

## Calendar No. 192

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION**S. 1567****[Report No. 109-120]**

To reauthorize and improve surface transportation safety programs, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JULY 29, 2005

Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, reported the following original bill; which was read twice and placed on the calendar

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**A BILL**

To reauthorize and improve surface transportation safety programs, and for other purposes.

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 “Surface Transpor-  
5 tation Safety Improvement Act of 2005”.

1 **SEC. 2. AMENDMENT OF UNITED STATES CODE.**

2 (a) AMENDMENT OF TITLE 49.—Except as otherwise  
 3 specifically provided, whenever in this Act an amendment  
 4 is expressed in terms of an amendment to a section or  
 5 other provision of law, the reference shall be considered  
 6 to be made to a section or other provision of title 49,  
 7 United States Code.

8 (b) AMENDMENT OF TITLE 23.—Except as otherwise  
 9 expressly provided, whenever in subtitle A of title II of  
 10 this Act an amendment or repeal is expressed in terms  
 11 of an amendment to, or a repeal of, a section or other  
 12 provision, the reference shall be considered to be made to  
 13 a section or other provision of title 23, United States  
 14 Code.

15 **SEC. 3. TABLE OF CONTENTS.**

16 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Amendment of United States Code.
- Sec. 3. Table of contents.

TITLE I—MOTOR CARRIER SAFETY

Subtitle A—Motor Carriers

- Sec. 101. Short title.
- Sec. 102. Contract authority.
- Sec. 103. Authorization of appropriations.
- Sec. 104. High risk carrier compliance reviews.
- Sec. 105. Overdue reports, studies, and rulemakings.
- Sec. 106. Amendments to the listed reports, studies, and rulemaking proceedings.
- Sec. 107. Motor carrier safety grants.
- Sec. 108. Technical corrections.
- Sec. 109. Penalty for denial of access to records.
- Sec. 110. Medical program.
- Sec. 111. Operation of commercial motor vehicles by individuals who use insulin to treat diabetes mellitus.

- Sec. 112. Financial responsibility for private motor carriers.
- Sec. 113. Increased penalties for out-of-service violations and false records.
- Sec. 114. Intrastate operations of interstate motor carriers.
- Sec. 115. Authority to stop commercial motor vehicles.
- Sec. 116. Revocation of operating authority.
- Sec. 117. Pattern of safety violations by motor carrier management.
- Sec. 118. Motor carrier research and technology program.
- Sec. 119. International cooperation.
- Sec. 120. Performance and registration information system management.
- Sec. 121. Commercial vehicle information systems and networks deployment.
- Sec. 122. Outreach and education.
- Sec. 123. Foreign commercial motor vehicles.
- Sec. 124. Pre-employment safety screening.
- Sec. 125. Office of intermodalism.
- Sec. 126. Decals.
- Sec. 127. Roadability.
- Sec. 128. Motor carrier regulations

#### Subtitle B—Unified Carrier Registration

- Sec. 131. Short title.
- Sec. 132. Relationship to other laws.
- Sec. 133. Inclusion of motor private and exempt carriers.
- Sec. 134. Unified carrier registration system.
- Sec. 135. Registration of motor carriers by States.
- Sec. 136. Identification of vehicles.
- Sec. 137. Use of UCR agreement revenues as matching funds.

#### Subtitle C—Commercial Driver's Licenses

- Sec. 151. CDL task force.
- Sec. 152. CDL learner's permit program.
- Sec. 153. Grants to States for commercial driver's license improvements.
- Sec. 154. Modernization of CDL information system.

### TITLE II—HIGHWAY AND VEHICULAR SAFETY

- Sec. 201. Short title.

#### Subtitle A—Highway Safety Grant Program

- Sec. 211. Short title.
- Sec. 212. Authorization of appropriations.
- Sec. 213. Highway safety programs.
- Sec. 214. Highway safety research and outreach programs.
- Sec. 215. National highway safety advisory committee technical correction.
- Sec. 216. Occupant protection grants.
- Sec. 217. Older driver safety; law enforcement training.
- Sec. 218. Emergency medical services.
- Sec. 219. Repeal of authority for alcohol traffic safety programs.
- Sec. 220. Impaired driving program.
- Sec. 221. State traffic safety information system improvements.
- Sec. 222. NHTSA accountability.
- Sec. 223. Grants for improving child passenger safety programs.
- Sec. 224. Motorecyclist safety training and motorist awareness programs.

#### Subtitle B—Specific Vehicle Safety-Related Rulings

- Sec. 251. Vehicle rollover prevention and crash mitigation.
- Sec. 252. Side-impact crash protection rulemaking.
- Sec. 253. Tire research.
- Sec. 254. Vehicle backover avoidance technology study.
- Sec. 255. Nontraffic incident data collection.
- Sec. 256. Safety belt use reminders.
- Sec. 257. Amendment of Automobile Information Disclosure Act.
- Sec. 258. Power window switches.
- Sec. 259. 15-passenger van safety.
- Sec. 260. Authorization of appropriations.

### TITLE III—HAZARDOUS MATERIALS

- Sec. 301. Short title.

#### Subtitle A—General Authorities on Transportation of Hazardous Materials

- Sec. 321. Purpose.
- Sec. 322. Definitions.
- Sec. 323. General regulatory authority.
- Sec. 324. Limitation on issuance of hazmat licenses.
- Sec. 325. Background checks for drivers hauling hazardous materials.
- Sec. 326. Representation and tampering.
- Sec. 327. Transporting certain material.
- Sec. 328. Hazmat employee training requirements and grants.
- Sec. 329. Registration.
- Sec. 330. Shipping papers and disclosure.
- Sec. 331. Rail tank cars.
- Sec. 332. Unsatisfactory safety ratings.
- Sec. 333. Training curriculum for the public sector.
- Sec. 334. Planning and training grants; emergency preparedness fund.
- Sec. 335. Special permits and exclusions.
- Sec. 336. Uniform forms and procedures.
- Sec. 337. Hazardous materials transportation safety and security.
- Sec. 338. Enforcement.
- Sec. 339. Civil penalties.
- Sec. 340. Criminal penalties.
- Sec. 341. Preemption.
- Sec. 342. Relationship to other laws.
- Sec. 343. Judicial review.
- Sec. 344. Authorization of appropriations.
- Sec. 345. Additional civil and criminal penalties.
- Sec. 346. Technical corrections.

#### Subtitle B—Other Matters

- Sec. 361. Administrative authority for Pipeline and Hazardous Materials Safety Administration.
- Sec. 362. Mailability of hazardous materials.
- Sec. 363. Criminal matters.
- Sec. 364. Cargo inspection program.
- Sec. 365. Information on hazmat registrations.
- Sec. 366. Report on applying hazardous materials regulations to persons who reject hazardous materials.
- Sec. 367. National first responder transportation incident response system.
- Sec. 368. Hazmat transportation plan exemption for farmers.

- Sec. 369. Welded rail and tank car safety improvements.
- Sec. 370. Report regarding impact on public safety of train travel in communities without grade separation.
- Sec. 371. Hazardous materials cooperative research program.

#### Subtitle C—Sanitary Food Transportation

- Sec. 381. Short title.
- Sec. 382. Responsibilities of the Secretary of Health and Human Services.
- Sec. 383. Department of Transportation requirements.
- Sec. 384. Effective date.

### TITLE IV—HOUSEHOLD GOODS MOVERS

- Sec. 401. Short title.
- Sec. 402. Definitions.
- Sec. 403. Payment of rates.
- Sec. 404. Household goods carrier operations.
- Sec. 405. Liability of carriers under receipts and bills of lading.
- Sec. 406. Arbitration requirements.
- Sec. 407. Enforcement of regulations related to transportation of household goods.
- Sec. 408. Working group for development of practices and procedures to enhance Federal-State relations.
- Sec. 409. Information about household goods transportation on carriers' websites.
- Sec. 410. Consumer complaints.
- Sec. 411. Review of liability of carriers.
- Sec. 412. Civil penalties relating to household goods brokers.
- Sec. 413. Civil and criminal penalty for failing to give up possession of household goods.
- Sec. 414. Progress report.
- Sec. 415. Additional registration requirements for motor carriers of household goods.

### TITLE V—SPORTFISHING AND RECREATIONAL BOATING SAFETY

- Sec. 501. Short title.

#### Subtitle A—Federal Aid in Sport Fish Restoration Act Amendments

- Sec. 511. Amendment of Federal Aid in Sport Fish Restoration Act.
- Sec. 512. Authorization of appropriations.
- Sec. 513. Division of annual appropriations.
- Sec. 514. Maintenance of projects.
- Sec. 515. Boating infrastructure.
- Sec. 516. Requirements and restrictions concerning use of amounts for expenses for administration.
- Sec. 517. Payments of funds to and cooperation with Puerto Rico, the District of Columbia, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands.
- Sec. 518. Multistate conservation grant program.
- Sec. 519. Expenditures from boat safety account.

#### Subtitle B—Clean Vessel Act Amendments

- Sec. 531. Grant program.

Subtitle C—Recreational Boating Safety Program Amendments

Sec. 551. State matching funds requirement.

Sec. 552. Availability of allocations.

Sec. 553. Authorization of appropriations for State recreational boating safety programs.

Sec. 554. Maintenance of effort for State recreational boating safety programs.

1           **TITLE I—MOTOR CARRIER**  
 2                           **SAFETY**  
 3           **Subtitle A—Motor Carriers**

4   **SEC. 101. SHORT TITLE.**

5           This subtitle may be cited as the “Motor Carrier  
 6 Safety Reauthorization Act of 2005”.

7   **SEC. 102. CONTRACT AUTHORITY.**

8           Authorizations from the Highway Trust Fund (other  
 9 than the Mass Transit Account) to carry out this subtitle  
 10 shall be available for obligation on the date of their appor-  
 11 tionment or allocation or on October 1 of the fiscal year  
 12 for which they are authorized, whichever occurs first. Ap-  
 13 proval by the Secretary of a grant with funds made avail-  
 14 able under this title imposes upon the United States Gov-  
 15 ernment a contractual obligation for payment of the Gov-  
 16 ernment’s share of costs incurred in carrying out the ob-  
 17 jectives of the grant.

18   **SEC. 103. AUTHORIZATION OF APPROPRIATIONS.**

19           (a) ADMINISTRATIVE EXPENSES.—Section 31104 is  
 20 amended by adding at the end the following:

21           “(i) ADMINISTRATIVE EXPENSES.—

1           “(1) There are authorized to be appropriated  
2 from the Highway Trust Fund (other than the Mass  
3 Transit Account) for the Secretary of Transpor-  
4 tation to pay administrative expenses of the Federal  
5 Motor Carrier Safety Administration—

6                   “(A) \$211,400,000 for fiscal year 2006;

7                   “(B) \$217,500,000 for fiscal year 2007;

8                   “(C) \$222,600,000 for fiscal year 2008;

9           and

10                   “(D) \$228,500,000 for fiscal year 2009.

11           “(2) The funds authorized by this subsection  
12 shall be used for personnel costs; administrative in-  
13 frastructure; rent; information technology; programs  
14 for research and technology, information manage-  
15 ment, regulatory development (including a medical  
16 review board and rules for medical examiners), per-  
17 formance and registration information system man-  
18 agement, and outreach and education; other oper-  
19 ating expenses and similar matters; and such other  
20 expenses as may from time to time become necessary  
21 to implement statutory mandates not funded from  
22 other sources.

23           “(3) The amounts made available under this  
24 section shall remain available until expended.”.

1 (b) GRANT PROGRAMS.—There are authorized to be  
2 appropriated from the Highway Trust Fund (other than  
3 the Mass Transit Account) for the following Federal  
4 Motor Carrier Safety Administration programs:

5 (1) Border enforcement grants under section  
6 31107 of title 49, United States Code—

7 (A) \$33,000,000 for fiscal year 2006;

8 (B) \$34,000,000 for fiscal year 2007;

9 (C) \$35,000,000 for fiscal year 2008; and

10 (D) \$36,000,000 for fiscal year 2009.

11 (2) Performance and registration information  
12 system management grant program under 31109 of  
13 title 49, United States Code, \$4,000,000 for each of  
14 fiscal years 2006 through 2009.

15 (3) Commercial driver's license and driver im-  
16 provement program grants under section 31318 of  
17 title 49, United States Code—

18 (A) \$23,000,000 for fiscal year 2006;

19 (B) \$23,000,000 for fiscal year 2007;

20 (C) \$24,000,000 for fiscal year 2008; and

21 (D) \$25,000,000 for fiscal year 2009.

22 (4) For carrying out the commercial vehicle in-  
23 formation systems and networks deployment pro-  
24 gram established under section 31151 of title 49,

1 United States Code, \$25,000,000 for each of fiscal  
2 years 2006 through 2009.

3 (c) MOTOR CARRIER SAFETY ACCOUNT.—Funds  
4 made available under subsection (a) shall be administered  
5 in the account established in the Treasury entitled “Motor  
6 Carrier Safety Operations and Program 69–8159–0–7–  
7 401” and the funds made available under subsection (b)  
8 shall be administered in the account established in the  
9 Treasury entitled “Motor Carrier Safety Grants 69–8158–  
10 0–7–401”.

11 (d) PERIOD OF AVAILABILITY.—The amounts made  
12 available under subsection (b) of this section shall remain  
13 available until expended.

14 **SEC. 104. HIGH RISK CARRIER COMPLIANCE REVIEWS.**

15 From the funds authorized by section 31104(i)(1) of  
16 title 49, United States Code, the Secretary of Transpor-  
17 tation shall ensure that compliance reviews are completed  
18 on motor carriers that have demonstrated through per-  
19 formance data that they pose the highest safety risk. At  
20 a minimum, compliance reviews shall be conducted when-  
21 ever a motor carrier is rated as category A or B for 2  
22 consecutive months.

1 **SEC. 105. OVERDUE REPORTS, STUDIES, AND**  
2 **RULEMAKINGS.**

3 (a) **REQUIREMENT FOR COMPLETION.**—Within 6  
4 months after the date of enactment of this Act, the Sec-  
5 retary of Transportation shall transmit to the Senate  
6 Committee on Commerce, Science, and Transportation  
7 and the House of Representatives Committee on Trans-  
8 portation and Infrastructure a schedule for the completion  
9 of the following reports, studies, and rulemaking pro-  
10 ceedings:

11 (1) Motor Carrier Replacement Information  
12 and Registration System, section 103, ICC Termi-  
13 nation Act of 1995.

14 (2) General Jurisdiction Over Freight For-  
15 warder Service, section 13531, ICC Termination Act  
16 of 1995.

17 (3) Performance-based CDL Testing, section  
18 4019, Transportation Equity Act for the Twenty-  
19 First Century.

20 (4) Improved Flow of Driver History Pilot Pro-  
21 gram, section 4022, Transportation Equity Act for  
22 the Twenty-First Century.

23 (5) Employee Protections, section 4023, Trans-  
24 portation Equity Act for the Twenty-First Century.

1           (6) Federal Motor Carrier Safety Administra-  
2           tion 2010 Strategy, section 104, Motor Carrier Safe-  
3           ty Improvement Act of 1999.

4           (7) New Motor Carrier Entrant Requirements,  
5           section 210, Motor Carrier Safety Improvement Act  
6           of 1999.

7           (8) Certified Motor Carrier Safety Auditors,  
8           section 211, Motor Carrier Safety Improvement Act  
9           of 1999.

10          (9) Medical Certificate, section 215, Motor Car-  
11          rier Safety Improvement Act of 1999.

12          (10) Truck Crash Causation Study, section  
13          224, Motor Carrier Safety Improvement Act of  
14          1999.

15          (b) FINAL RULE REQUIRED.—Unless specifically  
16 otherwise permitted by law, rulemaking proceedings shall  
17 be considered completed for purposes of this section only  
18 when the Secretary has issued a final rule and the docket  
19 for the rulemaking proceeding is closed or the rulemaking  
20 proceeding is withdrawn or terminated and the docket  
21 closed without further action.

22          (c) SCHEDULE FOR COMPLETION.—The Secretary  
23 shall transmit a revised schedule, indicating progress  
24 made in completing the reports, studies, and rulemaking  
25 proceedings reported under subsection (a) every 6 months

1 after the first such report under subsection (a) until they  
2 are completed. The Inspector General of the Department  
3 of Transportation shall make an annual determination as  
4 to whether the schedule is being met.

5 (e) COMPLETION OF NEW RULEMAKING PRO-  
6 CEEDINGS.—Nothing in this section delays or changes the  
7 deadlines specified for new reports, studies, or rulemaking  
8 mandates contained in this title.

9 (f) REPORT OF OTHER AGENCY ACTIONS.—Within  
10 12 months after the date of enactment of this Act, the  
11 Secretary shall submit to the Senate Committee on Com-  
12 merce, Science, and Transportation and to the House  
13 Committee on Transportation and Infrastructure a report  
14 on the status of the following projects:

15 (1) Rescinding the current regulation which  
16 prohibits truck and bus drivers from viewing tele-  
17 vision and monitor screens while operating commer-  
18 cial vehicles.

19 (2) Consolidating Out-Of-Service Criteria regu-  
20 lations enforced by the Federal Motor Carrier Safety  
21 Administration.

22 (3) Revision of the safety fitness rating system  
23 of motor carriers.

24 (4) Amendment of Federal Motor Carrier Safe-  
25 ty Administration rules of practice for conducting

1 motor carrier administrative proceedings, investiga-  
2 tions, disqualifications, and for issuing penalties.

3 (5) Requiring commercial drivers to have a suf-  
4 ficient functional speaking and reading comprehen-  
5 sion of the English language.

6 **SEC. 106. AMENDMENTS TO THE LISTED REPORTS, STUD-**  
7 **IES, AND RULEMAKING PROCEEDINGS.**

8 In addition to completing the reports, studies, and  
9 rulemaking proceedings listed in section 105(a), the Sec-  
10 retary of Transportation shall—

11 (1) cause the Interim Final Rule addressing  
12 New Motor Carrier Entrant Requirements to be  
13 amended so as to require that a safety audit be im-  
14 mediately converted to a compliance review and ap-  
15 propriate enforcement actions be taken if the safety  
16 audit discloses acute safety violations by the new en-  
17 trant; and

18 (2) ensure that Federal motor carrier safety  
19 regulations that apply to interstate operations of  
20 commercial motor vehicles designed to transport be-  
21 tween 9 and 15 passengers (including the driver)  
22 apply to all interstate operations of such carries re-  
23 gardless of the distance traveled.

1 **SEC. 107. MOTOR CARRIER SAFETY GRANTS.**

2 (a) MOTOR CARRIER SAFETY ASSISTANCE PRO-  
3 GRAM.—

4 (1) Section 31102 is amended—

5 (A) by striking “activities by fiscal year  
6 2000;” in subsection (b)(1)(A) and inserting  
7 “activities for commercial motor vehicles of pas-  
8 sengers and freight;”;

9 (B) by striking “years before December  
10 18, 1991;” in subsection (b)(1)(E) and insert-  
11 ing “years”;

12 (C) by striking “and” after the semicolon  
13 in subsection (b)(1)(S);

14 (D) by striking “personnel.” in subsection  
15 (b)(1)(T) and inserting “personnel;”;

16 (E) adding at the end of subsection (b)(1)  
17 the following:

18 “(U) ensures that inspections of motor carriers  
19 of passengers are conducted at stations, terminals,  
20 border crossings, or maintenance facilities, except in  
21 the case of an imminent or obvious safety hazard;

22 “(V) provides that the State will include in the  
23 training manual for the licensing examination to  
24 drive a non-commercial motor vehicle and a commer-  
25 cial motor vehicle, information on best practices for  
26 driving safely in the vicinity of commercial motor ve-

1 hicles and in the vicinity of non-commercial vehicles,  
2 respectively; and

3 “(W) provides that the State will enforce the  
4 registration requirements of section 13902 by sus-  
5 pending the operation of any vehicle discovered to be  
6 operating without registration or beyond the scope of  
7 its registration.”; and

8 (F) by striking subsection (c) and inserting  
9 the following:

10 “(c) USE OF GRANTS TO ENFORCE OTHER LAWS.—

11 A State may use amounts received under a grant under  
12 subsection (a) of this section for the following activities:

13 “(1) If the activities are carried out in conjunc-  
14 tion with an appropriate inspection of the commer-  
15 cial motor vehicle to enforce Government or State  
16 commercial motor vehicle safety regulations—

17 “(A) enforcement of commercial motor ve-  
18 hicle size and weight limitations at locations  
19 other than fixed weight facilities, at specific lo-  
20 cations such as steep grades or mountainous  
21 terrains where the weight of a commercial  
22 motor vehicle can significantly affect the safe  
23 operation of the vehicle, or at ports where inter-  
24 modal shipping containers enter and leave the  
25 United States; and

1           “(B) detection of the unlawful presence of  
2           a controlled substance (as defined under section  
3           102 of the Comprehensive Drug Abuse Preven-  
4           tion and Control Act of 1970 (21 U.S.C. 802))  
5           in a commercial motor vehicle or on the person  
6           of any occupant (including the operator) of the  
7           vehicle.

8           “(2) Documented enforcement of State traffic  
9           laws and regulations designed to promote the safe  
10          operation of commercial motor vehicles, including  
11          documented enforcement of such laws and regula-  
12          tions against non-commercial motor vehicles when  
13          necessary to promote the safe operation of commer-  
14          cial motor vehicles.”.

15          (2) Section 31103(b) is amended—

16                 (A) by inserting “(1)” after “ACTIVI-  
17                 TIES.—”; and

18                 (B) by adding at the end the following:

19                 “(2) NEW ENTRANT MOTOR CARRIER AUDIT  
20                 FUNDS.—From the amounts designated under sec-  
21                 tion 31104(f)(4), the Secretary may allocate new en-  
22                 trant motor carrier audit funds to States and local  
23                 governments without requiring a matching contribu-  
24                 tion from such States or local governments.”.

1           (3) Section 31104(a) is amended to read as fol-  
2           lows:

3           “(a) IN GENERAL.—There are authorized to be ap-  
4           propriated from the Highway Trust Fund (other than the  
5           Mass Transit Account) to carry out section 31102:

6           “(1) Not more than \$193,620,000 for fiscal  
7           year 2006.

8           “(2) Not more than \$197,490,000 for fiscal  
9           year 2007.

10          “(3) Not more than \$201,440,000 for fiscal  
11          year 2008.

12          “(4) Not more than \$205,470,000 for fiscal  
13          year 2009.”.

14          (4) Section 31104(f) is amended by striking  
15          paragraph (2) and inserting the following:

16          “(2) HIGH-PRIORITY ACTIVITIES.—The Sec-  
17          retary may designate up to \$15,000,000 for each of  
18          fiscal years 2006 through 2009 from amounts avail-  
19          able for allocation under paragraph (1) for States,  
20          local governments, and organizations representing  
21          government agencies or officials for carrying out  
22          high priority activities and projects that improve  
23          commercial motor vehicle safety and compliance with  
24          commercial motor vehicle safety regulations, includ-  
25          ing activities and projects that are national in scope,

1 increase public awareness and education, or dem-  
2 onstrate new technologies, and will reduce the num-  
3 ber and rate of accidents involving commercial motor  
4 vehicles. The amounts designated under this para-  
5 graph shall be allocated by the Secretary to State  
6 agencies, local governments, and organizations rep-  
7 resenting government agencies or officials that use  
8 and train qualified officers and employees in coordi-  
9 nation with State motor vehicle safety agencies. The  
10 Secretary shall establish safety performance criteria  
11 to be used to distribute high priority program funds.  
12 At least 80 percent of the amounts designated under  
13 this paragraph shall be awarded to State agencies  
14 and local government agencies.

15 “(3) NEW ENTRANT AUDITS.—The Secretary  
16 shall designate up to \$29,000,000 of the amounts  
17 available for allocation under paragraph (1) for au-  
18 dits of new entrant motor carriers conducted pursu-  
19 ant to 31144(f). The Secretary may withhold such  
20 funds from a State or local government that is un-  
21 able to use government employees to conduct new  
22 entrant motor carrier audits, and may instead utilize  
23 the funds to conduct audits in those jurisdictions.

24 “(4) CDLIS MODERNIZATION.—The Secretary  
25 may designate up to \$2,000,000 for fiscal year 2006

1 and up to \$6,000,000 for fiscal years 2007 through  
2 2009 from amounts available for allocation under  
3 paragraph (1) for commercial driver’s license infor-  
4 mation system modernization under section  
5 31309(f).”.

6 (b) GRANTS TO STATES FOR BORDER ENFORCE-  
7 MENT.—Section 31107 is amended to read as follows:

8 **“§ 31107. Border enforcement grants**

9 “(a) GENERAL AUTHORITY.—From the funds au-  
10 thorized by section 103(b)(1) of the Motor Carrier Safety  
11 Reauthorization Act of 2005, the Secretary may make a  
12 grant in a fiscal year to a State that shares a border with  
13 another country for carrying out border commercial motor  
14 vehicle safety programs and related enforcement activities  
15 and projects.

16 “(b) MAINTENANCE OF EXPENDITURES.—The Sec-  
17 retary may make a grant to a State under this section  
18 only if the State agrees that the total expenditure of  
19 amounts of the State and political subdivisions of the  
20 State, exclusive of United States Government amounts, for  
21 carrying out border commercial motor vehicle safety pro-  
22 grams and related enforcement activities and projects will  
23 be maintained at a level at least equal to the average level  
24 of that expenditure by the State and political subdivisions

1 of the State for the last 2 State or Federal fiscal years  
2 before October 1, 2005.”.

3 (c) NONCOMPLIANCE WITH CDL REQUIREMENTS.—  
4 Section 31314 is amended by inserting “up to” after  
5 “withhold” in subsections (a) and (b).

6 (d) CONFORMING AMENDMENTS.—(1) The chapter  
7 analysis for chapter 311 is amended—

8 (A) by striking the item relating to Subchapter  
9 I, and inserting the following:

“SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS”;

10 and

11 (B) by striking the item relating to section  
12 31107, and inserting the following:

“31107. Border enforcement grants.”.

13 (2) Subchapter I of chapter 311 is amended by strik-  
14 ing the subchapter heading and inserting the following:

“SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS”

15 **SEC. 108. TECHNICAL CORRECTIONS.**

16 (a) JURISDICTION OF COURT OF APPEALS OVER  
17 COMMERCIAL MOTOR VEHICLE SAFETY REGULATION  
18 AND OPERATORS AND MOTOR CARRIER SAFETY.—Section  
19 2342(3)(A) of title 28, United States Code, is amended  
20 by striking “subtitle IV” and inserting “subtitle IV, sub-  
21 chapter III of chapter 311, chapter 313, or chapter 315”.

1 (b) JUDICIAL REVIEW.—Section 351(a) is amended  
2 to read as follows:

3 “(a) JUDICIAL REVIEW.—An action of the Secretary  
4 of Transportation in carrying out a duty or power trans-  
5 ferred under the Department of Transportation Act (Pub-  
6 lic Law 89–670; 80 Stat. 931), or an action of the Admin-  
7 istrator of the Federal Railroad Administration, Federal  
8 Motor Carrier Safety Administration, or the Federal Avia-  
9 tion Administration in carrying out a duty or power spe-  
10 cifically assigned to the Administrator by that Act, may  
11 be reviewed judicially to the same extent and in the same  
12 way as if the action had been an action by the department,  
13 agency, or instrumentality of the United States Govern-  
14 ment carrying out the duty or power immediately before  
15 the transfer or assignment.”.

16 (c) AUTHORITY TO CARRY OUT CERTAIN TRANS-  
17 FERRED DUTIES AND POWERS.—Section 352 is amended  
18 to read as follows:

19 “§ 352. Authority to carry out certain transferred du-  
20 ties and powers

21 “In carrying out a duty or power transferred under  
22 the Department of Transportation Act (Public Law 89–  
23 670; 80 Stat. 931), the Secretary of Transportation and  
24 the Administrators of the Federal Railroad Administra-  
25 tion, the Federal Motor Carrier Safety Administration,

1 and the Federal Aviation Administration have the same  
2 authority that was vested in the department, agency, or  
3 instrumentality of the United States Government carrying  
4 out the duty or power immediately before the transfer. An  
5 action of the Secretary or Administrator in carrying out  
6 the duty or power has the same effect as when carried  
7 out by the department, agency, or instrumentality.”.

8 (d) TRANSFER OF PROVISION.—

9 (1) Section 345 of Public Law 104–59 is trans-  
10 ferred to subchapter III of chapter 311 of title 49,  
11 United States Code, redesignated as section 31149,  
12 and inserted after section 31148 as section 31149.  
13 Section 31149, as transferred by the preceding sen-  
14 tence, is amended—

15 (A) by conforming the section heading to  
16 the style and format of the section headings in  
17 chapter 311 of title 49, United States Code;

18 (B) by striking “of title 49, United States  
19 Code,” in subsections (a)(1), (a)(5), and (e)(4);  
20 and

21 (C) by striking subsection (f).

22 (2) The chapter analysis for chapter 311 is  
23 amended by inserting after the item relating to sec-  
24 tion 31148 the following:

“31149. Exemptions from requirements relating to commercial motor vehicles  
and their operators.”.

1 (e) ELIMINATION OF COMMODITY AND SERVICE EX-  
2 EMPTIONS.—

3 (1) Section 13506(a) is amended—

4 (A) by striking paragraphs (6), (11), (12),  
5 (13), and (15);

6 (B) by redesignating paragraphs (7), (8),  
7 (9), (10), and (14) as paragraphs (6), (7), (8),  
8 (9) and (10), respectively;

9 (C) by inserting “or” after the semicolon  
10 in paragraph (9), as redesignated; and

11 (D) striking “13904(d); or” in paragraph  
12 (10), as redesignated, and inserting  
13 “14904(d).”.

14 (2) Section 13507 is amended by striking “(6),  
15 (8), (11), (12), or (13)” and inserting “(6)”.

16 **SEC. 109. PENALTY FOR DENIAL OF ACCESS TO RECORDS.**

17 Section 521(b)(2) is amended by adding at the end  
18 the following:

19 “(E) COPYING OF RECORDS AND ACCESS TO EQUIP-  
20 MENT, LANDS, AND BUILDINGS.—A motor carrier subject  
21 to chapter 51 of subtitle III, a motor carrier, broker, or  
22 freight forwarder subject to part B of subtitle IV, or the  
23 owner or operator of a commercial motor vehicle subject  
24 to part B of subtitle VI of this title who fails to allow  
25 the Secretary, or an employee designated by the Secretary,

1 promptly upon demand to inspect and copy any record or  
2 inspect and examine equipment, lands, buildings and other  
3 property in accordance with sections 504(c), 5121(c), and  
4 14122(b) of this title shall be liable to the United States  
5 for a civil penalty not to exceed \$500 for each offense,  
6 and each day the Secretary is denied the right to inspect  
7 and copy any record or inspect and examine equipment,  
8 lands, buildings and other property shall constitute a sepa-  
9 rate offense, except that the total of all civil penalties  
10 against any violator for all offenses related to a single vio-  
11 lation shall not exceed \$5,000. It shall be a defense to  
12 such penalty that the records did not exist at the time  
13 of the Secretary's request or could not be timely produced  
14 without unreasonable expense or effort. Nothing herein  
15 amends or supersedes any remedy available to the Sec-  
16 retary under sections 502(d), 507(c), or other provision  
17 of this title.”.

18 **SEC. 110. MEDICAL PROGRAM.**

19 (a) IN GENERAL.—Subchapter III of chapter 311, as  
20 amended by section 108(d) of this title, is amended by  
21 adding at the end the following:

22 **“§ 31150. Medical program**

23 “(a) MEDICAL REVIEW BOARD.—

24 “(1) ESTABLISHMENT AND FUNCTION.—The  
25 Secretary of Transportation shall establish a Medical

1 Review Board to provide the Federal Motor Carrier  
2 Safety Administration with medical advice and rec-  
3 ommendations on driver qualification medical stand-  
4 ards and guidelines, medical examiner education,  
5 and medical research.

6 “(2) COMPOSITION.—The Medical Review  
7 Board shall be appointed by the Secretary and shall  
8 consist of 5 members selected from medical institu-  
9 tions and private practice. The membership shall re-  
10 flect expertise in a variety of specialties relevant to  
11 the functions of the Federal Motor Carrier Safety  
12 Administration.

13 “(b) CHIEF MEDICAL EXAMINER.—The Secretary  
14 shall appoint a chief medical examiner who shall be an  
15 employee of the Federal Motor Carrier Safety Administra-  
16 tion according to the SL schedule.

17 “(c) MEDICAL STANDARDS AND REQUIREMENTS.—

18 “(1) IN GENERAL.— The Secretary, with the  
19 advice of the Medical Review Board and the chief  
20 medical examiner, shall—

21 “(A) establish, review, and revise—

22 “(i) medical standards for applicants  
23 for and holders of commercial driver’s li-  
24 censes that will ensure that the physical  
25 condition of operators of commercial motor

1 vehicles is adequate to enable them to op-  
2 erate the vehicles safely;

3 “(ii) requirements for periodic phys-  
4 ical examinations of such operators per-  
5 formed by medical examiners who have  
6 successfully completed training in physical  
7 and medical examination standards and  
8 are listed on a national registry maintained  
9 by the Department of Transportation; and

10 “(B) issue certificates to such holders and  
11 applicants that have been found, upon examina-  
12 tion, to be physically qualified to operate a com-  
13 mercial motor vehicle and to meet applicable  
14 medical standards unless the authority to issue  
15 certificates has been delegated to medical exam-  
16 iners under subparagraph (d)(2) of this section;

17 “(C) require each holder of a commercial  
18 driver’s license or learner’s permit who operates  
19 a commercial vehicle in interstate commerce to  
20 have a current valid medical certificate;

21 “(D) conduct periodic reviews of a select  
22 number of medical examiners on the national  
23 registry to ensure that proper examinations of  
24 applicants and holders are being conducted;

1           “(E) develop, as appropriate, specific  
2           courses and materials for medical examiners  
3           listed in the national registry established under  
4           this section, and require those medical exam-  
5           iners to complete specific training, including re-  
6           resher courses, to be listed in the registry;

7           “(F) require medical examiners to trans-  
8           mit the name of the applicant and numerical  
9           identifier, as determined by the Administrator,  
10          for any completed medical examination report  
11          required under section 391.43 of title 49, Code  
12          of Federal Regulations, electronically to the  
13          Chief Medical Examiner on monthly basis; and

14          “(G) periodically review a representative  
15          sample of the medical examination reports asso-  
16          ciated with the name and numerical identifiers  
17          of applicants transmitted under subparagraph  
18          (F) for errors, omissions, or other indications of  
19          improper certification.

20          “(2) MONITORING PERFORMANCE.—The Sec-  
21          retary shall investigate patterns of errors or im-  
22          proper certification by a medical examiner. If the  
23          Secretary finds that a medical examiner has issued  
24          a medical certificate to an applicant or holder who  
25          fails to meet the applicable standards at the time of

1 the examination, such a medical examiner may be  
2 removed from the registry and the medical certifi-  
3 cate of the applicant or holder may be deemed void.

4 “(d) NATIONAL REGISTRY OF MEDICAL EXAM-  
5 INERS.—The Secretary, through the Federal Motor Car-  
6 rier Safety Administration—

7 “(1) shall establish and maintain a current na-  
8 tional registry of medical examiners who are quali-  
9 fied to perform examinations and issue medical cer-  
10 tificates;

11 “(2) shall delegate to those examiners the au-  
12 thority to issue such certificates upon successfully  
13 completing the required training;

14 “(3) shall remove from the registry the name of  
15 any medical examiner that fails to meet or maintain  
16 the qualifications established by the Secretary for  
17 being listed in the registry or otherwise does not  
18 meet the requirements of this section or regulation  
19 issued there under; and

20 “(4) shall accept as valid only medical certifi-  
21 cates issued by persons on the national registry of  
22 medical examiners.

23 “(e) REGULATIONS.—The Secretary is authorized to  
24 promulgate such regulations as may be necessary to carry  
25 out this section.”.

1 (b) MEDICAL EXAMINERS.— Section 31136(a)(3) is  
2 amended to read as follows:

3 “(3) the physical condition of operators of com-  
4 mercial motor vehicles is adequate to enable them to  
5 operate the vehicles safely, and the periodic physical  
6 examinations required of such operators are per-  
7 formed by medical examiners who have received  
8 training in physical and medical examination stand-  
9 ards and are listed on a national registry maintained  
10 by the Department of Transportation; and”.

11 (c) DEFINITION OF MEDICAL EXAMINER.—Section  
12 31132 is amended—

13 (1) by redesignating paragraphs (6) through  
14 (10) as paragraphs (7) through (11), respectively;  
15 and

16 (2) by inserting after paragraph (5) the fol-  
17 lowing:

18 “(6) ‘medical examiner’ means an individual li-  
19 censed, certified, or registered in accordance with  
20 regulations issued by the Federal Motor Carrier  
21 Safety Administration as a medical examiner.”.

22 (d) FUNDING.—Amounts made available pursuant to  
23 section 31104(i)(1) of title 49, United States Code, shall  
24 be used by the Secretary to carry out section 31150 of  
25 title 49, United States Code.

1 (e) CONFORMING AMENDMENT.—The chapter anal-  
2 ysis for chapter 311, as amended by section 108(d) of this  
3 title, is amended by inserting after the item relating to  
4 section 31149 the following:

“31150. Medical program.”.

5 (f) EFFECTIVE DATE.—The amendment made by  
6 subsection (a) shall take effect 1 year after the date of  
7 enactment of this Act.

8 **SEC. 111. OPERATION OF COMMERCIAL MOTOR VEHICLES**  
9 **BY INDIVIDUALS WHO USE INSULIN TO**  
10 **TREAT DIABETES MELLITUS.**

11 (a) REVISION OF FINAL RULE.—Not later than 90  
12 days after the date of the enactment of this Act, the Sec-  
13 retary shall revise the final rule to allow individuals who  
14 use insulin to treat their diabetes to operate commercial  
15 motor vehicles in interstate commerce. The revised final  
16 rule shall provide for the individual assessment of appli-  
17 cants who use insulin to treat their diabetes and who are,  
18 except for their use of insulin, otherwise qualified under  
19 the Federal Motor Carrier Safety Regulations. The revised  
20 final rule shall be consistent with the criteria described  
21 in section 4018 of the Transportation Equity Act for the  
22 21st Century (49 U.S.C. 31305 note) and shall conclude  
23 the rulemaking process in the Federal Motor Carrier Safe-  
24 ty Administration docket relating to qualifications of driv-  
25 ers with diabetes.

1 (b) NO HISTORY OF DRIVING WHILE USING INSULIN  
2 REQUIRED FOR QUALIFICATION.—The Secretary may not  
3 require individuals to have experience operating commer-  
4 cial motor vehicles while using insulin in order to qualify  
5 to operate a commercial motor vehicle in interstate com-  
6 merce.

7 (c) HISTORY OF DIABETES CONTROL.—The Sec-  
8 retary may require an individual to have used insulin for  
9 a minimum period of time and demonstrated stable control  
10 of diabetes in order to qualify to operate a commercial  
11 motor vehicle in interstate commerce. Any such require-  
12 ment, including any requirement with respect to the dura-  
13 tion of such insulin use, shall be consistent with the find-  
14 ings of the expert medical panel reported in July 2000  
15 in “A Report to Congress on the Feasibility of a Program  
16 to Qualify Individuals with Insulin-Treated Diabetes  
17 Mellitus to Operate Commercial Motor Vehicles in Inter-  
18 state Commerce as Directed by the Transportation Equity  
19 Act for the 21st Century”.

20 (d) APPLICABLE STANDARD.—The Secretary shall  
21 ensure that individuals who use insulin to treat their dia-  
22 betes are not held to a higher standard than other quali-  
23 fied commercial drivers, except to the extent that limited  
24 operating, monitoring, or medical requirements are

1 deemed medically necessary by experts in the field of dia-  
2 betes medicine.

3 **SEC. 112. FINANCIAL RESPONSIBILITY FOR PRIVATE**  
4 **MOTOR CARRIERS.**

5 (a) TRANSPORTATION OF PASSENGERS.—

6 (1) Section 31138(a) is amended to read as fol-  
7 lows:

8 “(a) GENERAL REQUIREMENT.—The Secretary of  
9 Transportation shall prescribe regulations to require min-  
10 imum levels of financial responsibility sufficient to satisfy  
11 liability amounts established by the Secretary covering  
12 public liability and property damage for the transportation  
13 of passengers by motor vehicle in the United States be-  
14 tween a place in a State and—

15 “(1) a place in another State;

16 “(2) another place in the same State through a  
17 place outside of that State; or

18 “(3) a place outside the United States.”.

19 (2) Section 31138(c) is amended by adding at  
20 the end the following:

21 “(4) The Secretary may require a person, other  
22 than a motor carrier as defined in section 13102(12)  
23 of this title, transporting passengers by motor vehi-  
24 cle to file with the Secretary the evidence of finan-  
25 cial responsibility specified in subsection (c)(1) of

1 this section in an amount not less than that required  
2 by this section, and the laws of the State or States  
3 in which the person is operating, to the extent appli-  
4 cable. The extent of the financial responsibility must  
5 be sufficient to pay, not more than the amount of  
6 the financial responsibility, for each final judgment  
7 against the person for bodily injury to, or death of,  
8 an individual resulting from the negligent operation,  
9 maintenance, or use of motor vehicles, or for loss or  
10 damage to property, or both.”.

11 (b) TRANSPORTATION OF PROPERTY.—Section  
12 31139 is amended—

13 (1) by striking so much of subsection (b) as  
14 precedes paragraph (2) and inserting the following:

15 “(b) GENERAL REQUIREMENTS AND MINIMUM  
16 AMOUNT.—

17 “(1) The Secretary of Transportation shall pre-  
18 scribe regulations to require minimum levels of fi-  
19 nancial responsibility sufficient to satisfy liability  
20 amounts established by the Secretary covering public  
21 liability, property damage, and environmental res-  
22 toration for the transportation of property by motor  
23 vehicle in the United States between a place in a  
24 State and—

25 “(A) a place in another State;

1           “(B) another place in the same State  
2           through a place outside of that State; or

3           “(C) a place outside the United States.”;

4           (2) by aligning the left margin of paragraph (2)  
5           of subsection (b) with the left margin of paragraph  
6           (1) of that subsection (as amended by paragraph (1)  
7           of this subsection); and

8           (3) by redesignating subsection (c) through (g)  
9           as subsections (d) through (h), respectively, and in-  
10          serting after subsection (b) the following:

11          “(c) **FILING OF EVIDENCE OF FINANCIAL RESPONSIBI-**  
12 **BILITY.**—The Secretary may require a motor private car-  
13 rier, as defined in section 13102 of this title, to file with  
14 the Secretary the evidence of financial responsibility speci-  
15 fied in subsection (b) of this section in an amount not  
16 less than that required by this section, and the laws of  
17 the State or States in which the motor private carrier is  
18 operating, to the extent applicable. The amount of the fi-  
19 nancial responsibility must be sufficient to pay, not more  
20 than the amount of the financial responsibility, for each  
21 final judgment against the motor private carrier for bodily  
22 injury to, or death of, an individual resulting from neg-  
23 ligent operation, maintenance, or use of motor vehicles,  
24 or for loss or damage to property, or both.”.

