



TIA ON THE HILL

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



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Trinity Logistics Testifies Before Senate

TIA Member and long-time friend of the Association, Mr. Doug Potvin, CFO of Trinity Logistics testified in front of the Senate Finance Committee on issues facing the supply chain and global competitiveness. Doug did a phenomenal job fielding questions from both Democrats and Republicans on a variety of issues and representing not only Trinity Logistics but TIA and the entire 3PL industry. Doug laid out several areas where regulatory hurdles and legislative solutions could help ease the supply chain crisis.

Mr. Potvin was joined by his wife, Sara, and the President and CEO of the company, Sarah Ruffcorn. The Chairman of the Committee, Tom Carper (D-DE), who represents Delaware and a multiple visitor to Trinity's headquarters in Seaford, DE was generous enough to speak about the Potvin family and Ms. Ruffcorn who joined in the Committee room.

Mr. Potvin fielded questions from Senators, including Senator John Thune (R-SD). Senator Thune specifically asked about his signature Ocean Shipping Reform legislation which was signed into law recently by President Biden. Overall, Mr. Potvin did an amazing job and we thank him so much for his participation at the hearing and representing TIA.

FMCSA Releases Notice & Comment on Dispatch Services

Last week, the Federal Motor Carrier Safety Administration (FMCSA) is set to release tomorrow a notice, and request comments about the definition of brokers and bona fide agents. FMCSA is required to issue guidance on this subject per the bi-partisan infrastructure package that TIA pushed for. The public will have until July 11th to file comments. The TIA Highways Logistics Conference Committee meets this week to discuss and develop positions on the questions posed in the notice.

There are 13 questions that FMCSA would like feedback on. These include:

- What evaluation criteria should FMCSA use when determining whether a business model/entity meets the definition of a broker?
- Provide examples of operations that meet the definition of broker in 49 CFR 371.2 and examples of operations that do not meet the definition in 49 CFR 371.2.
- What role should the possession of money exchanged between shippers and motor carriers in a brokered transaction play in determining whether one is conducting brokerage or not?
- How would you define the term dispatch service? Is there a commonly accepted definition? What role do dispatch services play in the transportation industry?
- To the best of your knowledge, do dispatch services need to obtain a business license/Employer Identification Number from the State in which they primarily conduct business?
- Some “dispatch services” cite 49 CFR 371.2(b) as the reason they do not obtain FMCSA brokerage authority registration in order to conduct their operations. As noted above, section 371.2(b) states that bona fide agents are “persons who are part of the normal organization of a motor carrier and perform duties under the carrier’s directions pursuant to a pre-existing agreement which provides for a continuing relationship, precluding the exercise of discretion on the part of the agent in allocating traffic between the carrier and others.” Some dispatch services interpret this regulation as allowing them to represent more than one carrier yet not obtain broker operating authority registration. Others interpret this regulation to argue that a dispatch service can only represent one carrier without obtaining broker authority. What should FMCSA consider when determining if a dispatch service needs to obtain broker operating authority?
- If a dispatch service represents more than one carrier, does this in and of itself make it a broker operating without authority?
- When should a dispatch service be considered a bona fide agent?
- What role do bona fide agents play in the transportation of freight?
- Electronic bulletin boards match shippers and carriers for a fee. The fee is a membership fee to have access to the bulletin board information. Should electronic bulletin boards be considered brokers and required to register with FMCSA to obtain broker operating authority? If so, when and why?
- How has technology changed the nature of freight brokerage, and how should these changes be reflected, if at all, in FMCSA’s guidance?
- Are there other business models/services, other than dispatch services and electronic bulletin boards, that should be considered when clarifying the definition of broker?
- Are there other aspects of the freight transportation industry that FMCSA should consider in issuing guidance pertaining to the definitions of broker and bona fide agents?

House Passes OSRA Bill

On late Monday night, the U.S. House of Representatives passed by a vote of 369 to 42 the Senate version of the Ocean Shipping Reform Act (OSRA, which was welcomed by the Transportation Intermediaries Association (TIA) and our members.

“TIA members have felt the pressure of delayed port times, container shortages, overbearing demurrage and detention charges, and foreign ocean carriers that do not play fair. While the bill is not a cure-all, this is a great first step, as it is the first major update to our ocean shipping laws since 2001,” stated TIA’s Vice President of Government Affairs Chris Burroughs.

For the first time since 1998, the laws that regulate the international shipping were to be addressed and amended. The bill’s sponsors noted that this is an important piece of legislation that will help the Federal Maritime Commission (FMC) carry out its purpose to create a fair import and export marketplace. Sponsors of the bill including, Congressman Jim Costa (D-CA) indicated that Congress might not be done yet and signaled that Congress is looking at solutions to address issues with the movement of truck chassis and the movement within ports and a broader antitrust legislation aimed at the shipping community.

TIA applauds the efforts of Congressman Garamendi (D-CA) and Dusty Johnson (R-SD) for their leadership on the House version and getting this across the finish line and to President Biden’s desk.



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