

broker for transportation of property subject to jurisdiction under subchapter I of chapter 135, if the Secretary determines that the person—

(1) has sufficient experience to qualify the person to act as a broker for transportation; and

(2) is fit, willing, and able to be a broker for transportation and to comply with this part and applicable regulations of the Secretary.

(b) DURATION.—A registration issued under subsection (a) shall only remain in effect while the broker for transportation is in compliance with section 13906(b).

(c) EXPERIENCE OR TRAINING REQUIREMENTS.—Each broker shall employ, as an officer, an individual who—

(1) has at least 3 years of relevant experience; or

(2) provides the Secretary with satisfactory evidence of the individual's knowledge of related rules, regulations, and industry practices.

(d) REGISTRATION AS MOTOR CARRIER REQUIRED.—

(1) IN GENERAL.—A broker for transportation may not provide transportation as a motor carrier unless the broker has registered separately under this chapter to provide transportation as a motor carrier.

(2) LIMITATION.—This subsection does not apply to a motor carrier registered under this chapter or to an employee or agent of the motor carrier to the extent the transportation is to be provided entirely by the motor carrier, with other registered motor carriers, or with rail or water carriers.

(e) REGULATION TO PROTECT MOTOR CARRIERS AND SHIPPERS.—Regulations of the Secretary applicable to brokers registered under this section shall provide for the protection of motor carriers and shippers by motor vehicle.

(f) BOND AND INSURANCE.—The Secretary may impose on brokers for motor carriers of passengers such requirements for bonds or insurance or both as the Secretary determines are needed to protect passengers and carriers dealing with such brokers.

(g) UPDATE OF REGISTRATION.—The Secretary shall require a broker to update its registration under this section not later than 30 days after a change in the broker's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 884; amended Pub. L. 109-59, title IV, §4142(c), Aug. 10, 2005, 119 Stat. 1747; Pub. L. 110-244, title III, §305(e), June 6, 2008, 122 Stat. 1620; Pub. L. 112-141, div. C, title II, §§32107(c), 32916(b), July 6, 2012, 126 Stat. 782, 821.)

AMENDMENTS

2012—Subsec. (a). Pub. L. 112-141, §32916(b)(1), substituted “determines that the person—” for “finds that the person is fit”, added par. (1), and inserted par. (2) designation and “is fit” before “, willing”.

Subsecs. (b), (c). Pub. L. 112-141, §32916(b)(3), added subsecs. (b) and (c). Former subsecs. (b) and (c) redesignated (d) and (e), respectively.

Subsec. (d). Pub. L. 112-141, §32916(b)(4), amended subsec. (d) generally. Prior to amendment, text read as follows:

“(1) IN GENERAL.—The broker may provide the transportation itself only if the broker also has been registered to provide the transportation as a motor carrier under this chapter.

“(2) LIMITATION.—This subsection does not apply to a motor carrier registered under this chapter or to an employee or agent of the motor carrier to the extent the transportation is to be provided entirely by the motor carrier, with other registered motor carriers, or with rail or water carriers.”

Pub. L. 112-141, §32916(b)(2), redesignated subsec. (b) as (d). Former subsec. (d) redesignated (f).

Subsec. (e). Pub. L. 112-141, §32916(b)(5), amended subsec. (e) generally. Prior to amendment, text read as follows: “Regulations of the Secretary applicable to brokers registered under this section shall provide for the protection of shippers by motor vehicle.”

Pub. L. 112-141, §32916(b)(2), redesignated subsec. (c) as (e). Former subsec. (e) redesignated (g).

Pub. L. 112-141, §32107(c), added subsec. (e).

Subsecs. (f), (g). Pub. L. 112-141, §32916(b)(2), redesignated subsecs. (d) and (e) as (f) and (g), respectively.

2008—Subsec. (a). Pub. L. 110-244 amended subsec. (a) generally. Prior to amendment, text read as follows:

“(1) HOUSEHOLD GOODS.—The Secretary shall register, subject to section 13906(b), a person to be a broker of household goods for transportation of property subject to jurisdiction under subchapter I of chapter 135, if the Secretary finds that the person is fit, willing, and able to be a broker of household goods for transportation and to comply with this part and applicable regulations of the Secretary.

