

Editorial Notes

REFERENCES IN TEXT

The Department of Transportation Act, referred to in subsecs. (a) and (b), is Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which was classified principally to sections 1651 to 1660 of former Title 49, Transportation. The Act was repealed and the provisions thereof reenacted in Title 49, Transportation, by Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2413, and Pub. L. 103-272, July 5, 1994, 108 Stat. 745. The Act was also repealed by Pub. L. 104-287, §7(5), Oct. 11, 1996, 110 Stat. 3400. For disposition of sections of former Title 49, see Table at the beginning of Title 49.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109-59 substituted “Federal Motor Carrier Safety Administration” for “Federal Highway Administration”.

Statutory Notes and Related Subsidiaries

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 1302 of this title, and section 101 of Pub. L. 104-88, set out as a note under section 1301 of this title. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 1301 of this title.

§ 352. Authority to carry out certain transferred duties and powers

In carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89-670, 80 Stat. 931), the Secretary of Transportation and the Administrators of the Federal Railroad Administration, the Federal Motor Carrier Safety Administration, and the Federal Aviation Administration have the same authority that was vested in the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer. An action of the Secretary or Administrator in carrying out the duty or power has the same effect as when carried out by the department, agency, or instrumentality.

(Pub. L. 103-272, §4(j)(10)(A), July 5, 1994, 108 Stat. 1368; Pub. L. 109-59, title IV, §4125(c), Aug. 10, 2005, 119 Stat. 1738.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 352, 49 App.:1653(d), Oct. 15, 1966, Pub. L. 89-670, §4(d), 80 Stat. 934.

The words “force and” are omitted as surplus.

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AMENDMENTS

2005—Pub. L. 109-59 substituted “Federal Motor Carrier Safety Administration” for “Federal Highway Administration”.

§ 353. Toxicological testing of officers and employees

(a) COLLECTING SPECIMENS.—When the Secretary of Transportation or the head of a component of the Department of Transportation conducts post-accident or post-incident toxicological testing of an officer or employee of the Department, the Secretary or head shall collect the specimen from the officer or employee as soon as practicable after the accident or incident. The Secretary or head shall try to collect the specimen not later than 4 hours after the accident or incident.

(b) REPORTS.—The head of each component shall submit a report to the Secretary on the circumstances about the amount of time required to collect the specimen for a toxicological test conducted on an officer or employee who is reasonably associated with the circumstances of an accident or incident under the investigative jurisdiction of the National Transportation Safety Board.

(c) NONCOMPLIANCE NOT A DEFENSE.—An officer or employee required to submit to toxicological testing may not assert failure to comply with this section as a claim, cause of action, or defense in an administrative or judicial proceeding.

(Pub. L. 103-272, §4(j)(10)(A), July 5, 1994, 108 Stat. 1368.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 353, 49 App.:1657-1, Nov. 28, 1990, Pub. L. 101-641, §5, 104 Stat. 4656.

In this section, the words “officer or employee” are substituted for “employee” for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (a), the words “Secretary of Transportation or the head of a component of the Department of Transportation” are substituted for “Department of Transportation, including any of its agencies” for consistency in the revised title and with other titles of the Code.

In subsection (b), the word “Secretary” is substituted for “Office of the Secretary of Transportation” for consistency in the revised title and with other titles of the Code. The words “within that agency” are omitted as unnecessary.

In subsection (c), the words “An officer or employee required to submit to toxicological testing may not assert” are substituted for “may not be asserted” for clarity.

§ 354. Investigative authority of Inspector General

(a) IN GENERAL.—The statutory authority of the Inspector General of the Department of Transportation includes authority to conduct, pursuant to Federal criminal statutes, inves-

tigations of allegations that a person or entity has engaged in fraudulent or other criminal activity relating to the programs and operations of the Department or its operating administrations.

(b) REGULATED ENTITIES.—The authority to conduct investigations referred to in subsection (a) extends to any person or entity subject to the laws and regulations of the Department or its operating administrations, whether or not they are recipients of funds from the Department or its operating administrations.

(Added and amended Pub. L. 108-168, § 8(a), (b)(1), Dec. 6, 2003, 117 Stat. 2034.)

