

SUBMITTED FOR INCLUSION IN HEARING RECORD

TESTIMONY OF

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REGARDING

Protecting Workers and Small Businesses from Biden's Attack on
Worker Free Choice and Economic Growth

BEFORE

The House Committee on Education & the Workforce
Subcommittee on Health, Employment, Labor, and Pensions

DECEMBER 13, 2023

On behalf of the Intermodal Association of North America (IANA), thank you Subcommittee Chair Good, Ranking Member DeSaulnier, and Subcommittee Members for convening this hearing to examine legislation and policies that preserve the independent contractor model, promote worker choice, and support economic growth. The independent contractor business model is indispensable to the intermodal industry and our membership appreciates the opportunity to share our views and perspectives. IANA would be pleased to serve as a resource and looks forward to working with you.

As the only transportation trade association that represents the combined interests of intermodal freight providers and customers, IANA represents more than 1,000 corporate members, including railroads, ocean carriers, ports, intermodal truckers and over-the-road highway carriers, intermodal marketing and logistic companies, and suppliers to the industry. IANA's associate (non-voting) members include shippers (defined as the beneficial owners of the freight to be shipped), academic institutions, government entities, and non-profit trade associations.

Intermodal freight transportation is the movement of cargo in shipping containers or trailers by more than one mode of transport – ship, rail, and/or truck. Globally, 95 percent of all manufactured goods are transported in a container at one point in their journey, generating over \$59 billion in intermodal revenue annually in the North American market.

The intermodal industry supports a significant workforce to ensure these goods continue to move safely, reliably, and cost effectively. Drayage truck movements are an essential link in the intermodal supply chain and each container's journey requires multiple drivers to complete a combined total of 98 million intermodal trucking moves annually. For decades, over 80 percent of intermodal trucking companies that transport freight have used independent contractors. This business model offers operational and financial flexibility to motor carriers, allowing them to adapt and respond to natural elasticity and volatility in the cargo transportation market.

Unlike employee drivers, independent contractors personally invest in and operate their own company. These small business owners earn a Commercial Driver's License, invest in a truck tractor, and bear the associated operating costs attributable to registration, licensing, insurance, and fuel. They also invest a significant amount of time developing their knowledge of and complying with federal and state safety regulations. It is important to note that each owner-operator makes a conscious choice to remain an independent contractor, but also can choose to secure full-time employment in the trucking industry. Research shows that independent drivers place a high premium on the ability to control their own work environment, valuing the

freedom to set their own hours and choose their routes and length of haul.¹

IANA opposes any efforts to eliminate a motor carrier's ability to operate as small business owners, including the Protecting the Right to Organize (PRO) Act, H.R. 20, as well as the Department of Labor's October 2022 Notice of Proposed Rulemaking, RIN 1235-AA43. Both proposals would wrongfully eliminate important liberties enjoyed by owner-operators, many of which are small, minority-owned businesses. Such burdensome and sweeping changes would be particularly concerning if implemented by the Department of Labor in the absence of a Senate-confirmed, permanent Secretary.

At a time when the nation is facing truck driver shortages, forced reclassification would strain labor markets further. In 2022, the shortage of qualified drivers was at a near-record high of 78,000.² Over the next decade, nearly 1.2 million new drivers will be needed. This number represents drivers needed to replace those retiring as well as drivers that leave the industry, plus the additional drivers necessary to meet growing freight needs. The severity of this shortage would be exacerbated by the implementation of policy changes restricting independent drivers' ability to operate. A client survey by American Truck Business Services found that only 17 percent of leased owner-operators would seek company driver opportunities if leasing were no longer an option.³ The federal government should be working with industry to attract and retain qualified drivers rather than adopting policies that deter drivers from remaining in or entering the field.

Forced reclassification will come at additional expenses to drivers and consumers alike. The American Action Forum estimates that the national implementation of California's worker reclassification law (commonly known as Assembly Bill 5 or AB 5) could increase employment costs by approximately \$18 to \$61 billion and risk up to \$2.3 trillion in gross domestic product.⁴ The burden of increased costs will be passed on to American consumers. Meanwhile, over 68 percent of independent drivers expected significant decreases in their annual income if reclassified as employees.⁵

IANA strongly supports ongoing congressional efforts to codify and preserve the independent contractor model in federal law. Specifically, IANA has endorsed [H.R. 5513](#), the Modern Worker Empowerment Act, sponsored by Congresswoman Stefanik (R-NY); [H.R. 2700](#), the

¹ Owner-Operators / Independent Contractors in the Supply Chain, American Transportation Research Institute. <https://truckingresearch.org/wp-content/uploads/2021/12/ATRI-OO-IC-in-the-Supply-Chain-12-1-21.pdf>

² ATA Driver Shortage Update 2022, https://ata.msgfocus.com/files/amf_highroad_solution/project_2358/ATA_Driver_Shortage_Report_2022_Executive_Summary.October22.pdf

³ Client survey, American Truck Business Services. <https://www.overdriveonline.com/overdrive-radio/podcast/15064950/owneroperators-are-not-company-drivers-for-a-reason>

⁴ Economic Costs of the PRO Act: Update. <https://www.americanactionforum.org/insight/economic-costs-of-the-pro-act-update>

⁵ Id.

Employee Rights Act, sponsored by Congressman Allen (R-GA); [H.R. 781](#), the Guaranteeing Independent Growth (GIG) Act, sponsored by Congressman Ferguson (R-GA); and the language included in Section 117 of the Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 2024, [H.R. 5894](#). Each of these proposals would protect independent contractors' continued ability to operate and ensure workers retain the freedom to choose a career path that best fits their individual needs and circumstances. We urge your support for these pieces of legislation and encourage the Committee to take swift action in advancing these policies.

Preserving the independent contractor business model is critical to support supply chain efficiency and meet the continued fluctuations in cargo demand. Changes to this model would have a dramatic adverse effect upon all supply chain participants as well as consumers. For the intermodal trucking industry, such changes stand to increase costs, reduce service efficiency and reliability, and exacerbate existing driver shortages. Earlier this year, IANA published a white paper highlighting the importance of independent contractors to the intermodal industry. I hope you'll review the paper, which is available on our [website](#) and as an attachment to this testimony, and consider the adverse impacts forced reclassification would have on both the intermodal freight industry and on American consumers.

Thank you for your time and your leadership in support of intermodal goods movement and its related issues. IANA looks forward to working with you and would welcome the opportunity to further engage with your offices. If you or your staff have any questions, please do not hesitate to contact me at jcasey@intermodal.org or 301-982-3400 ext. 349.