



## **The IWLA Government Affairs Update**

**July 02, 2024**

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### **Immediate Warehouse Issues**

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#### **PAGA Reformed: Legislation Shows Way Forward For California Employers**

After two decades and billions of dollars in penalties, on June 18 California Gov. Gavin Newsom, various labor and business groups, and legislative leadership reached a compromise agreement to reform California's Private Attorneys General Act (PAGA). The two pieces of legislation were proposed on June 21 – AB 2288 amends Labor Code Section 2699 and SB 92 amends Section 2699.3 – and signed into law yesterday. The legislation addresses standing and manageability, caps certain penalties, provides greater ability to cure alleged violations, and offers avenues for early resolution, among other things. With the legislation passed and signed into law, the PAGA ballot initiative set for the November election will be withdrawn. The amendments will apply, with some exceptions, to civil actions brought on or after June 19, 2024. Although employers can be cautiously optimistic about these PAGA reforms, it remains to be seen how courts will interpret the new law, and whether the reforms do in fact ameliorate the abuses and resultant increase in operating costs for California employers over the last 20 years. In the meantime, it is important that employers continue to remain vigilant with respect to their wage and hour policies and procedures. [Read More](#) [Read Even More](#) [Read FixPAGA Press Release](#)

#### **Canadian Border Agents to Decide on New Labor Deal by July 4**

Canadian border agents will have between June 20 and July 4 to vote on a new four-year labor agreement with the government of Canada, the Public Service Alliance of Canada and Customs and Immigration Union announced June 14. Results are expected to be released shortly after voting closes at noon Eastern on July 4, according to the union. The negotiating committee for the union recommended members ratify the deal. Last month, the union and the Treasury Board of Canada Secretariat, which negotiated the deal on behalf of the government, reached a tentative agreement following nine days of exhaustive negotiations. The more than 9,000 represented members of the Canada Border Services Agency had been working without a contract for two years. The tentative labor agreement averted a strike from the union that was set to begin at 12:01 a.m. Eastern on June 7. Such a strike could have led to traffic back-ups at more than two dozen border crossings and longer processing times for freight being shipped between the U.S. and Canada. The negotiated agreement, which covers the period between June 2022 to June 2026, includes a compounded wage increase of 15.73 percent as well as provisions for shift scheduling and leave time. [Read More](#)

#### **California Regulators Pass Rule to Phase Out Gas-Powered Forklifts**

California air regulators approved a first-in-the-nation rule last Thursday to mandate the phase-out of most gas-powered forklifts despite opposition from industry groups and labor unions. The move is the latest effort from the California Air Resources Board to decrease reliance on fossil fuels as the state attempts to slash emissions 48 percent below 1990 levels by 2030 and reach net-zero emissions by 2045. The rule will ban the purchase of new internal combustion forklifts – excluding rough terrain models – starting in 2026. Older models would be phased out between 2028 and 2038, with small fleets of 25 or fewer forklifts getting more time. CARB members passed the rule on a unanimous vote after board staff argued that electric forklifts are readily available at a low enough cost to make the transition feasible for California businesses. CARB staff will now ask U.S. EPA to grant a waiver from the Clean Air Act to allow pollution rules stricter than the federal government's. The process can take more than a year to complete; CARB is still waiting on EPA approval for eight other regulations. [Read More](#) [Read CARB Press Release](#)

## Supreme Court Ruling Could Boost 3PL Legal Powers

Operators that want to challenge regulations that govern them may have received a significant boost from the U.S. Supreme Court on Friday in a decision that overturns a 40-year precedent of deference given to federal agencies. The high court decided 6-3 to overrule the Chevron doctrine, a policy challenged in *Loper Bright Enterprises v. Raimondo* that requires lower courts to defer to regulatory agencies in legal challenges of regulations that agencies have interpreted from ambiguous statutes. The doctrine allowed federal agencies to interpret unclear laws approved by Congress using a two-part test: Checking if Congress had clearly addressed the issue, and if not, determining if the agency's interpretation was reasonable. Policies affecting all aspects of warehousing having to do with operations, climate, or labor may now have to undergo heightened scrutiny at the agency level before they are rolled out in order to stand up to legal challenges. Ken Nahigian, co-founder of the Balancing Act Project, an advocacy group created to help navigate the effects of the policy change, said that companies generally "should probably like this change, because this gives them options, it gives them a voice again if they need to challenge their regulator. In general, any industry that's regulated would want to have the ability to challenge their regulator if rulemakings are not based on any authorization from Congress — for example, a rulemaking that banned a certain truck size, or if EPA made fuel economy standards that were unreachable." But the rule also has a downside: the potential for a flood of litigation that jams courts with lawsuits. [Read More](#)

