

# Driving Towards the Brink of Disaster: How the Port Trucking Industry Puts Its Workers and Public Safety at Risk

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Heavy duty trucks hauling imported goods fill the highways of Seattle and surrounding warehouse and industrial areas. Driving these 80,000+ lbs vehicles safely requires great skill, patience and concerted effort. The port trucking industry, however, clings to a controversial business model that jeopardizes these and related safety precautions.

Port trucking firms designate their workforce as “independent contractors” instead of as employees and so shift responsibility for adhering to health and safety rules to their drivers. Under this system, if a port truck driver crushes a car, violates emissions, standards or hauls overweight containers, his employer is off the hook. This business model externalizes a wide range of costs onto workers and the public; it strongly encourages the use of outdated, dangerous equipment, heated production schedules, and the widespread evasion of safety regulations.<sup>1</sup>

Serious health and safety hazards are the predictable results. These hazards, detailed in part below, have yet to receive sustained attention as a common, nationwide problem.

**Heavy-Duty Trucks, Duct-Tape Maintenance:** Because port trucking companies routinely disguise their employees as independent contractors, they can require their workforce to buy and maintain their own trucks. The typical port truck driver earns \$28,783/year before FICA and other taxes,<sup>2</sup> putting them in economic dire straits that force most to choose between food and shelter and necessary truck maintenance.

- 97% of inspected port trucks in Seattle had to be pulled off the road over a one month period for serious safety violations. These port trucks were pulled out of service at rates multiple times those of other heavy duty trucks in the state.<sup>3</sup>
- A Seattle officer explained that police had “discovered that the majority of serious collisions – fatality, serious injury, property damage – involved commercial vehicles hauling containers to and from the port.”<sup>4</sup> A department captain later added “obviously things are a bit out of control in and around the Port of Seattle as it pertains to equipment violations”, noting “literally every truck exiting Harbor Island is doing so with the containers unsecured to the trailers. This is an extremely significant safety violation [that] hinges on criminal activity.”<sup>5</sup>
- Similarly, in a survey of Port of Oakland, drivers reported serious safety problems were common. Results included drivers taking chassis with no pin-lock or twist lock (14.29% employees/ 31% contractors); hauling overweight cargo (28%/62%); postponing necessary repairs (7%/44%); and working when seriously ill (13%/75%).<sup>6</sup>
- An illustrative *Los Angeles Times* investigative report detailed how port trucks are kept on the road through “a shadowy economy of risk-taking drivers and discount mechanics, body workers, welders and junkyards – legal and otherwise.”<sup>7</sup>



**Unsafe Chassis All Over the Road:** Chassis are the separate frame and wheels that hold cargo containers. Chassis owners, typically terminal operators, have no incentive to maintain them properly as contractor drivers are responsible when the chassis fail to meet safety rules. Defective chassis break on road ways, causing serious highway accidents.

- 78% of drivers in a New York/New Jersey study reported receiving an unsafe chassis over a year's time and 12% percent took an unsafe chassis on the road the last time they were offered one. “This would mean that 10,000 unsafe chassis leave the port making freight deliveries every year.”<sup>8</sup>
- Half of all drivers surveyed in an LA study (and the Port of Jacksonville<sup>9</sup>) had been offered an unsafe chassis over a one month period and 22% had taken the chassis on the road.<sup>10</sup>
- Serious accidents caused by defective chassis have been reported in Seattle, Miami, and Virginia.<sup>11</sup>

**Dirty Diesel All Around:** Companies force contractor port drivers to own their trucks. These trucks, the oldest, most polluting trucks on the road, fill port communities. After years of intense community pressure, ports have recognized that the serious resulting pollution requires attention, although as yet there has been no appreciable fleet replacement outside of the Southern California port complex.

- The NRDC has confirmed that drivers face the most serious health risks from dirty diesel emissions, including vastly increased rates of cancer, asthma and premature death.<sup>12</sup>

**Too Heavy Too Often:** The federal government limits road weights because overweight trucks tip easily, destroy road surfaces and have extended stopping times. However, trucking companies routinely require drivers to take overweight loads. Drivers classified as contractors end up paying for overweight violations in the rare instances they are caught.