1 **SEC. 113. INCREASED PENALTIES FOR OUT-OF-SERVICE**  
2 **VIOLATIONS AND FALSE RECORDS.**

3 (a) Section 521(b)(2)(B) is amended to read as fol-  
4 lows:

5 “(B) RECORDKEEPING AND REPORTING VIOLA-  
6 TIONS.—A person required to make a report to the  
7 Secretary, answer a question, or make, prepare, or  
8 preserve a record under section 504 of this title or  
9 under any regulation issued by the Secretary pursu-  
10 ant to subchapter III of chapter 311 (except sections  
11 31138 and 31139) or section 31502 of this title  
12 about transportation by motor carrier, motor carrier  
13 of migrant workers, or motor private carrier, or an  
14 officer, agent, or employee of that person—

15 “(i) who does not make that report, does  
16 not specifically, completely, and truthfully an-  
17 swer that question in 30 days from the date the  
18 Secretary requires the question to be answered,  
19 or does not make, prepare, or preserve that  
20 record in the form and manner prescribed by  
21 the Secretary, shall be liable to the United  
22 States for a civil penalty in an amount not to  
23 exceed \$1,000 for each offense, and each day of  
24 the violation shall constitute a separate offense,  
25 except that the total of all civil penalties as-  
26 sessed against any violator for all offenses re-

1           lated to any single violation shall not exceed  
2           \$10,000; or

3                   “(ii) who knowingly falsifies, destroys, mu-  
4           tilates, or changes a required report or record,  
5           knowingly files a false report with the Sec-  
6           retary, knowingly makes or causes or permits to  
7           be made a false or incomplete entry in that  
8           record about an operation or business fact or  
9           transaction, or knowingly makes, prepares, or  
10          preserves a record in violation of a regulation or  
11          order of the Secretary, shall be liable to the  
12          United States for a civil penalty in an amount  
13          not to exceed \$10,000 for each violation, if any  
14          such action can be shown to have misrepre-  
15          sented a fact that constitutes a violation other  
16          than a reporting or recordkeeping violation.”.

17          (b) Section 31310(i)(2) is amended to read as fol-  
18          lows:

19                   “(2) The Secretary shall prescribe regulations  
20          establishing sanctions and penalties related to viola-  
21          tions of out-of-service orders by individuals oper-  
22          ating commercial motor vehicles. The regulations  
23          shall require at least that—

24                           “(A) an operator of a commercial motor  
25          vehicle found to have committed a first violation

1 of an out-of-service order shall be disqualified  
2 from operating such a vehicle for at least 180  
3 days and liable for a civil penalty of at least  
4 \$2,500;

5 “(B) an operator of a commercial motor  
6 vehicle found to have committed a second viola-  
7 tion of an out-of-service order shall be disquali-  
8 fied from operating such a vehicle for at least  
9 2 years and not more than 5 years and liable  
10 for a civil penalty of at least \$5,000;

11 “(C) an employer that knowingly allows or  
12 requires an employee to operate a commercial  
13 motor vehicle in violation of an out-of-service  
14 order shall be liable for a civil penalty of not  
15 more than \$25,000; and

16 “(D) an employer that knowingly and will-  
17 fully allows or requires an employee to operate  
18 a commercial motor vehicle in violation of an  
19 out-of-service order shall, upon conviction, be  
20 subject for each offense to imprisonment for a  
21 term not to exceed 1 year or a fine under title  
22 18, United States Code, or both.”.

1 **SEC. 114. INTRASTATE OPERATIONS OF INTERSTATE**  
2 **MOTOR CARRIERS.**

3 (a) Subsection (a) of section 31144 is amended to  
4 read as follows:

5 “(a) IN GENERAL.—The Secretary shall—

6 “(1) determine whether an owner or operator is  
7 fit to operate safely commercial motor vehicles, uti-  
8 lizing among other things the accident record of an  
9 owner or operator operating in interstate commerce  
10 and the accident record and safety inspection record  
11 of such owner or operator in operations that affect  
12 interstate commerce within the United States, and  
13 in Canada and Mexico if the owner or operator also  
14 conducts operations within the United States;

15 “(2) periodically update such safety fitness de-  
16 terminations;

17 “(3) make such final safety fitness determina-  
18 tions readily available to the public; and

19 “(4) prescribe by regulation penalties for viola-  
20 tions of this section consistent with section 521.”.

21 (b) Subsection (c) of section 31144 is amended by  
22 adding at the end the following:

23 “(5) TRANSPORTATION AFFECTING INTER-  
24 STATE COMMERCE.—Owners or operators of com-  
25 mercial motor vehicles prohibited from operating in  
26 interstate commerce pursuant to paragraphs (1)

1 through (3) of this section may not operate any  
2 commercial motor vehicle that affects interstate  
3 commerce until the Secretary determines that such  
4 owner or operator is fit.”.

5 (c) Section 31144 is amended by redesignating sub-  
6 sections (d), (e), and the second subsection (c) as sub-  
7 sections (e), (f), and (g), respectively, and inserting after  
8 subsection (e) the following:

9 “(d) DETERMINATION OF UNFITNESS BY A STATE.—  
10 If a State that receives Motor Carrier Safety Assistance  
11 Program funds pursuant to section 31102 of this title de-  
12 termines, by applying the standards prescribed by the Sec-  
13 retary under subsection (b) of this section, that an owner  
14 or operator of commercial motor vehicles that has its prin-  
15 cipal place of business in that State and operates in intra-  
16 state commerce is unfit under such standards and pro-  
17 hibits the owner or operator from operating such vehicles  
18 in the State, the Secretary shall prohibit the owner or op-  
19 erator from operating such vehicles in interstate commerce  
20 until the State determines that the owner or operator is  
21 fit.”.

1 **SEC. 115. AUTHORITY TO STOP COMMERCIAL MOTOR VEHI-**  
2 **CLES.**

3 (a) IN GENERAL.—Chapter 2 of title 18, United  
4 States Code, is amended by adding at the end the fol-  
5 lowing:

6 **“§ 39. Commercial motor vehicles required to stop for**  
7 **inspections**

8 “(a) A driver of a commercial motor vehicle, as de-  
9 fined in section 31132(1) of title 49, shall stop and submit  
10 to inspection of the vehicle, driver, cargo, and required  
11 records when directed to do so by an authorized employee  
12 of the Federal Motor Carrier Safety Administration, De-  
13 partment of Transportation, at or in the vicinity of an in-  
14 spection site. The driver shall not leave the inspection site  
15 until authorized to do so by an authorized employee.

16 “(b) A driver of a commercial motor vehicle, as de-  
17 fined in subsection (a), who knowingly fails to stop for  
18 inspection when directed to do so by an authorized em-  
19 ployee of the Federal Motor Carrier Safety Administration  
20 at or in the vicinity of an inspection site, or leaves the  
21 inspection site without authorization, shall be fined under  
22 this title or imprisoned not more than 1 year, or both.”.

23 (b) AUTHORITY OF FMCSA.—Chapter 203 of title  
24 18, United States Code, is amended by adding at the end  
25 the following:

1 **“§ 3064. Powers of Federal Motor Carrier Safety Ad-**  
 2 **ministration**

3 “Authorized employees of the Federal Motor Carrier  
 4 Safety Administration may direct a driver of a commercial  
 5 motor vehicle, as defined in 49 U.S.C. 31132(1), to stop  
 6 for inspection of the vehicle, driver, cargo, and required  
 7 records at or in the vicinity of an inspection site.”.

8 (c) CONFORMING AMENDMENTS.—

9 (1) The chapter analysis for chapter 2 of title  
 10 18, United States Code, is amended by inserting  
 11 after the item relating to section 38 the following:

“39. Commercial motor vehicles required to stop for inspections.”.

12 (2) The chapter analysis for chapter 203 of title  
 13 18, United States Code, is amended by inserting  
 14 after the item relating to section 3063 the following:

“3064. Powers of Federal Motor Carrier Safety Administration.”.

15 **SEC. 116. REVOCATION OF OPERATING AUTHORITY.**

16 Section 13905(e) is amended—

17 (1) by striking paragraph (1) and inserting the  
 18 following:

19 “(1) PROTECTION OF SAFETY.—Notwith-  
 20 standing subchapter II of chapter 5 of title 5, the  
 21 Secretary—

22 “(A) may suspend the registration of a  
 23 motor carrier, a freight forwarder, or a broker  
 24 for failure to comply with requirements of the

1 Secretary pursuant to section 13904(c) or  
2 13906 of this title, or an order or regulation of  
3 the Secretary prescribed under those sections;  
4 and

5 “(B) shall revoke the registration of a  
6 motor carrier that has been prohibited from op-  
7 erating in interstate commerce for failure to  
8 comply with the safety fitness requirements of  
9 section 31144 of this title.”;

10 (2) by striking “may suspend a registration” in  
11 paragraph (2) and inserting “shall revoke the reg-  
12 istration”; and

13 (3) by striking paragraph (3) and inserting the  
14 following:

15 “(3) NOTICE; PERIOD OF SUSPENSION.—The  
16 Secretary may suspend or revoke under this sub-  
17 section the registration only after giving notice of  
18 the suspension or revocation to the registrant. A  
19 suspension remains in effect until the registrant  
20 complies with the applicable sections or, in the case  
21 of a suspension under paragraph (2), until the Sec-  
22 retary revokes the suspension.”.

23 **SEC. 117. PATTERN OF SAFETY VIOLATIONS BY MOTOR**  
24 **CARRIER MANAGEMENT.**

25 (a) IN GENERAL.—Section 31135 is amended—

1           (1) by inserting “(a) IN GENERAL.—” before  
2           “Each”; and

3           (2) by adding at the end the following:

4           “(b) PATTERN OF NON-COMPLIANCE.—If an officer  
5 of a motor carrier engages in a pattern or practice of  
6 avoiding compliance, or masking or otherwise concealing  
7 non-compliance, with regulations on commercial motor ve-  
8 hicle safety prescribed under this subchapter, the Sec-  
9 retary may suspend, amend, or revoke any part of the  
10 motor carrier’s registration under section 13905 of this  
11 title.

12          “(c) REGULATIONS.—Within 1 year after the date of  
13 enactment of the Motor Carrier Safety Reauthorization  
14 Act of 2005, the Secretary shall by regulation establish  
15 standards to implement subsection (b).

16          “(d) DEFINITIONS.—In this section:

17           “(1) MOTOR CARRIER.—The term ‘motor car-  
18 rier’ has the meaning given the term in section  
19 13102(12) of this title.

20           “(2) OFFICER.—The term ‘officer’ means an  
21 owner, director, chief executive officer, chief oper-  
22 ating officer, chief financial officer, safety director,  
23 vehicle maintenance supervisor, and driver super-  
24 visor of a motor carrier, regardless of the title at-  
25 tached to those functions, and any person, however

1 designated, exercising controlling influence over the  
2 operations of the motor carrier.”.

3 (b) CROSS-REFERENCE.—Section 13902(a)(1)(B) is  
4 amended to read as follows:

5 “(B) any safety regulations imposed by the Sec-  
6 retary, the duties of employers and employees estab-  
7 lished by the Secretary under section 31135, and the  
8 safety fitness requirements established by the Sec-  
9 retary under section 31144; and”.

10 **SEC. 118. MOTOR CARRIER RESEARCH AND TECHNOLOGY**  
11 **PROGRAM.**

12 (a) IN GENERAL.—Section 31108 is amended to read  
13 as follows:

14 **“§ 31108. Motor carrier research and technology pro-**  
15 **gram**

16 “(a) RESEARCH, TECHNOLOGY, AND TECHNOLOGY  
17 TRANSFER ACTIVITIES.—

18 “(1) The Secretary of Transportation shall es-  
19 tablish and carry out a motor carrier and motor  
20 coach research and technology program. The Sec-  
21 retary may carry out research, development, tech-  
22 nology, and technology transfer activities with re-  
23 spect to—

1           “(A) the causes of accidents, injuries and  
2           fatalities involving commercial motor vehicles;  
3           and

4           “(B) means of reducing the number and  
5           severity of accidents, injuries and fatalities in-  
6           volving commercial motor vehicles.

7           “(2) The Secretary may test, develop, or assist  
8           in testing and developing any material, invention,  
9           patented article, or process related to the research  
10          and technology program.

11          “(3) The Secretary may use the funds appro-  
12          priated to carry out this section for training or edu-  
13          cation of commercial motor vehicle safety personnel,  
14          including, but not limited to, training in accident re-  
15          construction and detection of controlled substances  
16          or other contraband, and stolen cargo or vehicles.

17          “(4) The Secretary may carry out this sec-  
18          tion—

19                 “(A) independently;

20                 “(B) in cooperation with other Federal de-  
21                 partments, agencies, and instrumentalities and  
22                 Federal laboratories; or

23                 “(C) by making grants to, or entering into  
24                 contracts, cooperative agreements, and other  
25                 transactions with, any Federal laboratory, State

1 agency, authority, association, institution, for-  
2 profit or non-profit corporation, organization,  
3 foreign country, or person.

4 “(5) The Secretary shall use funds made avail-  
5 able to carry out this section to develop, administer,  
6 communicate, and promote the use of products of re-  
7 search, technology, and technology transfer pro-  
8 grams under this section.

9 “(b) COLLABORATIVE RESEARCH AND DEVELOP-  
10 MENT.—

11 “(1) To advance innovative solutions to prob-  
12 lems involving commercial motor vehicle and motor  
13 carrier safety, security, and efficiency, and to stimu-  
14 late the deployment of emerging technology, the Sec-  
15 retary may carry out, on a cost-shared basis, col-  
16 laborative research and development with—

17 “(A) non-Federal entities, including State  
18 and local governments, foreign governments,  
19 colleges and universities, corporations, institu-  
20 tions, partnerships, and sole proprietorships  
21 that are incorporated or established under the  
22 laws of any State; and

23 “(B) Federal laboratories.

24 “(2) In carrying out this subsection, the Sec-  
25 retary may enter into cooperative research and de-

1        development agreements (as defined in section 12 of  
2        the Stevenson-Wydler Technology Innovation Act of  
3        1980 (15 U.S.C. 3710a)).

4            “(3)(A) The Federal share of the cost of activi-  
5        ties carried out under a cooperative research and de-  
6        velopment agreement entered into under this sub-  
7        section shall not exceed 50 percent, except that if  
8        there is substantial public interest or benefit, the  
9        Secretary may approve a greater Federal share.

10           “(B) All costs directly incurred by the non-Fed-  
11        eral partners, including personnel, travel, and hard-  
12        ware or software development costs, shall be credited  
13        toward the non-Federal share of the cost of the ac-  
14        tivities described in subparagraph (A).

15           “(4) The research, development, or use of a  
16        technology under a cooperative research and develop-  
17        ment agreement entered into under this subsection,  
18        including the terms under which the technology may  
19        be licensed and the resulting royalties may be dis-  
20        tributed, shall be subject to the Stevenson-Wydler  
21        Technology Innovation Act of 1980 (15 U.S.C. 3701  
22        et seq.).

23           “(c) AVAILABILITY OF AMOUNTS.—The amounts  
24        made available under section 103(a) of the Motor Carrier

1 Safety Reauthorization Act of 2005 to carry out this sec-  
 2 tion shall remain available until expended.

3 “(d) CONTRACT AUTHORITY.—Approval by the Sec-  
 4 retary of a grant with funds made available under section  
 5 103(a) of the Motor Carrier Safety Reauthorization Act  
 6 of 2005 to carry out this section imposes upon the United  
 7 States Government a contractual obligation for payment  
 8 of the Government’s share of costs incurred in carrying  
 9 out the objectives of the grant.”.

10 (b) CONFORMING AMENDMENT.—The chapter anal-  
 11 ysis for chapter 311 is amended by striking the item relat-  
 12 ing to section 31108, and inserting the following:

“31108. Motor carrier research and technology program.”.

13 **SEC. 119. INTERNATIONAL COOPERATION.**

14 (a) IN GENERAL.—Chapter 311 is amended by in-  
 15 serting at the end the following:

16 **“Subchapter IV—Miscellaneous**  
 17 **“§ 31161. International cooperation**

18 “The Secretary is authorized to use funds appro-  
 19 priated under section 31104(i) of this title to participate  
 20 and cooperate in international activities to enhance motor  
 21 carrier, commercial motor vehicle, driver, and highway  
 22 safety by such means as exchanging information, con-  
 23 ducting research, and examining needs, best practices, and  
 24 new technology.”.

1 (b) CLERICAL AMENDMENT.—The chapter analysis  
 2 for chapter 311 is amended by adding at the end the fol-  
 3 lowing:

“SUBCHAPTER IV—MISCELLANEOUS

“31161. International cooperation.”.

4 **SEC. 120. PERFORMANCE AND REGISTRATION INFORMA-**  
 5 **TION SYSTEM MANAGEMENT.**

6 (a) IN GENERAL.—Section 31106(b) is amended—  
 7 (1) by striking paragraphs (2) and (3) and in-  
 8 serting the following:

9 “(2) DESIGN.—The program shall link Federal  
 10 motor carrier safety information systems with State  
 11 commercial vehicle registration and licensing systems  
 12 and shall be designed to enable a State to—

13 “(A) determine the safety fitness of a  
 14 motor carrier or registrant when licensing or  
 15 registering the registrant or motor carrier or  
 16 while the license or registration is in effect; and

17 “(B) deny, suspend, or revoke the commer-  
 18 cial motor vehicle registrations of a motor car-  
 19 rier or registrant that has been issued an oper-  
 20 ations out-of-service order by the Secretary.

21 “(3) CONDITIONS FOR PARTICIPATION.—The  
 22 Secretary shall require States, as a condition of par-  
 23 ticipation in the program, to—



1 a fiscal year to a State to implement the performance and  
 2 registration information system management require-  
 3 ments of section 31106(b).

4 “(b) AVAILABILITY OF AMOUNTS.—Amounts made  
 5 available to a State under section 103(b)(2) of the Motor  
 6 Carrier Safety Reauthorization Act of 2005 to carry out  
 7 this section shall remain available until expended.

8 “(c) SECRETARY’S APPROVAL.—Approval by the Sec-  
 9 retary of a grant to a State under section 103(b)(2) of  
 10 the Motor Carrier Safety Reauthorization Act of 2005 to  
 11 carry out this section is a contractual obligation of the  
 12 Government for payment of the amount of the grant.”.

13 (2) CONFORMING AMENDMENT.—The chapter  
 14 analysis for chapter 311 is amended by inserting  
 15 after the item relating to section 31108 the fol-  
 16 lowing:

“31109. Performance and Registration Information System Management.”.

17 **SEC. 121. COMMERCIAL VEHICLE INFORMATION SYSTEMS**  
 18 **AND NETWORKS DEPLOYMENT.**

19 (a) IN GENERAL.—Subchapter III of chapter 311, as  
 20 amended by section 110, is amended by adding at the end  
 21 the following:

1 **“§ 31151. Commercial vehicle information systems**  
2 **and networks**

3 “(a) IN GENERAL.—The Secretary shall carry out a  
4 commercial vehicle information systems and networks pro-  
5 gram to—

6 “(1) improve the safety and productivity of  
7 commercial vehicles; and

8 “(2) reduce costs associated with commercial  
9 vehicle operations and Federal and State commercial  
10 vehicle regulatory requirements.

11 “(b) PURPOSE.—The program shall advance the  
12 technological capability and promote the deployment of in-  
13 telligent transportation system applications for commer-  
14 cial vehicle operations, including commercial vehicle, com-  
15 mercial driver, and carrier-specific information systems  
16 and networks.

17 “(c) CORE DEPLOYMENT GRANTS.—

18 “(1) IN GENERAL.—The Secretary shall make  
19 grants to eligible States for the core deployment of  
20 commercial vehicle information systems and net-  
21 works.

22 “(2) ELIGIBILITY.—To be eligible for a core de-  
23 ployment grant under this section, a State—

24 “(A) shall have a commercial vehicle infor-  
25 mation systems and networks program plan and  
26 a system design approved by the Secretary;

1           “(B) shall certify to the Secretary that its  
2           commercial vehicle information systems and  
3           networks deployment activities, including hard-  
4           ware procurement, software and system devel-  
5           opment, and infrastructure modifications, are  
6           consistent with the national intelligent transpor-  
7           tation systems and commercial vehicle informa-  
8           tion systems and networks architectures and  
9           available standards, and promote interoper-  
10          ability and efficiency to the extent practicable;  
11          and

12           “(C) shall agree to execute interoperability  
13          tests developed by the Federal Motor Carrier  
14          Safety Administration to verify that its systems  
15          conform with the national intelligent transpor-  
16          tation systems architecture, applicable stand-  
17          ards, and protocols for commercial vehicle infor-  
18          mation systems and networks.

19           “(3) AMOUNT OF GRANTS.—The maximum ag-  
20          gregate amount a State may receive under this sec-  
21          tion for the core deployment of commercial vehicle  
22          information systems and networks may not exceed  
23          \$2,500,000.

24           “(4) USE OF FUNDS.—Funds from a grant  
25          under this subsection may only be used for the core

1 deployment of commercial vehicle information sys-  
2 tems and networks. Eligible States that have either  
3 completed the core deployment of commercial vehicle  
4 information systems and networks or completed such  
5 deployment before core deployment grant funds are  
6 expended may use the remaining core deployment  
7 grant funds for the expanded deployment of com-  
8 mercial vehicle information systems and networks in  
9 their State.

10 “(d) EXPANDED DEPLOYMENT GRANTS.—

11 “(1) IN GENERAL.—For each fiscal year, from  
12 the funds remaining after the Secretary has made  
13 core deployment grants under subsection (c) of this  
14 section, the Secretary may make grants to each eli-  
15 gible State, upon request, for the expanded deploy-  
16 ment of commercial vehicle information systems and  
17 networks.

18 “(2) ELIGIBILITY.—Each State that has com-  
19 pleted the core deployment of commercial vehicle in-  
20 formation systems and networks is eligible for an ex-  
21 panded deployment grant.

22 “(3) AMOUNT OF GRANTS.—Each fiscal year,  
23 the Secretary may distribute funds available for ex-  
24 panded deployment grants equally among the eligible  
25 States, but not to exceed \$1,000,000 per State.

1           “(4) USE OF FUNDS.—A State may use funds  
2           from a grant under this subsection only for the ex-  
3           panded deployment of commercial vehicle informa-  
4           tion systems and networks.

5           “(e) FEDERAL SHARE.—The Federal share of the  
6           cost of a project payable from funds made available to  
7           carry out this section shall not exceed 50 percent. The  
8           total Federal share of the cost of a project payable from  
9           all eligible sources shall not exceed 80 percent.

10          “(f) AVAILABILITY OF FUNDS.—Funds authorized to  
11          be appropriated under section 103(b)(4) of the Motor Car-  
12          rier Safety Reauthorization Act of 2005 shall be available  
13          for obligation in the same manner and to the same extent  
14          as if such funds were apportioned under chapter 1 of title  
15          23, United States Code, except that such funds shall re-  
16          main available until expended.

17          “(g) DEFINITIONS.—In this section:

18                 “(1) COMMERCIAL VEHICLE INFORMATION SYS-  
19                 TEMS AND NETWORKS.—The term ‘commercial vehi-  
20                 cle information systems and networks’ means the in-  
21                 formation systems and communications networks  
22                 that provide the capability to—

23                         “(A) improve the safety of commercial ve-  
24                         hicle operations;

1           “(B) increase the efficiency of regulatory  
2 inspection processes to reduce administrative  
3 burdens by advancing technology to facilitate  
4 inspections and increase the effectiveness of en-  
5 forcement efforts;

6           “(C) advance electronic processing of reg-  
7 istration information, driver licensing informa-  
8 tion, fuel tax information, inspection and crash  
9 data, and other safety information;

10           “(D) enhance the safe passage of commer-  
11 cial vehicles across the United States and  
12 across international borders; and

13           “(E) promote the communication of infor-  
14 mation among the States and encourage  
15 multistate cooperation and corridor develop-  
16 ment.

17           “(2) COMMERCIAL VEHICLE OPERATIONS.—The  
18 term ‘commercial vehicle operations’—

19           “(A) means motor carrier operations and  
20 motor vehicle regulatory activities associated  
21 with the commercial movement of goods, includ-  
22 ing hazardous materials, and passengers; and

23           “(B) with respect to the public sector, in-  
24 cludes the issuance of operating credentials, the  
25 administration of motor vehicle and fuel taxes,

1           and roadside safety and border crossing inspec-  
2           tion and regulatory compliance operations.

3           “(3) CORE DEPLOYMENT.—The term ‘core de-  
4           ployment’ means the deployment of systems in a  
5           State necessary to provide the State with the fol-  
6           lowing capabilities:

7                   “(A) SAFETY INFORMATION EXCHANGE.—  
8           Safety information exchange to—

9                           “(i) electronically collect and transmit  
10                           commercial vehicle and driver inspection  
11                           data at a majority of inspection sites;

12                           “(ii) connect to the Safety and Fit-  
13                           ness Electronic Records system for access  
14                           to interstate carrier and commercial vehicle  
15                           data, summaries of past safety perform-  
16                           ance, and commercial vehicle credentials  
17                           information; and

18                           “(iii) exchange carrier data and com-  
19                           mercial vehicle safety and credentials infor-  
20                           mation within the State and connect to  
21                           Safety and Fitness Electronic Records for  
22                           access to interstate carrier and commercial  
23                           vehicle data.

1           “(B) INTERSTATE CREDENTIALS ADMINIS-  
2           TRATION.—Interstate credentials administration  
3           to—

4                   “(i) perform end-to-end processing,  
5                   including carrier application, jurisdiction  
6                   application processing, and credential  
7                   issuance, of at least the International Reg-  
8                   istration Plan and International Fuel Tax  
9                   Agreement credentials and subsequently  
10                  extend this processing to other credentials,  
11                  including intrastate, titling, oversize/over-  
12                  weight, carrier registration, and hazardous  
13                  materials;

14                  “(ii) connect to the International Reg-  
15                  istration Plan and International Fuel Tax  
16                  Agreement clearinghouses; and

17                  “(iii) have at least 10 percent of the  
18                  transaction volume handled electronically,  
19                  and have the capability to add more car-  
20                  riers and to extend to branch offices where  
21                  applicable.

22           “(C) ROADSIDE SCREENING.—Roadside  
23           electronic screening to electronically screen  
24           transponder-equipped commercial vehicles at a

1           minimum of 1 fixed or mobile inspection sites  
2           and to replicate this screening at other sites.

3           “(4) EXPANDED DEPLOYMENT.—The term ‘ex-  
4           panded deployment’ means the deployment of sys-  
5           tems in a State that exceed the requirements of an  
6           core deployment of commercial vehicle information  
7           systems and networks, improve safety and the pro-  
8           ductivity of commercial vehicle operations, and en-  
9           hance transportation security.”.

10          (b) CONFORMING AMENDMENT.—The chapter anal-  
11         ysis for chapter 311 is amended by inserting after the item  
12         relating to section 31150 the following:

          “31151. Commercial vehicle information systems and networks.”.

13         **SEC. 122. OUTREACH AND EDUCATION.**

14          (a) IN GENERAL.—The Secretary of Transportation,  
15         through the National Highway Traffic Safety Administra-  
16         tion and the Federal Motor Carrier Safety Administration,  
17         may undertake outreach and education initiatives, includ-  
18         ing the “Share the Road Safely” program, that will reduce  
19         the number of highway accidents, injuries, and fatalities  
20         involving commercial motor vehicles.

21          (b) STUDY.—The Comptroller General shall evaluate  
22         the “Share the Road Safely” program to determine if it  
23         has achieved reductions in the number and severity of  
24         commercial motor vehicle crashes, including reductions in  
25         the number of deaths and the severity of injuries sustained

1 in these crashes, and shall report its findings to Congress  
2 no later than June 30, 2006.

3 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
4 are authorized to be appropriated to the Secretary for  
5 each of fiscal years 2006 through 2009 to carry out this  
6 section—

7 (1) \$1,000,000 for the Federal Motor Carrier  
8 Safety Administration; and

9 (2) \$3,000,000 for the National Highway Traf-  
10 fic Safety Administration.

11 **SEC. 123. FOREIGN COMMERCIAL MOTOR VEHICLES.**

12 (a) OPERATING AUTHORITY ENFORCEMENT ASSIST-  
13 ANCE FOR STATES.—Within 180 days after the date of  
14 enactment of this Act, the Federal Motor Carrier Safety  
15 Administration shall conduct outreach and provide train-  
16 ing as necessary to State personnel engaged in the en-  
17 forcement of Federal Motor Carrier Safety Administration  
18 safety regulations to ensure their awareness of the process  
19 to be used for verification of the operating authority of  
20 motor carriers, including buses, and to ensure proper en-  
21 forcement when motor carriers are found to be in violation  
22 of operating authority requirements. The Inspector Gen-  
23 eral of the Department of Transportation may periodically  
24 assess the implementation and effectiveness of the training  
25 and outreach program.

1 (b) STUDY OF FOREIGN COMMERCIAL MOTOR VEHI-  
2 CLES.—

3 (1) REVIEW.—Within 1 year after the date of  
4 enactment of this Act, the Federal Motor Carrier  
5 Safety Administration shall conduct a review to de-  
6 termine the degree to which Canadian and Mexican  
7 commercial motor vehicles, including buses, cur-  
8 rently operating or expected to operate, in the  
9 United States comply with the Federal Motor Vehi-  
10 cle Safety Standards.

11 (2) REPORTS.—Within 1 year after the date of  
12 enactment of this Act, the Administrator shall trans-  
13 mit a report to the Senate Committee on Commerce,  
14 Science, and Transportation and the House of Rep-  
15 resentatives Committee on Transportation and In-  
16 frastructure containing the findings and conclusions  
17 of the review. Within 4 months after the report is  
18 transmitted to the Committees, the Inspector Gen-  
19 eral of the Department of Transportation shall pro-  
20 vide comments and observations to the Committees  
21 on the scope and methodology of the review.

22 **SEC. 124. PRE-EMPLOYMENT SAFETY SCREENING.**

23 (a) IN GENERAL.—Subchapter III of chapter 311, as  
24 amended by section 121, is amended by adding at the end  
25 the following:

1 **“§ 31152. Pre-employment safety screening**

2 “(a) IN GENERAL.—The Secretary of Transportation  
3 shall provide companies conducting pre-employment  
4 screening services for the motor carrier industry electronic  
5 access to—

6 “(1) commercial motor vehicle accident report  
7 information contained in the Motor Carrier Manage-  
8 ment Information System; and

9 “(2) all driver safety violations contained in the  
10 Motor Carrier Management Information System.

11 “(b) ESTABLISHMENT.—Prior to making information  
12 available to such companies under subsection (a), the Sec-  
13 retary shall—

14 “(1) ensure that any information released is  
15 done in accordance with the Fair Credit Reporting  
16 Act (15 U.S.C. 1681 et seq.) and all applicable Fed-  
17 eral laws;

18 “(2) require the driver applicant’s written con-  
19 sent as a condition of releasing the information;

20 “(3) ensure that the information made available  
21 to companies providing pre-employment screening  
22 services is not released to any other unauthorized  
23 company or individual, unless expressly authorized  
24 or required by law; and

25 “(4) provide a procedure for drivers to remedy  
26 incorrect information in a timely manner.

1       “(c) DESIGN.—To be eligible to have access to infor-  
 2 mation under subsection (a), a company conducting pre-  
 3 employment screening services for the motor carrier indus-  
 4 try shall utilize a screening process—

5           “(1) that is designed to assist the motor carrier  
 6 industry in assessing an individual driver’s crash  
 7 and safety violation history as a pre-employment  
 8 condition;

9           “(2) the use of which is not mandatory; and

10          “(3) which is used only during the pre-employ-  
 11 ment assessment of a driver-applicant.”.

12       (b) CONFORMING AMENDMENT.—The chapter anal-  
 13 ysis for chapter 311, as amended by section 121, is  
 14 amended by inserting after the item relating to section  
 15 31151 the following:

“31152. Pre-employment safety screening.”.

16 **SEC. 125. OFFICE OF INTERMODALISM.**

17       (a) IN GENERAL.—Section 5503 is amended—

18           (1) by inserting “Amounts reserved under sec-  
 19 tion 5504(d) not awarded to States as grants may  
 20 be used by the Director to provide technical assist-  
 21 ance under this subsection.” after “organizations.”  
 22 in subsection (e);

23           (2) by redesignating subsection (f) as sub-  
 24 section (h), and inserting after subsection (e) the  
 25 following:

1       “(f) National Intermodal System Improvement  
2 Plan—

3           “(1) IN GENERAL.—The Director, in consulta-  
4 tion with the advisory board established under sec-  
5 tion 5502 of this title and other public and private  
6 transportation interests, shall develop a plan to im-  
7 prove the national intermodal transportation system.  
8 The plan shall include—

9           “(A) an assessment and forecast of the na-  
10 tional intermodal transportation system’s im-  
11 pact on mobility, safety, energy consumption,  
12 the environment, technology, international  
13 trade, economic activity, and quality of life in  
14 the United States;

15           “(B) an assessment of the operational and  
16 economic attributes of each passenger and  
17 freight mode of transportation and the optimal  
18 role of each mode in the national intermodal  
19 transportation system;

20           “(C) a description of recommended inter-  
21 modal and multi-modal research and develop-  
22 ment projects;

23           “(D) a description of emerging trends that  
24 have an impact on the national intermodal  
25 transportation system;

1           “(E) recommendations for improving inter-  
2 modal policy, transportation decisionmaking,  
3 and financing to maximize mobility and the re-  
4 turn on investment of Federal spending on  
5 transportation;

6           “(F) an estimate of the impact of current  
7 Federal and State transportation policy on the  
8 national intermodal transportation system; and

9           “(G) specific near and long-term goals for  
10 the national intermodal transportation system.

11           “(2) PROGRESS REPORTS.—The Director shall  
12 submit an initial report on the plan to improve the  
13 national intermodal transportation system 2 years  
14 after the date of enactment of the Surface Transpor-  
15 tation Safety Improvement Act of 2005, and a fol-  
16 low-up report 2 years after that, to the Senate Com-  
17 mittee on Commerce, Science, and Transportation  
18 and the House of Representatives Committee on  
19 Transportation and Infrastructure. The progress re-  
20 port shall—

21           “(A) describe progress made toward  
22 achieving the plan’s goals;

23           “(B) describe challenges and obstacles to  
24 achieving the plan’s goals;

1           “(C) update the plan to reflect changed  
2           circumstances or new developments; and

3           “(D) make policy and legislative rec-  
4           ommendations the Director believes are nec-  
5           essary and appropriate to achieve the goals of  
6           the plan.

7           “(3) PLAN DEVELOPMENT FUNDING.—Such  
8           sums as may be necessary from the administrative  
9           expenses of the Research and Innovative Technology  
10          Administration shall be reserved each year for the  
11          purpose of completing and updating the plan to im-  
12          prove the national intermodal transportation plan.

13          “(g) IMPACT MEASUREMENT METHODOLOGY; IM-  
14          PACT REVIEW.—The Director and the Director of the Bu-  
15          reau of Transportation Statistics shall jointly—

16                 “(1) develop, in consultation with the modal ad-  
17                 ministrations, and State and local planning organi-  
18                 zations, common measures to compare transpor-  
19                 tation investment decisions across the various modes  
20                 of transportation; and

21                 “(2) formulate a methodology for measuring  
22                 the impact of intermodal transportation on—

23                         “(A) the environment;

24                         “(B) public health and welfare;

25                         “(C) energy consumption;

1           “(D) the operation and efficiency of the  
2           transportation system;

3           “(E) congestion, including congestion at  
4           the Nation’s ports; and

5           “(F) the economy and employment.”.

6 **SEC. 126. DECALS.**

7           The Commercial Vehicle Safety Alliance may not re-  
8           strict the sale of any inspection decal to the Federal Motor  
9           Carrier Safety Administration unless the Administration  
10          fails to meet its responsibilities under its memorandum of  
11          understanding with the Alliance (other than a failure due  
12          to the Administration’s compliance with Federal law).

13 **SEC. 127. ROADABILITY.**

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

16               (1) IN GENERAL.—Not later than 1 year after  
17               the date of enactment of this Act, the Secretary,  
18               after providing notice and opportunity for comment,  
19               shall issue regulations establishing a program to en-  
20               sure that intermodal equipment used to transport  
21               intermodal containers is safe and systematically  
22               maintained.

23               (2) INTERMODAL EQUIPMENT SAFETY REGULA-  
24               TIONS.—The Secretary shall promulgate regulations  
25               under this section as a subpart of the regulations of

1 the Federal Motor Carrier Safety Administration of  
2 the Department of Transportation.

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

5 (A) a requirement to identify intermodal  
6 equipment providers responsible for the inspec-  
7 tion and maintenance of intermodal equipment  
8 that is interchanged or intended for interchange  
9 to motor carriers in intermodal transportation;

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

13 (C) a requirement that an intermodal  
14 equipment provider identified under the require-  
15 ment of subparagraph (A) systematically in-  
16 spect, repair, and maintain, or cause to be sys-  
17 tematically inspected, repaired, and maintained,  
18 intermodal equipment described in subpara-  
19 graph (A) that is intended for interchange with  
20 a motor carrier;

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

1 (E) requirements that—

2 (i) a specific list of intermodal equip-  
3 ment components or items be identified for  
4 the visual or audible inspection of which a  
5 driver is responsible before operating the  
6 equipment over the road; and

7 (ii) the inspection be conducted as  
8 part of a Federal requirement that a driver  
9 be satisfied that the components are in  
10 good working order before operating the  
11 equipment over the road;

12 (F) a requirement that a facility at which  
13 an intermodal equipment provider regularly  
14 makes equipment available for interchange have  
15 an operational process and space readily avail-  
16 able for a motor carrier to have an equipment  
17 defect identified pursuant to subparagraph (E)  
18 repaired or the equipment replaced prior to de-  
19 parture;

20 (G) a provision that establishes a program  
21 for the evaluation and audit of compliance by  
22 intermodal equipment providers with applicable  
23 Federal Motor Carrier Safety Administration  
24 regulations;

25 (H) a provision that—

1 (i) establishes a civil penalty structure  
2 consistent with section 521(b) of title 49,  
3 United States Code, for intermodal equip-  
4 ment providers that fail to attain satisfac-  
5 tory compliance with applicable regula-  
6 tions; and

7 (ii) prohibits intermodal equipment  
8 providers from placing intermodal equip-  
9 ment in service on the public highways to  
10 the extent such providers or their equip-  
11 ment are found to pose an imminent haz-  
12 ard;

13 (I) a provision that establishes a process  
14 by which motor carriers and agents of motor  
15 carriers may request the Federal Motor Carrier  
16 Safety Administration to undertake an inves-  
17 tigation of an intermodal equipment provider  
18 identified under the requirement of subpara-  
19 graph (A) that is alleged to be not in compli-  
20 ance with the regulations established pursuant  
21 to this section;

22 (J) a provision that establishes a process  
23 by which equipment providers and agents of  
24 equipment providers may request the Federal  
25 Motor Carrier Safety Administration to under-

1 take an investigation of a motor carrier that is  
2 alleged to be not in compliance with applicable  
3 Federal motor carrier safety regulations;

4 (K) a provision that establishes a process  
5 by which drivers or motor carriers are required  
6 to report any actual damage or defect in the  
7 intermodal equipment of which the driver or  
8 motor carrier is aware at the time the inter-  
9 modal equipment is returned to the equipment  
10 provider;

11 (L) a requirement that any actual damage  
12 or defect identified in the process established  
13 under subparagraph (K) be repaired before the  
14 equipment is made available for interchange to  
15 a motor carrier, and that repairs of equipment  
16 made pursuant to the requirements of this sub-  
17 paragraph and reports made pursuant to sub-  
18 paragraph (K) process be documented in the  
19 maintenance records for such equipment; and

20 (M) a procedure under which motor car-  
21 riers, drivers and intermodal equipment pro-  
22 viders may seek correction of their safety  
23 records through the deletion from those records  
24 of violations of safety regulations attributable to  
25 deficiencies in the intermodal chassis or trailer

1           for which they should not have been held re-  
2           sponsible.

3           (4) DEADLINE FOR RULEMAKING PRO-  
4           CEEDING.—Within 120 days after the date of enact-  
5           ment of this Act, the Secretary shall initiate a rule-  
6           making proceeding for regulations under this sec-  
7           tion.

8           (b) JURISDICTION OF DEPARTMENT OF TRANSPOR-  
9           TATION.—Section 31136 is amended by adding at the end  
10          the following:

11          “(g) INSPECTION, REPAIR, AND MAINTENANCE OF  
12          INTERMODAL EQUIPMENT.—The Secretary or an em-  
13          ployee of the Department of Transportation designated by  
14          the Secretary may inspect intermodal equipment, and copy  
15          related maintenance and repair records for such equip-  
16          ment, on demand and display of proper credentials.

17          “(h) OUT-OF-SERVICE UNTIL REPAIR.—Any inter-  
18          modal equipment that is determined under this section to  
19          fail to comply with applicable safety regulations shall be  
20          taken out of service and may not be used on a public high-  
21          way until the repairs necessary to bring such equipment  
22          into compliance have been completed. Repairs of equip-  
23          ment taken out of service shall be documented in the  
24          maintenance records for such equipment.”.

25          (c) PREEMPTION OF STATE LAWS.—

1           (1) IN GENERAL.—Section 31141 is amended  
2           by adding at the end the following:

3           “(h) PREEMPTION GENERALLY.—Except as other-  
4 wise authorized by law and as provided in subsection (i),  
5 a law, regulation, order, or other requirement of a State,  
6 a political subdivision of a State, or a tribal organization,  
7 is preempted if such law, regulation, order, or other re-  
8 quirement exceeds or is inconsistent with a requirement  
9 imposed under or pursuant to this chapter.

10          “(i) PRE-EXISTING STATE REQUIREMENTS.—

11           “(1) IN GENERAL.—Except as provided in para-  
12 graph (2), a State requirement for the periodic in-  
13 spection of intermodal chassis by intermodal equip-  
14 ment providers that was in effect on January 1,  
15 2005, shall remain in effect only until the date on  
16 which requirements prescribed under section 127 of  
17 the Surface Transportation Safety Improvement Act  
18 of 2005 take effect.

19          “(2) NON-PREEMPTION DETERMINATIONS.—

20           “(A) IN GENERAL.—A State requirement  
21 described in paragraph (1) is not preempted by  
22 a Federal requirement prescribed under section  
23 127 of that Act if the Secretary determines that  
24 the State requirement is as effective as the

1 Federal requirement and does not unduly bur-  
2 den interstate commerce.

3 “(B) APPLICATION REQUIRED.—Subpara-  
4 graph (A) applies to a State requirement only  
5 if the State applies to the Secretary for a deter-  
6 mination under this paragraph with respect to  
7 the requirement before the date on which re-  
8 quirements prescribed under section 127 of that  
9 Act take effect. The Secretary shall make a de-  
10 termination with respect to any such applica-  
11 tion within 6 months after the date on which  
12 the Secretary receives the application.

13 “(C) AMENDED STATE REQUIREMENTS.—  
14 Any amendment to a State requirement not  
15 preempted under this subsection because of a  
16 determination by the Secretary under subpara-  
17 graph (A) may not take effect unless—

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

21 “(ii) the Secretary determines that  
22 the amendment would not cause the State  
23 requirement to be less effective than the  
24 Federal requirement and would not unduly  
25 burden interstate commerce.”.

1           (2) CONFORMING AMENDMENT.—Section  
2           31141(c)(1) is amended by striking “The Secretary”  
3           the first place it appears and inserting “Except as  
4           provided by subsection (h), the Secretary”.

5           (d) DEFINITIONS.—In this section:

6           (1) INTERMODAL EQUIPMENT.—The term  
7           “intermodal equipment” means trailing equipment  
8           that is used in the intermodal transportation of  
9           freight over public highways in interstate commerce  
10          (as defined in section 31132 of title 49, United  
11          States Code), including trailers and chassis.

12          (2) INTERMODAL EQUIPMENT INTERCHANGE  
13          AGREEMENT.—The term “Intermodal equipment  
14          interchange agreement” means the Uniform Inter-  
15          modal Interchange and Facilities Access Agreement  
16          or any other written document executed by an inter-  
17          modal equipment provider or its agent and a motor  
18          carrier or its agent, the primary purpose of which is  
19          to establish the responsibilities and liabilities of both  
20          parties with respect to the interchange of the inter-  
21          modal equipment.

22          (3) INTERMODAL EQUIPMENT PROVIDER.—The  
23          term “intermodal equipment provider” means any  
24          person that interchanges intermodal equipment with  
25          a motor carrier pursuant to a written interchange

1 agreement or has a contractual responsibility for the  
2 maintenance of the intermodal equipment.

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

4 (A) means the act of providing intermodal  
5 equipment to a motor carrier pursuant to an  
6 Intermodal equipment interchange agreement  
7 for the purpose of transporting the equipment  
8 for loading or unloading by any person or repo-  
9 sitioning the equipment for the benefit of the  
10 equipment provider; but

11 (B) does not include the leasing of equip-  
12 ment to a motor carrier for primary use in the  
13 motor carrier’s freight hauling operations.

