



**LEGISLATIVE MEMO**  
**CONTACT: WALTER PACHOLCZAK**  
VICE PRESIDENT OF GOVERNMENT AFFAIRS  
T (518) 456-1134  
[WPACHOLCZAK@AGCNYS.ORG](mailto:WPACHOLCZAK@AGCNYS.ORG)  
[WWW.AGCNYS.ORG](http://WWW.AGCNYS.ORG)

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## **MEMORANDUM OF OPPOSITION**

**BILL: S.255-A (Mayer) / A.1106-A (Bronson)**

**SUBJECT: Prevailing Wage Mandate – Delivery and Hauling of Aggregate Construction Materials**

**DATE: March 12, 2021**

The Associated General Contractors of New York State, (AGC NYS) the leading statewide trade association representing union and open shop construction companies strongly opposes S.255-A (Mayer) / A.1106-A (Bronson) which amends section 220 of the labor law to mandate the prevailing wage in the delivery and hauling of aggregate construction materials on covered projects.

This bill would create a logistical conundrum for contractors and subcontractors because the delivery and hauling of construction aggregate can originate in-state or interstate and can be split into multiple loads for public or private work. Imposing a prevailing wage on a product that can originate in or out of New York State would completely contradict the policy implemented on the federal level by the Davis-Bacon Act. Davis-Bacon mandates that federal prevailing wage rates apply only for wages paid to workers “employed directly upon the site of the work.” Both state and federal prevailing wage rates often exist for a single project. Enacting this legislation would cause confusion as to which rules apply in that situation and potentially opens the State to all kinds of litigation.

The bill would have a disproportionate negative impact on the burgeoning minority and women-owned business trucking companies that often begin as owner-operator businesses. Once again, the bill contradicts New York State’s goal to promote equality of economic opportunities for MWBEs and to eliminate barriers to their participation in state contracts.

If enacted, this bill would result in a greater volume of truck traffic on roads and bridges as contractors and subcontractors would be forced to split loads between public and private work to comply with the prevailing wage mandate. Producing greater volumes of heavy-duty truck traffic is in direct contradiction to New York’s environmental goals to reduce carbon emissions in the transportation sector.

For these reasons, AGC NYS opposes S.255-A (Mayer) / A.1106-A (Bronson) and urges the Legislature to reject this bill.