



Testimony

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Committee on Transportation and Infrastructure, House of
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CONSUMER PROTECTION

Federal Actions to Oversee the Household Goods Moving Industry Are Unlikely to Have Immediate Impact

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Mr. Chairman and Members of the Subcommittee:

We appreciate this opportunity to testify on the Department of Transportation's performance in overseeing the household goods moving industry over the last 5 years and the agency's recent efforts designed to improve consumer protection in this industry. Our statement is based on a recent report we issued to you and updated information from the modal administration within the Department with specific responsibility for this issue, the Federal Motor Carrier Safety Administration (FMCSA).¹ As you requested, we have also provided some ideas on how to improve oversight and consumer protection for the household goods moving industry.

In summary:

- Over the last 5 years, consumer complaints against household goods carriers have multiplied while the Department has conducted limited oversight of the industry. It does not collect nationwide information on consumer complaints in the household goods moving industry, but estimates that it receives about 4,000 complaints each year. The Department has done little to carry out its responsibility for consumer protection in the interstate household goods moving industry—such as taking enforcement actions against carriers and providing information to consumers to enable them to make more informed choices when they move—because this is a relatively low priority compared with its primary mission of promoting motor carrier safety.
- Although FMCSA has recently begun activities that have potential to improve its ability to oversee the industry and protect consumers, the agency has fallen behind in completing these actions. FMCSA has not met the milestones that were in effect only 3 months ago for completing many of its planned activities and has extended the milestones by several months to a year. For example, FMCSA originally anticipated implementing a nationwide consumer complaint database in April 2001 to, among other things, target carriers for enforcement action in a timely manner; FMCSA now anticipates implementing the database in early fiscal year 2002. In addition, the Department did not conduct a study by mid-1997 of the effectiveness of arbitration as a means of settling household goods disputes, as required by the ICC Termination Act of 1995. The agency plans to conduct the study from fiscal year 2003 through fiscal year 2005.
- In our March 2001 report, we made a number of recommendations aimed at improving FMCSA's actions to oversee the household goods moving industry and protect consumers. Additional actions by FMCSA and the Congress could improve oversight and consumer protection in this industry without detracting from FMCSA's efforts to improve truck safety. For example, FMCSA could establish performance measures, put in place specific strategies to meet them, and follow through on the

¹*Consumer Protection: Federal Actions Are Needed to Improve Oversight of the Household Goods Moving Industry* (GAO-01-318, Mar. 5, 2001).

strategies to demonstrate to the Congress and the public the extent to which it is improving oversight and consumer protection. FMCSA could also ask for additional resources if it cannot meet its responsibility to protect consumers without diverting resources from its safety-related activities. In addition, continued and vigorous congressional oversight can focus attention on this issue and provide a clear expectation for the agency to fulfill its consumer protection responsibilities. Finally, the Congress could take action to expand the states' role in regulating the household goods moving industry, such as by authorizing the states to enforce federal regulations. This has the potential to enhance consumer protection and provide consumers more avenues to seek remedies for illegal practices by household goods carriers. In our March 2001 report, we did not recommend these legislative changes, but instead recommended that the Department determine whether legislative changes are needed after it has implemented our other recommendations. We continue to believe that effective federal oversight and enforcement is critical to consumer protection. Therefore, if the Congress decides to expand the states' role, it should be done in conjunction with—not in lieu of—more effective federal efforts.

Background

Each year, between 1.3 million and 1.5 million households use commercial moving firms to move their household goods to another state, according to industry estimates.² There are approximately 2,900 motor carriers registered with the Department of Transportation that transport household goods across state lines.

Consumers are primarily responsible for preventing and resolving problems that may occur during a move, while the federal government has a broader role to oversee the household goods moving industry and enforce regulations. However, most consumers seldom use moving companies for their household goods, so they are less prepared to protect themselves financially than are commercial shippers.

