

under section 31102 of this title in a fiscal year may enforce in that fiscal year a regulation on commercial motor vehicle safety adopted by the State as the regulation applies to commercial motor vehicles and operators leased to the Government.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1010; Pub. L. 105-178, title IV, §4008(f), (g), June 9, 1998, 112 Stat. 405.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)    | Source (Statutes at Large)  |
|-----------------|-----------------------|---|
| 31142(a) .....  | 49 App.:2509(a).      | Oct. 30, 1984, Pub. L. 98-554, §210(a)-(f), 98 Stat. 2839.  |
| 31142(b) .....  | 49 App.:2509(b), (c). |   |
| 31142(c) .....  | 49 App.:2509(d).      |   |
| 31142(d) .....  | 49 App.:2509(e).      |   |
| 31142(e) .....  | 49 App.:2509(f).      |   |
| 31142(f) .....  | 49 App.:2509(g).      | Oct. 30, 1984, Pub. L. 98-554, 98 Stat. 2829, §210(g); added Nov. 16, 1990, Pub. L. 101-615, §24, 104 Stat. 3273. |

In this section, language about whether a State law or regulation may be “in effect” is omitted as redundant to language about whether it may be “enforced”.

In subsection (b), the words “shall prescribe regulations on” are substituted for “shall, by rule, establish” for consistency in the revised title and with other titles of the United States Code and because “rule” is synonymous with “regulation”. The words “For purposes of this chapter” are omitted as unnecessary. The text of 49 App.:2509(c) is omitted as executed.

In subsection (c)(1), before clause (A), the words “this subchapter and section 31102 of this title do not” are substituted for “nothing in section 2302 of this Appendix or section 2507 of this Appendix or any other provision of this chapter shall be construed as” to eliminate unnecessary words.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-178, §4008(f), substituted “the regulations issued under section 31136” for “part 393 of title 49, Code of Federal Regulations”.

Subsec. (c)(1)(C). Pub. L. 105-178, §4008(g), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “prevent a State from enforcing a program for inspection of commercial motor vehicles that meets the requirements for membership in the Commercial Vehicle Safety Alliance, as those requirements were in effect on October 30, 1984; or”.

**§ 31143. Investigating complaints and protecting complainants**

(a) INVESTIGATING COMPLAINTS.—The Secretary of Transportation shall conduct a timely investigation of a nonfrivolous written complaint alleging that a substantial violation of a regulation prescribed under this subchapter is occurring or has occurred within the prior 60 days. The Secretary shall give the complainant timely notice of the findings of the investigation. The Secretary is not required to conduct separate investigations of duplicative complaints.

(b) PROTECTING COMPLAINANTS.—Notwithstanding section 552 of title 5, the Secretary may disclose the identity of a complainant only if disclosure is necessary to prosecute a violation. If disclosure becomes necessary, the Secretary shall take every practical means within the Secretary’s authority to ensure that the complainant is not subject to harassment, intimidation, disciplinary action, discrimination, or financial loss because of the disclosure.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1012.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large)                          |
|-----------------|--------------------|---|
| 31143(a) .....  | 49 App.:2511(a).   | Oct. 30, 1984, Pub. L. 98-554, §212, 98 Stat. 2841. |
| 31143(b) .....  | 49 App.:2511(b).   |   |

TELEPHONE HOTLINE FOR REPORTING SAFETY VIOLATIONS

Pub. L. 105-178, title IV, §4017, June 9, 1998, 112 Stat. 413, as amended by Pub. L. 106-159, title II, §213, Dec. 9, 1999, 113 Stat. 1766, provided that:

“(a) IN GENERAL.—For a period of not less than 2 years beginning on or before the 90th day following the date of enactment of this Act [June 9, 1998], the Secretary [of Transportation] shall establish, maintain, and promote the use of a nationwide toll-free telephone system to be used by drivers of commercial motor vehicles and others to report potential violations of Federal motor carrier safety regulations.

“(b) MONITORING.—The Secretary shall monitor reports received by the telephone system and may consider nonfrivolous information provided by such reports in setting priorities for motor carrier safety audits and other enforcement activities.

“(c) STAFFING.—The toll-free telephone system shall be staffed 24 hours a day 7 days a week by individuals knowledgeable about Federal motor carrier safety regulations and procedures.

“(d) PROTECTION OF PERSONS REPORTING VIOLATIONS.—

“(1) PROHIBITION.—A person reporting a potential violation to the telephone system while acting in good faith may not be discharged, disciplined, or discriminated against regarding pay, terms, or privileges of employment because of the reporting of such violation.

