

“(1) requiring medical review officers or employers to report all verified positive controlled substances test results on any driver subject to controlled substances testing under part 382 of title 49, Code of Federal Regulations, including the identity of each person tested and each controlled substance found, to the State that issued the driver’s commercial driver’s license; and

“(2) requiring all prospective employers, before hiring any driver, to query the State that issued the driver’s commercial driver’s license on whether the State has on record any verified positive controlled substances test on such driver.

“(b) STUDY FACTORS.—In carrying out the study under this section, the Secretary shall assess—

“(1) methods for safeguarding the confidentiality of verified positive controlled substances test results;

“(2) the costs, benefits, and safety impacts of requiring States to maintain records of verified positive controlled substances test results; and

“(3) whether a process should be established to allow drivers—

“(A) to correct errors in their records; and

“(B) to expunge information from their records after a reasonable period of time.

“(c) REPORT.—Not later than 2 years after the date of the enactment of this Act [Dec. 9, 1999], the Secretary shall submit to Congress a report on the study carried out under this section, together with such recommendations as the Secretary determines appropriate.”

POST-ACCIDENT ALCOHOL TESTING

Pub. L. 105-178, title IV, §4020, June 9, 1998, 112 Stat. 414, provided that:

“(a) STUDY.—The Secretary [of Transportation] shall conduct a study of the feasibility of utilizing law enforcement officers for conducting post-accident alcohol testing of commercial motor vehicle operators under section 31306 of title 49, United States Code, as a method of obtaining more timely information. The study shall also assess the impact of the current post-accident alcohol testing requirements on motor carrier employers, including any burden that employers may encounter in meeting the testing requirements of such section 31306.

“(b) REPORT.—Not later than 18 months after the date of enactment of this Act [June 9, 1998], the Secretary shall transmit to Congress a report on the study, together with such recommendations as the Secretary determines appropriate.”

§ 31306a. National clearinghouse for controlled substance and alcohol test results of commercial motor vehicle operators

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Safe Roads Act of 2012, the Secretary of Transportation shall establish, operate, and maintain a national clearinghouse for records relating to alcohol and controlled substances testing of commercial motor vehicle operators.

(2) PURPOSES.—The purposes of the clearinghouse shall be—

(A) to improve compliance with the Department of Transportation’s alcohol and controlled substances testing program applicable to commercial motor vehicle operators; and

(B) to enhance the safety of our United States roadways by reducing accident and injuries involving the misuse of alcohol or use of controlled substances by operators of commercial motor vehicles.

(3) CONTENTS.—The clearinghouse shall function as a repository for records relating to the

positive test results and test refusals of commercial motor vehicle operators and violations by such operators of prohibitions set forth in subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

(4) ELECTRONIC EXCHANGE OF RECORDS.—The Secretary shall ensure that records can be electronically submitted to, and requested from, the clearinghouse by authorized users.

(5) AUTHORIZED OPERATOR.—The Secretary may authorize a qualified private entity to operate and maintain the clearinghouse and to collect fees on behalf of the Secretary under subsection (e). The entity shall operate and maintain the clearinghouse and permit access to driver information and records from the clearinghouse in accordance with this section.

(b) DESIGN OF CLEARINGHOUSE.—

(1) USE OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION RECOMMENDATIONS.—In establishing the clearinghouse, the Secretary shall consider—

(A) the findings and recommendations contained in the Federal Motor Carrier Safety Administration’s March 2004 report to Congress required under section 226 of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31306 note); and

(B) the findings and recommendations contained in the Government Accountability Office’s May 2008 report to Congress entitled “Motor Carrier Safety: Improvements to Drug Testing Programs Could Better Identify Illegal Drug Users and Keep Them off the Road.”.

(2) DEVELOPMENT OF SECURE PROCESSES.—In establishing the clearinghouse, the Secretary shall develop a secure process for—

(A) administering and managing the clearinghouse in compliance with applicable Federal security standards;

(B) registering and authenticating authorized users of the clearinghouse;

(C) registering and authenticating persons required to report to the clearinghouse under subsection (g);

(D) preventing the unauthorized access of information from the clearinghouse;

(E) storing and transmitting data;

(F) persons required to report to the clearinghouse under subsection (g) to timely and accurately submit electronic data to the clearinghouse;

(G) generating timely and accurate reports from the clearinghouse in response to requests for information by authorized users; and

(H) updating an individual’s record upon completion of the return-to-duty process described in title 49, Code of Federal Regulations.

