

April 13, 2023

The Honorable Bernie Sanders  
Chair  
Committee on Health, Education, Labor, and  
Pensions  
U.S. Senate  
Washington, DC, 20510

The Honorable Bill Cassidy  
Ranking Member  
Committee on Health, Education, Labor, and  
Pensions  
U.S. Senate  
Washington, DC, 2051

Re. Department of Labor Secretary Nominee, Julie Su

Dear Chair Sanders and Ranking Member Cassidy:

As your committee prepares for its hearing to consider the nomination of Julie Su to become Secretary of the Department of Labor, I am writing to share perspectives from the Intermodal Association of North America (IANA). IANA is the leading transportation trade association representing the combined interests of the intermodal freight industry including members from railroads, ocean carriers, ports, intermodal truckers and over-the-road highway carriers, intermodal marketing and logistic companies, and suppliers to the industry. The cargo transportation workforce is critical to supporting the nation's supply chain and the US economy. Accordingly, IANA is very interested in actions being contemplated or taken by the Department of Labor. We hope that you will consider IANA's perspectives as outlined in this letter and use them to facilitate a productive dialogue during Ms. Su's upcoming nomination hearing.

The intermodal freight industry supports millions of jobs that each serve an essential role in the safe, efficient, and cost-effective movement of cargo from origin to destination. As such, we have a strong interest in labor policies that promote workforce satisfaction and productivity by providing workers the flexibility and freedom to pursue career opportunities that best suit their individual needs.

Motor carriers are crucial participants in the international and domestic intermodal network. For decades, over 80 percent of intermodal trucking companies that transport freight have used owner-operator drivers or independent contractors. The independent contractor business model is indispensable to the intermodal industry, offering 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. Owner-operators can determine the number of motor carriers they choose to work with and freely enter into multiple contractual arrangements, allowing the individual to make daily operating decisions based on their availability to perform drayage services. These small business owners earn a Commercial Driver's License, invest in a tractor, and bear the associated operating costs attributable to registration, licensing, insurance, and fuel. In many cases, independent contractors operate under their own U.S. Department of Transportation-approved operating authority and develop a wide customer base.

Each owner-operator makes a conscious choice to remain an independent contractor, but also has the ability to secure full-time employment in the trucking industry. IANA is concerned by ongoing efforts, such as the Department of Labor's October 2022 Notice of Proposed Rulemaking, 29 CFR Parts 780, 788, and 795, to eliminate drivers' ability to operate as small business owners.

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. The forced reclassification of independent contractors as employees of motor carriers, would require costly changes to business and operational models across the U.S. economy. For the intermodal trucking industry, such changes stand to increase costs, reduce service efficiency and reliability, and exacerbate existing driver shortages.

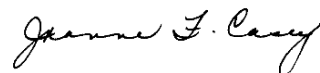
According to the American Trucking Associations, the shortage of qualified drivers reached a near-record high of 78,000 in 2022. Over the next decade, nearly 1.2 million new drivers will be needed to replace retiring drivers and those that leave the industry. These estimates are likely to increase with the implementation of policy changes that restrict independent contractors' ability to operate.

As you consider Deputy Secretary Su's nomination, we encourage you to solicit her views on labor policies that impact the intermodal industry by posing the following questions:

1. A recent [study](#) by the American Transportation Research Institute found that 73 percent of independent contractor truck drivers expected significant decreases in their job satisfaction if they were to be reclassified as employee drivers. More than 68 percent expected significant decreases in their annual income. Given that both independent contractor and company driver opportunities are available in the trucking industry, why should these independent drivers be required to become employees when they have purposefully declined to pursue such work?
2. California's Assembly Bill 5 significantly limits the ability of independent contractors to operate within the state. Although the medium- and long-term economic and workforce impacts of AB 5 remain unknown, the Department of Labor is proposing a similarly restrictive worker classification test at the national level. Why is DOL pursuing this significant change without first comprehensively assessing the long-term impacts of AB 5?
3. Independent contractor drivers are leaving California as a result of AB 5. If the DOL pursues its proposed worker classification rulemaking, how would you propose solving the driver shortage crisis when independent contractors choose to leave the trucking profession altogether?

Thank you for allowing IANA to share its views on the importance of independent contractors to the health of the intermodal industry. Please let me know if you or your staff would like to discuss our position in further detail.

Sincerely,



Joanne F. Casey  
President and CEO  
Intermodal Association of North America