Until 1996, the Interstate Commerce Commission had regulatory responsibility for interstate household goods carriers, including issuing regulations, conducting oversight activities, and taking enforcement actions. The ICC Termination Act of 1995 dissolved the Commission and transferred these consumer protection functions to the Department of Transportation, where they were assigned to the motor carrier safety office within the Federal Highway Administration. The Motor Carrier Safety Improvement Act of 1999 moved these functions to a new organization—FMCSA—within the Department of Transportation. In addition to its headquarters facilities, FMCSA maintains a field office structure consisting of 4 service centers and 52 division offices.

²This estimate includes moves of individual households, moves arranged by governments, and moves arranged by corporations for their employees because industry officials do not separately track moves in these categories. Industry estimates indicate that an additional 1.3 million to 1.5 million households move themselves with their own or rented trucks each year.

Consumer Complaints Have Increased While The Department Has Conducted Limited Oversight

Even though the Department is responsible for overseeing the interstate household goods moving industry, it has not collected nationwide information on consumer complaints. Nonetheless, limited information from FMCSA's division offices and the Council of Better Business Bureaus shows that the number of complaints they received from consumers about household goods carriers has increased dramatically since 1996. For example, complaints about interstate movers at the 12 division offices we visited doubled from 318 in 1996 to 659 in 1999. Meanwhile, complaints about both inter- and intrastate movers to the Council of Better Business Bureaus increased from about 3,000 in 1996 to about 4,900 in 2000. FMCSA officials estimate that they receive about 4,000 complaints each year. These complaints cover a range of issues, such as misunderstandings between consumers and carriers about when payment was due, disagreements over settlements for lost or damaged goods, or allegations of falsified charges on the final bill.

While complaints have been increasing, the Department has not taken basic actions that are necessary to oversee the industry and protect consumers. Specifically, the Department

- does not collect and analyze nationwide industry information, such as complaint information, that would allow it to understand and oversee the industry;
- has not finalized regulations implementing the ICC Termination Act and addressing certain consumer protection issues;
- does not know how many reviews it has conducted to ensure that carriers are complying with consumer protection regulations, but estimates that there have been very few;
- has taken few enforcement actions against carriers—actions which might also deter other household goods carriers from taking advantage of consumers;
- has done little to educate consumers about their rights and responsibilities when they move, apart from placing a booklet and a list of most frequently asked questions on its Internet Web site; and
- has made little or no effort to reach out to consumer groups, law enforcement agencies, and others. Fourteen of the 24 state agencies we contacted during our review did not know which federal agency, if any, regulates household goods movers and were therefore unable to forward complaints they received about interstate moves to FMCSA.

Government, consumer organization, and industry officials whom we spoke with believe that the Department's lack of attention to its responsibility has created a vacuum that

has allowed unscrupulous carriers to prey on consumers. For example, some consumers have complained that carriers have held their goods “hostage” by refusing to unload them from the moving truck until the customer paid a fee above what is allowed by federal regulations. In other instances, carriers have provided unreasonably low estimates that they had no intention of honoring. Finally, some carriers have practiced “weight bumping,” in which they artificially inflated the weight of a shipment by including the weight of another household’s goods when calculating the final bill. While officials we spoke with believe that most moves are completed by reputable carriers with few or no problems, they also believe that unscrupulous carriers are taking advantage of the lack of oversight and are operating without concern for the regulations or the rights of consumers.

According to FMCSA officials, the responsibility for household goods issues is a low priority compared with the agency’s primary mission of preventing fatalities and injuries from commercial motor vehicle crashes. Consequently, the Department has devoted only 5 of about 760 full-time staff to household goods moving issues. Moreover, the Department has not taken steps to understand the nature and extent of problems in the industry and thereby determine whether its limited approach to oversight and enforcement is appropriate. Nor has it made more than minimal efforts to provide consumers with information that would assist them in making more informed choices and prevent some problems from occurring during their move.

