

ducing fatigue-related incidents and increasing driver alertness) not later than March 1, 1996.

“(b) RULEMAKING.—The Federal Highway Administration shall issue a notice of proposed rulemaking dealing with such issues within 1 year after issuance of the advance notice under subsection (a) is published and shall issue a final rule dealing with those issues within 2 years after the last day of such 1-year period.”

EXEMPTIONS FROM REQUIREMENTS RELATING TO
COMMERCIAL MOTOR VEHICLES AND THEIR OPERATORS

Pub. L. 104-59, title III, §345, Nov. 28, 1995, 109 Stat. 613, which related to exemption from certain regulatory or statutory requirements for transportation of agricultural commodities and farm supplies, transportation and operation of ground water well drilling rigs, transportation of construction materials and equipment, utility service vehicles, and vehicles operated for snow or ice removal, was repealed by Pub. L. 109-59, title IV, §4115(d), Aug. 10, 2005, 119 Stat. 1726. The text of former section 345 of Pub. L. 104-59 was inserted as part of section 229 of Pub. L. 106-159, as added by section 4115(a) of Pub. L. 109-59, and is set out above.

WINTER HOME HEATING OIL DELIVERY STATE
FLEXIBILITY PROGRAM

Pub. L. 104-59, title III, §346, Nov. 28, 1995, 109 Stat. 615, as amended by Pub. L. 105-178, title I, §1211(j), June 9, 1998, 112 Stat. 192; Pub. L. 105-206, title IX, §9003(d)(3), July 22, 1998, 112 Stat. 839, provided that:

“(a) IN GENERAL.—After notice and opportunity for comment, the Secretary shall develop and implement a pilot program for the purpose of evaluating waivers of the regulations issued by the Secretary pursuant to sections 31136 and 31502 of title 49, United States Code, relating to maximum on-duty time, and sections 31102 and 31104(j) of such title, relating to the Motor Carrier Safety Assistance Program, to permit any period of 7 or 8 consecutive days to end with the beginning of an off-duty period of 24 or more consecutive hours for the purposes of determining maximum on-duty time for drivers of motor vehicles making intrastate home heating oil deliveries that occur within 100 air miles of a central terminal or distribution point of the delivery of such oil. The Secretary may approve up to 5 States to participate in the pilot program during the winter heating season in the 6-month period beginning on November 1, 1996.

“(b) APPROVAL CRITERIA.—The Secretary shall select States to participate in the pilot program upon approval of applications submitted by States to the Secretary. The Secretary shall act on a State’s application within 30 days after the date of its submission. The Secretary may only approve an application of a State under this section if the Secretary finds, at a minimum, that—

“(1) a substantial number of the citizens of the State rely on home heating oil for heat during winter months;

“(2) current maximum on-duty time regulations may endanger the welfare of these citizens by impeding timely deliveries of home heating oil;

“(3) the State will ensure an equal to or greater level of safety with respect to home heating oil deliveries than the level of safety resulting from compliance with the regulations referred to in subsection (a);

“(4) the State will monitor the safety of home heating oil deliveries while participating in the program;

“(5) employers of deliverers of home heating oil that will be covered by the program will agree to make all safety data developed from the pilot program available to the State and to the Secretary;

“(6) the State will only permit employers of deliverers of home heating oil with satisfactory safety records to be covered by the program; and

“(7) the State will comply with such other criteria as the Secretary determines are necessary to implement the program consistent with this section.

“(c) PARTICIPATION IN PROGRAM.—Upon approval of an application of a State under this section, the Secretary shall permit the State to participate in the pilot program for an initial period of 15 days during the winter heating season of the State (as determined by the Governor and the Secretary). If, after the last day of such 15-day period, the Secretary finds that a State’s continued participation in the program is consistent with this section and has resulted in no significant adverse impact on public safety and is in the public interest, the Secretary shall extend the State’s participation in the program for periods of up to 30 additional days during such heating season.

“(d) SUSPENSION FROM PROGRAM.—The Secretary may suspend a State’s participation in the pilot program at any time if the Secretary finds—

“(1) that the State has not complied with any of the criteria for participation in the program under this section;

“(2) that a State’s participation in the program has caused a significant adverse impact on public safety and is not in the public interest; or

“(3) the existence of an emergency.

“(e) REVIEW BY SECRETARY.—Within 90 days after the completion of the pilot program, the Secretary shall initiate a rulemaking to determine, based in part on the results of the program, whether to—

“(1) permit a State to grant waivers of the regulations referred to in subsection (a) to motor carriers transporting home heating oil within the borders of the State, subject to such conditions as the Secretary may impose, if the Secretary determines that such waivers by the State meet the conditions in section 31136(e) of title 49, United States Code; or

“(2) amend the regulations referred to in subsection (a) as may be necessary to provide flexibility to motor carriers delivering home heating oil during winter periods of peak demand.

“(f) DEFINITION.—In this section, the term ‘7 or 8 consecutive days’ has the meaning such term has under section 345 of this Act [set out above].”

