



SUMMARY OF FAST ACT ISSUES OF INTEREST
Provided by the American Trucking Associations

HIGHWAY ISSUES

Funding Levels

The bill authorizes a total of \$305 billion over five years for highway, transit, safety, research and rail projects and programs. However, \$24 billion in funding for transit, Amtrak and passenger vehicle safety programs is subject to annual appropriation, so only \$281 billion is guaranteed. In addition, in 2020 there is a rescission of \$7.6 billion in the federal-aid highway program. This means that this money is authorized to be spent, but only if Congress finds enough revenue by FY2020 to retain that funding.

Assuming the money is not rescinded, the highway program is allocated \$225 billion over five years, an average of \$45 billion per year, \$5 billion per year more than flat-line spending.

Freight Programs

Nationally Significant Freight and Highway Projects Program

New \$4.5 billion grant program to be administered by USDOT. Grants are primarily for highway projects that improve the movement of freight. Eligible projects must be on the National Highway Freight Network or National Highway System. Freight rail and intermodal projects are eligible for up to \$500 million in project funding. Congress has veto authority over any approved grant.

National Highway Freight Program

New \$6.3 billion program, with money apportioned to all states. Money may only be spent on the National Highway Freight Network (a highway-only network) and only for projects that improve the movement of freight. States may use up to 10% of their apportionments for freight rail and intermodal freight projects.

Toll Pilot Program

Amends the Interstate System Reconstruction and Rehabilitation Pilot Program (ISRRPP), which allows up to three states to toll a single existing Interstate. Imposes a 3-year time limit on applicants (USDOT may extend by one year if applicant is making progress). Imposes a one-year time limit on applicants currently holding slots (USDOT has option to extend by a year). Currently North Carolina, Virginia and Missouri hold slots. Adds a requirement that applicants must have the legal authority to carry out the project.

Size and Weight Changes

Autohaulers

Increases the minimum length of a stinger-steered automobile transporter from 75' to 80', including a 4' front overhang and 6' rear overhang.

Allows automobile transporters subject to the federal length exemption to haul general freight when making a backhaul.

Natural Gas Vehicle Weight Exemption

Vehicles fueled primarily by natural gas may exceed federal weight limits by an amount equal to the difference in weight between the fueling system and a comparable diesel fueling system, up to 82,000 pounds gross weight.

Milk Products

For the purposes of determining Interstate highway weight limits, defines a vehicle carrying fluid milk products as a nondivisible load, giving states the authority to establish weight limits.

Tow Truck Weight Exemption

Exempts heavy duty tow and recovery vehicles from federal Interstate highway weight limits when towing a disabled vehicle.

Preservation of Weight Limits in Arkansas and Texas

Preserves current weight limits if certain roads are converted to an Interstate.

Logging Truck Weight Increases

Increases Interstate highway weight limits for logging trucks in Wisconsin and Minnesota to 98,000 pounds and 99,000 pounds, respectively.

LCV Routes in South Dakota

Allows South Dakota to redesignate its LCV routes under certain conditions.

Alternative Funding Research

Establishes a \$95 million state research grant program to test the viability of alternative highway user fees, such as mileage-based taxes.

Project Streamlining

Includes several provisions designed to speed up project approvals and reduce cost, including:

- Strengthens USDOT's ability to set schedules and deadlines for other agencies participating in environmental reviews and limit the number of alternatives which must be analyzed before a project can move forward;
- Eliminates duplication of reviews in approval processes and requires multiple reviews among agencies to be done concurrently rather than one after another;
- Expanded opportunities for both the use of categorical exclusions – the lowest form of environmental review available – and delegation of environmental reviews to states;
- Increased transparency on how federal highway funds are used in each state and the benefits derived from these investments.

SAFETY ISSUES

Compliance, Safety Accountability (CSA) Reform

Study of Data Accuracy and Reliability

FMCSA must commission a Transportation Research Board study of the accuracy of CSA Safety Measurement System (SMS) in identifying high risk carriers and predicting future crash risk and severity. Within 18 months, FMCSA must submit the study report to Congress and, 120 days later, a corrective action plan to address deficiencies identified in the study. Then, within four months, the IG must determine if the plan properly addresses the study's recommendations.

Availability of Data and Scores

Beginning the day after enactment of the act, no information regarding carrier alerts or percentile ranks (i.e. scores) may be made publicly available until FMCSA completes the corrective action plan discussed above and satisfactory addresses issues raised in a 2014 GAO report.¹ Also, crashes determined by FMCSA to not have been the truck

driver or motor carrier's fault must also be removed (see Crash Accountability section below). Finally, percentile ranks and alerts may not be used by FMCSA to issue safety fitness determinations (i.e., safety ratings).² Inspection and violation information, including out-of-service rates and absolute measures, shall remain publicly available. Carriers will retain the ability to access their respective data, including percentile ranks and alerts. Also, law enforcement officials will continue to be able to access scores and use them for enforcement prioritization.

