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Subcommittee on Highways and Transit

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Chairman Crawford, Ranking Member Holmes-Norton, and members of the Subcommittee, thank you for the opportunity to testify today on “Freight Forward: Overcoming Supply Chain Challenges to Deliver for America”. The International Brotherhood of Teamsters represents 1.2 million hardworking people in the United States, Canada, and Puerto Rico and is the largest transportation union in the United States, including more than 600,000 members who start their workday behind the steering wheel, and tens of thousands of members whose jobs have a direct nexus with the supply chain across all sectors of the transportation. As a union we are focused on fostering a supply chain that supports good jobs with fair wages and working conditions, and that prioritizes the safety of both drivers and those who share our nation’s roadways.

Over the course of the “supply chain crisis” and especially during the height of the COVID-19 pandemic, several key points were made abundantly clear. First, that the Teamsters kept this nation running. For these individuals, there was no work from home and no flexible schedules. Our members showed up every day to move goods across the country, weathering uncertain economic climates as the less-than truckload sector (LTL) experienced both all-time lows in freight demand and all-time highs. Second, the economic shocks of the pandemic laid bare the fragilities of numerous components of our supply chain, many of which long preceded the events of the last several years.

It is essential that Congress and federal regulators understand that the supply chain is not an amorphous entity comprised of transit time data and balance sheets. The freight supply chain is a network of working people loading, driving, and maintaining vehicles to move the nation’s commerce. As you consider legislative proposals to strengthen supply chains, the Teamsters unequivocally call for solutions that improve conditions and job quality for these employees and reject proposals that would do otherwise.

Good Jobs and a Healthy Supply Chain

The Teamsters fundamentally believe that good jobs in the freight and transportation sector directly translate to a stronger supply chain, and welcome opportunities to work with Congress and the Administration in these efforts. At the height of the supply chain crisis, the Biden

Administration launched its Trucking Action Plan, which included common-sense efforts to expand high quality training through Registered Apprenticeship programs, and to reduce the bureaucratic delays in introducing Commercial Driver License (CDL) programs. The Teamsters rose to the occasion. The Trucking Action Plan paved the way for Teamsters Local 776, in partnership with Yellow Freight, to launch a new apprenticeship program in Carlisle, Pennsylvania that is delivering high quality training and careers to future freight drivers.

Long before the crisis, the Teamsters have taken a proactive role in training the next generation of truck drivers, and today operate 21 CDL training programs across 11 states that provide CDL holders the opportunity for a prosperous future and the ability to provide for their families. Our track record of training safe, competent, drivers for good careers is unparalleled, and we welcome the opportunity to work with Congress and the Department of Transportation to identify strategies and funding streams to grow our programs and reach more individuals across the nation.

We also strongly support efforts to identify and train future CDL holders from non-traditional driving populations. Depending on the source, it is estimated that less than 15 percent of over the road truck drivers today are women. The Teamsters are proud to serve on DOT's Women of Trucking Advisory Board and look forward to generating recommendations on developing a strong pipeline of female commercial drivers.

There are also ample opportunities to provide better pathways to bring veterans into the freight industry. The Teamsters have endorsed the bipartisan Veteran Improvement Commercial Driver License Act when introduced last Congress by Senators Fischer and Padilla, which would improve veteran's access to CDL training schools by ensuring that they can use G.I bill funds at new locations of established training programs. We thank Representatives Edwards, Pappas, and Crane for their recent introduction of a House companion.

Through decades of experience, we know how to train safe and competent drivers and how to place those drivers in high-quality jobs. We offer our expertise, experience, and partnership to Congressionally directed efforts to improve and increase access to quality CDL training.