14 **SEC. 128. MOTOR CARRIER REGULATIONS.**

15 (a) IN GENERAL.—Section 31149 (as transferred by  
16 section 108(d)) is amended—

17 (1) by striking paragraph (1) of subsection (a)  
18 and inserting the following:

19 “(1) TRANSPORTATION OF AGRICULTURAL COM-  
20 MODITIES AND FARM SUPPLIES.—Regulations pre-  
21 scribed by the Secretary under sections 31136 and  
22 31502 of this title regarding maximum driving and  
23 on-duty time for drivers used by motor carriers shall  
24 not apply during planting and harvest periods, as  
25 determined by each State, to drivers transporting

1 agricultural commodities or farm supplies for agri-  
2 cultural purposes in a State if such transportation  
3 is limited to an area within a 100 air mile radius  
4 from the source of the commodities or the distribu-  
5 tion point for the farm supplies.”;

6 (2) by adding at the end of subsection (e) the  
7 following:

8 “(7) AGRICULTURAL COMMODITY.—The term  
9 ‘agricultural commodity’ means any agricultural  
10 commodity, non-processed food, feed, fiber, or live-  
11 stock (including livestock as defined in section 602  
12 of the Emergency Livestock Feed Assistance Act of  
13 1988 (7 U.S.C. 1471) and insects).

14 “(8) FARM SUPPLIES FOR AGRICULTURAL PUR-  
15 POSES.—The term ‘farm supplies for agricultural  
16 purposes’ means products directly related to the  
17 growing or harvesting of agricultural commodities  
18 during the planting and harvesting seasons within  
19 each State, as determined by the State, and livestock  
20 feed at any time of the year.”.

21 (b) REGULATIONS FOR MOVIE PRODUCTION  
22 SITES.—Notwithstanding sections 31136 and 31502 of  
23 title 49, United States Code, and any other provision of  
24 law, the maximum daily hours of service for an operator  
25 of a commercial motor vehicle providing transportation of

1 property or passengers to or from a theatrical or television  
2 motion picture production site located within a 100 air  
3 mile radius of the work reporting location of such operator  
4 shall be those in effect under the regulations in effect  
5 under those sections on April 27, 2003.

6 (c) UTILITY SERVICE VEHICLES.—Section  
7 31149(a)(4) (as so transferred) is amended to read as fol-  
8 lows:

9 “(4) OPERATORS OF UTILITY SERVICE VEHI-  
10 CLES.—

11 “(A) INAPPLICABILITY OF FEDERAL REGU-  
12 LATIONS.—Such regulations may not apply to a  
13 driver of a utility service vehicle.

14 “(B) PROHIBITION ON STATE REGULA-  
15 TIONS.—A State, a political subdivision of a  
16 State, an interstate agency, or other entity con-  
17 sisting of 2 or more States, shall not enact or  
18 enforce any law, rule, regulation, or standard  
19 that imposes requirements on a driver of a util-  
20 ity service vehicle that are similar to the re-  
21 quirements contained in such regulations.”;

22 (2) by striking “Nothing” in subsection (b) and  
23 inserting “Except as provided in subsection (a)(4),  
24 nothing”; and



1 (2) inserting after subsection (a) the following:

2 “(b) PERSON REGISTERED WITH SECRETARY.—

3 “(1) IN GENERAL.—Except as provided in para-  
4 graph (2), any person having registered with the  
5 Secretary to provide transportation or service as a  
6 motor carrier or motor private carrier under this  
7 title, as in effect on January 1, 2005, but not having  
8 registered pursuant to section 13902(a) of this title,  
9 shall be deemed, for purposes of this part, to be reg-  
10 istered to provide such transportation or service for  
11 purposes of sections 13908 and 14504a of this title.

12 “(2) EXCLUSIVELY INTRASTATE OPERATORS.—  
13 Paragraph (1) does not apply to a motor carrier or  
14 motor private carrier (including a transporter of  
15 waste or recyclable materials) engaged exclusively in  
16 intrastate transportation operations.”.

17 (b) SECURITY REQUIREMENT.—Section 13906(a) is  
18 amended by—

19 (1) redesignating paragraphs (2) and (3) as  
20 paragraphs (3) and (4), respectively; and

21 (2) inserting the following:

22 “(2) SECURITY REQUIREMENT.—Not later than  
23 120 days after the date of enactment of the Unified  
24 Carrier Registration Act of 2005, any person, other  
25 than a motor private carrier, registered with the

1 Secretary to provide transportation or service as a  
2 motor carrier under section 13905(b) of this title  
3 shall file with the Secretary a bond, insurance policy,  
4 or other type of security approved by the Secretary,  
5 in an amount not less than required by sections  
6 31138 and 31139 of this title.”.

7 (c) TERMINATION OF TRANSITION RULE.—Section  
8 13902 is amended—

9 (1) by adding at the end of subsection (d) the  
10 following:

11 “(3) TERMINATION.—This subsection shall  
12 cease to be in effect on the transition termination  
13 date.”; and

14 (2) by redesignating subsection (f) as sub-  
15 section (g), and inserting after subsection (e) the fol-  
16 lowing:

17 “(f) MODIFICATION OF CARRIER REGISTRATION.—

18 “(1) IN GENERAL.—On and after the transition  
19 termination date, the Secretary—

20 “(A) may not register a motor carrier  
21 under this section as a motor common carrier  
22 or a motor contract carrier;

23 “(B) shall register applicants under this  
24 section as motor carriers; and

1           “(C) shall issue any motor carrier reg-  
2           istered under this section after that date a  
3           motor carrier certificate of registration that  
4           specifies whether the holder of the certificate  
5           may provide transportation of persons, house-  
6           hold goods, other property, or any combination  
7           thereof.

8           “(2) PRE-EXISTING CERTIFICATES AND PER-  
9           MITS.—The Secretary shall redesignate any motor  
10          carrier certificate or permit issued before the transi-  
11          tion termination date as a motor carrier certificate  
12          of registration. On and after the transition termi-  
13          nation date, any person holding a motor carrier cer-  
14          tificate of registration redesignated under this para-  
15          graph may provide both contract carriage (as de-  
16          fined in section 13102(4)(B) of this title) and trans-  
17          portation under terms and conditions meeting the  
18          requirements of section 13710(a)(1) of this title.  
19          The Secretary may not, pursuant to any regulation  
20          or form issued before or after the transition termi-  
21          nation date, make any distinction among holders of  
22          motor carrier certificates of registration on the basis  
23          of whether the holder would have been classified as  
24          a common carrier or as a contract carrier under—

1           “(A) subsection (d) of this section, as that  
2           section was in effect before the transition termi-  
3           nation date; or

4           “(B) any other provision of this title that  
5           was in effect before the transition termination  
6           date.

7           “(3) TRANSITION TERMINATION DATE DE-  
8           FINED.—In subsection (d) and this subsection, the  
9           term ‘transition termination date’ means the first  
10          day of January occurring more than 12 months  
11          after the date of enactment of the Unified Carrier  
12          Registration Act of 2005.”.

13          (d) CONFORMING AMENDMENTS.—

14           (1) CAPTION OF SECTION 13906.—The section  
15          caption for section 13906 is amended by inserting  
16          “**motor private carriers,**” after “**motor car-**  
17          **riers,**”.

18           (2) CHAPTER ANALYSIS.—The chapter analysis  
19          for chapter 139 is amended by striking the item re-  
20          lating to section 13906 and inserting the following:

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

21          **SEC. 134. UNIFIED CARRIER REGISTRATION SYSTEM.**

22          (a) Section 13908 is amended to read as follows:

1 **“§ 13908. Registration and other reforms**

2       “(a) ESTABLISHMENT OF UNIFIED CARRIER REG-  
3 ISTRATION SYSTEM.—The Secretary, in cooperation with  
4 the States, representatives of the motor carrier, motor pri-  
5 vate carrier, freight forwarder and broker industries, and  
6 after notice and opportunity for public comment, shall  
7 issue within 1 year after the date of enactment of the Uni-  
8 fied Carrier Registration Act of 2005 regulations to estab-  
9 lish, an online, Federal registration system to be named  
10 the Unified Carrier Registration System to replace—

11               “(1) the current Department of Transportation  
12 identification number system, the Single State Reg-  
13 istration System under section 14504 of this title;

14               “(2) the registration system contained in this  
15 chapter and the financial responsibility information  
16 system under section 13906; and

17               “(3) the service of process agent systems under  
18 sections 503 and 13304 of this title.

19       “(b) ROLE AS CLEARINGHOUSE AND DEPOSITORY OF  
20 INFORMATION.—The Unified Carrier Registration System  
21 shall serve as a clearinghouse and depository of informa-  
22 tion on, and identification of, all foreign and domestic  
23 motor carriers, motor private carriers, brokers, and freight  
24 forwarders, and others required to register with the De-  
25 partment, including information with respect to a carrier’s  
26 safety rating, compliance with required levels of financial

1 responsibility, and compliance with the provisions of sec-  
2 tion 14504a of this title. The Secretary shall ensure that  
3 Federal agencies, States, representatives of the motor car-  
4 rier industry, and the public have access to the Unified  
5 Carrier Registration System, including the records and in-  
6 formation contained in the System.

7       “(c) PROCEDURES FOR CORRECTING INFORMA-  
8 TION.—Not later than 60 days after the effective date of  
9 this section, the Secretary shall prescribe regulations es-  
10 tablishing procedures that enable a motor carrier to cor-  
11 rect erroneous information contained in any part of the  
12 Unified Carrier Registration System.

13       “(d) FEE SYSTEM.—The Secretary shall establish,  
14 under section 9701 of title 31, a fee system for the Unified  
15 Carrier Registration System according to the following  
16 guidelines:

17               “(1) REGISTRATION AND FILING EVIDENCE OF  
18 FINANCIAL RESPONSIBILITY.—The fee for new reg-  
19 istrants shall as nearly as possible cover the costs of  
20 processing the registration and conducting the safety  
21 audit or examination, if required, but shall not ex-  
22 ceed \$300.

23               “(2) EVIDENCE OF FINANCIAL RESPONSI-  
24 BILITY.—The fee for filing evidence of financial re-  
25 sponsibility pursuant to this section shall not exceed

1 \$10 per filing. No fee shall be charged for a filing  
2 for purposes of designating an agent for service of  
3 process or the filing of other information relating to  
4 financial responsibility.

5 “(3) ACCESS AND RETRIEVAL FEES.—

6 “(A) IN GENERAL.—Except as provided in  
7 subparagraph (B), the fee system shall include  
8 a nominal fee for the access to or retrieval of  
9 information from the Unified Carrier Registra-  
10 tion System to cover the costs of operating and  
11 upgrading the System, including the personnel  
12 costs incurred by the Department and the costs  
13 of administration of the Unified Carrier Reg-  
14 istration Agreement.

15 “(B) EXCEPTIONS.—There shall be no fee  
16 charged—

17 “(i) to any agency of the Federal Gov-  
18 ernment or a State government or any po-  
19 litical subdivision of any such government  
20 for the access to or retrieval of information  
21 and data from the Unified Carrier Reg-  
22 istration System for its own use; or

23 “(ii) to any representative of a motor  
24 carrier, motor private carrier, leasing com-  
25 pany, broker, or freight forwarder (as each

1 is defined in section 14504a of this title)  
2 for the access to or retrieval of the indi-  
3 vidual information related to such entity  
4 from the Unified Carrier Registration Sys-  
5 tem for the individual use of such entity.

6 “(e) APPLICATION TO CERTAIN INTRASTATE OPER-  
7 ATIONS.—Nothing in this section requires the registration  
8 of a motor carrier, a motor private carrier of property,  
9 or a transporter of waste or recyclable materials operating  
10 exclusively in intrastate transportation not otherwise re-  
11 quired to register with the Secretary under another provi-  
12 sion of this title.”.

13 **SEC. 135. REGISTRATION OF MOTOR CARRIERS BY STATES.**

14 (a) TERMINATION OF REGISTRATION PROVISIONS.—  
15 Section 14504 is amended by adding at the end the fol-  
16 lowing:

17 “(d) TERMINATION OF PROVISIONS.—Subsections  
18 (b) and (c) shall cease to be effective on the first January  
19 1st occurring more than 12 months after the date of en-  
20 actment of the Unified Carrier Registration Act of 2005.”.

21 (b) UNIFIED CARRIER REGISTRATION SYSTEM PLAN  
22 AND AGREEMENT.—Chapter 145 is amended by inserting  
23 after section 14504 the following:

1 **“§ 14504a. Unified carrier registration system plan**  
2 **and agreement**

3 “(a) DEFINITIONS.—In this section and section  
4 14506 of this title:

5 “(1) COMMERCIAL MOTOR VEHICLE.—

6 “(A) IN GENERAL.—Except as provided in  
7 subparagraph (B), the term ‘commercial motor  
8 vehicle’ has the meaning given the term in sec-  
9 tion 31101 of this title.

10 “(B) EXCEPTION.—With respect to motor  
11 carriers required to make any filing or pay any  
12 fee to a State with respect to the motor car-  
13 rier’s authority or insurance related to oper-  
14 ation within such State, the term ‘commercial  
15 motor vehicle’ means any self-propelled vehicle  
16 used on the highway in commerce to transport  
17 passengers or property for compensation re-  
18 gardless of the gross vehicle weight rating of  
19 the vehicle or the number of passengers trans-  
20 ported by such vehicle.

21 “(2) BASE-STATE.—

22 “(A) IN GENERAL.—The term ‘Base-State’  
23 means, with respect to the Unified Carrier Reg-  
24 istration Agreement, a State—

25 “(i) that is in compliance with the re-  
26 quirements of subsection (e); and

1           “(ii) in which the motor carrier, motor  
2           private carrier, broker, freight forwarder or  
3           leasing company maintains its principal  
4           place of business.

5           “(B) DESIGNATION OF BASE-STATE.—A  
6           motor carrier, motor private carrier, broker,  
7           freight forwarder or leasing company may des-  
8           ignate another State in which it maintains an  
9           office or operating facility as its Base-State in  
10          the event that—

11           “(i) the State in which the motor car-  
12          rier, motor private carrier, broker, freight  
13          forwarder or leasing company maintains its  
14          principal place of business is not in compli-  
15          ance with the requirements of subsection  
16          (e); or

17           “(ii) the motor carrier, motor private  
18          carrier, broker, freight forwarder or leasing  
19          company does not have a principal place of  
20          business in the United States.

21          “(3) INTRASTATE FEE.—The term ‘intrastate  
22          fee’ means any fee, tax, or other type of assessment,  
23          including per vehicle fees and gross receipts taxes,  
24          imposed on a motor carrier or motor private carrier

1 for the renewal of the intrastate authority or insur-  
2 ance filings of such carrier with a State.

3 “(4) LEASING COMPANY.—The term ‘leasing  
4 company’ means a lessor that is engaged in the busi-  
5 ness of leasing or renting for compensation motor  
6 vehicles without drivers to a motor carrier, motor  
7 private carrier, or freight forwarder.

8 “(5) MOTOR CARRIER.—The term ‘motor car-  
9 rier’ has the meaning given the term in section  
10 13102(12) of this title, but shall include all carriers  
11 that are otherwise exempt from the provisions of  
12 part B of this title pursuant to the provisions of  
13 chapter 135 of this title or exemption actions by the  
14 former Interstate Commerce Commission under this  
15 title.

16 “(6) PARTICIPATING STATE.—The term ‘par-  
17 ticipating state’ means a State that has complied  
18 with the requirements of subsection (e) of this sec-  
19 tion.

20 “(7) SSRS.—The term ‘SSRS’ means the Sin-  
21 gle State Registration System in effect on the date  
22 of enactment of the Unified Carrier Registration Act  
23 of 2005.

24 “(8) UNIFIED CARRIER REGISTRATION AGREE-  
25 MENT.—The terms ‘Unified Carrier Registration

1 Agreement' and 'UCR Agreement' mean the inter-  
2 state agreement developed under the Unified Carrier  
3 Registration Plan governing the collection and dis-  
4 tribution of registration and financial responsibility  
5 information provided and fees paid by motor car-  
6 riers, motor private carriers, brokers, freight for-  
7 warders and leasing companies pursuant to this sec-  
8 tion.

9 “(9) UNIFIED CARRIER REGISTRATION PLAN.—  
10 The terms 'Unified Carrier Registration Plan' and  
11 'UCR Plan' mean the organization of State, Federal  
12 and industry representatives responsible for devel-  
13 oping, implementing and administering the Unified  
14 Carrier Registration Agreement.

15 “(10) VEHICLE REGISTRATION.—The term 've-  
16 hicle registration' means the registration of any  
17 commercial motor vehicle under the International  
18 Registration Plan or any other registration law or  
19 regulation of a jurisdiction.

20 “(b) APPLICABILITY OF PROVISIONS TO FREIGHT  
21 FORWARDERS.—A Freight forwarder that operates com-  
22 mercial motor vehicles and is not required to register as  
23 a carrier pursuant to section 13903(b) of this title shall  
24 be subject to the provisions of this section as if a motor  
25 carrier.

1       “(c) UNREASONABLE BURDEN.—For purposes of  
2 this section, it shall be considered an unreasonable burden  
3 upon interstate commerce for any State or any political  
4 subdivision of a State, or any political authority of 2 or  
5 more States—

6           “(1) to enact, impose, or enforce any require-  
7 ment or standards, or levy any fee or charge on any  
8 interstate motor carrier or interstate motor private  
9 carrier in connection with—

10           “(A) the registration with the State of the  
11 interstate operations of a motor carrier or  
12 motor private carrier;

13           “(B) the filing with the State of informa-  
14 tion relating to the financial responsibility of a  
15 motor carrier or motor private carrier pursuant  
16 to sections 31138 or 31139 of this title;

17           “(C) the filing with the State of the name  
18 of the local agent for service of process of a  
19 motor carrier or motor private carrier pursuant  
20 to sections 503 or 13304 of this title; or

21           “(D) the annual renewal of the intrastate  
22 authority, or the insurance filings, of a motor  
23 carrier or motor private carrier, or other intra-  
24 state filing requirement necessary to operate

1 within the State, if the motor carrier or motor  
2 private carrier is—

3 “(i) registered in compliance with sec-  
4 tion 13902 or section 13905(b) of this  
5 title; and

6 “(ii) in compliance with the laws and  
7 regulations of the State authorizing the  
8 carrier to operate in the State pursuant to  
9 section 14501(c)(2)(A) of this title

10 except with respect to—

11 “(I) intrastate service provided  
12 by motor carriers of passengers that  
13 is not subject to the preemptive provi-  
14 sions of section 14501(a) of this title,

15 “(II) motor carriers of property,  
16 motor private carriers, brokers, or  
17 freight forwarders, or their services or  
18 operations, that are described in sub-  
19 paragraphs (B) and (C) of section  
20 14501(c)(2) and section 14506(c)(3)  
21 or permitted pursuant to section  
22 14506(b) of this title, and

23 “(III) the intrastate transpor-  
24 tation of waste or recyclable materials  
25 by any carrier); or

1           “(2) to require any interstate motor carrier or  
2 motor private carrier to pay any fee or tax, not pro-  
3 scribed by paragraph (1)(D) of this subsection, that  
4 a motor carrier or motor private carrier that pays a  
5 fee which is proscribed by that paragraph is not re-  
6 quired to pay.

7           “(d) UNIFIED CARRIER REGISTRATION PLAN.—

8           “(1) BOARD OF DIRECTORS.—

9           “(A) GOVERNANCE OF PLAN.—The Uni-  
10 fied Carrier Registration Plan shall be governed  
11 by a Board of Directors consisting of represent-  
12 atives of the Department of Transportation,  
13 Participating States, and the motor carrier in-  
14 dustry.

15           “(B) NUMBER.—The Board shall consist  
16 of 15 directors.

17           “(C) COMPOSITION.—The Board shall be  
18 composed of directors appointed as follows:

19           “(i) FEDERAL MOTOR CARRIER SAFE-  
20 TY ADMINISTRATION.—The Secretary shall  
21 appoint 1 director from each of the Fed-  
22 eral Motor Carrier Safety Administration’s  
23 4 Service Areas (as those areas were de-  
24 fined by the Federal Motor Carrier Safety  
25 Administration on January 1, 2005), from

1 among the chief administrative officers of  
2 the State agencies responsible for over-  
3 seeing the administration of the UCR  
4 Agreement.

5 “(ii) STATE AGENCIES.—The Sec-  
6 retary shall appoint 5 directors from the  
7 professional staffs of State agencies re-  
8 sponsible for overseeing the administration  
9 of the UCR Agreement in their respective  
10 States. Nominees for these 5 directorships  
11 shall be submitted to the Secretary by the  
12 national association of professional employ-  
13 ees of the State agencies responsible for  
14 overseeing the administration of the UCR  
15 Agreement in their respective States.

16 “(iii) MOTOR CARRIER INDUSTRY.—  
17 The Secretary shall appoint 5 directors  
18 from the motor carrier industry. At least 1  
19 of the appointees shall be an employee of  
20 the national trade association representing  
21 the general motor carrier of property in-  
22 dustry.

23 “(iv) DEPARTMENT OF TRANSPOR-  
24 TATION.—The Secretary shall appoint the  
25 Deputy Administrator of the Federal

1           Motor Carrier Safety Administration, or  
2           such other presidential appointee from the  
3           United States Department of Transpor-  
4           tation, as the Secretary may designate, to  
5           serve as a director.

6           “(D) CHAIRPERSON AND VICE-CHAIR-  
7           PERSON.—The Secretary shall designate 1 di-  
8           rector as Chairperson and 1 director as Vice-  
9           Chairperson of the Board. The Chairperson and  
10          Vice-Chairperson shall serve in such capacity  
11          for the term of their appointment as directors.

12          “(E) TERM.—In appointing the initial  
13          Board, the Secretary shall designate 5 of the  
14          appointed directors for initial terms of 3 years,  
15          5 of the appointed directors for initial terms of  
16          2 years, and 5 of the appointed directors for  
17          initial terms of 1 year. Thereafter, all directors  
18          shall be appointed for terms of 3 years, except  
19          that the term of the Deputy Administrator or  
20          other individual designated by the Secretary  
21          under subparagraph (C)(iv) shall be at the dis-  
22          cretion of the Secretary. A director may be ap-  
23          pointed to succeed himself or herself. A director  
24          may continue to serve on the Board until his or  
25          her successor is appointed.

1           “(2) RULES AND REGULATIONS GOVERNING  
2 THE UCR AGREEMENT.—The Board of Directors  
3 shall issue rules and regulations to govern the UCR  
4 Agreement. The rules and regulations shall—

5                   “(A) prescribe uniform forms and formats,  
6 for—

7                           “(i) the annual submission of the in-  
8 formation required by a Base-State of a  
9 motor carrier, motor private carrier, leas-  
10 ing company, broker, or freight forwarder;

11                           “(ii) the transmission of information  
12 by a Participating State to the Unified  
13 Carrier Registration System;

14                           “(iii) the payment of excess fees by a  
15 State to the designated depository and the  
16 distribution of fees by the depository to  
17 those States so entitled; and

18                           “(iv) the providing of notice by a  
19 motor carrier, motor private carrier,  
20 broker, freight forwarder, or leasing com-  
21 pany to the Board of the intent of such en-  
22 tity to change its Base-State, and the pro-  
23 cedures for a State to object to such a  
24 change under subparagraph (C) of this  
25 paragraph;

1           “(B) provide for the administration of the  
2           Unified Carrier Registration Agreement, includ-  
3           ing procedures for amending the Agreement  
4           and obtaining clarification of any provision of  
5           the Agreement;

6           “(C) provide procedures for dispute resolu-  
7           tion that provide due process for all involved  
8           parties; and

9           “(D) designate a depository.

10           “(3) COMPENSATION AND EXPENSES.—Except  
11           for the representative of the Department of Trans-  
12           portation appointed pursuant to paragraph (1)(D),  
13           no director shall receive any compensation or other  
14           benefits from the Federal Government for serving on  
15           the Board or be considered a Federal employee as  
16           a result of such service. All Directors shall be reim-  
17           bursed for expenses they incur attending duly called  
18           meetings of the Board. In addition, the Board may  
19           approve the reimbursement of expenses incurred by  
20           members of any subcommittee or task force ap-  
21           pointed pursuant to paragraph (5). The reimburse-  
22           ment of expenses to directors and subcommittee and  
23           task force members shall be based on the then appli-  
24           cable rules of the General Service Administration

1 governing reimbursement of expenses for travel by  
2 Federal employees.

3 “(4) MEETINGS.—

4 “(A) IN GENERAL.—The Board shall meet  
5 at least once per year. Additional meetings may  
6 be called, as needed, by the Chairperson of the  
7 Board, a majority of the directors, or the Sec-  
8 retary.

9 “(B) QUORUM.—A majority of directors  
10 shall constitute a quorum.

11 “(C) VOTING.—Approval of any matter be-  
12 fore the Board shall require the approval of a  
13 majority of all directors present at the meeting.

14 “(D) OPEN MEETINGS.—Meetings of the  
15 Board and any subcommittees or task forces  
16 appointed pursuant to paragraph (5) of this  
17 section shall be subject to the provisions of sec-  
18 tion 552b of title 5.

19 “(5) SUBCOMMITTEES.—

20 “(A) INDUSTRY ADVISORY SUB-  
21 COMMITTEE.—The Chairperson shall appoint  
22 an Industry Advisory Subcommittee. The In-  
23 dustry Advisory Subcommittee shall consider  
24 any matter before the Board and make rec-  
25 ommendations to the Board.

1           “(B) OTHER SUBCOMMITTEES.—The  
2           Chairperson shall appoint an Audit Sub-  
3           committee, a Dispute Resolution Subcommittee,  
4           and any additional subcommittees and task  
5           forces that the Board determines to be nec-  
6           essary.

7           “(C) MEMBERSHIP.—The chairperson of  
8           each subcommittee shall be a director. The  
9           other members of subcommittees and task  
10          forces may be directors or non-directors.

11          “(D) REPRESENTATION ON SUBCOMMIT-  
12          TEES.—Except for the Industry Advisory Sub-  
13          committee (the membership of which shall con-  
14          sist solely of representatives of entities subject  
15          to the fee requirements of subsection (f) of this  
16          section), each subcommittee and task force shall  
17          include representatives of the Participating  
18          States and the motor carrier industry.

19          “(6) DELEGATION OF AUTHORITY.—The Board  
20          may contract with any private commercial or non-  
21          profit entity or any agency of a State to perform ad-  
22          ministrative functions required under the Unified  
23          Carrier Registration Agreement, but may not dele-  
24          gate its decision or policy-making responsibilities.

25          “(7) DETERMINATION OF FEES.—

1           “(A) RECOMMENDATION BY BOARD.—The  
2 Board shall recommend to the Secretary the an-  
3 nual fees to be assessed carriers, leasing compa-  
4 nies, brokers, and freight forwarders pursuant  
5 to the Unified Carrier Registration Agreement.  
6 In making its recommendation to the Secretary  
7 for the level of fees to be assessed in the next  
8 Agreement year, and in setting the fee level, the  
9 Board and the Secretary shall consider—

10           “(i) the administrative costs associ-  
11 ated with the Unified Carrier Registration  
12 Plan and the Agreement;

13           “(ii) whether the revenues generated  
14 in the previous year and any surplus or  
15 shortage from that or prior years enable  
16 the Participating States to achieve the rev-  
17 enue levels set by the Board; and

18           “(iii) the parameters for fees set forth  
19 in subsection (f)(1).

20           “(B) SETTING FEES.—The Secretary shall  
21 set the annual fees for the next Agreement  
22 year—

23           “(i) within 90 days after receiving the  
24 Board’s recommendation under subpara-  
25 graph (A); and

1                   “(ii) after notice and opportunity for  
2                   public comment.

3                   “(8) LIABILITY PROTECTIONS FOR DIREC-  
4                   TORS.—No individual appointed to serve on the  
5                   Board shall be liable to any other director or to any  
6                   other party for harm, either economic or non-eco-  
7                   nomic, caused by an act or omission of the indi-  
8                   vidual arising from the individual’s service on the  
9                   Board if—

10                   “(A) the individual was acting within the  
11                   scope of his or her responsibilities as a director;  
12                   and

13                   “(B) the harm was not caused by willful or  
14                   criminal misconduct, gross negligence, reckless  
15                   misconduct, or a conscious, flagrant indiffer-  
16                   ence to the right or safety of the party harmed  
17                   by the individual.

18                   “(9) INAPPLICABILITY OF FEDERAL ADVISORY  
19                   COMMITTEE ACT.—The Federal Advisory Committee  
20                   Act (5 U.S.C. App.) shall not apply to the Unified  
21                   Carrier Registration Plan or its committees.

22                   “(10) CERTAIN FEES NOT AFFECTED.—This  
23                   section does not limit the amount of money a State  
24                   may charge for vehicle registration or the amount of

1 any fuel use tax a State may impose pursuant to the  
2 International Fuel Tax Agreement.

3 “(e) STATE PARTICIPATION.—

4 “(1) STATE PLAN.—No State shall be eligible  
5 to participate in the Unified Carrier Registration  
6 Plan or to receive any revenues derived under the  
7 Agreement, unless the State submits to the Sec-  
8 retary, not later than 3 years after the date of en-  
9 actment of the Unified Carrier Registration Act of  
10 2005, a plan—

11 “(A) identifying the State agency that has  
12 or will have the legal authority, resources, and  
13 qualified personnel necessary to administer the  
14 Unified Carrier Registration Agreement in ac-  
15 cordance with the rules and regulations promul-  
16 gated by the Board of Directors of the Unified  
17 Carrier Registration Plan; and

18 “(B) containing assurances that an  
19 amount at least equal to the revenue derived by  
20 the State from the Unified Carrier Registration  
21 Agreement shall be used for motor carrier safe-  
22 ty programs, enforcement, and financial respon-  
23 sibility, or the administration of the UCR Plan  
24 and UCR Agreement.

1           “(2) AMENDED PLANS.—A State may change  
2 the agency designated in the plan submitted under  
3 this subsection by filing an amended plan with the  
4 Secretary and the Chairperson of the Unified Car-  
5 rier Registration Plan.

6           “(3) WITHDRAWAL OF PLAN.—If a State with-  
7 draws, or notifies the Secretary that it is with-  
8 drawing, the plan submitted under this subsection,  
9 then the State may no longer participate in the Uni-  
10 fied Carrier Registration Agreement or receive any  
11 portion of the revenues derived under the Agree-  
12 ment. The Secretary shall notify the Chairperson  
13 upon receiving notice from a State that it is with-  
14 drawing its plan or withdrawing from the Agree-  
15 ment.

16           “(4) TERMINATION OF ELIGIBILITY.—If a State  
17 fails to submit a plan to the Secretary as required  
18 by paragraph (1) or withdraws its plan under para-  
19 graph (3), the State shall be prohibited from subse-  
20 quently submitting or resubmitting a plan or partici-  
21 pating in the Agreement.

22           “(5) PROVISION OF PLAN TO CHAIRPERSON.—  
23 The Secretary shall provide a copy of each plan sub-  
24 mitted under this subsection to the initial Chair-  
25 person of the Board of Directors of the Unified Car-

1       rier Registration Plan not later than 90 days of ap-  
2       pointing the Chairperson.

3       “(f) CONTENTS OF UNIFIED CARRIER REGISTRA-  
4       TION AGREEMENT.—The Unified Carrier Registration  
5       Agreement shall provide the following:

6               “(1) DETERMINATION OF FEES.—

7                       “(A) Fees charged motor carriers, motor  
8                       private carriers, or freight forwarders in con-  
9                       nection with the filing of proof of financial re-  
10                      sponsibility under the UCR Agreement shall be  
11                      based on the number of commercial motor vehi-  
12                      cles owned or operated by the motor carrier,  
13                      motor private carrier, or freight forwarder. Bro-  
14                      kers and leasing companies shall pay the same  
15                      fees as the smallest bracket of motor carriers,  
16                      motor private carriers, and freight forwarders.

17                      “(B) The fees shall be determined by the  
18                      Secretary based upon the recommendation of  
19                      the Board under subsection (d)(7).

20                      “(C) The Board shall develop no more  
21                      than 6 and no less than 4 brackets of carriers  
22                      by size of fleet.

23                      “(D) The fee scale shall be progressive and  
24                      use different vehicle ratios for each bracket of  
25                      carrier fleet size.

1           “(E) The Board may ask the Secretary to  
2           adjust the fees within a reasonable range on an  
3           annual basis if the revenues derived from the  
4           fees—

5                   “(i) are insufficient to provide the rev-  
6                   enues to which the States are entitled  
7                   under this section; or

8                   “(ii) exceed those revenues.

9           “(2) DETERMINATION OF OWNERSHIP OR OP-  
10           ERATION.—Commercial motor vehicles owned or op-  
11           erated by a motor carrier, motor private carrier, or  
12           freight forwarder shall mean those commercial motor  
13           vehicles registered in the name of the motor carrier,  
14           motor private carrier, or freight forwarder or con-  
15           trolled by the motor carrier, motor private carrier,  
16           or freight forwarder under a long term lease during  
17           a vehicle registration year.

18           “(3) CALCULATION OF NUMBER OF COMMER-  
19           CIAL MOTOR VEHICLES OWNED OR OPERATED.—The  
20           number of commercial motor vehicles owned or oper-  
21           ated by a motor carrier, motor private carrier, or  
22           freight forwarder for purposes of paragraph (1) of  
23           this subsection shall be based either on the number  
24           of commercial motor vehicles the motor carrier,  
25           motor private carrier, or freight forwarder has indi-

1 cated it operates on its most recently filed MCS-150  
2 or the total number of such vehicles it owned or op-  
3 erated for the 12-month period ending on June 30  
4 of the year immediately prior to the each registra-  
5 tion year of the Unified Carrier Registration Sys-  
6 tem. Commercial motor vehicles used exclusively in  
7 the intrastate transportation of property, waste, or  
8 recyclable material may not be included in deter-  
9 mining the number of commercial motor vehicles  
10 owned or operated by a motor carrier or motor pri-  
11 vate carrier for purposes of paragraph (1) of this  
12 subsection.

13 “(4) PAYMENT OF FEES.—Motor carriers,  
14 motor private carriers, leasing companies, brokers,  
15 and freight forwarders shall pay all fees required  
16 under this section to their Base-State pursuant to  
17 the UCR Agreement.

18 “(g) PAYMENT OF FEES.—Revenues derived under  
19 the UCR Agreement shall be allocated to Participating  
20 States as follows:

21 “(1) A State that participated in the Single  
22 State Registration System in the last SSRS registra-  
23 tion year ending before the date of enactment of the  
24 Unified Carrier Registration Act of 2005 and com-  
25 plies with the requirements of subsection (e) of this

1 section is entitled to receive a portion of the UCR  
2 Agreement revenues generated under the Agreement  
3 equivalent to the revenues it received under the  
4 SSRS in the last SSRS registration year ending be-  
5 fore the date of enactment of the Unified Carrier  
6 Registration Act of 2005, as long as the State con-  
7 tinues to comply with the provisions of subsection  
8 (e).

9 “(2) A State that collected intrastate registra-  
10 tion fees from interstate motor carriers, interstate  
11 motor private carriers, or interstate exempt carriers  
12 and complies with the requirements of subsection (e)  
13 of this section is entitled to receive an additional  
14 portion of the UCR Agreement revenues generated  
15 under the Agreement equivalent to the revenues it  
16 received from such interstate carriers in the last cal-  
17 endar year ending before the date of enactment of  
18 the Unified Carrier Registration Act of 2005, as  
19 long as the State continues to comply with the provi-  
20 sions of subsection (e).

21 “(3) States that comply with the requirements  
22 of subsection (e) of this section but did not partici-  
23 pate in SSRS during the last SSRS registration year  
24 ending before the date of enactment of the Unified  
25 Carrier Registration Act of 2005 shall be entitled to

1 an annual allotment not to exceed \$500,000 from  
2 the UCR Agreement revenues generated under the  
3 Agreement as long as the State continues to comply  
4 with the provisions of subsection (e).

5 “(4) The amount of UCR Agreement revenues  
6 to which a State is entitled under this section shall  
7 be calculated by the Board and approved by the Sec-  
8 retary.

9 “(h) DISTRIBUTION OF UCR AGREEMENT REVE-  
10 NUES.—

11 “(1) ELIGIBILITY.—Each State that is in com-  
12 pliance with the provisions of subsection (e) shall be  
13 entitled to a portion of the revenues derived from  
14 the UCR Agreement in accordance with subsection  
15 (g).

16 “(2) ENTITLEMENT TO REVENUES.—A State  
17 that is in compliance with the provisions of sub-  
18 section (e) may retain an amount of the gross reve-  
19 nues it collects from motor carriers, motor private  
20 carriers, brokers, freight forwarders and leasing  
21 companies under the UCR Agreement equivalent to  
22 the portion of revenues to which the State is entitled  
23 under subsection (g). All revenues a Participating  
24 State collects in excess of the amount to which the  
25 State is so entitled shall be forwarded to the deposi-

1 tory designated by the Board under subsection  
2 (d)(2)(D).

3 “(3) DISTRIBUTION OF FUNDS FROM DEPOSITORY.—The excess funds collected in the depository  
4 shall be distributed as follows:  
5

6 “(A) Excess funds shall be distributed on  
7 a pro rata basis to each Participating State  
8 that did not collect revenues under the UCR  
9 Agreement equivalent to the amount such State  
10 is entitled under subsection (g), except that the  
11 sum of the gross UCR Agreement revenues col-  
12 lected by a Participating State and the amount  
13 distributed to it from the depository shall not  
14 exceed the amount to which the State is entitled  
15 under subsection (g).

16 “(B) Any excess funds held by the depository  
17 after all distributions under subparagraph  
18 (A) have been made shall be used to pay the  
19 administrative costs of the UCR Plan and the  
20 UCR Agreement.

21 “(C) Any excess funds held by the depository  
22 after distributions and payments under  
23 subparagraphs (A) and (B) shall be retained in  
24 the depository, and the UCR Agreement fees  
25 for motor carriers, motor private carriers, leas-

1           ing companies, freight forwarders, and brokers  
2           for the next fee year shall be reduced by the  
3           Secretary accordingly.

4           “(i) ENFORCEMENT.—

5                 “(1) CIVIL ACTIONS.—Upon request by the Sec-  
6           retary of Transportation, the Attorney General may  
7           bring a civil action in a court of competent jurisdic-  
8           tion to enforce compliance with this section and with  
9           the terms of the Unified Carrier Registration Agree-  
10          ment.

11                 “(2) VENUE.—An action under this section  
12          may be brought only in the Federal court sitting in  
13          the State in which an order is required to enforce  
14          such compliance.

15                 “(3) RELIEF.—Subject to section 1341 of title  
16          28, the court, on a proper showing—

17                         “(A) shall issue a temporary restraining  
18                         order or a preliminary or permanent injunction;  
19                         and

20                         “(B) may issue an injunction requiring  
21                         that the State or any person comply with this  
22                         section.

23                 “(4) ENFORCEMENT BY STATES.—Nothing in  
24          this section—

1           “(A) prohibits a Participating State from  
2           issuing citations and imposing reasonable fines  
3           and penalties pursuant to applicable State laws  
4           and regulations on any motor carrier, motor  
5           private carrier, freight forwarder, broker, or  
6           leasing company for failure to—

7                   “(i) submit documents as required  
8                   under subsection (d)(2); or

9                   “(ii) pay the fees required under sub-  
10                  section (f); or

11           “(B) authorizes a State to require a motor  
12           carrier, motor private carrier, or freight for-  
13           warder to display as evidence of compliance any  
14           form of identification in excess of those per-  
15           mitted under section 14506 of this title on or  
16           in a commercial motor vehicle.

17           “(j) APPLICATION TO INTRASTATE CARRIERS.—Not-  
18           withstanding any other provision of this section, a State  
19           may elect to apply the provisions of the UCR Agreement  
20           to motor carriers and motor private carriers subject to its  
21           jurisdiction that operate solely in intrastate commerce  
22           within the borders of the State.”.

23           (c) CONFORMING AMENDMENT.—The chapter anal-  
24           ysis for chapter 145 is amended by inserting after the item  
25           relating to section 14504 the following:

“14504a. Unified carrier registration system plan and agreement.”.

1 **SEC. 136. IDENTIFICATION OF VEHICLES.**

2 (a) IN GENERAL.—Chapter 145 is amended by add-  
3 ing at the end the following:

4 **“§ 14506. Identification of vehicles**

5 “(a) RESTRICTION ON REQUIREMENTS.—No State,  
6 political subdivision of a State, interstate agency, or other  
7 political agency of 2 or more States may enact or enforce  
8 any law, rule, regulation standard, or other provision hav-  
9 ing the force and effect of law that requires a motor car-  
10 rier, motor private carrier, freight forwarder, or leasing  
11 company to display any form of identification on or in a  
12 commercial motor vehicle, other than forms of identifica-  
13 tion required by the Secretary of Transportation under  
14 section 390.21 of title 49, Code of Federal Regulations.

15 “(b) EXCEPTION.—Notwithstanding paragraph (a), a  
16 State may continue to require display of credentials that  
17 are required—

18 “(1) under the International Registration Plan  
19 under section 31704 of this title;

20 “(2) under the International Fuel Tax Agree-  
21 ment under section 31705 of this title;

22 “(3) in connection with Federal requirements  
23 for hazardous materials transportation under section  
24 5103 of this title; or



1 ments for seamless information sharing between States,  
2 effective methods for accurately sharing electronic data  
3 between States, uniform proof of citizenship, updated  
4 technology, and timely notification from judicial bodies  
5 concerning traffic and criminal convictions of commercial  
6 driver's license holders.

7 (b) MEMBERSHIP.—Members of the task force should  
8 include State motor vehicle administrators, organizations  
9 representing government agencies or officials, members of  
10 the Judicial Conference, representatives of the trucking  
11 industry, representatives of labor organizations, safety ad-  
12 vocates, and other significant stakeholders.

13 (c) REPORT.—Within 2 years after the date of enact-  
14 ment of this Act, the Secretary, on behalf of the task force,  
15 shall complete a report of the task force's findings and  
16 recommendations for legislative, regulatory, and enforce-  
17 ment changes to improve the commercial driver's license  
18 program. The Secretary shall promptly transmit the re-  
19 port to the Senate Committee on Commerce, Science, and  
20 Transportation and the House of Representatives Com-  
21 mittee on Transportation and Infrastructure.

22 (d) FUNDING.—From the funds authorized by section  
23 103(b)(3) of this title, \$200,000 shall be made available  
24 for each of fiscal years 2006 and 2007 to carry out this  
25 section.

1 **SEC. 152. CDL LEARNER'S PERMIT PROGRAM.**

2 Chapter 313 is amended—

3 (1) by striking “time.” in section 31302 and in-  
4 serting “license, and may have only 1 learner’s per-  
5 mit at any time.”;

6 (2) by inserting “and learners’ permits” after  
7 “licenses” the first place it appears in section  
8 31308;

9 (3) by striking “licenses.” in section 31308 and  
10 inserting “licenses and permits.”;

11 (4) by redesignating paragraphs (2) and (3) of  
12 section 31308 as paragraphs (3) and (4), respec-  
13 tively, and inserting after paragraph (1) the fol-  
14 lowing:

15 “(2) before a commercial driver’s license learn-  
16 er’s permit can be issued to an individual, the indi-  
17 vidual must pass a written test on the operation of  
18 a commercial motor vehicle that complies with the  
19 minimum standards prescribed by the Secretary  
20 under section 31305(a) of this title;”;

21 (5) by inserting “or learner’s permit” after “li-  
22 cense” each place it appears in paragraphs (3) and  
23 (4), as redesignated, of section 31308; and

24 (6) by inserting “or learner’s permit” after “li-  
25 cense” each place it appears in section 31309(b).

