

**Statement of Daphne Izer, Mother of Jeff Izer,
Killed in a Crash Involving a Tired Trucker
And
Founder, Parents Against Tired Truckers (P.A.T.T.)**

**Before the Subcommittee on Surface Transportation and Merchant
Marine Infrastructure, Safety and Security**

Committee on Commerce, Science and Transportation

United States Senate

December 19, 2007

Good morning, my name is Daphne Izer and I am the founder of Parents Against Tired Truckers (P.A.T.T.). P.A.T.T. is a member of the Truck Safety Coalition and my testimony reflects the views and position of our coalition. I would like to begin by thanking Senator Lautenberg, Ranking Member Smith and the other Members of the Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety and Security for inviting me to participate in this critical hearing on the issue of truck driver fatigue and the Hours of Service (HOS) rule.

On October 10, 1993, my life was forever changed. A truck driver fell asleep at the wheel of his 80,000 pound rig, killing four innocent teenagers. One of them was my son Jeff. He and four of his friends were on their way to a hayride and had just pulled into the breakdown lane on the Maine Turnpike when a Wal-Mart truck driver fell asleep at the wheel of his big rig and crashed into my son and his friends. As a result of this horrific, preventable crash, four beautiful teenagers: Jeff – age 17, Angie - age 16, Dawn Marie - age 15, and Katie - age 14 were killed. One friend, Linda, survived but was seriously injured and she is mentally scarred for life. Five families suffered incomparable personal loss as a result of a single tired trucker. Yet, there are hundreds of thousands of us -- parents, brothers and sisters, grandparents, aunts and uncles, neighbors, co-workers and friends -- who will be without a loved one during the holidays because a trucker fell asleep at the wheel. I shudder to think about how many fatigued truckers are on the roads right now, during this hearing, due to the unsafe and illegal HOS rule issued by the Federal Motor Carrier Safety Administration (FMCSA). This danger that threatens all motorists is unacceptable and unnecessary.

I formed P.A.T.T. in May of 1994 to try to make a difference and protect other families from what I have gone through. P.A.T.T. has grown from a Maine grassroots group to a nationally recognized organization. In 2002, we combined efforts with Citizens for Reliable and Safe Highways (CRASH) and formed the Truck Safety Coalition. Together, we are dedicated to reducing the number of preventable deaths and injuries caused by

truck-related crashes, providing compassionate support to truck crash survivors and families of truck crash victims, and educating the public, policy-makers and media about truck safety issues.

There are hundreds of victims throughout the country who volunteer time to work with the Truck Safety Coalition to achieve our mission. Their hard work and dedication are astounding. Like others who have been affected by motor vehicle deaths and injuries, they have taken their sorrow and turned it into strength. Conversely, it is difficult to comprehend, as a mother who lost her son, why the federal agency Congress created to protect the traveling public, the FMCSA, has shown so little safety leadership and made so little effort to address more than 5,000 fatalities and over 110,000 injuries annually as a result of truck crashes. In fatal crashes involving a truck and a passenger vehicle, 97% of the deaths are the car occupants. The ineffective and incompetent changes to truck safety regulations, especially on the issue of HOS, is a clear and convincing example of the wrong direction this agency repeatedly takes on so many issues affecting public health and safety.

This lack of positive action by our federal government on the issue of tired truckers lies in sharp contrast to actions taken to stop drunk driving. Historically, the reaction of Congress and the U.S. Department of Transportation (U.S. DOT) to the epidemic of drunk driving on our highways was to pass stronger federal laws like the National Minimum 21 drinking age and the national .08% BAC law, as well as implement tougher enforcement programs like sobriety checkpoints and "use it or lose it" initiatives. We are especially grateful for your long-standing leadership on this issue, Senator Lautenberg.

Unfortunately, even though the issues are quite similar, compared to legislative and executive branch resolve to combat impaired driving, the responses of the Administration to the epidemic of truck driver fatigue have actually undermined truck safety. Any action taken to address the problem of truck driver fatigue contributed to making a dire situation even worse. After 17 to 19 hours without sleep, a person's response speeds are as much as 50 percent slower and equivalent to having a .05% blood alcohol level. Moreover, FMCSA's hours of service rules issued in 2003 and 2005 actually increase truck driver fatigue and sleep deprivation that correspondingly increases crash risk.

