



**Testimony of Lewie Pugh, Executive Vice President
Owner-Operator Independent Drivers Association
before the
United States Senate, Committee on Commerce, Science & Transportation
Subcommittee on Surface Transportation, Freight, Pipelines, and Safety
“Grand Theft Cargo: Examining a Costly Threat to Consumers to the U.S. Supply Chain”
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Chairman Young, Ranking Member Peters, and members of the Subcommittee, my name is Lewie Pugh and I am the Executive Vice President of the Owner-Operator Independent Drivers Association (OOIDA). Prior to working at OOIDA, I was a small-business trucker for nearly 23 years with 2.5 million miles of safe driving. Before operating my own trucking business, I drove a truck during my service in the United States Army. I still proudly hold a Commercial Driver’s License (CDL).

About OOIDA

The Owner-Operator Independent Drivers Association (OOIDA) is the largest trade association representing small-business truckers and professional truck drivers. OOIDA has approximately 150,000 members located in all fifty states that collectively own and operate more than 240,000 individual heavy-duty trucks. OOIDA’s mission is to promote and protect the interests of our members on any issues that impact their economic well-being, working conditions, and the safe operation of commercial motor vehicles (CMVs) on our nation’s highways.

Almost all freight in the United States is carried by a truck at some point and over 70 percent is carried exclusively by truckers. Small trucking businesses, like those we represent, account for 96 percent of registered motor carriers in the United States, making them a key component of the nation’s supply chain. We are undoubtedly the safest and most diverse operators on our nation’s roads. Every region of our country and segment of our economy relies upon long-haul truck drivers. Our members are an integral part of the global supply chain and have a unique perspective on the many challenges our nation faces in moving freight in the safest, most efficient manner.

Introduction

Cargo theft and freight fraud are so incredibly easy to commit it doesn't even take a savvy or experienced criminal to pull it off. Everyone from shippers, receivers, motor carriers, and brokers are vulnerable targets. Too often, the perpetrators of these crimes are based internationally – predominantly Asia and Eastern Europe - far beyond the reach of American enforcement agencies. While there are certainly cases of physical theft occurring within our industry, most of the problems truckers face involves being scammed by fraudulent actors or swindled by unscrupulous brokers.

These illegal activities exploded in recent years, increasing by 600% over the course of just 5 months between 2022 and 2023¹, and have shown no signs of slowing. Estimates indicate these crimes cost our industry roughly \$1 billion annually². The full impact on our economy and the American people is difficult to assess, but it undoubtedly contributes to higher consumer prices, as shippers and receivers look to recoup their losses with remaining products.

There are several factors contributing to the recent rise in cargo theft and freight fraud. Weak freight rates and overcapacity in the trucking industry have increased competition, leading to greater susceptibility to fraud among motor carriers. Advanced technology, coupled with a lack of federal oversight and enforcement of regulated entities in the freight industry, have created an environment where fraudulent actors can thrive with little fear of being caught or punished for their crimes.

Most small-business truckers - who aren't contracted with a larger motor carrier - acquire loads from brokers on platforms called load boards. As shippers have become less likely to work directly with small carriers, reliance on load boards has increased dramatically over the years among owner-operators. Unfortunately, these platforms have simultaneously become fertile ground for nefarious actors. While the operators of load boards regularly use data to restrict access to truckers they believe may be scammers, very little is being done to crack down on the pervasiveness of fraudulent and unscrupulous brokers.

Unfortunately, small trucking businesses are both the most vulnerable to fraud and the least likely to be able to recover from an incident. Most commonly, motor carriers are held responsible for the loss of cargo due to fraud, with costs ranging from tens-of-thousands to hundreds-of-thousands of dollars per incident. In fact, several OOIDA members have lost their entire business after falling prey to a single case of freight fraud. That's not hyperbole. While large carriers are better equipped to absorb the cost of fraud, it only takes a single occurrence to ruin a small trucking business.

¹ *State of Fraud in the Industry*, Transportation Intermediaries Association, 2024

² *State of Fraud in the Industry*, Transportation Intermediaries Association, 2024

Types of Cargo Theft and Freight Fraud in Trucking

OOIDA members who have been victimized by freight fraud are most often targeted by scammers posing as legitimate brokers. This practice occurs in two distinct ways. First, many small trucking businesses fall victim to 'double brokering'. This is when criminals pose as motor carriers to acquire loads from brokers, then pose as brokers looking for truckers to complete hauls. When the freight is delivered, the legitimate broker issues a payment to the fraudulent actor, and the trucker who actually hauled the cargo is left high and dry. It is entirely possible brokers are unaware any fraudulent activity has occurred in these cases, but there are instances of fake motor carriers working closely with unscrupulous brokers to take advantage of small trucking businesses via double brokering.