(3) EMPLOYER ALERT OF POSITIVE TEST RESULT.—In establishing the clearinghouse, the Secretary shall develop a secure method for electronically notifying an employer of each additional positive test result or other non-compliance—

(A) for an employee, that is entered into the clearinghouse during the 7-day period

immediately following an employer's inquiry about the employee; and

(B) for an employee who is listed as having multiple employers.

(4) ARCHIVE CAPABILITY.—In establishing the clearinghouse, the Secretary shall develop a process for archiving all clearinghouse records for the purposes of auditing and evaluating the timeliness, accuracy, and completeness of data in the clearinghouse.

(5) FUTURE NEEDS.—

(A) INTEROPERABILITY WITH OTHER DATA SYSTEMS.—In establishing the clearinghouse, the Secretary shall consider—

(i) the existing data systems containing regulatory and safety data for commercial motor vehicle operators;

(ii) the efficacy of using or combining clearinghouse data with 1 or more of such systems; and

(iii) the potential interoperability of the clearinghouse with such systems.

(B) SPECIFIC CONSIDERATIONS.—In carrying out subparagraph (A), the Secretary shall determine—

(i) the clearinghouse's capability for interoperability with—

(I) the National Driver Register established under section 30302;

(II) the Commercial Driver's License Information System established under section 31309;

(III) the Motor Carrier Management Information System for preemployment screening services under section 31150; and

(IV) other data systems, as appropriate; and

(ii) any change to the administration of the current testing program, such as forms, that is necessary to collect data for the clearinghouse.

(c) STANDARD FORMATS.—The Secretary shall develop standard formats to be used—

(1) by an authorized user of the clearinghouse to—

(A) request a record from the clearinghouse; and

(B) obtain the consent of an individual who is the subject of a request from the clearinghouse, if applicable; and

(2) to notify an individual that a positive alcohol or controlled substances test result, refusing to test, and a violation of any of the prohibitions under subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations), will be reported to the clearinghouse.

(d) PRIVACY.—A release of information from the clearinghouse shall—

(1) comply with applicable Federal privacy laws, including the fair information practices under the Privacy Act of 1974 (5 U.S.C. 552a);

(2) comply with applicable sections of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); and

(3) not be made to any person or entity unless expressly authorized or required by law.

(e) FEES.—

(1) AUTHORITY TO COLLECT FEES.—Except as provided under paragraph (3), the Secretary may collect a reasonable, customary, and nominal fee from an authorized user of the clearinghouse for a request for information from the clearinghouse.

(2) USE OF FEES.—Fees collected under this subsection shall be used for the operation and maintenance of the clearinghouse.

(3) LIMITATION.—The Secretary may not collect a fee from an individual requesting information from the clearinghouse that pertains to the record of that individual.

(f) EMPLOYER REQUIREMENTS.—

(1) DETERMINATION CONCERNING USE OF CLEARINGHOUSE.—The Secretary shall determine if an employer is authorized to use the clearinghouse to meet the alcohol and controlled substances testing requirements under title 49, Code of Federal Regulations.

(2) APPLICABILITY OF EXISTING REQUIREMENTS.—Each employer and service agent shall continue to comply with the alcohol and controlled substances testing requirements under title 49, Code of Federal Regulations.

(3) EMPLOYMENT PROHIBITIONS.—After the clearinghouse is established under subsection (a), at a date determined to be appropriate by the Secretary and published in the Federal Register, an employer shall utilize the clearinghouse to determine whether any employment prohibitions exist and shall not hire an individual to operate a commercial motor vehicle unless the employer determines that the individual, during the preceding 3-year period—

(A) if tested for the use of alcohol and controlled substances, as required under title 49, Code of Federal Regulations—

(i) did not test positive for the use of alcohol or controlled substances in violation of the regulations; or

(ii) tested positive for the use of alcohol or controlled substances and completed the required return-to-duty process under title 49, Code of Federal Regulations;

(B)(i) did not refuse to take an alcohol or controlled substance test under title 49, Code of Federal Regulations; or

(ii) refused to take an alcohol or controlled substance test and completed the required return-to-duty process under title 49, Code of Federal Regulations; and

(C) did not violate any other provision of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

(4) ANNUAL REVIEW.—After the clearinghouse is established under subsection (a), at a date determined to be appropriate by the Secretary and published in the Federal Register, an employer shall request and review a commercial motor vehicle operator's record from the clearinghouse annually for as long as the commercial motor vehicle operator is under the employ of the employer.

