

**Public Utilities Commission of Ohio**  
Todd A. Snitchler, Chairman

Substitute House Bill 487 (Amstutz)  
Senate Finance Committee

May 9, 2012

Chairman Widener and members of the Senate Finance Committee, I am Todd Snitchler, Chairman of the Public Utilities Commission of Ohio (Commission). I am here today to provide interested party testimony on Substitute House Bill 487, and to address the technical impacts this bill would have at the Commission.

When I took over as Chairman last year, it was brought to my attention that the fine structure and some basic statutory provisions related to motor carrier safety in the Ohio Revised Code (ORC) were out of compliance with U.S. Department of Transportation standards (USDOT). Because of this, the State of Ohio is in jeopardy of losing \$8 million in federal grant money per year. This money is used to fund not only the Commission's transportation safety program but also funds the Department of Public Safety transportation safety efforts, and is critical to our directive of regulating motor carrier safety.

Relative to the corrections to our fine structure (lines 57875-57882, Sub. HB 487) changes have also been made that will ensure the Commission may issue violations in conformance with USDOT standards. Furthermore, throughout the draft a number of issues identified by the USDOT regarding non-conforming language were also modified. I have included a list of these items for you at the end of the testimony, and I can answer any questions or concerns you may have. These changes will ensure the grants the Commission receives will be in compliance with federal standards, and we will no longer be in danger of having our funds revoked.

Once we began looking into the issue surrounding the grant, an overarching policy discussion occurred. In addition to a number of discrepancies with federal requirements that needed to be addressed, both railroad and motor carrier transportation were deregulated at the federal level decades ago. However, the ORC still contains numerous sections pre-empted by federal law. The Commission and the governor's office determined that the Mid-Biennium Review (MBR) would be an appropriate avenue to clean-up our transportation code sections, making it simpler to read and easier to understand. At the outset, our original draft consisted of 30 pages of code, which after

the diligent work of LSC to find the cross-references; expanded the draft to the approximately 170 pages of the legislation you have in front of you.

It is important to realize, that besides the fine structure I described above and the odds and ends on page five, the vast majority of the changes are actually existing statute, just placed in a new location. The Commission did not change anything relating to the cost of fees, weight limits, or administrative functions. If you compared the current ORC to this draft, it would basically contain the same requirements. We simply deleted and consolidated sections, and cleaned up federally preempted or de-regulated code.

Definitions, such as “Motor Carrier” and “For-Hire Motor Carrier,” were changed in the bill to now fit with the federal requirements and terms. Also, ORC sections were reworked and made easier to understand and follow. Section 4921 now focuses on registration, insurance, payment of fees, and tax requirements as well as household goods regulation, while section 4923 now focuses on safety requirements. Today these provisions are spread throughout sections 4919, 4921 and 4923 of the ORC, and are intertwined making it confusing and difficult to follow. To simplify the task of making this complex change, we felt it made sense to delete the code sections as they exist today and rework them into the bill draft in front of you. Now the language is more transparent to the industry and easier to follow since it is in one spot instead of scattered in different sections throughout the ORC.

The Commission is also seeking to consolidate the funds utilized by its transportation section in an effort to streamline operations and ensure financial stability. The current structure is composed of a series of fragmented funds and line items that came into existence over decades with little or no coordination on how they operate. As times have changed and new funds were added, the structure has not kept pace and as a result caused a series of cash flow problems. Since all funds currently support the same basic job, motor carrier safety, consolidating them into a single fund with separate line items for each of the sub-programs that comprise the mission of motor carrier safety makes sense fiscally for the Commission. The Hazardous Materials Registration Fund,

the Radioactive Waste Transportation Fund, the Transportation Enforcement Fund are placed into one “Public Utilities Transportation Safety Fund.” The change can be seen on pages 2473-2475 of the legislation.

Thank you for the opportunity to provide comments on the Commission’s transportation portion of Sub. HB 487. I have brought with me the Commission’s director and deputy director of transportation, as well as the department’s staff attorney and we would be happy to answer any questions you may have at this time.

<u>Existing Incompatible Code Section</u>	<u>Proposed Code Revision</u>	<u>Line Number</u>
<b><u>Section 4921.02 (A) (4) through (A) (9)</u></b>		
In current Ohio law, this section covers common carriers and defines numerous terms and provides that specified operations are exempt from Commission regulation. According to the Federal Motor Carrier Safety Administration, (FMCSA) these exemptions must be:		
* limited to intrastate operations	<b>4905.03 (B), 4921.01 (B), 4923.02 (A)</b>	<b>56165, 57052, 57790,</b>
* subject to federal CDL and hazardous material transportation regulations	<b>4921.01 (B), 4923.03 (D)</b>	<b>57042, 57824</b>
<b><u>Section 4921.02 (A) (2) and 4923.02 (A) (2)</u></b>		
This section creates an exemption from Commission regulation for any transportation operations occurring within a municipality and contiguous municipalities. FMCSA indicates that this exemption must be removed from Ohio law.	<b>4921.01, 4923.03</b>	<b>No lines</b>
<b><u>Section 4921.99 and 4923.99</u></b>		
FMCSA indicates that these penalty sections be made consistent with federal regulations by including driver and carrier penalties for violations of out-of-service and grade crossing regulations. FMCSA also indicates that minimum fine levels be increased to be consistent with federal regulations.	<b>4923.99</b>	<b>57930</b>
<b><u>Section 4923.02 (A) (2) through (A) (12)</u></b>		
In current Ohio law, this section covers contract carriers and defines numerous terms and provides that specified operations are exempt from Commission regulation. According to FMCSA, these exemptions must be:		
* limited to intrastate operations	<b>4905.03 (B), 4921.01 (B), 4923.02 (A)</b>	<b>56165, 57052, 57790,</b>
* subject to federal CDL and hazardous material transportation regulations	<b>4921.01 (B), 4923.03 (D)</b>	<b>57042, 57824</b>
<b><u>Section 4923.02 (A) (7), (10)</u></b>		
These sections involve contract carrier exemptions from regulation involving the towing of disabled or Wrecked motor vehicles and operations for contractors on public road work. FMCSA indicates that these exemptions must be made available for both private and for-hire carriers or removed from both.	<b>4921.01 (B), 4923.02 (A)</b>	<b>57035, 57810</b>