

1 **POLICY:** MOTOR CARRIER REGULATION  
2 **COMMITTEE:** TRANSPORTATION  
3 **TYPE:** DRAFT POLICY DIRECTIVE  
4 **STATUS:** Requires formal approval; Updated to reflect discussion  
5 at 2011 Fall Forum  
6

7 ~~The states and the federal government are equal partners in the safe and secure transportation of~~  
8 ~~commercial goods around the country. Motor carriers are entities—businesses and individuals—~~  
9 ~~that own and operate commercial vehicles. The federal government defines commercial vehicles~~  
10 ~~as those that weigh over 10,000 pounds, carry hazardous materials that require placards, or are~~  
11 ~~passenger vehicles that carry 16 or more people. States may have different definitions for~~  
12 ~~intrastate commercial activity.~~

13  
14 The federal government is primarily responsible for the regulation of interstate transportation and  
15 commerce, including safety and security, while states play a critical role in administering  
16 interstate motor carrier regulations and regulating intrastate commerce. ~~The Commercial Motor~~  
17 ~~Vehicle Safety Act (CMVSA) of 1986 was the first national effort to remove unsafe and~~  
18 ~~unqualified drivers from the nation's highways. CMVSA set minimum commercial drivers~~  
19 ~~license standards. The Motor Carrier Safety Improvement Act (MCSIA) of 1999 created the~~  
20 ~~Federal Motor Carrier Safety Administration (FMCSA) within the Department of Transportation~~  
21 ~~with the primary mission to reduce crashes, injuries and fatalities involving large trucks and~~  
22 ~~buses. FMCSA develops and enforces federal motor carrier regulations, ensures compliance with~~  
23 ~~the commercial drivers licensing standards, maintains motor carrier safety information systems,~~  
24 ~~and promotes safety education and research.~~

25  
26 The National Conference of State Legislatures (NCSL) believes that the most effective way to  
27 achieve safer highways for all drivers is to involve states in the decision-making process, to treat  
28 states as equal partners with the federal government, ~~and~~ to avoid unnecessary and burdensome  
29 federal mandates and requirements, and to promote incentive-based regulation instead of  
30 imposing federal sanctions.

31

32 ~~NCSL acknowledges that the federal government is concerned with the safety of motor carrier~~  
33 ~~vehicles. It is also aware of the diversity of state requirements regulating the operation of motor~~  
34 ~~carriers within the states. NCSL supports the choices state legislatures make to promote~~  
35 ~~responsible government oversight, provide for public safety, and enhance opportunities for~~  
36 ~~businesses operating throughout each state. NCSL supports efforts at incentive-based regulation~~  
37 ~~of motor carriers, and opposes laws that sanction states or withhold federal highway funds.~~  
38 ~~Federal statutes expressly preserve state authority to regulate intrastate motor carrier operations.~~  
39 ~~Continued state regulation of intrastate operations is necessary so that service is assured, rates~~  
40 ~~are equitable and public safety is protected.~~

41  
42 NCSL encourages the continued incorporation of computerized record-keeping for motor  
43 carriers. However, any revisions to the paperwork requirements should neither usurp state taxing  
44 authority nor undermine the long-standing exercise of state constitutional police power to  
45 promote and preserve public safety. ~~Each state has designed its tax structure and registration~~  
46 ~~requirements to reflect its urban or rural character, highway configuration, traffic flow patterns,~~  
47 ~~and overall revenue structure. Federal law should not circumvent these requirements adopted by~~  
48 ~~the states to address unique public safety considerations.~~

49  
50 ~~In order for states to address their concerns and balance their need to preserve taxing authority~~  
51 ~~with the rapidly changing business environment, NCSL endorses cooperative state efforts, such~~  
52 ~~as the International Fuel Tax Agreement and the International Registration Plan. NCSL also~~  
53 ~~supports the voluntary collaboration by state and industry officials on ways to reduce~~  
54 ~~unnecessary burdens on the motor carrier industry as preferable to any federally mandated~~  
55 ~~standards of uniformity.~~

56  
57 **Regulation** *(Does not appear to be included in Interstate Commerce's policies)*

58 NCSL supports Sstates must retaining the unburdened authority to regulate intrastate commerce,  
59 and opposes preemption of state regulation of intrastate motor carrier operations based on an  
60 affiliation with, or integration of other modes of carriage. ~~even in the absence of federal~~  
61 ~~regulation of analogous interstate commerce. Federal efforts to expand uniform national~~  
62 ~~standards for regulation of intrastate commerce constitutes an unwarranted intrusion on state~~

