

Advocacy Hosts Roundtable on Proposed Driver Training Rule

by Bruce Lundegren, Assistant Chief Counsel

The Office of Advocacy recently hosted a small business roundtable to discuss the Federal Motor Carrier Safety Administration's (FMCSA's) recently proposed "Driver Training" rule—officially titled "Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators."

The proposed rule would require anyone applying for a new or upgraded commercial driver's license (CDL) to successfully complete both classroom and behind-the-wheel training from an accredited institution or program. However, the rule would exclude commercial drivers who currently possess a CDL or who obtain one before the rule goes into effect.

The roundtable featured a presentation by Tom Yager, chief of

FMCSA's Driver and Carrier Operations Division. Yager discussed the background of the rulemaking process and the content of the proposed rule. He stated the agency's belief that the new training requirements would reduce accidents and improve highway safety.

Small business representatives from a variety of industries attended the roundtable. These included both the trucking and motor coach industries, whose drivers would be subject to the new requirements, as well as actual driver training providers. In addition, representatives from such diverse industries as construction, building supply, and automobile dealers voiced concerns that the proposed rule could increase costs, create driver shortages, and drive up the price of goods.

There were also some pointed differences about the proposed rule from segments within the trucking industry, but all of them agreed that training and safety were paramount concerns. Training providers also expressed concern that the proposed rule could have unintended consequences for current training programs.

Commercial driver's licenses are issued by state agencies. Under the proposed rule, these state agencies would only be allowed to issue a CDL to a driver who has completed the requisite training and obtained a valid driver training certificate from an accredited institution or program. Many trucking companies currently operate their own training programs and are concerned that the cost of accrediting their

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David Osiecki, American Trucking Associations; Bruce Lundegren, Office of Advocacy; and Thomas Yager, Federal Motor Carrier Safety Administration, participated in Advocacy's driver training roundtable.

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Simplifying Home Office Deduction Would Help Small Businesses

In March, the Office of Advocacy published the Top 10 List of Current Rules for Review and Reform. The list was drawn from over 80 rules nominated by small business owners and their representatives in response to Advocacy's Regulatory Review and Reform (r3) initiative.

The need to reform one of these rules—the IRS's home office business deduction—becomes particularly evident in April, as the tax filing deadline is upon us.

Section 280A(c)(1) of the IRS code permits taxpayers to deduct expenses for a home office if it is the principal place of business of the taxpayer, or used exclusively for business, or used to meet with patients, clients, or customers. However, current IRS regulations do not concisely spell out how to qualify for the deduction and how to calculate it. Complicated IRS requirements have evolved instead.

Josh Levine, owner of Electra Entertainment, a home-based business in Ellicott City, Maryland, is very familiar with the home office deduction. "The problem is that many, many self-employed people don't take the home office deduction," Levine explained recently. "They don't understand it; they think that if they take it they're flagging themselves for an audit. And sometimes people take it when they are actually not eligible."

In a recent analysis, Advocacy found that simplifying the home office business deduction would have a significant benefit for small businesses. Home-based businesses make up 53 percent of the nation's small businesses.

Advocacy recommends that the IRS revise its rules to permit a standard deduction for home-based businesses. Similar to the Form 1040 standard deduction, the home

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office business deduction should be optional. Taxpayers who wish to claim the home office deduction could continue to follow the current home office deduction rules, or choose the new standard deduction.

"This is a huge issue," Levine said. "Obviously when you are self-employed you need as many deductions you can get. The home office is incredibly important since it has an impact on your self-employment tax, which for self-employed individuals is very high."

Only a small percentage of home offices are taking advantage of the deduction. The National Federation of Independent Business estimates that 9 million small businesses have home offices. According to the IRS, however, only 3.2 million tax returns claimed the home office business deduction in 2005.

"Small businesses are entitled to the deduction if they operate from home," Levine said. "And to me, it's very important to be able to take this deduction; it's a huge help."

For questions or concerns about Advocacy's r3 initiative and the home office business deduction,

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Message from the Chief Counsel

State Regulatory Flexibility Proposals in Bloom

by Thomas M. Sullivan, Chief Counsel for Advocacy

The first three months of 2008 have been a busy season for state regulatory flexibility. From east to west—Massachusetts to Hawaii—regulatory flexibility is becoming an increasingly important concern for state leaders trying to preserve healthy state economies. So far this year, one governor has signed a regulatory flexibility bill into law, eight states are considering regulatory flexibility legislation, and a handful of governors are considering executive orders.

