AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Calendar No. 543

112TH CONGRESS
2D SESSION

S. 1950

[Report No. 112–238]

To amend title 49, United States Code, to improve commercial motor vehicle safety and reduce commercial motor vehicle-related accidents and fatalities, to authorize the Federal Motor Carrier Safety Administration, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2011

Mr. LAUTENBERG (for himself, Mr. ROCKEFELLER, and Mr. PRYOR) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

NOVEMBER 13, 2012

Reported by Mr. ROCKEFELLER, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend title 49, United States Code, to improve commercial motor vehicle safety and reduce commercial motor vehicle-related accidents and fatalities, to authorize the Federal Motor Carrier Safety Administration, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

~~SECTION 1. SHORT TITLE.~~

~~This Act may be cited as the "Commercial Motor Vehicle Safety Enhancement Act of 2011".~~

~~SEC. 2. TABLE OF CONTENTS.~~

~~The table of contents of this Act is as follows:~~

~~Sec. 1. Short title.~~
~~Sec. 2. Table of contents.~~
~~Sec. 3. Definition.~~
~~Sec. 4. References to title 49, United States Code.~~

~~TITLE I—COMMERCIAL MOTOR VEHICLE REGISTRATION~~

~~Sec. 101. Registration of motor carriers.~~
~~Sec. 102. Safety fitness of new operators.~~
~~Sec. 103. Reincarnated carriers.~~
~~Sec. 104. Financial responsibility requirements.~~
~~Sec. 105. USDOT number registration requirement.~~
~~Sec. 106. Registration fee system.~~
~~Sec. 107. Registration update.~~
~~Sec. 108. Increased penalties for operating without registration.~~
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~~Sec. 112. Motor carrier and officer patterns of safety violations.~~
~~Sec. 113. Federal successor standard.~~

~~TITLE II—COMMERCIAL MOTOR VEHICLE SAFETY~~

~~Sec. 201. Repeal of commercial jurisdiction exception for brokers of motor carriers of passengers.~~
~~Sec. 202. Bus rentals and definition of employer.~~
~~Sec. 203. Crashworthiness standards.~~
~~Sec. 204. Canadian safety rating reciprocity.~~
~~Sec. 205. State reporting of foreign commercial driver convictions.~~
~~Sec. 206. Authority to disqualify foreign commercial drivers.~~
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~~TITLE III—DRIVER SAFETY~~

~~Sec. 301. Electronic on-board recording devices.~~
~~Sec. 302. Safety fitness.~~
~~Sec. 303. Driver medical qualifications.~~
~~Sec. 304. Commercial driver's license notification system.~~
~~Sec. 305. Commercial motor vehicle operator training.~~
~~Sec. 306. Commercial driver's license program.~~
~~Sec. 307. Commercial driver's license requirements.~~
~~Sec. 308. Commercial motor vehicle driver information systems.~~
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~~TITLE IV—SAFE ROADS ACT OF 2011~~

~~Sec. 401. Short title.~~
~~Sec. 402. National clearinghouse for controlled substance and alcohol test results of commercial motor vehicle operators.~~
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~~Sec. 404. Authorization of appropriations.~~

~~TITLE V—ENFORCEMENT~~

~~Sec. 501. Inspection demand and display of credentials.~~
~~Sec. 502. Out of service penalty for denial of access to records.~~
~~Sec. 503. Penalties for violation of operation out of service orders.~~
~~Sec. 504. Minimum prohibition on operation for unfit carriers.~~
~~Sec. 505. Minimum out of service penalties.~~
~~Sec. 506. Impoundment and immobilization of commercial motor vehicles for imminent hazard.~~
~~Sec. 507. Increased penalties for evasion of regulations.~~
~~Sec. 508. Failure to pay civil penalty as a disqualifying offense.~~
~~Sec. 509. Violations relating to commercial motor vehicle safety regulation and operators.~~
~~Sec. 510. Emergency disqualification for imminent hazard.~~
~~Sec. 511. Intrastate operations of interstate motor carriers.~~
~~Sec. 512. Enforcement of safety laws and regulations.~~
~~Sec. 513. Disclosure to State and local law enforcement agencies.~~

~~TITLE VI—COMPLIANCE, SAFETY, ACCOUNTABILITY~~

~~Sec. 601. Compliance, safety, accountability.~~
~~Sec. 602. Performance and registration information systems management program.~~
~~Sec. 603. Commercial motor vehicle defined.~~
~~Sec. 604. Driver safety fitness ratings.~~
~~Sec. 605. Uniform electronic clearance for commercial motor vehicle inspections.~~
~~Sec. 606. Authorization of appropriations.~~
~~Sec. 607. High risk carrier reviews.~~
~~Sec. 608. Data and technology grants.~~
~~Sec. 609. Driver safety grants.~~
~~Sec. 610. Commercial vehicle information systems and networks.~~

~~TITLE VII—MOTORCOACH ENHANCED SAFETY ACT OF 2011~~

~~Sec. 701. Short title.~~
~~Sec. 702. Definitions.~~
~~Sec. 703. Regulations for improved occupant protection, passenger evacuation, and crash avoidance.~~
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~~Sec. 705. Occupant protection, collision avoidance, fire causation, and fire extinguisher research and testing.~~
~~Sec. 706. Motorcoach registration.~~
~~Sec. 707. Improved oversight of motorcoach service providers.~~
~~Sec. 708. Report on feasibility, benefits, and costs of establishing a system of certification of training programs.~~

~~Sec. 709. Report on driver's license requirements for 9- to 15-passenger vans.~~
~~Sec. 710. Event data recorders.~~
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~~Sec. 712. Distracted driving.~~
~~Sec. 713. Regulations.~~

~~TITLE VIII—SAFE HIGHWAYS AND INFRASTRUCTURE PRESERVATION~~

~~Sec. 801. Comprehensive truck size and weight limits study.~~
~~Sec. 802. Compilation of existing State truck size and weight limit laws.~~

~~TITLE IX—MISCELLANEOUS~~

~~Sec. 901. Detention time study.~~
~~Sec. 902. Prohibition of coercion.~~
~~Sec. 903. Motor carrier safety advisory committee.~~
~~Sec. 904. Waivers, exemptions, and pilot programs.~~
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~~TITLE X—HOUSEHOLD GOODS TRANSPORTATION~~

~~Sec. 1001. Additional registration requirements for household goods motor carriers.~~
~~Sec. 1002. Failure to give up possession of household goods.~~
~~Sec. 1003. Settlement authority.~~
~~Sec. 1004. Household goods transportation assistance program.~~
~~Sec. 1005. Household goods consumer education program.~~

~~TITLE XI—TECHNICAL AMENDMENTS~~

~~Sec. 1101. Update of obsolete text.~~
~~Sec. 1102. Correction of interstate commerce commission references.~~
~~Sec. 1103. Technical and conforming amendments.~~

~~SEC. 3. DEFINITION.~~

~~In this Act, the term "Secretary" means the Secretary of Transportation.~~

~~SEC. 4. REFERENCES TO TITLE 49, UNITED STATES CODE.~~

~~Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.~~

~~TITLE I—COMMERCIAL MOTOR VEHICLE REGISTRATION~~

~~SEC. 101. REGISTRATION OF MOTOR CARRIERS.~~

~~(a) REGISTRATION REQUIREMENTS.—Section 13902(a)(1) is amended to read as follows:~~

~~"(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary of Transportation may not register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier unless the Secretary determines that the person—~~

~~"(A) is willing and able to comply with—~~

~~"(i) this part and the applicable regulations of the Secretary and the Board;~~

~~"(ii) any safety regulations imposed by the Secretary;~~

~~"(iii) the duties of employers and employees established by the Secretary under section 31135;~~

~~"(iv) the safety fitness requirements established by the Secretary under section 31144;~~

~~"(v) the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal~~

~~Regulations (or successor regulations), for transportation provided by an over-the-road bus; and~~

~~"(vi) the minimum financial responsibility requirements established by the Secretary under sections 13906, 31138, and 31139;~~

~~"(B) has submitted a comprehensive management plan documenting that the person has management systems in place to ensure compliance with safety regulations imposed by the Secretary;~~

~~"(C) has disclosed any relationship involving common ownership, common management, common control, or common familial relationship between that person and any other motor carrier, freight forwarder, or broker, or any other applicant for motor carrier, freight forwarder, or broker registration, or a successor (as that term is defined under section 31153), if the relationship occurred in the 5-year period preceding the date of the filing of the application for registration; and~~

~~"(D) after the Secretary establishes a written proficiency examination pursuant to section~~

~~101(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2011, has passed the written proficiency examination.”.~~

~~(b) WRITTEN PROFICIENCY EXAMINATION.—~~

~~(1) ESTABLISHMENT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall establish a written proficiency examination for applicant motor carriers pursuant to section 13902(a)(1)(D). The written proficiency examination shall test a person’s knowledge of applicable safety regulations, standards, and orders of the Federal government and State government.~~

~~(2) ADDITIONAL FEE.—The Secretary may assess a fee to cover the expenses incurred by the Department of Transportation in—~~

~~(A) developing and administering the written proficiency examination; and~~

~~(B) reviewing the comprehensive management plan required under section 13902(a)(1)(B) of title 49, United States Code.~~

~~(c) CONFORMING AMENDMENT.—Section 210(b) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31144 note) is amended—~~

~~(1) by inserting “, commercial regulations, and provisions of subpart H of part 37 of title 49, Code~~

~~of Federal Regulations, or successor regulations'' after ''applicable safety regulations''; and~~

~~(2) by striking ''consider the establishment of'' and inserting ''establish''.~~

~~SEC. 102. SAFETY FITNESS OF NEW OPERATORS.~~

~~(a) SAFETY REVIEWS OF NEW OPERATORS.—Section 31144(g)(1) is amended to read as follows:~~

~~''(1) SAFETY REVIEW.—~~

~~''(A) IN GENERAL.—The Secretary shall require, by regulation, each owner and each operator granted new registration under section 13902 or 31134 to undergo a safety review not later than 12 months after the owner or operator, as the case may be, begins operations under such registration.~~

~~''(B) PROVIDERS OF MOTORCOACH SERVICES.—The Secretary may register a person to provide motorcoach services under section 13902 or 31134 after the person undergoes a pre-authorization safety audit, including verification, in a manner sufficient to demonstrate the ability to comply with Federal rules and regulations, as described in section 13902. The Secretary shall continue to monitor the safety performance of each owner and each~~

~~operator subject to this section for 12 months after the owner or operator is granted registration under section 13902 or 31134. The registration of each owner and each operator subject to this section shall become permanent after the motorcoach service provider is granted registration following a pre-authorization safety audit and the expiration of the 12 month monitoring period.~~

~~"(C) PRE-AUTHORIZATION SAFETY AUDIT.—The Secretary may require, by regulation, that the pre-authorization safety audit under subparagraph (B) be completed on-site not later than 90 days after the submission of an application for operating authority.".~~

~~(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 1 year after the date of enactment of this Act.~~

~~SEC. 103. REINCARNATED CARRIERS.~~

~~(a) EFFECTIVE PERIODS OF REGISTRATION.—~~

~~(1) SUSPENSIONS, AMENDMENTS, AND REVOCATIONS.—Section 13905(d) is amended—~~

~~(A) by redesignating paragraph (2) as paragraph (4);~~

(B) by striking paragraph (1) and inserting the following:

"(1) APPLICATIONS.—On application of the registrant, the Secretary may amend or revoke a registration.

"(2) COMPLAINTS AND ACTIONS ON SECRETARY'S OWN INITIATIVE.—On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may—

"(A) suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with—

"(i) this part;

"(ii) an applicable regulation or order of the Secretary or the Board, including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations (or successor regulations), for transportation provided by an over-the-road bus; or

"(iii) a condition of its registration;

"(B) withhold, suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for failure—

~~"(i) to pay a civil penalty imposed under chapter 5, 51, 149, or 311;~~

~~"(ii) to arrange and abide by an acceptable payment plan for such civil penalty, not later than 90 days after the date specified by order of the Secretary for the payment of such penalty; or~~

~~"(iii) for failure to obey a subpoena issued by the Secretary";~~

~~"(C) withhold, suspend, amend, or revoke any part of a registration of a motor carrier, broker, or freight forwarder following a determination by the Secretary that the motor carrier, broker, or freight forwarder failed to disclose, in its application for registration, a material fact relevant to its willingness and ability to comply with—~~

~~"(i) this part;~~

~~"(ii) an applicable regulation or order of the Secretary or the Board; or~~

~~"(iii) a condition of its registration; or~~

~~"(D) withhold, suspend, amend, or revoke any part of a registration of a motor carrier, broker, or freight forwarder if the Secretary finds that—~~

~~"(i) the motor carrier, broker, or freight forwarder is or was related through common ownership, common management, common control, or common familial relationship to any other motor carrier, broker, or freight forwarder, or any other applicant for motor carrier, broker, or freight forwarder registration that the Secretary determines is or was unwilling or unable to comply with the relevant requirements listed in section 13902, 13903, or 13904; or~~

~~"(ii) the person is the successor, as defined in section 31153, to a person who is or was unwilling or unable to comply with the relevant requirements of section 13902, 13903, or 13904.~~

~~"(3) LIMITATION.—Paragraph (2)(B) shall not apply to a person who is unable to pay a civil penalty because the person is a debtor in a case under chapter 11 of title 11."; and~~

~~(C) in paragraph (4), as redesignated by section 103(a)(1)(A) of this Act, by striking "paragraph (1)(B)" and inserting "paragraph (2)(B)".~~

(2) PROCEDURE.—Section 13905(c) is amended by inserting "or if the Secretary determines that the registrant failed to disclose a material fact in an application for registration in accordance with subsection (d)(2)(C)," after "registrant,".

(b) INFORMATION SYSTEMS.—Section 31106(a)(3) is amended—

(1) in subparagraph (F), by striking "and" at the end;

(2) in subparagraph (G), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(H) determine whether a person or employer is or was related, through common ownership, common management, common control, or common familial relationship, to any other person, employer, or any other applicant for registration under section 13902 or 31134.".

SEC. 104. FINANCIAL RESPONSIBILITY REQUIREMENTS.

(a) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall—

(1) issue a report on the appropriateness of—

(A) the current minimum financial responsibility requirements under sections 31138 and 31139 of title 49, United States Code; and

~~(B) the current bond and insurance requirements under section 13904(d) of title 49, United States Code; and~~

~~(2) submit the report under paragraph (1) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.~~

~~(b) RULEMAKING.—Not later than 6 months after the publication of the report under subsection (a), the Secretary shall initiate a rulemaking to increase the minimum financial responsibility requirements under sections 31138, and 31139 of title 49, United States Code and to revise the bond and insurance requirements under section 13904(d) of title 49, United States Code. As part of the rulemaking, the Secretary shall consider—~~

~~(1) the findings of the report under subsection (a);~~

~~(2) the appropriateness of the amount of the financial responsibility to pay for each final judgment against a motor carrier for bodily injury to, or death of, each individual resulting from negligent operation, maintenance, or use of the motor vehicle, or for loss or damage to property, or both; and~~

~~(3) other matters the Secretary determines appropriate.~~

~~(c) DEADLINE.—Not later than 1 year after the start of the rulemaking under subsection (b), the Secretary shall—~~

~~(1) issue a final rule; or~~

~~(2) if the Secretary determines that a rulemaking is not required following the Secretary's analysis, submit a report stating the reason for not increasing the minimum financial responsibility requirements to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.~~

~~(d) BIENNIAL REVIEWS.—Not less than once every 2 years, the Secretary shall review the requirements prescribed under subsection (b) and revise the requirements, as appropriate.~~

~~SEC. 105. USDOT NUMBER REGISTRATION REQUIREMENT.~~

~~(a) Chapter 311 is amended by inserting after section 31133 the following:~~

~~"§ 31134. Requirement for registration and USDOT number~~

~~"(a) IN GENERAL.—Upon application, and subject to subsections (b) and (c), the Secretary shall register an em-~~

~~ployer 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 may withhold registration under subsection (a), after notice and an opportunity for a proceeding, if the Secretary determines that—~~

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

~~"(2) the employer or person is or was 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 is or was unfit, unwill-~~

~~ing, or unable to comply with the requirements listed in subsection (b)(1); or~~

~~"(3) the person is the successor, as defined in section 31153, to a person who is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1).~~

~~"(c) REVOCATION OR SUSPENSION OF REGISTRATION.—The Secretary shall revoke the registration of an employer or person 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 would be subject to revocation or suspension under sections 13905(d)(1) or 13905(f) of this title;~~

~~"(2) the employer or person is or was related 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);~~

~~"(3) the person is the successor, as defined in section 31153, to a person the Secretary determines~~

~~is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1); or~~

~~"(4) the employer or person failed or 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 periodically or 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.".~~

~~(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31133 the following:~~

~~"31134. Requirement for registration and USDOT number.".~~

~~SEC. 106. REGISTRATION FEE SYSTEM.~~

~~Section 13908(d)(1) is amended by striking "but shall not exceed $300".~~

~~SEC. 107. REGISTRATION UPDATE.~~

~~(a) PERIODIC MOTOR CARRIER UPDATE.—Section 13902 is amended by adding at the end the following:~~

~~"(h) UPDATE OF REGISTRATION.—The Secretary may require a registrant to update its registration under this section periodically or not later than 30 days after a change in the registrant's address, other contact infor-~~

~~mation, officers, process agent, or other essential information, as determined by the Secretary.''.~~

~~(b) PERIODIC FREIGHT FORWARDER UPDATE.—Section 13903 is amended by adding at the end the following:~~

~~''(c) UPDATE OF REGISTRATION.—The Secretary may require a freight forwarder to update its registration under this section periodically or not later than 30 days after a change in the freight forwarder's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.''.~~

~~(c) PERIODIC BROKER UPDATE.—Section 13904 is amended by adding at the end the following:~~

~~''(c) UPDATE OF REGISTRATION.—The Secretary may require a broker to update its registration under this section periodically or not later than 30 days after a change in the broker's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.''.~~

~~SEC. 108. INCREASED PENALTIES FOR OPERATING WITHOUT REGISTRATION.~~

~~(a) PENALTIES.—Section 14901(a) is amended—~~

~~(1) by striking ''$500'' and inserting ''$1,000'';~~

~~(2) by striking ''who is not registered under this part to provide transportation of passengers,'';~~

~~(3) by striking "with respect to providing transportation of passengers," and inserting "or section 13902(c) of this title,"; and~~

~~(4) by striking "$2,000 for each violation and each additional day the violation continues" and inserting "$10,000 for each violation, or $25,000 for each violation relating to providing transportation of passengers".~~

~~(b) TRANSPORTATION OF HAZARDOUS WASTES.—Section 14901(b) is amended by striking "less than $20,000" and inserting "not less than $25,000".~~

~~SEC. 109. REVOCATION OF REGISTRATION FOR IMMINENT HAZARD.~~

~~Section 13905(f)(2) is amended to read as follows:~~

~~"(2) IMMINENT HAZARD TO PUBLIC HEALTH.—Notwithstanding subchapter II of chapter 5 of title 5, the Secretary shall revoke the registration of a motor carrier if the Secretary finds that the carrier is or was conducting unsafe operations that are or were an imminent hazard to public health or property.".~~

~~SEC. 110. REVOCATION OF REGISTRATION AND OTHER PENALTIES FOR FAILURE TO RESPOND TO SUBPOENA.~~

~~Section 525 is amended—~~

~~(1) by striking "subpenas" in the section heading and inserting "subpoenas";~~

~~(2) by striking "subpena" and inserting "subpoena";~~

~~(3) by striking "$100" and inserting "$1,000";~~

~~(4) by striking "$5,000" and inserting "$10,000"; and~~

~~(5) by adding at the end the following:~~

~~"The Secretary may withhold, suspend, amend, or revoke any part of the registration of a person required to register under chapter 139 for failing to obey a subpoena or requirement of the Secretary under this chapter to appear and testify or produce records.".~~

~~SEC. 111. FLEETWIDE OUT OF SERVICE ORDER FOR OPERATING WITHOUT REQUIRED REGISTRATION.~~

~~Section 13902(c)(1) is amended—~~

~~(1) by striking "motor vehicle" and inserting "motor carrier" after "the Secretary determines that a"; and~~

~~(2) by striking "order the vehicle" and inserting "order the motor carrier operations" after "the Secretary may".~~

~~SEC. 112. MOTOR CARRIER AND OFFICER PATTERNS OF SAFETY VIOLATIONS.~~

~~Section 31135 is amended—~~

~~(1) by striking subsection (b) and inserting the following:~~

~~"(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 noncompliance, 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).~~

1 ~~"(3) OFFICERS.—If the Secretary finds, after~~
2 ~~notice and an opportunity for proceeding, that an of-~~
3 ~~ficer of a motor carrier, employer, or owner or oper-~~
4 ~~ator engaged in a pattern or practice of violating~~
5 ~~regulations prescribed under this subchapter, or as-~~
6 ~~sisted a motor carrier, employer, or owner or oper-~~
7 ~~ator in avoiding compliance, or masking or otherwise~~
8 ~~concealing noncompliance, the Secretary may impose~~
9 ~~appropriate sanctions, subject to the limitations in~~
10 ~~paragraph (4), including—~~
11 ~~"(A) suspension or revocation of registra-~~
12 ~~tion granted to the officer individually under~~
13 ~~section 13902 or 31134;~~
14 ~~"(B) temporary or permanent suspension~~
15 ~~or bar from association with any motor carrier,~~
16 ~~employer, or owner or operator registered under~~
17 ~~section 13902 or 31134; or~~
18 ~~"(C) any appropriate sanction approved by~~
19 ~~the Secretary.~~
20 ~~"(4) LIMITATIONS.—The sanctions described in~~
21 ~~subparagraphs (A) through (C) of subsection (b)(3)~~
22 ~~shall apply to—~~
23 ~~"(A) intentional or knowing conduct, in-~~
24 ~~cluding reckless conduct that violates applicable~~
25 ~~laws (including regulations); and~~

1 ~~"(B) repeated instances of negligent con-~~
2 ~~duct that violates applicable laws (including~~
3 ~~regulations)."; and~~
4 ~~(2) by striking subsection (c) and inserting the~~
5 ~~following:~~
6 ~~"(c) AVOIDING COMPLIANCE.—For purposes of this~~
7 ~~section, 'avoiding compliance' or 'masking or otherwise~~
8 ~~concealing noncompliance' includes serving as an officer~~
9 ~~or otherwise exercising controlling influence over 2 or~~
10 ~~more motor carriers where—~~
11 ~~"(1) one of the carriers was placed out of serv-~~
12 ~~ice, or received notice from the Secretary that it will~~
13 ~~be placed out of service, following—~~
14 ~~"(A) a determination of unfitness under~~
15 ~~section 31144(b);~~
16 ~~"(B) a suspension or revocation of reg-~~
17 ~~istration under section 13902, 13905, or~~
18 ~~31144(g);~~
19 ~~"(C) issuance of an imminent hazard out~~
20 ~~of service order under section 521(b)(5) or sec-~~
21 ~~tion 5121(d); or~~
22 ~~"(D) notice of failure to pay a civil penalty~~
23 ~~or abide by a penalty payment plan; and~~
24 ~~"(2) one or more of the carriers is the 'suc-~~
25 ~~cessor,' as that term is defined in section 31153, to~~

the carrier that is the subject of the action in paragraph (1).''.

SEC. 113. FEDERAL SUCCESSOR STANDARD.

(a) IN GENERAL.—Chapter 311 is amended by adding after section 31152, as added by section 508 of this Act, the following:

''§ 31153. Federal successor standard

''(a) FEDERAL SUCCESSOR STANDARD.—Notwithstanding any other provision of Federal or State law, the Secretary may take an action authorized under chapters 5, 51, 131 through 149, subchapter III of chapter 311 (except sections 31138 and 31139), or sections 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title, or a regulation issued under any of those provisions, against a successor of a motor carrier (as defined in section 13102), a successor of an employer (as defined in section 31132), or a successor of an owner or operator (as that term is used in subchapter III of chapter 311), to the same extent and on the same basis as the Secretary may take the action against the motor carrier, employer, or owner or operator.

