

CONCURRENCE IN SENATE AMENDMENTS

AB 794 (Carrillo)

As Amended September 1, 2021

Majority vote

SUMMARY

Attaches labor standards to eligibility for various clean vehicle incentive programs administered by the California Air Resources Board (CARB) for fleet purchasers of new drayage or short-haul trucks.

Senate Amendments

- 1) Clarify that "applicable law" means California laws within the Labor and Workforce Development Agency's (LWDA) jurisdiction related to the misclassification of employees as independent contractors.
- 2) Delete the requirement that the CARB, in collaboration with the LWDA, develop operational guidelines for applying labor standards to the incentive programs covered by this bill.
- 3) Delete the requirement that the Labor Commissioner enforce or investigate violations of the labor standards.
- 4) Delete intent language regarding the establishment of labor and workforce standards for incentive programs offered to vehicle manufacturers.
- 5) Simplify the compliance reporting and attestation process for fleet purchasers to be eligible for covered incentives.
- 6) Add that a third party may report to the CARB that a purchaser or entity operating a drayage truck has made an untruthful attestation or has failed to maintain compliance with applicable laws as referenced in 1), above.
- 7) Move the implementation date to the 2022-23 fiscal year.
- 8) Add language to address chaptering out with SB 753 (Roth) of the current legislative session.

COMMENTS

The State Auditor recently issued a report evaluating CARB's implementation of a number of transportation-based incentive programs for greenhouse gas reduction. A key finding of the audit was that the board has failed to adequately evaluate these programs in regards to their socioeconomic benefits, number of jobs created, or the extent that workers benefited from job-training. The audit recommended, among other things, that the CARB "develop a process to define, collect, and evaluate data that will translate to metrics showing the socioeconomic benefits that result from each of the incentive programs."¹

¹ California State Auditor Report Number 2020-114, "California Air Resources Board: Improved Program Measurement Would Help California Work More Strategically to Meet its Climate Change Goals."

Currently, CARB is in the process of adopting regulations for the conversion of truck fleets to zero-emission by 2045. The proposed Advanced Fleet Rule, expected to be approved by the end of 2021, will provide fleet purchasers monetary incentives to purchase new clean trucks for short-haul trucking and port drayage service. Attaching incentives to converting trucks at our ports highlights concerns over the current working conditions of drivers. Port truck drivers are susceptible to well-documented health and safety violations and abusive labor practices.

According to the Author

"In order to create high-road quality jobs while moving closer to meet climate goals, AB 794 will ensure that public funding to manufacture and purchase cleaner vehicles is tied to labor standards. California should not subsidize companies that violate workers' rights or shift costs onto the backs of workers or the state safety net. Public funding should reward companies that follow the law and respect workers. This bill allows California to meet its climate goals while using public funds to support good job creation in communities of color. Public subsidies should reduce income and racial inequality, not widen the gaps."

Arguments in Support

According to the California Teamsters Public Affairs Council, the Teamsters Port Division, LAANE, and the Blue Green Alliance, co-sponsors of this bill, "A major obstacle to meeting climate, clean air and environmental justice goals is the misclassification of drayage truck drivers. Trucking companies intentionally and illegally misclassify drivers as independent contractors, unlawfully forcing them to bear all the costs of transition to clean trucks. Misclassified drivers earn low wages and face prohibitively high financing costs to transition to clean vehicles. Driver misclassification stalls progress on clean air and climate goals because misclassified drivers simply cannot afford new clean or electric trucks nor required maintenance and upkeep when the trucks and associated expenses are pushed on them by the trucking companies who misclassify them. AB 794 removes the obstacle to meeting climate goals by ensuring that state funds are not being used to support fleet purchasers who violate the law and impede climate goals through rampant misclassifying."

Arguments in Opposition

The Western States Trucking Association is opposed and states, "AB 794 unfairly singles out short-haul and drayage trucking companies – many of which are small businesses most in need of economic assistance – by requiring this subset of the trucking industry to satisfy certain burdensome requirements in order to qualify for funding, when they are competing with the rest of the industry for the funding. Ultimately, AB 794 will likely have the counterproductive effect of reducing access to critical resources for those most in need, thus reducing the number of new clean trucks and setting back California's climate goals.

Further, there are already considerable disincentives to misclassify drivers, notably including AB 5, which opens up unending potential liability, that render AB 794 unnecessary."

FISCAL COMMENTS

According to the Senate Appropriations Committee,

- 1) Unknown but likely significant ongoing costs, possibly in the millions of dollars annually (General Fund and Greenhouse Gas Reduction Fund [GGRF]) for ARB to update impacted incentive programs, amend funding guidelines, process and track grant agreements, and enforce the provisions of this bill, among other things.

- 2) Unknown costs for the Labor and Workforce Development Agency (LWDA) to collaborate with ARB.

VOTES:**ASM LABOR AND EMPLOYMENT: 5-2-0**

YES: Kalra, Lorena Gonzalez, Jones-Sawyer, Stone, Ward

NO: Flora, Seyarto

ASM TRANSPORTATION: 11-4-0

YES: Friedman, Berman, Daly, Gipson, Kalra, Lee, Medina, Nazarian, O'Donnell, Ward, Wicks

NO: Fong, Cunningham, Davies, Nguyen

ASM APPROPRIATIONS: 12-4-0

YES: Lorena Gonzalez, Calderon, Carrillo, Chau, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Holden, Luz Rivas

NO: Bigelow, Megan Dahle, Davies, Fong

ASSEMBLY FLOOR: 52-17-10

YES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooper, Friedman, Gabriel, Eduardo Garcia, Gipson, Gray, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon

NO: Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron

ABS, ABST OR NV: Bigelow, Chen, Cooley, Daly, Frazier, Cristina Garcia, Lorena Gonzalez, Grayson, Mayes, Quirk-Silva

SENATE FLOOR: 29-9-2

YES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Umberg, Wieckowski, Wiener

NO: Bates, Borgeas, Dahle, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk

ABS, ABST OR NV: Eggman, Stern

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