The IWLA Government Affairs Update

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Immediate Warehouse Issues

FMCSA Administrator Robin Hutcheson to Resign

Robin Hutcheson is resigning from her post as head of the Federal Motor Carrier Safety Administration, a U.S. Department of Transportation source confirmed on Jan. 18. Her last day at the agency will be Jan. 26. No reason was given as to why she is leaving. Sue Lawless, FMCSA's assistant administrator, is in position to head the agency in an acting administrator role after Hutcheson's departure. Lawless also serves as the agency's executive director and chief safety officer. Hutcheson, who was confirmed in September 2022, was FMCSA's seventh administrator since the agency was established in 2000. Hutcheson was criticized by lawmakers during a hearing on Capitol Hill last month for taking part in a fundraiser while a proposed regulation that would limit truck speeds was — and still is — pending. The fundraiser was allegedly sponsored by "labor unions and trial attorneys" that are supporters of the controversial rule. At a Capitol Hill hearing just one day earlier, FMCSA came under fire again — from the Transportation Intermediaries Association — for paying too much attention to non-safety issues such as private contracts between brokers and trucking companies. Read More Read DOT Press Release

Logistics Groups Criticize White House Move to Define More Workers as Employees, Not Contractors

Industry groups from every corner of the logistics sector are criticizing a White House policy released Tuesday that would swing U.S. Department of Labor (DOL) standards toward classifying many workers as employees instead of independent contractors. The long-running debate over that topic could have a large impact on companies that rely on contractors, including supply chain and transportation companies that hire over the road truckers and gig workers to deliver freight loads. The new Biden Administration standard rescinds a policy known as the 2021 Independent Contractor Rule, a Trump-era policy that logistics experts have called favorable to classifying workers as independent contractors. In its place, the new regulation creates a less predictable framework that increases the likelihood of determining that a worker has employee status under the Fair Labor Standards Act (FLSA), the federal statute that governs minimum wage and overtime pay, according to analysis by the transportation law firm Scopelitis, Garvin, Light, Hanson & Feary. The regulation is slated to take effect on March 11, although it may be challenged in court before that happens. "We anticipate business groups will file suit(s) challenging DOL's authority to issue this regulation," Scopelitis said in an email. "From enactment of the FLSA in 1938 until January 2020, DOL had not issued a regulation on this matter. After issuing a regulation in 2020, DOL abruptly changed its view with a change in control of the White House. Given increased judicial wariness of deference to agency interpretations, it is unclear how the regulation will impact private litigation should it survive anticipated legal challenges." Read More Read Even More

Governors From 16 States Ask Biden to Roll Back EV Mandates

Governors from 16 states have sent a letter to President Joe Biden, asking him to rescind his electric vehicle mandates in favor of letting the market determine adoption. "We are writing today on behalf of the American consumer to urge you to change course on your current mandate that two out of every three vehicles be battery-electrics by 2032. Instead of using government mandates to drive the vehicle market, allow American consumers to maintain choice in the types of vehicles they choose to drive," the governors urged Jan. 24. Stressing that they were not against EVs, the top state lawmakers said they were concerned about federal government mandates that penalize vehicle retailers and fail to "reflect the will" of consumers. "There are a number of reasons why consumers are leaving these cars on dealership lots — the cost, the infrastructure required and the battery content requirements are untenable for today's car buyers." Furthermore, the governors noted they were worried about the domestic sourcing of electric vehicle batteries and components. Other problematic issues they raised involved national challenges in having necessary infrastructure to support battery EVs (such as electrical grid capacity and reliability and adequate EV charging stations) as well as adequate supply chain capabilities for domestic EV battery production, which would have to steadily increase. Read More

Container Spot Rates Rocket Even Higher as Red Sea Crisis Drags on

It's now crystal clear that container ships will not return to the Red Sea anytime soon. Lengthy detours around the Cape of Good Hope have already pushed spot container rates far above pre-COVID levels, and rates continue to climb. Yet another commercial ship was hit by Houthi rebels on Jan. 17, the bulk carrier Genco Picardy, owned by New York-based Genco Shipping & Trading. This was followed by another barrage of coalition airstrikes in Yemen, then more Houthi attacks on shipping the following day. The Drewry World Container Index (WCI) Global Composite jumped to $3,777 per forty-foot equivalent unit for the week ended Thurs. Jan. 18. It's now up 173% year to date. With the exception of the COVID boom period in December 2020 through October 2022, this week's global spot-rate reading is the highest on record since the WCI debuted in June 2011. Read More