''(b) SUCCESSOR DEFINED.—For purposes of this section, the term 'successor' means a motor carrier, employer, or owner or operator that the Secretary determines, after notice and an opportunity for a proceeding,

~~has 1 or more features that correspond closely with the features of another existing or former motor carrier, employer, or owner or operator, such as—~~

~~"(1) consideration paid for assets purchased or transferred;~~

~~"(2) dates of corporate creation and dissolution or termination of operations;~~

~~"(3) commonality of ownership;~~

~~"(4) commonality of officers and management personnel and their functions;~~

~~"(5) commonality of drivers and other employees;~~

~~"(6) identity of physical or mailing addresses, telephone, fax numbers, or e-mail addresses;~~

~~"(7) identity of motor vehicle equipment;~~

~~"(8) continuity of liability insurance policies;~~

~~"(9) commonality of coverage under liability insurance policies;~~

~~"(10) continuation of carrier facilities and other physical assets;~~

~~"(11) continuity of the nature and scope of operations, including customers;~~

~~"(12) commonality of the nature and scope of operations, including customers;~~

1 ~~"(13) advertising, corporate name, or other acts~~
2 ~~through which the motor carrier, employer, or owner~~
3 ~~or operator holds itself out to the public;~~
4 ~~"(14) history of safety violations and pending~~
5 ~~orders or enforcement actions of the Secretary; and~~
6 ~~"(15) additional factors that the Secretary con-~~
7 ~~siders appropriate.~~
8 ~~"(c) EFFECTIVE DATE.—Notwithstanding any other~~
9 ~~provision of law, this section shall apply to any action com-~~
10 ~~menced on or after the date of enactment of the Commer-~~
11 ~~cial Motor Vehicle Safety Enhancement Act of 2011 with-~~
12 ~~out regard to whether the violation that is the subject of~~
13 ~~the action, or the conduct that caused the violation, oc-~~
14 ~~curred before the date of enactment.~~
15 ~~"(d) RIGHTS NOT AFFECTED.—Nothing in this sec-~~
16 ~~tion shall affect the rights, functions, or responsibilities~~
17 ~~under law of any other Department, Agency, or instru-~~
18 ~~mentality of the United States, the laws of any State, or~~
19 ~~any rights between a private party and a motor carrier,~~
20 ~~employer, or owner or operator.".~~
21 ~~(b) CONFORMING AMENDMENT.—The analysis of~~
22 ~~chapter 311 is amended by inserting after the item related~~
23 ~~to section 31152, as added by section 508 of this Act, the~~
24 ~~following:~~

~~"31153. Federal successor standard.".~~

~~TITLE II—COMMERCIAL MOTOR VEHICLE SAFETY~~

~~SEC. 201. REPEAL OF COMMERCIAL JURISDICTION EXCEPTION FOR BROKERS OF MOTOR CARRIERS OF PASSENGERS.~~

~~(a) IN GENERAL.—Section 13506(a) is amended—~~

~~(1) by inserting "or" at the end of paragraph (13);~~

~~(2) by striking paragraph (14); and~~

~~(3) by redesignating paragraph (15) as paragraph (14).~~

~~(b) CONFORMING AMENDMENT.—Section 13904(a) is amended by striking "of property" in the first sentence.~~

~~SEC. 202. BUS RENTALS AND DEFINITION OF EMPLOYER.~~

~~Paragraph (3) of section 31132 is amended to read as follows:~~

~~"(3) 'employer'—~~

~~"(A) means a person engaged in a business affecting interstate commerce that—~~

~~"(i) owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate the commercial motor vehicle; or~~

~~"(ii) offers for rent or lease a motor vehicle designed or used to transport more~~

~~than 8 passengers, including the driver, and from the same location or as part of the same business provides names or contact information of drivers, or holds itself out to the public as a charter bus company; but~~

~~"(B) does not include the Government, a State, or a political subdivision of a State.".~~

~~SEC. 203. CRASHWORTHINESS STANDARDS.~~

~~(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall conduct a comprehensive analysis on the need for crashworthiness standards on property-carrying commercial motor vehicles with a gross vehicle weight rating or gross vehicle weight of at least 26,001 pounds involved in interstate commerce, including an evaluation of the need for roof strength, pillar strength, air bags, and frontal and back wall standards.~~

~~(b) REPORT.—Not later than 90 days after completing the comprehensive analysis under subsection (a), the Secretary shall report the results of the analysis and any recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.~~

~~SEC. 204. CANADIAN SAFETY RATING RECIPROCITY.~~

~~Section 31144 is amended by adding at the end the following:~~

~~"(h) RECOGNITION OF CANADIAN MOTOR CARRIER SAFETY FITNESS DETERMINATIONS.—~~

~~"(1) If an authorized agency of the Canadian federal government or a Canadian Territorial or Provincial government determines, by applying the procedure and standards prescribed by the Secretary under subsection (b) or pursuant to an agreement under paragraph (2), that a Canadian employer is unfit and prohibits the employer from operating a commercial motor vehicle in Canada or any Canadian Province, the Secretary may prohibit the employer from operating such vehicle in interstate and foreign commerce until the authorized Canadian agency determines that the employer is fit.~~

~~"(2) The Secretary may consult and participate in negotiations with authorized officials of the Canadian federal government or a Canadian Territorial or Provincial government, as necessary, to provide reciprocal recognition of each country's motor carrier safety fitness determinations. An agreement shall provide, to the maximum extent practicable, that each country will follow the procedure and standards prescribed by the Secretary under sub-~~

~~section (b) in making motor carrier safety fitness determinations.''.~~

~~SEC. 205. STATE REPORTING OF FOREIGN COMMERCIAL DRIVER CONVICTIONS.~~

~~(a) DEFINITION OF FOREIGN COMMERCIAL DRIVER.—Section 31301 is amended—~~

~~(1) by redesignating paragraphs (10) through (14) as paragraphs (11) through (15), respectively; and~~

~~(2) by inserting after paragraph (9) the following:~~

~~''(10) 'foreign commercial driver' means an individual licensed to operate a commercial motor vehicle by an authority outside the United States, or a citizen of a foreign country who operates a commercial motor vehicle in the United States.''.~~

~~(b) STATE REPORTING OF CONVICTIONS.—Section 31311(a) is amended by adding after paragraph (21) the following:~~

~~''(22) The State shall report a conviction of a foreign commercial driver by that State to the Federal Convictions and Withdrawal Database, or another information system designated by the Secretary to record the convictions. A report shall include—~~

~~"(A) for a driver holding a foreign commercial driver's license—~~

~~"(i) each conviction relating to the operation of a commercial motor vehicle; and~~

~~"(ii) a non-commercial motor vehicle; and~~

~~"(B) for an unlicensed driver or a driver holding a foreign non-commercial driver's license, each conviction for operating a commercial motor vehicle.".~~

~~SEC. 206. AUTHORITY TO DISQUALIFY FOREIGN COMMERCIAL DRIVERS.~~

~~Section 31310 is amended by adding at the end the following:~~

~~"(k) FOREIGN COMMERCIAL DRIVERS.—A foreign commercial driver shall be subject to disqualification under this section.".~~

~~SEC. 207. REVOCATION OF FOREIGN MOTOR CARRIER OPERATING AUTHORITY FOR FAILURE TO PAY CIVIL PENALTIES.~~

~~Section 13905(d)(1) is amended by inserting "foreign motor carrier, foreign motor private carrier," after "registration of a motor carrier," each place it appears.~~

~~TITLE III—DRIVER SAFETY~~

~~SEC. 301. ELECTRONIC ON-BOARD RECORDING DEVICES.~~

~~(a) GENERAL AUTHORITY.—Section 31137 is amended—~~

~~(1) by amending the section heading to read as follows:~~

~~"§ 31137. Electronic on-board recording devices and brake maintenance regulations";~~

~~(2) by redesignating subsection (b) as subsection (c); and~~

~~(3) by amending (a) to read as follows:~~

~~"(a) ELECTRONIC ON-BOARD RECORDING DEVICES.—Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2011, the Secretary of Transportation shall prescribe regulations—~~

~~"(1) requiring a commercial motor vehicle involved in interstate commerce and operated by a driver subject to the hours of service and the record of duty status requirements under part 395 of title 49, Code of Federal Regulations, be equipped with an electronic on-board recording device to improve compliance by an operator of a vehicle with hours of service regulations prescribed by the Secretary; and~~

1 ~~"(2) ensuring that an electronic on-board re-~~
2 ~~cording device is not used to harass a vehicle oper-~~
3 ~~ator.~~
4 ~~"(b) ELECTRONIC ON-BOARD RECORDING DEVICE~~
5 ~~REQUIREMENTS.—~~
6 ~~"(1) IN GENERAL.—The regulations prescribed~~
7 ~~under subsection (a) shall—~~
8 ~~"(A) require an electronic on-board record-~~
9 ~~ing device—~~
10 ~~"(i) to accurately record commercial~~
11 ~~driver hours of service;~~
12 ~~"(ii) to record the location of a com-~~
13 ~~mercial motor vehicle;~~
14 ~~"(iii) to be tamper resistant; and~~
15 ~~"(iv) to be integrally synchronized~~
16 ~~with an engine's control module;~~
17 ~~"(B) allow law enforcement to access the~~
18 ~~data contained in the device during a roadside~~
19 ~~inspection; and~~
20 ~~"(C) apply to a commercial motor vehicle~~
21 ~~beginning on the date that is 2 years after the~~
22 ~~date that the regulations are published as a~~
23 ~~final rule.~~

1 ~~"(2) PERFORMANCE AND DESIGN STAND-~~
2 ~~ARDS.—The regulations prescribed under subsection~~
3 ~~(a) shall establish performance standards—~~
4 ~~"(A) defining a standardized user interface~~
5 ~~to aid vehicle operator compliance and law en-~~
6 ~~forcement review;~~
7 ~~"(B) establishing a secure process for~~
8 ~~standardized—~~
9 ~~"(i) and unique vehicle operator iden-~~
10 ~~tification;~~
11 ~~"(ii) data access;~~
12 ~~"(iii) data transfer for vehicle opera-~~
13 ~~tors between motor vehicles;~~
14 ~~"(iv) data storage for a motor carrier;~~
15 ~~and~~
16 ~~"(v) data transfer and transportability~~
17 ~~for law enforcement officials;~~
18 ~~"(C) establishing a standard security level~~
19 ~~for an electronic on-board recording device and~~
20 ~~related components to be tamper resistant by~~
21 ~~using a methodology endorsed by a nationally~~
22 ~~recognized standards organization; and~~
23 ~~"(D) identifying each driver subject to the~~
24 ~~hours of service and record of duty status re-~~

~~quirements under part 395 of title 49, Code of Federal Regulations.~~

~~"(c) CERTIFICATION CRITERIA.—~~

~~"(1) IN GENERAL.—The regulations prescribed by the Secretary under this section shall establish the criteria and a process for the certification of an electronic on-board recording device to ensure that the device meets the performance requirements under this section.~~

~~"(2) EFFECT OF NONCERTIFICATION.—An electronic on-board recording device that is not certified in accordance with the certification process referred to in paragraph (1) shall not be acceptable evidence of hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.~~

~~"(d) ELECTRONIC ON-BOARD RECORDING DEVICE DEFINED.—In this section, the term 'electronic on-board recording device' means an electronic device that—~~

~~"(1) is capable of recording a driver's hours of service and duty status accurately and automatically; and~~

~~"(2) meets the requirements established by the Secretary through regulation.".~~

~~(b) CIVIL PENALTIES.—Section 30165(a)(1) is amended by striking "or 30141 through 30147" and inserting "30141 through 30147, or 31137".~~

~~(c) CONFORMING AMENDMENT.—The analysis for chapter 311 is amended by striking the item relating to section 31137 and inserting the following:~~

~~"31137. Electronic on-board recording devices and brake maintenance regulations.".~~

~~SEC. 302. SAFETY FITNESS.~~

~~(a) SAFETY FITNESS RATING METHODOLOGY.—The Secretary shall—~~

~~(1) incorporate into its Compliance, Safety, Accountability program a safety fitness rating methodology that assigns sufficient weight to adverse vehicle and driver performance based-data that elevate crash risks to warrant an unsatisfactory rating for a carrier; and~~

~~(2) ensure that the data to support such assessments is accurate.~~

~~(b) INTERIM MEASURES.—Not later than March 31, 2011, the Secretary shall take interim measures to implement a similar safety fitness rating methodology in its current safety rating system if the Compliance, Safety, Accountability program is not fully implemented.~~

~~SEC. 303. DRIVER MEDICAL QUALIFICATIONS.~~

~~(a) DEADLINE FOR ESTABLISHMENT OF NATIONAL REGISTRY OF MEDICAL EXAMINERS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a national registry of medical examiners in accordance with section 31149(d)(1) of title 49, United States Code.~~

~~(b) EXAMINATION REQUIREMENT FOR NATIONAL REGISTRY OF MEDICAL EXAMINERS.—Section 31149(c)(1)(D) is amended to read as follows:~~

~~"(D) not later than 1 year after enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2011, develop requirements for a medical examiner to be listed in the national registry under this section, including—~~

~~"(i) the completion of specific courses and materials;~~

~~"(ii) certification, including self-certification, if the Secretary determines that self-certification is necessary for sufficient participation in the national registry, to verify that a medical examiner completed specific training, including refresher courses, that the Secretary determines necessary to be listed in the national registry;~~

1 ~~"(iii) an examination that requires a~~
2 ~~passing grade; and~~
3 ~~"(iv) demonstration of a medical ex-~~
4 ~~aminer's willingness to meet the reporting~~
5 ~~requirements established by the Sec-~~
6 ~~retary.".~~
7 ~~(c) ADDITIONAL OVERSIGHT OF LICENSING AU-~~
8 ~~THORITIES.—~~
9 ~~(1) IN GENERAL.—Section 31149(c)(1) is~~
10 ~~amended—~~
11 ~~(A) in subparagraph (E), by striking~~
12 ~~"and" after the semicolon;~~
13 ~~(B) in subparagraph (F), by striking the~~
14 ~~period at the end and inserting "; and"; and~~
15 ~~(C) by adding at the end the following:~~
16 ~~"(G) annually review the implementation~~
17 ~~of commercial driver's license requirements by~~
18 ~~not fewer than 10 States to assess the accu-~~
19 ~~racy, validity, and timeliness of—~~
20 ~~"(i) the submission of physical exam-~~
21 ~~ination reports and medical certificates to~~
22 ~~State licensing agencies; and~~
23 ~~"(ii) the processing of the submissions~~
24 ~~by State licensing agencies.".~~
25 ~~(2) INTERNAL OVERSIGHT POLICY.—~~

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall establish an oversight policy and procedure to carry out section 31149(c)(1)(G) of title 49, United States Code, as added by section 303(c)(1) of this Act.

(B) EFFECTIVE DATE.—The amendments made by section 303(c)(1) of this Act shall take effect on the date the oversight policies and procedures are established pursuant to subparagraph (A).

(d) ELECTRONIC FILING OF MEDICAL EXAMINATION CERTIFICATES.—Section 31311(a), as amended by sections 205(b) and 306(b) of this Act, is amended by adding at the end the following:

"(24) Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2011, the State shall establish and maintain, as part of its driver information system, the capability to receive an electronic copy of a medical examiner's certificate, from a certified medical examiner, for each holder of a commercial driver's license issued by the State who operates or intends to operate in interstate commerce.".

(e) FUNDING.—

~~(1) AUTHORIZATION OF APPROPRIATIONS.—Of the funds provided for Data and Technology Grants under section 31104(a) of title 49, United States Code, there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary to make grants to States or an organization representing agencies and officials of the States to support development costs of the information technology needed to carry out section 31311(a)(24) of title 49, United States Code, up to $1 million for fiscal year 2012 and up to $1 million for fiscal year 2013.~~

~~(2) PERIOD OF AVAILABILITY.—The amounts made available under this subsection shall remain available until expended.~~

~~SEC. 304. COMMERCIAL DRIVER'S LICENSE NOTIFICATION SYSTEM.~~

~~(a) IN GENERAL.—Section 31304 is amended—~~

~~(1) by striking "An employer" and inserting the following:~~

~~"(a) IN GENERAL.—An employer"; and~~

~~(2) by adding at the end the following:~~

~~"(b) DRIVER VIOLATION RECORDS.—~~

1 ~~"(1) PERIODIC REVIEW.—Except as provided in~~
2 ~~paragraph (3), an employer shall ascertain the driv-~~
3 ~~ing record of each driver it employs—~~
4 ~~"(A) by making an inquiry at least once~~
5 ~~every 12 months to the appropriate State agen-~~
6 ~~cy in which the driver held or holds a commer-~~
7 ~~cial driver's license or permit during such time~~
8 ~~period;~~
9 ~~"(B) by receiving occurrence-based reports~~
10 ~~of changes in the status of a driver's record~~
11 ~~from 1 or more driver record notification sys-~~
12 ~~tems that meet minimum standards issued by~~
13 ~~the Secretary; or~~
14 ~~"(C) by a combination of inquiries to~~
15 ~~States and reports from driver record notifica-~~
16 ~~tion systems.~~
17 ~~"(2) RECORD KEEPING.—A copy of the reports~~
18 ~~received under paragraph (1) shall be maintained in~~
19 ~~the driver's qualification file.~~
20 ~~"(3) EXCEPTIONS TO RECORD REVIEW RE-~~
21 ~~QUIREMENT.—Paragraph (1) shall not apply to a~~
22 ~~driver employed by an employer who, in any 7-day~~
23 ~~period, is employed or used as a driver by more than~~
24 ~~1 employer—~~

1 ~~"(A) if the employer obtains the driver's~~
2 ~~identification number, type, and issuing State~~
3 ~~of the driver's commercial motor vehicle license;~~
4 ~~or~~
5 ~~"(B) if the information described in sub-~~
6 ~~paragraph (A) is furnished by another employer~~
7 ~~and the employer that regularly employs the~~
8 ~~driver meets the other requirements under this~~
9 ~~section.~~
10 ~~"(4) DRIVER RECORD NOTIFICATION SYSTEM~~
11 ~~DEFINED.—In this section, the term 'driver record~~
12 ~~notification system' means a system that automati-~~
13 ~~cally furnishes an employer with a report, generated~~
14 ~~by the appropriate agency of a State, on the change~~
15 ~~in the status of an employee's driver's license due to~~
16 ~~a conviction for a moving violation, a failure to ap-~~
17 ~~pear, an accident, driver's license suspension, driv-~~
18 ~~er's license revocation, or any other action taken~~
19 ~~against the driving privilege.".~~
20 ~~(b) STANDARDS FOR DRIVER RECORD NOTIFICATION~~
21 ~~SYSTEMS.—Not later than 1 year after the date of enact-~~
22 ~~ment of this Act, the Secretary shall issue minimum~~
23 ~~standards for driver notification systems, including stand-~~
24 ~~ards for the accuracy, consistency, and completeness of the~~
25 ~~information provided.~~

~~(c) PLAN FOR NATIONAL NOTIFICATION SYSTEM.—~~

~~(1) DEVELOPMENT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall develop recommendations and a plan for the development and implementation of a national driver record notification system, including—~~

~~(A) an assessment of the merits of achieving a national system by expanding the Commercial Driver's License Information System; and~~

~~(B) an estimate of the fees that an employer will be charged to offset the operating costs of the national system.~~

~~(2) SUBMISSION TO CONGRESS.—Not later than 90 days after the recommendations and plan are developed under paragraph (1), the Secretary shall submit a report on the recommendations and plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.~~

~~SEC. 305. COMMERCIAL MOTOR VEHICLE OPERATOR TRAINING.~~

~~(a) IN GENERAL.—Section 31305 is amended by adding at the end the following:~~

1 ~~"(c) STANDARDS FOR TRAINING.—Not later than 6~~
2 ~~months after the date of enactment of the Commercial~~
3 ~~Motor Vehicle Safety Enhancement Act of 2011, the Sec-~~
4 ~~retary shall issue final regulations establishing minimum~~
5 ~~entry-level training requirements for an individual oper-~~
6 ~~ating a commercial motor vehicle—~~
7 ~~"(1) addressing the knowledge and skills that—~~
8 ~~"(A) are necessary for an individual oper-~~
9 ~~ating a commercial motor vehicle to safely oper-~~
10 ~~ate a commercial motor vehicle; and~~
11 ~~"(B) must be acquired before obtaining a~~
12 ~~commercial driver's license for the first time or~~
13 ~~upgrading from one class of commercial driver's~~
14 ~~license to another class;~~
15 ~~"(2) addressing the specific training needs of a~~
16 ~~commercial motor vehicle operator seeking passenger~~
17 ~~or hazardous materials endorsements, including for~~
18 ~~an operator seeking a passenger endorsement train-~~
19 ~~ing—~~
20 ~~"(A) to suppress motorcoach fires; and~~
21 ~~"(B) to evacuate passengers from~~
22 ~~motorcoaches safely;~~
23 ~~"(3) requiring effective instruction to acquire~~
24 ~~the knowledge, skills, and training referred to in~~

~~paragraphs (1) and (2), including classroom and behind-the-wheel instruction;~~

~~"(4) requiring certification that an individual operating a commercial motor vehicle meets the requirements established by the Secretary; and~~

~~"(5) requiring a training provider (including a public or private driving school, motor carrier, or owner or operator of a commercial motor vehicle) that offers training that results in the issuance of a certification to an individual under paragraph (4) to demonstrate that the training meets the requirements of the regulations, through a process established by the Secretary.".~~

~~(b) COMMERCIAL DRIVER'S LICENSE UNIFORM STANDARDS.—Section 31308(1) is amended to read as follows:~~

~~"(1) an individual issued a commercial driver's license—~~

~~"(A) pass written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards prescribed by the Secretary under section 31305(a); and~~

~~"(B) present certification of completion of driver training that meets the requirements es-~~

tablished by the Secretary under section 31305(c);''.

(c) CONFORMING AMENDMENT.—The section heading for section 31305 is amended to read as follows:

''§ 31305. General driver fitness, testing, and training''.

(d) CONFORMING AMENDMENT.—The analysis for chapter 313 is amended by striking the item relating to section 31305 and inserting the following:

''31305. General driver fitness, testing, and training.''.

SEC. 306. COMMERCIAL DRIVER'S LICENSE PROGRAM.

(a) IN GENERAL.—Section 31309 is amended—

(1) in subsection (c)(4), by amending subparagraph (A) to read as follows:

''(A) IN GENERAL.—The plan shall specify—

''(i) a date by which all States shall be operating commercial driver's license information systems that are compatible with the modernized information system under this section; and

''(ii) that States must use the systems to receive and submit conviction and disqualification data.''; and

(2) in subsection (f), by striking ''use'' and inserting ''use, subject to section 31313(a),''.

~~(b) REQUIREMENTS FOR STATE PARTICIPATION.—Section 31311 is amended—~~

~~(1) in subsection (a), as amended by section 205(b) of this Act—~~

~~(A) in paragraph (5), by striking "At least" and all that follows through "regulation)," and inserting: "Not later than the time period prescribed by the Secretary by regulation,"; and~~

~~(B) by adding at the end the following:~~

~~"(23) Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2011, the State shall implement a system and practices for the exclusive electronic exchange of driver history record information on the system the Secretary maintains under section 31309, including the posting of convictions, withdrawals, and disqualifications."; and~~

~~(2) by adding at the end the following:~~

~~"(d) CRITICAL REQUIREMENTS.—~~

~~"(1) IDENTIFICATION OF CRITICAL REQUIREMENTS.—After reviewing the requirements under subsection (a), including the regulations issued pursuant to subsection (a) and section 31309(c)(4), the Secretary shall identify the requirements that are~~

~~critical to an effective State commercial driver's license program.~~

~~"(2) GUIDANCE.—Not later than 180 days after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2011, the Secretary shall issue guidance to assist States in complying with the critical requirements identified under paragraph (1). The guidance shall include a description of the actions that each State must take to collect and share accurate and complete data in a timely manner.~~

~~"(e) STATE COMMERCIAL DRIVER'S LICENSE PROGRAM PLAN.—~~

~~"(1) IN GENERAL.—Not later than 180 days after the Secretary issues guidance under subsection (d)(2), a State shall submit a plan to the Secretary for complying with the requirements under this section during the period beginning on the date the plan is submitted and ending on September 30, 2016.~~

~~"(2) CONTENTS.—A plan submitted by a State under paragraph (1) shall identify—~~

~~"(A) the actions that the State will take to comply with the critical requirements identified under subsection (d)(1);~~

~~"(B) the actions that the State will take to address any deficiencies in the State's commercial driver's license program, as identified by the Secretary in the most recent audit of the program; and~~

~~"(C) other actions that the State will take to comply with the requirements under subsection (a).~~

~~"(3) PRIORITY.—~~

~~"(A) IMPLEMENTATION SCHEDULE.—A plan submitted by a State under paragraph (1) shall include a schedule for the implementation of the actions identified under paragraph (2). In establishing the schedule, the State shall prioritize the actions identified under paragraphs (2)(A) and (2)(B).~~

~~"(B) DEADLINE FOR COMPLIANCE WITH CRITICAL REQUIREMENTS.—A plan submitted by a State under paragraph (1) shall include assurances that the State will take the necessary actions to comply with the critical requirements pursuant to subsection (d) not later than September 30, 2015.~~

~~"(4) APPROVAL AND DISAPPROVAL.—The Secretary shall—~~

1 ~~"(A) review each plan submitted under~~
2 ~~paragraph (1);~~
3 ~~"(B) approve a plan that the Secretary de-~~
4 ~~termines meets the requirements under this~~
5 ~~subsection and promotes the goals of this chap-~~
6 ~~ter; and~~
7 ~~"(C) disapprove a plan that the Secretary~~
8 ~~determines does not meet the requirements or~~
9 ~~does not promote the goals.~~
10 ~~"(5) MODIFICATION OF DISAPPROVED PLANS.—~~
11 ~~If the Secretary disapproves a plan under paragraph~~
12 ~~(4)(C), the Secretary shall—~~
13 ~~"(A) provide a written explanation of the~~
14 ~~disapproval to the State; and~~
15 ~~"(B) allow the State to modify the plan~~
16 ~~and resubmit it for approval.~~
17 ~~"(6) PLAN UPDATES.—The Secretary may re-~~
18 ~~quire a State to review and update a plan, as appro-~~
19 ~~priate.~~
20 ~~"(f) ANNUAL COMPARISON OF STATE LEVELS OF~~
21 ~~COMPLIANCE.—The Secretary shall annually—~~
22 ~~"(1) compare the relative levels of compliance~~
23 ~~by States with the requirements under subsection~~
24 ~~(a); and~~

1 ~~"(2) make the results of the comparison avail-~~
2 ~~able to the public.".~~
3 ~~(c) DECERTIFICATION AUTHORITY.—Section 31312~~
4 ~~is amended—~~
5 ~~(1) by redesignating subsections (b) and (c) as~~
6 ~~subsections (c) and (d), respectively; and~~
7 ~~(2) by inserting after subsection (a) the fol-~~
8 ~~lowing:~~
9 ~~"(b) DEADLINE FOR COMPLIANCE WITH CRITICAL~~
10 ~~REQUIREMENTS.—Beginning on October 1, 2016, in mak-~~
11 ~~ing a determination under subsection (a), the Secretary~~
12 ~~shall consider a State to be in substantial noncompliance~~
13 ~~with this chapter if the Secretary determines that—~~
14 ~~"(1) the State is not complying with a critical~~
15 ~~requirement under section 31311(d)(1); and~~
16 ~~"(2) sufficient grant funding was made avail-~~
17 ~~able to the State under section 31313(a) to comply~~
18 ~~with the requirement.".~~
19 **~~SEC. 307. COMMERCIAL DRIVER'S LICENSE REQUIRE-~~**
20 **~~MENTS.~~**
21 ~~(a) LICENSING STANDARDS.—Section 31305(a)(7) is~~
22 ~~amended by inserting "would not be subject to a disqualli-~~
23 ~~fication under section 31310(g) of this title and" after~~
24 ~~"taking the tests".~~

~~(b) DISQUALIFICATIONS.—Section 31310(g)(1) is amended by deleting "who holds a commercial driver's license and".~~

~~SEC. 308. COMMERCIAL MOTOR VEHICLE DRIVER INFORMATION SYSTEMS.~~

~~Section 31106(c) is amended—~~

~~(1) by striking the subsection heading and inserting "(1) IN GENERAL.—";~~

~~(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D); and~~

~~(3) by adding at the end the following:~~

~~"(2) ACCESS TO RECORDS.—The Secretary may require a State, as a condition of an award of grant money under this section, to provide the Secretary access to all State licensing status and driver history records via an electronic information system, subject to section 2721 of title 18.".~~

~~SEC. 309. DISQUALIFICATIONS BASED ON NON-COMMERCIAL MOTOR VEHICLE OPERATIONS.~~

~~(a) FIRST OFFENSE.—Section 31310(b)(1)(D) is amended by deleting "commercial" after "revoked, suspended, or canceled based on the individual's operation of a," and before "motor vehicle".~~

~~(b) SECOND OFFENSE.—Section 31310(c)(1)(D) is amended by deleting "commercial" after "revoked, sus-~~

~~pended, or canceled based on the individual's operation of a,'' and before ''motor vehicle''.~~

~~SEC. 310. FEDERAL DRIVER DISQUALIFICATIONS.~~

~~(a) DISQUALIFICATION DEFINED.—Section 31301, as amended by section 205 of this Act, is amended—~~

~~(1) by redesignating paragraphs (6) through (15) as paragraphs (7) through (16), respectively; and~~

~~(2) by inserting after paragraph (5) the following:~~

~~''(6) 'Disqualification' means—~~

~~''(A) the suspension, revocation, or cancellation of a commercial driver's license by the State of issuance;~~

~~''(B) a withdrawal of an individual's privilege to drive a commercial motor vehicle by a State or other jurisdiction as the result of a violation of State or local law relating to motor vehicle traffic control, except for a parking, vehicle weight, or vehicle defect violation;~~

~~''(C) a determination by the Secretary that an individual is not qualified to operate a commercial motor vehicle; or~~

~~"(D) a determination by the Secretary that a commercial motor vehicle driver is unfit under section 31144(g).".~~

~~(b) COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM CONTENTS.—Section 31309(b)(1)(F) is amended by inserting after "disqualified" the following: "by the State that issued the individual a commercial driver's license, or by the Secretary,".~~

~~(c) STATE ACTION ON FEDERAL DISQUALIFICATION.—Section 31310(h) is amended by inserting after the first sentence the following:~~

~~"If the State has not disqualified the individual from operating a commercial vehicle under subsections (b) through (g), the State shall disqualify the individual if the Secretary determines under 31144(g) that the individual is disqualified from operating a commercial motor vehicle.".~~

~~SEC. 311. EMPLOYER RESPONSIBILITIES.~~

~~Section 31304, as amended by section 304 of this Act, is amended in subsection (a)—~~

~~(1) by striking "knowingly"; and~~

~~(2) by striking "in which" and inserting "that the employer knows or should reasonably know that".~~

TITLE IV—SAFE ROADS ACT OF 2011

SEC. 401. SHORT TITLE.

This title may be cited as the "Safe Roads Act of 2011".

SEC. 402. NATIONAL CLEARINGHOUSE FOR CONTROLLED SUBSTANCE AND ALCOHOL TEST RESULTS OF COMMERCIAL MOTOR VEHICLE OPERATORS.

