

1 BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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3 In the Matter of the :
4 Commission's Review of Its:
5 Rules for Safety Standards: Case No. 09-223-TR-ORD
6 at Chapter 4901:2-5, Ohio :
7 Administrative Code. :

8 - - -

9 PROCEEDINGS

10 before Ms. Cheryl Roberto, Commissioner; Mr. Paul A.
11 Centolella, Commissioner; and Mr. Scott E. Farkas,
12 Attorney Examiner, at the Grove City Municipal
13 Building, 4035 Broadway, Council Chambers, Grove
14 City, Ohio, called at 5 p.m. on Wednesday,
15 February 9, 2011.

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17 PUBLIC HEARING - GROVE CITY

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Wednesday Evening Session,
February 9, 2011.

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EXAMINER FARKAS: The Commission has called for hearing at this time and place in the Matter of the Commission Review of Its Rules for Safety Standard at Chapter 4901:2-5, Ohio Administrative Code, Case No. 09-223-TR-ORD.

My name is Scott Farkas. I am an Attorney Examiner assigned to hear this case. There is a sign-up sheet that I have. There is another one, I believe, that's still circulating. If I call your name, what I am going to ask you to do is come up to the podium, state your name, spell your last name, and indicate your address, and then you'll be allowed to indicate whatever you want to state as a comment on the rules or anything else you would like to say.

I would like to say in particular we are interested in the financial and operational costs of compliance. We are really very interested in getting your feedback on how these rules are going to impact you in those areas, but you can -- you can speak to any issue you like.

So at this time I'll call the first

1 person, Charlotte Howard.

2 MR. HOWARD: Charlie.

3 - - -

4 CHARLES HOWARD

5 being first duly sworn, as prescribed by law,
6 testified as follows:

7 DIRECT EXAMINATION

8 THE WITNESS: My name is Charles Howard,
9 H-O-W-A-R-D. My address is 655 Metro Place South,
10 Suite 270, Dublin, Ohio 43017.

11 EXAMINER FARKAS: Okay.

12 THE WITNESS: Good afternoon, Members of
13 the Commission. My name is Charlie Howard, and I am
14 Vice President of Legal Affairs for the Ohio
15 Automobile Dealers Association.

16 The Ohio Automobile Dealers Association
17 represents over 800 franchise car, truck, and
18 motorcycle dealers representing 13 percent of Ohio
19 retail sales. Our members collect approximately 1 in
20 every 5 dollars in sales tax and employ approximately
21 38,000 Ohioans. Our members are small business
22 people. They are retailers. Their business is the
23 sale and repair of motor vehicles.

24 These regulations involving intrastate
25 only use of vehicles between 10,001 and 26,000 pounds

1 increase the costs associated with meeting consumer
2 demand and repairing vehicles and are unnecessary in
3 light of the numerous steps already taken to ensure
4 safety in our industry.

5 Our industry is -- in our industry it is
6 sometimes necessary to attach a trailer to a pickup
7 truck and transport vehicles. For our motorcycle and
8 APV dealers picking up and delivering vehicles is
9 sometimes done as a customer convenience; other times
10 as a necessity if their customers have a breakdown
11 while out on the road. Sometimes a customer wants a
12 particular vehicle and that dealer may not have that
13 vehicle in stock. When this occurs, dealers often
14 reach out to each other and engage in what is known
15 as dealer trade.

16 For motorcycle and APV dealers loading
17 vehicles into a trailer is the only option to
18 transport these vehicles. Our car dealers often
19 transport vehicles in the same way so that new
20 vehicle you just purchased doesn't have excess miles
21 put on it.

22 Medical exams for drivers of pickup
23 trucks and truck and trailer combinations and
24 requests for drivers' records from the state each
25 year along with special employment applications fail

1 to recognize an important fact in our industry,
2 dealers rarely hire someone solely as a driver. When
3 a customer's bike breaks down and someone goes to
4 pick up the vehicle and trailer it back to the
5 dealership, the employee may be the dealer that's
6 driving, the salesperson, a technician, a prep
7 person, or someone else. We need to be able to
8 respond to our customers seven days a week.

9 A somewhat ironic impact of this
10 regulation is a consumer can rent the same truck or
11 trailer from U-Haul or big box retailer, no special
12 licensing requirements, yet an Ohio business owner
13 must incur great expense, additional recordkeeping,
14 risk financial penalties and -- for making a mistake
15 if they drive the same vehicle.

16 Logbooks for drivers who travel more than
17 150 miles within Ohio borders will result in needless
18 paperwork and would likely result in needless fines
19 as the 150 air mile exception will lead to confusion
20 about when that logbook is going to be required and
21 maintained. More importantly this is not an industry
22 where fatigue is an issue. Employees are not
23 penalized for taking a break or stretching their legs
24 when they're making these runs. Under these
25 circumstances a drive of 150 miles or 300 miles

1 should be treated the same. No logbook should be
2 required.

3 Additionally, our members really have
4 every incentive that qualified drivers operate their
5 company vehicles safely and to adequately maintain
6 these vehicles. Each time a truck goes out, our
7 members risk injury to their employees and others,
8 loss of tens of thousands of dollars of their own
9 equipment as well as the loss of their customers'
10 vehicles.

11 These liabilities combined with the cost
12 of Workers' Compensation, property and casualty
13 insurance is a tremendous inducement to operate
14 safely. We contend that these regulations and
15 additional documentations for medical exams, road
16 tests, and inspections at cost both financially and
17 through operational burdens without really increasing
18 safety here in Ohio.

19 Vehicle drivers have valid drivers'
20 licenses. In Ohio regulations require the driver
21 must pass a vision test and state that they are not
22 dependent on drugs or alcohol, do not have a
23 condition that results in episodic impairment,
24 unconsciousness, or loss of muscular control and that
25 they have -- do not have a physical or mental

1 condition that prevents them from exercising
2 reasonable and ordinary care of the motor vehicle.

3 Vehicles are routinely maintained, and
4 records are retained by the dealer. Old and poorly
5 maintained vehicles simply don't have a place in the
6 dealership setting. Insurance is maintained on all
7 vehicles and our drivers well in excess of anything
8 that would be required by these regs. No dealer is
9 going to entrust a \$100,000 of equipment and customer
10 property to someone that's not shown the ability and
11 skill necessary to operate these vehicles.

12 Finally and maybe just as importantly and
13 probably where our members have had the biggest
14 struggle over the last six or seven months, we've
15 looked at these regs. The federal handbook
16 illustrates the difficulty that small business people
17 face trying to comprehend and comply with these
18 technical exacting and sometimes duplicative
19 regulations related to load securement, driver
20 qualifications, record retention, and hours of
21 service.

22 In order to educate our members we've
23 studied the handbook, the State Highway Patrol Truck
24 Driver's Guide Book, and the PUCO's Motor Carrier
25 Safety Rules Handbook. Since July, 2010, we've

1 worked with the PUCO to understand these regulations.
 2 And we certainly appreciate the efforts that Milan
 3 and the rest of the staff have given us in trying to
 4 educate us and provide guidance in answering numerous
 5 questions that we pose to them in this timeframe.

6 Yet in spite of the assistance we've been
 7 given, the lack of a simple to understand all you
 8 need to know resource has created a widely held
 9 belief that compliance is unattainable without expert
 10 help. The result is our members spend money hiring a
 11 consultant, hiring a transportation company for
 12 relatively short trips or risking fines for
 13 noncompliance.

14 In closing our members want safe drivers
 15 and safe transportation. For years the Public
 16 Utilities Commission never chose to regulate this
 17 area, and we have not seen any compelling data from
 18 Ohio to make the agency's case that the regulations
 19 reduce accidents. While certainly no one wants to
 20 see deaths and no one wants to see accidents, there's
 21 not necessarily an axis between the fact that the 39
 22 folks that lost their lives were in unsafe vehicles.
 23 They were in accidents, and unfortunately when you
 24 are on the road, that is a possibility.

25 Therefore, we ask the Commission to

1 reconsider its regulations of these vehicles or
2 exempt licensed motor vehicles under Chapter 4517's
3 regulations for traveling in the state. With that
4 that concludes my testimony. Thank you.

5 COMMISSIONER ROBERTO: Mr. Howard, may I
6 ask you a couple of questions?

7 THE WITNESS: Absolutely.

8 COMMISSIONER ROBERTO: Just so I am clear
9 and understand what I think you are proposing there
10 should be an exception on particularly two fronts, I
11 heard for automobile dealers that are causing you
12 heartburn, the logbook requirement for greater than
13 150 miles and the hours of service and because of the
14 nature of your business you're -- you're advocating
15 it makes sense not to have those standards apply to
16 the automobile dealers as an industry.

17 THE WITNESS: Yes, Ms. Commissioner, the
18 rest of the Commission, that would be true. Those
19 aren't the only things that cause us a problem but
20 clearly when you take a look at these regulations, as
21 we have tried to explain the regs to our members, it
22 has been the logbook one is 150 miles, when is it
23 not. I tell you what, I read through the logbook
24 requirements several times and in service and out of
25 service, and we've talked with -- I still don't get

1 it. I'll just be frank with you.

2 We're not in the transportation business.
3 Transportation is a subset of what we do. We have to
4 do it for the customers. We've got to go get those
5 customers or transport those cars. And so here we
6 are kind of getting stuck into a fit, into a solution
7 where there is not really a problem. Again, because
8 of the business we're in we have new trucks, new
9 trailers. You are not going to pull up and deliver
10 this \$20,000 Harley Davidson in a dilapidated beater
11 truck that shouldn't be on the road. That just isn't
12 going to happen and so they are -- those are the
13 issues that we see.

14 And, again, if I can just emphasize again
15 when you take a look at the motor carrier rule book,
16 it's this thick, it's like 400 pages long. It deals
17 mostly with vehicles that are 26,000 pounds or more.
18 Yes, if you know what you're doing and you are really
19 good at it, you can pick out the parts and pieces for
20 this class of regulation, but, again, the folks in
21 the room aren't transportation people, I think I can
22 speak for them that far, at least my people aren't,
23 and they can't pick through and understand it.

24 COMMISSIONER ROBERTO: So the simplicity,
25 just the challenge of the size of the regulations,

1 and there was one other issue that you had raised
2 that I just want to explore for a second. Your folks
3 are in the business of repairing cars.

4 THE WITNESS: They are.

5 COMMISSIONER ROBERTO: But you mentioned
6 that the burden of annual inspections was onerous.
7 Can you talk to me about what's the difference
8 between what you do as a business and then just
9 maintaining an annual record that the inspection was
10 done on vehicles that you own and operate?

11 THE WITNESS: With all the regulations
12 that are listed that would probably be the easiest of
13 all of them for us to be -- to accommodate, to
14 accomplish. But, again, you are taking this vehicle
15 out of service. My suspicion is we will have to go
16 to a third-party repair shop to have that work done.
17 Some of my dealers who have intrastate travel -- and
18 I do have those dealers that have already done that.
19 There's a certain cost involved with that, certain --
20 certain other things.

21 One of the -- one of the things that the
22 rules has is you have to have this file where you've
23 got all these pretrip inspections, post-trip
24 inspections, and what you end up with for people that
25 aren't truck drivers for a living is a lot of places

1 to stub your toe and if Milan should pull us over,
2 hopefully you would be good to us, Milan, if Milan
3 should pull us over, there's just 100 places to stub
4 your toe, pay the forfeitures, get pulled off the
5 road, and there you are with the driver and equipment
6 and you can't go anywhere.

7 And that's a real concern and has been a
8 concern for our folks who were pulled over prior to
9 this grace period the PUCO thankfully enacted while
10 everybody tries to understand where we are going to
11 go from here.

12 COMMISSIONER ROBERTO: Thank you very
13 much.

14 THE WITNESS: Thank you.

15 COMMISSIONER CENTOLELLA: If I can ask --
16 I'm sorry. There are two of us.

17 THE WITNESS: I'm sorry. I apologize.

18 COMMISSIONER CENTOLELLA: I just want to
19 see if there is a distinction in your mind between
20 things like logbooks that are -- that are forms or
21 paperwork types of requirements and other kinds of
22 requirements such as related to the actual safety of
23 the vehicle or things like load securement where
24 there are real safety hazards if a load is not
25 properly secured and, you know, is there a

1 distinction in your mind between those two things and
2 are there things that we could do that are more
3 directly safety related that may be things that you
4 are already doing in your business that would make
5 sense for us to do?

