



Chairman – Kevin Lhotak  
Reliable Transportation Specialists, Inc.  
President & CEO – Joanne F. Casey

August 8, 2019

The Honorable Roger Wicker  
Chairman  
U.S. Senate Committee on Commerce,  
Science and Transportation

The Honorable Peter DeFazio  
Chairman  
U.S. House Committee on  
Transportation & Infrastructure

The Honorable Maria Cantwell  
Ranking Member  
U.S. Senate Committee on Commerce,  
Science and Transportation

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

Dear Chairmen and Ranking Members Wicker, DeFazio, Cantwell and Graves:

I am writing to you on behalf of the Intermodal Association of North America, the only transportation trade association that represents the combined interests of intermodal freight providers and customers. IANA represents more than 1,000 corporate members including railroads, ocean carriers, ports, intermodal truckers and over-the-road highway carriers, intermodal marketing and logistic companies, and suppliers to the industry. Such suppliers include companies that design, manufacture, and maintain intermodal chassis. I would like to share our concerns regarding the Stop Underrides Act of 2019, recently introduced in both the House (H.R.1511) and Senate (S.665).

Safety on our nation's highways and that of the motoring public is, and always will be, a priority for the intermodal transportation industry. The cargo container is the purest representation of global commerce there is, being responsible for moving 95% of the world's manufactured goods. By extension, the intermodal chassis, which moves the container on the roadways, is a critical element in the supply chain. In order to move freight in the most efficient and expeditious manner possible, a safe and road ready chassis is a requirement.

According to the American Trucking Associations, the trucking industry invests approximately \$10 billion annually in safety initiatives, including onboard technologies such as electronic logging devices, collision avoidance systems, and video-event recorders. These safety investments also include softer initiatives such as driver safety training, safety incentive pay, and enhancing regulatory compliance. While some of these investments are made to meet regulatory requirements, many of them are voluntary and result in significant improvements in road safety. The intermodal trucking and drayage community is making these kinds of investments as well.

We respectfully request that the following issues be addressed before a legislative mandate concerning truck underride guards is considered further.

First and foremost, the bills that have been introduced are not based on science or data, nor do they contemplate a full and complete examination of the costs and benefits. In support of this point, NHTSA initiated a rulemaking in 2015 to focus on "upgrading the Federal Motor Vehicle Safety Standards that address underride protection in light-vehicle crashes into the rear of trailers and semitrailers."<sup>1</sup> The agency is still evaluating data from research, and reviewing comments it has received, which will be critical to helping to answer the questions raised by these bills. Also, in 2015 NHTSA released an advanced notice of proposed rulemaking relating to rear underride guards for single unit trucks; however,

in DOT's Fall 2018 Unified Agenda of Regulatory and Deregulatory Actions they withdrew the rulemaking due to its economically significant impact.<sup>2</sup> Because NHTSA is currently examining the potential benefits and challenges associated with front and side underride guards, we believe the Agency should be permitted to complete its due diligence, unencumbered by external pressures such as a legislative mandate. In addition, only after an underride guard system has been designed and tested, can a proper risk/benefit analysis be conducted in order to evaluate whether safety goals can be met.

The legislation also should take into consideration the potential technical and operational issues a mandate such as this raises.

The addition of new and redesigned underride guards would increase the gross weight of the chassis which, when carrying containers loaded with cargo, could violate various state and federal size and weight laws. Also, such added weight and a redesign of the chassis could impact the structural integrity of the equipment and cause dimensioning differences (e.g. such as road clearance). Standards for new and in-service equipment should be based on sound economic and engineering principles that improve safety, account for real-world operations, and consider unintended consequences.

The retrofit provisions of the proposed legislation would create significant disruptions to the supply chain in moving freight, as pulling the over 750,000 intermodal chassis out of service to do the required repairs would create major operational challenges, as well as have significant cost implications and create ripple effects throughout the supply chain in terms of chassis availability, congestion, freight movement/fluidity and land use. The bills also do not consider potential impacts on terminal operations. For example, at intermodal facilities (marine, rail, and depots) it is common practice to stack chassis to conserve terminal space. If side underride guards were to become a requirement, it would significantly affect how chassis are stored, which could adversely impact terminal operations and yard space since fewer chassis would be able to be stored on existing facilities. It also may impact on the design of yard equipment for moving and transporting chassis on terminals. Lastly, intermodal chassis are typically shipped by specifically designed trailers and changes such as the addition of side underride guards would require these trailers to be modified.