(a) IN GENERAL.—Chapter 313 is amended—

(1) in section 31306(a), by inserting "and section 31306a" after "this section"; and

(2) by inserting after section 31306 the following:

"§ 31306a. National clearinghouse for controlled substance and alcohol test results of commercial motor vehicle operators

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Safe Roads Act of 2011, the Secretary of Transportation shall establish a national clearinghouse for records relating to alcohol and controlled substances testing of commercial motor vehicle operators.

"(2) PURPOSES.—The purposes of the clearinghouse shall be—

1 ~~"(A) to improve compliance with the De-~~
2 ~~partment of Transportation's alcohol and con-~~
3 ~~trolled substances testing program applicable to~~
4 ~~commercial motor vehicle operators;~~
5 ~~"(B) to facilitate access to information~~
6 ~~about an individual before employing the indi-~~
7 ~~vidual as a commercial motor vehicle operator;~~
8 ~~"(C) to enhance the safety of our United~~
9 ~~States roadways by reducing accident fatalities~~
10 ~~involving commercial motor vehicles; and~~
11 ~~"(D) to reduce the number of impaired~~
12 ~~commercial motor vehicle operators.~~
13 ~~"(3) CONTENTS.—The clearinghouse shall func-~~
14 ~~tion as a repository for records relating to the posi-~~
15 ~~tive test results and test refusals of commercial~~
16 ~~motor vehicle operators and violations by such oper-~~
17 ~~ators of prohibitions set forth in subpart B of part~~
18 ~~382 of title 49, Code of Federal Regulations (or any~~
19 ~~subsequent corresponding regulations).~~
20 ~~"(4) ELECTRONIC EXCHANGE OF RECORDS.—~~
21 ~~The Secretary shall ensure that records can be elec-~~
22 ~~tronically submitted to, and requested from, the~~
23 ~~clearinghouse by authorized users.~~
24 ~~"(5) AUTHORIZED OPERATOR.—The Secretary~~
25 ~~may authorize a qualified and experienced private~~

~~entity to operate and maintain the clearinghouse and to collect fees on behalf of the Secretary under subsection (c). The entity shall establish, operate, maintain and expand the clearinghouse and permit access to driver information and records from the clearinghouse in accordance with this section.~~

~~"(b) DESIGN OF CLEARINGHOUSE.—~~

~~"(1) USE OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION RECOMMENDATIONS.—In establishing the clearinghouse, the Secretary shall consider—~~

~~"(A) the findings and recommendations contained in the Federal Motor Carrier Safety Administration's March 2004 report to Congress required under section 226 of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31306 note); and~~

~~"(B) the findings and recommendations contained in the Government Accountability Office's May 2008 report to Congress entitled 'Motor Carrier Safety: Improvements to Drug Testing Programs Could Better Identify Illegal Drug Users and Keep Them off the Road.'.~~

1 ~~"(2) DEVELOPMENT OF SECURE PROCESSES.—~~
2 ~~In establishing the clearinghouse, the Secretary shall~~
3 ~~develop a secure process for—~~
4 ~~"(A) administering and managing the~~
5 ~~clearinghouse in compliance with applicable~~
6 ~~Federal security standards;~~
7 ~~"(B) registering and authenticating au-~~
8 ~~thorized users of the clearinghouse;~~
9 ~~"(C) registering and authenticating per-~~
10 ~~sons required to report to the clearinghouse~~
11 ~~under subsection (g);~~
12 ~~"(D) preventing the unauthorized access of~~
13 ~~information from the clearinghouse;~~
14 ~~"(E) storing and transmitting data;~~
15 ~~"(F) persons required to report to the~~
16 ~~clearinghouse under subsection (g) to timely~~
17 ~~and accurately submit electronic data to the~~
18 ~~clearinghouse;~~
19 ~~"(G) generating timely and accurate re-~~
20 ~~ports from the clearinghouse in response to re-~~
21 ~~quests for information by authorized users; and~~
22 ~~"(H) updating an individual's record upon~~
23 ~~completion of the return-to-duty process de-~~
24 ~~scribed in title 49, Code of Federal Regulations.~~

1 ~~"(3) EMPLOYER ALERT OF POSITIVE TEST RE-~~
2 ~~SULT.—In establishing the clearinghouse, the Sec-~~
3 ~~retary shall develop a secure method for electroni-~~
4 ~~cally notifying an employer of each additional posi-~~
5 ~~tive test result or other noncompliance—~~
6 ~~"(A) for an employee, that is entered into~~
7 ~~the clearinghouse during the 7-day period im-~~
8 ~~mediately following an employer's inquiry about~~
9 ~~the employee; and~~
10 ~~"(B) for an employee who is listed as hav-~~
11 ~~ing multiple employers.~~
12 ~~"(4) ARCHIVE CAPABILITY.—In establishing the~~
13 ~~clearinghouse, the Secretary shall develop a process~~
14 ~~for archiving all clearinghouse records, including the~~
15 ~~depositing of personal records, records relating to~~
16 ~~each individual in the database, and access requests~~
17 ~~for personal records, for the purposes of—~~
18 ~~"(A) auditing and evaluating the timeli-~~
19 ~~ness, accuracy, and completeness of data in the~~
20 ~~clearinghouse; and~~
21 ~~"(B) auditing to monitor compliance and~~
22 ~~enforce penalties for noncompliance.~~
23 ~~"(5) FUTURE NEEDS.—~~

1 ~~"(A) INTEROPERABILITY WITH OTHER~~
2 ~~DATA SYSTEMS.—In establishing the clearing-~~
3 ~~house, the Secretary shall consider—~~
4 ~~"(i) the existing data systems con-~~
5 ~~taining regulatory and safety data for com-~~
6 ~~mercial motor vehicle operators;~~
7 ~~"(ii) the efficacy of using or com-~~
8 ~~bining clearinghouse data with 1 or more~~
9 ~~of such systems; and~~
10 ~~"(iii) the potential interoperability of~~
11 ~~the clearinghouse with such systems.~~
12 ~~"(B) SPECIFIC CONSIDERATIONS.—In car-~~
13 ~~rying out subparagraph (A), the Secretary shall~~
14 ~~determine—~~
15 ~~"(i) the clearinghouse's capability for~~
16 ~~interoperability with—~~
17 ~~"(I) the National Driver Register~~
18 ~~established under section 30302;~~
19 ~~"(II) the Commercial Driver's Li-~~
20 ~~cense Information System established~~
21 ~~under section 31309;~~
22 ~~"(III) the Motor Carrier Manage-~~
23 ~~ment Information System for pre-~~
24 ~~employment screening services under~~
25 ~~section 31150; and~~

1 ~~"(IV) other data systems, as ap-~~
2 ~~propriate; and~~
3 ~~"(ii) any change to the administration~~
4 ~~of the current testing program, such as~~
5 ~~forms, that is necessary to collect data for~~
6 ~~the clearinghouse.~~
7 ~~"(c) STANDARD FORMATS.—The Secretary shall de-~~
8 ~~velop standard formats to be used—~~
9 ~~"(1) by an authorized user of the clearinghouse~~
10 ~~to—~~
11 ~~"(A) request a record from the clearing-~~
12 ~~house; and~~
13 ~~"(B) obtain the consent of an individual~~
14 ~~who is the subject of a request from the clear-~~
15 ~~inghouse, if applicable; and~~
16 ~~"(2) to notify an individual that a positive alco-~~
17 ~~hol or controlled substances test result, refusing to~~
18 ~~test, and a violation of any of the prohibitions under~~
19 ~~subpart B of part 382 of title 49, Code of Federal~~
20 ~~Regulations (or any subsequent corresponding regu-~~
21 ~~lations), will be reported to the clearinghouse.~~
22 ~~"(d) PRIVACY.—A release of information from the~~
23 ~~clearinghouse shall—~~

1 ~~"(1) comply with applicable Federal privacy~~
2 ~~laws, including the fair information practices under~~
3 ~~the Privacy Act of 1974 (5 U.S.C. 552a);~~
4 ~~"(2) comply with applicable sections of the Fair~~
5 ~~Credit Reporting Act (15 U.S.C. 1681 et seq.); and~~
6 ~~"(3) not be made to any person or entity unless~~
7 ~~expressly authorized or required by law.~~
8 ~~"(e) FEES.—~~
9 ~~"(1) AUTHORITY TO COLLECT FEES.—Except~~
10 ~~as provided under paragraph (3), the Secretary may~~
11 ~~collect a reasonable, customary, and nominal fee~~
12 ~~from an authorized user of the clearinghouse for a~~
13 ~~request for information from the clearinghouse.~~
14 ~~"(2) USE OF FEES.—Fees collected under this~~
15 ~~subsection shall be used for the operation and main-~~
16 ~~tenance of the clearinghouse.~~
17 ~~"(3) LIMITATION.—The Secretary may not col-~~
18 ~~lect a fee from an individual requesting information~~
19 ~~from the clearinghouse that pertains to the record of~~
20 ~~that individual.~~
21 ~~"(f) EMPLOYER REQUIREMENTS.—~~
22 ~~"(1) DETERMINATION CONCERNING USE OF~~
23 ~~CLEARINGHOUSE.—The Secretary shall determine if~~
24 ~~an employer is authorized to use the clearinghouse~~
25 ~~to meet the alcohol and controlled substances testing~~

~~requirements under title 49, Code of Federal Regulations.~~

~~"(2) APPLICABILITY OF EXISTING REQUIREMENTS.—Each employer and service agent shall comply with the alcohol and controlled substances testing requirements under title 49, Code of Federal Regulations.~~

~~"(3) EMPLOYMENT PROHIBITIONS.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), an employer shall not hire an individual to operate a commercial motor vehicle unless the employer determines that the individual, during the preceding 3-year period—~~

~~"(A) if tested for the use of alcohol and controlled substances, as required under title 49, Code of Federal Regulations—~~

~~"(i) did not test positive for the use of alcohol or controlled substances in violation of the regulations; or~~

~~"(ii) tested positive for the use of alcohol or controlled substances and completed the required return-to-duty process under title 49, Code of Federal Regulations;~~

~~"(B)(i) did not refuse to take an alcohol or controlled substance test under title 49, Code of Federal Regulations; or~~

~~"(ii) refused to take an alcohol or controlled substance test and completed the required return-to-duty process under title 49, Code of Federal Regulations; and~~

~~"(C) did not violate any other provision of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).~~

~~"(4) ANNUAL REVIEW.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), an employer shall request and review a commercial motor vehicle operator's record from the clearinghouse annually for as long as the commercial motor vehicle operator is under the employ of the employer.~~

~~"(g) REPORTING OF RECORDS.—~~

~~"(1) IN GENERAL.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), a medical review officer, employer, service agent, and other appropriate person, as determined by the Secretary, shall promptly submit to~~

~~the Secretary, if in possession of, the record of an individual who—~~

~~"(A) refuses to take an alcohol or controlled substances test required under title 49, Code of Federal Regulations;~~

~~"(B) tests positive for alcohol or a controlled substance in violation of the regulations; or~~

~~"(C) violates any other provision of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).~~

~~"(2) INCLUSION OF RECORDS IN CLEARINGHOUSE.—The Secretary shall include in the clearinghouse the records of positive test results and test refusals received under paragraph (1).~~

~~"(3) MODIFICATIONS AND DELETIONS.—If the Secretary determines that a record contained in the clearinghouse is not accurate, the Secretary shall modify or delete the record, as appropriate.~~

~~"(4) NOTIFICATION.—The Secretary shall expeditiously notify an individual, unless such notification would be duplicative, when—~~

~~"(A) a record relating to the individual is received by the clearinghouse;~~

1 ~~"(B) a record in the clearinghouse relating~~
2 ~~to the individual is modified or deleted, and in-~~
3 ~~clude in the notification the reason for the~~
4 ~~modification or deletion; or~~
5 ~~"(C) a record in the clearinghouse relating~~
6 ~~to the individual is released to an employer and~~
7 ~~specify the reason for the release.~~
8 ~~"(5) DATA QUALITY AND SECURITY STANDARDS~~
9 ~~FOR REPORTING AND RELEASING.—The Secretary~~
10 ~~may establish additional requirements, as appro-~~
11 ~~priate, to ensure that—~~
12 ~~"(A) the submission of records to the~~
13 ~~clearinghouse is timely and accurate;~~
14 ~~"(B) the release of data from the clearing-~~
15 ~~house is timely, accurate, and released to the~~
16 ~~appropriate authorized user under this section;~~
17 ~~and~~
18 ~~"(C) an individual with a record in the~~
19 ~~clearinghouse has a cause of action for any in-~~
20 ~~appropriate use of information included in the~~
21 ~~clearinghouse.~~
22 ~~"(6) RETENTION OF RECORDS.—The Secretary~~
23 ~~shall—~~

1 ~~"(A) retain a record submitted to the~~
2 ~~clearinghouse for a 5-year period beginning on~~
3 ~~the date the record is submitted;~~
4 ~~"(B) remove the record from the clearing-~~
5 ~~house at the end of the 5-year period, unless~~
6 ~~the individual fails to meet a return-to-duty or~~
7 ~~follow-up requirement under title 49, Code of~~
8 ~~Federal Regulations; and~~
9 ~~"(C) retain a record after the end of the~~
10 ~~5-year period in a separate location for~~
11 ~~archiving and auditing purposes.~~
12 ~~"(h) AUTHORIZED USERS.—~~
13 ~~"(1) EMPLOYERS.—The Secretary shall estab-~~
14 ~~lish a process for an employer to request and receive~~
15 ~~an individual's record from the clearinghouse.~~
16 ~~"(A) CONSENT.—An employer may not ac-~~
17 ~~cess an individual's record from the clearing-~~
18 ~~house unless the employer—~~
19 ~~"(i) obtains the prior written or elec-~~
20 ~~tronic consent of the individual for access~~
21 ~~to the record; and~~
22 ~~"(ii) submits proof of the individual's~~
23 ~~consent to the Secretary.~~
24 ~~"(B) ACCESS TO RECORDS.—After receiv-~~
25 ~~ing a request from an employer for an individ-~~

~~ual's record under subparagraph (A), the Secretary shall grant access to the individual's record to the employer as expeditiously as practicable.~~

~~"(C) RETENTION OF RECORD REQUESTS.—The Secretary shall require an employer to retain for a 3-year period—~~

~~"(i) a record of each request made by the employer for records from the clearinghouse; and~~

~~"(ii) the information received pursuant to the request.~~

~~"(D) USE OF RECORDS.—An employer may use an individual's record received from the clearinghouse only to assess and evaluate the qualifications of the individual to operate a commercial motor vehicle for the employer.~~

~~"(E) PROTECTION OF PRIVACY OF INDIVIDUALS.—An employer that receives an individual's record from the clearinghouse under subparagraph (B) shall—~~

~~"(i) protect the privacy of the individual and the confidentiality of the record; and~~

1 ~~"(ii) ensure that information con-~~
2 ~~tained in the record is not divulged to a~~
3 ~~person or entity that is not directly in-~~
4 ~~volved in assessing and evaluating the~~
5 ~~qualifications of the individual to operate a~~
6 ~~commercial motor vehicle for the employer.~~
7 ~~"(2) STATE LICENSING AUTHORITIES.—The~~
8 ~~Secretary shall establish a process for the chief com-~~
9 ~~mercial driver's licensing official of a State to re-~~
10 ~~quest and receive an individual's record from the~~
11 ~~clearinghouse if the individual is applying for a com-~~
12 ~~mercial driver's license from the State.~~
13 ~~"(A) CONSENT.—The Secretary may grant~~
14 ~~access to an individual's record in the clearing-~~
15 ~~house under this paragraph without the prior~~
16 ~~written or electronic consent of the individual.~~
17 ~~An individual who holds a commercial driver's~~
18 ~~license shall be deemed to consent to such ac-~~
19 ~~cess by obtaining a commercial driver's license.~~
20 ~~"(B) PROTECTION OF PRIVACY OF INDI-~~
21 ~~VIDUALS.—A chief commercial driver's licensing~~
22 ~~official of a State that receives an individual's~~
23 ~~record from the clearinghouse under this para-~~
24 ~~graph shall—~~

~~"(i) protect the privacy of the individual and the confidentiality of the record; and~~

~~"(ii) ensure that the information in the record is not divulged to any person that is not directly involved in assessing and evaluating the qualifications of the individual to operate a commercial motor vehicle.~~

~~"(3) NATIONAL TRANSPORTATION SAFETY BOARD.—The Secretary shall establish a process for the National Transportation Safety Board to request and receive an individual's record from the clearinghouse if the individual is involved in an accident that is under investigation by the National Transportation Safety Board.~~

~~"(A) CONSENT.—The Secretary may grant access to an individual's record in the clearinghouse under this paragraph without the prior written or electronic consent of the individual. An individual who holds a commercial driver's license shall be deemed to consent to such access by obtaining a commercial driver's license.~~

~~"(B) PROTECTION OF PRIVACY OF INDIVIDUALS.—An official of the National Trans-~~

portation Safety Board that receives an individual's record from the clearinghouse under this paragraph shall—

"(i) protect the privacy of the individual and the confidentiality of the record; and

"(ii) unless the official determines that the information in the individual's record should be reported under section 1131(c), ensure that the information in the record is not divulged to any person that is not directly involved with investigating the accident.

"(4) ADDITIONAL AUTHORIZED USERS.—The Secretary shall consider whether to grant access to the clearinghouse to additional users. The Secretary may authorize access to an individual's record from the clearinghouse to an additional user if the Secretary determines that granting access will further the purposes under subsection (a)(2). In determining whether the access will further the purposes under subsection (a)(2), the Secretary shall consider, among other things—

"(A) what use the additional user will make of the individual's record;

1 ~~"(B) the costs and benefits of the use; and~~

2 ~~"(C) how to protect the privacy of the indi-~~

3 ~~vidual and the confidentiality of the record.~~

4 ~~"(i) ACCESS TO CLEARINGHOUSE BY INDIVIDUALS.—~~

5 ~~"(1) IN GENERAL.—The Secretary shall estab-~~

6 ~~lish a process for an individual to request and re-~~

7 ~~ceive information from the clearinghouse—~~

8 ~~"(A) to determine whether the clearing-~~

9 ~~house contains a record pertaining to the indi-~~

10 ~~vidual;~~

11 ~~"(B) to verify the accuracy of a record;~~

12 ~~"(C) to update an individual's record, in-~~

13 ~~cluding completing the return-to-duty process~~

14 ~~described in title 49, Code of Federal Regula-~~

15 ~~tions; and~~

16 ~~"(D) to determine whether the clearing-~~

17 ~~house received requests for the individual's in-~~

18 ~~formation.~~

19 ~~"(2) DISPUTE PROCEDURE.—The Secretary~~

20 ~~shall establish a procedure, including an appeal~~

21 ~~process, for an individual to dispute and remedy an~~

22 ~~administrative error in the individual's record.~~

23 ~~"(j) PENALTIES.—~~

24 ~~"(1) IN GENERAL.—An employer, employee,~~

25 ~~medical review officer, or service agent who violates~~

~~any provision of this section shall be subject to civil penalties under section 521(b)(2)(C) and criminal penalties under section 521(b)(6)(B), and any other applicable civil and criminal penalties, as determined by the Secretary.~~

~~"(2) VIOLATION OF PRIVACY.—The Secretary shall establish civil and criminal penalties, consistent with paragraph (1), for an authorized user who violates paragraph (2)(B) or (3)(B) of subsection (h).~~

~~"(k) COMPATIBILITY OF STATE AND LOCAL LAWS.—~~

~~"(1) PREEMPTION.—Except as provided under paragraph (2), any law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe related to a commercial driver's license holder subject to alcohol or controlled substance testing under title 49, Code of Federal Regulations, that is inconsistent with this section or a regulation issued pursuant to this section is preempted.~~

~~"(2) APPLICABILITY.—The preemption under paragraph (1) shall include—~~

~~"(A) the reporting of valid positive results from alcohol screening tests and drug tests;~~

~~"(B) the refusal to provide a specimen for an alcohol screening test or drug test; and~~

1 ~~"(C) other violations of subpart B of part~~
2 ~~382 of title 49, Code of Federal Regulations (or~~
3 ~~any subsequent corresponding regulations).~~
4 ~~"(3) EXCEPTION.—A law, regulation, order, or~~
5 ~~other requirement of a State, political subdivision of~~
6 ~~a State, or Indian tribe shall not be preempted~~
7 ~~under this subsection to the extent it relates to an~~
8 ~~action taken with respect to a commercial motor ve-~~
9 ~~hicle operator's commercial driver's license or driv-~~
10 ~~ing record as a result of the driver's—~~
11 ~~"(A) verified positive alcohol or drug test~~
12 ~~result;~~
13 ~~"(B) refusal to provide a specimen for the~~
14 ~~test; or~~
15 ~~"(C) other violations of subpart B of part~~
16 ~~382 of title 49, Code of Federal Regulations (or~~
17 ~~any subsequent corresponding regulations).~~
18 ~~"(l) DEFINITIONS.—In this section—~~
19 ~~"(1) AUTHORIZED USER.—The term 'author-~~
20 ~~ized user' means an employer, State licensing au-~~
21 ~~thority, National Transportation Safety Board, or~~
22 ~~other person granted access to the clearinghouse~~
23 ~~under subsection (h).~~
24 ~~"(2) CHIEF COMMERCIAL DRIVER'S LICENSING~~
25 ~~OFFICIAL.—The term 'chief commercial driver's li-~~

~~censing official' means the official in a State who is authorized to—~~

~~"(A) maintain a record about commercial driver's licenses issued by the State; and~~

~~"(B) take action on commercial driver's licenses issued by the State.~~

~~"(3) CLEARINGHOUSE.—The term 'clearinghouse' means the clearinghouse established under subsection (a).~~

~~"(4) COMMERCIAL MOTOR VEHICLE OPERATOR.—The term 'commercial motor vehicle operator' means an individual who—~~

~~"(A) possesses a valid commercial driver's license issued in accordance with section 31308; and~~

~~"(B) is subject to controlled substances and alcohol testing under title 49, Code of Federal Regulations.~~

~~"(5) EMPLOYER.—The term 'employer' means a person or entity employing, or seeking to employ, 1 or more employees (including an individual who is self-employed) to be commercial motor vehicle operators.~~

1 ~~"(6) MEDICAL REVIEW OFFICER.—The term~~
2 ~~'medical review officer' means a licensed physician~~
3 ~~who is responsible for—~~
4 ~~"(A) receiving and reviewing a laboratory~~
5 ~~result generated under the testing program;~~
6 ~~"(B) evaluating a medical explanation for~~
7 ~~a controlled substances test under title 49,~~
8 ~~Code of Federal Regulations; and~~
9 ~~"(C) interpreting the results of a con-~~
10 ~~trolled substances test.~~
11 ~~"(7) SECRETARY.—The term 'Secretary' means~~
12 ~~the Secretary of Transportation.~~
13 ~~"(8) SERVICE AGENT.—The term 'service~~
14 ~~agent' means a person or entity, other than an em-~~
15 ~~ployee of the employer, who provides services to em-~~
16 ~~ployers or employees under the testing program.~~
17 ~~"(9) TESTING PROGRAM.—The term 'testing~~
18 ~~program' means the alcohol and controlled sub-~~
19 ~~stances testing program required under title 49,~~
20 ~~Code of Federal Regulations.".~~
21 ~~(b) CONFORMING AMENDMENT.—The analysis for~~
22 ~~chapter 313 is amended by inserting after the item relat-~~
23 ~~ing to section 31306 the following:~~

~~"31306a. National clearinghouse for positive controlled substance and alcohol test results of commercial motor vehicle operators.".~~

~~SEC. 403. DRUG AND ALCOHOL VIOLATION SANCTIONS.~~

~~Chapter 313 is amended—~~

~~(1) by redesignating section 31306(f) as 31306(f)(1); and~~

~~(2) by inserting after section 31306(f)(1) the following:~~

~~"(2) ADDITIONAL SANCTIONS.—The Secretary may require a State to revoke, suspend, or cancel the commercial driver's license of a commercial motor vehicle operator who is found, based on a test conducted and confirmed under this section, to have used alcohol or a controlled substance in violation of law until the commercial motor vehicle operator completes the rehabilitation process under subsection (e).";~~ ~~and~~

~~(3) by amending section 31310(d) to read as follows:~~

~~"(d) CONTROLLED SUBSTANCE VIOLATIONS.—The Secretary may permanently disqualify an individual from operating a commercial vehicle if the individual—~~

~~"(1) uses a commercial motor vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance; or~~

~~"(2) uses alcohol or a controlled substance, in violation of section 31306, 3 or more times.".~~

~~SEC. 404. AUTHORIZATION OF APPROPRIATIONS.~~

~~From the funds authorized to be appropriated under section 31104(h) of title 49, United States Code, up to $5,000,000 is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to develop, design, and implement the national clearinghouse required by section 402 of this Act.~~

~~TITLE V—ENFORCEMENT~~

~~SEC. 501. INSPECTION DEMAND AND DISPLAY OF CREDENTIALS.~~

~~(a) SAFETY INVESTIGATIONS.—Section 504(c) is amended—~~

~~(1) by inserting ", or an employee of the recipient of a grant issued under section 31102 of this title" after "a contractor"; and~~

~~(2) by inserting ", in person or in writing" after "proper credentials".~~

~~(b) CIVIL PENALTY.—Section 521(b)(2)(E) is amended—~~

~~(1) by redesignating subparagraph (E) as subparagraph (E)(i); and~~

~~(2) by adding at the end the following:~~

1 ~~"(ii) PLACE OUT OF SERVICE.—The~~
2 ~~Secretary may by regulation adopt proce-~~
3 ~~dures for placing out of service the com-~~
4 ~~mercial motor vehicle of a foreign-domi-~~
5 ~~ciled motor carrier that fails to promptly~~
6 ~~allow the Secretary to inspect and copy a~~
7 ~~record or inspect equipment, land, build-~~
8 ~~ings, or other property.".~~
9 ~~(c) HAZARDOUS MATERIALS INVESTIGATIONS.—Sec-~~
10 ~~tion 5121(c)(2) is amended by inserting ", in person or~~
11 ~~in writing," after "proper credentials".~~
12 ~~(d) COMMERCIAL INVESTIGATIONS.—Section~~
13 ~~14122(b) is amended by inserting ", in person or in writ-~~
14 ~~ing" after "proper credentials".~~
15 **~~SEC. 502. OUT OF SERVICE PENALTY FOR DENIAL OF AC-~~**
16 **~~CESS TO RECORDS.~~**
17 ~~Section 521(b)(2)(E) is amended—~~
18 ~~(1) by inserting after "$10,000." the following:~~
19 ~~"In the case of a motor carrier, the Secretary may~~
20 ~~also place the violator's motor carrier operations out~~
21 ~~of service."; and~~
22 ~~(2) by striking "such penalty" after "It shall be~~
23 ~~a defense to" and inserting "a penalty".~~

~~SEC. 503. PENALTIES FOR VIOLATION OF OPERATION OUT OF SERVICE ORDERS.~~

~~Section 521(b)(2) is amended by adding at the end the following:~~

~~"(F) PENALTY FOR VIOLATIONS RELATING TO OUT OF SERVICE ORDERS.—A motor carrier or employer (as defined in section 31132) that operates a commercial motor vehicle in commerce in violation of a prohibition on transportation under section 31144(c) of this title or an imminent hazard out of service order issued under subsection (b)(5) of this section or section 5121(d) of this title shall be liable for a civil penalty not to exceed $25,000.".~~

~~SEC. 504. MINIMUM PROHIBITION ON OPERATION FOR UNFIT CARRIERS.~~

~~(a) IN GENERAL.—Section 31144(c)(1) is amended by inserting ", and such period shall be for not less than 10 days" after "operator is fit".~~

~~(b) OWNERS OR OPERATORS TRANSPORTING PASSENGERS.—Section 31144(c)(2) is amended by inserting ", and such period shall be for not less than 10 days" after "operator is fit".~~

