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SPECIAL REPORT

OOIDA to Congress: Leasing abuses at ports must be addressed

– By Charlie Morasch, staff writer

Thursday, May 6, 2010 – U.S. ports might be able to cut pollution by enacting clean truck programs similar to the ports of Los Angeles and Long Beach, but such programs won't work if thousands of drayage truckers continue to be oppressed by unfair and often illegal leasing contracts.

That's what OOIDA Regulatory Affairs Director Joe Rajkovic told a congressional panel Wednesday while testifying before the U.S. House of Representatives Subcommittee on Highways and Transit, part of the House Committee on Transportation and Infrastructure.

"How did the drayage industry become so dominated by older trucks," Rajkovic said, "and did the Clean Truck Program do anything to address that? Our response is – not really."

"For owner-operators to be a vibrant part of the marketplace, federal regulations that are meant to protect them from unscrupulous practices by motor carriers need to be enforced," Rajkovic said. "It's about the leases between motor carriers and owner-operators. Sham lease purchases are a rent to own scheme. It is sharecropping, and it is involuntary servitude, and it makes the payday loan industry look ethical in comparison."

The subcommittee assessed the Clean Truck Programs at the ports of Los Angeles and Long Beach, which have enacted bans of older trucks and other requirements to cut pollution. Several other ports nationally have begun or already implemented their own truck emissions programs, including ports at New York and New Jersey, Seattle, Oakland and San Diego.

The Clean Truck Programs at Los Angeles and Long Beach, however, are viewed by many as ground zero for port emissions plans nationally.

In addition to banning older trucks, the two ports have planned to spend \$2.2 billion on truck grants to help motor carriers buy new clean trucks. OOIDA has consistently questioned why the ports didn't prevent motor carriers from buying trucks with the grant money and then turning around and leasing those same trucks to drivers through lease purchase agreements.

"The current economic model at the ports allows motor carriers to profit from the truck leases, which were subsidized by the ports, all the while not having to worry about charging market prices for hauling containers," Rajkovic said. "The acceptance of public money should have required specific responsibilities if entities were serious about addressing labor abuses." (con't on next page)

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Rep. Peter De Fazio, D-OR, asked all the trucking representatives on the panel if they knew of a driver that had ever successfully gained ownership of a truck through a lease purchase program.

No one responded.

“You could make the point that if a motor carrier purchased a vehicle and they’ve put it into a lease purchase arrangement, the shipper really doesn’t care what happens to the driver,” DeFazio said. “All they care is that the clean truck continues to operate. You lose equity if you don’t keep going. Apparently they just want to keep someone in the driver’s seat.”

Jose Covarrubias, an independent drayage driver who has worked at the ports of Los Angeles and Long Beach for 20 years, said carriers he has worked for have controlled his loads, the trucks he leases, and his whereabouts.

“Your truck can get taken away,” Covarrubias said. “If you leave for a week, they can take it.”

Several congressmen, including CDL-holder Rep. Leonard Boswell, D-IA, questioned the clean truck programs as well as the relationships between motor carriers and owner-operators.

“It seems that the incentives rarely get down to the guy driving the truck,” Boswell said. “I think we need to look into that a little deeper than what we already have.”

The problems with lack of enforcement over federal motor carrier leasing regulations and lease purchases dominated the three-hour hearing, chaired by DeFazio.

Several members of the subcommittee brought up their concerns about oppressive working conditions and problems with operating leases and lease purchase agreements.

“There is a heck of a lot of wasted time under the current system,” DeFazio said. “It seems to me that everything conspires against the people actually driving the rigs. ... The point is, this system has got to get better. We’re wasting fuel, wasting time, and I think we’re depriving people of making a better living.”

In written testimony submitted to the subcommittee, Rajkovacz described supply chain inefficiencies he encountered in a 29-year driving career, including many visits at the twin port complex at Los Angeles and Long Beach.

Truckers encounter long wait times at understaffed port gates, waiting to load and unload at warehouses and are often required to wait in line for chassis owned either by ports or ocean carriers to be repaired.

“Why is it the driver’s responsibility to donate any of their time for someone’s lack of efficiency?” Rajkovacz said during the hearing. “I keep hearing, ‘hey, we’re real concerned about productivity,’ but so much of this the driver himself doesn’t control. I would end up donating my time. So many times the supply chain was forcing me to give up my labor for free.”

DeFazio said he planned to discuss trucking-related issues with the House Committee on Education and Labor to coordinate an investigation by the committees into leasing arrangements in trucking.

“This is not the last time this committee is going to be dealing with this issue,” said DeFazio, before banging the gavel.