

**IWLA
Legislative & Regulatory Tracker**

*Note – All legislation not signed into law by the end of 2018 will be considered dead and needs to be reintroduced in 2019 during the 116th session of Congress.

Issue	Legislation	Sponsor	Summary	Status
Chemical and Dangerous Goods	S.3405/H.R.6992 Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2018	Sen. Ron Johnson/Rep. John Katko (1 Senate & 10 House cosponsors)	Extend CFATS beyond the current January 2019 sunset date and revises the program.	S.3405 was marked up by the Sen. Homeland Security & Governmental Affairs Committee on 9/26/18. H.R.6992 is pending before the House Homeland Security's Subcommittee on Cybersecurity & Infrastructure Protection and the Energy & Commerce Committee.
Labor	H.R. 2775 Employee Privacy Protection Act	Rep. Joe Wilson (15 cosponsors)	Would limit the worker contact information that employers must turn over to unions during an election drive.	Approved by the House Ed & Workforce Committee on 6/29/17, and a committee report was issued on 9/25/17; currently pending before the House.
Labor	H.R. 2776 Workforce Democracy and Fairness Act	Rep. Tim Walberg (10 cosponsors)	Would require at least 35 days before a union election can take place and at least 14 days for employers to prepare their case before an NLRB election officer. Also addresses the NLRB's <i>Specialty Healthcare</i> decision by reinstating the traditional standard for determining bargaining units.	Approved by the House Ed & Workforce Committee on 6/29/17, and a committee report was issued on 9/25/17; currently pending before the House.
Labor	H.R. 2723 Employee Rights Act	Rep. Phil Roe (154 cosponsors)	Would require secret ballot elections and opt-in permission from union members for the use of their union dues for any purpose other than collective bargaining and periodic union re-certification elections.	Hearing held by the Health, Employment, Labor, & Pensions Subcommittee on 6/14/17; currently pending before the House Ed & Workforce Committee.
Labor	S. 3064 Workers' Freedom to Negotiate Act	Sen. Patty Murray (33 cosponsors)	According to the bill's sponsors, the intent is to protect the freedom to join a union by (1) Bolstering Remedies and Punishing Violations of Workers' Rights (2) Strengthening Workers' Freedom to Stand Together and	Pending in the Sen. Health, Ed, Labor, & Pensions Committee.

			Negotiate for Better Working Conditions (3) Restoring Fairness to an Economy that is Rigged Against Workers	
Labor	S. 2810 and H.R. 5728 Workplace Democracy Act	Sen. Sanders and Rep. Pocan (16 Senate & 60 House cosponsors)	The legislation contains card check, and would codify the BFI joint employer standard, abolish Right to Work protections nationwide, codify the Persuader rule, make it much harder for people to work as independent contractors and eliminate any restrictions on unions targeting consumers and neutral companies (i.e., those not directly involved in the labor dispute).	Pending in the Sen. Health, Ed, Labor, & Pensions Committee and the House Ed & Workforce Committee.
Multi-Employer Pension Reform	Legislation Pending		The Joint Select Committee on the Solvency of Multiemployer Pension Plans is charged with proposing a legislative solution to address the underfunding of multiemployer pension plans. The Committee's deadline for proposing a solution is Nov.30, 2018	Pending. The Joint Select Committee on the Solvency of Multiemployer Pension Plans has held five hearings on the subject since its formation.
Tariffs	S. 3013	Sen. Alexander (16 cosponsors)	Requires congressional approval of proposed tariffs imposed for national security purposes under section 232 of the Trade Expansion Act of 1962.	Pending in the Sen. Finance Committee.
Tariffs	S.3329 - Trade Security Act of 2018	Sen. Portman (6 cosponsors)	The bill would split the current Section 232 process into an investigation phase – led by the Department of Defense – in order to justify the national security basis for new Section 232 tariffs. The bill also would expand the congressional process to disapprove of a Section 232 action.	Pending in the Sen. Finance Committee

