

The war on Truckers, States' rights, and American wages.

Federal Authority Provision

Preempting States' Rights to Control Wages is Wrong. Today it's TRUCKERS, tomorrow it could be YOU!

The American Trucking Association (ATA) has lobbied furiously to create Federal law which will ensure drivers work 30-40 hr/wk without pay. It's dubbed the Federal Authority Provision

We need a surge of truckers and FAIR WAGE SUPPORTERS to call Washington NOW!

We were told by those in Washington that it will take another surge of drivers (and those in support of state rights and fair wages) to call their Senators & Reps stating they are against the **Denham and Fischer Amendments in the Federal Aviation Administration reauthorization bill (FAA bill).**

**It is imperative you tell them that the American Trucking Association (ATA) does not speak for drivers. They are the voice of large carriers and their supporters.
If you are reading this CALL 202-224-3121**

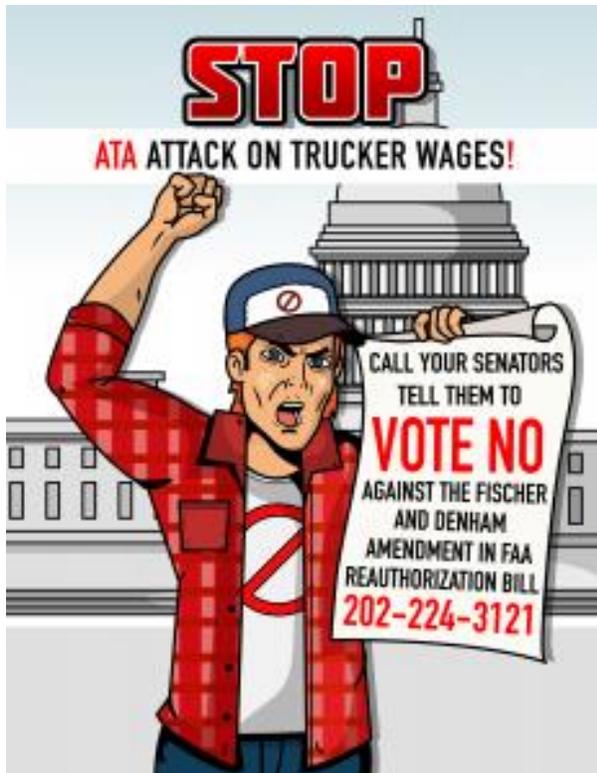
1--What to say when calling up your Senators and Representatives.

How to make sure the Denham amendment or Fischer amendment are not included in final 2018 FAA Reauthorization bill or ANY other bills the ATA is lobbying for them to be in.

Besides being able to have the amendments added to the FAA bill, the ATA has now managed to have the Denham amendment added to yet one more bill. The House's Appropriations Committee on 5-15, [unveiled a bill which included the Denham provision](#) and would fund the Department of Transportation through the 2019 fiscal year.

READ IT! The [T-HUD bill includes Denham language Page 48 SEC 133](#)

The best way to call up members of Congress is to be knowledgeable and informed on the issues at hand. Below is a guide which may help you when calling your Senator.



The ATA lobby has pulled out all the stops on this one. This will be the last chance to end this. This is a battle Truckers and all Americans cannot afford to lose.

Call your Senators about the “anti-trucker wage amendments” in the FAA ReAuthorization bill. Stop the Preemption of States Rights. State who protect employee wages. (This language is mainly known as the Denham Amendment, but is also brought up as “Federal Authority provision” “Meal and Rest Break”, F4A Preemption, and Fischer Amendment.)

What you can say when calling your Senator:

I'd like to speak with someone concerning S.1405, the Senate FAA Reauthorization bill, which is to be voted on within the next few days.

I want to make you aware of language, added as amendments, that I'm extremely opposed to in both the Senate and the House versions of the FAA Reauthorization bills.

The Denham Amendment is in the House bill

Fischer amendment is in the Senate bill.

First of all, I am against the Federal Government overriding States Rights and creating any new rules, laws or regulations.

Recently the Supreme Court of the U.S. made the decision that the Federal government can NOT override states laws which would allow sports gambling.

If the Federal Government cannot override state laws regarding “sports betting”, what basis is there to override states laws which protect employees, specifically truckers, from wage abuse?