1 **SEC. 153. GRANTS TO STATES FOR COMMERCIAL DRIVER'S**  
2 **LICENSE IMPROVEMENTS.**

3 (a) IN GENERAL.—Chapter 313 is amended by add-  
4 ing at the end the following:

5 **“§ 31318. Grants for commercial driver’s license pro-**  
6 **gram improvements**

7 “(a) GENERAL AUTHORITY.—From the funds au-  
8 thorized by section 103(b)(3) of the Motor Carrier Safety  
9 Reauthorization Act of 2005, the Secretary may make a  
10 grant to a State, except as otherwise provided in sub-  
11 section (e), in a fiscal year to improve its implementation  
12 of the commercial driver’s license program, providing the  
13 State is making a good faith effort toward substantial  
14 compliance with the requirements of section 31311 and  
15 this section. The Secretary shall establish criteria for the  
16 distribution of grants and notify the States annually of  
17 such criteria.

18 “(b) CONDITIONS.—Except as otherwise provided in  
19 subsection (e), a State may use a grant under this section  
20 only for expenses related to its commercial driver’s license  
21 program, including, but not limited to, computer hardware  
22 and software, publications, testing, personnel, training,  
23 and quality control. The grant may not be used to rent,  
24 lease, or buy land or buildings. The Secretary shall give  
25 priority to grants that will be used to achieve compliance  
26 with the requirements of the Motor Carrier Safety Im-

1 improvement Act of 1999. The Secretary may allocate the  
2 funds appropriated for such grants in a fiscal year among  
3 the eligible States whose applications for grants have been  
4 approved, under criteria established by the Secretary.

5       “(c) MAINTENANCE OF EXPENDITURES.—Except as  
6 otherwise provided in subsection (e), the Secretary may  
7 make a grant to a State under this section only if the  
8 State agrees that the total expenditure of amounts of the  
9 State and political subdivisions of the State, exclusive of  
10 United States Government amounts, for the operation of  
11 the commercial driver’s license program will be maintained  
12 at a level at least equal to the average level of that expend-  
13 iture by the State and political subdivisions of the State  
14 for the last 2 fiscal years before October 1, 2005.

15       “(d) GOVERNMENT SHARE.—Except as otherwise  
16 provided in subsection (e), the Secretary shall reimburse  
17 a State, from a grant made under this section, an amount  
18 that is not more than 80 percent of the costs incurred  
19 by the State in a fiscal year in implementing the commer-  
20 cial driver’s license improvements described in subsection  
21 (b). In determining those costs, the Secretary shall include  
22 in-kind contributions by the State.

23       “(e) HIGH-PRIORITY ACTIVITIES.—

24               “(1) The Secretary may make a grant to a  
25 State agency, local government, or organization rep-

1       resenting government agencies or officials for the  
2       full cost of research, development, demonstration  
3       projects, public education, or other special activities  
4       and projects relating to commercial driver licensing  
5       and motor vehicle safety that are of benefit to all ju-  
6       risdictions or designed to address national safety  
7       concerns and circumstances.

8               “(2) The Secretary may designate up to 10 per-  
9       cent of the amounts made available under section  
10       103(b)(3) of the Motor Carrier Safety Reauthoriza-  
11       tion Act of 2005 in a fiscal year for high-priority ac-  
12       tivities under subsection (e)(1).

13              “(f) EMERGING ISSUES.—The Secretary may des-  
14       ignate up to 10 percent of the amounts made available  
15       under section 103(b)(3) of the Motor Carrier Safety Reau-  
16       thorization Act of 2005 in a fiscal year for allocation to  
17       a State agency, local government, or other person at the  
18       discretion of the Secretary to address emerging issues re-  
19       lating to commercial driver’s license improvements.

20              “(g) APPORTIONMENT.—Except as otherwise pro-  
21       vided in subsections (e) and (f), all amounts available in  
22       a fiscal year to carry out this section shall be apportioned  
23       to States according to a formula prescribed by the Sec-  
24       retary.

1       “(h) DEDUCTION FOR ADMINISTRATIVE EX-  
 2 PENSES.—On October 1 of each fiscal year or as soon  
 3 after that date as practicable, the Secretary may deduct,  
 4 from amounts made available under section 103(b)(3) of  
 5 the Motor Carrier Safety Reauthorization Act of 2005 for  
 6 that fiscal year, up to 0.75 percent of those amounts for  
 7 administrative expenses incurred in carrying out this sec-  
 8 tion in that fiscal year.”.

9       (b) CLERICAL AMENDMENT.—The chapter analysis  
 10 for chapter 313 is amended by inserting the following  
 11 after the item relating to section 31317:

“31318. Grants for commercial driver’s license program improvements.”.

12 **SEC. 154. MODERNIZATION OF CDL INFORMATION SYSTEM.**

13       (a) INFORMATION SYSTEM MODERNIZATION AC-  
 14 COUNT.—Section 31309 of title 49, United States Code,  
 15 is amended—

16           (1) by striking “The Secretary” in the last sen-  
 17 tence of subsection (a) and inserting “Except as pro-  
 18 vided in subsection (e), the Secretary”; and

19           (2) by adding at the end the following:

20       “(e) INFORMATION SYSTEM MODERNIZATION AC-  
 21 COUNT.—

22           “(1) ESTABLISHMENT.—The Secretary of  
 23 Transportation shall establish an account to be  
 24 known as the Information System Modernization Ac-  
 25 count.

1           “(2) CREDITS.—Fees collected for any fiscal  
2 year beginning after fiscal year 2006 under sub-  
3 section (d) by the Secretary of Transportation, or an  
4 organization that represents the interests of the  
5 States, in excess of the costs of operating the infor-  
6 mation system in that fiscal year shall be and cred-  
7 ited to the Information System Modernization Ac-  
8 count.

9           “(3) USE OF FUNDS.—Amounts credited to the  
10 Information System Modernization Account shall be  
11 available exclusively for the purpose of modernizing  
12 the information system under subsection (f).”.

13           (b) MODERNIZATION PLAN.—Section 31309 of title  
14 49, United States Code, is further amended by adding at  
15 the end the following:

16           “(f) MODERNIZATION PLAN.—

17           “(1) IN GENERAL.—The Secretary shall develop  
18 a comprehensive plan for modernization of the infor-  
19 mation system that—

20           “(A) complies with applicable Federal in-  
21 formation technology security standards;

22           “(B) provides for the electronic exchange  
23 of all information including the posting of con-  
24 victions;

1           “(C) contains self auditing features to en-  
2           sure that data is being posted correctly and  
3           consistently by the States;

4           “(D) integrates the commercial driver’s li-  
5           cense and the medical certificate; and

6           “(E) provides a schedule for modernization  
7           of the system.

8           “(2) COMPETITIVE CONTRACTING.—The Sec-  
9           retary may use non-Federal entities selected by an  
10          open, merit-based, competitive process to develop  
11          and implement the modernization plan.

12          “(3) STATE PARTICIPATION.—

13                 “(A) DEADLINE.—The Secretary shall es-  
14                 tablish a date by which each State must convert  
15                 to the new information system.

16                 “(B) FUNDING.—A State may use funds  
17                 made available under section 31318 of this title  
18                 to develop or modify its system to be compatible  
19                 with the modernized information system devel-  
20                 oped by the Secretary under this subsection.”.

21          “(c) BASELINE AUDIT.—Within 1 year after the date  
22          of enactment of this Act, the Inspector General of the De-  
23          partment of Transportation shall perform a baseline audit  
24          of the information system maintained under section 31309  
25          of title 49, United States Code. The audit shall include—

1 (1) an assessment of the validity of data in the  
2 information system on a State-by-State basis;

3 (2) an assessment of the extent to which convic-  
4 tions are validly posted on a driver's record;

5 (3) recommendations to the Secretary of Trans-  
6 portation on how to update the baseline audit annu-  
7 ally to ensure that any shortcomings in the informa-  
8 tion system are addressed, and a methodology for  
9 conducting the update; and

10 (4) identification, on a State-by-State basis, any  
11 actions that the Inspector General finds necessary to  
12 improve the integrity of data collected by the system  
13 and to ensure the proper posting of convictions.

## 14 **TITLE II—HIGHWAY AND** 15 **VEHICULAR SAFETY**

### 16 **SEC. 201. SHORT TITLE.**

17 This title may be cited as the “Highway and Vehic-  
18 ular Safety Reauthorization Act of 2005”.

## 19 **Subtitle A—Highway Safety Grant** 20 **Program**

### 21 **SEC. 211. SHORT TITLE.**

22 This subtitle may be cited as the “Highway Safety  
23 Grant Program Reauthorization Act of 2005”.

1 **SEC. 212. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) AMOUNTS FOR FISCAL YEARS 2006 THROUGH  
3 2009.—There are authorized to be appropriated from the  
4 Highway Trust Fund (other than the Mass Transit Ac-  
5 count) to the Secretary of Transportation for the National  
6 Highway Traffic Safety Administration the following:

7 (1) To carry out the Highway Safety Programs  
8 under section 402 of title 23, United States Code,  
9 \$222,732,000 in fiscal year 2006, \$223,791,000 in  
10 fiscal year 2007, \$236,088,000 in fiscal year 2008,  
11 and \$241,418,000 in fiscal year 2009.

12 (2) To carry out the Highway Safety Research  
13 and Outreach Programs under section 403 of title  
14 23, United States Code, \$141,852,000 in fiscal year  
15 2006, \$142,323,000 in fiscal year 2007,  
16 \$141,560,000 in fiscal year 2008, and \$141,952,000  
17 in fiscal year 2009.

18 (3) To carry out the Occupant Protection Pro-  
19 grams under section 405 of title 23, United States  
20 Code, \$154,295,000 in fiscal year 2006,  
21 \$154,420,000 in fiscal year 2007, \$154,133,000 in  
22 fiscal year 2008, and \$153,615,000 in fiscal year  
23 2009.

24 (4) To carry out the Demonstration Programs  
25 related to older drivers, law enforcement, and motor-  
26 cycle training under section 406 of title 23, United

1 States Code, \$7,400,000 in each of fiscal years 2006  
2 through 2009.

3 (5) To carry out the Emergency Medical Serv-  
4 ices Program under section 407A of title 23, United  
5 States Code, \$5,000,000 in each of fiscal years 2006  
6 through 2009.

7 (6) To carry out the Impaired Driving Program  
8 under section 410 of title 23, United States Code,  
9 \$115,721,000 in fiscal year 2006, \$129,065,000 in  
10 fiscal year 2007, \$134,819,000 in fiscal year 2008,  
11 and \$147,615,000 in fiscal year 2009.

12 (7) To carry out the State Traffic Safety Infor-  
13 mation System Improvements under section 412 of  
14 title 23, United States Code, \$45,000,000 in each of  
15 fiscal years 2006 through 2009.

16 (8) To carry out chapter 303 of title 49, United  
17 States Code, \$4,000,000 for each of fiscal years  
18 2006 through 2009, to be available for obligation in  
19 the same manner as if such funds were apportioned  
20 under chapter 1 of title 23, United States Code.

21 (b) PROHIBITION ON OTHER USES.—Except as oth-  
22 erwise provided in this subtitle, the amounts allocated  
23 from the Highway Trust Fund for programs provided for  
24 in chapter 4 of title 23, United States Code, shall only

1 be used for such programs and may not be used by States  
2 or local governments for construction purposes.

3 (c) PROPORTIONAL INCREASES.—For each fiscal  
4 year from 2006 through 2009, if revenue to the Highway  
5 Trust Fund increases above the amounts for each such  
6 fiscal year assumed in the fiscal year 2006 joint budget  
7 resolution, then the amounts made available in such year  
8 for the programs in sections 402, 403, 405, and 410 shall  
9 increase by the same percentage. If revenue to the High-  
10 way Trust Fund for a fiscal year is lower than the  
11 amounts for such fiscal year assumed in the fiscal year  
12 2006 joint budget resolution, then the amounts authorized  
13 to be made available in such year for those programs shall  
14 not decrease.

15 **SEC. 213. HIGHWAY SAFETY PROGRAMS.**

16 (a) PROGRAMS TO BE INCLUDED.—

17 (1) MOTOR VEHICLE AIRBAGS PUBLIC AWARE-  
18 NESS.—Section 402(a)(2) is amended by striking  
19 “vehicles and to increase public awareness of the  
20 benefit of motor vehicles equipped with airbags,”  
21 and inserting “vehicles,”.

22 (2) AGGRESSIVE DRIVING.—Section 402(a) is  
23 further amended—

24 (A) by redesignating clause (6) as clause  
25 (8);

1 (B) by inserting after “involving school  
2 buses,” at the end of clause (5) the following:  
3 “(6) to reduce aggressive driving and to educate  
4 drivers about defensive driving, (7) to reduce  
5 accidents resulting from fatigued and distracted  
6 drivers, including distractions arising from the  
7 use of electronic devices in vehicles,”; and

8 (C) by inserting “aggressive driving, dis-  
9 tracted driving,” after “school bus accidents,”.

10 (b) APPORTIONMENT.—

11 (1) TRIBAL GOVERNMENT PROGRAMS.—Section  
12 402(c) is amended by striking “three-fourths of 1  
13 percent” and inserting “2 percent”.

14 (c) LAW ENFORCEMENT CHASE TRAINING.—Section  
15 402 is amended by adding at the end the following:

16 “(1) LIMITATION RELATING TO LAW ENFORCEMENT  
17 VEHICULAR PURSUIT TRAINING.—No State may receive  
18 any funds available for fiscal years after fiscal year 2007  
19 for programs under this chapter until the State submits  
20 to the Secretary a written statement that the State ac-  
21 tively encourages all relevant law enforcement agencies in  
22 that State to follow the guidelines established for vehicular  
23 pursuit issued by the International Association of Chiefs  
24 of Police that are in effect on the date of enactment of  
25 the Highway Safety Grant Program Reauthorization Act

1 of 2005, or as revised and in effect after that date as de-  
 2 termined by the Secretary.

3 “(m) CONSOLIDATION OF GRANT APPLICATIONS.—

4 The Secretary shall establish an approval process by which  
 5 a State may apply for all grants included under this chap-  
 6 ter through a single application with a single annual dead-  
 7 line. The Bureau of Indian Affairs shall establish a simi-  
 8 larly simplified process for applications from Indian tribes.

9 “(n) ADMINISTRATIVE EXPENSES.—Funds author-  
 10 ized to be appropriated to carry out this section shall be  
 11 subject to a deduction, not to exceed 5 percent of the  
 12 amount of such funds, for the necessary costs of admin-  
 13 istering the provisions of this section, section 405, section  
 14 407A, section 410, and section 412 of this chapter.”.

15 **SEC. 214. HIGHWAY SAFETY RESEARCH AND OUTREACH**  
 16 **PROGRAMS.**

17 (a) REVISED AUTHORITY AND REQUIREMENTS.—

18 Section 403 is amended to read as follows:

19 **“§ 403. Highway safety research and development**

20 “(a) AUTHORITY OF THE SECRETARY.—The Sec-  
 21 retary is authorized to use funds appropriated to carry  
 22 out this section to—

23 “(1) conduct research on all phases of highway  
 24 safety and traffic conditions, including accident cau-

1 sation, highway or driver characteristics, commu-  
2 nications, and emergency care;

3 “(2) conduct ongoing research into driver be-  
4 havior and its effect on traffic safety;

5 “(3) conduct research on, launch initiatives to  
6 counter, and conduct demonstration projects on fa-  
7 tigated driving by drivers of motor vehicles and dis-  
8 tracted driving in such vehicles, including the effect  
9 that the use of electronic devices and other factors  
10 deemed relevant by the Secretary have on driving;

11 “(4) conduct training or education programs in  
12 cooperation with other Federal departments and  
13 agencies, States, private sector persons, highway  
14 safety personnel, and law enforcement personnel;

15 “(5) conduct research on, and evaluate the ef-  
16 fectiveness of, traffic safety countermeasures, includ-  
17 ing seat belts and impaired driving initiatives;

18 “(6) conduct research on, evaluate, and develop  
19 best practices related to driver education programs,  
20 including driver education curricula, instructor train-  
21 ing and certification, program administration and  
22 delivery mechanisms, and make recommendations for  
23 harmonizing driver education and multistage grad-  
24 uated licensing systems;

1           “(7) conduct research, training, and education  
2 programs related to older drivers; and

3           “(8) conduct demonstration projects.

4           “(b) NATIONWIDE TRAFFIC SAFETY CAMPAIGNS.—

5           “(1) REQUIREMENT FOR CAMPAIGNS.—The Ad-  
6 ministrator of the National Highway Traffic Safety  
7 Administration shall establish and administer a pro-  
8 gram under which at least 2 high-visibility traffic  
9 safety law enforcement campaigns will be carried out  
10 for the purposes specified in paragraph (2) in each  
11 of years 2006 through 2009.

12           “(2) PURPOSE.—The purpose of each law en-  
13 forcement campaign is to achieve either or both of  
14 the following objectives:

15           “(A) Reduce alcohol-impaired or drug-im-  
16 paired operation of motor vehicles.

17           “(B) Increase use of seat belts by occu-  
18 pants of motor vehicles.

19           “(3) ADVERTISING.—The Administrator may  
20 use, or authorize the use of, funds available under  
21 this section to pay for the development, production,  
22 and use of broadcast and print media advertising in  
23 carrying out traffic safety law enforcement cam-  
24 paigns under this subsection. Consideration shall be  
25 given to advertising directed at non-English speak-

1 ing populations, including those who listen, read, or  
2 watch nontraditional media.

3 “(4) COORDINATION WITH STATES.—The Ad-  
4 ministrator shall coordinate with the States in car-  
5 rying out the traffic safety law enforcement cam-  
6 paigns under this subsection, including advertising  
7 funded under paragraph (3), with a view to—

8 “(A) relying on States to provide the law  
9 enforcement resources for the campaigns out of  
10 funding available under this section and sec-  
11 tions 402, 405, and 410 of this title; and

12 “(B) providing out of National Highway  
13 Traffic Safety Administration resources most of  
14 the means necessary for national advertising  
15 and education efforts associated with the law  
16 enforcement campaigns.

17 “(5) ANNUAL EVALUATION.—The Secretary  
18 shall conduct an annual evaluation of the effective-  
19 ness of such initiatives.

20 “(6) FUNDING.—The Secretary shall use  
21 \$24,000,000 in each of fiscal years 2006 through  
22 2009 for advertising and educational initiatives to be  
23 carried out nationwide in support of the campaigns  
24 under this section.

25 “(c) INTERNATIONAL COOPERATION.—

1           “(1) AUTHORITY.—The Administrator of the  
2 National Highway Traffic Safety Administration  
3 may participate and cooperate in international ac-  
4 tivities to enhance highway safety.

5           “(2) AMOUNT FOR PROGRAM.—Of the amount  
6 available for a fiscal year to carry out this section,  
7 \$200,000 may be used for activities authorized  
8 under paragraph (1).”.

9 (b) SPECIFIC RESEARCH PROGRAMS.—

10           (1) REQUIRED PROGRAMS.—The Secretary shall  
11 conduct research under section 403 of title 23,  
12 United States Code, on the following:

13           (A) EFFECTS OF USE OF CONTROLLED  
14 SUBSTANCES.—A study on the effects of the  
15 use of controlled substances on driver behavior  
16 to determine—

17           (i) methodologies for measuring driver  
18 impairment resulting from use of the most  
19 common controlled substances (including  
20 the use of such substances in combination  
21 with alcohol); and

22           (ii) effective and efficient methods for  
23 training law enforcement personnel to de-  
24 tect or measure the level of impairment of  
25 a driver who is under the influence of a

1           controlled substance by the use of tech-  
2           nology or otherwise.

3           The Secretary may develop model State legisla-  
4           tion based on research conducted under this  
5           subparagraph.

6           (B) ON-SCENE MOTOR VEHICLE COLLISION  
7           CAUSATION.—A nationally representative study  
8           to collect on-scene motor vehicle collision data,  
9           and to determine crash causation, for which the  
10          Secretary shall enter into a contract with the  
11          National Academy of Sciences to conduct a re-  
12          view of the research, design, methodology, and  
13          implementation of the study.

14          (C) TOLL FACILITIES WORKPLACE SAFE-  
15          TY.—A study on the safety of highway toll col-  
16          lection facilities, including toll booths, con-  
17          ducted in cooperation with State and local high-  
18          way safety organizations to determine the safe-  
19          ty of highway toll collection facilities for the toll  
20          collectors who work in and around such facili-  
21          ties and to develop best practices that would be  
22          of benefit to State and local highway safety or-  
23          ganizations. The study shall consider—

24                   (i) any problems resulting from design  
25                   or construction of facilities that contribute

1 to the occurrence of vehicle collisions with  
2 the facilities;

3 (ii) the safety of crosswalks used by  
4 toll collectors in transit to and from toll  
5 booths;

6 (iii) the extent of the enforcement of  
7 speed limits at and in the vicinity of toll  
8 facilities;

9 (iv) the use of warning devices, such  
10 as vibration and rumble strips, to alert  
11 drivers approaching toll facilities;

12 (v) the use of cameras to record traf-  
13 fic violations in the vicinity of toll facilities;

14 (vi) the use of traffic control arms in  
15 the vicinity of toll facilities;

16 (vii) law enforcement practices and ju-  
17 risdictional issues that affect safety at and  
18 in the vicinity of toll facilities; and

19 (viii) data (which shall be collected in  
20 conducting the research) regarding the in-  
21 cidence of accidents and injuries at and  
22 around toll booth facilities.

23 (2) TIME FOR COMPLETION OF STUDIES.—The  
24 studies conducted in subparagraphs (A), (B), and  
25 (C) of paragraph (1) may be conducted in concert

1 with other Federal departments and agencies with  
2 relevant expertise. The Secretary shall submit an an-  
3 nual report to the Senate Committee on Commerce,  
4 Science, and Transportation and the House of Rep-  
5 resentatives Committee on Transportation and In-  
6 frastructure on the progress of each study conducted  
7 under this subsection.

8 (3) REPORTS.—Not later than 2 years after the  
9 date of enactment of this Act, the Secretary shall  
10 submit a report on the studies to the Senate Com-  
11 mittee on Commerce, Science, and Transportation  
12 and the House of Representatives Committee on  
13 Transportation and Infrastructure.

14 (4) RESEARCH ON DISTRACTED, INATTENTIVE,  
15 AND FATIGUED DRIVERS.—In conducting research  
16 under section 403(a)(3) of title 23, United States  
17 Code, the Secretary shall carry out not less than 2  
18 demonstration projects to evaluate new and innova-  
19 tive means of combating traffic system problems  
20 caused by distracted, inattentive, or fatigued drivers.  
21 The demonstration projects shall be in addition to  
22 any other research carried out under this subsection.

23 (5) PEDESTRIAN SAFETY.—

24 (A) IN GENERAL.—The Secretary of  
25 Transportation shall—

1 (i) produce a comprehensive report on  
2 pedestrian safety that builds on the cur-  
3 rent level of knowledge of pedestrian safety  
4 countermeasures by identifying the most  
5 effective advanced technology and intel-  
6 ligent transportation systems, such as  
7 automated pedestrian detection and warn-  
8 ing systems (infrastructure-based and vehi-  
9 cle-based), road design, and vehicle struc-  
10 tural design that could potentially mitigate  
11 the crash forces on pedestrians in the  
12 event of a crash; and

13 (ii) include in the report recommenda-  
14 tions on how new technological develop-  
15 ments could be incorporated into edu-  
16 cational and enforcement efforts and how  
17 they could be integrated into national de-  
18 sign guidelines developed by the American  
19 Association of State Highway and Trans-  
20 portation Officials.

21 (B) DUE DATE.—The Secretary shall com-  
22 plete the report not less than 2 years after the  
23 date of enactment of this Act and transmit a  
24 copy of the report to the Senate Committee on  
25 Commerce, Science, and Transportation and the

1 House of Representatives Committee on Trans-  
2 portation and Infrastructure.

3 (6) STUDY ON REFUSAL OF INTOXICATION  
4 TESTING.—

5 (A) REQUIREMENT FOR STUDY.—In addi-  
6 tion to studies under section 403 of title 23,  
7 United States Code, the Secretary of Transpor-  
8 tation shall carry out a study of the frequency  
9 with which persons arrested for the offense of  
10 operating a motor vehicle under the influence of  
11 alcohol and persons arrested for the offense of  
12 operating a motor vehicle while intoxicated  
13 refuse to take a test to determine blood alcohol  
14 concentration levels and the effect such refusals  
15 have on the ability of States to prosecute such  
16 persons for those offenses.

17 (B) CONSULTATION.—In carrying out the  
18 study under this paragraph, the Secretary shall  
19 consult with the Governors of the States, the  
20 States' Attorneys General, and the United  
21 States Sentencing Commission.

22 (C) REPORT.—

23 (i) REQUIREMENT FOR REPORT.—Not  
24 later than 1 year after the date of the en-  
25 actment of this Act, the Secretary shall

1 submit a report on the results of the study  
2 to the Senate Committee on Commerce,  
3 Science, and Transportation and the  
4 House of Representatives Committee on  
5 Transportation and Infrastructure.

6 (ii) CONTENT.—The report shall in-  
7 clude any recommendation for legislation,  
8 including any recommended model State  
9 legislation, and any other recommendations  
10 that the Secretary considers appropriate  
11 for implementing a program designed to  
12 decrease the occurrence refusals by ar-  
13 rested persons to submit to a test to deter-  
14 mine blood alcohol concentration levels.

15 **SEC. 215. NATIONAL HIGHWAY SAFETY ADVISORY COM-**  
16 **MITTEE TECHNICAL CORRECTION.**

17 Section 404(d) is amended by striking “Commerce”  
18 and inserting “Transportation”.

19 **SEC. 216. OCCUPANT PROTECTION GRANTS.**

20 (a) IN GENERAL.—Section 405 is amended to read  
21 as follows:

22 **“§ 405. Safety belt performance grants**

23 “(a) IN GENERAL.—The Secretary of Transportation  
24 shall make grants to States in accordance with the provi-  
25 sions of this section to encourage the enactment and en-

1 enforcement of laws requiring the use of safety belts in pas-  
2 senger motor vehicles.

3 “(b) GRANTS FOR ENACTING PRIMARY SAFETY  
4 BELT USE LAWS.—

5 “(1) IN GENERAL.—The Secretary shall make a  
6 single grant to each State that either—

7 “(A) enacts for the first time after Decem-  
8 ber 31, 2002, has in effect, and is enforcing a  
9 conforming primary safety belt use law for all  
10 passenger motor vehicles; or

11 “(B) in the case of a State that does not  
12 have such a primary safety belt use law, has a  
13 State safety belt use rate for each of the 2 cal-  
14 endar years immediately preceding the fiscal  
15 year of a grant of 90 percent or more, as meas-  
16 ured under criteria determined by the Sec-  
17 retary.

18 “(2) AMOUNT.—The amount of a grant avail-  
19 able to a State in fiscal year 2006 or in a subse-  
20 quent fiscal year under paragraph (1) of this sub-  
21 section is equal to 500 percent of the amount appor-  
22 tioned to the State for fiscal year 2003 under sec-  
23 tion 402(c) of this title.

24 “(3) JULY 1 CUT-OFF.—For the purpose of de-  
25 termining the eligibility of a State for a grant under

1 paragraph (1)(A), a primary safety belt use law en-  
2 acted after June 30th of any year shall—

3 “(A) not be considered to have been en-  
4 acted in the Federal fiscal year in which that  
5 June 30th falls; but

6 “(B) be considered as if it were enacted  
7 after the beginning of the next Federal fiscal  
8 year.

9 “(4) SHORTFALL.—If the total amount of  
10 grants provided for by this subsection for a fiscal  
11 year exceeds the amount of funds available for such  
12 grants for that fiscal year, then the Secretary shall  
13 make grants under this subsection to States in the  
14 order in which—

15 “(A) the primary safety belt use law came  
16 into effect; or

17 “(B) the State’s safety belt use rate was  
18 90 percent or more for 2 consecutive calendar  
19 years (as measured by criteria determined by  
20 the Secretary),

21 whichever first occurs.

22 “(5) CATCH-UP GRANTS.—The Secretary shall  
23 make a grant to any State eligible for a grant under  
24 this subsection that did not receive a grant for a fis-  
25 cal year because of the application of paragraph (4),

1 in the next fiscal year if the State's primary safety  
2 belt use law remains in effect or its safety belt use  
3 rate is 90 percent or more for the 2 consecutive cal-  
4 endar years preceding such next fiscal year (subject  
5 to paragraph (4)).

6 “(c) GRANTS FOR PRE-2003 LAWS.—To the extent  
7 that amounts made available for any of fiscal years 2006  
8 through 2009 exceed the total amounts to be awarded  
9 under subsection (b) for the fiscal year, including amounts  
10 to be awarded for catch-up grants under subsection (b)(5),  
11 the Secretary shall make a single grant to each State that  
12 enacted, has is effect, and is enforcing a primary safety  
13 belt use law for all passenger motor vehicles that was in  
14 effect before January 1, 2003. The amount of a grant  
15 available to a State under this subsection shall be equal  
16 to 250 percent of the amount of funds apportioned to the  
17 State under section 402(c) of this title for fiscal year  
18 2003. The Secretary may award the grant in up to 4 in-  
19 stallments over a period of 4 fiscal years beginning with  
20 fiscal year 2006.

21 “(d) ALLOCATION OF UNUSED GRANT FUNDS.—The  
22 Secretary shall make additional grants under this section  
23 of any amounts available for grants under this section  
24 that, on July 1, 2009, are neither obligated nor expended.  
25 The additional grants made under this subsection shall be

1 allocated among all States that, as of that date, have en-  
2 acted, have in effect, and are enforcing primary safety belt  
3 laws for all passenger motor vehicles. The allocations shall  
4 be made in accordance with the formula for apportioning  
5 funds among the States under section 402(c) of this title.

6 “(e) USE OF GRANT FUNDS.—

7 “(1) IN GENERAL.—Subject to paragraph (2), a  
8 State may use a grant under this section for any  
9 safety purpose under this title or for any project  
10 that corrects or improves a hazardous roadway loca-  
11 tion or feature or proactively addresses highway  
12 safety problems, including—

13 “(A) intersection improvements;

14 “(B) pavement and shoulder widening;

15 “(C) installation of rumble strips and  
16 other warning devices;

17 “(D) improving skid resistance;

18 “(E) improvements for pedestrian or bicy-  
19 clist safety;

20 “(F) railway-highway crossing safety;

21 “(G) traffic calming;

22 “(H) the elimination of roadside obstacles;

23 “(I) improving highway signage and pave-  
24 ment marking;

1           “(J) installing priority control systems for  
2 emergency vehicles at signalized intersections;

3           “(K) installing traffic control or warning  
4 devices at locations with high accident potential;

5           “(L) safety-conscious planning; and

6           “(M) improving crash data collection and  
7 analysis.

8           “(2) SAFETY ACTIVITY REQUIREMENT.—Not-  
9 withstanding paragraph (1), the Secretary shall en-  
10 sure that at least \$1,000,000,000 of amounts re-  
11 ceived by States under this section are obligated or  
12 expended for safety activities under this chapter.

13           “(f) CARRY-FORWARD OF EXCESS FUNDS.—If the  
14 amount available for grants under this section for any fis-  
15 cal year exceeds the sum of the grants made under this  
16 section for that fiscal year, the excess amount and  
17 obligational authority shall be carried forward and made  
18 available for grants under this section in the succeeding  
19 fiscal year.

20           “(g) FEDERAL SHARE.—The Federal share payable  
21 for grants under this subsection is 100 percent.

22           “(h) PASSENGER MOTOR VEHICLE DEFINED.—In  
23 this section, the term ‘passenger motor vehicle’ means—

24           “(1) a passenger car,

25           “(2) a pickup truck,

1           “(3) a van, minivan, or sport utility vehicle,  
2 with a gross vehicle weight rating of less than 10,000  
3 pounds.”.

4           (b) CONFORMING AMENDMENT.—The chapter anal-  
5 ysis for chapter 4 is amended by striking the item relating  
6 to section 405 and inserting the following:

“405. Safety belt performance grants.”.

7 **SEC. 217. OLDER DRIVER SAFETY; LAW ENFORCEMENT**  
8 **TRAINING.**

9           (a) IN GENERAL.—Section 406 is amended to read  
10 as follows:

11 **“§ 406. Older driver safety; law enforcement training**

12           “(a) IMPROVING OLDER DRIVER SAFETY.—

13           “(1) IN GENERAL.—Of the funds made avail-  
14 able under this section, the Secretary shall allocate  
15 \$2,000,000 in each of fiscal years 2006 through  
16 2009 to conduct a comprehensive research and dem-  
17 onstration program to improve traffic safety per-  
18 taining to older drivers. The program shall—

19           “(A) provide information and guidelines to  
20 assist physicians and other related medical per-  
21 sonnel, families, licensing agencies, enforcement  
22 officers, and various public and transit agencies  
23 in enhancing the safety of older drivers;

24           “(B) improve the scientific basis of medical  
25 standards and screenings strategies used in the

1           licensing of all drivers in a non-discriminatory  
2           manner;

3           “(C) conduct field tests to assess the safe-  
4           ty benefits and mobility impacts of different  
5           driver licensing strategies and driver assess-  
6           ment and rehabilitation methods;

7           “(D) assess the value and improve the  
8           safety potential of driver retraining courses of  
9           particular benefit to older drivers; and

10          “(E) conduct other activities to accomplish  
11          the objectives of this section.

12          “(2) FORMULATION OF PLAN.—After consulta-  
13          tion with affected parties, the Secretary shall formu-  
14          late an older driver traffic safety plan to guide the  
15          design and implementation of this program. The  
16          plan shall be submitted to the House of Representa-  
17          tives Committee on Transportation and Infrastruc-  
18          ture and the Senate Committee on Commerce,  
19          Science, and Transportation within 1 year after the  
20          date of enactment of the Highway Safety Grant Pro-  
21          gram Reauthorization Act of 2005.

22          “(b) LAW ENFORCEMENT TRAINING.—

23          “(1) REQUIREMENT FOR PROGRAM.—The Ad-  
24          ministrator of the National Highway Traffic Safety  
25          Administration shall carry out a program to train

1 law enforcement personnel of each State and polit-  
 2 ical subdivision thereof in police chase techniques  
 3 that are consistent with the police chase guidelines  
 4 issued by the International Association of Chiefs of  
 5 Police.

6 “(2) AMOUNT FOR PROGRAM.—Of the amount  
 7 available for a fiscal year to carry out this section,  
 8 \$200,000 shall be available for carrying out this  
 9 subsection.”.

10 (b) CONFORMING AMENDMENT.—The chapter anal-  
 11 ysis for chapter 4 is amended by striking the item relating  
 12 to section 406 and inserting the following:

“406. Older driver safety; law enforcement training.”.

13 **SEC. 218. EMERGENCY MEDICAL SERVICES.**

14 (a) FEDERAL COORDINATION AND ENHANCED SUP-  
 15 PORT OF EMERGENCY MEDICAL SERVICES.—Chapter 4 is  
 16 amended by inserting after section 407 the following:

17 **“§ 407A. Federal coordination and enhanced support**  
 18 **of emergency medical services**

19 “(a) FEDERAL INTERAGENCY COMMITTEE ON EMER-  
 20 GENCY MEDICAL SERVICES.—

21 “(1) ESTABLISHMENT.—The Secretary of  
 22 Transportation and the Secretary of Homeland Se-  
 23 curity, through the Under Secretary for Emergency  
 24 Preparedness and Response, shall establish a Fed-  
 25 eral Interagency Committee on Emergency Medical

1 Services. In establishing the Interagency Committee,  
2 the Secretary of Transportation and the Secretary of  
3 Homeland Security through the Under Secretary for  
4 Emergency Preparedness and Response shall consult  
5 with the Secretary of Health and Human Services.

6 “(2) MEMBERSHIP.—The Interagency Com-  
7 mittee shall consist of the following officials, or their  
8 designees:

9 “(A) The Administrator, National High-  
10 way Traffic Safety Administration.

11 “(B) The Director, Preparedness Division,  
12 Emergency Preparedness and Response Direc-  
13 torate, Department of Homeland Security.

14 “(C) The Administrator, Health Resources  
15 and Services Administration, Department of  
16 Health and Human Services.

17 “(D) The Director, Centers for Disease  
18 Control and Prevention, Department of Health  
19 and Human Services.

20 “(E) The Administrator, United States  
21 Fire Administration, Emergency Preparedness  
22 and Response Directorate, Department of  
23 Homeland Security.

1           “(F) The Director, Center for Medicare  
2           and Medicaid Services, Department of Health  
3           and Human Services.

4           “(G) The Undersecretary of Defense for  
5           Personnel and Readiness.

6           “(H) The Director, Indian Health Service,  
7           Department of Health and Human Services.

8           “(I) The Chief, Wireless Telecom Bureau,  
9           Federal Communications Commission.

10          “(J) A representative of any other Federal  
11          agency identified by the Secretary of Transpor-  
12          tation or the Secretary of Homeland Security  
13          through the Under Secretary for Emergency  
14          Preparedness and Response, in consultation  
15          with the Secretary of Health and Human Serv-  
16          ices, as having a significant role in relation to  
17          the purposes of the Interagency Committee.

18          “(3) PURPOSES.—The purposes of the Inter-  
19          agency Committee are as follows:

20                 “(A) To ensure coordination among the  
21                 Federal agencies involved with State, local, trib-  
22                 al, or regional emergency medical services and  
23                 9–1–1 systems.

1           “(B) To identify State, local, tribal, or re-  
2           gional emergency medical services and 9–1–1  
3           needs.

4           “(C) To recommend new or expanded pro-  
5           grams, including grant programs, for improving  
6           State, local, tribal, or regional emergency med-  
7           ical services and implementing improved emer-  
8           gency medical services communications tech-  
9           nologies, including wireless 9–1–1.

10          “(D) To identify ways to streamline the  
11          process through which Federal agencies support  
12          State, local, tribal or regional emergency med-  
13          ical services.

14          “(E) To assist State, local, tribal or re-  
15          gional emergency medical services in setting  
16          priorities based on identified needs.

17          “(F) To advise, consult, and make rec-  
18          ommendations on matters relating to the imple-  
19          mentation of the coordinated State emergency  
20          medical services programs.

21          “(4) ADMINISTRATION.—The Administrator of  
22          the National Highway Traffic Safety Administra-  
23          tion, in cooperation with the Director, Preparedness  
24          Division, Emergency Preparedness and Response Di-  
25          rectorate, Department of Homeland Security, shall

1 provide administrative support to the Interagency  
2 Committee, including scheduling meetings, setting  
3 agendas, keeping minutes and records, and pro-  
4 ducing reports.

5 “(5) LEADERSHIP.—The members of the Inter-  
6 agency Committee shall select a chairperson of the  
7 Committee annually.

8 “(6) MEETINGS.—The Interagency Committee  
9 shall meet as frequently as is determined necessary  
10 by the chairperson of the Committee.

11 “(7) ANNUAL REPORTS.—The Interagency  
12 Committee shall prepare an annual report to Con-  
13 gress on the Committee’s activities, actions, and rec-  
14 ommendations.

15 “(b) COORDINATED NATIONWIDE EMERGENCY MED-  
16 ICAL SERVICES PROGRAM.—

17 “(1) PROGRAM REQUIREMENT.—The Secretary  
18 of Transportation, acting through the Administrator  
19 of the National Highway Traffic Safety Administra-  
20 tion, shall coordinate with officials of other Federal  
21 departments and agencies, and may assist State and  
22 local governments and emergency medical services  
23 organizations (whether or not a firefighter organiza-  
24 tion), private industry, and other interested parties,  
25 to ensure the development and implementation of a

1 coordinated nationwide emergency medical services  
2 program that is designed to strengthen transpor-  
3 tation safety and public health and to implement im-  
4 proved emergency medical services communication  
5 systems, including 9–1–1.

6 “(2) COORDINATED STATE EMERGENCY MED-  
7 ICAL SERVICES PROGRAM.—Each State shall estab-  
8 lish a program, to be approved by the Secretary, to  
9 coordinate the emergency medical services and re-  
10 sources deployed throughout the State, so as to en-  
11 sure—

12 “(A) improved emergency medical services  
13 communication systems, including 9–1–1;

14 “(B) utilization of established best prac-  
15 tices in system design and operations;

16 “(C) implementation of quality assurance  
17 programs; and

18 “(D) incorporation of data collection and  
19 analysis programs that facilitate system devel-  
20 opment and data linkages with other systems  
21 and programs useful to emergency medical serv-  
22 ices.

23 “(3) ADMINISTRATION OF STATE PROGRAMS.—

24 The Secretary may not approve a coordinated State

1 emergency medical services program under this sub-  
2 section unless the program—

3 “(A) provides that the Governor of the  
4 State is responsible for its administration  
5 through a State office of emergency medical  
6 services that has adequate powers and is suit-  
7 ably equipped and organized to carry out such  
8 program and coordinates such program with the  
9 highway safety office of the State; and

10 “(B) authorizes political subdivisions of the  
11 State to participate in and receive funds under  
12 such program, consistent with a goal of achiev-  
13 ing statewide coordination of emergency medical  
14 services and 9–1–1 activities.

15 “(4) FUNDING.—

16 “(A) USE OF FUNDS.—Funds authorized  
17 to be appropriated to carry out this subsection  
18 shall be used to aid the States in conducting co-  
19 ordinated emergency medical services and 9–1–  
20 1 programs as described in paragraph (2).

21 “(B) APPORTIONMENT.—

22 “(i) APPORTIONMENT FORMULA.—  
23 The funds shall be apportioned as follows:  
24 75 percent in the ratio that the population  
25 of each State bears to the total population

1 of all the States, as shown by the latest  
2 available Federal census, and 25 percent in  
3 the ratio that the public road mileage in  
4 each State bears to the total public road  
5 mileage in all States. For the purpose of  
6 this subparagraph, a 'public road' means  
7 any road under the jurisdiction of and  
8 maintained by a public authority and open  
9 to public travel. Public road mileage as  
10 used in this subsection shall be determined  
11 as of the end of the calendar year prior to  
12 the year in which the funds are appor-  
13 tioned and shall be certified by the Gov-  
14 ernor of the State and subject to approval  
15 by the Secretary.

16 “(ii) MINIMUM APPORTIONMENT.—

17 The annual apportionment to each State  
18 shall not be less than  $\frac{1}{2}$  of 1 percent of  
19 the total apportionment, except that the  
20 apportionment to the Secretary of the Inte-  
21 rior on behalf of Indian tribes shall not be  
22 less than  $\frac{3}{4}$  of 1 percent of the total ap-  
23 portionment, and the apportionments to  
24 the Virgin Islands, Guam, American  
25 Samoa, and the Commonwealth of the

1 Northern Mariana Islands shall not be less  
2 than  $\frac{1}{4}$  of 1 percent of the total apportion-  
3 ment.

4 “(5) APPLICABILITY OF CHAPTER 1.—Section  
5 402(d) of this title shall apply in the administration  
6 of this subsection.

7 “(6) FEDERAL SHARE.—The Federal share of  
8 the cost of a project or program funded under this  
9 subsection shall be 80 percent.

10 “(7) APPLICATION IN INDIAN COUNTRY.—

11 “(A) USE OF TERMS.—For the purpose of  
12 application of this subsection in Indian country,  
13 the terms ‘State’ and ‘Governor of the State’  
14 include the Secretary of the Interior and the  
15 term ‘political subdivisions of the State’ in-  
16 cludes an Indian tribe.

17 “(B) INDIAN COUNTRY DEFINED.—In this  
18 subsection, the term ‘Indian country’ means—

19 “(i) all land within the limits of any  
20 Indian reservation under the jurisdiction of  
21 the United States, notwithstanding the  
22 issuance of any patent and including  
23 rights-of-way running through the reserva-  
24 tion;

1           “(ii) all dependent Indian commu-  
2           nities within the borders of the United  
3           States, whether within the original or sub-  
4           sequently acquired territory thereof and  
5           whether within or without the limits of a  
6           State; and

7           “(iii) all Indian allotments, the Indian  
8           titles to which have not been extinguished,  
9           including rights-of-way running through  
10          such allotments.

11          “(c) STATE DEFINED.—In this section, the term  
12          ‘State’ means each of the 50 States, the District of Colum-  
13          bia, Puerto Rico, the Virgin Islands, Guam, American  
14          Samoa, the Commonwealth of the Northern Mariana Is-  
15          lands, and the Secretary of the Interior on behalf of In-  
16          dian tribes.

