



While the states of California, Arizona, New Mexico, and Texas share a border with Mexico, the longest border of the four is with Texas, where the Rio Grande River, a natural geographic border, has forged strong cultural and economic ties. The miles of proximity also have led to challenges: economic, environmental, and, after the September 11, 2001, terrorist attacks, security. The mutually dependent economies of Texas and Mexico have spurred efforts to expedite commercial traffic while simultaneously effectuating security for safety flaws, breaches, disease, or contraband.

In 1982, the United States Congress imposed a moratorium on the granting of authority to Mexican and Canadian motor carriers seeking to operate in the United States beyond a limited zone along the nation's borders (Bus Regulatory Reform Act of 1982). With exceptions for a few carriers, Mexican-domiciled trucks and regular route buses could cross the border to operate only in these designated "commercial zones," a 20-mile area along the United States-Mexico Border, where trucks transferred loads for delivery in the United States. The moratorium along the United States-Canada border was lifted almost immediately on the basis of a bilateral agreement that gave United States carriers access to Canadian markets.



As part of the enactment of the North American Free Trade Agreement (NAFTA) in 1993, the United States and Mexico agreed to liberalize access for cross-border truck and bus services in a phased six-year schedule. Before the ink was dry, this action was postponed due to motor vehicle safety concerns. Meanwhile, the 1995 Texas Legislature, in anticipation of the lifting of these geographic access limits on Mexican trucking, approved regulations for international carriers to be enforced by the Texas Department of Transportation and the Texas Department of Public Safety. However, legal actions by Public Citizen, the International Brotherhood of Teamsters, and other labor, environmental, and civic groups, led then-President Bill Clinton to refuse to lift the moratorium.

Mexico and other parties wanted the moratorium removed and sought relief from an international arbitration panel. Mexican trucks make approximately 4.5 million northbound border crossings every year, with the value of goods being transported topping \$160 billion annually. Mexico claims the 22-year moratorium on allowing Mexican trucks to operate in the United States has cost that country's trucking industry more than \$2 billion. Mexico successfully challenged the moratorium through the arbitration panel which ruled in 2001 that, while safety concerns over Mexican carriers or trucks could be legitimate, under NAFTA there could be no ban on the operation of trucks beyond the commercial zones. Since Canadian carriers were authorized to operate in the United States, Mexican motor carriers could not be treated differently. This ruling encouraged President George W. Bush to declare that he would allow Mexican trucks access to all United States highways.

President Bush worked with the Congress to allow cross-border trucking, and the Federal Fiscal Year 2002 Transportation Appropriations Act imposed 22 separate safety conditions on opening the border. While the United States met or exceeded all those conditions, the impact of transportation services on the environment remained as a barrier to the lifting of the moratorium, because Mexican trucks tend to be older and produce more pollution than American trucks. Air quality was seen by the Federal Motor Carrier Safety Administration (FMCSA) as important enough that it required a detailed \$1.8 million environmental assessment already ordered by a federal appeals court to be completed before the border could be opened.

The *Dallas Morning News* recently reported that 455 Texans lost their lives in accidents related to unsafe trucks, with 24 percent of trucks pulled over by public safety inspectors with six or more violations, more than twice (2.5) the national average. Those truck safety inspectors have been placed along the border for national security reasons, but that leaves the rest of the state vulnerable.

The Federal Motor Carrier Safety Administration (FMCSA) reports that half the California trucks have violations, while 86 percent of Texas trucks do. A salient point: Mexican rigs have the same passing rate as American ones, a result of toughened inspections along the border.

The bottom line? The rest of the state needs the same tough oversight. Texans want safety on all roads they travel.

But on June 7, 2004, the United States Supreme Court overturned the 9th United States Circuit Court of Appeals' decision and found, in agreement with the Bush Administration, that the FMCSA had fulfilled the United States Clean Air Act and National Environmental Policy Act requirements. Justice Clarence Thomas, who wrote the opinion for the court, stated that the FMCSA "has no ability to countermand the president's lifting of the moratorium or otherwise categorically to exclude Mexican motor carriers from operating within the United States."

A spokesperson for the FMCSA points out that Mexican trucks must meet the same standards for safety regulations that Canadian and United States trucks abide by, as promulgated by the National Highway Standards Department, with comparable certification labels. If trucks do not meet the standards for label certification, those trucks will not be able to operate in this country, whether Mexican, Canadian, or American. United States Secretary of Transportation Norman Mineta reiterated that all trucks and buses operating within the United States will be in compliance with all applicable safety and environmental standards.

The ruling has the support of companies such as Celadon Group, Inc., which says it will be able to employ lower-paid Mexican drivers to carry goods. The American Trucking Association supported the opening of the border, but unionized companies such as Yellow Roadway Corporation, the nation's largest trucking business, could suffer. United States truckers earn an average of 34 cents per mile plus benefits, according to Celadon's CEO, Stephen Russell, while a Mexican driver in Mexico is paid about 14 cents per mile.

Following the Supreme Court ruling, FMCSA is reportedly in consultation with Mexican authorities to establish safety audit and inspection programs for Mexican trucks. Approval of applications to operate in the United States could be "weeks or months rather than days or years," according to *Bridges*, a weekly trade news digest.

- by Dunya Bean, SRC

Sources:

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