## U.S. Industries Fearing a Port Strike Urge Biden to Revive Labor Talks

Dozens of U.S. industry associations urged the White House to help restart stalled talks between East and Gulf coast dockworkers and port operators, saying a strike is the last thing the economy needs amid already strained global supply chains. Earlier this month, contract negotiations broke down between the International Longshoremen's Association and the U.S. Maritime Alliance. The current agreement, which covers about 45,000 dockworkers at facilities including six of the 10 busiest US ports, expires September 30. "We call upon the administration to immediately work with both parties to resume contract negotiations and ensure there is no disruption to port operations and cargo fluidity," according to a letter to President Joe Biden on Tuesday from more than 150 groups including the US Chamber of Commerce, the National Association of Manufacturers, the National Retail Federation, and the International Warehouse Logistics Association (IWLA). "With all these existing challenges, the last thing the supply chain, companies, and employees — all of which rely on the movement of goods, both imports and exports, through our East Coast and Gulf Coast ports — need is a strike or other disruptions because of an ongoing labor negotiation," the letter stated. [Read More](#) [Read Even More](#) [Read Full Letter](#)

## California Congressman Proposes Bill to Tackle Cargo Theft

A California congressman has the United States' growing cargo theft problem in his sights. U.S. Rep. David G. Valadao, R-Calif., last week introduced the Safeguarding our Supply Chains Act, which aims to stop "the rampant theft within our nation's supply chains." The American Trucking Associations praised Valadao earlier this month for his work leading Homeland Security Investigations to establish a \$2 million Supply Chain Fraud and Theft Task Force. The 2025 Department of Homeland Security funding bill directs the task force to work with multiple agencies, such as the FBI, Immigration and Customs Enforcement and the U.S. Department of Agriculture. Valadao said he hopes that increased information sharing will bust the thieves. The National Insurance Crime Bureau reports that cargo theft amounts to \$15 billion to \$30 billion each year. Class I railroad theft jumped from \$13.8 million to \$33.7 million from 2021 to 2022, Valadao said. CargoNet, a data-sharing system, reported that the first quarter of 2024 saw a 46 percent increase in cargo theft compared to the same period last year. [Read More](#)

## California's Long-Delayed Indoor Heat Rule Approved

A California workplace safety board last month approved a long-delayed rule requiring most employers to reduce the risks of extreme heat for indoor workers. It applies to all employers except state prisons and local jails, and will particularly protect workers in warehouses, restaurant kitchens, manufacturing plants and any other indoor workplaces that are not fully air-conditioned. The Occupational Safety and Health Standards Board unanimously approved the rule with little discussion — then urged the Office of Administrative Law to fast-track it so that it can be in effect by August. Under normal administrative schedules, it will go into effect in October, leaving workers unprotected the rest of the summer. Under the rule, when it is 82 degrees employers will be required to provide cooling areas and monitor workers for signs of heat illness. When it is 87 degrees, or for workers who labor near a heat source or must wear restrictive clothing on the job, businesses must take further measures, including: Cooling the worksite to 82 degrees or lower, if feasible; Adjusting schedules, allowing more breaks, slowing the rate of production or rotating workers through assignments; As a last resort, providing protective equipment such as personal fans or cooling vests. [Read More](#) [Read Even More](#)

## Port of New Orleans Snags \$230M for Infrastructure Projects

The Port of New Orleans got a boost from the Louisiana State Legislature, which committed \$230.5 million to the Louisiana International Terminal (LIT) and other infrastructure projects. The \$1.8 billion LIT aims to position New Orleans as one of the top international container gateways in the Gulf of Mexico, officials said. “The legislature’s backing of infrastructure funding to support the LIT builds upon commitments of more than \$1.1 billion from the federal government and private sector,” Julia Fisher-Cormier, commissioner of the Louisiana Office of Multimodal Commerce, said in a news release. “These are the types of public investments Louisiana must make to transform our trade-based economy and secure our position as a future leader of global trade.” The LIT is currently in the federal permitting process. Construction is scheduled to begin next year, with the first berth opening in 2028. The LIT will be built in Violet, Louisiana, about 17 miles downriver from the Crescent City Connection bridge. The new terminal’s location aims to eliminate air draft restrictions for vessels that currently call at the Port of New Orleans. [Read More](#)  
[Read Press Release](#)

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## Updated Warehouse Issues

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### Canada Rail Workers Keep Window Open for Strike