17          “(d) CONSTRUCTION WITH RESPECT TO DISTRICT  
18          OF COLUMBIA.—In the administration of this section with  
19          respect to the District of Columbia, a reference in this  
20          section to the Governor of a State shall refer to the Mayor  
21          of the District of Columbia.”.

22          (b) CLERICAL AMENDMENT.—The chapter analysis  
23          for chapter 4 is amended by inserting after the item relat-  
24          ing to section 407 the following:

“407A. Federal coordination and enhanced support of emergency medical serv-  
ices.”.

1 **SEC. 219. REPEAL OF AUTHORITY FOR ALCOHOL TRAFFIC**  
 2 **SAFETY PROGRAMS.**

3 (a) REPEAL.—Section 408 is repealed.

4 (b) CLERICAL AMENDMENT.—The chapter analysis  
 5 for chapter 4 is amended by striking the item relating to  
 6 section 408.

7 **SEC. 220. IMPAIRED DRIVING PROGRAM.**

8 (a) MAINTENANCE OF EFFORT.—Section 410(a)(2)  
 9 is amended by striking “the Transportation Equity Act  
 10 for the 21st Century” and inserting “the Highway Safety  
 11 Grant Program Reauthorization Act of 2005”.

12 (b) REVISED GRANT AUTHORITY.—Section 410 is  
 13 amended—

14 (1) by striking paragraph (3) of subsection (a)  
 15 and redesignating paragraph (4) as paragraph (3);  
 16 and

17 (2) by striking subsections (b) through (f) and  
 18 inserting the following:

19 “(b) PROGRAM-RELATED ELIGIBILITY REQUIRE-  
 20 MENTS.—To be eligible for a grant under this section, a  
 21 State shall—

22 “(1) for fiscal year 2006 or 2007, carry out 4  
 23 of the programs required under subsection (c);

24 “(2) for fiscal year 2008 or 2009, carry out 5  
 25 of the programs required under subsection (c); and

26 “(3) for any such fiscal year—

1           “(A) comply with the additional require-  
2           ments set forth in subsection (d) with respect  
3           to such programs and activities; and

4           “(B) comply with any additional require-  
5           ments of the Secretary.

6           “(c) STATE PROGRAMS AND ACTIVITIES.—To qualify  
7           for a grant under this subsection, a State shall select pro-  
8           grams from among the following:

9           “(1) CHECK-POINT, SATURATION PATROL PRO-  
10          GRAM.—

11           “(A) A State program to conduct a series  
12           of high-visibility, Statewide law enforcement  
13           campaigns in which law enforcement personnel  
14           monitor for impaired driving, either through  
15           use of sobriety check-points or saturation pa-  
16           trols, on a nondiscriminatory, lawful basis for  
17           the purpose of determining whether the opera-  
18           tors of the motor vehicles are driving while  
19           under the influence of alcohol or controlled sub-  
20           stances that meets the requirements of subpara-  
21           graphs (B) and (C).

22           “(B) A program meets the requirements of  
23           this subparagraph only if a State organizes the  
24           campaigns in cooperation with related periodic  
25           national campaigns organized by the National

1 Highway Traffic Safety Administration, but  
2 this subparagraph does not preclude a State  
3 from initiating sustained high-visibility, State-  
4 wide law enforcement campaigns independently  
5 of the cooperative efforts.

6 “(C) A program meets the requirements of  
7 this subparagraph only if, for each fiscal year,  
8 a State demonstrates to the Secretary that the  
9 State and the political subdivisions of the State  
10 that receive funds under this section have in-  
11 creased, in the aggregate, the total number of  
12 impaired driving law enforcement activities at  
13 high incident locations, as described in subpara-  
14 graph (A) (or any other similar activity ap-  
15 proved by the Secretary), initiated in such State  
16 during the preceding fiscal year by a factor that  
17 the Secretary determines meaningful for the  
18 State over the number of such activities initi-  
19 ated in such State during the preceding fiscal  
20 year, which shall not be less than 5 percent.

21 “(2) PROSECUTION AND ADJUDICATION PRO-  
22 GRAM.—A State prosecution and adjudication pro-  
23 gram under which—

24 “(A) judges and prosecutors are actively  
25 encouraged to prosecute and adjudicate cases of

1 defendants who repeatedly commit impaired  
2 driving offenses by reducing the use of State di-  
3 version programs, or other means that have the  
4 effect of avoiding or expunging a permanent  
5 record of impaired driving in such cases;

6 “(B) the courts in a majority of the judi-  
7 cial jurisdictions of the State are monitored on  
8 the courts’ adjudication of cases of impaired  
9 driving offenses; or

10 “(C) annual Statewide outreach is provided  
11 for judges and prosecutors on innovative ap-  
12 proaches to the prosecution and adjudication of  
13 cases of impaired driving offenses that have the  
14 potential for significantly improving the pros-  
15 ecution and adjudication of such cases.

16 “(3) IMPAIRED OPERATOR INFORMATION SYS-  
17 TEM.—

18 “(A) A State impaired operator informa-  
19 tion system that—

20 “(i) tracks drivers who are arrested or  
21 convicted for violation of laws prohibiting  
22 impaired operation of motor vehicles;

23 “(ii) includes information about each  
24 case of an impaired driver beginning at the  
25 time of arrest through case disposition, in-

1 cluding information about any trial, plea,  
2 plea agreement, conviction or other disposi-  
3 tion, sentencing or other imposition of  
4 sanctions, and substance abuse treatment;

5 “(iii) provides—

6 “(I) accessibility to the informa-  
7 tion for law enforcement personnel  
8 Statewide and for United States law  
9 enforcement personnel; and

10 “(II) linkage for the sharing of  
11 the information and of the informa-  
12 tion in State traffic record systems  
13 among jurisdictions and appropriate  
14 agencies, court systems and offices of  
15 the States;

16 “(iv) shares information with the Na-  
17 tional Highway Traffic Safety Administra-  
18 tion for compilation and use for the track-  
19 ing of impaired operators of motor vehicles  
20 who move from State to State; and

21 “(v) meets the requirements of sub-  
22 paragraphs (B), (C), and (D) of this para-  
23 graph, as applicable.

1           “(B) A program meets the requirements of  
2 this subparagraph only if, during fiscal years  
3 2006 and 2007, a State—

4           “(i) assesses the system used by the  
5 State for tracking drivers who are arrested  
6 or convicted for violation of laws prohib-  
7 iting impaired operation of motor vehicles;

8           “(ii) identifies ways to improve the  
9 system, as well as to enhance the capability  
10 of the system to provide information in co-  
11 ordination with impaired operator informa-  
12 tion systems of other States; and

13           “(iii) develops a strategic plan that  
14 sets forth the actions to be taken and the  
15 resources necessary to achieve the identi-  
16 fied improvements and to enhance the ca-  
17 pability for coordination with the systems  
18 of other States.

19           “(C) A program meets the requirements of  
20 this subparagraph only if, in each of fiscal  
21 years 2008 and 2009, a State demonstrates to  
22 the Secretary that the State has made substan-  
23 tial and meaningful progress in improving the  
24 State’s impaired operator information system,

1           and makes public a report on the progress of  
2           the information system.

3           “(4) IMPAIRED DRIVING PERFORMANCE.—The  
4           percentage of fatally-injured drivers with 0.08 per-  
5           cent or greater blood alcohol concentration in the  
6           State has decreased in each of the 2 most recent cal-  
7           endar years for which data are available.

8           “(5) SELF-SUSTAINING IMPAIRED DRIVING PRE-  
9           VENTION PROGRAM.—A program under which a sig-  
10          nificant portion of the fines or surcharges collected  
11          from individuals who are fined for operating a motor  
12          vehicle while under the influence of alcohol are re-  
13          turned to communities for comprehensive programs  
14          for the prevention of impaired driving.

15          “(6) PROGRAMS FOR DRIVERS WITH HIGH  
16          BAC.—A program or law that establishes a system  
17          of graduated sanctions for individuals convicted of  
18          operating a motor vehicle while under the influence  
19          of alcohol, under which enhanced or additional sanc-  
20          tions apply to such individuals determined to have a  
21          blood alcohol concentration of 0.15 percent or high-  
22          er.

23          “(7) IMPAIRED DRIVING COURTS.—

24                  “(A) IN GENERAL.—A program to consoli-  
25          date and coordinate impaired driving cases into

1 courts that specialize in impaired driving cases,  
2 with the emphasis on tracking and processing  
3 offenders of impaired driving laws, (hereinafter  
4 referred to as DWI courts) that meets the re-  
5 quirements of this paragraph.

6 “(B) CHARACTERISTICS.—A DWI Court is  
7 a distinct function performed by a court system  
8 for the purpose of changing the behavior of al-  
9cohol or drug dependent offenders arrested for  
10 driving while impaired. A DWI Court can be a  
11 dedicated court with dedicated personnel, in-  
12cluding judges, prosecutors and probation offi-  
13cers. A DWI court may be an existing court  
14 system that serves the following essential DWI  
15 Court functions:

16 “(i) A DWI Court performs an assess-  
17ment of high-risk offenders utilizing a  
18 team headed by the judge and including all  
19 criminal justice stakeholders (prosecutors,  
20 defense attorneys, probations officers, law  
21 enforcement personnel and others) along  
22 with alcohol/drug treatment professionals.

23 “(ii) The DWI Court team rec-  
24ommends a specific plea agreement or con-  
25tract for each offender that can include in-

1           carceration, treatment, and close commu-  
2           nity supervision. The agreement maximizes  
3           the probability of rehabilitation and mini-  
4           mizes the likelihood of recidivism.

5           “(iii) Compliance with the agreement  
6           is verified with thorough monitoring and  
7           frequent alcohol testing. Periodic status  
8           hearings assess offender progress and  
9           allow an opportunity for modifying the sen-  
10          tence if necessary.

11          “(C) ASSESSMENT.—In the first year of  
12          operation, the States shall assess the number of  
13          court systems in its jurisdiction that are con-  
14          sistently performing the DWI Court functions.

15          “(D) PLAN.—In the second year of oper-  
16          ation, the State shall develop a strategic plan  
17          for increasing the number of courts performing  
18          the DWI function.

19          “(E) PROGRESS.—In subsequent years of  
20          operation, the State shall demonstrate progress  
21          in increasing the number of DWI Courts and in  
22          increasing the number of high-risk offenders  
23          participating in and successfully completing  
24          DWI Court agreements.

1       “(d) USES OF GRANTS.—Grants made under this  
2 section may be used for programs and activities described  
3 in subsection (c) and to defray the following costs:

4           “(1) Labor costs, management costs, and equip-  
5 ment procurement costs for the high-visibility, State-  
6 wide law enforcement campaigns under subsection  
7 (c)(1).

8           “(2) The costs of the training of law enforce-  
9 ment personnel and the procurement of technology  
10 and equipment, such as and including video equip-  
11 ment and passive alcohol sensors, to counter directly  
12 impaired operation of motor vehicles.

13           “(3) The costs of public awareness, advertising,  
14 and educational campaigns that publicize use of so-  
15 briety check points or increased law enforcement ef-  
16 forts to counter impaired operation of motor vehi-  
17 cles.

18           “(4) The costs of public awareness, advertising,  
19 and educational campaigns that target impaired op-  
20 eration of motor vehicles by persons under 34 years  
21 of age.

22           “(5) The costs of the development and imple-  
23 mentation of a State impaired operator information  
24 system described in subsection (c)(3).

1           “(6) The costs of operating programs that im-  
2           pound the vehicle of an individual arrested as an im-  
3           paired operator of a motor vehicle for not less than  
4           12 hours after the operator is arrested.

5           “(e) ADDITIONAL AUTHORITIES FOR CERTAIN AU-  
6 THORIZED USES.—

7           “(1) COMBINATION OF GRANT PROCEEDS.—  
8           Grant funds used for a campaign under subsection  
9           (d)(3) may be combined, or expended in coordina-  
10          tion, with proceeds of grants under section 402 of  
11          this title.

12          “(2) COORDINATION OF USES.—Grant funds  
13          used for a campaign under paragraph (3) or (4) of  
14          subsection (d) may be expended—

15                 “(A) in coordination with employers,  
16                 schools, entities in the hospitality industry, and  
17                 nonprofit traffic safety groups; and

18                 “(B) in coordination with sporting events  
19                 and concerts and other entertainment events.

20          “(f) FUNDING.—

21                 “(1) IN GENERAL.—Grant funding under this  
22                 section shall be allocated among States that meet  
23                 the eligibility criteria in subsection (b) on the basis  
24                 of the apportionment formula that applies for appor-  
25                 tionments under section 402(c) of this title.

1           “(2) HIGH FATALITY-RATE STATES.—A State  
2           that is among the 10 States with the highest im-  
3           paired driving-related fatality rates for the calendar  
4           year immediately preceding the fiscal year in which  
5           the grant may be made shall be eligible for a grant  
6           under this section if the State meets the require-  
7           ments of subsection (g). A State that receives a  
8           grant based upon its eligibility under this paragraph  
9           may also receive a grant under subsection (b) if it  
10          meets the eligibility requirements of that subsection.

11          “(g) USE OF FUNDS BY HIGH FATALITY-RATE  
12          STATES.—

13                 “(1) REQUIRED USES.—At least  $\frac{1}{2}$  of the  
14                 amounts allocated to States under subsection (f)(2)  
15                 shall be used for the program described in sub-  
16                 section (c)(1).

17                 “(2) REQUIREMENT FOR PLAN.—A State re-  
18                 ceiving an allocation of grant funds under subsection  
19                 (f)(2) shall expend those funds only after receiving  
20                 approval from the Administrator of the National  
21                 Highway Traffic Safety Administration for a plan  
22                 regarding such expenditures.

23          “(h) DEFINITIONS.—In this section:

1           “(1) IMPAIRED OPERATOR.—The term ‘im-  
2           paired operator’ means a person who, while oper-  
3           ating a motor vehicle—

4                   “(A) has a blood alcohol content of 0.08  
5                   percent or higher; or

6                   “(B) is under the influence of a controlled  
7                   substance.

8           “(2) IMPAIRED DRIVING-RELATED FATALITY  
9           RATE.—The term ‘impaired driving-related fatality  
10           rate’ means the rate of alcohol-related fatalities, as  
11           calculated in accordance with regulations which the  
12           Administrator of the National Highway Traffic Safe-  
13           ty Administration shall prescribe.”.

14           (c) NHTSA TO ISSUE REGULATIONS.—Not later  
15           than 12 months after the date of enactment of the High-  
16           way Safety Grant Program Reauthorization Act of 2005,  
17           the National Highway Traffic Safety Administration shall  
18           issue guidelines to the States specifying the types and for-  
19           mats of data that States should collect relating to drivers  
20           who are arrested or convicted for violation of laws prohib-  
21           iting the impaired operation of motor vehicles.

22           **SEC. 221. STATE TRAFFIC SAFETY INFORMATION SYSTEM**  
23                                   **IMPROVEMENTS.**

24           (a) GRANT PROGRAM AUTHORITY.—Chapter 4 is  
25           amended by adding at the end the following:

1 **“§ 412. State traffic safety information system im-**  
2 **provements**

3 “(a) GRANT AUTHORITY.—Subject to the require-  
4 ments of this section, the Secretary shall make grants of  
5 financial assistance to eligible States to support the devel-  
6 opment and implementation of effective programs by such  
7 States to—

8 “(1) improve the timeliness, accuracy, complete-  
9 ness, uniformity, integration, and accessibility of the  
10 safety data of the State that is needed to identify  
11 priorities for national, State, and local highway and  
12 traffic safety programs;

13 “(2) evaluate the effectiveness of efforts to  
14 make such improvements;

15 “(3) link the State data systems, including traf-  
16 fic records, with other data systems within the  
17 State, such as systems that contain medical, road-  
18 way, and economic data; and

19 “(4) improve the compatibility and interoper-  
20 ability of the data systems of the State with national  
21 data systems and data systems of other States and  
22 enhance the ability of the Secretary to observe and  
23 analyze national trends in crash occurrences, rates,  
24 outcomes, and circumstances.

25 “(b) FIRST-YEAR GRANTS.—

1           “(1) ELIGIBILITY.—To be eligible for a first-  
2           year grant under this section in a fiscal year, a  
3           State shall demonstrate to the satisfaction of the  
4           Secretary that the State has—

5                   “(A) established a highway safety data and  
6                   traffic records coordinating committee with a  
7                   multidisciplinary membership that includes,  
8                   among others, managers, collectors, and users  
9                   of traffic records and public health and injury  
10                  control data systems; and

11                  “(B) developed a multiyear highway safety  
12                  data and traffic records system strategic plan  
13                  that addresses existing deficiencies in the  
14                  State’s highway safety data and traffic records  
15                  system, is approved by the highway safety data  
16                  and traffic records coordinating committee,  
17                  and—

18                          “(i) specifies how existing deficiencies  
19                          in the State’s highway safety data and  
20                          traffic records system were identified;

21                          “(ii) prioritizes, on the basis of the  
22                          identified highway safety data and traffic  
23                          records system deficiencies, the highway  
24                          safety data and traffic records system

1 needs and goals of the State, including the  
2 activities under subsection (a);

3 “(iii) identifies performance-based  
4 measures by which progress toward those  
5 goals will be determined; and

6 “(iv) specifies how the grant funds  
7 and any other funds of the State are to be  
8 used to address needs and goals identified  
9 in the multiyear plan.

10 “(2) GRANT AMOUNT.—Subject to subsection  
11 (d)(3), the amount of a first-year grant to a State  
12 for a fiscal year shall be the higher of—

13 “(A) the amount determined by multi-  
14 plying—

15 “(i) the amount appropriated to carry  
16 out this section for such fiscal year, by

17 “(ii) the ratio that the funds appor-  
18 tioned to the State under section 402 of  
19 this title for fiscal year 2003 bears to the  
20 funds apportioned to all States under such  
21 section for fiscal year 2003; or

22 “(B) \$300,000.

23 “(c) SUCCESSIVE YEAR GRANTS.—

24 “(1) ELIGIBILITY.—A State shall be eligible for  
25 a grant under this subsection in a fiscal year suc-

1 ceeding the first fiscal year in which the State re-  
2 ceives a grant under subsection (b) if the State, to  
3 the satisfaction of the Secretary—

4 “(A) submits an updated multiyear plan  
5 that meets the requirements of subsection  
6 (b)(1)(B);

7 “(B) certifies that its highway safety data  
8 and traffic records coordinating committee con-  
9 tinues to operate and supports the multiyear  
10 plan;

11 “(C) specifies how the grant funds and any  
12 other funds of the State are to be used to ad-  
13 dress needs and goals identified in the  
14 multiyear plan;

15 “(D) demonstrates measurable progress to-  
16 ward achieving the goals and objectives identi-  
17 fied in the multiyear plan; and

18 “(E) includes a current report on the  
19 progress in implementing the multiyear plan.

20 “(2) GRANT AMOUNT.—Subject to subsection  
21 (d)(3), the amount of a year grant made to a State  
22 for a fiscal year under this subsection shall equal the  
23 higher of—

24 “(A) the amount determined by multi-  
25 plying—

1                   “(i) the amount appropriated to carry  
2                   out this section for such fiscal year, by

3                   “(ii) the ratio that the funds appor-  
4                   tioned to the State under section 402 of  
5                   this title for fiscal year 2003 bears to the  
6                   funds apportioned to all States under such  
7                   section for fiscal year 2003; or

8                   “(B) \$500,000.

9           “(d) ADDITIONAL REQUIREMENTS AND LIMITA-  
10   TIONS.—

11                   “(1) MODEL DATA ELEMENTS.—The Secretary,  
12                   in consultation with States and other appropriate  
13                   parties, shall determine the model data elements  
14                   that are useful for the observation and analysis of  
15                   State and national trends in occurrences, rates, out-  
16                   comes, and circumstances of motor vehicle traffic ac-  
17                   cidents. In order to be eligible for a grant under this  
18                   section, a State shall submit to the Secretary a cer-  
19                   tification that the State has adopted and uses such  
20                   model data elements, or a certification that the  
21                   State will use grant funds provided under this sec-  
22                   tion toward adopting and using the maximum num-  
23                   ber of such model data elements as soon as prac-  
24                   ticable.

1           “(2) DATA ON USE OF ELECTRONIC DEVICES.—

2           The model data elements required under paragraph  
3           (1) shall include data elements, as determined ap-  
4           propriate by the Secretary in consultation with the  
5           States and with appropriate elements of the law en-  
6           forcement community, on the impact on traffic safe-  
7           ty of the use of electronic devices while driving.

8           “(3) MAINTENANCE OF EFFORT.—No grant  
9           may be made to a State under this section in any  
10          fiscal year unless the State enters into such agree-  
11          ments with the Secretary as the Secretary may re-  
12          quire to ensure that the State will maintain its ag-  
13          gregate expenditures from all other sources for high-  
14          way safety data programs at or above the average  
15          level of such expenditures maintained by such State  
16          in the 2 fiscal years preceding the date of enactment  
17          of the Highway Safety Grant Program Reauthoriza-  
18          tion Act of 2005.

19          “(4) FEDERAL SHARE.—The Federal share of  
20          the cost of adopting and implementing in a fiscal  
21          year a State program described in subsection (a)  
22          may not exceed 80 percent.

23          “(5) LIMITATION ON USE OF GRANT PRO-  
24          CEEDS.—A State may use the proceeds of a grant  
25          received under this section only to implement the

1 program described in subsection (a) for which the  
2 grant is made.

3 “(e) APPLICABILITY OF CHAPTER 1.—Section 402(d)  
4 of this title shall apply in the administration of this sec-  
5 tion.”.

6 (b) CLERICAL AMENDMENT.—The chapter analysis  
7 for chapter 4 is amended by adding at the end the fol-  
8 lowing:

“412. State traffic safety information system improvements.”.

9 **SEC. 222. NHTSA ACCOUNTABILITY.**

10 (a) IN GENERAL.—Chapter 4, as amended by section  
11 221, is amended by adding at the end the following:

12 **“§ 413. Agency accountability**

13 “(a) TRIENNIAL STATE MANAGEMENT REVIEWS.—  
14 At least once every 3 years the National Highway Traffic  
15 Safety Administration shall conduct a review of each State  
16 highway safety program. The review shall include a man-  
17 agement evaluation of all grant programs partially or fully  
18 funded under this title. The Administrator shall provide  
19 review-based recommendations on how each State may im-  
20 prove the management and oversight of its grant activities  
21 and may provide a management and oversight plan.

22 “(b) RECOMMENDATIONS BEFORE SUBMISSION.—In  
23 order to provide guidance to State highway safety agencies  
24 on matters that should be addressed in the State highway  
25 safety program goals and initiatives as part of its highway

1 safety plan before the plan is submitted for review, the  
2 Administrator shall provide non-binding data-based rec-  
3 ommendations to each State at least 90 days before the  
4 date on which the plan is to be submitted for approval.

5 “(c) STATE PROGRAM REVIEW.—The Administrator  
6 shall—

7 “(1) conduct a program improvement review of  
8 any State that does not make substantial progress  
9 over a 3-year period in meeting its priority program  
10 goals; and

11 “(2) provide technical assistance and safety  
12 program recommendations to the State for any goal  
13 not achieved.

14 “(d) REGIONAL HARMONIZATION.—The Administra-  
15 tion and the Inspector General of the Department of  
16 Transportation shall undertake a State grant administra-  
17 tive review of the practices and procedures of the manage-  
18 ment reviews and program reviews conducted by Adminis-  
19 tration regional offices and formulate a report of best  
20 practices to be completed within 180 days after the date  
21 of enactment of the Highway Safety Grant Program Reau-  
22 thorization Act of 2005.

23 “(e) BEST PRACTICES GUIDELINES.—

24 “(1) UNIFORM GUIDELINES.—The Adminis-  
25 trator shall issue uniform management review guide-

1 lines and program review guidelines based on the re-  
2 port under subsection (d). Each regional office shall  
3 use the guidelines in executing its State administra-  
4 tive review duties.

5 “(2) PUBLICATION.—The Administrator shall  
6 make the following documents available via the  
7 Internet upon their completion:

8 “(A) The Administrator’s management re-  
9 view guidelines and the program review guide-  
10 lines.

11 “(B) State highway safety plans.

12 “(C) State annual accomplishment reports.

13 “(D) The Administrator’s State manage-  
14 ment reviews.

15 “(E) The Administration’s State program  
16 improvement plans.

17 “(3) REPORTS TO STATE HIGHWAY SAFETY  
18 AGENCIES.—The Administrator may not make a  
19 plan, report, or review available under paragraph (2)  
20 that is directed to a State highway safety agency  
21 until after it has been submitted to that agency.

22 “(f) GENERAL ACCOUNTING OFFICE REVIEW.—The  
23 General Accounting Office shall analyze the effectiveness  
24 of the National Highway Traffic Safety Administration’s  
25 oversight of traffic safety grants by determining the use-

1 fulness of the Administration’s advice to the States re-  
 2 garding grants administration and State activities, the ex-  
 3 tent to which the States incorporate the Administration’s  
 4 recommendation into their highway safety plans and pro-  
 5 grams, and improvements that result in a State’s highway  
 6 safety program that may be attributable to the Adminis-  
 7 tration’s recommendations. Based on this analysis, the  
 8 General Accounting Office shall submit a report by not  
 9 later than the end of fiscal year 2008 to the House of  
 10 Representatives Committee on Transportation and Infra-  
 11 structure and the Senate Committee on Commerce,  
 12 Science, and Transportation.”.

13 (b) CONFORMING AMENDMENT.—The chapter anal-  
 14 ysis for chapter 4, as amended by section 221, is amended  
 15 by inserting after the item relating to section 412 the fol-  
 16 lowing:

“413. Agency accountability.”.

17 **SEC. 223. GRANTS FOR IMPROVING CHILD PASSENGER**  
 18 **SAFETY PROGRAMS.**

19 (a) IN GENERAL.—The Secretary of Transportation  
 20 shall establish a program to provide grants to States to  
 21 assist in the enactment and enforcement of laws imple-  
 22 menting Anton’s Law (49 U.S.C. 30127 note).

23 (b) ELIGIBILITY REQUIREMENTS.—

24 (1) IN GENERAL.—The Secretary shall make a  
 25 grant to each State that, as determined by the Sec-

1       retary, enacts or has enacted, and is enforcing a law  
2       requiring that children riding in passenger motor ve-  
3       hicles (as defined in section 405(f)(4)) of title 23,  
4       United States Code, who are too large to be secured  
5       in a child safety seat be secured in a child restraint  
6       (as defined in section 7(1) of Anton's Law (49  
7       U.S.C. 30127 note)) that meets requirements pre-  
8       scribed by the Secretary under section 3 of Anton's  
9       Law.

10           (2) YEAR IN WHICH FIRST ELIGIBLE.—

11           (A) EARLY QUALIFICATION.—A State that  
12       has enacted a law described in paragraph (1)  
13       that is in effect before October 1, 2005, is first  
14       eligible to receive a grant under subsection (a)  
15       in fiscal year 2006.

16           (B) SUBSEQUENT QUALIFICATION.—A  
17       State that enacts a law described in paragraph  
18       (1) that takes effect after September 30, 2005,  
19       is first eligible to receive a grant under sub-  
20       section (a) in the first fiscal year beginning  
21       after the date on which the law is enacted.

22           (3) CONTINUING ELIGIBILITY.—A State that is  
23       eligible under paragraph (1) to receive a grant may  
24       receive a grant during each fiscal year listed in sub-  
25       section (f) in which it is eligible.

1           (4) MAXIMUM NUMBER OF GRANTS.—A State  
2           may not receive more than 4 grants under this sec-  
3           tion.

4           (c) GRANT AMOUNT.—Amounts available for grants  
5           under this section in any fiscal year shall be apportioned  
6           among the eligible States on the basis of population.

7           (d) USE OF GRANT AMOUNTS.—

8           (1) IN GENERAL.—Of the amounts received by  
9           a State under this section for any fiscal year—

10                   (A) 50 percent shall be used for the en-  
11                   forcement of, and education to promote public  
12                   awareness of, State child passenger protection  
13                   laws; and

14                   (B) 50 percent shall be used to fund pro-  
15                   grams that purchase and distribute child boost-  
16                   er seats, child safety seats, and other appro-  
17                   priate passenger motor vehicle child restraints  
18                   to indigent families without charge.

19           (2) REPORT.—Within 60 days after the State  
20           fiscal year in which a State receives a grant under  
21           this section, the State shall transmit to the Sec-  
22           retary a report documenting the manner in which  
23           grant amounts were obligated or expended and iden-  
24           tifying the specific programs supports by grant  
25           funds. The report shall be in a form prescribed by

1 the Secretary and may be combined with other State  
2 grant reporting requirements under this chapter.

3 (e) DEFINITION OF CHILD SAFETY SEAT.—The term  
4 “child safety seat” means any device (except safety belts  
5 (as such term is defined in section 405(f)(6)) of title 23,  
6 United States Code, designed for use in a motor vehicle  
7 (as such term is defined in section 405(f)(4) of that title)  
8 to restrain, seat, or position a child who weighs 50 pounds  
9 or less.

10 (f) AUTHORIZATION OF APPROPRIATIONS.—There  
11 are authorized to be appropriated to the Secretary of  
12 Transportation—

- 13 (1) \$18,000,000 for fiscal year 2006;  
14 (2) \$20,000,000 for fiscal year 2007;  
15 (3) \$25,000,000 for fiscal year 2008; and  
16 (4) \$30,000,000 for fiscal year 2009.

17 **SEC. 224. MOTORCYCLIST SAFETY TRAINING AND MOTOR-**  
18 **IST AWARENESS PROGRAMS.**

19 (a) IN GENERAL.—Chapter 4 of title 23, United  
20 States Code, as amended by section 222, is amended by  
21 adding at the end the following:

22 **“§ 414. Motorcyclist safety training and motorist**  
23 **awareness programs**

24 “(a) DEFINITIONS.—In this section:

1           “(1) MOTORCYCLIST SAFETY TRAINING.—The  
2 term ‘motorcyclist safety training’ means any formal  
3 program of instruction that—

4           “(A) provides accident avoidance and other  
5 safety-oriented operational skills to motorcy-  
6 clists, including innovative training opportuni-  
7 ties to meet unique regional needs; and

8           “(B) is approved for use in a State by the  
9 designated State authority having jurisdiction  
10 over motorcyclist safety issues, which may in-  
11 clude the State Motorcycle Safety Adminis-  
12 trator or a motorcycle advisory council ap-  
13 pointed by the Governor of the State.

14           “(2) MOTORIST AWARENESS.—The term ‘mo-  
15 torist awareness’ means individual or collective mo-  
16 torist awareness of—

17           “(A) the presence of motorcycles on or  
18 near roadways; and

19           “(B) safe driving practices that avoid in-  
20 jury to motorcyclists, bicyclists, and pedes-  
21 trians.

22           “(3) MOTORIST AWARENESS PROGRAM.—The  
23 term ‘motorist awareness program’ means any infor-  
24 mational or public awareness program designed to  
25 enhance motorist awareness that is developed by or

1 in coordination with the designated State authority  
2 having jurisdiction over motorcycle safety issues,  
3 which may include the State Motorcycle Safety Ad-  
4 ministrator or, in the absence of a State Adminis-  
5 trator, a motorcycle advisory council appointed by a  
6 Governor of the State.

7 “(4) STATE.—The term ‘State’ means—

8 “(A) a State;

9 “(B) the District of Columbia; and

10 “(C) the Commonwealth of Puerto Rico.

11 “(b) ELIGIBILITY.—Not later than 90 days after the  
12 date of enactment of this section and on September 1 of  
13 each fiscal year thereafter, based on a letter of certifi-  
14 cation provided by the Governor of each State, the Sec-  
15 retary shall develop and publish a list of States that, as  
16 of the date of publication of the list, have established mo-  
17 torcyclist safety training programs and motorist aware-  
18 ness programs, including information that indicates—

19 “(1) the level of base funding provided for each  
20 such program for the applicable fiscal year; and

21 “(2) whether the level of base funding provided  
22 for each such program for the applicable fiscal year  
23 was increased, decreased, or maintained from the  
24 level of funding provided for the program for the  
25 previous fiscal year.

1       “(c) ALLOCATION.—Not later than 120 days after  
2 the date of enactment of this section, on October 1, 2004,  
3 and on October 1 of each fiscal year thereafter, the Sec-  
4 retary shall allocate to each State for which the base fund-  
5 ing allocated for motorcyclist safety training and motorist  
6 awareness programs was not less than the amount allo-  
7 cated for the previous year, not less than \$100,000, to  
8 be used only for motorcyclist safety training and motorist  
9 awareness programs, including—

10           “(1) improvements to motorcyclist safety train-  
11 ing curricula;

12           “(2) improvements in program delivery to both  
13 urban and rural areas, including—

14                   “(A) procurement or repair of practice mo-  
15 torcycles;

16                   “(B) instructional aides; and

17                   “(C) mobile training units;

18           “(3) an increase in the recruitment or retention  
19 of motorcyclist safety training instructors certified  
20 by a State Motorcycle Safety Administrator or mo-  
21 torcycle advisory council appointed by the Governor;  
22 and

23           “(4) public awareness, public service announce-  
24 ments, and other outreach programs to enhance mo-  
25 torist awareness.



1 **“§ 30128. Vehicle rollover prevention and crash miti-**  
2 **gation**

3 (a) IN GENERAL.—The Secretary shall initiate rule-  
4 making proceedings, for the purpose of establishing rules  
5 or standards that will reduce vehicle rollover crashes and  
6 mitigate deaths and injuries associated with such crashes  
7 for motor vehicles with a gross vehicle weight rating of  
8 not more than 10,000 pounds.

9 “(b) ROLLOVER PREVENTION.—One of the rule-  
10 making proceedings initiated under subsection (a) shall be  
11 to establish performance criteria to reduce the occurrence  
12 of rollovers consistent with stability enhancing tech-  
13 nologies. The Secretary shall issue a proposed rule in this  
14 proceeding by rule by October 1, 2006, and a final rule  
15 by April 1, 2009.

16 “(c) OCCUPANT EJECTION PREVENTION.—

17 “(1) IN GENERAL.—The Secretary shall also  
18 initiate a rulemaking proceeding to establish perform-  
19 ance standards to reduce complete and partial ejec-  
20 tions of vehicle occupants from outboard seating po-  
21 sitions. In formulating the standards the Secretary  
22 shall consider various ejection mitigation systems.  
23 The Secretary shall issue a final rule under this  
24 paragraph no later than October 1, 2009.

25 “(2) DOOR LOCKS AND DOOR RETENTION.—

26 The Secretary shall complete the rulemaking pro-

1 ceeding initiated to upgrade Federal Motor Vehicle  
2 Safety Standard No. 206, relating to door locks and  
3 door retention, no later than 30 months after the  
4 date of enactment of this Act.

5 “(d) PROTECTION OF OCCUPANTS.—One of the rule-  
6 making proceedings initiated under subsection (a) shall be  
7 to establish performance criteria to upgrade Federal  
8 Motor Vehicle Safety Standard No. 216 relating to roof  
9 strength for driver and passenger sides. The Secretary  
10 may consider industry and independent dynamic tests that  
11 realistically duplicate the actual forces transmitted during  
12 a rollover crash. The Secretary shall issue a proposed rule  
13 by December 31, 2005, and a final rule by July 1, 2008.

14 “(e) DEADLINES.—If the Secretary determines that  
15 the deadline for a final rule under this section cannot be  
16 met, the Secretary shall—

17 “(1) notify the Senate Committee on Com-  
18 merce, Science, and Transportation and the House  
19 of Representatives Committee on Energy and Com-  
20 merce and explain why that deadline cannot be met;  
21 and

22 “(2) establish a new deadline.”.

23 **SEC. 252. SIDE-IMPACT CRASH PROTECTION RULEMAKING.**

24 The Secretary of Transportation shall complete a  
25 rulemaking proceeding under chapter 301 of title 49,

1 United States Code, to establish a standard designed to  
2 enhance passenger motor vehicle occupant protection, in  
3 all seating positions, in side impact crashes. The Secretary  
4 shall issue a final rule by July 1, 2008.

5 **SEC. 253. TIRE RESEARCH.**

6 Within 2 years after the date of enactment of this  
7 Act, the Secretary shall transmit a report to the Senate  
8 Committee on Commerce, Science, and Transportation  
9 and the House of Representatives Committee on Energy  
10 and Commerce on research conducted to address tire  
11 aging. The report shall include a summary of any Federal  
12 agency findings, activities, conclusions, and recommenda-  
13 tions concerning tire aging and recommendations for po-  
14 tential rulemaking regarding tire aging.

15 (b) CONFORMING AMENDMENT.—The chapter anal-  
16 ysis for chapter 301 is amended by inserting after the item  
17 relating to section 30127 the following:

“30128. Vehicle accident ejection protection.”.

18 **SEC. 254. VEHICLE BACKOVER AVOIDANCE TECHNOLOGY**  
19 **STUDY.**

20 (a) IN GENERAL.—The Administrator of the Na-  
21 tional Highway Traffic Safety Administration shall con-  
22 duct a study of effective methods for reducing the inci-  
23 dence of injury and death outside of parked passenger  
24 motor vehicles with a gross vehicle weight rating of not  
25 more than 10,000 pounds attributable to movement of

1 such vehicles. The Administrator shall complete the study  
2 within 1 year after the date of enactment of this Act and  
3 report its findings to the Senate Committee on Commerce,  
4 Science, and Transportation and the House of Represent-  
5 atives Committee on Energy and Commerce not later than  
6 15 months after the date of enactment of this Act.

7 (b) SPECIFIC ISSUES TO BE COVERED.—The study  
8 required by subsection (a) shall—

9 (1) include an analysis of backover prevention  
10 technology;

11 (2) identify, evaluate, and compare the available  
12 technologies for detecting people or objects behind a  
13 motor vehicle with a gross vehicle weight rating of  
14 not more than 10,000 pounds for their accuracy, ef-  
15 fectiveness, cost, and feasibility for installation; and

16 (3) provide an estimate of cost savings that  
17 would result from widespread use of backover pre-  
18 vention devices and technologies in motor vehicles  
19 with a gross vehicle weight rating of not more than  
20 10,000 pounds, including savings attributable to the  
21 prevention of—

22 (A) injuries and fatalities; and

23 (B) damage to bumpers and other motor  
24 vehicle parts and damage to other objects.

1 **SEC. 255. NONTRAFFIC INCIDENT DATA COLLECTION.**

2 (a) IN GENERAL.—In conjunction with the study re-  
3 quired in section 254, the National Highway Traffic Safe-  
4 ty Administration shall establish a method to collect and  
5 maintain data on the number and types of injuries and  
6 deaths involving motor vehicles with a gross vehicle weight  
7 rating of not more than 10,000 pounds in non-traffic inci-  
8 dents.

9 (b) DATA COLLECTION AND PUBLICATION.—The  
10 Secretary of Transportation shall publish the data col-  
11 lected under subsection (a) no less frequently than bienni-  
12 ally.

13 **SEC. 256. SAFETY BELT USE REMINDERS.**

14 (a) BUZZER LAW.—

15 (1) IN GENERAL.—Section 30124 is amended—

16 (A) by striking “not” the first place it ap-  
17 pears; and

18 (B) by striking “except” and inserting “in-  
19 cluding”.

20 (2) CONFORMING AMENDMENT.—Section 30122  
21 is amended by striking subsection (d).

22 (b) STUDY OF SAFETY BELT USE TECHNOLOGIES.—

23 The Secretary of Transportation shall conduct a review  
24 of safety belt use technologies to evaluate progress and  
25 to consider possible revisions in strategies for achieving

1 further gains in safety belt use. The Secretary shall com-  
2 plete the study by July 1, 2008.

3 **SEC. 257. AMENDMENT OF AUTOMOBILE INFORMATION**  
4 **DISCLOSURE ACT.**

5 (a) SAFETY LABELING REQUIREMENT.—Section 3 of  
6 the Automobile Information Disclosure Act (15 U.S.C.  
7 1232) is amended—

8 (1) by striking “and” after the semicolon in  
9 subsection (e);

10 (2) by inserting “and” after the semicolon in  
11 subsection (f)(3);

12 (3) by striking “(3).” in subsection (f)(4) and  
13 inserting “(3);” and

14 (4) by adding at the end the following:

15 “(g) if 1 or more safety ratings for such automobile  
16 have been assigned and formally published or released by  
17 the National Highway Traffic Safety Administration  
18 under the New Car Assessment Program, information  
19 about safety ratings that—

20 “(1) includes a graphic depiction of the number  
21 of stars, or other applicable rating, that corresponds  
22 to each such assigned safety rating displayed in a  
23 clearly differentiated fashion indicating the max-  
24 imum possible safety rating;

1           “(2) refers to frontal impact crash tests, side  
2           impact crash tests, and rollover resistance tests  
3           (whether or not such automobile has been assigned  
4           a safety rating for such tests);

5           “(3) contains information describing the nature  
6           and meaning of the crash test data presented and a  
7           reference to additional vehicle safety resources, in-  
8           cluding <http://www.safercar.gov>; and

9           “(4) is presented in a legible, visible, and  
10          prominent fashion and covers at least—

11           “(A) 8 percent of the total area of the  
12          label; or

13           “(B) an area with a minimum length of 4  
14          ½ inches and a minimum height of 3 ½ inches;  
15          and

16          “(h) if an automobile has not been tested by the Na-  
17          tional Highway Traffic Safety Administration under the  
18          New Car Assessment Program, or safety ratings for such  
19          automobile have not been assigned in one or more rating  
20          categories, a statement to that effect.”.

21          (b) REGULATIONS.—Not later than January 1, 2006,  
22          the Secretary of Transportation shall issue regulations to  
23          implement the labeling requirements under subsections (g)  
24          and (h) of section 3 of the Automobile Information Dislo-  
25          sure Act, as added by subsection (a).

1 (c) APPLICABILITY.—The labeling requirements  
2 under subsections (g) and (h) of section 3 of such Act  
3 (as added by subsection (a)), and the regulations pre-  
4 scribed under subsection (b), shall apply to new auto-  
5 mobiles delivered on or after—

6 (1) September 1, 2006, if the regulations under  
7 subsection (b) are prescribed not later than August  
8 31, 2005; or

9 (2) September 1, 2007, if the regulations under  
10 subsection (b) are prescribed after August 31, 2005.

11 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
12 are authorized to be appropriated to the Secretary of  
13 Transportation, to accelerate the testing processes and in-  
14 creasing the number of vehicles tested under the New Car  
15 Assessment Program of the National Highway Traffic  
16 Safety Administration—

17 (1) \$15,000,000 for fiscal year 2006;

18 (2) \$8,134,065 for fiscal year 2007;

19 (3) \$8,418,760 for fiscal year 2008;

20 (4) \$8,713,410 for fiscal year 2009; and

21 (5) \$9,018,385 for fiscal year 2010.

22 **SEC. 258. POWER WINDOW SWITCHES.**

23 The Secretary of Transportation shall upgrade Fed-  
24 eral Motor Vehicle Safety Standard 118 to require that  
25 power windows in motor vehicles not in excess of 10,000

1 pounds have switches that raise the window only when the  
2 switch is pulled up or out. The Secretary shall issue a final  
3 rule implementing this section by April 1, 2007.

4 **SEC. 259. 15-PASSENGER VAN SAFETY.**

5 (a) TESTING.—

6 (1) IN GENERAL.—The Secretary of Transpor-  
7 tation shall require the testing of 15-passenger vans  
8 at various load condition levels as part of the roll-  
9 over resistance program of the National Highway  
10 Traffic Safety Administration’s new car assessment  
11 program.

12 (2) 15-PASSENGER VAN DEFINED.—In this sub-  
13 section, the term “15-passenger van” means a van  
14 designed or used to carry 15 passengers, including  
15 the driver.

