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Safety Technologies Policy

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Policy and Regulatory Affairs Committee

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Oftentimes, state laws unwittingly serve as an impediment to trucking companies deploying, implementing, or utilizing safety technologies or practices with owner-operators with whom they contract. This is because things like requiring the use of safety technologies, monitoring driving behaviors, and/or coaching or training on safe driving behaviors can be deemed impermissible control that is evidence of an employee relationship. Removing evidence of safety measures from the determination of whether a driver is an independent contractor or an employee will free up more widespread use of safety practices that have proven effective at reducing crash risk when used by fleets with their employee drivers.

JUSTIFICATION OR NEED

There are many trucking safety technologies that are proving to be beneficial at reducing crash risk and saving lives. As an example, a 2017 AAA Foundation study found that video-based onboard safety monitoring could prevent 63,000 crashes and 293 deaths each year. Maximizing the safety benefits of these technologies often requires a comprehensive safety approach that includes driver monitoring and driver feedback/coaching/training. Under federal and many state laws, these actions, as well as the mere requirement of use of a technology or required training, can be considered impermissible control that increases the risk an independent contractor is deemed an employee. Many fleets are deploying these technologies with their employee drivers. However, the risk that deployment with independent contractor owner-operators will be deemed employer-like control has chilled more widespread use among fleets that contract with owner-operators (a not insignificant percentage of trucks).

Included in CVSA's mission is the improvement of commercial motor vehicle safety. Removing an impediment to broader use of safety measures will undoubtedly contribute to the improvement of commercial motor vehicle safety. Although the impediment is posed by labor and employment laws, this is first and foremost a commercial motor vehicle safety issue. The proposed legislative solution does not change a state's test for determining whether an individual is an independent contractor or an employee nor does it change a state's laws with respect to a carrier's responsibility for the driver's compliance with the FMCSRs or their state counterpart (whether the driver is an independent contractor or employee). The proposed legislative solution merely provides that the use of safety measures is not considered a factor in favor of, or against, a driver's status as an independent contractor or employee.

The fact of the matter is that owner-operators have played a significant role in trucking since its inception and will likely play a significant role for years to come. Carriers should not have to approach safety with one hand tied behind their backs. The proposed legislative solution is a narrow, targeted approach focused on safety with negligible impact on the economic issues that worker status laws were intended to address.

REQUEST FOR ACTION

Working with carriers, safety technology companies, and state trucking associations, we have developed model legislation that remedies the problem and frees up wider deployment of effective safety measures. We request that CVSA express support for the legislation in states that are considering it.

The legislation has already been enacted in Arkansas, Tennessee, Georgia, and Indiana. Attached, please find the model legislative language as well as an informational piece.

SUPPORTING DOCUMENTS/PHOTOS

- [Legislation-talking-points-v.4.pdf](#)
- [Model-safety-improvement-legislation-v.7.pdf](#)

ACTION TAKEN BY COMMITTEE

The committee discussed the proposed legislative priority and determined that, while it may encourage the deployment of safety technology, state labor restrictions are outside of the scope of the Alliance's work and that it is best for the Alliance not to engage in state by state issues. The committee decided to close the request without action.