roads for everyone to use. When our students succeed, America's economy grows stronger to the benefit of all Americans.

PROMOTING SAFETY

The Commercial Vehicle Training Association is the nation's largest association representing truck driver training providers in the United States. We represent over 225 private and public truck driving schools and motor carrier training programs in 43 states that train approximately 55,000 CDL students annually. CVTA promotes driver education, which serves as the foundation of the safe and efficient operation of commercial trucks and ensures the safety of all roadway users.

The education and training our students receive from our members ensure those individuals are equipped with a lifetime skillset that employers demand. Our commitment to safety is demonstrated by CVTA's ongoing collaboration with the U.S. Department of Transportation on the implementation of federal entry-level driver training standards, our school and motor carrier instructor certification programs, and the promotion of policies which recognize commercial driving as a skilled profession.

REMOVING BARRIERS TO ENTRY

Truck driving is one of the most in-demand jobs in the United States and is critical to keeping the economy moving. At the end of 2018, the trucking industry fell short approximately 60,000 drivers of what motor carriers needed to fill every cab in their fleets. However, there are regulatory barriers that prevent drivers from entering the industry. CVTA members play a central role in fulfilling workforce needed by employers.

CVTA works to promote policies that improve efficiency in the process of obtaining a commercial driver's license without compromising safety. We believe we can achieve this by working with federal, state, and local governments to reduce barriers to securing a CDL upon successful demonstration of the skills needed to obtain a CDL.

PROTECTING WORKFORCE EDUCATION INVESTMENT

Paying for education and training can be complicated for many jobseekers. The inability to pay for an education is a significant impediment to job creation. While a variety of financing options are available, many students depend on publicly-funded grants to pay for training. CVTA believes that these programs are vital part in directing more Americans toward commercial driving as a stable and fulfilling career. Consequently, we work to protect funding sources to ensure America has drivers to deliver our freight.

ACRONYMS

ADAS	Advanced Driver Assisted Systems
BTW	Behind the Wheel
CDL	Commercial Driver's License
CLP	Commercial Learner's Permit
CMV	Commercial Motor Vehicle
DOT	Department of Transportation
ELDT	Entry-Level Driver Training
ELDTAC	Entry-Level Driver Training Advisory Committee
FCC	Federal Communications Commission
FMCSA	Federal Motor Carrier Safety Administration
GAO	General Accounting Office
HAV	Highly Autonomous Vehicle
ICC	Interstate Commerce Commission
ISTEA	Intermodal Surface Transportation Efficiency Act of 1991
IT	Information Technology
MAP-21	Moving Ahead for Progress in the Twenty-First Century Act of 2012
MCA	Motor Carrier Act of 1935
NPRM	Notice of Proposed Rule-Making
OEM	Original Equipment Manufacturers
SDLA	State Driver's License Authorities
TPR	Training Provider Registry
V2I	Vehicle-to-Infrastructure
V2V	Vehicle-to-Vehicle
WIA	Workforce Innovation Act
WIB	Workforce Investment Boards
WIOA	Workforce Innovation and Opportunity Act

CVTA SCHOOL FACTS

- Train 55,000 students annually
- 225+ training locations in 43 states
- Average student age is 35
- Enrollment is 89% male and 11% female (2018)
- 5,443 truck driver trainees funded with WIOA¹
- CVTA membership is the largest collective source of entry-level truck drivers recruited in the United States

TRUCKING INDUSTRY FACTS

- Trucks move roughly 71.4% of the nation's freight by weight.²
- \$796.7 billion in gross freight revenues (primary shipments only) from trucking, representing 80.3% of the nation's freight bill in 2018.³
- 4.3 million commercial motor vehicle operators hold interstate/intrastate CDLs.⁴
- The trucking industry will have been short the 60,800 qualified drivers needed to fill every truck in their fleets in 2018; this number is expected to increase to 160,000 by 2028.⁵
- Entry-level truck drivers are often pre-hired before beginning their driver training, thus they begin working almost immediately after completing their training. They make up 49% of new hires in the trucking industry.⁶
- Entry-level drivers enjoy an average starting salary of \$48,000-\$52,000 per year plus benefits, as well as bonuses and tuition reimbursement.
- The truck driver occupation is listed as an “occupation with the most growth” by the Department of Labor, Bureau of Labor Statistics.
- The truck driver workforce is expected to grow 5.1% by 2028.⁷
- The average age of a truck driver is 55 years old.⁸

¹ Based on a 2019 survey of CVTA members.

