

*Before the*

**United States House of Representatives**

**Committee on Homeland Security,  
Subcommittee on Transportation Security**

**Statement of**

**Martin Rojas  
Vice President, Safety & Operations  
American Trucking Associations**

*On*

***MODERN Security Credentials Act***

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**950 N. Glebe Road  
Arlington, VA 22203  
703-838-1996**

## **Introduction**

Chairman Rogers and members of the Subcommittee on Transportation Security, thank you for the opportunity to testify today on the MODERN Security Credentials Act. My name is Martin Rojas and I am Vice President for Security and Operations at the American Trucking Associations (ATA). Founded in 1933, ATA is the Nation's preeminent organization representing the interest of the U.S. trucking industry. Directly and through its affiliated organizations, ATA encompasses over 37,000 companies and every type and class of motor carrier operation.

The trucking industry is an integral component of our Nation's economy transporting more than 80% of our nation's freight bill and employing approximately 7 million workers in trucking-related jobs, including over 3 million commercial drivers. It is important to note that the trucking industry is comprised primarily of small businesses, with 97% of trucking companies operating 20 trucks or less, and 90% operating six trucks or less.<sup>1</sup>

More importantly, about 80 percent of all U.S. communities depend solely on trucks to deliver and supply their essential commodities. Included in these deliveries are roughly 800,000 daily shipments of hazardous materials that provide chemicals for water treatment facilities, medical products and supplies, vital manufacturing inputs, and a number of other products that are important components of our daily lives. In terms of product value, tonnage, and number of shipments, trucks move more hazardous materials than all other transportation modes combined.<sup>2</sup>

## **Background**

ATA and its members are grateful for the hard work and bipartisan leadership demonstrated by the Homeland Security Committee and the U.S. House of Representatives in passing the SAFE Truckers Act of 2009 (H.R. 2200) in the 111<sup>th</sup> session of Congress. By passing the bill, the House underscored the importance of establishing a risk-based approach for the transportation of hazardous materials and the need to consolidate the multiple background checks required of commercial drivers. Unfortunately, the SAFE Truckers Act was not passed by the full Congress and did not become law.

ATA believes that the MODERN Security Credentials Act, if signed into law, will have the same positive impact of reducing the burdensome requirements of multiple background checks and of excessive fees and costs faced by commercial drivers and trucking companies.

Both the Hazardous Materials Endorsement (HME) screening program and the Transportation Worker Identification Credential (TWIC) impact large portions of the commercial driver population. About 1.5 million drivers have undergone the HME screening since the program was initiated in May 2005, and roughly 340,000 "known"

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<sup>1</sup> American Trucking Associations, *American Trucking Trends 2011* (March 2011).

<sup>2</sup> See Bureau of Transportation Statistics, *2007 Commodity Flow Survey* (January 2011).

commercial drivers have undergone a TWIC screening<sup>3</sup>, by far the largest single population of TWIC holders by job description operating at maritime facilities.

### **ATA Concerns with Current Screening Processes**

To illustrate ATA's concerns with the present screening processes, consider the following scenario: if a driver who possesses a TWIC, after paying \$132.50 for the credential, is required to also transport hazardous materials, the driver must obtain an HME on his or her Commercial Drivers License (CDL). Even though the driver has already undergone a TWIC screening, an additional and identical screening under the HME program must be done before a State can issue an HME on the driver's CDL. The HME screening costs \$89 if the driver resides in one of the 38 states, plus the District of Columbia, that use TSA's contractor to gather a driver's biometric and biographical information. There are 12 States that collect driver information and fingerprints using their own processes before sending it to TSA for adjudication. Some of these 12 States charge less than the TSA contractor while others charge more, some as high as \$150.

By ATA's estimate, the TWIC and HME screenings have so far cost commercial drivers nearly \$180 million in fees alone<sup>4</sup>, not including lost wages for time off work to undergo the application and fingerprinting processes. More time, and the related costs, is required for a driver to pick up the credential and activate it at a TWIC facility.

Using TSA's own numbers there were approximately 2.7 million commercial drivers with HMEs in 2004<sup>5</sup>. Today, after having already completed a full cycle of HME renewals on the truck driver population, there are approximately 1.5 million commercial drivers with HMEs.<sup>6</sup> The drop in the population of drivers with HMEs is not a result of applicants being disqualified during the screening process – less than 1 percent of applicants have received final disqualification letters and those have mostly been issued because the drivers did not understand and avail themselves of the screening program's appeal and waiver process.<sup>7</sup>

ATA believes that the reduced number of HME holders is due primarily to the costs and the burden on commercial drivers of the fingerprinting and application process for getting an HME. Some trucking companies with a small percentage of hazardous materials loads have even stopped transporting such cargo to avoid burdening their drivers with the HME screening. Keep in mind that the trucking industry faces a continuing driver shortage of qualified commercial drivers. Any requirements that increase the burden of entry for drivers, such as multiple background checks, only

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<sup>3</sup> TSA compiled statistics show about 340,000 applicants who list their job description as drayage drivers or truck drivers. However, about half of all TWIC applicants have not specified their job description, which could include commercial drivers.

