



# Owner-Operator Independent Drivers Association

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## **Fuel Surcharges are a Long Accepted Response to Rapid Fuel Price Increases Problem**

For over thirty years, high fuel prices have been the biggest crises faced by small business truckers. During periods of high fuel prices, fuel surcharges have been the only tool to bring relief to the trucking industry. During the sharp price increases in diesel fuel since the year 2000, small business truckers have not been able to use a fuel surcharge. As a result tens of thousands of them have been put out of business.

Small business truckers own their own trucks and pay for the cost of fuel, taxes, tolls, and permits. Despite bearing all of the costs of providing truck transportation, owner-operators who lease to motor carriers have no role in setting the rates charged by motor carriers to shippers. Small business truckers who have their own operating authority and deal directly with shippers have no or very little leverage against shippers to ask for a fuel surcharge.

The structure and business environment of the trucking industry gives small business truckers no ability to set adequate compensatory rates. If they could, they would have negotiated higher rates to meet their fuel costs and the trucking industry would not have been hit so hard by the fuel crisis.

### **Solution:**

All motor carriers, licensed brokers, and freight forwarders should be required to add a minimum fuel surcharge to their rates when fuel prices rise quickly. The amount of the fuel surcharge must sufficiently reimburse motor carriers and owner-operators for increasing fuel prices. Most importantly, the fuel surcharge must be passed through to the entity who bears the expense of purchasing fuel (i.e. owner-operators working for carriers or carriers working through brokers). Compliance with the surcharge law would be privately enforced by industry members, not by federal agencies.

The amount of the surcharge would rise and fall with the price of fuel and with the industry's ability to meet its fuel costs in its basic rates. The amount of a fuel surcharge would be determined by the Energy Department's weekly survey of diesel fuel prices at the pump. **There would be no cost to the government and no reduction in the highway trust fund.**

***Fuel surcharges have been the only successful solution for the trucking industry since the first fuel crisis in 1973:***

Fuel surcharges are a well-established practice in the trucking industry to survive periods of high fuel prices. Each of the major regional motor carrier rate bureaus and most of the larger motor carriers now have established fuel surcharge tariffs. Small business truckers do not, however, have the market strength to impose fuel surcharges.

Fuel surcharges have also been the federal government's response to rescue the trucking industry in each of the past fuel crises. During the Fuel Crisis in 1973 and 1974, the Interstate Commerce Commission granted

motor carriers the ability to bypass the burdensome rate approval process to impose an emergency fuel surcharge by filing a surcharge tariff with one day's notice.<sup>1</sup>

Recognizing the serious impact that fuel price increases have on independent owner-operators, Congress passed a law in 1974 that required that compensation paid to owner-operators by motor carriers be increased to compensate for fuel price increases, including retroactive payments.<sup>2</sup> At the time, the I.C.C. had written an order to mandate this compensation to owner-operators, but the I.C.C. did not have the authority to promulgate the order in less than 30 days. Both the House and Senate recognized the devastating impact of the fuel crisis on the transportation industry, specifically owner-operators, and the need for fast action. Within a three day period, a law was passed requiring the I.C.C. to short circuit its bureaucratic process and to issue its order within the following week.

In 1975, the I.C.C. established an expedited procedure for regulated motor carriers to reflect rapidly rising fuel costs in their rates in the event of a future fuel crisis.<sup>3</sup>

In response to escalating fuel prices in 1979, the I.C.C. instituted several orders allowing for a revenue-based surcharge procedure for carriers and a requirement for carriers who used owner-operators to pass the surcharge on to the person responsible for paying the cost of fuel, the owner operator.<sup>4</sup> In 1981, the I.C.C. found that its revenue-based fuel surcharge procedures did not protect owner-operators, replaced it with a mileage-based surcharge formula, and established a mandatory procedure by which motor carriers were required to pay owner-operators for their fuel costs based on this new formula.<sup>5</sup>

## **Conclusion**

Both before and after deregulation, the trucking industry has always been vulnerable to rapid increases in the cost of fuel. Independent owner-operators have long been recognized as the first victims of the trucking industry's inability to respond to increases in its basic costs. The use of the fuel surcharge and the mandatory pass-through to owner-operators is a well-established response by both the industry and the government to help both motor carriers and owner-operators survive and stay in business. The time is right for just this action by Congress in the year 2005.

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<sup>1</sup> Special Permission No. 74-2525, Emergency Fuel Surcharge for Line-Haul Transportation Charges and Other Charges.

<sup>2</sup> Public Law 93-249

<sup>3</sup> Ex. Parte No. 311, Expedited Procedures for Recovery of Fuel Costs, 350 I.C.C. 563, (1975).

<sup>4</sup> I.C.C. Special Permission No. 79-2620, June 1, 1979; No. 79-2800, June 15, 1979, amendment to No. 79-2800, June 19, 1979.

<sup>5</sup> Modification of the Motor Carrier Fuel Surcharge Program, Ex Parte No. 311 (Sub-No. 4), Decided October 5, 1981.