The second type of scam involves the theft of a broker's identity to arrange the shipment of a load with a motor carrier. The trucker delivers the load and submits the appropriate paperwork to the fake broker, who then forwards the documents to the real broker, collects the payment, and disappears. Making matters worse for our members, small trucking businesses are also forced to absorb all the additional costs associated with moving the freight, including fuel, tolls, maintenance, and other expenses.

Some motor carriers have also fallen victim to reroute schemes. While hauling a fraudulently brokered load, the scammers contact the unknowing trucker with a new delivery address, often offering extra payment for covering the additional miles. Once delivered, the load is transferred to another truck and stolen, leaving the carrier responsible for the lost freight.

In other cases, a motor carrier's identity is stolen and used to secure a load from a broker. The fraudster then delivers the load to a warehouse, where it is transferred and stolen. The legitimate motor carrier, whose authority was compromised, is ultimately held liable for the value of the stolen load. And it's not particularly difficult to accomplish this type of scam. Every motor carrier is assigned a USDOT Number, which, along with addresses and phone numbers, can be easily viewed on FMCSA's website. As a result, it is incredibly easy to take that information, hijack the authority of a legitimate motor carrier, acquire loads, and receive payments. To make matters worse, fraudsters can also assess the safety records of motor carriers to choose victims that are most likely to be selected by brokers.

OOIDA recognizes motor carriers aren't the only victims of cargo theft and freight fraud. Several OOIDA members that also operate as brokers have been victimized by various scams as well. One member recently shared a story where they unknowingly hired a carrier whose identity had been stolen. The scammer made subtle changes, like altering a single letter in an email address and providing a new phone number, to pose as a legitimate trucking business. Trusting the relationship, the broker assigned the load, only for the scammer to vanish with the freight - leaving the broker liable for the loss.

Our members also fall victim to nefarious actors offering large payments – anywhere from \$2,000 to \$40,000 depending on the age and safety record of the motor carrier – to sell their authority. Once the sale is complete, these bad actors masquerade as the original operator to fleece unsuspecting brokers who think they are working with a reputable and safe business.

When fraud is committed, brokers often attempt to hold our members responsible. While OOIDA supports calls to eliminate most transfers of authority as a productive means to combat fraud, there are exceptions that must be allowed. There are circumstances, such as the death or disability of the principal or sole proprietor of a motor carrier, where it would be appropriate for the spouse or child who has been involved in the business to assume control without having to file for new registration. These valid transfers must be preserved.

The Lack of Federal Oversight and Enforcement

In July 2024, the Federal Motor Carrier Safety Administration (FMCSA) issued a report on illegal broker activity in the trucking industry. Two key aspects of the report were extremely frustrating for stakeholders.

First, the agency indicated it lacked the data necessary to determine if fraudulent activity, including double brokering, negatively impacts highway safety. Small-business truckers operate on the slimmest of margins and being victimized by scammers comes at a high cost. This often forces them to reduce or delay maintenance and repair of their trucks, which unquestionably effects safety. This also ignores the likelihood that those illegally posing as legitimate motor carriers lack the training, licensing, and insurance to lawfully and safely operate a CMV. Unfortunately, with this position, FMCSA is unlikely to unilaterally take the necessary steps to fully combat fraud in the trucking industry.

Second, the agency lacks the statutory authority to administratively adjudicate and assess civil penalties for violations. This has routinely resulted in the referral of cases to the Department of Justice (DOJ). In our experience, DOJ lacks the training, experience, resources, and motivation to effectively handle these cases. At this point, our members are often told to contact their local law enforcement agencies, who also lack the capability to properly address these crimes. In the end, fraud complaints bounce from agency to agency without anyone taking responsibility.

Furthermore, FMCSA's National Consumer Complaint Database (NCCDB) has proven to be an ineffective tool for motor carriers to report unscrupulous brokers and cases of freight fraud. Typically, truckers do not receive a satisfactory response when they call the NCCDB hotline or submit their problem via the online portal – if they receive one at all. The lack of response from FMCSA discourages truckers from using the NCCDB to submit cases, which also contributes to a lack of understanding of the scope of the problem within the agency. FMCSA must increase their response level to motor carriers after a complaint is filed, but likely lacks the resources and proper authority to do so. We also believe something as simple as changing the name of the program to better reflect its purpose in trucking would improve its utilization.

