

June 17, 2010

Dear TIA Member:

As the press has been reporting, TIA and the Owner-Operator Independent Drivers Association (OOIDA) have joined together to promote legislation to fight fraud in trucking. Leaders of TIA and OOIDA, at the urging of Representative Peter DeFazio (D-4<sup>th</sup>/OR), Chairman of the House Subcommittee on Highways and Transit, sat down together following our battle over the TRUCC Act fuel surcharge and margin disclosure legislation. What we found was that there was a common interest between the organizations to find solutions to shared problems of marketplace fraud. Both organizations had to compromise, and in doing so, we recognized that it would be better to work together than to argue on Capitol Hill and risk having a “solution” -dictated by Congress that would not be in the best interest of either group. The legislation was introduced in the Senate on June 11<sup>th</sup> by Senators Snowe (R-ME) and Klobuchar (D-MN) as S. 3483. Their proposed bill was referred to the Senate Committee on Commerce, Science and Transportation for consideration. We don't know when the legislation will move.

Given the range of changes taking place in other industries at the hands of Congress and the Administration, TIA feels that the reforms for the trucking industry, including the \$100,000 bond are manageable. Without this compromise, we could instead be faced with escrow accounts for freight owed to motor carriers, making your margins public, and bonds as high as \$500,000 or more.

The legislation is a broad package of reforms to address issues of fraud that plague the transportation marketplace. Of course, the item that has caught the most attention is raising the broker bond to \$100,000. An increase in the broker bond to \$100,000 should not be feared, but you should begin preparing for the change. TIA already offers a \$100,000 broker surety. TIA's solution will work for TIA members, and will meet the requirements of the Snowe – Klobuchar bill. Knowing that an increase in the bond is likely gives us time to prepare accordingly. Qualification for the current TIA Performance Certified \$100,000 bond is based on underwriter point scoring, and while we're not going to give our secret sauce formula to our competitors, think about what could cause your company to fail: not enough working capital or improper insurance to withstand a major setback. With that in mind, here's what you need to do to prepare:

- (1) To fully answer your questions and concerns, TIA will host a Free Webinar on July 14 at 2:00 pm est., where members can ask questions about the legislation. In the meantime, rest assured that TIA is your voice in Washington.
- (2) Improve your credit score – this is something you should be doing anyway, and TIA and TransCredit will offer a Free Webinar to help you on August 11 at 2:00 pm EST.
- (3) Keep your financial reports in good order and have a positive net worth of at least \$200,000 depending on the size of your business and your insurance coverage.
- (4) Have proper insurance coverage including non-follow form contingent cargo, errors and omissions, contingent auto liability, and general liability.
- (5) Become TIA Performance Certified now—don't wait until the new law requires you to raise your security to \$100,000.

The legislation places strict regulation on the companies that offer broker bonds and trust funds. In short, the surety company will be liable for \$100,000 and will not be able to duck and dodge like they do today when they issue trusts without proper collateral or by deducting their costs instead of paying legitimate claims. The

legislation will require sureties to pay claims pro-rata and make those payments public. Of course, you will still be able to contest improper claims against your bond.

Other provisions of the legislation include:

- Requiring every licensed company to renew its authority every year and requiring DOT to cancel any authorities not renewed. This will let us know who is actually still in business. In many ways, this is what the Unified Carrier Registration Agreement (UCRA) is supposed to do, but the dots have not been connected. Every carrier, broker, and forwarder is supposed to pay an annual UCRA fee. The Snowe - Klobuchar requirement will tie renewal of operating authority to payment of the annual fee.
- Distinctive authority numbers will be issued for each authority (motor carrier, broker, freight forwarder), and for each shipment the parties will have to declare under which authority they are participating in the transaction. In other words, a motor carrier taking the load, takes it as a motor carrier for the rest of the transaction.
- Motor carriers will be prohibited from re-brokering freight no matter what they call it, without having a proper broker license and bond. The legislation places unlimited liability for valid claims on companies that knowingly broker without a license or bond.
- Impose new requirements for licensing including the requirement for at least one corporate officer who has met minimum experience or training requirements (a qualified individual). This will make tracking the companies that come in and out of the industry easier, and improve the service quality and professionalism of the industry.
- Impose the bond requirement on forwarders making it a level playing field for anyone who operates as an intermediary.

There are things we like about the legislation and things we don't, that's what makes a compromise. By taking the step of finding common ground with OOIDA, we have sought to fight common problems. Brokers, forwarders, and owner-operators need each other, and by working together, we can fight industry fraud so that our members can continue to grow their family businesses.

This is not about big companies versus small companies, as some will suggest. This legislation is about well-run companies of all sizes that follow the rules against those that think they can skate on thin ice.

In conclusion: **This legislation will bring an end to bad bonding companies, carriers brokering without a license or bond, scam artists that come in and out of the market to rip people off**, and it will create a competitive playing field for the legitimate industry. The legislation is not about regulating brokers or carriers; it is about fighting fraud in the trucking industry.

Sincerely,



Chip Smith, Chairman  
TIA Board of Directors



Robert A. Voltmann, President  
TIA