FMCSA Has Fallen Behind in Actions to Address Problems

FMCSA has recently begun activities that have potential to improve its ability to oversee the industry and protect consumers. These activities span FMCSA’s oversight, compliance, enforcement, and public education responsibilities. However, FMCSA has not met the milestones that were in effect 3 months ago for completing many of these activities; completing these activities will likely take from several months to a year longer than expected. For example, FMCSA is implementing a complaint database to track complaints, understand the nature and pattern of complaints, target carriers for enforcement action, and evaluate the effectiveness of its enforcement actions. The database was originally scheduled to be implemented in April 2001, but FMCSA officials now anticipate that the database will not be available until early in fiscal year 2002. FMCSA is also planning to train staff responsible for conducting household goods investigations to improve their expertise in conducting compliance and enforcement activities. The agency originally anticipated that initial training would occur in March 2001, but now anticipates that it will not occur until March 2002—one year later than the original milestone. (See table 1.)

Table 1: Status of Key FMCSA Actions to Improve Consumer Protection in the Interstate Household Goods Moving Industry

Activity	Status as of March 2001	Status as of June 2001
Oversight activities		
Establish a 24-hour toll-free complaint hotline	Established January 2001	Ongoing activity
Develop a national consumer complaint database	To be completed April 2001	To be completed in early fiscal year 2002
Train staff on handling hostage freight complaints	To be completed March 2001	To be completed August 2001
Report on the effectiveness of arbitration as a means of settling household goods disputes, as originally required by the ICC Termination Act of 1995; due date was June 1997	Study had not been conducted; no milestone established	Study to start in fiscal year 2003; to be completed in fiscal year 2005
Compliance and enforcement activities		
Develop regulations to improve consumer protection	Proposed rule published in May 1998	Interim final rule to be published by early fiscal year 2002
Develop policies and procedures to implement economic and household goods regulations	No milestone established	Draft policy and procedures manual to be completed by November 2001
Update compliance review manual to include household goods regulations	Activity started January 2001	To be completed July 2001
Train staff in conducting compliance and enforcement activities	Initial training to be completed by March 2001	Initial training to be completed by March 2002
Train new field safety investigators on household goods regulations	Training provided in March 2001	Ongoing activity
Develop letters of agreement with the Surface Transportation Board and the Office of Inspector General to coordinate compliance and enforcement support in the areas of tariffs and criminal activities	To be completed April 2001	To begin August 2001
Develop an enforcement strategy plan to identify carriers and brokers that engage in egregious conduct, operations, and practices	To be completed March 2001	To be completed November 2001
Establish a tracking and monitoring system to evaluate enforcement activities	To be completed May 2001	No revised milestone established
Establish policies and procedures for revocation of carrier operating authority	To be completed April 2001	To be completed October 2001
Public education activities		
Develop a comprehensive marketing plan, including revising a booklet of information for consumers and updating the agency's Web site	To be completed June 2001	To be completed March 2002
Issue press releases and articles for the public	Ongoing activity	Ongoing activity
Notify trade and industry associations, consumer groups, and other enforcement agencies of FMCSA's regulatory responsibilities	No milestone established	Comprehensive announcement to be made in fiscal year 2002

Source: GAO analysis of information from FMCSA.

According to FMCSA officials, resource constraints—financial and staffing—have caused these delays. For example, the officials told us they have developed and tested the complaint database, but are waiting for fiscal year 2002 funds to implement the database in the division offices. Officials also told us that the final rule on consumer protection issues has been delayed because staff are focusing on proposed rules addressing the safe operation of Mexican trucks in response to plans to allow increased operation of these trucks in the United States beginning in January 2002 under the North American Free Trade Agreement. FMCSA has emphasized that its primary mission is to improve motor carrier safety and that it will do what it can to improve its oversight and enforcement of the household goods moving industry within available resources. However, FMCSA officials told us they have not asked, and do not plan to ask, for additional staff for such consumer protection efforts.

