

114TH CONGRESS
1ST SESSION

S. 1669

To reform the Federal Motor Carrier Safety Administration.

IN THE SENATE OF THE UNITED STATES

JUNE 24, 2015

Mrs. FISCHER introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To reform the Federal Motor Carrier Safety Administration.

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 “Trucking Rules Up-
5 dated by Comprehensive and Key Safety Reform Act” or
6 the “TRUCK Safety Reform Act”.

7 **SEC. 2. QUINQUENNIAL REVIEW OF RULES, GUIDANCE,**
8 **REGULATIONS, AND ENFORCEMENT POLI-**
9 **CIES.**

10 (a) REVIEW.—Not less frequently than once every 5
11 years, the Administrator of the Federal Motor Carrier
12 Safety Administration (referred to in this Act as the

1 “FMCSA”) shall conduct a comprehensive review of its
2 rules, regulations, regulatory guidance, and enforcement
3 policies.

4 (b) SCHEDULE.—At the beginning of each 5-year re-
5 view period, the Administrator shall publish a schedule
6 that—

7 (1) describes the order in which the FMCSA
8 will review regulations and enforcement policies; and

9 (2) sets forth the work plan timeframe for com-
10 pleting the full review within 5 years.

11 (c) NOTIFICATION OF CHANGES.—During each re-
12 view period, the Administrator shall address any changes
13 to the schedule published pursuant to subsection (b) and
14 notify the public of such changes.

15 (d) REPORT.—At the conclusion of each review under
16 subsection (a), the Administrator shall post a report on
17 a publicly accessible website that includes—

18 (1) an inventory of technical rules and guidance
19 issued during the previous 5-year period;

20 (2) the full details of the review conducted
21 under this section;

22 (3) a determination of whether the regulations
23 and enforcement policies under the jurisdiction of
24 the FMCSA are—

25 (A) consistent and clear;

1 (B) current and consistent with the state
2 of the motor carrier industry; and

3 (C) uniform and consistently enforceable;
4 and

5 (4) a statement indicating whether guidance
6 from the Administration is still necessary.

7 (e) RULEMAKING.—Not later than 24 months after
8 the completion of each review under this section, the Ad-
9 ministrator shall amend the regulations and enforcement
10 policies under the jurisdiction of the FMCSA to ensure
11 that such regulations and enforcement policies are con-
12 sistent and uniform.

13 **SEC. 3. GUIDANCE.**

14 Section 31136 of title 49, United States Code, is
15 amended by adding at the end the following:

16 “(g) REGULATORY GUIDANCE.—

17 “(1) PUBLICATION.—The Secretary, in con-
18 sultation with the Administrator of the Federal
19 Motor Carrier Safety Administration (referred to in
20 this section as the ‘Administrator’), shall publish all
21 newly issued or reissued regulatory guidance and in-
22 terpretations in the Federal Register on the date of
23 issuance.

24 “(2) REISSUANCE.—If the Administrator, in a
25 review conducted pursuant to section 2 of the

1 TRUCK Safety Reform Act, determines that guid-
 2 ance issued by the Administration has not been in-
 3 corporated into a regulation, such guidance shall
 4 cease to be effective on the date that is 24 months
 5 after the conclusion of such review unless the Ad-
 6 ministrator reissues the guidance by publishing the
 7 guidance in the Federal Register with the date on
 8 which the guidance was last revised and contact in-
 9 formation for an official at the Administration who
 10 can answer questions about the guidance.

11 “(h) MEDICAL GUIDANCE.—

12 “(1) IN GENERAL.—Except as provided under
 13 paragraph (2), the Administrator shall conduct a
 14 formal notice and comment process when issuing
 15 medical guidance.

16 “(2) PUBLIC HEALTH EMERGENCIES.—

17 “(A) IN GENERAL.—The Administrator
 18 may use informal rulemaking when issuing
 19 medical guidance that is directly related to a
 20 public health emergency.

21 “(B) CONSULTATION.—In determining
 22 whether a public health emergency necessitates
 23 informal rulemaking, the Administrator shall
 24 consult with the Secretary of Health and

1 Human Services and the Centers for Disease
2 Control.”.

3 **SEC. 4. REGULATIONS, ADVANCED NOTICE OF PROPOSED**
4 **RULEMAKING, AND NEGOTIATED RULE-**
5 **MAKINGS.**

6 Section 31136 of title 49, United States Code, as
7 amended by section 3, is further amended by adding at
8 the end the following:

9 “(i) **REGULATORY EVALUATIONS.**—When analyzing
10 the impact of regulations and enforcement policies, the
11 Administrator shall—

12 “(1) specify how the Administration will evalu-
13 ate future rules; and

14 “(2) allow stakeholders to comment on why per-
15 formance-based targets would be preferable to a pro-
16 posed regulation.

17 “(j) **COST-BENEFIT ANALYSIS.**—

18 “(1) **IN GENERAL.**—Before promulgating any
19 new regulation on or after the date of the enactment
20 of the TRUCK Safety Reform Act, the Adminis-
21 trator shall include, within the Administration’s
22 cost-benefit analysis, a wider selection and scope of
23 motor carriers.