§ 31137. Electronic logging devices and brake maintenance regulations

(a) USE OF ELECTRONIC LOGGING DEVICES.—Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary of Transportation shall prescribe regulations—

(1) requiring a commercial motor vehicle involved in interstate commerce and operated by a driver subject to the hours of service and the record of duty status requirements under part 395 of title 49, Code of Federal Regulations, be¹ equipped with an electronic logging device to improve compliance by an operator of a vehicle with hours of service regulations prescribed by the Secretary; and

(2) ensuring that an electronic logging device is not used to harass a vehicle operator.

(b) ELECTRONIC LOGGING DEVICE REQUIREMENTS.—

(1) IN GENERAL.—The regulations prescribed under subsection (a) shall—

(A) require an electronic logging device—

(i) to accurately record commercial driver hours of service;

(ii) to record the location of a commercial motor vehicle;

(iii) to be tamper resistant; and

(iv) to be synchronized to the operation of the vehicle engine or be capable of recognizing when the vehicle is being operated;

¹ So in original. Probably should be preceded by “to”.

(B) allow law enforcement to access the data contained in the device during a roadside inspection; and

(C) apply to a commercial motor vehicle beginning on the date that is 2 years after the date that the regulations are published as a final rule.

(2) PERFORMANCE AND DESIGN STANDARDS.—The regulations prescribed under subsection (a) shall establish performance standards—

(A) defining a standardized user interface to aid vehicle operator compliance and law enforcement review;

(B) establishing a secure process for standardized—

(i) and unique vehicle operator identification;

(ii) data access;

(iii) data transfer for vehicle operators between motor vehicles;

(iv) data storage for a motor carrier; and

(v) data transfer and transportability for law enforcement officials;

(C) establishing a standard security level for an electronic logging device and related components to be tamper resistant by using a methodology endorsed by a nationally recognized standards organization; and

(D) identifying each driver subject to the hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.

(c) CERTIFICATION CRITERIA.—

(1) IN GENERAL.—The regulations prescribed by the Secretary under this section shall establish the criteria and a process for the certification of electronic logging devices to ensure that the device meets the performance requirements under this section.

(2) EFFECT OF NONCERTIFICATION.—Electronic logging devices that are not certified in accordance with the certification process referred to in paragraph (1) shall not be acceptable evidence of hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.

(d) ADDITIONAL CONSIDERATIONS.—The Secretary, in prescribing the regulations described in subsection (a), shall consider how such regulations may—

(1) reduce or eliminate requirements for drivers and motor carriers to retain supporting documentation associated with paper-based records of duty status if—

(A) data contained in an electronic logging device supplants such documentation; and

(B) using such data without paper-based records does not diminish the Secretary's ability to audit and review compliance with the Secretary's hours of service regulations; and

(2) include such measures as the Secretary determines are necessary to protect the privacy of each individual whose personal data is contained in an electronic logging device.

(e) USE OF DATA.—

(1) IN GENERAL.—The Secretary may utilize information contained in an electronic logging

device only to enforce the Secretary's motor carrier safety and related regulations, including record-of-duty status regulations.

(2) MEASURES TO PRESERVE CONFIDENTIALITY OF PERSONAL DATA.—The Secretary shall institute appropriate measures to preserve the confidentiality of any personal data contained in an electronic logging device and disclosed in the course of an action taken by the Secretary or by law enforcement officials to enforce the regulations referred to in paragraph (1).

(3) ENFORCEMENT.—The Secretary shall institute appropriate measures to ensure any information collected by electronic logging devices is used by enforcement personnel only for the purpose of determining compliance with hours of service requirements.

(f) DEFINITIONS.—In this section:

(1) ELECTRONIC LOGGING DEVICE.—The term "electronic logging device" means an electronic device that—

(A) is capable of recording a driver's hours of service and duty status accurately and automatically; and

(B) meets the requirements established by the Secretary through regulation.

(2) TAMPER RESISTANT.—The term "tamper resistant" means resistant to allowing any individual to cause an electronic device to record the incorrect date, time, and location for changes to on-duty driving status of a commercial motor vehicle operator under part 395 of title 49, Code of Federal Regulations, or to subsequently alter the record created by that device.

(g) BRAKES AND BRAKE SYSTEMS MAINTENANCE REGULATIONS.—The Secretary shall maintain regulations on improved standards or methods to ensure that brakes and brake systems of commercial motor vehicles are maintained properly and inspected by appropriate employees. At a minimum, the regulations shall establish minimum training requirements and qualifications for employees responsible for maintaining and inspecting the brakes and brake systems.

(Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 1004; Pub. L. 112-141, div. C, title II, §§ 32301(b), 32931(a), July 6, 2012, 126 Stat. 786, 829.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
31137(a)	49 App.:2505 (note).	Nov. 18, 1988, Pub. L. 100-690, § 9104(b), 102 Stat. 4529.
31137(b)	49 App.:2521.	Oct. 30, 1984, Pub. L. 98-554, 98 Stat. 2829, § 231; added Nov. 18, 1988, Pub. L. 100-690, § 9110, 102 Stat. 4531.