Since the Office of Advocacy's State Regulatory Flexibility Model Legislation Initiative was introduced in 2002, it has been an effective vehicle to help states understand the importance of regulatory flexibility. Since 2002, 42 states have enacted some form of regulatory flexibility, either through legislation or an executive order. Advocacy is committed to increasing this number. Advocacy's regional team offers assistance to the states as they adopt and implement all five elements of the model legislation, namely: a small business definition, an economic impact analysis, a regulatory flexibility analysis, periodic review, and judicial review.

The most recent state legislative success came in March, when Utah Governor Jon Huntsman signed HB 53, "Impact of Administrative Rules on Small Businesses." The new law requires state agencies to analyze the economic impact of proposed rules on small businesses and to consider ways of minimizing a rule's impact while still accomplishing the regulatory goal.

Advocacy also strives to assist states with partial or partially used regulatory flexibility statutes to improve their systems. Of the eight states that are considering legislation in 2008, seven already have

some form of regulatory flexibility on the books. For instance, New Jersey already has the basic model legislation elements in place, but its assembly bill A832 would add two missing provisions: periodic review and judicial review.

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Two states are proposing bills that would improve the implementation and effectiveness of the regulatory review process. Arizona's HB 2235 provides for the reinstatement of a bipartisan committee to review the regulatory system. Hawaii has introduced two bills focused on implementation, including HB 2781. This bill would require agencies to compare the costs and benefits of a proposed rule with its related federal, state, or local counterpart. If the agency's standard is higher, it would have to provide a justification in its small business impact statement.

Other states that have introduced regulatory flexibility legislation in

2008 are Iowa (SF 2227) and Kansas (HB 2827 and SB 579). Three states, Illinois (HB 302), Ohio (HB 285), and Massachusetts (SB 2413), are considering legislative proposals that were introduced in 2007 and carried over into the 2008 legislative session. In addition, on February 12, Ohio Governor Ted Strickland signed an executive order, "Implementing Common Sense Business Regulation," supporting Ohio's businesses.

In addition to Advocacy's efforts in the legislative arena, the eight regional advocates travel the country sharing information about the benefits of regulatory flexibility and offering their assistance to state leaders, stakeholder organizations, and small businesses alike. They also reach out to the academic community, giving classroom presentations and offering Advocacy's data and research products as curriculum and research tools.

With the continued dedication of the regional team and the ongoing commitment of state policymakers, 2008 promises to be a successful year for state regulatory flexibility.

Visit Advocacy's State Model Legislation webpage for the latest developments: www.sba.gov/advo/laws/law_modeleg.html.

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programs could be prohibitively expensive.

The comment period for the proposal has been extended until May 23. For more information, contact Assistant Chief Counsel Bruce Lundegren at (202) 205-6144 or bruce.lundegren@sba.gov.

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contact Assistant Chief Counsel Dillon Taylor at (202) 401-9787 or dillon.taylor@sba.gov.

New Reports Examine Health Insurance, Impact of Global Pressure

by Kathryn Tobias, Senior Editor

A new Advocacy study uses the Census Bureau's annual March Demographic Survey to explore the family health insurance choices of married couples who work in small and large firms. *Changes in Family Health Insurance Coverage for Small and Large Firm Workers and Dependents: Evidence from 1995 to 2005*, by Eric E. Seiber and Curtis S. Florence, uncovers several patterns of health insurance coverage:

- Across all firm sizes, some workers are dropping coverage through their own employer and switching to dependent coverage through their spouse.
- Small firm workers married to large firm workers are more likely to be covered as dependents at large firms than if their spouses worked at small firms.
- Large firm workers married to small firm workers experienced a decline in coverage from work of almost 3 percentage points; they

increased coverage through their small firm spouses by 0.8 percentage points.

- Children are more likely to have dependent coverage if they have a parent working in a large firm.

Evidence suggests that because spousal coverage under family health insurance plans particularly benefits small firm workers, the effects of any mandate requiring workers to be covered by their own employer would fall more heavily on small firms. The report is available online at www.sba.gov/advo/research/rs321tot.pdf.

A second Advocacy study finds that small manufacturers are more likely than their larger counterparts to feel effects of international competition. Because of their small scale, small manufacturers are less able to insulate themselves from the effects of foreign competition than large firms. In *The Impact of*

International Competition on Small-Firm Exit in U.S. Manufacturing, American University researcher Robert Feinberg uses data from the Statistics of U.S. Businesses to look at the effects of global pressures on small U.S. manufacturers. The study sheds light on specific aspects of international trade affecting small manufacturers:

- Increased international pressure in the form of currency exchange rates leads to higher exit rates among very small manufacturers with fewer than 20 employees.
- Manufacturers with 20-499 employees were less sensitive to international pressures.
- High-technology industries were more insulated from international pressures than low-tech industries.

The report is available online at www.sba.gov/advo/research/rs320tot.pdf.

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