

National Traffic and Motor Vehicle Safety Act

Breaking Down Statutory Text

This chart details which preemption sections of various omnibus and sectoral statutes deal with federal preemption.

| Codified Section | Type of Preemption | Are the circuit courts in general agreement on what this means? |
|--|---------------------------|---|
| 49 U.S.C. §30103(b)(1) | Conflict Preemption | Not litigated |
| 49 U.S.C. §30103(b)(1) | Anti-Preemption Provision | Not litigated |
| 49 U.S.C. §30103(b)(2) | Anti-Preemption Provision | Not litigated |
| 49 U.S.C. §30103(e) | Compliance Savings Clause | Yes – <i>Williamson v. Mazda Motor</i> provides a framework to evaluation statute’s implied preemptive scope. |

Methodology

The statutory text overwhelmingly contains express preemption and various savings clauses. Express preemption is directly related to statutory text, and it is the only form of preemption with this quality. The remaining types of preemption – field, impossibility, and obstacle – are forms of *implied* preemption. As the name suggests, these preemption categories are implicit in every statute and consequently do not rely on statutory text. (However, sometimes a statute will explicitly address an implied preemption principle, such as 42 U.S.C. § 2000h-4.) Instead, implied preemption principles appear exclusively in case law. Case law that relies on a theory of implied preemption are appropriately notated.

Since courts have not addressed every issue, there may be areas that are marked as “Not litigated.”

Legend:

Express Preemption

Field Preemption

Impossibility Preemption

Obstacle Preemption

Floor Preemption

Anti-Preemption Provision

Compliance Savings Clause

Remedies Savings Clause

Sunset Provision

Ceiling Preemption

Statutory Text

49 U.S.C. §30103

(b) Preemption.

(1) When a motor vehicle safety standard is in effect under this chapter [49 USCS §§ 30101 et seq.], a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or

motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter [49 USCS §§ 30101 et seq.]. However, the United States Government, a State, or a political subdivision of a State may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the otherwise applicable standard under this chapter [49 USCS §§ 30101 et seq.].

(2) A State may enforce a standard that is identical to a standard prescribed under this chapter [49 USCS §§ 30101 et seq.].

[...]

(e) Common law liability. Compliance with a motor vehicle safety standard prescribed under this chapter [49 USCS §§ 30101 et seq.] does not exempt a person from liability at common law.

Summary

The National Traffic and Motor Vehicle Safety Act (NTMVSA, or “Safety Act”) gives the National Highway Traffic Safety Administration (NHTSA) the ability to create Federal Motor Vehicle Safety Standards (FMVSS), which are automobile manufacturing regulations.

In litigation, the most common preemption problems seem to center around determining if state law tort claims are preempted by the NTMVSA. Usually this is in the context of an FMVSS that allows manufacturer to choose between safety options, where a state tort claim seeks damages for not making a specific choice. Two Supreme Court cases, *Geier* and *Williamson*, have provided a framework for lower courts. The Court has decided that although the statute’s express preemption provision does not preempt tort law claims, implicit preemption principles can still bar the lawsuits. The Court emphasized conflict preemption: if preserving manufacturer’s choice is a significant regulatory objective, then the state tort claim is preempted. If the choice is not a significant regulatory objective, then the claim is not preempted. To determine if it is or is not, courts should look to statutory history, text, commentary, and the NHTSA’s interpretation at the time of enactment and now.

Case Law

Geier v. Am. Honda Motor Co., 529 U.S. 861 (2000)

Facts: A standard created by the Department of Transportation under the NTMVSA did not require auto manufacturers to install airbags into all 1987 vehicles. An auto manufacturer complied with the standard. Geier drove one of Defendant’s cars, without airbags, when she crashed. Geier alleges that the auto manufacturer should be liable for negligence in failing to install airbags, irrespective of the standard.

Issue: Does the NTMVSA preempt a state common-law tort action?

Holding: **The tort suit is preempted.** Though the statute’s express preemption provision does not preempt the lawsuit, the ordinary workings of the preemption principles, such as conflict preemption, still apply.

Williamson v. Mazda Motor of Am., Inc., 562 U.S. 323 (2011)

Facts: A Federal Motor Vehicle Safety Standard (FMVSS) allows auto manufacturers to have a choice between which seat belt to install on inner rear seats. Thanh Williamson died in an accident while riding in the rear aisle seat of a Mazda minivan, equipped with a lap belt instead of a lap-and-shoulder belt.

Issue: Does the NTMVSA preempt a state tort suit that would eliminate a choice otherwise allowed through the federal regulation?

Holding: **When a choice is promulgated by the Safety Act, it does not preempt state tort actions when that choice is not a significant regulatory objective. When maintaining a choice is a significant regulatory objective, then a state tort action that would eliminate the choice is preempted.** To determine objective – look to history, agency's interpretation at time of enactment, and agency's interpretation now.

O'Hara v. GMC, 508 F.3d 753 (5th Cir. 2007)

Facts: During an accident, a minor was partially ejected from a car and injured. Her parents sued in state court for strict liability and negligence for defective design, manufacture, and marketing of the car's side windows.

