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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

ROWE, ATTORNEY GENERAL OF MAINE *v.* NEW HAMPSHIRE MOTOR TRANSPORT ASSOCIATION ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

No. 06–457. Argued November 28, 2007—Decided February 20, 2008

Although a provision of the Federal Aviation Administration Authorization Act of 1994 forbids States to "enact or enforce a law . . . related to a price, route, or service of any motor carrier," 49 U. S. C. §14501(c)(1), see also §41713(b)(4)(a), Maine adopted a law which, *inter alia,* (1) specifies that a state-licensed tobacco shipper must utilize a delivery company that provides a recipient-verification service that confirms the buyer is of legal age, and (2) adds, in prohibiting unlicensed tobacco shipments into the State, that a person is deemed to know that a package contains tobacco if it is marked as originating from a Maine-licensed tobacco retailer or if it is received from someone whose name appears on an official list of *un*-licensed tobacco retailers distributed to package-delivery companies. In respondent carrier associations' suit, the District Court and the First Circuit agreed with respondents that Maine's recipient-verification and deemed-to-know provisions were pre-empted by federal law.

Held: Federal law pre-empts the two state-law provisions at issue. Pp. 3–11.

(a) In interpreting the 1994 federal Act, the Court follows *Morales* v. *Trans World Airlines, Inc.*, 504 U. S. 374, 378, in which it interpreted similar language in the pre-emption provision of the Airline Deregulation Act of 1978. Voiding state enforcement of consumer fraud statutes against deceptive airline-fare advertisements, *Morales* determined, *inter alia,* that the federal Act pre-empted state actions having a "connection with" carrier "'rates, routes, or services,'" *id.,* at 384; that pre-emption may occur even if a state law has only an

indirect effect on rates, routes, or services, *id.,* at 386; and that pre-emption occurs at least where state laws have a "significant impact" related to Congress' deregulatory and pre-emption-related objectives, *id.,* at 390. The Court also emphasized that the airline Act's overarching goal of helping assure that transportation rates, routes, and services reflects maximum reliance on competitive market forces, *id.,* at 378, and stated that federal law might not pre-empt state laws affecting fares only tenuously, remotely, or peripherally, but did not say where, or how, it would draw the line on "borderline" questions, *id.,* at 390. Pp. 3–5.

(b) In light of *Morales,* the Maine laws at issue are pre-empted. In regulating delivery service procedures, the recipient-verification provision focuses on trucking and similar services, thereby creating a direct "connection with" motor carrier services. See 504 U. S., at 384. It also has a "significant" and adverse "impact" in respect to the federal Act's ability to achieve its pre-emption-related objectives, *id.,* at 390, because it requires carriers to offer a system of services that the market does not now provide (and which the carriers would prefer not to offer). Even were that not so, the law would freeze into place services that carriers might prefer to discontinue in the future, thereby producing the very effect the federal law sought to avoid, *i.e.,* a State's direct substitution of its own governmental commands for "competitive market forces" in determining (to a significant degree) the services that motor carriers will provide. *Id.,* at 378. Maine's deemed-to-know provision applies yet more directly to motor carrier services by creating a conclusive presumption of carrier knowledge that a shipment contains tobacco in the specified circumstances. That presumption means that the law imposes civil liability upon the carrier, not simply for its knowing transport of (unlicensed) tobacco, but for the carrier's *failure sufficiently to examine every package.* The provision thus requires the carrier to check each shipment for certain markings and to compare it against the list of proscribed shippers, thereby directly regulating a significant aspect of the motor carrier's package pick-up and delivery service and creating the kind of state-mandated regulation that the federal Act pre-empts. Pp. 5–7.

(c) Maine's primary arguments for an exception from pre-emption—that its laws help prevent minors from obtaining cigarettes and thereby protect its citizens' public health—are unavailing. The federal law does not create a public health exception, but, to the contrary, explicitly lists a set of exceptions that do not include public health. See, *e.g.,* §§14501(c)(2) to (c)(3). Nor does its legislative history mention specific state enforcement methods or suggest that Congress made a firm judgment about, or even focused upon, the issue here. Maine's inability to find significant support for such an excep-

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tion is not surprising, given the number of States through which carriers travel, the number of products carried, the variety of potential adverse public health effects, the many different kinds of regulatory rules potentially available, and the difficulty of finding a legal criterion for separating permissible from impermissible public-health-oriented regulations. Although federal law does not generally pre-empt state public health regulation, the state laws at issue are not general, their impact on carrier rates, routes, or services is significant, and their connection with trucking is not tenuous, remote, or peripheral: They aim directly at the carriage of goods, a commercial field where carriage by commercial motor vehicles plays a major role. From the perspective of pre-emption, this case is no more "borderline" than was *Morales*. Maine's argument that to set aside its regulations will seriously harm its efforts to prevent minors from obtaining cigarettes is unpersuasive in light of other legislative alternatives available to the State. Regardless, given *Morales'* holding that federal law pre-empts state consumer-protection laws, federal law must also pre-empt Maine's efforts directly to regulate carrier services. Pp. 7–11.

448 F. 3d 66, affirmed.

BREYER, J., delivered the opinion of the Court, in which ROBERTS, C. J., and STEVENS, KENNEDY, SOUTER, THOMAS, GINSBURG, and ALITO, JJ., joined, and in which SCALIA, J., joined in part. GINSBURG, J., filed a concurring opinion. Scalia, J., filed an opinion concurring in part.