“(2) APPLICABILITY OF SECTION 31105 OF TITLE 49.—For purposes of section 31105 of title 49, United States Code, a violation or alleged violation of paragraph (1) shall be treated as a violation of section 31105(a) of such title.

“(e) FUNDING.—From amounts set aside under section 104(a)(1)(B) of title 23, United States Code, the Secretary may use not more than \$250,000 for fiscal year 1999 and \$375,000 for each of fiscal years 2000 through 2003 to carry out this section.”

**§ 31144. Safety fitness of owners and operators**

(a) IN GENERAL.—The Secretary shall—

(1) determine whether an owner or operator is fit to operate safely commercial motor vehicles, utilizing among other things the accident record of an owner or operator operating in interstate commerce and the accident record and safety inspection record of such owner or operator—

(A) in operations that affect interstate commerce within the United States; and

(B) in operations in Canada and Mexico if the owner or operator also conducts operations within the United States;

(2) periodically update such safety fitness determinations;

(3) make such final safety fitness determinations readily available to the public; and

(4) prescribe by regulation penalties for violations of this section consistent with section 521.

(b) PROCEDURE.—The Secretary shall maintain by regulation a procedure for determining the

safety fitness of an owner or operator. The procedure shall include, at a minimum, the following elements:

(1) Specific initial and continuing requirements with which an owner or operator must comply to demonstrate safety fitness.

(2) A methodology the Secretary will use to determine whether an owner or operator is fit.

(3) Specific time frames within which the Secretary will determine whether an owner or operator is fit.

(c) PROHIBITED TRANSPORTATION.—

(1) IN GENERAL.—Except as provided in section 521(b)(5)(A) and this subsection, an owner or operator who the Secretary determines is not fit may not operate commercial motor vehicles in interstate commerce beginning on the 61st day after the date of such fitness determination and until the Secretary determines such owner or operator is fit.

(2) OWNERS OR OPERATORS TRANSPORTING PASSENGERS.—With regard to owners or operators of commercial motor vehicles designed or used to transport passengers, an owner or operator who the Secretary determines is not fit may not operate in interstate commerce beginning on the 46th day after the date of such fitness determination and until the Secretary determines such owner or operator is fit.

(3) OWNERS OR OPERATORS TRANSPORTING HAZARDOUS MATERIAL.—With regard to owners or operators of commercial motor vehicles designed or used to transport hazardous material for which placarding of a motor vehicle is required under regulations prescribed under chapter 51, an owner or operator who the Secretary determines is not fit may not operate in interstate commerce beginning on the 46th day after the date of such fitness determination and until the Secretary determines such owner or operator is fit. A violation of this paragraph by an owner or operator transporting hazardous material shall be considered a violation of chapter 51, and shall be subject to the penalties in sections 5123 and 5124.

(4) SECRETARY'S DISCRETION.—Except for owners or operators described in paragraphs (2) and (3), the Secretary may allow an owner or operator who is not fit to continue operating for an additional 60 days after the 61st day after the date of the Secretary's fitness determination, if the Secretary determines that such owner or operator is making a good faith effort to become fit.

(5) TRANSPORTATION AFFECTING INTERSTATE COMMERCE.—Owners or operators of commercial motor vehicles prohibited from operating in interstate commerce pursuant to paragraphs (1) through (3) of this section may not operate any commercial motor vehicle that affects interstate commerce until the Secretary determines that such owner or operator is fit.

(d) DETERMINATION OF UNFITNESS BY STATE.—If a State that receives motor carrier safety assistance program funds under section 31102 determines, by applying the standards prescribed by the Secretary under subsection (b), that an owner or operator of a commercial motor vehicle that has its principal place of business in that State and operates in intrastate commerce

is unfit under such standards and prohibits the owner or operator from operating such vehicle in the State, the Secretary shall prohibit the owner or operator from operating such vehicle in interstate commerce until the State determines that the owner or operator is fit.

(e) REVIEW OF FITNESS DETERMINATIONS.—

(1) IN GENERAL.—Not later than 45 days after an unfit owner or operator requests a review, the Secretary shall review such owner's or operator's compliance with those requirements with which the owner or operator failed to comply and resulted in the Secretary determining that the owner or operator was not fit.

