I. Discussion of Subcommittee Report on Public Court Data

A. Motor carriers/lessors may utilize a consistent set of strategies that make lease purchase agreements profitable at the expense of drivers.

1. Motor carriers may misrepresent the terms of a lease, including potential earnings by a driver/lessee.
2. Motor carriers may tell drivers they cannot work for the carrier unless they sign a lease agreement.
3. Motor carriers/lessors often demand a driver/lessee works only for that motor carrier, controlling a driver's earnings and their ability to complete the lease.
4. Motor carriers often include provisions that allow them to terminate a lease at their discretion by claiming a driver has violated a contract clause, saddling a driver with termination fees and other costs.
5. Motor carriers may change driver pay rates at their discretion under lease agreements.
6. Motor carriers may overcharge drivers for insurance coverage and/or mislead drivers about the level of insurance coverage on a vehicle.
7. Motor carriers often pay wages below the minimum wage after deducting costs related to the lease from paychecks. Drivers/lessees may receive a 'negative' paycheck, which means their debt increased after a workweek.
8. Motor carriers may lend money to a driver/lessee against future paychecks, pushing a driver deeper into debt.
9. Motor carriers/lessors often pass maintenance, repairs and other operating costs onto drivers, reducing the costs of motor carriers/lessors compared with motor carriers that do not have leasing programs.
10. Motor carriers with lease purchase agreements often have high driver turnover, which may discourage the organization of a union that would demand higher wages.
11. Motor carriers often lease older trucks that have low resale value and high maintenance costs.
12. Motor carriers may use a variety of terms to describe a lease and do not use the terms consistently.
13. Motor carriers may employ the term 'lease purchase' to suggest a driver/lessee will build equity in a truck by making their lease payments. Instead, motor carriers may include an option to purchase a truck at the end of a lease.

B. Drivers may not understand fully the terms of a lease purchase agreement and its consequences.

1. Drivers may lack education or experience related to contracts.
2. Drivers who are not native English speakers may have difficulty reading a contract.
3. Drivers often receive little time to review the terms of a lease before signing.
4. Drivers may believe that lease payments build equity when that is not the case.
5. Drivers may believe a lease will lead to truck ownership, when in reality even the most productive drivers usually fail to gain ownership of a truck.

C. Litigation is not a remedy for drivers harmed by predatory lease agreements.

1. Motor carriers/lessors who settle claims with drivers/lessees may continue to perpetrate the same abuses.

2. Motor carriers often fight in court to ensure a driver/lessee is classified as an owner-operator instead of an employee.
3. Motor carriers may leverage their resources to test the boundaries of the law to continue to generate profit from inequitable leasing agreements.
4. Motor carriers may frame a lease as a contract between two businesses, implying there is a contract negotiation. However, drivers often have no say over leasing terms.
5. Motor carriers may include clauses in contracts to hamper the pursuit of class action lawsuits, making it more difficult for drivers to secure legal representation.
6. Drivers may have greater difficulty pursuing damages because of forced arbitration clauses, which mandate arbitration to prevent a driver from going to court.
7. Few drivers pursue lawsuits against motor carriers because of the time, money, and effort required.

II. Discussion of Consumer Financial Protection Bureau (CFPB) Report

A. CFPB found similarities among the lease purchase agreements it reviewed for its upcoming report that analyzes leases submitted to FMCSA and their implications on predatory leasing of trucks to commercial motor vehicle drivers.
   1. Leases may include broad provisions that enable a motor carrier to force a driver to default and allow a carrier to pursue the personal assets of a driver to collect damages.
   2. Leases may stipulate that driver funds held in escrow for maintenance costs may be used for other purposes.
   3. A driver often returns a vehicle without successfully completing a lease, enabling the motor carrier to lease the same vehicle again to a different driver.

B. The final report will include differences between lease purchase agreements and commercial car market leases that require disclosures.

III. Recommendations

A. FMCSA should collaborate with non-governmental entities to create educational materials to inform drivers about the pitfalls of lease purchase agreements.
   1. The materials should be accessible to drivers with a high school education and drivers who are not native English speakers.
   2. The materials should familiarize drivers with contract terminology, including forced arbitration, and help drivers recognize clauses that allow a motor carrier to terminate a lease at the motor carrier's discretion.
   3. The materials should warn drivers of the following:
      i. Any lease that allows a motor carrier to make automatic deductions from their paycheck and
      ii. Any motor carrier that will not provide information about estimated net income for a driver during a lease.
   4. The materials should distinguish between net and gross earnings.
   5. The materials should provide an estimate of fair wages based on earnings per mile and other metrics and state earnings may fluctuate with transport demand.
   6. The materials should show the difference between classification as an owner-operator and classification as an employee, which includes unemployment, social security, and disability benefits.

B. End lease purchase agreements that enable motor carriers to profit at drivers' expense.

C. Alternatively, consider changes that will ensure drivers receive fair treatment.

   1. Regulate the lease purchase industry effectively.
   2. Allow motor carriers/lessors to lease only to drivers classified as employees.
   3. A driver would be classified as an employee until the successful completion of the lease.
   4. The motor carrier/lessor would provide the driver with a W-2 form to ensure a driver has a clear earnings statement and that the government receives tax payments.
   5. Only after the driver completes the lease and owns the truck would a motor carrier/lessor be able to reclassify the driver as an owner-operator.

D. Protect drivers from financial damages levied by motor carriers terminating contracts.
E. Ensure leasing contracts make clear whether a driver builds equity through payments.
F. Develop model contract language and/or a standard set of contract provisions.
G. Create a standard set of disclosures for both financing agreements and lease purchase agreements.
H. Disclosures would appear at the beginning of a lease purchase agreement.
   1. Disclosures would include the turnover rate of drivers/lessees at a motor carrier; whether a driver/lessee is classified as an independent contractor; and estimate driver/lessee net pay in the first weeks of the agreement.
   2. Disclosures would include information about insurance coverage and the contract would include copies of all related insurance policies.

I. Motor carriers/lessors should not be allowed to lend money to a driver, including loans against future paychecks.
J. Motor carriers should not be allowed to lease to a driver and also demand the driver works for them exclusively.
K. Motor carriers that coerce drivers into violating federal limits on hours of service should face immediate and significant consequences, such as ending their leasing programs.