

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 an Effective Date of 2008 note under section 101 of Title 23, Highways.]

### § 31150. Safety performance history screening

(a) IN GENERAL.—The Secretary of Transportation shall provide persons conducting pre-employment screening services for the motor carrier industry electronic access to the following reports contained in the Motor Carrier Management Information System:

(1) Commercial motor vehicle accident reports.

(2) Inspection reports that contain no driver-related safety violations.

(3) Serious driver-related safety violation inspection reports.

(b) CONDITIONS ON PROVIDING ACCESS.—Before providing a person access to the Motor Carrier Management Information System under subsection (a), the Secretary shall—

(1) ensure that any information that is released to such person will be in accordance with the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) and all other applicable Federal law;

(2) ensure that such person will not conduct a screening without the operator-applicant's written consent;

(3) ensure that any information that is released to such person will not be released to any person or entity, other than the motor carrier requesting the screening services or the operator-applicant, unless expressly authorized or required by law; and

(4) provide a procedure for the operator-applicant to correct inaccurate information in the System in a timely manner.

(c) DESIGN.—The process for providing access to the Motor Carrier Management Information System under subsection (a) shall be designed to assist the motor carrier industry in assessing an individual operator's crash and serious safety violation inspection history as a pre-employment condition. Use of the process shall not be mandatory and may only be used during the pre-employment assessment of an operator-applicant.

(d) SERIOUS DRIVER-RELATED SAFETY VIOLATION DEFINED.—In this section, the term "serious driver-related violation" means a violation by an operator of a commercial motor vehicle that the Secretary determines will result in the operator being prohibited from continuing to operate a commercial motor vehicle until the violation is corrected.

(Added Pub. L. 109-59, title IV, §4117(a), Aug. 10, 2005, 119 Stat. 1728.)

#### REFERENCES IN TEXT

The Fair Credit Reporting Act, referred to in subsection (b)(1), is title VI of Pub. L. 90-321, as added by Pub. L. 91-508, title VI, §601, Oct. 26, 1970, 84 Stat. 1127, as amended, 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.

### § 31151. Roadability

(a) INSPECTION, REPAIR, AND MAINTENANCE OF INTERMODAL EQUIPMENT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary of Transportation, after providing notice and opportunity for comment, shall issue regulations establishing a program to ensure that intermodal equipment used to transport intermodal containers is safe and systematically maintained.

(2) INTERMODAL EQUIPMENT SAFETY REGULATIONS.—The Secretary shall issue the regulations under this section as a subpart of the Federal motor carrier safety regulations.

(3) CONTENTS.—The regulations issued under this section shall include, at a minimum—

(A) a requirement to identify intermodal equipment providers responsible for the inspection and maintenance of intermodal equipment that is interchanged or intended for interchange to motor carriers in intermodal transportation;

(B) a requirement to match intermodal equipment readily to an intermodal equipment provider through a unique identifying number;

(C) a requirement that an intermodal equipment provider identified under subparagraph (A) systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, intermodal equipment described in subparagraph (A) that is intended for interchange with a motor carrier;

(D) a requirement to ensure that each intermodal equipment provider identified under subparagraph (A) maintains a system of maintenance and repair records for such equipment;

(E) requirements that—

(i) a specific list of intermodal equipment components or items be identified for the visual or audible inspection of which a driver is responsible before operating the equipment over the road; and

(ii) the inspection under clause (i) be conducted as part of the Federal requirement in effect on the date of enactment of this section that a driver be satisfied that the intermodal equipment components are in good working order before the equipment is operated over the road;

(F) a requirement that a facility at which an intermodal equipment provider regularly makes intermodal equipment available for interchange have an operational process and space readily available for a motor carrier to have an equipment defect identified pursuant to subparagraph (E) repaired or the equipment replaced prior to departure;

(G) a program for the evaluation and audit of compliance by intermodal equipment providers with applicable Federal motor carrier safety regulations;

(H) a civil penalty structure consistent with section 521(b) of title 49, United States Code, for intermodal equipment providers that fail to attain satisfactory compliance with applicable Federal motor carrier safety regulations; and

(I) a prohibition on intermodal equipment providers from placing intermodal equipment in service on the public highways to the extent such providers or their equipment are found to pose an imminent hazard;

