

December 5, 2019

**VIA ELECTRONIC MAIL**  
**WITH ORIGINAL TO FOLLOW**

The Hon. Steve Sweeney  
President  
New Jersey Senate  
Trenton, New Jersey 08625-0099

Re: NJ Senate Bill 4204

Dear Senator Sweeney:

On behalf of the Intermodal Association of North America (IANA), a leading transportation trade association representing the combined interests of the intermodal freight industry, I am writing to you in strong opposition to New Jersey Senate Bill 4204.

IANA's membership roster of over 1,000 corporate members includes not only intermodal and over-the-road motor carriers but also railroads (Class I, short-line, and regional), water carriers and stacktrain operators, port authorities, intermodal marketing and logistics companies, and suppliers to the industry such as equipment manufacturers, leasing companies, and technology firms. 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. This diverse and broad-based group of stakeholders opposes Senate Bill 4204 for a number of reasons.

First, Senate Bill 4204 severely undermines the vital intermodal industry by essentially destroying the independent contractor model in New Jersey. Intermodal transportation is inherently symbiotic. When one participant in the intermodal market (such as a motor carrier, railroad, or steamship line) is subject to operational inefficiencies, the other participants in the supply chain likewise suffer. Motor carriers are crucial participants in the nation's intermodal network. Just as importantly, intermodal motor carriers' use of independent contractors as drivers has been foundational to the stability and success of the intermodal industry. For over thirty-five (35) years, the prevailing business model for motor carriers supporting intermodal freight movements by water and rail has involved the use of independent contractors. Indeed, according to industry data available from sources such as the Association of Bi-State Motor Carriers, nearly eighty percent (80%) of the 14,000 truck drivers serving the Port Authority of New York and New Jersey--now the second-largest port in the nation--are independent contractors. In short, the independent contractor business model has been indispensable to the intermodal industry in that it offers operational and financial flexibility to intermodal motor carriers so that they can effectively adapt and respond to natural volatility in the intermodal transportation market. Destroying that model will have a massive, adverse effect upon the entire intermodal industry.

Second, Senate Bill 4204 wrongfully eliminates important liberties enjoyed by individual intermodal drivers. As proud, independent business owners, drayage drivers quintessentially express their freedom of choice by personally investing in, and operating, their own company. These small business owners acquire a valid Commercial Driver's License, purchase a tractor, and bear the associated operating costs attributable to registration, licensing, insurance, fuel, and developing their knowledge and daily application of federal and state regulations governing the safe operation of the vehicle. In certain cases, independent contractors also

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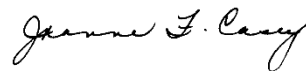
operate under their own USDOT-approved operating authority and develop a wide customer base. They also exercise discretion in executing operating decisions regarding the number of motor carriers to which they offer their services and freely enter into multiple contractual arrangements. This permits the individual to make daily operating decisions as to his or her availability to perform drayage services. 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 if dissatisfied with current working arrangements. Senate Bill 4204 eliminates this important freedom that so many drivers find personally fulfilling.

Finally, having been introduced less than a month ago, Senate Bill 4204 is being considered hastily and without the benefit of any lessons learned from California's analogous legislation known as AB5, which is scheduled to become effective on January 1, 2020. Before rashly disrupting the intermodal industry in New Jersey, the New Jersey legislature should first pause and carefully evaluate the real-world, economic consequences of California's AB5 as those consequences become apparent next year. In addition, the California legislation is currently the subject of federal litigation. Indeed, the California Trucking Association this week filed a motion for a preliminary injunction to stay the enforcement of California's AB5 to the extent that it applies to motor carriers and owner-operators. A hearing on the motion is now scheduled for December 30, 2019 on the eve of the effective date of California's AB5. New Jersey undoubtedly invites similar litigation in the event that it proceeds forward with Senate Bill 4204 without first scrupulously exploring whether exemptions should be included for motor carriers and owner-operators consistent with federal law.

In summary, IANA strongly opposes Senate Bill 4204 as currently drafted. The proposed law uses an axe to achieve what a scalpel could better accomplish. The legislation essentially destroys the independent contractor model for motor carriers involved in intermodal drayage in New Jersey. The disruption caused by this wholesale destruction of the independent contractor model will have a dramatic adverse effect upon the entire intermodal supply chain, injuring not only motor carriers, but also rail and steamship operators and the customers that they serve. Further, the legislation wrongfully eliminates the freedom of individual intermodal drivers to operate as small business owners, a pursuit that so many find fulfilling. Finally, the rush to enact Senate Bill 4204 is highly imprudent, particularly in light of valuable lessons that may be learned after the imminent effective date of California's AB5 and the outcome of the associated litigation referenced above.

