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Bill Graves
President and Chief Executive Officer

August 24, 2015

The Honorable John Thune
Chairman
Committee on Commerce, Science & Transportation
United States Senate
Washington, D.C. 20510

The Honorable Bill Shuster
Chairman
Committee on Transportation & Infrastructure
United States House of Representatives
Washington, D.C. 20510

The Honorable Bill Nelson
Ranking Member
Committee on Commerce, Science & Transportation
United States Senate
Washington, D.C. 20510

The Honorable Peter DeFazio
Ranking Member
Committee on Transportation & Infrastructure
United States House of Representatives
Washington, D.C. 20510

Dear Chairmen Thune and Shuster and Ranking Members Nelson and DeFazio:

On behalf of the American Trucking Associations (ATA), I am writing to share with you the facts about hair testing and urge your support for section 32611 of the DRIVE Act (H.R. 22), also known as the Drug Free Commercial Driver Act of 2015 (H.R. 1467/S.806). Organized labor groups recently wrote to you expressing their concerns regarding hair testing legislation. Many of their claims about hair testing are based false notions and outdated science. Here are the facts.

Every day thousands of hair tests are performed worldwide within both the private and public sectors. Many Fortune 500 companies like General Motors, Kraft Foods, Shell Oil, and British Petroleum (BP) use hair testing to identify drug users before they enter their operations. Also, dozens of large U.S. trucking companies likes J.B. Hunt Transport, Knight Transportation, Maverick Transportation, and Schneider National Carriers conduct hair testing as part of their drug use prevention programs. These companies' adoption of hair testing stands as a strong endorsement of its validity and efficacy. So many large, sophisticated, companies would not implement such a testing process if it were unsound and would subject them to costly wrongful termination claims.

Their reason for using hair testing is laudable. Hair testing is an effective tool for identifying drug users due its long detection window and because it is difficult for donors to beat the test. For instance, Schneider National Carriers, one of the largest for-hire trucking company in the United States, identified 2,066 driver applicants who had used drugs based on hair test results; only 182 of them had tested positive on urine tests. Hence, 1,884 drug users could have been driving for Schneider if they had not implemented a hair testing program for pre-employment screening. Similarly, since implementing pre-employment hair tests, two large motor carriers employing over 25,000 drivers have reduced their post-accident testing rates to

zero. In other words, they have eliminated crashes in which drug use on the part of the truck driver may have been a factor. Further, a survey of just four large carriers revealed that, this year alone, 706 drivers failed hair tests but passed urine tests.

Regrettably, the redundant cost of conducting both DOT urine tests and hair tests has deterred many fleets from adopting hair testing programs. Having hair testing as an accepted federal method of testing would give all fleets the option to do so, absent the need to conduct costly, redundant, urine tests. Also, since hair testing is not currently recognized as an alternative specimen by DOT, positive hair test results cannot be reported to subsequent employers. In fact, ATA is aware of thousands of truck drivers who have tested positive for illegal drug use on hair tests, and have obtained driving positions with other carriers because they were subsequently able to pass DOT-required urine tests. Several of these drivers have had crashes and, of course, future ones are likely as a result. If the organizations writing to you had their way, fleets would continue to be deterred from using an effective means to identify these drivers and would keep them on the road.

Given the widespread popularity and worldwide acceptance of hair testing, the Department of Health and Human Services' (HHS) Drug Testing Advisory Board (DTAB) recently unanimously approved recommendations that state, "*Based on the review of the science, DTAB recommends that [HHS] pursue hair as an alternative specimen in the Mandatory Guidelines for Federal Workplace Drug Testing Programs, including performance standards that sufficiently address external contamination and hair color impact."* The DRIVE Act requires HHS to move quickly to complete, since the agency has a history of moving very slowly on implementing changes to the drug testing guidelines.

Organized labor's concerns regarding environmental contamination and racial bias are unfounded and overblown. Hair testing labs have made significant strides in distinguishing positive results due to environmental contamination from those attributable to illegal drug use. Accredited hair testing laboratories employ robust washing processes, now standard in the industry, to rid samples of external contamination. Of importance, an August 2014 Federal Bureau of Investigation (FBI) study established extensive washing as an effective method for decontamination.[1]

Organized labor's concerns regarding racial bias are also without merit. In 2011, the Transportation Research Board (TRB) published a synthesis of research on drug and alcohol testing in the truck and bus industries, including a review of alternative specimens. The authors evaluated 15 articles relating to the effect of melanin levels and race on hair test results. Though some found drug levels were slightly higher in darker color hair, none of the reviewed articles found direct support for the race bias hypothesis. The publication went on to point out that the apparent inconsistency in hair color may be explained by the fact that different ethnic groups have different patterns of drug use.[2]

Despite claims to the contrary, hair testing has been validated by a number of reputable organizations worldwide. Hair testing laboratories now meet international and domestic accreditation standards, which include accreditation to the ISO/IEO 17025 International Standards, the College of American Pathologists (CAP), FDA clearance of hair testing screening assays, and the New York State Department of Health

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[1] Analysis of Extensively Washed Hair from Cocaine Users and Drug Chemists to Establish New Reporting Criteria. Morris-Kukoski C., Mongomery M., and Hammer R., J Anal Toxicol 2014; 38:628-636.

[2] Kelly, R.C., T. Meiczkowski, S.A. Sweeney, and J.A. Bourland, "Hair Analysis for Drug of Abuse. Hair Color and Race Differentials or Systematic Differences in Drug Preferences?" *Forensic Science International*, Vol. 107, 2000, pp. 63-86.

Toxicology certification for hair testing laboratories. Also, hair testing laboratories participate in proficiency testing programs with the Society of Hair Testing (SoHT) and the European Workplace Drug Testing Society (EWDTS). With strong international and domestic accreditation standards behind them, hair testing results are routinely accepted in court proceedings every day. Importantly, the sole case organized labor points to in their recent letter to you is still under consideration by the courts.

Hair testing is a validated, proven, effective method for detecting illegal drug use that has been widely embraced by private industry and many governments worldwide. Congress needs establish a strict timeline for HHS to integrate hair testing into the mandatory drug testing guidelines. In the interim, given HHS' track record of slow progress, Congress should remove impediments to the adoption of hair testing by trucking companies that follow industry standards and use labs that have earned accreditation. Moreover, Congress should reject efforts to protect the employment of drivers whose drug use might otherwise go undetected. For these reasons, I urge your support of section 32611 of the DRIVE Act (H.R. 22).

Bill Graves

cc: Members of the Senate Committee on Commerce, Science & Transportation
Members of the House Committee on Transportation & Infrastructure

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