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107TH CONGRESS
2^D SESSION**S. 1750****[Report No. 107-241]**

To make technical corrections to the HAZMAT provisions of the USA
PATRIOT Act.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 30, 2001

Mr. HOLLINGS (for himself, Mr. MCCAIN, Mr. BREAU, Mr. SMITH of Oregon, and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

AUGUST 1, 2002

Reported by Mr. HOLLINGS, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To make technical corrections to the HAZMAT provisions
of the USA PATRIOT Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Hazmat Endorsement
5 Requirements Act”.

1 **SEC. 2. LIMITATION ON ISSUANCE OF HAZMAT LICENSES.**

2 (a) ~~IN GENERAL.~~—Chapter 313 of title 49, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 **“§ 31318. Issuance, renewal, upgrade, transfer, and**
6 **periodic check of hazmat licenses**

7 ~~“(a) IN GENERAL.~~—A State may not issue, renew,
8 upgrade, or transfer a hazardous materials endorsement
9 for a commercial driver’s license to any individual author-
10 izing that individual to operate a commercial motor vehicle
11 transporting a hazardous material in commerce unless the
12 Secretary of Transportation has determined that the indi-
13 vidual does not pose a security risk warranting denial of
14 the endorsement or license. Each State shall implement
15 a program under which a background records check is
16 requested—

17 ~~“(1) whenever a commercial driver’s license~~
18 with a hazardous materials endorsement is to be
19 issued, renewed, upgraded, or transferred; and

20 ~~“(2) periodically (as prescribed by the Secretary~~
21 by regulations) for all other individuals holding a
22 commercial driver’s license with a hazardous mate-
23 rials endorsement.

24 ~~“(b) DETERMINATION OF SECURITY RISK.—~~

25 ~~“(1) IN GENERAL.~~—An individual may not be
26 denied a hazardous materials endorsement for a

1 commercial driver's license under subsection (a) un-
 2 less the Secretary determines that individual—

3 “(A) in the 10-year period ending on the
 4 date of the background investigation, was con-
 5 victed (or found not guilty by reason of insan-
 6 ity) of an offense described in section
 7 44936(b)(1)(B) of this title (disregarding the
 8 matter in clause (xiv)(IX) after ‘1 year,’);

9 “(B) is described in section 175b(b)(2) of
 10 title 18, United States Code; or

11 “(C) may be denied admission to the
 12 United States or removed from the United
 13 States under subclause (IV), (VI), or (VII) of
 14 section 212(a)(3)(B)(i) of the Immigration and
 15 Nationality Act (8 U.S.C. 1182(a)(3)).

16 “(2) MITIGATING CIRCUMSTANCES.—In making
 17 a determination under paragraph (1), the Secretary
 18 shall give consideration to the circumstances of any
 19 disqualifying act or offense, restitution made by the
 20 individual, Federal and State mitigation remedies,
 21 and other factors from which it may be concluded
 22 that the individual does not pose a security risk war-
 23 ranting denial of the license or endorsement.

24 “(3) APPEALS PROCESS.—The Secretary shall
 25 establish an appeals process under this section for

1 individuals found to be ineligible for a hazardous
2 materials endorsement for a commercial driver's li-
3 cense that includes notice and an opportunity for a
4 hearing.

5 ~~“(c) BACKGROUND RECORDS CHECK.—~~

6 ~~“(1) IN GENERAL.—~~Upon the request of a
7 State regarding issuance of a hazardous materials
8 endorsement for a commercial driver's license to an
9 individual, the Attorney General shall—

10 ~~“(A) conduct a background records check~~
11 ~~regarding the individual;~~

12 ~~“(B) take appropriate criminal enforce-~~
13 ~~ment action required by information developed~~
14 ~~or obtained in the course of the background~~
15 ~~check; and~~

16 ~~“(C) upon completing the background~~
17 ~~records check, notify the Secretary of Transpor-~~
18 ~~tation of the completion and results of the~~
19 ~~background records check.~~

20 ~~“(2) SCOPE.—~~A background records check re-
21 garding an individual under this subsection shall
22 consist of the following:

23 ~~“(A) A check of the relevant criminal his-~~
24 ~~tory data bases.~~

1 “(B) In the case of an alien, a check of the
2 relevant data bases to determine the status of
3 the alien under the immigration laws of the
4 United States.

