

Calendar No. 634

116TH CONGRESS
2D SESSION**S. 2979****[Report No. 116–328]**

To improve drug testing for transportation-related activities.

IN THE SENATE OF THE UNITED STATES

DECEMBER 4, 2019

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

DECEMBER 15, 2020

Reported by Mr. WICKER, with an amendment

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

A BILL

To improve drug testing for transportation-related activities.

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; TABLE OF CONTENTS.**

4 ~~(a) SHORT TITLE.—This Act may be cited as the~~
 5 ~~“Preventing Opioid and Drug Impairment in Transpor-~~
 6 ~~tation Act”.~~

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

- Sec. 1: Short title; table of contents.
- Sec. 2: Amtrak employee controlled substances and alcohol testing records.
- Sec. 3: Alcohol and controlled substance reporting of Amtrak locomotive engineers and conductors.
- Sec. 4: Safety-sensitive personnel study.
- Sec. 5: Interstate drug and alcohol oversight.
- Sec. 6: Impaired driving study.
- Sec. 7: Roadside oral fluid drug screening.
- Sec. 8: GAO report on Department of Transportation drug testing panel.
- Sec. 9: Transportation workplace drug and alcohol testing program; status reports on addition of fentanyl.
- Sec. 10: Status reports on scientific and technical guidelines for hair testing of transportation employees.

3 **SEC. 2. AMTRAK EMPLOYEE CONTROLLED SUBSTANCES**
 4 **AND ALCOHOL TESTING RECORDS.**

5 (a) SUPERVISORY TRAINING.—Not later than 1 year
 6 after the date of the enactment of this Act, the National
 7 Railroad Passenger Corporation (commonly known as
 8 “Amtrak”) shall submit a report to the Committee on
 9 Commerce, Science, and Transportation of the Senate and
 10 the Committee on Transportation and Infrastructure of
 11 the House of Representatives that describes the methods
 12 used by Amtrak to ensure that supervisors of employees
 13 in safety-sensitive positions receive the required training
 14 on how to detect drug and alcohol use.

15 (b) ELECTRONIC DATABASE.—Not later than 18
 16 months after the date of the enactment of this Act, Am-
 17 trak shall establish—

18 (1) an electronic database of all safety-sensitive
 19 positions to record data on employee drug and alco-

1 hol tests to replace collection of such data through
2 paper records; and

(2) effective procedures to track and monitor drug and alcohol testing maintained in the electronic database.

6 (c) MEASURES.—Not later than 18 months after the
7 date of the enactment of this Act, Amtrak shall submit
8 a report to the Committee on Commerce, Science, and
9 Transportation of the Senate and the Committee on
10 Transportation and Infrastructure of the House of Rep-
11 resentatives that describes the measures implemented to
12 improve compliance with proper self-reporting of employee
13 prescription drug use.

14 SEC. 3. ALCOHOL AND CONTROLLED SUBSTANCE REPORT-
15 ING OF AMTRAK LOCOMOTIVE ENGINEERS
16 AND CONDUCTORS.

(a) REVIEW.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall determine whether the regulations set forth in parts 240 and 242 of title 49, Code of Federal Regulations, promulgated pursuant to sections 20135 and 20163 of title 49, United States Code, in order to protect the traveling public, should be revised to require locomotive engineers and conductors or personnel seeking initial certification to become a locomotive engineer or a conductor

1 for Amtrak to report arrests due to drug or alcohol of-
 2 fenses immediately or as soon as practicable.

3 (b) RULEMAKING.—If the Secretary of Transpor-
 4 tation determines that the regulations referred to in sub-
 5 section (a) should be revised in accordance with such sub-
 6 section, the Secretary shall—

7 (1) notify the Committee on Commerce,
 8 Science, and Transportation of the Senate and the
 9 Committee on Transportation and Infrastructure of
 10 the House of Representatives of such determination;
 11 and

12 (2) not later than 18 months after such deter-
 13 mination, publish a notice in the Federal Register of
 14 a proposed revision to such regulations to require lo-
 15 comotive engineers and conductors, or personnel
 16 seeking initial certification to become a locomotive
 17 engineer or a conductor for Amtrak, to report ar-
 18 rests due to drug or alcohol offenses immediately or
 19 as soon as practicable.

