

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 1301 of this title.

§ 31133. General powers of the Secretary of Transportation

(a) GENERAL.—In carrying out this subchapter and regulations prescribed under section 31102 of this title, the Secretary of Transportation may—

- (1) conduct and make contracts for inspections and investigations;
- (2) compile statistics;
- (3) make reports;
- (4) issue subpoenas;
- (5) require production of records and property;
- (6) take depositions;
- (7) hold hearings;
- (8) prescribe recordkeeping and reporting requirements;
- (9) conduct or make contracts for studies, development, testing, evaluation, and training; and
- (10) perform other acts the Secretary considers appropriate.

(b) CONSULTATION.—In conducting inspections and investigations under subsection (a) of this section, the Secretary shall consult, as appropriate, with employers and employees and their authorized representatives and offer them a right of accompaniment.

(c) DELEGATION.—The Secretary may delegate to a State receiving a grant under section 31102 of this title those duties and powers related to enforcement (including conducting investigations) of this subchapter and regulations prescribed under this subchapter that the Secretary considers appropriate.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1001; Pub. L. 105-178, title IV, § 4006(a), June 9, 1998, 112 Stat. 401.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
31133(a)	49 App.:2510(a), (b) (1st sentence).	Oct. 30, 1984, Pub. L. 98-554, § 211, 98 Stat. 2841.
31133(b)	49 App.:2510(c).	
31133(c)	49 App.:2510(b) (last sentence).	

In subsection (a), the words before clause (1) are substituted for “In carrying out the Secretary’s functions under this chapter, the Secretary is authorized to” and “to carry out the provisions of this chapter, or regulations issued pursuant to section 2302 of this Appendix” to eliminate unnecessary words. Clause (10) is substituted for “perform such acts . . . as the Secretary determines necessary”. The text of 49 App.:2510(a) is omitted as covered by 49 App.:2510(b) (1st sentence).

In subsection (b), the words “In conducting inspections and investigations” are substituted for “To carry out the Secretary’s inspection and investigation functions” to eliminate unnecessary words. The words “or the Secretary’s agent” are omitted as unnecessary.

Editorial Notes

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105-178 inserted “and make contracts for” after “conduct”.

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BORDER STAFFING STANDARDS

Pub. L. 106-159, title II, § 218, Dec. 9, 1999, 113 Stat. 1767, as amended by Pub. L. 114-94, div. A, title V, § 5101(e)(10), Dec. 4, 2015, 129 Stat. 1525, provided that:

“(a) DEVELOPMENT AND IMPLEMENTATION.—Not later than 1 year after the date of the enactment of this Act [Dec. 9, 1999], the Secretary shall develop and implement appropriate staffing standards for Federal and State motor carrier safety inspectors in international border areas.

“(b) FACTORS TO BE CONSIDERED.—In developing standards under subsection (a), the Secretary shall consider volume of traffic, hours of operation of the border facility, types of commercial motor vehicles, types of cargo, delineation of responsibility between Federal and State inspectors, and such other factors as the Secretary determines appropriate.

“(c) MAINTENANCE OF EFFORT.—The standards developed and implemented under subsection (a) shall ensure that the United States and each State will not reduce its respective level of staffing of motor carrier safety inspectors in international border areas from its average level staffing for fiscal year 2000.

“(d) BORDER COMMERCIAL MOTOR VEHICLE AND SAFETY ENFORCEMENT PROGRAMS.—

“(1) ENFORCEMENT.—If, on October 1, 2001, and October 1 of each fiscal year thereafter, the Secretary has not ensured that the levels of staffing required by the standards developed under subsection (a) are deployed, the Secretary should designate the amount made available for allocation under section 31104(a)(1) of title 49, United States Code, for such fiscal year for States, local governments, and other persons for carrying out border commercial motor vehicle safety programs and enforcement activities and projects.

“(2) ALLOCATION.—If the Secretary makes a designation of an amount under paragraph (1), such amount shall be allocated by the Secretary to State agencies, local governments, and other persons that use and train qualified officers and employees in coordination with State motor vehicle safety agencies.”

§ 31134. Requirement for registration and USDOT number

(a) IN GENERAL.—Upon application, and subject to subsections (b) and (c), the Secretary shall register an employer or person subject to the safety jurisdiction of this subchapter. An employer or person may operate a commercial motor vehicle in interstate commerce only if the employer or person is registered by the Secretary under this section and receives a USDOT number. Nothing in this section shall preclude registration by the Secretary of an employer or person not engaged in interstate commerce. An employer or person subject to jurisdiction under subchapter I of chapter 135 of this title shall apply for commercial registration under section 13902 of this title.