5 “(C) As appropriate, a check of the rel-
6 evant international data bases through Interpol-
7 U.S. National Central Bureau or other appro-
8 priate means.

9 “(D) Review of any other national secu-
10 rity-related information or data base identified
11 by the Attorney General for purposes of such a
12 background records check.

13 “(3) SECRETARY TO NOTIFY STATE.—After
14 making the determination required by subsection
15 (b)(1), the Secretary of Transportation shall
16 promptly notify the State of the determination.

17 “(d) REPORTING REQUIREMENT.—Each State shall
18 submit to the Secretary of Transportation, at such time
19 and in such manner as the Secretary may prescribe, such
20 information as the Secretary may require, concerning each
21 individual to whom the State issues a hazardous materials
22 endorsement for a commercial driver’s license.

23 “(e) RESTRICTIONS ON USE AND MAINTENANCE OF
24 INFORMATION.—

1 ~~“(1) FOIA NOT TO APPLY.—~~Information ob-
 2 tained by the Attorney General or the Secretary of
 3 Transportation under this section may not be made
 4 available to the public under section 552 of title 5,
 5 United States Code.

6 ~~“(2) CONFIDENTIALITY.—~~Any information
 7 other than criminal acts or offenses constituting
 8 grounds for disqualification under subsection (b)(1)
 9 shall be maintained confidentially by the Secretary
 10 and may be used only for making determinations
 11 under this section.

12 ~~“(f) RENEWAL WAIVER FOR BACKGROUND CHECK~~
 13 ~~DELAYS.—~~The Secretary shall provide a waiver for State
 14 compliance with the requirements of subsection (a) for re-
 15 newals to the extent necessary to avoid the interruption
 16 of service by a license holder while a background check
 17 is being completed.

18 ~~“(g) DEFINITIONS.—~~In this section:

19 ~~“(1) HAZARDOUS MATERIALS.—~~The term ‘haz-
 20 ardous material’ means—

21 ~~“(A) a substance or material designated by~~
 22 the Secretary under section 5103(a) of this title
 23 for which the Secretary requires placarding of
 24 a commercial motor vehicle transporting it in
 25 commerce; and

1 ~~“(B) a substance or material, including a~~
 2 ~~substance or material on the Centers for Dis-~~
 3 ~~ease Control’s list of select agents, designated~~
 4 ~~as a hazardous material by the Secretary under~~
 5 ~~procedures to be established by the Secretary.~~

6 ~~“(2) ALIEN.—The term ‘alien’ has the meaning~~
 7 ~~given the term in section 101(a)(3) of the Immigra-~~
 8 ~~tion and Nationality Act (8 U.S.C. 1101(a)(3)).”.~~

9 ~~(b) ENFORCEMENT.—Section 31311(a) of title 49,~~
 10 ~~United States Code, is amended by adding at the end the~~
 11 ~~following:~~

12 ~~“(21) The State shall comply with the require-~~
 13 ~~ments of section 31318.”.~~

14 ~~(c) CONFORMING AMENDMENTS.—~~

15 ~~(1) Section 31305(a)(5)(C) of title 49, United~~
 16 ~~States Code, is amended by striking “section 5103a”~~
 17 ~~and inserting “section 31318”.~~

18 ~~(2) The chapter analysis for chapter 313 is~~
 19 ~~amended by adding at the end the following:~~

~~“31318. Limitation on issuance of hazmat licenses.”.~~

20 ~~(3) Chapter 51 of title 49, United States Code,~~
 21 ~~is amended—~~

22 ~~(A) by striking section 5103a; and~~

23 ~~(B) by striking the item in the chapter~~
 24 ~~analysis relating to section 5103a.~~

(4) Section 1012(c) of the USA PATRIOT Act of 2001 is amended by striking “section 5103a” and inserting “section 31318”.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on October 26, 2001.

