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On the Waterfront: Trucking re-regulation becoming a national issue

By Kristopher Hanson, Staff Writer

Posted: 10/19/2009 07:43:17 PM PDT

What began a few years ago as an effort to rid Southern California's port communities of the soot-spewing container trucks poisoning local skies has morphed into a national battle to re-regulate sections of the trucking industry.

From New York to Los Angeles, calls for reform - which supporters equate with "economic justice" for drivers - have pitted big-city mayors, environmentalists, progressive Congressmembers and communities against retailers, international shippers, agribusiness, the U.S. Chamber of Commerce, and of course, the trucking industry.

In New York City on Sunday, Mayor Michael Bloomberg held a press conference with Newark Mayor Cory Booker urging Congress to allow local port authorities to regulate the trucking firms doing business on their waterfronts.

In all cases, supporters of reform cite the battle under way in the Port of Los Angeles,

where an attempt to require trucking companies - and not drivers - purchase and maintain the trucks they dispatch to the nation's largest seaport has been challenged in federal court as a violation of federal law.

"For too long, we've been offered a false choice between economic growth and environmental sustainability," Bloomberg said. "From our Million Trees program to our Greener, Greater Buildings Plan, we have proven in New York City that we can provide economic opportunities while advancing our environmental goals. Today, I am calling on Congress to support legislation that empowers ports to implement the L.A. Clean Trucks Program, an innovative initiative that will create good, green jobs and improve the quality of air that New Yorkers breathe."

At the heart of the matter is a little-known piece of federal law, the Federal Aviation Administration Authorization Act, or FAAAA, which effectively allows companies to classify drivers as non-employees, or "independent owner-operators," who get paid by the load and are made responsible for their own trucks, maintenance, fuel, insurance, tires and other necessities.

Los Angeles attempted to alter the business model by requiring that companies sign concession agreements to do business on their waterfront property, similar to agreements cities make with taxicab

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companies regulating prices, service and safety.

Long Beach's approach has been slightly different in that port authorities there agreed with Los Angeles on the need for concession agreements, but not on the need to make companies own the rigs they dispatch.

The debate goes back to 1980, when Congress passed the Motor Carrier Act of 1980, ending decades of tight federal control of the trucking industry enacted during the depths of the Great Depression and opening the door for thousands of new, non-unionized firms to flood the market with drivers paid not by the hour, but by the load.

Overhead on these new companies was low as they generally didn't offer health benefits, retirement packages or overtime - an advantage that quickly allowed them to capture a large share of the market from the large, unionized firms.

Within a few years of the law, membership in the International Brotherhood of Teamsters had been decimated, and in and around the ports of Long Beach and Los Angeles, virtually exterminated. Drivers who had built up strong contracts with their employers offering pensions, overtime, healthcare and other perks now found themselves competing with drivers who got the job done for a fraction of the cost.

Deregulation expanded under President Bill Clinton, who signed a reformed FAAAA law in August 1994. The commander-in-chief was clearly convinced that the fragments of regulation that remained were destroying competitiveness in the intermodal trucking industry.

"This legislation is proof that we can end government activities when they have outlived their usefulness," Clinton said, adding that long-standing laws regulating the trucking industry "impede efficient intermodal freight transportation."

He then predicted that "freight rates will become more competitive, truck service will become better and more reliable...and employment in the trucking services industry will increase substantially."

But years later, as more and more truckers serving the ports struggled to make ends meet under deregulation - as evidenced in numerous studies showing driver wages averaging \$10-\$12 per hour - momentum began swinging back in favor regulation, which supporters contend will allow drivers to once again be employees of the firms they work for, instead of "independent owner-operators" with little power and no federal backing to collectively push for better wages, health benefits or retirement plans.

It's a battle they plan to take to the floors of

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Congress, where they already have backing from President Obama, dozens of congress members and senators and the Federal Maritime Commission, which recently dropped its lawsuit against the Los Angeles plan under the guidance of its new commission chairman Richard Lidinsky.

It's also clearly the best shot the Teamsters and other unions have at reclaiming control of a workforce they lost during the deregulation craze of the 1980s and 90s, which included not only trucking but air travel, banking and financial services.

"Ports need the clear authority to implement 21st century policies that protect workers and the environment so we can pave the way for future, green growth and good jobs," said James Hoffa, Teamsters President during the Sunday meeting with Bloomberg.

Of course, the effort has powerful detractors, including a coalition of organizations representing some of the nation's largest retailers, shippers, farms and other businesses.

In a Sept. 25 letter to Congressman James Oberstar, D-Minn., the influential lawmaker who oversees the House Committee on Transportation and Infrastructure, the business coalition said any amendments to existing law would undermine small businesses and put countless drivers out of

work.

"The idea that owner-operators need port concession plans for some kind of economic justice is equally false," the letter states.

"Were an employee mandate to be imposed on owner-operators, it would force them to give up their independent business and go to work as employees. There is no economic justice in forcing the closure of small business ventures because of the patently false notion that small business can't meet environmental or safety standards."

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