Section 23016 of the Bipartisan Infrastructure Law required the Government Accountability Office (GAO) to examine the NCCDB and evaluate the effectiveness of efforts to consider and follow-up on complaints submitted to the database, the types of complaints, and awareness of the database. The GAO published their findings in September 2023 stating that, "FMCSA has not

designed sufficient controls to help ensure its policy for reviewing complaints related to motor carriers is followed.”³ The report made 14 separate recommendations to FMCSA, including:

- Ensure FMCSA updates its complaint review guidance to define each category of complaint.
- Ensure the NCCDB website is consistently mobile-friendly.
- Ensure the website appropriately targets key audiences, including by defining acronyms and technical terms, and providing more detailed or relevant examples of complaints that may be filed by truck and bus drivers.
- Develop an outreach plan for the website that aligns with leading practices for outreach.

FMCSA agreed with 13 of GAO’s recommendations, but has indicated that the necessary changes will not be implemented until Fiscal Year 2026. To better understand and combat cargo theft and freight fraud, we believe the agency must expedite these updates and promote greater awareness of NCCDB among truckers.

In recent years, FMCSA has acknowledged that freight fraud is plaguing the industry and is working on various solutions that could potentially mitigate unscrupulous activity. We commend the agency for holding listening sessions, reviewing public comments, and hosting registration modernization stakeholder events. As a result of industry feedback, the agency has recently established a Registration Fraud Team to investigate fraudulently registered companies as well as cases where legitimate companies had their identities stolen. Furthermore, FMCSA is expected to begin rolling out a comprehensive, modernized registration system in phases beginning this year. We support the intent of these programs, but remain skeptical that they will achieve their objectives.

We are unclear if the Registration Fraud Team has the resources to properly conduct the amount of necessary investigations that would substantively root out fraudulent activity. As mentioned, we also know the agency lacks statutory authority to administratively adjudicate and assess civil penalties for freight fraud violations.

The long-awaited Federal Registration System is expected to include features such as identity verification software, new business verification processes, and information edit checks that can reduce fraud. However, these updates must be implemented in a user-friendly fashion that protects motor carriers’ personal data and prioritizes cybersecurity best practices. These safeguards cannot be taken for granted considering the vulnerabilities of FMCSA’s information technology systems.

Each year, FMCSA receives hundreds-of-millions of dollars for enforcement purposes, a large portion of which is devoted to ensuring compliance with regulations that have little to do with highway safety. While OOIDA is not in favor of increasing overall enforcement funding for FMCSA, we encourage Congress to repurpose many of these dollars – derived largely from user

³ GAO Report to Congressional Committees, “Motor Carrier Operations: Improvements Needed to Federal System for Collecting and Addressing Complaints against Truck, Moving, and Bus Companies,” September 19, 2023, (GAO-23-105972, <https://www.gao.gov/assets/d23105972.pdf>).

fees imposed on motor carriers – to reform NCCDB and other FMCSA programs in a manner that finally makes the agency a formidable and trusted ally for identifying and eradicating fraudulent actors.

The Fight for Broker Transparency

Existing regulations (49 CFR 371.3) require brokers to keep records of transactions with motor carriers. Under Part 371.3, each party to a brokered transaction also has the right to review the record of the transaction. This allows our members to know precisely how much a shipper paid the broker and how much the broker then paid the motor carrier. These regulations also enable carriers to verify claims charged against them after they finish hauling a load. As motor carriers are increasingly victimized by freight fraud, unpaid claims, dubious charges, unpaid loads, double brokered loads, and load phishing schemes, the current lack of transparency has left them little to no means to defend themselves from fraud.

Unfortunately, brokers have a long history of circumventing transparency requirements in two ways:

1. Many motor carriers sign contracts with brokers that waive Part 371.3 requirements. OOIDA discourages this, but the practice is so prevalent that truckers often have no other choice if they want to haul a brokered load. Even many of the most reputable brokers use these clauses to avoid complying with the requirement. Here is an example from one of the nation's largest brokers: “[Redacted] shall not be required to disclose the amount of its broker's commission to Carrier, and Carrier expressly waives its right to receive and review information, including broker's commission information, pursuant to 49 CFR §371.3.” This flies in the face of Part 371.3. In effect, brokers are exempting themselves from federal regulations.
2. The few brokers who do provide transaction records usually put in place hurdles they know will prevent a carrier from ever seeing them. In fact, some only allow a carrier to access records at the broker's office during normal business hours. Brokers know this makes it virtually impossible for most carriers to access records. Further, when a carrier tries to assert his/her right to review this information, the broker is unlikely to contract with them again. These tactics further undermine Part 371.3.

Small-business truckers would never get away with blatantly and deliberately evading federal regulations. Brokers must be held to the same standard. Unfortunately, rampant evasion is increasingly resulting in carriers assuming – fairly or not – that brokers have something to hide.

