

drivers who operate under one set of rules, in one State, coverage under laws designed to ensure adequate rest on the job. The language also legislatively overturns a body of case law that has consistently upheld labor protections for truck drivers.

PART B: PREEMPTING FAIR PAY FOR TRUCKERS

Part (B) of Section 611 restricts the ability of States to improve truck driver working conditions and pay. The language dictates that the “piece rate” (or pay-by-the-load) a trucking company offers as compensation to a driver supersedes State laws that require compensation for time a driver spends doing tasks such as loading or unloading or being detained—in other words, any time a truck’s wheels are not turning.

CALIFORNIA PIECE-RATE PAY

Several Federal district court and California State appellate court decisions between 2011 and 2013 have redefined piece-rate pay in California. Piece-rate or per-trip pay is common in many industries, such as trucking, agriculture, automotive repair shops, and others. Prior to 2011, employers who paid by the trip or piece were considered to be in compliance with Federal and State minimum wage laws provided that an employee’s average hourly wage (total compensation over a work period divided by total hours worked) was at the minimum wage level or higher.

The problem, however, was that “non-productive” work hours—such as a truck driver waiting at a loading dock, or a strawberry picker waiting to be transported to and from the field, or an auto repair shop employee waiting in between jobs—was untracked and unpaid. A series of class action cases brought against employers for unpaid time all were found in favor of employees. In each decision, employers were found to be in violation of California’s minimum wage law if they calculated average hours worked through piece rate because, if non-productive time is not separately compensated, the employees were not compensated at all. Two cases involved truck drivers—one for Safeway and one for Con-way Freight—and the courts specifically found that pay by the load (as calculated in the trucking industry) did not provide compensation for activities such as loading and unloading because they were not included in the piece-rate.

In response to these decisions, California passed a new law (effective January 1, 2016) requiring the following for anyone paid on a piece-rate basis:

Separate tracking of compensation for the time to take rest and recovery breaks, which must be paid at an hourly rate of the greater of the State minimum wage or the employee’s average hourly wage for the week (Importantly, based on a separate 2012 court decision, employers do not have to require employees to take a break—employers must permit it and relieve the employees of duties or pay them for the rest break)

Separate compensation for “non-productive” time under the employer’s control that is not being compensated in the piece-rate formula, at an hourly rate no less than minimum wage.

The effect of this new law is employers will have to begin tracking non-productive time, which gets at the heart of the detention time issue in trucking.

If part (B) of Section 611 is enacted, interstate and intrastate truck drivers in California will be stripped of these protections that specifically track pay for time detained. Congress

should be looking at ways to help the men and women in the trucking industry to earn living wages, not passing laws that further put the squeeze on drivers as they fight gridlock to deliver loads.

CONGRESSIONAL INTENT

Finally, some of my colleagues on the other side of the aisle have argued that the Ninth Circuit Court of Appeals *Dilts* decision undermines Congressional intent. In fact, Section 611 represents a sweeping expansion of Federal pre-emption that Congress enacted in 1994. The Conference Report (H. Rept. 103–677) accompanying the 1994 law (P.L. 103–305) very clearly lays out the background and situation Congress was intending to address—direct economic regulation of intrastate trucking by States, through direct actions such as “entry controls, tariff filing and price regulation, and types of commodities carried”.

The trucking industry was deregulated by Congress in the Motor Carrier Act of 1980. The Conference Report accompanying the 1994 law notes that, in 1994, 41 States continued to regulate intrastate prices, routes, and services of motor carriers and 26 States strictly regulated trucking prices. The Report further states that such regulations were usually designed to ensure that prices “are kept high enough to cover all costs and are not so low as to be ‘predatory’”. Price regulation also involves filing of tariffs and long intervals for approval to change prices.” In other words, States were still directly dictating the rates and prices motor carriers could charge for movement of goods through the particular State.

The broad pre-emption language was added in Conference. The House bill had no provision, and the Senate bill had a provision narrowly tailored to apply pre-emption to intermodal all-cargo air carriers. The Senate provision was inserted to address an inequity in which the Ninth Circuit Court of Appeals, in a separate decision, determined that Federal Express (FedEx) was not subject to intrastate economic regulations for motor carriers because FedEx could rely on preemption under the Airline Deregulation Act of 1978 because it was an air carrier. See *Fed. Express Corp. v. Cal. Pub. Utils. Comm’n*, 936 F.2d 1075 (9th Cir. 1991), cert denied, 112 S.Ct. 2956 (1992). UPS, however, remained regulated as a motor carrier, “putting it at a competitive disadvantage in a number of States.” H. Rept. 103–677. After the Federal Express Corporation decision, California and other States began to enact laws extending the pre-emption to other carriers affiliated with direct air carriers, but some segments of the motor carrier industry, such as owner-operators, were still subject to regulation. Therefore, Congress was attempting to fix a glaring competition issue that placed certain companies at an advantage.