Transportation	H.R. 5358 DRIVE Safe Act	Rep. Duncan Hunter (74 cosponsors)	Creates a path for drivers under 21 to obtain an interstate commercial driver's license. The bill requires driver apprentices to complete two probationary periods.	Pending in the House Transportation and Infrastructure Highways & Transit Subcommittee.
Transportation	S. 3352 DRIVE Safe Act	Sen. Todd Young (5 cosponsors)	Creates a path for drivers under 21 to obtain an interstate commercial driver's license. The bill requires driver apprentices to complete two probationary periods.	Pending in the Sen. Commerce Science, & Transportation Committee
Transportation	Nationwide uniformity of meal and rest break standards for motor carriers	Amendments offered by Sen. Deb Fischer	Would clarify the scope of Congress' pre-emption authority regarding meal and rest break requirements by ensuring "a state, a political subdivision of a state, or a political authority composed of two or more states may not enact or enforce a law, regulation, or other provision having the force and effect of law relating to meal or rest breaks applicable" to certain employees.	Not included as an amendment to the final version of the 2018 FAA reauthorization bill (H.R.302) signed into law on 10/5/18.
Transportation	Twin 33 trailers on interstates	Legislation is pending	Would permit twin 33's to operate on the nation's interstate system.	In May 2018, the House Appropriations Committee adopted an amendment that directs the Department of Transportation to promptly report its findings on increasing the length of twin-trailers from 28 feet to 33 feet. The inclusion of this report language keeps the issue alive as the House and Senate next convene in Conference Committee to

				move the Appropriations process forward in the coming months. As of this time the DOT has yet to release any report, and there has been no inclusion of language related to twin 33 trailers in the current transportation appropriations package (H.R. 6147).
Transportation	H.R. 3889 Waiving Hindrances to Economic Enterprise and Labor (WHEEL) Act.	Rep. Claudia Tenney (13 cosponsors)	The FAST Act included a pilot program to study the safety implications of 18-21 year olds to operate trucks across state lines. Under current federal law, this age group is prohibited from doing so even though they can otherwise obtain a commercial driver's license (CDL). The pilot program has been limited by the requirements that participants be veterans aged 18-21, a demographic that has been challenging to recruit. The WHEEL Act would expand the pilot program to allow CDL holders aged 18-21 who have a clean driving record and have received a certification of completion from a qualified training program to participate in the study.	Pending before the House Transportation & Infrastructure Highways & Transit Subcommittee.
Transportation	S. 1345 / H.R. 1568 Transportation and Logistics Hiring Reform Act	Sen. Deb Fischer / Rep. John Duncan (2 Senate & 13 House cosponsors)	Would create a national hiring standard that would simplify and ensure a Federal standard for the hiring of safe motor carriers.	S. 1345 is pending before the Sen. Commerce Science, & Transportation Committee. H.R. 1568 is pending before the House Transportation & Infrastructure Highways & Transit Subcommittee.
Transportation	S. 1233 Rail Shipper Fairness Act	Sen. Tammy Baldwin (1 cosponsor)	Would reform rate case regulations and includes provisions to implement competitive switching. The bill would also prohibit railroads from charging customers for fuel "in a way that does not correlate with actual fuel costs."	Pending before the Sen. Commerce, Science, & Transportation Committee.

