



January Legislative and Regulatory Report

LEGISLATIVE

Rep. Johnson Introduces the SHIP IT Act

Rep. Johnson (R-SD) introduced H.R. 471, the Safer Highways and Increased Performance for Interstate Trucking Act. According to Rep. Johnson, the SHIP IT ACT will reduce consumer costs and make it easier for shippers to transport products across the U.S.

The bill amends the Workforce Innovation and Opportunity Act – a law that helps job seekers access employment and training – by providing tax credits to truck drivers for the tuition, fees, and other up-front costs of entry-level driver training. The bill would establish a tax credit of \$7,500 for drivers possessing a valid Class A commercial driver's license contingent on maximum income requirements. To be eligible for the tax credit, drivers must log at least 1,900 driving hours per year. New drivers entering the workforce would be eligible for a \$10,000 tax credit. Truck drivers can qualify for a portion of the credit if they did not drive a commercial truck in the previous year and drove less than 1,420 hours in the current year.

Rep. Johnson's legislation incorporates language from the Truck Parking Safety Improvement Act, a bill introduced during the last Congress to expand truck parking. Specifically, the legislation allocates \$755 million over the next four years, starting with \$175 million in fiscal year 2023, to construct new parking facilities and rest areas for commercial motor vehicles. To qualify for the grant program, a project cannot impose a fee to access and park at the new site. Following the enactment of the bill, the Secretary of Transportation must submit a report to the House Committee on Transportation and Infrastructure and the Senate Committee on Environment and Public Works evaluating the effectiveness of funded projects to improve access to truck parking.

Additionally, the legislation would establish a 10-year pilot program allowing 6-axle vehicles to operate on the Interstate System. After one year of the pilot program, participating states would be required to submit to the Secretary of Transportation the number of accidents that occurred, the estimated gross vehicle weight of a vehicle during an accident, and the estimated number of miles traveled by the vehicle on the Interstate System. Other bill provisions would provide more flexibility in hours of service



requirements for drivers transporting agriculture and livestock commodities, allow states to issue special permits to overweight vehicles during an emergency if they are delivering relief supplies, and allow state or third-party examiners to administer CDL knowledge tests.

The SHIP IT Act received support from the Shippers Coalition, Consumer Brands Association, American Chemistry Council, and the International Dairy Foods Association. While the Owner-Operator Independent Drivers Association expressed appreciation for the bill's provisions to expand truck parking, it argued the legislation does not address the underlying causes of the driver retention issue, such as a "lack of adequate compensation from carriers and a failure of shippers and carriers to value any of a trucker's time." H.R. 471 is cosponsored by Rep. Costa (D-CA) and was referred to the House Committees on Transportation and Infrastructure, Education and the Workforce, and Ways and Means.

REGULATORY

CTA Files New Request to Prevent AB 5 Implications on Trucking Industry

This month, the California Trucking Association filed a request with the U.S. District Court for the Southern District of California for a new preliminary injunction to block the state's Assembly Bill 5 – a law that favors employee classification of workers – from applying to the trucking industry. The previous injunction was lifted in August 2022 after the U.S. Supreme Court declined to take up CTA's petition for review of the injunction's appeal by the state. CTA's underlying lawsuit against the implementation of AB 5 remains ongoing as it was placed on hold while the original injunction moved through the appeals process.

In the new request, CTA relies on the same argument used to receive the first preliminary injunction. According to CTA, the Federal Aviation Administration Authorization Act, which prevents states from enforcing regulations related to prices, routes, or services on motor carriers, preempts California from imposing AB 5 requirements on the trucking industry. Although this argument failed to convince the U.S. Court of Appeals in April 2021 when the court determined that AB 5 is not preempted by the FAAAA, CTA argues that the court's decision was based on the relationship between the state and motor carriers. The new injunction request urges the court to focus on the relationship between motor carriers and shippers, explaining that their relationship has been altered by AB 5. According to CTA, AB 5 is preempted by the FAAAA because owner-operators are not



providing the same level of service by refusing to become employee drivers, thus leaving shippers without transportation. Additionally, CTA provided various personal anecdotes from truckers who either left California or are considering leaving due to the economic consequences of AB 5.

