

**STATEMENT OF
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FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
BEFORE THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION
SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT
MARINE
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INTRODUCTION

Chairman Lott, Ranking Member Inouye, and Senators of the Subcommittee, thank you for inviting me today to discuss the Federal Motor Carrier Safety Administration's (FMCSA) oversight role in household goods transportation. I am pleased to appear before you to describe FMCSA outreach, education, enforcement, and compliance programs that help consumers protect themselves during a move and help to remove unscrupulous movers from the household goods industry.

Mr. Chairman, a household move can be a stressful undertaking, as many of us in this room know firsthand. An estimated 40 million Americans relocate each year, approximately 1.6 million of which are interstate moves, handled by approximately 4,000 companies. Fortunately, the majority of household moves are completed without incident. Consumers in these moves are well served by registered, legitimate, safe, and trustworthy household goods carriers. However, there exists a small group of unscrupulous and dishonest movers that gives the entire moving industry a bad name. These "rogue movers" prey upon distraught consumers by agreeing to haul their goods and then holding their possessions hostage for exorbitant and unexpected fees. Some of these movers never return the goods to the consumer, selling them instead and pocketing the proceeds.

In addition to the moving companies, FMCSA focuses its attention on those household goods brokers who conduct dishonest business practices. Brokers are persons who act as a go between, arranging household goods moves between a customer and a carrier. Dishonest brokers engage in deceptive practices via the Internet. For example, a dishonest broker may request an initial deposit for a move from the shipper and then never arrange for the move. In the same instances, the shipper cannot locate the broker because the broker does not have a physical address listed or has moved and/or closed. It is these types of movers and brokers that we seek to eliminate from the legitimate marketplace.

BACKGROUND

The Department of Transportation (DOT) inherited the oversight of the moving industry as a result of the Interstate Commerce Commission (ICC) Termination Act of 1995 (the Act). Until the enactment of this law sunsetting the Commission, the ICC issued and enforced consumer protection regulations to ensure consumers arranging an interstate move received basic information on tariffs, estimating requirements, weighing practices, insurance

coverage, and requirements for delivery. DOT's inherited authority included jurisdiction over household goods carriers and brokers to protect consumers on interstate moves by defining the rights and responsibilities of consumers and household goods carriers and brokers. The Act required motor carriers who transport household goods for-hire in interstate commerce and brokers who arrange the interstate transportation of household goods to comply with Federal commercial regulations.

Among the functions transferred to FMCSA were the registration of for-hire household goods carriers and brokers and the monitoring of compliance with the financial responsibility requirements. In transferring these commercial regulations to DOT, Congress directed the discontinuation of the ICC's dispute resolution functions. Although the ICC did not have the authority to resolve disputes involving loss or damage, it assisted consumers by contacting carriers to encourage timely claims handling. The Act instead encouraged consumers to resolve household goods disputes through arbitration or by bringing a civil action in a court of appropriate jurisdiction. These are the primary means by which consumers can resolve loss and damage claims. The Act did not give the Federal Highway Administration (FHWA), FMCSA's predecessor agency, jurisdiction over dispute settlement. Should consumers elect not to use binding arbitration, they can take the carrier to court. Additionally, the Act established a private right of action for a shipper to recover damages for carrier violations of the commercial regulations. In essence, the ICC Termination Act ended the Federal government's role in resolving household goods disputes.

It is important to mention that FMCSA has oversight only over interstate moves. Even then, FMCSA does not have jurisdiction over all of these moves. FMCSA's consumer protection regulations apply only to agreements between motor carriers and individual shippers. They do not apply to household goods shipments moved under the terms and conditions of a government bill of lading, which includes military moves, or so-called national account shipments where a company arranges to move its employees.

Until 2001, FMCSA and FHWA addressed household goods complaints with a small number of specialists who handled a broad range of household goods and regulatory matters. These specialists investigated consumer complaints through contact with carriers to resolve instances of alleged noncompliance. As the result of a Government Accountability Office (GAO) audit in 2001, which identified a need to centralize household goods complaint data, FMCSA expanded its program to centrally collect complaint data. In August 2005, the enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) further required us to make that data available to the public so that they can make better consumer choices by August 2006. We are now developing the prototype of the database and expect to meet this statutory deadline.