(2) LIMIT ON RETROACTIVITY.—Notwithstanding paragraph (1), no enforcement action shall be taken against a State under section 31311 (a) (21) of title 49, United States Code, for any act committed, or failure to act that occurred, in violation of that section before the effective date of the interim final rule prescribed by the Secretary of Transportation under section 31318 of title 49, United States Code.

(3) INTERIM FINAL RULE AUTHORITY.—The Secretary of Transportation shall issue an interim final rule as a temporary regulation under section 31318 of title 49, United States Code, as soon as practicable after the date of enactment of this Act without regard to the provisions of chapter 5 of title 5, United States Code. The Secretary shall initiate a rulemaking in accordance with such provisions as soon as practicable after the date of enactment of this Act. The final rule issued pursuant to that rule-

1 making shall supersede the interim final rule pro-
 2 mulgated under this paragraph.

3 **SEC. 3. PROHIBITION ON OPERATING WITHOUT PROPER**
 4 **HAZMAT ENDORSEMENT OR LICENSE.**

5 (a) IN GENERAL.—Chapter 313 of title 49, United
 6 States Code, is further amended by adding at the end the
 7 following:

8 **“§ 31319. Prohibition on unauthorized transportation**
 9 **of hazardous materials**

10 “(a) IN GENERAL.—Notwithstanding any provision
 11 of law, treaty, or international agreement to the contrary,
 12 after the effective date of the interim final rule promul-
 13 gated by the Secretary of Transportation under section
 14 2(d)(3) of the Hazmat Endorsement Requirements Act,
 15 no individual may operate a commercial motor vehicle
 16 transporting a hazardous material in commerce in the
 17 United States without a hazardous materials endorsement
 18 or a license authorizing that individual to operate a com-
 19 mercial motor vehicle transporting a hazardous material
 20 in commerce—

21 “(1) issued by a State in accordance with the
 22 requirements of section 31318 of this title; or

23 “(2) issued by the government of Canada or
 24 Mexico, or a political subdivision thereof, after a
 25 background check that is the same as, of substan-

1 tially similar to, the background check required by
2 section 31318.

3 (b) ~~PENALTY.~~—The Secretary shall by regulation
4 prescribe the penalty for violation of subsection (a).’’.

5 (b) ~~CONFORMING AMENDMENT.~~—The chapter anal-
6 ysis for chapter 313 is amended by adding at the end the
7 following:

“31319. Prohibition on unauthorized transportation of hazardous materials.”.

8 **SEC. 4. PENALTY FOR FRAUDULENT ISSUANCE OR RE-**
9 **NEWAL OF COMMERCIAL DRIVER’S LICENSE.**

10 (a) ~~IN GENERAL.~~—Chapter 313 of title 49, United
11 States Code, is further amended by adding at the end the
12 following:

13 **“§ 31320. Penalty for fraudulent issuance, renewal,**
14 **upgrade, or transfer of commercial driv-**
15 **er’s license**

16 “Any person who knowingly issues, obtains, or know-
17 ingly facilitates the issuance, renewal, upgrade, transfer,
18 or obtaining of, a commercial driver’s license or an en-
19 dorsement for a commercial driver’s license knowing the
20 license or endorsement to have been wrongfully issued or
21 obtained, or issued, renewed, upgraded, transferred, or ob-
22 tained through the submission of false information or the
23 intentional withholding of required information is guilty
24 of a Class E felony punishable by a fine, imprisonment,
25 or both as provided in title 18, United States Code.”.

1 (b) ~~CONFORMING AMENDMENT.~~—The chapter anal-
 2 ysis for chapter 313 is amended by adding at the end the
 3 following:

 “31320. Penalty for fraudulent issuance of renewal of commercial driver’s li-
 cense”.