20 **SEC. 4. SAFETY-SENSITIVE PERSONNEL STUDY.**

21 Not later than 180 days after the date of the enact-
 22 ment of this Act, the Secretary of Transportation shall
 23 submit a report to Congress that—

24 (1) describes the ability of pipeline companies
 25 that operate from Canada or Mexico into the United

1 States to conduct the same drug and alcohol tests
2 that are required of personnel in the United States
3 on ~~safety-sensitive personnel who—~~

4 (A) ~~work outside of the United States; and~~

5 (B) ~~have responsibilities related to main-~~
6 ~~taining and controlling pipeline in the United~~
7 ~~States; and~~

8 (2) ~~indicates whether such operators have suffi-~~
9 ~~cient drug and alcohol testing procedures in place to~~
10 ~~ensure safe operations of pipeline facilities located~~
11 ~~within the United States.~~

12 **SEC. 5. INTERSTATE DRUG AND ALCOHOL OVERSIGHT.**

13 (a) ~~IN GENERAL.—~~Not later than 18 months after
14 the date of the enactment of this Act, the Secretary of
15 Transportation shall amend the auditing program for the
16 drug and alcohol regulations in part 199 of title 49, Code
17 of Federal Regulations, in order to improve the efficiency
18 and processes of such regulations as applied to operators
19 and pipeline contractors working for multiple pipeline op-
20 erators in multiple States. In making such amendments,
21 the Secretary shall minimize duplicative audits of the
22 same operators, and thereby contractors working for those
23 companies, by the Pipeline and Hazardous Materials Safe-
24 ty Administration and multiple State agencies.

1 (b) **LIMITATION.**—Nothing in this Act may be con-
 2 strued to require modification of the inspection or enforce-
 3 ment authority of any Federal agency or State.

4 **SEC. 6. IMPAIRED DRIVING STUDY.**

5 (a) **STUDY.**—The Administrator of the National
 6 Highway Traffic Safety Administration (referred to in this
 7 Act as the “NHTSA”) shall conduct a study regarding
 8 the ways in which the NHTSA can reduce and better de-
 9 tect impaired driving, including marijuana- and opioid-im-
 10 paired driving.

11 (b) **REPORTS.**—Not later than 2 years after the date
 12 of the enactment of this Act, and biennially thereafter for
 13 the following 4 years, the Secretary of Transportation, in
 14 cooperation with other Federal agencies, as appropriate,
 15 shall submit a report to Congress that—

16 (1) describes the activities undertaken pursuant
 17 to subsection (a);

18 (2) provides an update on the progress of the
 19 study conducted pursuant to subsection (a); and

20 (3) includes the results of the study if the study
 21 has been completed.

22 **SEC. 7. ROADSIDE ORAL FLUID DRUG SCREENING.**

23 (a) **DEFINED TERM.**—In this section, the term “on-
 24 site” refers to oral fluid drug screening devices that are
 25 used at roadside or at the station.

1 (b) STUDY.—The Secretary of Transportation, in
2 consultation with the heads of appropriate Federal agen-
3 cies and local law enforcement officers and prosecutors,
4 shall conduct a study regarding the accuracy of onsite oral
5 fluid screening for tetrahydrocannabinol (referred to in
6 this section as “THC”) and opiate presence in order to
7 reduce the potential impact on traffic safety due to drug
8 and polysubstance-impaired drivers.

9 (c) ISSUES TO BE EXAMINED.—In conducting the
10 study under subsection (b), the Secretary shall examine—

11 (1) the status of onsite oral fluid drug screen-
12 ing technology that is available at the time the study
13 is conducted;

14 (2) the reliability and accuracy of the devices
15 referred to in paragraph (1) to determine the pres-
16 ence and amount of THC and opiate, as confirmed
17 by toxicology results;

18 (3) oral fluid research and pilot programs in
19 the United States and in other countries to assess
20 how the technology referred to in paragraph (1) is
21 being utilized;

22 (4) State-based policies regarding implied con-
23 sent and testing in impaired driving cases;

24 (5) practical considerations for the deployment
25 of this technology in the field; and

1 (6) any legal and policy issues that may arise
2 from the deployment of this technology.

