LEGISLATIVE

ELD Exemption for Small Carriers Introduced in House

In 2015, the Federal Motor Carrier Safety Administration finalized its electronic logging device requirement. Carriers were given two years to transition from paper to electronic logs, with the final deadline for compliance set for December 2017. Carriers already using Automatic On-Board Recording Devices were given until December 2019 to either modify their current systems to meet ELD specifications or transition to an ELD.

Since FMCSA's final rule was published, some stakeholders as well as legislators have been advocating for exemptions from the rule for certain industry groups. One such effort is the Small Carrier Electronic Logging Device Exemption Act, introduced by Representatives Peterson (D-MN) and Gianforte (R-MT) on March 12, 2019. The bill, H.R. 1697, would exempt carriers operating with ten or fewer commercial vehicles from ELD requirements. Instead, drivers for exempted carriers would be given the option to utilize either paper logs or ELDs to comply with hours of service regulations. A press release by the bill sponsors stated that the bill aims to reduce the “unnecessary burden” the ELD mandate puts on small businesses.

TruckerNation, the United States Transportation Alliance, and the Small Business in Transportation Coalition have expressed support for the bill, while American Trucking Associations wrote a letter to Transportation and Infrastructure Committee leadership voicing its opposition due to safety concerns. The bill has been referred to the House Committee on Transportation and Infrastructure.

Reps. Peterson and Gianforte also introduced the Agricultural Business Electronic Logging Device Exemption Act this month, which would provide ELD exemptions for carriers transporting agricultural commodities.

House and Senate Introduce NEW GIG Act to Clarify Worker Classification

As lawsuits regarding worker classification across the country continue to make the news, a recently introduced bill aims to provide objective classification criteria and clarify tax reporting requirements. The New Economy Works to Guarantee Independence and Growth Act was introduced in both legislative chambers on March 7, 2019. The bill would classify workers as independent contractors based on the following criteria: the relationship between parties; the location of the services or the means by which services are provided; and a written contract. The bill would create a safe harbor for those who
meet the criteria and would qualify them as independent contractors for income and employment tax purposes.

The Senate bill was sponsored by Senator Thune (R-SD) and referred to the Committee on Finance. In the House, the bill was sponsored by Representative Rice (R-SC) and referred to the Committee on Ways and Means.

REGULATORY

Bureau of Labor Statistics Article Discusses Driver Shortage

The U.S. Bureau of Labor Statistics published an article examining the labor market for truck drivers, titled “Is the U.S. labor market for truck drivers broken?” The authors analyzed data such as the structure of the workforce, salaries, unemployment rates, and occupational mobility. After comparing this data to similar industries, the authors concluded that the labor market for truck drivers is comparable to labor markets of other blue-collar occupations and found no evidence of a driver shortage. Although the article acknowledged labor supply has not met labor demands over the past decade, it argued that increased wages would eventually lead to a higher supply of drivers and thereby circumvent a long-term shortage.

While the Owner-Operator Independent Drivers Association applauded the article for reaching similar conclusions to those they have long held, the American Trucking Associations critiqued it for using outdated data, failing to differentiate between segments of the trucking industry, and misunderstanding how ATA and the industry in general discuss the driver shortage. ATA also stated that in its comparison to other blue-collar industries the authors did not take certain factors specific to trucking into account, such as increased barriers to entry (age requirements, strict drug and alcohol testing, and commercial driver’s license and safe driving record requirements) and working conditions that often require drivers to spend a lot of time away from home.

USTR Postpones Tariff Increase and Publishes Tariff Exemptions List

At the direction of President Trump, the Office of the United States Trade Representative in August 2017 initiated an investigation into China’s trade laws, policies, and practices under section 301 of the Trade Act of 1974. After the investigation found that China had been engaging in unreasonable and discriminatory trade practices, the President directed USTR to consider additional tariffs on Chinese goods, among other actions. In 2018, USTR finalized three separate lists of Chinese goods to be subject to additional tariffs, including: a 25 percent ad valorem duty on $34 billion worth of goods; a 25 percent ad valorem duty on $16 billion worth of goods; and a 10 percent ad valorem duty on $200 billion worth of goods, which featured trailers and semi-trailers, including chassis, made in China. Additionally, USTR planned to increase the tariff level on this $200 billion list
from 10 percent to 25 percent in January 2019. As a result of ongoing trade negotiations between the two countries, this increase was postponed until March. This month it was again postponed, this time until further notice.

In September 2018, USTR published a notice in the federal register establishing a process by which U.S. stakeholders can exempt particular products on the first two tariff lists from the additional duties. Since then, USTR has issued two exemption lists for the $34 billion action and stated it will continue to review pending requests on an ongoing basis. No exemption process has currently been initiated for the final $200 billion action containing chassis.

FMCSA Amends Entry-Level Driver Training Regulations

In June 2018, the Federal Motor Carrier Safety Association issued a notice of proposed rulemaking that would amend its entry-level driver training regulations. Currently, a commercial driver’s license holder seeking to upgrade their Class B CDL to a Class A CDL must complete the same level of theory training as one obtaining a CDL for the first time. FMCSA’s new rule makes certain parts of the theory curriculum optional for Class B CDL holders looking to upgrade to Class A, making it easier to make such a transition. The rule did not make any changes to behind-the-wheel training requirements. FMCSA estimates the rule would affect approximately 11,340 driver-trainees annually, resulting in a reduction of 27 hours per person in time spent in theory instruction.

The final rule was published in March 2019, it made no changes to the regulatory text in the NPRM. The rule is effective May 6, 2019 and the compliance date is February 7, 2020. Petitions for reconsideration are due to FMCSA on April 5, 2019.