Numerous studies have shown that fatigue is a major factor in big truck crashes. Research, including studies conducted by the National Transportation Safety Board (NTSB) and the Australian Federal Office of Road Safety, has found that 30% to 40% of big truck crashes are due to fatigue. Even the U.S. DOT has repeatedly cited fatigue as a major factor in truck crash causation. In its 2000 proposed rule on hours of service, FMCSA claimed that fatigue is involved in as many as 15 percent of truck crashes. Decades of studies on many other types of work have repeatedly shown that very long working hours, erratic schedules, and working mostly at night while trying to sleep during the day are consistently related to high injury rates and performance errors that can directly impact the safety and lives of many people.

Yet, FMCSA has engaged in persistent denial of these scientific findings and refuses to acknowledge that it is, in fact, making motor carrier and highway safety more dangerous. Its hours of service regulations are designed to push truck drivers to work and drive to the point where the chance of a crash is dramatically increased. Furthermore, trucking interests have, at times, found a sympathetic ear in Congress to allow requests for dangerous and deadly special interest exemptions to the hours of service rule to get out from under any regulation. Exemptions for utility workers, agricultural workers, and others have no justification in science. Industry productivity should not come at the expense of the safety and health of the truck drivers who have no protection from exploitation. It is time to stop the squeaky wheel, or perhaps more aptly, the well-greased wheel of the trucking industry from steering public policy in Congress and the Executive Branch that jeopardizes everyone's safety.

In 1995, a summit organized by the Federal Highway Administration that involved participation by safety groups, law enforcement, government officials and trucking industry representatives ranked "driver fatigue" as the number one issue that needed to be addressed. I participated in that forum soon after P.A.T.T. was formed and hoped that this recognition would finally result in effective solutions. Yet, 12 years later and after more than 60,000 truck crash deaths and a million more injuries, truck driving, according to the Centers for Disease Control and the Bureau of Labor Statistics, still remains one of the most dangerous occupations and thousands of innocent people are needlessly killed annually on our roads and highways.

Meanwhile, no real progress has been made by the FMCSA to substantially reduce the truck crash death and injury toll. The agency has missed every single safety goal it has adopted. Deaths continue to mount, dangerous trucks and unsafe drivers remain on the road because of weak enforcement, and safety rules are routinely issued that promote the trucking industry bottom line rather than protecting the personal safety and improving the health of truck drivers and the motoring public.

It would be preposterous for the U.S. DOT to allow drivers to consume more alcohol by increasing the federal BAC level for drivers as a solution to reduce impaired driving. Yet, this irrational action is comparable to the federal response to the epidemic of fatigued truck drivers. FMCSA has twice issued a blatantly dangerous rule on hours of service that dramatically increases the working and driving hours of truck drivers, twice been legally challenged by safety groups including P.A.T.T., and twice has had its final rule unanimously overturned in the courts.

In the first unanimous decision, FMCSA sought to avoid the Court's ruling and requested that Congress grant the agency time to rewrite the rule. Congress enacted a special provision giving the agency a one-year reprieve to issue a new rule while the dangerous and illegal 2003 rule remained in effect, threatening the safety of truck drivers and the public more than ever. The agency responded by issuing the same rule that the Court, in a stinging rebuke, had declared illegal. Ultimately, in a betrayal of its assurance to Congress to draft a revised HOS rule, FMCSA re-issued in 2005 a nearly identical rule that the Court overturned. The rule, once again, allowed the same excessively long

working and driving hours that permitted truck drivers to drive more than 25 percent more hours and work up to 40 percent more hours in the same number of days as under the pre-2003 regulation. Incredibly, the agency claimed that the “new” rule addressed the issues identified by the Court.

In the second Court case, a separate panel of three different judges unanimously held that FMCSA had ignored the dangerous impact on safety that the extended driving time allowed by the rule would have, and that the agency manipulated its data to support its view while failing to disclose crucially important information to the public. As a result, the Court vacated the increase in the daily shift driving limit from 10 to 11 hours, as well as the 34-hour restart provision that allows drivers to accumulate dramatically more driving hours each week than were previously permitted.

