

Clarification Regarding Preemption Decision on California Meal and Rest Breaks

On December 21, 2018, the Federal Motor Carrier Safety Administration (“FMCSA”) issued a determination that California’s Meal and Rest Break rules are preempted under 49 U.S.C. 31141 as applied to property-carrying commercial motor vehicle drivers covered by FMCSA’s hours of service regulations.

On January 7, 2019, an FMCSA attorney sent an email, responding to an inquiry from a private attorney, in which he stated that “[t]he FMCSA determination does not have retroactive effect.” FMCSA understands that this communication has been shared with third parties. This statement, however, did not and does not represent the views of FMCSA.

On January 18, 2019, the FMCSA attorney sent a further email message to the private attorney, in which he clarified that “our Agency is giving the retroactivity issue further consideration, and we will provide additional clarification as soon as possible.” A copy of the complete email correspondence is available at the below link.

FMCSA intends to post a more detailed public statement in the near future, addressing how the December 21, 2018 preemption determination applies to pending cases.