



June 19, 2019

The Honorable Peter DeFazio
Chairman
House Committee on Transportation
& Infrastructure

The Honorable Sam Graves
Ranking Member
House Committee on Transportation
& Infrastructure

The Honorable Eleanor Holmes Norton
Chair
Subcommittee on Highways
& Transit

The Honorable Rodney Davis
Ranking Member
Subcommittee on Highways
& Transit

Dear Chairs and Ranking Members DeFazio, Graves, Norton and Davis:

I write on behalf of the American Trucking Associations (ATA), to address the trucking industry's continued safety efforts and investments; an issue area that was discussed at great lengths during the June 12, 2019 "State of Trucking in America" hearing before the Subcommittee on Highways and Transit. ATA President and CEO Chris Spear appreciated the opportunity to testify before the subcommittee on behalf of the trucking industry, highlighting the industry's unwavering commitment to safety on our nation's roads and bridges, and the safety of the motoring public.

As you know, safety anchors the very foundation of the trucking industry, shaping our core values and decision-making. That is why the trucking industry invests approximately \$10 billion annually in safety initiatives, and while some of these investments are made to meet a myriad of regulatory requirements, many of them are voluntary, progressive safety initiatives adopted by our members that are paying dividends in highway safety. That being said, there is still more work to be done, and we are committed to the goal of accident and fatality-free highways.

During the hearing, and further highlighted in his written testimony, Mr. Spear voiced ATA's concerns for, and opposition to, the Stop Underrides Act of 2019, introduced earlier this year in both the House (H.R.1511) and Senate (S.665). However, to supplement his testimony, and also respond to troubling comments and testimony submitted by other witnesses at the hearing, I would like to reaffirm our opposition to the Stop Underrides Act, and further illuminate the unintended consequences this misguided mandate would have on our industry.

The Stop Underrides Act is not based on sufficient science, data or demonstrated overall effectiveness. Moreover, it disregards the significant technical issues a mandate of this nature raises, as well as the other proven technologies that exist for addressing these and other crashes, such as automatic emergency braking, camera monitoring systems, and adaptive turning assist. The bill also ignores the diversity of our industry, failing to take into account that trucking is not a one size fits all industry, and that investments in certain technologies that one company makes may not make sense, or be safe, for another. Standards for both new and in-service truck equipment should be based on sound economic and engineering principles that enhance safety, take into account real-world operations, and weigh possible unintended consequences.

In the written testimony provided by Andy Young, a fellow witness at last Wednesday’s hearing, Mr. Young stated that the cost arguments raised by ATA, and others opposing the Stop Underrides Act, must be “taken into perspective”. ATA has reviewed the figures provided in Mr. Young’s testimony, and has applied those very figures provided to real-world operations, considering the real-world impacts if this requirement were mandated. In his testimony, Mr. Young states that there are 11.7 million registered trailers in existence, as reported by the Federal Highway Administration in 2012.¹ The testimony further states that trailer orders, in 2019, are projected to reach 324,000 trailers. By these projections, the testimony concludes that “combining all new trailer orders with currently registered trailers puts the total number of commercial trailers in the United States at well over 12 million.” Equipping the estimated 12 million trailers with a side underride guard, identified in Mr. Young’s testimony as costing approximately \$2,900 including shipping, would equate to approximately \$34.8 billion spent on underride guards. That staggering figure would result in what is likely the largest unfunded mandate on a private sector industry in U.S. history. Furthermore, when combined with the expected cost of labor in installing these guards, would exceed the industry’s annual net revenue, essentially putting trucking out of business, and grinding our economy to a screeching halt. Even if the cost of this unproven technology was phased in over a few years as the Stop Underrides Act directs, it would indisputably divert industry resources away from crash avoidance technologies with wide-ranging benefits in all types of crashes to focus on a narrow type of crash and very specific countermeasure unproven in real-world applications.

As you are also aware, in April the Government Accountability Office (GAO) published a report², requested by Members of Congress, reviewing the topic of underride crashes. Through a yearlong investigation, including numerous interviews with State and Federal Government, Local Police Departments, Foreign Governments, and over 29 industry groups, including those supportive of this mandate, GAO concluded that more study should be conducted by DOT on this issue—study that can examine the possibilities of unintended consequences that no parties involved with this issue wants to see. ATA agrees with GAO’s findings and recommendation for additional research on side underride guards. Our industry’s unwavering commitment to safety should not be impeded by hastily mandating a technology that government experts report requires greater study.

