

SUMMARY OF SIGNIFICANT ISSUES IN HOUSE HIGHWAY BILL

Surface Transportation Reauthorization and Reform Act of 2015

Prepared by the American Trucking Associations, October 2015

On Thursday, October 22, 2015, the House Transportation & Infrastructure Committee “marked up” and passed its Surface Transportation Reauthorization and Reform Act (STRR Act). During the markup, the Committee either addressed or considered more than 150 filed amendments. Next step in the process is for the full House of Representatives to consider the bill on the House floor. No date has been set for full House consideration, but floor time may be scheduled in early November. Note: The House GOP leadership election could delay full House consideration of the STRR Act.

HIGHWAY ISSUES

Funding and Structure

The bill provides \$325 billion over six years. FHWA funding is \$242 billion, effectively flat line funding. Note that the bill does not have a revenue title and revenue sources are yet to be identified. It prohibits funding past FY2018 unless additional revenue is found, suggesting that something similar to the Senate bill is anticipated (i.e. only three years of guaranteed funding). It includes a new, large block grant program designed to give greater discretion to states over project selection.

Different from the Senate Bill: The Senate bill provides a total of \$337 billion over six years, with \$277.4 billion for FHWA, \$32 billion more than flat line. However, only three years of revenue has been identified. The bill largely retains the current programmatic structure.

Freight Program

Creates a new \$4.46 billion “nationally significant freight and highway projects” grant program to be administered by USDOT. It replaces the Projects of National & Regional Significance Program, whose funding was 100% earmarked. Eligible projects include NHS and any additional National Highway Freight Network (NHFN) routes (as modified from MAP-21); intermodal or freight rail projects on the newly designated National Multimodal Freight Network, limited to \$500 million total, i.e. 11%, and only if the project contributes to freight movement on the NHFN and funds only elements of the project that have a public benefit; and grade crossings.

Different from the Senate Bill: The Senate bill’s freight program is apportioned to states and funded at \$13.4 billion. It gives very wide latitude to states as to project selection. The bill does have a \$1.2 billion multimodal freight grant program that is funded by the General Fund.

Interstate Toll Pilot Program Changes

Modifies the Interstate System Reconstruction & Rehabilitation Pilot Program, which allows three states to toll an existing Interstate. It requires a state to have enabling legislation before the pilot is approved. It imposes a 3-year deadline for approval; USDOT may extend for one more year if the state has made substantial progress. States with current slots (MO, NC, VA) have one year to receive approval, or USDOT may extend conditional approval by one year if substantial progress has been made.

Different from the Senate Bill: The Senate bill includes a deadline (albeit more detailed and slightly different timelines). It also includes several provisions that lower the bar on applicant approvals. The Senate bill allows revenue to be spent on projects off the tolled facility. While it does not require states to have enabling legislation, it is unlikely that FHWA would approve a project if the state does not have this in place.

Autohauler Length Limit

Increases the length of stinger-steered autohauler trucks from 75 feet to 80 feet.

Different from Senate Bill: The Senate bill does not address autohauler length limits.

SAFETY ISSUES

Compliance, Safety, and Accountability (CSA) Program Reform

The bill would require the Federal Motor Carrier Safety Administration (FMCSA) to commission a Transportation Research Board study of the CSA program and carriers' Safety Management System (SMS) scores. The study would evaluate whether SMS scores reliably predict future crash risk for motor carriers. It bill would require FMCSA to remove SMS data alerts, scores, percentiles and non at-fault crashes from public view until the study report and FMCSA's corresponding corrective action plan have been published, and recommendations completed. Violations, measures and crash data would remain publicly available. Scores, alerts and percentiles would remain available to state and local agencies for enforcement purposes only, and could be made available to the respective driver or carrier upon request. Finally, FMCSA would be required to develop a program to recognize outstanding safety practices and to provide positive SMS points for investments in select, non-mandated, safety technologies, tools, programs, and systems.

Different from the Senate Bill: The Senate bill defines which crashes should be considered "non at-fault" and tagged for removal from the SMS. The House language merely calls for their removal, but does not define them.