² American Trucking Associations, *Industry Data*, available at https://www.trucking.org/News_and_Information_Reports_Industry_Data.aspx

³ Id.

⁴ FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION, *2019 Pocket Guide to Large Truck and Bus Statistics* (2019), available at <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2020-01/FMCSA%20Pocket%20Guide%202019-FINAL-1-9-2020.pdf>

⁵ American Trucking Associations, *Truck Driver Shortage Analysis 2019* (2019), available at <https://www.trucking.org/ATA%20Docs/News%20and%20Information/Reports%20Trends%20and%20Statistics/ATAs%20Driver%20Shortage%20Report%202019%20with%20cover.pdf>

⁶ National Public Radio, *Facing a Critical Shortage of Drivers, the Trucking Industry is Changing* (Feb. 11, 2019) available at <https://www.npr.org/2019/02/11/691673201/facing-a-critical-shortage-of-drivers-the-trucking-industry-is-changing>

⁷ BUREAU OF LABOR STATISTICS, *Occupations with the Most Job Growth* (2018) available <https://www.bls.gov/emp/tables/occupations-most-job-growth.htm>

⁸ National Public Radio, *Trucking Industry Struggles with Growing Driver Shortage* (Jan. 9, 2018) available at <https://www.npr.org/2018/01/09/576752327/trucking-industry-struggles-with-growing-driver-shortage>

WORKFORCE INNOVATION AND OPPORTUNITY (WIOA) GRANTS

BACKGROUND

Congress reauthorized federal workforce programs funded under the Workforce Investment Act (WIA) through the passage of the 2014 Workforce Innovation and Opportunity Act (WIOA). As with WIA, WIOA allocates federal funds to states, which then push these funds into their local workforce through state “one-stop” workforce centers. WIOA funds enable unemployed and underemployed individuals to receive training in “in- demand” careers. Over the years, WIA/ WIOA grants have allowed thousands of individuals to attend truck driver training schools and begin their careers as commercial drivers. In fact, it is estimated that WIOA recipients make up approximately 10,000-15,000 transportation workers annually.³⁰

Program Year	2013	2014	2015	2016	2017
Total WIOA trained	107,302	106,402	97,037	94,341	85,705
Total Students in Transportation	11,298	14,537	14,454	14,849	13,141

Under WIOA, the “in-demand” occupation status requires state and local workforce boards to determine what occupations are in high demand based on local, state, or regional jobs data. In other words, under WIOA, grants will be awarded to pay for training programs only if state and local workforce boards have already determined that the applicant’s target industry has adequate job openings in that state or locality.³¹

Truck driving is not only an in-demand occupation, it is economically integral to the movement of U.S. commerce and the ability for consumer demand of goods and services to be fulfilled. WIOA is an important resource for many jobseekers looking to start a career in this high-demand and economically important industry.

CURRENT PROBLEM

WIOA grants remain a major source of funding for individuals to enter careers in truck driving. In 2018, WIOA grants enabled 5,443 individuals to attend training at CVTA schools and gain critical job skills that keep them competitive in the job market. Congress must continue to fully fund WIOA programs. Without robust funding, CVTA fears that fewer individuals will look to commercial trucking as a career option, thereby exacerbating the driver shortage.

³⁰ DEPARTMENT OF LABOR: EMPLOYMENT AND TRAINING ADMINISTRATION, *PY2016 Data Book*, p.57 (June 2018).