Transportation	S. 372/ H.R. 1057 Synthetics Trafficking & Overdose Prevention Act	Sen. Rob Portman/ Rep. Pat Tiberi (34 Senate & 272 House cosponsors)	Aims to stop the trafficking of synthetic drugs such as fentanyl, which is 50 times more potent than heroin. The bill would require postal shipments from foreign countries to provide electronic advance data such as who and where the package is from, where it is going and what is in it. The data must be provided before the shipments cross the border into the U.S.	The legislative provisions of the STOP Act were enacted into law on 10/24/18 through H.R. 6, the SUPPORT for Patients and Communities Act.
Tax	H.R. 1 Tax Cuts and Jobs Act	Rep. Kevin Brady (24 cosponsors)	Reduces the corporate tax rate to a flat 21% for tax years beginning after Dec. 31, 2017. Provides for a deduction of up to 20% of a pass-through entity's qualified business income.	Signed into law on 12/22/17. IWLA continuously advocated for a lower pass-through rate to members of Congress and was pleased to see the lower rate included in the final bill.
Issue	Regulation	Agency	Summary	Status
Labor Management	Ambush Elections	NLRB	Reduces time before a vote to unionize—shortening to as few as 14 days.	Final rule. On 12/12/17, the NLRB announced that it is seeking public input to determine whether the current ambush election rule should remain as is, be modified, or rescinded in its entirety. This item was listed as a long-term action in the fall 2018 NLRB regulatory agenda.
Labor Management	Persuader Rule	DOL	If implemented, the DOL's new rule would require employers and consultants to report and disclose direct or indirect communications that have an object to persuade employees with regard to union organizing—including what was formerly considered exempt "advice" provided to management by consultants, including lawyers.	On 7/18/18, DOL issued a final rule to rescind the 2016 rule, to be effective as of 8/17/18. The DOL clarified that the reporting requirements will revert to those that existed before the new rule.

Labor Management	Overtime Revisions	DOL	Raises the salary threshold for overtime eligibility from \$455 per week (which amounts to \$23,660 annually) to \$913 per week (\$47,476 annually).	On 8/31/17, a federal judge in TX struck down the federal overtime rule. On 7/26/17, the DOL published a Request for Information (RFI) to aid in formulating a proposed rule revision. A notice of proposed rulemaking (NPRM) is expected in Oct. 2018 based on the fall 2018 DOL regulatory agenda.
Labor Management	Joint Employer	NLRB	Under the Sept. 2018 proposed rule, an employer may be found to be a joint-employer of another employer's employees only if it possesses and exercises substantial, direct and immediate control over the essential terms and conditions of employment and has done so in a manner that is not limited and routine. Indirect influence and contractual reservations of authority would no longer be sufficient to establish a joint-employer relationship.	On 9/14/2018, the NLRB published a notice of proposed rulemaking (NPRM) to act on joint employer standard. The public comment period for the NPRM ends on 11/13/18.
Labor Management	Specialty Healthcare	NLRB	Allows a labor union to form micro bargaining units within a workplace.	On 12/15/17, the NLRB issued a ruling overturning the <i>Specialty Healthcare</i> decision. The decision reinstated the previous standard that employees have to share an "overwhelming community of interests" to be an appropriate bargaining unit.
Workplace Health & Safety	Illness and Injury Reporting	OSHA	Requires certain employers to submit injury and illness information from their completed 2016 Form 300A electronically.	Final rule. Employers required to keep track of workplace injuries and illnesses on OSHA Form 300 must publicly post their 2017 results on Form 300A by Feb. 1, 2018.

