

## **The House DRIVE Act, H.R. 22 (Passed House on 11/5/15)**

### **The Worst of the Worst**

(Sections Listed Numerically)

#### **Section 5201: Downgrades DOT's Authority to Revoke Registration for Lack of Insurance**

*Motor carriers that have lost their insurance policy have often committed serious safety infractions and DOT should have the power to revoke motor carriers' registrations when warranted to protect the public.*

Authorizes Secretary to only suspend, not revoke, DOT registration of a motor carrier after the cancellation of the motor carrier's insurance.

#### **Section 5202: Burdensome Roadblocks to Safety Regulations**

*These requirements would drastically skew rulemaking process in favor of industry and includes unnecessary, wasteful and burdensome roadblocks to rulemaking at the expense of FMCSA fulfilling its role as a robust regulatory agency with public safety as its highest priority.* Imposes additional requirements on the Federal Motor Carrier Safety Administration (FMCSA) regulatory impact analyses (RIA) prepared for safety rulemakings, and also requires that all major rules include either an advanced notice of proposed rulemaking (ANPRM) stage or engage in a mandated regulatory negotiation (Reg Neg) unless the administrator determines that an ANPRM and Reg Neg are both impractical, unnecessary or contrary to the public interest.

#### **Section 5222: Extra Credit for Baseline Safety Measures**

*Needlessly gives motor carriers extra credit in their on-road safety scores for adopting reasonable, common sense safety actions that they should already be undertaking.* FMCSA is required to incorporate into the CSA program a method by which Safety Measurement System (SMS) scores can be augmented to reflect the actions of motor carriers that install advanced safety equipment, adopt enhanced driver fitness measures, incorporate fleet safety management tools, technology and programs, or meet other safety, non-regulatory, metrics.

#### **Section 5223: Safety Scores of Truck and Bus Companies Hidden**

*Deprives the public from learning important safety information and seeing comparative ratings of freight and household goods motor carriers and, in the House bill, bus and motorcoach carriers, even though the U.S. Department of Defense transportation division relies on the CSA data and scores. Thus, schools, houses of worship, summer camps and others will not be able to determine the safety of a company before hiring them to transport children and other passengers.* Requires the Secretary of Transportation to remove from public view on the Compliance, Safety, Accountability (CSA) program website all analyses, ratings, enforcement prioritization, alerts and percentiles of motor carriers (both trucks and buses) based on CSA safety measurement system (SMS) data, until the corrective action plan required by Section 5221 is implemented. However, U.S. DOT, state/local enforcement officers and motor carriers may view and continue to use the CSA data and information.

#### **Section 5224: Special Interest Shield for Shippers and Brokers**

*This misguided proposal would eviscerate the incentive for shippers and brokers to vet and hire the most competent and safe motor carriers putting the public at serious risk, and interferes with traditional civil justice operations in the federal and state courts.* Shields shippers, brokers and consignees from liability for negligent hiring of a motor carrier so long as these entities verify that a hired motor carrier is registered to operate, has minimum insurance coverage, and a satisfactory safety rating. CSA scores or analysis may not be admitted into evidence in a case of negligent selection until the CSA corrective plan has been fully implemented.

### **Section 5301: Allowing Extensions of Congressional Deadlines for Safety Requirements**

*DOT should not be permitted to unilaterally extend deadlines set by Congress to issue critical safety regulations indefinitely. DOT to submit reports every 30 days on the status of pending statutorily required rules for driver training, electronic logging devices (ELDs), and national clearinghouse for alcohol and controlled substances test results. However, if a deadline has not been met the Secretary is permitted to set a new deadline for completion of the rule so long as the Secretary explains to Congress why deadline has not been met.*

### **Section 5303: Usurping FMCSA's Authority to Prioritize Statutory Rulemakings**

*Weakens FMCSA's ability to effectively respond to emerging safety problems. The agency should be able to prioritize rulemakings especially those new rulemakings that will have a significant impact on public safety. FMCSA to prioritize resources to complete outstanding rulemaking before commencing new rulemakings, unless DOT certifies the significant need for initiating a new rulemaking.*

### **Section 5304: Safety Reporting System**

*This provision allows motor carriers to delay repairing safety problems until they decide to self-report the problem and can result in companies ignoring serious maintenance issues that can lead to deadly crashes. Requires Secretary to submit report to Congress on the cost and feasibility of establishing a motor carrier self-reporting system for en-route equipment failures so commercial drivers and motor carriers can pre-report violations before they are discovered at roadside inspections. Violations that are pre-reported cannot be used to calculate SMS scores.*

