

**ASSEMBLY BILL**

**No. 950**

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**Introduced by Assembly Members John A. Pérez and Swanson**

February 18, 2011

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An act to add Section 2750.7 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 950, as introduced, John A. Pérez. Employment: drayage truck operators.

Existing law provides guidelines to determine whether a person who performs work for another pursuant to a contract is an employee or an independent contractor.

This bill would deem drayage truck operators as employees of those persons who arrange for or engage their services, with the exception of public agency employers.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Nonemployee truck operators cannot freely report many
- 4 safety concerns without fear of retaliation against them, as only
- 5 employees enjoy thorough protection from retaliation.
- 6 (b) Nonemployee truck operators typically lack workers'
- 7 compensation insurance. Requiring workers' compensation

1 insurance would enhance safety as insurers would prompt  
2 hazard-prevention efforts by the businesses involved.

3 (c) Drayage driving involves a greater degree of public health  
4 and safety and worker health and safety concerns than other types  
5 of commercial driving due to the heavy weights, large loads, and  
6 frequent trips through neighborhoods, which are adversely  
7 impacted by truck pollution.

8 SEC. 2. Section 2750.7 is added to the Labor Code, to read:

9 2750.7. (a) Notwithstanding any other law, for purposes of all  
10 of the provisions of state law that govern employment, including  
11 workers' compensation and insurance pursuant to Division 4  
12 (commencing with Section 3200), occupational safety and health  
13 pursuant to Part 1 (commencing with Section 6300) of Division  
14 5, and provisions that prohibit retaliation or discrimination against  
15 employees, a drayage truck operator is an employee of the entity  
16 or person who arranges for or engages the services of the operator.

17 (b) For purposes of this section, "drayage truck operator" means  
18 the driver of, or any person, party, or entity that controls the  
19 operation of, any in-use on-road vehicle with a gross vehicle weight  
20 rating greater than 33,000 pounds operating on or transgressing  
21 through port or intermodal rail yard property for the purpose of  
22 loading, unloading, or transporting cargo, including containerized,  
23 bulk, or break-bulk goods.

24 (c) This section shall not be construed to deem a public agency  
25 the employer of a drayage truck operator without the consent of  
26 the public agency.

27 SEC. 3. The provisions of this act are severable. If any  
28 provision of this act or its application is held invalid, that invalidity  
29 shall not affect other provisions or applications that can be given  
30 effect without the invalid provision or application.