3 ~~(d) REPORT.—~~

4 ~~(1) IN GENERAL.—~~Not later than 4 years after
5 the date of the enactment of this Act, the Secretary,
6 in cooperation with appropriate Federal agencies,
7 shall submit a report to the Committee on Com-
8 merce, Science, and Transportation of the Senate
9 and the Committee on Transportation and Infra-
10 structure of the House of Representatives that con-
11 tains the results of the study conducted pursuant to
12 subsection (b).

13 ~~(2) CONTENTS.—~~The report required under
14 paragraph (1) shall include—

15 ~~(A) the findings of the Secretary based on~~
16 the study, including—

17 (i) an overview of the extent of the
18 drug and polysubstance-impaired driving
19 problem and a discussion of how new
20 screening technologies can potentially as-
21 sist in better capturing the magnitude and
22 characteristics of the problem;

23 (ii) an assessment of the accuracy and
24 reliability of onsite oral fluid screening
25 technology;

(iii) a description and assessment of current State laws relating to the use of oral fluid screening technology;

(iv) a determination about whether oral fluid screening technology is a viable option to assist law enforcement officers in confirming the presence of a drug responsible for observed impairment of a driver;

(v) a determination about whether on-site oral fluid screening technology can be effectively incorporated into existing driving under the influence investigation protocols; and

(vi) an overview of future research needs; and

(B) the recommendations of the Secretary based on the study, as appropriate, including—

(i) effective and efficient methods for training law enforcement personnel, including drug recognition experts, to detect whether a motor vehicle operator is under the influence through the use of onsite oral fluid technology in combination with existing driving under the influence investigation protocols;

(ii) if feasible, model guidelines for the technology referred to in clause (i);

(iii) methodologies for evaluating oral fluid use to facilitate increased data collection and analysis and to determine optimal strategies for deploying the technology referred to in clause (i) as part of a pilot program and standard operating procedure in driving under the influence investigations; and

(iv) future steps, including a timeline for implementing such steps, that the NHTSA will take to advance research in onsite drug screening technology.

SEC. 8. GAO REPORT ON DEPARTMENT OF TRANSPORTATION DRUG TESTING PANEL.

(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall—

(1) review the Department of Transportation's process for setting guidelines and drug testing requirements for transportation employees subject to the Department's drug and alcohol testing policies; and

1 (2) submit a report to the Committee on Com-
2 merce, Science, and Transportation of the Senate
3 and the Committee on Transportation and Infra-
4 structure of the House of Representatives that sum-
5 marizes the results of such review.

6 (b) CONTENTS.—The report required under sub-
7 section (a)(2) shall include—

8 (1) a description of the process used by the De-
9 partment of Health and Human Services for adding
10 and removing categories of drugs to and from the
11 Federal workplace drug testing requirements;

12 (2) an evaluation of the dependence of the De-
13 partment of Transportation on the Department of
14 Health and Human Services' determination whether
15 to add new categories of drugs to the testing panel;
16 and

17 (3) an assessment of whether the process used
18 by the Department of Health and Human Services
19 for adding and removing categories of drugs to and
20 from the Federal workplace drug testing require-
21 ments sufficiently addresses the needs of the trans-
22 portation industry for drug and alcohol testing to
23 prevent drug and alcohol-related incidents.

1 **SEC. 9. TRANSPORTATION WORKPLACE DRUG AND ALCO-**
2 **HOL TESTING PROGRAM; STATUS REPORTS**
3 **ON ADDITION OF FENTANYL.**

4 Not later than 30 days after the date of enactment
5 of this Act, the Secretary of Health and Human Services
6 shall submit a report to the Committee on Commerce,
7 Science, and Transportation of the Senate and the Com-
8 mittee on Transportation and Infrastructure of the House
9 of Representatives that describes the status of the deter-
10 mination regarding whether to add fentanyl to the drug
11 testing panel in accordance with section 8105 of the
12 Fighting Opioid Abuse in Transportation Act (5 U.S.C.
13 7301 note).