~~(c) OWNERS OR OPERATORS TRANSPORTING HAZARDOUS MATERIAL.—Section 31144(c)(3) is amended by~~

~~inserting at the end of the first sentence the following: "; and such period shall be for not less than 10 days".~~

~~SEC. 505. MINIMUM OUT OF SERVICE PENALTIES.~~

~~Section 521(b)(7) is amended by adding at the end the following:~~

~~"The penalties may include a minimum duration for any out of service period, not to exceed 90 days.".~~

~~SEC. 506. IMPOUNDMENT AND IMMOBILIZATION OF COMMERCIAL MOTOR VEHICLES FOR IMMINENT HAZARD.~~

~~Section 521(b) is amended by adding at the end the following:~~

~~"(15) IMPOUNDMENT OF COMMERCIAL MOTOR VEHICLES.—~~

~~"(A) ENFORCEMENT OF IMMINENT HAZARD OUT-OF-SERVICE ORDERS.—~~

~~"(i) The Secretary, or an authorized State official carrying out motor carrier safety enforcement activities under section 31102, may enforce an imminent hazard out-of-service order issued under chapters 5, 51, 131 through 149, 311, 313, or 315 of this title, or a regulation promulgated thereunder, by towing and impounding a~~

~~commercial motor vehicle until the order is rescinded.~~

~~"(ii) Enforcement shall not unreasonably interfere with the ability of a shipper, carrier, broker, or other party to arrange for the alternative transportation of any cargo or passenger being transported at the time the commercial motor vehicle is immobilized. In the case of a commercial motor vehicle transporting passengers, the Secretary or authorized State official shall provide reasonable, temporary, and secure shelter and accommodations for passengers in transit.~~

~~"(iii) The Secretary's designee or an authorized State official carrying out motor carrier safety enforcement activities under section 31102, shall immediately notify the owner of a commercial motor vehicle of the impoundment and the opportunity for review of the impoundment. A review shall be provided in accordance with section 554 of title 5, except that the review shall occur not later than 10 days after the impoundment.~~

1 ~~"(B) ISSUANCE OF REGULATIONS.—The~~
2 ~~Secretary shall promulgate regulations on the~~
3 ~~use of impoundment or immobilization of com-~~
4 ~~mercial motor vehicles as a means of enforcing~~
5 ~~additional out-of-service orders issued under~~
6 ~~chapters 5, 51, 131 through 149, 311, 313, or~~
7 ~~315 of this title, or a regulation promulgated~~
8 ~~thereunder. Regulations promulgated under this~~
9 ~~subparagraph shall include consideration of~~
10 ~~public safety, the protection of passengers and~~
11 ~~cargo, inconvenience to passengers, and the se-~~
12 ~~curity of the commercial motor vehicle.~~
13 ~~"(C) DEFINITION.—In this paragraph, the~~
14 ~~term 'impoundment' or 'impounding' means the~~
15 ~~seizing and taking into custody of a commercial~~
16 ~~motor vehicle or the immobilizing of a commer-~~
17 ~~cial motor vehicle through the attachment of a~~
18 ~~locking device or other mechanical or electronic~~
19 ~~means.".~~
20 **~~SEC. 507. INCREASED PENALTIES FOR EVASION OF REGU-~~**
21 **~~LATIONS.~~**
22 ~~(a) PENALTIES.—Section 524 is amended—~~
23 ~~(1) by striking "knowingly and willfully";~~
24 ~~(2) by inserting after "this chapter" the fol-~~
25 ~~lowing: ", chapter 51, subchapter III of chapter 311~~

~~(except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title, or a regulation issued under any of those provisions,'';~~

~~(3) by striking ''$200 but not more than $500'' and inserting ''$2,000 but not more than $5,000'';~~ ~~and~~

~~(4) by striking ''$250 but not more than $2,000'' and inserting ''$2,500 but not more than $7,500''.~~

~~(b) EVASION OF REGULATION.—Section 14906 is amended—~~

~~(1) by striking ''$200'' and inserting ''at least $2,000'';~~

~~(2) by striking ''$250'' and inserting ''$5,000'';~~ ~~and~~

~~(3) by inserting after ''a subsequent violation'' the following:~~

~~'', and may be subject to criminal penalties''.~~

~~SEC. 508. FAILURE TO PAY CIVIL PENALTY AS A DISQUALIFYING OFFENSE.~~

~~(a) IN GENERAL.—Chapter 311 is amended by inserting after section 31151 the following:~~

“§ 31152. Disqualification for failure to pay

“An individual assessed a civil penalty under this chapter, or chapters 5, 51, or 149 of this title, or a regulation issued under any of those provisions, who fails to pay the penalty or fails to comply with the terms of a settlement with the Secretary, shall be disqualified from operating a commercial motor vehicle. A disqualification shall continue until the penalty is paid, or the individual complies with the terms of the settlement, unless the nonpayment is because the individual is a debtor in a case under chapter 11 of title 11, United States Code.”.

(b) TECHNICAL AMENDMENTS.—Section 31310, as amended by sections 206 and 310 of this Act, is amended—

(1) by redesignating subsections (h) through (k) as subsections (i) through (l), respectively; and

(2) by inserting after subsection (g) the following:

“(h) DISQUALIFICATION FOR FAILURE TO PAY.—The Secretary shall disqualify from operating a commercial motor vehicle any individual who fails to pay a civil penalty within the prescribed period, or fails to conform to the terms of a settlement with the Secretary. A disqualification shall continue until the penalty is paid, or the individual conforms to the terms of the settlement, unless the nonpayment is because the individual is a debtor in

~~a case under chapter 11 of title 11, United States Code.''; and~~

~~(3) in subsection (i), as redesignated, by striking ''Notwithstanding subsections (b) through (g)'' and inserting ''Notwithstanding subsections (b) through (h)''.~~

~~(c) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31151 the following:~~

~~''31152. Disqualification for failure to pay.''.~~

~~SEC. 509. VIOLATIONS RELATING TO COMMERCIAL MOTOR VEHICLE SAFETY REGULATION AND OPERATORS.~~

~~Section 521(b)(2)(D) is amended by striking ''ability to pay,''.~~

~~SEC. 510. EMERGENCY DISQUALIFICATION FOR IMMINENT HAZARD.~~

~~Section 31310(f) is amended—~~

~~(1) in paragraph (1) by inserting ''section 521 or'' before ''section 5102''; and~~

~~(2) in paragraph (2) by inserting ''section 521 or'' before ''section 5102''.~~

1 ~~**SEC. 511. INTRASTATE OPERATIONS OF INTERSTATE**~~
2 ~~**MOTOR CARRIERS.**~~

3 ~~(a) PROHIBITED TRANSPORTATION.—Section~~
4 ~~521(b)(5) is amended by inserting after subparagraph (B)~~
5 ~~the following:~~

6 ~~"(C) If an employee, vehicle, or all or part~~
7 ~~of an employer's commercial motor vehicle oper-~~
8 ~~ations is ordered out of service under paragraph~~
9 ~~(5)(A), the commercial motor vehicle operations~~
10 ~~of the employee, vehicle, or employer that affect~~
11 ~~interstate commerce are also prohibited.".~~

12 ~~(b) PROHIBITION ON OPERATION IN INTERSTATE~~
13 ~~COMMERCE AFTER NONPAYMENT OF PENALTIES.—Sec-~~
14 ~~tion 521(b)(8) is amended—~~

15 ~~(1) by redesignating subparagraph (B) as sub-~~
16 ~~paragraph (C); and~~

17 ~~(2) by inserting after subparagraph (A) the fol-~~
18 ~~lowing:~~

19 ~~"(B) ADDITIONAL PROHIBITION.—A per-~~
20 ~~son prohibited from operating in interstate com-~~
21 ~~merce under paragraph (8)(A) may not operate~~
22 ~~any commercial motor vehicle where the oper-~~
23 ~~ation affects interstate commerce.".~~

~~SEC. 512. ENFORCEMENT OF SAFETY LAWS AND REGULATIONS.~~

~~(a) ENFORCEMENT OF SAFETY LAWS AND REGULATIONS.—Chapter 311, as amended by sections 113 and 508 of this Act, is amended by adding after section 31153 the following:~~

~~"§ 31154. Enforcement of safety laws and regulations~~

~~"(a) IN GENERAL.—The Secretary may bring a civil action to enforce this part, or a regulation or order of the Secretary under this part, when violated by an employer, employee, or other person providing transportation or service under this subchapter or subchapter I.~~

~~"(b) VENUE.—In a civil action under subsection (a)—~~

~~"(1) trial shall be in the judicial district in which the employer, employee, or other person operates;~~

~~"(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and~~

~~"(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.".~~

~~(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31153 the following:~~

~~"31154. Enforcement of safety laws and regulations.".~~

~~SEC. 513. DISCLOSURE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.~~

~~Section 31106(e) is amended—~~

~~(1) by redesignating subsection (e) as subsection (e)(1); and~~

~~(2) by inserting at the end the following:~~

~~"(2) IN GENERAL.—Notwithstanding any prohibition on disclosure of information in section 31105(h) or 31143(b) of this title or section 552a of title 5, the Secretary may disclose information maintained by the Secretary pursuant to chapters 51, 135, 311, or 313 of this title to appropriate personnel of a State agency or instrumentality authorized to carry out State commercial motor vehicle safety activities and commercial driver's license laws, or appropriate personnel of a local law enforcement agency, in accordance with standards, conditions, and procedures as determined by the Secretary. Disclosure under this section shall not operate as a waiver by the Secretary of any applicable privilege against disclosure under common law or as a basis~~

for compelling disclosure under section 552 of title 5.''.

TITLE VI—COMPLIANCE, SAFETY, ACCOUNTABILITY

SEC. 601. COMPLIANCE, SAFETY, ACCOUNTABILITY.

(a) Section 31102 is amended—

(1) by amending the section heading to read:

''§ 31102. Compliance, safety, and accountability grants'';

(2) by amending subsection (a) to read as follows:

''(a) GENERAL AUTHORITY.—Subject to this section, the Secretary of Transportation shall make and administer a compliance, safety, and accountability grant program to assist States, local governments, and other entities and persons with motor carrier safety and enforcement on highways and other public roads, new entrant safety audits, border enforcement, hazardous materials safety and security, consumer protection and household goods enforcement, and other programs and activities required to improve the safety of motor carriers as determined by the Secretary. The Secretary shall allocate funding in accordance with section 31104 of this title.'';

(3) in subsection (b)—

~~(A) by amending the heading to read as follows:~~

~~"(b) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—";~~

~~(B) by redesignating paragraphs (1) through (3) as (2) through (4), respectively;~~

~~(C) by inserting before paragraph (2), as redesignated, the following:~~

~~"(1) PROGRAM GOAL.—The goal of the Motor Carrier Safety Assistance Program is to ensure that the Secretary, States, local government agencies, and other political jurisdictions work in partnership to establish programs to improve motor carrier, commercial motor vehicle, and driver safety to support a safe and efficient surface transportation system by—~~

~~"(A) making targeted investments to promote safe commercial motor vehicle transportation, including transportation of passengers and hazardous materials;~~

~~"(B) investing in activities likely to generate maximum reductions in the number and severity of commercial motor vehicle crashes and fatalities resulting from such crashes;~~

1 ~~"(C) adopting and enforcing effective~~
2 ~~motor carrier, commercial motor vehicle, and~~
3 ~~driver safety regulations and practices con-~~
4 ~~sistent with Federal requirements; and~~
5 ~~"(D) assessing and improving statewide~~
6 ~~performance by setting program goals and~~
7 ~~meeting performance standards, measures, and~~
8 ~~benchmarks.";~~
9 ~~(D) in paragraph (2), as redesignated—~~
10 ~~(i) by striking "make a declaration~~
11 ~~of" in subparagraph (I) and inserting~~
12 ~~"demonstrate";~~
13 ~~(ii) by amending subparagraph (M) to~~
14 ~~read as follows:~~
15 ~~"(M) ensures participation in appropriate~~
16 ~~Federal Motor Carrier Safety Administration~~
17 ~~systems and other information systems by all~~
18 ~~appropriate jurisdictions receiving Motor Car-~~
19 ~~rier Safety Assistance Program funding;";~~
20 ~~(iii) in subparagraph (Q), by inserting~~
21 ~~"and dedicated sufficient resources to" be-~~
22 ~~tween "established" and "a program";~~
23 ~~(iv) in subparagraph (W), by striking~~
24 ~~"and" after the semicolon;~~

(v) by amending subparagraph (X) to read as follows:

"(X) except in the case of an imminent or obvious safety hazard, ensures that an inspection of a vehicle transporting passengers for a motor carrier of passengers is conducted at a station, terminal, border crossing, maintenance facility, destination, weigh station, rest stop, turnpike service area, or a location where adequate food, shelter, and sanitation facilities are available for passengers, and reasonable accommodation is available for passengers with disabilities; and"; and

(vi) by adding after subparagraph (X) the following:

"(Y) ensures that the State will transmit to its roadside inspectors the notice of each federal exemption granted pursuant to section 31315(b) and provided to the State by the Secretary, including the name of the person granted the exemption and any terms and conditions that apply to the exemption."; and

(E) by amending paragraph (4), as redesignated, to read as follows:

"(4) MAINTENANCE OF EFFORT.—

1 ~~"(A) IN GENERAL.—A plan submitted by a~~
2 ~~State under paragraph (2) shall provide that~~
3 ~~the total expenditure of amounts of the lead~~
4 ~~State agency responsible for implementing the~~
5 ~~plan will be maintained at a level at least equal~~
6 ~~to the average level of that expenditure for fis-~~
7 ~~cal years 2004 and 2005.~~
8 ~~"(B) AVERAGE LEVEL OF STATE EXPENDI-~~
9 ~~TURES.—In estimating the average level of~~
10 ~~State expenditure under subparagraph (A), the~~
11 ~~Secretary—~~
12 ~~"(i) may allow the State to exclude~~
13 ~~State expenditures for Government-spon-~~
14 ~~sored demonstration or pilot programs;~~
15 ~~and~~
16 ~~"(ii) shall require the State to exclude~~
17 ~~State matching amounts used to receive~~
18 ~~Government financing under this sub-~~
19 ~~section.~~
20 ~~"(C) WAIVER.—Upon the request of a~~
21 ~~State, the Secretary may waive or modify the~~
22 ~~requirements of this paragraph for 1 fiscal~~
23 ~~year, if the Secretary determines that a waiver~~
24 ~~is equitable due to exceptional or uncontrollable~~
25 ~~circumstances, such as a natural disaster or a~~

~~serious decline in the financial resources of the State motor carrier safety assistance program agency.'';~~

~~(4) by redesignating subsection (c) as subsection (h); and~~

~~(5) by inserting after subsection (d) the following:~~

~~''(e) NEW ENTRANT SAFETY ASSURANCE PROGRAM.—~~

~~''(1) PROGRAM GOAL.—The Secretary may make grants to States and local governments for pre-authorization safety audits and new entrant motor carrier audits as described in section 31144(g).~~

~~''(2) RECIPIENTS.—Grants made in support of this program may be provided to States and local governments.~~

~~''(3) FEDERAL SHARE.—The Federal share of a grant made under this program is 100 percent.~~

~~''(4) ELIGIBLE ACTIVITIES.—Eligible activities will be in accordance with criteria developed by the Secretary and posted in the Federal Register in advance of the grant application period.~~

~~''(5) DETERMINATION.—If the Secretary determines that a State or local government is unable to~~

~~conduct a new entrant motor carrier audit, the Secretary may use the funds to conduct the audit.~~

~~"(f) BORDER ENFORCEMENT.—~~

~~"(1) PROGRAM GOAL.—The Secretary of Transportation may make a grant for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.~~

~~"(2) RECIPIENTS.—The Secretary of Transportation may make a grant to an entity, State, or other person for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.~~

~~"(3) FEDERAL SHARE.—The Secretary shall reimburse a grantee at least 80 percent of the costs incurred in a fiscal year for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.~~

~~"(4) ELIGIBLE ACTIVITIES.—An eligible activity will be in accordance with criteria developed by the Secretary and posted in the Federal Register in advance of the grant application period.~~

~~"(g) HIGH PRIORITY INITIATIVES.—~~

~~"(1) PROGRAM GOAL.—The Secretary may make grants to carry out high priority activities and projects that improve commercial motor vehicle safe-~~

~~ty and compliance with commercial motor vehicle safety regulations, including activities and projects that—~~

~~"(A) are national in scope;~~

~~"(B) increase public awareness and education;~~

~~"(C) target unsafe driving of commercial motor vehicles and non-commercial motor vehicles in areas identified as high risk crash corridors;~~

~~"(D) improve consumer protection and enforcement of household goods regulations;~~

~~"(E) improve the movement of hazardous materials safely and securely, including activities related to the establishment of uniform forms and application procedures that improve the accuracy, timeliness, and completeness of commercial motor vehicle safety data reported to the Secretary; or~~

~~"(F) demonstrate new technologies to improve commercial motor vehicle safety.~~

~~"(2) RECIPIENTS.—The Secretary may allocate amounts to award grants to State agencies, local governments, and other persons for carrying out high priority activities and projects that improve~~

commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations in accordance with the program goals specified in paragraph (1).

"(3) FEDERAL SHARE.—The Secretary shall reimburse a grantee at least 80 percent of the costs incurred in a fiscal year for carrying out the high priority activities or projects.

"(4) ELIGIBLE ACTIVITIES.—An eligible activity will be in accordance with criteria that is—

"(A) developed by the Secretary; and

"(B) posted in the Federal Register in advance of the grant application period.".

(b) Conforming Amendment.—The analysis of chapter 311 is amended by striking the item relating to section 31102 and inserting the following:

"31102. Compliance, safety, and accountability grants.".

SEC. 602. PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT PROGRAM.

Section 31106(b) is amended—

(1) by amending paragraph (3)(C) to read as follows—

"(C) establish and implement a process—

"(i) to cancel the motor vehicle registration and seize the registration plates of a vehicle when an employer is found lia-

~~ble under section 31310(j)(2)(C) for knowingly allowing or requiring an employee to operate such a commercial motor vehicle in violation of an out-of-service order; and~~

~~"(ii) to reinstate the vehicle registration or return the registration plates of the commercial motor vehicle, subject to sanctions under clause (i), if the Secretary permits such carrier to resume operations after the date of issuance of such order."; and~~

~~(2) by striking paragraph (4).~~

~~SEC. 603. COMMERCIAL MOTOR VEHICLE DEFINED.~~

~~Section 31101(1) is amended to read as follows:~~

~~"(1) 'commercial motor vehicle' means (except under section 31106) a self-propelled or towed vehicle used on the highways in commerce to transport passengers or property, if the vehicle—~~

~~"(A) has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds, whichever is greater;~~

~~"(B) is designed or used to transport more than 8 passengers, including the driver, for compensation;~~

1 ~~"(C) is designed or used to transport more~~
2 ~~than 15 passengers, including the driver, and is~~
3 ~~not used to transport passengers for compensa-~~
4 ~~tion; or~~
5 ~~"(D) is used in transporting material~~
6 ~~found by the Secretary of Transportation to be~~
7 ~~hazardous under section 5103 and transported~~
8 ~~in a quantity requiring placarding under regula-~~
9 ~~tions prescribed by the Secretary under section~~
10 ~~5103.".~~

11 **~~SEC. 604. DRIVER SAFETY FITNESS RATINGS.~~**

12 ~~Section 31144, as amended by section 204 of this~~
13 ~~Act, is amended by adding at the end the following:~~
14 ~~"(i) COMMERCIAL MOTOR VEHICLE DRIVERS.—The~~
15 ~~Secretary may maintain by regulation a procedure for de-~~
16 ~~termining the safety fitness of a commercial motor vehicle~~
17 ~~driver and for prohibiting the driver from operating in~~
18 ~~interstate commerce. The procedure and prohibition shall~~
19 ~~include the following:~~
20 ~~"(1) Specific initial and continuing require-~~
21 ~~ments that a driver must comply with to dem-~~
22 ~~onstrate safety fitness.~~
23 ~~"(2) The methodology and continually updated~~
24 ~~safety performance data that the Secretary will use~~
25 ~~to determine whether a driver is fit, including in-~~

~~spection results, serious traffic offenses, and crash involvement data.~~

~~"(3) Specific time frames within which the Secretary will determine whether a driver is fit.~~

~~"(4) A prohibition period or periods, not to exceed 1 year, that a driver that the Secretary determines is not fit will be prohibited from operating a commercial motor vehicle in interstate commerce. The period or periods shall begin on the 46th day after the date of the fitness determination and continue until the Secretary determines the driver is fit or until the prohibition period expires.~~

~~"(5) A review by the Secretary, not later than 30 days after an unfit driver requests a review, of the driver's compliance with the requirements the driver failed to comply with and that resulted in the Secretary determining that the driver was not fit. The burden of proof shall be on the driver to demonstrate fitness.~~

~~"(6) The eligibility criteria for reinstatement, including the remedial measures the unfit driver must take for reinstatement.".~~

~~SEC. 605. UNIFORM ELECTRONIC CLEARANCE FOR COMMERCIAL MOTOR VEHICLE INSPECTIONS.~~

~~(a) IN GENERAL.—Chapter 311 is amended by adding after section 31109 the following:~~

~~"§ 31110. Withholding amounts for State noncompliance~~

~~"(a) FIRST FISCAL YEAR.—Subject to criteria established by the Secretary of Transportation, the Secretary may withhold up to 50 percent of the amount a State is otherwise eligible to receive under section 31102(b) on the first day of the fiscal year after the first fiscal year following the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2011 in which the State uses for at least 180 days an electronic commercial motor vehicle inspection selection system that does not employ a selection methodology approved by the Secretary.~~

~~"(b) SECOND FISCAL YEAR.—The Secretary shall withhold up to 75 percent of the amount a State is otherwise eligible to receive under section 31102(b) on the first day of the fiscal year after the second fiscal year following the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2011 in which the State uses for at least 180 days an electronic commercial motor vehicle inspection selection system that does not employ a selection methodology approved by the Secretary.~~

1 ~~"(c) SUBSEQUENT AVAILABILITY OF WITHHELD~~
2 ~~FUNDS.—The Secretary may make the amounts withheld~~
3 ~~under subsection (a) or subsection (b) available to the~~
4 ~~State if the Secretary determines that the State has sub-~~
5 ~~stantially complied with the requirement described under~~
6 ~~subsection (a) or subsection (b) not later than 180 days~~
7 ~~after the beginning of the fiscal year in which amounts~~
8 ~~were withheld.".~~

9 ~~(b) CONFORMING AMENDMENT.—The analysis of~~
10 ~~chapter 311 is amended by inserting after the item relat-~~
11 ~~ing to section 31109 the following:~~

~~"31110. Withholding amounts for State noncompliance.".~~

12 ~~**SEC. 606. AUTHORIZATION OF APPROPRIATIONS.**~~

13 ~~Section 31104 is amended to read as follows:~~

14 ~~**"§ 31104. Availability of amounts**~~

15 ~~"(a) IN GENERAL.—There are authorized to be ap-~~
16 ~~propriated from Highway Trust Fund (other than the~~
17 ~~Mass Transit Account) for Federal Motor Carrier Safety~~
18 ~~Administration programs the following:~~

19 ~~"(1) COMPLIANCE, SAFETY, AND ACCOUNT-~~
20 ~~ABILITY GRANTS UNDER SECTION 31102.—~~

21 ~~"(A) $249,717,000 for fiscal year 2012,~~
22 ~~provided that the Secretary shall set aside not~~
23 ~~less than $168,388,000 to carry out the motor~~
24 ~~carrier safety assistance program under section~~
25 ~~31102(b); and~~

~~"(B) $253,814,000 for fiscal year 2013, provided that the Secretary shall set aside not less than $171,813,000 to carry out the motor carrier safety assistance program under section 31102(b).~~

~~"(2) DATA AND TECHNOLOGY GRANTS UNDER SECTION 31109.—~~

~~"(A) $30,000,000 for fiscal year 2012; and~~

~~"(B) $30,000,000 for fiscal year 2013.~~

~~"(3) DRIVER SAFETY GRANTS UNDER SECTION 31313.—~~

~~"(A) $31,000,000 for fiscal year 2012; and~~

~~"(B) $31,000,000 for fiscal year 2013.~~

~~"(4) CRITERIA.—The Secretary shall develop criteria to allocate the remaining funds under paragraphs (1), (2), and (3) for fiscal year 2013 and for each fiscal year thereafter not later than April 1 of the prior fiscal year.~~

~~"(b) AVAILABILITY AND REALLOCATION OF AMOUNTS.—~~

~~"(1) ALLOCATIONS AND REALLOCATIONS.—Amounts made available under subsection (a)(1) remain available until expended. Allocations to a State remain available for expenditure in the State for the fiscal year in which they are allocated and for the~~

~~next fiscal year. Amounts not expended by a State during those 2 fiscal years are released to the Secretary for reallocation.~~

~~"(2) REDISTRIBUTION OF AMOUNTS.—The Secretary may, after August 1 of each fiscal year, upon a determination that a State does not qualify for funding under section 31102(b) or that the State will not expend all of its existing funding, reallocate the State's funding. In revising the allocation and redistributing the amounts, the Secretary shall give preference to those States that require additional funding to meet program goals under section 31102(b).~~

~~"(3) PERIOD OF AVAILABILITY FOR DATA AND TECHNOLOGY GRANTS.—Amounts made available under subsection (a)(2) remain available for obligation for the fiscal year and the next 2 years in which they are appropriated. Allocations remain available for expenditure in the State for 5 fiscal years after they were obligated. Amounts not expended by a State during those 3 fiscal years are released to the Secretary for reallocation.~~

~~"(4) PERIOD OF AVAILABILITY FOR DRIVER SAFETY GRANTS.—Amounts made available under subsection (a)(3) of this section remain available for~~

~~obligation for the fiscal year and the next fiscal year in which they are appropriated. Allocations to a State remain available for expenditure in the State for the fiscal year in which they are allocated and for the following 2 fiscal years. Amounts not expended by a State during those 3 fiscal years are released to the Secretary for reallocation.~~

~~"(5) REALLOCATION.—The Secretary, upon a request by a State, may reallocate grant funds previously awarded to the State under a grant program authorized by section 31102, 31109, or 31313 to another grant program authorized by those sections upon a showing by the State that it is unable to expend the funds within the 12 months prior to their expiration provided that the State agrees to expend the funds within the remaining period of expenditure.~~

~~"(c) GRANTS AS CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant under sections 31102, 31109, and 31313 is a contractual obligation of the Government for payment of the Government's share of costs incurred in developing and implementing programs to improve commercial motor vehicle safety and enforce commercial driver's license regulations, standards, and orders.~~

1 ~~"(d) DEDUCTION FOR ADMINISTRATIVE EX-~~
2 ~~PENSES.—~~
3 ~~"(1) IN GENERAL.—On October 1 of each fiscal~~
4 ~~year or as soon after that as practicable, the Sec-~~
5 ~~retary may deduct, from amounts made available~~
6 ~~under—~~
7 ~~"(A) subsection (a)(1) for that fiscal year,~~
8 ~~not more than 1.5 percent of those amounts for~~
9 ~~administrative expenses incurred in carrying~~
10 ~~out section 31102 in that fiscal year;~~
11 ~~"(B) subsection (a)(2) for that fiscal year,~~
12 ~~not more than 1.4 percent of those amounts for~~
13 ~~administrative expenses incurred in carrying~~
14 ~~out section 31109 in that fiscal year; and~~
15 ~~"(C) subsection (a)(3) for that fiscal year,~~
16 ~~not more than 1.4 percent of those amounts for~~
17 ~~administrative expenses incurred in carrying~~
18 ~~out section 31313 in that fiscal year.~~
19 ~~"(2) TRAINING.—The Secretary may use at~~
20 ~~least 50 percent of the amounts deducted from the~~
21 ~~amounts made available under sections (a)(1) and~~
22 ~~(a)(3) to train non-Government employees and to de-~~
23 ~~velop related training materials to carry out sections~~
24 ~~31102, 31311, and 31313 of this title.~~

