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THE VOICE

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2022 IN THE BOOKS!

A letter from our CEO, Matt Schrap

Happy Holidays, HTA Members!

It has been quite a year for drayage trucking on the West Coast and likewise for the HTA.

In 2022, our organization grew tremendously, adding more motor carrier members and sponsor partners every month this past year.

Because of the hard work by the HTA Board, the Executive Committee and staff, in 2022 we held several successful meetings and events, raised thousands of dollars for a scholarship and research endowment at CSU Long Beach, reinvigorated our northern California membership chapter, promoted two cutting edge technology showcases for our truck operator members and held over a dozen educational webinars for the entire drayage community.

No doubt, 2022 was one for the books. We came together to tackle a multitude of issues and have emerged with a couple small victories despite the on-going challenges.

While volume has fluctuated tremendously on the USWC over the last 12 months, one thing that does not ebb for drayage operators is the resolve of regulators and lawmakers to mitigate the perceived externalities related to our industry.

The issues of 2022 included the usual suspects like AB5 and CARB, both of which have entered new phases, the Howard Terminal debacle, which has been sailing along despite the obvious negative externalities and of course the on-going, never-ending efforts to limit truck activity and warehousing in port adjacent communities and beyond, to name a few.

Connect with Matt Schrap on

However, a couple of bright spots from 2022 have penetrated the dark cloud that is the regulatory framework for port trucking. Both highlights have to do with detention and demurrage billing.

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Detention and demurrage (DnD) billing and collection reform is one of the "greatest hits" on the long list of sagas the drayage community has been dancing to for years. In 2022, we saw more positive direction for this cause than has ever been seen before, with both the state of California and the Federal government passing laws that are, in one way or another, finally policing DnD collection practices.

In California, the passage and signing of HTA Co-Sponsored AB2406 took SB45 from 2005 and brought it into the current reality of container movement. On 1/1/23, the AB2406 enacted law (Section 22928 of the Business and Professions Code) will forbid DnD assessment or free time consumption not only when gates are closed, but also when appointments aren't available, including when gate or chassis restrictions prevent container pick up or return.

Federally, the adoption of OSRA was pivotal in empowering the FMC to seriously address the unfair billing practices of ocean carriers.

While the latest FMC rule is yet to be adopted, the initial language of the NPRM is following direction directly from OSRA in identifying who should be billed for DnD in the first place.

In the mind of the FMC, the only billable party should be those who are contracting for ocean carriage and storage (not the trucker). This perspective has been aggressively supported by HTA and our partner trucking organizations across the country since the initial introduction of OSRA in 2021.

For our industry, it is not typical to get good news about something the government is up to, so these changes are an encouraging reminder that good things are possible when industry gets together to focus on positive change. We are all in this together.

2022 was clearly a year of ups and downs and 2023 will undoubtedly have its share of unique and on-going challenges. Nevertheless, HTA will be working hard to make a difference in how you are able to do business while also highlighting what tools are available to you for future success. Education and advocacy are a core focus of HTA, and we will continue to make strides on both fronts in 2023.

We can't do it without you, our members and sponsor partners. Your continued support is critical to the success of this organization and the drayage industry at large. You are what makes HTA tick.

Thank you for a great 2022 and see in you in 2023 at one of our signature events!

Matt Schrap

CEO, Harbor Trucking Association
12/21/2022

■ LEADER BOARD COMPETITION ■ HOSTED PREMIUM BAR
■ 3 HOURS OF PLAY! ■ COMPLIMENTARY FOOD ■ LOTS OF FUN!

Perspective: Taking Aim at Unfair Billing

Brought to you by: American Trucking Associations, the Association of Bi-State Motor Carriers and the Harbor Trucking Association.

With the passage of the **Ocean Shipping Reform Act of 2022** earlier this year, the Federal Maritime Commission has continued its proactive approach in addressing the need for change that sparked the law. Truckers and their shipper partners are hopeful these efforts will offer relief by finally addressing unfair billing practices surrounding the assessment and collection of detention and demurrage charges.

American Trucking Associations, the Association of Bi-State Motor Carriers and the Harbor Trucking Association jointly support a recently released Notice of Proposed Rulemaking from FMC that seeks to expand the timeliness and overall level of detail and transparency for detention and demurrage invoices coming from common carrier billing parties that provide ocean carriage and storage of freight. OSRA also requires the commission to address the issue of which parties can be billed for these charges in the first place.

The current FMC proposal would limit billing to only the parties that contract for ocean carriage and storage of the goods. FMC believes that prohibiting ocean carriers from sending invoices to any other party but the contracted party will benefit the overall supply chain.

They are right.

The NPRM shows significant promise in bolstering clarity, communication and consistency across the supply chain. It's widely accepted that contractual relationships within commercial agreements motivate all parties to abide and adhere to specific parameters for performance.

FMC agreed, stating: "Parties involved in a continuous commercial relationship … are highly motivated to timely and effectively resolve problems as they arise in order to maintain a mutually beneficial relationship."

The contracts that motor carriers enter with their shipper partners clearly outline expected outcomes. They govern activity and create deliverable results that each party can use to leverage better outcomes for those under the contract. The same is true for the contracts that shippers enter with ocean carriers.

However, when it comes to ocean carriers and trucking firms there is no negotiated contract that outlines detention and demurrage charges or structure, and the motivation to deal fairly and resolve disputes quickly is often lacking.

Foreign-owned ocean carriers routinely bill truckers for these charges (also known as per diem) even when lack of available appointments, empty return restrictions, dual transaction mandates, chassis availability, gate closures and a host of circumstances beyond the control of the trucker prevent container movement. Truckers have little — if any — leverage since they are not in a negotiated commercial agreement with ocean carriers, yet they are the ones that must deal with the unreasonable and unfair per diem charges.

This has forced the motor carrier drayage community to develop ad hoc strategies to deal with billing disputes on behalf of themselves and their shipper partners. Truckers must retain mountains of evidence in case that one container should fall into a dispute, weeks or even months after it was interchanged back into an eligible facility.

Without this proof a trucker has little recourse for any escalated dispute in any pathway under the FMC for unfair or unjust charges. As the contracted party, however, shippers have more leverage and can communicate directly with their ocean carrier partners about unfair or unreasonable charges and be in a better position to achieve actual results.

Forcing ocean carriers to send invoices directly to their customers instead of allowing them to hold truckers hostage will lead to greater transparency, more accurate billing, and easier dispute resolution. This means greater supply chain efficiency, lower freight costs and ultimately lower prices for American consumers.

Experience has shown that the status quo is not working and change is badly needed. Getting the ocean carriers out of the business of billing truckers and forcing them to be held directly accountable to the shippers they contract with is a logical and necessary first step.

The rulemaking is under consideration by the FMC. OSRA22 requires this rule be finalized by June 16, 2023, one year after the signing of OSRA by President Joe Biden.

Source:
https://www.ttnews.com/articles/perspective-taking-aim-unfair-billing

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Hosted Webinars 16

Signature Events 4

SoCal Membership Meetings 7

NorCal Membership Meetings 4

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Thank you for making 2022 a success!

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The Voice is designed and edited by:
Karla Sanchez-Jimenez
Director of Programs & Communications
karla@harbortruckers.org