#### Editorial Notes

##### CODIFICATION

The text of section 228 of Pub. L. 106-159, formerly set out as a note under section 4 of the Inspector General Act of 1978, Pub. L. 95-452, formerly set out in the Appendix to Title 5, Government Organization and Employees, which was transferred to this section, redesignated as text of section, and amended by Pub. L. 108-168, § 8(a), (b)(1), was based on Pub. L. 106-159, title II, § 228, Dec. 9, 1999, 113 Stat. 1773.

##### AMENDMENTS

2003—Pub. L. 108-168 renumbered section 228 of Pub. L. 106-159 as this section and substituted “Investigative authority of Inspector General” for “DOT Authority” in section catchline. See Codification note above.

#### Statutory Notes and Related Subsidiaries

##### DEPOSIT OF FORFEITED FUNDS

Pub. L. 113-235, div. K, title I, Dec. 16, 2014, 128 Stat. 2724, provided in part: “That hereafter funds transferred to the Office of the Inspector General through forfeiture proceedings or from the Department of Justice Assets Forfeiture Fund or the Department of the Treasury Forfeiture Fund, as a participating agency, as an equitable share from the forfeiture of property in investigations in which the Office of Inspector General participates, or through the granting of a Petition for Remission or Mitigation, shall be deposited to the credit of this account [Office of Inspector General, Salaries and Expenses] for law enforcement activities authorized under the Inspector General Act of 1978, as amended [see 5 U.S.C. 401 et seq.], to remain available until expended.”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 113-76, div. L, title I, Jan. 17, 2014, 128 Stat. 600.

#### § 355. Motorcyclist Advisory Council

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Secretary of Transportation (referred to in this section as the “Secretary”) shall establish a council, to be known as the “Motorcyclist Advisory Council” (referred to in this section as the “Council”).

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall be comprised of 13 members, to be appointed by the Secretary, of whom—

(A) 5 shall be representatives of units of State or local government with expertise relating to highway engineering and safety issues, including—

- (i) motorcycle and motorcyclist safety;
- (ii) barrier and road design, construction, and maintenance; or

(iii) intelligent transportation systems;

(B) 1 shall be a motorcyclist who serves as a State or local—

- (i) traffic and safety engineer;
- (ii) design engineer; or
- (iii) other transportation department official;

(C) 1 shall be a representative of a national association of State transportation officials;

(D) 1 shall be a representative of a national motorcyclist association;

(E) 1 shall be a representative of a national motorcyclist foundation;

(F) 1 shall be a representative of a national motorcycle manufacturing association;

(G) 1 shall be a representative of a motorcycle manufacturing company headquartered in the United States;

(H) 1 shall be a roadway safety data expert with expertise relating to crash testing and analysis; and

(I) 1 shall be a member of a national safety organization that represents the traffic safety systems industry.

(2) TERM.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), each member shall serve on the Council for a single term of 2 years.

(B) ADDITIONAL TERM.—If a successor is not appointed for a member of the Council before the expiration of the term of service of the member, the member may serve on the Council for a second term of not longer than 2 years.

(C) APPOINTMENT OF REPLACEMENTS.—If a member of the Council resigns before the expiration of the 2-year term of service of the member—

- (i) the Secretary may appoint a replacement for the member, who shall serve the remaining portion of the term; and
- (ii) the resigning member may continue to serve after resignation until the date on which a successor is appointed.

(3) VACANCIES.—A vacancy on the Council shall be filled in the manner in which the original appointment was made.

(4) COMPENSATION.—A member of the Council shall serve without compensation.

(c) DUTIES.—

(1) ADVISING.—The Council shall advise the Secretary, the Administrator of the National Highway Traffic Safety Administration, and the Administrator of the Federal Highway Administration regarding transportation safety issues of concern to motorcyclists, including—

- (A) motorcycle and motorcyclist safety;
- (B) barrier and road design, construction, and maintenance practices; and

(C) the architecture and implementation of intelligent transportation system technologies.

(2) BIENNIAL REPORT.—Not later than October 31 of the calendar year following the calendar year in which the Council is established, and not less frequently than once every 2 years thereafter, the Council shall submit to the Secretary a report containing rec-