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## **Panel throws out part of Port of L.A.'s Clean Truck Program**

**U.S. 9th Circuit Court of Appeals eliminates provision that would have ended trucking companies' use of independent contractors to haul containers from the port. The program is aimed at reducing diesel emissions.**

By Louis Sahagun, Los Angeles Times

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The U.S. 9th Circuit Court of Appeals on Monday threw out a key provision of a program aimed at reducing diesel emissions from trucks hauling containers from the Port of Los Angeles. advertisement

The three-judge panel based in San Francisco eliminated a so-called employee provision from the port's effort to replace older, heavily polluting drayage trucks with lower-emission models.

The rule would have effectively ended trucking companies' use of independent contractors to haul containers and forced the companies to shoulder responsibility for replacing, properly operating and maintaining trucks. Port officials had alleged that the mostly low-income contract drivers, whose big rigs were decades old and frequently cited for safety violations, could not afford newer trucks or technology required by their Clean Truck Program.

The provision was pushed aggressively by the International Brotherhood of Teamsters and the Los Angeles County Federation of Labor. It was also backed by Change to Win, a Washington, D.C.-based labor coalition that contributed \$500,000 to Mayor Antonio Villaraigosa's successful campaign to preserve a telephone user's tax in 2008.

The American Trucking Assn. argued that the provision imposed an unfair economic burden and violated federal law. Trucking industry officials also feared it would trigger unionization of thousands of port drivers in Los Angeles and across the nation.

In its [unanimous opinion](#), the appellate court concluded that "while the port may impose conditions on licensed motor carriers seeking to operate on port property, it cannot extend those conditions to the contractual relationships between motor carriers and third parties." It specifically rejected the port's contention that hiring drivers at higher wages would ensure stability in the drayage business. The port, it said, "may not obtain that stability by unilaterally inserting itself into the contractual relationship between motor carriers and drivers."

The opinion upheld a previous court decision that found no fault with the [Clean Truck Program's other requirements](#), including the effort to replace 16,800 aging diesel trucks with less-polluting vehicles.

"The measures upheld in this ruling allow for significant accountability from the trucking companies that call at the Port of Los Angeles," Geraldine Knatz, executive director of the port, said in a statement.

American Trucking Assn. President and Chief Executive Bill Graves called the opinion "a decisive victory for the trucking industry and consumers."

"By throwing out the ban on owner-operators, the court has ensured that competition, not government regulation, will establish motor carriers' rates, routes and services," Graves said. "This plan was never about clean air, it was about promoting special interests of a few well-connected labor groups."

Patricia Castellanos, chairwoman of the Coalition for Clean & Safe Ports, warned that cutting out the employee provision "will have devastating consequences for working families and port communities plagued by dirty air and dead-end jobs. Furthermore, removing the employee provision destroys the opportunity for hundreds of small and large local businesses alike to grow and compete responsibly in the green economy."

Three years after the program was implemented, diesel truck emissions have been reduced at the port complex by 80%, officials said.

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