³¹ See Workforce Innovation and Opportunity Act of 2014, 29 U.S.C. § 3102(23)(B) (2014), also see <http://www.doleta.gov/wioa>

WORKFORCE INNOVATION AND OPPORTUNITY (WIOA) GRANTS

Additionally, CVTA is concerned about inefficiencies in the WIOA structure that puts the program's success at risk:

1. There are a few Workforce Investment Boards (WIBs) that do not classify truck driving as an "in demand" occupation because the criteria used by WIBs to determine workforce demand is based solely on local data. Although WIOA allows state workforce boards to choose which data they will use when determining jobs that are "in-demand," CVTA fears that too much reliance on state and local data at the expense of national data may unintentionally discriminate against non-domiciled trucking companies. As such, this risks exacerbating the driver shortage.
2. It is difficult to track WIOA recipients after they enter the workforce. Data is limited in terms of tracking how long WIOA recipients stay in the workforce in their chosen career field. Furthermore, WIOA program metrics may need to be adjusted to capture those residents who are employed by out of state companies but remain a resident of their state. Being able to track career progress of WIOA recipients allows WIBs and employers to quantify how long WIOA recipients remain in the workforce in their given profession.
3. Although truck driving schools attempt to accommodate all WIOA recipients sent by WIBs, schools may have a difficult time accommodating WIOA recipients because of capacity, the aptitude of some of the students, or a criminal background that might make it unusually difficult for the student to find work with a carrier after completion of training.

CVTA'S POSITION

WIOA is scheduled for Congressional reauthorization in 2020. This is an ideal opportunity for Congress to address WIOA's shortcomings. To ensure that qualified job seekers in each state have access to driver training programs, it is imperative that all governors and workforce boards understand the current driver shortage and recognize that many trucking companies will hire from any state in the

U.S. Therefore, CVTA urges members of Congress to:

1. Increase WIOA authorized funding levels;
2. Establish a system that recognizes nationally in-demand jobs so that WIBs have more career training opportunities for jobseekers to pursue;
3. Establish a uniform data system that allows WIBs and employers to track the long-term career progress of WIOA recipients after they enter the workforce;
4. Establish vetting and assessment guidelines for WIOA applicants to ensure WIOA recipients that enter training have the aptitude to complete training and are employable upon completion of training; and
5. Explore other innovative funding ideas for training. Carriers with tuition reimbursement programs could also repay WIOA grants to a WIB or to the Department of Labor, thereby recycling funds back into the system to pay for more jobseekers to get trained as truck drivers.

ENTRY-LEVEL DRIVER TRAINING

BACKGROUND

Since the passage of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Congress and the Department of Transportation (DOT) have sought to put forth a regulation that requires anyone seeking a commercial driver's license (CDL) to obtain formal training before taking the CDL skills test.¹⁵ After years of back and forth between the agency and the courts, Congress again required the DOT to promulgate a regulation on entry-level driver training (ELDT) via the Moving Ahead for Progress in the Twenty-First Century Act of 2012 (MAP-21).¹⁶ In response, the Federal Motor Carrier Safety Administration (FMCSA) held a negotiated rulemaking in 2015. CVTA and 25 other industry leaders were chosen as participants in the Entry-Level Driver Training Advisory Committee (ELDTAC).

The negotiated rule produced by the ELDTAC served as the blueprint for the Final regulation, issued in December 2016, which was set to require full compliance by States and training providers as of February 7, 2020.¹⁷

When fully implemented, ELDT requires:

- All students to undergo a three-part curriculum comprised of classroom (theory) and behind-the-wheel training (range), and behind-the-wheel training (road). This collectively embodies approximately 30 subjects and requires students to demonstrate proficiency in all subjects and skills.
- All training providers to certify its students are “proficient” in the skills curriculum based on their performance before taking the CDL skills exam.
- Instructors must have two years teaching or industry experience.
- All training providers to register, be approved, and listed on the FMCSA's Training Provider Registry (TPR) (students who are not certified by a school on the TPR will not be able to test for a CDL).
- While there are no federal minimum hours of BTW training, all training providers must disclose how many BTW hours the student completed on the student's certificate.
- State driver's license authorities (SDLAs) to modify their data systems to be able to record BTW curriculum hours completed by each CDL applicant.