4 **SEC. 5. MOTOR CARRIER SECURITY REPORT.**

5 (a) ~~IN GENERAL.~~—

6 (1) ~~IN GENERAL.~~—The Secretary of Transpor-
 7 tation shall assess the security risks associated with
 8 motor carrier transportation and develop prioritized
 9 recommendations for—

10 (A) improving the security of hazardous
 11 materials shipments by motor carriers, includ-
 12 ing shipper responsibilities;

13 (B) using biometrics or other identification
 14 systems to improve the security of motor carrier
 15 transportation;

16 (C) technological advancements in the area
 17 of information access and transfer for the pur-
 18 pose of identifying the location of hazmat ship-
 19 ments and facilitating the availability of safety
 20 and security information; and

21 (D) reducing other significant security re-
 22 lated risks to public safety and interstate com-
 23 merce, taking into account the impact that any

1 proposed security measure might have on the
2 provision of motor carrier transportation.

3 ~~(2) EXISTING PRIVATE AND PUBLIC SECTOR~~
4 ~~EFFORTS.~~—The assessment shall include a review of
5 any actions already taken to address identified secu-
6 rity issues by both public and private entities.

7 ~~(b) CONSULTATION; USE OF EXISTING RE-~~
8 ~~SOURCES.~~—In carrying out the assessment required by
9 subsection (a), the Secretary shall—

10 ~~(1) consult with operators, drivers, safety advo-~~
11 ~~cates, and public safety officials (including officials~~
12 ~~responsible for responding to emergencies); and~~

13 ~~(2) utilize, to the maximum extent feasible, the~~
14 ~~resources and assistance of the Transportation Re-~~
15 ~~search Board of the National Academy of Sciences.~~

16 ~~(c) REPORT.—~~

17 ~~(1) CONTENTS.~~—Within 180 days after the
18 date of enactment of this Act, the Secretary shall
19 transmit to the Senate Committee on Commerce,
20 Science, and Transportation and the House of Rep-
21 resentatives Committee on Transportation and In-
22 frastructure a report, without compromising national
23 security, containing—

24 ~~(A) the assessment and prioritized rec-~~
25 ~~ommendations required by subsection (a);~~

(B) any proposals the Secretary deems appropriate for providing Federal financial, technological, or research and development to assist carriers and shippers in reducing the likelihood, severity, and consequences of deliberate acts of crime or terrorism toward motor carrier employees, shipments, or property; and

(C) data on the number of shipments and type of hazardous materials for which placarding is required for transport by motor carriers in the United States, including the transport of hazardous materials shipments by Canadian or Mexican motor carriers with authority to enter into the United States.

(2) ~~FORMAT.~~—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

SEC. 6. STUDY.

The Secretary of Transportation shall conduct research and operational testing to determine the feasibility, costs, and benefits of requiring motor carriers transporting certain high-risk hazardous materials, as determined by the Secretary, to install ignition or engine locking devices, silent alarms, satellite technology, or other

1 mechanisms to increase the security associated with the
 2 transportation of such shipments by motor carriers. The
 3 Secretary may conduct a pilot program to assess such de-
 4 vices.

5 **SECTION 1. SHORT TITLE.**

6 *This Act may be cited as the “Hazmat Endorsement*
 7 *Requirements Act”.*

8 **SEC. 2. LIMITATION ON ISSUANCE OF HAZMAT ENDORSE-**
 9 **MENTS.**

10 *(a) IN GENERAL.—Chapter 313 of title 49, United*
 11 *States Code, is amended by adding at the end the following:*

12 **“§31318. Issuance, renewal, upgrade, transfer, and**
 13 ***periodic check of hazmat endorsements***

14 *“(a) IN GENERAL.—A State may not issue, renew, up-*
 15 *grade, or transfer a hazardous materials endorsement for*
 16 *a commercial driver’s license to any individual authorizing*
 17 *that individual to operate a commercial motor vehicle*
 18 *transporting a hazardous material in commerce unless the*
 19 *Secretary of Transportation has determined that the indi-*
 20 *vidual does not pose a security risk warranting denial of*
 21 *the endorsement. Each State shall implement a program*
 22 *under which a background records check is requested—*

