



March 15, 2023

The Honorable Bernie Sanders
Chair
Committee on Health, Education, Labor
& Pensions
United States Senate
Washington, DC 20510

The Honorable Bill Cassidy
Ranking Member
Committee on Health, Education, Labor
& Pensions
United States Senate
Washington, DC 20510

RE: Nomination of Julie Su for U.S. Secretary of Labor

Dear Chair Sanders and Ranking Member Cassidy:

As you weigh Julie Su's nomination to serve as U.S. Secretary of Labor, we request you consider the impact this decision has on our industry and its mission to deliver for the American people. Our trucking workforce is the supply chain's most vital asset, and the Labor Secretary holds enormous influence over how it operates and to what effect.

More than 80% of U.S. communities rely entirely on trucking to meet their freight needs, and our industry moves 72.2% of the economy's total tonnage each year. Over the next decade, trucks will be tasked with moving 2.4 billion more tons of freight than they do today. The moment that slows or stops, the American people—your constituents—will want answers.

We are concerned by Ms. Su's public position on key issues, most notably her leading opposition to the right of drivers to operate as independent contractors—a cornerstone of trucking. For 90 years, the economy and supply chain has benefited from the power of individuals to run their own trucking businesses. More than 90 percent of motor carriers operate six trucks or fewer, many of whom started as independent owner-operators and continue to operate in that capacity.

The freight economy is highly cyclical with seasonal surges and variability in consumer demand. At the same time, we face chronic shortages of equipment and other resources. Our ability to successfully meet consumer expectations and the needs of families, businesses, and entire economic sectors is only made possible with the support of independent contractors.

Economic opportunities as owner-operators in trucking have also been a source of empowerment for women, minorities, and immigrants. Sikh drivers in northern California and Somali drivers in Minnesota are but two vibrant communities that have realized their piece of the American Dream as trucking entrepreneurs. They are as much a part of the trucking industry and supply chain as any employee driver.

California's AB5, which Ms. Su helped pass and implement as Secretary of the California Labor and Workforce Development Agency, essentially outlaws their business model. AB5 is designed to strip independent drivers of their choice and right to operate as contractors for motor carriers, in essence forcing them to become company employee drivers. It is wreaking havoc on thousands of self-employed, small-business owners by forcing them into legal limbo and placing administrative, compliance, legal and

other unsustainable costs on the industry. As a result, families are leaving California to preserve their businesses, incomes, way of life, and choice to earn on their own terms as part of the American dream.

This destructive policy failure is weakening the supply chain and threatens systemic disruptions nationwide if the federal government chooses a similar policy. We are thus gravely concerned by the notice of proposed rulemaking published by USDOL's Wage and Hour Division in October because it is very likely to have a similar effect to California's AB5 if the proposal stands. Without the hundreds of thousands of independent owner-operators in our industry today, the supply chain would grind to an immediate halt, and a way of life of hundreds of thousands of small business men and women could be eradicated.

Ms. Su has significant authority over the rulemaking process as Deputy Secretary of Labor and will have almost complete authority to write the final rule should she be confirmed as Labor Secretary. Accordingly, we believe her answers to the following questions are extremely relevant as you consider her nomination.

1. Do you consider AB5 a policy success generally, and specifically as it relates to trucking?
2. What is your message to self-employed truckers who were forced by AB5 to leave California to save their business, income, lifestyle, and freedom to earn a living on their own terms?
3. Many ICs choose to operate independently so they can determine their own schedules, grow their earning potential, and achieve their desired level of work / life balance. Why should they be denied that right to choose their own career path?
4. Do you believe that the USDOL should consider contractual safety requirements between a motor carrier and an IC as evidence of misclassification and a violation of the Fair Labor Standards Act?

Please do not hesitate to contact me to discuss these issues in greater detail either publicly or privately. It would also be our honor to introduce you to small-business truck drivers who can share their personal stories and explain why these growing attacks on their business model present an existential threat to their livelihoods.

Sincerely,



Chris Spear
President & CEO
American Trucking Associations

CC: Members of the Senate Committee on Health, Education, Labor & Pensions