1 ~~"(3) CONTRACTS.—The Secretary may use~~
2 ~~amounts deducted under paragraph (1) to enter into~~
3 ~~contracts and cooperative agreements with States,~~
4 ~~local governments, associations, institutions, cor-~~
5 ~~porations, and other persons, if the Secretary deter-~~
6 ~~mines the contracts and cooperative agreements are~~
7 ~~cost-effective, benefit multiple jurisdictions of the~~
8 ~~United States, and enhance safety programs and re-~~
9 ~~lated enforcement activities.~~
10 ~~"(e) ALLOCATION CRITERIA AND ELIGIBILITY.—~~
11 ~~"(1) On October 1 of each fiscal year or as~~
12 ~~soon as practicable after that date after making the~~
13 ~~deduction under subsection (d)(1)(A), the Secretary~~
14 ~~shall allocate amounts made available to carry out~~
15 ~~section 31102(b) for such fiscal year among the~~
16 ~~States with plans approved under that section. Allo-~~
17 ~~cation shall be made under the criteria prescribed by~~
18 ~~the Secretary.~~
19 ~~"(2) On October 1 of each fiscal year or as~~
20 ~~soon as practicable after that date and after making~~
21 ~~the deduction under subsection (d)(1)(B) or~~
22 ~~(d)(1)(C), the Secretary shall allocate amounts made~~
23 ~~available to carry out sections 31109(a) and~~
24 ~~31313(b)(1).~~

1 ~~"(f) INTRASTATE COMPATIBILITY.—The Secretary~~
2 ~~shall prescribe regulations specifying tolerance guidelines~~
3 ~~and standards for ensuring compatibility of intrastate~~
4 ~~commercial motor vehicle safety laws and regulations with~~
5 ~~Government motor carrier safety regulations to be en-~~
6 ~~forced under section 31102(b). To the extent practicable,~~
7 ~~the guidelines and standards shall allow for maximum~~
8 ~~flexibility while ensuring a degree of uniformity that will~~
9 ~~not diminish transportation safety. In reviewing State~~
10 ~~plans and allocating amounts or making grants under sec-~~
11 ~~tion 153 of title 23, United States Code, the Secretary~~
12 ~~shall ensure that the guidelines and standards are applied~~
13 ~~uniformly.~~
14 ~~"(g) WITHHOLDING AMOUNTS FOR STATE NON-~~
15 ~~COMPLIANCE.—~~
16 ~~"(1) IN GENERAL.—Subject to criteria estab-~~
17 ~~lished by the Secretary, the Secretary may withhold~~
18 ~~up to 100 percent of the amounts a State is other-~~
19 ~~wise eligible to receive under section 31102(b) on~~
20 ~~October 1 of each fiscal year beginning after the~~
21 ~~date of enactment of the Commercial Motor Vehicle~~
22 ~~Safety Enhancement Act of 2011 and continuing for~~
23 ~~the period that the State does not comply substan-~~
24 ~~tially with a requirement under section 31109(b).~~

1 ~~"(2) SUBSEQUENT AVAILABILITY OF WITHHELD~~
2 ~~FUNDS.—The Secretary may make the amounts~~
3 ~~withheld in accordance with paragraph (1) available~~
4 ~~to a State if the Secretary determines that the State~~
5 ~~has substantially complied with a requirement under~~
6 ~~section 31109(b) not later than 180 days after the~~
7 ~~beginning of the fiscal year in which the amounts~~
8 ~~are withheld.~~
9 ~~"(h) ADMINISTRATIVE EXPENSES.—~~
10 ~~"(1) AUTHORIZATION OF APPROPRIATIONS.—~~
11 ~~There are authorized to be appropriated from the~~
12 ~~Highway Trust Fund (other than the Mass Transit~~
13 ~~Account) for the Secretary to pay administrative ex-~~
14 ~~penses of the Federal Motor Carrier Safety Admini-~~
15 ~~tration—~~
16 ~~"(A) $250,819,000 for fiscal year 2012;~~
17 ~~and~~
18 ~~"(B) $248,523,000 for fiscal year 2013.~~
19 ~~"(2) USE OF FUNDS.—The funds authorized by~~
20 ~~this subsection shall be used for personnel costs, ad-~~
21 ~~ministrative infrastructure, rent, information tech-~~
22 ~~nology, programs for research and technology, infor-~~
23 ~~mation management, regulatory development, the~~
24 ~~administration of the performance and registration~~
25 ~~information system management, outreach and edu-~~

~~cation, other operating expenses, and such other expenses as may from time to time be necessary to implement statutory mandates of the Administration not funded from other sources.~~

~~"(i) AVAILABILITY OF FUNDS.—~~

~~"(1) PERIOD OF AVAILABILITY.—The amounts made available under this section shall remain available until expended.~~

~~"(2) INITIAL DATE OF AVAILABILITY.—Authorizations from the Highway Trust Fund (other than the Mass Transit Account) for this section shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.".~~

~~SEC. 607. HIGH RISK CARRIER REVIEWS.~~

~~(a) HIGH RISK CARRIER REVIEWS.—Section 31104(h), as amended by section 606 of this Act, is amended by adding at the end of paragraph (2) the following:~~

~~"From the funds authorized by this subsection, the Secretary shall ensure that a review is completed on each motor carrier that demonstrates through performance data that it poses the highest safety risk. At a minimum, a review shall be conducted whenever a motor carrier is~~

among the highest risk carriers for 2 consecutive months.''.

(b) CONFORMING AMENDMENT.—Section 4138 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31144 note) is repealed.

SEC. 608. DATA AND TECHNOLOGY GRANTS.

(a) IN GENERAL.—Section 31109 is amended to read as follows:

''§ 31109. Data and technology grants

''(a) GENERAL AUTHORITY.—The Secretary of Transportation shall establish and administer a data and technology grant program to assist the States with the implementation and maintenance of data systems. The Secretary shall allocate the funds in accordance with section 31104.

''(b) PERFORMANCE GOALS.—The Secretary may make a grant to a State to implement the performance and registration information system management requirements of section 31106(b) to develop, implement, and maintain commercial vehicle information systems and networks, and other innovative technologies that the Secretary determines improve commercial motor vehicle safety.

1 ~~"(c) ELIGIBILITY.—To be eligible for a grant to im-~~
2 ~~plement the requirements of section 31106(b), the State~~
3 ~~shall design a program that—~~
4 ~~"(1) links Federal motor carrier safety informa-~~
5 ~~tion systems with the State's motor carrier informa-~~
6 ~~tion systems;~~
7 ~~"(2) determines the safety fitness of a motor~~
8 ~~carrier or registrant when licensing or registering~~
9 ~~the registrant or motor carrier or while the license~~
10 ~~or registration is in effect; and~~
11 ~~"(3) denies, suspends, or revokes the commer-~~
12 ~~cial motor vehicle registrations of a motor carrier or~~
13 ~~registrant that was issued an operations out-of-serv-~~
14 ~~ice order by the Secretary.~~
15 ~~"(d) REQUIRED PARTICIPATION.—The Secretary~~
16 ~~shall require States that participate in the program under~~
17 ~~section 31106 to—~~
18 ~~"(1) comply with the uniform policies, proce-~~
19 ~~dures, and technical and operational standards pre-~~
20 ~~scribed by the Secretary under section 31106(b);~~
21 ~~"(2) possess or seek the authority to possess for~~
22 ~~a time period not longer than determined reasonable~~
23 ~~by the Secretary, to impose sanctions relating to~~
24 ~~commercial motor vehicle registration on the basis of~~
25 ~~a Federal safety fitness determination; and~~

1 ~~"(3) establish and implement a process to can-~~
2 ~~cel the motor vehicle registration and seize the reg-~~
3 ~~istration plates of a vehicle when an employer is~~
4 ~~found liable under section 31310(j)(2)(C) for know-~~
5 ~~ingly allowing or requiring an employee to operate~~
6 ~~such a commercial motor vehicle in violation of an~~
7 ~~out of service order.~~
8 ~~"(c) FEDERAL SHARE.—The total Federal share of~~
9 ~~the cost of a project payable from all eligible Federal~~
10 ~~sources shall be at least 80 percent.".~~
11 ~~(b) CONFORMING AMENDMENT.—The analysis of~~
12 ~~chapter 311 is amended by striking the item relating to~~
13 ~~section 31109 and inserting the following:~~

~~"31109. Data and technology grants.".~~

14 **~~SEC. 609. DRIVER SAFETY GRANTS.~~**
15 ~~(a) DRIVER FOCUSED GRANT PROGRAM.—Section~~
16 ~~31313 is amended to read as follows:~~
17 **~~"§ 31313. Driver safety grants~~**
18 ~~"(a) GENERAL AUTHORITY.—The Secretary shall~~
19 ~~make and administer a driver focused grant program to~~
20 ~~assist the States, local governments, entities, and other~~
21 ~~persons with commercial driver's license systems, pro-~~
22 ~~grams, training, fraud detection, reporting of violations~~
23 ~~and other programs required to improve the safety of driv-~~
24 ~~ers as the Federal Motor Carrier Safety Administration~~

~~deems critical. The Secretary shall allocate the funds for the program in accordance with section 31104.~~

~~"(b) COMMERCIAL DRIVER'S LICENSE PROGRAM IMPROVEMENT GRANTS.—~~

~~"(1) PROGRAM GOAL.—The Secretary of Transportation may make a grant to a State in a fiscal year—~~

~~"(A) to comply with the requirements of section 31311;~~

~~"(B) in the case of a State that is making a good faith effort toward substantial compliance with the requirements of this section and section 31311, to improve its implementation of its commercial driver's license program;~~

~~"(C) for research, development demonstration projects, public education, and other special activities and projects relating to commercial driver licensing and motor vehicle safety that are of benefit to all jurisdictions of the United States or are designed to address national safety concerns and circumstances;~~

~~"(D) for commercial driver's license program coordinators;~~

~~"(E) to implement or maintain a system to notify an employer of an operator of a commer-~~

~~cial motor vehicle of the suspension or revocation of the operator's commercial driver's license consistent with the standards developed under section 304(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2011; or~~

~~"(F) to train operators of commercial motor vehicles, as defined under section 31301, and to train operators and future operators in the safe use of such vehicles. Funding priority for this discretionary grant program shall be to regional or multi-state educational or nonprofit associations serving economically distressed regions of the United States.~~

~~"(2) PRIORITY.—The Secretary shall give priority, in making grants under paragraph (1)(B), to a State that will use the grants to achieve compliance with the requirements of the Motor Carrier Safety Improvement Act of 1999 (113 Stat. 1748), including the amendments made by the Commercial Motor Vehicle Safety Enhancement Act of 2011.~~

~~"(3) RECIPIENTS.—The Secretary may allocate grants to State agencies, local governments, and other persons for carrying out activities and projects that improve commercial driver's license safety and compliance with commercial driver's license and~~

~~commercial motor vehicle safety regulations in accordance with the program goals under paragraph (1) and that train operators on commercial motor vehicles. The Secretary may make a grant to a State to comply with section 31311 for commercial driver's license program coordinators and for notification systems.~~

~~"(4) FEDERAL SHARE.—The Federal share of a grant made under this program shall be at least 80 percent, except that the Federal share of grants for commercial driver license program coordinators and training commercial motor vehicle operators shall be 100 percent.".~~

~~(b) CONFORMING AMENDMENT.—The analysis of chapter 313 is amended by striking the item relating to section 31313 and inserting the following:~~

~~"31313. Driver safety grants.".~~

~~SEC. 610. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.~~

~~Not later than 6 months after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that includes—~~

~~(1) established time frames and milestones for resuming the Commercial Vehicle Information Systems and Networks Program; and~~

~~(2) a strategic workforce plan for its grants management office to ensure that it has determined the skills and competencies that are critical to achieving its mission goals.~~

~~TITLE VII—MOTORCOACH ENHANCED SAFETY ACT OF 2011~~

~~SEC. 701. SHORT TITLE.~~

~~This title may be cited as the "Motorcoach Enhanced Safety Act of 2011".~~

~~SEC. 702. DEFINITIONS.~~

~~In this Act:~~

~~(1) ADVANCED GLAZING.—The term "advanced glazing" means glazing installed in a portal on the side or the roof of a motorcoach that is designed to be highly resistant to partial or complete occupant ejection in all types of motor vehicle crashes.~~

~~(2) BUS.—The term "bus" has the meaning given the term in section 571.3(b) of title 49, Code of Federal Regulations (as in effect on the day before the date of enactment of this Act).~~

~~(3) COMMERCIAL MOTOR VEHICLE.—Except as otherwise specified, the term "commercial motor ve-~~

~~hicle'' has the meaning given the term in section 31132(1) of title 49, United States Code.~~

~~(4) DIRECT TIRE PRESSURE MONITORING SYSTEM.—The term ''direct tire pressure monitoring system'' means a tire pressure monitoring system that is capable of directly detecting when the air pressure level in any tire is significantly under-inflated and providing the driver a low tire pressure warning as to which specific tire is significantly under-inflated.~~

~~(5) ELECTRONIC ON-BOARD RECORDER.—The term ''electronic on-board recorder'' means an electronic device that acquires and stores data showing the record of duty status of the vehicle operator and performs the functions required of an automatic on-board recording device in section 395.15(b) of title 49, Code of Federal Regulations.~~

~~(6) EVENT DATA RECORDER.—The term ''event data recorder'' has the meaning given that term in section 563.5 of title 49, Code of Federal Regulations.~~

~~(7) MOTOR CARRIER.—The term ''motor carrier'' means—~~

~~(A) a motor carrier (as defined in section 13102(14) of title 49, United States Code); or~~

~~(B) a motor private carrier (as defined in section 13102(15) of that title).~~

~~(8) MOTORCOACH.—The term "motorcoach" has the meaning given the term "over-the-road bus" in section 3038(a)(3) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note), but does not include—~~

~~(A) a bus used in public transportation provided by, or on behalf of, a public transportation agency; or~~

~~(B) a school bus, including a multifunction school activity bus.~~

~~(9) MOTORCOACH SERVICES.—The term "motorcoach services" means passenger transportation by motorcoach for compensation.~~

~~(10) MULTIFUNCTION SCHOOL ACTIVITY BUS.—The term "multifunction school activity bus" has the meaning given the term in section 571.3(b) of title 49, Code of Federal Regulations (as in effect on the day before the date of enactment of this Act).~~

~~(11) PORTAL.—The term "portal" means any opening on the front, side, rear, or roof of a motorcoach that could, in the event of a crash involving the motorcoach, permit the partial or complete ejec-~~

~~tion of any occupant from the motorcoach, including a young child.~~

~~(12) PROVIDER OF MOTORCOACH SERVICES.—The term "provider of motorcoach services" means a motor carrier that provides passenger transportation services with a motorcoach, including per-trip compensation and contracted or chartered compensation.~~

~~(13) PUBLIC TRANSPORTATION.—The term "public transportation" has the meaning given the term in section 5302 of title 49, United States Code.~~

~~(14) SAFETY BELT.—The term "safety belt" has the meaning given the term in section 153(i)(4)(B) of title 23, United States Code.~~

~~(15) SECRETARY.—The term "Secretary" means the Secretary of Transportation.~~

~~SEC. 703. REGULATIONS FOR IMPROVED OCCUPANT PROTECTION, PASSENGER EVACUATION, AND CRASH AVOIDANCE.~~

~~(a) REGULATIONS REQUIRED WITHIN 1 YEAR.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prescribe regulations requiring safety belts to be installed in motorcoaches at each designated seating position.~~

~~(b) REGULATIONS REQUIRED WITHIN 2 YEARS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall prescribe the following commercial motor vehicle regulations:~~

~~(1) ROOF STRENGTH AND CRUSH RESISTANCE.—The Secretary shall establish improved roof and roof support standards for motorcoaches that substantially improve the resistance of motorcoach roofs to deformation and intrusion to prevent serious occupant injury in rollover crashes involving motorcoaches.~~

~~(2) ANTI-EJECTION SAFETY COUNTERMEASURES.—The Secretary shall require advanced glazing to be installed in each motorcoach portal and shall consider other portal improvements to prevent partial and complete ejection of motorcoach passengers, including children. In prescribing such standards, the Secretary shall consider the impact of such standards on the use of motorcoach portals as a means of emergency egress.~~

~~(3) ROLLOVER CRASH AVOIDANCE.—The Secretary shall require motorcoaches to be equipped with stability enhancing technology, such as electronic stability control and torque vectoring, to re-~~

~~duce the number and frequency of rollover crashes among motorcoaches.~~

~~(c) COMMERCIAL MOTOR VEHICLE TIRE PRESSURE MONITORING SYSTEMS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall prescribe the following commercial vehicle regulation:~~

~~(1) IN GENERAL.—The Secretary shall require motorcoaches to be equipped with direct tire pressure monitoring systems that warn the operator of a commercial motor vehicle when any tire exhibits a level of air pressure that is below a specified level of air pressure established by the Secretary.~~

~~(2) PERFORMANCE REQUIREMENTS.—The regulation prescribed by the Secretary under this subsection shall include performance requirements to ensure that direct tire pressure monitoring systems are capable of—~~

~~(A) providing a warning to the driver when 1 or more tires are underinflated;~~

~~(B) activating in a specified time period after the underinflation is detected; and~~

~~(C) operating at different vehicle speeds.~~

~~(d) APPLICATION OF REGULATIONS.—~~

~~(1) NEW MOTORCOACHES.—Any regulation prescribed in accordance with subsection (a), (b), or (c)~~

~~shall apply to all motorcoaches manufactured more than 2 years after the date on which the regulation is published as a final rule.~~

~~(2) RETROFIT REQUIREMENTS FOR EXISTING MOTORCOACHES.—~~

~~(A) IN GENERAL.—The Secretary may, by regulation, provide for the application of any requirement established under subsection (a) or (b)(2) to motorcoaches manufactured before the date on which the requirement applies to new motorcoaches under paragraph (1) based on an assessment of the feasibility, benefits, and costs of retrofitting the older motorcoaches.~~

~~(B) ASSESSMENT.—The Secretary shall complete an assessment with respect to safety belt retrofits not later than 1 year after the date of enactment of this Act and with respect to anti-ejection countermeasure retrofits not later than 2 years after the date of enactment of this Act.~~

~~(c) FAILURE TO MEET DEADLINE.—If the Secretary determines that a final rule cannot be issued before the deadline established under this section, the Secretary shall—~~

~~(1) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that explains why the deadline cannot be met; and~~

~~(2) establish a new deadline for the issuance of the final rule.~~

~~SEC. 704. STANDARDS FOR IMPROVED FIRE SAFETY.~~

~~(a) EVALUATIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall initiate the following rulemaking proceedings:~~

~~(1) FLAMMABILITY STANDARD FOR EXTERIOR COMPONENTS.—The Secretary shall establish requirements for fire hardening or fire resistance of motorcoach exterior components to prevent fire and smoke inhalation injuries to occupants.~~

~~(2) SMOKE SUPPRESSION.—The Secretary shall update Federal Motor Vehicle Safety Standard Number 302 (49 C.F.R. 571.302; relating to flammability of interior materials) to improve the resistance of motorcoach interiors and components to burning and permit sufficient time for the safe evacuation of passengers from motorcoaches.~~

~~(3) PREVENTION OF, AND RESISTANCE TO, WHEEL WELL FIRES.—The Secretary shall establish requirements—~~

~~(A) to prevent and mitigate the propagation of wheel well fires into the passenger compartment; and~~

~~(B) to substantially reduce occupant deaths and injuries from such fires.~~

~~(4) AUTOMATIC FIRE SUPPRESSION.—The Secretary shall establish requirements for motorcoaches to be equipped with highly effective fire suppression systems that automatically respond to and suppress all fires in such motorcoaches.~~

~~(5) PASSENGER EVACUATION.—The Secretary shall establish requirements for motorcoaches to be equipped with—~~

~~(A) improved emergency exit window, door, roof hatch, and wheelchair lift door designs to expedite access and use by passengers of motorcoaches under all emergency circumstances, including crashes and fires; and~~

~~(B) emergency interior lighting systems, including luminescent or retroreflectorized delineation of evacuation paths and exits, which are triggered by a crash or other emergency in-~~

~~cident to accomplish more rapid and effective evacuation of passengers.~~

~~(6) CAUSATION AND PREVENTION OF MOTORCOACH FIRES.—The Secretary shall examine the principle causes of motorcoach fires and vehicle design changes intended to reduce the number of motorcoach fires resulting from those principle causes.~~

~~(b) DEADLINE.—Not later than 42 months after the date of enactment of this Act, the Secretary shall—~~

~~(1) issue final rules in accordance with subsection (a); or~~

~~(2) if the Secretary determines that any standard is not warranted based on the requirements and considerations set forth in subsection (a) and (b) of section 30111 of title 49, United States Code, submit a report that describes the reasons for not prescribing such a standard to—~~

~~(A) the Committee on Commerce, Science, and Transportation of the Senate; and~~

~~(B) the Committee on Energy and Commerce of the House of Representatives.~~

~~(c) TIRE PERFORMANCE STANDARD.—Not later than 3 years after the date of enactment of this Act, the Secretary shall—~~

~~(1) issue a final rule upgrading performance standards for tires used on motorcoaches, including an enhanced endurance test and a new high-speed performance test; or~~

~~(2) if the Secretary determines that a standard is not warranted based on the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, submit a report that describes the reasons for not prescribing such a standard to—~~

~~(A) the Committee on Commerce, Science, and Transportation of the Senate; and~~

~~(B) the Committee on Energy and Commerce of the House of Representatives.~~

~~SEC. 705. OCCUPANT PROTECTION, COLLISION AVOIDANCE, FIRE CAUSATION, AND FIRE EXTINGUISHER RESEARCH AND TESTING.~~

~~(a) SAFETY RESEARCH INITIATIVES.—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete the following research and testing:~~

~~(1) IMPROVED FIRE EXTINGUISHERS.—The Secretary shall research and test the need to install improved fire extinguishers or other readily available firefighting equipment in motorcoaches to effectively~~

~~extinguish fires in motorcoaches and prevent passenger deaths and injuries.~~

~~(2) INTERIOR IMPACT PROTECTION.—The Secretary shall research and test enhanced occupant impact protection standards for motorcoach interiors to reduce substantially serious injuries for all passengers of motorcoaches.~~

~~(3) COMPARTMENTALIZATION SAFETY COUNTERMEASURES.—The Secretary shall require enhanced compartmentalization safety countermeasures for motorcoaches, including enhanced seating designs, to substantially reduce the risk of passengers being thrown from their seats and colliding with other passengers, interior surfaces, and components in the event of a crash involving a motorcoach.~~

~~(4) COLLISION AVOIDANCE SYSTEMS.—The Secretary shall research and test forward and lateral crash warning systems applications for motorcoaches.~~

~~(b) RULEMAKING.—Not later than 2 years after the completion of each research and testing initiative required under subsection (a), the Secretary shall issue final motor vehicle safety standards if the Secretary determines that such standards are warranted based on the requirements~~

~~and considerations set forth in section subsections (a) and (b) of section 30111 of title 49, United States Code.~~

~~SEC. 706. MOTORCOACH REGISTRATION.~~

~~(a) REGISTRATION REQUIREMENTS.—Section 13902(b) is amended—~~

~~(1) by redesignating paragraphs (1) through (8) as paragraphs (5) through (12), respectively; and~~

~~(2) by inserting before paragraph (5), as redesignated, the following:~~

~~"(1) ADDITIONAL REGISTRATION REQUIREMENTS FOR PROVIDERS OR MOTORCOACH SERVICES.—In addition to meeting the requirements under subsection (a)(1), the Secretary may not register a person to provide motorcoach services until after the person—~~

~~"(A) undergoes a preauthorization safety audit, including verification, in a manner sufficient to demonstrate the ability to comply with Federal rules and regulations, of—~~

~~"(i) a drug and alcohol testing program under part 40 of title 49, Code of Federal Regulations;~~

1 ~~"(ii) the carrier's system of compli-~~
2 ~~ance with hours-of-service rules, including~~
3 ~~hours-of-service records;~~
4 ~~"(iii) the ability to obtain required in-~~
5 ~~surance;~~
6 ~~"(iv) driver qualifications, including~~
7 ~~the validity of the commercial driver's li-~~
8 ~~cense of each driver who will be operating~~
9 ~~under such authority;~~
10 ~~"(v) disclosure of common ownership,~~
11 ~~common control, common management,~~
12 ~~common familial relationship, or other cor-~~
13 ~~porate relationship with another motor car-~~
14 ~~rier or applicant for motor carrier author-~~
15 ~~ity during the past 3 years;~~
16 ~~"(vi) records of the State inspections,~~
17 ~~or of a Level I or V Commercial Vehicle~~
18 ~~Safety Alliance Inspection, for all vehicles~~
19 ~~that will be operated by the carrier;~~
20 ~~"(vii) safety management programs,~~
21 ~~including vehicle maintenance and repair~~
22 ~~programs; and~~
23 ~~"(viii) the ability to comply with the~~
24 ~~Americans with Disabilities Act of 1990~~
25 ~~(42 U.S.C. 12101 et seq.), and the Over-~~

~~the Road Bus Transportation Accessibility Act of 2007 (122 Stat. 2915);~~

~~"(B) has been interviewed to review safety management controls and the carrier's written safety oversight policies and practices; and~~

~~"(C) through the successful completion of a written examination developed by the Secretary, has demonstrated proficiency to comply with and carry out the requirements and regulations described in subsection (a)(1).~~

~~"(2) PRE-AUTHORIZATION SAFETY AUDIT.—The pre-authorization safety audit required under paragraph (1)(A) shall be completed on-site not later than 90 days following the submission of an application for operating authority.~~

~~"(3) FEE.—The Secretary may establish, under section 9701 of title 31, a fee of not more than $1,200 for new registrants that as nearly as possible covers the costs of performing a preauthorization safety audit. Amounts collected under this subsection shall be deposited in the Highway Trust Fund (other than the Mass Transit Account).".~~

~~(b) SAFETY REVIEWS OF NEW OPERATORS.—Section 31144(g)(1) is amended by inserting "transporting property" after "each operator".~~

1 ~~(c) CONFORMING AMENDMENT.—Section~~
2 ~~24305(a)(3)(A)(i) is amended by striking "section~~
3 ~~13902(b)(8)(A)" and inserting "section~~
4 ~~13902(b)(12)(A)".~~
5 ~~(d) EFFECTIVE DATE.—The amendments made by~~
6 ~~this section shall take effect 1 year after the date of enact-~~
7 ~~ment of this Act.~~
8 ~~**SEC. 707. IMPROVED OVERSIGHT OF MOTORCOACH SERV-**~~
9 ~~**ICE PROVIDERS.**~~
10 ~~Section 31144, as amended by sections 204 and 604~~
11 ~~of this Act, is amended by adding at the end the following:~~
12 ~~"(j) PERIODIC SAFETY REVIEWS OF PROVIDERS OF~~
13 ~~MOTORCOACH SERVICES.—~~
14 ~~"(1) SAFETY REVIEW.—~~
15 ~~"(A) IN GENERAL.—The Secretary shall—~~
16 ~~"(i) determine the safety fitness of all~~
17 ~~providers of motorcoach services registered~~
18 ~~with the Federal Motor Carrier Safety Ad-~~
19 ~~ministration; and~~
20 ~~"(ii) assign a safety fitness rating to~~
21 ~~each such provider.~~
22 ~~"(B) APPLICABILITY.—Subparagraph (A)~~
23 ~~shall apply—~~
24 ~~"(i) to any provider of motorcoach~~
25 ~~services registered with the Administration~~

~~after the date of enactment of the Motorcoach Enhanced Safety Act of 2011 beginning not later than 2 years after the date of such registration; and~~

~~"(ii) to any provider of motorcoach services registered with the Administration on or before the date of enactment of that Act beginning not later than 3 years after the date of enactment of that Act.~~

~~"(2) PERIODIC REVIEW.—The Secretary shall establish, by regulation, a process for monitoring the safety performance of each provider of motorcoach services on a regular basis following the assignment of a safety fitness rating, including progressive intervention to correct unsafe practices.~~

~~"(3) ENFORCEMENT STRIKE FORCES.—In addition to the enhanced monitoring and enforcement actions required under paragraph (2), the Secretary may organize special enforcement strike forces targeting providers of motorcoach services.~~

~~"(4) PERIODIC UPDATE OF SAFETY FITNESS RATING.—In conducting the safety reviews required under this subsection, the Secretary shall reassess the safety fitness rating of each provider not less frequently than once every 3 years.~~

1 ~~"(5) MOTORCOACH SERVICES DEFINED.—In~~
2 ~~this subsection, the term 'provider of motorcoach~~
3 ~~services' has the meaning given such term in section~~
4 ~~702 of the Motorcoach Enhanced Safety Act of~~
5 ~~2011.".~~

6 **~~SEC. 708. REPORT ON FEASIBILITY, BENEFITS, AND COSTS~~**
7 **~~OF ESTABLISHING A SYSTEM OF CERTIFI-~~**
8 **~~CATION OF TRAINING PROGRAMS.~~**

9 ~~Not later than 2 years after the date of the enact-~~
10 ~~ment of this Act, the Secretary shall submit a report to~~
11 ~~the Committee on Commerce, Science, and Transportation~~
12 ~~of the Senate and the Committee on Transportation and~~
13 ~~Infrastructure of the House of Representatives that de-~~
14 ~~scribes the feasibility, benefits, and costs of establishing~~
15 ~~a system of certification of public and private schools and~~
16 ~~of motor carriers and motorcoach operators that provide~~
17 ~~motorcoach driver training.~~

18 **~~SEC. 709. REPORT ON DRIVER'S LICENSE REQUIREMENTS~~**
19 **~~FOR 9- TO 15-PASSENGER VANS.~~**

20 ~~(a) IN GENERAL.—Not later than 18 months after~~
21 ~~the date of enactment of this Act, the Secretary shall sub-~~
22 ~~mit a report to the Committee on Commerce, Science, and~~
23 ~~Transportation of the Senate and the Committee on~~
24 ~~Transportation and Infrastructure of the House of Rep-~~
25 ~~resentatives that examines requiring all or certain classes~~

of drivers operating a vehicle, which is designed or used to transport not fewer than 9 and not more than 15 passengers (including a driver) in interstate commerce, to have a commercial driver's license passenger-carrying endorsement and be tested in accordance with a drug and alcohol testing program under part 40 of title 49, Code of Federal Regulations.

