



Exemptions Compromise Safety, Impede Uniform Enforcement

The Commercial Vehicle Safety Alliance (CVSA) opposes the inclusion of exemptions from federal safety regulations in legislation.

When an exemption is provided through legislation:

- CVSA supports inclusion of a ‘safety clause’ as a part of any exemption statutorily enacted, similar to that in 49 USC § 31315(b), providing for an equivalent level of safety, as well as language that would allow for the elimination of the exemption if an equivalent level of safety cannot be demonstrated.
- CVSA supports the inclusion of a delayed implementation date, in order to give jurisdictions time to receive guidance from DOT and train inspectors.
- States should not be held accountable for crashes, fatalities and incidents that occur that are outside of their legislative and regulatory authority.

In general, exemptions from federal safety regulations have the potential to undermine safety, while also complicating the enforcement process. First and foremost, safety regulations exist to protect those who use our nation’s roadways. The Federal Motor Carrier Safety Regulations and the Hazardous Materials Regulations exist to ensure that those operating in the transportation industry are equipped to do it safely. Furthermore, every new exemption is an opportunity for confusion and inconsistency in enforcement, which undermines the very foundation of the federal commercial motor vehicle enforcement program—uniformity.

However, there may be instances when exemptions could be appropriate and also not compromise safety. Recognizing that, 49 USC § 31315(b) already provides a mechanism for those in industry to obtain an exemption through an administrative (agency) process. This process includes providing for an equivalent level of safety, requiring that the exemption “would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.” In addition, exemptions obtained through this process are limited to a maximum of five years (subject to renewal), which provides oversight to ensure that safety is not compromised and an opportunity to eliminate exemptions that have not maintained an equivalent level of safety. This is the proper model.

In contrast, exemptions obtained through legislation do not always include safety considerations and are difficult to remove once established. Because a process exists for industry to pursue exemptions through an administrative process, **CVSA opposes the inclusion of exemptions from federal safety regulations in legislation.**

At the very least, when exemptions are included in legislation, **CVSA supports inclusion of a ‘safety clause’ as a part of any exemption statutorily enacted, similar to that in 49 USC § 31315(b), providing for an equivalent level of safety, as well as language that would allow for the elimination of the exemption if an equivalent level of safety cannot be demonstrated.** Also, Congress should monitor the Federal Motor Carrier Safety Administration’s (FMCSA) management of the administrative process for granting exemptions to ensure responsiveness to applications.

In addition, any exemption included in legislation should include a delayed implementation date. Delaying the implementation date allows states time to receive any necessary guidance from the Department of Transportation, train inspectors on the changes and begin the process of adopting the new exemption in to their own state law. In many cases, interpretations

and guidance from the federal agency on the parameters and definitions of the exemption are necessary. Moreover, once the exemption has been analyzed and guidance provided, state enforcement personnel must be trained on the new exemptions. Inspectors have to be pulled off the road into the classroom to be trained on the changes. Practically speaking, this takes time. This guidance and the subsequent training is critical to ensuring the exemption is interpreted and enforced uniformly.

Finally, **states should not be held accountable for crashes, fatalities and incidents that occur that are outside of their legislative and regulatory authority.** Currently, a state's performance is evaluated by FMCSA on a number of factors, including crash rates. However, the method by which the data is currently compiled does not take into account that certain portions of the commercial motor vehicle population are outside government oversight and the enforcement community's authority, such as statutorily exempted vehicles. These crash rates factor into the evaluation of a state's ability to deliver on the goals in its Commercial Vehicle Safety Plan and can impact funds received through FMCSA's Motor Carrier Safety Assistance Program. If a state does not have authority and, as a result, cannot exercise proper due diligence to improve safety within a sector of industry that is exempted, it is unreasonable to include that sector in any evaluation of the state's performance.

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CVSA is an international not-for-profit organization comprising local, state, provincial, territorial, and federal motor carrier safety officials and industry representatives from Canada, Mexico and the United States. Its mission is to improve commercial motor vehicle safety and uniformity throughout Canada, Mexico and the United States by providing guidance and education to enforcement, industry and policy makers. The Alliance actively monitors, evaluates and identifies solutions to potentially unsafe transportation processes and procedures related to driver and vehicle safety requirements most often associated with commercial motor vehicle crashes. In addition, CVSA has several hundred associate members who are committed to helping the Alliance achieve its goals; uniformity, compatibility and reciprocity of commercial motor vehicle inspections and enforcement activities throughout North America by individuals dedicated to highway safety. For more on CVSA, visit www.cvsa.org.

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