

PROPOSED RESOLUTION  
OF THE 34th LEGISLATIVE DISTRICT DEMOCRATS OF WASHINGTON  
To be considered at our meeting of 14 April 2010

WHEREAS the New York Times recently reported on the national air pollution crisis facing our nation's ports, caused in part by the underground economy of port trucking[Note:1]; and

WHEREAS port trucking operations are cogs in our local economy, moving millions of cargo containers each year for Walmart, Home Depot and Best Buy and others; and

WHEREAS many of the men and women driving trucks at our ports, including the Port of Seattle, are exploited immigrants who drive polluting, poorly maintained diesel trucks in unsafe conditions and have no collective bargaining power[Note:2]; and

WHEREAS dangerous diesel pollution emitted by old port trucks directly impacts the health and safety of port neighborhoods like South Park and Georgetown[Note:3]; and

WHEREAS legal challenges by the American Trucking Association prevent local ports, such as the Port of Seattle, from setting environmental, safety, and labor standards for their own port trucking operations, like those adopted by the Port of Los Angeles[Note:4]; and

WHEREAS the U.S. Congress is currently considering introducing legislation to address these lawsuits and empower ports to set environmental, safety and labor standards for port trucking operations; and

WHEREAS empowering ports to set environmental, safety and labor standards is supported by a wide range of organizations and leaders including: Natural Resources Defense Council, Sierra Club, International Brotherhood of Teamsters, Steelworkers of America, Mayor of Seattle Mike McGinn, members of the Seattle City Council, and many others;

Therefore be it resolved that the 34th District Democrats support empowering ports to set their own environmental, safety and labor standards for port trucking operations and urge our elected Representative and Senators to do the same.

Submitted by: 34th District Democrats' Labor Caucus

---

Request to the 34th Legislative District: Please express support for closing a legal loophole that prevents the nation's ports, including the Port of Seattle, from setting environmental, labor, safety and security standards for the port's trucking operations.

Problem: The Port of Los Angeles recently implemented a comprehensive clean truck program requiring trucking companies to clean up dangerous diesel pollution and address unfair workplace conditions in their drayage operations. Unfortunately, the American Trucking Association successfully enjoined in federal court many aspects of the Port of LA's program using a 30-year old loophole in the FAAA exempting trucking from port regulations. The Port of Seattle points to the threat of another ATA lawsuit as a barrier to implementing a comprehensive truck plan.

Legislation: Conservation, labor, economic justice and elected leaders are asking the Washington congressional delegation to support a bill (to be introduced by an east coast member of Congress after the February recess) closing a legal loophole in the Federal Aviation Administration Authorization Act (FAAAA). The requested legislation would not

affirmatively require the Port of Seattle, or any port, to set standards like those adopted by the Port of Los Angeles. It would merely remove a legal barrier and clarify the ports' authority.

**Examples of Local Political Support**

Cascade Chapter Sierra Club

Community Coalition for Environmental Justice

Council on American-Islamic Relations, Washington Chapter

Greater Seattle Church Council

Honorable Sally Clark, Seattle City Council

Honorable Richard Conlin, Seattle City Council

Honorable Jean Godden, Seattle City Council

Honorable Rob Holland, Port of Seattle Commissioner

Honorable Nick Licata, Seattle City Council

Honorable Mike McGinn, Mayor of Seattle

Honorable Mike O'Brien, Seattle City Council

Honorable Tom Rasmussen, Seattle City Council

International Longshore & Warehouse Union Local 19

Martin Luther King County Labor Council

People for Puget Sound

Puget Sound Sage

One America

Seattle Building and Construction Trades Council

UFCW Local 21

Unite Here Local 8

Washington Community Action Network

**Examples of National Political Support:**

Honorable Michael Bloomberg, Mayor of New York City

Honorable Cory Booker, Mayor of Newark

Honorable Ronald Dellums, Mayor of Oakland

Honorable George Miller and 23 CA members of Congress

Honorable Nancy Pelosi, Speaker of the House, U.S. House of Representatives

Honorable Stacy Ritter, Mayor of Broward County (home to Port Everglades)

Honorable Antonio Villaraigosa, Mayor of Los Angeles

American Lung Association of California

Bay Area Air Quality Management District (CA)

Change to Win

International Brotherhood of Teamsters

Natural Resources Defense Council

Sierra Club

Port of Los Angeles

Port of Oakland

Port of New York/New Jersey

**Examples of National Political Opposition:**

American Trucking Association

Agriculture Transportation Coalition

National Association of Waterfront Employers

National Industrial Transportation League

National Retail Federation

Pacific Marine Shipping Association

Waterfront Coalition

World Shipping Council

**BACKGROUND**

In 2008 the Port of Los Angeles implemented a comprehensive clean truck programs by requiring "concession agreements" for trucking companies operating on port property. These concession agreements are similar to the concession agreements with STITA and food providers at SeaTac.

The Port of LA's 2008 concession program says that all Licensed Motor Carriers (trucking companies) making regular calls at POLA container terminals are required to have a pending or approved concession agreement. Under concession agreements LMCs (not drivers) are responsible for:

? operating trucks that meet a series of increasingly stringent emissions standards, barring pre-2007 trucks (or equivalents) by 2012

? compliance with vehicle safety and maintenance standards

? safety training of drivers

? providing off-street parking for their trucks

? paying injured workers compensation insurance and vehicle insurance

The American Trucking Association enjoined in federal court many aspects of the Port of LA's truck concession program using a 30-year old loophole in the FAAA exempting trucking from port regulations.

PORT OF SEATTLE: The Port of Seattle has repeatedly pointed to the ATA's lawsuit as a barrier to implementing a comprehensive port trucking program

"Southern California's ports' programs are currently involved in two separate pieces of litigation: 1. Federal district court in southern California involving the American Trucking Association; 2. Federal court in DC against the Federal Maritime Commission. Port of Seattle doesn't have the legal authority to regulate truck air emissions." - Port of Seattle staff briefing, Powerpoint, February 10, 2009

"The Port of Seattle does not have legal authority to regulate trucking. it is not yet clear the California ports will have the ability to implement such a program." -- Letter from Port Commission Chair John Creighton to Seattle City Council (September 5, 2007)

"We've heard from other truck drivers who are barely scraping by and you would think that if you could make a good living as a truck driver on average, it wouldn't be poor immigrant labor. You'd have doctors, lawyers, Wall Street bankers and port commissioners signing up for the job. . We have a 9th circuit federal decision in front of us in term of federal pre-emption on anything we might do on the social responsibility side." - Commissioner John Creighton, Port of Seattle Commission Meeting (April 14, 2009)

Local trucking companies have used the threat of an ATA lawsuit to keep the concession model off the table:

"The best solution is gonna be an industry-led solution... and our industry will litigate this if we're forced into having a concessionaire model. " - Dan Gatchett, Roadlink, Port of Seattle Commission Meeting, Clean Air Roundtable 2/13/09

Due to the threat of an industry lawsuit, the Port of Seattle's industry-led solution sets relatively weak air pollution standards, ignores exploitive workplace conditions leading to that pollution, does little to deal with trucking impacts on the South Seattle neighborhoods of Delridge, Georgetown and South Park, and forces poor, immigrant workers to personally bear the costs of new clean air technology, parking regulations, and other requirements.