(b) CONSIDERATIONS.—In developing the report under subsection (a), the Secretary shall consider—

(1) the safety benefits of the requirement described in subsection (a);

(2) the scope of the population that would be impacted by such requirement;

(3) the cost to the Federal Government and State governments to meet such requirement; and

(4) the impact on safety benefits and cost from limiting the application of such requirement to certain drivers of such vehicles, such as drivers who are compensated for driving.

SEC. 710. EVENT DATA RECORDERS.

(a) EVALUATION.—Not later than 1 year after the date of enactment of this Act, the Secretary, after considering the performance requirements for event data recorders for passenger vehicles under part 563 of title 49, Code of Federal Regulations, shall complete an evaluation of

~~event data recorders, including requirements regarding specific types of vehicle operations, events and incidents, and systems information to be recorded, for event data recorders to be used on motorcoaches used by motor carriers in interstate commerce.~~

~~(b) STANDARDS AND REGULATIONS.—Not later than 2 years after completing the evaluation required under subsection (a), the Secretary shall issue standards and regulations based on the results of that evaluation.~~

~~SEC. 711. SAFETY INSPECTION PROGRAM FOR COMMERCIAL MOTOR VEHICLES OF PASSENGERS.~~

~~Not later than 3 years after the date of enactment of this Act, the Secretary shall complete a rulemaking proceeding to consider requiring States to conduct annual inspections of commercial motor vehicles designed or used to transport passengers, including an assessment of—~~

~~(1) the risks associated with improperly maintained or inspected commercial motor vehicles designed or used to transport passengers;~~

~~(2) the effectiveness of existing Federal standards for the inspection of such vehicles in—~~

~~(A) mitigating the risks described in paragraph (1); and~~

~~(B) ensuring the safe and proper operation condition of such vehicles; and~~

1 ~~(3) the costs and benefits of a mandatory State~~
2 ~~inspection program.~~
3 ~~**SEC. 712. DISTRACTED DRIVING.**~~
4 ~~(a) IN GENERAL.—Chapter 311, as amended by sec-~~
5 ~~tions 113, 508, and 512 of this Act, is amended by adding~~
6 ~~after section 31154 the following:~~
7 ~~**"§ 31155. Regulation of the use of distracting devices**~~
8 ~~**in motorcoaches**~~
9 ~~"(a) IN GENERAL.—Not later than 1 year after the~~
10 ~~date of enactment of the Motorcoach Enhanced Safety Act~~
11 ~~of 2011, the Secretary of Transportation shall prescribe~~
12 ~~regulations on the use of electronic or wireless devices, in-~~
13 ~~cluding cell phones and other distracting devices, by an~~
14 ~~individual employed as the operator of a motorcoach (as~~
15 ~~defined in section 702 of that Act).~~
16 ~~"(b) BASIS FOR REGULATIONS.—The Secretary shall~~
17 ~~base the regulations prescribed under subsection (a) on~~
18 ~~accident data analysis, the results of ongoing research,~~
19 ~~and other information, as appropriate.~~
20 ~~"(c) PROHIBITED USE.—Except as provided under~~
21 ~~subsection (d), the Secretary shall prohibit the use of the~~
22 ~~devices described in subsection (a) in circumstances in~~
23 ~~which the Secretary determines that their use interferes~~
24 ~~with a driver's safe operation of a motorcoach.~~

~~"(d) PERMITTED USE.—The Secretary may permit the use of a device that is otherwise prohibited under subsection (c) if the Secretary determines that such use is necessary for the safety of the driver or the public in emergency circumstances.".~~

~~(b) CONFORMING AMENDMENT.—The analysis for chapter 311 is amended by inserting after the item relating to section 31154 the following:~~

~~"31155. Regulation of the use of distracting devices in motorcoaches.".~~

~~SEC. 713. REGULATIONS.~~

~~Any standard or regulation prescribed or modified pursuant to the Motorcoach Enhanced Safety Act of 2011 shall be prescribed or modified in accordance with section 553 of title 5, United States Code.~~

~~TITLE VIII—SAFE HIGHWAYS AND INFRASTRUCTURE PRESERVATION~~

~~SEC. 801. COMPREHENSIVE TRUCK SIZE AND WEIGHT LIMITS STUDY.~~

~~(a) TRUCK SIZE AND WEIGHT LIMITS STUDY.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with each relevant State and other applicable Federal agencies, shall commence a comprehensive truck size and weight limits study. The study shall—~~

~~(1) provide data on accident frequency and factors related to accident risk of each route of the National Highway System in each State that allows a vehicle to operate with size and weight limits that are in excess of the Federal law and regulations and its correlation to truck size and weight limits;~~

~~(2) evaluate the impacts to the infrastructure of each route of the National Highway System in each State that allows a vehicle to operate with size and weight limits that are in excess of the Federal law and regulations, including—~~

~~(A) an analysis that quantifies the cost of the impacts in dollars;~~

~~(B) an analysis of the percentage of trucks operating in excess of the Federal size and weight limits; and~~

~~(C) an analysis that examines the ability of each State to recover the cost for the impacts;~~

~~(3) evaluate the impacts and frequency of violations in excess of the Federal size and weight law and regulations to determine the cost of the enforcement of the law and regulations, and the effectiveness of the enforcement methods;~~

~~(4) examine the relationship between truck performance and crash involvement and its correlation to Federal size and weight limits;~~

~~(5) assess the impacts that truck size and weight limits in excess of the Federal law and regulations have in the risk of bridge failure contributing to the structural deficiencies of bridges or in the useful life of a bridge;~~

~~(6) analyze the impacts on safety and infrastructure in each State that allows a truck to operate in excess of Federal size and weight limitations in truck-only lanes; and~~

~~(7) compare and contrast the safety and infrastructure impacts of the Federal limits regarding truck size and weight limits in relation to—~~

~~(A) six-axle and other alternative configurations of tractor-trailers; and~~

~~(B) safety records of foreign nations with truck size and weight limits and tractor-trailer configurations that differ from the Federal law and regulations.~~

~~(b) REPORT.—Not later than 2 years after the date that the study is commenced under subsection (a), the Secretary shall submit a final report on the study, including all findings and recommendations, to the Committee~~

on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 802. COMPILATION OF EXISTING STATE TRUCK SIZE AND WEIGHT LIMIT LAWS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the States, shall begin to compile—

(1) a list for each State, as applicable, that describes each route of the National Highway System that allows a vehicle to operate in excess of the Federal truck size and weight limits that—

(A) was authorized under State law on or before the date of enactment of this Act; and

(B) was in actual and lawful operation on a regular or periodic basis (including seasonal operations) on or before the date of enactment of this Act;

(2) a list for each State, as applicable, that describes—

(A) the size and weight limitations applicable to each segment of the National Highway System in that State as listed under paragraph (1);

~~(B) each combination that exceeds the Interstate weight limit, but that the Department of Transportation, other Federal agency, or a State agency has determined on or before the date of enactment of this Act, could be or could have been lawfully operated in the State; and~~

~~(C) each combination that exceeds the Interstate weight limit, but that the Secretary determines could have been lawfully operated on a non-Interstate segment of the National Highway System in the State on or before the date of enactment of this Act; and~~

~~(3) a list of each State law that designates or allows designation of size and weight limitations in excess of Federal law and regulations on routes of the National Highway System, including nondivisible loads.~~

~~(b) SPECIFICATIONS.—The Secretary, in consultation with the States, shall specify whether the determinations under paragraphs (1) and (2) of subsection (a) were made by the Department of Transportation, other Federal agency, or a State agency.~~

~~(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a final~~

~~report of the compilation under subsection (a) to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.~~

~~TITLE IX—MISCELLANEOUS~~

~~SEC. 901. DETENTION TIME STUDY.~~

~~(a) STUDY.—Not later than 30 days after the date of enactment of this Act, the Secretary shall task the Motor Carrier Safety Advisory Committee to study the extent to which detention time contributes to drivers violating hours of service requirements and driver fatigue. In conducting this study, the Committee shall—~~

~~(1) examine data collected from driver and vehicle inspections;~~

~~(2) consult with—~~

~~(A) motor carriers and drivers, shippers, and representatives of ports and other facilities where goods are loaded and unloaded;~~

~~(B) government officials; and~~

~~(C) other parties as appropriate; and~~

~~(3) provide recommendations to the Secretary for addressing issues identified in the study.~~

~~(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall provide~~

~~a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that includes recommendations for legislation and for addressing the results of the study.~~

~~SEC. 902. PROHIBITION OF COERCION.~~

~~Section 31136(a) is amended by—~~

~~(1) striking "and" at the end of paragraph (3);~~

~~(2) striking the period at the end of paragraph (4) and inserting "; and"; and~~

~~(3) adding after subsection (4) the following:~~

~~"(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.".~~

~~SEC. 903. MOTOR CARRIER SAFETY ADVISORY COMMITTEE.~~

~~(a) MEMBERSHIP.—Section 4144(b)(1) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31100 note) is amended by inserting "nonprofit employee labor organizations representing commercial motor vehicle drivers," after "industry,".~~

~~(b) TERMINATION DATE.—Section 4144(d) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31100 note) is amended by striking "March 31, 2012" and inserting "September 30, 2013".~~

~~SEC. 904. WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS.~~

~~(a) WAIVER STANDARDS.—Section 31315(a) is amended—~~

~~(1) by inserting "and" at the end of paragraph (2);~~

~~(2) by striking paragraph (3); and~~

~~(3) redesignating paragraph (4) as paragraph (3).~~

~~(b) EXEMPTION STANDARDS.—Section 31315(b)(4) is amended—~~

~~(1) in subparagraph (A), by inserting "(or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149)" after "Federal Register";~~

~~(2) by amending subparagraph (B) to read as follows:~~

~~"(B) UPON GRANTING A REQUEST.—Upon granting a request and before the effective date~~

of the exemption, the Secretary shall publish in the Federal Register (or, in the case of an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149) the name of the person granted the exemption, the provisions from which the person is exempt, the effective period, and the terms and conditions of the exemption.''; and

(3) in subparagraph (C), by inserting ''(or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149)'' after ''Federal Register''.

(c) PROVIDING NOTICE OF EXEMPTIONS TO STATE PERSONNEL.—Section 31315(b)(7) is amended to read as follows:

''(7) NOTIFICATION OF STATE COMPLIANCE AND ENFORCEMENT PERSONNEL.—Before the effective date of an exemption, the Secretary shall notify a State safety compliance and enforcement agency, and require the agency pursuant to section 31102(b)(1)(Y) to notify the State's roadside inspec-

~~tors, that a person will be operating pursuant to an exemption and the terms and conditions that apply to the exemption.''.~~

~~(d) PILOT PROGRAMS.—Section 31315(c)(1) is amended by striking ''in the Federal Register''.~~

~~(e) REPORT TO CONGRESS.—Section 31315 is amended by adding after subsection (d) the following:~~

~~''(e) REPORT TO CONGRESS.—The Secretary shall submit an annual report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives listing the waivers, exemptions, and pilot programs granted under this section, and any impacts on safety.~~

~~''(f) WEB SITE.—The Secretary shall ensure that the Federal Motor Carrier Safety Administration web site includes a link to the web site established by the Secretary to implement the requirements under sections 31149 and 31315. The link shall be in a clear and conspicuous location on the home page of the Federal Motor Carrier Safety Administration web site and be easily accessible to the public.''.~~

~~SEC. 905. TRANSPORTATION OF HORSES.~~

~~Section 80502 is amended—~~

~~(1) in subsection (c), by striking "This section does not" and inserting "Subsections (a) and (b) shall not";~~

~~(2) by redesignating subsection (d) as subsection (e);~~

~~(3) by inserting after subsection (e) the following:~~

~~"(d) TRANSPORTATION OF HORSES.—~~

~~"(1) PROHIBITION.—No person may transport, or cause to be transported, a horse from a place in a State, the District of Columbia, or a territory or possession of the United States through or to a place in another State, the District of Columbia, or a territory or possession of the United States in a motor vehicle containing 2 or more levels stacked on top of each other.~~

~~"(2) MOTOR VEHICLE DEFINED.—In this subsection, the term 'motor vehicle'—~~

~~"(A) means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways; and~~

~~"(B) does not include a vehicle operated exclusively on a rail or rails."; and~~

~~(4) in subsection (e), as redesignated—~~

1 ~~(A) by striking "A rail carrier" and insert-~~
2 ~~ing the following:~~
3 ~~"(1) IN GENERAL.—A rail carrier";~~
4 ~~(B) by striking "this section" and insert-~~
5 ~~ing "subsection (a) or (b)"; and~~
6 ~~(C) by striking "On learning" and insert-~~
7 ~~ing before "of a violation" the following:~~
8 ~~"(2) TRANSPORTATION OF HORSES IN MULTI-~~
9 ~~LEVEL TRAILER.—~~
10 ~~"(A) CIVIL PENALTY.—A person that~~
11 ~~knowingly violates subsection (d) is liable to the~~
12 ~~United States Government for a civil penalty of~~
13 ~~at least $100 but not more than $500 for each~~
14 ~~violation. A separate violation occurs under sub-~~
15 ~~section (d) for each horse that is transported,~~
16 ~~or caused to be transported, in violation of sub-~~
17 ~~section (d).~~
18 ~~"(B) RELATIONSHIP TO OTHER LAWS.—~~
19 ~~The penalty provided under subparagraph (A)~~
20 ~~shall be in addition to any penalty or remedy~~
21 ~~available under any other law.~~
22 ~~"(3) CIVIL ACTION.—On learning".~~

~~TITLE X—HOUSEHOLD GOODS TRANSPORTATION~~

~~SEC. 1001. ADDITIONAL REGISTRATION REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.~~

~~(a) Section 13902(a)(2) is amended—~~

~~(1) in subparagraph (B), by striking "section 13702(c);" and inserting "section 13702(c); and";~~

~~(2) by amending subparagraph (C) to read as follows:~~

~~"(C) demonstrates, before being registered, through successful completion of a proficiency examination established by the Secretary, knowledge and intent to comply with applicable Federal laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage."; and~~

~~(3) by striking subparagraph (D).~~

~~(b) COMPLIANCE REVIEWS OF NEW HOUSEHOLD GOODS MOTOR CARRIERS.—Section 31144(g), as amended by section 102 of this Act, is amended by adding at the end the following:~~

~~"(6) ADDITIONAL REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.—(A) In addition to the requirements of this subsection, the Secretary~~

~~shall require, by regulation, each registered household goods motor carrier to undergo a consumer protection standards review not later than 18 months after the household goods motor carrier begins operations under such authority.~~

~~"(B) ELEMENTS.—In the regulations issued pursuant to subparagraph (A), the Secretary shall establish the elements of the consumer protections standards review, including basic management controls. In establishing the elements, the Secretary shall consider the effects on small businesses and shall consider establishing alternate locations where such reviews may be conducted for the convenience of small businesses.".~~

~~(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of enactment of this Act.~~

~~SEC. 1002. FAILURE TO GIVE UP POSSESSION OF HOUSEHOLD GOODS.~~

~~(a) INJUNCTIVE RELIEF.—Section 14704(a)(1) is amended by striking "and 14103" and inserting ", 14103, and 14915(c)".~~

~~(b) CIVIL PENALTIES.—Section 14915(a)(1) is amended by adding at the end the following:~~

1 ~~"The United States may assign all or a portion of~~
2 ~~the civil penalty to an aggrieved shipper. The Secretary~~
3 ~~of Transportation shall establish criteria upon which such~~
4 ~~assignments shall be made. The Secretary may order,~~
5 ~~after notice and an opportunity for a proceeding, that a~~
6 ~~person found holding a household goods shipment hostage~~
7 ~~return the goods to an aggrieved shipper.".~~

8 ~~**SEC. 1003. SETTLEMENT AUTHORITY.**~~

9 ~~(a) SETTLEMENT OF GENERAL CIVIL PENALTIES.—~~
10 ~~Section 14901 is amended by adding at the end the fol-~~
11 ~~lowing:~~

12 ~~"(h) SETTLEMENT OF HOUSEHOLD GOODS CIVIL~~
13 ~~PENALTIES.—Nothing in this section shall be construed~~
14 ~~to prohibit the Secretary from accepting partial payment~~
15 ~~of a civil penalty as part of a settlement agreement in the~~
16 ~~public interest, or from holding imposition of any part of~~
17 ~~a civil penalty in abeyance.".~~

18 ~~(b) SETTLEMENT OF HOUSEHOLD GOODS CIVIL~~
19 ~~PENALTIES.—Section 14915(a) is amended by adding at~~
20 ~~the end the following:~~

21 ~~"(4) SETTLEMENT AUTHORITY.—Nothing in~~
22 ~~this section shall be construed as prohibiting the~~
23 ~~Secretary from accepting partial payment of a civil~~
24 ~~penalty as part of a settlement agreement in the~~

~~public interest, or from holding imposition of any part of a civil penalty in abeyance.''.~~

~~SEC. 1004. HOUSEHOLD GOODS TRANSPORTATION ASSISTANCE PROGRAM.~~

~~(a) JOINT ASSISTANCE PROGRAM.—Not later than 18 months after the date of enactment of this Act, the Secretary shall develop and implement a joint assistance program, through the Federal Motor Carrier Safety Administration—~~

~~(1) to educate consumers about the household goods motor carrier industry pursuant to the recommendations of the task force established under section 1005 of this Act;~~

~~(2) to improve the Federal Motor Carrier Safety Administration's implementation, monitoring, and coordination of Federal and State household goods enforcement activities;~~

~~(3) to assist a consumer with the timely resolution of an interstate household goods hostage situation, as appropriate; and~~

~~(4) to conduct other enforcement activities as designated by the Secretary.~~

~~(b) JOINT ASSISTANCE PROGRAM PARTNERSHIP.—The Secretary—~~

~~(1) may partner with 1 or more household goods motor carrier industry groups to implement the joint assistance program under subsection (a); and~~

~~(2) shall ensure that each participating household goods motor carrier industry group—~~

~~(A) implements the joint assistance program in the best interest of the consumer;~~

~~(B) implements the joint assistance program in the public interest;~~

~~(C) accurately represents its financial interests in providing household goods mover services in the normal course of business and in assisting consumers resolving hostage situations;~~

~~(D) does not hold itself out or misrepresent itself as an agent of the Federal government;~~

~~(E) abides by Federal regulations and guidelines for the provision of assistance and receipt of compensation for household goods mover services; and~~

~~(F) accurately represents the Federal and State remedies that are available to consumers~~

~~for resolving interstate household goods hostage situations.~~

~~(c) REPORT.—The Secretary shall submit a report annually to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives providing a detailed description of the joint assistance program under subsection (a).~~

~~(d) PROHIBITION.—The joint assistance program under subsection (a) may not include the provision of funds by the United States to a consumer for lost, stolen, or damaged items.~~

~~SEC. 1005. HOUSEHOLD GOODS CONSUMER EDUCATION PROGRAM.~~

~~(a) TASK FORCE.—The Secretary of Transportation shall establish a task force to develop recommendations to ensure that a consumer is informed of Federal law concerning the transportation of household goods by a motor carrier, including recommendations—~~

~~(1) on how to condense publication ESA 03005 of the Federal Motor Carrier Safety Administration into a format that can be more easily used by a consumer; and~~

1 ~~(2) on the use of state-of-the-art education~~
2 ~~techniques and technologies, including the use of the~~
3 ~~Internet as an educational tool.~~
4 ~~(b) TASK FORCE MEMBERS.—The task force shall be~~
5 ~~comprised of—~~
6 ~~(1) individuals with expertise in consumer af-~~
7 ~~fairs;~~
8 ~~(2) educators with expertise in how people learn~~
9 ~~most effectively; and~~
10 ~~(3) representatives of the household goods mov-~~
11 ~~ing industry.~~
12 ~~(c) RECOMMENDATIONS.—Not later than 1 year after~~
13 ~~the date of enactment of this Act, the task force shall com-~~
14 ~~plete its recommendations under subsection (a). Not later~~
15 ~~than 1 year after the task force completes its rec-~~
16 ~~ommendations under subsection (a), the Secretary shall~~
17 ~~issue regulations implementing the recommendations, as~~
18 ~~appropriate.~~
19 ~~(d) FEDERAL ADVISORY COMMITTEE ACT EXEMP-~~
20 ~~TION.—The Federal Advisory Committee Act (5 U.S.C.~~
21 ~~App.) shall not apply to the task force.~~
22 ~~(e) TERMINATION.—The task force shall terminate 2~~
23 ~~years after the date of enactment of this Act.~~

~~TITLE XI—TECHNICAL AMENDMENTS~~

~~SEC. 1101. UPDATE OF OBSOLETE TEXT.~~

~~(a) Section 31137(e), as redesignated by section 301 of this Act, is amended by striking "Not later than December 1, 1990, the Secretary shall prescribe" and inserting "The Secretary shall maintain".~~

~~(b) Section 31151(a) is amended—~~

~~(1) by amending paragraph (1) to read as follows:~~

~~"(1) IN GENERAL.—The Secretary of Transportation shall maintain a program to ensure that intermodal equipment used to transport intermodal containers is safe and systematically maintained.";~~ ~~and~~

~~(2) by striking paragraph (4).~~

~~(c) Section 31307(b) is amended by striking "Not later than December 18, 1994, the Secretary shall prescribe" and inserting "The Secretary shall maintain".~~

~~(d) Section 31310(g)(1) is amended by striking "Not later than 1 year after the date of enactment of this Act, the" and inserting "The".~~

~~(e) Section 4123(f) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1736) is amended by striking "Not later~~

~~than 1 year after the date of enactment of this Act, the'' and inserting ''The''.~~

~~SEC. 1102. CORRECTION OF INTERSTATE COMMERCE COMMISSION REFERENCES.~~

~~(a) SAFETY INFORMATION AND INTERVENTION IN INTERSTATE COMMERCE COMMISSION PROCEEDINGS.—Chapter 3 is amended—~~

~~(1) by repealing section 307;~~

~~(2) in the analysis, by striking the item relating to section 307;~~

~~(3) in section 333(d)(1)(C), by striking ''Interstate Commerce Commission'' and inserting ''Surface Transportation Board''; and~~

~~(4) in section 333(e)—~~

~~(A) by striking ''Interstate Commerce Commission'' each place it appears and inserting ''Surface Transportation Board''; and~~

~~(B) by striking ''Commission'' each place it appears and inserting ''Board''.~~

~~(b) FILING AND PROCEDURE FOR APPLICATION TO ABANDON OR DISCONTINUE.—Section 10903(b)(2) is amended by striking ''24706(c) of this title'' and inserting ''24706(c) of this title before May 31, 1998''.~~

~~(c) RIGHTS AND REMEDIES OF PERSONS INJURED BY CARRIERS OR BROKERS.—~~

1 ~~(1) Section 14704 is amended—~~

2 ~~(A) in subsection (a)—~~

3 ~~(i) by striking "IN GENERAL.—" and~~

4 ~~all that follows through "injured" and in-~~

5 ~~serting "ENFORCEMENT OF ORDER.—A~~

6 ~~person injured"; and~~

7 ~~(ii) by redesignating paragraph (2) as~~

8 ~~subsection (b)(2); and~~

9 ~~(B) in subsection (b)—~~

10 ~~(i) by striking "LIABILITY AND DAM-~~

11 ~~AGES FOR EXCEEDING TARIFF RATE.—" and all that follows through "A carrier" and inserting "EXCEEDING TARIFF RATE.—(1) A carrier"; and~~

15 ~~(ii) by striking "DAMAGES FOR VIO-~~

16 ~~LATIONS.—" in paragraph (2), as redesig-~~

17 ~~nated, and inserting "OTHER VIOLA-~~

18 ~~TIONS.—".~~

19 ~~(2) Section 14705(c) is amended by striking~~

20 ~~"14704(b)" and substituting "14704(b)(2)".~~

21 ~~(d) TECHNICAL AMENDMENTS TO PART C OF SUB-~~

22 ~~TITLE V.—~~

23 ~~(1) Section 24307(b)(3) is amended by striking~~

24 ~~"Interstate Commerce Commission" and inserting~~

25 ~~"Surface Transportation Board".~~

~~(2) Section 24311 is amended—~~

~~(A) by striking "Interstate Commerce Commission" each place it appears and inserting "Surface Transportation Board"; and~~

~~(B) by striking "Commission" each place it appears and inserting "Board".~~

~~(3) Section 24902 is amended—~~

~~(A) by striking "Interstate Commerce Commission" each place it appears and inserting "Surface Transportation Board"; and~~

~~(B) by striking "Commission" each place it appears and inserting "Board".~~

~~(4) Section 24904 is amended—~~

~~(A) by striking "Interstate Commerce Commission" each place it appears and inserting "Surface Transportation Board"; and~~

~~(B) by striking "Commission" each place it appears and inserting "Board".~~

~~SEC. 1103. TECHNICAL AND CONFORMING AMENDMENTS.~~

~~(a) Section 14504a(c)(1) is amended—~~

~~(1) in subparagraph (C), by striking "sections" and inserting "section"; and~~

~~(2) in subparagraph (D)(ii)(II) by striking the period at the end and inserting "; and".~~

~~(b) Section 24305(a)(3)(1) is amended by striking "section 13902(b)(8)(A)" and inserting "section 13902(b)(9)(A)".~~

~~(c) Section 31103(a) is amended by striking "section 31102(b)(1)(E)" and inserting "section 31102(b)(2)(E)".~~

~~(d) Section 31103(b) is amended by striking "authorized by section 31104(f)(2)".~~

~~(e) Section 31309(b)(2) is amended by striking "31308(2)" and inserting "31308(3)".~~

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commercial Motor Vehicle Safety Enhancement Act of 2011".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definition.
Sec. 4. References to title 49, United States Code.