- 40% of the containers weighted by the Port of Miami in response to community pressure were overweight. In some weeks during the survey period, that figure reached 70%.<sup>13</sup>
- Head of the shipping industry's advocacy association confirmed in recent Congressional testimony that "most containers are not weighed to verify their declared weight"<sup>14</sup> and that often "the overweight or incorrectly declared weights reach 10% of the total cargo on board a vessel".<sup>15</sup> The scope of the problem was confirmed in testimony by a Coast Guard Vice Admiral.<sup>16</sup>

**Terminal Hazards (SSA Marine):** A recent string of incidents at SSA Marine's West Coast terminals illustrate some of the physical hazards drivers face. The Seattle-based global terminal operator also owns Shipper's Transport Express, a port trucking outfit that relies entirely on independent drivers to haul its fleet.

- A 25,000-pound container fell on Felipe Curiel's truck cab in the Port of Long Beach. The resulting \$14 million verdict against SSA Marine cited poor supervision. An OSHA report also noted "that it is common knowledge that there is a problem with drugs/alcohol" use by other workers at the terminal.<sup>17</sup> A week earlier at the same terminal, Pablo Antonio Garcia was crushed to death in a preventable accident involving a forklift.<sup>18</sup> And around the same time, a dockworker died in a truck collision.<sup>19</sup>
- An Oakland driver was run over while he was attempting to obtain a chassis at an SSA yard.<sup>20</sup> He is permanently disabled after a 2 ½ month coma. A similar accident recently occurred in SSA's terminal 18 in Seattle.



**Driven Past All Limits:** To curb fatigued, careless driving, federal regulations limit commercial truck drivers to 60 hours of driving in any seven-day period and require at least 10 hours rest after 11 hours of driving.<sup>21</sup> Economic pressures encourage widespread evasion of these rules among independent contractors.

- Surveys have found 22% of Oakland drivers<sup>22</sup> and 14% of New York and New Jersey drivers<sup>23</sup> routinely working over hour limits with some drivers reporting typical days as long as 16 hours.
- University researchers in Southern California concluded that hours of service regulations are "typically violated by drivers."<sup>24</sup>

**Drivers Fight for Safer Work, Ports & the Trucking Industry Fight Back:** Port drivers have repeatedly stopped working, held rallies, and lobbied public officials to make their work safer for themselves and the public. Safety concerns have been reported as prominent features of strikes and related activity in Miami,<sup>25</sup> Savannah,<sup>26</sup> Southern California<sup>27</sup> and Seattle<sup>28</sup> among other ports.

- When over 700 Miami drivers parked their trucks over safety concerns, the Port obtained an injunction requiring them to return to work. The injunction was based on anti-trust rules that prevent independent contractors from taking collective action related to wages and working conditions.<sup>29</sup>
- When drivers lobbied the Washington State Legislature to improve chassis safety rules, the Port of Seattle, shippers and trucking industry representatives rallied to kill the bills. The port drivers then struck over safety issues including defective chassis and overweight containers.<sup>30</sup>