16 (b) PROHIBITION OF PURCHASE, RENTAL, OR LEASE  
17 OF NONCOMPLYING 15-PASSENGER VANS FOR SCHOOL  
18 USE.—Section 30112(a) is amended—

19 (1) by inserting “(1)” before “Except as pro-  
20 vided”; and

21 (2) by adding at the end the following:

22 “(2) Except as provided in this section, sections  
23 30113 and 30114 of this title, and subchapter III of this  
24 chapter, a school or school system may not purchase, rent,  
25 or lease a motor vehicle designed or used to transport 15

1 passengers, including the driver, if that motor vehicle will  
2 be used significantly by, or on behalf of, the school or  
3 school system to transport preprimary, primary, or sec-  
4 ondary school students to or from school or an event re-  
5 lated to school, unless the motor vehicle complies with the  
6 motor vehicle standards prescribed for school buses and  
7 multifunction school activity buses under this title. This  
8 paragraph does not apply to the purchase, rental, or lease  
9 of a motor vehicle under a contract executed before the  
10 date of enactment of the Surface Transportation Safety  
11 Improvement Act of 2005.”.

12 **SEC. 260. AUTHORIZATION OF APPROPRIATIONS.**

13 There are authorized to be appropriated to the Sec-  
14 retary of Transportation to carry out this subtitle and  
15 chapter 301 of title 49, United States Code—

- 16 (1) \$136,000,000 for fiscal year 2006;  
17 (2) \$142,800,000 for fiscal year 2007;  
18 (3) \$149,900,000 for fiscal year 2008; and  
19 (4) \$157,400,000 for fiscal year 2009.

20 **TITLE III—HAZARDOUS**  
21 **MATERIALS**

22 **SEC. 301. SHORT TITLE.**

23 This title may be cited as the “Hazardous Material  
24 Transportation Safety and Security Reauthorization Act  
25 of 2005”.

1 **Subtitle A—General Authorities on**  
2 **Transportation of Hazardous**  
3 **Materials**

4 **SEC. 321. PURPOSE.**

5 The text of section 5101 is amended to read as fol-  
6 lows:

7 “The purpose of this chapter is to protect against the  
8 risks to life, property, and the environment that are inher-  
9 ent in the transportation of hazardous material in intra-  
10 state, interstate, and foreign commerce.”.

11 **SEC. 322. DEFINITIONS.**

12 Section 5102 is amended as follows:

13 (1) **COMMERCE.**—Paragraph (1) is amended—

14 (A) by striking “or” after the semicolon in  
15 subparagraph (A);

16 (B) by striking the “State.” in subpara-  
17 graph (B) and inserting “State; or”; and

18 (C) by adding at the end the following:

19 “(C) on a United States-registered air-  
20 craft.”.

21 (2) **HAZMAT EMPLOYEE.**—Paragraph (3) is  
22 amended—

23 (A) by inserting “on a fulltime, part time,  
24 or temporary basis” after “employed” in sub-  
25 paragraph (A)(i);

1 (B) by striking “and” after the semicolon  
2 in subparagraph (A)(i);

3 (C) by redesignating clause (ii) of subpara-  
4 graph (A) as clause (iii) and inserting after  
5 clause (i) the following:

6 “(ii) is self-employed (including an  
7 owner-operator of a motor vehicle, vessel,  
8 or aircraft) transporting hazardous mate-  
9 rial in commerce; and”;

10 (C) by inserting “such full time, part time,  
11 or temporary” in clause (iii) of subparagraph  
12 (A), as redesignated, after “course of”;

13 (D) by inserting “and” after the semicolon  
14 in clause (iii) as redesignated;

15 (E) by striking subparagraph (B) and re-  
16 designating subparagraph (C) as subparagraph  
17 (B);

18 (F) by inserting “on a full time, part time,  
19 or temporary basis” after “employed” in sub-  
20 paragraph (B), as redesignated; and

21 (G) by striking clause (ii) of subparagraph  
22 (B), as redesignated, and inserting the fol-  
23 lowing:

24 “(ii) designs, manufactures, fab-  
25 ricates, inspects, marks, maintains, recon-

1           ditions, repairs, or tests a package, con-  
2           tainer, or packaging component that is  
3           represented, marked, certified, or sold by  
4           that person as qualified for use in trans-  
5           porting hazardous material in commerce;”.

6           (3) HAZMAT EMPLOYER.—Paragraph (4) is  
7           amended to read as follows:

8           “(4) ‘hazmat employer’ means a person—

9           “(A) who—

10           “(i) employs or uses at least 1 hazmat  
11           employee on a full time, part time, or tem-  
12           porary basis, or

13           “(ii) is self-employed (including an  
14           owner-operator of a motor vehicle, vessel,  
15           or aircraft) transporting hazardous mate-  
16           rial in commerce, and

17           “(B) who—

18           “(i) transports hazardous material in  
19           commerce,

20           “(ii) causes hazardous material to be  
21           transported in commerce, or

22           “(iii) designs, manufactures, fab-  
23           ricates, inspects, marks, maintains, recon-  
24           ditions, repairs, or tests a package, con-  
25           tainer, or packaging component that is

1 represented, marked, certified, or sold by  
2 that person as qualified for use in trans-  
3 porting hazardous material in commerce,  
4 and

5 includes a department, agency, or instrumen-  
6 tality of the United States Government, or an  
7 authority of a State, political subdivision of a  
8 State, or Indian tribe, carrying out an activity  
9 described in subparagraph (B).”.

10 (4) IMMINENT HAZARD.—Paragraph (5) is  
11 amended by inserting “relating to hazardous mate-  
12 rial” after “of a condition”.

13 (5) MOTOR CARRIER.—Paragraph (7) is amend-  
14 ed to read as follows:

15 “(7) ‘motor carrier’—

16 “(A) means a motor carrier, motor private  
17 carrier, and freight forwarder as those terms  
18 are defined in section 13102 of this title; but

19 “(B) does not include a freight forwarder,  
20 as so defined, if the freight forwarder is not  
21 performing a function relating to highway  
22 transportation.”.

23 (6) NATIONAL RESPONSE TEAM.—Paragraph  
24 (8) is amended by striking “ ‘national response  
25 team’ means the national response team established

1 under the national contingency plan” and inserting  
2 “ ‘National Response Team’ means the National  
3 Response Team established under the National Con-  
4 tingency Plan”.

5 (7) PERSON.—Paragraph (9)(A) is amended by  
6 striking “offering” and all that follows and inserting  
7 “that—

8 “(i) offers hazardous material for  
9 transportation in commerce;

10 “(ii) transports hazardous material to  
11 further a commercial enterprise; or

12 “(iii) designs, manufactures, fab-  
13 ricates, inspects, marks, maintains, recon-  
14 ditions, repairs, or tests a package, con-  
15 tainer, or packaging component that is  
16 represented, marked, certified, or sold by  
17 that person as qualified for use in trans-  
18 porting hazardous material in commerce;  
19 but”.

20 (8) SECRETARY OF TRANSPORTATION.—Section  
21 5101 is further amended—

22 (A) by redesignating paragraphs (11),  
23 (12), and (13), as paragraphs (12), (13), and  
24 (14), respectively; and

1 (B) by inserting after paragraph (10) the  
2 following:

3 “(11) ‘Secretary’ means the Secretary of Trans-  
4 portation except as otherwise provided.”.

5 **SEC. 323. GENERAL REGULATORY AUTHORITY.**

6 (a) REFERENCE TO SECRETARY OF TRANSPOR-  
7 TATION.—Section 5103(a) is amended by striking “of  
8 Transportation”.

9 (b) DESIGNATING MATERIAL AS HAZARDOUS.—Sec-  
10 tion 5103(a) is further amended—

11 (1) by striking “etiologic agent” and all that  
12 follows through “corrosive material,” and inserting  
13 “infectious substance, flammable or combustible liq-  
14 uid, solid, or gas, toxic, oxidizing, or corrosive mate-  
15 rial,”; and

16 (2) by striking “decides” and inserting “deter-  
17 mines”.

18 (c) REGULATIONS FOR SAFE TRANSPORTATION.—  
19 Section 5103(b)(1)(A) is amended to read as follows:

20 “(A) apply to a person who—

21 “(i) transports hazardous material in  
22 commerce;

23 “(ii) causes hazardous material to be  
24 transported in commerce;

1           “(iii) designs, manufactures, fab-  
2           ricates, inspects, marks, maintains, recon-  
3           ditions, repairs, or tests a package, con-  
4           tainer, or packaging component that is  
5           represented, marked, certified, or sold by  
6           that person as qualified for use in trans-  
7           porting hazardous material in commerce;

8           “(iv) prepares or accepts hazardous  
9           material for transportation in commerce;

10           “(v) is responsible for the safety of  
11           transporting hazardous material in com-  
12           merce;

13           “(vi) certifies compliance with any re-  
14           quirement under this chapter; or

15           “(vii) misrepresents whether such per-  
16           son is engaged in any activity under clause  
17           (i) through (vi) of this subparagraph;  
18           and”.

19           (d) TECHNICAL AMENDMENT REGARDING CON-  
20           SULTATION.—Section 5103 is amended—

21           (1) by striking subsection (b)(1)(C); and

22           (2) by adding at the end the following:

23           “(c) CONSULTATION.—When prescribing a security  
24           regulation or issuing a security order that affects the safe-  
25           ty of the transportation of hazardous material, the Sec-

1 retary of Homeland Security shall consult with the Sec-  
2 retary of Transportation.”.

3 **SEC. 324. LIMITATION ON ISSUANCE OF HAZMAT LICENSES.**

4 (a) REFERENCE TO SECRETARY OF TRANSPOR-  
5 TATION.—Section 5103a is amended by striking “of  
6 Transportation” each place it appears in subsections  
7 (a)(1), (c)(1)(B), and (d) and inserting “of Homeland Se-  
8 curity”.

9 (b) COVERED HAZARDOUS MATERIALS.—Section  
10 5103a(b) is amended by striking “with respect to—” and  
11 all that follows and inserting “with respect to any material  
12 defined as hazardous material by the Secretary for which  
13 the Secretary requires placarding of a commercial motor  
14 vehicle transporting that material in commerce.”.

15 (c) RECOMMENDATIONS ON CHEMICAL OR BIOLOGI-  
16 CAL MATERIALS.—Section 5103a is further amended—

17 (1) by redesignating subsections (c), (d), and  
18 (e) as subsections (d), (e), and (f), respectively; and

19 (2) by inserting after subsection (b) the fol-  
20 lowing:

21 “(c) RECOMMENDATIONS ON CHEMICAL AND BIO-  
22 LOGICAL MATERIALS.—The Secretary of Health and  
23 Human Services shall recommend to the Secretary any  
24 chemical or biological material or agent for regulation as  
25 a hazardous material under section 5103(a) of this title

1 if the Secretary of Health and Human Services determines  
2 that such material or agent is a threat to the national  
3 security of the United States.”.

4 (d) CONFORMING AMENDMENT.—Section  
5 5103a(a)(1) is amended by striking “subsection  
6 (c)(1)(B),” and inserting “subsection (d)(1)(B),”.

7 **SEC. 325. BACKGROUND CHECKS FOR DRIVERS HAULING**  
8 **HAZARDOUS MATERIALS.**

9 (a) FOREIGN DRIVERS.—

10 (1) IN GENERAL.—No commercial motor vehicle  
11 operator registered to operate in Mexico or Canada  
12 may operate a commercial motor vehicle trans-  
13 porting a hazardous material in commerce in the  
14 United States until the operator has undergone a  
15 background records check similar to the background  
16 records check required for commercial motor vehicle  
17 operators licensed in the United States to transport  
18 hazardous materials in commerce.

19 (2) DEFINITIONS.—In this subsection:

20 (A) HAZARDOUS MATERIALS.—The term  
21 “hazardous material” has the meaning given  
22 that term in section 5102(2) of title 49, United  
23 States Code.

24 (B) COMMERCIAL MOTOR VEHICLE.—The  
25 term “commercial motor vehicle” has the mean-

1           ing given that term by section 31101 of title  
2           49, United States Code.

3           (b) OTHER DRIVERS.—

4           (1) EMPLOYER NOTIFICATION.—Within 90 days  
5           after the date of enactment of this Act, the Assist-  
6           ant Secretary of Homeland Security for Transpor-  
7           tation Security shall develop and implement a proc-  
8           ess for the notification of a hazmat employer (as de-  
9           fined in section 5102(4) of title 49, United States  
10          Code), if appropriate considering the potential secu-  
11          rity implications, designated by an applicant seeking  
12          a threat assessment under part 1572 of title 49,  
13          Code of Federal Regulations, if the Transportation  
14          Security Administration, in an initial notification of  
15          threat assessment or a final notification of threat as-  
16          sessment, served on the applicant determines that  
17          the applicant does not meet the standards set forth  
18          in section 1572.5(d) of title 49, Code of Federal  
19          Regulations.

20          (2) RELATIONSHIP TO OTHER BACKGROUND  
21          RECORDS CHECKS.—

22                (A) ELIMINATION OF REDUNDANT  
23                CHECKS.—An individual with respect to whom  
24                the Transportation Security Administration—

1 (i) has performed a security threat as-  
2 sessment under part 1572 of title 49, Code  
3 of Federal Regulations, and

4 (ii) has issued a notification of no se-  
5 curity threat under section 1572.5(g) of  
6 that title,

7 is deemed to have met the requirements of any  
8 other background check that is equivalent to, or  
9 less stringent than, the background check per-  
10 formed under section 5103a of title 49, United  
11 States Code, that is required for purposes of  
12 any Federal law applicable to transportation  
13 workers.

14 (B) DETERMINATION BY ASSISTANT SEC-  
15 RETARY.—Within 30 days after the date of en-  
16 actment of this Act, the Assistant Secretary of  
17 Homeland Security (Transportation Security  
18 Administration), after notice and opportunity  
19 for comment, shall initiate a rulemaking pro-  
20 ceeding that sets forth the background checks  
21 and other similar security or threat assessment  
22 requirements applicable to transportation work-  
23 ers under Federal law to which subparagraph  
24 (A) applies.

1           (c) APPEALS PROCESS FOR MORE STRINGENT STATE  
2 PROCEDURES.—

3           (1) IN GENERAL.—If a State establishes stand-  
4 ards for applicants for a hazardous materials en-  
5 dorsement to a commercial driver’s license that, as  
6 determined by the Secretary of Homeland Security,  
7 are more stringent than the standards set forth in  
8 section 1572.5(d) of title 49, Code of Federal Regu-  
9 lations, then any such applicant who is denied a haz-  
10 ardous materials endorsement to a commercial driv-  
11 er’s license by that State may appeal that denial  
12 under section 1572.141 of title 49, Code of Federal  
13 Regulations, in the same manner and to the same  
14 extent as if the applicant were an individual who re-  
15 ceived an initial notification of threat assessment  
16 under part 1572 of that title. The Secretary of  
17 Homeland Security shall notify the State of the Sec-  
18 retary’s determination with respect to the appeal  
19 within 2 business days after making a final deter-  
20 mination.

21           (2) EFFECT OF DETERMINATION.—If the Sec-  
22 retary determines, in an appeal filed under subpara-  
23 graph (A), that—

1 (A) an applicant was wrongfully denied a  
2 hazardous materials endorsement to a commer-  
3 cial driver's license by a State, or

4 (B) any of the more stringent standards  
5 applied by the State that caused the license to  
6 be denied is unnecessary, unreasonably dis-  
7 criminatory, or inappropriate,

8 then the State shall issue a hazardous materials en-  
9 dorsement to a commercial driver's license to the ap-  
10 plicant within 30 days after the date on which the  
11 Secretary notifies the State of the Secretary's deter-  
12 mination.

13 (d) CLARIFICATION OF TERM DEFINED IN REGULA-  
14 TIONS.—The term “severe transportation security inci-  
15 dent”, as defined in section 1572.3 of title 49, Code of  
16 Federal Regulations, does not include a work stoppage or  
17 other nonviolent employee-related action resulting from an  
18 employer-employee dispute. Within 30 days after the date  
19 of enactment of this Act, the Secretary of Homeland Secu-  
20 rity shall modify the definition of that term to reflect the  
21 preceding sentence.

22 (e) BACKGROUND CHECK CAPACITY.—The Assistant  
23 Secretary of Homeland Security (Transportation Security  
24 Administration) shall transmit a report by October 1,  
25 2005, to the Senate Committee on Commerce, Science,

1 and Transportation and the House of Representatives  
2 Committee on Homeland Security on the implementation  
3 of fingerprint-based security threat assessments and the  
4 adequacy of fingerprinting locations, personnel, and re-  
5 sources to accomplish the timely processing of fingerprint-  
6 based security threat assessments for individuals holding  
7 commercial driver’s licenses who are applying to renew  
8 hazardous materials endorsements.

9 **SEC. 326. REPRESENTATION AND TAMPERING.**

10 (a) REPRESENTATION.—Section 5104(a) is amend-  
11 ed—

12 (1) by striking “a container,” and all that fol-  
13 lows through “packaging) for” and inserting “a  
14 package, component of a package, or packaging  
15 for”; and

16 (2) by striking “the container” and all that fol-  
17 lows through “packaging) meets” and inserting “the  
18 package, component of a package, or packaging  
19 meets”.

20 (b) TAMPERING.—Section 5104(b) is amended—

21 (1) by striking “A person may not” and insert-  
22 ing “No person may”; and

23 (2) by inserting “component of a package, or  
24 packaging,” after “package,” in paragraph (2).

1 **SEC. 327. TRANSPORTING CERTAIN MATERIAL.**

2 Section 5105 is amended by striking subsection (d)  
3 and redesignating subsection (e) as subsection (d).

4 **SEC. 328. HAZMAT EMPLOYEE TRAINING REQUIREMENTS**  
5 **AND GRANTS.**

6 (a) REFERENCE TO SECRETARY OF TRANSPOR-  
7 TATION.—Section 5107 is amended by striking “of Trans-  
8 portation” each place it appears in subsections (a), (b),  
9 (c) (other than in paragraph (1)), (d), and (f).

10 (b) TRAINING GRANTS.—Section 5107(e) is amend-  
11 ed—

12 (1) by striking “section 5127(c)(3),” and in-  
13 serting “section 5128(b)(1) of this title,”; and

14 (2) by inserting “and, to the extent determined  
15 appropriate by the Secretary, grants for such in-  
16 structors to train hazmat employees” after “employ-  
17 ees” in the first sentence thereof.

18 **SEC. 329. REGISTRATION.**

19 (a) REFERENCE TO SECRETARY OF TRANSPOR-  
20 TATION.—Section 5108 is amended by striking “of Trans-  
21 portation” each place it appears in subsections (a), (b)  
22 (other than following “Department”), (d), (e), (f), (g), (h),  
23 and (i).

24 (b) PERSONS REQUIRED TO FILE.—

25 (1) REQUIREMENT TO FILE.—Section  
26 5108(a)(1)(B) is amended by striking “class A or B

1 explosive” and inserting “Division 1.1, 1.2, or 1.3  
2 explosive material”.

3 (2) AUTHORITY TO REQUIRE TO FILE.—Section  
4 5108(a)(2)(B) is amended to read as follows:

5 “(B) a person designing, manufacturing, fabri-  
6 cating, inspecting, marking, maintaining, recondi-  
7 tioning, repairing, or testing a package, container, or  
8 packaging component that is represented, marked,  
9 certified, or sold by that person as qualified for use  
10 in transporting hazardous material in commerce.”.

11 (3) NO TRANSPORTATION WITHOUT FILING.—  
12 Section 5108(a)(3) is amended by striking “fab-  
13 ricate,” and all that follows through “package or”  
14 and inserting “design, manufacture, fabricate, in-  
15 spect, mark, maintain, recondition, repair, or test a  
16 package, container packaging component, or”.

17 (c) FORM AND CONTENT OF FILINGS.—Section  
18 5108(b)(1)(C) by striking “the activity.” and inserting  
19 “any of the activities.”.

20 (d) FILING.—Section 5108(c) is amended to read as  
21 follows:

22 “(c) FILING.—Each person required to file a reg-  
23 istration statement under subsection (a) of this section  
24 shall file the statement in accordance with regulations pre-  
25 scribed by the Secretary.”.

1 (e) FEES.—Section 5108(g)(1) is amended by strik-  
2 ing “may establish,” and inserting “shall establish,”.

3 (f) RELATIONSHIP TO OTHER LAWS.—Section  
4 5108(i)(2)(B) is amended by inserting “an Indian tribe,”  
5 after “subdivision of a State,”.

6 (g) REGISTRATION AND ANNUAL FEES.—

7 (1) REDUCTION IN CAP.—Section  
8 5108(g)(2)(A) is amended by striking “\$5,000” and  
9 inserting “\$3,000”.

10 (2) RULEMAKING.—Any rule, regulation, or  
11 order issued by the Secretary of Transportation  
12 under which the assessment, payment, or collection  
13 of fees under section 5108(g) of title 49, United  
14 States Code, was suspended or terminated before the  
15 date of enactment of this Act is declared null and  
16 void effective 30 days after such date of enactment.  
17 Beginning on the 31st day after such date of enact-  
18 ment, the fee schedule established by the Secretary  
19 and set forth at 65 Federal Register 7297 (as modi-  
20 fied by the rule set forth at 67 Federal Register  
21 58343) shall take effect and apply until such time  
22 as it may be modified by a rulemaking proceeding.

23 (3) PLANNING AND TRAINING GRANTS.—Not-  
24 withstanding any other provision of law to the con-  
25 trary, including any limitation on the amount of

1 grants authorized by section 5116 of title 49, United  
2 States Code, not contained in that section, the Sec-  
3 retary shall make grants under that section from the  
4 account established under section 5116(i) to reduce  
5 the balance in that account over the 4 fiscal year pe-  
6 riod beginning with fiscal year 2006, but in no fiscal  
7 year shall the grants distributed exceed the level au-  
8 thorized by section 5116 of title 49, United States  
9 Code.

10 **SEC. 330. SHIPPING PAPERS AND DISCLOSURE.**

11 (a) REFERENCE TO SECRETARY OF TRANSPOR-  
12 TATION.—Section 5110(a) is amended by striking “of  
13 Transportation”.

14 (b) DISCLOSURE CONSIDERATIONS AND REQUIRE-  
15 MENTS.—Section 5110 is amended—

16 (1) by striking “under subsection (b) of this  
17 section.” in subsection (a) and inserting “in regula-  
18 tions.”;

19 (2) by striking subsection (b); and

20 (3) by redesignating subsections (c), (d), and  
21 (e) as subsections (b), (c), and (d), respectively.

22 (c) RETENTION OF PAPERS.—Subsection (d) of sec-  
23 tion 5110, as redesignated by subsection (b)(3) of this sec-  
24 tion, is amended to read as follows:

25 “(d) RETENTION OF PAPERS.—

1           “(1) SHIPPERS.—The person who provides the  
2 shipping paper under this section shall retain the  
3 paper, or an electronic format of it, for a period of  
4 3 years after the date that the shipping paper is  
5 provided to the carrier, with the paper or electronic  
6 format to be accessible through the shipper’s prin-  
7 cipal place of business.

8           “(2) CARRIERS.—The carrier required to keep  
9 the shipping paper under this section, shall retain  
10 the paper, or an electronic format of it, for a period  
11 of 1 year after the date that the shipping paper is  
12 provided to the carrier, with the paper or electronic  
13 format to be accessible through the carrier’s prin-  
14 cipal place of business.

15           “(3) AVAILABILITY TO GOVERNMENT AGEN-  
16 CIES.—Any person required to keep a shipping  
17 paper under this subsection shall, upon request,  
18 make it available to a Federal, State, or local gov-  
19 ernment agency at reasonable times and locations.”.

20 **SEC. 331. RAIL TANK CARS.**

21           (a) REPEAL OF REQUIREMENTS.—Section 5111 is  
22 repealed.

23           (b) CLERICAL AMENDMENT.—The chapter analysis  
24 for chapter 51 is amended by striking the item relating  
25 to section 5111.

1 **SEC. 332. UNSATISFACTORY SAFETY RATINGS.**

2 (a) IN GENERAL.—The text of section 5113 is  
3 amended to read as follows:

4 “A violation of section 31144(c)(3) of this title shall  
5 be considered a violation of this chapter, and shall be sub-  
6 ject to the penalties in sections 5123 and 5124 of this  
7 title.”.

8 (b) CONFORMING AMENDMENTS.—The first sub-  
9 section (c) of section 31144 is amended—

10 (1) by striking “sections 521(b)(5)(A) and  
11 5113” in paragraph (1) and inserting “section  
12 521(b)(5)(A) of this title”; and

13 (2) by adding at the end of paragraph (3) “A  
14 violation of this paragraph by an owner or operator  
15 transporting hazardous material shall be considered  
16 a violation of chapter 51 of this title, and shall be  
17 subject to the penalties in sections 5123 and 5124  
18 of this title.”.

19 **SEC. 333. TRAINING CURRICULUM FOR THE PUBLIC SEC-**  
20 **TOR.**

21 (a) IN GENERAL.—Section 5115(a) is amended to  
22 read as follows:

23 “(a) IN GENERAL.—In coordination with the Direc-  
24 tor of the Federal Emergency Management Agency, the  
25 Chairman of the Nuclear Regulatory Commission, the Ad-  
26 ministrator of the Environmental Protection Agency, the

1 Secretaries of Labor, Energy, and Health and Human  
2 Services, and the Director of the National Institute of En-  
3 vironmental Health Sciences, and using existing coordi-  
4 nating mechanisms of the National Response Team and,  
5 for radioactive material, the Federal Radiological Pre-  
6 paredness Coordinating Committee, the Secretary shall  
7 maintain a current curriculum of lists of courses necessary  
8 to train public sector emergency response and prepared-  
9 ness teams in matters relating to the transportation of  
10 hazardous material.”.

11 (b) REQUIREMENTS.—Section 5115(b) is amended—

12 (1) by striking “developed” in the matter pre-  
13 ceding paragraph (1) and inserting “maintained”;  
14 and

15 (2) by striking “under other United States Gov-  
16 ernment grant programs” in paragraph (1)(C) and  
17 all that follows and inserting “with Federal assist-  
18 ance; and”.

19 (c) TRAINING ON COMPLIANCE WITH LEGAL RE-  
20 QUIREMENTS.—Section 5115(c)(3) is amended by striking  
21 “Association.” and inserting “Association or by any other  
22 voluntary organization establishing consensus-based  
23 standards that the Secretary considers appropriate.”.

24 (d) DISTRIBUTION AND PUBLICATION.—Section  
25 5115(d) is amended—

1           (1) by striking “national response team—” and  
2           inserting “National Response Team—”; and

3           (2) by striking “publish a list” in paragraph (2)  
4           and all that follows and inserting “publish and dis-  
5           tribute the list of courses maintained under this sec-  
6           tion, and of any programs utilizing such courses.”.

7   **SEC. 334. PLANNING AND TRAINING GRANTS; EMERGENCY**  
8                                   **PREPAREDNESS FUND.**

9           (a) **REFERENCE TO SECRETARY OF TRANSPOR-**  
10          **TATION.**—Section 5116 is amended by striking “of Trans-  
11          portation” each place it appears in subsections (a), (b),  
12          (c), (d), (g), and (i).

13          (b) **GOVERNMENT SHARE OF COSTS.**—Section  
14          5116(e) is amended by striking the second sentence.

15          (c) **MONITORING AND TECHNICAL ASSISTANCE.**—  
16          Section 5116(f) is amended by striking “national response  
17          team” and inserting “National Response Team”.

18          (d) **DELEGATION OF AUTHORITY.**—Section 5116(g)  
19          is amended by striking “Government grant programs” and  
20          inserting “Federal financial assistance programs”.

21          (e) **EMERGENCY PREPAREDNESS FUND.**—

22                 (1) **NAME OF FUND.**—Section 5116(i) is  
23                 amended by inserting after “an account” the fol-  
24                 lowing: “(to be known as the ‘Emergency Prepared-  
25                 ness Fund’)”.

1           (2) PUBLICATION OF EMERGENCY RESPONSE  
2 GUIDE.—Section 5116(i) is further amended—

3           (A) by striking “collects under section  
4 5108(g)(2)(A) of this title and”;

5           (B) by striking “and” after the semicolon  
6 in paragraph (2);

7           (C) by redesignating paragraph (3) as  
8 paragraph (4); and

9           (D) by inserting after paragraph (2) the  
10 following:

11           “(3) to publish and distribute an emergency re-  
12 sponse guide; and”.

13           (3) CONFORMING AMENDMENT.—Section  
14 5108(g)(2)(C) is amended by striking “the account  
15 the Secretary of the Treasury establishes” and in-  
16 sserting “the Emergency Response Fund estab-  
17 lished”.

18           (f) REPORTS.—Section 5116(k) is amended—

19           (1) by striking the first sentence and inserting  
20 “The Secretary shall make available to the public  
21 annually information on the allocation and uses of  
22 the planning grants allocated under subsection (a),  
23 training grants under subsection (b), and grants  
24 under subsection (j) of this section and under sec-  
25 tion 5107 of this title.”; and

1           (2) by striking “Such report” in the second  
2           sentence and inserting “The information”.

3 **SEC. 335. SPECIAL PERMITS AND EXCLUSIONS.**

4           (a) SPECIAL PERMITS AND EXCLUSIONS.—

5           (1) IN GENERAL.—Section 5117(a)(1) is  
6           amended by striking “the Secretary of Transpor-  
7           tation may issue” and all that follows through “in  
8           a way” and inserting “the Secretary may issue,  
9           modify, or terminate a special permit authorizing  
10          variances from this chapter, or a regulation pre-  
11          scribed under section 5103(b), 5104, 5110, or 5112  
12          of this title, to a person performing a function regu-  
13          lated by the Secretary under section 5103(b)(1) of  
14          this title in a way”.

15          (2) DURATION.—Section 5117(a)(2) is amend-  
16          ed to read as follows:

17          “(2) A special permit under this subsection—

18                  “(A) shall be effective when first issued for  
19                  not more than 2 years; and

20                  “(B) may be renewed for successive peri-  
21                  ods of not more than 4 years each.”.

22          (b) REFERENCES TO SPECIAL PERMITS.—Section  
23          5117 is further amended—

24                  (1) by striking “an exemption” each place it ap-  
25                  pears and inserting “a special permit”;

1           (2) by striking “the exemption” each place it  
2 appears and inserting “the special permit”; and

3           (3) by striking “exempt” in subsection (e) and  
4 inserting “granted a variance”.

5           (c) CONFORMING AND CLERICAL AMENDMENTS.—

6           (1) CONFORMING AMENDMENT.—The heading  
7 of section 5117 is amended to read as follows:

8 **“§ 5117. Special permits and exclusions”**

9           (2) CLERICAL AMENDMENT.—The chapter anal-  
10 ysis for chapter 51 is amended by striking the item  
11 relating to section 5117 and inserting the following:

“5117. Special permits and exclusions.”.

12           (3) SUBSECTION HEADING.—The heading for  
13 subsection (a) of section 5117 is amended by strik-  
14 ing “EXEMPT” and inserting “ISSUE SPECIAL PER-  
15 MITS”.

16           (d) REPEAL OF SECTION 5118.—

17           (1) Section 5118 is repealed.

18           (2) The chapter analysis for chapter 51 is  
19 amended by striking the item relating to section  
20 5118 and inserting the following:

“5118. Repealed.”.

21 **SEC. 336. UNIFORM FORMS AND PROCEDURES.**

22           The text of section 5119 is amended to read as fol-  
23 lows:

1       “(a) IN GENERAL.—The Secretary may prescribe  
2 regulations to establish uniform forms and regulations for  
3 States on the following:

4           “(1) To register and issue permits to persons  
5 that transport or cause to be transported hazardous  
6 material by motor vehicles in a State.

7           “(2) To permit the transportation of hazardous  
8 material in a State.

9       “(b) UNIFORMITY IN FORMS AND PROCEDURES.—In  
10 prescribing regulations under subsection (a) of this sec-  
11 tion, the Secretary shall develop procedures to eliminate  
12 discrepancies among the States in carrying out the activi-  
13 ties covered by the regulations.

14       “(c) LIMITATION.—The regulations prescribed under  
15 subsection (a) of this section may not define or limit the  
16 amount of any fees imposed or collected by a State for  
17 any activities covered by the regulations.

18       “(d) EFFECTIVE DATE.—

19           “(1) IN GENERAL.—Except as provided in para-  
20 graph (2) of this subsection, the regulations pre-  
21 scribed under subsection (a) of this section shall  
22 take effect 1 year after the date on which pre-  
23 scribed.



1 duct research, development, demonstration, and  
2 training activities.

3 “(2) Except as provided in subsections (c) and  
4 (d) of this section, the Secretary shall provide notice  
5 and an opportunity for a hearing before issuing an  
6 order directing compliance with this chapter, a regu-  
7 lation prescribed under this chapter, or an order,  
8 special permit, or approval issued under this chap-  
9 ter.

10 “(b) RECORDS, REPORTS, PROPERTY, AND INFORMA-  
11 TION.—A person subject to this chapter shall—

12 “(1) maintain records, make reports, and pro-  
13 vide property and information that the Secretary by  
14 regulation or order requires; and

15 “(2) make the records, reports, property, and  
16 information available for inspection when the Sec-  
17 retary undertakes an inspection or investigation.

18 “(c) INSPECTIONS AND INVESTIGATIONS.—

19 “(1) A designated officer or employee of the  
20 Secretary may—

21 “(A) inspect and investigate, at a reason-  
22 able time and in a reasonable way, records and  
23 property relating to a function described in sec-  
24 tion 5103(b)(1) of this title;

1           “(B) except for packaging immediately ad-  
2           jacent to the hazardous material contents, gain  
3           access to, open, and examine a package offered  
4           for or in transportation when the officer or em-  
5           ployees has an objectively reasonable and  
6           articulable belief that the package may contain  
7           hazardous material;

8           “(C) remove from transportation a pack-  
9           age or related packages in a shipment offered  
10          for or in transportation for which—

11                 “(i) such officer or employee has an  
12                 objectively reasonable and articulable belief  
13                 that the package may pose an imminent  
14                 hazard; and

15                 “(ii) such officer or employee contem-  
16                 poraneously documents such belief in ac-  
17                 cordance with procedures set forth in regu-  
18                 lations prescribed under subsection (e) of  
19                 this section;

20          “(D) gather information from the offeror,  
21          carrier, packaging manufacturer or tester, or  
22          other person responsible for a package or pack-  
23          ages to ascertain the nature and hazards of the  
24          contents of the package or packages;

1           “(E) as necessary under terms and condi-  
2           tions prescribed by the Secretary, order the of-  
3           feror, carrier, or other person responsible for a  
4           package or packages to have the package or  
5           packages transported to an appropriate facility,  
6           opened, examined, and analyzed; and

7           “(F) when safety might otherwise be com-  
8           promised, authorize properly qualified personnel  
9           to assist in activities carried out under this  
10          paragraph.

11          “(2) An officer or employee acting under the  
12          authority of the Secretary under this subsection  
13          shall display proper credentials when requested.

14          “(3) In instances when, as a result of an in-  
15          spection or investigation under this subsection, an  
16          imminent hazards is not found to exist, the Sec-  
17          retary shall, in accordance with procedures set forth  
18          in regulations prescribed under subsection (e) of this  
19          section, assist the safe resumption of transportation  
20          of the package, packages, or transport unit con-  
21          cerned.

22          “(d) EMERGENCY ORDERS.—

23          “(1) If, upon inspection, investigation, testing,  
24          or research, the Secretary determines that a viola-  
25          tion of a provision of this chapter, or a regulation

1 prescribed under this chapter, or an unsafe condition  
2 or practice, constitutes or is causing an imminent  
3 hazard, the Secretary may issue or impose emer-  
4 gency restrictions, prohibitions, recalls, or out-of-  
5 service orders, without notice or an opportunity for  
6 a hearing, but only to the extent necessary to abate  
7 the imminent hazard.

8 “(2) The action of the Secretary under para-  
9 graph (1) of this subsection shall be in a written  
10 emergency order that—

11 “(A) describes the violation, condition, or  
12 practice that constitutes or is causing the immi-  
13 nent hazard;

14 “(B) states the restrictions, prohibitions,  
15 recalls, or out-of-service orders issued or im-  
16 posed; and

17 “(C) describe the standards and proce-  
18 dures for obtaining relief from the order.

19 “(3) After taking action under paragraph (1) of  
20 this subsection, the Secretary shall provide for re-  
21 view of the action under section 554 of title 5 if a  
22 petition for review is filed within 20 calendar days  
23 of the issuance of the order for the action.

24 “(4) If a petition for review of an action is filed  
25 under paragraph (3) of this subsection and the re-

1 view under that paragraph is not completed by the  
2 end of the 30-day period beginning on the date the  
3 petition is filed, the action shall cease to be effective  
4 at the end of such period unless the Secretary deter-  
5 mines, in writing, that the imminent hazard pro-  
6 viding a basis for the action continues to exist.

7 “(5) In this subsection, the term ‘out-of-service  
8 order’ means a requirement that an aircraft, vessel,  
9 motor vehicle, train, railcar, locomotive, other vehi-  
10 cle, transport unit, transport vehicle, freight con-  
11 tainer, potable tank, or other package not be moved  
12 until specified conditions have been met.

13 “(e) REGULATIONS.—The Secretary shall prescribe  
14 in accordance with section 553 of title 5 regulations to  
15 carry out the authority in subsections (c) and (d) of this  
16 section.

17 “(f) FACILITY, STAFF, AND REPORTING SYSTEM ON  
18 RISKS, EMERGENCIES, AND ACTIONS.—

19 “(1) The Secretary shall—

20 “(A) maintain a facility and technical staff  
21 sufficient to provide, within the United States  
22 Government, the capability of evaluating a risk  
23 relating to the transportation of hazardous ma-  
24 terial and material alleged to be hazardous;

1           “(B) maintain a central reporting system  
2           and information center capable of providing in-  
3           formation and advice to law enforcement and  
4           firefighting personnel, and other interested indi-  
5           viduals, and officers and employees of the  
6           United States Government and State and local  
7           governments on meeting an emergency relating  
8           to the transportation of hazardous material;  
9           and

10           “(C) conduct a continuous review on all as-  
11           pects of transporting hazardous material to de-  
12           cide on and take appropriate actions to ensure  
13           safe transportation of hazardous material.

14           “(2) Paragraph (1) of this subsection shall not  
15           prevent the Secretary from making a contract with  
16           a private entity for use of a supplemental reporting  
17           system and information center operated and main-  
18           tained by the contractor.

19           “(g) GRANTS, COOPERATIVE AGREEMENTS, AND  
20           OTHER TRANSACTIONS.—The Secretary may enter into  
21           grants, cooperative agreements, and other transactions  
22           with a person, agency, or instrumentality of the United  
23           States, a unit of State or local government, an Indian  
24           tribe, a foreign government (in coordination with the De-

1 department of State), an educational institution, or other ap-  
2 propriate entity—

3 “(1) to expand risk assessment and emergency  
4 response capabilities with respect to the security of  
5 transportation of hazardous material;

6 “(2) to conduct research, development, dem-  
7 onstration, risk assessment and emergency response  
8 planning and training activities; or

9 “(3) to otherwise carry out this chapter.

10 “(h) REPORTS.—

11 “(1) The Secretary shall, once every 2 years,  
12 submit to the Senate Committee on Commerce,  
13 Science, and Transportation and the House of Rep-  
14 resentatives Committee on Transportation and In-  
15 frastructure a comprehensive report on the transpor-  
16 tation of hazardous material during the preceding 2  
17 calendar years. Each report shall include, for the pe-  
18 riod covered by such report—

19 “(A) a statistical compilation of the acci-  
20 dents, incidents, and casualties related to the  
21 transportation of hazardous material during  
22 such period;

23 “(B) a list and summary of applicable  
24 Government regulations, criteria, orders, and  
25 special permits;

1           “(C) a summary of the basis for each spe-  
2           cial permit issued;

3           “(D) an evaluation of the effectiveness of  
4           enforcement activities relating to the transpor-  
5           tation of hazardous material during such pe-  
6           riod, and of the degree of voluntary compliance  
7           with regulations;

8           “(E) a summary of outstanding problems  
9           in carrying out this chapter, set forth in order  
10          of priority; and

11          “(F) any recommendations for legislative  
12          or administrative action that the Secretary con-  
13          siders appropriate.

14          “(2) Before December 31, 2007, and every 3  
15          years thereafter, the Secretary, through the Bureau  
16          of Transportation Statistics and in consultation with  
17          other Federal departments and agencies, shall sub-  
18          mit a report to the Senate Committee on Commerce,  
19          Science, and Transportation and the House of Rep-  
20          resentatives Committee on Transportation and In-  
21          frastructure on the transportation of hazardous ma-  
22          terial in all modes of transportation during the pre-  
23          ceding 3 calendar years. Each report shall include,  
24          for the period covered by such report—

1           “(A) a summary of the hazardous material  
2 shipments, deliveries, and movements during  
3 such period, set forth by hazardous materials  
4 type, by tonnage and ton-miles, and by mode,  
5 both domestically and across United States bor-  
6 ders; and

7           “(B) a summary of shipment estimates  
8 during such period as a proxy for risk.

9           “(i) SECURITY SENSITIVE INFORMATION.—

10           “(1) If the Secretary determines that particular  
11 information may reveal a vulnerability of a haz-  
12 ardous material to attack during transportation in  
13 commerce, or may facilitate the diversion of haz-  
14 ardous material during transportation in commerce  
15 for use in an attack on people or property, the Sec-  
16 retary may disclose such information only—

17           “(A) to the owner, custodian, offeror, or  
18 carrier of such hazardous material;

19           “(B) to an officer, employee, or agent of  
20 the United States Government, or a State or  
21 local government, including volunteer fire de-  
22 partments, concerned with carrying out trans-  
23 portation safety laws, protecting hazardous ma-  
24 terial in the course of transportation in com-  
25 merce, protecting public safety or national secu-

1           rity, or enforcing Federal law designed to pro-  
2           tect public health or the environment; or

3           “(C) in an administrative or judicial pro-  
4           ceeding brought under this chapter, under other  
5           Federal law intended to protect public health or  
6           the environment, or under other Federal law in-  
7           tended to address terrorist actions or threats of  
8           terrorist actions.

9           “(2) The Secretary may make determinations  
10          under paragraph (1) of this subsection with respect  
11          categories of information in accordance with regula-  
12          tions prescribed by the Secretary.

13          “(3) A release of information pursuant to a de-  
14          termination under paragraph (1) of this subsection  
15          shall not be treated as a release of such information  
16          to the public for purposes of section 552 of title 5.”.

17 **SEC. 338. ENFORCEMENT.**

18          (a) REFERENCE TO SECRETARY OF TRANSPOR-  
19          TATION.—Section 5122(a) is amended by striking “of  
20          Transportation,”.

21          (b) GENERAL.—Section 5122(a) is further amend-  
22          ed—

23                  (1) by striking “chapter or a regulation pre-  
24          scribed or order” in the first sentence and inserting

1 “chapter, a regulation prescribed under this chapter,  
2 or an order, special permit, or approval”; and

3 (2) by striking the second sentence and insert-  
4 ing “In an action under this subsection, the court  
5 may award appropriate relief, including a temporary  
6 or permanent injunction, civil penalties under sec-  
7 tion 5123 of this title, and punitive damages.”.

8 (c) IMMINENT HAZARDS.—Section 5122(b)(1)(B) is  
9 amended by striking “ameliorate” and inserting “miti-  
10 gate”.

11 **SEC. 339. CIVIL PENALTIES.**

12 (a) PENALTY.—Section 5123(a) is amended—

13 (1) in paragraph (1)—

14 (A) by striking “regulation prescribed or  
15 order issued” and inserting “regulation, order,  
16 special permit, or approval issued”; and

17 (B) by striking “\$25,000” and inserting  
18 “\$32,500”;

19 (2) by redesignating paragraph (2) as para-  
20 graph (4); and

21 (3) by inserting after paragraph (1) the fol-  
22 lowing:

23 “(2) If the Secretary finds that a violation under  
24 paragraph (1) results in death, serious illness, or severe  
25 injury to any person, the Secretary may increase the

1 amount of the civil penalty for such violation to not more  
2 than \$100,000.

3 “(3) If the violation is related to training, paragraph  
4 (1) shall be applied by substituting ‘\$450’ for ‘\$250’.”.