Workplace Health & Safety	Illness and Injury Reporting	OSHA	The proposed rule would rescind the requirement for employers with 250 or more employees to electronically submit information from OSHA Forms 300 and 301. A requirement for employers to submit their Employer Identification Number (EIN) electronically along with their injury and illness data submission is also being proposed.	On 7/3/2018, OSHA issued a notice of proposed rulemaking (NPRM), with a public comment period ending on 9/28/2018. IWLA signed on to a joint comment letter submitted by the Coalition for Workplace Safety. A final rule is expected in June 2018 based on the fall 2018 OSHA regulatory agenda.
Workplace Health & Safety	Electronic Logging Devices (ELDs)	FMCSA	The rule mandates the use of ELDs for drivers and carriers that are required to maintain records of duty status data. An ELD synchronizes with a vehicle engine to automatically record driving time, for easier, more accurate hours of service recording.	Final rule. Carriers & drivers who are using paper logs or logging software were required to transition to ELDs no later than 12/18/17. Carriers and drivers who use automatic onboard recording devices prior to the compliance date must transition to ELDs no later than 12/16/19. Some temporary exemptions have been granted.
Workplace Health & Safety	Meal & Rest Break Requirements	FMCSA	The American Trucking Association submitted a petition for determination of preemption of California's meal & rest break provisions, which require employers to provide employees with a 30-minute break every 5 hours and a 10-minute break approximately every 4 hours.	The FMCSA issued a notice of the petition for determination and request for public comment on 10/4/18, with the comment period closing on 10/29/18. This preemption would be a legal determination reserved to the judgment of the Agency
Drug Supply Chain	Federal Licensure Standards for 3PLs	FDA	The DSCSA requires FDA to set national licensing standards for 3PLs.	The IWLA is working with FDA to restore some level of uniformity to state licensing. IWLA sent a letter to the FDA on 9/28/18 reiterating the need for federal licensure standards and requesting interim guidance. A notice of proposed rulemaking is expected in November 2018 based on the fall 2018 HHS regulatory agenda.

Environment	Management Standards for Hazardous Waste Pharmaceuticals	EPA	Establishes a sector-specific regulatory framework for managing hazardous waste pharmaceuticals at healthcare facilities and pharmaceutical reverse distributors. Proposal addresses concern about the sewerage of hazardous waste pharmaceuticals and the need for safe disposal of pharmaceutical waste.	Rule is pending. IWLA submitted comments to EPA expressing concerns re: the proposed rule's unintended effect of redefining and reconfiguring the relationships between various participants in the pharmaceutical supply chain in a way that is counterproductive to EPA's public health goals and potentially disruptive to a very secure drug supply chain. A was expected in October 2018 based on the fall 2018 EPA regulatory agenda.
Chemicals and Dangerous Goods	Process Safety Management (PSM) Standard	OSHA	Under President Obama's Executive Order 13650, "Improving Chemical Facility Safety and Security," OSHA was charged with "identifying issues related to the modernization of the PSM Standard and related standards necessary to meet the goal of preventing major chemical accidents."	OSHA issued a PSM guidance document for storage facilities in April 2017.
Chemicals and Dangerous Goods	Risk Management Program (RMP)	EPA	EPA modeled RMP regulation after OSHA's PSM Standard. EPA will consider modifications to the current RMP regulations in order to reduce the likelihood of accidental releases at chemical facilities and improve emergency response activities when those releases occur.	On 8/17/18, the D.C. U.S. Circuit Court of Appeals issued a decision vacating the EPA's June 2017 rule that delayed the effective date of the final RMP Amendments until 2/19/19. On 9/21/18, the D.C. U.S. Circuit Court of Appeals issued its mandate which makes the 2017 RMP Amendments rule now effective. In May 2018, EPA issued proposed revisions to rescind certain provisions of the RMP rule, with a final rule expected in January 2019.

Food Safety Modernization Act	Preventive Controls for Human & Animal Food	FDA	Rule adds new preventive controls provisions as required by FSMA; and updates and revises certain requirements in the existing CGMP.	500+ employees: compliance by 9/19/16. Less than 500 employees: compliance by 9/19/17. Less than \$1 million annually: compliance by 9/17/18. To assist industry with compliance, the FDA published draft guidance on 10/22/18, with comments due 4/22/19. FDA has announced it is also developing further guidance on the animal food preventative controls provision.
Food Safety Modernization Act	Foreign Supplier Verification Programs for Importers of Food for Humans and Animals	FDA	The final rule requires that importers perform certain risk-based activities to verify that food imported into the U.S. has been produced in a manner that meets applicable U.S. safety standards.	Compliance began 5/30/17.
Food Safety Modernization Act	Sanitary Food Transportation	FDA	The FDA's rule requires those who transport food to use sanitary transportation practices to ensure the safety of food.	Compliance began 4/6/17.