

# Transport Topics **Online**

## **California Ports' Truck Lease-to-Own Deals Merit Investigation, Lawmaker Says**

**By Eric Miller, May 11, 2010**

The chairman of a House Transportation subcommittee has vowed to investigate truck lease-purchase agreements between owner-operators and motor carriers who hire the drayage drivers to move cargo at the ports of Los Angeles and Long Beach, Calif.

Rep. Peter DeFazio (D-Ore.), chairman of the House Subcommittee on Highways and Transit, said some of the lease-to-own agreements between carriers and independent drayage truckers may violate federal law.

"I think we've got a problem here, and we're going to delve into it," DeFazio said at a May 5 hearing assessing progress on the clean trucks plans at the two Southern California ports, the nation's largest ports complex.

The committee did not identify which carriers were negotiating the leases, nor did committee members say how widespread they believed the lease agreements have become.

Officials for both ports told the subcommittee that because of greater-than-anticipated investment from both the private and public sectors, "clean trucks" now move more than 85% of cargo containers passing through the ports.

As a result, officials said, they are years ahead of their diesel emissions reduction goals.

However, Rep. James Oberstar (D-Minn.), chairman of the House Transportation Committee, expressed concerns over whether motor carriers that hire independent drivers actually are paying for the cleaner new trucks — or requiring some of those drivers to foot the bill.

"Independent drivers have entered into lease agreements with motor carriers to be able to operate these new trucks, the terms of which require drivers to pay the full cost of these new trucks without having ownership over the truck," Oberstar said.

"It is not clear whether any of the public subsidies or higher rates paid by shippers are being passed through to drivers by carriers," Oberstar said. "One of the issues the committee will explore is who has ultimately paid for the new clean trucks deployed at the ports."

Currently, the Port of Los Angeles' plan is being challenged in court by American Trucking Associations because it would ban owner-operators from performing drayage.

"The clean trucks programs at the ports of Los Angeles and Long Beach have accomplished impressive results without concession requirements, reducing truck pollution by 80% almost three years ahead of schedule," Robert Digges, ATA vice president and chief counsel, told

the subcommittee. He added that more than 6,500 clean trucks “now serve the ports, and most of the new fleets were financed with private — not public or port — funding.”

However, as the plan is undergoing a constitutional challenge in federal court, a letter signed by 79 members of Congress calls for a legislative change in the Federal Aviation Administration Authorization Act of 1994, which currently restricts the ability of state and local entities to regulate trucking companies.

The members said that ports should be given more control over enforcing their environmental and safety requirements.

Jose Covarrubias, a port truck driver, told the committee that he “had no choice but to lease a new truck” to get hired by one of the motor carriers.

He said he could not afford to buy a new clean truck on his own.

The lease required him to pay every week \$415 for the lease, \$226 for registration, \$118 for insurance, \$142 in other fees and taxes and \$20 to park the company’s truck in the company’s yard, a requirement.

“Why did I and thousands of other port truck drivers do this?” Covarrubias asked.

One reason, Covarrubias explained, was that he was “desperate and needed the money.”

But even with the new truck, the port truck driver said, he was working 50 to 60 hours a week and brought home as little as \$96.12 one week.

“After getting a check where I owed the company money, I decided I had no choice but to stop leasing the truck,” Covarrubias said. “Because I was never recognized as an employee, I wasn’t even able to apply for unemployment.”

However, Fredrick Johring, owner of Golden State Express, Rancho Dominguez, Calif., said the program gave some independent owner-operators the chance to buy low-emission trucks through the lease-to-purchase agreements with carriers with little or no money down even in a struggling economy.

“Owner-operators are building equity in their trucks month by month and at the end of their purchase agreements, usually five or six years, they will own their trucks,” Johring said.

But Fred Potter, vice president and port division director for the Teamster union, called the lease arrangement a “scam.”

“Rather than invest in equipment themselves, the industry makes leasing or owning a truck a condition of employment, thereby shifting the burden of capital investment to individual workers,” Potter told the subcommittee. “This system is wrong.”