RECENT DEVELOPMENTS & MORE DELAYS

In July 2019 the FMCSA proposed delaying parts of the regulation pertaining to State enforcement and information collection, citing nonspecific IT problems and state preparedness issues.¹⁸ In response, in November 2019, Representatives Eleanor Holmes Norton and Rodney Davis sent the FMCSA a bipartisan

¹⁵ The Intermodal Surface Transportation Efficiency Act of 1991 § 4007, Pub. L. 102-240 (1991), 49 U.S.C. §§ 31701 et seq (1991).

¹⁶ The Moving Ahead for Progress in the 21st Century Act § 32304, 49 U.S.C. § 31305 (2012).

¹⁷ *Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators*, 81 Fed. Reg. 88732 (December 8, 2016) (to be codified at 49 CFR Parts 380, 383, and 384) available at <https://www.federalregister.gov/documents/2016/12/08/2016-28012/minimum-training-requirements-for-entry-level-commercial-motor-vehicle-operators>

¹⁸ *Partial Extension of Compliance Date for Entry-Level Driver Training*, 84 Fed. Reg. 34324 (July 18, 2019).

ENTRY-LEVEL DRIVER TRAINING

letter requesting clarification on the underlying issues causing delay and answers on how the FMCSA would course-correct to meet the pending deadline.¹⁹ The Agency did not respond. Instead, on February 4, 2020, the FMCSA issued an Interim Final Rule (IFR), which delayed the entire ELDT regulation for an additional two additional years.²⁰ Despite having three years to prepare for the implementation of the regulation, the FMCSA cited nonspecific “IT issues” that prevented the creation of the online Training Provider Registry. The FMCSA also cited confusion and a lack of preparedness on the part of States as a root cause of federal delay.

CVTA’S REAUTHORIZATION POSITION

CVTA strongly supports the ELDT regulation. As such, CVTA would like Congress to add language in the upcoming Highway bill to:

- establish a date certain for ELDT implementation in advance of 2022 (*Example: no later than July 1, 2021*);
- require the FMCSA to publicly disclose what states have and have not passed laws or regulations adopting ELDT on a quarterly basis until the regulation is implemented;
- for the FMCSA shall provide a written report every 90 days to Senate and House Committees of jurisdiction to update them on federal and state efforts to implement the regulation (“aggressive updates”); and
- 45 days after being the regulation is implemented, the FMCSA shall notify Congress of any states which are in substantial noncompliance.

While the exact cause of the ELDT delay is still unknown, Congress has an obligation to ensure the law is followed and implemented. Since the FMCSA has failed to implement a regulation on time, CVTA feels that establishing a fixed date and accountability measures will ensure the FMCSA and states implement this regulation as required by Congress.

¹⁹ Reps. Rodney Davis & Eleanor Holmes Norton, *Letter to FMCSA Re: Entry-Level Driver Training Delay* (Nov. 15, 2019) available at <https://documentcloud.adobe.com/link/track?uri=urn%3Aaaid%3Ausc%3A1ba16ad5-da3a-43dc-aa7f-c37aca35bc86>

²⁰ *Extension of Compliance Date for Entry-Level Driver Training*, 85 Fed. Reg. 6088 (Feb. 4, 2020).

COMMERCIAL DRIVER'S LICENSE – SKILLS TESTING DELAYS

BACKGROUND

To obtain a commercial driver's license (CDL), a student driver must follow a two-step process similar to that for a traditional driver's license. First, the driver must pass a written knowledge test to obtain his or her Commercial Learner's Permit (CLP). The CLP holder must then wait a minimum of 14 days to take the behind-the-wheel CDL skills test.²²

After successfully passing the skills exam and obtaining a CDL, the new driver is ready to begin their new career. Upon satisfying all requirements, new CDL drivers have little, if any trouble, getting placed in a well-paying job operating a truck or bus. This is because the truck industry is experiencing a severe driver shortage, lacking upwards of 60,000 qualified drivers necessary to meet current and future demand.²³

