

the problem of shippers, freight forwarders, brokers, consignees, or other persons (other than rail carriers, motor carriers, motor carriers of migrant workers, or motor private carriers) encouraging violations of chapter 5 of title 49, United States Code, or a regulation or order issued by the Secretary under such chapter.

“(b) SUBMISSION OF IMPLEMENTATION PLAN.—After completion of the assessment under subsection (a), the Secretary may submit to the Congress a plan for implementing authority (if subsequently provided by law) to investigate and bring civil actions to enforce chapter 5 of title 49, United States Code, or regulations or orders issued by the Secretary under such chapter with respect to persons described in subsection (a).

“(c) CONTENTS OF IMPLEMENTATION PLAN.—In developing the implementation plan under subsection (b), the Secretary shall consider, as appropriate—

“(1) in what circumstances the Secretary would exercise the new authority;

“(2) how the Secretary would determine that shippers, freight forwarders, brokers, consignees, or other persons committed violations described in subsection (a), including what types of evidence would be conclusive;

“(3) what procedures would be necessary during investigations to ensure the confidentiality of shipper contract terms prior to the Secretary’s findings of violations;

“(4) what impact the exercise of the new authority would have on the Secretary’s resources, including whether additional investigative or legal resources would be necessary and whether the staff would need specialized education or training to exercise properly such authority;

“(5) to what extent the Secretary would conduct educational activities for persons who would be subject to the new authority; and

“(6) any other information that would assist the Congress in determining whether to provide the Secretary the new authority.”

§ 508. Safety performance history of new drivers; limitation on liability

(a) LIMITATION ON LIABILITY.—No action or proceeding for defamation, invasion of privacy, or interference with a contract that is based on the furnishing or use of safety performance records in accordance with regulations issued by the Secretary may be brought against—

(1) a motor carrier requesting the safety performance records of an individual under consideration for employment as a commercial motor vehicle driver as required by and in accordance with regulations issued by the Secretary;

(2) a person who has complied with such a request; or

(3) the agents or insurers of a person described in paragraph (1) or (2).

(b) RESTRICTIONS ON APPLICABILITY.—

(1) MOTOR CARRIER REQUESTING.—Subsection (a) does not apply to a motor carrier requesting safety performance records unless—

(A) the motor carrier and any agents of the motor carrier have complied with the regulations issued by the Secretary in using the records, including the requirement that the individual who is the subject of the records be afforded a reasonable opportunity to review and comment on the records;

(B) the motor carrier and any agents and insurers of the motor carrier have taken all precautions reasonably necessary to protect the records from disclosure to any person, except for such an insurer, not directly in-

involved in deciding whether to hire that individual; and

(C) the motor carrier has used those records only to assess the safety performance of the individual who is the subject of those records in deciding whether to hire that individual.

(2) PERSON COMPLYING WITH REQUESTS.—Subsection (a) does not apply to a person complying with a request for safety performance records unless—

(A) the complying person and any agents of the complying person have taken all precautions reasonably necessary to ensure the accuracy of the records and have complied with the regulations issued by the Secretary in furnishing the records, including the requirement that the individual who is the subject of the records be afforded a reasonable opportunity to review and comment on the records; and

(B) the complying person and any agents and insurers of the complying person have taken all precautions reasonably necessary to protect the records from disclosure to any person, except for such an insurer, not directly involved in forwarding the records.

(3) PERSONS KNOWINGLY FURNISHING FALSE INFORMATION.—Subsection (a) does not apply to persons who knowingly furnish false information.

(c) PREEMPTION OF STATE AND LOCAL LAW.—No State or political subdivision thereof may enact, prescribe, issue, continue in effect, or enforce any law (including any regulation, standard, or other provision having the force and effect of law) that prohibits, penalizes, or imposes liability for furnishing or using safety performance records in accordance with regulations issued by the Secretary to carry out this section. Notwithstanding any provision of law, written authorization shall not be required to obtain information on the motor vehicle driving record of an individual under consideration for employment with a motor carrier.

(Added Pub. L. 105-178, title IV, § 4014(a)(1), June 9, 1998, 112 Stat. 409.)