Advocates for mandating side underride guards have reiterated that these devices have been tested. ATA is only aware of testing that has been completed on a closed course, at well below highway speeds, during perpendicular side impact crashes into a stationary trailer. Earlier this year at Audi Field, ATA witnessed firsthand that these crash tests were successful in stopping the vehicle from penetrating underneath the side of the trailer within a controlled test environment. What we have not witnessed, nor do we know what *may* happen, is the results of a crash during a realistic highway scenario—at highway speeds, with a moving truck and trailer, and with other traffic present. For instance, a concern remains that a side underride guard may successfully stop the passenger car from going underneath the trailer, however, the potential for that car to bounce off the trailer and strike other vehicles is a concern that should be researched.

Another example of an unintended consequence was provided in comments filed with the National Highway Traffic Safety Administration (NHTSA) in May 2016, the Truck Trailer Manufacturers Association (TTMA). TTMA’s comments noted a European trailer manufacturer’s experience with trailer failures due to the increased rigidity in the trailer structure from added frame supports for side underride guards. The trailers were less flexible when operated over uneven road surfaces or on surfaces that produced twisting forces, which led to the trailers becoming disabled during highway use, presenting safety risks to other motorists. The TTMA comments also point out that there would be a significantly increased likelihood of high-centering of the side guards on steep changes in highway and street levels, such as

¹ <https://www.fhwa.dot.gov/policyinformation/statistics/2012/mv11.cfm>

² (March, 2019). *Truck Underride Guards, Improved Data Collection, Inspection, and Research Needed* (Report No. GAO-19-264). Retrieved from United States Government Accountability Office: <http://www.gao.gov/assets/700/697585.pdf>.

elevated railroad crossings, and at warehouse docking wells. High-centering incidents already occur when operators of low frame trailers misjudge clearance heights at railroad crossings, which can result in tractor-trailers becoming stranded on railroad tracks. If all commercial vehicles were to have substantial side underride guards, as this bill requires, high-centering incidents would likely become more frequent.³

The Stop Underrides Act also fails to consider numerous complicating factors such as engineering tradeoffs involving weight, strength, and effectiveness of side guards. This is *not* an issue of the added weight to the trailer requiring companies to transport less freight, but rather serious concerns for the potential to degrade the structural ability of a trailer over time. As referenced in Mr. Young's testimony, trailers often see a lifespan of over 15 years. Without further study, it is impossible for us to anticipate the effects of this added weight. Furthermore, the bill raises significant operational issues related to ground clearance, moveable trailer axles, and the diversity of truck and trailer designs. For example, the ridged specified design of side underrides would not work well with tank and bulk trailers that are cylindrical in size and require underbelly accessibility; flatbed trailers, which unloaded, are naturally curved to suppress weight; and intermodal trailers that are shipped and locked onto specific designed chassis for hauling. Simply put, these glaring operational concerns do not suggest real world applicability, nor justify an industry-wide mandate.

ATA continues to believe that the most effective improvements to road safety should be directed at preventing the crash from happening in the first place. The Stop Underrides Act focuses on mitigation after the crash has already taken place. Our focus should be on crash avoidance that can be achieved by enhancing vehicle-to-vehicle (V2V) connectivity. As such, ATA has been a leading member of the Safety Spectrum Coalition, which includes the National Safety Council, in the effort to preserve the 5.9 GHZ spectrum for vehicle safety use, which will have significant implications for connectivity crash avoidance. In NHTSA's January 2017, V2V Notice of Proposed Rulemaking for light-duty vehicles, the Agency estimates that four safety applications enabled by the proposed rule could avoid or mitigate 89% of light-duty vehicle crashes.⁴ NHTSA is currently also conducting research on V2V for heavy vehicles, and estimates that 70% of crashes involving trucks occurred in scenarios that could be addressed by V2V systems.⁵

Based on the testimony provided at last weeks hearing, we felt it necessary to further communicate our concern for, and opposition to the Stop Underrides Act. As you can see, our concerns are very broad in scope, and not solely an issue of the economic impact. The technical concerns, unintended consequences, diversity of operations, vehicle/trailer designs, and consideration of alternative technologies have brought us to the position we reiterate today. Nevertheless, ATA and the trucking industry remain dedicated in a commitment to improving the safety of our nation's roads and bridges, and look forward to our continued work with your respective Committees, Congress, the Administration, enforcement, and other interested parties on the shared the goal of enhancing highway safety.

Thank you for your thoughtful consideration, and leadership on this critical issue.

Sincerely,



Daniel Horvath
Vice President, Safety Policy
American Trucking Associations

³ Truck Trailer Manufacturers Association letter to NHTSA Administrator Mark Rosekind, May 13, 2016. Docket No. NHTSA-2015-0118-0041.

⁴ 82 Fed. Reg. 3863.

⁵ Chang, J. (2016, July). Summary of NHTSA heavy-vehicle vehicle-to-vehicle safety communications research. (Report No. DOT HS 812 300). Washington, DC: National Highway Traffic Safety Administration.