

The Clean Ports Act of 2011

Congress needs to provide ports with clear enforcement authority to spur expansion

A 9th circuit panel's recent opinion underscores the need for the Senate to make it clear ports possess the regulatory authority to enact environmental programs to comply with federal air quality standards. While the court affirmed a federal judge's ruling that the Port of Los Angeles is an active participant in the market for port services, the appellate court decision prevents America's largest port from implementing its award-winning Clean Truck Program in its entirety. Industry appeals over federal preemption will continue to impede terminal expansion until ports alleviate the impacts of the polluting, unsafe, and inefficient trucking system.

Vague and poor federal oversight have allowed trucking companies to shift financial responsibility for purchasing and maintaining trucks onto individual drivers and their families. Consequently, port drivers typically live near or below the federal poverty line; many are paid less than federal or state minimum wages; have no private health insurance; and, as new research shows, are misclassified as independent contractors. Unscrupulous actors use this tactic to rob local, state, and federal governments of much-needed tax revenue, undercut responsible businesses who play by the rules, and deny workers basic employment protections. In Southern California, the situation is further exacerbated by predatory lending and dubious truck leasing scams.

Public ports are trying to address environmental, safety, and congestion problems

The EPA estimates 87 million Americans live in port communities that violate federal air quality standards. One key source of port pollution is the estimated 110,000 trucks hauling containers on and off our nation's ports that fail to meet current U.S. EPA emission standards for model year 2007 heavy-duty trucks, increasing deadly toxins by 1,000%. Many major ports have thus initiated programs to reduce emissions from port trucks, including the *Port Authority of New York & New Jersey*, *Virginia Port Authority*, *Port of Houston*, *Port of Charleston*, *Port of Seattle*, *Port of Oakland*, *Port of Long Beach*, and the *Port of Los Angeles*. Litigation instigated by the American Trucking Associations against the Ports of Los Angeles and Long Beach narrowed the scope and aggressiveness other ports were willing to initiate given their uncertain statutory authority.

Unprecedented greening in Southern California a model to jump start clean-energy economy

Since its commencement on October 2008, the LA Clean Truck Program has reduced diesel pollution by approximately 80%; banned over 16,000 older-model, heavier polluting trucks; provided nearly \$63 million in port subsidies; leveraged over \$600 million in private investment of 10,000 clean diesel and natural gas fuel trucks. On January 1st, 2012 this will result in 100% of port gates moves being made by clean trucks, making Southern California the preeminent market for alternative-fuel truck technology.

Environmental progress, business innovation, and job-creation hang in the balance

The appeal by the American Trucking Associations (ATA) prevents key portions of LA's Clean Truck Program from being enforced, threatening job-creating expansion and infrastructure projects from moving forward. Without the clear regulatory authority to reduce public health and community impacts, major ports will continue to face legal threats and intimidation. Recently, ATA affiliates moved to block the Port Authority of NY & NJ from enforcing its limited ban of the oldest, most polluting trucks. Officials there and at other ports have thus scaled back or delayed their own clean truck programs, unraveling company enforcement, compliance, and monitoring tools contained in their programs to specifically address environmental, safety, and congestion issues. Meanwhile, major trucking outfits like Swift and Knight that entered the LA port trucking market precisely because of the Clean Truck Program are unable to compete in other markets. Furthermore, major corporate leaders like Crowley Maritime Corporation and American Stevedoring, Inc. have express frustrations that backwards-looking industry are preventing growth and innovation at East Coast trade hubs.

Simply put: What the Clean Ports Act of 2011 will and won't do

This Senate bill and its House companion, H.R. 572, will empower, but not mandate, local ports to adopt requirements for motor carriers and vehicles that are reasonably related to the reduction of environmental pollution, traffic congestion, improving highway safety, or for the efficient utilization of port facilities. The industry currently and competitively navigates varying local regulations with ease; the Act simply allows ports to enforce rules that would apply fairly and uniformly to all market participants at a given port, as a distinct submarket of the overall industry, different from long haul trucking. To support the Clean Ports Act contact Jordan Baugh in Sen. Kirsten Gillibrand's office.