CODIFICATION

Pub. L. 105-178, title IV, § 4014(a)(1), June 9, 1998, 112 Stat. 409, which directed the addition of section 508 at end of this chapter, was executed by adding this section at the end of subchapter I of this chapter to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 508, added Pub. L. 102-548, § 2(a), Oct. 28, 1992, 106 Stat. 3646, related to certification of weights and description, prior to repeal by Pub. L. 103-272, § 4(j)(11)(B), July 5, 1994, 108 Stat. 1368. See chapter 59 of this title.

EFFECTIVE DATE

Pub. L. 105-178, title IV, § 4014(b), June 9, 1998, 112 Stat. 411, provided that: “The amendments made by subsection (a) [enacting this section] shall take effect on January 31, 1999.”

SUBCHAPTER II—PENALTIES

§ 521. Civil penalties

(a)(1) A person required under section 504 of this title to make, prepare, preserve, or submit

to the Secretary of Transportation a record about rail carrier transportation, that does not make, prepare, preserve, or submit that record as required under that section, is liable to the United States Government for a civil penalty of \$500 for each violation.

(2) A rail carrier, and a lessor, receiver, or trustee of that carrier, violating section 504(c)(1) of this title, is liable to the Government for a civil penalty of \$100 for each violation.

(3) A rail carrier, a lessor, receiver, or trustee of that carrier, a person furnishing cars or protective service against heat or cold, and an officer, agent, or employee of one of them, required to make a report to the Secretary or answer a question, that does not make a report to the Secretary or does not specifically, completely, and truthfully answer the question, is liable to the Government for a civil penalty of \$100 for each violation.

(4) A separate violation occurs for each day a violation under this subsection continues.

(5) Trial in a civil action under this subsection is in the judicial district in which the rail carrier has its principal operating office or in a district through which the railroad of the rail carrier runs.

(b) VIOLATIONS RELATING TO COMMERCIAL MOTOR VEHICLE SAFETY REGULATION AND OPERATORS.—

(1) NOTICE.—

(A) IN GENERAL.—If the Secretary finds that a violation of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A),¹ or 31502 of this title, or a violation of a regulation issued under any of those provisions, has occurred, the Secretary shall issue a written notice to the violator. Such notice shall describe with reasonable particularity the nature of the violation found and the provision which has been violated. The notice shall specify the proposed civil penalty, if any, and suggest actions which might be taken in order to abate the violation. The notice shall indicate that the violator may, within 15 days of service, notify the Secretary of the violator's intention to contest the matter. In the event of a contested notice, the Secretary shall afford such violator an opportunity for a hearing, pursuant to section 554 of title 5, following which the Secretary shall issue an order affirming, modifying, or vacating the notice of violation.

(B) NONAPPLICABILITY TO REPORTING AND RECORDKEEPING VIOLATIONS.—Subparagraph (A) shall not apply to reporting and recordkeeping violations.

(2) CIVIL PENALTY.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act that is a violation of regulations issued by the Secretary under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title shall be liable to the United States for a civil penalty in an amount

not to exceed \$10,000 for each offense. Notwithstanding any other provision of this section (except subparagraph (C)), no civil penalty shall be assessed under this section against an employee for a violation in an amount exceeding \$2,500.

(B) RECORDKEEPING AND REPORTING VIOLATIONS.—A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person—

(i) who does not make that report, does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered, or does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed \$1,000 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed \$10,000; or

(ii) who knowingly falsifies, destroys, mutilates, or changes a required report or record, knowingly files a false report with the Secretary, knowingly makes or causes or permits to be made a false or incomplete entry in that record about an operation or business fact or transaction, or knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed \$10,000 for each violation, if any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation.

(C) VIOLATIONS PERTAINING TO CDLS.—Any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of section 31302, 31303, 31304, 31305(b), or 31310(g)(1)(A) of this title shall be liable to the United States for a civil penalty not to exceed \$2,500 for each offense.

(D) DETERMINATION OF AMOUNT.—The amount of any civil penalty, and a reasonable time for abatement of the violation, shall by written order be determined by the Secretary, taking into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. In each case, the assessment shall be calculated to induce further compliance.