Fuchs Renominated to Second STB Term

Republican Patrick J. Fuchs, 35, has been nominated by President Biden to a second term on the Surface Transportation Board (STB), which has economic regulatory authority over railroad rates and practices. His first term expired earlier this month, but the STB's statute permits members to remain in office an additional 12 months pending Senate confirmation. Fuchs now awaits a Senate Commerce Committee hearing to determine whether his name goes forward for a Senate-floor confirmation vote. A second term would extend to January 2029. While the Commerce Committee is expected to recommend confirmation, a Senate-floor vote cannot be assured given current election-year politics that are more tempestuous than any in generations. What is certain is Fuchs' support for a second term from rail shippers, who have used words as "calm," "solid," "transparent," and "seriously thoughtful" to describe him. Railroads, so far silent, are expected to support his confirmation. Rail labor has indicated support for decisions that had Fuchs' vote. Notably, outgoing Democratic Chairperson Martin Oberman—who is close with fellow-Chicagoan Dick Durbin, the Senate's highest-ranking leader behind Majority Leader Chuck Schumer—has consistently praised Fuchs' work ethic, collegiality and understanding of the law and transportation economics. Read More

TIA Warns Congress of Rampant Fraud in Trucking

Rampant fraud in trucking has become an $800 million problem and the Federal Motor Carrier Safety Administration is not addressing the problem, according to the lobby representing 3PLs and brokerage firms. "There's a surge of malicious actors engaging in illegal activity, registering with FMCSA as carriers and perpetrating fraud, theft and holding freight hostage in situations without any legal consequences," said Jeffrey Tucker, testifying on behalf of the Transportation Intermediaries Association at a hearing before the U.S. House Transportation and Infrastructure Committee on Jan. 17. "While this is obviously an economic problem, hurting consumers and businesses alike, it also raises safety and security concerns. Unfortunately, FMCSA is failing to enforce the law or investigate the tens of thousands of fraud complaints lodged with it." He pointed to cases of fraud involving dispatch services that are often based in another country but are not required by FMCSA to obtain a license or registration, as is the case with U.S.-based services. Read More

Updated Warehouse Issues

USDOT Gives Truck Parking Projects $292 Million in Grants

Infrastructure projects aimed at expanding and improving truck drivers' access to safe parking are receiving $292 million in federal funding, the U.S. Department of Transportation announced. The four projects, which will add spaces in Florida, Wisconsin and Missouri and deploy a regional West Coast system to connect drivers with available parking spots along Interstate 5, were included among 37 infrastructure initiatives totaling $4.9 billion that President Joe Biden and Transportation Secretary Pete Buttigieg announced jointly Jan. 25. "I often hear directly from truck drivers on the serious challenge of finding safe parking, and today, we are answering those concerns with more action," Buttigieg said when asked why such a sizable share of the funding went to truck parking. "This major investment from President Biden's infrastructure law will build new truck parking facilities and create smart systems to give drivers better information about available spots." The funding comes from two discretionary grant programs, including the Infrastructure for Rebuilding America program. Buttigieg described the four initiatives as "truly transformative projects that will change entire regions and our entire country for the better." Read More

Report: Caltrans Budget to Take Hit Due to Green Vehicles

California drivers will experience worse highway and road conditions because of lost diesel and gasoline tax revenue from a $4.4 billion drop in state coffers that legislative analysts predict will occur in 10 years from regulations outlawing traditional cars and trucks. Achieving the California Legislature's ambitious greenhouse gas reduction goals in transportation by increasing the adoption of zero-emission vehicles and lowering the vehicle miles traveled by people "will in turn have significant impacts on state transportation revenues and programs," declared the Legislative Analyst's Office, a state nonpartisan fiscal and policy adviser. The financial implications of California's plans to revolutionize the way people and businesses use transportation and remove gas- and diesel-powered vehicles was outlined Dec. 13 in the legislative office's latest report, "Assessing California's Climate Policies — Implications for State Transportation Funding and Programs." Analysts forecast annual state transportation revenues will decline $4.4 billion (31%) during the next decade. The California Department of Transportation is responsible for maintaining and rehabilitating the state highway system (including 52,000 lane miles of highways and 13,000 bridges). The state pays for corrective and preventive maintenance projects through the Highway Maintenance Program and for highway rehabilitation/reconstruction through the State Highway Operation and Protection Program. Read More Read LAO Report

