



Parents Against Tired Truckers and Citizens for Reliable and Safe Highways

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## **EDITORIAL BOARD ALERT**

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### **President Obama Names Trucking Lobbyist to Head Federal Motor Carrier Safety Administration – Safety Groups Oppose**

In July 2009, President Obama nominated Anne Ferro, President and CEO of the Maryland Motor Truck Association, the state affiliate of the American Trucking Associations (ATA), to head the Federal Motor Carrier Safety Administration (FMCSA). FMCSA is the agency within the U.S. Department of Transportation (DOT) responsible for regulating truck safety. On September 23<sup>rd</sup>, the Senate Commerce, Science and Transportation Committee held Ms. Ferro's confirmation hearing and a vote on this nomination is expected shortly. It will likely happen this week or next. We urge you to editorialize against approving this nominee.

Highway and truck safety organizations, consumer and environmental groups as well as families who have lost children and loved ones in truck crashes are opposing her nomination. Attached is a copy of a recent New York Times editorial opposing her nomination as well as an article from the Associated Press about the controversy surrounding this appointment.

This agency has been a failure in adequately regulating and overseeing the safety of the motor carrier industry and protecting the motoring public. During the next four years the FMCSA Administrator will be involved in critical life and death decisions affecting motor carrier and motorcoach safety. The individual appointed to lead this agency should not come from the very industry the agency is required to regulate, especially given the trucking industry's obstructionist positions on commonsense health and safety issues. FMCSA needs a leader and the public deserves an Administrator who has a proven record on truck safety without industry conflicts.

### **We Can't Afford to Allow Trucking Interests to Set the Safety Agenda – Too Many Lives are at Stake**

FMCSA is in dire need of new, safety-minded leadership. When Congress, with bi-partisan support, created FMCSA ten years ago, it mandated the agency to make "safety its highest priority". According to the National Highway Traffic Safety Administration (NHTSA), in 2008, 380,000 large trucks (greater than 10,000 pounds gross vehicle weight) were involved in traffic crashes in the United States. One out of nine traffic fatalities in 2008 resulted from a collision involving a large truck. Every year during the past decade, about 5,000 people on average are killed and more than 100,000 are injured in truck crashes. Decreases in truck crash deaths parallel decreases in overall traffic fatalities these past two years and are almost certainly related to the severe downturn in the economy. (Please see attached "Fact and Myth" fact sheet which debunks the arguments used by the trucking industry.) There has been little, of any, major progress in reducing the mortality and morbidity toll due to truck crashes. In 1999, the Clinton Administration vowed to cut truck crash deaths and injuries in half within ten years and failed to make any meaningful reductions. The Bush Administration officials abandoned the goal of reducing the toll of truck crash deaths each year in favor of merely reducing the rate of deaths – an especially pernicious safety target that allows the number of people killed in large truck crashes to increase even as the rate could decrease because of estimates of additional miles traveled. None of these goals

has ever been met. Instead of pursuing policies and programs that have the potential to achieve safety gains, the agency merely keeps moving the goal line.

Failure to significantly reduce truck crash deaths and injuries in the past decade is due to ineffective leadership at the agency as well as efforts by the trucking industry to thwart and oppose programs, policies and regulations to promote the health and safety of truck drivers and the motoring public. Ms. Ferro's prior positions on motor carrier safety issues and her recent Senate testimony demonstrate that if she were to be appointed, her administration would be a continuation of inaction and inertia on the tough decisions and oversight of the industry.

One of the most important and well-documented safety problems in the motor carrier industry is driver fatigue. A federal hours of service (HOS) rule to reduce driver fatigue is necessary as well as a requirement for electronic on-board recorders (EOBRs) on all commercial vehicles to enforce driving limits are urgently needed. On both of these critical issues Ms. Ferro's record indicates she lacks the ability and independence to aggressively move forward on advancing motor carrier safety.

### **Hours of Service (HOS) Rule Promulgated by FMCSA and Supported by Trucking Industry is Unsafe and Needs to be Changed**

According to the National Transportation Safety Board (NTSB), truck driver fatigue is a factor in 30 to 40 percent of all truck crashes, and similar conclusions have been drawn by several other studies both here and abroad. Many studies for over 30 years have shown the enormous contribution of fatigue and sleep deprivation among commercial drivers to fatal and injury crashes. Yet, FMCSA simply denies and rejects any research studies that do not support its radical increase in truck driver working and driving hours. The response of the Bush Administration to this critical safety problem was to issue an HOS rule that not only expanded the consecutive number of hours a truck driver can operate a fully-loaded rig from 10 to 11 straight hours, but also dramatically increased the maximum driving hours from 60 to 77 hours over 7 consecutive days, and increased maximum driving hours from 70 to 88 hours over 8 consecutive days – an increase of 28 percent. Some of these drivers can even work more than 100 hours over 8 days comprising loading, unloading and driving.