The Federal Motor Carrier Safety Administration (FMCSA) sets minimum CDL testing standards for all states. While all states must meet or exceed these minimum testing standards in terms of content, states are currently free to determine the entity that administers or conducts the CDL skills exam within their borders. States can either use state employees, such as examiners within its Department of Motor Vehicles (or equivalent agency), and/or delegate the testing function, in part or whole, to a state-certified third party, including commercial driving schools, trucking companies, municipalities, or independent test centers. The practice of allowing a nonstate entities to conduct skills testing is referred to as "third party testing." Forty states have adopted some form of third-party testing to ensure that there are enough personnel, testing sites and resources to test students expeditiously.²⁴ Though states are not required to test students within a certain amount of time, delays in offering a skills test within a timely manner can create substantial hardships to students, motor carriers, and schools.

In 2015, the General Accounting Office (GAO) found that 15 States had CDL skills testing delays and backlogs that left students waiting 14 days or more to test for their CDL. Students in eight of these states wait more than 21 days to take their initial CDL test. Most importantly, because 20-50% of students fail their initial CDL skills test, students in states with testing delays are often forced to forgo income for additional weeks or months while waiting for a retest appointment to become available.²⁵ These delays are being further exacerbated by the fact that some states are closing down state run testing facilities either for budgetary reasons or due to their failure to meet increased size requirements for testing facilities. Since the GAO report was published, the FMCSA implemented new testing requirements, which have resulted in an increase in delays in many states.

Delays are primarily due to lack of testing sites and personnel to meet demand. States are either unable to expend additional budget resources to solve its delay problem or unwilling to adopt or expand third party testing to reduce testing backlogs. The result is that new drivers in many states are not able to take their CDL skills test or retest in a timely manner resulting in a driver's delayed entry into the job market and not receiving income.

CONGRESSIONAL ACTION

In 2015, Congress took action on this issue by including section 5506 in the FAST Act. This section requires the FMCSA to survey all states and produce an annual report disclosing the wait times. In 2018, the FMCSA released the *Commercial Driver's License Skills Test Delays Report –Calendar Year 2016*.²⁶

²² *Commercial Driver's License Testing and Commercial Learner's Permit Standards*, 76 Fed. Reg. 26853 (May 9, 2011).

²³ American Trucking Associations, *Truck Driver Shortage Analysis 2019* (2019), available at <https://www.trucking.org/ATA%20Docs/News%20and%20Information/Reports%20Trends%20and%20Statistics/ATAs%20Driver%20Shortage%20Report%202019%20with%20cover.pdf>

²⁴ See U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-15-607, COMMERCIAL DRIVER'S LICENSES: FEDERAL OVERSIGHT OF STATE PROGRAMS COULD BE IMPROVED (2015), 19-21 (Fig. 3) (noting that states reported using third-party testing in order to increase availability or access to skills tests for prospective students, supplement state testing resources, cut costs, and reduce testing wait times).

²⁵ Pham, Nam D. and Donovan, Mary. *Economic Impact of Wait Times for Commercial Driver's License Skills Tests*. NDP Analytics (December 2018).

²⁶ FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION, *Commercial Driver's License Skills Test Delays Report to Congress–Calendar Year 2016*,

COMMERCIAL DRIVER'S LICENSE – SKILLS TESTING DELAYS

This report disclosed skills testing delay times by state. The economic impact caused by skills testing delays are real and quantifiable. An independent analysis (Economic Analysis)²⁷ commissioned by CVTA in 2018 examined the data from the Skills Test Delays Report and concluded:

- Commercial driver testing delays resulted in \$1.5 billion in economic losses across the United States.
- \$1.1 billion of this \$1.5 billion was in direct lost wages attributed to testing delays.
- Federal and local governments lost out on over \$342 million in income and sales tax revenue in 2016.
- 258,744 potential workforce entrants impacted by testing delays.
- 6.4 million days of delays for new commercial drivers.