“(2) OTHERS.—The Secretary may register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a broker (other than a broker of household goods) if the Secretary finds that such registration is needed for the protection of shippers and that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and Board.”

2005—Subsec. (a). Pub. L. 109-59, §4142(c)(1), (3), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (a)(1). Pub. L. 109-59, §4142(c)(2), which directed amendment of par. (1) by inserting “of household goods” after “broker”, was executed by making the insertion in two places 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.

§ 13905. Effective periods of registration

(a) PERSON HOLDING ICC AUTHORITY.—Any person having authority to provide transportation or service as a motor carrier, freight forwarder, or broker under this title, as in effect on December 31, 1995, shall be deemed, for purposes of this part, to be registered to provide such transportation or service under this part.

(b) PERSON REGISTERED WITH SECRETARY.—

(1) IN GENERAL.—Except as provided in paragraph (2), any person having registered with the Secretary to provide transportation or service as a motor carrier or motor private carrier under this title, as in effect on January 1, 2005, but not having registered pursuant to section 13902(a), shall be treated, for purposes of this part, to be registered to provide such transportation or service for purposes of sections 13908 and 14504a.

(2) EXCLUSIVELY INTRASTATE OPERATORS.—Paragraph (1) does not apply to a motor car-

rier or motor private carrier (including a transporter of waste or recyclable materials) engaged exclusively in intrastate transportation operations.

(c) EFFECTIVE PERIOD.—

(1) IN GENERAL.—Except as otherwise provided in this part, each registration issued under section 13902, 13903, or 13904—

(A) shall be effective beginning on the date specified by the Secretary; and

(B) shall remain in effect for such period as the Secretary determines appropriate by regulation.

(2) REISSUANCE OF REGISTRATION.—

(A) REQUIREMENT.—Not later than 4 years after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall require a freight forwarder or broker to renew its registration issued under this chapter.

(B) EFFECTIVE PERIOD.—Each registration renewal under subparagraph (A)—

(i) shall expire not later than 5 years after the date of such renewal; and

(ii) may be further renewed as provided under this chapter.

(d) SUSPENSION, AMENDMENTS, AND REVOCATIONS.—

(1) APPLICATIONS.—On application of the registrant, the Secretary may amend or revoke a registration.

(2) COMPLAINTS AND ACTIONS ON SECRETARY'S OWN INITIATIVE.—On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may—

(A) suspend, amend, or revoke any part of the registration of a motor carrier, foreign motor carrier, foreign motor private carrier, broker, or freight forwarder for willful failure to comply with—

(i) this part;

(ii) an applicable regulation or order of the Secretary or the Board, including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations (or successor regulations), for transportation provided by an over-the-road bus; or

(iii) a condition of its registration;

(B) withhold, suspend, amend, or revoke any part of the registration of a motor carrier, foreign motor carrier, foreign motor private carrier, broker, or freight forwarder for failure—

(i) to pay a civil penalty imposed under chapter 5, 51, 149, or 311;

(ii) to arrange and abide by an acceptable payment plan for such civil penalty, not later than 90 days after the date specified by order of the Secretary for the payment of such penalty; or

(iii) for failure¹ to obey a subpoena issued by the Secretary;

(C) withhold, suspend, amend, or revoke any part of a registration of a motor carrier,

foreign motor carrier, foreign motor private carrier, broker, or freight forwarder following a determination by the Secretary that the motor carrier, broker, or freight forwarder failed to disclose, in its application for registration, a material fact relevant to its willingness and ability to comply with—

(i) this part;

(ii) an applicable regulation or order of the Secretary or the Board; or

(iii) a condition of its registration; or

(D) withhold, suspend, amend, or revoke any part of a registration of a motor carrier, foreign motor carrier, foreign motor private carrier, broker, or freight forwarder if the Secretary finds that—

(i)² the motor carrier, broker, or freight forwarder does not disclose any relationship through common ownership, common management, common control, or common familial relationship to any other motor carrier, broker, or freight forwarder, or any other applicant for motor carrier, broker, or freight forwarder registration that the Secretary determines is or was unwilling or unable to comply with the relevant requirements listed in section 13902, 13903, or 13904³

(3) LIMITATION.—Paragraph (2)(B) shall not apply to a person who is unable to pay a civil penalty because the person is a debtor in a case under chapter 11 of title 11.