14 **SEC. 10. STATUS REPORTS ON SCIENTIFIC AND TECHNICAL**
15 **GUIDELINES FOR HAIR TESTING OF TRANS-**
16 **PORTATION EMPLOYEES.**

17 (a) OFFICE OF MANAGEMENT AND BUDGET.—Not
18 later than 30 days after the date of the enactment of this
19 Act, the Director of the Office of Management and Budget
20 shall submit a report to the Committee on Commerce,
21 Science, and Transportation of the Senate and the Com-
22 mittee on Transportation and Infrastructure of the House
23 of Representatives that—

24 (1) describes the status of the scientific and
25 technical guidelines for hair testing required under

1 section 5402(b) of the Fixing America's Surface
 2 Transportation Act (49 U.S.C. 31306 note);

3 (2) explains why such guidelines have not been
 4 issued; and

5 (3) estimates the date by which such guidelines
 6 will be issued.

7 (b) DEPARTMENT OF HEALTH AND HUMAN SERV-
 8 ICES.—Not later than 60 days after the date of the enact-
 9 ment of this Act, the Secretary of Health and Human
 10 Services shall submit a report to the Committee on Com-
 11 merce, Science, and Transportation of the Senate and the
 12 Committee on Transportation and Infrastructure of the
 13 House of Representatives that—

14 (1) describes the causes for the delay in submit-
 15 ting the scientific and technical guidelines for hair
 16 testing to the Office of Management and Budget
 17 after the date of the enactment of the Fighting
 18 Opioid Abuse in Transportation Act (subtitle I of
 19 title VIII of Public Law 115–271);

20 (2) explains why such guidelines have not been
 21 issued;

22 (3) summarizes considerations related to elimi-
 23 nating positive test results caused solely by the drug
 24 use of others and not caused by the drug use of the
 25 individual being tested; and

1 (4) estimates the date by which such guidelines
2 will be completed.

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—This Act may be cited as the “Pre-
5 venting Opioid and Drug Impairment in Transportation
6 Act”.

7 (b) *TABLE OF CONTENTS.*—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Amtrak employee controlled substances and alcohol testing records.

*Sec. 3. Alcohol and controlled substance reporting of Amtrak locomotive engineers
and conductors.*

Sec. 4. Safety-sensitive personnel study.

Sec. 5. Interstate drug and alcohol oversight.

Sec. 6. Impaired driving study.

Sec. 7. Roadside oral fluid drug screening.

Sec. 8. GAO report on Department of Transportation drug testing panel.

*Sec. 9. Transportation workplace drug and alcohol testing program; status re-
ports on addition of fentanyl.*

*Sec. 10. Status reports on scientific and technical guidelines for hair testing of
transportation employees.*

Sec. 11. Report on alcohol detection technology.

Sec. 12. Report on collection of drug-impaired driving data.

9 **SEC. 2. AMTRAK EMPLOYEE CONTROLLED SUBSTANCES**
10 **AND ALCOHOL TESTING RECORDS.**

11 (a) *SUPERVISORY TRAINING.*—Not later than 1 year
12 after the date of the enactment of this Act, the National
13 Railroad Passenger Corporation (commonly known as
14 “Amtrak”) shall submit a report to the Committee on Com-
15 merce, Science, and Transportation of the Senate and the
16 Committee on Transportation and Infrastructure of the
17 House of Representatives that describes the methods used

1 *by Amtrak to ensure that supervisors of employees in safety-*
2 *sensitive positions receive the required training on—*

3 *(1) how to detect drug and alcohol use; and*

4 *(2) the rights and responsibilities of employees*
5 *throughout the drug and alcohol testing process.*

6 *(b) ELECTRONIC DATABASE.—Not later than 18*
7 *months after the date of the enactment of this Act, Amtrak*
8 *shall establish—*

9 *(1) an electronic database of all safety-sensitive*
10 *positions to record data on employee drug and alcohol*
11 *tests to replace collection of such data through paper*
12 *records; and*