SAFETEA-LU made other important changes affecting FMCSA's oversight of household goods transportation. In order to address these new responsibilities, FMCSA has developed a two-pronged approach. The first is an enhanced outreach program to better educate consumers and the second is an aggressive program to take enforcement actions against non-compliant movers in the industry. I would like to describe each briefly.

CONSUMER OUTREACH

A well-informed consumer is the best defense against the rogue mover. Federal and State actions after the fact cannot recompense injured consumers. In 2004, FMCSA's Safety Violation and Household Goods Consumer Complaint Hotline at 1-888-DOT-SAFT (1-888-368-7238) received an increased volume of household goods consumer calls, which suggested a critical need for a more effective outreach and education program. In response to this need, FMCSA developed a Consumer Information Program to provide consumers with information to protect themselves against dishonest and rogue movers. FMCSA relies on public and private organizations, as well as the moving industry, to increase consumer awareness of the moving process thereby enabling the consumer to make a safe and successful move.

In FY 2005, Congress provided \$1.5 million to FMCSA to develop outreach initiatives to help educate the general public. We used these funds to develop an outreach and education strategy, conducted market research of the moving industry, and developed a communications plan for deployment. During FY 2006, Congress provided \$1 million for household goods outreach and education initiatives. FMCSA will spend these funds to develop new outreach materials in English and Spanish, enhance our *Protect Your Move* website to focus on Internet moving fraud, and evaluate our household goods consumer information program to determine future enforcement and outreach initiatives.

For example, in February 2005, FMCSA established a national Household Goods Partnership comprised of two Federal agencies, the U.S. Postal Service and the Federal Maritime Commission, State law enforcement agencies, consumer protection groups, and several moving industry associations. The DOT Office of the Inspector General (OIG) is also a partner. The group coordinates efforts to address moving fraud. Additionally, the partnership has helped FMCSA launch a consumer education campaign on how to have a successful move and avoid falling victim to rogue movers. This campaign is called "*Protect Your Memories. Your Money. Your Move.*"

Following up on the partnership, in April 2005, FMCSA developed a new Moving Fraud Prevention website to assist consumers (www.protectyourmove.gov) that provides guidance and best practices to help people avoid being taken advantage of, or worse, getting caught in a scam by a rogue mover or broker. The site provides a list of federally registered and insured movers and brokers. It provides details about household goods regulations governing professional moving companies, information about how to file a complaint in the event of a problem, and moving tips on how to have a successful move. Additionally, the website also serves as a resource for members of the Household Goods Partnership by providing an on-line campaign toolbox for conducting a "Consumer Education Campaign to Reduce Moving Fraud." The website also provides links to local Better Business Bureaus, consumer protection agencies, State Attorneys General, and moving associations. Since its activation, the website has had more than 2.2 million hits.

A recent enhancement to our outreach efforts is an awareness campaign through the Postal Service. We will soon distribute approximately 11 million leaflets in its Mover's Guides to

regions in the United States that have the highest concentration of household goods complaints (i.e., California, Florida, New Jersey, and New York). Also through our partnership with the Postal Service, we expect to reach roughly 1.8 million registrants via its on-line Change of Address service, which provides an online move planning service for household goods consumers.

Another way we have broadened our distribution of household goods outreach brochures to the general public is through a cooperative agreement with the U.S. General Services Administration's (GSA) Federal Citizen Information Center. To date, GSA has distributed over 43,000 copies of the *Ready to Move – Tips for a Successful Interstate Move* brochure. FMCSA sent copies of this brochure to all registered household goods brokers to provide to their customers, and placed it on our *Protect Your Move* website. In addition, we distributed over 50,000 of the brochures to our field offices, State governments, and Partnership members for dissemination to the general public in their area.

To continue to educate consumers, we recently updated our pamphlet, *Your Rights and Responsibilities When You Move*, for the moving industry to provide to its customers, as required by SAFETEA-LU. We will distribute copies to our field offices and State offices. The updated pamphlet can be downloaded from our website distribution. We published a Federal Register Notice on April 7, 2006, revising the pamphlet to incorporate the SAFETEA-LU changes. As part of our outreach efforts, FMCSA provided over 443,000 *Protect Your Move* brochures and posters to our field offices, State governments, and Partnership members for dissemination to the general public in their area.

