



Legislation Details (With Text)

**File #:** Res 0414-2010      **Version:** A      **Name:** Congress to update the Federal Motor Carrier statute in the Federal Aviation Administration Authorization Act of 1994.

**Type:** Resolution      **Status:** Adopted

**In control:** Committee on Waterfronts

**On agenda:** 8/25/2010

**Enactment date:**      **Enactment #:**

**Title:** Resolution calling upon the United States Congress to pass H.R. 5967 which updates the Federal Motor Carrier statute in the Federal Aviation Administration Authorization Act of 1994 to empower America’s ports to implement and enforce innovative environmental solutions for truck pollution and upon the Port Authority of New York and New Jersey to adopt a comprehensive program modeled after the Los Angeles Clean Truck Program to ensure that the Ports of New York and New Jersey are able to reach the highest standards of efficiency, sustainability and safety.

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**Indexes:**

**Attachments:** 1. Res. No. 414 - 8/15/10, 2. Committee Report 10/28/10, 3. Hearing Testimony 10/28/10, 4. Hearing Transcript 10/28/10, 5. Committee Report 11/15/10, 6. Hearing Transcript 11/15/10, 7. Hearing Transcript - Stated Meeting 11-17-10

Date	Ver.	Action By	Action	Result
8/25/2010	*	City Council	Introduced by Council	
8/25/2010	*	City Council	Referred to Comm by Council	
10/28/2010	*	Committee on Waterfronts	Hearing Held by Committee	
10/28/2010	*	Committee on Waterfronts	Amendment Proposed by Comm	
10/28/2010	*	Committee on Waterfronts	Laid Over by Committee	
11/15/2010	*	Committee on Waterfronts	Hearing Held by Committee	
11/15/2010	*	Committee on Waterfronts	Amendment Proposed by Comm	
11/15/2010	*	Committee on Waterfronts	Amended by Committee	
11/15/2010	A	Committee on Waterfronts	Approved by Committee	Pass
11/17/2010	A	City Council	Approved, by Council	Pass

Res. No. 414-A

Resolution calling upon the United States Congress to pass H.R. 5967 which updates the Federal Motor Carrier statute in the Federal Aviation Administration Authorization Act of 1994 to empower America’s ports to implement and enforce innovative environmental solutions for truck pollution and upon the Port Authority of New York and New Jersey to adopt a comprehensive program modeled after the Los Angeles Clean Truck Program to ensure that the Ports of New York and New Jersey are able to reach the highest standards of efficiency, sustainability and safety.

By Council Members Lander, Nelson, Barron, Brewer, Fidler, Gentile, Gonzalez, James, Levin, Palma, Sanders Jr., Williams, Cabrera, Reyna, Koppell, Chin, Lappin, Mendez, Crowley, Dromm, Mark-Viverito, Koslowitz, Garodnick and Rodriguez

Whereas, 87 million Americans live in or adjacent to port communities that violate federal air quality standards and create areas with high asthma, cancer and respiratory illness rates; and

Whereas, The Port of New York and New Jersey is a national and regional asset that handles the highest volume of shipping containers on the East Coast and serves as a critical economic engine to our region; and

Whereas, According to the Clean Air Task Force, a nonprofit organization dedicated to reducing atmospheric pollution, the annual projected diesel fine particle health impacts for adults in the NY-NJ Metro region are expected to be 1,397 premature deaths, 2,733 non-fatal heart attacks, 48,192 asthma attacks, 1,037 cases of chronic bronchitis, and 218,566 work loss days (WLD); and

Whereas, The Natural Resources Defense Council's report "Harboring Pollution: Strategies to Clean Up U.S. Ports," estimated that the toxins emitted from the Port of New York and New Jersey are the equivalent of over 400,000 cars daily, and that truck emissions account for 40 percent of port pollution in each of America's 10 major ports; and