### **Section 5403: Promotes Fraud in Medical Exams for CDL Holders**

*Provision promotes fraud in the process of certifying that CDL holders are physically able to operate a commercial motor vehicle. Allows CDL holders to seek exemption from requirement that drivers obtain a medical certificate from a physician on national registry of medical examiners.*

### **Section 5404: Teen Truck and Bus Drivers**

*This is a cynical attempt to increase the pool of available commercial drivers by allowing inexperienced teens to drive commercial vehicles, both trucks and buses, interstate. Moreover, studies show that teen drivers behind the wheel of a car or a large truck have higher fatal crash rates. Convenes a task force to evaluate and recommend criteria for a pilot program to allow individuals who are 19 ½ to 21 years old to drive commercial motor vehicles in interstate commerce. After public notice and comment on the Task Force recommendations, the Secretary of Transportation is required, to establish a pilot program that consists of six, two-state compacts that can each allow up to 10 motor carriers to employ 19½ to 21 year olds to operate in interstate commerce between the two states. There is no provision permitting the Secretary to halt the pilot program if it is determined to be negatively affecting safety.*

### **Section 5501: Unnecessary Burdens on Review of Minimum Financial Responsibility**

*Interferes with on-going public rulemaking on this issue is already underway to evaluate minimum levels of financial responsibility for property carriers which have not been adjusted since 1985 and should not be further delayed by unnecessary bureaucratic requirements. For property carrying motor carriers, if the Secretary commences a rulemaking to increase minimum levels of financial responsibility, the Secretary shall first consider the potential impact on safety, industry and insurance marketplace. For passenger-carrying motor carriers, the Secretary may not commence rulemaking to increase minimum levels of financial responsibility until the Secretary completes a separate, additional study that reviews crashes, injuries, insurance marketplace and impact on safety.*

**Section 24101: Underfunds NHTSA**

*Severely underfunds NHTSA at a time when the agency is in need of additional funding to carry out its mission to protect public safety.* Drastically cuts the DRIVE Act authorization levels for carrying out the mission of the NHTSA under the Motor Vehicle Safety Act by \$15,000,000 for each fiscal year, for a total reduction of \$90,000,000 over the course of the 6-year bill.

**Section 24109: Limits Rental Car Safety Recall Protection**

*Under this amendment, thousands of cars, including service loaner vehicles from new and used car dealers, could be rented to consumers with a dangerous, unrepaired safety problem.* Severely limits the scope of the rental car safety recall protection afforded the public by Section 34209 of the DRIVE Act by requiring that only rental companies that are “primarily engaged” in the business of renting vehicles would have to remedy a vehicle with an open safety recall before renting the defective vehicle to the public.

**Section 24404: Additional Exemption from Federal Safety Standards for Certain Vehicles**

*Needlessly exempts all vehicles used for testing and evaluation from complying with critical safety and environmental standards.* Exempts from federal safety regulations motor vehicles built and used for testing and evaluation so long as the vehicles are used by a manufacturer that has previously manufactured and distributed motor vehicles and the vehicle is not sold at the conclusion of the testing or evaluation period.

**Section 24405: Exempts Thousands of “Replica” Vehicles from Federal Safety Standards**

*Exempts thousands of “replica” vehicles from critical safety and environmental standards putting the public at risk.* Exempts up to 500 replica motor vehicles from current federal motor vehicle safety standards and from clean air act provisions for replica motor vehicles produced or imported by low-volume motor vehicle manufacturers (with total annual production of not more than 5,000 vehicles) that are labeled to reflect which current safety standards the vehicle does not meet.

**Section 24406: Shield from Liability for Industry Failing to Follow NHTSA Guidelines**

*Grants a breathtaking double standard that will shield the industry’s failures to abide by agency guidelines.* Provides that manufacturers need not follow the approach set forth in the NHTSA guidelines, and that NHTSA may not bring an enforcement proceeding for a manufacturer’s failure to comply with a guideline. Also prohibits the introduction of evidence that a manufacturer failed to comply with a NHTSA guideline in any legal action against the manufacturer, but permits a manufacturer to use compliance with a guideline as evidence of compliance with safety standards, regulations or statutory requirements under which the guideline was developed.

**Section 43001: Needlessly Impedes Issuance of Safety Regulations**

*Would require agencies to publish information that is confidential or cannot be disclosed legally and/or conduct a burdensome cost benefit analysis when unnecessary.* Each publication in the Federal Register required to be made by law and pertaining to a rule or amendment required by the bill, the agency making the rule shall include in such publication a list of information on which the rule is based, including data, scientific and economic studies, and cost-benefit analyses, and identify how the public can access such information online.

