



Associated General Contractors (AGC)



California Construction and Industrial Materials Association



## \*\*\*Floor Alert\*\*\*

May 22, 2019

**RE: SB 210 – OPPOSE UNLESS AMENDED**

The undersigned organizations must remain **OPPOSED UNLESS AMENDED** to SB 210 at this time.

We are thankful for the amendments taken to date, however, we are still opposed to SB 210 for the following reasons:

- Grants the California Air Resources Board (CARB) a “blank check.” The amendments in Appropriations are a step in the right direction, but in order for the Legislature to have its proper oversight of any program, there must be some specifics for implementation before fee authority is given to CARB.
- Does not provide truck operators sufficient time to provide proof of correction

### **Address the lack of boundaries around fee authority**

Proposed section 44154(a) would provide CARB unlimited authority to impose fees to fund the “reasonable costs of implementing the program.”

CARB is currently exploring a variety of possible approaches to its Heavy-Duty I/M and intends to conduct pilot programs and studies on these approaches in the coming year. CARB will collect much information from these exercises, including potential overall costs, cost-effectiveness of potential emission reductions and the extent to which it will be necessary to require regulated entities to remit fees to support Heavy-Duty I/M.

Under California law, fees, charges, and rates must be reasonable, fair, and equitable in nature, and apportioned among those who pay them in a manner that is reasonably proportional to the costs incurred by the regulatory agency. The validity of such fees depends on a nexus between the burdens a project imposes on government and the amount of the fee, and the purposes for which the government would spend its proceeds. However, for nearly three years now, stakeholders have requested that information or a range of “reasonable costs” be divulged to better inform discussion on this issue.

Program costs could vary dramatically depending on how CARB ultimately designs Heavy-Duty I/M and, most importantly, whether CARB believes it will ultimately be accountable to the legislature to demonstrate it has proposed a cost-effective program. In addition, to the extent the fee exceeds the amount reasonably tied to the cost of services, such a fee is considered a special tax and subject to supermajority vote. As

such, we oppose the language that provides no limits other than the word “reasonable” for a program for which details have yet to be developed.

Over the past two decades, CARB has promulgated the nation’s toughest environmental regulations on the trucking industry. Truckers spend approximately \$1 billion a year to comply with these regulations.

However, despite its far-reaching trucking program, CARB has never requested legislative authority to impose fees upon truckers in service of writing a new regulation. SB 210 would provide unlimited fee authority to offset costs of implementation despite CARB’s Mobile Source program budget already more than doubling over the past three fiscal years and expanding by 33 positions (see **Fig. 1**).

This issue must be addressed to remove opposition.

**3-YEAR EXPENDITURES AND POSITIONS**

	Positions			Expenditures		
	2016-17	2017-18	2018-19	2016-17*	2017-18*	2018-19*
3500 Mobile Source	678.0	698.6	711.9	\$206,737	\$393,837	\$470,236
3505 Stationary Source	257.8	271.3	271.3	27,572	40,539	39,976
3510 Climate Change	219.7	203.4	205.4	390,975	703,317	555,260
3515 Subvention	-	-	-	75,668	78,793	10,111
3525 Zero/Near Zero Emission Warehouse Program	-	-	-	-	50,000	-
3530 Community Air Protection	-	72.0	72.0	-	293,700	319,604
9900100 Administration	285.8	251.8	254.8	48,455	53,938	54,486
9900200 Administration - Distributed	-	-	-	-48,455	-53,938	-54,486
<b>TOTALS, POSITIONS AND EXPENDITURES (All Programs)</b>	<b>1,441.3</b>	<b>1,497.1</b>	<b>1,515.4</b>	<b>\$700,952</b>	<b>\$1,560,186</b>	<b>\$1,395,187</b>

**Provide sufficient time to provide proof of correction**

California’s businesses, and in particular farmers and ranchers, depend on a wide array of heavy-duty trucks to plant, care for, harvest, and transport their crops and livestock. These trucks are often highly specialized and used for limited time periods. The specialized nature, low use, and high cost of many of these trucks, lend to their long life spans. Losing access to these trucks, especially during busy seasons of planting or harvesting would create great challenges for farmers and ranchers who depend on these trucks. Farmers and ranchers need assurances that if a malfunction indicator light (MIL) is illuminated that they would be able to continue using their trucks for the remainder of their busy seasons. As such, providing at least 90-days to fix the underlying cause of the MIL is necessary.

For the reasons stated above the organizations listed below must remain **OPPOSE UNLESS AMENDED** until those issues are addressed.

Sincerely,

- California Trucking Association
- California Chamber of Commerce
- California Cattlemen’s Association
- California Farm Bureau Federation
- California Building Industry Association
- Associated General Contractors
- California Construction and Industrial Materials Association
- Western States Trucking Association