It is the Agency's plan to continue to work with our partners to develop outreach initiatives and educate consumers about the moving industry and its business practices. In addition to consumer outreach and education, enforcement is a key tool in eliminating unscrupulous movers from the moving industry.

ENFORCEMENT

FMCSA has increased its enforcement efforts in order to protect the American public from illegal activities and deceitful business practices by rogue moving companies. In 2005, we received almost 3,000 household goods complaints, which included 622 calls on hostage freight situations, 575 on unauthorized operations, and 2,281 on pick-up and delivery complaints. A good portion of the calls, 1,644, pertained to lost and damaged goods. As mentioned earlier in this statement, FMCSA does not have jurisdiction to resolve disputed loss and damage claims. Mr. Chairman, as we increase our outreach and enforcement efforts in this area, we expect that complaints will increase initially from these current levels – a good indicator that we are reaching consumers and educating them on ways to ensure a successful move. Once consumers become more aware of the issues and pitfalls to avoid, we anticipate complaints will decrease.

FMCSA enforcement staff continually monitors the geographic areas containing movers who are subject to the highest volume of complaints. FMCSA then conducts enforcement "strike forces" in these areas. The largest volume of complaints involve movers and brokers located

in the States of California, Florida, New Jersey, and New York, followed closely by the States of Georgia, Illinois, and Texas.

In FY 2005, FMCSA conducted strike forces in California and Florida, and combined strike forces in New Jersey and New York, and Illinois and Texas. These activities were conducted with the assistance of various State entities, including the Florida Department of Agriculture, the Texas Department of Public Service, and the New York DOT. These four strike forces produced approximately 100 household goods compliance reviews and 20 enforcement cases, which are civil actions brought by FMCSA against the carrier or broker.

This fiscal year, FMCSA has conducted two of its four planned strike force activities – the first of which was in Colorado. After receiving numerous complaints at our Colorado Division office, our enforcement staff worked closely with the Colorado Public Utilities Commission to conduct this strike force. Of the 16 companies identified for the strike force, all resulted in household goods compliance reviews, which produced 3 enforcement cases. This successful action substantially reduced the volume of household goods complaints received by FMCSA's Colorado Division.

During the second strike force activity in FY 2006, FMCSA focused its efforts in Florida. Additionally, these household goods compliance reviews, based on the number of consumer complaints, were also conducted in Georgia and Texas. A total of 47 household goods compliance reviews were conducted, which resulted in 11 enforcement cases to date. In Florida, we also discovered approximately 30 household goods carriers and brokers that were no longer in business.

Household Goods Compliance Reviews

FMCSA has increased its performance of household goods compliance reviews since 2001. In FY 2001, a total of 13 household goods compliance reviews were conducted. This steadily increased to 20 in FY 2002, 30 in FY 2003, to 52 in FY 2004. FMCSA's goal for household goods compliance reviews in FY 2005 was 300, which included our strike force activities. We exceeded our goal with a total of 381 household goods compliance reviews. FMCSA's goal in FY 2006, which also includes strike force activities, is 450 household goods compliance reviews, a goal we are pursuing aggressively.

Currently, household goods compliance reviews are conducted based on complaint data that is captured in FMCSA's National Commercial Complaint Database. This information is analyzed on a regular basis to determine priorities for conducting reviews on household goods carriers and brokers. When a complaint is received, it is reviewed for substance and the database checked to determine if a pattern of complaints alleging noncompliance exists. If a pattern is identified based on complaints and geographic location, we conduct a household goods compliance review on the operations of these carriers or brokers to determine compliance with FMCSA regulations.

When a compliance review discloses violations of agency regulations, FMCSA's Enforcement team initiates action to assess civil penalties for the violations. Through all of these efforts, FMCSA has been able to increase its compliance and enforcement actions.