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Sec. 101. Registration of motor carriers.
Sec. 102. Safety fitness of new operators.
Sec. 103. Reincarnated carriers.
Sec. 104. Financial responsibility requirements.
Sec. 105. USDOT number registration requirement.
Sec. 106. Registration fee system.
Sec. 107. Registration update.
Sec. 108. Increased penalties for operating without registration.
Sec. 109. Revocation of registration for imminent hazard.
Sec. 110. Revocation of registration and other penalties for failure to respond to subpoena.
Sec. 111. Fleetwide out of service order for operating without required registration.
Sec. 112. Motor carrier and officer patterns of safety violations.
Sec. 113. Federal successor standard.

TITLE II—COMMERCIAL MOTOR VEHICLE SAFETY

Sec. 201. Repeal of commercial jurisdiction exception for brokers of motor carriers of passengers.
Sec. 202. Bus rentals and definition of employer.
Sec. 203. Crashworthiness standards.
Sec. 204. Canadian safety rating reciprocity.
Sec. 205. State reporting of foreign commercial driver convictions.
Sec. 206. Authority to disqualify foreign commercial drivers.
Sec. 207. Revocation of foreign motor carrier operating authority for failure to pay civil penalties.

TITLE III—DRIVER SAFETY

Sec. 301. Electronic on-board recording devices.
Sec. 302. Safety fitness.
Sec. 303. Driver medical qualifications.
Sec. 304. Commercial driver's license notification system.
Sec. 305. Commercial motor vehicle operator training.
Sec. 306. Commercial driver's license program.
Sec. 307. Commercial driver's license requirements.
Sec. 308. Commercial motor vehicle driver information systems.
Sec. 309. Disqualifications based on non-commercial motor vehicle operations.
Sec. 310. Federal driver disqualifications.
Sec. 311. Employer responsibilities.

TITLE IV—SAFE ROADS ACT OF 2011

Sec. 401. Short title.
Sec. 402. National clearinghouse for controlled substance and alcohol test results of commercial motor vehicle operators.
Sec. 403. Drug and alcohol violation sanctions.
Sec. 404. Authorization of appropriations.

TITLE V—ENFORCEMENT

Sec. 501. Inspection demand and display of credentials.
Sec. 502. Out of service penalty for denial of access to records.
Sec. 503. Penalties for violation of operation out of service orders.
Sec. 504. Minimum prohibition on operation for unfit carriers.
Sec. 505. Minimum out of service penalties.
Sec. 506. Impoundment and immobilization of commercial motor vehicles for imminent hazard.
Sec. 507. Increased penalties for evasion of regulations.
Sec. 508. Failure to pay civil penalty as a disqualifying offense.
Sec. 509. Violations relating to commercial motor vehicle safety regulation and operators.
Sec. 510. Emergency disqualification for imminent hazard.
Sec. 511. Intrastate operations of interstate motor carriers.
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TITLE VI—COMPLIANCE, SAFETY, ACCOUNTABILITY

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Sec. 801. Comprehensive truck size and weight limits study.
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TITLE IX—MISCELLANEOUS

Sec. 901. Detention time study.
Sec. 902. Prohibition of coercion.
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TITLE X—HOUSEHOLD GOODS TRANSPORTATION

Sec. 1001. Additional registration requirements for household goods motor carriers.
Sec. 1002. Failure to give up possession of household goods.
Sec. 1003. Settlement authority.
Sec. 1004. Household goods transportation assistance program.
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TITLE XI—TECHNICAL AMENDMENTS

Sec. 1101. Update of obsolete text.
Sec. 1102. Correction of interstate commerce commission references.
Sec. 1103. Technical and conforming amendments.

TITLE XII—SURFACE TRANSPORTATION AND FREIGHT POLICY ACT OF 2011

Sec. 1201. Short title.
Sec. 1202. Establishment of a national surface transportation and freight policy.
Sec. 1203. Surface transportation and freight strategic plan.
Sec. 1204. Transportation investment data and planning tools.
Sec. 1205. National freight infrastructure investment grants.
Sec. 1206. Port infrastructure development initiative.
Sec. 1207. Office of Freight Planning and Development.
Sec. 1208. Safety for motorized and nonmotorized users.

SEC. 3. DEFINITION.

In this Act, the term "Secretary" means the Secretary of Transportation.

SEC. 4. REFERENCES TO TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

TITLE I—COMMERCIAL MOTOR VEHICLE REGISTRATION

SEC. 101. REGISTRATION OF MOTOR CARRIERS.

(a) REGISTRATION REQUIREMENTS.—Section 13902(a)(1) is amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary of Transportation may not register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier unless the Secretary determines that the person—

"(A) is willing and able to comply with—

"(i) this part and the applicable regulations of the Secretary and the Board;

"(ii) any safety regulations imposed by the Secretary;

"(iii) the duties of employers and employees established by the Secretary under section 31135;

"(iv) the safety fitness requirements established by the Secretary under section 31144;

"(v) the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations (or successor regulations), for transportation provided by an over-the-road bus; and

"(vi) the minimum financial responsibility requirements established by the Secretary under sections 13906, 31138, and 31139;

"(B) has submitted a comprehensive management plan documenting that the person has management systems in place to ensure compli-

ance with safety regulations imposed by the Secretary;

"(C) has disclosed any relationship involving common ownership, common management, common control, or common familial relationship between that person and any other motor carrier, freight forwarder, or broker, or any other applicant for motor carrier, freight forwarder, or broker registration, or a successor (as that term is defined under section 31153), if the relationship occurred in the 5-year period preceding the date of the filing of the application for registration; and

"(D) after the Secretary establishes a written proficiency examination pursuant to section 101(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2011, has passed the written proficiency examination.".

(b) WRITTEN PROFICIENCY EXAMINATION.—

(1) ESTABLISHMENT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall establish a written proficiency examination for applicant motor carriers pursuant to section 13902(a)(1)(D). The written proficiency examination shall test a person's knowledge of applicable safety

regulations, standards, and orders of the Federal government and State government.

(2) ADDITIONAL FEE.—The Secretary may assess a fee to cover the expenses incurred by the Department of Transportation in—

(A) developing and administering the written proficiency examination; and

(B) reviewing the comprehensive management plan required under section 13902(a)(1)(B) of title 49, United States Code.

(c) CONFORMING AMENDMENT.—Section 210(b) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31144 note) is amended—

(1) by inserting ", commercial regulations, and provisions of subpart H of part 37 of title 49, Code of Federal Regulations, or successor regulations" after "applicable safety regulations"; and

(2) by striking "consider the establishment of" and inserting "establish".

SEC. 102. SAFETY FITNESS OF NEW OPERATORS.

(a) SAFETY REVIEWS OF NEW OPERATORS.—Section 31144(g)(1) is amended to read as follows:

"(1) SAFETY REVIEW.—

"(A) IN GENERAL.—The Secretary shall require, by regulation, each owner and each oper-

ator granted new registration under section 13902 or 31134 to undergo a safety review not later than 12 months after the owner or operator, as the case may be, begins operations under such registration.

"(B) PROVIDERS OF MOTORCOACH SERVICES.—The Secretary may register a person to provide motorcoach services under section 13902 or 31134 after the person undergoes a pre-authorization safety audit, including verification, in a manner sufficient to demonstrate the ability to comply with Federal rules and regulations, as described in section 13902. The Secretary shall continue to monitor the safety performance of each owner and each operator subject to this section for 12 months after the owner or operator is granted registration under section 13902 or 31134. The registration of each owner and each operator subject to this section shall become permanent after the motorcoach service provider is granted registration following a pre-authorization safety audit and the expiration of the 12 month monitoring period.

"(C) PRE-AUTHORIZATION SAFETY AUDIT.—The Secretary may require, by regula-

tion, that the pre-authorization safety audit under subparagraph (B) be completed on-site not later than 90 days after the submission of an application for operating authority.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 1 year after the date of enactment of this Act.

SEC. 103. REINCARNATED CARRIERS.

(a) EFFECTIVE PERIODS OF REGISTRATION.—

(1) SUSPENSIONS, AMENDMENTS, AND REVOCATIONS.—Section 13905(d) is amended—

(A) by redesignating paragraph (2) as paragraph (4);

(B) by striking paragraph (1) and inserting the following:

"(1) APPLICATIONS.—On application of the registrant, the Secretary may amend or revoke a registration.

"(2) COMPLAINTS AND ACTIONS ON SECRETARY'S OWN INITIATIVE.—On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may—

"(A) suspend, amend, or revoke any part of the registration of a motor carrier, broker, or

freight forwarder for willful failure to comply with—

"(i) this part;

"(ii) an applicable regulation or order of the Secretary or the Board, including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations (or successor regulations), for transportation provided by an over-the-road bus; or

"(iii) a condition of its registration;

"(B) withhold, suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for failure—

"(i) to pay a civil penalty imposed under chapter 5, 51, 149, or 311;

"(ii) to arrange and abide by an acceptable payment plan for such civil penalty, not later than 90 days after the date specified by order of the Secretary for the payment of such penalty; or

"(iii) for failure to obey a subpoena issued by the Secretary;

"(C) withhold, suspend, amend, or revoke any part of a registration of a motor carrier,

broker, or freight forwarder following a determination by the Secretary that the motor carrier, broker, or freight forwarder failed to disclose, in its application for registration, a material fact relevant to its willingness and ability to comply with—

"(i) this part;

"(ii) an applicable regulation or order of the Secretary or the Board; or

"(iii) a condition of its registration; or

"(D) withhold, suspend, amend, or revoke any part of a registration of a motor carrier, broker, or freight forwarder if the Secretary finds that—

"(i) the motor carrier, broker, or freight forwarder is or was related through common ownership, common management, common control, or common familial relationship to any other motor carrier, broker, or freight forwarder, or any other applicant for motor carrier, broker, or freight forwarder registration that the Secretary determines is or was unwilling or unable to comply with the relevant requirements listed in section 13902, 13903, or 13904; or

"(ii) the person is the successor, as defined in section 31153, to a person who is or was unwilling or unable to comply with the relevant requirements of section 13902, 13903, or 13904.

"(3) LIMITATION.—Paragraph (2)(B) shall not apply to a person who is unable to pay a civil penalty because the person is a debtor in a case under chapter 11 of title 11."; and

(C) in paragraph (4), as redesignated by section 103(a)(1)(A) of this Act, by striking "paragraph (1)(B)" and inserting "paragraph (2)(B)".

(2) PROCEDURE.—Section 13905(e) is amended by inserting "or if the Secretary determines that the registrant failed to disclose a material fact in an application for registration in accordance with subsection (d)(2)(C)," after "registrant,".

(b) INFORMATION SYSTEMS.—Section 31106(a)(3) is amended—

(1) in subparagraph (F), by striking "and" at the end;

(2) in subparagraph (G), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(H) determine whether a person or employer is or was related, through common ownership, common management, common control, or common familial relationship, to any other person, employer, or any other applicant for registration under section 13902 or 31134.".

SEC. 104. FINANCIAL RESPONSIBILITY REQUIREMENTS.

(a) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall—

(1) issue a report on the appropriateness of—

(A) the current minimum financial responsibility requirements under sections 31138 and 31139 of title 49, United States Code; and

(B) the current bond and insurance requirements under section 13904(d) of title 49, United States Code; and

(2) submit the report issued under paragraph (1) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(b) RULEMAKING.—Not later than 6 months after the publication of the report under subsection (a), the Secretary shall initiate a rulemaking—

(1) to revise the minimum financial responsibility requirements under sections 31138 and 31139 of title 49, United States Code and

(2) to revise the bond and insurance requirements under section 13904(d) of such title, as appropriate, based on the findings of the report submitted under subsection (a).

(c) DEADLINE.—Not later than 1 year after the start of the rulemaking under subsection (b), the Secretary shall—

(1) issue a final rule; or

(2) if the Secretary determines that a rulemaking is not required following the Secretary's analysis, submit a report stating the reason for not increasing the minimum financial responsibility requirements to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(d) BIENNIAL REVIEWS.—Not less than once every 2 years, the Secretary shall review the requirements prescribed under subsection (b) and revise the requirements, as appropriate.

SEC. 105. USDOT NUMBER REGISTRATION REQUIREMENT.

(a) IN GENERAL.—Chapter 311 is amended by inserting after section 31133 the following:

"§ 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 may withhold registration under subsection (a), after notice and an opportunity for a proceeding, if the Secretary determines that—

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

"(2) the employer or person is or was 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 is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1); or

"(3) the person is the successor, as defined in section 31153, to a person who is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1).

"(c) REVOCATION OR SUSPENSION OF REGISTRATION.—The Secretary shall revoke the registration of an employer or person 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 would be subject to revocation or suspension under sections 13905(d)(1) or 13905(f) of this title;

"(2) the employer or person is or was related 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);

"(3) the person is the successor, as defined in section 31153, to a person the Secretary determines is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1); or

"(4) the employer or person failed or 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 periodically or 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.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31133 the following:

"31134. Requirement for registration and USDOT number.".

SEC. 106. REGISTRATION FEE SYSTEM.

Section 13908(d)(1) is amended by striking "but shall not exceed $300".

SEC. 107. REGISTRATION UPDATE.

(a) PERIODIC MOTOR CARRIER UPDATE.—Section 13902 is amended by adding at the end the following:

"(h) UPDATE OF REGISTRATION.—The Secretary may require a registrant to update its registration under this section periodically or not later than 30 days after a change in the registrant's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.".

(b) PERIODIC FREIGHT FORWARDER UPDATE.—Section 13903 is amended by adding at the end the following:

"(c) UPDATE OF REGISTRATION.—The Secretary may require a freight forwarder to update its registration under this section periodically or not later than 30 days after a change in the freight forwarder's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.".

(c) PERIODIC BROKER UPDATE.—Section 13904 is amended by adding at the end the following:

"(e) UPDATE OF REGISTRATION.—The Secretary may require a broker to update its registration under this section periodically or not later than 30 days after a change in the broker's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.".

SEC. 108. INCREASED PENALTIES FOR OPERATING WITHOUT REGISTRATION.

(a) PENALTIES.—Section 14901(a) is amended—

(1) by striking "$500" and inserting "$1,000";

(2) by striking "who is not registered under this part to provide transportation of passengers,";

(3) by striking "with respect to providing transportation of passengers," and inserting "or section 13902(c) of this title,"; and

(4) by striking "$2,000 for each violation and each additional day the violation continues" and inserting "$10,000 for each violation, or $25,000 for each violation relating to providing transportation of passengers".

(b) TRANSPORTATION OF HAZARDOUS WASTES.—Section 14901(b) is amended by striking "not to exceed $20,000" and inserting "not less than $25,000".

SEC. 109. REVOCATION OF REGISTRATION FOR IMMINENT HAZARD.

Section 13905(f)(2) is amended to read as follows:

"(2) IMMINENT HAZARD TO PUBLIC HEALTH.—Notwithstanding subchapter II of chapter 5 of title 5, the Secretary shall revoke the registration of a motor carrier if the Secretary finds that the carrier is or was conducting unsafe operations that are or were an imminent hazard to public health or property.".

SEC. 110. REVOCATION OF REGISTRATION AND OTHER PENALTIES FOR FAILURE TO RESPOND TO SUBPOENA.

Section 525 is amended—

(1) by striking "subpenas" in the section heading and inserting "subpoenas";

(2) by striking "subpena" and inserting "subpoena";

(3) by striking "$100" and inserting "$1,000";

(4) by striking "$5,000" and inserting "$10,000"; and

(5) by adding at the end the following:

"The Secretary may withhold, suspend, amend, or revoke any part of the registration of a person required to register under chapter 139 for failing to obey a subpoena or requirement of the Secretary under this chapter to appear and testify or produce records.".

SEC. 111. FLEETWIDE OUT OF SERVICE ORDER FOR OPERATING WITHOUT REQUIRED REGISTRATION.

Section 13902(e)(1) is amended—

(1) by striking "motor vehicle" and inserting "motor carrier" after "the Secretary determines that a"; and

(2) by striking "order the vehicle" and inserting "order the motor carrier operations" after "the Secretary may".

SEC. 112. MOTOR CARRIER AND OFFICER PATTERNS OF SAFETY VIOLATIONS.

Section 31135 is amended—

(1) by striking subsection (b) and inserting the following:

"(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 noncompliance, 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 engaged in a pattern or practice of violating regulations prescribed under this subchapter, or assisted a motor carrier, employer, or owner or operator in avoiding compliance, or masking or otherwise concealing noncompliance, the Secretary may impose appropriate sanctions, subject to the limitations in paragraph (4), including—

"(A) suspension or revocation of registration granted to the officer individually under section 13902 or 31134;

"(B) temporary or permanent suspension or bar from association with any motor carrier, employer, or owner or operator registered under section 13902 or 31134; or

"(C) any appropriate sanction approved by the Secretary.

"(4) LIMITATIONS.—The sanctions described in subparagraphs (A) through (C) of subsection (b)(3) shall apply to—

"(A) intentional or knowing conduct, including reckless conduct that violates applicable laws (including regulations); and

"(B) repeated instances of negligent conduct that violates applicable laws (including regulations)."; and

(2) by striking subsection (c) and inserting the following:

"(c) AVOIDING COMPLIANCE.—For purposes of this section, 'avoiding compliance' or 'masking or otherwise concealing noncompliance' includes serving as an officer or otherwise exercising controlling influence over 2 or more motor carriers where—

"(1) one of the carriers was placed out of service, or received notice from the Secretary that it will be placed out of service, following—

"(A) a determination of unfitness under section 31144(b);

"(B) a suspension or revocation of registration under section 13902, 13905, or 31144(g);

"(C) issuance of an imminent hazard out of service order under section 521(b)(5) or section 5121(d); or

"(D) notice of failure to pay a civil penalty or abide by a penalty payment plan; and

"(2) one or more of the carriers is the 'successor,' as that term is defined in section 31153, to the carrier that is the subject of the action in paragraph (1).".

SEC. 113. FEDERAL SUCCESSOR STANDARD.

(a) IN GENERAL.—Chapter 311 is amended by adding after section 31152, as added by section 508 of this Act, the following:

"§ 31153. Federal successor standard

"(a) FEDERAL SUCCESSOR STANDARD.—Notwithstanding any other provision of Federal or State law, the Secretary may take an action authorized under chapters 5, 51, 131 through 149, subchapter III of chapter 311 (except sections 31138 and 31139), or sections 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title, or a regulation issued under any of those provisions, against a successor of a motor carrier (as defined in section 13102), a successor of an employer (as defined in section 31132), or a successor of an owner or operator (as that term is used in subchapter III of chapter 311), to the same extent and on the same basis as the Secretary may take the action against the motor carrier, employer, or owner or operator.

"(b) SUCCESSOR DEFINED.—For purposes of this section, the term 'successor' means a motor carrier, employer, or owner or operator that the Secretary determines, after

notice and an opportunity for a proceeding, has 1 or more features that correspond closely with the features of another existing or former motor carrier, employer, or owner or operator, such as—

"(1) consideration paid for assets purchased or transferred;

"(2) dates of corporate creation and dissolution or termination of operations;

"(3) commonality of ownership;

"(4) commonality of officers and management personnel and their functions;

"(5) commonality of drivers and other employees;

"(6) identity of physical or mailing addresses, telephone, fax numbers, or e-mail addresses;

"(7) identity of motor vehicle equipment;

"(8) continuity of liability insurance policies;

"(9) commonality of coverage under liability insurance policies;

"(10) continuation of carrier facilities and other physical assets;

"(11) continuity of the nature and scope of operations, including customers;

"(12) commonality of the nature and scope of operations, including customers;

"(13) advertising, corporate name, or other acts through which the motor carrier, employer, or owner or operator holds itself out to the public;

"(14) history of safety violations and pending orders or enforcement actions of the Secretary; and

"(15) additional factors that the Secretary considers appropriate.

"(c) EFFECTIVE DATE.—Notwithstanding any other provision of law, this section shall apply to any action commenced on or after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2011 without regard to whether the violation that is the subject of the action, or the conduct that caused the violation, occurred before the date of enactment.

"(d) RIGHTS NOT AFFECTED.—Nothing in this section shall affect the rights, functions, or responsibilities under law of any other Department, Agency, or instrumentality of the United States, the laws of any State, or any rights between a private party and a motor carrier, employer, or owner or operator.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item related to section 31152, as added by section 508 of this Act, the following:

"31153. Federal successor standard.".

TITLE II—COMMERCIAL MOTOR VEHICLE SAFETY

SEC. 201. REPEAL OF COMMERCIAL JURISDICTION EXCEPTION FOR BROKERS OF MOTOR CARRIERS OF PASSENGERS.

(a) IN GENERAL.—Section 13506(a) is amended—

(1) by inserting "or" at the end of paragraph (13);

(2) by striking paragraph (14); and

(3) by redesignating paragraph (15) as paragraph (14).

(b) CONFORMING AMENDMENT.—Section 13904(a) is amended by striking "of property" in the first sentence.

SEC. 202. BUS RENTALS AND DEFINITION OF EMPLOYER.

Paragraph (3) of section 31132 is amended to read as follows:

"(3) 'employer'—

"(A) means a person engaged in a business affecting interstate commerce that—

"(i) owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate the commercial motor vehicle; or

"(ii) offers for rent or lease a motor vehicle designed or used to transport more

than 8 passengers, including the driver, and from the same location or as part of the same business provides names or contact information of drivers, or holds itself out to the public as a charter bus company; but

"(B) does not include the Government, a State, or a political subdivision of a State.".

SEC. 203. CRASHWORTHINESS STANDARDS.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall conduct a comprehensive analysis on the need for crashworthiness standards on property-carrying commercial motor vehicles with a gross vehicle weight rating or gross vehicle weight of at least 26,001 pounds involved in interstate commerce, including an evaluation of the need for roof strength, pillar strength, air bags, and frontal and back wall standards.

(b) REPORT.—Not later than 90 days after completing the comprehensive analysis under subsection (a), the Secretary shall report the results of the analysis and any recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 204. CANADIAN SAFETY RATING RECIPROCITY.

Section 31144 is amended by adding at the end the following:

"(h) RECOGNITION OF CANADIAN MOTOR CARRIER SAFETY FITNESS DETERMINATIONS.—

"(1) If an authorized agency of the Canadian federal government or a Canadian Territorial or Provincial government determines, by applying the procedure and standards prescribed by the Secretary under subsection (b) or pursuant to an agreement under paragraph (2), that a Canadian employer is unfit and prohibits the employer from operating a commercial motor vehicle in Canada or any Canadian Province, the Secretary may prohibit the employer from operating such vehicle in interstate and foreign commerce until the authorized Canadian agency determines that the employer is fit.

"(2) The Secretary may consult and participate in negotiations with authorized officials of the Canadian federal government or a Canadian Territorial or Provincial government, as necessary, to provide reciprocal recognition of each country's motor carrier safety fitness determinations. An agreement shall provide, to the maximum extent practicable, that each country will follow the procedure and standards prescribed by

the Secretary under subsection (b) in making motor carrier safety fitness determinations.".

SEC. 205. STATE REPORTING OF FOREIGN COMMERCIAL DRIVER CONVICTIONS.

(a) DEFINITION OF FOREIGN COMMERCIAL DRIVER.—Section 31301 is amended—

(1) by redesignating paragraphs (10) through (14) as paragraphs (11) through (15), respectively; and

(2) by inserting after paragraph (9) the following:

"(10) 'foreign commercial driver' means an individual licensed to operate a commercial motor vehicle by an authority outside the United States, or a citizen of a foreign country who operates a commercial motor vehicle in the United States.".

(b) STATE REPORTING OF CONVICTIONS.—Section 31311(a) is amended by adding after paragraph (21) the following:

"(22) The State shall report a conviction of a foreign commercial driver by that State to the Federal Convictions and Withdrawal Database, or another information system designated by the Secretary to record the convictions. A report shall include—

"(A) for a driver holding a foreign commercial driver's license—

"(i) each conviction relating to the operation of a commercial motor vehicle; and

"(ii) a non-commercial motor vehicle; and

"(B) for an unlicensed driver or a driver holding a foreign non-commercial driver's license, each conviction for operating a commercial motor vehicle.".

SEC. 206. AUTHORITY TO DISQUALIFY FOREIGN COMMERCIAL DRIVERS.

Section 31310 is amended by adding at the end the following:

"(k) FOREIGN COMMERCIAL DRIVERS.—A foreign commercial driver shall be subject to disqualification under this section.".

SEC. 207. REVOCATION OF FOREIGN MOTOR CARRIER OPERATING AUTHORITY FOR FAILURE TO PAY CIVIL PENALTIES.

Section 13905(d)(2), as amended by section 103(a) of this Act, is amended by inserting "foreign motor carrier, foreign motor private carrier," after "registration of a motor carrier," each place it appears.

TITLE III—DRIVER SAFETY

SEC. 301. ELECTRONIC ON-BOARD RECORDING DEVICES.

(a) GENERAL AUTHORITY.—Section 31137 is amended—

(1) by amending the section heading to read as follows:

"§ 31137. Electronic on-board recording devices and brake maintenance regulations";

(2) by redesignating subsection (b) as subsection (e); and

(3) by amending (a) to read as follows:

"(a) ELECTRONIC ON-BOARD RECORDING DEVICES.—Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2011, the Secretary of Transportation shall prescribe regulations—

"(1) requiring a commercial motor vehicle involved in interstate commerce and operated by a driver subject to the hours of service and the record of duty status requirements under part 395 of title 49, Code of Federal Regulations, be equipped with an electronic on-board recording device to improve compliance by an operator of a vehicle with hours of service regulations prescribed by the Secretary; and

"(2) ensuring that an electronic on-board recording device is not used to harass a vehicle operator.

"(b) ELECTRONIC ON-BOARD RECORDING DEVICE REQUIREMENTS.—

"(1) IN GENERAL.—The regulations prescribed under subsection (a) shall—

"(A) require an electronic on-board recording device—

"(i) to accurately record commercial driver hours of service;

"(ii) to record the location of a commercial motor vehicle;

"(iii) to be tamper resistant; and

"(iv) to be integrally synchronized with an engine's control module;

"(B) allow law enforcement to access the data contained in the device during a roadside inspection; and

"(C) apply to a commercial motor vehicle beginning on the date that is 2 years after the date that the regulations are published as a final rule.

"(2) PERFORMANCE AND DESIGN STANDARDS.—The regulations prescribed under subsection (a) shall establish performance standards—

"(A) defining a standardized user interface to aid vehicle operator compliance and law enforcement review;

"(B) establishing a secure process for standardized—

"(i) and unique vehicle operator identification;

"(ii) data access;

"(iii) data transfer for vehicle operators between motor vehicles;

"(iv) data storage for a motor carrier; and

"(v) data transfer and transportability for law enforcement officials;

"(C) establishing a standard security level for an electronic on-board recording device and related components to be tamper resistant by using a methodology endorsed by a nationally recognized standards organization; and

"(D) identifying each driver subject to the hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.

"(c) CERTIFICATION CRITERIA.—

"(1) IN GENERAL.—The regulations prescribed by the Secretary under this section shall establish the criteria and a process for the certification of an electronic on-board recording device to ensure that the device meets the performance requirements under this section.

"(2) EFFECT OF NONCERTIFICATION.—An electronic on-board recording device that is not certified in accordance with the certification process referred to in paragraph (1) shall not be acceptable evidence of hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.

