August 17, 2026

Honorable Aaron Michlewitz, Chair
House Committee on Ways and Means
State House, Room 243
Boston, Massachusetts 02133

Honorable Barry Finegold, Senate Chair
Joint Committee on Economic Development
State House, Room 109-D
Boston, Massachusetts 02133

Honorable Carole Fiola, House Chair
Joint Committee on Economic Development
State House, Room 236
Boston, Massachusetts 02133

Honorable Michael Rodrigues, Chair
Senate Committee on Ways and Means
State House, Room 218
Boston, Massachusetts 02133

Honorable Michael Soter
Ranking Minority Member
State House, Room 551
Boston, Massachusetts 02133

Honorable Peter Durant
Ranking Minority Member
State House, Room 520
Boston, Massachusetts 02133

RE: Please Exclude Section 272 of Senate Bill 3228 - Presumption of Negligence - From the Final Economic Development Conference Committee Report

Dear Chair Michlewitz, Chair Finegold and Members of the Economic Development Conference Committee:

On behalf of the Transportation Association of Massachusetts (TAM) and its members, I am writing to respectfully urge the Conference Committee to **exclude Section 272 of Senate Bill 3228 from the final Economic Development Conference Committee Report**. While the trucking industry strongly supports reasonable, evidence-based measures to improve roadway safety and protect vulnerable road users, Section 272 would fundamentally alter Massachusetts negligence law, create substantial litigation exposure for businesses operating trucks, implicate a variety of federal laws and Constitutional concerns.

As you know, Section 272 would create a rebuttable presumption of negligence against the owner or lessee of a truck weighing more than 10,001 pounds following certain accidents with vulnerable road users unless the vehicle is equipped with lateral protective devices, convex mirrors, crossover mirrors and backup cameras meeting standards established by MassDOT. At the outset, the practical consequence is significant: a company could operate a properly maintained truck, employ a trained and qualified driver, and comply fully with applicable federal and state motor vehicle safety requirements, yet still enter litigation with a legal presumption that it acted negligently simply because its vehicle did not contain every piece of equipment identified in Section 272. This makes no sense.

Further, the very concept underpinning state tort law is causation. The absence of one of these devices may have no causal relationship whatsoever to an accident. An accident could occur under circumstances in

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which the specified equipment would neither have prevented the collision nor reduced the resulting injury, yet the truck owner or operator would nevertheless begin the case at a significant legal disadvantage. The traditional negligence framework requires a plaintiff to establish that a defendant breached an applicable duty and that the breach caused the alleged harm. Section 272 would shift that burden and substitute an equipment-based presumption for the ordinary fact-specific analysis of how an accident actually occurred. While structured as a change to liability law rather than a direct equipment mandate, businesses cannot responsibly ignore the litigation consequences associated with being presumed negligent following a crash.

As an equipment mandate, this proposal also presents serious questions regarding federal motor carrier law and interstate commerce. Federal law establishes a comprehensive framework governing commercial motor vehicle safety – one which Section 272 essentially tries to circumvent. The United States Federal Motor Carrier Administration (FMCSA) (49 CFR 355.25 *et. al.*) and the National Highway Traffic Safety Administration (NHTSA)(49 CFR 301 *et. seq.)* have clear oversight over truck equipment standards in the United States. The lateral protective sideguard, convex-concave mirror and rear cameras have no equivalent in federal law or regulation. (Note: as a separate, but notable issue with Section 272, there is a heightened standard for essentially "mandating" equipment for hazardous material transporters under the United State Department of Transportation Pipeline and Hazardous Materials Safety Administration, also making this issue ripe for a preemption determination as it pertains to trucks transporting hazardous materials.).

The proposal before your Conference Committee also raises concerns under 49 U.S.C. §14501(c) because of its potential effect on the "price, routes and services" offered by motor carriers. Retrofitting a commercial fleet with multiple devices can impose substantial costs, particularly where fleets contain numerous vehicle configurations designed for different purposes, duty cycles and operating environments. Those costs ultimately affect the price of transportation services. Carriers may also reconsider routes through Massachusetts or the services they provide here if operating in the Commonwealth exposes them to a unique liability standard not encountered in neighboring states. While 49 U.S.C. §14501(c) does have a limited exemption for public safety purposes when considering its impact on interstate carriers, no such exemption exists for regulating intrastate carriers. (*See* 49 U.S.C. §14501(b)).

Finally, Section 272, which acknowledges its tenuous ground on federal grounds, presents some clear federal constitutional concerns with respect to the commerce and due process clauses. Under the United State Constitution, states cannot pass laws that will create a burden on interstate commerce or carriers engaged in the same. Since no other state has this law, Section 272 would impact interstate carriers, who operate in Massachusetts, in competing against any other interstate carrier operating in New England. For that matter, it will impact any interstate carrier traveling through the state. With respect to due process, commercial truck fleets are not uniform. A piece of equipment that may provide a meaningful safety benefit on one vehicle configuration may be impractical, incompatible or provide little additional benefit on another. While Section 272 references the MassDOT equipment standard which allows for waivers based on vehicle configuration, only companies that are participating in a state procurement have access to the waiver process. Carriers, who do not business with a Commonwealth agency, will have no opportunity to either appeal or seek a waiver from the requirement – effectively depriving a carrier of due process.

The practical effect of Section 272 would therefore be to pressure businesses to retrofit vehicles not because federal or state safety regulators have determined that every affected vehicle requires this equipment, but because businesses cannot reasonably expose themselves to the litigation risk created by a statutory presumption of negligence. At a time when transportation companies and other businesses operating commercial vehicles already face escalating insurance, equipment, labor and operating costs, adding another source of potentially significant liability would make Massachusetts a less attractive place in which to operate and invest. This result is especially concerning in the context of an economic development bill. The Commonwealth should be working to strengthen its transportation sector, preserve competition, attract investment and improve roadway safety through clear and appropriately tailored safety standards. Creating

a Massachusetts-specific presumption of negligence that exposes carriers and other businesses to additional litigation does not advance those objectives.

TAM supports continued discussion regarding proven and practical approaches to protecting vulnerable road users. Such policies, however, should be developed through the appropriate vehicle-safety regulatory process, account for differences among commercial vehicles, remain consistent with federal law, and be based on demonstrated safety benefits. Massachusetts should not use its tort system as a substitute for that regulatory process.

For these reasons, I respectfully request that the Conference Committee reject Section 272 of Senate Bill 3228 and exclude the presumption-of-negligence provision from the final Economic Development Conference Committee Report.

Thank you for your consideration of this important matter. If you have any questions or would like additional information, please do not hesitate to contact me.

Sincerely,



Kevin Weeks
Executive Director
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