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Obama Spotlight on Worker Misclassification, CA Judgment Against Trucking Cos. Reinforce Need for Fundamental Reform of Transportation Law to Protect Workers, Environment, & Economy

Labor and environmental organizations say that President Obama's intention to step up enforcement against worker misclassification in the 2011 budget, and CA Attorney-General Jerry Brown's recent legal judgments against five local port trucking firms that disguised employees as independent contractors underscore the need for sweeping reform to end systematic abuses at America's ports.

Government data reveal that misclassification – a scheme in which employers undercut responsible companies by deliberately “1099ing” their workers to avoid paying taxes, benefits and obligations like workers' comp – has mushroomed in recent years but is difficult and costly to remedy. Brown's [legal victories](#) will provide relief to a handful of port truck drivers, but the practice is too widespread in the deregulated port trucking market to prosecute on a case-by-case basis. Many economists, environmentalists, and elected officials warn that an unchecked industry that breeds low-road businesses that generate severe air pollution is further undermining U.S. job growth.

“We praise the Obama Administration for its [plans](#) to crack down on employers who don't play by the rules, but efforts to fix our nation's ports must be enhanced by Congressional action,” said Sierra Club President Allison Chin. “Coast to coast, thousands of companies force the cost of truck operation and maintenance onto the workers behind the wheel, and as a result the old, diesel-spewing rigs fill U.S. transportation corridors because that's all these low-wage earners can afford.”

The link between economic conditions and the environmental crisis in major trade hubs like LA/Long Beach, Oakland, Seattle, Newark and New York was documented in a recent [Demos report](#) by Dr. David Bensman of Rutgers University. Some 87 million Americans now live and work in port regions that violate federal air quality standards where diesel soot-induced asthma, cancer and respiratory illnesses rates are disproportionately high.

Air quality, public health and workers' rights advocates support new port standards that halt the use of contract drivers (also known as “owner-operators”) who eke by with meager wages, and instead transfer responsibility for fleet modernization and maintenance from drivers to capitalized companies. In return for complying with environmental and operational standards, legitimate trucking firms can receive powerful financial incentives or subsidies to help jump-start a cleaner and alt-fuel market. The Port of Los Angeles implemented such a model in October 2008 and pollution levels dropped dramatically, later earning the nation's largest container port a [distinguished honor](#) for its LA Clean Truck Program by the U.S. Environmental Protection Agency.

However the American Trucking Associations, a Virginia-based lobby opposed to climate-change legislation, has challenged the landmark program and stalled its full implementation. As a result, trucking companies accustomed to three decades of lax regulation have pushed the cost of the vehicles back onto their drivers who average \$10-11 an hour, rendering the award-winning diesel-emissions reduction plan environmentally unsustainable and fiscally irresponsible. In addition, these

companies can now trap the misclassified haulers into one-sided, expensive lease agreements that impose stiff penalties for factors out of the drivers' control and offer them no realistic chance of ever purchasing the vehicle. One newspaper [reported](#) such a driver received a check of \$138 for a long week of hauling after his company deducted various lease fees and taxes.

"These lease scams further expose that port drivers are not legitimate independent owner-operators, but rather, indentured servants," said Teamster Port Division Director Fred Potter. "Powerful trucking interests are shirking their responsibility for clean trucks by luring immigrant workers into literal sweatshops on wheels."

The trucking/shipping industry's vigorous opposition to LA's flagship program prompted the mayors of Los Angeles, New York, Newark, Seattle, Oakland and Broward County in Florida [to urge Congress to revisit the archaic statutes of the federal Motor Carrier Act](#) to protect local authority to remedy the ill-effects of port drayage. The Ports of Los Angeles, Oakland, and the Port Authority of New York and New Jersey have also pushed for federal lawmakers to update provisions in the 30-year-old act to ensure officials can fully implement market-based solutions that address the environment and improve efficiency, safety and security enforcement.

"For too long we've been offered a false choice between economic growth and environmental sustainability," [Mayor Mike Bloomberg said](#) recently. "I am calling on Congress to support legislation that will empower ports to implement the LA Clean Truck Program, an innovative initiative that will create good, green jobs and improve the quality of the air that New Yorkers breathe."

The Sierra Club and Teamsters are partners in a broad coalition of over 100 organizations known as the Coalition for Clean & Safe Ports (on the West Coast), and the Coalition for Healthy Ports (on the Eastern Seaboard). The coalition also unites the Natural Resources Defense Council, Long Beach Alliance for Children with Asthma, American Lung Association of California, Center for Environmental Health, Church Council of Greater Seattle, For a Better Bronx, and GreenFaith, among many others.

"It's unconscionable that lobbyists for the polluting industry are trying to sink an innovative environmental initiative that economists have already determined adds less than a dime to the price of a pair of sneakers," said Patricia Castellanos of the Los Angeles Alliance for a New Economy. "Local governments must be able to protect the health of their residents and enforce existing labor laws to get the green-light on future job-creating infrastructure projects."

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*The **Coalition for Clean & Safe Ports** is a partnership of environmental, public health, community, labor and faith organizations that promote sustainable economic development at West Coast ports. We are working to make the port trucking system a less polluting, more competitive generator of good quality jobs for harbor-area residents. The **Coalition for Healthy Ports** is the sister alliance working to create cleaner, greener ports in New York and New Jersey. We are over 100 organizations strong nationwide.*