5 (b) REFERENCE TO SECRETARY OF TRANSPOR-  
6 TATION.—Section 5123(b) is amended by striking “of  
7 Transportation”.

8 (c) HEARING REQUIREMENT.—Section 5123(b) is  
9 amended by striking “chapter or a regulation prescribed”  
10 and inserting “chapter, a regulation prescribed under this  
11 chapter, or an order, special permit, or approval issued”.

12 (d) CIVIL ACTIONS TO COLLECT.—Section 5123(d)  
13 is amended by striking “section.” and inserting “section  
14 and any accrued interest on the civil penalty as calculated  
15 in accordance with section 1005 of the Oil Pollution Act  
16 of 1990 (33 U.S.C. 2705). In the civil action, the amount  
17 and appropriateness of the civil penalty shall not be sub-  
18 ject to review.”.

19 (e) EFFECTIVE DATE.—(1) The amendments made  
20 by subsections (b) and (c) of this section shall take effect  
21 on the date of the enactment of this Act, and shall apply  
22 with respect to violations described in section 5123(a) of  
23 title 49, United States Code (as amended by this section),  
24 that occur on or after that date.

1           (2) The amendment made by subsection (d) of this  
2 section shall apply with respect to civil penalties imposed  
3 on violations described in section 5123(a) of title 49,  
4 United States Code (as amended by this section), which  
5 violations occur on or after the date of the enactment of  
6 this Act.

7 **SEC. 340. CRIMINAL PENALTIES.**

8           (a) IN GENERAL.—Section 5124 is amended—

9                 (1) by inserting “(a) IN GENERAL.—” before  
10           “A person”; and

11                 (2) by striking “chapter or a regulation pre-  
12           scribed or order” and inserting “chapter, a regula-  
13           tion prescribed under this chapter, or an order, spe-  
14           cial permit, or approval”.

15           (b) ADDITIONAL MATTERS.—That section is further  
16 amended by adding at the end the following:

17           “(b) AGGRAVATED VIOLATIONS.—A person know-  
18           ingly violating section 5104(b) of this title or willfully vio-  
19           lating this chapter or a regulation prescribed, or an order,  
20           special permit, or approval issued, under this chapter, who  
21           thereby causes the release of hazardous material shall be  
22           fined under title 18, imprisoned for not more than 20  
23           years, or both.

24           “(c) SEPARATE VIOLATIONS.—A separate violation  
25           occurs for each day the violation, committed by a person

1 who transports or causes to be transported hazardous ma-  
2 terial, continues.”.

3 **SEC. 341. PREEMPTION.**

4 (a) REFERENCE TO SECRETARY OF TRANSPOR-  
5 TATION.—Section 5125(b)(2) is amended by striking “of  
6 Transportation”.

7 (b) PURPOSES.—Section 5125 is amended—

8 (1) by redesignating subsections (a), (b), (c),  
9 (d), (e), (f), and (g) as subsections (b), (c), (d), (e),  
10 (f), (g), and (h), respectively;

11 (2) by inserting before subsection (b), as so re-  
12 designated, the following:

13 “(a) PURPOSES.—The Secretary shall exercise the  
14 authority in this section—

15 “(1) to achieve uniform regulation of the trans-  
16 portation of hazardous material;

17 “(2) to eliminate rules that are inconsistent  
18 with the regulations prescribed under this chapter;  
19 and

20 “(3) to otherwise promote the safe and efficient  
21 movement of hazardous material in commerce.”;

22 (3) by striking subsection (g), as redesignated;  
23 and

24 (4) by redesignating subsection (h), as redesi-  
25 gnated, as subsection (g).

1           (c) GENERAL PREEMPTION.—Section 5125(b), as re-  
2 designated by subsection (b)(1) of this section, is further  
3 amended by striking “GENERAL.—Except as provided in  
4 subsection (b), (c), and (e)” and inserting “PREEMPTION  
5 GENERALLY.—Except as provided in subsections (c), (d),  
6 and (f)”.

7           (d) SUBSTANTIVE DIFFERENCES.—Section 5125(c),  
8 as so redesignated, is further amended—

9                   (1) in the matter preceding subparagraph (A)  
10 of paragraph (1), by striking “subsection (c)” and  
11 inserting “subsection (d)”;

12                   (2) by striking subparagraph (E) of paragraph  
13 (1) and inserting the following:

14                           “(E) the designing, manufacturing, fabricating,  
15 inspecting, marking, maintaining, reconditioning, re-  
16 pairing, or testing a package, container, or pack-  
17 aging component that is represented, marked, cer-  
18 tified, or sold by that person as qualified for use in  
19 transporting hazardous material in commerce.”; and

20                   (3) by striking “prescribes after November 16,  
21 1990. However, the” in paragraph (2) and inserting  
22 “prescribes. The”.

23           (e) DECISIONS ON PREEMPTION.—Section 5125(e),  
24 as so redesignated, is further amended by striking “sub-  
25 section (a), (b)(1), or (c) of this section.” in the first sen-

1 tence and inserting “subsection (b), (c)(1), or (d) of this  
2 section or section 5119(b) of this title.”.

3 (f) WAIVER OF PREEMPTION.—Section 5125(f), as so  
4 redesignated, is further amended by striking “subsection  
5 (a), (b)(1), or (c) of this section.” and inserting “sub-  
6 section (b), (c)(1), or (d) of this section or section 5119(b)  
7 of this title.”.

8 (g) STANDARDS.—Section 5125 is further amended  
9 by adding at the end the following:

10 “(h) APPLICATION OF EACH PREEMPTION STAND-  
11 ARD.—Each standard for preemption in subsection (b),  
12 (c)(1), or (d) of this section, and in section 5119(b) of  
13 this title, is independent in its application to a require-  
14 ment of a State, political subdivision of a State, or Indian  
15 tribe.

16 “(i) NON-FEDERAL ENFORCEMENT STANDARDS.—  
17 This section does not apply to any procedure, penalty, re-  
18 quired mental state, or other standard utilized by a State,  
19 political subdivision of a State, or Indian tribe to enforce  
20 a requirement applicable to the transportation of haz-  
21 ardous material.”.

22 **SEC. 342. RELATIONSHIP TO OTHER LAWS.**

23 Section 5126 is amended—

24 (1) by striking “or causes to be transported  
25 hazardous material, or manufactures, fabricates,

1 marks, maintains, reconditions, repairs, or tests a  
2 packaging or a container that the person represents,  
3 marks, certifies, or sells” in subsection (a) and in-  
4 serting “hazardous material, or causes hazardous  
5 material to be transported, or designs, manufac-  
6 tures, fabricates, inspects, marks, maintains, recon-  
7 ditions, repairs, or tests a package, container, or  
8 packaging component that is represented”;

9 (2) by striking “must” in subsection (a) and in-  
10 serting “shall”;

11 (3) by striking “manufacturing,” in subsection  
12 (a) and all that follows through “testing” and in-  
13 serting “designing, manufacturing, fabricating, in-  
14 specting, marking, maintaining, reconditioning, re-  
15 pairing, or testing”; and

16 (4) by striking “39.” in subsection (b)(2) and  
17 inserting “39, except in the case of an imminent  
18 hazard.”.

19 **SEC. 343. JUDICIAL REVIEW.**

20 (a) IN GENERAL.—Chapter 51 is amended—

21 (1) by redesignating section 5127 as section  
22 5128; and

23 (2) by inserting after section 5126 the fol-  
24 lowing:

1 **“§ 5127. Judicial review**

2       “(a) FILING AND VENUE.—Except as provided in  
3 section 20114(e) of this title, a person adversely affected  
4 or aggrieved by a final action of the Secretary under this  
5 chapter may petition for review of the final action in the  
6 United States Court of Appeals for the District of Colum-  
7 bia or in the court of appeals of the United States for  
8 the circuit in which the person resides or has a principal  
9 place of business. The petition shall be filed not more than  
10 60 days after the action of the Secretary becomes final.

11       “(b) PROCEDURES.—When a petition on a final ac-  
12 tion is filed under subsection (a) of this section, the clerk  
13 of the court shall immediately send a copy of the petition  
14 to the Secretary. The Secretary shall file with the court  
15 a record of any proceeding in which the final action was  
16 issued as provided in section 2112 of title 28.

17       “(c) AUTHORITY OF COURT.—The court in which a  
18 petition on a final action is filed under subsection (a) of  
19 this section has exclusive jurisdiction, as provided in sub-  
20 chapter II of chapter 5 of title 5 to affirm or set aside  
21 any part of the final action and may order the Secretary  
22 to conduct further proceedings.

23       “(d) REQUIREMENT FOR PRIOR OBJECTIONS.—In  
24 reviewing a final action under this section, the court may  
25 consider an objection to the final action only if—

1           “(1) the objection was made in the course of a  
2           proceeding or review conducted by the Secretary; or

3           “(2) there was a reasonable ground for not  
4           making the objection in the proceeding.”.

5           (b) CLERICAL AMENDMENT.—The chapter analysis  
6 for chapter 51 is amended by striking the item relating  
7 to section 5127 and inserting the following:

“5127. Judicial review.

“5128. Authorization of appropriations.”.

8 **SEC. 344. AUTHORIZATION OF APPROPRIATIONS.**

9           Section 5128, as redesignated by section 443 of this  
10 subtitle, is amended to read as follows:

11 **“§ 5128. Authorization of appropriations**

12           “(a) GENERAL.—In order to carry out this chapter  
13 (except sections 5107(e), 5108(g), 5112, 5113, 5115,  
14 5116, and 5119 of this title), the following amounts are  
15 authorized to be appropriated to the Secretary:

16           “(1) For fiscal year 2005, not more than  
17           \$24,940,000.

18           “(2) For fiscal year 2006, not more than  
19           \$29,000,000.

20           “(3) For each of fiscal years 2007 through  
21           2009, not more than \$30,000,000.

22           “(b) EMERGENCY PREPAREDNESS FUND.—There  
23 shall be available from the Emergency Preparedness Fund  
24 under section 5116(i) of this title, amounts as follows:

1           “(1) To carry out section 5107(e) of this title,  
2           \$4,000,000 for each of fiscal years 2005 through  
3           2009.

4           “(2) To carry out section 5115 of this title,  
5           \$200,000 for each of fiscal years 2005 through  
6           2009.

7           “(3) To carry out sections 5116(a) and (b) of  
8           this title, \$21,800,000 for each of fiscal years 2005  
9           through 2009, to be allocated as follows:

10                   “(A) \$5,000,000 to carry out section  
11                   5116(a).

12                   “(B) \$7,800,000 to carry out section  
13                   5116(b).

14                   “(C) Of the amount provided for by this  
15                   paragraph in excess of the suballocations in  
16                   subparagraphs (A) and (B)—

17                           “(i) 35 percent shall be used to carry  
18                           out section 5116(a), and

19                           “(ii) 65 percent shall be used to carry  
20                           out section 5116(b),

21                   except that the Secretary may increase the pro-  
22                   portion to carry out section 5116(b) and de-  
23                   crease the proportion to carry out section  
24                   5116(a) if the Secretary determines that such  
25                   reallocation is appropriate to carry out the in-

1 tended uses of these funds as described in the  
2 applications submitted by States and Indian  
3 tribes.

4 “(4) To carry out section 5116(f) of this title,  
5 \$150,000 for each of fiscal years 2005 through  
6 2009.

7 “(5) To carry out section 5116(i)(4) of this  
8 title, \$150,000 for each of fiscal years 2005 through  
9 2009.

10 “(6) To carry out section 5116(j) of this title,  
11 \$1,000,000 for each of fiscal years 2005 through  
12 2009.

13 “(7) To publish and distribute an emergency  
14 response guidebook under section 5116(i)(3) of title  
15 49, United States Code, \$750,000 for each of fiscal  
16 years 2005 through 2009.

17 “(c) SECTION 5121 REPORTS.—There are authorized  
18 to be appropriated to the Secretary of Transportation for  
19 the use of the Bureau of Transportation Statistics such  
20 sums as may be necessary to carry out section 5121(h)  
21 of this title.

22 “(d) CREDIT TO APPROPRIATIONS.—The Secretary  
23 may credit to any appropriation to carry out this chapter  
24 an amount received from a State, political subdivision of  
25 a State, Indian tribe, or other public authority or private

1 entity for expenses the Secretary incurs in providing train-  
2 ing to the State, political subdivision, Indian tribe, or  
3 other authority or entity.

4 “(e) AVAILABILITY OF AMOUNTS.—Amounts avail-  
5 able under subsections (a) and (b) of this section shall  
6 remain available until expended.”.

7 **SEC. 345. ADDITIONAL CIVIL AND CRIMINAL PENALTIES.**

8 (a) TITLE 49 PENALTIES.—Section 46312 is amend-  
9 ed—

10 (1) by striking “part—” in subsection (a) and  
11 inserting “part or chapter 51 of this title—”; and

12 (2) by inserting “or chapter 51 of this title” in  
13 subsection (b) after “under this part”.

14 (b) TITLE 18 PENALTIES.—Section 3663(a)(1)(A) of  
15 title 18, United States Code, is amended by inserting  
16 “5124,” before “46312,”.

17 **SEC. 346. TECHNICAL CORRECTIONS.**

18 (a) HIGHWAY ROUTING OF HAZARDOUS MATE-  
19 RIAL.—The second sentence of section 5112(a)(1) is  
20 amended by striking “However, the Secretary of Trans-  
21 portation” and inserting “The Secretary”.

22 (b) AIR TRANSPORTATION OF IONIZING RADIATION  
23 MATERIAL.—Section 5114(b) is amended by striking “of  
24 Transportation”.

1 (c) INTERNATIONAL UNIFORMITY OF STANDARDS  
 2 AND REQUIREMENTS.—Section 5120 is amended by strik-  
 3 ing “of Transportation” each place it appears in sub-  
 4 sections (a), (b), and (c)(1).

## 5 **Subtitle B—Other Matters**

### 6 **SEC. 361. ADMINISTRATIVE AUTHORITY FOR PIPELINE AND** 7 **HAZARDOUS MATERIALS SAFETY ADMINIS-** 8 **TRATION.**

9 Section 108 is amended by adding at the end the fol-  
 10 lowing:

11 “(h) ADMINISTRATIVE AUTHORITIES.—

12 “(1) GRANTS, COOPERATIVE AGREEMENTS, AND  
 13 OTHER TRANSACTIONS.—The Administrator may  
 14 enter into grants, cooperative agreements, and other  
 15 transactions with Federal agencies, State and local  
 16 government agencies, other public entities, private  
 17 organizations, and other persons—

18 “(A) to conduct research into transpor-  
 19 tation service and infrastructure assurance; and

20 “(B) to carry out other research activities  
 21 of the Administration.

22 “(2) LIMITATION ON DISCLOSURE OF CERTAIN  
 23 INFORMATION.—

24 “(A) LIMITATION.—If the Administrator  
 25 determines that particular information devel-

1           oped in research sponsored by the Administra-  
2           tion may reveal a systemic vulnerability of  
3           transportation service or infrastructure, such  
4           information may be disclosed only to—

5                   “(i) a person responsible for the secu-  
6                   rity of the transportation service or infra-  
7                   structure;

8                   “(ii) a person responsible for pro-  
9                   tecting public safety; or

10                   “(iii) an officer, employee, or agent of  
11                   the Federal Government, or a State or  
12                   local government, who, as determined by  
13                   the Administrator, has need for such infor-  
14                   mation in the performance of official du-  
15                   ties.

16                   “(B) TREATMENT OF RELEASE.—The re-  
17                   lease of information under subparagraph (A)  
18                   shall not be treated as a release to the public  
19                   for purposes of section 552 of title 5.”.

20   **SEC. 362. MAILABILITY OF HAZARDOUS MATERIALS.**

21           (a) NONMAILABILITY GENERALLY.—Section 3001 of  
22   title 39, United States Code, is amended—

23                   (1) by redesignating subsection (n) as sub-  
24                   section (o); and

1           (2) by inserting after subsection (m) the fol-  
2           lowing:

3           “(n)(1) Except as otherwise authorized by law or reg-  
4           ulations of the Postal Service under section 3018 of this  
5           title, hazardous material is nonmailable.

6           “(2) In this subsection, the term ‘hazardous material’  
7           means a substance or material designated by the Secretary  
8           of Transportation as hazardous material under section  
9           5103(a) of title 49.”.

10          (b) MAILABILITY.—

11           (1) IN GENERAL.—Chapter 30 of title 39,  
12           United States Code, is amended by adding at the  
13           end the following:

14          **“§ 3018. Hazardous material**

15           “(a) IN GENERAL.—The Postal Service shall pre-  
16           scribe regulations for the safe transportation of hazardous  
17           material in the mails.

18           “(b) PROHIBITIONS.—No person may—

19           “(1) mail or cause to be mailed hazardous ma-  
20           terial that has been declared by statute or Postal  
21           Service regulation to be nonmailable;

22           “(2) mail or cause to be mailed hazardous ma-  
23           terial in violation of any statute or Postal Service  
24           regulation restricting the time, place, or manner in  
25           which hazardous material may be mailed; or

1           “(3) manufacture, distribute, or sell any con-  
2 tainer, packaging kit, or similar device that—

3           “(A) is represented, marked, certified, or  
4 sold by such person for use in the mailing of  
5 hazardous material; and

6           “(B) fails to conform with any statute or  
7 Postal Service regulation setting forth stand-  
8 ards for a container, packaging kit, or similar  
9 device used for the mailing of hazardous mate-  
10 rial.

11       “(c) CIVIL PENALTY.—

12           “(1) IN GENERAL.—A person who knowingly  
13 violates this section or a regulation prescribed under  
14 this section shall be liable to the Postal Service  
15 for—

16           “(A) a civil penalty of at least \$250, but  
17 not more than \$100,000, for each violation;

18           “(B) the costs of any clean-up associated  
19 with such violation; and

20           “(C) damages.

21           “(2) KNOWING ACTION.—A person acts know-  
22 ingly for purposes of paragraph (1) when—

23           “(A) the person has actual knowledge of  
24 the facts giving rise to the violation; or

1           “(B) a reasonable person acting in the cir-  
2           cumstances and exercising reasonable care  
3           would have had that knowledge.

4           “(3) KNOWLEDGE OF STATUTE OR REGULA-  
5           TION NOT ELEMENT OF OFFENSE.—Knowledge of  
6           the existence of a statutory provision or Postal Serv-  
7           ice regulation is not an element of an offense under  
8           this subsection.

9           “(4) SEPARATE VIOLATIONS.—

10           “(A) VIOLATIONS OVER TIME.—A separate  
11           violation under this subsection occurs for each  
12           day hazardous material, mailed or cause to be  
13           mailed in noncompliance with this section, is in  
14           the mail.

15           “(B) SEPARATE ITEMS.—A separate viola-  
16           tion under this subsection occurs for each item  
17           containing hazardous material that is mailed or  
18           caused to be mailed in noncompliance with this  
19           section.

20           “(d) HEARINGS.—The Postal Service may determine  
21           that a person has violated this section or a regulation pre-  
22           scribed under this section only after notice and an oppor-  
23           tunity for a hearing.

1       “(e) PENALTY CONSIDERATIONS.—In determining  
2 the amount of a civil penalty for a violation of this section,  
3 the Postal Service shall consider—

4           “(1) the nature, circumstances, extent, and  
5 gravity of the violation;

6           “(2) with respect to the person who committed  
7 the violation, the degree of culpability, any history of  
8 prior violations, the ability to pay, and any effect on  
9 the ability to continue in business;

10          “(3) the impact on Postal Service operations;  
11 and

12          “(4) any other matters that justice requires.

13       “(f) CIVIL ACTIONS TO COLLECT.—

14           “(1) IN GENERAL.—In accordance with section  
15 4409(d) of this title, a civil action may be com-  
16 menced in an appropriate district court of the  
17 United States to collect a civil penalty, clean-up  
18 costs, and damages assessed under subsection (e).

19           “(2) LIMITATION.—In a civil action under para-  
20 graph (1), the validity, amount, and appropriateness  
21 of the civil penalty, clean-up costs, and damages cov-  
22 ered by the civil action shall not be subject to review.

23           “(3) COMPROMISE.—The Postal Service may  
24 compromise the amount a civil penalty, clean-up  
25 costs, and damages assessed under subsection (e) be-

1 fore commencing a civil action with respect to such  
2 civil penalty, clean-up costs, and damages under  
3 paragraph (1).

4 “(g) CIVIL JUDICIAL PENALTIES.—

5 “(1) IN GENERAL.—At the request of the Post-  
6 al Service, the Attorney General may bring a civil  
7 action in an appropriate district court of the United  
8 States to enforce this section or a regulation pre-  
9 scribed under this section.

10 “(2) RELIEF.—The court in a civil action under  
11 paragraph (1) may award appropriate relief, includ-  
12 ing a temporary or permanent injunction, civil pen-  
13 alties as determined in accordance with this section,  
14 or punitive damages.

15 “(3) CONSTRUCTION.—A civil action under this  
16 subsection shall be in lieu of civil penalties for the  
17 same violation under subsection (c)(1)(A).

18 “(h) DEPOSIT OF AMOUNTS COLLECTED.—Amounts  
19 collected under this section shall be deposited into the  
20 Postal Service Fund under section 2003 of this title.”.

21 (2) CONFORMING AMENDMENT.—The chapter  
22 analysis for chapter 30 of title 39, United States  
23 Code, is amended by adding at the end the fol-  
24 lowing:

“3018. Hazardous material.”.

1 (c) CONFORMING AMENDMENT.—Section 2003(b) of  
2 title 39, United States Code, is amended—

3 (1) by striking “and” after the semicolon in  
4 paragraph (7);

5 (2) by striking “purposes.” in paragraph (8)  
6 and inserting “purposes; and”; and

7 (3) by adding at the end the following:

8 “(9) any amounts collected under section 3018  
9 of this title.”.

10 **SEC. 363. CRIMINAL MATTERS.**

11 Section 845(a)(1) of title 18, United States Code, is  
12 amended by striking “which are regulated” and all that  
13 follows and inserting “that is subject to the authority of  
14 the Departments of Transportation and Homeland Secu-  
15 rity;”.

16 **SEC. 364. CARGO INSPECTION PROGRAM.**

17 (a) IN GENERAL.—The Secretary of Transportation  
18 may establish a program of random inspections of cargo  
19 at points of entry into the United States for the purpose  
20 of determining the extent to which undeclared hazardous  
21 material is being offered for transportation in commerce  
22 through such points of entry.

23 (b) INSPECTIONS.—Under the program under sub-  
24 section (a)—

1           (1) an officer of the Department of Transpor-  
2           tation who is not located at a point of entry into the  
3           United States may select at random cargo shipments  
4           at points of entry into the United States for inspec-  
5           tion; and

6           (2) an officer or employee of the Department  
7           may open and inspect each cargo shipment so se-  
8           lected for the purpose described in subsection (a).

9           (c) COORDINATION.—The Secretary of Transpor-  
10          tation shall coordinate any inspections under the program  
11          under subsection (a) with the Secretary of Homeland Se-  
12          curity.

13          (d) DISPOSITION OF HAZARDOUS MATERIALS.—The  
14          Secretary of Transportation shall provide for the appro-  
15          priate handling and disposition of any hazardous material  
16          discovered pursuant to inspections under the program  
17          under subsection (a).

18          **SEC. 365. INFORMATION ON HAZMAT REGISTRATIONS.**

19          The Administrator of the Department of Transpor-  
20          tation's Research and Special Programs Administration  
21          shall—

22                (1) transmit current hazardous material reg-  
23                istrant information to the Federal Motor Carrier  
24                Safety Administration to cross reference the reg-

1       istrant’s Federal motor carrier registration number;  
2       and

3               (2) notify the Federal Motor Carrier Safety Ad-  
4       ministration immediately, and provide a registrant’s  
5       United States Department of Transportation identi-  
6       fication number to the Administration, whenever a  
7       new registrant registers to transport hazardous ma-  
8       terials as a motor carrier.

9       **SEC. 366. REPORT ON APPLYING HAZARDOUS MATERIALS**  
10                   **REGULATIONS TO PERSONS WHO REJECT**  
11                   **HAZARDOUS MATERIALS.**

12       Within 6 months after the date of enactment of this  
13       Act, the Secretary of Transportation shall complete an as-  
14       sessment of the costs and benefits of subjecting persons  
15       who reject hazardous material for transportation in com-  
16       merce to the hazardous materials laws and regulations. In  
17       completing this assessment, the Secretary shall—

18               (1) estimate the number of affected employers  
19       and employees;

20               (2) determine what actions would be required  
21       by them to comply with such laws and regulations;  
22       and

23               (3) consider whether and to what extent the ap-  
24       plication of Federal hazardous materials laws and  
25       regulations should be limited to—

- 1 (A) particular modes of transportation;  
2 (B) certain categories of employees; or  
3 (C) certain classes or categories of haz-  
4 ardous materials.

5 **SEC. 367. NATIONAL FIRST RESPONDER TRANSPORTATION**  
6 **INCIDENT RESPONSE SYSTEM.**

7 (a) IN GENERAL.—The Secretary of Transportation  
8 shall provide funding to the Operation Respond Institute  
9 to design, build, and operate a seamless first responder  
10 hazardous materials incident detection, preparedness, and  
11 response system.

12 (b) OREIS EXPANSION.—

13 (1) IN GENERAL.—The system designed, built,  
14 and operated by the Institute shall include an expan-  
15 sion of the Operation Respond Emergency Informa-  
16 tion System.

17 (2) FUNCTIONALITY.—The Secretary may re-  
18 quire that the system designed by the Operation Re-  
19 spond Institute function across multiple transpor-  
20 tation modes.

21 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
22 are authorized to be appropriated to the Secretary to carry  
23 out this section \$5,000,000 for each of fiscal years 2005  
24 through 2009.

1 **SEC. 368. HAZMAT TRANSPORTATION PLAN EXEMPTION**  
2 **FOR FARMERS.**

3 (a) **IN GENERAL.**—Subpart I of part 172 of the De-  
4 partment of Transportation’s regulations (49 C.F.R.  
5 172.800 et seq.), or any subsequent Department of Trans-  
6 portation regulation in pari materia, does not apply to the  
7 surface transportation activities of a farmer that are—

8 (1) in direct support of the farmer’s farming  
9 operations; and

10 (2) conducted within a 150-mile radius of those  
11 operations.

12 (b) **FARMER DEFINED.**—In this section, the term  
13 “farmer” means a person—

14 (1) actively engaged in the production or rais-  
15 ing of crops, poultry, livestock, or other agricultural  
16 commodities; and

17 (2) whose gross receipts from the sale of such  
18 agricultural commodities or products do not exceed  
19 \$500,000 annually.

20 **SEC. 369. WELDED RAIL AND TANK CAR SAFETY IMPROVE-**  
21 **MENTS.**

22 (a) **TRACK STANDARDS.**—

23 (1) **IN GENERAL.**—Within 90 days after the  
24 date of enactment of this Act, the Federal Railroad  
25 Administration shall—

1           (A) require each track owner using contin-  
2           uous welded rail track to include procedures (in  
3           its procedures filed with the Administration  
4           pursuant to section 213.119 of title 49, Code of  
5           Federal Regulations) to improve the identifica-  
6           tion of cracks in rail joint bars;

7           (B) instruct Administration track inspec-  
8           tors to obtain copies of the most recent contin-  
9           uous welded rail programs of each railroad  
10          within the inspectors' areas of responsibility  
11          and require that inspectors use those programs  
12          when conducting track inspections; and

13          (C) establish a program to review contin-  
14          uous welded rail joint bar inspection data from  
15          railroads and Administration track inspectors  
16          periodically.

17          (2) Whenever the Administration determines  
18          that it is necessary or appropriate the Administra-  
19          tion may require railroads to increase the frequency  
20          of inspection, or improve the methods of inspection,  
21          of joint bars in continuous welded rail.

22          (b) TANK CAR STANDARDS.—The Federal Railroad  
23          Administration shall—

24                 (1) validate a predictive model to quantify the  
25                 relevant dynamic forces acting on railroad tank cars

1 under accident conditions within 1 year after the  
2 date of enactment of this Act; and

3 (2) initiate a rulemaking to develop and imple-  
4 ment appropriate design standards for pressurized  
5 tank cars within 18 months after the date of enact-  
6 ment of this Act.

7 (c) OLDER TANK CAR IMPACT RESISTANCE ANAL-  
8 YSIS AND REPORT.—Within 1 year after the date of enact-  
9 ment of this Act the Federal Railroad Administration shall  
10 conduct a comprehensive analysis to determine the impact  
11 resistance of the steels in the shells of pressure tank cars  
12 constructed before 1989. Within 6 months after com-  
13 pleting that analysis the Administration shall—

14 (1) establish a program to rank those cars ac-  
15 cording to their risk of catastrophic fracture and  
16 separation;

17 (2) implement measures to eliminate or miti-  
18 gate this risk; and

19 (3) transmit a report to the Senate Committee  
20 on Commerce, Science, and Transportation and the  
21 House of Representatives Committee on Transpor-  
22 tation and Infrastructure setting forth the measures  
23 implemented.

24 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
25 are authorized to be appropriated to the Federal Railroad

1 Administration \$1,000,000 for fiscal year 2006 to carry  
2 out this section, such sums to remain available until ex-  
3 pended.

4 **SEC. 370. REPORT REGARDING IMPACT ON PUBLIC SAFETY**  
5 **OF TRAIN TRAVEL IN COMMUNITIES WITH-**  
6 **OUT GRADE SEPARATION.**

7 (a) STUDY.—The Secretary of Transportation shall,  
8 in consultation with State and local government officials,  
9 conduct a study of the impact of blocked highway-railroad  
10 grade crossings on the ability of emergency responders to  
11 perform public safety and security duties.

12 (b) REPORT ON THE IMPACT OF BLOCKED HIGH-  
13 WAY-RAILROAD GRADE CROSSINGS ON EMERGENCY RE-  
14 SPONDERS.—Not later than 1 year after the date of enact-  
15 ment of this Act, the Secretary shall submit the results  
16 of the study and recommendations for reducing the impact  
17 of blocked crossings on emergency response to the Senate  
18 Committee on Commerce, Science, and Transportation  
19 and the House of Representatives Committee on Trans-  
20 portation and Infrastructure.

21 **SEC. 371. HAZARDOUS MATERIALS COOPERATIVE RE-**  
22 **SEARCH PROGRAM.**

23 (a) IN GENERAL.—There are authorized to be appro-  
24 priated to the Secretary of Transportation \$2,000,000 for  
25 each of fiscal years 2005 through 2009 to develop and

1 administer a hazardous materials cooperative research  
2 program.

3 (b) GOVERNANCE.—The Secretary of Transportation  
4 shall establish an independent governing board to select  
5 projects and studies to be carried out under the hazardous  
6 materials cooperative research program. The Board shall  
7 be comprised of one voting representative from the fol-  
8 lowing:

- 9 (1) The Federal Aviation Administration.
- 10 (2) The Federal Motor Carrier Administration.
- 11 (3) The Federal Transit Administration.
- 12 (4) The Federal Railroad Administration.
- 13 (5) The Maritime Administration.
- 14 (6) The Research and Innovative Technology  
15 Administration.
- 16 (7) The Pipeline and Hazardous Materials  
17 Safety Administration.
- 18 (8) The Department of Homeland Security.
- 19 (9) The Department of Energy.
- 20 (10) The Environmental Protection Agency.
- 21 (11) A State department of transportation.
- 22 (12) A State emergency management agency.
- 23 (13) A nonprofit organization representing  
24 emergency responders.
- 25 (14) A hazmat employer.

1           (15) A nonprofit organization representing  
2           hazmat employees.

3           (16) A hazardous materials shipper.

4           (17) A hazardous materials manufacturer.

5           (18) An organization representing the haz-  
6           ardous materials manufacturing industry.

7           (19) A research university or research institu-  
8           tion.

9           (20) Additional representatives as the Secretary  
10          considers appropriate.

11          (c) RESEARCH STUDIES.—Under the cooperative re-  
12          search program, the governing board shall select coopera-  
13          tive research studies of hazardous materials transpor-  
14          tation that are cross-cutting in nature and that consider  
15          issues not adequately addressed by existing Federal or pri-  
16          vate sector research programs. Priority shall be given to  
17          research studies that will yield results immediately appli-  
18          cable to risk analysis and mitigation or that will strength-  
19          en the ability of first responders to respond to incidents  
20          and accidents involving transportation of hazardous mate-  
21          rials.

22          (d) SPECIAL RULES REGARDING STUDIES.—

23                (1) SAFETY AND SECURITY.—The purpose of at  
24          least one of the studies to be conducted under the  
25          cooperative research program shall be—

1 (A) to provide an assessment of opportuni-  
2 ties for integrating and supplementing safety  
3 and security measures for hazardous materials  
4 transportation;

5 (B) to identify areas where safety and se-  
6 curity measures currently utilized in the trans-  
7 portation of hazardous materials conflict or  
8 complement one another;

9 (C) to outline a comprehensive approach to  
10 hazardous materials transportation that effec-  
11 tively incorporates safety and security proce-  
12 dures; and

13 (D) to produce a model of reasonable State  
14 and local risk response and management plans  
15 that effectively address safety and security of  
16 hazardous materials transportation.

17 (2) PERFORMANCE DATA FOR BULK CON-  
18 TAINERS.—The purpose of at least one of the stud-  
19 ies to be conducted under the research program shall  
20 be to provide—

21 (A) an analysis of, and recommendations  
22 for, the design and funding of a nationwide sys-  
23 tem capable of collecting and analyzing per-  
24 formance data from bulk containers involved in  
25 transportation accidents; and

1 (B) recommendations that can be used to  
2 develop conditional release probabilities for var-  
3 ious container design specifications (by trans-  
4 port mode).

5 (3) PACKAGING REQUIREMENTS.—The purpose  
6 of at least one of the studies to be conducted under  
7 the research program shall be to provide an analysis  
8 of recommendations on appropriate packaging re-  
9 quirements for those hazardous materials that are  
10 most frequently involved in release incidents.

11 (4) ROUTING.—The purpose of at least one of  
12 the studies to be conducted under the research pro-  
13 gram shall be to identify the components that could  
14 comprise a model of risk and consequence analysis  
15 in rail and highway transportation and that can be  
16 used to facilitate decisionmaking regarding the rout-  
17 ing of hazardous materials shipments and the devel-  
18 opment of regulations regarding mandatory routing  
19 decisions.

20 (5) RESPONSE COVERAGE.—The purpose of at  
21 least one of the studies to be conducted under the  
22 research program shall be to provide an assessment  
23 of the quality of response coverage for hazardous  
24 materials incidents, including cost-effective strate-  
25 gies for improving response capabilities and making

1 recommendations on systematic approaches that  
2 could be used to allocate government funding to en-  
3 hance response capability.

4 (e) IMPLEMENTATION.—The Secretary of Transpor-  
5 tation shall make grants to, and enter a cooperative agree-  
6 ment with, the National Academy of Sciences to carry out  
7 activities under this Act.

8 (f) REPORT.—Not later than 1 year after the date  
9 of enactment of this Act, the Secretary shall transmit a  
10 report to the Committee on Transportation and Infra-  
11 structure of the House of Representatives and the Com-  
12 mittee on Commerce, Science, and Transportation of the  
13 Senate on the effectiveness of the program in meeting the  
14 needs of government and the private sector for cooperative  
15 research on hazardous materials transportation.

16 (g) DEFINITIONS.—In this section, the terms  
17 ‘hazmat employer’ and ‘hazmat employee’ have the mean-  
18 ing given those terms in section 5102 of title 49, United  
19 States Code.

## 20 **Subtitle C—Sanitary Food** 21 **Transportation**

### 22 **SEC. 381. SHORT TITLE.**

23 This subtitle may be cited as the “Sanitary Food  
24 Transportation Act of 2005”.

1 **SEC. 382. RESPONSIBILITIES OF THE SECRETARY OF**  
2 **HEALTH AND HUMAN SERVICES.**

3 (a) UNSANITARY TRANSPORT DEEMED ADULTERA-  
4 TION.—Section 402 of the Federal Food, Drug, and Cos-  
5 metic Act (21 U.S.C. 342) is amended by adding at the  
6 end the following:

7 “(i) NONCOMPLIANCE WITH SANITARY TRANSPOR-  
8 TATION PRACTICES.—If the food is transported under  
9 conditions that are not in compliance with the sanitary  
10 transportation practices prescribed by the Secretary under  
11 section 416.”.

12 (b) SANITARY TRANSPORTATION REQUIREMENTS.—  
13 Chapter IV of the Federal Food, Drug, and Cosmetic Act  
14 (21 U.S.C. 341 et seq.) is amended by adding at the end  
15 the following:

16 **“SEC. 316. SANITARY TRANSPORTATION PRACTICES.**

17 “(a) DEFINITIONS.—In this section:

18 “(1) BULK VEHICLE.—The term ‘bulk vehicle’  
19 includes a tank truck, hopper truck, rail tank car,  
20 hopper car, cargo tank, portable tank, freight con-  
21 tainer, or hopper bin, and any other vehicle in which  
22 food is shipped in bulk, with the food coming into  
23 direct contact with the vehicle.

24 “(2) TRANSPORTATION.—The term ‘transporta-  
25 tion’ means any movement in commerce by motor  
26 vehicle or rail vehicle.

1       “(b) REGULATIONS.—The Secretary shall by regula-  
2 tion require shippers, carriers by motor vehicle or rail ve-  
3 hicle, receivers, and other persons engaged in the trans-  
4 portation of food to use sanitary transportation practices  
5 prescribed by the Secretary to ensure that food is not  
6 transported under conditions that may render the food  
7 adulterated.

8       “(c) CONTENTS.—The regulations shall—

9           “(1) prescribe such practices as the Secretary  
10 determines to be appropriate relating to—

11               “(A) sanitation;

12               “(B) packaging, isolation, and other pro-  
13 tective measures;

14               “(C) limitations on the use of vehicles;

15               “(D) information to be disclosed—

16                   “(i) to a carrier by a person arranging  
17 for the transport of food; and

18                   “(ii) to a manufacturer or other per-  
19 son that—

20                       “(I) arranges for the transpor-  
21 tation of food by a carrier; or

22                       “(II) furnishes a tank vehicle or  
23 bulk vehicle for the transportation of  
24 food; and

25               “(E) recordkeeping; and

1 “(2) include—

2 “(A) a list of nonfood products that the  
3 Secretary determines may, if shipped in a bulk  
4 vehicle, render adulterated food that is subse-  
5 quently transported in the same vehicle; and

6 “(B) a list of nonfood products that the  
7 Secretary determines may, if shipped in a  
8 motor vehicle or rail vehicle (other than a tank  
9 vehicle or bulk vehicle), render adulterated food  
10 that is simultaneously or subsequently trans-  
11 ported in the same vehicle.

12 “(d) WAIVERS.—

13 “(1) IN GENERAL.—The Secretary may waive  
14 any requirement under this section, with respect to  
15 any class of persons, vehicles, food, or nonfood prod-  
16 ucts, if the Secretary determines that the waiver—

17 “(A) will not result in the transportation  
18 of food under conditions that would be unsafe  
19 for human or animal health; and

20 “(B) will not be contrary to the public in-  
21 terest.

22 “(2) PUBLICATION.—The Secretary shall pub-  
23 lish in the Federal Register any waiver and the rea-  
24 sons for the waiver.

25 “(e) PREEMPTION.—

1           “(1) IN GENERAL.—No State or political sub-  
2           division of a State may directly or indirectly estab-  
3           lish or continue in effect, as to any food in interstate  
4           commerce, any authority or requirement concerning  
5           transportation of food that is not identical to an au-  
6           thority or requirement under this section.

7           “(2) APPLICABILITY.—This subsection applies  
8           to transportation that occurs on or after the effec-  
9           tive date of the regulations promulgated under sub-  
10          section (b).

11          “(f) ASSISTANCE OF OTHER AGENCIES.—The Sec-  
12          retary of Transportation, the Secretary of Agriculture, the  
13          Administrator of the Environmental Protection Agency,  
14          and the heads of other Federal agencies, as appropriate,  
15          shall provide assistance on request, to the extent resources  
16          are available, to the Secretary for the purposes of carrying  
17          out this section.”.

18          (c) INSPECTION OF TRANSPORTATION RECORDS.—

19                 (1) REQUIREMENT.—Section 703 of the Fed-  
20                 eral Food, Drug, and Cosmetic Act (21 U.S.C. 373)  
21                 is amended—

22                         (A) by striking “**OF INTERSTATE**  
23                         **SHIPMENT**” in the section caption;

1 (B) by striking “For the purpose” and in-  
2 serting “(a) IN GENERAL.—For the purpose”;  
3 and

4 (C) by adding at the end the following:

5 “(b) FOOD TRANSPORTATION RECORDS.—A shipper,  
6 carrier by motor vehicle or rail vehicle, receiver, or other  
7 person subject to section 416 shall, on request of an officer  
8 or employee designated by the Secretary, permit the offi-  
9 cer or employee, at reasonable times, to have access to  
10 and to copy all records that the Secretary requires to be  
11 kept under section 416(c)(1)(E).”.

12 (2) CONFORMING AMENDMENT.—Subsection (a)  
13 of section 703 of the Federal Food, Drug, and Cos-  
14 metic Act (as designated by paragraph (1)(A)) is  
15 amended by striking “carriers.” and inserting “car-  
16 riers, except as provided in subsection (b).”.

17 (d) PROHIBITED ACTS.—

18 (1) RECORDS INSPECTION.—Section 301(e) of  
19 the Federal Food, Drug, and Cosmetic Act (21  
20 U.S.C. 331(e)) is amended by inserting “416,” be-  
21 fore “504,” each place it appears.

22 (2) UNSAFE FOOD TRANSPORTATION.—Section  
23 301 of the Federal Food, Drug, and Cosmetic Act  
24 (21 U.S.C. 331) is amended by adding at the end  
25 the following:

1       “(hh) NONCOMPLIANCE WITH SANITARY TRANSPOR-  
 2 TATION PRACTICES.—The failure by a shipper, carrier by  
 3 motor vehicle or rail vehicle, receiver, or any other person  
 4 engaged in the transportation of food to comply with the  
 5 sanitary transportation practices prescribed by the Sec-  
 6 retary under section 416.”.

7 **SEC. 383. DEPARTMENT OF TRANSPORTATION REQUIRE-**  
 8 **MENTS.**

9 Chapter 57, is amended to read as follows:

10 **“CHAPTER 57—SANITARY FOOD**  
 11 **TRANSPORTATION**

“Sec.

“5701. Food transportation safety inspections.

12 **“§ 5701. Food transportation safety inspections**

13 **“(a) INSPECTION PROCEDURES.—**

14 **“(1) IN GENERAL.—**The Secretary of Transpor-  
 15 tation, in consultation with the Secretary of Health  
 16 and Human Services and the Secretary of Agri-  
 17 culture, shall—

18 **“(A)** establish procedures for transpor-  
 19 tation safety inspections for the purpose of  
 20 identifying suspected incidents of contamination  
 21 or adulteration of—

22 **“(i)** food in violation of regulations  
 23 promulgated under section 416 of the Fed-  
 24 eral Food, Drug, and Cosmetic Act;

1           “(ii) meat subject to detention under  
2           section 402 of the Federal Meat Inspection  
3           Act (21 U.S.C. 672); and

4           “(iii) poultry products subject to de-  
5           tention under section 19 of the Poultry  
6           Products Inspection Act (21 U.S.C. 467a);  
7           and

8           “(B) train personnel of the Department of  
9           Transportation in the appropriate use of the  
10          procedures.

11          “(2) APPLICABILITY.—The procedures estab-  
12          lished under paragraph (1) of this subsection shall  
13          apply, at a minimum, to Department of Transpor-  
14          tation personnel that perform commercial motor ve-  
15          hicle or railroad safety inspections.

16          “(b) NOTIFICATION OF SECRETARY OF HEALTH AND  
17          HUMAN SERVICES OR SECRETARY OF AGRICULTURE.—  
18          The Secretary of Transportation shall promptly notify the  
19          Secretary of Health and Human Services or the Secretary  
20          of Agriculture, as applicable, of any instances of potential  
21          food contamination or adulteration of a food identified  
22          during transportation safety inspections.

