



# BI-STATE NEWS

NEWSLETTER FOR THE ASSOCIATION OF BI-STATE MOTOR CARRIERS

March 2018 Volume 5, Issue 3

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## Spring Storm Dumps Snow on PONYNJ

Terminals at the Port of NY & NJ were reopened on Thursday, March 22nd, after a storm on the first full day of Spring forced them to close. Winter Storm Toby brought heavy winds and accumulating snowfall, leading Governor Phil Murphy to declare a State of Emergency for the entire State. The NJDOT urged motorists to stay off the roads, and restrictions were placed on heavy trucks and trailers on all major highways during to the storm.

Although some areas saw as much as a foot of snow, the marine terminals at the Port of NY & NJ quickly cleared away the accumulation, and our motor carriers were back to business as usual within hours, moving cargo throughout the region. "While unpredictable weather can pose a challenge for most ports, the truckers who serve the Port of NY & NJ are a resilient bunch," said Bi-State Executive Director Dick Jones. "Our guys get back to work quickly, which is why NY & NJ is consistently the 'port of choice' for shippers and customers along the Eastern seaboard."



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### ELD Enforcement Ramps Up on April 1



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## Reminder: Scholarship Applications Due 4/20/18

Applications and information on our [2018 Samuel L. Cunninghame Memorial Scholarship](#) have been posted on our website. Deadline for submission is April 20, 2018.



The annual scholarship is named in honor of our longtime Legislative Relations Director, Sam Cunninghame. Each year, the Bi-State honors Sam's memory by providing scholarships and mini-grants to deserving college-bound high school seniors and full-time undergraduate students who have a parent or guardian working, as either an employee or independent contractor with a Member Company. Eligibility details and requirements are listed on the Application instructions. Scholarship funds of at least \$1,000 will be awarded.

All [applications](#) must be received no later than April 20, 2018. Recipients will be notified the first week in May. Please contact Communications Director Lisa Yakomin at [LisaY@thebistate.com](mailto:LisaY@thebistate.com) with any questions.

## APMT Responds to Feedback, Adjusts Gate Cut-Off Hours



APM Terminals Elizabeth recently announced that, as of March 19th, they will be adjusting their gate cut-off hours to 4:00 PM for Live Reefers/OOG and 4:30 PM for dry containers, until further notice. This was a suggestion that was brought up during the recent Focus Group meeting that the Bi-State had with management officials at APMT in January.

We appreciate APMT's positive response to the feedback provided by our members, and the action taken.

## Law Review: U.S. Supreme Court to Hear Case That Could Undermine Arbitration Clauses In Driver Contracts

*This important legal update was provided by John R. Vreeland, Esq., an attorney with Allied Bi-State member firm Genova Burns, LLC.*

On February 26, 2018, the Supreme Court agreed to hear a petition by New Prime, Inc., an interstate trucking company, regarding a challenge to the arbitration provision in its independent contractor agreements. New Prime was sued by Dominic Oliveria, a former independent contractor and employee, who alleged the company violated the Fair Labor Standards Act, Maine and Missouri law by making unlawful deductions from his pay (such as lease payments) and for failing to pay minimum wage. New Prime moved to compel arbitration under Section 4 of the Federal Arbitration Act (FAA) and the arbitration clauses in each of the two independent contractor agreements Oliveria signed with New Prime.



Section 4 of the FAA prohibits a federal court from hearing a dispute when the parties' agreement requires that disputes be arbitrated. However, Section 1 exempts from the FAA "contracts of employment" of transportation workers engaged in foreign or interstate commerce. The FAA does not define "contracts of employment" and motor carriers have successfully argued that independent contractor agreements are not "contracts of employment" and are therefore outside of scope of this exemption. New Prime argued that whether the Section 1 exemption applied was an issue for the arbitrator to decide, not a court. The District Court, however, agreed with Oliveria that the court should decide this issue before an arbitrator gets the case. New Prime appealed the decision to the First Circuit Court of Appeals. The First Circuit agreed with the District Court.

The Supreme Court's decision in this matter has the potential to significantly affect the relationship between motor carriers and owner-operators. If the Supreme Court decides that a court, as opposed to an arbitrator, should determine whether an agreement creates an employment relationship versus an independent contractor relationship, companies will lose the benefit of the arbitration provisions in their driver contracts – *i.e.*, more expeditious and cost-effective dispute resolution – and this could require a reevaluation of their use of the owner-operator model. Genova Burns LLC will be monitoring the case as it proceeds through the court, and will update Bi-State members accordingly. *For more information about the firm, visit [http://www.genovaburns.com/practice\\_area/transportation-trucking-logistics-law/](http://www.genovaburns.com/practice_area/transportation-trucking-logistics-law/).*

## Reminder: Full Enforcement of ELD Rules as of April 1, 2018

According to the U.S. Department of Transportation Federal Motor Carriers Safety Administration, Sunday, April 1, 2018, marks the end of the initial 90-day implementation period as it relates to mandatory Electronic Logging Devices (ELDs). The use of ELDs to record Hours of Service (HOS) became mandatory for carriers who [met certain criteria](#) as of December 18, 2017. Carriers who are required to implement and follow the ELD regulations are now subject to enforcement during roadside inspections for noncompliance with the established federal rules.

