



# Ag Trucking

The Good, The Bad, and The Ugly

# Issues Facing the Industry

- F4A Pre-emption
- AB1513
- CARB
- Driver Shortage / Driver Pay
- Dynamex / AB5
- ELD Mandate

# Accomplishments

- Air quality improved to pre-1990 levels and emissions now 99% cleaner than 1970.
- F4A Pre-emption via FMCSA Mandate
- SB1 Useful life provision (13 years or 800,000 miles) supported by Proposition 69



# F4A

- 1994 act to regulate interstate commerce
- California Meal and Rest Periods were in conflict
  - State is every 2 hours break and lunch every 5 hours
  - Federal is one ½ hour unpaid period every 8 hours
- CTA and ATA petitioned with Denham Amendment multiple times through Omnibus and FAA bills to no avail.
- FMCSA Chair Ray Martinez took petition into account and validated F4A preemption, reinstating Federal Meal and Rest periods for Interstate Carriers
  - Huge improvement in productivity and driver safety.

# AB1513

- Eliminated piece rate pay in CA
  - At best, companies can pay a hybrid minimum wage mixed with percentage of revenue
- Productivity Down 15-20% across the board
  - Hourly pay = lower productivity
- Cost of average of 4% of gross payroll going back 4 years
  - Average company paid nearly \$350,000 in back wages
- Continued Litigation
  - One member added a comma in their LLC on their checks. Suit is for \$1 Million

# CARB

- Original Law Passed in
  - Required all engines to be upgraded to 2010 Model Year or newer by 2020.
  - PM filters allowed through 2023 along with other exemptions (Ag)
- Modifications made in 2014 for low mileage recently overturned
  - CARB went outside of jurisdiction and created a hostile environment for compliant carriers.
- Penalties
  - Use of a non-compliant carrier can carry a fine up to \$1,000 per occurrence. CARB Certificate is required.
- DMV Enforcement
  - Early 2020 DMV will start to enforce regulation at the VIN level. No CARB Cert = No Registration. CHP cooperation expected. 57,000 units currently on road per CARB estimates.



# Driver Shortage

- Estimated shortage of 70,000 drivers nationally
  - Rates have not supported the increases required to pay drivers what is required to keep retention up.
- Projected to increase to over 200,000 as driver population ages
  - Median age is 57 years old and people are not joining the workforce
- Regional Freight
  - Companies are working on more regionalized freight to increase retention. Shorter routes = more home time.
- Ticking Time Bomb
  - We have yet to see what this shortage could yield, but the timeline is closing in.

# Dynamex / AB5

- Dynamex Decision in CA Supreme Court
  - Removed the old litmus test that allowed anyone with their own authority and ability to operate independently to do so.
  - New criteria (all three now, not one of three):
    - (A) that the worker is free from the control and direction of the hirer in connection with the performance of the work, both under the contract for the performance of such work and in fact;
    - (B) that the worker performs work that is outside the usual course of the hiring entity's business; and
    - (C) that the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed for the hiring entity.
- Puts more than 70,000 owner operators at risk of losing work
  - Companies would be required to provide WC and Health Insurance per employee standards



# ELD Mandate

- Takes effect February 2020
  - CA expected to adopt Federal mandate effective
- All units required to have ELD except under certain exemptions (Ag 150 mile radius being one of them).
- Paper log flexibility in wait times will be lost as we have seen on national level
- Truck parking will become a much bigger issue