CALL MINUTES

ILTA Weekly Terminal Industry-Peer Exchange Call
June 04, 2020
4:00 PM – 5:00 PM EST
Participants – 47

Updates and Announcements

- **Introduction: Kathryn Clay**
  - ILTA has sent out a survey on membership response to the COVID-19 pandemic
    - Expects to run the survey more than once
  - ILTA and Conn Maciel Carey will conduct a webinar afternoon of June 24 on bringing back workers safely in post-COVID-19 environment.
    - **Special Guest: Aaron Gelb, Conn Maciel Carey**: Hoping to provide insight on issues other employers are dealing with and their solutions
      - COVID-19 represents the largest challenge for OSHA safety regulations to date
      - Presentation will look to orient audience on new regulations, proper record-keeping,
      - No current infectious disease standard and will be difficult for OSHA to produce something now
      - Democrats currently calling for stay of OSHA standards
      - For now, employers are expected to take reasonable steps to abate the hazard at risk of being cited under general duty clause
      - Guidance being issued at all levels of government
      - CDC/OSHA suggest mandating pre-work screening to keep sick employees out
      - In low infection rate areas, it is reasonable to allow only self-assessments
      - Writing down exposure control plan helps to improve efficiency of case (if cited by OSHA), makes an impressive appearance to OSHA. It also provides an effective method for communications with employees
      - OSHA COVID-19 questionnaires began standardized but are now becoming more targeted to match workplace conditions in different industries
  - **Traci Johnson**: Do you think we have a legal obligation to have a contact tracing policy in place?
    - **Aaron Gelb**: Yes and no, no current standard.
      - If OSHA passed an emergency standard, there likely would be
      - OSHA tends to follow CDC recommendations
      - On record keeping, Aaron advises employers not to put all infected employees in log – only those cases confirmed as work-related
o Edwin Marcial: What is believed to be the main driver behind OSHA treating COVID-19 any different to other viruses which employees could be exposed to outside of the workplace and bring into the workplace? Absence of a vaccine? Political pressure?, etc.?
   ▪ Aaron Gelb: From a record keeping standpoint, cold and flu cases are explicitly exempt from regulations
     • OSHA cannot do the same for COVID-19. To do so, would require a rulemaking
   o Mike Depuis: What are the company liability considerations for requiring the use of facemasks in the workplace? Liability in the case of injury due to wearing a facemask (not an N-95). For example, a wearer is stressed climbing stairs while wearing a facemask mandated by company policy vs. voluntary use?
     ▪ Aaron Gelb: Would potentially fall under Americans with Disabilities Act
       • Hopefully, the individual would recognize their situation and ask for an accommodation before something happens
       • Liability would be low if they never disclosed their condition or asked for a mask exemption

• Government Affairs Update: Peter Lidiak
  o Fall committee/TOPS meeting will be virtual
    ▪ Still looking for TOPS submissions and topics to be discussed at committee meetings
  o A lot of COVID-19 related activities have slowed down due to the start of hurricane season and the civil unrest over the George Floyd situation
    ▪ Hearing from FEMA and DHS that maintaining a steady supply of sanitizer, masks and other PPE is a priority
  o House is not in session except for some pro-forma sessions but Senate is in
    ▪ House passed extension to paycheck program for small business loans with strong bipartisan support
      • Topics included extending date to pay back loans from 2 to 5 years and potential loan forgiveness
      • Senate has not been able to come to an agreement and House is out until June 30
  o ILTA had a discussion with EPA on tank waivers regarding in-service tank inspections
    ▪ Working on providing some suggestions to EPA and hoping this could be an avenue to provide the agency with information on the topic
    ▪ Slow process but continuing to push the issue
    ▪ Kathryn Clay: ILTA has been seeking a new guidance document on this issue but EPA recently passed a new guidance practice that complicates guidance production (i.e. not using guidance in lieu of rulemaking), compounding the issue.
  o Trump administration announcing new executive order to agencies to expedite new environmental reviews in hopes of aiding the country’s economic recovery
    ▪ Looking at civil works projects, highways, energy transportation, and more
    ▪ Focus is on rebuilding the country’s crumbling infrastructure