

November 19, 2015

Dear Surface Transportation Authorization Conferees:

The undersigned organizations, representing trucking, railroads, manufacturers, distributors, bakers, movers, retailers, food suppliers, packers and processors, traders, and restaurateurs, urge you to retain Section 1446 of the House-passed “Surface Transportation Reauthorization and Reform Act of 2015” in the final reconciled highway bill.

As you know, Representatives Jeff Denham (R-CA), Corrine Brown (D-FL), Ryan Costello (R-PA), and Brad Ashford (D-NE) offered an amendment during consideration of the House highway bill that clarifies the preemption provision of the Federal Aviation Administration Authorization Act of 1994 (FAAAA) to restore the goals Congress had in mind when it sought national uniformity for motor carriers in the transportation of property. This amendment was approved by a large bipartisan vote.

In 1994, Congress passed the preemption provision of the FAAAA to promote market-driven services and productivity in the trucking industry and to facilitate interstate commerce by providing a uniform system of federal rules rather than a 50-state patchwork that would inhibit the movement of freight throughout the country. As Congress observed when it enacted the FAAAA, “the sheer diversity of [state] regulatory schemes is a huge problem for national and regional carriers attempting to conduct a standard way of doing business.”¹ Congress determined that allowing states to impose their individual policy preferences on the trucking industry “causes significant inefficiencies, increased costs, reduction of competition, inhibition of innovation and technology and curtails the expansion of markets.”²

Therefore, Congress broadly preempted state laws and regulations to the extent they relate to motor carriers’ prices, routes, or services. The Supreme Court has repeatedly explained that the language chosen by Congress reflects a very broad preemptive purpose, regardless of whether the effect on carrier prices, routes or services is direct or indirect, as long as the effect is more than tenuous or remote. However, some courts – particularly the Ninth Circuit – have consistently failed to faithfully implement Congress’ goals. The upshot is serious inefficiencies that harm not just motor carriers, but the shippers and consumers who rely on trucks to move their goods, and, by extension, the national economy.

Section 1446 simply clarifies that the existing law preempts two specific types of state laws that especially affect efficiency and productivity:

- (1) State break requirements that go beyond the nationally-uniform break requirements of the applicable federal regulations; and
- (2) State laws interfering with industry-standard piece-rate pay practices that conform to federal law and not only ensure employees earn as much as they would if paid by the hour at the local minimum wage, but also enable them to earn much more.

¹ H.R. Conf. Rep. No. 103-677 at 87 (1994).

² *Ibid.*

This clarification will preserve the ability of trucking companies to provide the level of service that the Federal Motor Carrier Safety Administration has determined is consistent with safe operations and driver welfare; and that they can continue to make use of pay systems that reward efficiency and productivity.

As such, **we request your support for Section 1446 of the House-passed highway bill and call for its inclusion in the final conference report.** Thank you for your time and consideration of this important and urgent matter. We look forward to working with you to enact this sensible solution this year.

Sincerely,

Agricultural & Food Transporters Conference
Agriculture Transportation Coalition
American Bakers Association
American Bus Association
American Frozen Food Institute
American Moving & Storage Association
American Trucking Associations
Association of American Railroads
Customized Logistics and Delivery Association
Food Marketing Institute
Intermodal Association of North America
Intermodal Motor Carriers Conference
International Foodservice Distributors Association
Meat Import Council of America
National Association of Manufacturers
National Association of Wholesaler-Distributors
National Council of Chain Restaurants
National Restaurant Association
National Retail Federation
National Shippers Strategic Transportation Council
National Tank Truck Carriers
North American Meat Institute
Retail Industry Leaders Association
Truck Renting and Leasing Association
U.S. Chamber of Commerce
United Fresh Produce Association
United States Hide, Skin and Leather Association

The 50 ATA-Affiliated State Trucking Associations

Alabama Trucking Association, Inc.
Alaska Trucking Association, Inc.
Arizona Trucking Association
Arkansas Trucking Association
California Trucking Association
Colorado Motor Carriers Association
Motor Transport Association of Connecticut, Inc.
Delaware Motor Transport Association, Inc.
Florida Trucking Association, Inc.

Georgia Motor Trucking Association, Inc.
Hawaii Transportation Association
Idaho Trucking Association
Illinois Trucking Association, Inc.
Indiana Motor Truck Association, Inc.
Iowa Motor Truck Association, Inc.
Kansas Motor Carriers Association
Kentucky Trucking Association
Louisiana Motor Transport Association, Inc.
Maine Motor Transport Association, Inc.
Maryland Motor Truck Association, Inc.
Massachusetts Motor Transportation Association, Inc.
Michigan Trucking Association, Inc.
Minnesota Trucking Association
Mississippi Trucking Association
Missouri Trucking Association
Motor Carriers of Montana
Nebraska Trucking Association
Nevada Trucking Association, Inc.
New Hampshire Motor Transport Association
New Jersey Motor Truck Association
New Mexico Trucking Association
New York State Motor Truck Association
North Carolina Trucking Association
North Dakota Motor Carriers Association, Inc.
Ohio Trucking Association
Oklahoma Trucking Association
Oregon Trucking Associations, Inc.
Pennsylvania Motor Truck Association
Rhode Island Trucking Association, Inc.
South Carolina Trucking Association, Inc.
South Dakota Trucking Association
Tennessee Trucking Association
Texas Trucking Association
Utah Trucking Association
Vermont Truck & Bus Association, Inc.
Virginia Trucking Association
Washington Trucking Associations
West Virginia Trucking Association, Inc.
Wisconsin Motor Carriers Association
Wyoming Trucking Association, Inc.