

“(a) TRANSPORTING PROPERTY.—If the Secretary [of Transportation] proceeds with a rulemaking to determine whether to increase the minimum levels of financial responsibility required under section 31139 of title 49, United States Code, the Secretary shall consider, prior to issuing a final rule—

“(1) the rulemaking’s potential impact on—

“(A) the safety of motor vehicle transportation; and

“(B) the motor carrier industry;

“(2) the ability of the insurance industry to provide the required amount of insurance;

“(3) the extent to which current minimum levels of financial responsibility adequately cover—

“(A) medical care;

“(B) compensation; and

“(C) other identifiable costs;

“(4) the frequency with which insurance claims exceed current minimum levels of financial responsibility in fatal accidents; and

“(5) the impact of increased levels on motor carrier safety and accident reduction.

“(b) TRANSPORTING PASSENGERS.—

“(1) IN GENERAL.—Prior to initiating a rulemaking to change the minimum levels of financial responsibility under section 31138 of title 49, United States Code, the Secretary shall complete a study specific to the minimum financial responsibility requirements for motor carriers of passengers.

“(2) STUDY CONTENTS.—A study under paragraph (1) shall include, to the extent practicable—

“(A) a review of accidents, injuries, and fatalities in the over-the-road bus and school bus industries;

“(B) a review of insurance held by over-the-road bus and public and private school bus companies, including companies of various sizes, and an analysis of whether such insurance is adequate to cover claims;

“(C) an analysis of whether and how insurance affects the behavior and safety record of motor carriers of passengers, including with respect to crash reduction; and

“(D) an analysis of the anticipated impacts of an increase in financial responsibility on insurance premiums for passenger carriers and service availability.

“(3) CONSULTATION.—In conducting a study under paragraph (1), the Secretary shall consult with—

“(A) representatives of the over-the-road bus and private school bus transportation industries, including representatives of bus drivers; and

“(B) insurers of motor carriers of passengers.

“(4) REPORT.—If the Secretary undertakes a study under paragraph (1), the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.”

**§ 31139. Minimum financial responsibility for transporting property**

(a) DEFINITIONS.—In this section—

(1) “farm vehicle” means a vehicle—

(A) designed or adapted and used only for agriculture;

(B) operated by a motor private carrier (as defined in section 10102 of this title); and

(C) operated only incidentally on highways.

(2) “interstate commerce” includes transportation between a place in a State and a place outside the United States, to the extent the transportation is in the United States.

(3) “State” means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(b) GENERAL REQUIREMENT AND MINIMUM AMOUNT.—(1) The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability, property damage, and environmental restoration for the transportation of property by motor carrier or motor private carrier (as such terms are defined in section 13102 of this title) in the United States between a place in a State and—

(A) a place in another State;

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

(C) a place outside the United States.

(2) The level of financial responsibility established under paragraph (1) of this subsection shall be at least \$750,000.

(c) FILING OF EVIDENCE OF FINANCIAL RESPONSIBILITY.—The Secretary may require a motor private carrier (as defined in section 13102) to file with the Secretary the evidence of financial responsibility specified in subsection (b) in an amount not less than the greater of the minimum amount required by this section or the amount required for such motor private carrier to transport property under the laws of the State or States in which the motor private carrier is operating; except that the amount of the financial responsibility must be sufficient to pay not more than the amount of the financial responsibility for each final judgment against the motor private carrier for bodily injury to, or death of, an individual resulting from negligent operation, maintenance, or use of the motor vehicle, or for loss or damage to property, or both.

(d) REQUIREMENTS FOR HAZARDOUS MATTER AND OIL.—(1) The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability, property damage, and environmental restoration for the transportation by motor vehicle in interstate or intrastate commerce of—

(A) hazardous material (as defined by the Secretary);

(B) oil or hazardous substances (as defined by the Administrator of the Environmental Protection Agency); or

(C) hazardous wastes (as defined by the Administrator).