63 ~~police powers. State regulatory authority over intrastate commerce should be based on the~~  
64 ~~existence of intrastate activity and not the existence of any interstate activity. The intrastate~~  
65 ~~motor carrier operations of interstate carriers or national intermodal carriers, such as express~~  
66 ~~package services, are appropriately within the regulatory purview of the states.~~

67  
68 NCSL believes that the formulation of any proposed changes or expansion of uniform national  
69 standards for regulations of interstate commerce:

- 70 • should be based on recommendations from state officials;
- 71 • ~~. Any proposal promoting uniform regulations~~ must provide state legislatures with sufficient  
72 time to fully assess any proposed changes in state law; and
- 73 • ~~. NCSL also supports state should~~ involve states in any changes to the federal regulatory  
74 scheme for interstate motor carrier registration, proof of insurance filing, and collection and  
75 payment of fees.

76 ~~NCSL opposes preemption of state regulation of intrastate motor carrier operations based on an~~  
77 ~~affiliation with, or integration of other modes of carriage. A joint state-federal effort, with~~  
78 ~~industry guidance, should be undertaken to develop recommendations for harmonizing and~~  
79 ~~rationalizing state regulatory requirements, and should include methods to promote incentive-~~  
80 ~~based regulation rather than imposing federal sanctions.~~

## 81 82 **Routing**

83 On state roads and streets connecting to Interstate and National Highway system truck routes,

84 NCSL supports ~~S~~states authority to:

- 85 • ~~should be allowed the widest possible discretion in defining~~ "reasonable access" for larger  
86 vehicles; ~~Only state and local governments understand the local conditions that are~~  
87 ~~important for assuring safety on roads and streets connecting to Interstate and National~~  
88 ~~Highway system truck routes. Under its authority to designate routes capable of~~  
89 ~~accommodating motor carrier configuration, states~~
- 90 • ~~must be afforded the opportunity to~~ consider design and operating characteristics of  
91 commercial vehicles when designating routes; and. ~~Federal guidance on motor carrier design~~  
92 ~~is appropriate in this regard.~~

- 94 | ~~• Without sacrificing safety, states must provide for the movement of freight to and from local~~  
95 | ~~businesses with a minimum of impediment. States should be allowed to~~ issue permits on a  
96 | case by case basis for certain oversize and overweight carriers under appropriate conditions  
97 | set and monitored by state agencies. NCSL opposes federal requirements to increase state  
98 | size and weight enforcement, ~~and, instead, supports incentive-based regulation to allow for~~  
99 | ~~the rational use of state enforcement resources.~~

## 101 | **Licensing**

102 | NCSL believes that Sstates are in compliance with Motor Carrier Safety Improvement Act of  
103 | 1999MCSIA relative to commercial drivers licenses and:

- 104 | • should be granted continued latitude in conforming existing state licensing, testing and  
105 | penalty provisions to those stipulated under federal law; and  
106 | • should have, as well as the opportunity to grant waivers of certain requirements where  
107 | warranted.

108 |  
109 | NCSL recognizes that security measures may be undertaken by the federal government with  
110 | regard to individuals charged with the transport of commercial merchandise and hazardous  
111 | materials. NCSL is opposed to unfunded federal mandates regarding transportation security that  
112 | would create excessive burdens for the individuals seeking commercial driver's licenses and on  
113 | the state governments in security checks.

## 115 | **Taxation**

116 | NCSL opposes any federal restrictions on the right of the states to establish the rate of state  
117 | highway use taxes based upon registration, fuel purchase and use, and weight and distance  
118 | considerations. NCSL rejects the premise that the incidental impact of a regulatory tax imposed  
119 | by a state necessarily poses a burden to interstate commerce. Where state tax methods have been  
120 | ruled unconstitutional, NCSL supports prospective calculations of court-ordered restitution.

121 | NCSL supports state administrative reforms and joint state-federal efforts to curb the evasion of  
122 | highway taxes.

123

124 | ~~The heavy vehicle use tax (HVUT) is an annual federal highway use tax paid to the Internal~~  
125 | ~~Revenue Service (IRS) on v~~ehicles operating on public highways at a gross weight of 55,000  
126 | pounds or greater. ~~Carriers~~ must demonstrate payment of the annual federal heavy vehicle use  
127 | tax (HVUT) to state departments of motor vehicles during the registration renewal process, but  
128 | the IRS does not presently offer an electronic verification process creating paper-laden  
129 | administrative burdens for state agencies and costly processing delays for motor carriers. NCSL  
130 | encourages the IRS to cooperate closely with the states as it automates this electronic verification  
131 | process to maximize carrier usage of and compliance with the IRS' system while minimizing  
132 | duplication and state costs to link into the system. Closer state-federal cooperation on this issue  
133 | will improve efficiencies and economize state administrative costs.

134 |

135 | ~~Expires August 2012~~