23 *“(1) whenever a commercial driver’s license with*
 24 *a hazardous materials endorsement is to be issued, re-*
 25 *newed, upgraded, or transferred; and*

1 “(2) *periodically (as prescribed by the Secretary*
 2 *by regulations) for all other individuals holding a*
 3 *commercial driver’s license with a hazardous mate-*
 4 *rials endorsement.*

5 “(b) *DETERMINATION OF SECURITY RISK.—*

6 “(1) *IN GENERAL.—An otherwise qualified indi-*
 7 *vidual may not be denied a hazardous materials en-*
 8 *dorsement for a commercial driver’s license under*
 9 *subsection (a) unless the Secretary determines that*
 10 *individual—*

11 “(A) *in the 10-year period ending on the*
 12 *date of the application for a background inves-*
 13 *tigation, was convicted (or found not guilty by*
 14 *reason of insanity) of an offense described in sec-*
 15 *tion 44936(b)(1)(B) of this title (disregarding*
 16 *the matter in clause (xiv)(IX) after ‘1 year,’);*

17 “(B) *is described in section 175b(b)(2) of*
 18 *title 18, United States Code; or*

19 “(C) *may be denied admission to the United*
 20 *States or removed from the United States under*
 21 *subclause (IV), (VI), or (VII) of section*
 22 *212(a)(3)(B)(i) of the Immigration and Nation-*
 23 *ality Act (8 U.S.C. 1182(a)(3)).*

24 “(2) *MITIGATING CIRCUMSTANCES.—In making*
 25 *a determination under paragraph (1), the Secretary*

1 *shall give consideration to the circumstances of any*
 2 *disqualifying act or offense, restitution made by the*
 3 *individual, Federal and State mitigation remedies,*
 4 *and other factors from which it may be reasonably*
 5 *concluded that the individual does not pose a security*
 6 *risk warranting denial of the endorsement.*

7 “(3) *APPEALS PROCESS.*—*The Secretary shall es-*
 8 *tablish an appeals process under this section for indi-*
 9 *viduals found to be ineligible for a hazardous mate-*
 10 *rials endorsement for a commercial driver’s license*
 11 *that includes notice and an opportunity for a hear-*
 12 *ing.*

13 “(c) *BACKGROUND RECORDS CHECK.*—

14 “(1) *IN GENERAL.*—*Upon the request of a State*
 15 *regarding issuance of a hazardous materials endorse-*
 16 *ment for a commercial driver’s license to an indi-*
 17 *vidual, the Attorney General shall—*

18 “(A) *conduct a background records check re-*
 19 *garding the individual;*

20 “(B) *take appropriate criminal enforcement*
 21 *action required by information developed or ob-*
 22 *tained in the course of the background check; and*

23 “(C) *upon completing the background*
 24 *records check, notify the Secretary of Transpor-*

1 *tation of the completion and results of the back-*
2 *ground records check.*

3 “(2) *SCOPE.*—*A background records check re-*
4 *garding an individual under this subsection shall*
5 *consist of the following:*

6 “(A) *A check of the relevant criminal his-*
7 *tory data bases.*

8 “(B) *In the case of an alien, a check of the*
9 *relevant data bases to determine the status of the*
10 *alien under the immigration laws of the United*
11 *States.*

12 “(C) *As appropriate, a check of the relevant*
13 *international data bases through Interpol-U.S.*
14 *National Central Bureau or other appropriate*
15 *means.*

16 “(D) *Review of any other national security-*
17 *related information or data base identified by*
18 *the Attorney General for purposes of such a back-*
19 *ground records check.*

20 “(3) *SECRETARY TO NOTIFY STATE.*—*After mak-*
21 *ing the determination required by subsection (b)(1),*
22 *the Secretary of Transportation shall promptly notify*
23 *the State of the determination.*

