



October 26, 2018

U.S. Department of Transportation
Docket Operations
Room W12-140
1200 New Jersey Avenue, S.E.
Washington, DC 20590
Submitted via www.regulations.gov

Re: California Meal and Rest Break Rules; Petition for Determination of Preemption
Docket No. FMCSA-2018-0304

Dear Docket Clerk:

Pursuant to the Federal Motor Carrier Safety Administration (FMCSA) request for comments published in the October 4, 2018 Federal Register regarding California Meal and Rest Break Rules; Petition for Determination of Preemption, Docket No. FMCSA-2018-0304, the Truckload Carriers Association (TCA) hereby submits these comments.

TCA, with offices at 555 East Braddock Road, Alexandria, VA, 22314, is the only national trade association whose sole collective focus is the truckload segment of the trucking industry. The association represents dry van, refrigerated, flatbed, and rail intermodal carriers operating in the 48 contiguous U.S. states, as well as Alaska, Mexico, and Canada. As a major part of an industry that has over 524,000 companies within the United States operating millions of power units, TCA and its trucking company members regularly comment on matters affecting the national trucking industry's common interests and the potential impacts these matters could have on our operations. With that in mind, TCA and its members are vitally interested in the FMCSA's objectives and strategies to advance safety and interstate commerce, particularly as they relate to state meal and rest break requirements.

In its petition to FMCSA, the American Trucking Associations (ATA) explained that the Agency has the authority under 49 U.S.C. 31141 to preempt state regulations on commercial motor vehicle safety that are either less stringent than federal regulations or are more stringent and 1) have no safety benefit; 2) are incompatible with the regulations prescribed by the Secretary; or 3) would cause an unreasonable burden on interstate commerce. TCA firmly believes California's Wage Order 9, which requires motor carriers to grant significant driver meal and rest breaks in addition to those proscribed by the federal

hours of service regulations, satisfies the requirements for federal preemption and that ATA's petition should be granted

One of the key points ATA makes in its petition, and with which TCA strongly agrees, is that California's meal and rest break rules undermine safety by requiring drivers to stop driving at times when they do not truly need a break. FMCSA has demonstrated its interest in modifying the federal hours of service (HOS) regulations through its recent Advanced Notice of Proposed Rulemaking (ANPRM), and as TCA noted in its comments on this ANPRM, granting more flexibility to drivers to determine their own break schedule and set their own rest hours is paramount to advancing national safety interests.¹ This flexibility will empower drivers to rest when they are feeling fatigued, regardless of how long they have been in the driver's seat that day or how far they are from their drop-off point. Having more reasonable HOS regulations will also disincentivize drivers from speeding as they near the end of their driving and/or work windows, as they will no longer be at risk of violating the rules simply by taking a needed break. Additionally, the majority of drivers will take a meal break lasting 30 minutes or longer on their own without a regulation and will also step out of the truck to use the restroom or stretch their legs. Since FMCSA is currently considering updates to the federal HOS regulations, now is the time to firmly set federal precedence on this matter and provide the much-needed flexibility to drivers across the country.

Another major safety risk that is exacerbated by the California law is dangerous truck parking. By requiring many stops at various times during the day, drivers are forced to find parking for their truck to take these breaks. Across the country, the lack of adequate truck parking is the number two concern of drivers in the industry.² Seventy percent of respondents to a recent survey claimed to have violated federal HOS rules due to the inability to find parking, and 96% said they parked in unauthorized areas when legal parking was unavailable.³ California in particular is noted as one of the worst states in the nation for truck parking, with the "highest ratio of demand to supply of commercial vehicle parking along interstates and other high-volume national network routes."⁴ TCA's members are vitally concerned about their drivers' health and wellbeing, and we as an organization must be opposed to any regulation that causes drivers to put themselves in danger to park their vehicles. FMCSA should take this opportunity to correct for California's rejection of safety in its meal and rest break law and preempt the Wage Order 9 statute.

Federal HOS laws were developed to ensure that trucking companies could operate freely between the states. ATA's petition also highlights the threat to interstate commerce

¹ Truckload Carriers Association, "Re: Hours of Service of Drivers, Docket No. FMCSA-2018-0248" (public comments, FMCSA, October 10, 2018), <https://www.regulations.gov/document?D=FMCSA-2018-0248-4217>.

² Chad Prevost, "Trucker Path pushing the needle on the parking problem," *Freightwaves*, June 12, 2018, <https://www.freightwaves.com/news/driver-issues/truck-parking-problem-trucker-path>.

³ "80% of Drivers Say ELDs Make Finding Parking Harder," *Heavy Duty Trucking*, August 29, 2018, <https://www.truckinginfo.com/312029/80-of-drivers-say-elds-make-finding-parking-harder>.

⁴ American Trucking Associations, "Re: Petition for Determination That California Meal and Rest Break Rules for Commercial Motor Vehicle Drivers Are Preempted Under 49 U.S.C. 31141" (public petition, FMCSA, September 24, 2018), 9, <https://www.regulations.gov/document?D=FMCSA-2018-0304-0001>.

presented by any state – not only California – adopting disparate and divergent laws that conflict with federal regulations. The lack of federal precedence on this issue raises critical enforcement questions and institutes unnecessary confusion for the industry. When a truck is driven through several states, each with different meal and rest break laws, it is unclear which state demonstrates authority. If a driver is dispatched from one state, has a valid commercial driver's license (CDL) from another, and is driving in a third, it is clear that the lack of one federal standard creates overwhelming compliance burdens, impeding and interfering with the flow of goods between states. A driver operating under a federal exemption presents yet another enforcement question, as the federal exemption should supersede any state law.

It is clear, then, that one federal regulation overseeing how drivers operate demonstrates greater safety benefits and better facilitates interstate commerce than the current patchwork approach that states are undertaking on their own. We urge you, on behalf of the truckload industry, to grant ATA's petition and solidify the federal meal and rest break standard as the foremost regulation on this issue for all drivers and carriers nationwide.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Lyboldt', with a long horizontal flourish extending to the right.

John Lyboldt
President