<sup>4</sup> ATA arrives at this figure as follows: 1.5 million commercial drivers with HMEs x \$89 = \$133.5 million, plus 340,000 drivers x \$132.50 = \$45 million, for a total of \$178.5 million.

<sup>5</sup> 69 *Federal Register* at 68739 (November 24, 2004)

<sup>6</sup> This number has been provided by TSA personnel during meetings of the Highway Motor Carrier Government-Sector Coordinating Council. TSA has stated that an average of 25,000 commercial drivers underwent the HME Screening in the first full five years of the program: 60 months x 25,000 = 1.5 million.

<sup>7</sup> TSA has shared with ATA staff that applicants that have received final disqualifications letters, for both the TWIC and HME programs, represent less one percent.

compounds the challenge for trucking companies to attract, hire and add new drivers to their payrolls.

ATA and its members support a comprehensive security-related background screening for commercial drivers. However, the trucking industry opposes government programs that require drivers to undergo multiple background checks to perform the very same security threat assessment. Because of the multiple screening programs in place today, ATA has long supported the original concept of the TWIC: one application and enrollment process, one fee, one security threat assessment, and a single credential that transportation workers may carry to demonstrate compliance with multiple access control security requirements.

If the MODERN Security Credentialing Act becomes law, it will establish an important precedent for consolidating multiple, costly screening programs into a single security threat assessment and credential with multiple applications for transportation workers. ATA believes this is a very important and achievable goal.

### **Key Issues in MODERN Security Credentialing Act**

I would like to briefly highlight specific areas that have been included in the proposed bill under Title XXI that the trucking industry views as vital to ensure it meets its intended goals.

#### **Sec. 2101 Transportation of Security Sensitive Materials**

ATA strongly supports establishing a risk-based approach to the transportation of security sensitive hazardous materials (SSM). The bill recognizes that not all hazardous materials represent the same security risk – paint, food coloring and soft drink syrup are not materials that can be utilized as weapons by terrorists.

This section also establishes the TWIC as the background check and credential required to transport SSM. ATA also supports this provision. Establishing the TWIC as the background check process and credential not only mandates the consolidation of screening programs for drivers, but it also returns the HME to its original purpose of establishing an individual's fitness to safely operate a commercial vehicle transporting placarded loads of hazardous materials. It is important to remember that the HME was established as an additional "safety" component of a driver's CDL to ensure that a driver has the necessary knowledge and understanding for the safe and compliant transportation of hazardous materials.

#### **Sec. 2102 Enrollment Locations**

ATA supports this language to ensure that commercial drivers have the greatest level of flexibility regarding the locations and hours of operations for undergoing the application process and for receiving and activating the TWIC.

#### **Sec. 2103 Commercial Drivers from Mexico or Canada**

ATA supports this section requiring commercial drivers from Canada or Mexico to undergo a background check that is equivalent to what U.S. commercial drivers are

required to undergo. It should be noted that TSA presently allows Canadian or Mexican drivers to satisfy the requirements under 5103a of title 49 by successfully undergoing a background check and obtain either a TWIC or Free and Secure Trade (FAST) card.

#### Sec. 2104 Redundant Background Checks

ATA supports the proposed bill's mandate that the TWIC serve as a uniform nationally accepted background check screening program for the transportation of SSM. This means that States and thousands of local jurisdictions should not be allowed, without demonstrating some compelling need, to require additional security background checks and/or credentials for individuals that have a federally-issued TWIC.

However, ATA believes the language Sec. 2104(a) should be amended to read as follows:

“(a) IN GENERAL. ----- The Secretary shall prohibit a State or political subdivision thereof from requiring a separate security background check of an individual seeking to transport ~~security-sensitive~~ hazardous materials.”

The change to “hazardous materials” is essential to ensure this section achieves the goal of establishing a risk-based approach for the transportation of hazardous materials. Otherwise, if this language is not changed as suggested above, it could result in non-federal political entities continuing to require background checks on drivers transporting any type of hazardous material. Furthermore, this very same language was included by the Homeland Security Committee and passed by the House of Representatives in the SAFE Truckers Act under Section 2107.

#### Sec. 2105 Transition

ATA supports allowing commercial drivers that have already undergone an HME screening to transport SSM until the expiration of their present HME.

ATA also supports the need for reducing the fees associated with the TWIC.

### **Conclusion**

ATA supports the MODERN Security Credentialing Act. The screening of individuals involved in the transportation of goods is important to the trucking industry. Our industry has long supported a national, uniform process to check a commercial driver's criminal history. However, the present multiplicity of background checks for commercial drivers, and their associated costs, creates a significant challenge for the recruitment and retention of qualified drivers. Simply stated, if there are comparable jobs in other sectors with less stringent barriers to entry, potential drivers will likely seek those jobs first.

Again, on behalf of ATA and its members, I thank you for the opportunity to share some comments and our suggestions regarding the MODERN Security Credentials Act. I look forward to answering any questions by the Members of this Committee.