(g) REPORTING OF RECORDS.—

(1) IN GENERAL.—Beginning 30 days after the date that the clearinghouse is established

under subsection (a), a medical review officer, employer, service agent, and other appropriate person, as determined by the Secretary, shall promptly submit to the Secretary any record generated after the clearinghouse is initiated of an individual who—

(A) refuses to take an alcohol or controlled substances test required under title 49, Code of Federal Regulations;

(B) tests positive for alcohol or a controlled substance in violation of the regulations; or

(C) violates any other provision of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

(2) INCLUSION OF RECORDS IN CLEARINGHOUSE.—The Secretary shall include in the clearinghouse the records of positive test results and test refusals received under paragraph (1).

(3) MODIFICATIONS AND DELETIONS.—If the Secretary determines that a record contained in the clearinghouse is not accurate, the Secretary shall modify or delete the record, as appropriate.

(4) NOTIFICATION.—The Secretary shall expeditiously notify an individual, unless such notification would be duplicative, when—

(A) a record relating to the individual is received by the clearinghouse;

(B) a record in the clearinghouse relating to the individual is modified or deleted, and include in the notification the reason for the modification or deletion; or

(C) a record in the clearinghouse relating to the individual is released to an employer and specify the reason for the release.

(5) DATA QUALITY AND SECURITY STANDARDS FOR REPORTING AND RELEASING.—The Secretary may establish additional requirements, as appropriate, to ensure that—

(A) the submission of records to the clearinghouse is timely and accurate;

(B) the release of data from the clearinghouse is timely, accurate, and released to the appropriate authorized user under this section; and

(C) an individual with a record in the clearinghouse has a cause of action for any inappropriate use of information included in the clearinghouse.

(6) RETENTION OF RECORDS.—The Secretary shall—

(A) retain a record submitted to the clearinghouse for a 5-year period beginning on the date the record is submitted;

(B) remove the record from the clearinghouse at the end of the 5-year period, unless the individual fails to meet a return-to-duty or follow-up requirement under title 49, Code of Federal Regulations; and

(C) retain a record after the end of the 5-year period in a separate location for archiving and auditing purposes.

(h) AUTHORIZED USERS.—

(1) EMPLOYERS.—The Secretary shall establish a process for an employer, or an employer's designated agent, to request and receive an individual's record from the clearinghouse.

(A) CONSENT.—An employer may not access an individual's record from the clearinghouse unless the employer—

(i) obtains the prior written or electronic consent of the individual for access to the record; and

(ii) submits proof of the individual's consent to the Secretary.

(B) ACCESS TO RECORDS.—After receiving a request from an employer for an individual's record under subparagraph (A), the Secretary shall grant access to the individual's record to the employer as expeditiously as practicable.

(C) RETENTION OF RECORD REQUESTS.—The Secretary shall require an employer to retain for a 3-year period—

(i) a record of each request made by the employer for records from the clearinghouse; and

(ii) the information received pursuant to the request.

(D) USE OF RECORDS.—An employer may use an individual's record received from the clearinghouse only to assess and evaluate whether a prohibition applies with respect to the individual to operate a commercial motor vehicle for the employer.

(E) PROTECTION OF PRIVACY OF INDIVIDUALS.—An employer that receives an individual's record from the clearinghouse under subparagraph (B) shall—

(i) protect the privacy of the individual and the confidentiality of the record; and

(ii) ensure that information contained in the record is not divulged to a person or entity that is not directly involved in assessing and evaluating whether a prohibition applies with respect to the individual to operate a commercial motor vehicle for the employer.

(2) STATE LICENSING AUTHORITIES.—The Secretary shall establish a process for the chief commercial driver's licensing official of a State to request and receive an individual's record from the clearinghouse if the individual is applying for a commercial driver's license from the State.

(A) CONSENT.—The Secretary may grant access to an individual's record in the clearinghouse under this paragraph without the prior written or electronic consent of the individual. An individual who holds a commercial driver's license shall be deemed to consent to such access by obtaining a commercial driver's license.

(B) PROTECTION OF PRIVACY OF INDIVIDUALS.—A chief commercial driver's licensing official of a State that receives an individual's record from the clearinghouse under this paragraph shall—

(i) protect the privacy of the individual and the confidentiality of the record; and

(ii) ensure that the information in the record is not divulged to any person that is not directly involved in assessing and evaluating the qualifications of the individual to operate a commercial motor vehicle.