Total Number of Household Goods Compliance Enforcement Cases

| FY 2001 | FY 2002 | FY 2003 | FY 2004 | FY 2005 |
|---------|---------|---------|---------|---------|
| 6 | 12 | 3 | 11 | 43 |

SAFETEA-LU PROVISIONS

As a result of SAFETEA-LU's enactment in August 2005, FMCSA was given increased mandates in many areas of household goods enforcement. Household goods carriers are required to offer arbitration to shippers and the level at which binding arbitration is required was increased from \$5,000 to \$10,000 under SAFETEA-LU. For claims in excess of \$10,000, the carrier must agree to arbitration for the shipper to be able to have the claim arbitrated. Additionally, the arbitration requirements, which were previously limited to disputes over loss and damage, have been expanded to include disputes over payment of additional delivery charges.

Section 4206 of SAFETEA-LU enabled State Attorneys General and other State enforcement officials to enforce Federal household goods regulations through civil action against a carrier or broker in U.S. District Court. The FY 2006 Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act placed limitations on State enforcement authority by permitting States to pursue civil actions only against carriers and brokers who meet specific statutory criteria. This limitation sunsets on September 30, 2006. To our knowledge, no State has pursued civil action on behalf of consumers based on the authority granted by SAFETEA-LU.

As required by SAFETEA-LU, FMCSA has been working with Federal, State, and local household goods enforcement agencies to better coordinate investigations, to optimize our resources, and to achieve the most effective enforcement results. As a result of these efforts, FMCSA has established a working group to assist the States with bringing their own civil actions on behalf of consumers against household goods carriers or brokers. Comprised of representatives from the DOT OIG, the National Association of Attorneys General and various State Attorneys General and U.S. District Attorneys, the Florida Department of Agriculture, and the Maryland Office of Consumer Affairs, the group has opened a dialogue to develop practices and procedures to enhance the Federal/State partnership and make legislative and regulatory recommendations concerning these efforts. This group differs from the Household Goods Partnership in that this working group is designed to assist the States with bringing their own civil actions on behalf of consumers against household goods carriers or brokers.

Other sections of SAFETEA-LU worth noting are:

- Established the minimum penalty at \$10,000 per violation for carriers holding a shipper's goods hostage after they have received payment necessary to effect delivery under the law. This should be an effective deterrent against carriers who hold consumers' belongings hostage.
- Increased the minimum penalty for operating without registration to \$25,000. This increase should dissuade the rogue carrier or broker from attempting to fly below the FMCSA radar.
- Added requirements to the registration process will permit FMCSA to better track carriers and brokers and may help in identifying companies who go out of business and try to return under a new name to avoid FMCSA regulations and penalties.

FMCSA has implemented six of the household goods sections of SAFETEA-LU by policy issuances. These policy documents were recently distributed to our field offices and provide operational guidance on how to apply these new requirements. They include definitions, household goods carrier operations, liability of carriers under receipts and bills of lading, arbitration requirements, civil penalties relating to brokers and unauthorized transportation, and penalties for holding goods hostage. FMCSA is working on a notice of proposed rulemaking for a new household goods broker consumer protection rule that it hopes to publish in the Federal Register in the near future. This rule implements SAFETEA-LU Section 4212 requirements applicable to the household goods broker industry and enhances FMCSA's enforcement tools with regard to that industry. FMCSA is in the process of completing other rulemakings to codify the remainder of the SAFETEA-LU sections into law.

BUDGETARY RESOURCES

In 2000, FMCSA had three employees working on household goods. Currently, there are twelve total household goods staff – four full-time program and support staff at FMCSA headquarters and eight full-time investigators in the field devoted to household goods reviews. During FY 2005 and 2006, FMCSA trained 75 Safety Investigators to assist in handling household goods investigations. It is important to note that household goods compliance reviews are not the main function of FMCSA Safety Investigators – it is ancillary to their core safety mission. Currently, we are able to meet our internal goal of household goods reviews.

CONCLUSION

Mr. Chairman, household goods fraud potentially affects consumers across the nation. The goal of eliminating disreputable companies from the moving business is one we all share. As I mentioned in this testimony, our consumer outreach programs increase both the visibility of the problem and the awareness of warning signs of a disreputable mover. We will continue to develop outreach and education strategies with our household goods partners to help consumers have successful moves. Our enforcement and compliance program has yielded tangible results, as is made evident by rogue carriers leaving the industry or coming into

compliance and now operating legitimate businesses. As we have shown through our strike force activities, cooperation among all branches and levels of government is the surest way to eliminate this threat to the American home.