Driver Supply

We expect that today’s hearing will delve substantially into the concept of a driver “shortage”, and the difficulties that trucking companies of all stripes state that they are facing in hiring and retaining drivers. The Subcommittee is well-versed in the familiar statistics – annualized turnover rates at large truckload carriers are consistently in the 80-90 percent range, as opposed to between 10-15 percent for less than LTL carriers, where Teamsters drivers are more heavily represented.¹ These turnover figures are often presented alongside claims that there are tens of thousands of unfilled driving positions.²

While we do not intend to litigate the precise number of drivers the freight industry needs, it is important for all stakeholders to scrutinize this information and consider the implications beyond simply what raw data presented without context may or may not suggest. If carriers, particularly in the truckload sector, are having such difficulties recruiting, training, and retaining drivers, the root causes of those difficulties must be addressed as opposed to simply forcing more drivers into a damaged pipeline.

A 2019 Bureau of Labor Statistics report into the question of driver availability and economic behavior largely concluded that the supply of drivers behaves in the manner a basic supply and demand model would anticipate, with expected responses to economic incentives. BLS stated that “the overall picture is consistent with a market in which labor supply responds to increasing labor demand over time, and a deeper look does not find evidence of a secular shortage” and further, “Econometric models of in- and outmigration of drivers support this conclusion. Drivers with higher earnings and [better] hours [when first observed by the study] are less likely to leave driving [12 months later]”.³

¹ <https://www.trucking.org/news-insights/truckload-turnover-plunges-second-quarter>

² <https://www.transportdive.com/news/truck-driver-shortage-eases-slightly-in-2022-chief-economist-Bob-Costello-ATA-MCE-2022/634854/>

³ https://www.bls.gov/opub/mlr/2019/article/is-the-us-labor-market-for-truck-drivers-broken.htm?utm_source=npr_newsletter&utm_medium=email&utm_content=20210524&utm_term=5413005&utm_campaign=money&utm_id=5246456&orgid=151&utm_att1=money

In short, commercial drivers with competitive compensation tend to remain in the industry, much like their peers in other jobs with similar profiles. As a labor organization that secures industry-leading contracts for Teamster-represented drivers, these findings are unsurprising. It is no coincidence that turnover in the Teamsters-dense LTL sector is several orders of magnitude lower than for TL drivers, and that this difference is also apparent between union and non-union LTL carriers where Teamster-represented total compensation packages outstrip non-union competitors.

We acknowledge that there are fundamental and non-economic differences in operations and their impacts on employees between TL and LTL carriers which contribute to these disparities – most Teamster-represented LTL drivers return home each evening, and do not spend days at a time away from home as their TL counterparts do. However, the stark data on turnover and supposed “unfilled positions” strongly suggests that this cannot be the full story. Congress must consider the extent to which a purported shortage is a function of a lack of good jobs, as opposed to a fundamental flaw in the potential driver population or in the regulatory framework that oversees the licensure of new drivers and the rules of the road. Particularly in a tight labor market, a failure to offer competitive wages, conditions and a dignified retirement, all things guaranteed in a Teamsters-bargained contract, will manifest as a failure to fill driver seats as potential truck drivers look to other careers.

To this end, we applaud Congress for its passage of a requirement within the Infrastructure Investment and Jobs Act which tasked the Transportation Research Board (TRB) to examine driver compensation, and the impacts of various methods of driver compensation on both safety and driver retention. The Teamsters Union has engaged with TRB on its study, and we look forward to the production of a report that will provide further illumination of the undeniable nexus between retention and compensation.

We also reject industry characterizations, presented without data or other corroboration that high turnover rates are simply a function of movement of employees between carriers in pursuit of higher wages.⁴ It is certainly accurate that this takes place to some degree, particularly in the

⁴ <https://www.trucking.org/news-insights/truth-about-trucking-turnover>

non-unionized segments of the industry. However, trying to hide shockingly high turnover rates behind the claim that employees exist in a perpetual state of upward wage mobility musical chairs does not hold up to meaningful scrutiny.

