



Owner-Operator Independent Drivers Association

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February 5, 2015

To: The Honorable Bill Shuster
The Honorable Peter DeFazio
The Honorable Frank LoBiondo
The Honorable Rick Larsen
The Honorable Sam Graves
The Honorable Eleanor Holmes Norton

Cc: Members of the U.S. House of Representatives Committee on Transportation and Infrastructure

Re: Section 611 of H.R. 4441, the Aviation, Innovation, Reform, and Reauthorization Act

Dear Members,

On behalf of the more than 156,000 hardworking men and women who are proud to call themselves owner-operators and professional drivers, we write to convey our opposition to language included in H.R. 4441, the Aviation, Innovation, Reform, and Reauthorization Act. Section 611 of the AIRR Act is in part a response to a 9th Circuit Court decision to enforce a California law pertaining to “meal and rest breaks” for employees. However, subsection 2(B) includes an ambitious overreach that would allow “piece rate” pay as a substitution for other forms of state mandated compensation. This stipulation allows for the continuation of practices that ensure drivers are only paid when the wheels of the truck are moving, a practice that leads to questionable highway safety. This provision was removed from the final version of the recently enacted FAST Act, and should not be included in a bill designed to address aviation.

This issue does not warrant Federal pre-emption since many other states have not enacted similar payment practices as California, so the industry is not currently operating under a patchwork system of confusing pay methods. California seeks to address problems specifically within their state, as is their right. Subsection 2 (B) is unlike the other provisions of Section 611 (such as the “meal and rest break” provision) because courts have not been significantly active in the matter. The ability of states to address piece rate pay does not raise implications for interstate commerce, nor does it warrant Federal involvement to overturn state action. Preempting the states’ ability to address piece rate pay is not a similar issue, nor circumstance warranting Federal involvement to overturn state action. Without Congressional hearings showing how this complicated issue would be applied on a Federal scale, or discussion of what the Federal standard should be, it is inappropriate to include this provision in the bill.

Additionally, economics and safety go hand in hand in the trucking industry. The subsection potentially threatens highway safety by not compensating drivers for all the time they spend working, which includes routine operations such as truck inspections, addressing maintenance issues – and most importantly waiting to be loaded or unloaded. Section 611 would ensure that drivers are only compensated by the mile, even though many drivers spend the equivalent of 4-6 weeks each year

waiting to be loaded or unloaded. This unpaid time creates undue pressure incentivizing drivers to drive farther and faster in order to remain economically viable.

We would encourage robust hearings to be held within the House Transportation and Infrastructure Subcommittee on Highways and Transit so that a further examination of piece rate pay, and its impacts on highway safety and detention time, can be considered. Further, we would suggest input from California officials to discuss what unique problems are occurring within the state causing them to take action, coupled with an analysis of whether these trends are developing elsewhere in the country and within the supply chain. The question of whether Federal pre-emption is necessary and timely should be carefully considered.

OOIDA is the only national trade association representing the interests of all professional truck drivers and small-business trucking companies. Our average member has close to 2 million miles of safe driving history and deserves to be compensated for his/her experience and expertise. We should encourage the safest drivers behind the wheel to stay in the profession and in order to do that, we must make sure they are fairly paid. One of the reasons why drivers leave the profession is because of the economic pressures, not the least of which is mileage pay. OOIDA is committed to improving highway safety and believes the “piece rate” pay provision in section 611 jeopardizes that safety.

Please reject Section 611 in H.R. 4441, the Aviation, Innovation, Reform, and Reauthorization Act.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd Spencer". The signature is written in a cursive, flowing style.

Todd Spencer
Executive Vice President