Shipper Protections Relating to CSA Scores

The bill would declare that if a shipper or broker verifies a carrier's satisfactory safety rating and insurance, the shipper's/broker's verification of CSA SMS scores may not be entered into evidence in a negligent selection case or proceeding. The protection would remain in place until the SMS system is improved and scores made publicly available (see *CSA Program Reform* section above).

Different from the Senate Bill: No such provision was in the final version of the Senate bill.

Minimum Insurance

Before issuing a final rule associated with minimum levels of financial responsibility for motor carriers, FMCSA would have to determine: the rulemaking's impact on safety, small and minority-owned carriers, and owner-operators; the ability of the insurance industry to provide for new limits; the extent to which current limits adequately cover medical care, victims' compensation, and attorney fees; and the frequency with which claims exceed the current minimum requirements.

Different from the Senate Bill: The Senate language requires FMCSA to determine the percentage of claims that are applied to medical care, victims' compensation, and attorney fees. The House language merely requires the agency to determine the extent to which current limits adequately cover these costs.

Younger Drivers in Interstate Commerce

The bill directs FMCSA to convene a task force to make recommendations for a graduated CDL pilot program for drivers 19 and a half to 21 years of age between states that enter into bi-state agreements to allow such drivers to cross state lines. Pilot program restrictions would include: participants must at all times be accompanied by an experienced driver over the age of 21; limits on driving distance and hours; mandatory training beyond that required for other truck drivers; mandatory use of appropriate technology; a prohibition on hauling hazmat or operating special configurations (e.g., doubles). No more than six bi-state agreements would be permitted and only ten carriers would be permitted to participate in each.

Different from the Senate Bill: The Senate version calls for a six year pilot program that allows drivers 18-21 (not 19 and a half) to participate in compacts between states; does not call for a task force to make recommendations; does not require younger drivers to have an older driver accompany them, does not limit the number of motor carriers, limits distance these drivers may operate from the state border, and allows for no more than three compacts with a maximum of four states participating in each.

Hair Testing

The bill directs the Department of Health and Human Services (HHS) to, within 1 year, establish standards for the use of hair testing in Federal testing programs (e.g., DOT mandatory testing). Then, motor carriers would be permitted to conduct hair tests (in lieu of urine tests) for pre-employment and random testing (note: random hair tests could only be conducted on drivers who had been subject to pre-employment hair tests).

Different from the Senate Bill: The Senate bill would require that, until the HHS standards are promulgated, DOT entertain exemption requests to allow fleets to conduct hair tests in lieu of urine tests. The House bill would not. Also, the House bill provides a hair testing exemption for drivers with religious beliefs that prohibit the cutting of hair (e.g., Sikhs).

FMCSA Regulatory Reform

The bill would require that, every five years, FMCSA conduct a review of its existing regulations to determine if they are consistent, clear, current with operational realities of the industry, uniformly enforced, and necessary. Within 2 years of each review, FMCSA must conduct a rulemaking to address identified deficiencies. Before promulgating *new* regulations, FMCSA would be required to issue an advance notice of proposed rulemaking to gather data or to conduct a negotiated rulemaking. Finally, all regulatory impact analyses conducted to support new rules must consider impacts on different industry segments and carriers of all sizes.

Different from the Senate Bill: The Senate bill does not require a review of existing regulations every five years or rulemakings to address deficiencies.

Loading/Unloading Delays

The bill would require that the DOT Inspector General submit a report on the average delay time for loading and unloading commercial motor vehicles and the impact of these delay on the economy, efficiency, safety and driver wage. DOT would also be required to conducted a rulemaking to gather additional data on such delays.

Different from the Senate Bill: No such provision exists in the Senate bill.

Hazmat Issues

Wetlines

The bill requires PHMSA to withdraw its proposed wetlines rule within 30 days of its passage. PHMSA would still have authority to issue a future wetlines proposal, but would be required to demonstrate that the benefits of such a regulation outweigh its costs. ATA supports this proposal.

Different from the Senate Bill: No Senate companion language.

Hazmat Safety Permits

This proposal states that motor carriers that fail to meet the initial criteria for a Hazmat Safety Permit must be given an opportunity to submit a written corrective action plan to FMCSA and, if FMCSA determines the

actions in the plan are sufficient to alleviate its safety concerns for denying the permit, it shall be issued to the motor carrier. ATA opposes this proposal.

Different from the Senate Bill: No Senate companion language.