In subsection (b), the text of 49 App.:2521(a) is omitted as executed.

REFERENCES IN TEXT

The date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, referred to in subsec. (a), is the date of enactment of title II of div. C of Pub. L. 112-141, which was approved July 6, 2012.

AMENDMENTS

2012—Pub. L. 112-141, § 32301(b)(1), substituted "Electronic logging devices and brake maintenance regula-

tions” for “Monitoring device and brake maintenance regulations” in section catchline.

Subsecs. (a) to (f), Pub. L. 112-141, § 32301(b)(3), which directed that subsec. (a) be generally amended by substituting new subsecs. (a) to (f), was executed by generally amending subsec. (a) and adding subsecs. (b) to (f) to reflect the probable intent of Congress. Prior to amendment, text of subsec. (a) read as follows: “If the Secretary of Transportation prescribes a regulation about the use of monitoring devices on commercial motor vehicles to increase compliance by operators of the vehicles with hours of service regulations of the Secretary, the regulation shall ensure that the devices are not used to harass vehicle operators. However, the devices may be used to monitor productivity of the operators.” Former subsec. (b) redesignated (g).

Subsec. (g), Pub. L. 112-141, § 32931(a), which directed substitution of “The Secretary shall maintain” for “Not later than December 1, 1990, the Secretary shall prescribe”, was executed by making the substitution for “Not later than December 31, 1990, the Secretary shall prescribe”, to reflect the probable intent of Congress.

Pub. L. 112-141, § 32301(b)(2), redesignated subsec. (b) as (g).

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§ 31138. Minimum financial responsibility for transporting passengers

(a) GENERAL REQUIREMENT.—

(1) TRANSPORTATION OF PASSENGERS FOR COMPENSATION.—The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability and property damage for the transportation of passengers for compensation by motor vehicle in the United States between a place in a State and—

- (A) a place in another State;
- (B) another place in the same State through a place outside of that State; or
- (C) a place outside the United States.

(2) TRANSPORTATION OF PASSENGERS NOT FOR COMPENSATION.—The Secretary may prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability and property damage for the transportation of passengers for commercial purposes, but not for compensation, by motor vehicle in the United States between a place in a State and—

- (A) a place in another State;
- (B) another place in the same State through a place outside of that State; or
- (C) a place outside the United States.

(b) MINIMUM AMOUNTS.—The level of financial responsibility established under subsection (a) of this section for a motor vehicle with a seating capacity of—

- (1) at least 16 passengers shall be at least \$5,000,000; and
- (2) not more than 15 passengers shall be at least \$1,500,000.

(c) EVIDENCE OF FINANCIAL RESPONSIBILITY.—

(1) Subject to paragraph (2) of this subsection,

financial responsibility may be established by evidence of one or a combination of the following if acceptable to the Secretary of Transportation:

- (A) insurance, including high self-retention.
- (B) a guarantee.
- (C) a surety bond issued by a bonding company authorized to do business in the United States.

(2) A person domiciled in a country contiguous to the United States and providing transportation to which a minimum level of financial responsibility under this section applies shall have evidence of financial responsibility in the motor vehicle when the person is providing the transportation. If evidence of financial responsibility is not in the vehicle, the Secretary of Transportation and the Secretary of the Treasury shall deny entry of the vehicle into the United States.

(3) A motor carrier may obtain the required amount of financial responsibility from more than one source provided the cumulative amount is equal to the minimum requirements of this section.

(4) OTHER PERSONS.—The Secretary may require a person, other than a motor carrier (as defined in section 13102), transporting passengers by motor vehicle to file with the Secretary the evidence of financial responsibility specified in subsection (c)(1) in an amount not less than the greater of the amount required by subsection (b)(1) or the amount required for such person to transport passengers under the laws of the State or States in which the person is operating; except that the amount of the financial responsibility must be sufficient to pay not more than the amount of the financial responsibility for each final judgment against the person for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of the motor vehicle, or for loss or damage to property, or both.

(d) CIVIL PENALTY.—(1) If, after notice and an opportunity for a hearing, the Secretary of Transportation finds that a person (except an employee acting without knowledge) has knowingly violated this section or a regulation prescribed under this section, the person is liable to the United States Government for a civil penalty of not more than \$10,000 for each violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation shall impose the penalty by written notice. In determining the amount of the penalty, the Secretary shall consider—

- (A) the nature, circumstances, extent, and gravity of the violation;
- (B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and
- (C) other matters that justice requires.

(3) The Secretary of Transportation may compromise the penalty before referring the matter to the Attorney General for collection.

(4) The Attorney General shall bring a civil action in an appropriate district court of the United States to collect a penalty referred to the Attorney General for collection under this subsection.