(2) OWNERS OR OPERATORS TRANSPORTING PASSENGERS.—Not later than 30 days after an unfit owner or operator of commercial motor vehicles designed or used to transport passengers requests a review, the Secretary shall review such owner's or operator's compliance with those requirements with which the owner or operator failed to comply and resulted in the Secretary determining that the owner or operator was not fit.

(3) OWNERS OR OPERATORS TRANSPORTING HAZARDOUS MATERIAL.—Not later than 30 days after an unfit owner or operator of commercial motor vehicles designed or used to transport hazardous material for which placarding of a motor vehicle is required under regulations prescribed under chapter 51, the Secretary shall review such owner's or operator's compliance with those requirements with which the owner or operator failed to comply and resulted in the Secretary determining that the owner or operator was not fit.

(f) PROHIBITED GOVERNMENT USE.—A department, agency, or instrumentality of the United States Government may not use to provide any transportation service an owner or operator who the Secretary has determined is not fit until the Secretary determines such owner or operator is fit.

(g) SAFETY REVIEWS OF NEW OPERATORS.—

(1) IN GENERAL.—The Secretary shall require, by regulation, each owner and each operator granted new operating authority, after the date on which section 31148(b) is first implemented, to undergo a safety review within the first 18 months after the owner or operator, as the case may be, begins operations under such authority.

(2) ELEMENTS.—In the regulations issued pursuant to paragraph (1), the Secretary shall establish the elements of the safety review, including basic safety management controls. In establishing such elements, the Secretary shall consider their effects on small businesses and shall consider establishing alternate locations where such reviews may be conducted for the convenience of small businesses.

(3) PHASE-IN OF REQUIREMENT.—The Secretary shall phase in the requirements of paragraph (1) in a manner that takes into account the availability of certified motor carrier safety auditors.

(4) NEW ENTRANT AUTHORITY.—Notwithstanding any other provision of this title, any new operating authority granted after the date on which section 31148(b) is first implemented shall be designated as new entrant authority

until the safety review required by paragraph (1) is completed.

(5) NEW ENTRANT AUDITS.—

(A) GRANTS.—The Secretary may make grants to States and local governments for new entrant motor carrier audits under this subsection without requiring a matching contribution from such States and local governments.

(B) SET ASIDE.—The Secretary shall set aside from amounts made available by section 31104(a) up to \$29,000,000 per fiscal year and up to \$14,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012, for audits of new entrant motor carriers conducted pursuant to this paragraph.

(C) DETERMINATION.—If the Secretary determines that a State or local government is not able to use government employees to conduct new entrant motor carrier audits, the Secretary may use the funds set aside under this paragraph to conduct audits for such States or local governments.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1012; Pub. L. 104–88, title I, §104(g), Dec. 29, 1995, 109 Stat. 920; Pub. L. 105–178, title IV, §4009(a), June 9, 1998, 112 Stat. 405; Pub. L. 106–159, title II, §210(a), Dec. 9, 1999, 113 Stat. 1764; Pub. L. 109–59, title IV, §§4107(b), 4114, title VII, §7112(b), (c), Aug. 10, 2005, 119 Stat. 1720, 1725, 1899; Pub. L. 110–244, title III, §301(b), (c), June 6, 2008, 122 Stat. 1616; Pub. L. 111–147, title IV, §422(e), Mar. 18, 2010, 124 Stat. 87; Pub. L. 111–322, title II, §2202(e), Dec. 22, 2010, 124 Stat. 3525; Pub. L. 112–5, title II, §202(e), Mar. 4, 2011, 125 Stat. 17; Pub. L. 112–30, title I, §122(e), Sept. 16, 2011, 125 Stat. 349.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)    | Source (Statutes at Large)                          |
|-----------------|-----------------------|---|
| 31144(a)(1) ..  | 49 App.:2512(a), (b). | Oct. 30, 1984, Pub. L. 98–554, §215, 98 Stat. 2844. |
| 31144(a)(2) ..  | 49 App.:2512(c).      |   |
| 31144(b) .....  | 49 App.:2512(d).      |   |

In subsection (a), the word “regulation” is substituted for “rule” for consistency in the revised title and because the terms are synonymous.

In subsection (a)(1), the words “after notice and opportunity for comment” are omitted as unnecessary because of 5:553. The text of 49 App.:2512(b) is omitted as executed.

AMENDMENTS

2011—Subsec. (g)(5)(B). Pub. L. 112–30 substituted “fiscal year and up to \$14,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” for “fiscal year”.