6 THE WITNESS: Sure. You know, as it
7 relates to securing the load, again, mostly this
8 affects my motorcycle and APV dealers. Obviously
9 they are going to secure those vehicles within
10 enclosed -- most of the trailers my members are using
11 are 14 to 20 feet long. They are encased, completely
12 enclosed, to protect the vehicles from the elements.

13 Obviously it's in our own best interest
14 to secure those and, folks, I have been with the
15 association for 15 years. I have been working in the
16 area of Workers' Comp. for that period of time. It's
17 one of my duties. There have been a lot of tragic
18 accidents in my industry and they are that,
19 accidents. I have yet to find where we've had a
20 dealership have someone who is hauling a truck and
21 trailer be in an accident that caused an injury that
22 was compensable for Workers' Comp.

23 I think we are going after this in
24 really -- in an overkill kind of way. Again, these
25 are trucks that many of us maybe drove here tonight.

1 They probably have a GVWR of somewhere under 10,000
 2 pounds. We put a trailer GVWR of 2 or 3
 3 thousand pounds. It kicks you over so, now, you're
 4 12, 13 thousand pounds. That could be me this
 5 weekend pulling my snowmobiles. That could be me
 6 this summer pulling my boat. And there's no
 7 regulation at all for me. Yet all these business
 8 people who really have a lot on the line every time
 9 they send one of those vehicles out on the road is
 10 presumed to be unsafe and I'm just -- I think that's
 11 the problem my members have anyway is -- is why are
 12 they coming after us when we're really not sure that
 13 there is a problem.

14 And maybe my people are somewhat unique.
 15 Yes, they are dealers. They maintain vehicles. We
 16 don't paint houses or many of the other things that
 17 folks do that have these kinds of rigs but that's
 18 kind of where we -- where we see this.

19 EXAMINER FARKAS: I was asked to announce
 20 the case number again. It's 09-223-TR-ORD. And also
 21 there was somebody named David Lolona -- Solona,
 22 sorry, that wanted to just provide a statement to
 23 the -- to the Commission. You can do that. You do
 24 not have to swear yourself in, make a statement. You
 25 can just bring it up and that applies to anybody.

1 Anybody that wants to just provide a statement to the
2 Commission, they can do that without having to --
3 just bring it up.

4 Doug -- and I apologize for
5 mispronouncing anyone's name. My name is Farkas, so
6 I have gone through this many times. Doug Guinsler.

7 MR. GUINSLER: Yes.

8 - - -

9 DOUG GUINSLER
10 being first duly sworn, as prescribed by law,
11 testified as follows:

12 DIRECT EXAMINATION

13 EXAMINER FARKAS: Please state your name
14 and your address, spelling your last name.

15 THE WITNESS: Doug Guinsler,
16 G-U-I-N-S-L-E-R, 200 Spry Road, S-P-R-Y, Zanesville,
17 Ohio. Okay. I'm here this evening representing and
18 I am at this time President of the Greater Ohio
19 Showmen's Association. I'm here to testify on behalf
20 of our 50 members on the interstate motor carrier
21 rules.

22 It is our understanding that in 2009 the
23 Public Utilities Commission revised their hazardous
24 waste motor carrier rules so the rules would apply to
25 all private motor carriers operating commercial motor

1 vehicles with gross vehicle weight ratings of 10,001
2 to 26,000 pounds and interstate commerce regardless
3 of what is being transported.

4 I have been told that the PUCO revised
5 their rules so Ohio could qualify for more federal
6 funding. Our association became aware of the change
7 when one of the members, and that was me, was told by
8 a State Highway Patrolman that next year they were
9 going -- they were out to get us. They were going to
10 get me with my trucks and everything like that.

11 He's a friend but he said you are going
12 to be had starting the first of January. So anyhow
13 our association consists mainly of mom and pop
14 businesses. They represent the outdoor entertainment
15 industry at your local county fairs and festivals.
16 The Greater Ohio Showmen's Association represents
17 food vendors, game vendors, straight sales vendors,
18 that's the one that sells the novelties and the
19 T-shirts and stuff like that, and the amazement ride
20 companies. Our members generally work from May
21 through October. Our members -- most of our members
22 are family or family-oriented businesses.

23 Although the representatives at the PUCO
24 said they adopted these regulations with the safety
25 of public in mind, GOSA is very concerned with the

1 negative impact these regulations will have on our
2 industry. Our members are not hauling hazardous
3 waste but hauling popcorn, corn dogs, elephant ears,
4 games, and other fair and festival items.

5 To make matters worse I understand these
6 regulations don't even apply to government vehicles.
7 Government vehicles are exempt. These motor -- these
8 motor carrier regulations are going to affect us
9 dramatically and will be very expensive to our
10 business. In a time when our businesses are having
11 trouble making ends meet, it does not make sense to
12 add all these regulations to our troubles.

13 Among the regulations my company will be
14 required to meet is that a driver pass a medical exam
15 every two years, and a copy of this must be kept on
16 the vehicle when operating that vehicle. If my
17 driver had poor hearing, poor vision, high blood
18 pressure, or diabetes requiring insulin, the PUCO
19 document said they will be medically disqualified --
20 disqualified and unable to drive. That doesn't make
21 sense. All these conditions may be corrected by
22 hearing aid, glasses, or medication.

23 In addition, my driver will need to keep
24 a copy of his medical exam in the truck when he or
25 she drivers, and we do have a lot of he and she

1 drivers in our industry.

2 If I am going to require exams of my
3 drivers, as the employer, I am going to have to cover
4 the cost of the examination. Most companies in our
5 industry do not make a lot of money and very few, if
6 any, offer health care coverage to their
7 predominately seasonal employees.

8 Under these rules the drivers are to
9 annually provide their employers with a list of all
10 violations involving a conviction, forfeited bond, or
11 collateral, and the employer is to retain this
12 information for three years. Many of our drivers
13 come and go, few last the summer, and I must accept
14 the information on their backgrounds they give me. I
15 generally give someone driving for me a road test to
16 make sure they can drive. However, I don't issue
17 them a certificate, and I don't keep it in the file
18 for three years.

19 Most of the information required in these
20 regulations I currently have on the driver of my
21 vehicles but most of these requirements are excessive
22 for a small business such as ours. These rules
23 require me to keep a logbook and log my employees'
24 driving time and off-duty time. I must keep
25 post-trip inspection reports, pretrip inspection

1 reports, period inspection reports, and roadside
2 inspection reports.

3 These rules require me to have company
4 markings in sharply contrasting colors on both sides
5 of my vehicles and include the legal name or trade
6 name of my company.

7 Transporters of hazardous waste do a lot
8 of driving around the state. But our members drive a
9 few hours to the next fair or festival and stay there
10 for five or seven days. GOSA members work seasonally
11 and should not have to meet all these requirements to
12 perform all these reviews like hazardous waste
13 companies do.

14 Our members are also concerned that they
15 will be targets for the State Highway Patrol next
16 year when enforcement begins. Most of our members
17 believe these regulations are merely one more method
18 to generate revenues in Ohio from people who can
19 least afford it.

20 Thank you for giving me this opportunity
21 to testify and I would be happy to respond to any of
22 your questions.

23 COMMISSIONER ROBERTO: Thank you. I was
24 wondering if you could just tell me a little bit more
25 about your business. These are folks who travel

1 exclusively within the state of Ohio or do they also
2 travel into neighboring states?

3 THE WITNESS: We have some that come from
4 Florida every year and some that travel from Indiana
5 to Ohio to Michigan but most of those guys do have
6 the different permits that you need but we are -- we
7 mainly represent the people that live and work right
8 here in the state of Ohio.

9 COMMISSIONER ROBERTO: Okay. Thank you.

10 EXAMINER FARKAS: Thank you. Jim Hilz.

11 - - -

12 JAMES HILZ

13 being first duly sworn, as prescribed by law,
14 testified as follows:

15 DIRECT EXAMINATION

16 EXAMINER FARKAS: Please state your name
17 and spell your last name and state your address.

18 THE WITNESS: James Hilz, H-I-L-Z, 495
19 Executive Campus Drive, Westerville, Ohio 43082.

20 I'm Jim Hilz, Executive Director of the
21 Building Industry Association of Central Ohio. Since
22 1943 the BIA of Central Ohio has represented single
23 and multiple family home builders, developers,
24 remodelers, subcontractors, suppliers, landscapers,
25 and many other service professionals throughout the

1 seven counties in the central Ohio region.

2 The BIA has over 850 member companies.
3 All but a handful will be defined as small
4 business -- small businesses and very few would not
5 be negatively impacted by these motor carrier
6 regulations.

7 As a little bit of background, in 2005 we
8 commissioned a study by the former Ohio Tax
9 Commissioner Rich Levin to calculate the total
10 employment in central Ohio that came from the work of
11 BIA members. Just so I'm clear it calculated the
12 economic activity generated by the BIA members that
13 resulted in \$3.2 billion in economic activity and
14 approximately 33,000 jobs in central Ohio.

15 The challenge of the residential
16 construction industry are well documented, and I
17 would say that those job numbers today are likely
18 less than about 12,000.

19 For the past few months as our members
20 have learned about these new regulations, we've
21 become more and more alarmed at the cost of
22 compliance. These costs -- these are costs that our
23 members' companies can simply not afford at this
24 time. There is no current economic environment to
25 pass costs along to customers without a further loss

1 of business employment.

2 The proposed weight limits would bring
3 hundreds of central Ohio companies under new
4 regulation. It's our understanding that landscapers,
5 contractors, suppliers, people who are in and out of
6 their trucks several times a day as they work around
7 our community would be subjected to rules that also
8 apply to hazardous material handlers and large
9 over-the-road transporters.

10 We have cost calculations that are as
11 high as \$7,100 per driver and over \$9,000 per vehicle
12 per year. And these costs are for the following
13 increased wage rates for employees who practically
14 speaking need to be functionally equivalent to CDL
15 drivers, increased employee hours due to lost work
16 time and paperwork compliance, increased costs for
17 equipment, fuel inspections, and those have been
18 documented by previous speakers as well.

19 I've talked to BIA members who have
20 actually sold vehicles due to the cost of compliance
21 of these regulations as they were moving forward, and
22 in this economy these are the decisions that Ohio
23 companies, taxpayers, are making to attempt to
24 survive.

25 As I understand the regulations, we, the

1 BIA, would be impacted. We host the parade of homes
2 every year. We have done so for 57 years. We have a
3 company vehicle, it's a Ford F150, and we have a
4 two-axle trailer that combined would exceed the
5 10,000 -- 10,000 pound -- 10,001 pound requirement
6 that would kick into under these regulations. This
7 trailer and the truck, the truck is used daily, the
8 trailer literally travels to the parade and back, two
9 trips in a year.

10 Yet as we understand the regulations,
11 this truck and this trail -- this truck and the
12 trailer would now be -- fall under these regulations
13 and, thus, it would be a significant amount of
14 expense and paperwork for a trade association to bear
15 for one -- for basically two trips a year, so we
16 obviously have some concerns not just for our members
17 but we as a trade association in running an event
18 like this would bear.

19 It's our understanding that these rules
20 are being implemented because of the federal
21 requirement related to the handling of hazardous
22 materials. However, the expansion of these rules to
23 all commercial activity goes beyond the requirements
24 of federal compliance. And it is a mystery to us the
25 government seemingly exempted itself from these costs

1 of compliance by not requiring their own vehicles and
2 drivers to adhere to the rules.

3 I do want to mention the hours of service
4 section that was mentioned earlier in -- the on-duty
5 time is also something that we have a concern about.
6 The construction industry is cyclical and seasonal.
7 Yet the time restraints that aren't very clear under
8 these two sections do cause us some concern because
9 June and July when days are long and our -- and
10 landscapers and framers are working many hours a day,
11 and the driver of that truck isn't just driving that
12 truck. He is also working. And those hours as we
13 understand it were supposed to apply to the amount of
14 time you drive.

15 Yet if you read them, it is very unclear
16 and really could restrict the hours that some of
17 these companies are working when they are attempting
18 to maximize the amount of time that they can work
19 during those -- those cyclical times when it's most
20 important and when the industry is used to be
21 driving. So we do have some concerns about that.

22 In closing we urge the PUCO to find a way
23 to increase the safety of hazardous material handling
24 that would not negatively impact the general business
25 conditions in Ohio. Thank you.

