



AMERICAN TRUCKING ASSOCIATIONS

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Bill Graves
President and Chief Executive Officer

October 11, 2005

Mr. Jim Johnston
President
OOIDA
P.O. Box 1000
Grain Valley, MO 64029

Dear Jim:

I am in receipt of the September 26th letter you sent to motor carrier executives attacking me and the efforts of ATA staff on an extremely important issue. I'm writing to share with you the factual information regarding ATA's hours-of-service efforts, a courtesy you chose not to provide to me either before or after sending your letter. Additionally, this information is being distributed widely to the trucking industry at large to provide them with a clear and accurate understanding of the issue and ATA's efforts.

Your lack of courtesy is disturbing, and frankly, detrimental to the efforts of the trucking industry on an issue that we are equally concerned about. In your letter you call ATA the "premier" trucking association, a designation of which we are very proud. ATA has reached that point by operating in a responsible and courteous manner that focuses on accomplishments rather than self-serving platitudes.

In reading your letter, it is obvious that as you sit in your office in Grain Valley, Missouri, you have little knowledge about ATA's efforts on the HOS issue here in Washington, D.C. Your characterization that ATA has "thrown in the towel" on this issue is without basis and simply not helpful to anyone.

In early September, ATA's Executive Committee provided ATA staff with specific direction on this issue (see attached). Since that time, we have been working to accomplish these objectives. With respect to our legislative objective, ATA did everything possible to persuade Congressional leadership to attach a delay of the sleeper berth rules to the continuing resolution. Faced with numerous requests for similar special provisions to be added to the CR, the House and Senate Leadership, along with the two Committees on Appropriations, established a standard by which all of these provisions would be judged. That standard was that only provisions essential for the continued operations of the Federal government would be included. In that ATA's request did not meet that standard, it was not included.

Good stuff.



However, since late last week, we have secured approximately 20 co-sponsors for a "stand alone" bill that would provide a federal moratorium on state and federal enforcement of these new provisions at least until January 2006. Chairman Don Young introduced H.R. 3943 and we are attempting to have the House focus on it this week. Even though it is now past the effective date and the new rules are currently in effect, ATA continues to work diligently to get this bill passed. In addition, I've written to the fifty state governors asking them to urge their state's motor carrier safety enforcement officials to follow the 3-month transition and enforcement guidelines issued by FMCSA.

Regarding the pilot program, ATA and ATRI staff has met with FMCSA research and policy staff to determine what type of data would assist the agency in evaluating its decision on the sleeper berth provision. This ATA effort is intended to be a comparative analysis between the new sleeper berth provision and the longstanding sleeper berth rules (i.e., a short study comparing the 8 and 2 split with the more traditional 5 and 5 split). However, without a legislative delay in these rules, we may have to accomplish this objective by evaluating just the productivity and economic impacts of the new sleeper berth provision and compare it to FMCSA's economic analysis supporting this change. Our original intent was to conduct this safety and productivity study during the 3-month period prior to January 2006.

ATA has also filed two letters with FMCSA on the "right seat" interpretation issue. Our first letter dated September 19 sought a reasonable interpretation. However, FMCSA advised ATA that this request was more than interpretive in nature and we, therefore, filed our letter as a petition for reconsideration concerning the definition of on-duty time.

And, finally, in continuation of ATRI's ongoing HOS research, ATRI staff is already making plans to initiate a new data collection component to specifically address this sleeper berth change and its related impacts.

Jim, ATA is working on behalf of its members and the industry to achieve the most common sense, operationally practicable and scientifically supportable rules as possible. Ill informed communications to the industry are not helpful at a time when we should be working in concert to address a mutual concern. I am always available to discuss solutions to problems that affect the entire trucking industry, not just certain segments of it. The next time, I urge you to pick up the phone and call me to discuss what ATA may be doing before you make a decision to denigrate, as you recognize, the premier association for motor carriers.

Sincerely,



Bill Graves

Cc: ATA Members

Enclosure

On September 7, 2005, after considerable discussion, ATA's Executive Committee voted unanimously to endorse the following resolution:

ATA should:

- (1) pursue a legislative delay in the effective date of the sleeper berth provision in the new HOS rule until January 1, 2006,**
- (2) pursue, in partnership with FMCSA and an academic institution, a pilot program between October and December 2005 to compare the safety and productivity impacts of new sleeper berth provision with the current sleeper berth provision for both team and solo drivers;**
- (3) pursue a new interpretation of "on-duty time" for team drivers allowing (but not requiring) such drivers to sit in the right seat of the truck for up to 2 hours of time and log that time as off-duty and,**
- (4) work with ATRI, once the rule goes into effect, to collect data on sleeper berth usage, accidents/incidents and productivity impacts for both single and team drivers in the first 6 months. If the data supports the need for a change, file a petition for rulemaking.**