



Meals, Rest Breaks, and Driver Pay: A Continuing Controversy

SEPTEMBER 19, 2017 – This past spring and summer, legislation was reintroduced in both houses of Congress that, if passed and signed into law, would mandate a single federal regulation to replace the various state regulations of meals, rest breaks, and how drivers are paid for commercial haulers who engage in interstate commerce. States would still be able to enforce their own regulations for commerce within their boundaries.

The Denham Amendment

The proposed legislation is commonly known as the “Denham Amendment” after Rep. Jeff Denham (R-CA10) who has introduced it at least three times. Proponents such as transport companies and associations don’t want to pay drivers who are not working during legally-required breaks. Opponents such as individual drivers and unions regard the proposed legislation as an attempt to deprive drivers of needed rest and to lower their pay.

Several states, such as California, have enforced strict regulations on interstate haulers, requiring them to pay drivers who must observe legally mandated meal and rest breaks. But California’s regulations do not always match those of other states, potentially creating a confusing situation for drivers and their employers.

For example, California now requires all interstate drivers to take a 30-minute meal break during their first 5-hour shift and another 30-minute meal break during the next 5-hour shift. They must also take a 10-minute paid break every 4 hours. Other states require a different number of breaks per shift. The federal standard, however, requires drivers to take only one 30-minute break during their first 8 hours of driving. “Denham Amendment” language would apply the federal standard to all 50 states.

The American Trucking Association (ATA) and the Western States Trucking Association (WSTA) also favor the proposal to prevent states from requiring trucking firms to pay drivers for non-driving work such as detention time, loading time, or legally mandated breaks. In light of recent court-ordered payouts to drivers for non-driving work or during breaks, trucking

companies fear the legal and financial consequences of refusing to abide by state regulations and, therefore, push to change the law. Drivers and their associations, on the contrary, contend that they should not be required to work for free.

This entire controversy has also become entangled with that over requiring electronic log devices (ELDs). How accurately ELDs can monitor situations that slow or prevent drivers from completing their routes—bad weather, traffic delays for various reasons, construction detours—has been questioned by many. And if requiring regular breaks for meals and rest is intended to increase safety by reducing driver fatigue, just how should fatigue be monitored? Those who object to the use of ELDs would surely object also to in-cab cameras or monitors to observe and record driver behavior.

Where Things Stand

This summer, “Denham Amendment” language was included in DOT-related parts of appropriations bills for fiscal year 2018. This comprehensive legislation was due for consideration and passage by the end of September. Support by Republican majorities in both houses of Congress for this language means that it is widely expected to pass despite strong opposition from drivers, unions, and Democratic legislators. Whether President Donald Trump will sign such legislation into law is not entirely known, but his approval is thought likely.

What are your thoughts on the Denham Amendment? Do you think it will pass? Leave your thoughts in the comments below!