(J) a process by which motor carriers and agents of motor carriers shall be able to request the Federal Motor Carrier Safety Administration to undertake an investigation of an intermodal equipment provider identified under subparagraph (A) that is alleged to be not in compliance with the regulations under this section;

(K) a process by which equipment providers and agents of equipment providers shall be able to request the Administration to undertake an investigation of a motor carrier that is alleged to be not in compliance with the regulations issued under this section;

(L) a process by which a driver or motor carrier transporting intermodal equipment is required to report to the intermodal equipment provider or the provider's designated agent any actual damage or defect in the intermodal equipment of which the driver or motor carrier is aware at the time the intermodal equipment is returned to the intermodal equipment provider or the provider's designated agent;

(M) a requirement that any actual damage or defect identified in the process established under subparagraph (L) be repaired before the equipment is made available for interchange to a motor carrier and that repairs of equipment made pursuant to the requirements of this subparagraph and reports made pursuant to the subparagraph (L) process be documented in the maintenance records for such equipment; and

(N) a procedure under which motor carriers, drivers and intermodal equipment providers may seek correction of their motor carrier safety records through the deletion from those records of violations of safety regulations attributable to deficiencies in the intermodal chassis or trailer for which they should not have been held responsible.

(4) DEADLINE FOR RULEMAKING PROCEEDING.—Not later than 120 days after the date of enactment of this section, the Secretary shall initiate a rulemaking proceeding for issuance of the regulations under this section.

(b) INSPECTION, REPAIR, AND MAINTENANCE OF INTERMODAL EQUIPMENT.—The Secretary or an employee of the Department of Transportation designated by the Secretary may inspect intermodal equipment, and copy related maintenance and repair records for such equipment, on demand and display of proper credentials.

(c) OUT-OF-SERVICE UNTIL REPAIR.—Any intermodal equipment that is determined under this section to fail to comply with applicable Federal safety regulations may be placed out of service by the Secretary or a Federal, State, or government official designated by the Secretary and may not be used on a public highway until the repairs necessary to bring such equipment into compliance have been completed. Repairs of equipment taken out of service shall be documented in the maintenance records for such equipment.

(d) PREEMPTION GENERALLY.—Except as provided in subsection (e), a law, regulation, order, or other requirement of a State, a political subdivision of a State, or a tribal organization relating to commercial motor vehicle safety is preempted if such law, regulation, order, or other requirement exceeds or is inconsistent with a requirement imposed under or pursuant to this section.

(e) PRE-EXISTING STATE REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a State requirement for the periodic inspection of intermodal chassis by intermodal equipment providers that was in effect on January 1, 2005, shall remain in effect only until the date on which requirements prescribed under this section take effect.

(2) NONPREEMPTION DETERMINATIONS.—

(A) IN GENERAL.—Notwithstanding subsection (d), a State requirement described in paragraph (1) is not preempted by a Federal requirement prescribed under this section if the Secretary determines that the State requirement is as effective as the Federal requirement and does not unduly burden interstate commerce.

(B) APPLICATION REQUIRED.—Subparagraph (A) applies to a State requirement only if the State applies to the Secretary for a determination under this paragraph with respect to the requirement before the date on which the regulations issued under this section take effect. The Secretary shall make a determination with respect to any such application within 6 months after the date on which the Secretary receives the application.

(C) AMENDED STATE REQUIREMENTS.—Any amendment to a State requirement not preempted under this subsection because of a determination by the Secretary under subparagraph (A) may not take effect unless—

(i) it is submitted to the Secretary before the effective date of the amendment; and

(ii) the Secretary determines that the amendment would not cause the State requirement to be less effective than the Federal requirement and would not unduly burden interstate commerce.

(f) DEFINITIONS.—In this section, the following definitions apply:

(1) INTERMODAL EQUIPMENT.—The term “intermodal equipment” means trailing equipment that is used in the intermodal transportation of containers over public highways in interstate commerce, including trailers and chassis.

(2) INTERMODAL EQUIPMENT INTERCHANGE AGREEMENT.—The term “intermodal equipment interchange agreement” means the Uniform Intermodal Interchange and Facilities Access Agreement or any other written document executed by an intermodal equipment provider or its agent and a motor carrier or its agent, the primary purpose of which is to establish the responsibilities and liabilities of both parties with respect to the interchange of the intermodal equipment.

