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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

AMERICAN TRUCKING ASSOCIATIONS, INC. *v.* CITY OF LOS ANGELES, CALIFORNIA, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 11–798. Argued April 16, 2013—Decided June 13, 2013

The Port of Los Angeles, a division of the City of Los Angeles, is run by a Board of Harbor Commissioners pursuant to a municipal ordinance known as a tariff. The Port leases marine terminal facilities to operators that load cargo onto and unload it from docking ships. Federally licensed short-haul trucks, called "drayage trucks," assist in those operations by moving cargo into and out of the Port. In 2007, in response to community concerns over the impact of a proposed port expansion on traffic, the environment, and safety, the Board implemented a Clean Truck Program. As part of that program, the Board devised a standard-form "concession agreement" to govern the relationship between the Port and drayage companies. The agreement requires a company to affix a placard on each truck with a phone number for reporting concerns, and to submit a plan listing off-street parking locations for each truck. Other requirements relate to a company's financial capacity, its maintenance of trucks, and its employment of drivers. The concession agreement sets out penalties for violations, including possible suspension or revocation of the right to provide drayage services. The Board also amended the Port's tariff to ensure that every drayage company would enter into the agreement. The amended tariff makes it a misdemeanor, punishable by fine or imprisonment, for a terminal operator to grant access to an unregistered drayage truck.

Petitioner American Trucking Associations, Inc. (ATA), whose members include many of the drayage companies at the Port, sued the Port and City, seeking an injunction against the concession agreement's requirements. ATA principally contended that the requirements are expressly preempted by the Federal Aviation Admin-

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istration Authorization Act of 1994 (FAAAA), see 49 U. S. C. §14501(c)(1). ATA also argued that even if the requirements are valid, *Castle* v. *Hayes Freight Lines, Inc.*, 348 U. S. 61, prevents the Port from enforcing the requirements by withdrawing a defaulting company's right to operate at the Port. The District Court held that neither §14501(c)(1) nor *Castle* prevented the Port from proceeding with its program. The Ninth Circuit mainly affirmed, finding only the driver-employment provision preempted and rejecting petitioner's *Castle* claim.

Held:

1. The FAAAA expressly preempts the concession agreement's placard and parking requirements. Section 14501(c)(1) preempts a state "law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier . . . with respect to the transportation of property." 49 U. S. C. §14501(c)(1). Because the parties agree that the Port's placard and parking requirements relate to a motor carrier's price, route, or service with respect to transporting property, the only disputed question is whether those requirements "hav[e] the force and effect of law." Section 14501(c)(1) draws a line between a government's exercise of regulatory authority and its own contract-based participation in a market. The statute's "force and effect of law" language excludes from the clause's scope contractual arrangements made by a State when it acts as a market participant, not as a regulator. See, *e.g., American Airlines, Inc.* v. *Wolens*, 513 U. S. 219, 229. But here, the Port exercised classic regulatory authority in imposing the placard and parking requirements. It forced terminal operators—and through them, trucking companies—to alter their conduct by implementing a criminal prohibition punishable by imprisonment. That counts as action "having the force and effect of law" if anything does.

The Port's primary argument to the contrary focuses on motives rather than means. But the Port's proprietary intentions do not control. When the government employs a coercive mechanism, available to no private party, it acts with the force and effect of law, whether or not it does so to turn a profit. Only if it forgoes the (distinctively governmental) exercise of legal authority may it escape §14501(c)(1)'s preemptive scope. That the criminal sanctions fall on terminal operators, not directly on the trucking companies, also makes no difference. See, *e.g.*, *Rowe* v. *New Hampshire Motor Transp. Assn.*, 552 U. S. 364, 371–373. Pp. 6–10.

2. This Court declines to decide in the case's present, pre-enforcement posture whether *Castle* limits the way the Port can enforce the financial-capacity and truck-maintenance requirements upheld by the Ninth Circuit. *Castle* rebuffed a State's attempt to bar a

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federally licensed motor carrier from its highways for past infringements of state safety regulations. But *Castle* does not prevent a State from taking off the road a vehicle that is contemporaneously out of compliance with such regulations. And at this juncture, there is no basis for finding that the Port will actually use the concession agreement's penalty provision as *Castle* proscribes. Pp. 10–12.

660 F. 3d 384, reversed in part and remanded.

KAGAN, J., delivered the opinion for a unanimous Court. THOMAS, J., filed a concurring opinion.

SUPREME COURT OF THE UNITED STATES

No. 11–798

AMERICAN TRUCKING ASSOCIATIONS, INC., PETITIONER *v.* CITY OF LOS ANGELES, CALIFORNIA, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[June 13, 2013]

JUSTICE KAGAN delivered the opinion of the Court.

In this case, we consider whether federal law preempts certain provisions of an agreement that trucking companies must sign before they can transport cargo at the Port of Los Angeles. We hold that the Federal Aviation Administration Authorization Act of 1994 (FAAAA) expressly preempts two of the contract's provisions, which require such a company to develop an off-street parking plan and display designated placards on its vehicles. We decline to decide in the case's present, pre-enforcement posture whether, under *Castle* v. *Hayes Freight Lines, Inc.*, 348 U. S. 61 (1954), federal law governing licenses for interstate motor carriers prevents the Port from using the agreement's penalty clause to punish violations of other, non-preempted provisions.

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The Port of Los Angeles, a division of the City of Los Angeles, is the largest port in the country. The Port owns marine terminal facilities, which it leases to "terminal

operators" (such as shipping lines and stevedoring companies) that load cargo onto and unload it from docking ships. Short-haul trucks, called "drayage trucks," move the cargo into and out of the Port. The trucking companies providing those drayage services are all federally licensed motor carriers. Before the events giving rise to this case, they contracted with terminal operators to transport cargo, but did not enter into agreements with the Port itself.

The City's Board of Harbor Commissioners runs the Port pursuant to a municipal ordinance known as a tariff, which sets out various regulations and charges. In the late 1990's, the Board decided to enlarge the Port's facilities to accommodate more ships. Neighborhood and environmental groups objected to the proposed expansion, arguing that it would increase congestion and air pollution and decrease safety in the surrounding area. A lawsuit they brought, and another they threatened, stymied the Board's development project for almost 10 years.

To address the community's concerns, the Board implemented a Clean Truck Program beginning in 2007. Among other actions, the Board devised a standard-form "concession agreement" to govern the relationship between the Port and any trucking company seeking to operate on the premises. Under that contract, a company may transport cargo at the Port in exchange for complying with various requirements. The two directly at issue here compel the company to (1) affix a placard on each truck with a phone number for reporting environmental or safety concerns (You've seen the type: "How am I driving? 213–867–5309") and (2) submit a plan listing off-street parking locations for each truck when not in service. Three other provisions in the agreement, formerly disputed in this litigation, relate to the company's financial capacity, its maintenance of trucks, and its employment of drivers.

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