(2)(A) Except as provided in subparagraph (B) of this paragraph, the level of financial responsibility established under paragraph (1) of this subsection shall be at least \$5,000,000 for the transportation—

(i) of hazardous substances (as defined by the Administrator) in cargo tanks, portable tanks, or hopper-type vehicles, with capacities of more than 3,500 water gallons;

(ii) in bulk of class A explosives, poison gas, liquefied gas, or compressed gas; or

(iii) of large quantities of radioactive material.

(B) The Secretary of Transportation by regulation may reduce the minimum level in subparagraph (A) of this paragraph (to an amount not less than \$1,000,000) for transportation described in subparagraph (A) in any of the terri-

tories of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands if—

- (i) the chief executive officer of the territory requests the reduction;
- (ii) the reduction will prevent a serious disruption in transportation service and will not adversely affect public safety; and
- (iii) insurance of \$5,000,000 is not readily available.

(3) The level of financial responsibility established under paragraph (1) of this subsection for the transportation of a material, oil, substance, or waste not subject to paragraph (2) of this subsection shall be at least \$1,000,000. However, if the Secretary of Transportation finds it will not adversely affect public safety, the Secretary by regulation may reduce the amount for—

- (A) a class of vehicles transporting such a material, oil, substance, or waste in intrastate commerce (except in bulk); and
- (B) a farm vehicle transporting such a material or substance in interstate commerce (except in bulk).

(e) FOREIGN MOTOR CARRIERS AND PRIVATE CARRIERS.—Regulations prescribed under this section may allow foreign motor carriers and foreign motor private carriers (as those terms are defined in section 10530 of this title) providing transportation of property under a certificate of registration issued under section 10530 to meet the minimum levels of financial responsibility under this section only when those carriers are providing transportation for property in the United States.

(f) EVIDENCE OF FINANCIAL RESPONSIBILITY.—(1) Subject to paragraph (2) of this subsection, financial responsibility may be established by evidence of one or a combination of the following if acceptable to the Secretary of Transportation:

- (A) insurance.
- (B) a guarantee.
- (C) a surety bond issued by a bonding company authorized to do business in the United States.
- (D) qualification as a self-insurer.

(2) A person domiciled in a country contiguous to the United States and providing transportation to which a minimum level of financial responsibility under this section applies shall have evidence of financial responsibility in the motor vehicle when the person is providing the transportation. If evidence of financial responsibility is not in the vehicle, the Secretary of Transportation and the Secretary of the Treasury shall deny entry of the vehicle into the United States.

(3) A motor carrier may obtain the required amount of financial responsibility from more than one source provided the cumulative amount is equal to the minimum requirements of this section.

(g) CIVIL PENALTY.—(1) If, after notice and an opportunity for a hearing, the Secretary of Transportation finds that a person (except an employee acting without knowledge) has knowingly violated this section or a regulation prescribed under this section, the person is liable to the United States Government for a civil penalty of not more than \$10,000 for each violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation shall impose the penalty by written notice. In determining the amount of the penalty, the Secretary shall consider—

- (A) the nature, circumstances, extent, and gravity of the violation;
- (B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and
- (C) other matters that justice requires.

(3) The Secretary of Transportation may compromise the penalty before referring the matter to the Attorney General for collection.

(4) The Attorney General shall bring a civil action in an appropriate district court of the United States to collect a penalty referred to the Attorney General for collection under this subsection.

(5) The amount of the penalty may be deducted from amounts the Government owes the person. An amount collected under this section shall be deposited in the Highway Trust Fund (other than the Mass Transit Account).