13 *(2) effective procedures to track and monitor*
14 *drug and alcohol testing maintained in the electronic*
15 *database.*

16 *(c) MEASURES.—Not later than 18 months after the*
17 *date of the enactment of this Act, Amtrak shall submit a*
18 *report to the Committee on Commerce, Science, and Trans-*
19 *portation of the Senate and the Committee on Transpor-*
20 *tation and Infrastructure of the House of Representatives*
21 *that describes the measures implemented to improve safety*
22 *related to employee prescription drug use.*

1 **SEC. 3. ALCOHOL AND CONTROLLED SUBSTANCE REPORT-**
 2 **ING OF AMTRAK LOCOMOTIVE ENGINEERS**
 3 **AND CONDUCTORS.**

4 (a) *REVIEW.*—Not later than 1 year after the date of
 5 the enactment of this Act, the Secretary of Transportation
 6 shall determine whether the regulations set forth in parts
 7 240 and 242 of title 49, Code of Federal Regulations, pro-
 8 mulgated pursuant to sections 20135 and 20163 of title 49,
 9 United States Code, in order to protect the traveling public,
 10 should be revised to require locomotive engineers and con-
 11 ductors or personnel seeking initial certification to become
 12 a locomotive engineer or a conductor for Amtrak to report
 13 arrests due to drug or alcohol offenses as soon as practicable,
 14 but before performing any safety-sensitive service as a loco-
 15 motive engineer or conductor.

16 (b) *RULEMAKING.*—If the Secretary of Transportation
 17 determines that the regulations referred to in subsection (a)
 18 should be revised in accordance with such subsection, the
 19 Secretary shall—

20 (1) notify the Committee on Commerce, Science,
 21 and Transportation of the Senate and the Committee
 22 on Transportation and Infrastructure of the House of
 23 Representatives of such determination; and

24 (2) not later than 18 months after such deter-
 25 mination publish a notice in the Federal Register of
 26 a proposed revision to such regulations that—

1 (A) requires locomotive engineers and con-
 2 ductors, or personnel seeking initial certification
 3 to become a locomotive engineer or a conductor
 4 for Amtrak, to report arrests due to drug or alco-
 5 hol offenses as soon as practicable, but before per-
 6 forming any safety-sensitive service as a loco-
 7 motive engineer or conductor;

8 (B) clearly defines the scope of offenses that
 9 are considered reportable under subparagraph
 10 (A); and

11 (C) defines the time frame for which such
 12 offenses are considered reportable prior to initial
 13 certification.

14 **SEC. 4. SAFETY-SENSITIVE PERSONNEL STUDY.**

15 Not later than 180 days after the date of the enactment
 16 of this Act, the Secretary of Transportation shall submit
 17 a report to Congress that—

18 (1) describes the ability of pipeline companies
 19 that operate from Canada or Mexico into the United
 20 States to conduct the same drug and alcohol tests that
 21 are required of personnel in the United States on
 22 safety-sensitive personnel who—

23 (A) work outside of the United States; and

1 (B) have responsibilities related to main-
 2 taining and controlling pipeline in the United
 3 States; and

4 (2) indicates whether such operators have suffi-
 5 cient drug and alcohol testing procedures in place to
 6 ensure safe operations of pipeline facilities located
 7 within the United States.

8 **SEC. 5. INTERSTATE DRUG AND ALCOHOL OVERSIGHT.**

9 (a) *IN GENERAL.*—Not later than 18 months after the
 10 date of the enactment of this Act, the Secretary of Transpor-
 11 tation shall amend the auditing program for the drug and
 12 alcohol regulations in part 199 of title 49, Code of Federal
 13 Regulations, in order to improve the efficiency and proc-
 14 esses of such regulations as applied to operators and pipe-
 15 line contractors working for multiple pipeline operators in
 16 multiple States. In making such amendments, the Secretary
 17 shall minimize duplicative audits of the same operators,
 18 and thereby contractors working for those companies, by the
 19 Pipeline and Hazardous Materials Safety Administration
 20 and multiple State agencies.

21 (b) *LIMITATION.*—Nothing in this Act may be con-
 22 strued to require modification of the inspection or enforce-
 23 ment authority of any Federal agency or State.

