

# BE CAREFUL OUT THERE!



THE QUARTERLY SAFETY BULLETIN OF THE INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO

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## OSHA-Reform Legislation Reintroduced

Earlier this month, Representatives Lynn Woolsey (D-CA 6th), George Miller (D-CA 7th ) and Mazie Hirono (D-HI 2nd) introduced a bill (HR-190) that would dramatically amend the current Occupational Safety & Health (OSH) law. The proposed law has been named the **Protecting America's Workers Act**, and appears to be a carbon copy of legislation introduced in the last Congress by Representative Woolsey (on the House side) and the late Senator Ted Kennedy (on the Senate side). ILA members and friends wishing to review the new bill may access it through this link: [PAWA \(HR-190\)](#).

Looking at the newly-reintroduced legislation from a strictly job safety in the marine cargo handling industry perspective, the authors of this newsletter can't help but sense that this particular bill is simply and exclusively an acknowledgement to organized labor that they haven't been forgotten about by House Democrats. The realities of the 112th Congress, however, and in particular the Republican party's control of the House of Representatives, ensure that this bill will not be going anywhere all too soon. That's a shame, in that there are several provisions that would work to create a much safer working environment for ILA members. We'll take the time to explore just one such provision within this quarter's newsletter.

### **Section 101 Should Be The Law Of The Land; Now!**

One great injustice that has existed within the OSH law since its very beginning (1970), is the glaring deficiency that excludes all Federal, State and Municipal workers from the protections afforded by the Act. Section 3 of the current OSH Act specifically excludes such workers, and the unconscionable blind eye that the U.S. Congress has lent to those workers has become a national disgrace.

Take, for example, the situation of our brothers and sisters at ILA Local 1984 at Mobile. Many of those ILA members work at the Alabama State Docks and have a collective bargaining agreement directly with the State of Alabama. As such, they are considered State workers and are thus excluded from the coverage of the OSH law.

But tell that to the families and friends of former ILA member Larry George, who was killed in 2009 as a result of being crushed by tons of coal that caved in on him while he worked to repair a piece of equipment at a Mobile, Alabama marine terminal's rail car dump. Telling them that no enforceable safety regulations applied within their loved one's place of work, and that the only

**BE CAREFUL OUT THERE!**  
**JANUARY 29, 2011**

investigation into the accident that claimed his life would be conducted solely and exclusively by his employer: the Alabama State Port Authority, was not what they deserved to hear. Moreover, it's not what any family or friend of any fatally injured worker deserves to hear. And the vast majority of them simply don't have to hear that bad news, owing to the fact that the vast majority of workers are covered by the OSH Act. Why, then, are public workers discriminated against in such a seemingly insensitive manner?

The reason, when all is said and done, is that the current OSH law is deeply flawed and it needs to be amended in a manner that brings the protections afforded to all other workers into the workplaces of the few who have been forgotten about and left to fend for themselves.

Such logic is not Democratic or Republican. Such logic is simply fair, right and just. And to continue the travesty that denies public sector workers (including every ILA worker whose local union has contracted with a Federal, State, or Local government) the right to a workplace free from recognized hazards and all of the other job safety protections millions of other Americans enjoy, is intolerable.

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### **CSC Convention Amended**

All intermodal freight containers moving within international commerce must comply with the Convention for Safe Containers (CSC). CSC is administered through a United Nations agency called the International Maritime Organization (IMO). CSC requires that all such containers comply with certain design, testing and approval standards. In fact, CSC requires that each owner of each container (there are over 11 million containers currently circulating through ports worldwide) must examine those containers at least once in every thirty (30) months. Such examinations are involved, and take into consideration all structurally important components. Alternatively, container owners may instead enroll each of their containers within an "Approved Continuous Examination Program" (also known as ACEP). ACEPs are detailed plans that ensure that, through an ongoing, day-to-day administrative scheme, all such enrolled containers are inspected and maintained in a sound structural condition. Most ACEPs rely heavily upon inbound/outbound TIR inspections, and over the last few years the quality and reliability of ACEPs has been drawn into deep question. So much so, that IMO was recently prompted to amend the CSC.

Accordingly, on 1 January 2012, new CSC requirements are scheduled to take effect. Here's what the amendments look like:

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**BE CAREFUL OUT THERE!**  
**JANUARY 29, 2011**

**Regulation No. 1:** To account for containers having stacking or racking values less than 192,000 kg [Approx 422,4000 lbs] or 150 kN [Approx 33,721 lbs], respectively, such containers must be conspicuously marked (in consonance with the ISO container standard 6346) to reflect such limitation(s).

**Regulation No. 2:** ACEPs *should* be reviewed [by the nation conferring approval] once in every ten (10) years, ensuring that the following elements are observed during review:

- .1 Methods, scope and criteria to be used during examinations;
- .2 Frequency of examinations;
- .3 Qualifications of personnel to carry out examinations;
- .4 System of keeping records and documents that will capture:
  - .4.1 The owner's unique serial number of the container;
  - .4.2 The date on which the examination was carried out;
  - .4.3 Identification of the competent person who carried out the examination;
  - .4.4 The name and location of the organization where the examination was carried out;
  - .4.5 The results of the examination; and
  - .4.6 In the case of a Periodic Examination Scheme (PES), the Next Examination Date (NED);
- .5 A system for recording and updating the identification numbers of all containers covered by the appropriate examination scheme;
- .6 Methods and systems for maintenance criteria that addresses the design characteristics of the specific containers;
- .7 Provisions for maintaining leased containers if different than those used for owned containers; and
- .8 Conditions and procedures for adding containers into an already approved program.

**Regulation No. 3:** The nation conferring approval *shall* conduct periodic audits of all such ACEPs to ensure compliance, withdrawing approval when compliance no longer exists.

**Regulation No. 4:** All such ACEPs must be “publicly available.”

In the United States, all CSC compliance has been delegated by Congress to the United States Coast Guard. That includes compliance by all owners of all containers coming into this country. Through a global means of enforcement called Port State Control, the U.S. Coast Guard is permitted to inspect any container at any U.S port and may declare any such container exhibiting characteristics that make it unsafe to be out of service.

A new Annex to the CSC (also coming into force on 1 January 2012) details exactly what container inspectors should be looking for in the way of critical container component sensitivity, and suggests that individuals conducting inspections of intermodal containers be effectively trained.

Are you inspecting containers?    Have you been effectively trained?

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**JANUARY 29, 2011**

## **Need To Be In Touch With An ILA Safety Representative?**

ILA members needing advice, assistance or guidance in considering occupational safety related circumstances and/or issues, should keep in mind that your Union's safety representatives are available to consult with.

**Mr. George Lynch** Tel: 917.797.5812 email: [glynch@nysailafunds.net](mailto:glynch@nysailafunds.net)  
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