The Owner-Operator Independent Drivers Association, an intervener in the case on behalf of CTA, issued a separate request for a preliminary injunction. OOIDA's request stated that the U.S. Constitution's Dormant Commerce Clause, which provides Congress the authority to regulate interstate commerce and restricts states' ability to interfere, prevents California from enforcing AB 5 on owner-operators. According to OOIDA, motor carriers are declining to move freight to California to avoid burdensome compliance with AB 5. CTA echoed OOIDA's comments in its own request.

Responses to CTA and OOIDA's motions are due by March 8, reply briefs are due by March 29, and a hearing on the motions is scheduled for May 1.

Biden-Harris Administration Issues Strategic Plans for Research and Decarbonization

The U.S. Department of Transportation released its Research, Development and Technology Strategic Plan for Fiscal Years 2022-2026, which outlines a national transportation research vision comprised of research priorities, objectives, and strategies. The plan states that the Department's five primary goals are safety, economic strength and global competitiveness, equity, climate and sustainability, and transformation.

USDOT's vision for achieving economic strength and global competitiveness is to create a "multimodal freight system that can withstand and rapidly recover from severe disruptions." Research priorities on this topic will include assessments of supply chain resiliency, advanced asset management, system performance, and the workforce.

The plan contains two research objectives for resilient supply chains – freight planning and performance as well as freight safety and operations – to enhance freight and supply chain system safety, security, efficiency, reliability, and resilience. Freight planning and performance research will involve: improving data collections to measure the current and future conditions of the freight network; improving supply chain data sharing, collection, and analysis capabilities; and providing data and technical assistance to support the integration of freight considerations in transportation planning. Research on freight safety and operations will include identifying and promoting tools and best practices to improve freight safety, reliability, and resilience, including: researching the designs used for freight infrastructure and vehicles; promoting best practices to enhance



the safety and reliability of multimodal freight movements to improve last-mile deliveries; evaluating strategies to incorporate freight system and supply chain resilience into freight planning; and supporting the adoption of technologies and best practices to support efficient cargo movement at ports.

USDOT explained that its desired outcomes for implementing the research plan are to: obtain data needed by freight planners to assess the vulnerability of freight facilities; have well maintained freight rail and port facilities with sufficient capacity to provide reliable service to shippers; have timely and accurate data on the location of goods and analysis driven by artificial intelligence; and ensure freight stakeholders can quickly implement adaptive practices such as pop-up freight facilities to accommodate increased demand.

Also this month, the Biden-Harris Administration issued a National Blueprint for Transportation Decarbonization, which creates a strategy to reduce all greenhouse emissions from the transportation sector by 2050, including those from freight and passenger transportation. The blueprint builds on the priorities set forth by the Biden-Harris Administration in the Bipartisan Infrastructure Law and the Inflation Reduction Act.

Included in the blueprint are various methods to decarbonize rail, including: investing in electric locomotives and electrification corridors; encouraging multi-stakeholder collaborations to accelerate rail emission reduction technologies, such as state freight advisory committees; and prioritizing freight rail research on sustainable fuels and the design of new locomotive fueling systems.

The Administration plans to facilitate the decarbonization within the maritime industry by conducting research on viable alternative fuels; coordinating with stakeholders, including ports, terminal operators, and vessel owners/operators to develop and implement decarbonization strategies; and investing in clean technologies funded through existing and new federal programs.

Lastly, the blueprint stated that the Administration intends to support the transition to zero-emission heavy-duty trucks by funding research to develop viable fuel alternatives, setting timelines to achieve reduction goals, and investing in the strategic demonstration and deployment of electric vehicle charging and refueling infrastructure.