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We Must Protect the Tools Necessary Keep Cargo Moving and Reduce Supply Chain Congestion at California's Seaports

Statement by Mike Jacob, PMSA Vice President and General Counsel.

The pandemic continues to throw unprecedented challenges at the global supply chain. Through it all, our marine terminals, ocean carriers, waterfront labor, and seaports have likewise made extraordinary efforts to move more cargo than ever. Without these efforts the backlog, delays, and congestion would have been even worse.

The key to accommodating record volumes and addressing terminal congestion is incentivizing the efficient flow of containers in and out of terminals. This is achieved through agreements that incentivize cargo owners to pick-up containers within a specified period of time. If the container is not picked up within that time, the cargo owner will pay long-dwell fees.

One of the responses to our current supply chain crisis and our related challenges was the introduction of [Assembly Bill 2406 \(Aguiar-Curry\)](#) at the request of cargo owners and trucking companies. PMSA has many concerns about this legislation.

By limiting the use of late fees for the pick-up and return of containers, AB 2406 will cause more congestion. If enacted, AB 2406 will result in imported goods remaining at the ports longer, resulting in even longer delays on terminal, more extreme vessel queuing, and higher costs for American consumers.

Fees and congestion pricing in the supply chain are negotiated by sophisticated parties in contracts and these pricing tools are common such that almost every business and government agency will consider using them in a business setting which requires timely action. The prohibition of these types of fees will only result in less efficiency, not more.

For instance, at the height of our congestion last year, the Biden Administration encouraged – and ports and marine terminals obliged - to impose long-dwell fees for those containers which languished on the docks for weeks beyond what is usual and customary. Unfortunately, these fees would be explicitly prohibited under AB 2406, despite the fact that additional long-dwell fees created a greater incentive to expedite the processing of vital equipment to and from California ports and were critical to helping to break our deadlock on the docks.

AB 2406 will also impact the processing of export containers, because when import containers remaining longer in marine terminals, it leaves even less space for export containers to be returned and fewer empties available for exporters.

Finally, AB 2406 is largely duplicative of the federal Ocean Shipping Act reform measures moving through Congress. As all intermodal containers are moving in international and interstate commerce it is imperative that we have consistent contracting rules in place, and we avoid a patchwork quilt of contracting standards in different jurisdictions in the supply chain.