

118TH CONGRESS
2ND SESSION

H. R. _____

An Act to Prevent Unreasonable Restraint of Trade in the Trucking Industry, to Remove Unreasonable Burdens on Interstate Commerce by the states, to Promote Free Commercial Speech, Due Process, Equal Protection of the Law, and to Protect Competition, the Supply Chain, and the Free Market.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2024

Mr. _____ (for himself, Mr. _____, and Mr. _____) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure.

A BILL

To acknowledge and enact public policy to ensure surface transportation intermediaries (property brokers) operate in a lawful, fair, and ethical manner in order to ensure fair competition and reasonable rates by restricting anti-competitive acts that constitute unreasonable restraint of trade; establish statutory standards to prevent discrimination against new entrant and existing motor carriers by property brokers; restrict the states from discriminating against small business entities and placing unreasonable burdens on interstate commerce; restrict the Secretary of Transportation from denying transportation stakeholders commercial free speech, due process, and equal protection of the law in order to protect competition, the supply chain, and the free market.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE. *PREVENTING UNREASONABLE RESTRAINT OF TRADE IN TRUCKING ACT OF 2024 (“the PURTT Act”).*

SECTION 2. FINDINGS

(a) **IN GENERAL.**—It is the sense of Congress that it is a national priority and in furtherance of interstate commerce to promote safe, adequate, economical, and efficient transportation and ensure that surface transportation intermediaries that arrange for transportation using duly authorized motor carriers operate in a non-discriminatory, non-preferential manner pursuant to National Transportation Policy.

(1) Congress has enacted Federal Law --codified at 49 U.S. Code §13101.
Transportation policy:

(a) In General.—To ensure the development, coordination, and preservation of a transportation system that meets the transportation needs of the United States, including the United States Postal Service and national defense, it is the policy of the United States Government to oversee the modes of transportation and—

(1) in overseeing those modes—

(A) to recognize and preserve the inherent advantage of each mode of transportation;

(B) to promote safe, adequate, economical, and efficient transportation;

(C) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

(D) to encourage the establishment and maintenance of reasonable rates for transportation, without unreasonable discrimination or unfair or destructive competitive practices;

(E) to cooperate with each State and the officials of each State on transportation matters; and

(F) to encourage fair wages and working conditions in the transportation industry;

(2) in overseeing transportation by motor carrier, to promote competitive and efficient transportation services in order to—

(A) encourage fair competition, and reasonable rates for transportation by motor carriers of property;

(B) promote efficiency in the motor carrier transportation system and to require fair and expeditious decisions when required;

(C)meet the needs of shippers, receivers, passengers, and consumers;

(D)allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping and traveling public;

(E)allow the most productive use of equipment and energy resources;

(F)enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions;

(G)provide and maintain service to small communities and small shippers and intrastate bus services;

(H)provide and maintain commuter bus operations;

(I)improve and maintain a sound, safe, and competitive privately owned motor carrier system;

(J)promote greater participation by minorities in the motor carrier system;

(K)promote intermodal transportation;

Congress therefore recognizes that all interstate transportation stakeholders must operate in a lawful, fair, ethical non-discriminatory and non-preferential manner in order to ensure fair competition and reasonable rates that ultimately affect consumer prices.

(2) Despite existing Federal law that prohibits Evasion of Regulation (49 U.S. Code § 14906), the Secretary has enforced the property broker transparency regulation codified at 49 CFR 371.3c in just one instance for just one carrier upon complaint but has refused to afford other similarly situated motor carriers and independent truckers who have complained-- due process and equal protection of the law after setting this precedent. It is the sense of Congress that this selective enforcement practice is arbitrary and capricious, an abuse of executive discretionary enforcement authority, and offensive to the Fifth Amendment.

(3) Property brokers have recently engaged in the unreasonable practice of internally adjudicating loss and damage claims to circumvent the Carmack Amendment (49 U.S. Code § 14706) without being duly state-licensed insurance claims adjusters and have "offset" freight charges lawfully due and owing to motor carriers by deducting purported claim amounts without lawful authority. It is the sense of Congress that this practice constitutes unreasonable restraint of trade.

(4) Property brokers have recently engaged in the unreasonable and discriminatory practice of requiring independent truckers and small carriers show evidence of having been subject to at least one random roadside inspection within the past 18 months in order to receive loads despite the fact that the trucker or carrier's vehicles have been duly

inspected in accordance with the periodic inspections required under 49 CFR Part 385. It is the sense of Congress that this practice constitutes unreasonable restraint of trade.

(5) Property brokers have recently engaged in the unreasonable and discriminatory practice of refusing to engage the services of new entrant motor carriers despite the fact they have lawful operating authority solely on the basis that their authority is new or has been recently reinstated after a short insurance lapse as if they were new. It is the sense of Congress that this practice constitutes unreasonable restraint of trade.

(6) Property brokers have recently engaged in the unreasonable and discriminatory practice of refusing to engage the services of small carriers solely on the basis that they only have one or too few trucks in their fleet. It is the sense of Congress that this practice constitutes unreasonable restraint of trade.