23          “(c) USE OF STATE EMPLOYEES.—The means by  
24          which the Secretary of Transportation carries out sub-  
25          section (b) of this section may include inspections con-

1 ducted by State employees using funds authorized to be  
2 appropriated under sections 31102 through 31104 of this  
3 title.”.

4 **SEC. 384. EFFECTIVE DATE.**

5 This subtitle takes effect on October 1, 2005.

6 **TITLE IV—HOUSEHOLD GOODS**  
7 **MOVERS**

8 **SEC. 401. SHORT TITLE.**

9 This title may be cited as the “Household Goods  
10 Mover Oversight Enforcement and Reform Act of 2005”.

11 **SEC. 402. DEFINITIONS.**

12 In this title, the terms “carrier”, “household goods”,  
13 “motor carrier”, “Secretary”, and “transportation” have  
14 the meaning given such terms in section 13102 of title  
15 49, United States Code.

16 **SEC. 403. PAYMENT OF RATES.**

17 Section 13707(b) is amended by adding at the end  
18 the following:

19 “(3) SHIPMENTS OF HOUSEHOLD GOODS.—

20 “(A) IN GENERAL.—A carrier providing  
21 transportation for a shipment of household  
22 goods shall give up possession of the household  
23 goods transported at the destination upon pay-  
24 ment of—

1           “(i) 100 percent of the charges con-  
2           tained in a binding estimate provided by  
3           the carrier;

4           “(ii) not more than 110 percent of the  
5           charges contained in a nonbinding estimate  
6           provided by the carrier; or

7           “(iii) in the case of a partial delivery  
8           of the shipment, the prorated percentage  
9           of the charges calculated in accordance  
10          with subparagraph (B).

11          “(B)    CALCULATION    OF    PRORATED  
12          CHARGES.—For purposes of subparagraph  
13          (A)(iii), the prorated percentage of the charges  
14          shall be the percentage of the total charges due  
15          to the carrier as described in clause (i) or (ii)  
16          of subparagraph (A) that is equal to the per-  
17          centage of the weight of that portion of the  
18          shipment delivered to the total weight of the  
19          shipment.

20          “(C)    POST-CONTRACT   SERVICES.—Sub-  
21          paragraph (A) does not apply to additional  
22          services requested by a shipper after the con-  
23          tract of service is executed that were not in-  
24          cluded in the estimate.

1           “(D) IMPRACTICABLE OPERATIONS.—Sub-  
2           paragraph (A) does not apply to impracticable  
3           operations, as defined by the applicable carrier  
4           tariff, except that the charges collected at deliv-  
5           ery for such operations shall not exceed 15 per-  
6           cent of all other charges due at delivery. Any  
7           remaining charges due shall be paid within 30  
8           days after the carrier presents its freight bill.”.

9   **SEC. 404. HOUSEHOLD GOODS CARRIER OPERATIONS.**

10          Section 14104(b) is amended—

11               (1) by redesignating paragraph (2) as para-  
12          graph (4); and

13               (2) by inserting after paragraph (1) the fol-  
14          lowing:

15               “(2) OTHER INFORMATION.—At the time that a  
16          motor carrier provides the written estimate required  
17          by paragraph (1), the motor carrier shall provide the  
18          shipper a copy of the Department of Transportation  
19          publication FMCSA–ESA–03–005 (or its successor  
20          edition or publication) entitled ‘Ready to Move?’. Be-  
21          fore the execution of a contract for service, a motor  
22          carrier shall provide the shipper a copy of the De-  
23          partment of Transportation publication OCE 100,  
24          entitled ‘Your Rights and Responsibilities When You  
25          Move’ required by section 375.2 of title 49, Code of

1 Federal Regulations (or any corresponding similar  
2 regulation).

3 “(3) BINDING AND NONBINDING ESTIMATES.—

4 The written estimate required by paragraph (1) may  
5 be either binding or nonbinding. The written esti-  
6 mate shall be based on a visual inspection of the  
7 household goods if the household goods are located  
8 within a 50-mile radius of the location of the car-  
9 rier’s household goods agent preparing the estimate.  
10 The Secretary may not prohibit any such carrier  
11 from charging a prospective shipper for providing a  
12 written, binding estimate for the transportation and  
13 related services.”.

14 **SEC. 405. LIABILITY OF CARRIERS UNDER RECEIPTS AND**  
15 **BILLS OF LADING.**

16 Section 14706(f) is amended—

17 (1) by resetting the text as a paragraph in-  
18 dented 2 ems from the left margin and inserting  
19 “(1) IN GENERAL.—” before “A carrier”; and

20 (2) by adding at the end, the following:

21 “(2) FULL VALUE PROTECTION OBLIGATION.—

22 Unless the carrier receives a waiver in writing under  
23 paragraph (3), a carrier’s maximum liability for  
24 household goods that are lost, damaged, destroyed,  
25 or otherwise not delivered to the final destination is

1 an amount equal to the replacement value of such  
2 goods, subject to a maximum amount equal to the  
3 declared value of the shipment, subject to rules  
4 issued by the Surface Transportation Board and ap-  
5 plicable tariffs.

6 “(3) APPLICATION OF RATES.—The released  
7 rates established by the Board under paragraph (1)  
8 (commonly known as ‘released rates’) shall not apply  
9 to the transportation of household goods by a carrier  
10 unless the liability of the carrier for the full value  
11 of such household goods under paragraph (2) is  
12 waived in writing by the shipper.”

13 **SEC. 406. ARBITRATION REQUIREMENTS.**

14 (a) OFFERING SHIPPERS ARBITRATION.—Section  
15 14708(a) is amended by striking “transported.” and in-  
16 serting “transported and to determine whether carrier  
17 charges, in addition to those collected at delivery, must  
18 be paid by the shipper for transportation and services re-  
19 lated to the transportation of household goods.”

20 (b) THRESHOLD FOR BINDING ARBITRATION.—Sec-  
21 tion 14708(b)(6) is amended by striking “\$5,000” each  
22 place it appears and inserting “\$10,000”.

23 (c) DEADLINE FOR DECISION.—Section 14708(b)(8)  
24 is amended—

25 (1) by striking “and”; and

1           (2) by striking “damages.” and inserting “dam-  
2           ages, and an order requiring the payment of addi-  
3           tional carrier charges.”.

4           (d) ATTORNEY’S FEES TO SHIPPERS.—Section  
5 14708(d)(3) is amended to read as follows:

6           “(3)(A) the shipper was not advised by the car-  
7           rier during the claim settlement process that a dis-  
8           pute settlement program was available to resolve the  
9           dispute;

10           “(B) a decision resolving the dispute was not  
11           rendered through arbitration under this section with-  
12           in the period provided under subsection (b)(8) of  
13           this section or an extension of such period under  
14           such subsection; or

15           “(C) the court proceeding is to enforce a deci-  
16           sion rendered through arbitration under this section  
17           and is instituted after the period for performance  
18           under such decision has elapsed.”.

19           (e) REVIEW AND REPORT ON DISPUTE SETTLEMENT  
20 PROGRAMS.—

21           (1) REVIEW AND REPORT.—Not later than 18  
22           months after the date of enactment of this Act, the  
23           Secretary of Transportation shall complete a review  
24           of the outcomes and the effectiveness of the pro-  
25           grams carried out under title 49, United States

1 Code, to settle disputes between motor carriers and  
2 shippers and submit a report on the review to the  
3 Senate Committee on Commerce, Science, and  
4 Transportation and the House of Representatives  
5 Committee on Transportation and Infrastructure.

6 The report shall describe—

7 (A) the subject of, and amounts at issue  
8 in, the disputes;

9 (B) patterns in disputes or settlements;

10 (C) the prevailing party in disputes, if  
11 identifiable; and

12 (D) any other matters the Secretary con-  
13 siderers appropriate.

14 (2) REQUIREMENT FOR PUBLIC COMMENT.—

15 The Secretary shall publish notice of the review re-  
16 quired by paragraph (1) and provide an opportunity  
17 for the public to submit comments on the effective-  
18 ness of such programs. Notwithstanding any con-  
19 fidentiality or non-disclosure provision in a settle-  
20 ment agreement between a motor carrier and a ship-  
21 per, it shall not be a violation of that provision for  
22 a motor carrier or shipper to submit a copy of the  
23 settlement agreement, or to provide information in-  
24 cluded in the agreement, to the Secretary for use in  
25 evaluating dispute settlement programs under this

1 subsection. Notwithstanding anything to the con-  
2 trary in section 552 of title 5, United States Code,  
3 the Secretary may not post on the Department of  
4 Transportation’s electronic docket system, or make  
5 available to any requester in paper or electronic for-  
6 mat, any information submitted to the Secretary by  
7 a motor carrier or shipper under the preceding sen-  
8 tence. The Secretary shall use the settlement agree-  
9 ments or other information submitted by a motor  
10 carrier or shipper solely to evaluate the effectiveness  
11 of dispute settlement programs and shall not include  
12 in the report required by this subsection the names,  
13 or other identifying information concerning, motor  
14 carriers or shippers that submitted comments or in-  
15 formation under this subsection.

16 **SEC. 407. ENFORCEMENT OF REGULATIONS RELATED TO**  
17 **TRANSPORTATION OF HOUSEHOLD GOODS.**

18 (a) NONPREEMPTION OF INTRASTATE TRANSPOR-  
19 TATION OF HOUSEHOLD GOODS.—Section  
20 14501(c)(2)(B) is amended by inserting “intrastate” be-  
21 fore “transportation”.

22 (b) ENFORCEMENT OF FEDERAL LAW WITH RE-  
23 SPECT TO INTERSTATE HOUSEHOLD GOODS CARRIERS.—

24 (1) IN GENERAL.—Chapter 147 is amended by  
25 adding at the end the following:

1 **“§ 14710. Enforcement of Federal laws and regula-**  
2 **tions with respect to transportation of**  
3 **household goods**

4 “(a) ENFORCEMENT BY STATES.—Notwithstanding  
5 any other provision of this title, a State authority may  
6 enforce the consumer protection provisions that apply to  
7 individual shippers, as determined by the Secretary of  
8 Transportation, of this title that are related to the delivery  
9 and transportation of household goods in interstate com-  
10 merce. Any fine or penalty imposed on a carrier in a pro-  
11 ceeding under this subsection shall, notwithstanding any  
12 provision of law to the contrary, be paid to and retained  
13 by the State.

14 “(b) NOTICE.—The State shall serve written notice  
15 to the Secretary or the Board, as the case may be, of any  
16 civil action under subsection (a) prior to initiating such  
17 civil action. The notice shall include a copy of the com-  
18 plaint to be filed to initiate such civil action, except that  
19 if it is not feasible for the State to provide such prior no-  
20 tice, the State shall provide such notice immediately upon  
21 instituting such civil action.

22 “(c) STATE AUTHORITY DEFINED.—The term ‘State  
23 authority’ means an agency of a State that has authority  
24 under the laws of the State to regulate the intrastate  
25 movement of household goods.

1 **“§ 14711. Enforcement by State attorneys general**

2       “(a) IN GENERAL.—A State, as *parens patriae*, may  
3 bring a civil action on behalf of its residents in an appro-  
4 priate district court of the United States to enforce the  
5 consumer protection provisions that apply to individual  
6 shippers, as determined by the Secretary of Transpor-  
7 tation, of this title that are related to the delivery and  
8 transportation of household goods in interstate commerce,  
9 or regulations or orders of the Secretary or the Board  
10 thereunder, or to impose the civil penalties authorized by  
11 this part or such regulation or order, whenever the attor-  
12 ney general of the State has reason to believe that the  
13 interests of the residents of the State have been or are  
14 being threatened or adversely affected by a carrier or  
15 broker providing transportation subject to jurisdiction  
16 under subchapter I or III of chapter 135 of this title, or  
17 a foreign motor carrier providing transportation registered  
18 under section 13902 of this title, that is engaged in house-  
19 hold goods transportation that violates this part or a regu-  
20 lation or order of the Secretary or Board, as applicable,  
21 promulgated under this part.

22       “(b) NOTICE.—The State shall serve written notice  
23 to the Secretary or the Board, as the case may be, of any  
24 civil action under subsection (a) prior to initiating such  
25 civil action. The notice shall include a copy of the com-  
26 plaint to be filed to initiate such civil action, except that

1 if it is not feasible for the State to provide such prior no-  
2 tice, the State shall provide such notice immediately upon  
3 instituting such civil action.

4 “(c) AUTHORITY TO INTERVENE.—Upon receiving  
5 the notice required by subsection (b), the Secretary or  
6 Board may intervene in such civil action and upon inter-  
7 vening—

8 “(1) be heard on all matters arising in such  
9 civil action; and

10 “(2) file petitions for appeal of a decision in  
11 such civil action.

12 “(d) CONSTRUCTION.—For purposes of bringing any  
13 civil action under subsection (a), nothing in this section  
14 shall prevent the attorney general of a State from exer-  
15 cising the powers conferred on the attorney general by the  
16 laws of such State to conduct investigations or to admin-  
17 ister oaths or affirmations or to compel the attendance  
18 of witnesses or the production of documentary and other  
19 evidence.

20 “(e) VENUE; SERVICE OF PROCESS.—In a civil action  
21 brought under subsection (a)—

22 “(1) the venue shall be a judicial district in  
23 which—

24 “(A) the carrier, foreign motor carrier, or  
25 broker operates;

1           “(B) the carrier, foreign motor carrier, or  
2           broker was authorized to provide transportation  
3           at the time the complaint arose; or

4           “(C) where the defendant in the civil ac-  
5           tion is found;

6           “(2) process may be served without regard to  
7           the territorial limits of the district or of the State  
8           in which the civil action is instituted; and

9           “(3) a person who participated with a carrier or  
10          broker in an alleged violation that is being litigated  
11          in the civil action may be joined in the civil action  
12          without regard to the residence of the person.

13          “(f) ENFORCEMENT OF STATE LAW.—Nothing con-  
14          tained in this section shall prohibit an authorized State  
15          official from proceeding in State court to enforce a crimi-  
16          nal statute of such State.”.

17          (c) INDIVIDUAL SHIPPER DEFINED.—Section 13102  
18          is amended by redesignating paragraphs (12) through  
19          (24) as paragraphs (13) through (25) and by inserting  
20          after paragraph (11) the following:

21                 “(12) INDIVIDUAL SHIPPER.—The term ‘indi-  
22                 vidual shipper’ means any person who—

23                         “(A) is the shipper, consignor, or consignee  
24                         of a household goods shipment;

1           “(B) is identified as the shipper, consignor,  
2           or consignee on the face of the bill of lading;

3           “(C) owns the goods being transported;  
4           and

5           “(D) pays his or her own tariff transpor-  
6           tation charges.”.

7           (c) CONFORMING AMENDMENT.—The analysis for  
8 chapter 147 is amended by inserting after the item relat-  
9 ing to section 14709 the following:

“14710. Enforcement of Federal laws and regulations with respect to transpor-  
tation of household goods.

“14711. Enforcement by State attorneys general.”.

10 **SEC. 408. WORKING GROUP FOR DEVELOPMENT OF PRAC-**  
11 **TICES AND PROCEDURES TO ENHANCE FED-**  
12 **ERAL-STATE RELATIONS.**

13           (a) IN GENERAL.—Not later than 90 days after the  
14 date of enactment of this Act, the Secretary shall establish  
15 a working group of State attorneys general, State authori-  
16 ties that regulate the movement of household goods, and  
17 Federal and local law enforcement officials for the purpose  
18 of developing practices and procedures to enhance the  
19 Federal-State partnership in enforcement efforts, ex-  
20 change of information, and coordination of enforcement  
21 efforts with respect to interstate transportation of house-  
22 hold goods and making legislative and regulatory rec-  
23 ommendations to the Secretary concerning such enforce-  
24 ment efforts.

1 (b) CONSULTATION.—In carrying out subsection (a),  
2 the working group shall consult with industries involved  
3 in the transportation of household goods, the public, and  
4 other interested parties.

5 **SEC. 409. INFORMATION ABOUT HOUSEHOLD GOODS**  
6 **TRANSPORTATION ON CARRIERS' WEBSITES.**

7 Not later than 1 year after the date of enactment  
8 of this Act, the Secretary shall modify the regulations con-  
9 tained in part 375 of title 49, Code of Federal Regula-  
10 tions, to require a motor carrier or broker that is subject  
11 to such regulations and that establishes and maintains a  
12 website to prominently display on the website—

13 (1) the number assigned to the motor carrier or  
14 broker by the Department of Transportation;

15 (2) the OCE 100 publication referred to in sec-  
16 tion 14104(b)(2) of title 49, United States Code;  
17 and

18 (3) in the case of a broker, a list of all motor  
19 carriers providing transportation of household goods  
20 used by the broker and a statement that the broker  
21 is not a motor carrier providing transportation of  
22 household goods.

1 **SEC. 410. CONSUMER COMPLAINTS.**

2 (a) REQUIREMENT FOR DATABASE.—Subchapter II  
3 of chapter 141 is amended by adding at the end the fol-  
4 lowing:

5 **“§ 14124. Consumer complaints**

6 “(a) ESTABLISHMENT OF SYSTEM AND DATABASE.—  
7 The Secretary of Transportation shall—

8 “(1) establish a system to—

9 “(A) file and log a complaint made by a  
10 shipper that relates to motor carrier transpor-  
11 tation of household goods; and

12 “(B) to solicit information gathered by a  
13 State regarding the number and type of com-  
14 plaints involving the interstate transportation of  
15 household goods;

16 “(2) establish a database of such complaints;  
17 and

18 “(3) develop a procedure—

19 “(A) to provide public access to the data-  
20 base, subject to section 522a of title 5;

21 “(B) to forward a complaint, including the  
22 motor carrier bill of lading number, if known,  
23 related to the complaint to a motor carrier  
24 named in such complaint and to an appropriate  
25 State authority (as defined in section 14710(c))

1 in the State in which the complainant resides;  
2 and

3 “(C) to permit a motor carrier to challenge  
4 information in the database.

5 “(b) SUMMARY TO CONGRESS.—The Secretary shall  
6 transmit a summary each year of the complaints filed and  
7 logged under subsection (a) for the preceding calendar  
8 year to the Senate Committee on Commerce, Science, and  
9 Transportation and the House of Representatives Com-  
10 mittee on Transportation and Infrastructure.”.

11 (b) CONFORMING AMENDMENT.—The analysis for  
12 chapter 141 is amended by inserting after the item relat-  
13 ing to section 14123 the following:

“14124. Consumer complaints.”.

14 **SEC. 411. REVIEW OF LIABILITY OF CARRIERS.**

15 (a) REVIEW.—Not later than 1 year after the date  
16 of enactment of this Act, the Surface Transportation  
17 Board shall complete a review of the current Federal regu-  
18 lations regarding the level of liability protection provided  
19 by motor carriers that provide transportation of household  
20 goods and revise such regulations, if necessary, to provide  
21 enhanced protection in the case of loss or damage.

22 (b) DETERMINATIONS.—The review required by sub-  
23 section (a) shall include a determination of—

24 (1) whether the current regulations provide ade-  
25 quate protection;

1           (2) the benefits of purchase by a shipper of in-  
2           surance to supplement the carrier’s limitations on li-  
3           ability;

4           (3) whether there are abuses of the current reg-  
5           ulations that leave the shipper unprotected in the  
6           event of loss and damage to a shipment of household  
7           goods; and

8           (4) whether the section 14706 of title 49,  
9           United States Code, should be modified.

10 **SEC. 412. CIVIL PENALTIES RELATING TO HOUSEHOLD**  
11 **GOODS BROKERS.**

12           Section 14901(d) is amended—

13           (1) by resetting the text as a paragraph in-  
14           dented 2 ems from the left margin and inserting  
15           “(1) IN GENERAL.—” before “If a carrier”; and

16           (2) by adding at the end the following:

17           “(2) ESTIMATE OF BROKER WITHOUT CARRIER  
18           AGREEMENT.—If a broker for transportation of  
19           household goods subject to jurisdiction under sub-  
20           chapter I of chapter 135 of this title makes an esti-  
21           mate of the cost of transporting any such goods be-  
22           fore entering into an agreement with a carrier to  
23           provide transportation of household goods subject to  
24           such jurisdiction, the broker is liable to the United

1 States for a civil penalty of not less than \$10,000  
2 for each violation.

3 “(3) UNAUTHORIZED TRANSPORTATION.—If a  
4 person provides transportation of household goods  
5 subject to jurisdiction under subchapter I of chapter  
6 135 this title or provides broker services for such  
7 transportation without being registered under chap-  
8 ter 139 of this title to provide such transportation  
9 or services as a motor carrier or broker, as the case  
10 may be, such person is liable to the United States  
11 for a civil penalty of not less than \$25,000 for each  
12 violation.”.

13 **SEC. 413. CIVIL AND CRIMINAL PENALTY FOR FAILING TO**  
14 **GIVE UP POSSESSION OF HOUSEHOLD**  
15 **GOODS.**

16 (a) IN GENERAL.—Chapter 149 is amended by add-  
17 ing at the end the following:

18 **“§ 14915. Penalties for failure to give up possession of**  
19 **household goods**

20 “(a) CIVIL PENALTY.—Whoever is found to have  
21 failed to give up possession of household goods is liable  
22 to the United States for a civil penalty of not less than  
23 \$10,000. Each day a carrier is found to have failed to  
24 give up possession of household goods may constitute a  
25 separate violation. If such person is a carrier or broker,

1 the Secretary may suspend the registration of such carrier  
2 or broker under chapter 139 of this title for a period of  
3 up to 24 months.

4 “(b) CRIMINAL PENALTY.—Whoever has been con-  
5 victed of having failed to give up possession of household  
6 goods shall be fined under title 18 or imprisoned for not  
7 more than 5 years, or both.

8 “(c) FAILURE TO GIVE UP POSSESSION OF HOUSE-  
9 HOLD GOODS DEFINED.—For purposes of this section,  
10 the term ‘failed to give up possession of household goods’  
11 means the knowing and willful failure, in violation of a  
12 contract, to deliver to, or unload at, the destination of a  
13 shipment of household goods that is subject to jurisdiction  
14 under subchapter I or III of chapter 135 of this title, for  
15 which charges have been estimated by the motor carrier  
16 providing transportation of such goods, and for which the  
17 shipper has tendered a payment described in clause (i),  
18 (ii), or (iii) of section 13707(b)(3)(A) of this title.”.

19 (b) CONFORMING AMENDMENT.—The analysis for  
20 such chapter is amended by adding at the end the fol-  
21 lowing:

“14915. Penalties for failure to give up possession of household goods.”.

22 **SEC. 414. PROGRESS REPORT.**

23 Not later than 1 year after the date of enactment  
24 of this Act, the Secretary shall transmit to Congress a

1 report on the progress being made in implementing the  
2 provisions of this title.

3 **SEC. 415. ADDITIONAL REGISTRATION REQUIREMENTS FOR**  
4 **MOTOR CARRIERS OF HOUSEHOLD GOODS.**

5 Section 13902(a) is amended—

6 (1) by striking paragraphs (2) and (3);

7 (2) by redesignating paragraph (4) as para-  
8 graph (5) and inserting after paragraph (1) the fol-  
9 lowing:

10 “(2) **ADDITIONAL REGISTRATION REQUIREMENTS**  
11 **FOR HOUSEHOLD GOODS TRANSPORTATION.**—Notwith-  
12 standing paragraph (1), the Secretary may register a per-  
13 son to provide transportation of household goods (as de-  
14 fined in section 13102(10) of this title) only after that  
15 person—

16 “(A) provides evidence of participation in  
17 an arbitration program and provides a copy of  
18 the notice of that program as required by sec-  
19 tion 14708(b)(2) of this title;

20 “(B) identifies its tariff and provides a  
21 copy of the notice of the availability of that tar-  
22 iff for inspection as required by section  
23 13702(e) of this title;

24 “(C) provides evidence that it has access  
25 to, has read, is familiar with, and will observe

1 all laws relating to consumer protection, esti-  
2 mating, consumers' rights and responsibilities,  
3 and options for limitations of liability for loss  
4 and damage; and

5 “(D) discloses any relationship involving  
6 common stock, common ownership, common  
7 management, or common familial relationships  
8 between that person and any other motor car-  
9 rier, freight forwarder, or broker of household  
10 goods within the past 3 years.

11 “(3) CONSIDERATION OF EVIDENCE; FIND-  
12 INGS.—The Secretary shall consider, and, to the ex-  
13 tent applicable, make findings on any evidence dem-  
14 onstrating that the registrant is unable to comply  
15 with any applicable requirement of paragraph (1) or,  
16 in the case of a registrant to which paragraph (2)  
17 applies, paragraph (1) or (2).

18 “(4) WITHHOLDING.—If the Secretary deter-  
19 mines that a registrant under this section does not  
20 meet, or is not able to meet, any requirement of  
21 paragraph (1) or, in the case of a registrant to  
22 which paragraph (2) applies, paragraph (1) or (2),  
23 the Secretary shall withhold registration.”; and

24 (3) by adding at the end of paragraph (5), as  
25 redesignated, “In the case of a registration for the

1 transportation of household goods (as defined in sec-  
 2 tion 13102(10 of this title), the Secretary may also  
 3 hear a complaint on the ground that the registrant  
 4 fails or will fail to comply with the requirements of  
 5 paragraph (2) of this subsection.”.

6 **TITLE V—SPORTFISHING AND**  
 7 **RECREATIONAL BOATING**  
 8 **SAFETY**

9 **SEC. 501. SHORT TITLE.**

10 This title may be cited as the “Sportfishing and Rec-  
 11 reational Boating Safety Act of 2005”.

12 **Subtitle A—Federal Aid in Sport**  
 13 **Fish Restoration Act Amendments**

14 **SEC. 511. AMENDMENT OF FEDERAL AID IN SPORT FISH**  
 15 **RESTORATION ACT.**

16 Except as otherwise expressly provided, whenever in  
 17 this subtitle an amendment or repeal is expressed in terms  
 18 of an amendment to, or repeal of, a section or other provi-  
 19 sion, the reference shall be considered to be made to a  
 20 section or other provision of the Dingell-Johnson Sport  
 21 Fish Restoration Act (16 U.S.C. 777 et seq.).

22 **SEC. 512. AUTHORIZATION OF APPROPRIATIONS.**

23 (a) **IN GENERAL.**—Section 3 (16 U.S.C. 777b) is  
 24 amended—

1           (1) by striking “the succeeding fiscal year.” in  
2           the third sentence and inserting “succeeding fiscal  
3           years.”; and

4           (2) by striking “in carrying on the research  
5           program of the Fish and Wildlife Service in respect  
6           to fish of material value for sport and recreation.”  
7           and inserting “to supplement the 57 percent of the  
8           balance of each annual appropriation to be appor-  
9           tioned among the States, as provided for in section  
10          4(c).”.

11          (b) CONFORMING AMENDMENTS.—

12           (1) IN GENERAL.—Section 3 (16 U.S.C. 777b)  
13          is amended in the first sentence—

14           (A) by striking “Sport Fish Restoration  
15           Account” and inserting “Sport Fish Restora-  
16           tion and Boating Trust Fund”; and

17           (B) by striking “that Account.” and insert-  
18           ing “that Trust Fund, except as provided in  
19           section 9504(e) of the Internal Revenue Code of  
20           1986.”.

21           (2) EFFECTIVE DATE.—The amendments made  
22          by paragraph (1) take effect on October 1, 2005.

23          **SEC. 513. DIVISION OF ANNUAL APPROPRIATIONS.**

24          Section 4 (16 U.S.C. 777c) is amended—

1           (1) by striking subsections (a) through (c) and  
2 redesignating subsections (d), (e), (f), and (g) as  
3 subsections (b), (c), (d), and (e), respectively;

4           (2) by inserting before subsection (b), as redesi-  
5 gnated by paragraph (1), the following:

6           “(a) IN GENERAL.—For fiscal years 2006 through  
7 2020, the balance of each annual appropriation made in  
8 accordance with the provisions of section 3 remaining  
9 after the distributions for administrative expenses and  
10 other purposes under subsection (b) and for multistate  
11 conservation grants under section 14 shall be distributed  
12 as follows:

13           “(1) COASTAL WETLANDS.—18.5 percent to the  
14 Secretary of the Interior for distribution as provided  
15 in the Coastal Wetlands Planning, Protection, and  
16 Restoration Act (16 U.S.C. 3951 et seq.).

17           “(2) BOATING SAFETY.—18.5 percent to the  
18 Secretary of Homeland Security for State rec-  
19 reational boating safety programs under section  
20 13106 of title 46, United States Code.

21           “(3) CLEAN VESSEL ACT.—2.0 percent to the  
22 Secretary of the Interior for qualified projects under  
23 section 5604(c) of the Clean Vessel Act of 1992 (33  
24 U.S.C. 1322 note).

1           “(4) BOATING INFRASTRUCTURE.—2.0 percent  
2 to the Secretary of the Interior for obligation for  
3 qualified projects under section 7404(d) of the  
4 Sportfishing and Boating Safety Act of 1998 (16  
5 U.S.C. 777g–1(d)).

6           “(5) NATIONAL OUTREACH AND COMMUNICA-  
7 TIONS.—2.0 percent to the Secretary of the Interior  
8 for the National Outreach and Communications Pro-  
9 gram under section 8(d) of this Act. Such amounts  
10 shall remain available for 3 fiscal years, after which  
11 any portion thereof that is unobligated by the Sec-  
12 retary for that program may be expended by the  
13 Secretary under subsection (c) of this section.”;

14           (3) by striking (b)(1)(A), as redesignated by  
15 paragraph (1), and inserting the following:

16           “(A) SET-ASIDE.—For a fiscal year after  
17 fiscal year 2005, the Secretary of the Interior  
18 may use no more than the amount specified in  
19 subparagraph (B) for the fiscal year for ex-  
20 penses of administration incurred in the imple-  
21 mentation of this Act, in accordance with this  
22 section and section 9. The amount specified in  
23 subparagraph (B) for a fiscal year may not be  
24 included in the amount of the annual appro-

1           prietation distributed under subsection (a) for the  
2           fiscal year.”;

3           (4) by striking “Secretary of the Interior, after  
4           the distribution, transfer, use, and deduction under  
5           subsections (a), (b), (c), and (d), respectively, and  
6           after deducting amounts used for grants under sec-  
7           tion 14, shall apportion the remainder” in subsection  
8           (c), as redesignated by paragraph (1), and inserting  
9           “Secretary, for a fiscal year after fiscal year 2005,  
10          after the distribution, transfer, use and deduction  
11          under subsection (b), and after deducting amounts  
12          used for grants under section 14 of this title, shall  
13          apportion 57 percent of the balance”;

14          (5) by striking “per centum” each place it ap-  
15          pears in subsection (c), as redesignated by para-  
16          graph (1), and inserting “percent”;

17          (6) by striking “subsections (a), (b)(3)(A),  
18          (b)(3)(B), and (c)” in paragraph (1) of subsection  
19          (e), as redesignated by paragraph (1), and inserting  
20          “paragraphs (1), (3), (4), and (5) of subsection  
21          (a)”;

22          (7) by adding at the end the following:

23          “(f) TRANSFER OF CERTAIN FUNDS.—Amounts  
24          available under paragraphs (3) and (4) of subsection (a)  
25          that are unobligated by the Secretary of the Interior after

1 3 fiscal years shall be transferred to the Secretary of  
2 Homeland Security and shall be expended for State rec-  
3 reational boating safety programs under section 13106(a)  
4 of title 46, United States Code.”.

5 **SEC. 514. MAINTENANCE OF PROJECTS.**

6 Section 8 (16 U.S.C. 777g) is amended—

7 (1) by striking “in carrying out the research  
8 program of the Fish and Wildlife Service in respect  
9 to fish of material value for sport or recreation.” in  
10 subsection (b)(2) and inserting “to supplement the  
11 57 percent of the balance of each annual appropria-  
12 tion to be apportioned among the States under sec-  
13 tion 4(c).”; and

14 (2) by striking “subsection (c) or (d)” in sub-  
15 section (d)(3) and inserting “subsection (a)(5) or  
16 subsection (b)”.

17 **SEC. 515. BOATING INFRASTRUCTURE.**

18 Section 7404(d)(1) of the Sportfishing and Boating  
19 Safety Act of 1998 (16 U.S.C. 777g–1(d)(1)) is amended  
20 by striking “section 4(b)(3)(B) of the Act entitled ‘An Act  
21 to provide that the United States shall aid the States in  
22 fish restoration and management projects, and for other  
23 purposes,’ approved August 9, 1950, as amended by this  
24 Act,” and inserting “section 4(a)(4) of the Dingell-John-  
25 son Sport Fish Restoration Act”.

1 **SEC. 516. REQUIREMENTS AND RESTRICTIONS CON-**  
2 **CERNING USE OF AMOUNTS FOR EXPENSES**  
3 **FOR ADMINISTRATION.**

4 Section 9 (16 U.S.C. 777h) is amended—

5 (1) by striking “section 4(d)(1)” in subsection  
6 (a) and inserting “section 4(b)”; and

7 (2) by striking “section 4(d)(1)” in subsection  
8 (b)(1) and inserting “section 4(b)”.

9 **SEC. 517. PAYMENTS OF FUNDS TO AND COOPERATION**  
10 **WITH PUERTO RICO, THE DISTRICT OF CO-**  
11 **LUMBIA, GUAM, AMERICAN SAMOA, THE COM-**  
12 **MONWEALTH OF THE NORTHERN MARIANA**  
13 **ISLANDS, AND THE VIRGIN ISLANDS.**

14 Section 12 (16 U.S.C. 777k) is amended by striking  
15 “in carrying on the research program of the Fish and  
16 Wildlife Service in respect to fish of material value for  
17 sport or recreation.” and inserting “to supplement the 57  
18 percent of the balance of each annual appropriation to be  
19 apportioned among the States under section 4(b) of this  
20 Act.”.

21 **SEC. 518. MULTISTATE CONSERVATION GRANT PROGRAM.**

22 Section 14 (16 U.S.C. 777m) is amended—

23 (1) by striking so much of subsection (a) as  
24 precedes paragraph (2) and inserting the following:

25 “(a) IN GENERAL.—

1           “(1) AMOUNT FOR GRANTS.—For each fiscal  
2 year after fiscal year 2005, not more than  
3 \$3,000,000 of each annual appropriation made in  
4 accordance with the provisions of section 3 shall be  
5 distributed to the Secretary of the Interior for mak-  
6 ing multistate conservation project grants in accord-  
7 ance with this section.”;

8           (2) by striking “section 4(e)” each place it ap-  
9 pears in subsection (a)(2)(B) and inserting “section  
10 4(c)”;

11           (3) by striking “Of the balance of each annual  
12 appropriation made under section 3 remaining after  
13 the distribution and use under subsections (a), (b),  
14 and (c) of section 4 for each fiscal year and after  
15 deducting amounts used for grants under subsection  
16 (a)—” in subsection (e) and inserting “Of amounts  
17 made available under section 4(b) for each fiscal  
18 year—”.

19 **SEC. 519. EXPENDITURES FROM BOAT SAFETY ACCOUNT.**

20           The Act is amended by adding at the end the fol-  
21 lowing:

22 **“SEC. 15. EXPENDITURES FROM BOAT SAFETY ACCOUNT.**

23           “The following amounts, available under section  
24 9504(c) of the Internal Revenue Code of 1986 without  
25 further appropriation, shall be distributed as follows:

1           “(1) In fiscal year 2006, \$28,155,000 shall be  
2 distributed—

3           “(A) under section 4 of this Act in the fol-  
4 lowing manner:

5           “(i) \$11,200,000 to be added to funds  
6 available under subsection (a)(2) of that  
7 section;

8           “(ii) \$1,245,000 to be added to funds  
9 available under subsection (a)(3) of that  
10 section;

11           “(iii) \$1,245,000 to be added to funds  
12 available under subsection (a)(4) of that  
13 section;

14           “(iv) \$1,245,000 to be added to funds  
15 available under subsection (a)(5) of that  
16 section; and

17           “(v) \$12,800,000 to be added to  
18 funds available under subsection (b) of  
19 that section; and

20           “(B) under section 14 of this Act,  
21 \$420,000, to be added to funds available under  
22 subsection (a)(1) of that section.

23           “(2) In fiscal year 2007, \$22,419,000 shall be  
24 distributed—

1           “(A) under section 4 of this Act in the fol-  
2           lowing manner:

3                   “(i) \$8,075,000 to be added to funds  
4                   available under subsection (a)(2) of that  
5                   section;

6                   “(ii) \$713,000 to be added to funds  
7                   available under subsection (a)(3) of that  
8                   section;

9                   “(iii) \$713,000 to be added to funds  
10                  available under subsection (a)(4) of that  
11                  section;

12                  “(iv) \$713,000 to be added to funds  
13                  available under subsection (a)(5) of that  
14                  section; and

15                  “(v) \$11,925,000 to be added to  
16                  funds available under subsection (b) of this  
17                  Act; and

18                  “(B) under section 14 of this Act,  
19                  \$280,000 to be added to funds available under  
20                  subsection (a)(1) of that section.

21                  “(3) In fiscal year 2008, \$17,139,000 shall be  
22                  distributed—

23                  “(A) under section 4 of this Act in the fol-  
24                  lowing manner:

1           “(i) \$6,800,000 to be added to funds  
2 available under subsection (a)(2) of that  
3 section;

4           “(ii) \$333,000 to be added to funds  
5 available under subsection (a)(3) of that  
6 section;

7           “(iii) \$333,000 to be added to funds  
8 available under subsection (a)(4) of that  
9 section;

10           “(iv) \$333,000 to be added to funds  
11 available under subsection (a)(5) of that  
12 section; and

13           “(v) \$9,200,000 to be added to funds  
14 available under subsection (b) of that sec-  
15 tion; and

16           “(B) under section 14 of this Act,  
17 \$140,000, to be added to funds available under  
18 subsection (a)(1) of that section.

19           “(4) In fiscal year 2009, \$12,287,000 shall be  
20 distributed—

21           “(A) under section 4 of this Act in the fol-  
22 lowing manner:

23           “(i) \$5,100,000 to be added to funds  
24 available under subsection (a)(2) of that  
25 section;

1           “(ii) \$48,000 to be added to funds  
2           available under subsection (a)(3) of that  
3           section;

4           “(iii) \$48,000 to be added to funds  
5           available under subsection (a)(4) of that  
6           section;

7           “(iv) \$48,000 to be added to funds  
8           available under subsection (a)(5) of that  
9           section; and

10           “(v) \$6,900,000 to be added to funds  
11           available under subsection (b) of that sec-  
12           tion; and

13           “(B) under section 14 of this Act,  
14           \$143,000, to be added to funds available under  
15           subsection (a)(1) of that section.

16           “(5) In fiscal year 2010, all remaining funds in  
17           the Account shall be distributed under section 4 of  
18           this Act in the following manner:

19           “(A) one-third to be added to funds avail-  
20           able under subsection (b); and

21           “(B) two-thirds to be added to funds avail-  
22           able under subsection (h).”.

1           **Subtitle B—Clean Vessel Act**  
2                           **Amendments**

3 **SEC. 531. GRANT PROGRAM.**

4           Section 5604(c)(2) of the Clean Vessel Act of 1992  
5 (33 U.S.C. 1322 note) is amended—

6                   (1) by striking subparagraph (A); and

7                   (2) by redesignating subparagraphs (B) and  
8           (C) as subparagraphs (A) and (B), respectively.

9           **Subtitle C—Recreational Boating**  
10                   **Safety Program Amendments**

11 **SEC. 551. STATE MATCHING FUNDS REQUIREMENT.**

12           Section 13103(b) of title 46, United States Code, is  
13 amended by striking “one-half” and inserting “75 per-  
14 cent”.

15 **SEC. 552. AVAILABILITY OF ALLOCATIONS.**

16           Section 13104(a) of title 46, United States Code, is  
17 amended—

18                   (1) by striking “2 years” in paragraph (1) and  
19           inserting “3 years”; and

20                   (2) by striking “2-year” in paragraph (2) and  
21           inserting “3-year”.

1 **SEC. 553. AUTHORIZATION OF APPROPRIATIONS FOR**  
2 **STATE RECREATIONAL BOATING SAFETY**  
3 **PROGRAMS.**

4 Section 13106 of title 46, United States Code, is  
5 amended—

6 (1) in subsection (a)(1), by striking “section  
7 4(b) of the Act of August 9, 1950 (16 U.S.C.  
8 777c(b)).” and inserting “subsections (a)(2) and (f)  
9 of section 4 of the Dingell-Johnson Sport Fish Res-  
10 toration Act (16 U.S.C. 777c(a)(2) and (f)).”;

11 (2) in subsection (a)(2) by striking “not less  
12 than one percent and”;

13 (3) in subsection (c)(1)—

14 (A) by striking “Secretary of Transpor-  
15 tation under paragraph (5)(C) of section 4(b)”  
16 and inserting “Secretary under subsection  
17 (a)(2) of section 4”;

18 (B) by striking “(16 U.S.C. 777c(b))” and  
19 inserting “(16 U.S.C. 777c(a)(2))”;

20 (C) by striking “\$3,333,336” and inserting  
21 “not more than 5 percent”;

22 (D) by striking “\$1,333,336” and insert-  
23 ing “not less than \$2,000,000”; and

24 (4) in subsection (c)(3) by striking “until ex-  
25 pended.” and inserting “during the 2 succeeding fis-  
26 cal years. Any amount that is unexpected or unobli-

1 gated at the end of the 3-year period during which  
2 it is available shall be withdrawn by the Secretary  
3 and allocated to the States in addition to any other  
4 amounts available for allocation in the fiscal year in  
5 which they are withdrawn or the following fiscal  
6 year.”.

7 **SEC. 554. MAINTENANCE OF EFFORT FOR STATE REC-**  
8 **REATIONAL BOATING SAFETY PROGRAMS.**

9 (a) IN GENERAL.—Chapter 131 of title 46, United  
10 States Code, is amended by inserting after section 13106  
11 the following:

12 **“§ 13107. Maintenance of effort for State recreational**  
13 **boating safety programs**

14 “(a) IN GENERAL.—The amount payable to a State  
15 for a fiscal year from an allocation under section 13103  
16 of this chapter shall be reduced if the usual amounts ex-  
17 pended by the State for the State’s recreational boating  
18 safety program, as determined under section 13105 of this  
19 chapter, for the previous fiscal year is less than the aver-  
20 age of the total of such expenditures for the 3 fiscal years  
21 immediately preceding that previous fiscal year. The re-  
22 duction shall be proportionate, as a percentage, to the  
23 amount by which the level of State expenditures for such  
24 previous fiscal year is less than the average of the total

1 of such expenditures for the 3 fiscal years immediately  
2 preceding that previous fiscal year.

3 “(b) REDUCTION OF THRESHOLD.—If the total  
4 amount available for allocation and distribution under this  
5 chapter in a fiscal year for all participating State rec-  
6 reational boating safety programs is less than such  
7 amount for the preceding fiscal year, the level of State  
8 expenditures required under subsection (a) of this section  
9 for the preceding fiscal year shall be decreased proportion-  
10 ately.

11 “(c) WAIVER.—

12 “(1) IN GENERAL.—Upon the written request  
13 of a State, the Secretary may waive the provisions  
14 of subsection (a) of this section for 1 fiscal year if  
15 the Secretary determines that a reduction in expend-  
16 itures for the State’s recreational boating safety pro-  
17 gram is attributable to a non-selective reduction in  
18 expenditures for the programs of all Executive  
19 branch agencies of the State government, or for  
20 other reasons if the State demonstrates to the Sec-  
21 retary’s satisfaction that such waiver is warranted.

22 “(2) 30-DAY DECISION.—The Secretary shall  
23 approve or deny a request for a waiver not later  
24 than 30 days after the date the request is received.”.

1           (b) CONFORMING AMENDMENT.—The chapter anal-  
2 ysis for chapter 131 of title 46, United States Code, is  
3 amended by inserting after the item relating to section  
4 13106 the following:

“13107. Maintenance of effort for State recreational boating safety programs.”.

Calendar No. 192

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**S. 1567**

[Report No. 109-120]

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**A BILL**

To reauthorize and improve surface transportation safety programs, and for other purposes.

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JULY 29, 2005

Read twice and placed on the calendar