In both cases, the Court opinions pointed out that the conclusions on which the agency based elements of the HOS rule raised “very real concerns,” “assume[d] dubious[]” propositions and relied on “problematic” justifications. In effect, six different judges in two separate cases agreed that the FMCSA has failed to justify the dramatic increases in daily and weekly driving and working hours that both the 2003 and 2005 final rules allowed. What is even more incredible about these rules is that they directly contradict the U.S. DOT's own statements about the dangers of exceptionally long driving and working hours made in earlier rulemaking actions on truck driver hours of service. In a complete reversal, hours that the U.S. DOT formerly held to be unacceptable and dangerous were now deemed acceptable in the 2003 and 2005 final rules.

Current federal hours of service regulations allow truck drivers to drive up to 11 hours in each shift after 10 hours off duty. The hours off-duty can be split into two portions for drivers using sleeper berths. This means that a truck driver can now drive up to 77 hours over 7 consecutive calendar days and up to 88 hours over 8 consecutive calendar days because the driver's work week now "floats" by using a minimum 34-hour "restart." A driver can restart another tour of duty during days when, under the pre-2003 regulation, that driver had layover and rest time. This is equivalent to driving from Washington, DC to Atlanta, Georgia without stopping and driving this long distance every day for a week. I cannot imagine driving for that long in my car day after day, much less behind the wheel of an 80,000 pound big rig.

This anti-safety rule, which was first issued in 2003, dramatically increased truck drivers' workdays by 40% more hours over 8 consecutive calendar days and allowed them to drive 28% more hours over the same time period. This amounts to truck drivers working double the amount of hours in a calendar week compared to the typical 40-hour work week of most workers in the United States. And, these incredibly long working hours are mostly used in driving, often for hours on end at high speeds, all through the night, and sometimes in horrendous weather conditions.

These new hours of service are not just taking a toll on the safety of truck drivers and everyone who shares the roads with big rigs, but have severe, adverse impacts on the health of truck drivers. Truck drivers are being pushed beyond the limits of human

endurance. The current regulation is not protecting these drivers. Truck drivers should be afforded the same respect as other workers, work reasonable hours, and be permitted to have sleep patterns that are in accord with normal human needs.

As I mentioned, the federal Court of Appeals in Washington, D.C., struck down as illegal the two parts of the HOS rule that increase driving and work hours, the 11 consecutive hour driving shift and the 34-hour restart. Yet, in an amazing display of bureaucratic arrogance, FMCSA last week took special measures to reinstate the same two illegal rules while it once again tries to figure out a way to justify them as legal. That will not happen if I have anything to say about it.

While I am not a lawyer, it strikes me as a total violation of our law and system of government for an agency to so blatantly defy a court's order. Truck crash victims, like me, who depend on the federal government to protect our families and friends, cannot believe that the agency's action is legal and that FMCSA can thumb its nose at a federal court. The agency's course of action makes it quite clear that they are intent on putting the trucking industry's profits ahead of public safety and nothing, not even two court opinions overturning the rule, will stand in their way. So the agency will continue to force these longer hours on drivers and jeopardize safety but I will continue to fight against this killer rule.

Mr. Chairman and Members of the Subcommittee, this is the second hearing you have held this year on rules issued by FMCSA that are setbacks for safety. Groups like P.A.T.T. and the Truck Safety Coalition, urge you to do something to rein in this agency. When FMCSA was created in 1999, Congress specifically included language stating that "safety" was the highest priority of this agency and not "industry profits". FMCSA has already proven how little regard it has for the safety of American citizens, and now it has shown how much contempt it has for our legal system. Enough is enough. Too many people are dying and too little is being done to stop the carnage on our highways.

Let me conclude by thanking you again for allowing me to participate in today's hearing on an issue that has deeply affected my family. The importance of this issue is the reason I flew down from my home state of Maine to be here today. It truly is time to stop truck drivers from being turned into abused and exploited workers in rolling sweatshops. We need to put the brakes on longer workdays for truck drivers. We need your leadership to step in and stop this 19th century abuse of American workers and protect the traveling public.

Thank you. I am ready to answer any questions you may have.