CURRENT PROBLEM & REAUTHORIZATION

The FMCSA has not produced a follow up report since the initial report's release in September 2018. Despite being required to do so by law, the FMCSA has not even submitted a follow up Information Collection Request (ICR), which expired in February 2019. The ICR is a regulatory requirement that all federal agencies must conduct for any information collection. By failing to even submit a follow up ICR, the FMCSA is demonstrating its inability to follow the law and remains in violation of it.

CVTA believes that Congress and the FMCSA must implement solutions to ensure states are meeting the testing demand in a timely manner. Given the sizable economic impact skills testing delays have, CVTA would like Congress to include two provisions in the upcoming Highway bill.

ICR (INFORMATION COLLECTION REQUEST)

Given FMCSA's failure to follow the law, CVTA would like Congress to:

- 1) Require the FMCSA to submit an ICR no later than February 1 of each year;
- 2) Require the Office of Management and Budget (OMB) to approve the ICR no later than October 1 of each year; and
- 3) Require the FMCSA to notify the committees of jurisdiction when it has submitted the ICR, when the ICR has been approved, and when the report as required by FAST Act Section 5506 is actually produced.

COMMERCIAL DRIVER LICENSE PROGRAM IMPLEMENTATION (CDLPI) GRANT CONDITIONS

CVTA urges Congress to also establish conditions for Commercial Driver License Program Implementation (CDLPI) grant funds. Congress needs to incentivize states to reduce their wait times. States should not be rewarded by continuing to have skills testing delays and refusing to adopt common sense best practices that would solve this problem. CVTA has draft legislation that would limit CDLPI grant funding to \$250,000 to States that have skills testing delays *and* fail to permit public and private schools, or independent test centers to be third party testers. In other words, states with delays are simply refusing to adopt policy to fix this problem.

(September 2018).

²⁷ Pham, Nam D. and Donovan, Mary. *Economic Impact of Wait Times for Commercial Driver's License Skills Tests*. NDP Analytics (December 2018).

18 TO 20 YEAR OLD DRIVERS

BACKGROUND

Current Department of Transportation regulations require a driver to be 21 or older in order to operate a Commercial Motor Vehicle (CMV) in interstate commerce.³² The Motor Carrier Act of 1935 (“MCA”) created the Interstate Commerce Commission (ICC), which was responsible for regulating the transportation of passengers and property by motor carriers operating in interstate or foreign commerce.³³ In 1937, the ICC created and implemented safety regulations for commercial drivers, which included a minimum age of 21 years old.³⁴

Therefore, an 18- to 20-year old, who has the skills and maturity to obtain a CDL and begin working as a commercial driver can drive 250 miles from Kansas City, MO to St. Louis, MO, but that same driver is barred from simply crossing the Missouri river from Kansas City, MO to Kansas City, KS. Moreover, federal law bars drivers under 21 from driving a truck within any state’s borders if the cargo on that truck originated outside of the state or will eventually leave the state by any mode (otherwise classified as “interstate” cargo).³⁵

Since the requirement for interstate drivers to be 21 years of age or older is a regulation, not a law, the Department of Transportation can amend the regulation to allow drivers from 18- to 20-years of age to operate in interstate commerce through the rulemaking process.

CURRENT PROBLEM

Current limitations on commercial drivers under 21 are impractical considering under-21 drivers are permitted to drive intrastate trucks within their own home state boundaries. The age restriction is particularly problematic given the growing shortage of drivers in the trucking industry is approximately 60,000 drivers short of what is necessary to fill empty trucks.³⁶ This shortage is expected to increase rapidly over the next decade because of retirements and industry growth. In fact, this shortage is expected to increase so dramatically that trucking companies will have to recruit an estimated 89,000 new drivers (net) each year over the next decade to meet these growing demands.³⁷

RECENT DEVELOPMENTS

Congress included a provision in the Fixing America’s Surface Transportation Act (FAST Act),³⁸ which creates a pilot program that allows certain veterans from ages 18-20 to drive commercial motor vehicles in both interstate and intrastate commerce. The Federal Motor Carrier Safety Administration (FMCSA) published a request for comments in which CVTA urged the administration

³² 49 C.F.R. 391.11(b)(1) (2019).

