

## The ATA's Fight Against Truck-Only Tolls

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Recently, some states have enacted “truck-only” tolls, with the goal of raising funds to improve road infrastructure by tolling the trucking industry exclusively. In 2016, Rhode Island led the charge with RhodeWorks, legislation aimed primarily at repairing the State's many inoperative and deficient bridges.<sup>1</sup> The law targets tractor-trailers, hoping to raise \$490 million by 2025 through a bridge tolling program.<sup>2</sup> On June 8, 2021, Connecticut followed suit, implementing a “highway user fee for trucks” which is set to generate \$90 million per year for road repairs.<sup>3</sup> In Alabama, the state Department of Transportation is considering prohibiting tractor-trailers from passing through the Wallace Tunnel in Mobile, and instead constructing a Mobile River Bridge, to be used—and paid for—largely by commercial truckers.<sup>4</sup> Phase 1 of the three-phase plan, the construction of the eastbound section of the bridge, along with some changes to the already existing roadway, is estimated to cost \$650 million, about half of which will come from the tolls.<sup>5</sup> At the same time, Pennsylvania is considering a plan to establish truck-only tolls on nine separate bridges throughout the state, providing money for road improvements.<sup>6</sup>

These acts and proposals have proven extremely controversial and representatives across the trucking industry continue to fight against the proposed measures. In fact, intense scrutiny of the effectiveness and legality of the tolls forced Governor Ned Lamont of Connecticut to back off the proposal in 2018, when he was originally campaigning on the idea.<sup>7</sup> The legal fight has centered, however, in Rhode Island, the first state to convert truck-only tolls from a threat to a promise. The American Trucking Association (ATA) has sued the State in federal court, arguing that the tolls are unconstitutional.<sup>8</sup> The ATA argues that RhodeWorks violates the Commerce Clause of the US Constitution by discriminating against out-of-state economic actors. In support of its argument, the ATA cited comments made by the Governor and House Speaker of Rhode Island, among others, which suggest that the proposal was enacted because of the cost to out-of-state trucking companies, rather than Rhode Island citizens.<sup>9</sup>

So far, it has been an uphill battle for the ATA. First, The United States District Court for the District of Rhode Island dismissed their suit, *American Trucking Associations, Inc. v. Alвити*, for lack of subject matter jurisdiction, a decision which the US Court of Appeals for the First Circuit reversed.<sup>10</sup> Next, the District Court denied the ATA's attempt to enjoin Rhode Island from enforcing the tolls while the case is pending.<sup>11</sup> Finally, in September of this year, the First Circuit ruled that legislative privilege prevented the discovery of certain information, which may have helped the ATA's case.<sup>12</sup>

Now, the challenge for the ATA is to demonstrate that RhodeWorks is unconstitutionally discriminatory against other states, and should be struck down, like other protectionist laws. Either way, the ATA's RhodeWorks suit will certainly pave the way for legal battles in other states, challenging the constitutionality of similar truck-only tolls.

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(Continued)



<sup>1</sup> Chris Hill, [RhodeWorks signed into law: RI transportation funding initiative to create 6,000 jobs](#), EQUIPMENT WORLD (Feb. 15, 2016).

<sup>2</sup> [The RhodeWorks Tolling Program](#), RIDOT.

<sup>3</sup> [Connecticut lawmakers pass truck-only highway user tax](#), CDL LIFE (June 9, 2021).

<sup>4</sup> [Alabama truckers fight truck-only toll proposal in Mobile](#), OVERDRIVE (May 27, 2021).

<sup>5</sup> Cory Pippin, [ALDOT provides update on Mobile River Bridge project, considers two toll options](#), NBC 15 NEWS (July 28, 2021).

<sup>6</sup> Ed Blazina, [Truckers to fight PennDOT plan to charge bridge tolls in Pa.](#), PITTSBURGH POST-GAZETTE (Feb. 23, 2021).

<sup>7</sup> Alabama truckers fight, *supra* note 4; Blazina, *supra*; and Matt Cole, [Trucks-only tolls crop up again as legal fights drag on](#), COMMERCIAL CARRIER JOURNAL (Dec. 16, 2019).

<sup>8</sup> Trucks-only tolls crop up again, *supra*.

<sup>9</sup> Complaint, *American Trucking Associations, Inc. v. Alviti*, 2018 WL 3368423 (D.R.I.).

<sup>10</sup> See *Am. Trucking Associations, Inc. v. Alviti*, 944 F.3d 45 (1st Cir. 2019).

<sup>11</sup> See *Am. Trucking Associations, Inc. v. Alviti*, No. CV 18-378-WES, 2020 WL 5443551 (D.R.I. Sept. 10, 2020).

<sup>12</sup> *Am. Trucking Associations, Inc. v. Alviti*, 14 F.4th 76, 81 (1st Cir. 2021).