Pub. L. 112–5 struck out “(and up to \$12,315,000 for the period beginning October 1, 2010, and ending on March 4, 2011)” after “year”.

2010—Subsec. (g)(5)(B). Pub. L. 111–322 substituted “(and up to \$12,315,000 for the period beginning October 1, 2010, and ending on March 4, 2011)” for “(and up to \$7,310,000 for the period beginning on October 1, 2010, and ending on December 31, 2010)”.

Pub. L. 111–147 inserted “(and up to \$7,310,000 for the period beginning on October 1, 2010, and ending on December 31, 2010)” after “fiscal year”.

2008—Pub. L. 110–244 amended Pub. L. 109–59, §§4107(b), 4114(c)(1), 7112. See 2005 Amendment notes below.

2005—Subsec. (a). Pub. L. 109–59, §4114(a), reenacted heading without change and amended text of subsec. (a)

generally. Prior to amendment, text read as follows: “The Secretary shall—

“(1) determine whether an owner or operator is fit to operate safely commercial motor vehicles;

“(2) periodically update such safety fitness determinations;

“(3) make such final safety fitness determinations readily available to the public; and

“(4) prescribe by regulation penalties for violations of this section consistent with section 521.”

Subsec. (c). Pub. L. 109–59, §7112(c), which directed amendment of this section by redesignating the second subsec. (c), relating to safety reviews of new operators, as (f), was repealed by Pub. L. 110–244, §301(b)(2).

Pub. L. 109–59, §4107(b)(1), as amended by Pub. L. 110–244, §301(b)(1), redesignated subsec. (c), relating to safety reviews of new operators, as (f).

Subsec. (c)(1). Pub. L. 109–59, §7112(b)(1), substituted “section 521(b)(5)(A)” for “sections 521(b)(5)(A) and 5113”.

Subsec. (c)(3). Pub. L. 109–59, §7112(b)(2), inserted at end “A violation of this paragraph by an owner or operator transporting hazardous material shall be considered a violation of chapter 51, and shall be subject to the penalties in sections 5123 and 5124.”

Subsec. (c)(5). Pub. L. 109–59, §4114(b), added par. (5).

Subsec. (d). Pub. L. 109–59, §4114(c)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Pub. L. 109–59, §4114(c)(1), as amended by Pub. L. 110–244, §301(c), redesignated subsec. (d) as (e).

Subsec. (e). Pub. L. 109–59, §4114(c)(1), as amended by Pub. L. 110–244, §301(c), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 109–59, §7112(c), which directed amendment of this section by redesignating the second subsec. (c), relating to safety reviews of new operators, as (f), was repealed by Pub. L. 110–244, §301(b)(2).

Pub. L. 109–59, §4114(c)(1), as amended by Pub. L. 110–244, §301(c), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Pub. L. 109–59, §4107(b)(1), as amended by Pub. L. 110–244, §301(b)(1), redesignated subsec. (c), relating to safety reviews of new operators, as (f).

Subsec. (f)(5). Pub. L. 109–59, §4107(b)(2), as amended by Pub. L. 110–244, §301(b)(1), added par. (5).

Subsec. (g). Pub. L. 109–59, §4114(c)(1), as amended by Pub. L. 110–244, §301(c), redesignated subsec. (f) as (g). 1999—Subsec. (c). Pub. L. 106–159 added subsec. (c) relating to safety reviews of new operators.

1998—Pub. L. 105–178 reenacted section catchline without change and amended text generally, substituting, in subsec. (a), general provisions for provisions relating to procedure and, in subsec. (b), provisions relating to procedure for provisions relating to findings and action on registrations, and adding subsecs. (c) to (e).

1995—Subsec. (a)(1). Pub. L. 104–88, §104(g)(1)–(3), in first sentence substituted “The Secretary” for “In cooperation with the Interstate Commerce Commission, the Secretary” and “section 13902” for “sections 10922 and 10923” and in subpar. (C) struck out “and the Commission” after “Secretary”.

Subsec. (b). Pub. L. 104–88, §104(g)(4), added subsec. (b) and struck out former subsec. (b) which read as follows: “FINDINGS AND ACTION ON APPLICATIONS.—The Commission shall—

“(1) find an applicant for authority to operate as a motor carrier unfit if the applicant does not meet the safety fitness requirements established under subsection (a) of this section; and

“(2) deny the application.”

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by 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.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to “this title” deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111-314, set out as a note under section 101 of this title.

