

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 sections<sup>2</sup> 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.

#### Statutory Notes and Related Subsidiaries

##### 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.)

<sup>2</sup> So in original. Probably should be “section”.

## HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
31135 .....	49 App.:2504.	Oct. 30, 1984, Pub. L. 98-554, § 205, 98 Stat. 2834.

**Editorial Notes**

## REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (c), is the date of enactment of Pub. L. 109-59, which was approved Aug. 10, 2005.

## AMENDMENTS

2012—Subsec. (b). Pub. L. 112-141 added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: “If the Secretary finds that an officer of a motor carrier engages or has engaged in a pattern or practice of avoiding compliance, or masking or otherwise concealing noncompliance, with regulations on commercial motor vehicle safety prescribed under this subchapter, while serving as an officer of any motor carrier, the Secretary may suspend, amend, or revoke any part of the motor carrier’s registration under section 13905.”

2005—Pub. L. 109-59 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) to (d).

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 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.

**§ 31136. United States Government regulations**

(a) **MINIMUM SAFETY STANDARDS.**—Subject to section 30103(a) of this title, the Secretary of Transportation shall prescribe regulations on commercial motor vehicle safety. The regulations shall prescribe minimum safety standards for commercial motor vehicles. At a minimum, the regulations shall ensure that—

(1) commercial motor vehicles are maintained, equipped, loaded, and operated safely;

(2) the responsibilities imposed on operators of commercial motor vehicles do not impair their ability to operate the vehicles safely;

(3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely and the periodic physical examinations required of such operators are performed by medical examiners who have received training in physical and medical examination standards and, after the national registry maintained by the Department of Transportation under section 31149(d) is established, are listed on such registry;

(4) the operation of commercial motor vehicles does not have a deleterious effect on the physical condition of the operators; and

(5) an operator of a commercial motor vehicle is not coerced by a motor carrier, shipper, receiver, or transportation intermediary to operate a commercial motor vehicle in violation of a regulation promulgated under this section, or chapter 51 or chapter 313 of this title.

(b) **ELIMINATING AND AMENDING EXISTING REGULATIONS.**—The Secretary may not eliminate or

amend an existing motor carrier safety regulation related only to the maintenance, equipment, loading, or operation (including routing) of vehicles carrying material found to be hazardous under section 5103 of this title until an equivalent or more stringent regulation has been prescribed under section 5103.

(c) **PROCEDURES AND CONSIDERATIONS.**—(1) A regulation under this section shall be prescribed under section 553 of title 5 (without regard to sections 556 and 557 of title 5).

(2) Before prescribing regulations under this section, the Secretary shall consider, to the extent practicable and consistent with the purposes of this chapter—

(A) costs and benefits; and

(B) State laws and regulations on commercial motor vehicle safety, to minimize their unnecessary preemption.

(d) **EFFECT OF EXISTING REGULATIONS.**—If the Secretary does not prescribe regulations on commercial motor vehicle safety under this section, regulations on commercial motor vehicle safety prescribed by the Secretary before October 30, 1984, and in effect on October 30, 1984, shall be deemed in this subchapter to be regulations prescribed by the Secretary under this section.

(e) **EXEMPTIONS.**—The Secretary may grant in accordance with section 31315 waivers and exemptions from, or conduct pilot programs with respect to, any regulations prescribed under this section.

(f) **REGULATORY IMPACT ANALYSIS.**—

(1) **IN GENERAL.**—Within each regulatory impact analysis of a proposed or final major rule issued by the Federal Motor Carrier Safety Administration, the Secretary shall, whenever practicable—

(A) consider the effects of the proposed or final rule on different segments of the motor carrier industry; and

(B) formulate estimates and findings based on the best available science.

(2) **SCOPE.**—To the extent feasible and appropriate, and consistent with law, an analysis described in paragraph (1) shall—

(A) use data that is representative of commercial motor vehicle operators or motor carriers, or both, that will be impacted by the proposed or final rule; and

(B) consider the effects on commercial truck and bus carriers of various sizes and types.

(g) **PUBLIC PARTICIPATION.**—

(1) **IN GENERAL.**—If a proposed rule under this part is likely to lead to the promulgation of a major rule, the Secretary, before publishing such proposed rule, shall—

(A) issue an advance notice of proposed rulemaking; or

(B) proceed with a negotiated rulemaking.

(2) **REQUIREMENTS.**—Each advance notice of proposed rulemaking issued under paragraph (1) shall—

(A) identify the need for a potential regulatory action;

(B) identify and request public comment on the best available science or technical in-