(E) COPYING OF RECORDS AND ACCESS TO EQUIPMENT, LANDS, AND BUILDINGS.—A person subject to chapter 51 or a motor carrier, broker, freight forwarder, or owner or operator

¹ See References in Text note below.

of a commercial motor vehicle subject to part B of subtitle VI who fails to allow promptly, upon demand, the Secretary (or an employee designated by the Secretary) to inspect and copy any record or inspect and examine equipment, lands, buildings and other property in accordance with sections 504(c), 5121(c), and 14122(b) shall be liable to the United States for a civil penalty not to exceed \$1,000 for each offense. Each day the Secretary is denied the right to inspect and copy any record or inspect and examine equipment, lands, buildings and other property shall constitute a separate offense, except that the total of all civil penalties against any violator for all offenses related to a single violation shall not exceed \$10,000. It shall be a defense to such penalty that the records did not exist at the time of the Secretary's request or could not be timely produced without unreasonable expense or effort. Nothing in this subparagraph amends or supersedes any remedy available to the Secretary under section 502(d), section 507(c), or any other provision of this title.

(3) The Secretary may require any violator served with a notice of violation to post a copy of such notice or statement of such notice in such place or places and for such duration as the Secretary may determine appropriate to aid in the enforcement of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title, as the case may be.

(4) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, before referral to the Attorney General, such civil penalty may be compromised by the Secretary.

(5)(A) If, upon inspection or investigation, the Secretary determines that a violation of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title or a regulation issued under any of those provisions, or combination of such violations, poses an imminent hazard to safety, the Secretary shall order a vehicle or employee operating such vehicle out of service, or order an employer to cease all or part of the employer's commercial motor vehicle operations. In making any such order, the Secretary shall impose no restriction on any employee or employer beyond that required to abate the hazard. Subsequent to the issuance of the order, opportunity for review shall be provided in accordance with section 554 of title 5, except that such review shall occur not later than 10 days after issuance of such order.

(B) In this paragraph, "imminent hazard" means any condition of vehicle, employee, or commercial motor vehicle operations which substantially increases the likelihood of serious injury or death if not discontinued immediately.

(6) CRIMINAL PENALTIES.—

(A) IN GENERAL.—Any person who knowingly and willfully violates any provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title, or a regulation issued under any of those provisions shall, upon conviction, be subject for each offense to a fine not to exceed \$25,000 or

imprisonment for a term not to exceed one year, or both, except that, if such violator is an employee, the violator shall only be subject to penalty if, while operating a commercial motor vehicle, the violator's activities have led or could have led to death or serious injury, in which case the violator shall be subject, upon conviction, to a fine not to exceed \$2,500.

(B) VIOLATIONS PERTAINING TO CDLS.—Any person who knowingly and willfully violates—

(i) any provision of section 31302, 31303(b) or (c), 31304, 31305(b), or 31310(g)(1)(A) of this title or a regulation issued under such section, or

(ii) with respect to notification of a serious traffic violation as defined under section 31301 of this title, any provision of section 31303(a) of this title or a regulation issued under section 31303(a),

shall, upon conviction, be subject for each offense to a fine not to exceed \$5,000 or imprisonment for a term not to exceed 90 days, or both.

(7) The Secretary shall issue regulations establishing penalty schedules designed to induce timely compliance for persons failing to comply promptly with the requirements set forth in any notices and orders under this subsection.

(8) PROHIBITION ON OPERATION IN INTERSTATE COMMERCE AFTER NONPAYMENT OF PENALTIES.—

(A) IN GENERAL.—An owner or operator of a commercial motor vehicle against whom a civil penalty is assessed under this chapter or chapter 51, 149, or 311 of this title and who does not pay such penalty or fails to arrange and abide by an acceptable payment plan for such civil penalty may not operate in interstate commerce beginning on the 91st day after the date specified by order of the Secretary for payment of such penalty. This paragraph shall not apply to any person who is unable to pay a civil penalty because such person is a debtor in a case under chapter 11 of title 11, United States Code.