1 COMMISSIONER CENTOLELLA: Mr. Hilz, I
2 would appreciate it if can you talk to us a little
3 bit more about the -- you've obviously done some cost
4 analysis of the rules and try to identify for us the
5 provisions in the rules that you think contribute to
6 each of the significant cost categories. I know you
7 mentioned, you know, having CDL equivalent
8 requirements which is not what our staff tells us is
9 really intended by these rules, and so we want to
10 better understand that because I'm not sure that's
11 entirely what the rules are intending.

12 THE WITNESS: I will attempt to at least
13 address some of this and can provide follow-up
14 information from our members who put the analysis
15 together to try to help, but a significant portion of
16 the cost is really -- is really related to wages and
17 employee expense-type time.

18 Then you get into expenses. You know,
19 these vehicles as I understand it and have been told
20 the -- these trucks that don't comply, and quite
21 frankly as I mentioned, some of the trucks would have
22 a trailer on it that brings them into -- which would
23 require them to apply the next day, they are not
24 carrying that trailer, yet the regulations are still
25 applying so you have -- but, now, all of the

1 inspection requirements, you know, trucks taken out
2 of service because they don't pass the inspection.
3 Those really are the major -- the major costs
4 categories.

5 COMMISSIONER ROBERTO: I was just going
6 to encourage you to maybe supplement the record with
7 your statement and the additional information if you
8 can get any from your members particularly on those
9 labor costs. That's something we are struggling to
10 understand why the labor costs would go up and what
11 those are associated with.

12 THE WITNESS: Okay.

13 COMMISSIONER ROBERTO: Thank you.

14 THE WITNESS: I will do so.

15 EXAMINER FARKAS: Did you say you had
16 somebody perform a study?

17 THE WITNESS: It was an economic study.

18 EXAMINER FARKAS: Is that something you
19 could provide to the Commission?

20 THE WITNESS: Yes, yes, I can.

21 EXAMINER FARKAS: Okay.

22 THE WITNESS: That goes back to 2005. It
23 was an economic study in terms of the impact of our
24 industry.

25 EXAMINER FARKAS: Right. That would be

1 helpful.

2 COMMISSIONER CENTOLELLA: That's
3 different from the cost figures you were giving us.

4 THE WITNESS: Correct.

5 COMMISSIONER CENTOLELLA: Thank you.

6 EXAMINER FARKAS: Chuck Miller.

7 - - -

8 CHUCK MILLER

9 being first duly sworn, as prescribed by law,
10 testified as follows:

11 DIRECT EXAMINATION

12 THE WITNESS: Chuck Miller, M-I-L-L-E-R,
13 612 North Eastwood Avenue, Lancaster, Ohio. I just
14 want to share a few comments with the Commission. I
15 am a small landscape business, did it in retirement
16 after another job that I worked for the government.

17 My concern is the health requirements
18 that are required for the employees for the -- for
19 that. We don't -- we are not going to put somebody
20 out there, you know, in our industry that can't
21 operate a vehicle or doesn't have good health.

22 Our insurance won't allow that to happen.
23 They do -- the insurance company already does the
24 transcripts for the drivers so I see that as a
25 duplication of efforts that's already there, you

1 know, and they maintain that. They won't let anybody
2 drive at all.

3 The cost of the recordkeeping is a
4 concern of ours. Being a small company we have at
5 most eight. We're seasonal, and the most at one time
6 I would have eight people. I am going to have to
7 have someone take care of those daily records in and
8 out on those vehicles and have those maintained.

9 We have a hard enough time getting
10 qualified candidates now to drive of the people I
11 have. You know, young people don't realize that the
12 wrecks that they have, the accidents that they have
13 all go against them in insurance, so they are getting
14 eliminated by the insurance company to begin with in
15 this whole process, so we are going to have to look
16 pretty hard to find qualified candidates to meet
17 these new requirements that you guys have set forth
18 for us and it's not that we want to put unqualified
19 people out there because that's not our intention. I
20 am just telling you it's making the market very
21 difficult for those people. We have the authority to
22 fire those people if they can't meet those standards,
23 and we need to look at that issue as well and, you
24 know, is there going to be discrimination on hiring
25 because they can't meet those requirements as well as

1 an independent businessman, I have concerns about the
2 legal applications of where that might go.

3 The other issue is I know you talk about
4 the mechanics could do the inspections if you had one
5 on staff or had someone who is your mechanic on
6 staff, you could do the training yourself, but I
7 think you are going to see this lead to a situation
8 where these companies are going to come in and say to
9 us, hey, we can certify you, and you'll have legal
10 representation if we certify you so there is going to
11 be a new industry created there to certify those
12 people, and a lot of the companies are going to go
13 that way just for protection of their own --
14 themselves, and I can see that happening in a couple
15 of areas.

16 Even your mechanic, if I have one of my
17 staff sign off on it, then I better make darn sure
18 that I am going to be legally responsible for that.
19 If I have the option of hiring someone or going out
20 and paying to have that done, I probably would do
21 that to take that liability off of me so I think
22 there is going to be a new industry created out of
23 this whole process where there is going to be
24 certified people out there that is going to try to
25 take advantage of this new law and work from.

1 The test that's my concern is -- on the
2 test is whose going to do that. The other concern I
3 have as far as health, if I -- as a business owner,
4 if I were only single and I had -- I was a diabetic
5 or had some other -- could not get through the
6 requirements with the blood pressure, I actually
7 would be out of business because I wouldn't be able
8 to drive if I couldn't meet the health certificate,
9 so I have a concern about that issue too because I
10 deal with diabetic and high blood pressure and it's
11 under control but what if some day it gets to that
12 point? Does that put me out of business in the whole
13 system?

14 Thank you. Any questions?

15 COMMISSIONER CENTOLELLA: Just one
16 question. You mentioned concern about discrimination
17 in hiring. Can you elaborate what you meant by that?

18 THE WITNESS: If I bring an employee in
19 and they can't drive, say after I go through the
20 process of -- hiring process they can't drive, is one
21 of the requirements, and I don't hire them, is that
22 discrimination against them? Do you understand what
23 I'm saying?

24 COMMISSIONER CENTOLELLA: Yeah.

25 THE WITNESS: That's my concern where we

1 go there with the standard.

2 COMMISSIONER CENTOLELLA: Thank you.

3 EXAMINER FARKAS: Steve Fitzpatrick.

4 - - -

5 STEVE FITZPATRICK

6 being first duly sworn, as prescribed by law,

7 testified as follows:

8 DIRECT EXAMINATION

9 THE WITNESS: Steve Fitzpatrick,
10 F-I-T-Z-P-A-T-R-I-C-K, 721 Union Street, Lancaster,
11 Ohio 43130. I'm President of the Tri-County Home
12 Builders Association in Lancaster, Ohio. And I am
13 also a small business contractor. We deal mainly
14 with home renovation, not necessarily new
15 construction.

16 When we saw -- when we first heard about
17 this whole law, and that wasn't really that long ago
18 so that's one issue I had, supposedly this has been
19 looked into and kind of in effect here for a couple
20 of years and all of a sudden within the last three
21 months or two months, we are just now hearing about
22 it.

23 Last night our home builder association
24 had a -- one of our monthly meetings and in which we
25 asked for a State Highway Patrol PUCO officer to come

1 and speak, and he did that. Just to give you the
2 concern that our industry is looking at with this it
3 was probably one of the largest attended meetings
4 that we've had in the last two years. So there's
5 major concern about what this change would do to the
6 small business industry. Personally I see a major
7 effect on the remodeling industry and the landscaping
8 industry in our local little community.

9 I have a small business. Basically
10 you're talking about three employees. One of them is
11 me. One of them is my wife. One of them is my son.
12 When you were asking earlier about what cost
13 ramifications this is going to have, I see -- in my
14 opinion I see the bookkeeping issues on this to be a
15 nightmare in my office. And when you talk about that
16 all of a sudden my wife which is the secretary has --
17 all of a sudden has to take on all these burdens of
18 this bookkeeping, if she doesn't do that, then I have
19 to go out and hire somebody to do that, and I've got
20 four employees. Four employees means a lot more
21 taxes out of my company, a lot more profits out of my
22 company, and these are dollars coming out of my
23 company that we cannot stand to happen.

24 The remodeling industry in 2010 was
25 already hit dramatically with the lead paint rule

1 with EPA, ARP rule, we already had to increase the
2 cost of our goods and services to our consumers
3 dramatically because of that.

4 Now, we are looking at something new
5 that's coming in that's going to turn around and
6 increase that again. And what I see happening to my
7 small industry is, you know, we can't absorb that
8 cost. That cost is going to have to be passed to the
9 consumer. The consumer has already done a major
10 reduction in business in our industry due to the
11 other increases we had.

12 Now, it's going to happen again. It's
13 going to force small companies like ourself either
14 out of business or to lay off. And I don't think in
15 the economic times we have right now and the
16 direction we are trying to go layoffs is what we are
17 really looking to do. But that's where I see this
18 impacting.

19 The second thing that I have is --
20 bookkeeping is one issue. The next thing is to me we
21 are talking about in my -- in my business I have a
22 half ton four-wheel drive pickup truck that basically
23 has a GVW of around 7,000 pounds so it's exempt until
24 I hook on it my single-axle 12-foot flat trailer to
25 haul some drywall. Now, I'm over 10,000 GVW. It

1 doesn't mean I am hauling 10,000 pounds down the
2 road. My GVW is over 10,000 pounds. Now, all this
3 turns into effect.

4 And something that somebody brought up
5 earlier if I drive that truck home tonight without
6 that trailer, that truck's exempt. It could be a
7 piece of crap. It could be flat tires. It could be
8 no turn signals. But as soon as I hook that trailer
9 on it, now, all of a sudden it's some major vehicle
10 that's going to cause some major wreck going down the
11 road, and I'm subject to all this stuff.

12 You know, we are not talking about an
13 industry that -- in my case that has a big dump truck
14 pulling a lowboy trailer with a backhoe on it or a
15 big tandem-axle flatbed dump trailer that's got a
16 20,000 GVW hooked behind. We are talking about a
17 pickup truck and a small trailer.

18 In my opinion I believe that the idea of
19 what you're trying to do is valid. I just am afraid
20 that you went too far with -- with bringing this rule
21 in. I mean, you've got a pickup truck that we use
22 every day that you're trying to make it look like
23 it's a semi truck. And basically if you think about
24 it, all the things that that semi truck has to do and
25 have you're saying my pickup truck has to have except

1 for I don't have to have a CDL license, but I
2 basically have to almost make every attempt to get
3 that license.

4 The gentleman that spoke to us last
5 night, he even made the statement, you know, when you
6 go this far, you guys might as well go ahead and get
7 your CDLs because you don't have to do that much more
8 to get them.

9 So why I am here tonight is I just want
10 to voice my opinion in what I feel this type of law
11 is going to do to my business, and I think frankly
12 it's going to put people like myself out of business.
13 And, you know, that's not what anything -- anybody is
14 wanting to do. I just saw an overwhelming concern
15 about this law through all of our local building
16 members. That's who we are, we are builders,
17 contractors, landscapers. That's what we are. And
18 it seems like it's really hitting our industry
19 extreme because of this. Thank you.

20 COMMISSIONER ROBERTO: I just have one
21 question. What are your thoughts on the type of
22 regulations that should be in place to -- to regulate
23 industries that are the size that you have and that
24 your association has?

25 THE WITNESS: I mean, I think for one

1 thing to me I think a lot with that recordkeeping and
 2 that maintenance issue because we don't have a
 3 mechanic on staff, so if I have to annually go get
 4 this truck inspected, you know, I have got to go pay
 5 somebody to do it. That's end of discussion. I'm
 6 not a mechanic. I build for a living. You know, I
 7 don't fix trucks. That's one thing that I think is
 8 really an issue there.

9 The other thing is the whole -- the whole
 10 10,001 pounds. I think that you have encompassed too
 11 many personal-type vehicles in that -- in that
 12 weight. I'm not a transportation expert. I can't
 13 tell you, gee, what should that number be. You know,
 14 I don't know but I just think to bring it down to
 15 that 10,001, that's -- that's too low.

16 I mean, I don't feel that a three-quarter
 17 ton pickup truck should ever have to be governed like
 18 a semi truck running down the road. That's just
 19 crazy in my opinion. Even a small one ton dump
 20 truck, small, it -- it in itself would fall
 21 underneath that weight class even if you don't put a
 22 trailer on it, and I am talking about a small dump
 23 truck that's got a pickup truck cab, no air brakes, a
 24 V-8 motor, and a 10 -- 8- or 10- or 12-foot bed on
 25 the back of it and just because it dumps up and down,

1 it's got a one ton suspension, it would fall into
2 that class with no trailer and that is -- it's a
3 hardship.

