

Date of Hearing: August 20, 2025

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

SB 809 (Durazo) – As Amended July 10, 2025

Policy Committee:	Labor and Employment	Vote:	6 - 0
	Judiciary		9 - 3

Urgency: No                      State Mandated Local Program: No                      Reimbursable: No

**SUMMARY:**

This bill establishes the Construction Trucking Employer Amnesty Program (Amnesty Program).

Specifically, this bill:

- 1) Establishes the Amnesty Program administered by the Labor Commissioner (LC) and Employment Development Department (EDD). Under the program, an eligible construction contractor is relieved of liability for certain statutory or civil penalties associated with the misclassification of construction drivers as independent contractors, if the contractor executes a settlement agreement negotiated by the LC prior to January 1, 2029, whereby the contractor agrees to properly classify all drivers as employees and pay all wages, benefits, and taxes owed, among other requirements. The LC must develop an application form and guidelines for a self-audit a contractor must complete to participate in the program.
- 2) Allows an eligible construction contractor to negotiate a settlement agreement with a city attorney or labor union representing drivers, and submit the agreement to the LC for review and potential approval under the Amnesty Program. The LC is prohibited from approving an agreement on or after January 1, 2029.
- 3) Allows a settlement agreement to require a contractor to pay the reasonable, actual costs to the LC and EDD for the departments' respective review of the settlement agreement.
- 4) Allows the LC to file a civil action to enforce a settlement agreement if the LC determines a contractor violated their obligations under the agreement. A court must hold a hearing and enter a judgment within 60 days of certain filings by the LC.
- 5) Provides that mere ownership of a vehicle used by a person in providing labor or services does not make that person an independent contractor.
- 6) Provides that the duty of an employer to indemnify their employee for necessary expenses or losses applies to the use of a vehicle owned by the employee in their discharge of duties. The reimbursed amount for the use of a commercial truck, tractor, or trailer must be negotiated by the driver or driver's labor union and the employer.

**FISCAL EFFECT:**

- 1) Costs of approximately \$213,000 in the first year and \$201,000 annually thereafter to the LC to negotiate or approve settlement agreements and pursue related enforcement actions (Labor

Enforcement and Compliance Fund). The LC may partially recover costs to review a settlement agreement if the contractor agrees to pay such costs as part of the settlement.

- 2) Minor and absorbable costs to EDD to help administer the Amnesty Program (General Fund (GF)). EDD notes that this bill may result in penalty and interest revenue loss of an unknown amount, but such losses may be offset by the recovery of unpaid taxes related to employee misclassification (special funds).
- 3) Annual cost pressures (GF or Trial Court Trust Fund (TCTF)) of an unknown, but potentially significant amount, to the courts in additional workload by allowing the LC to file a civil action to enforce a settlement agreement and requiring the court to follow certain procedures to adjudicate such actions. It is unclear how many additional civil actions may be filed statewide, but the estimated workload cost of one hour of court time is \$1,000. Although courts are not funded on the basis of workload, increased pressure on staff and the TCTF may create a demand for increased court funding from the GF to perform existing duties. The Budget Act of 2025 provides \$82 million ongoing GF to the TCTF for court operations.

#### COMMENTS:

- 1) **Purpose.** According to the author:

SB 809 provides legal amnesty to construction industry employers who have misclassified truck-owner drivers as independent contractors. The bill encourages these employers to reclassify drivers as employees and properly compensate them for their labor and the use of their equipment under the “two-check” system.

- 2) **Background. *Truck Driver Misclassification.*** Misclassification of an employee as an independent contractor prevents the worker from receiving certain legal protections, such as minimum wage requirements, meal and rest breaks, and overtime pay. Additionally, an employer is required to maintain certain workplace safety standards and is subject to per-employee payroll taxes that help fund unemployment insurance, among other public programs. Misclassification in the trucking industry also forces a truck driver to bear the costs and responsibility of purchasing and maintaining their own trucking vehicle.

***Construction Trucking Exemption.*** AB 5 (Gonzalez), Chapter 296, Statutes of 2019, codified the “ABC” test the California Supreme Court ruled must be used to determine whether a worker is classified as an employee or independent contractor. However, AB 5 exempted from the ABC test, until January 1, 2025, certain construction truck drivers working as subcontractors. Such a driver, or “owner-operator,” must have had a written subcontract with a contractor, maintained a separate business location from the contractor, and had the authority to hire or fire service providers, among other conditions.

Now that the exemption has expired, AB 5 classifies these construction truck drivers as employees. This bill addresses potential subsequent misclassification in the industry by establishing the Amnesty Program to allow an eligible contractor to enter into a settlement agreement with the LC and avoid penalties if the contractor reclassifies drivers as employees and meets other requirements. This bill also requires an employer to reimburse an employee driver for the cost of the employee’s use of their own trucking vehicle, thus establishing a

“two-check” compensation system for construction truck drivers (an employer provides compensation in the form of a paycheck and a second check reimbursing truck expenses).

- 3) **Support and Opposition.** This bill is co-sponsored by the California Teamsters Public Affairs Council and the State Building and Construction Trades Council of California, with the former arguing, “SB 809 will provide meaningful protection to construction businesses while offering workers all the benefits they are entitled to under the law...this approach is the proverbial ‘carrot,’ not the stick.” This bill is also supported by another labor organization.

This bill is opposed by the Western States Trucking Association, which argues this bill “will further erode the ability for small owner-operator trucking businesses to operate in California” and create “further obstacles to cost-effective construction.”

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