

October 29, 2018

Administrator Ray Martinez  
Federal Motor Carrier Safety Administration  
1200 New Jersey Avenue SE,  
Washington, DC 20590-0001

Re: Groups Urge Rejection of Petition FMCSA-2018-0304 to Preempt California Meal and Rest Break Rules

Dear Administrator Martinez:

The American Trucking Association (ATA) has petitioned the Federal Motor Carrier Safety Administration (FMCSA) to preempt California's longstanding meal and rest break laws. We strongly urge you to reject this petition.

For years, the trucking industry has been trying to weaken or eliminate safety laws that are designed to make sure truck drivers get enough rest. This is despite the fact that driver fatigue is currently a significant factor in many large truck crashes,<sup>1</sup> which result in more than 4,000 deaths and 100,000 injuries every year.<sup>2</sup> The crash that critically injured comedian Tracy Morgan and killed his friend occurred after their vehicle was hit from behind by a Wal-Mart truck driver who had not slept for more than 24 hours.

Providing safe working conditions for commercial drivers and remedies in the event of an accident, injury or fatality are among the most basic and traditional of state functions. States must have leeway to determine what safety rules make sense for their own commercial drivers, in addition to meeting minimum federal requirements. Indeed, 20 states have meal and rest break provisions similar to California's. This petition asks the FMCSA to prevent one state from having authority in this area. It is an egregious attack on the laws of one particular state and on states' rights generally.

Moreover, over the years, the FMCSA has repeatedly rejected such intrusions into state authority now requested by the ATA. In 2008, the agency reviewed and rejected a similar petition, noting that "[Federal Motor Carrier Safety Regulations] have for decades required carriers and drivers to comply with all of the laws, ordinances, and regulations of the jurisdiction where they operate."<sup>3</sup> Later, the Department of Transportation filed an amicus brief at the invitation of the 9th Circuit, arguing strongly that state meal and rest break laws like California's exist pursuant to "traditional state police power" and should not be preempted.<sup>4</sup>

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<sup>1</sup> National Transportation Safety Board, Factors that Affect Fatigue in Heavy Trucking Accidents, Volume 1: Analysis, (Jan.1995), available at <https://www.nts.gov/safety/safety-studies/Documents/SS9501.pdf>

<sup>2</sup> Fed. Motor Carrier Safety Admin., Large Truck and Bus Crash Facts 2016, "table 1: Large Truck Fatal Crash Statistics, 1975-2016" (May 2018); available at <https://www.fmcsa.dot.gov/safety/data-and-statistics/large-truck-and-bus-crash-facts-2016>

<sup>3</sup> 73 FR 79204-01, 2008 WL 5351180(F.R.).

<sup>4</sup> *Dilts v. Penske Logistics, Inc.*, No. 12-55705 (9th Cir. 2014).

For almost two decades, the California meal and rest law has protected workers and the general public from workplace and highway accidents, injuries, and deaths. As our roads become more and more dangerous, the last thing the FMCSA should do is take action that would lead to more sleep-deprived drivers on the roads. We strongly urge you to reject this petition.

Please contact Joanne Doroshow at the Center for Justice & Democracy for more information. [joanned@centerjd.org](mailto:joanned@centerjd.org) Thank you.

Very sincerely,

Advocates for Highway and Auto Safety  
 AFL-CIO  
 American Federation of State, County and  
 Municipal Employees (AFSCME)  
 Alliance for Justice  
 California Employment Lawyers  
 Association  
 California Labor Federation ALF-CIO  
 CALPIRG  
 California Teamsters Public Affairs Council  
 Center for Auto Safety  
 Center for Justice & Democracy  
 Center for Law and Social Policy (CLASP)  
 Consumer Action  
 Consumer Federation of America  
 Consumer Federation of California  
 Consumers for Auto Reliability and Safety  
 Earthjustice  
 Equal Rights Advocates  
 Essential Information  
 Impact Fund  
 NAACP  
 National Association of Consumer  
 Advocates  
 National Consumers League  
 National Employment Law Project  
 National Employment Lawyers Association  
 National Employment Lawyers Association-  
 New York Affiliate  
 NY Public Interest Research Group  
 Public Citizen  
 Public Justice  
 Public Justice Center  
 RootsAction.org  
 Service Employees International Union

Stone and Holt Weeks Foundation  
 Sylvia Bingham Fund  
 Texas Watch  
 UFCW Western States Council  
 U.S. PIRG  
 Western Center on Law & Poverty  
 Working Partnerships USA  
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