

DATE: 7/18/2017

TO: Clients

FROM: Prime Policy Group

SUBJECT: House Committee on Transportation & Infrastructure, Subcommittee on Highways & Transit Hearing: "FAST Act Implementation: Improving the Safety of the Nation's Roads"

Opening Remarks

- **Chairman Sam Graves (R-MO):** Chairman Graves opened the hearing by praising the FAST Act's influence in: 1) improving the nation's infrastructure, 2) reforming federal surface transportation programs and refocusing them on addressing national priorities, 3) encouraging innovation to make surface transportation safer and more efficient. Full statement [here](#).
- **Ranking Member Eleanor Holmes Norton (D-DC):** In her opening remarks, Ranking Member Norton cited a recent rise in highway deaths, emphasizing the need for a series of hearings on motor carrier safety. She attributed technology as playing a critical role in enhancing safety. She concluded by stating that full automation is ultimately what would reduce motor carrier fatalities.

Witnesses

- **Mr. Walter Waidelich, Jr. (Acting Deputy Administrator, Federal Highway Administration):** Mr. Waidelich underscored the importance of addressing highway safety, citing statistics of the recent increase in highway fatalities. He then proceeded to lay out numerous steps FHWA is taking to address improving highway safety. FHWA in coordination with NHTSA, he concluded, has implemented core federal aid programs to look to the future of safety. Full statement [here](#).
- **Mrs. Daphne Jefferson (Deputy Administrator, FMCSA):** Throughout her opening remarks, Deputy Administrator Jefferson defended FMCSA's mission of saving lives by preventing motor carrier crashes. While the large majority of motor carriers play by the rules, she added, the agency's goal is to identify the bad actors. Full statement [here](#).
- **Mr. Jack Danielson (Acting Deputy Administrator, NHTSA):** Deputy Administrator Danielson outlined NHTSA's diligent work in saving lives and reducing economic costs, attributing the agency's successes to the FAST Act. Specifically, he cited distracted driving grants as being very effective. In conclusion, he emphasized the substantial and growing role that technology plays in safety, estimating that automated driving systems could address over 90% of all accidents. Full statement [here](#).
- **Hon. T. Bella Dinh-Zarr (Member, NTSB):** Hon. Dinh-Zarr highlighted how, as an independent government investigative agency, NTSB is at the scene of some of the worst motor carrier accidents. She then outlined NTSB's seven focus areas for improving highway safety:

impairment, distraction, occupant protection, fatigue, medical fitness, collision avoidance technologies, and event data recorders. She then zeroed in on school buses, acknowledging that they're "generally safe", but also expressed the agency's recommendation for lap and shoulder restraints, particularly to school districts that are in the process of purchasing new buses. Full statement [here](#).

Q&A

Rep. Bob Gibbs (R-OH) began the Q&A portion of the hearing by commenting on the National Academy of Sciences' (NAS) recent completion of the CSA and SMS study. He then asked Ms. Jefferson about whether or not the agency (FMCSA) intends to develop a new model for CSA scores. Ms. Jefferson remarked that FMCSA appreciated the work that NAS performed on the SMS study, acknowledging their intent to implement the recommendations of that study. She also committed to engaging with the National Academy and stakeholders as the plan continues to develop. Rep. Gibbs (R-OH) then wished to clarify that—whatever model is used—it should not count no fault accidents against carriers. Ms. Jefferson admitted that she was unable to speak in detail about what the model would entail, but assured the committee that FMCSA would keep Congress abreast throughout the process. She added that the agency is currently looking at opportunities for a crash preventability pilot program designed to examine crashes in which drivers would have the opportunity to plead their innocence, in order to have the fault removed from their record. In his last question to Deputy Administrator Jefferson, Rep. Gibbs (R-OH) suggested that it would be reassuring if FMCSA put a priority on regulations that correlate with crashes. She acknowledged that FMCSA carefully reviews the violations that have the greatest correlation to safety, also adding that the agency plans to hold public meetings before the 120-day deadline for submitting the corrective action plan.

Ranking Member Holmes Norton (D-DC) asked Mr. Danielson for an explanation regarding U.S. highway fatalities far exceeding those in other high-income countries. Mr. Danielson cited human choices and error as being responsible for over 90% of crashes, reemphasizing NHTSA's commitment to addressing behavioral issues. At the end of her questioning, the Ranking Member asked the committee for unanimous consent to enter a statement for the record from Rep. Elijah Cummings (D-MD) about the school bus incident in Baltimore. There was no objection.

Rep. Jeff Denham (R-CA) asked the witness for an update on the proposed NEPA rule. Mr. Waidelich acknowledged that FHWA has heard the concerns voiced about that provision, adding that they're working through the process and don't yet have a specific timeline for it.

Regarding the ELD mandate, **Rep. Doug LaMalfa (R-CA)** asked Ms. Jefferson if she believes that more time could be helpful for some of the smaller stakeholders for implementation. She affirmed the viewpoint of FMCSA that there is sufficient time between now and the end of the year.