The Bush Administration HOS rule permitting tired truckers to drive and work longer hours not only defies common sense and well-documented research and scientific data, but was remanded to the agency to be revised in two unanimous back-to-back decisions of the U.S. Court of Appeals for the District of Columbia. In one case the court ruled that the FMCSA had ignored the impact of the longer hours on driver health as well as safety. While six (6) federal appellate judges in two cases have found the Bush Administration HOS rule arbitrary and capricious, Ms. Ferro has vigorously defended the HOS rule, in concert with the ATA, as a safe and wise policy. On January 10, 2009, Ms. Ferro co-wrote a letter defending the Bush Administration HOS rule in response to an editorial published in the *Baltimore Sun* criticizing the safety of the rule. She wrote: "...reversing the 2004 change in the hours-of-service regulations would be foolish, would make our highways less safe and would cost lives." Ms. Ferro's letter reflects a "stay-the-course" attitude, and the mistaken view that the Bush Administration policies are working so well that no change is necessary. Ms. Ferro's views do not reflect the reform and change that are needed at FMCSA.

### **Proven, Cost-Effective Technology Available to Save Lives, Help Law Enforcement and Reduce Fatigue**

Electronic on-board recorders (EOBRs) are electronic devices that record the time a truck engine is on, and EOBRs can provide a paper or electronic printout. This technology is essential to enforce the HOS rule for truckers and motorcoach drivers. Currently, drivers are required to keep paper logbooks that reflect their driving and work hours. Many drivers keep different sets of books, called "comic books" by the drivers

themselves because the books kept to show to law enforcement are regularly falsified to reflect compliance with the HOS rule rather than record the actual number of working and driving hours. EOBRs are the only objective and direct way for law enforcement officers to determine whether a trucker or bus driver is in compliance with the HOS rule.

In 1995, Congress ordered the U.S. Department of Transportation (DOT) to address EOBRs. Law enforcement, safety groups, and the National Transportation Safety Board (NTSB) support requiring EOBRs on all commercial vehicles. In fact, many countries, including the entire European Union, Brazil, Israel, Japan and many others, already require some type of EOBR-technology. But DOT and FMCSA did nothing and were criticized for their inaction by the U.S. Court of Appeals in a 2004 decision for not having even evaluated available EOBR technology. In 2007, FMCSA proposed a separate rule that would require less than one half of one percent of truck companies to install EOBRs on their vehicles, and that would only be done as a punishment for those few companies with repeated, very poor safety compliance. While some large trucking companies currently use EOBRs, and applaud the safety and other benefits of having installed and used them, most of the trucking industry, including the ATA, has opposed such a requirement. The use of this technology is comparable to the use of breathalyzers to enforce drunk driving laws. It would greatly assist law enforcement and greatly improve compliance with HOS rules.

When Ms. Ferro was asked at the Senate confirmation hearing if she agreed with the NTSB recommendation that EOBRs be required in all trucks, her answers were vague and she suggested a further examination of the safety gains of this technology was necessary. Her responses mimicked the position of the trucking industry which supports the endless delay of more studies and pilot programs. Further examination of EOBR technology is not needed; it is a proven, reliable way to stop the common and blatant disregard of HOS laws that has been occurring and contributing to truck crash deaths and injuries.

*For more information on these issues please visit our website at [www.trucksafety.org](http://www.trucksafety.org).*

### **Members of the Senate Commerce, Science and Transportation Committee**

Now that the Senate Commerce, Science and Transportation Committee has held a confirmation hearing, a vote on the nominee could come at any time, possibly this week. The following is a list of Members of the Senate committee who will be voting on this nomination:

Alaska	Sen. Mark Begich (D)	Missouri	Sen. Claire McCaskill (D)
Arkansas	Sen. Mark Pryor (D)	Nebraska	Sen. Mike Johanns (R)
California	Sen. Barbara Boxer (D)	Nevada	Sen. John Ensign (R)
Florida	Sen. Bill Nelson (D)	New Jersey	Sen. Frank R. Lautenberg (D)
	Sen. Mel Martinez (R)	New Mexico	Sen. Tom Udall (D)
Georgia	Sen. Johnny Isakson (R)	North Dakota	Sen. Byron L. Dorgan (D)
Hawaii	Sen. Daniel K. Inouye (D)	South Carolina	Sen. Jim DeMint (R)
Kansas	Sen. Sam Brownback (R)	South Dakota	Sen. John Thune (R)
Louisiana	Sen. David Vitter (R)	Texas	Sen. Kay Bailey Hutchison (D), Ranking Member
Maine	Sen. Olympia J. Snowe (R)	Virginia	Sen. Mark Warner (D)
Massachusetts	Sen. John F. Kerry (D)	Washington	Sen. Maria Cantwell (D)
Minnesota	Sen. Amy Klobuchar (D)	West Virginia	Sen. John D. Rockefeller, IV (D), Chair
Mississippi	Sen. Roger Wicker (R)		

## **Conclusion:**

We urge you to editorialize against confirming Anne Ferro as Administrator of the Federal Motor Carrier Safety Administration. Too many people are needlessly dying in truck crashes and too little attention is being given to this serious public health and safety problem. Every day 15 people die in truck crashes and 300 more are injured. Furthermore, the Obama Administration issued restrictions prohibiting federal registered lobbyists from holding key public policy positions in government. This anomaly, as pointed out in the New York Times editorial, of allowing a state registered trucking industry lobbyist, should not be allowed. This agency deserves and the American public expects a safety leader that will issue and enforce strong safety rules and not a former lobbyist for the trucking industry.