1 **SEC. 6. IMPAIRED DRIVING STUDY.**

2 (a) *STUDY.*—*The Administrator of the National High-*
 3 *way Traffic Safety Administration (referred to in this Act*
 4 *as the “NHTSA”)* shall conduct a study regarding the ways
 5 *in which the NHTSA can reduce and better detect impaired*
 6 *driving, including marijuana- and opioid-impaired driv-*
 7 *ing.*

8 (b) *REPORTS.*—*Not later than 2 years after the date*
 9 *of the enactment of this Act, and biennially thereafter for*
 10 *the following 4 years, the Secretary of Transportation, in*
 11 *cooperation with other Federal agencies, as appropriate,*
 12 *shall submit a report to Congress that—*

13 (1) *describes the activities undertaken pursuant*
 14 *to subsection (a);*

15 (2) *provides an update on the progress of the*
 16 *study conducted pursuant to subsection (a); and*

17 (3) *includes the results of the study if the study*
 18 *has been completed.*

19 **SEC. 7. ROADSIDE ORAL FLUID DRUG SCREENING.**

20 (a) *DEFINED TERM.*—*In this section, the term “on-*
 21 *site” refers to oral fluid drug screening devices that are used*
 22 *at roadside or at the station.*

23 (b) *STUDY.*—*The Secretary of Transportation, in con-*
 24 *sultation with the heads of appropriate Federal agencies*
 25 *and local law enforcement officers and prosecutors, shall*
 26 *conduct a study regarding the accuracy of onsite oral fluid*

1 screening for tetrahydrocannabinol (referred to in this sec-
 2 tion as “THC”) and opiate presence in order to reduce the
 3 potential impact on traffic safety due to drug and
 4 polysubstance-impaired drivers.

5 (c) *ISSUES TO BE EXAMINED.*—In conducting the
 6 study under subsection (b), the Secretary shall examine—

7 (1) the status of onsite oral fluid drug screening
 8 technology that is available at the time the study is
 9 conducted;

10 (2) the reliability and accuracy of the devices re-
 11 ferred to in paragraph (1) to determine the presence
 12 and amount of THC and opiate, as confirmed by
 13 toxicology results;

14 (3) oral fluid research and pilot programs in the
 15 United States and in other countries to assess how the
 16 technology referred to in paragraph (1) is being uti-
 17 lized;

18 (4) State-based policies regarding implied con-
 19 sent and testing in impaired driving cases;

20 (5) practical considerations for the deployment
 21 of this technology in the field; and

22 (6) any legal and policy issues that may arise
 23 from the deployment of this technology.

24 (d) *REPORT.*—

1 (1) *IN GENERAL.*—Not later than 4 years after
2 the date of the enactment of this Act, the Secretary,
3 in cooperation with appropriate Federal agencies,
4 shall submit a report to the Committee on Commerce,
5 Science, and Transportation of the Senate and the
6 Committee on Transportation and Infrastructure of
7 the House of Representatives that contains the results
8 of the study conducted pursuant to subsection (b).

9 (2) *CONTENTS.*—The report required under
10 paragraph (1) shall include—

11 (A) the findings of the Secretary based on
12 the study, including—

13 (i) an overview of the extent of the
14 drug and polysubstance-impaired driving
15 problem and a discussion of how new
16 screening technologies can potentially assist
17 in better capturing the magnitude and
18 characteristics of the problem;

19 (ii) an assessment of the accuracy and
20 reliability of onsite oral fluid screening
21 technology;

22 (iii) a description and assessment of
23 current State laws relating to the use of
24 oral fluid screening technology;

1 (iv) a determination about whether
 2 oral fluid screening technology is a viable
 3 option to assist law enforcement officers in
 4 confirming the presence of a drug respon-
 5 sible for observed impairment of a driver;

6 (v) a determination about whether on-
 7 site oral fluid screening technology can be
 8 effectively incorporated into existing driving
 9 under the influence investigation protocols;
 10 and

11 (vi) an overview of future research
 12 needs; and

13 (B) the recommendations of the Secretary
 14 based on the study, as appropriate, including—