Worse yet, excluding them from the protections other employees have such as the option to take a 10 min paid rest break every 4 hours or a non paid 30 meal break every 8 hours!

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 -I am VERY MUCH against the 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).

The Denham amendment would end hope for reforming trucker wages, including trucker goal of being paid for all time working.

Mainly, the Denham amendment would allow for another new law which states that employers (the carriers) will not be legally obligated to pay truck drivers for their hours, regardless of how many hours they work. Truckers would be exempt from any state labor laws which assert otherwise.

I am against either of these amendments being included in the FAA Reauthorization bill as they both show the trucking industry and government contempt and disregard for the value of the professional trucker.

Examples of common ATA false talking points

Here is an example of myths the ATA is stating to lawmakers, lawmakers who are going to be voting on a final FAA bill which could (if passed) include trucker wage theft amendments, Denham or Fischer.

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. Unfortunately the ATA has not told the drivers that they have the choice to take the break or not.

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.

In doing so, they not only nullify state labor laws protecting employees, but they also will create new Federal law which establishes- Motor carriers are not legally obligated to pay drivers anything more than their piece work wages (miles driven)

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.

Read an entire list of Myths vs Facts the ATA compiled along with the responses
"ATA's Myths and Facts about Denham Amendment Busted"
<http://askthetrucker.com/myths-and-facts-of-denham-amendment/>

Enough is enough. Drivers wages haven't increased on a post-inflation basis in over 20 years, while industry profits have increased. The ATA's "facts" themselves are incomplete, misleading, and designed to protect their constituency: the trucking companies and their ever increasing profit streams. The industry cannot accept that they have lost this issue in Court, so now they want to change the rules and nullify state laws upheld by the judicial system. That's not a myth – its a raw fact!

If you are reading this PLEASE call NOW. 202-224-3121

[Here is a link to every U.S. senator email and phone #](https://www.senate.gov/senators/contact/senators_cfm.cfm)
https://www.senate.gov/senators/contact/senators_cfm.cfm

Here is a [link to every U.S.Representative](https://www.house.gov/representatives/)
<https://www.house.gov/representatives/>

2--Understanding the Denham and Fischer Amendments which COULD be included in the final 2018 FAA Reauthorization bill.

The Denham Amendment has once again been included in the House version of the 2018 FAA Reauthorization bill. By allowing this amendment to remain and be included in the Final 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)

The Senate will be voting on their version of the 2018 FAA Reauthorization bill. Their version of the bill includes the Fischer amendment. (Considered the lesser of 2 evils)

By allowing this amendment to remain and be included in the Final 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 exclude truckers 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) Possibly nullifying any wage cases drivers have in courts. (retroactive from 1994)

There are a few possibilities that the Senate can vote on.

They can not include either amendment

They can go along with the House and include the Denham Amendment

They can include the Fischer amendment.

Finally, if the Senate does not go along with the House version of the FAA bill (which included the Denham amendment) the final version of the 2018 FAA Reauthorization bill will go to conference and at that point EITHER of the 2 amendment can be added or removed from the final bill. Even IF the SENATE does not include either amendment in their version of the FAA bill.

This is why we all need to call our Senators and Reps and educate them on what the repercussions would be for truckers if either of these amendments are included in the final 2018 FAA Reauthorization bill.

The ATA has ill-informed many of our lawmakers of the facts. It was told to us, that many politicians believe the ATA has the support of professional drivers, including the egregious Denham Amendment which the ATA lobbied so fervently for. There are politicians that believe that the ATA is the voice for truck drivers. It's up to us to tell them otherwise.

3—What it means for truckers and their wages if these amendments are passed.

We're at the last leg of a 2 year fight against these "wage theft" amendments

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.

This would put a legal end for hopes of reforming trucker wages, including being paid for all time working.

What is the agenda of the ATA behind these amendments they've lobbied so hard for?

States such as CA which have labor laws protecting drivers would eventually set precedent and drivers would justify their demand of wage reform, being paid for all time on duty not driving, which many drivers are already demanding.

ATA believes that if they can get Denham passed into law, they can legally put driver demands to rest.

ATA attitude is to continue to only pay piece work (cents per mile) wages so drivers strive for more miles to drive and more hours to keep driving to earn a living wage.

ATA apparent motto:

“keep drivers driving more miles and keep them fighting for more hours to drive” no matter how unsafe it is.