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Tandem Trailer Deliveries Fact Sheet: Congress Enacts Federal Length Exemption



The Fixing America's Surface Transportation (FAST) Act, approving \$305 billion in highway and transit spending and extending federal highway programs through 2020, became law on December 4, 2015 (Pub. L. 114-94). Contained in the new law is a provision that enables light-and medium-duty trailer manufacturers to deliver their products to dealers in combinations of two subject to existing size and weight limits and additional restrictions. This fact sheet provides an overview of the new law and its impact on NATM members.

Authorizing Tandem Trailer Combinations up to 82 Feet in Length

The FAST Act identifies a new category of “towaway trailer transporter combination” vehicles as “*a combination of vehicles consisting of a [powered vehicle not carrying property] and 2 trailers or semitrailers with a total weight that does not exceed 26,000 pounds and in which the trailers or semitrailers carry no property and constitute inventory property of a manufacturer, distributor, or dealer of such trailers or semitrailers.*”¹ As revised by the FAST Act, federal law now provides that “*a State may not prescribe or enforce a regulation of commerce that ... has the effect of imposing an overall length limitation of less than 82 feet*”² on any such towaway trailer transporter combination.

The effect of this provision is to permit tandem trailer deliveries in combinations of up to 82 feet in length, and to supersede the prior state law length limitations for such combinations that date back to the Intermodal Transportation Efficiency Act of 1991³. Tandem trailer operations must be conducted in compliance with other applicable state and federal commercial motor vehicle regulations, including any commercial drivers license (CDL) requirements.

Providing Access to National Highways

The FAST Act guarantees “reasonable access” to the interstate highway system for towaway trailer transporter combinations. Specifically, it amends existing law to provide that “*a State may not enact or enforce a law denying . . . reasonable access between*” the interstate highway system and “*terminals, facilities for food, fuel, repairs, and rest, and points of loading and unloading for . . . any towaway trailer transporter combination.*”⁴ As such, towaway trailer transporter combinations are authorized for travel on certain secondary and state-maintained roads that are necessary to access interstate highways.

Existing DOT regulations under 23 C.F.R. Part 658.19 provide further interpretation of the definition of “reasonable access.” In general, states may not impose vehicle dimension limits that are more restrictive than federal requirements, and may not “*enact or enforce any law denying access within 1 road-mile from [interstate highways] using the most reasonable and practicable route available except for specific safety reasons on individual routes.*”⁵ Past court decisions have held that states cannot adopt access restrictions that frustrate the congressional goal of facilitating uniform, nationwide access to the interstate highway system for commercial motor vehicles.⁶



Setting a Consistent Nationwide Standard

The FAST Act sets a consistent national standard for tandem trailer length and highway access for light- and medium-duty trailers. As the law specifically bars states from enacting or enforcing contrary length or highway access limitations, a court confronting a state law or regulation inconsistent with the FAST Act would likely find it to be preempted by the new federal statute. This has been in the case in prior judicial considerations of the preemptive effect of the statutory length and width provisions under 49 U.S. Code Chapter 311, Subchapter II and its predecessor statutes. As the court noted in *U.S. v. State of Connecticut*, “[a] long history of law has established beyond the slightest doubt that Congress has preeminent under the Commerce Clause of the Constitution . . . to pre-empt those state laws in conflict with congressional enactments.”⁷

Implementation

During the course of the coming months, NATM expects the U.S. Department of Transportation to provide guidance to state and local Departments of Transportation and law enforcement offices as to the implementation of provisions contained in the new law. States may take the opportunity to update their vehicle codes and regulations to incorporate the provisions of the new law. As implementation at the state and federal levels gets underway, NATM encourages its member companies to consult with legal counsel for guidance on compliance with the new law based on their specific situation.⁸

¹ 49 U.S.C. § 31111(a), revised pursuant to the FAST Act.

² 49 U.S.C. § 31111(b)(1)(H), revised pursuant to the FAST Act.

³ See 49 U.S.C. § 31112(b); 23 C.F.R. Part 658.23.

⁴ 49 U.S.C. § 31114(a), revised pursuant to the FAST Act.

⁵ 23 C.F.R. §§ 658.19(g);(d).

⁶ See, e.g., *Aux Sable Liquid Products v. Murphy*, 526 F.3d 1028, 1036 (7th Cir., 2008).

⁷ *U.S. v. State of Connecticut*, 566 F.Supp.571, 574 (D. Conn., 1983).

⁸ The discussions set forth in this fact sheet are for informational purposes only. They do not take into account the qualifications, exceptions and other considerations that may be relevant to particular situations. These discussions should not be construed as legal advice, which has to be addressed to particular facts and circumstances involved in any given situation.