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COMMITTEES
Budget
Transportation
Special Committee on Innovation & Technology
Subcommittee on Appropriations–Public Safety
Corrections, Transportation & Revenue
Joint Committee on Transportation Oversight

MISSOURI HOUSE OF REPRESENTATIVES

Bart Korman

State Representative
District 42

MEMORANDUM

TO: Chairman Bill Reiboldt, Transportation Committee

FROM: Rep. Bart Korman

DATE: February 9, 2017

RE: HB 542

I respectfully request that HB 542, which modifies current law to ensure compliance with the "Fixing America's Surface Transportation Act" of 2015, be heard in your Transportation Committee.

Per House Rule #41, I have attached a copy of the Federal statue with the pertinent information highlighted. The compliance deadline would be upon the expiration of the FAST Act which is October 2020, unless it is extended. If the state of Missouri does not act on this mandate, there will be a 10% reduction which equates to approximately $64.3 million in funding.

If you have any questions or need additional information please feel free to contact me at 573-751-2689.

Sincerely,

Bart Korman

Cc: Rep. Becky Ruth, Vice Chair of Transportation
Rep. Bob Burns, Ranking Minority Member
Rep. Kevin Corlew
Rep. Robert Cornejo
Rep. Tom Hurst
Rep. Glen Kolkmeyer
Rep. Karla May
Rep. Joe Runions
Rep. Nate Tate

BRUCE WESTERMAN
COMMITTEE ON NATURAL RESOURCES
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Congress of the United States

House of Representatives

Washington, DC 20515–0404

February 6, 2017

The Honorable Elaine Chao
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590

Dear Secretary Chao:

Congratulations on your recent confirmation as Secretary of the Department of Transportation (DOT). As a new member of the House Transportation and Infrastructure Committee, I look forward to working with you to address a wide range of issues that impact the transportation industry.

A focal point of President Trump's plan for America is to reduce or eliminate unnecessary and burdensome regulations and pursue policies that promote economic growth. In transportation, the opportunity to achieve these goals is endless.

To that point, I have heard from constituents in my district regarding the Federal Highway Administration's (FHWA) interpretation of the definition of "automobile transporter" as defined in §49 U.S.C. 31111(a)(1) and §23 C.F.R. 658.5. The definition defines an automobile transporter as "*Any vehicle combination designed and used for the transport of assembled highway vehicles, including truck camper units.*" Historically, this definition has included stinger-steered automobile transporters and tractor-high mount trailer automobile transporters, both of which are subject to the length provisions in §23 C.F.R. 658.13(e). In short, the length provision allows automobile transporters to have front and rear overhang to accommodate the unique needs of the automobile transporter industry.

Unfortunately, FHWA's current interpretation of the definition of an automobile transporter is narrow and unjustified. The agency believes that to be considered an automobile transporter the power unit (i.e. the truck) must be capable of carrying automobiles. Therefore, a non-cargo-carrying tractor-high mount trailer combination is not considered to be an automobile transporter. However, FHWA's interpretation is not rooted in federal law or regulation.

Regulations regarding automobile transporters date back to 1983 via the enactment of the *Surface Transportation Assistance Act of 1982* [P.L. 97-424]. In short, this law authorized DOT to establish rules regarding specialized equipment, including automobile transporters. In 1984, FHWA issued a Final Rule (see Federal Register, Volume 49, Number 109, Page 23317)
declaring that (1) automobile transporters are considered specialized equipment, (2) all length provisions regarding automobile transporters are exclusive of front and rear overhang, and (3) no
state shall impose a font overhang of less than three feet nor a rear overhang of less than four feet.

In 1988, FHWA issued another Final Rule (see Federal Register, Volume 53, Number 19, Pages 2593-2597) to revise certain provisions of the 1984 Final Rule. Of note, the 1988 Final Rule (1) reiterates that automobile transporters "*may*" carry cargo on the power unit, (2) clarifies that the 1994 Final Rule "*allows*" for cargo to be carried on the power unit, and (3) defines the term automobile transporter. There is nothing in the 1988 Final Rule that requires a power unit to carry or be capable of carrying cargo to be considered an automobile transporter.

Further, the 1988 Final Rule declared that modified "low boy" trailers are considered automobile transporters. FHWA said that "...if a low boy had been built or modified especially to transport vehicles, then it should qualify as an automobile transporter." Clearly, a power unit pulling a low boy trailer is neither capable of nor required to carry cargo, yet it is considered to be an automobile transporter. It is also worth highlighting that FHWA, in discussing the use of low boy trailers, "...continues its position regarding configurations that offer safety and productivity advantages which includes the use of low boy semitrailers and tractor-semitrailer combinations when used specifically for the transport of assembled highway vehicles." This is a mindset that apparently eludes the agency as it relates to the use of tractor-high mount trailer automobile transporters, which is indisputably a configuration that offers safety and productivity advantages.

In 1996, FHWA issued guidance on federal regulations for commercial vehicles, including automobile transporters. Here again, the agency merely states that automobile transporters *may* carry cargo on the power unit. While an image in Figure 4 depicts a power unit capable of carrying a vehicle, it simply highlights that conventional automobile transporters may carry a vehicle on the power unit, including the explicit limitation that a power unit can only carry one vehicle on the power unit pursuant to the 1988 Final Rule.

In 2004, FHWA updated it guidance from 1996. At this time, after more than twenty years, the agency arbitrarily decided that to qualify as a conventional automobile transporter the power unit must be capable of carrying cargo. While it is not immediately clear why such change was made in 2004, it needlessly imposes significant economic sanctions on small-business automobile transporters. In effect, it reduces their capacity – in other words, their profit margin – by an
estimated 12% to 37% depending on a number of factors while doing absolutely nothing to improve highway safety.

The regulatory history of automobile transporters suggests that FHWA has existing legal authority to revise its guidance, without any legislative action from Congress. Respectfully, I
urge you to review this issue and ultimately take appropriate action to classify non-cargo-carrying tractor-high mount trailer combinations as automobile transporters.

Thank you for your attention to this matter and your consideration of my request. Please contact Jefferson Deming in my office at jefferson.deming@mail.house.gov if you have any questions.

Sincerely,

Bruce Westerman

Bruce Westerman
Member of Congress