

March 29, 2021

The Honorable Maria Cantwell
Chair
Committee on Commerce, Science, and
Transportation
United States Senate

The Honorable Roger Wicker
Ranking Member
Committee on Commerce, Science, and
Transportation
United States Senate

The Honorable Peter DeFazio
Chair
Committee on Transportation and
Infrastructure
United States House of Representatives

The Honorable Sam Graves
Ranking Member
Committee on Transportation and
Infrastructure
United States House of Representative

Dear Chairs and Ranking Members Cantwell, DeFazio, Wicker 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, recently introduced in both the House (H.R. 1622) and Senate (S. 605).

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 today's global commerce, responsible for moving 95 percent of the world's manufactured goods. By extension, intermodal chassis, which move the containers on roadways, are critical to our national supply chains. Safe and road-ready chassis are imperative to moving freight – and thus delivering essential products and materials – in the most efficient and expeditious manner possible. Given the supply chain impacts of the COVID-19 pandemic and the current unprecedented import cargo volumes across major U.S. ports, intermodal freight system efficiency and capacity are more critical than ever to support economic recovery and public health.

According to the American Trucking Associations, the trucking industry invests approximately \$10 billion annually in safety initiatives, including on-board technologies such as electronic logging devices, collision avoidance systems, and video-event recorders. These safety investments also include 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 investments as well. The proposed legislation could divert resources currently invested in these critical safety enhancements to unproven technologies.

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

First and foremost, the proposed provisions under the Stop Underrides Act are not based on scientific

data or research, nor do they contemplate a full and complete examination of the associated costs and benefits. In recent years, several federal agencies have reached similar conclusions, noting additional research is needed on the overall effectiveness, costs, and real-world operational impacts of underride guards. NHTSA initiated a rulemaking in 2015 proposing revisions to the Federal Motor Vehicle Safety Standards that address rear impact guards.¹ The Agency is still evaluating research data and reviewing public comments received in response to its proposal, which will be critical in answering some of the questions raised by the proposed legislation. Also, in 2015 NHTSA released an advance notice of proposed rulemaking relating to rear underride guards for single-unit trucks; however, the proposal was subsequently withdrawn with NHTSA stating that “the changes considered in the ANPRM are not justified.”² As NHTSA examines the potential benefits and challenges associated with 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 to evaluate whether safety goals can be met. These uncertainties must be addressed before Congress considers implementing statutory requirements.

The legislation should also take into consideration the potential technical and operational issues such a mandate 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 maximum truck size and weight laws. Moreover, such added weight and redesigned 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 goods movement supply chains. Pulling over 750,000 intermodal chassis out of service for repairs to meet the proposed standards 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 fail to consider potential impacts on terminal operations. For example, at intermodal facilities (marine, rail, and depots) chassis are often stacked to conserve terminal space. Side underride guard requirements would decrease the number of chassis that can be stored within existing facilities, which could adversely impact terminal operations, efficiency, and yard space. The addition of side underride guards may also require modifications to the design of yard equipment to move chassis on terminals as well as the specifically designed trailers used to ship chassis.

While well-intended, the legislation attempts 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*³, 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. Driver recognition and decision errors were the most frequently cited reasons for both passenger vehicle and large truck drivers. Therefore, we believe the most significant improvements to road safety can be achieved by enhancing technology to aid drivers in decision-making, particularly for 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 percent of light-duty vehicle crashes.⁴ Additionally, NHTSA and FMCSA are currently in the first phase

of conducting an updated Large Truck Crash Causal Factors Study. We recommend this important research be completed and examined prior to any legislative action.

In March 2019, the Government Accountability Office issued a report on truck underride guards⁵. The GAO found that fatalities from underride crashes represent a small percentage of all traffic fatalities based on crash data collected by police and reported by NHTSA. From 2008 through 2017, an average of approximately 219 fatalities from underride crashes involving large trucks were reported annually, representing less than 1 percent of total traffic fatalities within that time frame. It further recognized that underride guards are in varying stages of development and identified gaps in the inspection of currently used rear guards as well as research efforts for side guards. The GAO also noted that NHTSA has not determined the effectiveness and cost of side underride guards, and manufacturers indicated they are reluctant to invest in new underride guard development without such research. Lastly, the GAO issued several recommendations encouraging USDOT to provide a standardized definition of underride crashes and data fields; share information with police departments on identifying underride crashes; establish annual inspection requirements for rear guards; and conduct additional research on side underride guards.

We encourage lawmakers to be judicious and holistic in considering safety mandates, as well as leveraging ongoing industry investments to provide the greatest potential benefit to road safety. The Stop Underrides Act 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 and CEO
Intermodal Association of North America

¹ 49 CFR Part 571 Docket No. NHTSA-2015-0118 RIN 2127-AL58.

² See *Retroreflective Tape for Single Unit Trucks*, RIN 2127-AL57.

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

⁴ 82 Fed. Reg. 3863.

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