The law in 1994, which still stands today, also enumerated that States could continue to exercise regulatory authority in areas such as safety, vehicle size and weight, insurance requirements, and hazardous materials routing. Almost all of the 21 laws that would be preempted by Section 611 were in place in some form in 1994, yet Conferees never mentioned meal or rest break laws as problematic, or part of what was being contemplated under the types of troublesome activity at the State level that was impeding commerce.

Therefore, it is disingenuous to imply that Section 611 is simply a restoration of Con-

gressional intent in 1994, because Congress never contemplated meal and rest breaks when enacting the law.

CONCLUSION

Section 611 has no place in a Federal Aviation Administration reauthorization bill. This is a trucking issue. Last year, the Conference Committee on the FAST Act (P.L. 114–94) rejected this identical language. I strongly opposed this provision in the FAST Act and continue to strongly oppose it in this bill.

Section 611 is strongly opposed by the Teamsters, safety advocates, and the American Association for Justice. The trucking industry is split on Section 611. Smaller owner operators—which represent more than 90 percent of the companies in the industry—strongly oppose Section 611.

If the intent is really to solve an interstate commerce problem, this language completely—and purposefully—misses the mark. It is an expansive hacking away at the ability of a State to promote healthy working conditions for truck drivers.

IN RECOGNITION OF JAY M. ROBINSON HIGH SCHOOL WINNING THE NORTH CAROLINA HIGH SCHOOL ATHLETIC ASSOCIATION 3A STATE CHAMPIONSHIP

HON. RICHARD HUDSON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 2016

Mr. HUDSON. Mr. Speaker, I rise today to recognize the Jay M. Robinson High School Bulldogs for winning the North Carolina High School Athletic Association (NCHSAA) 3A Men’s Basketball Championship on March 12, 2016. The Bulldogs won the game by a score of 59–55, finishing the season with an impressive 29–3 record.

The season could not have started better for the Bulldogs, who entered the 2015 HighSchoolOT.com Holiday Invitational tournament having won their first eight games and were playing fantastic team basketball. However, the Bulldogs lost two of the three games they played during the tournament and lost another game just a week later in overtime. Many teams would not be able to regroup after such a disappointing stretch of games, but these Bulldogs are not like many other teams. The team rallied around one another to win every remaining game during their regular season, winning the South Piedmont Conference championship, and earning a berth in the NCHSAA 3A Men’s Basketball Tournament.

After battling through five challenging games in the tournament, the Bulldogs met Terry Sanford High School, the defending state champions, in the state championship game. What was an entertaining contest quickly turned into a character-defining moment for the Bulldogs. With only fifteen seconds left in the game, the Bulldogs took their first lead of the second half and defended their basket as Terry Sanford made one final attempt to tie or win the game. After a third shot from Terry Sanford missed the mark, both teams frantically scrambled to secure the rebound. With less than one second left in the game, a Bulldog came up with the rebound and was immediately fouled by a Terry Sanford player. During the ensuing scuffle between the teams

after the foul, a fan ran onto the court and struck Jay M. Robinson's Rashon Gray in the head. Rather than escalate the situation and retaliate, the Bulldogs once again rallied around one another. The Bulldogs hit two free throws to clinch the victory and secure the state championship.

This moment was a microcosm of the Bulldogs' entire season and the young men who worked so hard to earn this championship. Whenever the Bulldog's faced adversity, the players and coaches never wavered from their commitment to the team and kept their eyes on their goal of capturing Jay M. Robinson's first 3A Championship. In addition to their talent—led by three 1,000 point scorers—the Bulldogs time and again showed the chemistry and mental toughness needed to become champions. Needless to say, this season will long be remembered by the Bulldogs' players, coaches and fans.

Mr. Speaker, please join me today in congratulating the Jay M. Robinson High School Men's Basketball team for winning the 2016 NCHSAA 3A Championship. I look forward to the Bulldogs defending their title next season.

HONORING CALIFORNIA NATURAL
RESOURCES AGENCY SECRETARY
JOHN LAIRD

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 2016

Mr. THOMPSON of California. Mr. Speaker, I, along with Representative GARAMENDI and Representative HUFFMAN, rise to recognize and honor Secretary John Laird for his great contribution to the designation of the Berryessa Snow Mountain Monument by President Barack Obama on July 10, 2015.

This outstanding accomplishment was made possible by the tireless work of countless advocates like Secretary Laird. Their commitment to engaging friends, colleagues, local residents, businesses, stakeholders across the country, and policymakers in a coordinated effort to achieve permanent protection was critical to the establishment of the Monument.

Now, the Berryessa Snow Mountain Monument may be counted among the hundreds of pristine parks across the country that represent America's most treasured public resources. The region's unique geological formations will play host for the world's scientists for years to come. Centuries-old archeological sites will draw curious historians and researchers as they piece together the stories of generations past. And avid bikers, hikers, campers, horsemen, and sportsmen will be able to enjoy this landmark that is now forever open and accessible to outdoor enthusiasts from Northern California and beyond.