15 (i) effective and efficient methods for
 16 training law enforcement personnel, includ-
 17 ing drug recognition experts, to detect
 18 whether a motor vehicle operator is under
 19 the influence through the use of onsite oral
 20 fluid technology in combination with exist-
 21 ing driving under the influence investiga-
 22 tion protocols;

23 (ii) if feasible, model guidelines for the
 24 technology referred to in clause (i);

(iii) methodologies for evaluating oral fluid use to facilitate increased data collection and analysis and to determine optimal strategies for deploying the technology referred to in clause (i) as part of a pilot program and standard operating procedure in driving under the influence investigations; and

(iv) future steps, including a timeline for implementing such steps, that the NHTSA will take to advance research in onsite drug screening technology.

SEC. 8. GAO REPORT ON DEPARTMENT OF TRANSPORTATION DRUG TESTING PANEL.

(a) *IN GENERAL.*—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall—

(1) review the Department of Transportation’s process for setting guidelines and drug testing requirements for transportation employees subject to the Department’s drug and alcohol testing policies; and

(2) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure

1 *of the House of Representatives that summarizes the*
2 *results of such review.*

3 (b) *CONTENTS.*—*The report required under subsection*
4 *(a)(2) shall include—*

5 (1) *a description of the process used by the De-*
6 *partment of Health and Human Services for adding*
7 *and removing categories of drugs to and from the*
8 *Federal workplace drug testing requirements;*

9 (2) *an evaluation of the dependence of the De-*
10 *partment of Transportation on the Department of*
11 *Health and Human Services' determination whether*
12 *to add new categories of drugs to the testing panel;*

13 (3) *an assessment of whether the process used by*
14 *the Department of Health and Human Services for*
15 *adding and removing categories of drugs to and from*
16 *the Federal workplace drug testing requirements suffi-*
17 *ciently addresses the needs of the transportation in-*
18 *dustry for drug and alcohol testing to prevent drug*
19 *and alcohol-related incidents; and*

20 (4) *an evaluation of whether additional guidance*
21 *or measures are needed to ensure that training pro-*
22 *vided to Medical Review Officers pursuant to part 40*
23 *of title 49, Code of Federal Regulations, reflects any*
24 *changes to relevant statutes and regulations affecting*

1 *the duties and responsibilities of Medical Review Offi-*
 2 *cers.*

3 **SEC. 9. TRANSPORTATION WORKPLACE DRUG AND ALCO-**
 4 **HOL TESTING PROGRAM; STATUS REPORTS**
 5 **ON ADDITION OF FENTANYL.**

6 *Not later than 30 days after the date of enactment of*
 7 *this Act, the Secretary of Health and Human Services shall*
 8 *submit a report to the Committee on Commerce, Science,*
 9 *and Transportation of the Senate and the Committee on*
 10 *Transportation and Infrastructure of the House of Rep-*
 11 *resentatives that describes the status of the determination*
 12 *regarding whether to add fentanyl to the drug testing panel*
 13 *in accordance with section 8105 of the Fighting Opioid*
 14 *Abuse in Transportation Act (5 U.S.C. 7301 note).*

15 **SEC. 10. STATUS REPORTS ON SCIENTIFIC AND TECHNICAL**
 16 **GUIDELINES FOR HAIR TESTING OF TRANS-**
 17 **PORTATION EMPLOYEES.**

18 *(a) OFFICE OF MANAGEMENT AND BUDGET.—Not later*
 19 *than 30 days after the date of the enactment of this Act,*
 20 *the Director of the Office of Management and Budget shall*
 21 *submit a report to the Committee on Commerce, Science,*
 22 *and Transportation of the Senate and the Committee on*
 23 *Transportation and Infrastructure of the House of Rep-*
 24 *resentatives that—*

1 (1) *describes the status of the scientific and tech-*
 2 *nical guidelines for hair testing required under sec-*
 3 *tion 5402(b) of the Fixing America’s Surface Trans-*
 4 *portation Act (49 U.S.C. 31306 note);*