(B) REGULATIONS.—Not later than 12 months after the date of the enactment of this paragraph, the Secretary, after notice and an opportunity for public comment, shall issue regulations setting forth procedures for ordering commercial motor vehicle owners and operators delinquent in paying civil penalties to cease operations until payment has been made.

(9) Any aggrieved person who, after a hearing, is adversely affected by a final order issued under this section may, within 30 days, petition for review of the order in the United States Court of Appeals in the circuit wherein the violation is alleged to have occurred or where the violator has his principal place of business or residence, or in the United States Court of Appeals for the District of Columbia Circuit. Review of the order shall be based on a determination of whether the Secretary's findings and conclusions were supported by substantial evidence, or were otherwise not in accordance with law. No objection that has not been urged before the Secretary shall be considered by the court, unless reasonable grounds existed for failure or neglect to do so. The commencement of proceed-

ings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Secretary.

(10) All penalties and fines collected under this section shall be deposited into the Highway Trust Fund (other than the Mass Transit Account).

(11) In any action brought under this section, process may be served without regard to the territorial limits of the district of the State in which the action is brought.

(12) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, trial shall be by the court, or, upon demand of the accused, by a jury, conducted in accordance with the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(13) The provisions of this subsection shall not affect chapter 51 of this title or any regulation promulgated by the Secretary under chapter 51.

(14) As used in this subsection, the terms "commercial motor vehicle", "employee", "employer", and "State" have the meaning such terms have under section 31132 of this title.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2435; Pub. L. 98-554, title II, §213(b), Oct. 30, 1984, 98 Stat. 2842; Pub. L. 99-570, title XII, §12012, Oct. 27, 1986, 100 Stat. 3207-184; Pub. L. 101-500, §15(e)(2), Nov. 3, 1990, 104 Stat. 1220; Pub. L. 102-548, §2(b), Oct. 28, 1992, 106 Stat. 3648; Pub. L. 103-272, §§4(j)(11)(D), 5(m)(11), July 5, 1994, 108 Stat. 1368, 1376; Pub. L. 104-287, §5(4), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 105-178, title IV, §4015(a), (b), June 9, 1998, 112 Stat. 411; Pub. L. 106-159, title II, §§206(b), 208, Dec. 9, 1999, 113 Stat. 1763, 1764; Pub. L. 109-59, title IV, §§4102(a), 4103, Aug. 10, 2005, 119 Stat. 1715, 1716.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
521	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 521	49 U.S. Code	Revised Section
(a)	20(7)(a), (c)-(e).	11901
(b)	322(h).	11901

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In subsection (a)(3), the words "against heat and cold" are inserted for consistency with sections 11105 and 11901 of the revised title.

Subsection (b) does not apply to motor carriers of migrant workers and motor private carriers because 49:322(h) (1st sentence) only applies to motor carriers and 49:304(a)(3) and (3a) do not apply 49:322(h) (1st sentence) to motor carriers of migrant workers and motor private carriers. The reference to 49:303(c), 306(a)(1), and 309(a)(1) is omitted as not applicable to this chapter.

REFERENCES IN TEXT

Section 31310(g)(1)(A), referred to in subsec. (b)(1)(A), was redesignated section 31310(i)(1)(A), by Pub. L. 106-159, title II, §201(b)(1), Dec. 9, 1999, 113 Stat. 1759.

The date of the enactment of this paragraph, referred to in subsec. (b)(8)(B), is the date of enactment of Pub. L. 106-159, which was approved Dec. 9, 1999.

The Federal Rules of Criminal Procedure, referred to in subsec. (b)(12), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

AMENDMENTS

2005—Subsec. (b). Pub. L. 109-59, §4103(1), inserted headings for subsec. (b), par. (1), and subpar. (A).

Subsec. (b)(2)(B). Pub. L. 109-59, §4102(a)(2), substituted "\$10,000" for "\$5,000" in cls. (i) and (ii).

Subsec. (b)(2)(B)(i). Pub. L. 109-59, §4102(a)(1), substituted "\$1,000" for "\$500".