(3) INTERMODAL EQUIPMENT PROVIDER.—The term “intermodal equipment provider” means

any person that interchanges intermodal equipment with a motor carrier pursuant to a written interchange agreement or has a contractual responsibility for the maintenance of the intermodal equipment.

(4) INTERCHANGE.—The term “interchange”—

(A) means the act of providing intermodal equipment to a motor carrier pursuant to an intermodal equipment interchange agreement for the purpose of transporting the equipment for loading or unloading by any person or repositioning the equipment for the benefit of the equipment provider; but

(B) does not include the leasing of equipment to a motor carrier for primary use in the motor carrier’s freight hauling operations.

(Added Pub. L. 109–59, title IV, §4118(a), Aug. 10, 2005, 119 Stat. 1729; amended Pub. L. 110–244, title III, §301(e), June 6, 2008, 122 Stat. 1616.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a)(1), (3)(E)(ii), (4), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

AMENDMENTS

2008—Subsec. (a)(3)(E)(ii). Pub. L. 110–244 substituted “section” for “Act”.

SUBCHAPTER IV—MISCELLANEOUS

PRIOR PROVISIONS

A prior subchapter IV consisted of sections 31161 and 31162, prior to repeal by Pub. L. 105–178, title IV, §4010, June 9, 1998, 112 Stat. 407.

§ 31161. International cooperation

The Secretary of Transportation is authorized to use funds made available by section 31104(i) to participate and cooperate in international activities to enhance motor carrier, commercial motor vehicle, driver, and highway safety by such means as exchanging information, conducting research, and examining needs, best practices, and new technology.

(Added Pub. L. 109–59, title IV, §4119(a), Aug. 10, 2005, 119 Stat. 1733.)

PRIOR PROVISIONS

Prior sections 31161 and 31162 were repealed by Pub. L. 105–178, title IV, §4010, June 9, 1998, 112 Stat. 407.

Section 31161, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1013, related to procedures to ensure timely correction of safety violations.

Section 31162, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1014, related to compliance review priority.

CHAPTER 313—COMMERCIAL MOTOR VEHICLE OPERATORS

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AMENDMENTS

2005—Pub. L. 109–59, title IV, §4124(b), Aug. 10, 2005, 119 Stat. 1738, added item 31313.

1999—Pub. L. 106–159, title II, §203(b), Dec. 9, 1999, 113 Stat. 1762, added item 31312.

1998—Pub. L. 105–178, title IV, §§4007(b), 4011(b)(2), (f), June 9, 1998, 112 Stat. 403, 407, 408, substituted “Commercial driver’s license requirement” for “Limitation on the number of driver’s licenses” in item 31302 and “Waivers, exemptions, and pilot programs” for “Waiver authority” in item 31315 and struck out items 31312 “Grants for testing and ensuring the fitness of operators of commercial motor vehicles” and 31313 “Grants for issuing commercial drivers’ licenses and complying with State participation requirements”.

§ 31301. Definitions

In this chapter—

(1) “alcohol” has the same meaning given the term “alcoholic beverage” in section 158(c) of title 23.

(2) “commerce” means trade, traffic, and transportation—

(A) in the jurisdiction of the United States between a place in a State and a place outside that State (including a place outside the United States); or

(B) in the United States that affects trade, traffic, and transportation described in subclause (A) of this clause.

(3) “commercial driver’s license” means a license issued by a State to an individual authorizing the individual to operate a class of commercial motor vehicles.

(4) “commercial motor vehicle” means a motor vehicle used in commerce to transport passengers or property that—

(A) has a gross vehicle weight rating or gross vehicle weight of at least 26,001 pounds, whichever is greater, or a lesser gross vehicle weight rating or gross vehicle weight the Secretary of Transportation prescribes by regulation, but not less than a gross vehicle weight rating of 10,001 pounds;

(B) is designed to transport at least 16 passengers including the driver; or

(C) is used to transport material found by the Secretary to be hazardous under section 5103 of this title, except that a vehicle shall not be included as a commercial motor vehicle under this subclause if—

(i) the vehicle does not satisfy the weight requirements of subclause (A) of this clause;

(ii) the vehicle is transporting material listed as hazardous under section 306(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9656(a)) and is not otherwise regulated by the Secretary or is transporting a consumer commodity or limited quantity of hazardous material as defined