(b) WITHHOLDING REGISTRATION.—The Secretary shall register an employer or person under subsection (a) only if the Secretary determines that—

(1) the employer or person seeking registration is willing and able to comply with the requirements of this subchapter and the regulations prescribed thereunder and chapter 51 and the regulations prescribed thereunder;

(2)(A)¹ during the 3-year period before the date of the filing of the application, the em-

¹ So in original. There is no subpar. (B).

ployer or person is not or was not related through common ownership, common management, common control, or common familial relationship to any other person or applicant for registration subject to this subchapter who, during such 3-year period, is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1); or

(3) the employer or person has disclosed to the Secretary any relationship involving common ownership, common management, common control, or common familial relationship to any other person or applicant for registration subject to this subchapter.

(c) **REVOCAION OR SUSPENSION OF REGISTRATION.**—The Secretary shall revoke the registration of an employer or person issued under subsection (a) after notice and an opportunity for a proceeding, or suspend the registration after giving notice of the suspension to the employer or person, if the Secretary determines that—

(1) the employer's or person's authority to operate pursuant to chapter 139 of this title is subject to revocation or suspension under sections² 13905(d)(1) or 13905(f) of this title;

(2) the employer or person has knowingly failed to comply with the requirements listed in subsection (b)(1);

(3) the employer or person has not disclosed any relationship through common ownership, common management, common control, or common familial relationship to any other person or applicant for registration subject to this subchapter that the Secretary determines is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1);

(4) the employer or person refused to submit to the safety review required by section 31144(g) of this title.

(d) **PERIODIC REGISTRATION UPDATE.**—The Secretary may require an employer to update a registration under this section not later than 30 days after a change in the employer's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.

(e) **STATE AUTHORITY.**—Nothing in this section shall be construed as affecting the authority of a State to issue a Department of Transportation number under State law to a person operating in intrastate commerce.

(Added Pub. L. 112-141, div. C, title II, § 32105(a), July 6, 2012, 126 Stat. 780.)

Editorial Notes

PRIOR PROVISIONS

A prior section 31134, Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 1001; Pub. L. 104-287, § 5(9), Oct. 11, 1996, 110 Stat. 3389, related to Commercial Motor Vehicle Safety Regulatory Review Panel, prior to repeal by Pub. L. 105-178, title IV, § 4008(c), June 9, 1998, 112 Stat. 404.

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EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination

Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§ 31135. Duties of employers and employees

(a) **IN GENERAL.**—Each employer and employee shall comply with regulations on commercial motor vehicle safety prescribed by the Secretary of Transportation under this subchapter that apply to the employer's or employee's conduct.

(b) **NONCOMPLIANCE.**—

(1) **MOTOR CARRIERS.**—Two or more motor carriers, employers, or persons shall not use common ownership, common management, common control, or common familial relationship to enable any or all such motor carriers, employers, or persons to avoid compliance, or mask or otherwise conceal non-compliance, or a history of non-compliance, with regulations prescribed under this subchapter or an order of the Secretary issued under this subchapter.

(2) **PATTERN.**—If the Secretary finds that a motor carrier, employer, or person engaged in a pattern or practice of avoiding compliance, or masking or otherwise concealing non-compliance, with regulations prescribed under this subchapter, the Secretary—

(A) may withhold, suspend, amend, or revoke any part of the motor carrier's, employer's, or person's registration in accordance with section 13905 or 31134; and

(B) shall take into account such non-compliance for purposes of determining civil penalty amounts under section 521(b)(2)(D).

(3) **OFFICERS.**—If the Secretary finds, after notice and an opportunity for proceeding, that an officer of a motor carrier, employer, or owner or operator has engaged in a pattern or practice of, or assisted a motor carrier, employer, or owner or operator in avoiding compliance, or masking or otherwise concealing noncompliance, while serving as an officer or such motor carrier, employer, or owner or operator, the Secretary may suspend, amend, or revoke any part of a registration granted to the officer individually under section 13902 or 31134.

(c) **REGULATIONS.**—Not later than 1 year after the date of enactment of this subsection, the Secretary shall by regulation establish standards to implement subsection (b).

(d) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **MOTOR CARRIER.**—The term “motor carrier” has the meaning such term has under section 13102.

(2) **OFFICER.**—The term “officer” means an owner, director, chief executive officer, chief operating officer, chief financial officer, safety director, vehicle maintenance supervisor, and driver supervisor of a motor carrier, regardless of the title attached to those functions, and any person, however designated, exercising controlling influence over the operations of a motor carrier.

(Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 1003; Pub. L. 109-59, title IV, § 4113(a), Aug. 10, 2005, 119 Stat. 1724; Pub. L. 112-141, div. C, title II, § 32112, July 6, 2012, 126 Stat. 783.)

² So in original. Probably should be “section”.