(h) NONAPPLICATION.—This section does not apply to a motor vehicle having a gross vehicle weight rating of less than 10,000 pounds if the vehicle is not used to transport in interstate or foreign commerce—

- (1) class A or B explosives;
- (2) poison gas; or
- (3) a large quantity of radioactive material.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1006; Pub. L. 104-88, title I, §104(e), Dec. 29, 1995, 109 Stat. 919; Pub. L. 109-59, title IV, §§4120(b), 4121, Aug. 10, 2005, 119 Stat. 1733, 1734; Pub. L. 110-244, title III, §§301(f), 305(b), June 6, 2008, 122 Stat. 1616, 1620.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
31139(a) .....	49:10927 (note).	July 1, 1980, Pub. L. 96-296, §30(h), 94 Stat. 823; Jan. 6, 1983, Pub. L. 97-424, §406(c), 96 Stat. 2159; Oct. 30, 1984, Pub. L. 98-554, §222(b), 98 Stat. 2847; Nov. 18, 1988, Pub. L. 100-690, §912, 102 Stat. 4534.
31139(b) .....	49:10927 (note).	July 1, 1980, Pub. L. 96-296, §30(a), 94 Stat. 820; Jan. 6, 1983, Pub. L. 97-424, §406(a), 96 Stat. 2158.
31139(c) .....	49:10927 (note).	July 1, 1980, Pub. L. 96-296, §30(b), 94 Stat. 821; Jan. 6, 1983, Pub. L. 97-424, §406(a), 96 Stat. 2158; Oct. 30, 1984, Pub. L. 98-554, §222(a), 98 Stat. 2846; Nov. 16, 1990, Pub. L. 101-615, §23, 104 Stat. 3272.
31139(d) .....	49:10927 (note).	July 1, 1980, Pub. L. 96-296, 94 Stat. 793, §30(g); added Nov. 18, 1988, Pub. L. 100-690, §912, 102 Stat. 4534.
31139(e) .....	49:10927 (note).	July 1, 1980, Pub. L. 96-296, §30(c), 94 Stat. 822; Jan. 6, 1983, Pub. L. 97-424, §406(b), 96 Stat. 2158.
31139(f) .....	49:10927 (note).	July 1, 1980, Pub. L. 96-296, §30(e), 94 Stat. 822.
31139(g) .....	49:10927 (note).	July 1, 1980, Pub. L. 96-296, §30(d), 94 Stat. 822. July 1, 1980, Pub. L. 96-296, §30(f), 94 Stat. 823; Jan. 6, 1983, Pub. L. 97-424, §406(d), 96 Stat. 2159.

In subsection (a), before clause (1), the text of section 30(h)(3) of the Motor Carrier Act of 1980 (Public Law

96-296, 94 Stat. 823) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section. In clause (3), the words “(including its use in the terms ‘interstate’ and ‘intrastate’)” are omitted as surplus.

In subsections (b)(2) and (c)(2) and (3), the word “minimal” is omitted as surplus.

In subsection (b)(2), the words “for any vehicle” are omitted as surplus. The words beginning with “except” are omitted as expired. The text of section 30(a)(3) of the Act (Public Law 96-296, 94 Stat. 821) is omitted because the regulations have been issued. See 49 C.F.R. part 387.

In subsection (c)(2), the text of section 30(b)(2)(B) of the Act (Public Law 96-296, 94 Stat. 821) is omitted as expired.

In subsection (c)(3), before clause (A), the text of section 30(b)(3)(A) of the Act (Public Law 96-296, 94 Stat. 821) is omitted as expired. The text of section 30(b)(4) of the Act (Public Law 96-296, 94 Stat. 822) is omitted because the regulations have been issued. See 49 C.F.R. part 387. The words “for any vehicle . . . in interstate or intrastate commerce” are omitted as unnecessary because of the reference to paragraph (1).

In subsection (e)(1), the words “The Secretary shall establish, by regulation, methods and procedures to assure compliance with this section” are omitted as surplus. The text of section 30(e) of the Act (Public Law 96-296, 94 Stat. 822) is omitted as executed.

In subsection (f)(4), the words “The Attorney General shall bring a civil action . . . to collect a penalty referred to the Attorney General for collection under this subsection” are substituted for “Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States” for consistency in the revised title.