4 We had a larger dump truck that we used
5 as a stationary mobile-style dumpster. It's parked
6 in our -- in our shop. Our pickup trucks come in
7 every night, clean out their truck, throw it in the
8 dump truck. We tarp it, we strap it, we make sure
9 it's not going to blow out when it's going down the
10 road, and we get in the truck and drive it for 3
11 miles to the landfill and we drive it 3 miles back to
12 the shop and it sits for another 30 days.

13 I have taken the truck out of service. I
14 pulled the tags off from it, and it's for sale
15 because there is no way that I would put that truck
16 on the road with what they are talking about having
17 to have.

18 COMMISSIONER ROBERTO: Thank you.

19 EXAMINER FARKAS: Okay. Joel John.

20 - - -

21 JOEL JOHN

22 being first duly sworn, as prescribed by law,
23 testified as follows:

24 DIRECT EXAMINATION

25 THE WITNESS: Joel John, J-O-H-N, 8463

1 Estates Court, Plain City, Ohio. I have a hard time
2 not getting upset about more rules, more laws being
3 put on the books for anything but -- and I find it
4 hard to add anything more than what's been said.

5 I think I agree with just about any
6 conversation that's come up. It doesn't matter what
7 industry we are talking about. I am an owner of a
8 small landscape company, and I have issue with a lot
9 of the things that are just on the list of the
10 handbook that was passed out.

11 But I think first and foremost is just
12 the expense. It's a small company. Looking at the
13 rules that I've read, I'm looking at about 4 to 5
14 thousand per truck as overall cost. I have six to
15 seven trucks depending on the time of the season in
16 operation, so I'm in the mid 20s as far as the cost.

17 I guess the best way to break it down
18 because you have asked for specifics is Ohio Nursery
19 and Landscape Association is doing a survey of many
20 of the companies throughout the state, so I would
21 highly recommend we get that to you and look at some
22 of those costs because otherwise we could talk for
23 hours here, all night if everyone whose individual
24 costs this is partaking in, but kind of going through
25 your first -- first and foremost, they have to speak

1 English. 90 percent of my staff is Hispanic so
2 that's impossible. I have spent years trying to get
3 them to learn English. It's not going to happen.
4 Most Hispanics have a third grade education. They
5 are not going to learn English in a short timeframe.
6 It's not even realistic. I am going to have to hire
7 different people. The only reason I am hiring
8 Hispanics I cannot get Americans to fill the
9 position. So I am in a catch 22 there.

10 I can go on and on about the cost. I
11 completely -- it's just ridiculously expensive.
12 Paperwork nightmare, I agree with the gentleman that
13 has him and his family working. We have no more
14 time. I only have two or three people in the office.
15 I have no more physical time to take on different
16 tasks, more paperwork.

17 I don't care if it's 50 bucks or it's
18 5,000. It's an additional tax on me. It doesn't
19 matter who is paying for it. I think some of the
20 comments on here, cannot drive if ill, fatigued, or
21 consumed drugs or alcohol, I hope that's a no
22 brainer. I want to be in business. I am not going
23 to have someone drunk or stoned. I have to be able
24 to insure these people, so they need to be able to
25 drive. They have to have a driver's license. Why do

1 I have to test to make sure they can drive? If they
2 don't have a driver's license, I am not going to hire
3 them. So it seems just doubly? Why are we doing
4 this twice as often? I guess that's why they have
5 drivers' licenses.

6 And I guess to sum it up so I am not
7 repeating what everyone else is saying we need to
8 stay in business. That's why we have liability
9 insurance. We don't need more laws thrown on top of
10 us.

11 COMMISSIONER ROBERTO: Thank you. Would
12 you mind taking a minute or two and just telling us
13 about your operational practices? You mentioned you
14 are a good employer. You hire people that are
15 capable of driving the equipment, and you don't let
16 them drive drunk or stoned. How do you manage --
17 what are the practices that you put in place and is
18 there anything from your practice that we should know
19 about if we wanted to make sure that all -- all
20 businesses operated with safe drivers?

21 THE WITNESS: Oh, we're a six to seven
22 truck landscape company. I am trying to think how to
23 answer that the best. We try and be safe but, you
24 know, our drivers have to have a license, and then
25 we -- they have to be insurable so we pass on their

1 record, their information that they have to give us
 2 when they -- we hire them to make sure they are
 3 insured. If we can't be insured, then they can't
 4 drive. We find it extremely difficult to find those
 5 people, so we've had to go south of the border or to
 6 agencies to find people that can come here so they
 7 can drive and fill our positions. Just like any good
 8 employee you want them somewhat clean cut,
 9 respectable on your client's property or job,
 10 somebody around to work for how would you want
 11 them -- why would you want them driving your
 12 machine -- your machinery, your equipment, your
 13 trucks with your name on it unless they're
 14 presentable and somewhat safe? I think that's just
 15 commonsense. I don't understand why I need a law
 16 telling me to do that.

17 I already have that with the police. If
 18 they are in an accident, I am going to get sued. I
 19 am going to have fines. They are going to be pulled
 20 off the road already.

21 COMMISSIONER CENTOLELLA: I just want to
 22 follow up on the question of non-English speakers.
 23 You say you have employees who don't speak English.
 24 Do you mean they don't speak any English or, you
 25 know, such that if stopped by the police --

1 THE WITNESS: Un poquito, very little,
2 yes.

3 COMMISSIONER CENTOLELLA: If they were
4 stopped and pulled over by the police officer, could
5 they communicate with them?

6 THE WITNESS: They would tend to call me.

7 COMMISSIONER CENTOLELLA: Okay. All
8 right. Thanks.

9 THE WITNESS: I mean, go to any fast food
10 place in the City of Columbus.

11 COMMISSIONER CENTOLELLA: I have a son
12 who is a chief who speaks Spanish.

13 THE WITNESS: I am not even going to get
14 into the rules who is legal and not legal. We go to
15 great lengths to find HTB workers. We go out of our
16 way to find legal workers. I mean, to me you are
17 penalizing the people that want to be legal. You are
18 penalizing the small business that is already trying
19 to do the right thing. The people that are doing the
20 right thing are in this room. And they are the ones
21 that are going to actually try to follow your rules,
22 I am. Out of the zillions of people that don't
23 follow half the laws, they are not even going to
24 listen to what you are talking about here. Let's not
25 even talk about the people in this room that might

1 not even talk about what you are putting down
2 already. You can't inspect everybody. It's not
3 physically possible. There's just too many rules so
4 why burden the -- with the silly paperwork the
5 companies that can't afford it already.

6 COMMISSIONER CENTOLELLA: Let me ask
7 this, are there -- are there specific things that are
8 specifically safety related, you know, things like
9 the securement rules, for example, that make sense to
10 you in terms of although it might make sense for a
11 patrol officer to stop a vehicle if he observed, I
12 mean, you see this --

13 THE WITNESS: Oh, yeah. There's
14 commonsense safety things but why do I need the
15 logbook every day before and after every time one of
16 my foreman comes in, parks the truck? It's the same
17 truck, leaves the next day, you know, it worked
18 yesterday. Why do I have to check an entire list of
19 things repeatedly every single time? We do weekly
20 maintenance. We do monthly maintenance with a
21 mechanic either in house or out of house. That's
22 better than 95 percent of the companies in the United
23 States, I guarantee. I would stake my life on it.

24 COMMISSIONER CENTOLELLA: I appreciate
25 that you do, and I am certain you keep some record

1 when you take it to the mechanic.

2 THE WITNESS: Uh-huh.

3 COMMISSIONER CENTOLELLA: Thank you.

4 THE WITNESS: Why do I need to do your
5 form and why do I have to have -- in a separate form
6 why do I have to have a separate file from what I am
7 already keeping? So if one of your inspectors come
8 and see it, why do I have to have two files for --
9 why do I have to have an employee file and driving
10 file for them as well?

11 COMMISSIONER CENTOLELLA: I understand
12 that concern. Thank you.

13 EXAMINER FARKAS: Before I call the next
14 speaker I would like to announce if you've heard
15 testimony that you agree with and you can't stay or
16 you don't wish to stay, the young lady there will
17 have a sign-up sheet where you can sign indicating
18 you agree with the testimony that's been given
19 tonight and that statement will be given as much
20 weight by the Commission as if you made the same
21 statement so that -- if that's of any help to
22 anybody.

23 COMMISSIONER ROBERTO: I'm sorry. If I
24 could, if anybody does need to leave, I would still
25 encourage you to provide additional information if

1 you have it about your own businesses. That is
2 helpful to us and to have as many examples in our
3 records as we possibly can to help us understand.

4 UNIDENTIFIED SPEAKER: Give the case
5 number again. It's not on the material. It was said
6 at the beginning that the case number was on the
7 material that was distributed and that's not accurate
8 so that's why people need to have that.

9 EXAMINER FARKAS: Okay. It again is
10 09-223-TR-ORD.

11 The next person that signed up is Ray
12 Askin.

13 THE WITNESS: Askin.

14 - - -

15 RAY ASKIN

16 being first duly sworn, as prescribed by law,
17 testified as follows:

18 DIRECT EXAMINATION

19 THE WITNESS: Ray W. Askin, Post Office
20 Box 182, Hilliard, Ohio 43026. I'm here because I,
21 in fact, got pulled over by one of your inspectors
22 probably a month ago on 23. He was off the side of
23 the road. I pulled up to the stop sign or stop
24 light. He flagged me over into the Meijer's parking
25 lot.

1 When I asked him what's the reason for
2 you pulling me over, he said he didn't need a reason.
3 Then he tells me that because my truck is
4 10,100 pounds GVW that I would be out of compliance.
5 When I asked him what I needed to do to be in
6 compliance, he said you need to get on our website.
7 And I said, well, what if I don't have a computer?
8 He said, well, you -- holds up a book, you know, you
9 can buy the book.

10 I was probably there with him 45 minutes.
11 And he asked me three times are you all right? And I
12 don't know whether he was trying to get me fired up
13 or what it was, but he would not give me the answers
14 that I needed to get into compliance. He is telling
15 me to get a book or go to the website.

16 So once he's done with me I drive out to
17 the 42 truck stop, get my truck weighed to see if it
18 was, in fact, the right weight. And from there I
19 stopped by the West Jefferson Highway Patrol post,
20 asked them for some information and he, in fact, gave
21 me a number of another state trooper and a guy from
22 the PUCO.

23 I called the state trooper up, and he had
24 told me that there is only 100 state troopers in the
25 State of Ohio that know all these new rules and

1 regulations. And when I called the PUCO guy up, he
2 actually helped me go to what link I needed to go to
3 to find out actually what the information is. And
4 fortunately I had just gotten a recent physical and
5 eye exam, so I was able to give that stuff up to
6 date.

7 But I need to get signage on my truck
8 which I have 2 -- 2-inch minimum on the sides of my
9 truck. And, you know, a magnet is like \$40 a side
10 so, you know, I might as well take a Sharpie and
11 write on the side of my white door the name of my
12 truck, so I don't see much need in that.

13 And moneywise I am not sure how much it's
14 going to cost me. It's going to be as I go so, like
15 I said, I just needed some explanation from the guy
16 who is actually pulling me over as -- and I am asking
17 him the questions and he is telling me to go here to
18 buy the book or website or whatever, so it was --
19 it's been frustrating, if I wouldn't have been on the
20 phone making phone calls to find this out and reading
21 this in the newspaper to figure whether I am in
22 compliance, and that's basically all I got to say.

23 COMMISSIONER ROBERTO: After your
24 experience being pulled over, did the trooper or the
25 PUCO investigator identify any safety problems with

1 your vehicle?

2 THE WITNESS: No. The only thing he did
3 is when I pulled into the parking lot, he circled my
4 truck like an Indian would circle a chuck wagon, I
5 guess, and see what was going on. He had me start my
6 truck up, and he just looked at the back of the
7 truck, the taillights, but he didn't ask me to press
8 the brake lights.