While certain roadside violations were enforced immediately by both the state and federal inspectors, it is now time for all the requirements concerning ELD and HOS to be enforced.

FMCSA [has provided guidance](#) to all state and federal users to assist in what to do if a motor carrier is discovered operating during a roadside inspection without the required ELD. Inspectors will cite the carrier on the inspection report for the violations discovered. If they are Out Of Service (OSS) violations, then the vehicle or driver will be placed out of service until they in full compliance and eligible to continue operations.

A driver who is found to be in violation of the ELD mandate will be placed Out of Service for the time required to become eligible to return to service. At that time, provided the driver has a paper log book to record his hours of service, the driver would be permitted to finish that delivery.



Once the delivery is completed, the driver would then be required to use the ELD, and if discovered to be in violation again, would once again be placed OOS, and subject to the enhanced fines and penalties assessed for a repeat violation. Questions? For more information, visit <https://www.fmcsa.dot.gov>, call 800-832-5660, or email [ELD@dot.gov](mailto:ELD@dot.gov).

## TLD Career Awareness & Job Expo to be held on April 18, 2018

The Port of New York & New Jersey's Council on Port Performance will host a [TLD Career Awareness & Job Expo](#) on Wednesday, April 18th, from 10am to 3pm at 1400 Corbin Street in Elizabeth, NJ. Participation is free.

The goals for the event are to: connect TLD industry businesses with potential job candidates; raise awareness about the Port of NY & NJ operations and the TLD industry; introduce members of our host communities to TLD careers; draw attention to the role we all play in our neighboring communities; and underscore the economic and social significance of the Port of NY & NJ

The Association of Bi-State Motor Carriers will be participating in the Expo; members are encouraged to contact Executive Director Dick Jones at [dj@thebistate.com](mailto:dj@thebistate.com) if you have marketing materials and/or promotional giveaways you would like to have distributed at the event on your behalf.

For more information on the Expo, or to arrange for your own exhibit, contact [TLDjobexpo@panynj.gov](mailto:TLDjobexpo@panynj.gov)

To register, please visit: <http://www.panynj.gov/events/JoinTLD-JobExpo/index.cfm>



# ECHH to Host Reception on May 16 for Children's Programs

The Elizabeth Coalition to House the Homeless will host "There's No Place Like Home," an annual reception featuring cocktails, dinner, and music. Tickets are \$75 per person, and all proceeds will support the Elizabeth Coalition's Children's Program. For tickets, visit [theelizabethcoalition.eventbrite.com](http://theelizabethcoalition.eventbrite.com) or click the invitation at right. RSVPs are due by May 7th.

For more info, contact [cpinzon@theelizabethcoalition.org](mailto:cpinzon@theelizabethcoalition.org) or call 908-447-3964.



*There's No Place Like Home*

Creating community, hospitality and hope for thousands of homeless families and individuals in Union County for 35 years.

**Honoring**

William Holzappel, Esq., City of Elizabeth  
Founder's Award for Public Service

Lois Bass, Infineum USA L.P.  
Founder's Award for Corporate Responsibility

Alberto Goncalves, GS Developers  
Founder's Award for Community Development

Ronald Thompson  
Founder's Award for Community Service

Eric Hagstrom, Founder of the Summer Swimming Program  
& the Westfield High School Athletic Department  
Spirit of Joanie Award

*Special donation opportunities to help children and families in need.*

**SAVE THE DATE!**

**Annual Bi-State Golf Outing  
& Awards Luncheon**

**Monday, Sept. 17, 2018**

**DATES TO REMEMBER**

March 30	Good Friday/Passover
April 10	General Meeting
April 20	Scholarship Deadline
May 8	General Meeting
May 28	Memorial Day

**Association of Bi-State Motor Carriers**  
263-D Distribution Street  
Port Newark, NJ 07114

Phone: 973-466-0014 Fax: 973-466-0085  
[www.bistatemotorcarriers.com](http://www.bistatemotorcarriers.com)

Join us for our next  
**General Member Meeting\***  
**Tuesday, April 10th**  
**@ 1000 hours**

**NYSA Training Ctr. Auditorium**  
**1210 Corbin Street**  
**Elizabeth, NJ**

*\*Meetings are for Bi-State Members only, and are not open to the public.*