



May 13, 2011

Docket Management Facility (M-30)
U.S. Department of Transportation,
West Building, Ground Floor
Room W12-140
1200 New Jersey Avenue, SE
Washington, DC 20590-0001.

Re: Pilot Program on NAFTA Long-Haul Trucking Provisions (Docket Number FMCSA-2011-0097)

Dear Sir or Madam:

The American Association for Justice (AAJ), formerly the Association of Trial Lawyers of America (ATLA), hereby submits comments in response to the Federal Motor Carrier Safety Administration's (FMCSA) proposed pilot program on NAFTA long-haul trucking provisions. *See* 76 Fed. Reg. 20807.

AAJ, with members in United States, Canada and abroad, is the world's largest trial bar. It was established in 1946 to safeguard victim's rights, strengthen the civil justice system, promote injury prevention and foster the disclosure of information critical to public health and safety. AAJ is an advocate for motorists who have been injured or killed in highway crashes, including those killed by unsafe long-haul truckers. AAJ understands that there may be a positive economic impact for the United States if the United States-Mexico cross-border long-haul trucking pilot program moves forward. Nevertheless, AAJ believes that the FMCSA should require more protection for motorists by requiring Mexico-domiciled operators to carry insurance instead of self-insuring.

Injuries and fatalities caused by truck crashes are a serious problem in the United States. Every year more than 4,000 people are killed in truck crashes¹ and over 100,000 more are injured and this is after implementation of safety programs by the FMCSA.² Mexican domiciled trucks

¹ Fed. Motor Carrier Safety Admin., Large Truck and Bus Crash Facts 2007, "Table 1: Large Truck Fatal Crash Statistics, 1975-2007" (Jan. 2009); available at <http://ai.fmcsa.dot.gov/CarrierResearchResults/HTML/2007Crashfacts/tb11.htm>

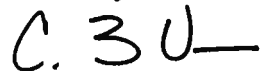
² Fed. Motor Carrier Safety Admin., Large Truck and Bus Crash Facts 2007, "Table 4: Large Truck Injury Crash Statistics, 1988-2007" (Jan. 2009); available at <http://ai.fmcsa.dot.gov/CarrierResearchResults/HTML/2007Crashfacts/tb14.htm>.

and operators do not have the same safety requirements as their American counterparts and allowing them to operate in the United States could potentially increase the risk of truck accidents. Additionally, under the current regulations and the terms of the pilot program, Mexican motor carriers could operate within the United States as a self-insured.³ As such, if a Mexican carrier becomes insolvent and has an accident, anyone injured as a result may never be able to recover any damages from the motor carrier.⁴

FMCSA should not initiate this pilot program without ensuring that all Mexican motor carriers carry insurance at all times. This is a small price to pay in order give access to US roadways and it will ensure that those who do become injured through negligence or other improper acts are able to recover damages. In contrast, if Mexican carriers are permitted to self-insure, become insolvent and are unable to pay any damages that occur because of wrong doing, not only will injured American motorists be unable to recover, it is highly likely that any necessary medical care will be paid for by Medicare or another federal program paid for with tax dollars. As a result, the FMSCA should require that all Mexican operators allowed to operate in the United States as a result of this pilot program purchase an insurance policy and not self-insure. This simple requirement will offer additional protections to all motorists on the road and ensure that more tax dollars are not spent on medical care as a result of this pilot program.

AAJ appreciates this opportunity to submit comments in response to the FMCSA's proposed pilot program on NAFTA long-haul trucking provisions. If you have any questions or comments, please Sarah Rooney, AAJ's Regulatory Counsel, at (202) 944-2805.

Sincerely,



C. Gibson Vance
President
American Association for Justice

³ 49 U.S.C. 31139.

⁴ See *McGirt v. Gulf Insurance Co.*, 207 Fed. Appx. 305, 308 (Md. 2006). The Court noted that the federal regulatory scheme contemplates that there may be situations in which a member of the public may not be able to recover from a self-insured motor carrier.