Whereas, Because diesel exhaust is a known trigger of asthma attacks, its reduction is critical for New York City, which has some of the highest asthma rates in the country; and

Whereas, According to the Coalition for Clean and Safe Ports, 95 percent of our nation's 100,000 trucks hauling critical imports and exports at every major port and throughout our nation's transportation corridors fail to meet current United States Environmental Protection Agency (EPA) emission standards; and

Whereas, Under the current Federal Motor Carrier statute of the Federal Aviation Administration Authorization Act of 1994 (FAAAA), States and local entities are only allowed to regulate trucking companies for "safety" related programs and not for environmental reasons; and

Whereas, Because of this Federal rule restricting States from regulating the trucking industry, the financial responsibility for trucks continues to fall on individual drivers who are classified as independent contractors; and

Whereas, The majority of Port truckers are considered independent contractors who own and maintain their own trucks yet, they are reliant on the trucking company for delivery assignments and they cannot take orders from other companies; and

Whereas, A Demos report titled “Port Trucking Down The Low Road: A Sad Story of Deregulation,” found that these drivers typically live near or below the federal poverty level and most do not have any health insurance or receive any contributions to a retirement fund; and

Whereas, The responsibility for cleaning the air near ports should belong to the trucking companies who have the financial stability to purchase and maintain newer and cleaner trucks; and

Whereas, The Port of Los Angeles’ landmark Clean Truck Program banned the use of truck models older than 1994 within the terminals and combined business-friendly subsidies and incentives to help put over 6,000 new emissions-compliant vehicles on the road, reducing truck pollution in the region by 70 percent; and

Whereas, The Port of Los Angeles also required trucking companies to employ their drivers directly by 2013 instead of using them as independent contractors; and

Whereas, The American Trucking Association (ATA) sued to stop aspects of the program and won a preliminary injunction in federal court in 2009 based on preemption of the federal statute that prohibits local entities from regulating motor carriers engaged in interstate commerce; and

Whereas, This injunction was recently lifted in a United State District Court ruling that Los Angeles is exempt from the preemption provisions because of the proprietary exception to the law that exempts a local government agency if it is trying to protect its interests as a market participant; and

Whereas, While the United States District Court ruling in this case found that the Port of Los Angeles,

acting as a market participant, could seek to control the port-generated pollution, which jeopardized its continued economic viability, by the use of concession agreements that included employee driver, truck maintenance, and financial capability provisions; and

Whereas, the ATA has appealed this decision and is requesting that the injunction be reinstated; and

Whereas, The Port of Los Angeles' EPA award-winning program's short-term clean-air gains, and long-term sustainability are now seriously jeopardized by the trucking industry's legal challenge; and

Whereas, The American Trucking Association's legal maneuvering therefore challenge the ability for port officials around the nation, including the Port Authority of New York and New Jersey, to adopt fiscally responsible and environmentally sustainable clean truck programs; and

Whereas, Ensuring that ports have the tools to clean the air and secure their property is necessary to advance massive infrastructure projects that create thousands of jobs for the region in crucial sectors, including retail, manufacturing and construction; and

Whereas, H.R. 5967, which was introduced in July 2010, will end this legal fight by permitting ports to regulate trucking if the requirements are "reasonably related to the reduction of environmental pollution, traffic congestion, the improvement of highway safety, or the efficient utilization of port facilities;" and

Whereas, This legislation would therefore, update the existing statute and allow the Port Authority to fully impose and enforce high-road policies like the Los Angeles Clean Trucks Program; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the United States Congress to pass H.R. 5967, which updates the Federal Motor Carrier statute in the Federal Aviation Administration Authorization Act of 1994, to empower America's ports to implement and enforce innovative environmental solutions for truck pollution and upon the Port Authority of New York and New Jersey to adopt a comprehensive program modeled after the Los Angeles Clean Truck Program to ensure

that the Ports of New York and New Jersey are able to reach the highest standards of efficiency, sustainability and safety.

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LS 1332/2010