The question of why so many drivers choose to leave the industry goes deeper than just wage rates. Corporate greed has spawned a decades long scourge of rampant misclassification of truck drivers as independent contractors. The cost of being improperly classified as an independent contractor is high. Independent contractors generally do not receive protections and benefits under federal and state labor laws, including overtime, unemployment insurance, workers' compensation, and Social Security, as well as their right to join a union. For the misclassified driver, this puts their livelihoods and economic future in jeopardy, while allowing their de facto employer pockets profits that would otherwise flow to employees through the nature of the employer-employee relationship. High-road employers who properly classify their employees are then also disadvantaged when forced to compete with carriers profiting through illegal exploitation of their workforce.

Misclassification in U.S. economy is deeply entrenched. As a baseline, the Department of Labor has previously found that across industries, between 10 and 30 percent of audited employers misclassified workers, and following an audit 95 percent of workers who claimed they were misclassified were reclassified as employees. Those numbers are far more egregious in the trucking industry wherein a 2015 report suggested that 49,000 of the nation's estimated 75,000 port truck drivers are misclassified as independent contractors.⁵

The Teamsters have fought illegal independent contracting schemes with success at the National Labor Relations Board and at the state level and will continue to do so. However, the spread of this model is pervasive, and requires dedicated federal attention to ensure that employees are not being misclassified, that companies who do so face meaningful repercussions, and that drivers are aware of their rights as to not become ensnared in exploitative work arrangements.

⁵ <https://www.nelp.org/wp-content/uploads/2015/03/Big-Rig-Overhaul-Misclassification-Port-Truck-Drivers-Labor-Law-Enforcement.pdf>

California's AB5 represents a critical step in disentangling systematic misclassification of drivers. AB5 ensures that drivers, who by all the indicators of their relationship with a company should be considered employees, receive the benefits of employment, and if a driver wishes to driver as an independent owner-operator they are doing so with actual independence from the companies they are doing business with. In August of last year, the U.S. District Court for the Southern District of California correctly allowed AB5 to go into effect for truck drivers in the state of California, and the Teamsters welcome a brighter and economically just future for Californian freight workers.

Misclassification of employees often goes hand in hand with other destructive practices, like predatory truck leasing schemes. While many owner-operators enter the industry with an understanding of the financial conditions of their arrangement, some unscrupulous carriers have targeted would-be owner-operators with offers to lease vehicles that entrap these drivers in impossible conditions that will never result in truck ownership.

Frequently targeted at individuals with bad credit, poor financial acumen, or who do not speak English as a first language, these lease agreements often feature untenable interest rates, high monthly payments and binding and expensive requirements on preferred maintenance vendors, insurance policies and even fuel. When classified as independent contractors these drivers are not owed minimum wage, and in combination with a predatory lease agreement a driver may finish a week of work and net a zero-dollar paycheck. At the most extreme, a USA Today investigative report identified “seven different companies that have told their employees they owe money at week’s end”.⁶ In a nation that outlaws indentured servitude, no worker in any occupation should finish a hard week of work with nothing to show for it. In some instances, the nakedly predatory nature of these arrangements has drawn the ire of the legal system – in 2019, C.R. England Inc. settled a suit for \$37.8 million over its efforts to fraudulently induce 17,519 drivers into driving opportunities through such lease arrangements.⁷

⁶ <https://www.usatoday.com/pages/interactives/news/rigged-forced-into-debt-worked-past-exhaustion-left-with-nothing/>

⁷ <https://www.freightwaves.com/news/c-r-england-reaches-37-8-million-lawsuit-settlement>

When these are the kinds of conditions facing new entrants into the freight sector, we cannot be surprised at high turnover rates and unwillingness to enter commercial trucking as knowledge of these practices becomes more widely understood among prospective drivers. The Teamsters are proud to serve on the Federal Motor Carrier Safety Administration's recently formed Truck Leasing Task Force and look forward to working with FMCSA and stakeholders to put an end to the proliferation of these schemes.

Finally, the exponential growth of subcontracted logistics companies, notably at Amazon, also sheds light on the unpalatable and unsustainable nature of certain segments of the industry. In the case of Amazon, this has taken on a particularly pernicious twist through Amazon's Delivery Service Partners (DSP) and Freight Service Partners (FSP) programs. In contrast to a typical IC/owner-operator model, both the DSP/FSP programs involve Amazon contracting routes to a single owner or entity, who in turn hires bona fide employee drivers.

