



Owner-Operator Independent Drivers Association

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November 8, 2019

The Honorable Jim Mullen
Deputy Administrator
Federal Motor Carrier Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, D.C. 20590

Re: Docket # FMCSA-2019-0128, “Petition for Determination of Preemption: Washington Meal and Rest Break Rules for Commercial Motor Vehicle Drivers”

Dear Deputy Administrator Mullen:

The Owner-Operator Independent Drivers Association (OOIDA) hereby submits the following comments regarding the Washington Trucking Associations’ (WTA) petition to the Federal Motor Carrier Safety Administration (FMCSA) seeking a determination that Washington’s meal and rest break laws are preempted under 49 U.S.C. § 31141.

OOIDA is the largest trade association representing the interests of independent owner-operators, small-business motor carriers, and professional drivers of commercial motor vehicles. We have more than 160,000 members nationwide, including 1,916 who reside in Washington. Washington’s meal and rest break laws are unquestionably controversial. Likewise, the application of 49 U.S.C. § 14501(c) – specifically as it relates to Washington’s meal and rest break laws – continues to be the subject of extensive litigation. Further, while Congress has considered a few legislative solutions to clarify the intent of longstanding federal statutes, the legislative language of one of those proposals was overly broad, improperly retroactive, and never the subject of any Congressional hearing.

Washington’s meal and rest break laws are also, at least in part, a reflection of how some Washington-based motor carriers mistreat drivers through poor working conditions, non-competitive wages, and misclassification. Contrary to WTA’s assertion, Washington’s meal and rest break laws do not undermine highway safety, nor is there any validated data in their petition to justify said claim. WTA’s primary motive to preempt these laws is to maximize driver productivity.

After rejecting a 2008 petition for a preemption determination regarding California’s meal and rest breaks from various trucking groups, FMCSA granted a petition from the American

Trucking Associations and the Specialized Carriers and Rigging Association in December 2018. In the 2008 decision, the agency noted that California's meal and rest break laws are not regulations pertaining to commercial motor vehicle safety, are not unique to transportation, and the petition exceeded FMCSA's Congressional grant of authority. OOIDA still contends that there was nothing in the 2018 petition that addressed those issues nor should have otherwise caused the agency to reverse its earlier decision.

Moving forward, the agency should not issue any further preemptions until legal cases reviewing California's meal and rest break laws and FMCSA's 2018 decision have been analyzed and resolved by the judiciary. Currently, challenges to the 2018 decision have been filed by the Labor Commissioner for the State of California, the California Attorney General, and the International Brotherhood of Teamsters.

OOIDA acknowledges some of the concerns raised in WTA's petition. Indeed, this issue is extremely complex. The full reach and applicability of Washington's meal and rest break laws is unknown, and Washington could conceivably – and perhaps illegally – expand these laws to require owner-operators and non-Washington-based employee drivers to comply with them. Thank you for your consideration of our comments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Todd Spencer".

Todd Spencer
President & CEO
Owner-Operator Independent Drivers Association, Inc.