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- <sup>1</sup> [The Big Rig](#): Poverty, Pollution and the Misclassification of Truck Drivers at America's Ports, a survey and research report. Rebecca Smith, David Bensman and Paul Alexander Marvy. Dec. 2010. Independent contractors have no protection under Cal-OSHA
- <sup>2</sup> [The Big Rig](#): Poverty, Pollution and the Misclassification of Truck Drivers at America's Ports, a survey and research report. Rebecca Smith, David Bensman and Paul Alexander Marvy. Dec. 2010
- <sup>3</sup> Email from Robert Calkins, Washington State Patrol to Kenneth Irwin, (WSP) and Colleen Wilson, Chief Port of Seattle Police, Nov 14, 2011; Also see, [Container Trucks Most Dangerous in the State](#), King 5, Oct 27, 2011; [New Police Team Targets Dangerous Big Rigs](#). King 5, Dec 14, 2011; [City Council Asks Port of Seattle to Improve Truck Safety](#). King 5, Mar 9, 2011. Note a similar enforcement emphasis happened recently in Savannah and the reporting suggest similar results ([Garden City inspections of trucks ending](#). WTOC 11, Sept 12, 2011).
- <sup>4</sup> [New Police Team Targets Dangerous Big Rigs](#). King 5, Dec 14, 2011
- <sup>5</sup> Letter sent by Seattle Police Department Officials 2012.
- <sup>6</sup> Occupational Hazards for Truck Drivers at the Port of Oakland: How Employment Status Impacts Health and Safety, EBASE. Summer 2009.
- <sup>7</sup> "Unsafe trucks stream out of LA's ports," Louis Sahagun. *The Los Angeles Times*. Jan 21, 2008.
- <sup>8</sup> Report on Port Truckers Survey at New Jersey Ports, David Bensman and Yael Bromberg. Jan 2009. p. 2.
- <sup>9</sup> Hauling Containers: Port Drayage Drivers in the Logistics Supply Chain, David Jaffee. Oct 2009. pg 13-14.
- <sup>10</sup> A Study of Drayage at the Ports of Los Angeles and Long Beach. Kristen Monaco and Lisa Grobar (2004) p. 18.
- <sup>11</sup> [Container Trucks Most Dangerous in the State](#), King 5. Oct 27; ; [New Police Team Targets Dangerous Big Rigs](#). King 5, Dec 14, 2011; Miami's Cuban-American Port Drivers, Victims of Abuse: A White Paper Investigative Report by a Distinguished Citizen Review Panel, Blue Ribbon Commission (2005); "[Area Ports Blow Whistle on Hundreds of Unsafe Truck Chassis](#)", Michael Fabey, *Daily Press* (Virginia). Apr 19, 2001
- <sup>12</sup> Driving on Fumes, Truck Drivers Face Elevated Health Risks From Diesel Pollution. NRDC Issue Paper (Dec. 2007).
- <sup>13</sup> "Port struggles to deal with weight problem", Steve Harrison, Miami Herald. Aug 24, 2006.
- <sup>14</sup> Statement of Christopher Koch, President & CEO World Shipping Council before the House Committee on Transportation and Infrastructure Subcommittee on Coast Guard and Maritime Transportation, April 26, 2012, pg. 9.
- <sup>15</sup> Statement of Christopher Koch, President & CEO World Shipping Council before the House Committee on Transportation and Infrastructure Subcommittee on Coast Guard and Maritime Transportation, April 26, 2012, pg. 9.
- <sup>16</sup> Testimony of Vice Admiral Salerno, US Coast Guard, before the House Committee on Transportation and Infrastructure Subcommittee on Coast Guard and Maritime Transportation, April 26, 2012, pg. 16-17.
- <sup>17</sup> "Lawyer: Port has a drug problem", Claran McEvoy, Los Angeles Daily Journal; "\$14 million negligence verdict upheld", Kristopher Hansen, Press-Telegram. July 11, 2011.
- <sup>18</sup> "Worker Memorial Saturday Honors Port Trucker", Press Telegram, Kristopher Hanson. Apr. 24, 2009; "\$14 million negligence verdict upheld", Kristopher Hansen, Press-Telegram. July 11, 2011.
- <sup>19</sup> "Dangerous cargo: Size of containers can lead to deadly accidents", Press-Telegram, Karen Robes Meeks. Feb 24, 2011.
- <sup>20</sup> Inspection Reports, CalOSHA, In re Matter of SSA Terminals (Oakland) LLC. February, 2011.
- <sup>21</sup> 49 C.F.R. §395.1-.25.
- <sup>22</sup> Taking the Low Road: How Independent Contracting at the Port Endangers Public Health, Truck Drivers, and Economic Growth. Howard Greenwich (2007) p. 32.
- <sup>23</sup> Report on Port Truckers Survey at New Jersey Ports, David Bensman and Yael Bromberg. Jan 2009. p. 31
- <sup>24</sup> A Study of Drayage at the Ports of Los Angeles and Long Beach. Kristen Monaco and Lisa Grobar (2004) p. 18.
- <sup>25</sup> Miami's Cuban-American Port Drivers, Victims of Abuse: A White Paper Investigative Report by a Distinguished Citizen Review Panel, Blue Ribbon Commission (2005).
- <sup>26</sup> "[Many drivers stop driving](#)," Savannah Morning News
- <sup>27</sup> "[2 Deaths in 2 Day: Port Conditions Unsafe, Truckers Say](#)" Los Angeles Times. Apr 21, 1989. Long Beach Press-Telegram, Rally promotes truck safety; Event held to draw support for bill on chassis inspections.
- <sup>28</sup> "[Truckers Walkout At Port of Seattle](#)", Liz Jones, KUOW. Feb. 14, 2012; "[Port of Seattle trucks end 2-week walkout](#)", Mike Lindblom, Seattle Times. Feb. 14, 2012.
- <sup>29</sup> Miami's Cuban-American Port Drivers, Victims of Abuse: A White Paper Investigative Report by a Distinguished Citizen Review Panel, Blue Ribbon Commission (2005)
- <sup>30</sup> [Washington State House Transportation Committee Hearing](#). Jan 30, 2012; "[Port of Seattle truckers end 2 week walkout; talks to continue](#)", Mike Lindblom, Seattle Times. Feb 14, 2012.