

Subsec. (g). Pub. L. 109-59, §4120(b)(2), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (g)(5). Pub. L. 109-59, §4121, as amended by Pub. L. 110-244, §301(f), substituted “Highway Trust Fund (other than the Mass Transit Account)” for “Treasury as miscellaneous receipts”.

Subsec. (h). Pub. L. 109-59, §4120(b)(2), redesignated subsec. (g) as (h).

1995—Subsec. (e)(3). Pub. L. 104-88 added par. (3).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 301(f) of Pub. L. 110-244 effective as of the date of enactment of Pub. L. 109-59 (Aug. 10, 2005) and to be treated as included in Pub. L. 109-59 as of that date, and provisions of Pub. L. 109-59, as in effect on the day before June 6, 2008, that are amended by Pub. L. 110-244 to be treated as not enacted, see section 121(b) of Pub. L. 110-244, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of this title.

[§ 31140. Repealed. Pub. L. 105-178, title IV, § 4008(d), June 9, 1998, 112 Stat. 404]

Section, Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1008, related to submission of State laws and regulations for review by Secretary of Transportation and Commercial Motor Vehicle Safety Regulatory Review Panel.

§ 31141. Review and preemption of State laws and regulations

(a) **PREEMPTION AFTER DECISION.**—A State may not enforce a State law or regulation on commercial motor vehicle safety that the Secretary of Transportation decides under this section may not be enforced.

(b) **SUBMISSION OF REGULATION.**—A State receiving funds made available under section 31104 that enacts a State law or issues a regulation on commercial motor vehicle safety shall submit a copy of the law or regulation to the Secretary immediately after the enactment or issuance.

(c) **REVIEW AND DECISIONS BY SECRETARY.**—

(1) **REVIEW.**—The Secretary shall review State laws and regulations on commercial motor vehicle safety. The Secretary shall decide whether the State law or regulation—

(A) has the same effect as a regulation prescribed by the Secretary under section 31136;

(B) is less stringent than such regulation; or

(C) is additional to or more stringent than such regulation.

(2) **REGULATIONS WITH SAME EFFECT.**—If the Secretary decides a State law or regulation has the same effect as a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may be enforced.

(3) **LESS STRINGENT REGULATIONS.**—If the Secretary decides a State law or regulation is less stringent than a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may not be enforced.

(4) **ADDITIONAL OR MORE STRINGENT REGULATIONS.**—If the Secretary decides a State law or regulation is additional to or more stringent than a regulation prescribed by the Secretary

under section 31136 of this title, the State law or regulation may be enforced unless the Secretary also decides that—

(A) the State law or regulation has no safety benefit;

(B) the State law or regulation is incompatible with the regulation prescribed by the Secretary; or

(C) enforcement of the State law or regulation would cause an unreasonable burden on interstate commerce.

(5) **CONSIDERATION OF EFFECT ON INTERSTATE COMMERCE.**—In deciding under paragraph (4) whether a State law or regulation will cause an unreasonable burden on interstate commerce, the Secretary may consider the effect on interstate commerce of implementation of that law or regulation with the implementation of all similar laws and regulations of other States.

(d) **WAIVERS.**—(1) A person (including a State) may petition the Secretary for a waiver of a decision of the Secretary that a State law or regulation may not be enforced under this section. The Secretary shall grant the waiver, as expeditiously as possible, if the person demonstrates to the satisfaction of the Secretary that the waiver is consistent with the public interest and the safe operation of commercial motor vehicles.

(2) Before deciding whether to grant or deny a petition for a waiver under this subsection, the Secretary shall give the petitioner an opportunity for a hearing on the record.

(e) **WRITTEN NOTICE OF DECISIONS.**—Not later than 10 days after making a decision under subsection (c) of this section that a State law or regulation may not be enforced, the Secretary shall give written notice to the State of that decision.

(f) **JUDICIAL REVIEW AND VENUE.**—(1) Not later than 60 days after the Secretary makes a decision under subsection (c) of this section, or grants or denies a petition for a waiver under subsection (d) of this section, a person (including a State) adversely affected by the decision, grant, or denial may file a petition for judicial review. The petition may be filed in the court of appeals of the United States for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.

(2) The court has jurisdiction to review the decision, grant, or denial and to grant appropriate relief, including interim relief, as provided in chapter 7 of title 5.

(3) A judgment of a court under this subsection may be reviewed only by the Supreme Court under section 1254 of title 28.

(4) The remedies provided for in this subsection are in addition to other remedies provided by law.

(g) **INITIATING REVIEW PROCEEDINGS.**—To review a State law or regulation on commercial motor vehicle safety under this section, the Secretary may initiate a regulatory proceeding on the Secretary’s own initiative or on petition of an interested person (including a State).