Issue: Does the FMVSS preempt the state law tort claim?

Rule: "When [National Highway Traffic Safety Administration] regulations are only intended to create a 'minimum safety standard,' states are free to adopt common law rules which require a greater level of safety."

Holding: **No, the state law tort claim is not preempted.**

Fabian v. Fulmer Helmets, Inc., 628 F.3d 278 (6th Cir. 2010)

Facts: The NHTSA relies on self-certification for helmets, with random compliance checks. In 2002, NHTSA selected the small version of Defendant's helmet for testing; the helmet failed two components of the test. Defendant did not recall the helmets, inform customers, or attempt to fix the issues moving forward. Fabian bought a helmet, and sold it to a friend, who then died of severe brain trauma while in a motorcycle crash using the helmet. Plaintiff is seeking recovery from a helmet manufacturer for misrepresenting the safety of its helmets.

Issue: Does the Safety Act preempt this lawsuit?

Holding: **No, the lawsuit is not preempted.**

Myrick v. Freuhauf Corp., 13 F.3d 1516 (11th Cir. 1994)

Facts: Myrick is permanently paraplegic and brain damages after the rear wheels of a 18-wheel tractor-trailer locked, causing it to jackknife and swing into oncoming traffic.

Issue: Is a common law tort action preempted by the Safety Act?

Rule: Under *Cipollone*, when a statute contains an express preemption provision with a "reliable indicium of congressional intent with respect to state authority," the court should not consider principles of implied preemption.

Application: The Safety Act includes a preemption clause and savings clause; the lawsuit is not expressly preempted. Following *Cipollone*, the Court does not consider theories of implied preemption.

Holding: **No, it is not preempted.**

Morgan v. Ford Motor Co., 224 W.Va. 62 (W. Va. 2009)

Facts: Morgan was injured when his 1999 Ford Expedition rolled; his left hand and arm were ejected through broken tempered glass, causing severe injuries. The manufacturer used tempered glass in the vehicle's side windows, which was a permitted option under FMVSS 205. Plaintiff argues the manufacturer should have used laminated glass.

Application: The Court believes that *Geier* is flawed, but nonetheless is bound by its precedent.

Holding: To preserve the choice allowed in FMVSS 205, the state law tort suit is preempted.

MCI Sales & Serv. v. Hinton, 329 S.W.3d 475 (Tex. 2010)

Facts: A group of friends chartered a bus to travel to a concert. Due to bad weather and an accident, the driver lost control and five passengers were killed. The plaintiffs – injured passengers or their estates – alleged the bus was defectively designed because it lacked passenger seatbelts and laminated-glass windows. The jury awarded plaintiffs \$17 million in damages.

Issue: Do the federal safety standards preempt a jury decision in a state suit?

Holding: No federal safety standards discuss passenger seatbelts in motorcoaches; the lawsuit is not preempted based on NHTSA's regulatory silence. FMVSS 205 is a minimum standard regulation; the lawsuit does not present an obstacle to its accomplishment and is not preempted.

Priester v. Cromer, 401 S.C. 38 (S.C. 2012)

Facts: Priester died after a car crash, where Cromer drove a 1997 pick-up truck and rolled it several times. FMVSS 205 allowed a choice between laminated and tempered glass. Relying on *Geier*, the Court initially ruled that FMVSS preempted the state law products liability claim. In the meantime, the Supreme Court decided *Williamson* and vacated the judgment of this Court.

Issue: Does FMVSS 205 preempt this state law product liability claim?

Holding: Yes, it is preempted. The lawsuit would frustrate two significant federal objectives of FMVSS 205.

Morris v. Mitsubishi Motors N. Am., Inc., 782 F. Supp. 2d 1149 (E.D. Wash. 2011)

Facts: Morris was injured while driving her 1996 Mitsubishi Eclipse when she rear-ended a flat-bed truck. The car was minimally damaged. However, the car's airbags deployed, which severed her spine, resulting in incomplete quadriplegia and paralysis. Morris is bringing a failure to warn claim under the Washington Product Liability Act.

Issue: Is the WLPA preempted by FMVSS 208 – a standard promulgated by the NHTSA under the NTMDSA?

Holding: Yes – it is preempted. The Court finds that NHTSA was concerned about "information overload" when created FMVSS 208. Therefore, to the extent that the suit concerns additional warnings to drivers of short statute, the claim is preempted.

Dashi v. Nissan N. Am., Inc., 247 Ariz. 56 (Ariz. Ct. App. 2019)

Facts: Dashi was in a car accident with a Nissan, where the Nissan was not equipped with automatic emergency braking systems, which includes Forward Collision Warning and

Crash Imminent Braking. Dashi sued Nissan for failing to install the safety features. However, the NHTSA left the choice to install automatic braking features to manufacturers.

Holding: Yes, it is preempted. Looking at the regulatory history, text, commentary, and NHTSA's explanation of objectives, the NHTSA determined manufacturer's choice is a significant regulatory objective.