## **Safety and Trucking**

**New York Times Editorial – September 23, 2009**

President Obama made a peculiar choice in June when he nominated Anne Ferro, a major trucking industry lobbyist in Maryland, to lead the agency that oversees truck safety. On its face, Ms. Ferro's selection violates the spirit of Mr. Obama's decision to limit the ability of lobbyists to enter government as high officials and influence policy from within.

The order bars hiring anyone who lobbied an executive-branch agency within the past two years, which technically means federally registered lobbyists. But it is hard to see how naming a trucking industry insider like Ms. Ferro, the president of the Maryland affiliate of the American Trucking Associations, to lead the Federal Motor Carrier Safety Administration squares with Mr. Obama's promise of "a clean break" from business as usual.

This disconnect should trouble members of the Senate Commerce, Science and Transportation Committee as they convene on Wednesday for Ms. Ferro's confirmation hearing. It was wrong, as several committee members noted at the time, for the Bush White House to install people from the trucking industry to regulate their own industry. It is no less wrong for Mr. Obama's to do it.

Ms. Ferro's record on road safety includes some pluses. As the chief of Maryland's motor vehicle agency, from 1997 to 2003, she implemented a graduated licensing system for new drivers and an ignition interlock program for drunken drivers.

But her more relevant experience these past six years was in supporting the trucking industry's efforts to thwart and defeat policies and programs needed to protect the public and promote the health and safety of truck drivers. Just in January, Ms. Ferro co-authored a letter to The Baltimore Sun essentially defending the Bush administration's loosening of regulations on drivers' schedules and driver fatigue in defiance of considerable evidence of danger and two court decisions.

Ms. Ferro's record, we believe, is disqualifying. With more than 5,000 fatal truck crashes a year, Americans cannot afford conflicts of interest in the running of their truck safety agency.

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## **Obama's pick of industry lobbyist draws fire**

By JOAN LOWY (AP) – September 24, 2009

WASHINGTON — President Barack Obama's nomination of a trucking industry lobbyist to head the agency that regulates the industry drew fire Wednesday from senators and safety advocates.

Anne Ferro, the president and CEO of the Maryland Motor Truck Association for the past six years, was named to head the Federal Motor Carrier Safety Administration, a troubled agency that has been widely criticized for allowing safety recommendations to languish for years without action.

Sen. Frank Lautenberg, D-N.J., told Ferro at a Senate confirmation hearing Wednesday, that the motor carrier administration is "an agency in dire need of reform."

"Given your ties, Ms. Ferro, to the trucking industry ... I am concerned about your ability to take the bold action we need to keep Americans safe," Lautenberg said.

Ferro described herself as a safety advocate, pointing to her record as head of Maryland's motor vehicle administration, where she pushed for phased-in driving privileges for teens and interlock devices to prevent drunk drivers from operating vehicles.

"My passion is highway safety," Ferro said.

The Truck Safety Coalition, an umbrella group for organizations concerned about dangers posed by trucks, described Ferro in a statement submitted to the Senate commerce committee as "apologist for the trucking industry."

Ferro has defended a Bush administration decision to increase the number of consecutive hours truck drivers can work and the number of hours per week a driver can be on road.

In a letter to The Baltimore Sun co-signed with an official for the American Trucking Associations, Ferro said the regulation improved safety by, among other things, lengthening the required rest period for drivers.

Safety advocates and some lawmakers said the new regulation would increase driver fatigue, a factor in many truck accidents.

Opponents challenged the rule in court, and prevailed, at least in part, on two occasions.

Lautenberg pressed Ferro to promise she will require the trucking industry install devices in trucks that record when the vehicle is turned on and off. The information is used to calculate if drivers are exceeding limits on the number of hours they can drive.

Ferro refused to be pinned down, committing only to a review of research on the devices.

Lautenberg noted that many countries, including all the European Union countries, require the devices.

During the presidential campaign, Obama promised to keep lobbyists at arm's length. Shortly after taking office, he issued an executive order barring any former federally registered lobbyists who join his administration from dealing with matters or agencies related to their lobbying work. Nor could they join agencies they had lobbied in the previous two years.

Ferro lobbied state government. She is registered as a lobbyist with the Maryland State Ethics Commission, and lists a range of transportation and truck-related issues in her registration.

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