Through the structure, Amazon asserts that it can avoid an employer-employee relationship with the drivers and thus evade all the aforementioned responsibilities that would otherwise affix. This is despite the fact that DSP/FSP drivers wear Amazon-branded clothing, operate vehicles with Amazon logos, are subject to Amazon-dictated performance standards, have their location, speed and movement tracked by Amazon and are subject to numerous other mandates from Amazon, not the DSP/FSP operator.

Furthermore, given the IC relationship between Amazon and the DSP/FSP, Amazon can further exert control over drivers and their activity by terminating the DSP/FSP contract at any time, for any reason. In April, drivers with DSP Battle-Tested Strategies in Palmdale California joined Teamsters Local 396, and the unit was voluntarily recognized by Battle-Tested Strategies. No sooner had it done so Amazon moved to directly intervene by holding a captive audience meeting and telling the employees of Battle Tested Strategies it was terminating the contract and shutting the DSP down, satisfying Amazon's prime directive to union-bust at all costs. All told, the DSP/FSP model allows Amazon to enjoy all the perks of employer-level control of drivers, with none of the attendant responsibilities.

It should also be noted that Amazon is able to deploy this model to shirk responsibility for the movement of its products. A recent Wall Street Journal investigation found that over 1,300 Amazon Freight Service Partners “received [safety]scores worse than the level at which DOT officials typically take action” that “Trucking contractors that worked frequently for Amazon were more than twice as likely as all other similar companies to receive bad unsafe driving scores” and that FSP drivers were cited for violations at a rate 70 times higher than Teamster-represented UPS drivers.⁸ All told, Amazon’s version of moving freight exploits drivers, prohibits unionization, and operates substantially less safely than its peers. Given the extraordinary volume of goods that the company ships and American consumers increasing reliance on its service, Congress and FMCSA should consider how these operations weaken our supply chains, and how companies like Amazon can be held responsible to both the drivers who haul their products and for the safety of their contractors.

Safer Workplace is a Safer Supply Chain

As discussed above, a stronger supply chain depends on both a healthy workforce, as well as a safe one. Putting more drivers on the road who are poorly trained, fatigued or operating unsafe equipment is not a step forward. In this regard, Congress should be singularly focused on how it can better work conditions for drivers and improve roadway safety.

We summarily reject watering down of Hours-of-Service fatigue protections as a salve to any purported shortage. Fatigue continues to be one of the most significant safety risks that commercial drivers experience. The Large Truck Crash Causation Study cited fatigue as a factor in 13 percent of large truck crashes, and other research has suggested the prevalence of fatigue factors at a much higher level.⁹

Unfortunately, in the last several years we have seen several steps in the wrong direction, made more egregious by the continued increase in highway fatalities. This includes the 2020 revision to the Short Haul Provision for Commercial Driver’s License qualified drivers which expanded

⁸ <https://www.wsj.com/articles/amazon-trucks-crash-safety-11663793491>

⁹ <https://www.fmcsa.dot.gov/safety/research-and-analysis/large-truck-crash-causation-study-analysis-brief>

the 12-hour duty time period to 14 hours, and the alteration of the 30-minute rest period to allow an on-duty/not driving period to qualify as the required break. This also includes an unprecedented expansion of FMCSA's preemption authority under 49 U.S.C. § 31141 to preempt California's Meal and Rest Break rules and deny drivers state-mandated breaks that applied broadly to most California employees. We call on Congress and the Federal Motor Carrier Safety Administration to reverse these decisions, and to address fatigue as a fundamental threat to safety in the freight industry rather than an opportunity to keep drivers at work for yet more hours.