(7) Forty-one states have, since 2007, unreasonably imposed credit card and bank fee surcharges in connection with online payments made to the states under the Unified Carrier Registration (UCR) Agreement without statutory or regulatory authority under the UCR Act (49 U.S. Code § 14504a), some even doing so in violation of their own state laws prohibiting credit card surcharges. It is the sense of Congress that this practice constitutes an unreasonable burden on interstate commerce by the states.

(8) The Secretary and some states following in the Secretary's footsteps have infringed upon commercial free speech by targeting third-party service providers who small carriers wish to use to meet their regulatory compliance obligations by manufacturing the term "aggressive marketers" inferring wrongdoing when there is nothing illegal about exercising commercial free speech and offering fee-for-service regulatory compliance assistance. Congress recognizes that it is vital for small entities to be able to outsource their compliance to private companies in order to compete with big carriers who have in-house compliance departments. It is the sense of Congress that this practice constitutes unreasonable restrictions on commercial free speech by the Secretary and an unreasonable burden on interstate commerce by the states.

(b) STATUTORY CHANGES

(1) 49 U.S. Code § 14906 - Evasion of regulation of carriers and brokers is hereby amended by declaring the existing language as subsection (a):

“(a). A person, or an officer, employee, or agent of that person, that by any means tries to evade regulation provided under this part for carriers or brokers is liable to the United States for a civil penalty of at least \$2,000 for the first violation and at least \$5,000 for a subsequent violation, and may be subject to criminal penalties.”

Additionally, new subsection (b) is added as follows:

“(b) The Secretary shall enforce the broker transparency regulations codified in 49 CFR 371.3 and all duly-promulgated regulations in a non-discriminatory, non-preferential, non-arbitrary, and non-capricious manner and refrain from engaging in selective enforcement in accordance with the Administrative Procedure Act (5 USC Chapter 5) and the Fifth Amendment’s due process and equal protection of the law requirements, and in furtherance of the national transportation policy (49 U.S. Code §13101).”

(2) 49 U.S. Code § 14706(c) (3) as a matter of liability of carriers under receipts and bills of lading is hereby added as follows:

“No property broker may adjudicate shipper claims on its own to circumvent the normal motor carrier claims process nor offset defined as subtracting purported claims from freight charges due and owing to the carrier.”

(3) 49 U.S. Code § 14917 – Unreasonable Restrain of Trade is hereby added:

“49 U.S. Code § 14917 – Unreasonable Restrain of Trade

(a) It shall be unreasonable restraint of trade for property brokers to engage in the unreasonable and discriminatory practice of requiring independent truckers and small carriers show evidence of having been subject to at least one random roadside inspection within the past 18 months in order to receive loads despite the fact that the trucker or carrier’s vehicles have been duly inspected in accordance with the periodic inspections required under 49 CFR Part 385.

(b) It shall be unreasonable restraint of trade for property brokers to engage in the unreasonable and discriminatory practice of refusing to engage the services of new entrant motor carriers despite the fact they have lawful operating authority solely on the basis that their authority is new or has been recently reinstated after a short insurance lapse as if they were new.

(c) It shall be unreasonable restraint of trade for property brokers to engage in the unreasonable and discriminatory practice of refusing to engage the services of small carriers solely on the basis that they only have one or too few trucks in their fleet.”

(4) 49 U.S. Code § 14504a(c)(3) is hereby added:

“to charge motor carriers, private motor carriers, property brokers, freight forwarders or leasing companies additional credit card or bank fee surcharges for paying their fees online or otherwise by using a credit card, bank debit card, or electronic bank payment option.”

(5) 49 U.S. Code § 14504a(c)(3) is hereby added:

“for any member of the UCR Plan Board of Directors as the Federal advisory board organization of representatives referenced herein, government agency sitting on the UCR Plan Board of Directors, or the states to discriminate against, interfere with, or infringe upon commercial free speech by unreasonably targeting third-party service providers, which truckers and small business registrants wish to use to meet their regulatory compliance obligations in any manner, including by manufacturing and/or using the term “aggressive marketers” to infer wrongdoing when there is nothing illegal about offering fee-for-service regulatory compliance assistance in a non-deceptive lawful manner. Congress recognizes that it is vital for small entities to be able to outsource their compliance to private companies, in order to compete with big carriers who have in-house compliance departments. “

(c) COMMENCEMENT OF STUDY

(1) IN GENERAL.—The Secretary of Transportation shall commence a study and report to Congress every four years on the business practices of regulated stakeholders as they may relate to unreasonable restraint of trade and the practices of states that may entail unreasonable burdens on interstate commerce in accordance with USDOT’s 1979 Regulatory Policies and Procedures (44 FR 11034, Feb. 26, 1979), Executive Order (E.O.) 12866, E.O. 13563, and section 610 of the Regulatory Flexibility Act.

(2) FUNDING—There is hereby authorized from the funds appropriated for the operations of the Federal Motor Carrier Safety Administration \$2,000,000 to carry out the requirements of subsection (c).

(3) EFFECTIVE DATE.—The Secretary’s report shall be submitted to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure one year after the date of the enactment of this Act and every four years thereafter.

(d) EFFECTIVE DATE

The statutory changes herein shall take effect on the date that is 270 days after the date of the enactment of this Act.