(i) NATIONAL TRANSPORTATION SAFETY BOARD.—The Secretary shall establish a process

for the National Transportation Safety Board to request and receive an individual's record from the clearinghouse if the individual is involved in an accident that is under investigation by the National Transportation Safety Board.

(j) ACCESS TO CLEARINGHOUSE BY INDIVIDUALS.—

(1) IN GENERAL.—The Secretary shall establish a process for an individual to request and receive information from the clearinghouse—

(A) to determine whether the clearinghouse contains a record pertaining to the individual;

(B) to verify the accuracy of a record;

(C) to update an individual's record, including completing the return-to-duty process described in title 49, Code of Federal Regulations; and

(D) to determine whether the clearinghouse received requests for the individual's information.

(2) DISPUTE PROCEDURE.—The Secretary shall establish a procedure, including an appeal process, for an individual to dispute and remedy an administrative error in the individual's record.

(k) PENALTIES.—

(1) IN GENERAL.—An employer, employee, medical review officer, or service agent who violates any provision of this section shall be subject to civil penalties under section 521(b)(2)(C) and criminal penalties under section 521(b)(6)(B), and any other applicable civil and criminal penalties, as determined by the Secretary.

(2) VIOLATION OF PRIVACY.—The Secretary shall establish civil and criminal penalties, consistent with paragraph (1), for an authorized user who violates paragraph (1) or (2) of subsection (h).

(l) COMPATIBILITY OF STATE AND LOCAL LAWS.—

(1) PREEMPTION.—Except as provided under paragraph (2), any law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe related to a commercial driver's license holder subject to alcohol or controlled substance testing under title 49, Code of Federal Regulations, that is inconsistent with this section or a regulation issued pursuant to this section is preempted.

(2) APPLICABILITY.—The preemption under paragraph (1) shall include—

(A) the reporting of valid positive results from alcohol screening tests and drug tests;

(B) the refusal to provide a specimen for an alcohol screening test or drug test; and

(C) other violations of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

(3) EXCEPTION.—A law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe shall not be preempted under this subsection to the extent it relates to an action taken with respect to a commercial motor vehicle operator's commercial driver's license or driving record as a result of the driver's—

(A) verified positive alcohol or drug test result;

(B) refusal to provide a specimen for the test; or

(C) other violations of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

(m) DEFINITIONS.—In this section—

(1) AUTHORIZED USER.—The term “authorized user” means an employer, State licensing authority, or other person granted access to the clearinghouse under subsection (h).

(2) CHIEF COMMERCIAL DRIVER'S LICENSING OFFICIAL.—The term “chief commercial driver's licensing official” means the official in a State who is authorized to—

(A) maintain a record about commercial driver's licenses issued by the State; and

(B) take action on commercial driver's licenses issued by the State.

(3) CLEARINGHOUSE.—The term “clearinghouse” means the clearinghouse established under subsection (a).

(4) COMMERCIAL MOTOR VEHICLE OPERATOR.—The term “commercial motor vehicle operator” means an individual who—

(A) possesses a valid commercial driver's license issued in accordance with section 31308; and

(B) is subject to controlled substances and alcohol testing under title 49, Code of Federal Regulations.

(5) EMPLOYER.—The term “employer” means a person or entity employing, or seeking to employ, 1 or more employees (including an individual who is self-employed) to be commercial motor vehicle operators.

(6) MEDICAL REVIEW OFFICER.—The term “medical review officer” means a licensed physician who is responsible for—

(A) receiving and reviewing a laboratory result generated under the testing program;

(B) evaluating a medical explanation for a controlled substances test under title 49, Code of Federal Regulations; and

(C) interpreting the results of a controlled substances test.

(7) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

(8) SERVICE AGENT.—The term “service agent” means a person or entity, other than an employee of the employer, who provides services to employers or employees under the testing program.

(9) TESTING PROGRAM.—The term “testing program” means the alcohol and controlled substances testing program required under title 49, Code of Federal Regulations.

(Added Pub. L. 112-141, div. C, title II, § 32402(a)(2), July 6, 2012, 126 Stat. 795.)

REFERENCES IN TEXT

The date of enactment of the Safe Roads Act of 2012, referred to in subsec. (a)(1), is the date of enactment of subtitle D of title II of div. C of Pub. L. 112-141, which was approved July 6, 2012.