While being well-intended, the legislation is attempting to address certain types of truck-involved crashes through an industry-wide mandate that does not account for the diversity of the industry, nor the situations under which these types of crashes occur. To expand on this, the *Large Truck Crash Causation Study*<sup>3</sup>, sponsored by NHTSA and FMCSA, noted that in two-vehicle crashes involving a large truck and a passenger vehicle, the passenger vehicle was assigned the critical reason in 56 percent of the crashes and the large truck in 44 percent. The critical reasons coded for the crash were similar. Driver recognition and decision reasons were the two most common reasons for drivers of both classes of vehicles. Because of this fact, we believe some of the most dramatic improvements to road safety can be achieved by enhancing technology to aid drivers in decision-making, and particularly on light-duty vehicles. To echo this point, in NHTSA's January 2017 V2V Notice of Proposed Rulemaking for light-duty vehicles, the Agency estimated that four safety applications enabled by the proposed rule could avoid or mitigate 89% of light-duty vehicle crashes.<sup>4</sup>

In March of 2019, the Government Accountability Office issued a report on truck underride guards<sup>5</sup>. GAO noted in its report that in the crash data collected by police and reported by NHTSA, fatalities from "underride" crashes represent a small percentage of all traffic fatalities. From 2008 through 2017, an average of about 219 fatalities from underride crashes involving large trucks were reported annually, representing less than 1 percent of total traffic fatalities over that time frame. It further mentioned that underride guards are in varying stages of development, and gaps exist in inspection of rear guards in current use and in research efforts for side guards. The GAO also mentioned that in its discussions with NHTSA, the Agency has not determined the effectiveness and cost of side underride guards, and manufacturers told the GAO they are unlikely to move forward with development without such research.

In its report, the GAO cited the following Recommendations:

1. **Recommendation:** The Administrator of the National Highway Traffic Safety Administration should recommend to the expert panel of the Model Minimum Uniform Crash Criteria to update the Criteria to provide a standardized definition of underride crashes and to include underride as a recommended data field.
2. **Recommendation:** The Administrator of the National Highway Traffic Safety Administration should provide information to state and local police departments on how to identify and record underride crashes.
3. **Recommendation:** The Administrator of the Federal Motor Carrier Safety Administration should revise Appendix G of the agency's regulations to require that rear guards are inspected during commercial vehicle annual inspections.
4. **Recommendation:** The Administrator of the National Highway Traffic Safety Administration should conduct additional research on side underride guards to better understand the overall effectiveness and cost associated with these guards and, if warranted, develop standards for their implementation.

We encourage lawmakers to be judicious and holistic in considering safety mandates, as well as leveraging industry investments already being made to provide the greatest potential benefit to road safety. The Stop Underrides Act of 2019 would divert a significant amount of public and private sector resources away from important and proven safety technologies by shifting focus to a narrow type of accident and specific countermeasure solutions that are unproven. Also, as identified in the GAO report, there are several unanswered questions that should be considered before moving forward with mandating front and side underride guards on trailers, and in particular intermodal chassis.

IANA remains committed to improving the safety of our nation's roadways and we appreciate your consideration of our views, as well as your leadership on this important issue.

Sincerely,



Joanne F. Casey  
President & CEO

<sup>1</sup> 49 CFR Part 571 Docket No. NHTSA-2015-0118 RIN 2127-AL58.

<sup>2</sup> See *Retroreflective Tape for Single Unit Trucks*, RIN 2127-AL57.

<sup>3</sup> Large Truck Crash Causation Study, Federal Motor Carrier Safety Administration, Office of Research and Analysis, Publication No. FMCSA-RRA-07-017, July 2007

<sup>4</sup> 82 Fed. Reg. 3863.

<sup>5</sup> TRUCK UNDERRIDE GUARDS: Improved Data Collection, Inspections, and Research Needed, Government Accountability Office, Report No. GAO-19-264, March 2019