Task 24-4: The opportunity that equitable leasing agreements provide for drivers to start or expand trucking companies.

FMCSA asks its Truck Leasing Task Force (TLTF) to review the opportunity that equitable leasing agreements provide for drivers to start or expand trucking companies.

I. Discussion of Task 24-4 and Comments on Consumer Financial Protection Bureau Presentation

A. Drivers who fail to complete a lease purchase agreement successfully often are not at fault.
   1. Drivers in lease purchase agreements often earn significantly less than drivers who are motor carrier employees.
   2. Drivers in lease purchase agreements often have little control over their operating costs or revenue.
   3. Drivers almost never say a lease purchase agreement helped them to start or expand their own business. Instead, drivers often say the agreements taught them difficult lessons about the trucking industry.
   4. Most drivers fail to complete lease purchase agreements successfully.
   5. Drivers would benefit from the elimination of lease purchase agreements.

B. Drivers often enter into multiple lease purchase agreements during their careers.
   1. Drivers often falsely believe they will have greater control over the outcome of their next lease purchase agreement.
   2. Drivers may enter into a new lease purchase agreement despite having been frustrated by the terms of their prior lease agreement.
   3. Drivers who sign consecutive lease purchase agreements may suffer from optimism bias, which is a tendency to overestimate the likelihood of positive future events while underestimating the likelihood of negative future events. Workers who borrow from payday lenders show similar behavior resulting from optimism bias.

C. Drivers may believe a lease purchase agreement is the best path toward truck ownership or employment.
   1. Drivers may not realize that working as an employee of a motor carrier and saving money can one day enable them to buy a truck.
   2. Drivers may not understand that a lease purchase agreement often is an expensive way to finance a truck.
   3. Drivers may not realize that an average credit score may qualify them for cheaper financing than a lease purchase agreement.
   4. Drivers who are unemployed, lack driving experience, have poor credit history, flawed work history, have recently graduated from training school or are recent immigrants may be more likely to sign a lease purchase agreement.

D. Motor carriers often misrepresent the terms of lease purchase agreements or pressure drivers to sign one.
   1. Motor carriers may tell drivers they can walk away from the agreement without penalty, which is often false.

2. Motor carriers often do not describe administrative fees or costs, such as insurance and repairs that a driver will pay for under the agreement.
3. Motor carriers often say drivers will earn a lot of money with a lease purchase agreement. Instead, drivers often earn very little after lease-related costs are deducted from their paychecks.
4. A motor carrier may tell a driver that no company trucks are available and signing a lease purchase agreement is the only way to begin driving right away.
5. Motor carriers often imply a lease purchase agreement will allow a driver to build equity in a truck, though lease payments do not build driver equity in the truck.
6. Motor carriers may offer to forgive driver training fees if a driver signs a lease purchase agreement, saying the deal benefits the driver.
7. Often, motor carriers design lease purchase agreements in a way that guarantees a driver will trigger a default clause. For example, a motor carrier/lessor assigns a driver a load that would force the driver to surpass federally mandated limits on their hours of service behind the wheel. Under the terms of the lease, both the driver who refuses to carry the load and the driver who breaks the mandated limit on driving hours will be in default.

E. Lease purchase agreements harm drivers and the trucking industry.
1. Drivers who are under pressure to meet the financial obligations of a lease purchase agreement may drive less safely.
2. Drivers may lose confidence in their ability to succeed after failure to complete a lease purchase agreement.
3. Drivers may be under pressure to falsify electronic driver logs to meet payments on their lease purchase agreements. Electronic driver logs help ensure drivers do not exceed federal limits on shift hours worked.
4. Motor carriers that do not participate in lease purchase agreements are often at a competitive disadvantage because their wage costs are higher than industry competitors using lease purchase agreements.
5. Motor carriers employing lease purchase agreements often control driver earnings and working conditions. This power dynamic is similar to indentured servitude.
6. Many motor carriers/lessors design lease purchase agreements to profit at the expense of drivers.
7. Many motor carriers that use lease purchase agreements find it more profitable to hire new drivers rather than to retain drivers, contributing to a driver shortage.
8. Transportation that comes at the expense of workers is not good for the economy. Equitable treatment ensures a more stable workforce better able to respond to increased demand.

F. More equitable financing alternatives for drivers.
1. Installment loans can create equity for the driver in a way that lease purchase agreements do not.
2. Lease purchase agreements should be designed to provide drivers with equity in the vehicle. A motor carrier/lessor would have more difficulty declaring a lease in default when a driver has ownership.
3. Lease purchase agreements should guarantee that drivers who make their payments will complete the lease successfully.

4. Drivers would benefit from information about the interest rate they can access from lenders based on their credit score. Lessors often do not provide this information, setting a rate higher than the driver could get based on credit score and other factors.
5. Lease purchase agreements should include clear disclosures.
6. A two-check system that separates a driver's wages from their lease payments may improve the potential of driver leases to work for the driver.
7. No alternative or adjustment to lease purchase agreements will be equitable if the contracts perpetuate the existing uneven power dynamic between motor carriers/lessors and drivers. When the same entity offers financing to drivers and controls their earnings, drivers cannot speak up about labor issues.

II. Recommendations

A. End lease purchase agreements that take advantage of drivers and lead to most drivers failing to complete their agreements successfully.

B. Alternatively, establish criteria to ensure lease purchase agreements are equitable for drivers and disclose clear terms prior to signing, including interest rates and driver creditworthiness.

C. Require motor carriers/lessors to provide information to potential lessees about the average length of time it takes to complete a lease purchase agreement.

D. Compare lease purchase agreements to traditional vehicle lending that operates under consumer lending regulations.

E. Require education for drivers about the terms and pitfalls of truck leasing agreements.

F. Clarify the impact of lease purchase agreements on turnover and potential driver shortages.