

TRADE, TRAVEL, AND TOURISM COMMITTEE REPORT relative to strategies for addressing allegations of wage theft and employee misclassification of truck drivers and warehouse workers by companies operating on Port of Los Angeles property.

Recommendations for Council action, as initiated by Motion (Blumenfield – Buscaino – Bonin):

1. CONCUR with the recommendations of the Economic Development Committee approving Motion recommendations relative to addressing allegations of wage theft and employee misclassification of truck drivers and warehouse workers by companies operating on Port of Los Angeles property.
2. REQUEST the City Attorney to:
 - a. Submit a written report with advice for options for the City of Los Angeles to mandate fair wages and working conditions for employees working for companies operating on property owned by the City; and, an analysis of the City's legal responsibility for reporting violations of local, State, and federal laws, including labor and employment laws, to the proper enforcement agencies.
 - b. Recommend state legislation to improve the condition of truckers and warehouses workers at the Port, or to enable the City to enact regulations of its own to address these concerns.
 - c. Prepare a matrix of all legal issues for which the Port has requested analysis of this matter.
 - d. Determine whether the City's land use laws can be used to deny access to Port property by companies which repeatedly violate state and employment laws in a manner similar to which the City responds to nuisance activities.

Fiscal Impact Statement: Neither the City Administrative Officer (CAO) nor the Chief Legislative Analyst (CLA) has completed a financial analysis of this report.

Community Impact Statement: None submitted.

SUMMARY

On October 13, 2017, Council considered Motion (Blumenfield – Buscaino – Bonin) relative to allegations of wage theft and employee misclassification of truck drivers and warehouse workers by companies operating on Port of Los Angeles property. Motion states that the City of Los Angeles must ensure that all workers that contribute to the operations at the Port of Los Angeles be afforded a safe work environment, fair wages, and guaranteed rights and benefits. Trucking companies that operate at the Port have a long history of contracting with truck drivers individually. When hired as independent contractors, drivers are not afforded their basic benefits and protections as employees, such as receiving minimum wage and paid sick days. Port truck drivers also often assume the risk and responsibility associated with purchasing and maintaining newer, low-emission trucks, as detailed in a recent USA Today story.

Motion goes on to state that the Port made an effort to address the issue by incorporating an employee mandate into the 2008 Clean Truck Program. This mandate would have required trucking companies to hire drivers instead of contracting with them, in an effort to ensure that trucking companies did not pass the costs of new clean trucks on to drivers. The mandate was ultimately removed from the Clean Truck Program after a 9th Circuit Court of Appeals ruling finding that the Federal Aviation Administration Authorization Act of 1994 preempted the employee mandate.

Motion further states that since 2010, at least 1,150 port truck drivers have filed claims in civil court or with the California Department of Industrial Relations' enforcement arm, known as the labor commission. Judges have sided with drivers in more than 97 percent of the cases heard, ruling time after time that port truckers in California can't legally be classified as independent contractors. Port drivers and warehouse workers have engaged in 15 labor strikes in the past four years, disrupting Port activity and service. Motion movers believe that is important to take a closer look at potential violations and their impact on the Port and identify solutions to protect truck drivers and warehouse workers.

Motion recommends that Council request the City Attorney, CAO, and CLA to review the conditions of the leases of any trucking or warehousing companies operating on Port property and report on the feasibility of denying access to companies that are in violation of local, state, and federal laws, including labor and employment laws, as well as alternative solutions can be implemented to enhance the employee rights of Port truck drivers and ensure that trucking companies comply with labor and employment laws. Motion further recommends that Council direct the Bureau of Contract Administration to investigate and report back on wage theft claims due to minimum wage and paid sick day violations by trucking companies operating on Port property. Council referred Motion to the Trade, Travel, and Tourism Committee for consideration. Subsequently, Motion was also referred to the Economic Development Committee.

On November 28, 2017, the Economic Development Committee approved Motion's recommendations.

At its special meeting held November 28, 2017, the Trade, Travel, and Tourism Committee discussed this matter with representatives of the Port and the City Attorney. Port staff stated that attempts to address the treatment of workers has been pre-empted by the Courts and is beyond the Department's jurisdiction. The Department has successfully addressed concerns regarding worksite hygiene and bathroom access. Also, the Board of Harbor Commissioners has provided a forum to workers to express their concerns. The City Attorney's representative stated that federal law pre-empts attempts by the Port to address the issues raised by truckers. Also, the Port is deemed a landlord, further limiting its ability to regulate matters pertaining to rates, routes, and services. The contractual relationship between the City and companies leasing Port property does not permit the City to deny access to Port property based on these issues according to the City Attorney's representative.

A representative of the Bureau of Contract Administration was in attendance to discuss the City's ability to investigate wage rates and wage theft. It was stated that the City's new minimum wage law applies to workers who work at least two hours per week within the boundaries of the City. The Bureau representative went on to discuss the method by which the City would investigate wage theft allegations.

During the public comment period, truckers, warehouse workers, and labor justice advocates discussed their exploitation by Port-based companies. Truckers stated they worked 20 or more hours a day, six days a week for little or no pay. Warehouse workers described unsafe and unsanitary work conditions as well as erratic work schedules and racial discrimination. It was stated that workers were misclassified as independent contractors and not employees by their hiring companies. The independent contractor classification enables companies to avoid providing benefits or paying a minimum wage, as well as avoiding state and federal tax liabilities. It was further stated that these companies are breaking the law and that Council should evict them from property owned by the City.

Speakers urged the Committee to put pressure on the existing business relationships to help workers at the Port. It was stated that the City should look to New York's Construction Industry Fair Play Act which states that a worker is an employee unless the employer proves otherwise.

Committee members expressed their frustration with the treatment of Port workers and committed to work toward finding solution. Committee Chair Councilmember Buscaino stated that it is unacceptable for companies to profit on City property by exploiting human beings. Councilmember Bonin stated that it was time for Council to look at this matter from a new perspective and to consider applying land use nuisance abatement law as grounds for evicting law-breaking companies from the Port. Committee concurred with the action taken by the Economic Development Committee to approve Motion. The Trade, Travel, and Tourism Committee further recommended that Council request the City Attorney to report back with additional analysis and recommendations, as stated above.

Respectfully Submitted,

TRADE, TRAVEL, AND TOURISM COMMITTEE



<u>MEMBER</u>	<u>VOTE</u>
BUSCAINO:	YES
BONIN:	YES
KREKORIAN:	ABSENT

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-NOT OFFICIAL UNTIL COUNCIL ACTS-