In subsection (f)(5), the words “when finally determined (or agreed upon in compromise)” are omitted as surplus.

In subsection (g)(1) and (2), the words “any quantity of” are omitted as surplus.

### Editorial Notes

#### AMENDMENTS

2008—Subsec. (b)(1). Pub. L. 110-244, § 305(b)(1), in introductory provisions, substituted “motor carrier or motor private carrier (as such terms are defined in section 13102 of this title)” for “commercial motor vehicle”.

Subsec. (c). Pub. L. 110-244, § 305(b)(2), struck out “commercial” before “motor vehicle”.

Subsec. (g)(5). Pub. L. 110-244, § 301(f), amended Pub. L. 109-59, § 4121. See 2005 Amendment note below.

2005—Subsec. (b)(1). Pub. L. 109-59, § 4120(b)(1), struck out “for compensation” after “property” and inserted “commercial” before “motor vehicle” in introductory provisions.

Subsecs. (c) to (f). Pub. L. 109-59, § 4120(b)(2), (3), added subsec. (c) and redesignated former subsecs. (c) to (e) as (d) to (f), respectively. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 109-59, § 4120(b)(2), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (g)(5). Pub. L. 109-59, § 4121, as amended by Pub. L. 110-244, § 301(f), substituted “Highway Trust Fund (other than the Mass Transit Account)” for “Treasury as miscellaneous receipts”.

Subsec. (h). Pub. L. 109-59, § 4120(b)(2), redesignated subsec. (g) as (h).

1995—Subsec. (e)(3). Pub. L. 104-88 added par. (3).

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 301(f) of Pub. L. 110-244 effective as of the date of enactment of Pub. L. 109-59 (Aug. 10, 2005) and to be treated as included in Pub. L. 109-59 as of that date, and provisions of Pub. L. 109-59, as in

effect on the day before June 6, 2008, that are amended by Pub. L. 110-244 to be treated as not enacted, see section 121(b) of Pub. L. 110-244, set out as a note under section 101 of Title 23, Highways.

#### 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.

### § 31140. Repealed. Pub. L. 105-178, title IV, § 4008(d), June 9, 1998, 112 Stat. 404]

Section, Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 1008, related to submission of State laws and regulations for review by Secretary of Transportation and Commercial Motor Vehicle Safety Regulatory Review Panel.

### § 31141. Review and preemption of State laws and regulations

(a) PREEMPTION AFTER DECISION.—A State may not enforce a State law or regulation on commercial motor vehicle safety that the Secretary of Transportation decides under this section may not be enforced.

(b) SUBMISSION OF REGULATION.—A State receiving funds made available under section 31104 that enacts a State law or issues a regulation on commercial motor vehicle safety shall submit a copy of the law or regulation to the Secretary immediately after the enactment or issuance.

(c) REVIEW AND DECISIONS BY SECRETARY.—

(1) REVIEW.—The Secretary shall review State laws and regulations on commercial motor vehicle safety. The Secretary shall decide whether the State law or regulation—

(A) has the same effect as a regulation prescribed by the Secretary under section 31136;

(B) is less stringent than such regulation;

OR  
(C) is additional to or more stringent than such regulation.

(2) REGULATIONS WITH SAME EFFECT.—If the Secretary decides a State law or regulation has the same effect as a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may be enforced.

(3) LESS STRINGENT REGULATIONS.—If the Secretary decides a State law or regulation is less stringent than a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may not be enforced.

(4) ADDITIONAL OR MORE STRINGENT REGULATIONS.—If the Secretary decides a State law or regulation is additional to or more stringent than a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may be enforced unless the Secretary also decides that—

(A) the State law or regulation has no safety benefit;

(B) the State law or regulation is incompatible with the regulation prescribed by the Secretary; or

(C) enforcement of the State law or regulation would cause an unreasonable burden on interstate commerce.

(5) CONSIDERATION OF EFFECT ON INTERSTATE COMMERCE.—In deciding under paragraph (4)