

Amending the Interstate Commerce Clause?

IWLA is part of coalition of 29 shipper and transportation organizations that sent a letter on November 4 to New York Mayor Michael Bloomberg and Newark Mayor Cory Booker, taking them to task for supporting a change in the Federal Aviation Administration Authorization Act (FAAAA). The letter states, "The Port of Los Angeles, the NRDC, and the Teamsters seek to expand the exceptions to federal preemption legislatively in order to accomplish by statute an objective that the Courts found to be currently unlawful. In fact, the Court of Appeals recognized that federal preemption of interstate trucking services was designed to prevent a patchwork of burdensome state and local trucking rules as would be created by the Port of Los Angeles' concession plan." A copy of the letter is available [here](#).

On November 4, the American Trucking Associations (ATA) was before the U.S. Ninth Circuit Court of Appeals regarding the Los Angeles Port's clean truck program. The court enjoined provisions of the concession program including a phased-in requirement for motor carriers to convert to an all employee-only driver. A ruling is expected from the court in a few weeks on some other provisions that ATA has brought forward on the second appeal.

On November 5, a letter was sent by 24 California Democrats to House Transportation Committee Chairman James Oberstar. The letter states, "We support reforms to the port trucking industry that reduce the health impacts from diesel truck pollution in surrounding port communities and improve working conditions and labor standards for port truck drivers. As you consider transportation policies during this Congress, we urge you to allow California ports to implement and enforce critical truck management programs." A copy of the letter is available [here](#).

The California delegation's letter seeks an amendment to the FAAAA in the SAFETEA-LU Reauthorization expected in 18 months. The reasons stated are to expand the exceptions to federal preemption to include environmental, security and congestion programs. The delegation also seeks to give jurisdiction over drayage trucks to the ports. Amending the FAAAA is being presented by the Teamsters and environmental groups as necessary to sustain the environmental programs in place by the Port of Los Angeles.

IWLA's California representative Patty Senecal has taken IWLA members into the Democrats Congressional district offices to express their dissatisfaction with the letter and to discuss misleading and misfactual information that is being presented to them. IWLA does not support changing the FAAAA or the interstate commerce clause, for the following reasons:

- (1) Changing the law in advance of the trial interferes with the judicial system. The delegation is attempting to nullify the pending trial, set for spring 2010.
- (2) A local remedy already exists for environment, safety and security:
 - (a) The California Air Resource Board has full regulatory over air quality and has passed many regulations for trucks and trailers, as far out as 2023.
 - (b) The Maritime Transportation Security Act of 2002 gives the Coastguard captain of the port responsibility for port security.
 - (c) Safety falls under the jurisdiction of the California Highway Patrol who has enforcement staff.

(3) The focus is on the equipment, not the drivers.

(4) The delegation's desired changes will put thousands of port drivers out of work and take away their rights to own a small business.

(5) Having the Port Authority duplicate regulatory and legislative agencies is both administratively costly and will drive up the transportation costs in California. As the transportation costs rise, importers and exporters will move cargo to other gateways, taking more job from California.

California IWLA members that want to engage on this issue should can contact Patty Senecal at **(310) 678-7782**.