24 “(d) *REPORTING REQUIREMENT.*—*Each State shall*
25 *submit to the Secretary of Transportation, at such time and*

1 *in such manner as the Secretary may prescribe, such infor-*
 2 *mation as the Secretary may require, concerning each indi-*
 3 *vidual to whom the State issues a hazardous materials en-*
 4 *dorsement for a commercial driver's license.*

5 “(e) *RESTRICTIONS ON USE AND MAINTENANCE OF IN-*
 6 *FORMATION.—*

7 “(1) *FOIA NOT TO APPLY.—Information ob-*
 8 *tained by the Attorney General or the Secretary of*
 9 *Transportation under this section may not be made*
 10 *available to the public under section 552 of title 5,*
 11 *United States Code.*

12 “(2) *CONFIDENTIALITY.—Any information ob-*
 13 *tained by the Secretary of Transportation under this*
 14 *section shall be maintained confidentially by the Sec-*
 15 *retary and may be used only for making determina-*
 16 *tions under this section.*

17 “(f) *RENEWAL WAIVER FOR BACKGROUND CHECK*
 18 *DELAYS.—The Secretary may, in accordance with proce-*
 19 *dures prescribed by the Secretary, provide a waiver for*
 20 *State compliance with the requirements of subsection (a)*
 21 *for renewals to the extent necessary to avoid the interrup-*
 22 *tion of service by a license holder while a background check*
 23 *is being completed. The Secretary may not grant a waiver*
 24 *under this subsection to avoid interruption of service if the*
 25 *interruption of service would be due to the license holder's*

1 *failure to comply with the licensing renewal requirements*
 2 *or to furnish necessary documentation in a timely manner.*

3 “(g) *DEFINITIONS.—In this section:*

4 “(1) *HAZARDOUS MATERIALS.—The term ‘haz-*
 5 *ardous material’ means—*

6 “(A) *a substance or material designated by*
 7 *the Secretary under section 5103(a) of this title*
 8 *for which the Secretary requires placarding of a*
 9 *commercial motor vehicle transporting it in com-*
 10 *merce; and*

11 “(B) *a substance or material, including a*
 12 *substance or material on the Centers for Disease*
 13 *Control’s list of select agents, designated as a*
 14 *hazardous material by the Secretary under pro-*
 15 *cedures to be established by the Secretary for the*
 16 *purposes of this section.*

17 “(2) *ALIEN.—The term ‘alien’ has the meaning*
 18 *given the term in section 101(a)(3) of the Immigra-*
 19 *tion and Nationality Act (8 U.S.C. 1101(a)(3)).”.*

20 (b) *ENFORCEMENT.—Section 31311(a) of title 49,*
 21 *United States Code, is amended by adding at the end the*
 22 *following:*

23 “(21) *The State shall comply with the require-*
 24 *ments of section 31318.”.*

25 (c) *CONFORMING AMENDMENTS.—*

1 (1) *Section 31305(a)(5)(C) of title 49, United*
 2 *States Code, is amended by striking “section 5103a”*
 3 *and inserting “section 31318”.*

4 (2) *The chapter analysis for chapter 313 is*
 5 *amended by adding at the end the following:*

“31318. Issuance, renewal, upgrade, transfer, and periodic check of hazmat endorsements.”.

6 (3) *Chapter 51 of title 49, United States Code,*
 7 *is amended—*

8 (A) *by striking section 5103a; and*

9 (B) *by striking the item in the chapter*
 10 *analysis relating to section 5103a.*

11 (4) *Section 1012(c) of the USA PATRIOT Act of*
 12 *2001 is amended by striking “section 5103a” and in-*
 13 *serting “section 31318”.*

14 (d) *EFFECTIVE DATE.—*

15 (1) *IN GENERAL.—The amendments made by*
 16 *this section shall take effect on October 26, 2001.*

