

## **Background**

Following our battles during the last several Congresses, TIA, OOIDA and ATA opened a dialog at the suggestion of Representative Peter DeFazio (D-OR), a senior member of the House Subcommittee on Highways and Transit, and a former sponsor of the TRUCC Act. What TIA, OOIDA and ATA found when we sat down together, was a common interest in finding solutions to shared problems. From that dialog, we agreed to attempt to find a legislative solution to address our common concerns. These common concerns center on marketplace fraud. TIA, OOIDA and ATA recognized that the members of our organizations need each other to survive and grow successful family businesses. For its part, TIA recognized that Rep. DeFazio was intent on re-introducing the TRUCC Act, which would have required brokers and forwarders to post their margins on every invoice. TIA, OOIDA and ATA also recognized that a protracted and expensive fight was not in the best interests of our members or the industry. By taking the step of finding common ground with OOIDA and ATA, we have sought to fight common problems. Brokers, forwarders, and owner-operators need each other, and by working together, we can fight industry fraud so that our members can continue to grow their family businesses.

## **New Legislation Passed and Signed by the President**

### **H.R. 4348, the "Moving Ahead for Progress in the 21<sup>st</sup> Century Act." (MAP-21)**

- ✓ **Unique Authority Numbers:** Requires DOT to issue distinctive registration numbers for each authority issued to an entity (motor carrier, broker, freight forwarder). Requires that each number include an indicator of the type of activity or service for which the registration number is issued. Authority given governs transaction.
- ✓ **Requires Brokers and Forwarders to Renew License every 4 years:** The law requires that not later than 4 years after the date of enactment, the Secretary will require a freight forwarder or broker to renew its license. The license will then need to be renewed every 5 years.
- ✓ **Clarifies Motor Carrier Authority:** Clarifies that motor carriers need separate broker or forwarder authority and bond to broker freight. Clarifies that a motor carrier may provide transportation of property with self-propelled motor vehicles owned or leased by the motor carrier or through interchanges as permitted under regulation issued by the Secretary, provided that the originating carrier must physically transport the cargo at some point, and retains liability for the

cargo and payment of interchanged carriers.

- ✓ **Creates exemptions for NVOCCs, Customs Brokers, and Indirect Air Carriers:** The law creates exemptions for these entities from brokerage registration and licensing requirements, to the extent that they are conducting their business practices as defined by the United States Code.
- ✓ **Increases Broker and Forwarder Requirements:** Raises the broker surety requirement to \$75,000 with a review after five years. Imposes a \$75,000 surety requirement on freight forwarders. Establishes a three year relevant experience or certified training requirement to obtain a license. Requires all current brokers and forwarders to come into compliance within 1 year and requires that the Secretary review the bond level within 6 months of the date of enactment and every 4 years. Requires that all broker and forwarder licenses be renewed every 5 years thereafter. There is no grandfather amendment in this legislation, all brokers and forwarders must comply.
- ✓ **Performance Standards for Sureties:** Requires FMCSA to establish specific performance standards for bonds and other acceptable surety, including requirements that the broker or forwarder can file a bond issued by a surety registered and in good standing with the US Department of Treasury; or a trust or other security acceptable to the Administrator, provided that the surety amount consists of assets readily available to pay claims without resort to personal guarantees or collection of pledged accounts receivable. Makes the bond issuer, trust or other security holder ultimately responsible for failure to make required payments. Specifies procedures for notification of cancellation. Specifies procedures for addressing claims. Establishes a "loser pays" process if claims must be fought in court.
- ✓ **Penalties for Brokering without a License:** Establishes severe penalties for brokering without a license including civil penalties up to \$10,000 for each violation and unlimited liability for payments. Extends payment liability for brokering without a license, jointly and severally to any corporate entity or partnership involved, and to the individual officers, directors, and principals of such entities.
- ✓ **Private Remedies:** By placing these provisions in law, they can be enforced through the courts by the private sector, without resort to action by FMCSA.