We continue to oppose increases to the maximum truck weight limit on federal highways to 90,000 pounds as well as certain efforts to increase truck weight for the hauling of specific goods and commodities – all of which threatens safety, increase wear and tear on our nation's roads, and adds unnecessary operational difficulties for drivers. DOT concurred with this assessment in its 2016 Comprehensive Truck Size and Weight Limits Study, which found that heavier trucks had a 47 percent to 400 percent higher crash rate than 80,000-pound trucks, that heavier trucks had out-of-service and brake violation rates that substantially outpaced 80,000-pound trucks and recommended against a nation-wide increase in maximum truck weights.¹⁰

A recent study also examined a gap in DOT's report relating to non-interstate local bridges. In the event that the federal truck weight limit was to be increased, it is likely that carriers would begin running maximum weight vehicles both on the interstate, but also on local roads and bridges. The report identified more than 72,000 local bridges which cannot safely accommodate 91,000-pound trucks. Operating heavier trucks over these bridges invites a wholly unnecessary threat to the safety of drivers as well as threat to local infrastructure.¹¹

Finally, and most importantly, outside of this research, Teamster drivers, who would be expected to operate under any increased weight restriction, consistently report that heavier vehicles present operational difficulties such as controlling braking distance and maneuvering in congested traffic conditions. There is no amount of research or speculation that offers as reliable

¹⁰ <https://ops.fhwa.dot.gov/freight/sw/map21tswstudy/ctsw/CTSLWS%20Report%20to%20Congress%20FINAL.pdf>

¹¹ <https://www.ajot.com/news/new-study-finds-legislation-to-increase-truck-weight-would-crush-local-bridges>

a barometer as the real-world experiences of our members. We call on Congress to forego any truck weight increases as part of supply chain legislation.

Automation is Not a Silver Bullet

Despite the claims of Silicon Valley venture capitalists, Congress cannot ignore its responsibility for improving working conditions in the hopes that automated freight is coming to save the day. Today, actual commercialization of automated freight delivery vehicles is near non-existent, and while some firms are making estimates of driver-out operations as early as next year, we believe that these are overly optimistic projections influenced by shareholder demands and that considerable developmental and safety concerns remain outstanding. For example, commercial trucking operations that are regularly executed by human drivers – including navigating hazardous weather conditions, cooperating with law enforcement, and overcoming equipment malfunctions have all been reported as causing difficulties for various autonomous vehicle manufacturers and must be addressed before any wide scale commercialization occurs.

We also note that Congress should be aware of the differences between a successful demonstration in specific conditions and the ability of an autonomous commercial vehicle to perform the entirety of necessary driving duties on its own, without a driver. While sensationalist headlines are quick to amplify glowing press releases from manufacturers, many of these testing and demonstration projects are operating in largely ideal conditions, such as clear weather conditions in Sun Belt states, and are operating with a safety or “fall back” driver on board.

It is evident that widescale deployment is not on the immediate horizon, if for no other reason that the totality of purchase orders of autonomous trucks that would have to take place before a meaningful dent was made in the totality of trucks on the road is enormous. Further, we should bear in mind that any future deployment of autonomous freight vehicles will take on different characteristics in different freight subsectors in response to varied business cases. The application of autonomous trucks for long haul TL operations on the interstate system, (carrying the goods for and from a single customer) bears substantial variation to what deployment might

look like for LTL carriers operating carrying goods from multiple customers, in more localized delivery.

Finally, we reiterate two fundamental tenets of our approach to the future of autonomous freight. First, it is a necessity that the Congress and federal regulators develop a safety framework for the operations of these vehicles that holds manufacturers and carriers to binding federal regulatory standards crafted with safety, not regulatory flexibility, as a first priority. Second, Congress must consider the impacts of autonomous freight deployment on the workforce. This includes ensuring drivers, mechanics, and other employees are trained to work in tandem with new technologies as they are deployed and that real measures are taken to address any displacement of existing workers. Simply allowing a large-scale displacement of existing drivers with no consideration to their future invites both a economic and sociological disaster that must be avoided.

The International Brotherhood of Teamsters thanks the Committee for the opportunity to testify today on the state of our supply chain. We look forward to continuing to work together, on a bipartisan basis, on these critical issues going forward.