California dreaming

Twenty five years ago, in the movie Annie Hall, Woody Allen’s character, Alvy Singer, commented about Los Angeles: "I don’t want to move to a city where the only cultural advantage is being able to make a right turn on a red light." Since then, right-on-red has become common throughout the country.

In the transportation industry, California often leads the nation and we ignore developments there at our own peril. For example, we should pay heed to the trucking industry’s efforts to conform with new diesel engine requirements which are due take effect on Oct. 1, under Clean Air Act settlements. The Clean Air Act of 1970 offers a dramatic example of California legislation affecting the transportation industry. The act, which was passed in the same year that Congress created the Environmental Protection Agency, provided legislative initiatives that addressed recognized deficiencies in earlier legislation. The act was designed "to protect and enhance the quality of the nation’s air resources so as to promote public health and welfare and the productive capacity of its population."

The act gave the federal government responsibility — and authority — for controlling air pollution. The EPA was authorized to take steps to halt emissions endangering public health. But federal pre-emption in this matter was not complete. Recognizing that California had already created its own, more stringent program for regulating vehicle emissions, the act allowed California, unlike other states, to enforce its own independently established standards rather than the new federal requirements. The result is compliance that is either 50-state, or 49-state (all but California).

Two pending pieces of legislation may significantly impact our industry. The California Assembly is considering a bill introduced by State Assemblyman Alan Lowenthal, which would require marine terminals to guarantee driver transactions are completed in less than 15 minutes, including time spent in line. The bill imposes fines for non-compliant facilities.
The bill also anticipates possible industry reaction, by forbidding terminals to divert idling trucks or to pass on compliance costs to the truckers.

This bill appears to address air quality issues, but it is primarily a reaction to the frustrated port drayage community. These drivers are paid by the move, and most have not had received a rate increase in years — despite increases in fuel and insurance expense. In order to increase their profitability, they need to make more moves in a day. In many cases, they’re making fewer than they did several years ago.

The timing of this bill is simultaneous with the current West Coast waterfront labor negotiations. Past attempts at forming a port drayage union have proven unsuccessful, as have previous attempts to legislate extended gate hours. The greatest obstacle to implementing faster gate throughput is work rules preventing more effective utilization of labor by discouraging investment and deployment of technology. A solution is possible. Railroad intermodal terminals have solved their problem largely through process change and technology.

Another challenging issue facing port drivers in California is roadability. The state Senate is considering a bill introduced by State Sen. Gloria Romero that is similar to one that died in committee last year. This bill would require marine terminal roadability inspection prior to departure (current law makes this practice optional). The bill further protects drivers by requiring the equipment owner to reimburse drivers for the costs of any equipment-related citation.

The roadability issue is not unique to California. Pennsylvania and Illinois have already passed similar laws and New Jersey, South Carolina and other states are considering similar legislation. Like the Lowenthal bill, the Romero bill uses one issue to address another. The hidden issue with roadability is insurance. Even before Sept. 11, insurance was becoming a significant problem in the intermodal industry. When equipment departs a terminal, at least two insurance policies are involved. The primary ones are those of the trucker and the steamship line. Both policies seek to exclude responsibility for the equipment — so both sides seek a resolution in their favor. The lines seek to use their commercial dominance over trucker selection. The truckers are seeking legislative redress.

By next year, the federal government must address reauthorization of The Transportation Equity Act for the 21st Century (TEA-21.) This law covered surface transportation funding for 1998 to 2003. California has been busy with similar legislation.

Last year, California instituted a Global Gateways Development Program (GGDP). Its purpose was to serve as a public/private partnership that would develop a plan to improve the capacity and efficiency of California’s transportation infrastructure, which has not kept pace with its goods movement. The resulting deficiency has caused congestion, delays and accidents that have contributed to an increase in transportation costs, which, in turn significantly impacts California’s economy. (It is estimated that one of every seven jobs in California are tied to trade and transportation.) Additionally, the infrastructure shortage is worrisome because cargo volumes are expected to triple by 2020.

One piece of California legislation — as yet not introduced — could profoundly affect our industry. State Sen. Betty Karnette is considering a bill that would impose a fee on all containers moving through California ports — loaded or empty, local or intermodal. (This
would be in addition to the fee that all intermodal containers would pay in southern California for the Alameda Corridor.)

The legislation is designed to develop a reliable revenue source to fund transportation infrastructure. The Container Facility Charge (CFC) is modeled after the passenger facility charge (PFC), which was created in 1990 by the Aviation Safety and Capacity Expansion Act. Airports may apply for PFC charges in amounts up to $4.50 per passenger connecting through an airport in order to fund necessary facilities.

In both cases, the concept is that the payment for facility expansion is tied to the unit creating increased demand. The PFC is tied to the passenger and the CFC to the container. Projects that could be financed by the CFC include: grade separations, dedicated truck lanes, freight rail corridors, intermodal terminals and rail improvements. Some concern exists about whether the fee would compel lines to divert vessels away from California ports, prompting suggestions that it be applied on a larger scale.

Such bills address some of the numerous challenges facing the transportation industry, and they demonstrate how tradeoffs get made between operating efficiency and infrastructure. The GGDC represents a good start at cataloging the issues. CFC offers an intriguing financing idea that will undoubtedly be embraced by some and denounced by others. The Lowenthal and Romero bills grapple with important issues, but at the moment they appear as political sideshows, with all sorts of interested groups adding their two-cents worth. That being said, we should not avert our gaze for too long. For in our industry, as goes California, so goes the nation.

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