(4) REGULATIONS.—Not later than 12 months after the date of the enactment of this paragraph, the Secretary, after notice and opportunity for public comment, shall issue regulations to provide for the suspension, amendment, or revocation of a registration under this part for failure to pay a civil penalty as provided in paragraph (2)(B).

(e) PROCEDURE.—Except on application of the registrant, or if the Secretary determines that the registrant failed to disclose a material fact in an application for registration in accordance with subsection (d)(2)(C), the Secretary may revoke a registration of a motor carrier, freight forwarder, or broker, only after—

(1) the Secretary has issued an order to the registrant under section 14701 requiring compliance with this part, a regulation of the Secretary, or a condition of the registration; and

(2) the registrant willfully does not comply with the order for a period of 30 days.

(f) EXPEDITED PROCEDURE.—

(1) PROTECTION OF SAFETY.—Notwithstanding subchapter II of chapter 5 of title 5, the Secretary—

(A) may suspend the registration of a motor carrier, a freight forwarder, or a broker for failure to comply with requirements of the Secretary pursuant to section 13904(e) or 13906 or an order or regulation of the Secretary prescribed under those sections; and

(B) shall revoke the registration of a motor carrier that has been prohibited from

¹ So in original. The words "for failure" probably should not appear.

² So in original. No cl. (ii) has been enacted.

³ So in original. Probably should be followed by a period.

operating in interstate commerce for failure to comply with the safety fitness requirements of section 31144.

(2) **IMMINENT HAZARD TO PUBLIC HEALTH.**—Notwithstanding subchapter II of chapter 5 of title 5, the Secretary shall revoke the registration of a motor carrier if the Secretary finds that the carrier is or was conducting unsafe operations that are or were an imminent hazard to public health or property.

(3) **NOTICE; PERIOD OF SUSPENSION.**—The Secretary may suspend or revoke under this subsection the registration only after giving notice of the suspension or revocation to the registrant. A suspension remains in effect until the registrant complies with the applicable sections or, in the case of a suspension under paragraph (2), until the Secretary revokes the suspension.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 884; amended Pub. L. 104–287, §5(33), Oct. 11, 1996, 110 Stat. 3392; Pub. L. 105–102, §2(10), Nov. 20, 1997, 111 Stat. 2204; Pub. L. 106–159, title II, §206(a), Dec. 9, 1999, 113 Stat. 1763; Pub. L. 109–59, title IV, §§4104, 4303(a), Aug. 10, 2005, 119 Stat. 1716, 1761; Pub. L. 110–291, §2(b), July 30, 2008, 122 Stat. 2915; Pub. L. 112–141, div. C, title II, §§32103(a), 32109, 32205, 32917, 32933(a), July 6, 2012, 126 Stat. 778, 782, 785, 821, 830.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287

This amends 49:13905(a) for clarity and consistency.

PUB. L. 105–102

This amends 49:13905(e)(1) to correct a grammatical error.

REFERENCES IN TEXT

The date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, referred to in subsec. (c)(2)(A), is the date of enactment of title II of div. C of Pub. L. 112–141, which was approved July 6, 2012.

The date of the enactment of this paragraph, referred to in subsec. (d)(4), is the date of enactment of Pub. L. 106–159, which was approved Dec. 9, 1999.

AMENDMENTS

2012—Subsec. (c). Pub. L. 112–141, §32917, amended subsec. (c) generally. Prior to amendment, text read as follows: “Except as otherwise provided in this part, each registration issued under section 13902, 13903, or 13904 shall be effective from the date specified by the Secretary and shall remain in effect for such period as the Secretary determines appropriate by regulation.”