## **Numerous Giveaways and Exemptions from Safety Rules for Concrete, Lumber, Towing, Construction, Trailer, Auto Transporter, Motor Home/Recreational Vehicle & Agricultural Industries.**

### **Section 1423: Special Industry Exemption: Milk Products**

*This special interest giveaway is totally unnecessary and will only serve to further destroy our nation's roads and bridges and defies logic since milk shipments are demonstrably divisible to meet highway safety load requirements.* Establishes that a vehicle carrying fluid milk products shall be considered a load that is not readily divisible or divided.

### **Section 1425: Special Industry Exemptions: Vehicle Weight Limitations-Interstate System**

*Special interest exemptions to federal weight restrictions that will downgrade safety and America's roads and bridges.*

- Exempts "heavy-duty tow and recovery vehicles," that is, a vehicle that is transporting a disabled vehicle from the place where the vehicle became disabled to the nearest appropriate repair facility, from the current Interstate highway gross vehicle weight limit.
- Increases weight limit restrictions for logging trucks on a 13-mile stretch of I-39 in the state of Wisconsin.
- Exempts vehicles from federal weight limits on certain roads in Texas if those roads are designated as portions of Interstate highways.

### **Section 1445: Special Interest Exemption: Logging Trucks**

*Special interest exemption to federal weight restrictions that will downgrade safety and increase damage to America's roads and bridges.* Permits logging vehicles carrying raw or unfinished forest products including logs, pulpwood, biomass, or wood chips that have a gross vehicle weight of up to 99,000 pounds and have no less than six axles to operate on a 24.152 mile segment of I-35 in the state of Minnesota.

### **Section 1446: Overrides State Law Driver HOS Protections**

*This provision will pre-empt state laws to protect workers and exacerbates the dangerous problem of driver fatigue.* Preempts state laws regarding driver off-duty time denying drivers meal and rest breaks as provided by such statutes.

### **Section 5306: Special Industry Exemption: Ready Mixed Concrete Trucks**

*Yet another special interest giveaway that will result in more tired truckers traveling the roads with American families.* Exempts a driver of ready mix concrete truck from the HOS rest break requirement if the driver otherwise complies with the requirements for short-haul operations within a 100 air-mile radius of the normal work reporting location.

### **Section 5511: Special Industry Exemption: Electronic Logging Device Requirements**

*Another unnecessary provision that will harm highway safety.* Motor carriers when transporting a motor home or RV trailer may comply with the HOS regulations by using a paper record of duty status (logbook) form or an electronic logging device (ELD).

### **Section 5513: Special Industry Exemption: Longer Automobile Transporters**

*Special interest giveaways that will pre-empt state laws and restrictions and needlessly exempt these vehicles from federal length restrictions putting the public at risk.* Prohibits states from regulating automobile carriers under 80 feet long, and by extending the limits on how far a transported vehicle can overhang off of the carrier. This exemption actually adds 8 feet to overall length of automobile carriers and their cargo.

**Section 5514: Special Industry Exemption: Ready Mix Concrete Delivery Trucks**

*Driver fatigue remains a critical safety issue and this provision ensures it will make an ever increasing problem worse.* Exempts ready mix concrete delivery vehicles from the federal hours of service regulations (HOS), minimum safety standards (FMCSRs), and record of duty status recordkeeping (logbooks) for drivers that operate within a 100 air-mile radius of their normal work reporting location.

**Section 5516: Special Interest Exemption: Construction Drivers HOS**

*Special interest exemption extends range of HOS exemption even though driver fatigue is a major safety problem and this provision will only make it worse.* Weakens Hours-of-Service (HOS) rule by increasing the existing exemption for air-mile radius from 50 to 75 air-miles for the transportation of construction materials and equipment, to satisfy the 24-hour off duty period.

**Section 5517: Special Interest Exemption: Trailer Towing**

*Special interest exemption preempts state laws that prohibit such configurations to protect public safety.* Permits two light- or medium-duty trailers to be towed together, when empty and as inventory property of a manufacturer, distributor or dealer of such trailers.

**Section 7018: Special Interest Exemption: HazMat Fuel Transport**

*This is a dangerous special interest exemption which puts the public and emergency responders at risk of death and injury in a crash.* Provides an exemption for various drivers in the agriculture industry with Class A CDLs so that they would no longer need to pass a Hazardous Materials test to transport more than 118 gallons of fuel, up to 1,000 gallons.