³³ Motor Carrier Act of 1935, Section 204(a)(1)-(2), Pub. L. 74-255, 49 Stat. 543 (1935) (granted the ICC powers under section 204 created the ICC, which was a precursor of what is now the FMCSA).

³⁴ Fed. Reg. 110 (Jan. 22, 1937).

³⁵ See FMCSA Frequently Asked Questions: What is the age for operating a CMV in Interstate Commerce?, <https://www.fmcsa.dot.gov/faq/what-age-requirement-operating-cmv-interstate-commerce> (last visited Feb. 6, 2017) (stating that individuals must be 21 to operate a CMV in interstate commerce); see also guidance relating to 49 C.F.R. § 390.5 (stating that the Federal Motor Carrier Safety Regulations are only “applicable to drivers and CMVs in interstate commerce which transport property” and therefore, even “a driver transporting an empty CMV across State lines for purposes of repair and maintenance would be considered interstate commerce.”)

³⁶ American Trucking Associations, Truck Driver Shortage Analysis 2019 (2019), available at <https://www.trucking.org/ATA%20Docs/News%20and%20Information/Reports%20Trends%20and%20Statistics/ATAs%20Driver%20Shortage%20Report%202019%20with%20cover.pdf>

³⁷ Id.

³⁸ Fixing America’s Surface Transportation Act, Pub. L. No. 114-94, § 5404, 129 Stat. 1311, 1549-50(2015).

18 TO 20 YEAR OLD DRIVERS

to adopt performance-based training requirements as proposed in the Entry-Level Driver Training Proposed Rule.³⁹ CVTA also commented that the same training or types of equipment should be used by both the test group (18- to 21-year-olds) and the control group (comprised of 21- to 26-year-old drivers). This ensures consistency in the type of equipment being operated, which in turn ensures consistency in how drivers in the control and test groups are compared.

CVTA supports the DRIVE SAFE Act, which is bipartisan legislation introduced in the Senate and House that would lower the driving age for interstate commercial drivers while requiring motor carriers to develop a 400-hour post CDL apprenticeship program for these drivers, and also require motor carriers to utilize trucks with the latest safety technology. This is a win for safety and the economy. CVTA is advocating for its inclusion in the upcoming Highway Bill.

³⁹ *Commercial Driver's Licenses; Proposed Pilot Program To Allow Persons Between the Ages of 18 and 21 With Military Driving Experience To Operate Commercial Motor Vehicles in Interstate Commerce*, 81 Fed. Reg. 56745 (Aug. 22, 2016).

AUTOMATED VEHICLE POLICY

BACKGROUND

Advanced Driver Assisted Systems (ADAS) and Highly Autonomous Vehicle (HAV) technology has evolved from a curious experiment years ago into a real and ambitious commitment by the transportation industry. As recently as a few years ago, it was assumed that automated vehicles would not be commercially viable until well into the mid-21st century. However, we can expect this technology to be deployed by the driving public much sooner given recent technological breakthroughs. There are already passenger vehicles currently available to the public that have some autonomous capabilities (SAE Level 2) such as adaptive cruise control, automatic braking, and lane departure warning systems. Commercial trucks are also adopting this technology. New technologies are advancing at an exceptionally rapid pace. If automated vehicles are the future of ground transportation – all segments of the transportation economy need to play a role in guiding its development and influencing the policies that will regulate this new technology.

CURRENT PROBLEM

For now, OEMs and technology firms, particularly car and light truck manufacturers, are taking the lead in developing automated vehicle technology. CVTA supports preemption of the current patch work of individual state laws currently governing this technology. We believe this will speed up the deployment of life-saving technologies. However, CVTA has several concerns that we believe must also be addressed in concert with any legislation establishing a national framework for manufacturing, testing, and deployment of ADAS or automated technologies.