Further Actions by FMCSA and the Congress Could Improve Oversight and Consumer Protection

In our March 2001 report, we made a number of recommendations aimed at improving FMCSA's actions to oversee the household goods moving industry and protect consumers. There are additional actions that FMCSA could take to improve its implementation of its oversight and consumer protection responsibilities. To begin with, FMCSA needs to follow through with its planned activities and demonstrate to the Congress and the public that it is protecting consumers. Furthermore, the agency could establish performance indicators, put in place specific strategies to meet them, and follow through with the strategies to demonstrate the extent to which its activities are improving oversight and consumer protection. According to FMCSA officials, the agency does not have such indicators and will not be able to establish them until after the national consumer complaint database is operational. This database is key to improving FMCSA's ability to make informed decisions in all areas of household goods oversight, and its implementation should not be delayed further. Finally, while safety is and should be the top priority under its current charter, FMCSA could ask for additional resources for household goods oversight if it believes it cannot fulfill its responsibility to protect consumers without detracting from its safety improvement efforts.

The Congress could also set a clear expectation for FMCSA to fulfill its responsibility to oversee the household goods moving industry and protect consumers. Congressional oversight—such as setting expectations for performance and results—was very effective in persuading FMCSA to become more aggressive in carrying out its commercial truck safety responsibilities. Such oversight could also be effective in focusing attention on this issue and motivating the agency to fulfill its consumer protection responsibility. Even seemingly simple actions, such as including a specific reference to household goods oversight in FMCSA's authorizing legislation, could encourage the agency to do more than devote minimal effort to overseeing the household goods moving industry.

Finally, an expansion of the states' role in the regulation of interstate household goods carriers has some potential to enhance protection for consumers. One option for an expanded state role would be to enact legislation authorizing the states to enforce federal statutes and regulations for interstate household goods carriers. In fact, federal

law currently allows the states to address abusive business practices that extend beyond their borders in certain other areas of interstate commerce, such as telemarketing. A 1994 statute required the Federal Trade Commission to adopt rules prohibiting deceptive and abusive telemarketing practices and authorized the states to take action against those engaging in patterns or practices that violate these rules. The Commission also helps to ensure that enforcement is conducted consistently among the states. If the Congress decides to enact similar legislation for the household goods moving industry, this action would need to coincide with federal activities designed to improve household goods oversight. For example, if the states are to enforce federal regulations for the household goods moving industry, the regulations must address the problems faced by consumers. However, the Department of Transportation has yet to finalize proposed regulations to implement the ICC Termination Act and enhance consumer protection.

Another option to expand the states' role would be to enact legislation to change the federal statute governing carriers' liability for loss or damage in interstate shipments—the Carmack Amendment.³ This statute established a uniform scheme of liability for loss or damage to interstate shipments, preempting a broad range of state law claims in order to eliminate the uncertainty associated with conflicting state laws. Such legislation might explicitly authorize the states to enforce their own consumer protection statutes against interstate household goods carriers. Such legislation could also authorize individual consumers to recover damages from interstate household goods carriers under state law in some cases.

In our March 2001 report, we did not recommend these legislative changes, but instead recommended that the Department determine whether legislative changes are needed after it has implemented our other recommendations. We recognize that expanding the states' role in the regulation of interstate household goods carriers has the potential to improve consumer protection. However, the extent to which allowing the states to enforce federal regulations improves consumer protection depends on individual states' willingness and resources to assume this responsibility.⁴ Just as important, strong federal leadership is needed to work with and guide the states in their enforcement activities. This strong leadership has yet to be exhibited by the Department of Transportation in its oversight of the household goods moving industry.

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Mr. Chairman, this concludes our testimony. We would be pleased to answer any questions you or Members of the Subcommittee may have.

³Section 14706 of title 49, U.S. Code.

⁴As we reported in March 2001, the Federal Trade Commission estimated that states have either led or participated in numerous investigations of telemarketing fraud. However, an official of the Commission also pointed out that states have generally not yet used similar authority under the Federal Fair Credit Reporting Act and may be allocating resources to other law enforcement priorities.

Contacts and Acknowledgments

For information about this testimony, please contact JayEtta Z. Hecker at (202) 512-8984 or heckerj@gao.gov. This statement is available on GAO's home page at <http://www.gao.gov>. Individuals making key contributions to this testimony were Helen Desaulniers, Judy Guilliams-Tapia, Elizabeth McNally, James Ratzenberger, and Sara Vermillion.

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