5 (2) *explains why such guidelines have not been*
 6 *issued; and*

7 (3) *estimates the date by which such guidelines*
 8 *will be issued.*

9 (b) *DEPARTMENT OF HEALTH AND HUMAN SERV-*
 10 *ICES.—Not later than 60 days after the date of the enact-*
 11 *ment of this Act, the Secretary of Health and Human Serv-*
 12 *ices shall submit a report to the Committee on Commerce,*
 13 *Science, and Transportation of the Senate and the Com-*
 14 *mittee on Transportation and Infrastructure of the House*
 15 *of Representatives that—*

16 (1) *describes the causes for the delay in submit-*
 17 *ting the scientific and technical guidelines for hair*
 18 *testing to the Office of Management and Budget after*
 19 *the date of the enactment of the Fighting Opioid*
 20 *Abuse in Transportation Act (subtitle I of title VIII*
 21 *of Public Law 115–271);*

22 (2) *explains why such guidelines have not been*
 23 *issued;*

24 (3) *summarizes considerations related to elimi-*
 25 *nating positive test results caused solely by the drug*

1 *use of others and not caused by the drug use of the*
 2 *individual being tested; and*

3 *(4) estimates the date by which such guidelines*
 4 *will be completed.*

5 *(c) SAVINGS PROVISION.—Nothing in this section may*
 6 *be construed to amend or alter the objectives or requirements*
 7 *set forth in section 8106 of the Fighting Opioid Abuse in*
 8 *Transportation Act (49 U.S.C. 31306 note).*

9 **SEC. 11. REPORT ON ALCOHOL DETECTION TECHNOLOGY.**

10 *Not later than 90 days after the date of the enactment*
 11 *of this Act, the Secretary of Transportation shall submit*
 12 *a report to the Committee on Commerce, Science, and*
 13 *Transportation of the Senate and the Committee on Trans-*
 14 *portation and Infrastructure of the House of Representa-*
 15 *tives that—*

16 *(1) in addition to annual reports, describes the*
 17 *current status of the Driver Alcohol Detection System*
 18 *for Safety Program’s alcohol detection technology; and*

19 *(2) explains how such technology could poten-*
 20 *tially reduce alcohol-impaired driving if it is inte-*
 21 *grated into all newly manufactured motor vehicles.*

22 **SEC. 12. REPORT ON COLLECTION OF DRUG-IMPAIRED**
 23 **DRIVING DATA.**

24 *Not later than 3 years after the date of enactment of*
 25 *this Act, the Secretary of Transportation, in consultation*

1 *with the heads of appropriate Federal agencies, State high-*
2 *way safety offices, and other interested parties, shall submit*
3 *to the Committee on Commerce, Science, and Transpor-*
4 *tation of the Senate and the Committee on Transportation*
5 *and Infrastructure of the House of Representatives a report*
6 *that—*

7 (1) *identifies any barriers that States encounter*
8 *in submitting to the Fatality Analysis and Reporting*
9 *System the alcohol and drug toxicology results of fa-*
10 *tally injured drivers;*

11 (2) *provides recommendations on how to address*
12 *any barriers identified under paragraph (1);*

13 (3) *makes recommendations relating to the cre-*
14 *ation and adoption of national minimum guidelines*
15 *for toxicological investigations in cases of motor vehi-*
16 *cle crashes and drug-impaired driving cases as a way*
17 *to improve reliability and consistency in toxicology*
18 *testing;*

19 (4) *reviews model guidelines, such as model*
20 *guidelines from the National Safety Council; and*

21 (5) *provides future steps that the Secretary, act-*
22 *ing through the Administrator of the National High-*
23 *way Traffic Safety Administration, will take to assist*
24 *States in improving—*

- 1 *(A) toxicology testing in cases of motor ve-*
- 2 *hicle crashes; and*
- 3 *(B) the reporting of alcohol and drug toxi-*
- 4 *cology results in cases of motor vehicle crashes.*

Calendar No. 634

116TH CONGRESS
2D Session

S. 2979

[Report No. 116-328]

A BILL

To improve drug testing for transportation-related activities.

DECEMBER 15, 2020

Reported with an amendment