17 (2) *LIMIT ON RETROACTIVITY.—Notwithstanding*
 18 *paragraph (1), no enforcement action shall be taken*
 19 *against a State under section 31311 (a) (21) of title*
 20 *49, United States Code, for any act committed, or*
 21 *failure to act that occurred, in violation of that sec-*
 22 *tion before the effective date of the interim final rule*
 23 *prescribed by the Secretary of Transportation under*
 24 *section 31318 of title 49, United States Code.*

1 (3) *INTERIM FINAL RULE AUTHORITY.*—*The Sec-*
 2 *retary of Transportation shall issue an interim final*
 3 *rule as a temporary regulation under section 31318*
 4 *of title 49, United States Code, as soon as practicable,*
 5 *but in no event later than 90 days, after the date of*
 6 *enactment of this Act without regard to the provisions*
 7 *of chapter 5 of title 5, United States Code. The Sec-*
 8 *retary shall complete the rulemaking in accordance*
 9 *with such provisions as soon as practicable after the*
 10 *date of enactment of this Act.*

11 **SEC. 3. PROHIBITION ON OPERATING WITHOUT PROPER**
 12 **HAZMAT ENDORSEMENT OR LICENSE.**

13 (a) *IN GENERAL.*—Chapter 313 of title 49, United
 14 States Code, is further amended by adding at the end the
 15 following:

16 **“§31319. Prohibition on unauthorized transportation**
 17 **of hazardous materials**

18 “(a) *IN GENERAL.*—Notwithstanding any provision of
 19 law, treaty, or international agreement to the contrary,
 20 after the effective date of the interim final rule promulgated
 21 by the Secretary of Transportation under section 2(d)(3)
 22 of the Hazmat Endorsement Requirements Act, no indi-
 23 vidual may operate a commercial motor vehicle trans-
 24 porting a hazardous material (as defined in section
 25 31318(g)) in commerce in the United States without a haz-

1 *ardous materials endorsement or a license authorizing that*
 2 *individual to operate a commercial motor vehicle trans-*
 3 *porting a hazardous material in commerce—*

4 “(1) *issued by a State in accordance with the re-*
 5 *quirements of section 31318 of this title; or*

6 “(2) *issued by the government of Canada or Mex-*
 7 *ico, or a political subdivision thereof, after a back-*
 8 *ground check that is the same as, or substantially*
 9 *similar to, the background check required by section*
 10 *31318.*

11 “(b) *PENALTY.—The Secretary shall by regulation pre-*
 12 *scribe the penalty for violation of subsection (a).’.*”

13 “(b) *CONFORMING AMENDMENT.—The chapter analysis*
 14 *for chapter 313 is amended by adding at the end the fol-*
 15 *lowing:*

 “31319. *Prohibition on unauthorized transportation of hazardous materials.*”.

16 **SEC. 4. PENALTY FOR FRAUDULENT ISSUANCE OR RE-**
 17 **NEWAL OF COMMERCIAL DRIVER’S LICENSE.**

18 “(a) *IN GENERAL.—Chapter 313 of title 49, United*
 19 *States Code, is further amended by adding at the end the*
 20 *following:*

21 **“§ 31320. Penalty for fraudulent issuance, renewal,**
 22 **upgrade, or transfer of commercial driv-**
 23 **er’s license**

24 “*Any person who knowingly issues, obtains, or facili-*
 25 *tates the issuance, renewal, upgrade, transfer, or obtaining*

1 of, a commercial driver's license or an endorsement for a
 2 commercial driver's license, or attempts to do so, knowing
 3 the license or endorsement to have been wrongfully issued
 4 or obtained, or issued, renewed, upgraded, transferred, or
 5 obtained through the submission of false information or the
 6 intentional withholding of required information is guilty
 7 of a Class E felony punishable by a fine, imprisonment,
 8 or both as provided in title 18, United States Code.”.

9 (b) *CONFORMING AMENDMENT.*—The chapter analysis
 10 for chapter 313 is amended by adding at the end the fol-
 11 lowing:

“31320. Penalty for fraudulent issuance, renewal, upgrade, or transfer of commercial driver's license.”.

