

**The war on Truckers and States' rights The Federal Authority Provision
Preempting States' Rights to Control Wages is Wrong.**



Our lawmakers must stop the Preemption of States Rights being introduced by way of amendments in the **FAA Reauthorization bill** and the **THUD bill**. The **Denham Amendment** and **Fischer Amendment**

The American Trucking Association (ATA) has lobbied furiously to create Federal law which will ensure drivers work 30-40 hrs/wk without pay. It's dubbed the Federal Authority Provision
The American Trucking Association (ATA) does not speak for drivers

Please be aware of language WHICH IS INCLUDED in both the Senate and the House versions of the FAA Reauthorization bills. The Denham Amendment is in the House bills, Fischer amendment is in the Senate bill. The Denham language is included in the THUD bill (p48 Sec 133)

Not only have drivers not had a significant pay raise since the 80's, but more and more uncompensated time performing non driving tasks are expected (approximately 30-40 hours/wk uncompensated time). This includes jobs such as pre and post trip inspections, maintenance and loading and unloading (Detention Time).

By including the Denham Amendment, companies would be legally permitted to only have to pay drivers for the time they spend driving, despite the fact that drivers are required to spend a great deal of time performing non-driving duties.

Understanding the Denham and Fischer Amendments which Should not be included in the final 2018 FAA Reauthorization bill or the THUD bill.

By allowing these amendment to remain and be included in either the Final 2018 FAA bill, it would mean a few things for professional truckers.

- 1) Preemption of States laws excluding truckers from labor laws designed to protect employees from wage abuse
- 2) Creating new Federal law designed to define and regulate trucker wages by relieving employers (carriers) from obligation of paying drivers anything more than piece work wages (miles driven)
- 3) Excluding drivers from state labor laws which allow drivers to have the option of taking a 10 minute paid rest break or the option of taking a 30 minute (unpaid)meal break.
- 4) Eradicating any cases drivers have in courts for wage abuse drivers have experienced (retroactive from 1994)

We are against either of these amendments being included in the FAA Reauthorization bill or the THUD bill. They both show the trucking industry and government contempt and disregard for the value of the professional trucker.

Fischer Amendment – I am opposed to the “meal and rest break language” in the Fischer Amendment because it preempts states’ rights which protect piece work wage employees such as truckers. This amendment would allow for another new Federal law targeting truckers, excluding truckers from state labor protections, similar to the way the Fair Labor Standards Act (FLSA) exempts truckers from overtime pay.

It would set a precedent saying that truckers are not deemed worthy of any labor law protections which are offered to all other citizens.

Denham Amendment which recently passed in the House on April 26th 2018 in their version of the FAA Reauthorization bill, H.R. 4.

The trucker wage theft language in the Denham Amendment preempts state Laws by allowing the Federal Government to regulate how truckers are to be paid (piece work wages only-such as cents per mile) and relieves employers (motor carriers) of any further wage obligation(such as hours worked), despite the fact that drivers are required to spend a great deal of time (approximately 30-40 hours/week) performing non-driving duties in the fulfillment of their employment, such as pre and post trip inspections, maintenance and loading and unloading (Detention Time).

Examples of common ATA false talking points

1-The “Safety Hazard” Argument –ATA is claiming that by offering a trucker a 10 minute paid rest break after 4 hours, it would be a safety hazard. They falsely claim that drivers will have to immediately stop and pull over to rest causing a safety hazard on the roads. This is FALSE. The driver can waive the rest break, however the carrier will still have to pay him/her for it.

2-The Patchwork Argument— Another example of ATA justification for Denham Amendment is that it would be too confusing to keep up with the 7 states labor laws regarding rest breaks. No it wouldn’t. The states are similar. California has the most protective towards employees, requiring carriers offer a paid rest break after 4 hours (optional to driver) and a meal break after 5.5 hrs (also optional to driver).

California also requires that drivers be paid for ALL time working while not driving. (includes detention time pay) If your company already pays you detention time, then it’s not a problem, but if they don’t, CA says they must be paid at least CA minimum wage

SOLUTION: If carriers would set their wage software meeting the criteria of California, it would satisfy all states laws. Instead, ATA’s argument is to Preempt State laws, replace with Federal law, which would assert that drivers only have to be paid for their miles driven and nothing more.

3- Distorting the meaning of the 1994 Federal Aviation Administration Authorization ACT .
ATA claims that paying drivers 10 min breaks and all time working interferes with rates, routes, or services. Courts ruled NO, it does not. Congress in 1994 was referring to freight rates, not labor laws. ATA claim went all the way up to the Supreme Court which refused to hear their argument.