



TIA ON THE HILL

The Latest News and Updates from TIA's Government Affairs Department



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Political Rhetoric on Filibuster Heats Up

Last week, the political debate on ending the filibuster, a Senate legislative hurdle that requires a 60-vote threshold to begin debate on a bill, took a massive hit as Senator Sinema (D-AZ) and Senator Manchin (D-WV) voiced their strong opposition to eliminating the filibuster.

In a passionate speech on the floor of the Senate, Senator Sinema stated, "Eliminating the 60-vote threshold will simply guarantee that we lose a critical tool that we need to safeguard our democracy from threats in the years to come."

The debate about ending the filibuster was resurrected in the last few weeks as President Biden has ramped up the talks of passing a robust voting rights legislation, which is being championed by civil rights advocates. At the President's speech in Atlanta last week, Biden specifically noted that the filibuster must be ended in order to pass this "important legislation."

The voting rights legislation cleared the House of Representatives on Thursday and has now been sent to the Senate. Senator Majority Leader Schumer (D-NY) has indicated that the Senate would take action on this legislation even with the grim hopes of passing it with opposition from the two Senators mentioned above and the entire Senate Republican caucus. It is important to note that Senate Democrats do not need a single Republican to change the rules but would need both Sinema and Manchin in order to reach the 50-vote threshold.

Under 21 Drive Pilot Program Takes First Step

On January 13, 2022, the Federal Motor Carrier Safety Administration rolled out its pilot apprenticeship program for commercial motor vehicle drivers 18 - 20 years old, accompanied by an experienced driver. Members of Congress from both parties have been calling for more readily available commercial drivers given the capacity crunch that is being felt across the nation. As containers stack up and freight stands still, Congress turned to implement regulatory changes to alleviate the problem. There was a push to simply change the driver age for interstate commerce to 18-20 but a pilot program was sought as a middle ground. As FMCSA provides more guidance, we will make that available.

Here is what we know now the Department must consider safety as a top priority in rolling out these programs, adding a level of scrutiny to the selection of both carriers, apprenticeships, and experienced drivers. An experienced driver is a Commercial Motor Vehicle (CMV) operator who is at least 26 or older and has been driving interstate for more than 5 years. Additionally, the Federal Government is looking for no more than 3,000 apprentices to join the pilot program to ensure efficient results. Motor carriers that would like to participate in the Safe Driver Apprenticeship Pilot Program must complete an application for participation (submit monthly data on an apprentice’s driver activity (e.g., vehicle miles traveled, duty hours, driving hours, off-duty time, or breaks), safety outcomes (e.g., crashes, violations, and safety-critical events), and any additional supporting information (e.g., onboard monitoring systems or investigative reports from previous crashes).

In addition, carriers will be required to notify FMCSA within 24 hours of (1) any injury or fatal crash involving an apprentice; (2) an apprentice receiving an alcohol-related citation in any vehicle (e.g., driving under the influence or driving while intoxicated); (3) an apprentice choosing to leave the pilot program; (4) an apprentice leaving the carrier; or (5) an apprentice failing a random or post-crash drug/alcohol test.

The FMCSA has listed the carrier requirements such as being registered with FMCSA, having the minimum level of financial responsibility, not be moderate or high risk, no conditional or unsatisfactory safety rating, no open enforcement issues within 6 years, truck crash rating above the national average, driver and truck OOS (Operating Out of Service) above the national average, and these entities must also maintain compliance with Department of Labor Apprenticeship program.

U.S. Supreme Court Halts OSHA Vaccine Mandate

On Thursday, January 13th, the U.S. Supreme Court ruled in a 6-3 decision that the Administration's vaccine requirement for companies with more than 100 employees exceeded the Agencies Constitution authority, therefore nullifying the mandate. The lead agency, OSHA or Occupational Safety and Health Administration began this process in November of 2021 and has gone through an initial court strike down from the State of Texas, an appeal that overturned the state ruling and a final blow from the U.S. Supreme Court which states that OSHA overstepped in their vaccine mandate. The Biden Administration stated this would impact 84 million workers.

Justice Samuel Alito, a conservative-leaning justice, asked the government's attorneys whether OSHA was trying to legally "squeeze an elephant through a mouse hole" by issuing the emergency rule. While Chief Justice John Roberts inquired "Why Congress doesn't have a say in this." The enforcement aspect was set to begin on February 9, 2022.

TIA will continue to monitor ongoing efforts by the Federal Government to impose vaccine requirements as the pandemic wanes. The General Service Administration (GSA) requirement for government contracts is still valid currently.

More States Following California on Environmental Issues

TIA continues to monitor state activity relating to California's CARB regulations. These state-level regulations are detrimental to the day-to-day activities of freight brokers. By slowly chipping away at the definition and role of 3PL's these states are putting your business at risk and set you up for failure. So far New Jersey, Washington State, Oregon, New York, and Massachusetts have adopted California's Advanced Clean Truck (ACT) rule. New York's regulation commits to 100% of medium and heavy CMV to be electric by 2045. While the goal is admirable, all these regulations require enforcement, oversight, and compliance. Inside these regulations is an effort to track brokers' carrier selection process, request day-to-day information on the trucks selected for your customers' freight, and even consider you a "fleet owner."

States are easily able to adopt California's regulation due to section 177 of the federal Clean Air Act (42 U.S.C. 7507). This statute states "any State which has plan provisions approved under this part may adopt and enforce for any model year standards relating to control of emissions from new motor vehicles or new motor vehicle engines and take such other actions as are referred to in section 7543(a) of this title respecting such vehicles if— (1) such standards are identical to the California standards for which a waiver has been granted for such model year."

TIA will continue to monitor all these different state regulations and the potential impacts to our members and report back on key findings.