12 **SEC. 5. MOTOR CARRIER SECURITY REPORT.**

13 (a) *IN GENERAL.*—

14 (1) *IN GENERAL.*—The Secretary of Transpor-
 15 tation shall assess the security risks associated with
 16 motor carrier transportation and develop prioritized
 17 recommendations for—

18 (A) improving the security of hazardous
 19 materials shipments by motor carriers, including
 20 shipper responsibilities;

21 (B) using biometrics or other identification
 22 systems to improve the security of motor carrier
 23 transportation;

1 (C) technological advancements in the area
 2 of information access and transfer for the pur-
 3 pose of identifying the location of hazmat ship-
 4 ments and facilitating the availability of safety
 5 and security information; and

6 (D) reducing other significant security re-
 7 lated risks to public safety and interstate com-
 8 merce (including such risks related to the use of
 9 rental vehicles), taking into account the impact
 10 that any proposed security measure might have
 11 on the provision of motor carrier transportation.

12 (2) *EXISTING PRIVATE AND PUBLIC SECTOR EF-*
 13 *FORTS.*—The assessment shall include a review of any
 14 actions already taken to address identified security
 15 issues by both public and private entities.

16 (b) *CONSULTATION; USE OF EXISTING RESOURCES.*—
 17 In carrying out the assessment required by subsection (a),
 18 the Secretary shall—

19 (1) consult with operators, drivers, safety advo-
 20 cates, shippers, and public safety officials (including
 21 officials responsible for responding to emergencies);
 22 and

23 (2) utilize, to the maximum extent feasible, the
 24 resources and assistance of the Transportation Re-
 25 search Board of the National Academy of Sciences.

1 (c) *REPORT.*—

2 (1) *CONTENTS.*—*Within 180 days after the date*
3 *of enactment of this Act, the Secretary shall transmit*
4 *to the Senate Committee on Commerce, Science, and*
5 *Transportation and the House of Representatives*
6 *Committee on Transportation and Infrastructure a*
7 *report, without compromising national security,*
8 *containing—*

9 (A) *the assessment and prioritized rec-*
10 *ommendations required by subsection (a);*

11 (B) *any proposals the Secretary deems ap-*
12 *propriate for providing Federal financial, tech-*
13 *nological, or research and development to assist*
14 *carriers and shippers in reducing the likelihood,*
15 *severity, and consequences of deliberate acts of*
16 *crime or terrorism toward motor carrier employ-*
17 *ees, shipments, or property; and*

18 (C) *data on the number of shipments and*
19 *type of hazardous materials for which*
20 *placarding is required for transport by motor*
21 *carriers in the United States, including the*
22 *transport of hazardous materials shipments by*
23 *Canadian or Mexican motor carriers with au-*
24 *thority to enter into the United States.*

1 (2) *FORMAT.*—*The Secretary may submit the re-*
2 *port in both classified and redacted formats if the*
3 *Secretary determines that such action is appropriate*
4 *or necessary.*

5 **SEC. 6. STUDY.**

6 (a) *IN GENERAL.*—*The Secretary of Transportation*
7 *shall conduct research and operational testing to determine*
8 *the feasibility, costs, and benefits of requiring motor car-*
9 *riers transporting certain high-risk hazardous materials, as*
10 *determined by the Secretary, to install ignition or engine*
11 *locking devices, silent alarms, satellite technology, or other*
12 *mechanisms to increase the security associated with the*
13 *transportation of such shipments by motor carriers. The*
14 *Secretary may conduct a pilot program to assess such de-*
15 *vices.*

16 (b) *FUNDING.*—*The Secretary shall use funds appro-*
17 *priated pursuant to the authority of section 5001(a)(5) of*
18 *the Transportation Equity Act for the 21st Century for fis-*
19 *cal year 2003 to carry out subsection (a).*

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107TH CONGRESS
2^D SESSION

S. 1750

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A BILL

To make technical corrections to the HAZMAT
provisions of the USA PATRIOT Act.

AUGUST 1, 2002

Reported with an amendment