Subsec. (d)(1). Pub. L. 112–141, §32103(a)(1)(B), added par. (1) and struck out former par. (1) which authorized the Secretary to amend or revoke a registration upon application, or suspend, amend or revoke a registration upon complaint or the Secretary’s own initiative after notice and opportunity for a proceeding.

Subsec. (d)(2). Pub. L. 112–141, §32205, inserted “foreign motor carrier, foreign motor private carrier,” after “registration of a motor carrier,” wherever appearing.

Pub. L. 112–141, §32103(a)(1)(B), added par. (2). Former par. (2) redesignated (4).

Subsec. (d)(3). Pub. L. 112–141, §32103(a)(1)(B), added par. (3).

Subsec. (d)(4). Pub. L. 112–141, §32103(a)(1)(C), substituted “paragraph (2)(B)” for “paragraph (1)(B)”.

Pub. L. 112–141, §32103(a)(1)(A), redesignated par. (2) as (4).

Subsec. (e). Pub. L. 112–141, §32103(a)(2), inserted “or if the Secretary determines that the registrant failed to disclose a material fact in an application for registration in accordance with subsection (d)(2)(C),” after “registrant.”

Subsec. (f)(1)(A). Pub. L. 112–141, §32933(a), substituted “section 13904(e)” for “section 13904(c)”.

Subsec. (f)(2). Pub. L. 112–141, §32109, amended par. (2) generally. Prior to amendment, text read as follows: “Without regard to subchapter II of chapter 5 of title 5, the Secretary shall revoke the registration of a motor carrier of passengers if the Secretary finds that such carrier has been conducting unsafe operations which are an imminent hazard to public health or property.”

2008—Subsec. (d)(1)(A). Pub. L. 110–291 inserted “(including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or such successor regulations to those accessibility requirements as the Secretary may issue, for transportation provided by an over-the-road bus)” after “Board”.

2005—Subsecs. (b) to (d). Pub. L. 109–59, §4303(a), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 109–59, §4303(a)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 109–59, §4104(1), added par. (1) and struck out heading and text of former par. (1). Text read as follows: “Without regard to subchapter II of chapter 5 of title 5, the Secretary may suspend the registration of a motor carrier, a freight forwarder, or a broker for failure to comply with safety requirements of the Secretary or the safety fitness requirements pursuant to section 13904(c), 13906, or 31144 of this title, or an order or regulation of the Secretary prescribed under those sections.”

Subsec. (e)(2). Pub. L. 109–59, §4104(2), substituted “shall revoke the registration” for “may suspend a registration”.

Subsec. (e)(3). Pub. L. 109–59, §4104(3), added par. (3) and struck out heading and text of former par. (3). Text read as follows: “The Secretary may suspend under this subsection the registration only after giving notice of the suspension to the registrant. The suspension remains in effect until the registrant complies with those applicable sections or, in the case of a suspension under paragraph (2), until the Secretary revokes such suspension.”

Subsec. (f). Pub. L. 109–59, §4303(a)(1), redesignated subsec. (e) as (f).

1999—Subsec. (c). Pub. L. 106–159 inserted par. (1) designation and heading, inserted “(A)” before “suspend”, added cl. (B), realigned par. (1) margins, and added par. (2).

1997—Subsec. (e)(1). Pub. L. 105–102 struck out comma after “31144”.

1996—Subsec. (a). Pub. L. 104–287 substituted “December 31, 1995” for “the day before the effective date of this section”.

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.

RELATIONSHIP TO OTHER LAWS

Except as provided in sections 14504, 14504a, and 14506 of this title, subtitle C (§§4301–4308) of title IV of Pub. L. 109–59 is not intended to prohibit any State or any political subdivision of any State from enacting, imposing, or enforcing any law or regulation with respect to a motor carrier, motor private carrier, broker, freight forwarder, or leasing company that is not otherwise prohibited by law, see section 4302 of Pub. L. 109–59, set out as a note under section 13902 of this title.