9 He did tell me though that my license
10 plate cover, he couldn't see the license plates. And
11 I told him, look, I got a screwdriver and toolbox.
12 I'll take it off. And he just jumped back in his
13 truck and I sat there for 45 minutes and I just think
14 the guy was trying to egg me on, you know. Why would
15 he want to ask me am I all right? And I eventually
16 told him without cursing or anything, no, I'm not all
17 right. You've pulled me over for 45 minutes and
18 wasted 45 minutes of my time and not tell me what I
19 need to do to be in compliance with this new law.

20 Lastly, what I don't understand is when I
21 went and got my commercial tags from the state of
22 Ohio BMV, why didn't I get anything from them when I
23 am buying commercial tags on laws that are going to
24 go into effect from the federal government covering
25 my commercial truck? You know, obviously the state

1 one hadn't -- doesn't know what the feds are doing on
2 the other hand so, you know, the federal government
3 has got to let the state know when I am getting my
4 commercial tags so I know I am in compliance and I am
5 not driving around illegally. That's basically it.

6 COMMISSIONER ROBERTO: Did you get any
7 written report or anything from the encounter with
8 the trooper?

9 THE WITNESS: No, I did not, but he did
10 tell me I needed to park my truck and then get in
11 compliance. And there's no way -- because that's
12 what I make my living at there is no way I am going
13 to park my truck and not go out and make money.

14 COMMISSIONER ROBERTO: You were directed
15 to park your truck, but you were not given --

16 THE WITNESS: Once I got my truck home.

17 COMMISSIONER ROBERTO: Right.

18 THE WITNESS: Park it and then do all the
19 stuff to get into compliance but there was no written
20 report. I was given nothing or nothing -- nothing in
21 handwriting.

22 COMMISSIONER ROBERTO: Okay. Tell me
23 when -- one more time when did this occur and where
24 did it occur?

25 THE WITNESS: About a month, month and a

1 half ago up on 23.

2 COMMISSIONER ROBERTO: And about what
3 time of the day?

4 THE WITNESS: Maybe 2 o'clock in the
5 afternoon.

6 COMMISSIONER ROBERTO: Okay.

7 THE WITNESS: Somewhere in that
8 neighborhood.

9 COMMISSIONER ROBERTO: Can you give me an
10 idea of where it was on 23? Obviously I am going
11 back and run all the records and see.

12 THE WITNESS: Yeah. I am sure if he sees
13 me up there again and you let him know, he is going
14 to pull me back over again. It was --

15 COMMISSIONER ROBERTO: I would like to
16 look into it.

17 THE WITNESS: North of Powell Road in
18 front of the Meijer's parking lot.

19 COMMISSIONER ROBERTO: Okay.

20 THE WITNESS: Because I was just pulled
21 over at the light.

22 COMMISSIONER ROBERTO: And he waived you
23 in?

24 THE WITNESS: He was sitting on the berm,
25 and then he drove up to me and, you know, pointed

1 over to the Meijer's parking lot so.

2 COMMISSIONER ROBERTO: Okay. Thank you.

3 Thanks.

4 EXAMINER FARKAS: Kevin Young.

5 MR. YOUNG: Yeah, I don't need to
6 testify. I just have one quick question. Is
7 farmers -- I haven't read. Is farmers going to be
8 exempt or is this all part -- is that all the same
9 for small farmers?

10 MILAN: Do you mean if you are hauling
11 farm products to market and farm supplies to the
12 farm? You are exempt from these regulations.

13 MR. YOUNG: Okay.

14 UNIDENTIFIED SPEAKER: Why is that? Why
15 is that? What's the difference?

16 MILAN: It's in the ORC.

17 COMMISSIONER ROBERTO: To keep our record
18 clear I would like us to keep our testimony on the
19 record but if there are questions, we do have staff
20 here who can answer them.

21 EXAMINER FARKAS: Ken Helmlinger.

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KEN HELMLINGER

being first duly sworn, as prescribed by law,
testified as follows:

DIRECT EXAMINATION

THE WITNESS: My name is Ken Helmlinger,
last name spelled H-E-L-M-L-I-N-G-E-R. My address is
at 3645 Paradon Drive, Columbus, 43228. I have a
landscaping business, employ seven full-time people,
and during this season four to five other people.
Our statewide association, Ohio Nursery and Landscape
Association, has poled us and asked us to fill out a
survey of, you know, costs that are involved in
complying with this.

Our executive director is here in the
audience. I saw him and I'm sure he can provide the
information from these surveys to you. It seems like
we get regulations all the time, and it seems that
the people in your positions ask us to do things
that, you know, as a small business, I don't have
staff around, you know, we have cut people back to
our -- our companies are running lean, really, really
lean, and I don't have someone on staff like everyone
else has said here. We don't have people on staff to
take care of this paperwork that is involved.

I don't have a mechanic on staff. All of

1 these small businesses that are here do not have a
2 mechanic. You know, if we have to take, you know --
3 we have to have our vehicle inspected, we go to a
4 mechanic. But no one has said, okay, you can go have
5 it inspected, but if he finds something wrong,
6 something that doesn't meet the tolerance, we are
7 going to have to have that fixed, you know. That's
8 going to cost us money, you know, and, you know, if
9 the members on the panel had to take their vehicle in
10 tomorrow and meet an inspection, would your tires --
11 I mean, if your tires are -- don't have the proper
12 tread, how would you feel that you had to go put on
13 new tires, you know, just because there was a
14 regulation.

15 It may not -- you know, maybe you're only
16 driving a very short distance, and my company, my
17 vehicle puts on like 5,000 miles a year for the -- we
18 are a seasonal business. We don't put on that many
19 miles, but we just get burdened with regulations, you
20 know. Every day we go out I figure if I come back
21 through the day and I haven't been sued, that's
22 probably a good day, you know, with the liabilities
23 that are out there on businesses. You know, at the
24 beginning of our session here we heard of 39 deaths
25 and, you know, that rose from vehicles that were over

1 10,000 pounds. I may have missed it but were those
2 commercial vehicles that were over 10,000 pounds? I
3 don't know.

4 But what aggravates me is the people that
5 are probably the -- should -- okay. The senior
6 citizens that drive their mobile home behind a pickup
7 truck that are on blood pressure medicine, they have
8 heart problems, they are on all kinds of medication
9 are free to go anywhere; they don't have to have any
10 tests. And here we are as a business, the insurance
11 company comes to us and says, you know, no, that
12 person can't drive and everyone else has talked about
13 the liabilities and, you know, that we face that just
14 in being in business so that's -- these are some of
15 the comments that I have, and it will impact my
16 business. It's going to cost me about \$23,000 to
17 comply as I see it.

18 COMMISSIONER ROBERTO: How many vehicles
19 do you have for your company that would meet the
20 minimum weight classification, the 10,001 pounds?

21 THE WITNESS: I have six trucks and not
22 only would you have to have the trucks inspected but
23 you would also have to have the trailers inspected.
24 I have four trailers also.

25 COMMISSIONER ROBERTO: Would the trucks

1 on their own exceed the 10,000 pounds, or is it only
2 when they are pulling the trailer?

3 THE WITNESS: Five of the trucks would
4 exceed.

5 COMMISSIONER ROBERTO: Okay. And you
6 mentioned a price tag on compliance. Could you break
7 that down a little bit and tell us what parts of the
8 regs are driving that cost?

9 THE WITNESS: Well, a lot of it is
10 just -- well, I figure the -- I am guesstimating, I
11 have never had anyone go to have a physical or get a
12 medical exam, but I'm guessing that would be around
13 \$100. I can't imagine it being less. I've talked to
14 a mechanic and that would -- he said it would be
15 around \$90 to do that. But you know these people
16 that we send there, they are -- we have to pay them
17 to go there. They are on our time when we -- when we
18 send them there. You know, we have to pay them as we
19 send them there.

20 You know, when we take a truck in to have
21 it inspected, we have to pay someone to take it
22 there. And there's labor costs. There's -- and then
23 the repairs, you know. I don't -- I don't see a
24 vehicle out here that you can't take it in and it
25 doesn't have some requirement as far as being

1 repaired, so I just figure we can provide you with --
 2 the nursery association can provide you with many of
 3 these surveys, and I filled it out. I didn't bring
 4 it with me tonight but that -- that's what I can
 5 receive. Any other questions?

6 COMMISSIONER ROBERTO: No, I don't.
 7 Thank you.

8 EXAMINER FARKAS: Okay. Carolyn Towner.

9 - - -

10 CAROLYN TOWNER

11 being first duly sworn, as prescribed by law,
 12 testified as follows:

13 DIRECT EXAMINATION

14 THE WITNESS: Carolyn Towner, 33 North
 15 Third Street, Suite 320, Columbus, Ohio 43215. My
 16 name is Carolyn Towner, and I am here tonight to
 17 testify on behalf of the following associations, the
 18 Greater Ohio Showmen's Association, the Boating
 19 Associations of Ohio, the Ohio Campground Owners
 20 Association, the Ohio Wholesale Marketers
 21 Association, and the Lake Erie Marine Trades
 22 Association.

23 These associations I represent are all
 24 opposed to the recent rule change of the Public
 25 Utilities Commission to the intrastate motor carriers

1 rules that apply to private carriers operating
2 commercial motor vehicles with a gross vehicle weight
3 rating of 10,001 to 26,000 pounds.

4 I have been told that the PUCO revised
5 their rules so Ohio could qualify for more federal
6 funding. I have not seen any statistics from the
7 PUCO that there have been increased safety violations
8 with this class of vehicles. Most of the
9 associations I am representing consist of small
10 family-owned and operated businesses and many are
11 seasonal businesses.

12 The Greater Ohio Showmen's Association,
13 you heard from Doug Guinsler, GOSA represents the
14 outdoor entertainment industry at your local county
15 fairs and festivals.

16 The Boating Association of Ohio and the
17 Lake Erie Marine Trades Association consist of boat
18 dealers, marina owners, and watercraft transporters,
19 who have suffered greatly in recent years with the
20 downward trend of the economy and the increasing cost
21 of motor fuel.

22 The Ohio Campground Owners Association
23 represents your small, independent, privately-owned
24 campgrounds in Ohio. These members compete with your
25 state supported public campgrounds, who would be

1 exempt from these rules.

2 The Ohio Wholesale Marketers Association
3 represents wholesale distributors of products for
4 sale at retail convenient stores and other venues.
5 All these associations consist of members that are
6 opposing the PUCO rules.

7 Although the representatives at the PUCO
8 said they adopted these regulations with the safety
9 of the public in mind, my clients are very concerned
10 with the negative impact these regulations will have
11 on their industry. To make matters worse, I
12 understand these regulations don't apply to
13 government vehicles. Government vehicles are exempt.

14 These motor carrier regulations are going
15 to affect my clients dramatically and will be very
16 expensive to their small businesses. In a time when
17 businesses are having trouble making ends meet, it
18 does not make sense to add all these new regulations
19 to their troubles.

20 And I will mention some of the
21 regulations they are upset with, but quite frankly if
22 I stood up here all night and mentioned all the
23 regulations, I would probably be here for an hour, so
24 I'll just give you some of the examples.

25 One is that the driver pass a medical

1 exam every two years and have -- the copy has to be
2 kept in the vehicle. You know, if a driver has high
3 blood pressure, even if it's controlled, it appears
4 that the PUCO document said they would be medically
5 disqualified. If they have -- need a hearing aid or
6 a loss of hearing, the document the PUCO put out
7 appears to say they will be disqualified even though
8 they might have a hearing aid.

9 It doesn't make sense that the drivers
10 have to be 18. A lot of our family-owned businesses
11 have drivers that are under 18. In addition, the
12 driver will need to keep a copy of his medical exam
13 in the truck when he drives or she drives.

14 The employer of the driver will need to
15 bear the cost of the medical examination. Most of
16 the members of the associations I represent are very
17 small businesses and very few, if any, offer health
18 care coverage to their predominately seasonal
19 employees.

20 Under these rules, the drivers are to
21 annually provide their employers with a list of all
22 violations involving a conviction, forfeited bond, or
23 collateral, and the employer is to retain this
24 information for three years. Most of the drivers
25 come and go, few last the summer, and the employer

1 must accept the information that they give them when
2 they are employed there.

3 Most employers give someone driving for
4 them a road test, to make sure they can drive;
5 however, the employers don't issue them a
6 certificate, and they don't keep it in the file for
7 three years. I'm a little concerned with the
8 liability of the employer who actually certifies his
9 or her own drivers without going to an independent
10 source of certification.