Subsec. (b)(2)(E). Pub. L. 109-59, §4103(2), added subpar. (E).

1999—Subsec. (b)(5)(B). Pub. L. 106-159, §208, substituted "substantially increases the likelihood of" for "is likely to result in".

Subsec. (b)(8) to (14). Pub. L. 106-159, §206(b), added par. (8) and redesignated former pars. (8) to (13) as (9) to (14), respectively.

1998—Subsec. (b)(1)(A). Pub. L. 105-178, §4015(a)(1), struck out "fix a reasonable time for abatement of the violation," before "specify the proposed civil penalty".

Subsec. (b)(1)(B). Pub. L. 105-178, §4015(a)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: "The Secretary shall, not later than 60 days after November 3, 1990, establish operational procedures to require a highway safety specialist or other appropriate representative of the Secretary to initiate, at the time of a safety review, compliance review, or other inspection or audit activity, or within a reasonable time thereafter, an enforcement action whenever any of the offenses referred to in paragraph (2)(A) and (B) can be documented, except recordkeeping violations not specified by the Secretary as serious. The procedures shall—

"(i) specify those serious recordkeeping violations for which an enforcement action shall be initiated, including instances in which the falsification of records of duty status or drivers' medical certificates is required or permitted, and such other recordkeeping violations as the Secretary determines to be serious; and

"(ii) authorize, but not require, initiation of an enforcement action for recordkeeping violations not specified by the Secretary as serious."

Subsec. (b)(2)(A). Pub. L. 105-178, §4015(b)(1), added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: "Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of a recordkeeping requirement issued by the Secretary under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title or which is a violation of chapter 59 of this title shall be liable to the United States for a civil penalty not to exceed \$500 for each offense. Each day of a violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses relating to any single violation shall not exceed \$2,500. If the Secretary determines that a serious pattern of safety violations, other than recordkeeping requirements, exists or has occurred, the Secretary may assess a civil penalty not to exceed \$1,000 for each offense; except that the maximum fine for each such pattern of safety violations shall not exceed \$10,000. If the Secretary determines that a substantial health or safety violation exists or has occurred which could reasonably lead to, or has resulted in, serious personal injury or death, the Secretary may assess a civil penalty not to exceed \$10,000 for each offense. Notwithstanding any other provision of this section (other than subpara-

graph (B)), except for recordkeeping violations, no civil penalty shall be assessed under this section against an employee for a violation unless the Secretary determines that such employee's actions constituted gross negligence or reckless disregard for safety, in which case such employee shall be liable for a civil penalty not to exceed \$1,000."

Subsec. (b)(2)(B) to (D). Pub. L. 105-178, §4015(b)(2), (3), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

1996—Subsec. (b)(1)(B). Pub. L. 104-287 substituted "November 3, 1990" for "the date of enactment of this subparagraph" in introductory provisions.

1994—Subsec. (b)(1)(A). Pub. L. 103-272, §5(m)(11)(A), substituted "a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title" for "section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986" and "any of those provisions" for "such sections or Act".

Subsec. (b)(2)(A). Pub. L. 103-272, §5(m)(11)(B), substituted "under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title" for "pursuant to section 3102 of this title or the Motor Carrier Safety Act of 1984".

Pub. L. 103-272, §4(j)(11)(D), substituted "chapter 59 of this title" for "section 508 of this title".

Subsec. (b)(2)(B). Pub. L. 103-272, §5(m)(11)(C), substituted "section 31302, 31303, 31304, 31305(b), or 31310(g)(1)(A) of this title" for "section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986".

Subsec. (b)(3). Pub. L. 103-272, §5(m)(11)(D), substituted "subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title" for "section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986".

Subsec. (b)(5)(A). Pub. L. 103-272, §5(m)(11)(E), substituted "a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title" for "section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986" and "any of those provisions" for "such sections or Act".

Subsec. (b)(6)(A). Pub. L. 103-272, §5(m)(11)(F), substituted "subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title" for "section 3102 of this title, the Motor Carrier Safety Act of 1984", "any of those provisions" for "such section or Act", and "shall be subject" for "shall be liable".

