

investigate and bring civil actions to enforce chapter 5 of title 49, United States Code, or regulations or orders issued by the Secretary under such chapter with respect to persons described in subsection (a).

“(c) CONTENTS OF IMPLEMENTATION PLAN.—In developing the implementation plan under subsection (b), the Secretary shall consider, as appropriate—

“(1) in what circumstances the Secretary would exercise the new authority;

“(2) how the Secretary would determine that shippers, freight forwarders, brokers, consignees, or other persons committed violations described in subsection (a), including what types of evidence would be conclusive;

“(3) what procedures would be necessary during investigations to ensure the confidentiality of shipper contract terms prior to the Secretary’s findings of violations;

“(4) what impact the exercise of the new authority would have on the Secretary’s resources, including whether additional investigative or legal resources would be necessary and whether the staff would need specialized education or training to exercise properly such authority;

“(5) to what extent the Secretary would conduct educational activities for persons who would be subject to the new authority; and

“(6) any other information that would assist the Congress in determining whether to provide the Secretary the new authority.”

§ 508. Safety performance history of new drivers; limitation on liability

(a) LIMITATION ON LIABILITY.—No action or proceeding for defamation, invasion of privacy, or interference with a contract that is based on the furnishing or use of safety performance records in accordance with regulations issued by the Secretary may be brought against—

(1) a motor carrier requesting the safety performance records of an individual under consideration for employment as a commercial motor vehicle driver as required by and in accordance with regulations issued by the Secretary;

(2) a person who has complied with such a request; or

(3) the agents or insurers of a person described in paragraph (1) or (2).

(b) RESTRICTIONS ON APPLICABILITY.—

(1) MOTOR CARRIER REQUESTING.—Subsection (a) does not apply to a motor carrier requesting safety performance records unless—

(A) the motor carrier and any agents of the motor carrier have complied with the regulations issued by the Secretary in using the records, including the requirement that the individual who is the subject of the records be afforded a reasonable opportunity to review and comment on the records;

(B) the motor carrier and any agents and insurers of the motor carrier have taken all precautions reasonably necessary to protect the records from disclosure to any person, except for such an insurer, not directly involved in deciding whether to hire that individual; and

(C) the motor carrier has used those records only to assess the safety performance of the individual who is the subject of those records in deciding whether to hire that individual.

(2) PERSON COMPLYING WITH REQUESTS.—Subsection (a) does not apply to a person com-

plying with a request for safety performance records unless—

(A) the complying person and any agents of the complying person have taken all precautions reasonably necessary to ensure the accuracy of the records and have complied with the regulations issued by the Secretary in furnishing the records, including the requirement that the individual who is the subject of the records be afforded a reasonable opportunity to review and comment on the records; and

(B) the complying person and any agents and insurers of the complying person have taken all precautions reasonably necessary to protect the records from disclosure to any person, except for such an insurer, not directly involved in forwarding the records.

(3) PERSONS KNOWINGLY FURNISHING FALSE INFORMATION.—Subsection (a) does not apply to persons who knowingly furnish false information.

(c) PREEMPTION OF STATE AND LOCAL LAW.—No State or political subdivision thereof may enact, prescribe, issue, continue in effect, or enforce any law (including any regulation, standard, or other provision having the force and effect of law) that prohibits, penalizes, or imposes liability for furnishing or using safety performance records in accordance with regulations issued by the Secretary to carry out this section. Notwithstanding any provision of law, written authorization shall not be required to obtain information on the motor vehicle driving record of an individual under consideration for employment with a motor carrier.

(Added Pub. L. 105-178, title IV, § 4014(a)(1), June 9, 1998, 112 Stat. 409.)

Editorial Notes

CODIFICATION

Pub. L. 105-178, title IV, § 4014(a)(1), June 9, 1998, 112 Stat. 409, which directed the addition of section 508 at end of this chapter, was executed by adding this section at the end of subchapter I of this chapter to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 508, added Pub. L. 102-548, § 2(a), Oct. 28, 1992, 106 Stat. 3646, related to certification of weights and description, prior to repeal by Pub. L. 103-272, § 4(j)(11)(B), July 5, 1994, 108 Stat. 1368. See chapter 59 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 105-178, title IV, § 4014(b), June 9, 1998, 112 Stat. 411, provided that: “The amendments made by subsection (a) [enacting this section] shall take effect on January 31, 1999.”

SUBCHAPTER II—PENALTIES

§ 521. Civil penalties

(a)(1) A person required under section 504 of this title to make, prepare, preserve, or submit to the Secretary of Transportation a record about rail carrier transportation, that does not make, prepare, preserve, or submit that record