In order to protect against fraud and scams, we tell our members that they should closely examine documentation and verify that all information is legitimate. If brokers are allowed to continue waiving federal regulations in contracts, it makes it difficult for carriers to determine who is adhering to the rules or who may be trying to scam them. In short, practices that undermine trust and transparency will make it harder to determine who is a bad actor.

In May 2020, OOIDA submitted a Petition for Rulemaking with FMCSA to ensure compliance with 371.3. The petition requested that brokers automatically provide an electronic copy of each transaction record within 48 hours after the contractual service has been completed and asked that brokers be prohibited from including any provision in their contracts that requires a carrier to waive their rights to access transaction records. Our rulemaking was granted by the FMCSA during the first Trump Administration.

During the Spring of 2020, while truckers protested in Washington, DC, about the overdue need for transparency, President Trump tweeted his support: “I’m with TRUCKERS all the way. Thanks for the meeting at the White House with my representatives from the Administration. It is all going to work out well!” And on Fox News, he exclaimed truckers are “price gouged,” referring to complaints that brokers may be tampering with the price transactions they set up between truck drivers and shippers.

Since the launch of the rulemaking in August 2020, OOIDA and its membership submitted thousands of comments to FMCSA, conducted meetings with regulators and lawmakers, and participated in public listening sessions supporting the push for transparency. These efforts culminated in the Biden Administration publishing a Notice of Proposed Rulemaking (NPRM) in November 2024, demonstrating that ensuring transparency has bipartisan appeal. The public comment period is scheduled to close on March 20, 2025.

Unfortunately, the NPRM did not include the two significant reforms we recommended. However, the proposal will help ensure that carriers finally have access to fundamental transactional documentation and restore a level playing field between carriers, shippers, and brokers. We have submitted separate comments detailing what FMCSA must do to strengthen the rulemaking, such as clarifying how they will enforce the rules and closing all loopholes that let brokers waive transparency rights. If supplemented properly, this rulemaking will contribute to a more ethical, fair, and efficient freight brokerage marketplace.

If FMCSA is unable to finalize a rule that fully prevents brokers from evading federal transparency regulations, it is imperative that Congress compel the agency to do so.

The Importance of Broker Bonds

All brokers and freight forwarders are required to maintain a bond to cover debts in cases where the broker doesn’t pay for a carrier’s services. These bonds are meant to ensure that a carrier is paid when a broker fails to provide compensation. In 2012, MAP-21 established financial security standards for brokers and freight forwarders, including a minimum security level of \$75,000 and a requirement that a broker’s authority be suspended as soon as their bond falls below this amount.

In too many instances, a broker will let multiple claims on the \$75,000 bond accrue, forcing truckers to settle for a fraction of what they should be paid. In other words, a broker can continue to contract with motor carriers even if they have no intention of paying them. This loophole

allows them to broker loads well past the point where they have any financial security in place to cover their debts.

FMCSA has unnecessarily delayed compliance with its 2023 final rule that would suspend the operating authority of a broker if their available financial security falls below \$75,000. Originally scheduled for January 16, 2025, the agency has added an extra year to comply because the New Registration System is still not ready. OOIDA warned of potential delays and questioned if the system will be fully operational by January 2026, which in and of itself is an impediment to combating fraud. However, current and additional delays in compliance will allow unscrupulous brokers to continue stealing transportation services in excess of the bond amount. This is simply unacceptable, as freight fraud remains commonplace within the industry.

Current Legislative Solutions

OOIDA, along with numerous other trucking industry stakeholders, strongly supports bipartisan legislation introduced by Senators Deb Fischer (R-NE) and Tammy Duckworth (D-IL) to combat freight fraud. S. 337, the Household Goods Shipping Consumer Protection Act, would restore FMCSA's authority to impose civil penalties on unauthorized brokers, require physical addresses for brokers, compel the agency to analyze trends and commonalities among companies applying for shipping authority to identify potentially bad actors before they commit fraud, and allow states to use federal funds to enforce consumer protection laws relating to freight movement. We encourage all Senators, especially members of this Subcommittee, to support this important legislation.

Conclusion

Fraud is on the rise in trucking, as criminals have discovered many vulnerabilities within our industry. Stakeholders are doing all they can to protect themselves from criminals, but their capabilities are extremely limited. A small-business trucker lacks the resources to prevent scams originating overseas or the authority to ensure brokers comply with existing transparency regulations. There are systems and regulations in place that can help reverse the growing trend of fraud, but the federal government is struggling to provide the support shippers, motor carriers, and brokers need. We believe we have identified several critical steps Congress and the Trump Administration must take to improve our shared objective of weeding out fraudulent actors, and look forward to working on these issues with members of the Committee.