11 Much of the information required in these
12 regulations is considered excessive for small
13 businesses. These rules require the employer to keep
14 a logbook and log on their employees driving time and
15 off duty time, to keep post-trip inspection reports,
16 pretrip inspection reports, periodic inspection
17 reports, and roadside inspection reports.

18 These rules require the employer to have
19 company markings in sharply contrasting colors on
20 both sides of their truck. This requirement could
21 make the commercial vehicles of the members of the
22 Ohio Wholesale Marketers Association a target for
23 theft. They purposely don't put the names of their
24 companies on their truck because they've been -- had
25 people steal the trucks so often.

1 Most of the members of the associations I
2 represent believe these regulations merely one more
3 method to generate revenues in Ohio who can least
4 afford it. And I would like to thank you for giving
5 me the opportunity to testify, and I would be happy
6 to respond to any questions.

7 COMMISSIONER ROBERTO: I just had one.
8 Of all the associations you represent I understand
9 the nexus to the trucks but the Campground Owners
10 Association, where do vehicles come into play?

11 THE WITNESS: If they take out of their
12 property with a trailer on it, they would fall into
13 that. They have to go pick stuff up. Most of my
14 clients I mentioned here don't use their vehicles --
15 they use it to get from one place to the other. It's
16 not like they are hauling hazardous waste. They are
17 driving -- they may drive, you know, to the next town
18 to pick something up, a pump they have to fix and
19 then take it back to the campgrounds.

20 But I don't think -- I think you are used
21 to dealing with large corporations, and I just don't
22 think you understand how many little businesses in
23 Ohio fall in this category at 10,000 to 26,000
24 pounds. I mean, our members are just up in arms. We
25 are anxious for the hearings on House Bill 82 to

1 start wit Representative Grossman. They are anxious
2 to go in there and testify because they are very
3 upset with these rules.

4 COMMISSIONER ROBERTO: Thank you for
5 coming this evening and sharing that.

6 EXAMINER FARKAS: Again, if there is
7 anyone else that would like to testify that hasn't
8 put their name down, I would ask you to do so, and
9 the lady that's going to raise her hand has another
10 sign up sheet. So I am going to call the next
11 person, Jim Rauck.

12 - - -

13 JIM RAUCK
14 being first duly sworn, as prescribed by law,
15 testified as follows:

16 DIRECT EXAMINATION

17 THE WITNESS: Jim Rauck, R-A-U-C-K, 1111
18 London-Groveport Road, Grove City, Grove City
19 resident 40 plus years, owner and manager of a
20 company in Grove City called Rauck's Trailer Sales.
21 We sell utility equipment and cargo trailers to the
22 majority of small entrepreneurial-type businesses and
23 medium-sized businesses, a few large businesses, but
24 mainly small businesses.

25 I have got about three real concerns.

1 The combination vehicles that instantly come under
2 all these requirements is quite small. We are
3 talking your Chevy Tahoe, half ton pickup, maybe a
4 Jeep Cherokee when you add behind it a single-axle
5 utility trailer. And instantly that puts you at the
6 10,000 plus GVW.

7 The age restriction of having to be 18
8 years old to even be in compliance really is, I
9 think, totally unfair. I speak from personal
10 experience. 40 plus years ago I started a lawn care
11 business at the age of 15. I was lucky enough to
12 have a dad that would drop me off with my mowers,
13 circle back, pick me up, jockey me around until I
14 became 16 and could drive.

15 At that point it was like halleluiaah, dad
16 was ecstatic, you know, go. From the age of 16, 17
17 on, I ran a small business of mowing lawns and doing
18 landscape work. My real concern is every spring I
19 look forward to these young kids coming into my
20 business. They are 16; they're 17. They are going
21 to take this money, work their way through college
22 which is what I did with my income. And I meet these
23 kids and I tell them the story I started one when I
24 was 15 and used that truck and that trailer and then
25 a bigger one and a bigger one and then a crew, went

1 on and on. Instantly you are putting out of business
2 young men mainly that are an entrepreneurial spirit
3 that I have sold trailers to last season or the
4 season before. Even if they comply with your regs,
5 they can't comply with being 18. They are 16 and 17.
6 And most of them are quite capable of doing it for a
7 season or two, so I have a real problem with the age
8 limit.

9 I believe you can -- I am not sure it's
10 changed since 911, but you used to be able to have a
11 private pilot's license at 16 or less so all around
12 the United States with this, unable to drive the
13 pickup truck half ton with a little single-axle
14 trailer down the street to mow a lawn.

15 And then the real concern I have is on
16 these combination vehicles, you know, we will sell
17 hundreds of trailers every year. That's my business.
18 It seems like the 10,000 GVW that's on just the
19 trailer alone has been a pretty good point to break
20 whether it's really commercial or light commercial.
21 So, now, you are taking it from that 10,000 GVW
22 trailer all the way down to something that's maybe a
23 3,000 pound, just a single axle.

24 So I don't know, when you combine
25 vehicles, it just really is shocking how many

1 vehicles it will affect. And on these combinations I
2 don't know if that's something you can adjust and
3 still receive federal funding within the state or
4 it's something we can't.

5 And another concern is Indiana borders
6 us. Indiana sells the majority of the RVs and the
7 campers and cargo trailers and utility trailers.
8 They have a large population that makes a living
9 delivering these trailers. I really don't think they
10 will ever, you know, go with this federal -- this
11 regulation, this stuff at 10,001. So that gives a
12 leg up to anybody that's out of state. Say they are
13 just across the border, Richmond, Indiana. They can
14 come into Ohio and operate and not have to comply
15 with any of this, so instantly we are giving people
16 out of our state a way to do business in our state
17 more economical than people in our state can do it.
18 So that's a concern.

19 COMMISSIONER ROBERTO: On just that point
20 I'm looking at Rob because he is going to smack me if
21 I get it wrong, but the folks from Indiana, if they
22 drive over the line to work in Ohio are covered by
23 the exact same regulation because they are already
24 under the federal requirements.

25 THE WITNESS: Okay.

1 COMMISSIONER ROBERTO: Federal
2 requirements already exist for the same size vehicles
3 that cross state line.

4 THE WITNESS: State lines.

5 COMMISSIONER ROBERTO: And the same size
6 vehicles are regulated inside the state if they are
7 for hire. The expansion is to types of businesses we
8 are talking about this evening that drive their own
9 vehicles.

10 THE WITNESS: So the minute they cross
11 the state line --

12 COMMISSIONER ROBERTO: Then they are
13 covered by the federal requirements. Did I get that
14 right?

15 THE WITNESS: Even if they don't have it
16 within their state at 10,1.

17 COMMISSIONER ROBERTO: Right.

18 THE WITNESS: That's good to know. Then
19 my last concern is on the felony situation. Out of
20 college I was an instructor with the Ohio Youth
21 Commission, so I truly believe in second chances. I
22 don't necessarily believe in third, fourth, and fifth
23 chances, don't get me wrong, and an individual that's
24 had a felony situation in their past has been in deep
25 trouble, and we all know that, but you have a lot of

1 individuals that might have had that in their past,
 2 10, 20, 30 years ago, that currently today are
 3 productive members of society, working driving a
 4 small dump truck for a contractor, working in the
 5 lawn care industry, that are viable, you know,
 6 additions to society, carrying their own weight.
 7 This instantly puts them on the unemployment role
 8 along with all the 16 and 17 years old entrepreneurs
 9 and that I don't like.

10 COMMISSIONER CENTOLELLA: Just on that
 11 point, and Rob can give us the correct information,
 12 there is a time limit and it varies. It's one year
 13 for the first offense.

14 COMMISSIONER ROBERTO: From the time of
 15 the offense.

16 COMMISSIONER CENTOLELLA: From the time
 17 of the offense and then three years for subsequent
 18 offenses so it's not, you know -- there is some limit
 19 on that, that in the federal rule.

20 COMMISSIONER ROBERTO: We had the same
 21 question.

22 THE WITNESS: Yeah. It's even a concern
 23 with the handout. I was to one of the downtown
 24 meetings at the PUCO. It seems like there is not
 25 enough depth in the communication to the public

1 because this just right here says cannot drive if
2 convicted of offenses, blank, blank, and blank. It
3 doesn't clarify that and so many of these
4 communications don't really get you right down to
5 brass tacks that you really need to know to be in
6 compliance.

7 COMMISSIONER ROBERTO: That is a very
8 fair criticism. We struggle between providing quick
9 overview and the real depth that you need. The real
10 depth that you need is on our website including
11 extensive questions that have come in every question
12 that has come in is answered and it's on the website
13 so if you go to the website, you can drill down in
14 and get all those answers. But we struggle when we
15 come to public education sessions on how to provide
16 an overview that doesn't weigh everyone down but
17 that's a very fair criticism, and I appreciate you
18 bringing that up.

19 COMMISSIONER CENTOLELLA: I just want to
20 follow-up, Mr. Rauck, your comment on combined
21 vehicles' versus trailers' weight alone. Can you,
22 you know, give us an idea if we were to just look at
23 trailer weight and length, you know, where is it --
24 you know, describe the trailers as they move up in
25 weight class and where the lines are.

1 THE WITNESS: Yeah. After selling for 30
2 years, it seems that the big break between what's
3 considered more of a commercial-type trailer is
4 10,001 pounds up for just the trailer GVW. That's
5 the size trailer that would be required to put under
6 like a real heavy-duty skid loader, a small farm
7 tractor with an implement on the back, bush hog.

8 Then once you drop beneath that
9 10,000-pound trailer then you get into smaller
10 two-axle trailers, and the vast majority of those are
11 7,000 pounds GVW. That's a trailer with four wheels,
12 electric brakes, you know, has to have a brake
13 control in the vehicle.

14 And then when you get down, the next drop
15 down from that is typically around 3,000, 3,500
16 pounds which is a lightweight, medium-sized,
17 single-axle trailer. It can be as small as something
18 5 by 8 or as large 6 by 12 area to put one mower and
19 some hand equipment on, but in the past we have, you
20 know -- we have people coming into our business all
21 the time we try and help get in compliance with the
22 brake controls and with the brake brake-away systems
23 and with the right brake safety chains and the right
24 tire capacities and axle GVWs and, you know, that's
25 something we do daily and I think you are at a good

1 point where you consider a commercial trailer 10,000
2 pounds and up -- or 10,001 and up. I think you are
3 at a good point because that makes somewhat of the
4 heavier industrial use two-axle trailers have to be
5 compliant.

6 And the majority of those are behind
7 maybe an F350, 450, 550, a fairly heavy-duty,
8 single-axle dump truck, and then the 26,000 I think
9 taking it all the way down to the combination of 10,1
10 is way too far. I could see moving the 26,000 to
11 20,000 combined which all of a sudden lets your lawn
12 care industry in general be, you know, under that
13 point of 20,000 but to go from 26 to 10 is just like
14 wow. I mean, you are going to have so many people --
15 I don't think you'll have 1 out of 100 people in
16 compliance with it for a long time.

17 It's too big of a step and I am all for
18 safety and obviously there is already laws in place
19 for brake controls and safety changes and brake aways
20 and lighting location and, I mean, there's tons of
21 regs out there that have to be followed as is.

22 COMMISSIONER CENTOLELLA: Thank you.

23 EXAMINER FARKAS: Louis McFarland.

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LOUIS McFARLAND

being first duly sworn, as prescribed by law,
testified as follows:

DIRECT EXAMINATION

EXAMINER FARKAS: Please state your name,
spell your last name, and state your address.

THE WITNESS: Louis McFarland,
M-c-F-A-R-L-A-N-D, I'm representing our company CK
McFarland and Sons, Incorporated, which has been in
business since 1948. I am the third generation. I'm
also representing the Ohio Land Improvement
Contractors of America, the Ohio Chapter, which has
160 members.

We had a meeting in January when we found
out about these regulations prior to that. And so we
had an individual come in and talk to us, and right
away everybody was up in arms. Like I say, being in
business since 1948, we try to abide by all the rules
and regulations as economically as possible.

Reflecting back to what Rauck said, I was
a pilot at 16. I only had my driver's license two
months prior to that, but I was flying airplanes. I
could have had -- well, I was flying solo at 15 years
old so most people in business are responsible people
or they are not going to be in business. I go to a

1 lot of auctions every year of people that don't
2 manage their business in a proper manner, safety
3 being one of them.

4 Being a family business I've used my wife
5 at times when an employee doesn't show up when I need
6 to move a pickup and a small trailer, you know, what
7 you doing, wife; she's found out that she doesn't
8 answer real quickly any more but. I've taken the
9 wife. I've taken my son at 16 and has drove the
10 pickup and the trailer in a very proper manner. I
11 don't think the age has anything to do with it. It's
12 the talent of the person.