Represented workers from Canadian National and Canadian Pacific Kansas City Southern — Canada’s largest railroads — overwhelmingly voted in favor of going on strike unless they get a new labor deal, the union announced Saturday. The result of the vote by more than 9,200 Canadian railroad workers does not mean a strike is eminent. It does, however, position members of the Teamsters Canada Rail Conference to conduct a work stoppage unless members receive a new contract to replace its previous deal that expired on Dec. 31, 2023. Overall, 98.6 percent of the 89.5 percent of members who voted between June 14 and June 29 favored going on strike, according to the union. Saturday’s results mark the second time the union has authorized a strike this year. Members previously approved a strike on May 1, which positioned the union to begin a work stoppage on May 22. However, intervention by Seamus O’Regan, Canada’s Minister of Labour, closed that strike window, as he requested the Canada Industrial Relations Board to investigate whether a work stoppage would impact Canadians’ health and safety. Now the union is positioned for another 60 days to legally strike. A work stoppage cannot start until 72 hours after the government announces a decision. Talks between the union and Canadian National and CPKC began in November, but the parties are no closer to a new labor agreement. [Read More](#)

### US House Bill Includes \$200M for Truck Parking

A member of Congress is leading the charge to create more truck parking to ease a headache-inducing problem drivers face daily. U.S. Rep. Steve Womack, R-Ark., is being praised by the American Trucking Associations for being “instrumental” in including \$200 million for truck parking in the House Transportation Appropriations Subcommittee funding bill on Transportation, Housing and Urban Development. Womack is chairman of the subcommittee. The Federal Highway Administration has deemed the country’s limited truck parking “a national safety concern.” A U.S. Department of Transportation study found that 98% of truck drivers regularly experience difficulty in locating safe parking. The American Transportation Research Institute found drivers on average spend 56 minutes each day searching for parking — equal to a \$5,600 annual pay cut. “The severe shortage of truck parking places an enormous burden on truck drivers, who often don’t know if they will be able to find a safe place to sleep when they finish their shift,” ATA President and CEO Chris Spear said in an announcement. “This significant investment to expand parking capacity would help alleviate stress on truck drivers, move freight more efficiently, and make the roadways safer for all motorists.” [Read More](#)

### BNSF Suffers South Dakota Bridge Collapse

At approximately 11:00 PM Central Time June 23, amid the heatwave, torrential rain, and flooding plaguing the Midwest in recent days, the center span of BNSF’s Aberdeen Subdivision bridge over the Big Sioux River in South Dakota collapsed. The location is North Sioux City, just northwest of Sioux City (which is served by BNSF’s Sioux City Subdivision and a Union Pacific subdivision of the same name). Track washouts in the region are disrupting BNSF traffic. The railroad on June 25 issued a service recovery update for the region as well as for northeast Wyoming, site of a derailment, and Minnesota. “The Big Sioux River crested around 3:30 a.m. Sunday at about 44.98 feet,” KTIV reported June 24. “That crest came several hours sooner than expected and also came in several feet higher than predicted. The amount of rain this region has seen in the past few weeks is wreaking havoc throughout the area. Losing this rail passage between South Dakota and Iowa is a devastating blow to this region. And state officials said it will likely be months before this line is open again.” [Read More](#)

## **Panama Canal Prepares to Increase Number of Daily Transits**

In an “Advisory to Shipping” issued this week, the Panama Canal Authority (ACP) stated that, effective July 11, it will increase its current number of daily transits from 32 to 33, adding that the number of daily transits will increase to 34, effective July 22. It said that the latter is contingent on the current and projected level of Gatun Lake in the coming weeks, as well as the beginning of the rainy season in the Panama Canal Watershed. “With these progressive increases, by July 22 the Canal will have added two transits to the current schedule: one to the panamax locks (raising the daily transits to 25), and one to the neopanamax locks (increasing daily transits to 9),” said ACP. “Additionally, an increase in draft from 45 to 46 feet was announced, effective June 15. The Panama Canal continues to monitor weather conditions on a daily basis in order to implement the necessary operational actions in the event of increased rainfall in its watershed.” As previously reported, drought conditions at the Panama Canal have significantly hampered operational throughput on various fronts, going back over the last several months. Late last year, it said that in 2023, there had been 41 percent less rain than usual, which lowered Gatun Lake to what it called unprecedented levels for that time of year. Taking steps to address these challenges, ACP, in November, rolled out reservation slots, with the objective of maintaining a competitive draft. [Read More](#)

## **De Minimis Crackdown: What Shippers Should Know**

U.S. Customs and Border Protection is upping its enforcement efforts around low-cost shipments entering the country, a push that has led to the suspension of multiple customs brokers from a key import program. Details remain sparse regarding which brokers the CBP has taken action against, but Seko Logistics confirmed its suspension from the Entry Type 86 program in a June 1 complaint filed in the U.S. Court of International Trade. The company’s global network moves more than 14 million parcels monthly and serves e-commerce brands like Shein.