Subsec. (b)(6)(B)(i). Pub. L. 103-272, §5(m)(11)(G), substituted "section 31302, 31303(b) or (c), 31304, 31305(b), or 31310(g)(1)(A) of this title" for "section 12002, 12003(b), 12003(c), 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986".

Subsec. (b)(6)(B)(ii). Pub. L. 103-272, §5(m)(11)(H), substituted "section 31301 of this title" for "section 12019 of such Act", "section 31303(a) of this title" for "section 12003(a) of such Act", and "section 31303(a)" for "such section 12003(a)".

Subsec. (b)(12). Pub. L. 103-272, §5(m)(11)(I), substituted "chapter 51 of this title" for "any provision of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801-1812)" and "chapter 51" for "such Act".

Subsec. (b)(13). Pub. L. 103-272, §5(m)(11)(J), substituted "section 31132 of this title" for "section 204 of the Motor Carrier Safety Act of 1984".

1992—Subsec. (b)(2)(A). Pub. L. 102-548 inserted "or which is a violation of section 508 of this title" after "Act of 1984".

1990—Subsec. (b)(1). Pub. L. 101-500 designated existing provisions as subpar. (A) and added subpar. (B).

1986—Subsec. (b)(1). Pub. L. 99-570, §12012(a), inserted "or section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986"

after "the Motor Carrier Safety Act of 1984" and substituted "such sections" for "such section".

Subsec. (b)(2). Pub. L. 99-570, §12012(b), (f)(1), inserted heading, designated existing provisions as subpars. (A) and (C) with corresponding headings, added subpar. (B), in subpar. (A) indented such subparagraph and aligned it with subpar. (B), and inserted exception relating to subpar. (B).

Subsec. (b)(3). Pub. L. 99-570, §12012(c), inserted "or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986" after "the Motor Carrier Safety Act of 1984".

Subsec. (b)(5)(A). Pub. L. 99-570, §12012(d), inserted "or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986" after "the Motor Carrier Safety Act of 1984" and substituted "such sections" for "such section".

Subsec. (b)(6). Pub. L. 99-570, §12012(e), (f)(2), (g)(1), inserted heading, designated existing provisions as subpar. (A) with corresponding heading, added subpar. (B), in subpar. (A) indented such subparagraph and aligned it with subpar. (B), and substituted "to a fine" for "for a fine" in two places.

Subsec. (b)(13). Pub. L. 99-570, §12012(g)(2), substituted "section 204" for "section 4".

1984—Subsec. (b)(1). Pub. L. 98-554 substituted provisions relating to notice to violators and opportunity for hearings for former provisions which set forth penalties for failure to make reports and keep records.

Subsec. (b)(2). Pub. L. 98-554 substituted provisions setting forth amount of civil penalties for former provisions which related to the place of trial and manner of service of process for violations of recordkeeping and reporting provisions.

Subsec. (b)(3) to (13). Pub. L. 98-554 added pars. (3) to (13).

DEEMED REFERENCES TO 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.

MINIMUM AND MAXIMUM ASSESSMENTS

Pub. L. 106-159, title II, §222, Dec. 9, 1999, 113 Stat. 1769, provided that:

"(a) IN GENERAL.—The Secretary of Transportation should ensure that motor carriers operate safely by imposing civil penalties at a level calculated to ensure prompt and sustained compliance with Federal motor carrier safety and commercial driver's license laws.

"(b) ESTABLISHMENT.—The Secretary—

"(1) should establish and assess minimum civil penalties for each violation of a law referred to in subsection (a); and

"(2) shall assess the maximum civil penalty for each violation of a law referred to in subsection (a) by any person who is found to have committed a pattern of violations of critical or acute regulations issued to carry out such a law or to have previously committed the same or a related violation of critical or acute regulations issued to carry out such a law.

"(c) EXTRAORDINARY CIRCUMSTANCES.—If the Secretary determines and documents that extraordinary circumstances exist which merit the assessment of any civil penalty lower than any level established under subsection (b), the Secretary may assess such lower penalty. In cases where a person has been found to have previously committed the same or a related violation of critical or acute regulations issued to carry out a law referred to in subsection (a), extraordinary circumstances may be found to exist when the Secretary determines that repetition of such violation does not demonstrate a failure to take appropriate remedial action.