Rep. Lloyd Smucker (R-PA) then directed the questioning back to Mr. Danielson, asking him whether he could describe steps NHTSA is taking internally to prepare to serve as the federal entity to regulate autonomous vehicles. Mr. Danielson explained that NHTSA has taken nothing off the table, in terms of

future governance. He continued to address how NHTSA wants to utilize the right tool at the right time, also concluding that he believes the federal automated vehicles policy released last year was the right tool. He praised it for not only providing the first national framework for testing automated vehicles, but also called it “adaptable enough” to leave room for market innovation.

Rep. Scott Perry (R-PA) then addressed a bill regarding comprehensive regulatory reform in the passenger-carrier industry that he introduced in April: BUSREGS-21. He cited numerous stories of what he interpreted to be “overzealous enforcement in the agency” as the motivation behind the bill. While expressing his relief over the agency’s rescission of two regulations that were directly addressed in the bill, he asked for Deputy Administrator Jefferson’s for her thoughts on the amendment to the mission statement. He explained the objective of adding not only the priority on safety, but also language about fostering an environment for a thriving passenger carrier industry, concluding that it would be consistent with FAA’s mission statement and other agencies. Ms. Jefferson did not seem to find such an amendment objectionable, reiterating how safety is FMCSA’s top priority. She added that FMCSA believes that a healthy and robust commercial motor vehicle industry—both trucks and buses—is good for safety. She concluded by pledging FMCSA’s cooperation with Rep. Perry to ensure a safe and healthy industry.

Rep. Steve Cohen (D-TN) began by expressing his gratitude to the chairman for taking into consideration a request from his colleagues, Mr. Duncan and Mr. Cummings about holding a hearing that could touch on school bus safety—citing recent accidents in both Maryland and Tennessee. While acknowledging NTSB’s investigations into both accidents, he mentioned that there were a number of safety oversights that could’ve prevented some of the unfortunate fatalities. He then asked Hon. Dinh-Zarr a series of questions: 1) Does your website’s recommendation still stand that schools’ purchasing new buses should make sure they have seatbelts? 2) Can you elaborate on how NTSB concluded that compartmentalization was an insufficient safety mechanism? 3) When can we expect the investigations of the Chattanooga and Baltimore school bus accidents to be released?

Hon. Dinh-Zarr expressed her inability to speak specifically about the investigations, but did provide that NTSB is exploring medical fitness as well as screening of school bus drivers. With regard to the lap/shoulder/harness recommendation, she affirmed that it still stands. As states and schools buy new school buses, we recommend this type of restraint system, she added. To the question about compartmentalization, while acknowledging it’s a good tool for safety in school buses, she concluded that it primarily helps with forward-type collisions.

Rep. Steve Cohen (D-TN) then referenced Hon. Dinh-Zarr’s statement when she mentioned how states should “consider” purchasing lap and shoulder belts when purchasing new buses, asking her if she had thought about a stronger word than “consider.” He also noted how he has five reports on school bus investigations that he wished to enter into the record—all saying that seatbelts would’ve saved children’s lives.

Rep. Lou Barletta (R-PA) referenced the FAST Act-mandated NAS study that was recently published. He then directed his questioning to Deputy Administrator Jefferson, inquiring about whether FMCSA believes the findings of the report would require the safety measurement system to be replaced with a more defensible, statistical model. And if so, he continued, he asked for clarification on the agency's specific plans and their timetable for implementing such a corrective action plan. The Deputy Administrator expressed how FMCSA supports the NAS findings and are grateful to the volunteers who worked on that study. She explained how it's FMCSA's intent to provide a corrective action plan to Congress within 120 days of meeting that report, also adding that they are working alongside the National Academy to find strategies to implement those recommendations. "NAS has given us a roadmap of ways to improve SMS", she explained, affirming FMCSA's intent to follow through on that. She also pledged to include industry stakeholders throughout the entire process.

Rep. Dina Titus (D-NV) then brought up president's "add one, strike two" executive order on regulatory action, asking whether that's good for safety in order to do something else as technology and communications change. Hon. Dinh-Zarr articulated how NTSB isn't a regulatory agency, explaining that that they make recommendations not regulations. Any recommendation we make that affects regulation, she continued, is based off a terrible tragedy in hopes of preventing that from occurring again. As an example, she raised NTSB's concern over the withdrawal of the SFD rule, saying NTSB is concerned that the withdrawal will affect safety.

Rep. John Faso (R-NY) returned to the topic of the three-point safety belts, citing incidents in his district that have led to injuries from merely wearing a lap belt. He then asked NTSB whether they have tried to encourage vehicle manufacturers to alert auto consumer of the dangers and advise them as to how one might add a safety enhancement to those seatbelts. Hon. Dinh-Zarr said that NTSB has not, adding that they've examine rear occupant protection and other methods to protect vehicles.