§ 13906. Security of motor carriers, motor private carriers, brokers, and freight forwarders

(a) MOTOR CARRIER REQUIREMENTS.—

(1) LIABILITY INSURANCE REQUIREMENT.—The Secretary may register a motor carrier under section 13902 only if the registrant files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary, in an amount not less than such amount as the Secretary prescribes pursuant to, or as is required by, sections 31138 and 31139, and the laws of the State or States in which the registrant is operating, to the extent applicable. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the registrant for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property (except property referred to in paragraph (3)¹ of this subsection), or both. A registration remains in effect only as long as the registrant continues to satisfy the security requirements of this paragraph.

(2) SECURITY REQUIREMENT.—Not later than 120 days after the date of enactment of the Unified Carrier Registration Act of 2005, any person, other than a motor private carrier, registered with the Secretary to provide transportation or service as a motor carrier under section 13905(b) shall file with the Secretary a bond, insurance policy, or other type of security approved by the Secretary, in an amount not less than required by sections 31138 and 31139.

(3) AGENCY REQUIREMENT.—A motor carrier shall comply with the requirements of sections 13303 and 13304. To protect the public, the Secretary may require any such motor carrier to file the type of security that a motor carrier is required to file under paragraph (1) of this subsection. This paragraph only applies to a foreign motor private carrier and foreign motor carrier operating in the United States to the extent that such carrier is providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country.

(4) TRANSPORTATION INSURANCE.—The Secretary may require a registered motor carrier to file with the Secretary a type of security sufficient to pay a shipper or consignee for damage to property of the shipper or consignee placed in the possession of the motor carrier as the result of transportation provided under this part. A carrier required by law to pay a shipper or consignee for loss, damage, or default for which a connecting motor carrier is responsible is subrogated, to the extent of the amount paid, to the rights of the shipper or consignee under any such security.

(b) BROKER FINANCIAL SECURITY REQUIREMENTS.—

(1) REQUIREMENTS.—

(A) IN GENERAL.—The Secretary may register a person as a broker under section 13904

only if the person files with the Secretary a surety bond, proof of trust fund, or other financial security, or a combination thereof, in a form and amount, and from a provider, determined by the Secretary to be adequate to ensure financial responsibility.

(B) USE OF A GROUP SURETY BOND, TRUST FUND, OR OTHER SURETY.—In implementing the standards established by subparagraph (A), the Secretary may authorize the use of a group surety bond, trust fund, or other financial security, or a combination thereof, that meets the requirements of this subsection.

(C) PROOF OF TRUST OR OTHER FINANCIAL SECURITY.—For purposes of subparagraph (A), a trust fund or other financial security may be acceptable to the Secretary only if the trust fund or other financial security consists of assets readily available to pay claims without resort to personal guarantees or collection of pledged accounts receivable.

(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

(A) PAYMENT OF CLAIMS.—A surety bond, trust fund, or other financial security obtained under paragraph (1) shall be available to pay any claim against a broker arising from its failure to pay freight charges under its contracts, agreements, or arrangements for transportation subject to jurisdiction under chapter 135 if—

(i) subject to the review by the surety provider, the broker consents to the payment;

(ii) in any case in which the broker does not respond to adequate notice to address the validity of the claim, the surety provider determines that the claim is valid; or

(iii) the claim is not resolved within a reasonable period of time following a reasonable attempt by the claimant to resolve the claim under clauses (i) and (ii), and the claim is reduced to a judgment against the broker.

(B) RESPONSE OF SURETY PROVIDERS TO CLAIMS.—If a surety provider receives notice of a claim described in subparagraph (A), the surety provider shall—

(i) respond to the claim on or before the 30th day following the date on which the notice was received; and

(ii) in the case of a denial, set forth in writing for the claimant the grounds for the denial.

(C) COSTS AND ATTORNEY'S FEES.—In any action against a surety provider to recover on a claim described in subparagraph (A), the prevailing party shall be entitled to recover its reasonable costs and attorney's fees.

(3) MINIMUM FINANCIAL SECURITY.—Each broker subject to the requirements of this section shall provide financial security of \$75,000 for purposes of this subsection, regardless of the number of branch offices or sales agents of the broker.

(4) CANCELLATION NOTICE.—If a financial security required under this subsection is canceled—

¹ See References in Text note below.