

# **Association Overview Proposed Change for the Definition of “Goods” in Proposition 1B Projects**

**June 25, 2015**

**Dr. John McClelland, VP for Government Affairs  
and Chief Economist**

**Dr. Michael S. Graboski, Consultant  
American Rental Association**



## **Rental Company Truck Fleets Move “Goods”**

- Rental Companies rent but also deliver and service units in the field
- Companies operate heavy duty diesel truck fleets to provide these services
- Delivery fleets are often older than the rental fleets, and accumulate significant annual VMT
- These fleets could be substantial emission sources



## **Problem**

- Rental Companies are ineligible to participate in 1B funding because they are moving “Goods” under a “lease” contract and not under a “sales” contract per the guidelines established by ARB

3



## **ARB Definition of Goods**

- The Health and Safety Code section 39625 authorizes ARB to administer 1B bond funds
- ARB then defined “Goods” based upon Uniform Commercial Code (UCC) Section 2105
  - The goods must be movable
  - The goods must be part of a transaction that involves a contract for the sale of the goods

4



## Definitions of Goods in the UCC

- UCC-Sales (used by ARB)
  - 2105. (1) "Goods" means all things (including specially manufactured goods) which are movable at the time of identification to the contract for sale ...
- UCC-Leases (not recognized by ARB)
  - 10103 (a)(8) "Goods" means all things that are movable at the time of identification to the lease contract...

5



## Rental Versus Lease

California Board of Equalization Tax Definition

The term "lease" includes rental, hire, and license.

<http://www.boe.ca.gov/lawguides/business/current/btlg/vol1/sutr/sales-and-use-tax-regulations-art15-all.html>

6



## **Word Search of Health and Safety Code 39625**

- **"Goods" appeared 11 times**
  - "Goods" is always associated with "movement".
  - Sale, buy, lease and rent do not appear with "goods"
- **"Contract", related to goods under contract, appears 5 times**
  - but this is related to the person receiving funds and is not related to a goods for sales or lease

7



## **ARA's Conclusion**

- The legislature did not stipulate that the funds were to apply only to "goods for sale"
- ARB is responsible for the definition of "Goods"
- We believe that the definition of goods is too narrow and made on unreasonable grounds without any proper consideration of circumstances

8



## **ARA's Request**

**ARA asks the Air Resources Board to make the program fair for all businesses**

- Change in the definition of "Goods" so it at least considers the movement of goods for both sales and lease contracts
- Allows rental delivery fleets to participate in the program

19



## **The Result is Good for California**

***Movement of either sold or leased goods produces emissions.***

***Transport of a track loader to a jobsite is not emissions neutral!***

10



**Q & A**



**Questions?**

11

