

TIA Current Issues – November 2011

C-TPAT Authority for Property Brokers – the Customs and Border Protection Agency of the Department of Homeland Security is currently working with TIA on developing security criteria for non-asset based 3PLs. TIA Staff and the AdHoc C-TPAT Committee had a call on October 25th with the Global Supply Chain COAC Subcommittee and Steve Graham of CBP to discuss the security criteria we submitted to CBP a couple of weeks ago. The COAC must recommend to CBP whether domestic non-asset based brokers should be allowed in the program. They must give their recommendation before the end of the year. A follow-up call will take place October 31st. In the 111th Congress, Rep. Owens (D-NY) introduced legislation to address this issue. TIA is also working with House and Senate Homeland Security Committee staff on inserting language in the SAFE Ports Reauthorization Act.

California Air Resources Board (CARB) TRU Proposed Amendments – The California Air Resources Board has passed proposed amendments addressing refrigerated “reefer” units, which would require brokers, shippers, and receivers to dispatch or contract with only CARB-compliant TRUs. TIA staff is working with CARB staff on developing “due diligence” guidance. The requirement includes all reefer units traveling on California highways, not just California based companies. TIA will draft guidance contract language when guidance is issued. The requirement will take effect on January 1, 2013.

Comprehensive Safety Analysis (CSA) – TIA generally supports the Department of Transportation’s efforts to improve carrier safety analysis. TIA has revised its Carrier Selection Framework to assist TIA members in using DOT’s new tool; this is an ongoing process as CSA data changes. TIA has met with Administrator Ferro to discuss rulemaking on safety fitness determinations rulemaking (SFD). FMCSA is looking to release the NPRM on SFD early next spring 2012.

Driver Detention Time Legislation – Congressman Peter DeFazio has introduced legislation (H.R. 756) that seeks to regulate the amount of time a commercial vehicle can be delayed by a shipper or receiver. The legislation currently has twelve co-sponsors. OOIDA has been the driving force behind the legislation, which ATA opposes, as of the end of August. House Transportation Committee staff has indicated that there is no language in the Surface Transportation Reauthorization Bill.

Electronic on Board Recorders (EOBRs) – On August 26, 2011, a federal appeals court has thrown out the 2010 FMCSA rule requiring electronic onboard recorders for many motor carriers, citing that the rule doesn’t ensure that the devices won’t be used to harass drivers. OOIDA supported the repeal. FMCSA will probably have to restart the rulemaking process, which could ultimately delay any rulemaking up to two years. ATA strongly supports the mandatory EOBR rule.

Fighting Fraud in Transportation – in the 112th Congress, Congressmen Guinta and Carnahan introduced legislation supported by TIA, ATA and OOIDA to address issues of transportation fraud and raise the property broker bond requirement to \$100,000. The legislation currently has twelve co-sponsors. TIA

has met with House Committee Staff, who have indicated that the FFIT language will have its own title in the House Surface Transportation Reauthorization Act.

Hazmat – TIA has met with Administrator Ferro and an official from PHMSA. PHMSA has requested a letter addressing the issue of registration discrepancies between FMCSA and PHMSA.

Hours of Service – TIA has submitted comments to the Department of Transportation critical of efforts to reduce the number of hours a carrier can operate. The current hours of service rules have resulted in the lowest number of accidents per million miles driven in decades. The proposed changes to the hours of service regulations will not further improve safety, but will add cost and inefficiency to an already struggling transportation industry. Republican leadership has sent President Obama letters urging him to maintain current HOS rules. Senator Ayotte (R-NH) has introduced an amendment to the “mini bus” appropriations bill that would block the rewrite of the HOS rule. Secretary of Transportation Ray LaHood has urged Senator Ayotte to withdraw her amendment, ATA is displeased with the Administration’s position on HOS.

Independent Contractors/Job Reclassification – TIA opposes efforts by states to eliminate the use of independent contractors or re-classify exempt positions into hourly positions. States that have agreed to work with the Department of Labor on enforcement of misclassification of workers include: Connecticut, Hawaii, Maryland, Massachusetts, Minnesota, Missouri, Utah, and Washington. Labor officials from New York and Illinois plan to sign up in the near future.

Protecting Jobs from Government Interference Act – TIA supports the House passed version of H.R. 2587, which prohibits the National Labor Relations Board from ordering any employer to close, relocate, or transfer employment under any circumstance. The legislation was introduced because; the NLRB blocked an attempt by the Boeing Company to open a new office in the state of South Carolina. It is unlikely that this legislation will move in the Senate, thus resulting in a costly legal battle.

Surface Deployment and Distribution Command – SDDC acts as a transportation broker between government shippers and commercial carriers. TIA Staff exhibited and attended the SDDC Symposium in St. Louis last week. Out of approximately twenty-five exhibitors, eight were TIA members. So we had a great showing of why SDDC should use non-asset based freight brokers to move their freight.

EPA Smart Way 2.0 – TIA is working with EPA Smart Way staff to ensure fair scoring standards that take into account all the environmental benefits that non-asset based logistics companies bring to the industry. Smart Way has launched the new 2.0 logistics tool and it is presently accepting comments on the new version.

Surface Transportation Reauthorization Act - TIA supports the maintenance and expansion of America’s critical infrastructure. TIA supports a multi-year highway reauthorization bill and an increase in the fuel tax as long as the funds are being used on improving our nation’s highways and infrastructure.