The Berryessa Snow Mountain Monument serves as proof of the value of the Antiquities Act and the power of the Executive to protect these lands in the face of inaction by Congress. After extensive input from interested parties and substantial evidence of this region's value, the Obama Administration honored the support of stakeholders, and the gravity of conservation.

The legacy of public lands is one of the most important we can leave for future generations. The Berryessa Snow Mountain

Monument is a critical piece of a preservation system that stretches from the Hawaiian Islands to the Maine Coast. It has been a privilege working with Secretary Laird to further our mutual goal of preserving our nation's great open spaces, and we look forward to collaborating in the future.

PERSONAL EXPLANATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 2016

Mr. BECERRA. Mr. Speaker, I was unable to cast my floor vote on roll call vote number 114, 115, 116, 117, 118, 119, 120, 121, 122, and 123. Had I been present for the vote, I would have voted "no" on roll call vote number 114, 115 and 123. Had I been present for the vote, I would have voted "yes" on roll call vote number 116, 117, 118, 119, 120, 121 and 122.

IN TRIBUTE TO MARTIN OLAV
SABO FORMER CONGRESSMAN
FROM THE GREAT STATE OF
MINNESOTA AND A CHAMPION
OF BIPARTISAN LEGISLATION

HON. SHEILA JACKSON LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 2016

Ms. JACKSON LEE. Mr. Speaker, I rise to pay tribute to Martin Olav Sabo, a great American who served his country with distinction as a Member of this House who passed away on March 13, 2016 in Minneapolis, Minnesota, at the age of 77.

Martin Sabo was born on February 28, 1938, in Crosby, North Dakota, the son of Norwegian immigrants.

While growing up he worked the wheat farm that his family owned and operated.

In 1959, Martin Sabo earned his baccalaureate degree at Augsburg College in Minneapolis.

The following year, 22-year old Martin Sabo was elected to the Minnesota House of Representatives, where he served for the next 22 years.

In 1963, Martin Sabo met Sylvia, who became his wife and the love of his life, and together they had two wonderful children, Julie and Karin Sabo.

In 1973, Martin Sabo was elected by his colleagues to become the 45th Speaker of the Minnesota House of Representatives, and served in that position until 1979, when he was elected to serve the people of the 5th Congressional District of Minnesota in the U.S. House of Representatives.

During his time in Congress Martin Sabo chaired the House Committee on the Budget.

Congressman Martin Sabo was a champion of bipartisan legislation.

A shining example of his ability to work across the aisle is the effort he led as Budget Chairman to put together and pass the 1993 federal budget and deficit reduction package that resulted in the budget surplus in 1998, the first in almost 30 years.

Martin Sabo characterized this collective effort as one of his proudest legislative accomplishments.

Despite the sharp increase in divisive political discourse, Congressman Sabo never publicly disparaged another colleague in Congress, Republican or Democrat.

Congressman Sabo said that, "I've also tried to treat my colleagues with respect."

On March 13, 2016, surrounded by loving family members, Martin Sabo died peacefully at Abbott Northwestern Hospital in Minneapolis.

Mr. Speaker, as a former colleague and friend of Martin Olav Sabo, I will miss this great man who put aside partisan politics to focus on great governance.

Mr. Speaker, I ask the House to observe a moment of silence in memory of our beloved former colleague, Congressman Martin Olav Sabo.

IN MEMORY OF ALEXANDRA
BAKER PATTERSON

HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 2016

Mr. ROGERS of Alabama. Mr. Speaker, I ask for the House's attention today to recognize the 27th birthday of the late Alexandra Baker Patterson.

On March 21, 1987, Alexandra was born at Arlington Hospital to Jim and Sheryl Patterson of Auburn, Alabama. Within minutes of birth, Alexandra was rushed to Georgetown University Hospital for surgeons to repair a complex cardiac abnormality.

After surgery and an extended hospitalization due to complications, Alexandra lived at home with nursing care. She eventually attended public school.

Alexandra was fascinated by photographs of eagles in flight and once told her father she wanted to grow up to be an eagle.

Today would have been her 27th birthday. For her parents and brother, James, Alexandra is forever an eagle.

Mr. Speaker, please join me in recognizing the life of Alexandra Baker Patterson.

HONORING CALIFORNIA STATE
SENATOR LOIS WOLK

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 2016

Mr. THOMPSON of California. Mr. Speaker, I, along with Representative GARAMENDI and Representative HUFFMAN, rise to recognize and honor Senator Lois Wolk for her great contribution to the designation of the Berryessa Snow Mountain Monument by President Barack Obama on July 10, 2015.

This outstanding accomplishment was made possible by the tireless work of countless advocates like Senator Wolk. Their commitment to engaging friends, colleagues, local residents, businesses, stakeholders across the country, and policymakers in a coordinated effort to achieve permanent protection was critical to the establishment of the Monument.

Now, the Berryessa Snow Mountain Monument may be counted among the hundreds of pristine parks across the country that represent America's most treasured public resources. The region's unique geological formations will play host for the world's scientists