

***SUBMITTED FOR INCLUSION IN HEARING RECORD***

**TESTIMONY OF**

Joanne F. Casey  
President and CEO  
The Intermodal Association of North America (IANA)

**REGARDING**

Examining Biden’s War on Independent Contractors

**BEFORE**

The House Committee on Education & the Workforce  
Subcommittee on Workforce Protections

**APRIL 19, 2023**

On behalf of the Intermodal Association of North America (IANA), thank you Subcommittee Chair Kiley, Ranking Member Adams, and Subcommittee Members for convening this hearing to examine worker classification models. The independent contractor business model is indispensable to the intermodal industry and our membership appreciates the opportunity to share our views and perspectives. As you continue your work in the 118<sup>th</sup> Congress, 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 revenues annually in the North American market.

As you might imagine, a significant workforce is required to ensure these goods move safely, reliably, and cost effectively. Truck movements are an essential link in the intermodal supply chain and each container's journey requires multiple drivers. 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 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.<sup>1</sup>

IANA opposes any efforts to eliminate drivers' ability to operate as small business owners, including

---

<sup>1</sup> 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>

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, 29 CFR Parts 780, 788, and 795. Both proposals would wrongfully eliminate important liberties enjoyed by owner-operators, many of which are small, minority-owned businesses.

At a time when the nation is facing a significant truck driver shortage, forced reclassification would strain labor markets further. In 2022, the shortage of qualified drivers was at a near-record high of 78,000.<sup>2</sup> 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 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.<sup>3</sup> 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.

To that end, IANA supports programs and legislation that would allow drivers between the ages of 18 and 21 to enter the interstate workforce, while maintaining safety. We encourage the Biden-Harris Administration to continue its important work implementing and evaluating the Safe Driver Apprenticeship Pilot Program.

Forced reclassification will come at an additional expense to motor carriers 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.<sup>4</sup> 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.<sup>5</sup>

IANA supports Congressman Drew Ferguson’s (R-GA) the Guaranteeing Independent Growth (GIG) Act, H.R. 781, which would codify the Trump Administration’s Independent Contractor Rule. This rule clarifies who is an independent contractor under the Fair Labor Standards Act by establishing a two “core” factor test: 1) the nature and degree of the individual’s control over the

---

<sup>2</sup> ATA Driver Shortage Update 2022, [https://ata.msgfocus.com/files/amf\\_highroad\\_solution/project\\_2358/ATA\\_Driver\\_Shortage\\_Report\\_2022\\_Executive\\_Summary.October22.pdf](https://ata.msgfocus.com/files/amf_highroad_solution/project_2358/ATA_Driver_Shortage_Report_2022_Executive_Summary.October22.pdf)

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

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

<sup>5</sup> Id.

work, and; 2) the individual's opportunity for profit or loss.

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 an 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. This month, IANA published a white paper on the importance of independent contractors in 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 predictable 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](mailto:jcasey@intermodal.org) or 301-982-3400 ext. 349.