Warehouse Employment Keeps Falling — and More Layoffs Loom

The U.S. warehouse hiring boom continues to fade as companies shift their focus from expansion to efficiency within their supply chain networks. In December, the number of warehousing and storage employees fell to 1.85 million workers, according to preliminary data from the Bureau of Labor Statistics. That's the lowest employment count in the sector since November of 2021. More layoffs are coming in the sector in 2024. Several retail brands, e-commerce players and third-party logistics providers have already disclosed facility closures and job cuts starting this year, impacting over 2,800 employees tied to warehouse and distribution operations. Operating costs and efficiencies weren't as scrutinized during the years-long supply chain tumult sparked by the COVID-19 pandemic, as companies focused on keeping up with red-hot demand. They've since reconsidered that approach. Businesses are taking a closer look at their operations and assessing where they can increase efficiency while cutting expenses, leading to job cuts and adjustments to network footprints. Read More

NRF Panel "Guardedly Optimistic" for Sunny Economy in 2024

Retail economists are "guardedly optimistic" for continued economic strength in 2024, after resilient consumer spending kept the U.S. economy on its feet in 2023 despite a host of inconsistencies and uncertainties, speakers said today at the National Retail Federation (NRF)'s annual show in New York. NRF Chief Economist Jack Kleinhenz said he does not believe the nation will trip into a recession in the coming year, flying in the face of recent hurdles like regional bank failures, the Federal Reserve raising interest rates to fight inflation, and flareups of geopolitical violence. Factors that kept markets stable despite that turbulence included a "very strong" labor market as measured by 2.7 million new jobs created, simultaneous wage and income growth, and a surprisingly slow post-pandemic shift in tipping spending from goods to services, he said in a panel called "Prospects and Perspectives for the U.S. Economy." Additional numbers that supported that conclusion were greater gross domestic product (GDP) growth in 2023 than 2022, and a sharp drop in inflation shown by a shift in consumer product index (CPI) growth from 9.1% in June to just 3.4% in December, said panelist Ken Kim, a senior economist with KPMG. Historic records show that the U.S. has hit recession territory each time such a steep inflation drop has happened in the past, but that record will probably stop now. "We think a soft landing is achievable for 2024 and we will not get a recession in the U.S.," Kim said. Read More

December and Holiday Season Retail Sales See Gains, Reports Commerce and NRF

December retail sales numbers finished 2023 on the right side of growth, according to data respectively issued today by the U.S. Department of Commerce's Census Bureau and the National Retail Federation (NRF). Commerce reported that December retail sales, at $709.9 billion, were up 0.6% compared to November and rose 5.6% compared to December 2023. Total retail sales, from October through December increased 3.9% compared to the same period a year ago. And total 2023 retail sales posted a 3.2% annual increase over 2022. December retail trade sales saw a 0.6% gain over November and were up 4.8% annually, and non-store retailers, which includes e-commerce, increased 9.7% annually. The U.S. Census Bureau's tally for core 2023 holiday season retail sales increased 3.8% annually, coming in at $964.4 billion, in line with what NRF had forecasted despite inflation and high interest rates. NRF said this marks a new record, topping 2022's $929.5 billion, the previous record. Read More

Port of New Orleans Gets $226M for International Container Terminal

Efforts to build an international container terminal at the Port of New Orleans capable of handling ultralarge container vessels got a boost last Monday from the federal government. The port announced it was awarded an additional $226.2 million grant to assist in constructing the $1.8 billion Louisiana International Terminal (LIT), a project that aims to position the port as the top international container gateway in the Gulf of Mexico. "We are incredibly honored to receive this landmark grant award, which underscores decades of site and market analysis and reflects the recognition of our transformational project on a global scale," Brandy Christian, the port's resident and CEO, said in a news release. "Not only is this the biggest economic development grant in Louisiana history, but also the largest federal investment in a new container terminal in the history of the U.S. Department of Transportation." The Louisiana International Terminal will be capable of handling 2 million twenty-foot equivalent units annually and ultralarge container vessels that travel through the Panama Canal once it is completed around 2028. Read More
Read Port NOLA Press Release

Questions? Contact Bruce Linderman or call 847.813.4698

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