Facts vs. Myths on Sec. 611 of the AIRR Act

Section 611 simply clarifies and preserves the uniformity of federal regulation that Congress established for the trucking industry in 1994.

Trucking Supports Sec. 611: Truckload carriers, less-than-truckload carriers, tank truck carriers, unionized carriers, large carriers, and small carriers all support Sec. 611. In a poll conducted Jan. 22-26 of 2016, 79% of self-identified small business owner-operators favored legislation (http://trck.ng/F4ASurvey) like Sec. 611.

Myth: Sec. 611 goes beyond the purpose of preventing a patchwork of State laws by preempting existing meal or rest break laws that have been on the books for decades.

Fact: Truckload carriers have been operating under federal break standards since 1994 until a recent court ruling by the 9th Circuit Court of Appeals. Section 611 only applies to motor carriers and their employee and does not affect any other industry or independent contractors. The 9th Circuit ruling has unleashed a torrent of lawsuits against truckload carriers engaged in interstate commerce. Regulating interstate commerce is a constitutional responsibility of the federal government.

Myth: This is aimed at truckers who are not engaged in interstate commerce.

Fact: Opponents agree that complying with state rest or meal break requirements impedes interstate commerce and creates confusion. By proposing to strike Sec. 611, opponents seek to take away the solution. Sec. 611’s break provision has no effect on a driver operating solely in intrastate commerce who would remain subject to state rest or meal break requirements. It expressly applies only to drivers subject to regulation by the Secretary of Transportation, i.e., drivers operating in interstate commerce as it has been well defined under settled law for over half a century.

Myth: Sec. 611 dictates that piece-rate pay is the only way that drivers can be compensated.

Fact: No reading of Sec. 611 could lead to the conclusion that it mandates drivers be paid on a piece-rate (per mile or per load). Sec. 611 merely says that if a motor carrier is paying a piece-rate, it has to comply with federal and state minimum wage rates using the same methodology permitted under federal law. In other words, Section 611 requires total compensation averaged over total hours worked must meet or exceed the state’s applicable hourly minimum rate. Motor carriers remain free to pay drivers by the hour in lieu of piece rate.

Myth: State meal and rest break laws are necessary to protect highway safety.

Fact:
- FMCSA has said, on record, that California meal and rest break laws are not safety laws.¹
- California exempts employees working under a collective bargaining agreement from the state’s meal and rest break laws. If these break laws were about safety they would not have created an exemption for unionized drivers
- Plaintiffs’ attorneys’ class actions have forced companies to require drivers to take the breaks – whether the drivers want them or not - as a precaution against litigation. California’s break rules are not being enforced against carriers by state safety officials.