Shippers need to minimize their exposure to brokers or commodities that are being targeted for more thorough inspections by the U.S. when possible to ensure smooth cross-border shipping, said Jordan Dewart, president of cross-border logistics provider Redwood Mexico. “The U.S. government can flag shipments coming in by commodity, they can flag them by broker, they’ll inspect every single shipment that a particular broker is declaring or that a particular trucking company is moving,” Dewart said. For the earlier Entry Type 86 filing deadline specifically, businesses should ensure their data and import documentation are complete and correct to avoid unnecessary delays, UPS said on its website. This is particularly important for small parcel air shipments, which are more likely to meet the de minimis threshold while having shorter transit times than ocean freight. Shippers should also make sure their current carrier or broker is able to comply with the new requirements, as failure to do so could also create delays or added costs, UPS added. [Read More](#)

## **FMCSA Approves 25 Percent Fee Increase for Carriers, Brokers**

Federal regulators have approved a 25 percent increase in fees collected by states from motor carriers, brokers, and leasing companies that are used to pay for state highway safety programs. The fee increase in the Unified Carrier Registration (UCR) Plan for the 2025 registration year, announced last month by the Federal Motor Carrier Safety Administration, amounts to approximately \$9 to \$9,000 more per year that carriers will pay, depending on the size of their fleet. The fee per entity for a broker or leasing company is \$46. “The agency notes the rare occurrence of this upward adjustment, which has only previously occurred once, over a decade ago,” FMCSA stated in a final rule approving the increase. “This upward adjustment ... follows two years of reductions in fees affecting the 2023 and 2024 registration years, averaging a 37.3 percent decrease in fees, as well as steady, unmodified collections from 2010 to 2017. The agency believes this recalibration of fees is reasonable and in accordance with the structure of, and obligations created by, the statute.” The UCR, and the 41 states that participate in the agreement, establish and collect fees that can be used at the discretion of the individual states, but are typically used for truck safety programs, enforcement, and administering the UCR. After FMCSA proposed the fee increase in January – based on a recommendation from UCR Plan administrators – it received 66 comments, many of whom considered the fees to be unwarranted and believed the UCR Plan should be adjusting its own budget and spending instead. [Read More](#)  
[Read Final Rule](#)

## **Buttigieg Taps Vinn White to Head FMCSA**

U.S. Transportation Secretary Pete Buttigieg has appointed Vinn White as the Federal Motor Carrier Safety Administration’s deputy administrator, succeeding Robin Hutcheson, who resigned as FMCSA administrator in January. Sue Lawless, FMCSA’s chief safety officer and a career federal employee, has been serving since then as acting administrator until a political appointee was designated to fill the role. White also serves as DOT’s acting chief artificial intelligence officer, where he oversees the development and use of AI based on administration policies and priorities. Prior to joining FMCSA, he was responsible for coordinating DOT initiatives on emerging transportation technologies, including policies related to automated driving systems, drones, and advanced air mobility systems.

He also helped launch the department's Transforming Transportation Advisory Committee. [Read More](#) [Read Even More](#) [Read Press Release](#)

## Port of Nevada Opens Inland Intermodal Yard

The Port of Nevada has partnered with Union Pacific to provide intermodal service to and from the Port of Oakland, according to a June 12 announcement. The inland ramp provides intermodal service between Fernley, which is about 34 miles east of Reno, Nevada, and about 240 miles from the Port of Oakland. The site is expected to help ease truck traffic, reduce carbon emissions and improve inland shipping container distribution. Logistics provider CMA CGM will handle container shipments as the port's exclusive ocean carrier partner through 2024, according to the announcement. Services at the inland port include bulk commodity and intermodal transloading and storage of multiple commodities. Nevada officials hope the new intermodal port will lure advanced manufacturing businesses eyeing U.S. expansion. "As a federally designated Tech Hub, focused on onshoring businesses to Nevada, this site is in a prime position to support advanced manufacturing companies that will be expanding to the State," said Jeff Sutich, executive director of the Northern Nevada Development Authority. [Read More](#) [Read Press Release](#)

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**Questions?** Contact [Bruce Linderman](#) or call 847.813.4698

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