Thank you for allowing IANA to share its views on Senate Bill 4204. 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

December 5, 2019

**VIA ELECTRONIC MAIL**  
**WITH ORIGINAL TO FOLLOW**

The Hon. Joseph Egan  
New Jersey Assembly  
Trenton, New Jersey 08625-0099

Re: NJ Assembly Bill 5936

Dear Assemblyman Egan:

On behalf of the Intermodal Association of North America (IANA), a leading transportation trade association representing the combined interests of the intermodal freight industry, I am writing to you in strong opposition to New Jersey Assembly Bill 5936.

IANA's membership roster of over 1,000 corporate members includes not only intermodal and over-the-road motor carriers but also railroads (Class I, short-line, and regional), water carriers and stacktrain operators, port authorities, intermodal marketing and logistics companies, and suppliers to the industry such as equipment manufacturers, leasing companies, and technology firms. 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. This diverse and broad-based group of stakeholders opposes Assembly Bill 5936 for a number of reasons.

First, Assembly Bill 5936 severely undermines the vital intermodal industry by essentially destroying the independent contractor model in New Jersey. Intermodal transportation is inherently symbiotic. When one participant in the intermodal market (such as a motor carrier, railroad, or steamship line) is subject to operational inefficiencies, the other participants in the supply chain likewise suffer. Motor carriers are crucial participants in the nation's intermodal network. Just as importantly, intermodal motor carriers' use of independent contractors as drivers has been foundational to the stability and success of the intermodal industry. For over thirty-five (35) years, the prevailing business model for motor carriers supporting intermodal freight movements by water and rail has involved the use of independent contractors. Indeed, according to industry data available from sources such as the Association of Bi-State Motor Carriers, nearly eighty percent (80%) of the 14,000 truck drivers serving the Port Authority of New York and New Jersey--now the second-largest port in the nation--are independent contractors. In short, the independent contractor business model has been indispensable to the intermodal industry in that it offers operational and financial flexibility to intermodal motor carriers so that they can effectively adapt and respond to natural volatility in the intermodal transportation market. Destroying that model will have a massive, adverse effect upon the entire intermodal industry.

Second, Assembly Bill 5936 wrongfully eliminates important liberties enjoyed by individual intermodal drivers. As proud, independent business owners, drayage drivers quintessentially express their freedom of choice by personally investing in, and operating, their own company. These small business owners acquire a valid Commercial Driver's License, purchase a tractor, and bear the associated operating costs attributable to registration, licensing, insurance, fuel, and developing their knowledge and daily application of federal and state regulations governing the safe operation of the vehicle. In certain cases, independent contractors also operate under their own USDOT-approved operating authority and develop a wide customer base. They also

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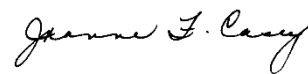
exercise discretion in executing operating decisions regarding the number of motor carriers to which they offer their services and freely enter into multiple contractual arrangements. This permits the individual to make daily operating decisions as to his or her availability to perform drayage services. 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 if dissatisfied with current working arrangements. Assembly Bill 5936 eliminates this important freedom that so many drivers find personally fulfilling.

Finally, having been introduced less than a month ago, Assembly Bill 5936 is being considered hastily and without the benefit of any lessons learned from California's analogous legislation known as AB5, which is scheduled to become effective on January 1, 2020. Before rashly disrupting the intermodal industry in New Jersey, the New Jersey legislature should first pause and carefully evaluate the real-world, economic consequences of California's AB5 as those consequences become apparent next year. In addition, the California legislation is currently the subject of federal litigation. Indeed, the California Trucking Association this week filed a motion for a preliminary injunction to stay the enforcement of California's AB5 to the extent that it applies to motor carriers and owner-operators. A hearing on the motion is now scheduled for December 30, 2019 on the eve of the effective date of California's AB5. New Jersey undoubtedly invites similar litigation in the event that it proceeds forward with Assembly Bill 5936 without first scrupulously exploring whether exemptions should be included for motor carriers and owner-operators consistent with federal law.

In summary, IANA strongly opposes Assembly Bill 5936 as currently drafted. The proposed law uses an axe to achieve what a scalpel could better accomplish. The legislation essentially destroys the independent contractor model for motor carriers involved in intermodal drayage in New Jersey. The disruption caused by this wholesale destruction of the independent contractor model will have a dramatic adverse effect upon the entire intermodal supply chain, injuring not only motor carriers, but also rail and steamship operators and the customers that they serve. Further, the legislation wrongfully eliminates the freedom of individual intermodal drivers to operate as small business owners, a pursuit that so many find fulfilling. Finally, the rush to enact Assembly Bill 5936 is highly imprudent, particularly in light of valuable lessons that may be learned after the imminent effective date of California's AB5 and the outcome of the associated litigation referenced above.

Thank you for allowing IANA to share its views on Assembly Bill 5936. 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