13 Us being a small family business we
14 operate a 30- to 50-mile range and occasionally get
15 work across the street so we not only work our
16 township but 50 miles away from Circleville, Ohio.
17 There will be times I will take out in a pickup, go
18 to a job or work. In our business meeting that's a
19 \$50 fine to the scholarship fine. I'll gladly accept
20 it.

21 COMMISSIONER CENTOLELLA: My apologies.

22 THE WITNESS: But anyway start out in a
23 pickup but because I left the truck there and I need
24 that truck and trailer on the job tomorrow, I will
25 jump in that truck and run over there and have the

1 employee on another job, maybe bring the car up and
2 meet me at that job, and bring me home so and there's
3 times I've changed vehicles five times.

4 I own a total of 6 trucks and 10 trailers
5 and the biggest one being a class 8 which we haul the
6 oversized machines with under the permitted loads.
7 So we are very clear with all safety aspects of PUCO.

8 Talk to you about some of the time
9 elements. Two years ago I got stopped in a dump
10 truck, 55,000 GVW, and the first thing the inspector
11 said we need to get these old junk trucks off the
12 road. Now, it's a 1973 truck. I took a little
13 resentment to that. However, after two hours later,
14 the only thing he could find I didn't have my
15 physical card. It was at the pickup back at the job.
16 \$100 fine, case closed, no questions. So but the
17 two-hour holdup was a big factor. Why does an
18 inspection take two hours?

19 Now, we work under contract. If we are
20 not on the job, we are not producing. So that's not
21 only the time there but, you know, another man
22 because the other employee was waiting for me to get
23 there. He didn't have his cell phone that day.

24 The signage, I don't like the signage on
25 trucks because I'll take my pickup, go watch high --

1 granddaughter plays basketball or my grandson plays
2 basketball, and the minute they see utility
3 contract -- with a contractor on it, they are going
4 to pilfer it to no end. I have been pilfered seven
5 times when we had signs on the trucks within two
6 years. Sheriff never caught them, and the insurance
7 did pay.

8 Through our log keeping at one time we
9 had PUCO rights. We had two different numbers, so we
10 are very familiar with the PUCO regulations as far as
11 logbook keeping. And under today's standard we
12 figure it's going to cost 7,000 to 7,500 dollars per
13 year for the logbook requirements just due to the
14 paperwork.

15 And when my employee gets to the job, he
16 has -- he has got to keep the logbook, and then he
17 has to go to our company logbook for the billing
18 process and then back to the logbook to drive home
19 and then somebody has to decipher that and get the
20 paperwork in the proper channel.

21 But there was a couple of us guys sit
22 down, we was very honest in our calculations, that we
23 figure it's going to cost us \$7,500 per year per
24 employee. We do the inspections now of all our
25 vehicles just because when we go down the road, I

1 don't want to break down on the road. That is lost
 2 time, lost revenue. We are a hazard to the motoring
 3 public. I can truly say in the past 10 years we have
 4 been today in twice with a truck that broke down and
 5 that's -- there again, lost time, lost revenues, so
 6 we try to keep our trucks up and, no, I don't drive
 7 brand new stuff. We are still driving the '73 dump
 8 truck, '90 service truck, '92 pickup, and '95 pickup,
 9 so you can see we don't drive anything new, but we do
 10 maintain it. We don't want downtime, and we don't
 11 want the exposure being broke down along the road.

12 The securement, we went through that a
 13 couple of years ago when that rule come into effect.
 14 In fact, I put a program together to teach our
 15 contractors proper securement. I had a neighbor, he
 16 was a state employee, a highway patrolman, that done
 17 the PUCO inspections and he worked with me and we put
 18 this slide presentation together and we also give it
 19 at the national level so, I mean, that's very good
 20 but what's ironic is we all drive around the roads.
 21 Did you ever see a dozer or backhoe laying along the
 22 road? How many bales of hay or straw do you see
 23 along the road? But they are exempt.

24 The other thing about the signage on the
 25 trucks we have get two to three calls someone calling

1 your truck just lost something off of it and broke a
2 windshield on my truck or on my car, usually a car.
3 And they will just swear up and down it was your
4 truck and it was red and it was out like down by
5 Williamsport. Well, there's only two of us driving
6 that day and all my trucks are white and we was in
7 Plain City. So the signage, all that does is create
8 a lot of people a reason to try and harass you for
9 ping-pong of a windshield and that's not very good.

10 Like I said, the time I did -- or I did
11 get stopped by the PUCO a two-hour downtime. He had
12 a real big problem with the bill of lading. I had a
13 dump truck and, there again, he was -- he really
14 harassed me over it and he said what have you got? I
15 said I got 2 ton brick wrap. Well, prove it's 2 ton.
16 I said you prove it's not. The job was a contract
17 job. The job that I bid was to furnish all the
18 material, and he knew it wasn't overloaded, but the
19 harassment I received from that was definitely not
20 acceptable. Like I told him, why is it any of your
21 business? It's my truck, my job. Why do I need a
22 bill of lading? He never could answer that. So that
23 was another problem we've had.

24 The way I see it it's nothing but a cash
25 cow, unhidden tax or taxation without representation.

1 And I want to do everything I can to defeat it
2 because it's just I am only two years away from
3 retirement, but you know what, I might be next month
4 because I'm tired of fighting stuff. And this is a
5 definite, you know, hazard to the small business not
6 only in Ohio but nationwide because everybody thinks
7 it's Ohio but it's nationwide and I was past
8 president of the Ohio LICA chapter two years ago,
9 national president five years ago. Thank you.

10 Any questions?

11 COMMISSIONER ROBERTO: Just a quick one
12 and thank you. I really appreciate the efforts that
13 you put into safety in your work with load securement
14 and sharing your knowledge with others in your
15 profession. I'm grateful for that. My question goes
16 to the distance that your drivers go with your
17 vehicles that are under 26,000 pounds.

18 THE WITNESS: Yes.

19 COMMISSIONER ROBERTO: When you are
20 talking about the logbook, there is an exemption if
21 you don't go past the 150 -- 150 miles. Are you
22 going past --

23 THE WITNESS: You still need to do the
24 pretrip and post-trip.

25 COMMISSIONER ROBERTO: The inspections.

1 THE WITNESS: Have you ever done one?

2 COMMISSIONER ROBERTO: I have not.

3 THE WITNESS: Have you ever seen the
4 paperwork it takes to do one?

5 COMMISSIONER ROBERTO: I have not.

6 THE WITNESS: You are looking at two
7 pages at least, and it takes an hour every day. I am
8 not going to leave that site without walking around a
9 truck, turning the lights on, and checking all the
10 lights and so forth. But I'm not going to take -- to
11 work every wheel lug. I am not going to check the
12 air pressure on every tire, you know, but I will
13 check to make sure the lights are secure. You have
14 got to remember I've got grandkids going up and down
15 the road. I have got family going up and down the
16 road. The last thing I want is for them to have --
17 suffer through anything that I've done, you know,
18 from stupidity. I am not going to do that. Most
19 smart business owners are that way.

20 There's an exemption to every rule but I
21 think the ones you are trying to catch, they are
22 going to sneak by anyway.

23 COMMISSIONER ROBERTO: Would you do me a
24 favor? If you could, on the website you have got the
25 form, whatever the form is that's required, if you

1 could take that and just mark it up as to what you
 2 think is reasonable. I mean, you talk about the fact
 3 that you as a reasonable and very safe business owner
 4 walk around your truck and look for things. Could
 5 you mark up our form and send it back in to the
 6 docket and say, yes, I do these things? These are
 7 things that are reasonable because what I am hearing
 8 you say what you are asking for is not but then
 9 something is.

10 THE WITNESS: Right.

11 COMMISSIONER ROBERTO: If you could help
 12 me understand what that is, that would be very, very
 13 helpful.

14 THE WITNESS: The thing you have got to
 15 remember if I am working 50 miles away from home and
 16 I am working by myself, if I am going to drive a bad
 17 truck, how am I going to get home because the wife
 18 isn't going to come get me. I already got her mad.

19 COMMISSIONER ROBERTO: Thank you.

20 COMMISSIONER CENTOLELLA: I want to thank
 21 you as well for that, and I just want you to know --
 22 encourage you if there are commonsense things that we
 23 can do, you know, to address those, you know,
 24 exceptions that, you know, that I not be doing best
 25 practices but, you know, could be educated, could be

1 doing things around securement or around sort of
2 basic truck safety like there are specific things
3 that you think would be helpful and beneficial there
4 but wouldn't create these excess burdens, to begin to
5 identify those would be very helpful.

6 THE WITNESS: Thank you.

7 EXAMINER FARKAS: Cheryl Grossman.

8 - - -

9 REPRESENTATIVE CHERYL GROSSMAN

10 being first duly sworn, as prescribed by law,
11 testified as follows:

12 DIRECT EXAMINATION

13 THE WITNESS: I'm State Representative
14 Cheryl Grossman, G-R-O-S-S-M-A-N, and my work address
15 is 77 South High Street, Columbus, Ohio 43215. I
16 don't want to repeat. I know this has been a long
17 night. I want to thank everyone that's taken the
18 time to be heard by the PUCO.

19 I am the sponsor of House Bill 82 and it
20 was introduced approximately two weeks ago and after
21 hearing testimony tonight, I am that much more
22 determined to tell you that I will fight until the
23 end to make sure that we are successful with that
24 bill. I have senators that will be carrying it in
25 the Senate and it has bipartisan support and this

1 started out for me with a call from Chuck Buck who
2 owns Buck and Son Nursery Landscaping who lives in my
3 district and that was in early October, if I recall
4 correctly. He says, Cheryl, have you heard about
5 these new PUCO rules? I didn't. But I always like
6 it make sure I'm educated on the facts of them, the
7 matter that we are dealing with.

8 So I attended the PUCO hearing that was
9 hosted I believe in mid-October and I was astounded
10 to see the number of people and hear the stories of
11 the difficulties this puts you in as small business
12 owners throughout our state. And I listened to
13 Goodwill Industries indicate that they would have to
14 let all of their drivers go. These are people we are
15 trying to rehabilitate. I listened to Columbia Gas
16 who contacted me shortly thereafter and said they
17 would have to let nine drivers go because of their
18 high blood pressure that were all on medicine.

19 And Mr. Buck's situation, he has 27
20 employees, 20 trucks, and he did a very detailed
21 analysis at my request on what it would cost him
22 additionally, \$192,000 annually to comply with his
23 regulation.

24 The hearing that I attended in October,
25 your own information that you shared with the group

1 had a picture of the United States. Out of 50 states
2 only 25 are compliant with rules that as I understand
3 have to do only with hazardous material carriers and
4 the \$6 million that Ohio receives from the federal
5 government to comply with those hazmat carriers.

6 The people we are talking about here
7 tonight don't carry hazardous materials. They are
8 small businesses that are struggling in a very
9 difficult economy and I heard interestingly your
10 comment about commonsense. I think commonsense has
11 been absent in this process by the PUCO to create
12 these rules and regulations and very difficult
13 situations for our businesses that are making Ohio
14 survive through these difficult times so.

15 And for the question on the farmer in the
16 back, I hope he remembers if he does anything for
17 hire, that he is no longer exempt if he chooses to do
18 contracting or landscaping on the side because, by
19 golly, I want you to make sure you know what you are
20 up against and I hope that you will stand with me. I
21 don't want to be inconsiderate to the PUCO for
22 hosting this listening opportunity. And it was
23 interesting because after I drafted my bill, so many
24 people have contacted me from across the state
25 saying, gee, we don't need to come to these hearings

1 because you've introduced legislation. I said I
2 really think it's important.

3 As past mayor of this city, this room
4 holds over 100 people, and when I got here, it was
5 standing room only, so I think that's real indicative
6 of the people that are concerned of what's going on
7 here. So sorry that we haven't been able to reach
8 some kind of common ground beforehand and I will
9 always stand up and defend the people of Ohio that
10 have made us successful and brought us to this point
11 in time, and to penalize these businesses and these
12 families is one of the most unforgivable things that
13 I can imagine.

