



Owner-Operator's Business
Association of Canada

Association professionnelle des
routiers autonomes du Canada

...from the
director's chair

Civil libertarian? *Darn tootin', I am*

Just three days after Ontario began hard enforcement of its speed-limiter law, a story appeared in the Toronto Sun titled Truckers Association Backs Speed Limiters, wherein Ontario Trucking Association (OTA) vice-president Doug Switzer refers to opponents of the legislation as civil libertarians. The passage reads, "Some independent driver-owners he (Switzer) called 'civil libertarians' object, much as many drivers fought seatbelt and motorcycle helmet laws."

Switzer's dismissive remark – while scorning those of us who are concerned when government abuses its power and interferes unduly with the lives of its citizens – highlights two fundamental fallacies that proponents of the law have been putting forward from the get-go.

The first is that it's primarily "independent driver-owners" who oppose this law. Nothing could be farther from the truth. Most of the trucking industry – single-truck owners and fleets large and small – including many who already govern their trucks, find this kind of purposeless government meddling odious.

The second misleading notion is that objections to the law are frivolous and unfounded, and centre on the desire of "some operators... to make faster deliveries," as Switzer states in the Sun article. Hogwash! That's a fairy tale that's been foisted on vote-hungry politicians and a truck-shy public for the past four years by the champions of this indefensible government mandate.

Not only is it insulting, it's just plain dangerous, because it diverts attention and public debate away from the very serious flaws in the law.

And the flaws are legion, ranging from compromised safety, questionable environmental benefits, trade and competitiveness concerns, and some not insignificant enforcement issues. There's nothing new here. The problems were identified early on by OBAC and others, and the Transport Canada studies back up many of our concerns.

But our most serious concern is that governments will not – or cannot – answer the most basic of all questions – the one that any self-respecting civil libertarian would expect responsible lawmakers to consider before they spend dime one of taxpayers' money.

Why, with trucks among the safest vehicles on the

road, with most fleets and owner/ops already managing speed for economic reasons, and with commercial vehicle enforcement regimes so cash-strapped that they can't do their existing jobs properly, have the governments of Ontario and Quebec rammed through an unenforceable law?

Well, get out your fairy tale book. Remember the tale called The Emperor's New Clothes? You couldn't find a better metaphor for the speed limiter enforcement scheme our lawmakers have cooked up.

As Hans Christian Andersen tells the story, an Emperor is conned by a couple of scoundrels who promise him a fine suit of clothes made from beautiful cloth that is invisible to anyone too stupid or incompetent to appreciate its quality.

The Emperor can't see the (non-existent) cloth, but pretends he can, for fear of appearing stupid. All his minions, of course, do the same.

The device Ontario and Quebec are using to enforce the ludicrous speed limiter law is much like our beloved Emperor's fancy new duds. The gizmo, called Ez-TAP and made by an Indiana-based company called XscapeEz, shows enforcement officers only that the road speed limit is active and set to 105 km/h. But so what? That setting by itself doesn't limit the actual speed of the vehicle. For that, you need to consider other parameters like axle and transmission ratios, and tire circumference.

In other words, the road speed limit setting means nothing if the other parameters are not set accordingly. The truck could be capable of travelling faster, and inspectors armed with Ez-TAP will never know it.

Sort of defeats the purpose, doesn't it?

MTO admits that Ez-TAP is an interim solution – chosen to speed up the verification process at a reasonable cost – but what exactly are we enforcing here?

Certainly not Reg. 396/08 which requires that "all aspects of a... vehicle's computer system or systems, computer programs, components, equipment and connections that are capable of playing a role in preventing a driver from increasing the speed of a commercial motor vehicle beyond a specified value shall be in good working order."

The only way this law can actually be enforced is by a full interrogation of the engine's ECM, which



Joanne Ritchie:
OBAC
executive
director

requires licensed copies of the various OEM's frequently updated software, and would delay trucks for inspection for 45 minutes or more – in other words, cost-prohibitive in terms of both money and human resources.

Going through the charade of hard enforcement is akin to our Emperor parading through town to show off his new "clothes." Many of his subjects were hesitant to admit that they couldn't see the new clothes because they were afraid to appear stupid. It took one small, guileless child to say what everyone else was already thinking: "the Emperor is naked."

So I've got a message for Emperor Jim Bradley. 'Fess up that you've make a mistake and put a stop to this speed limiter enforcement charade. Ez-TAP and other doodads won't do it. And given the enormous cost of proper enforcement, any move in that direction would squander resources that could be better used to actually improve highway safety and reduce greenhouse gas emissions.

It's an undisputable fact that light vehicles are the worst speeders on Ontario's highways, and it simply defies logic to limit truck speeds as a means of solving the problem of excessive speeding. Our call has always been for more rigorous enforcement and stiffer penalties aimed at the real offenders – a much better use of government resources than targeting the safest vehicles on the road.

And about that parade through town to show off the Emperor's new clothes? On the first day of hard enforcement in Ontario, an OPP officer, armed with the mighty Ez-TAP, was busy pulling over trucks coming out of the Flying J at Napanee. While the officer was diligently checking trucks that were going, say 5-10 km/h, traffic was whizzing by not 100 feet away on the 401 at upwards of 120 km/h. Darn tootin' I'm a civil libertarian.