HIGH RISK CARRIER COMPLIANCE REVIEWS

Pub. L. 109-59, title IV, §4138, Aug. 10, 2005, 119 Stat. 1745, provided that: “From the funds authorized by section 31104(i) of title 49, United States Code, the Secretary [of Transportation] shall ensure that compliance reviews are completed on motor carriers that have demonstrated through performance data that they pose the highest safety risk. At a minimum, a compliance review shall be conducted whenever a motor carrier is rated as category A or B for 2 consecutive months.”

MINIMUM REQUIREMENTS

Pub. L. 106-159, title II, §210(b), Dec. 9, 1999, 113 Stat. 1765, provided that: “The Secretary shall initiate a rulemaking to establish minimum requirements for applicant motor carriers, including foreign motor carriers, seeking Federal interstate operating authority to ensure applicant carriers are knowledgeable about applicable Federal motor carrier safety standards. As part of that rulemaking, the Secretary shall consider the establishment of a proficiency examination for applicant motor carriers as well as other requirements to ensure such applicants understand applicable safety regulations before being granted operating authority.”

§ 31145. Coordination of Governmental activities and paperwork

The Secretary of Transportation shall coordinate the activities of departments, agencies, and instrumentalities of the United States Government to ensure adequate protection of the safety and health of operators of commercial motor vehicles. The Secretary shall attempt to minimize paperwork burdens to ensure maximum coordination and to avoid overlap and the imposition of unreasonable burdens on persons subject to regulations under this subchapter.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1012.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large)                              |
|-----------------|--------------------|---|
| 31145 .....     | 49 App.:2517(b).   | Oct. 30, 1984, Pub. L. 98-554, § 220(b), 98 Stat. 2846. |

§ 31146. Relationship to other laws

Except as provided in section 31136(b) of this title, this subchapter and the regulations prescribed under this subchapter do not affect chapter 51 of this title or a regulation prescribed under chapter 51.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1013.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large)                           |
|-----------------|--------------------|--|
| 31146 .....     | 49 App.:2518.      | Oct. 30, 1984, Pub. L. 98-554, § 221, 98 Stat. 2846. |

§ 31147. Limitations on authority

(a) TRAFFIC REGULATIONS.—This subchapter does not authorize the Secretary of Transportation to prescribe traffic safety regulations or preempt State traffic regulations. However, the Secretary may prescribe traffic regulations to the extent their subject matter was regulated under parts 390-399 of title 49, Code of Federal Regulations, on October 30, 1984.

(b) REGULATING THE MANUFACTURING OF VEHICLES.—This subchapter does not authorize the Secretary to regulate the manufacture of commercial motor vehicles for any purpose, including fuel economy, safety, or emission control.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1013.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large)                           |
|-----------------|--------------------|--|
| 31147(a) .....  | 49 App.:2519(a).   | Oct. 30, 1984, Pub. L. 98-554, § 229, 98 Stat. 2853. |
| 31147(b) .....  | 49 App.:2519(b).   |  |

In subsection (a), the word “prescribe” is substituted for “establish or maintain” for consistency in the revised title and with other titles of the United States Code.

§ 31148. Certified motor carrier safety auditors

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this section, the Secretary of Transportation shall complete a rulemaking to improve training and provide for the certification of motor carrier safety auditors, including private contractors, to conduct safety inspection audits and reviews described in subsection (b).

(b) CERTIFIED INSPECTION AUDIT REQUIREMENT.—Not later than 1 year after completion of the rulemaking required by subsection (a), any safety inspection audit or review required by, or based on the authority of, this chapter or chapter 5, 313, or 315 of this title and performed after December 31, 2002, shall be conducted by—

- (1) a motor carrier safety auditor certified under subsection (a); or
- (2) a Federal or State employee who, on the date of the enactment of this section, was qualified to perform such an audit or review.

(c) EXTENSION.—If the Secretary determines that subsection (b) cannot be implemented within the 1-year period established by that subsection and notifies the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the determination and the reasons therefor, the Secretary may extend the deadline for compliance with subsection (b) by not more than 12 months.

(d) APPLICATION WITH OTHER AUTHORITY.—The Secretary may not delegate the Secretary’s authority to private contractors to issue ratings or operating authority, and nothing in this section authorizes any private contractor to issue ratings or operating authority.

(e) OVERSIGHT RESPONSIBILITY.—The Secretary shall have authority over any motor carrier safety auditor certified under subsection (a), in-