Section 226 of the Motor Carrier Safety Improvement Act of 1999, referred to in subsec. (b)(1)(A), is section 226 of Pub. L. 106-159, which is set out as a note under section 31306 of this title.

The Privacy Act of 1974, referred to in subsec. (d)(1), is Pub. L. 93-579, Dec. 31, 1974, 88 Stat. 1896, which en-

acted section 552a of Title 5, Government Organization and Employees, and provisions set out as notes under section 552a of Title 5. For complete classification of this Act to the Code, see Short Title of 1974 Amendment note set out under section 552a of Title 5 and Tables.

The Fair Credit Reporting Act, referred to in subsec. (d)(2), is title VI of Pub. L. 90-321, as added by Pub. L. 91-508, title VI, §601, Oct. 26, 1970, 84 Stat. 1127, which is classified generally to subchapter III (§1681 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

EFFECTIVE DATE

Section 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.

§ 31307. Minimum training requirements for operators of longer combination vehicles

(a) DEFINITION.—In this section, “longer combination vehicle” means a vehicle consisting of a truck tractor and more than one trailer or semitrailer that operates on the Dwight D. Eisenhower System of Interstate and Defense Highways with a gross vehicle weight of more than 80,000 pounds.

(b) REQUIREMENTS.—The Secretary shall maintain regulations establishing minimum training requirements for operators of longer combination vehicles. The training shall include certification of an operator’s proficiency by an instructor who has met the requirements established by the Secretary.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1020; Pub. L. 112-141, div. C, title II, §32931(c), July 6, 2012, 126 Stat. 829.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Rows for 31307(a) and 31307(b).

In subsection (a), the words “a vehicle consisting” are substituted for “any combination” for clarity. The words “Dwight D. Eisenhower System of Interstate and Defense Highways” are substituted for “National System of Interstate and Defense Highways” because of the Act of October 15, 1990 (Public Law 101-427, 104 Stat. 927).

In subsection (b), the words “Not later than 60 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding” are omitted as executed.

AMENDMENTS

2012—Subsec. (b). Pub. L. 112-141, which directed substitution of “The Secretary shall maintain” for “Not later than December 18, 1994, the Secretary shall prescribe”, was executed by making the substitution for “Not later than December 18, 1994, the Secretary of Transportation shall prescribe”, to reflect the probable intent of Congress.

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.

§ 31308. Commercial driver’s license

After consultation with the States, the Secretary of Transportation shall prescribe regulations on minimum uniform standards for the issuance of commercial drivers’ licenses and learner’s permits by the States and for information to be contained on each of the licenses and permits. The standards shall require at a minimum that—

(1) an individual issued a commercial driver’s license—

(A) pass written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards prescribed by the Secretary under section 31305(a); and

(B) present certification of completion of driver training that meets the requirements established by the Secretary under section 31305(c);

(2) before a commercial driver’s license learner’s permit may be issued to an individual, the individual must pass a written test, that complies with the minimum standards prescribed by the Secretary under section 31305(a), on the operation of the commercial motor vehicle that the individual will be operating under the permit;

(3) the license or learner’s permit be tamperproof to the maximum extent practicable and each license or learner’s permit issued after January 1, 2001, include unique identifiers (which may include biometric identifiers) to minimize fraud and duplication; and

(4) the license or learner’s permit contain—

(A) the name and address of the individual issued the license or learner’s permit and a physical description of the individual;

(B) the social security account number or other number or information the Secretary decides is appropriate to identify the individual;

(C) the class or type of commercial motor vehicle the individual is authorized to operate under the license or learner’s permit;

(D) the name of the State that issued the license or learner’s permit; and

(E) the dates between which the license or learner’s permit is valid.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1020; Pub. L. 105-178, title IV, §4011(c)(1), June 9, 1998, 112 Stat. 407; Pub. L. 109-59, title IV, §4122(2), Aug. 10, 2005, 119 Stat. 1734; Pub. L. 110-244, title III, §301(g), June 6, 2008, 122 Stat. 1616; Pub. L. 112-141, div. C, title II, §32304(b), July 6, 2012, 126 Stat. 791.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row for 31308.

The words “Not later than July 15, 1988” are omitted as obsolete.

AMENDMENTS

2012—Par. (1). Pub. L. 112-141 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “an individual issued a commercial driver’s license pass