Beyond Compliance

Within 18 months, FMCSA must establish a means to provide motor carriers with recognition, including credit or improved SMS percentiles, for the adoption of safety technology, enhanced driver fitness measures and/or fleet safety management tools. The agency may incorporate this credit into the existing CSA methodology or create a separate "Safety BASIC."

Crash Accountability

Within 1 year, FMCSA must task the Motor Carrier Safety Advisory Committee (MCSAC) with reviewing the treatment of preventable crashes in the SMS. No more than 6 months later, the MCSAC must make recommendations on a process for motor carriers and drivers to request an FMCSA crash preventability determination. DOT must then review these recommendations and report to Congress on how the agency intends to address the treatment of preventable crashes.

FMCSA Regulatory Reform

Regulatory Impact Analyses

The bill requires that regulatory impact analyses conducted to support new rules consider impacts on different industry segments and carriers of all sizes. Before promulgating any new regulations, FMCSA is required to issue an advance notice of proposed rulemaking to gather data or to conduct a negotiated rulemaking.

Guidances and Interpretations

All regulatory guidances, including interpretations and enforcement policies, must be made publicly available and include an FMCSA contact and date of issuance. Within 1 year, the agency must review all guidances to verify that they are current, accessible, clear, consistent, uniformly and consistently enforced, and still necessary. Every 5 years, FMCSA must conduct a similar review and revise regulations to incorporate respective guidances.

Petitions

All petitions for regulatory action (i.e., request for new regulation or interpretation) must be published on a public website and prioritized based on likelihood of resulting safety improvements. Within 180 days of submission of a petition, FMCSA must formally respond to it indicating their plan to accept, deny or further review the request.

Exemptions

Under the bill, exemptions may be granted for up to 5 years (previously a 2 year limit) and may be renewed. The bill makes two existing exemptions permanent: one for the transportation of bee hives and the other for perishable construction materials. Any other current exemption is now valid for 5 years from the date it was granted.

Rulemakings Required By Congress

FMCSA must prioritize the completion of any rulemaking required by statute before initiating any other rulemaking, unless there is a significant need and Congress is notified. For each of the following rulemakings, DOT must report to Congress within 30 days – and every 180 days thereafter – an explanation for why the statutory deadline was not met (if one was established) and an expected date of completion. The notification must include an updated rulemaking timeline and a list of factors causing delays. The subject rulemakings are:

- Creation of a national drug and alcohol clearinghouse
- Mandatory adoption and use of electronic logging devices
- Entry-level driver training requirements
- Improved visibility of agricultural equipment on public roads

Minimum Insurance Limits

If DOT chooses to proceed with a rulemaking to adjust minimum financial responsibility levels (i.e. insurance limits), it must first consider the rulemaking's impact on: safety; the motor carrier industry; the insurance industry's ability to provide required coverage; the extent to which the current levels adequately cover medical care and compensation; the frequency with which claims resulting from fatal crashes exceed the current insurance limits; and the potential impact on crash reduction. A separate section of the bill requires DOT, by January 1, 2017, to issue a report on insurance levels – including the differences between State and Federal limits; the extent to which the current levels adequately cover medical care and compensation; and the frequency with which claims (for all crashes) exceed the current insurance limits.

Hair Testing for Drugs

The Department of Health and Human Services (HHS) must, within 1 year, establish standards for the use of hair testing in Federal testing programs (e.g., DOT mandatory testing). Then, following DOT adoption of these standards, 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).

Pilot Program for Younger Veterans

DOT must establish a pilot program for current or former members of the armed forces (or reservists) under the age of 21, with experience as motor transport operators, to drive trucks in interstate commerce. Participating drivers may not transport passenger or hazardous materials and will be prohibited from driving “special configurations” (e.g., doubles). DOT must establish a working group to monitor the program and make recommendations at its conclusion.

HAZARDOUS MATERIALS ISSUES

Hazardous Materials Funding

The bill adopts the House's version of overall funding levels. However, the bill adopted the Senate's versions of authorization for funding Hazardous Materials Training Grants at their current \$4 million per year level. The House version of the bill had proposed to raise the authorization to \$5 million. Because the training grants are funded from hazardous materials shipper and carrier registration fees, adopting the House language on grants would have raised motor carriers' registration fees.

Hazardous Materials 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.

Hazmat Safety Permits

This bill 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.

1 Modifying the Compliance, Safety, Accountability Program Would Improve the Ability to Identify High Risk Carriers, Government Accountability Office, (GAO-14-114), February 2014.

2 Note: This is somewhat immaterial as ATA anticipates that FMCSA will use publicly available absolute measures for this purpose.