

June 2, 2006

Industrial Welfare Commission
801 K Street, Suite 2101
Sacramento, CA 95814

Dear Members of the Commission:

Pursuant to Labor Code sections 1178 and 1178.5, this letter constitutes a petition on behalf of the California Teamsters Public Affairs Council and the California Conference Board of the Amalgamated Transit Union to request that Wage Orders 1, 4, 7, 9, and 14 be modified to eliminate the exemption from overtime for commercial drivers whose hours of service are regulated by the United States Department of Transportation or the California Highway Patrol.

Specifically, the language in each of the wage order provides:

“The provisions of this section are not applicable to employees whose hours of service are regulated by:

- (1) The United States Department of Transportation Code of Federal Regulations, Title 49, Sections 395.1 to 395.13, Hours of Service of Drivers, or;
- (2) Title 13 of the California Code of Regulations, subchapter 6.5, Section 1200 and the following sections, regulating hours of drivers.”

In addition, we would request that language be added to section 3 of each wage orders, pertaining to overtime, that would provide the following:

“This section is applicable to the driver of a commercial motor vehicle when the driver is classified by the employer as an independent contractor if the driver is an owner-operator of no more than one commercial vehicle and employs no bona fide employees.”

The current exemption for certain drivers has proved to be a public policy and highway safety nightmare. The only limitation on drivers' hours of service are those contained in state and federal regulations setting maximum number of hours for safety purposes. These maximum driving time limits have often become the regular hours of commercial drivers. As such drivers regularly work up to 80 hours a week and 15 hours a day without the payment of overtime. Accidents due to fatigue are common and devastating both to the drivers themselves and to the general public that must share the

1127 11th Street, Suite 501
Sacramento, CA 95814
(916) 442-5999
Fax (916) 442-3209

highway with those drivers. Moreover, many truck drivers not only drive trucks, but load and unload them. This is tiring, backbreaking labor that only increases driver fatigue. It is ironic that the employees have some of the most dangerous jobs have the least protections.

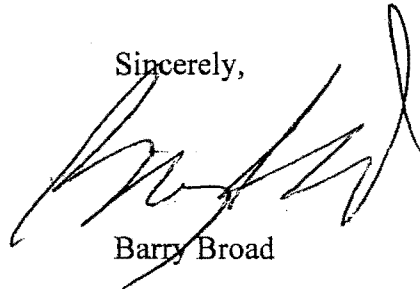
Moreover, studies have shown that the hours of service limits are frequently exceeded and, since the only sanction that can be imposed for a violation is a traffic citation, the already excessive limits that imposed by those rules are often observed in the breach.

If drivers are treated like every other employee and receive overtime after 8 hours in a day, double time after 12 hours in a day, and overtime after 40 hours in a work week in accordance with the provisions of the wage order, it will be a major disincentive to working those drivers to the breaking point and beyond. The job of truck and bus driver will be a much safer job and the conditions of labor will improve dramatically.

The application of these provisions to single truck owner operators will eliminate the widespread abuse of independent contractor status in the industry. In recent decades, the trucking industry has converted a large number of employee drivers to independent contractors. These drivers generally own or lease one vehicle, have no employees, and perform the same exact work as employee drivers. They are the most abused drivers in the industry, which is dominated by underground economy conditions.

Thank you for the opportunity to present this petition.

Sincerely,

A handwritten signature in black ink, appearing to read 'Barry Broad', written in a cursive style.

Barry Broad