"(d) REPORT TO CONGRESS.—

"(1) IN GENERAL.—The Secretary shall conduct a study of the effectiveness of the revised civil pen-

alties established in the Transportation Equity Act for the 21st Century [Pub. L. 105-178, see Tables for classification] and this Act [see Tables for classification] in ensuring prompt and sustained compliance with Federal motor carrier safety and commercial driver's license laws.

“(2) SUBMISSION TO CONGRESS.—The Secretary shall transmit the results of such study and any recommendations to Congress by September 30, 2002.”

REPORT; PENALTIES; EFFECTIVENESS

Section 213(d) of Pub. L. 98-554 directed Secretary of Transportation to conduct a study of effectiveness of civil and criminal penalties established by amendments made by section 213 of Pub. L. 98-554 in deterring violations of commercial motor vehicle safety regulations issued under title II of Pub. L. 98-554 and in effectively prosecuting such violations when they occur, which study was to examine the effectiveness of penalties in effect before Oct. 30, 1984, in comparison to the penalties established by the amendments made by title II of Pub. L. 98-554, and was to further investigate the need for, and make recommendations concerning, increased fine levels for civil and criminal penalties, and the need for additional categories of civil and criminal penalties to deter further, and prosecute effectively, violations of such commercial motor vehicle safety regulations, and further directed Secretary to submit to Congress a report on the findings of this study, together with legislative recommendations, not later than 2 years after Oct. 30, 1984.

§ 522. Reporting and record keeping violations

A person required to make a report to the Secretary of Transportation, or make, prepare, or preserve a record, under section 504 of this title about transportation by rail carrier, that knowingly and willfully (1) makes a false entry in the report or record, (2) destroys, mutilates, changes, or by another means falsifies the record, (3) does not enter business related facts and transactions in the record, (4) makes, prepares, or preserves the record in violation of a regulation or order of the Secretary, or (5) files a false report or record with the Secretary, shall be fined not more than \$5,000, imprisoned for not more than 2 years, or both.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2436; Pub. L. 105-178, title IV, §4015(c), June 9, 1998, 112 Stat. 412.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
522	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.
522(b)	49:304(a)(3) (last sentence) (related to “Sec. 322(g)”).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to “Sec. 222(g)”); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to “Sec. 322(g)”).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to “Sec. 222(g)”); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 522	49 U.S. Code	Revised Section
(a)	20(7)(b) (less proviso).	11909
(b)	322(g).	11909

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed.

AMENDMENTS

1998—Pub. L. 105-178 struck out “(a)” before “A person required to make a report to the Secretary of Transportation” and struck out subsec. (b) which read as follows: “A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person, that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered, (3) willfully does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, (4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record, (5) knowingly and willfully files a false report or record with the Secretary, (6) knowingly and willfully makes a false or incomplete entry in that record about a business related fact or transaction, or (7) knowingly and willfully makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be fined not more than \$5,000.”

§ 523. Unlawful disclosure of information

(a) A motor carrier, or an officer, receiver, trustee, lessee, or employee of that carrier, or another person authorized by that carrier to receive information from that carrier, may not knowingly disclose to another person (except the shipper or consignee), and another person may not solicit, or knowingly receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier without the consent of the shipper or consignee if that information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee.

(b) This chapter does not prevent a motor carrier, motor carrier of migrant workers, or motor private carrier from giving information—

(1) in response to legal process issued under authority of a court of the United States or a State;

(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; and

(3) to another motor carrier, motor carrier of migrant workers, or motor private carrier, or its agent, to adjust mutual traffic accounts in the ordinary course of business.

(c) An employee of the Secretary of Transportation delegated to make an inspection under section 504 of this title who knowingly discloses information acquired during that inspection, except as directed by the Secretary, a court, or a judge of that court, shall be fined not more than \$500, imprisoned for not more than 6 months, or both.