14 Any questions? Thank you.

15 EXAMINER FARKAS: Do you have any other?
16 Charles Buck.

17 MR. BUCK: I am going to defer. You
18 asked if we agreed with testimony provided. I do
19 agree with testimony.

20 EXAMINER FARKAS: Trent Hulbert.

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TRENT HULBERT

being first duly sworn, as prescribed by law,
testified as follows:

DIRECT EXAMINATION

THE WITNESS: My name is Trent Hulbert,
H-U-L-B-E-R-T. I have food trailers. I am a member
of the Greater Ohio Showmen's Association. Just a
little background, I have one commercial truck I use
in my business, and I have three trailers I use, all
food trailers as I said.

A couple things I wanted to address was
the logbook and the hours of service as it pertains
to me. My truck I put an average of about 5,000
miles a year on. The trailer that I use the most
probably gets between 1,000 and 1,500 miles. And I
think throwing me into the same category as an
over-the-road trucker or somebody who trucks stuff or
freight for a living is -- is like comparing apples
and oranges.

I am the only driver. I don't hire
drivers. I have part-time employees that work for me
now and then; maybe the same people every week, may
not, spot labor. But, you know, if I want to send my
wife or my kid who is 23, you know, when he is home,
if I would need to send them to like maybe go get

1 some more supplies, potatoes or whatever, you know,
2 they won't -- wouldn't be able to get in my truck, my
3 pickup, and go get it because they don't, you know,
4 have a logbook or a health certificate or anything
5 like that. And I just, you know -- I think that's --
6 that's ridiculous.

7 And for the amount of paperwork on, you
8 know, pretrip, post-trip, you know, I will be
9 spending as much time doing paperwork or more time
10 than what I do actually to drive into my spots to
11 work. And my season encompasses the last of April
12 through about three-quarters of October, and that's
13 not every week, getting to the fairs which basically,
14 you know, August -- July, August, and September I am
15 pretty much busy every week.

16 But I just -- I just don't see the need
17 for this type of, you know, extra work because I do
18 Workmen's Comp. on my employees, and I do -- as far
19 as my fines and different things, I have -- I do have
20 an accountant that does my business.

21 You know, I have always done my own
22 mechanic work. I've worked on vehicles since I was
23 16 years old and my parents were in the business. I
24 grew up in the business. And my kids are in college,
25 20 and 23, but, you know, for these guys who use

1 younger drivers, you know, like my oldest son I let
 2 him pull a trailer because he was mature enough when
 3 he was 16. My youngest one I didn't when he was 16.
 4 But I, you know, sort of resent, you know, that if we
 5 go back, you know, seven years ago, that they
 6 couldn't do it if I need them because I am the only
 7 one that pulls, either me or one of -- my oldest kid.
 8 If he is not in town, if I can get him home for a
 9 weekend if I need some help, he'll pull, and my wife
 10 will pull now and then, but she has, you know, a
 11 full-time job. She is a principal and, you know, so
 12 basically it's just me so.

13 And the hours of service rules, there's
 14 just like no way I could run my business working 10
 15 hours a day because in the amusement business we open
 16 anywhere between 9 and 12 in the morning and we
 17 close, you know, 11 o'clock, midnight. You know, by
 18 the time you wind down, restock your trailers, so
 19 some places when the event is over, we have to pull
 20 and go to the next spot because they open the next
 21 day so by, you know, forcing the logbook or saying I
 22 worked 10 hours a day, I can't -- I can't run my
 23 business and put in 10 hours a day.

24 You know, if we -- if we ask a farmer to
 25 work 10 hours a day, we would all starve. And you

1 know the thing is when -- I'm against just applying
2 the rules to a one ton truck in general because when
3 you are on the side of the road, you're at the mercy
4 of that inspector, okay? Now, they might not do some
5 things that's right, but at the time, you know, it's
6 up to you to find it later which is just another
7 expense and takes more of your time.

8 And I am also against having to put
9 lettering on the side of my truck. You know, for
10 somebody like me and other businesses like me, I
11 always thought that's why we had license tags for
12 because when I use my truck to go camping which don't
13 happen very often, but I really don't want to drive
14 around with Halter Concessions on the sides of my
15 truck and especially in this day and age. It makes
16 you a crime target, I feel.

17 But that's -- you know, so I am basically
18 against everything. You know, if I get pulled over
19 for just a certain safety inspection, I have no
20 problem with that. I mean, that's just, you know,
21 the way it is when you run a commercial vehicle but,
22 you know, we have to have our names on our trailers,
23 and I just don't see the need for somebody like me
24 and maybe some of these other guys why they would
25 have to have their name on their truck.

1 But anyway I guess that's basically it
2 unless you have any questions.

3 COMMISSIONER ROBERTO: I just had one.
4 Mr. Rauck talked to us a little about the sizing and
5 he had opinions about the size of a trailer that
6 should be subject to regulation. How big are the
7 trailers that you have?

8 THE WITNESS: My heaviest one might weigh
9 6,000 pounds. I mean, my truck probably weighs more.
10 My trailers in my business are basically considered
11 small. But I have a one ton dually because I've
12 always used a heavier truck than what I need because
13 it's just easier on equipment. It's, you know -- you
14 can't kill it. You know, it's a Dodge diesel, and
15 I've always, you know, used that, you know.

16 I got -- the one double axle has 15-inch
17 tires. My other double axle, it's double axle but it
18 has 15-inch, 4-ply tires. And then my other trailer
19 is a single axle, but I like a dually because it's,
20 you know, good, stable truck. You can't beat a
21 dually for pulling and stuff. I don't need it to
22 pull my size of trailers but, you know, it's what I
23 like and I don't think I should be penalized just
24 because I happen, you know, to have a one ton truck.

25 As a matter of fact, the truck I drive

every day is a dually Dodge flatbed. You know, that's what I use in my business, but I just like driving trucks but, you know, that's -- so my trailers aren't that big, and I don't know what an average would be of what trailers in my business weigh, but mine are on the lighter side, you know.

COMMISSIONER ROBERTO: Thank you.

EXAMINER FARKAS: David Specht.

MR. SPECHT: My name is David Specht.

--

DAVID SPECHT

being first duly sworn, as prescribed by law, testified as follows:

DIRECT EXAMINATION

THE WITNESS: David Specht, S-P-E-C-H-T, 550 Schrock Road, Columbus, Ohio 43229.

First, I would like to go on record that I support everything that everybody else testified to tonight to begin with. I wasn't planning on coming up this evening to speak but a couple observations that they are a little painful for me.

First of all, I will tell you I have got a plumbing business in town. I am not small, I'm not large, but I do employ about 65 people. I have got about 45 trucks on the road that are going to be

1 impacted by this, could be impacted by this. I do
2 have 23,000-, 26,000-pound trucks and trailers that
3 we already follow regulations and rules required by
4 that.

5 But I want to step back to what I have
6 heard tonight and how it feels. My father was a
7 small businessman. And the observation I feel is
8 that some of the questions that have been asked back
9 to some of the gentlemen that testified up here and
10 you are asking them, well, what would you do? The
11 gentleman, the landscaping company in Plain City, so
12 how do you make sure it's safe or, you know, look at
13 this list and tell me what's acceptable to you.

14 I think we are making assumptions that
15 these small businessmen don't pay attention to what
16 it takes to be in business and to continue to
17 operate. We already have plenty of big brothers and
18 big sisters that watch us, Workers' Comp., OSHA, our
19 liability insurance. Some of us have adopted
20 policies in place that we've already invested to have
21 to change drug-free workplace policies to bid on
22 state jobs or basically good practices. They have
23 got handbooks that are in place that have been
24 certified, pre-employment drug tests for hiring and
25 post-accident drug tests.

1 We -- a lot of our companies -- a lot of
2 these companies in these trades, in landscaping,
3 plumbing, heating, electrical companies that you
4 are impacting operate their businesses for the
5 betterment of trying to make a living and to get to
6 retirement.

7 And I heard tonight where I felt like
8 that maybe they were -- some of the people that were
9 testifying tonight were maybe kind of being
10 questioned on what practice do you have, how do you
11 know your vehicles are safe, or how do you know your
12 drivers are sober in the morning? I think that's
13 probably a bad assumption on -- on the part of, you
14 know, observing or listening that us as
15 employee/employers don't observe that or don't do a
16 little gut check in the morning or don't have things
17 in place.

18 So I think that hurt a little bit just
19 listening on the small employment side. I've got
20 three things just to get -- to clear up and to talk
21 about, and one is they brought up earlier the
22 termination of an employee that does not qualify. I
23 have two employees I jumped in October. I couldn't
24 afford not to be on the road with my trucks. I
25 jumped. I sent 38 people to get their med card

1 immediately so there was about -- that's about 100
2 hours wages plus the cost of the med cards plus
3 follow-ups.

4 I have got two employees that have not --
5 or that are questionable on passing. One is a
6 diabetic. One has got hard of hearing. I do
7 question the -- what the law would say if I
8 terminated them because they could not now get their
9 med card to be able to drive our service vehicles.
10 That's a concern that I would have. I heard someone
11 bring it up earlier this evening. It just might be
12 something to look at. I don't know what you do with
13 that.

14 The other thing that's big to me from a
15 service company, and I heard guys talk about from
16 seasonal, is the hours of service, hours of
17 operation. We are a 24/7/365 company like a lot of
18 contractors that provide services to the commercial
19 businesses, hospitals, universities, homeowners, and
20 the grouping of the hours of operation in with the
21 hours of driving I think are two different categories
22 and deeply concerns me. I was drastically impacted.
23 The way I operate my business it directly impacts the
24 my wages of staff, directly impacts the service to
25 important -- to me I think important institutions, as

1 I said, potentially hospitals, impact the service at
2 your home, possibly 24-hour service emergency in the
3 middle of a night whether it's a furnace or broken
4 water line. I think that's something that would have
5 to be cleared up, but I see it as a negative on some
6 service companies.

7 On top of that the pretrip/post-trip
8 inspections traditionally and some of the service
9 from our service company, it's your vehicle but you
10 start in the morning, you take it home at night, you
11 have the option to do that. So, now, I am going to
12 do a post-trip in the evening, and I am going to have
13 to do another pretrip in the morning. It's possible
14 I'm not driving the same vehicle all day, and I have
15 got multiple drivers driving that vehicle.

16 So I do think the documents to file and
17 the paperwork becomes a burden from -- for blue
18 collar individuals themselves but then that burden
19 and expense gets added administratively inside with
20 the filing and the administrative filing and if it
21 becomes law, it's law and I heard many people say
22 that they would have to do the best they could and I
23 heard this gentleman say if I have to do an
24 inspection on my trucks, I am going to do an
25 inspection on my trucks. I'm not going to mark all

1 the check boxes so those were just a couple comments,
2 couple concerns I had. So I appreciate the
3 opportunity.

4 COMMISSIONER ROBERTO: I would like to
5 apologize. I think that your observations about the
6 way I ask questions is fair. Please don't take my
7 inartful questioning as a challenge to anybody here
8 that they were not doing those things. I was really
9 trying to learn from the questions that I ask how
10 could it be done in a way that aligns with the way
11 you operate your business daily anyway assuming what
12 I was hearing was really safe operations and what I
13 want to learn from these safety operators was what
14 are these best practices that you find helpful and
15 what can we learn from those if we wanted to have
16 regulations that aligned with those?

17 THE WITNESS: I think listening to
18 businesses you probably have unique things apply to
19 try to -- on the small business side, I do think it's
20 in the like over-the-road driving. Over-the-road
21 driving is -- that is a black and white model and
22 when we listen to the different trade people and
23 different associations, you don't have a black and
24 white model in these small businesses, whether it's a
25 business of three people and they are all family or

1 whether it's a business of 8 or 10 people and you've
2 got Hispanics that you have to struggle to
3 communicate you have to do the inspection on those
4 trucks or do the communication. So it was just an
5 observation.

6 COMMISSIONER ROBERTO: No, that's fair.

7 THE WITNESS: What are you doing? Tell
8 us what you are doing and maybe you should do
9 something different.

10 COMMISSIONER ROBERTO: I appreciate that.
11 Thank you.

12 EXAMINER FARKAS: That completes the list
13 of people that signed up to testify so I would like
14 to thank everybody for coming out and giving us your
15 comments. And with that we will be adjourned. Thank
16 you.

17 (Thereupon, the hearing was adjourned at
18 7:16 p.m.)

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CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Wednesday, February 9,
2011, and carefully compared with my original
stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-5317)

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in

Case No(s). 09-0223-TR-ORD

Summary: Transcript Transcript of Public Hearing in Grove City held on 02/09/11. electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.