With the entry-level driver training (ELDT) final rule scheduled to be implemented in 2020, it may be necessary to amend the ELDT final rule every 2-3 years to ensure the curriculum and training requirements match the deployment of the technology. At the very least, the Department of Transportation (DOT) may need to determine whether a person operating a highly automated truck needs an endorsement or restriction on his or her CDL.

CVTA'S PROPOSAL

CVTA proposes a five-point, common-sense approach as part of a broader federal framework for autonomous vehicle technology.

1. Require A Driver

Any legislation addressing highly automated commercial vehicles needs to require the presence of a driver/operator/ pilot/technician (driver), who has had formal training that meets the operational and safety needs of this new technology. Current law is silent as to whether a driver is required if a commercial motor vehicle (CMV) is capable of driving itself. While industry experts believe drivers will maintain an active role in operating CMVs, there is still uncertainty. Therefore, CVTA believes that Congress should require a driver in any legislation. Doing so reaffirms the important role of the operator, while significantly mitigating cybersecurity or other system malfunction risks if encountered. Most importantly, it also provides short-term certainty for new entrants that this career will remain viable for the foreseeable future, a sentiment that most industry stakeholders share. Several CVTA school members have encountered individuals who are reluctant to enter the trucking industry because of the perceived threat that this will replace drivers, not enhance their ability to do their job.

AUTOMATED VEHICLE POLICY

2. Create an Advisory Committee, To Advise the Secretary on Training, Testing and Licensing

Training is an essential part of safety and training institutions must be considered when establishing the framework for ADAS and automated technologies. What is currently required to obtain a Commercial Driver's License (CDL) may change rapidly in the next 10 years. Therefore, CVTA believes a federal advisory committee should be created to proactively deliver recommendations to the Secretary of Transportation (Secretary) on commercial driver training, CDL testing, and CDL licensing reforms that will be needed as a result of ADAS and autonomous technologies. This advisory committee must include key stakeholders from the commercial driver training industry, truck and bus industries, safety groups, labor groups, motor vehicle administrators, state government, law enforcement, and CMV manufacturers.

3. Allow Drivers Age 18 and Older

ADAS and automated vehicle legislation in Congress presents an opportunity to mitigate the truck driver shortage by requiring the Secretary to develop minimum licensure standards for 18-to-21-year-old drivers to operate in interstate commerce. Currently, 48 states (lower 48) allow all drivers to drive CMVs in intrastate commerce. Requiring the Secretary to conduct a rulemaking to allow 18-year-old drivers to operate in interstate commerce when safety conditions dictate is sensible. Congress and the trucking industry will be able to fulfill current and future work-force needs, adapt to advancing technologies, and provide good paying jobs to a new generation of professional drivers.

4. ADA Considerations

Automated technologies hold promise for persons with disabilities. Currently, the FMCSA has granted certain persons with disabilities medical waivers to hold a CDL. CVTA would like the FMCSA to identify specific technological advancements that recognizes an individual with disabilities to be as safe or safer to drive upon being granted a medical waiver to receive or renew a CDL. Currently, the FMCSA is not required to identify these technologies and schools are unclear how to provide the training, particularly the over the road training to certain individuals with disabilities. We believe that adding this requirement helps training institutions evaluate whether they are capable of delivering such training in a safe manner by identifying new technology to accommodate individuals with disabilities.

5. Preserve 5.9 GHz for Transportation & Safety

Vehicle-to-vehicle (V2V) and vehicle-to-infrastructure (V2I) communications technology will play a critical role in improving highway safety. Sufficient broadband spectrum must be allotted exclusively for the use V2V. The FCC is currently attempting to reallocate this spectrum. The current proposal would allocate nearly 40 MHz of it for Wifi purposes. Connected vehicles have the ability to save 40,000 lives a year. We believe that these 40,000 lives are more important than wifi connectivity. Therefore, we urge Congress to include language in the Highway Bill to preserve the full 70 MHz of this spectrum and all 7 channels of 5.9 GHz broadband spectrum dedicated as Safety Spectrum.

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