24 “(2) **SCOPE.**—The analysis conducted under
25 this subsection—

1 “(A) shall be based upon data generated
2 from a statistically significant and representa-
3 tive sample of commercial vehicle operators,
4 motor carriers, or both, that will be covered
5 under the proposed regulation;

6 “(B) shall focus on examining commercial
7 truck and bus carriers of all sizes, various oper-
8 ation types and sectors, including various types
9 of commercial busses, long haul, regional, short-
10 haul, flat-bed, dry-van, refrigerated, various
11 commercial busses and tank operations to the
12 extent appropriate and practicable; and

13 “(C) shall be subject to independent peer
14 review, to the maximum extent practicable, by
15 a balanced panel of individuals with relevant
16 areas of expertise suitable for the review being
17 conducted, including statistical expertise.

18 “(3) WAIVER.—This subsection shall not apply
19 if the Administrator, for good cause, finds (and in-
20 corporates the finding and a brief statement of rea-
21 sons for such finding in the final rule) that con-
22 ducting the cost-benefit analysis described in para-
23 graph (2) would be impracticable, unnecessary, or
24 contrary to the public interest.

25 “(k) REQUEST FOR COMMENT.—

1 “(1) IN GENERAL.—Before promulgating a No-
2 tice of Proposed Rulemaking, in accordance with
3 section 553 of title 5, that is reasonably likely to
4 lead to the promulgation of a major rule (as defined
5 in section 804 of such title), the Administrator of
6 the Federal Motor Carrier Safety Administration
7 shall—

8 “(A) issue an Advance Notice of Proposed
9 Rulemaking;

10 “(B) determine whether a negotiated rule-
11 making is necessary; or

12 “(C) otherwise publish a request for com-
13 ment in the Federal Register, seeking ideas and
14 data to inform the formulation of a potential
15 proposed rule.

16 “(2) REQUIREMENTS.—Each Advance Notice of
17 Proposed Rulemaking or Negotiated Rulemaking
18 issued under paragraph (1) shall—

19 “(A) identify the compelling public concern
20 for a potential regulatory action, such as mate-
21 rial failures of private markets to protect or im-
22 prove the safety of the public, the environment,
23 or the well-being of the American people;

24 “(B) identify and request public comment
25 on the best available science or technical infor-

1 mation on the need for regulatory action and on
2 the potential regulatory alternatives;

3 “(C) request public comment on the bene-
4 fits and costs of potential regulatory alter-
5 natives reasonably likely to be included or ana-
6 lyzed as part of the notice of proposed rule-
7 making;

8 “(D) request public comment on the avail-
9 able alternatives to direct regulation, including
10 providing economic incentives to encourage the
11 desired behavior; and

12 “(E) request data on how safety will be
13 quantifiably improved by the regulation.

14 “(3) WAIVER.—This subsection shall not apply
15 if the Administrator, for good cause, finds (and in-
16 corporates the finding and a brief statement of rea-
17 sons for such finding in the final rule) that an Ad-
18 vance Notice of Proposed Rulemaking is impracti-
19 cable, unnecessary, or contrary to the public inter-
20 est.

21 “(1) FEEDBACK.—

22 “(1) IN GENERAL.—During the development of
23 Advance Notice of Proposed Rulemaking and Notice
24 of Proposed Rulemaking, the Administrator shall no-
25 tify and receive written feedback from the Transpor-

1 tation Research Board at the National Academy of
2 Sciences or the Inspector General of the Department
3 of Transportation to consider and determine the ap-
4 propriate universe for the various types of carriers
5 referred to in subsection (k)(2).

6 “(2) REQUIREMENTS.—If the Administrator, in
7 conducting a rulemaking, does not utilize the statis-
8 tically significant and representative sample rec-
9 ommendations provided by the Transportation Re-
10 search Board or the Inspector General of the De-
11 partment of Transportation, the Administrator shall
12 publish an explanation in the Federal Register of
13 why the data collected by the Administration for the
14 cost-benefit analysis required under subsection (k)
15 meets the statistically significant and representative
16 requirements under that subsection.

17 “(3) CERTIFICATION.—The Administrator shall
18 publish, in the Federal Register, a certification that
19 the Administration has attempted, to the maximum
20 extent possible, to consider various aspects of the
21 commercial trucking and bus industry that are im-
22 pacted by the rule referred to in paragraph (2) in
23 the Administration’s collection of data for the pur-
24 poses of cost-benefit analysis.”.

1 **SEC. 5. PETITIONS AND OTHER PROVISIONS.**

2 Section 31136 of title 49, United States Code, as
3 amended by sections 3 and 4, is further amended by add-
4 ing at the end the following:

5 “(m) STATUTORY RULEMAKING AND PETITIONS.—
6 The Administrator shall—

7 “(1) first respond to all statutory requirements
8 for rulemaking;

9 “(2) prioritize stakeholder petitions based on
10 the likelihood of safety improvements;

11 “(3) not later than 6 months after a petition is
12 submitted, formally respond to such petition by—

13 “(A) indicating whether the Administration
14 will accept or deny the petition; and

15 “(B) including a safety value assessment,
16 prioritization, and description of the policy
17 goals of the Administration related to the sub-
18 ject matter of the petition; and

19 “(4) post and maintain an inventory of all peti-
20 tions received by the Administration, including infor-
21 mation about the disposition of such petitions, on a
22 publicly accessible website.”.

1 **SEC. 6. SAVINGS PROVISION.**

2 Nothing in the amendments made by section 3
3 through 5 may be construed to limit the contents of any
4 Advance Notice of Proposed Rulemaking.

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