"(d) ELECTRONIC ON-BOARD RECORDING DEVICE DEFINED.—In this section, the term 'electronic on-board recording device' means an electronic device that—

"(1) is capable of recording a driver's hours of service and duty status accurately and automatically; and

"(2) meets the requirements established by the Secretary through regulation.".

(b) CIVIL PENALTIES.—Section 30165(a)(1) is amended by striking "or 30141 through 30147" and inserting "30141 through 30147, or 31137".

(c) CONFORMING AMENDMENT.—The analysis for chapter 311 is amended by striking the item relating to section 31137 and inserting the following:

"31137. Electronic on-board recording devices and brake maintenance regulations.".

SEC. 302. SAFETY FITNESS.

(a) SAFETY FITNESS RATING METHODOLOGY.—The Secretary shall—

(1) incorporate into its Compliance, Safety, Accountability program a safety fitness rating methodology that assigns sufficient weight to adverse vehicle and driver performance based-data that elevate crash risks to warrant an unsatisfactory rating for a carrier; and

(2) ensure that the data to support such assessments is accurate.

(b) INTERIM MEASURES.—Not later than March 31, 2012, the Secretary shall take interim measures to implement a similar safety fitness rating methodology in its current safety rating system if the Compliance, Safety, Accountability program is not fully implemented.

SEC. 303. DRIVER MEDICAL QUALIFICATIONS.

(a) DEADLINE FOR ESTABLISHMENT OF NATIONAL REGISTRY OF MEDICAL EXAMINERS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a national registry of medical examiners in

accordance with section 31149(d)(1) of title 49, United States Code.

(b) EXAMINATION REQUIREMENT FOR NATIONAL REGISTRY OF MEDICAL EXAMINERS.—Section 31149(c)(1)(D) is amended to read as follows:

"(D) not later than 1 year after enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2011, develop requirements for a medical examiner to be listed in the national registry under this section, including—

"(i) the completion of specific courses and materials;

"(ii) certification, including self-certification, if the Secretary determines that self-certification is necessary for sufficient participation in the national registry, to verify that a medical examiner completed specific training, including refresher courses, that the Secretary determines necessary to be listed in the national registry;

"(iii) an examination that requires a passing grade; and

"(iv) demonstration of a medical examiner's willingness to meet the reporting requirements established by the Secretary;".

(c) ADDITIONAL OVERSIGHT OF LICENSING AUTHORITIES.—

(1) IN GENERAL.—Section 31149(c)(1) is amended—

(A) in subparagraph (E), by striking "and" after the semicolon;

(B) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(G) annually review the implementation of commercial driver's license requirements by not fewer than 10 States to assess the accuracy, validity, and timeliness of—

"(i) the submission of physical examination reports and medical certificates to State licensing agencies; and

"(ii) the processing of the submissions by State licensing agencies.".

(2) INTERNAL OVERSIGHT POLICY.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall establish an oversight policy and procedure to carry out section 31149(c)(1)(G) of title 49, United States Code, as added by section 303(c)(1) of this Act.

(B) EFFECTIVE DATE.—The amendments made by section 303(c)(1) of this Act shall take effect on the date the oversight policies and procedures are established pursuant to subparagraph (A).

(d) ELECTRONIC FILING OF MEDICAL EXAMINATION CERTIFICATES.—Section 31311(a), as amended by sections 205(b) and 306(b) of this Act, is amended by adding at the end the following:

"(24) Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2011, the State shall establish and maintain, as part of its driver information system, the capability to receive an electronic copy of a medical examiner's certificate, from a certified medical examiner, for each holder of a commercial driver's license issued by the State who operates or intends to operate in interstate commerce.".

(e) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Of the funds provided for Data and Technology Grants under section 31104(a) of title 49, United States Code, there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary to make grants to

States or an organization representing agencies and officials of the States to support development costs of the information technology needed to carry out section 31311(a)(24) of title 49, United States Code, up to $1 million for fiscal year 2012 and up to $1 million for fiscal year 2013.

(2) PERIOD OF AVAILABILITY.—The amounts made available under this subsection shall remain available until expended.

SEC. 304. COMMERCIAL DRIVER'S LICENSE NOTIFICATION SYSTEM.

(a) IN GENERAL.—Section 31304 is amended—

(1) by striking "An employer" and inserting the following:

"(a) IN GENERAL.—An employer"; and

(2) by adding at the end the following:

"(b) DRIVER VIOLATION RECORDS.—

"(1) PERIODIC REVIEW.—Except as provided in paragraph (3), an employer shall ascertain the driving record of each driver it employs—

"(A) by making an inquiry at least once every 12 months to the appropriate State agency in which the driver held or holds a commercial driver's license or permit during such time period;

"(B) by receiving occurrence-based reports of changes in the status of a driver's record from 1 or more driver record notification systems that meet minimum standards issued by the Secretary; or

"(C) by a combination of inquiries to States and reports from driver record notification systems.

"(2) RECORD KEEPING.—A copy of the reports received under paragraph (1) shall be maintained in the driver's qualification file.

"(3) EXCEPTIONS TO RECORD REVIEW REQUIREMENT.—Paragraph (1) shall not apply to a driver employed by an employer who, in any 7-day period, is employed or used as a driver by more than 1 employer—

"(A) if the employer obtains the driver's identification number, type, and issuing State of the driver's commercial motor vehicle license; or

"(B) if the information described in subparagraph (A) is furnished by another employer and the employer that regularly employs the driver meets the other requirements under this section.

"(4) DRIVER RECORD NOTIFICATION SYSTEM DEFINED.—In this section, the term 'driver record notification system' means a system that automatically furnishes an employer with a report, generated by the appropriate agency of a State, on the change in the status of an employee's driver's license due to a conviction for a moving violation, a failure to appear, an accident, driver's license suspension, driver's license revocation, or any other action taken against the driving privilege.".

(b) STANDARDS FOR DRIVER RECORD NOTIFICATION SYSTEMS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue minimum standards for driver notification systems, including standards for the accuracy, consistency, and completeness of the information provided.

(c) PLAN FOR NATIONAL NOTIFICATION SYSTEM.—

(1) DEVELOPMENT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall develop recommendations and a plan for the development and implementation of a national driver record notification system, including—

(A) an assessment of the merits of achieving a national system by expanding the Commercial Driver's License Information System; and

(B) an estimate of the fees that an employer will be charged to offset the operating costs of the national system.

(2) SUBMISSION TO CONGRESS.—Not later than 90 days after the recommendations and plan are developed under paragraph (1), the Secretary shall submit a report on the recommendations and plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 305. COMMERCIAL MOTOR VEHICLE OPERATOR TRAINING.

(a) IN GENERAL.—Section 31305 is amended by adding at the end the following:

"(c) STANDARDS FOR TRAINING.—Not later than 6 months after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2011, the Secretary shall issue final regulations establishing minimum entry-level training requirements for an individual operating a commercial motor vehicle—

"(1) addressing the knowledge and skills that—

"(A) are necessary for an individual operating a commercial motor vehicle to safely operate a commercial motor vehicle; and

"(B) must be acquired before obtaining a commercial driver's license for the first time or upgrading from one class of commercial driver's license to another class;

"(2) addressing the specific training needs of a commercial motor vehicle operator seeking passenger or hazardous materials endorsements, including for an operator seeking a passenger endorsement training—

"(A) to suppress motorcoach fires; and

"(B) to evacuate passengers from motorcoaches safely;

"(3) requiring effective instruction to acquire the knowledge, skills, and training referred to in paragraphs (1) and (2), including classroom and behind-the-wheel instruction;

"(4) requiring certification that an individual operating a commercial motor vehicle meets the requirements established by the Secretary; and

"(5) requiring a training provider (including a public or private driving school, motor carrier, or owner or operator of a commercial motor vehicle) that offers training that results in the issuance of a certification to an individual under paragraph (4) to demonstrate that the training meets the requirements of

the regulations, through a process established by the Secretary.".

(b) COMMERCIAL DRIVER'S LICENSE UNIFORM STANDARDS.—Section 31308(1) is amended to read as follows:

"(1) an individual issued a commercial driver's license—

"(A) pass written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards prescribed by the Secretary under section 31305(a); and

"(B) present certification of completion of driver training that meets the requirements established by the Secretary under section 31305(c);".

(c) CONFORMING AMENDMENT.—The section heading for section 31305 is amended to read as follows:

"§ 31305. General driver fitness, testing, and training".

(d) CONFORMING AMENDMENT.—The analysis for chapter 313 is amended by striking the item relating to section 31305 and inserting the following:

"31305. General driver fitness, testing, and training.".

SEC. 306. COMMERCIAL DRIVER'S LICENSE PROGRAM.

(a) IN GENERAL.—Section 31309 is amended—

(1) in subsection (e)(4), by amending subparagraph (A) to read as follows:

"(A) IN GENERAL.—The plan shall specify—

"(i) a date by which all States shall be operating commercial driver's license information systems that are compatible with the modernized information system under this section; and

"(ii) that States must use the systems to receive and submit conviction and disqualification data."; and

(2) in subsection (f), by striking "use" and inserting "use, subject to section 31313(a),".

(b) REQUIREMENTS FOR STATE PARTICIPATION.—Section 31311 is amended—

(1) in subsection (a), as amended by section 205(b) of this Act—

(A) in paragraph (5), by striking "At least" and all that follows through "regulation)," and inserting: "Not later than the time period prescribed by the Secretary by regulation,"; and

(B) by adding at the end the following:

"(23) Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2011, the State shall implement a system and practices for the exclusive electronic ex-

change of driver history record information on the system the Secretary maintains under section 31309, including the posting of convictions, withdrawals, and disqualifications.”; and

(2) by adding at the end the following:

“(d) CRITICAL REQUIREMENTS.—

“(1) IDENTIFICATION OF CRITICAL REQUIREMENTS.—After reviewing the requirements under subsection (a), including the regulations issued pursuant to subsection (a) and section 31309(e)(4), the Secretary shall identify the requirements that are critical to an effective State commercial driver’s license program.

“(2) GUIDANCE.—Not later than 180 days after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2011, the Secretary shall issue guidance to assist States in complying with the critical requirements identified under paragraph (1). The guidance shall include a description of the actions that each State must take to collect and share accurate and complete data in a timely manner.

“(e) STATE COMMERCIAL DRIVER’S LICENSE PROGRAM PLAN.—

"(1) IN GENERAL.—Not later than 180 days after the Secretary issues guidance under subsection (d)(2), a State shall submit a plan to the Secretary for complying with the requirements under this section during the period beginning on the date the plan is submitted and ending on September 30, 2016.

"(2) CONTENTS.—A plan submitted by a State under paragraph (1) shall identify—

"(A) the actions that the State will take to comply with the critical requirements identified under subsection (d)(1);

"(B) the actions that the State will take to address any deficiencies in the State's commercial driver's license program, as identified by the Secretary in the most recent audit of the program; and

"(C) other actions that the State will take to comply with the requirements under subsection (a).

"(3) PRIORITY.—

"(A) IMPLEMENTATION SCHEDULE.—A plan submitted by a State under paragraph (1) shall include a schedule for the implementation of the actions identified under paragraph (2). In establishing the schedule, the State shall prioritize the

actions identified under paragraphs (2)(A) and (2)(B).

"(B) DEADLINE FOR COMPLIANCE WITH CRITICAL REQUIREMENTS.—A plan submitted by a State under paragraph (1) shall include assurances that the State will take the necessary actions to comply with the critical requirements pursuant to subsection (d) not later than September 30, 2015.

"(4) APPROVAL AND DISAPPROVAL.—The Secretary shall—

"(A) review each plan submitted under paragraph (1);

"(B) approve a plan that the Secretary determines meets the requirements under this subsection and promotes the goals of this chapter; and

"(C) disapprove a plan that the Secretary determines does not meet the requirements or does not promote the goals.

"(5) MODIFICATION OF DISAPPROVED PLANS.—If the Secretary disapproves a plan under paragraph (4)(C), the Secretary shall—

"(A) provide a written explanation of the disapproval to the State; and

"(B) allow the State to modify the plan and resubmit it for approval.

"(6) PLAN UPDATES.—The Secretary may require a State to review and update a plan, as appropriate.

"(f) ANNUAL COMPARISON OF STATE LEVELS OF COMPLIANCE.—The Secretary shall annually—

"(1) compare the relative levels of compliance by States with the requirements under subsection (a); and

"(2) make the results of the comparison available to the public.".

(c) DECERTIFICATION AUTHORITY.—Section 31312 is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

"(b) DEADLINE FOR COMPLIANCE WITH CRITICAL REQUIREMENTS.—Beginning on October 1, 2016, in making a determination under subsection (a), the Secretary shall consider a State to be in substantial noncompliance with this chapter if the Secretary determines that—

"(1) the State is not complying with a critical requirement under section 31311(d)(1); and

"(2) sufficient grant funding was made available to the State under section 31313(a) to comply with the requirement.".

SEC. 307. COMMERCIAL DRIVER'S LICENSE REQUIREMENTS.

(a) LICENSING STANDARDS.—Section 31305(a)(7) is amended by inserting "would not be subject to a disqualification under section 31310(g) of this title and" after "taking the tests".

(b) DISQUALIFICATIONS.—Section 31310(g)(1) is amended by deleting "who holds a commercial driver's license and".

SEC. 308. COMMERCIAL MOTOR VEHICLE DRIVER INFORMATION SYSTEMS.

Section 31106(c) is amended—

(1) by striking the subsection heading and inserting "(1) IN GENERAL.—";

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D); and

(3) by adding at the end the following:

"(2) ACCESS TO RECORDS.—The Secretary may require a State, as a condition of an award of grant money under this section, to provide the Secretary access to all State licensing status and driver history records via an electronic information system, subject to section 2721 of title 18.".

SEC. 309. DISQUALIFICATIONS BASED ON NON-COMMERCIAL MOTOR VEHICLE OPERATIONS.

(a) FIRST OFFENSE.—Section 31310(b)(1)(D) is amended by deleting "commercial" after "revoked, suspended, or canceled based on the individual's operation of a," and before "motor vehicle".

(b) SECOND OFFENSE.—Section 31310(c)(1)(D) is amended by deleting "commercial" after "revoked, suspended, or canceled based on the individual's operation of a," and before "motor vehicle".

SEC. 310. FEDERAL DRIVER DISQUALIFICATIONS.

(a) DISQUALIFICATION DEFINED.—Section 31301, as amended by section 205 of this Act, is amended—

(1) by redesignating paragraphs (6) through (15) as paragraphs (7) through (16), respectively; and

(2) by inserting after paragraph (5) the following:

"(6) 'Disqualification' means—

"(A) the suspension, revocation, or cancellation of a commercial driver's license by the State of issuance;

"(B) a withdrawal of an individual's privilege to drive a commercial motor vehicle by a State or other jurisdiction as the result of a violation of State or local law relating to motor ve-

hicle traffic control, except for a parking, vehicle weight, or vehicle defect violation;

"(C) a determination by the Secretary that an individual is not qualified to operate a commercial motor vehicle; or

"(D) a determination by the Secretary that a commercial motor vehicle driver is unfit under section 31144(g).".

(b) COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM CONTENTS.—Section 31309(b)(1)(F) is amended by inserting after "disqualified" the following: "by the State that issued the individual a commercial driver's license, or by the Secretary,".

(c) STATE ACTION ON FEDERAL DISQUALIFICATION.—Section 31310(h) is amended by inserting after the first sentence the following:

"If the State has not disqualified the individual from operating a commercial vehicle under subsections (b) through (g), the State shall disqualify the individual if the Secretary determines under section 31144(g) that the individual is disqualified from operating a commercial motor vehicle.".

SEC. 311. EMPLOYER RESPONSIBILITIES.

Section 31304, as amended by section 304 of this Act, is amended in subsection (a)—

(1) by striking "knowingly"; and

(2) by striking "in which" and inserting "that the employer knows or should reasonably know that".

TITLE IV—SAFE ROADS ACT OF 2011

SEC. 401. SHORT TITLE.

This title may be cited as the "Safe Roads Act of 2011".

SEC. 402. NATIONAL CLEARINGHOUSE FOR CONTROLLED SUBSTANCE AND ALCOHOL TEST RESULTS OF COMMERCIAL MOTOR VEHICLE OPERATORS.

(a) IN GENERAL.—Chapter 313 is amended—

(1) in section 31306(a), by inserting "and section 31306a" after "this section"; and

(2) by inserting after section 31306 the following:

"§ 31306a. National clearinghouse for controlled substance and alcohol test results of commercial motor vehicle operators

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Safe Roads Act of 2011, the Secretary of Transportation shall establish a national clearinghouse for records relating to alcohol

and controlled substances testing of commercial motor vehicle operators.

"(2) PURPOSES.—The purposes of the clearinghouse shall be—

"(A) to improve compliance with the Department of Transportation's alcohol and controlled substances testing program applicable to commercial motor vehicle operators;

"(B) to facilitate access to information about an individual before employing the individual as a commercial motor vehicle operator;

"(C) to enhance the safety of our United States roadways by reducing accident fatalities involving commercial motor vehicles; and

"(D) to reduce the number of impaired commercial motor vehicle operators.

"(3) CONTENTS.—The clearinghouse shall function as a repository for records relating to the positive test results and test refusals of commercial motor vehicle operators and violations by such operators of prohibitions set forth in subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

"(4) ELECTRONIC EXCHANGE OF RECORDS.—The Secretary shall ensure that records can be electroni-

cally submitted to, and requested from, the clearinghouse by authorized users.

"(5) AUTHORIZED OPERATOR.—The Secretary may authorize a qualified and experienced private entity to operate and maintain the clearinghouse and to collect fees on behalf of the Secretary under subsection (e). The entity shall establish, operate, maintain and expand the clearinghouse and permit access to driver information and records from the clearinghouse in accordance with this section.

"(b) DESIGN OF CLEARINGHOUSE.—

"(1) USE OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION RECOMMENDATIONS.—In establishing the clearinghouse, the Secretary shall consider—

"(A) the findings and recommendations contained in the Federal Motor Carrier Safety Administration's March 2004 report to Congress required under section 226 of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31306 note); and

"(B) the findings and recommendations contained in the Government Accountability Office's May 2008 report to Congress entitled 'Motor Carrier Safety: Improvements to Drug

Testing Programs Could Better Identify Illegal Drug Users and Keep Them off the Road.'.

"(2) DEVELOPMENT OF SECURE PROCESSES.—In establishing the clearinghouse, the Secretary shall develop a secure process for—

"(A) administering and managing the clearinghouse in compliance with applicable Federal security standards;

"(B) registering and authenticating authorized users of the clearinghouse;

"(C) registering and authenticating persons required to report to the clearinghouse under subsection (g);

"(D) preventing the unauthorized access of information from the clearinghouse;

"(E) storing and transmitting data;

"(F) persons required to report to the clearinghouse under subsection (g) to timely and accurately submit electronic data to the clearinghouse;

"(G) generating timely and accurate reports from the clearinghouse in response to requests for information by authorized users; and

"(H) updating an individual's record upon completion of the return-to-duty process described in title 49, Code of Federal Regulations.

"(3) EMPLOYER ALERT OF POSITIVE TEST RESULT.—In establishing the clearinghouse, the Secretary shall develop a secure method for electronically notifying an employer of each additional positive test result or other noncompliance—

"(A) for an employee, that is entered into the clearinghouse during the 7-day period immediately following an employer's inquiry about the employee; and

"(B) for an employee who is listed as having multiple employers.

"(4) ARCHIVE CAPABILITY.—In establishing the clearinghouse, the Secretary shall develop a process for archiving all clearinghouse records, including the depositing of personal records, records relating to each individual in the database, and access requests for personal records, for the purposes of—

"(A) auditing and evaluating the timeliness, accuracy, and completeness of data in the clearinghouse; and

"(B) auditing to monitor compliance and enforce penalties for noncompliance.

"(5) FUTURE NEEDS.—

"(A) INTEROPERABILITY WITH OTHER DATA SYSTEMS.—In establishing the clearinghouse, the Secretary shall consider—

"(i) the existing data systems containing regulatory and safety data for commercial motor vehicle operators;

"(ii) the efficacy of using or combining clearinghouse data with 1 or more of such systems; and

"(iii) the potential interoperability of the clearinghouse with such systems.

"(B) SPECIFIC CONSIDERATIONS.—In carrying out subparagraph (A), the Secretary shall determine—

"(i) the clearinghouse's capability for interoperability with—

"(I) the National Driver Register established under section 30302;

"(II) the Commercial Driver's License Information System established under section 31309;

"(III) the Motor Carrier Management Information System for pre-

employment screening services under section 31150; and

"(IV) other data systems, as appropriate; and

"(ii) any change to the administration of the current testing program, such as forms, that is necessary to collect data for the clearinghouse.

"(c) STANDARD FORMATS.—The Secretary shall develop standard formats to be used—

"(1) by an authorized user of the clearinghouse to—

"(A) request a record from the clearinghouse; and

"(B) obtain the consent of an individual who is the subject of a request from the clearinghouse, if applicable; and

"(2) to notify an individual that a positive alcohol or controlled substances test result, refusing to test, and a violation of any of the prohibitions under subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations), will be reported to the clearinghouse.

"(d) PRIVACY.—A release of information from the clearinghouse shall—

"(1) comply with applicable Federal privacy laws, including the fair information practices under the Privacy Act of 1974 (5 U.S.C. 552a);

"(2) comply with applicable sections of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); and

"(3) not be made to any person or entity unless expressly authorized or required by law.

"(e) FEES.—

"(1) AUTHORITY TO COLLECT FEES.—Except as provided under paragraph (3), the Secretary may collect a reasonable, customary, and nominal fee from an authorized user of the clearinghouse for a request for information from the clearinghouse.

"(2) USE OF FEES.—Fees collected under this subsection shall be used for the operation and maintenance of the clearinghouse.

"(3) LIMITATION.—The Secretary may not collect a fee from an individual requesting information from the clearinghouse that pertains to the record of that individual.

"(f) EMPLOYER REQUIREMENTS.—

"(1) DETERMINATION CONCERNING USE OF CLEARINGHOUSE.—The Secretary shall determine if an employer is authorized to use the clearinghouse to meet the alcohol and controlled substances testing re-

quirements under title 49, Code of Federal Regulations.

"(2) APPLICABILITY OF EXISTING REQUIREMENTS.—Each employer and service agent shall comply with the alcohol and controlled substances testing requirements under title 49, Code of Federal Regulations.

"(3) EMPLOYMENT PROHIBITIONS.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), an employer shall not hire an individual to operate a commercial motor vehicle unless the employer determines that the individual, during the preceding 3-year period—

"(A) if tested for the use of alcohol and controlled substances, as required under title 49, Code of Federal Regulations—

"(i) did not test positive for the use of alcohol or controlled substances in violation of the regulations; or

"(ii) tested positive for the use of alcohol or controlled substances and completed the required return-to-duty process under title 49, Code of Federal Regulations;

"(B)(i) did not refuse to take an alcohol or controlled substance test under title 49, Code of Federal Regulations; or

"(ii) refused to take an alcohol or controlled substance test and completed the required return-to-duty process under title 49, Code of Federal Regulations; and

"(C) did not violate any other provision of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

"(4) ANNUAL REVIEW.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), an employer shall request and review a commercial motor vehicle operator's record from the clearinghouse annually for as long as the commercial motor vehicle operator is under the employ of the employer.

"(g) REPORTING OF RECORDS.—

"(1) IN GENERAL.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), a medical review officer, employer, service agent, and other appropriate person, as determined by the Secretary, shall promptly submit to the Sec-

retary any record generated after the clearinghouse is initiated of an individual who—

"(A) refuses to take an alcohol or controlled substances test required under title 49, Code of Federal Regulations;

"(B) tests positive for alcohol or a controlled substance in violation of the regulations; or

"(C) violates any other provision of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

"(2) INCLUSION OF RECORDS IN CLEARINGHOUSE.—The Secretary shall include in the clearinghouse the records of positive test results and test refusals received under paragraph (1).

"(3) MODIFICATIONS AND DELETIONS.—If the Secretary determines that a record contained in the clearinghouse is not accurate, the Secretary shall modify or delete the record, as appropriate.

"(4) NOTIFICATION.—The Secretary shall expeditiously notify an individual, unless such notification would be duplicative, when—

"(A) a record relating to the individual is received by the clearinghouse;

"(B) a record in the clearinghouse relating to the individual is modified or deleted, and include in the notification the reason for the modification or deletion; or

"(C) a record in the clearinghouse relating to the individual is released to an employer and specify the reason for the release.

"(5) DATA QUALITY AND SECURITY STANDARDS FOR REPORTING AND RELEASING.—The Secretary may establish additional requirements, as appropriate, to ensure that—

"(A) the submission of records to the clearinghouse is timely and accurate;

"(B) the release of data from the clearinghouse is timely, accurate, and released to the appropriate authorized user under this section; and

"(C) an individual with a record in the clearinghouse has a cause of action for any inappropriate use of information included in the clearinghouse.

"(6) RETENTION OF RECORDS.—The Secretary shall—

"(A) retain a record submitted to the clearinghouse for a 5-year period beginning on the date the record is submitted;

"(B) remove the record from the clearinghouse at the end of the 5-year period, unless the individual fails to meet a return-to-duty or follow-up requirement under title 49, Code of Federal Regulations; and

"(C) retain a record after the end of the 5-year period in a separate location for archiving and auditing purposes.

"(h) AUTHORIZED USERS.—

"(1) EMPLOYERS.—The Secretary shall establish a process for an employer to request and receive an individual's record from the clearinghouse.

"(A) CONSENT.—An employer may not access an individual's record from the clearinghouse unless the employer—

"(i) obtains the prior written or electronic consent of the individual for access to the record; and

"(ii) submits proof of the individual's consent to the Secretary.

"(B) ACCESS TO RECORDS.—After receiving a request from an employer for an individual's record under subparagraph (A), the Secretary shall grant access to the individual's record to the employer as expeditiously as practicable.

"(C) RETENTION OF RECORD REQUESTS.—The Secretary shall require an employer to retain for a 3-year period—

"(i) a record of each request made by the employer for records from the clearinghouse; and

"(ii) the information received pursuant to the request.

"(D) USE OF RECORDS.—An employer may use an individual's record received from the clearinghouse only to assess and evaluate the qualifications of the individual to operate a commercial motor vehicle for the employer.

"(E) PROTECTION OF PRIVACY OF INDIVIDUALS.—An employer that receives an individual's record from the clearinghouse under subparagraph (B) shall—

"(i) protect the privacy of the individual and the confidentiality of the record; and

"(ii) ensure that information contained in the record is not divulged to a person or entity that is not directly involved in assessing and evaluating the

qualifications of the individual to operate a commercial motor vehicle for the employer.

"(2) STATE LICENSING AUTHORITIES.—The Secretary shall establish a process for the chief commercial driver's licensing official of a State to request and receive an individual's record from the clearinghouse if the individual is applying for a commercial driver's license from the State.

"(A) CONSENT.—The Secretary may grant access to an individual's record in the clearinghouse under this paragraph without the prior written or electronic consent of the individual. An individual who holds a commercial driver's license shall be deemed to consent to such access by obtaining a commercial driver's license.

"(B) PROTECTION OF PRIVACY OF INDIVIDUALS.—A chief commercial driver's licensing official of a State that receives an individual's record from the clearinghouse under this paragraph shall—

"(i) protect the privacy of the individual and the confidentiality of the record; and

"(ii) ensure that the information in the record is not divulged to any person that is

not directly involved in assessing and evaluating the qualifications of the individual to operate a commercial motor vehicle.

"(3) NATIONAL TRANSPORTATION SAFETY BOARD.—The Secretary shall establish a process for the National Transportation Safety Board to request and receive an individual's record from the clearinghouse if the individual is involved in an accident that is under investigation by the National Transportation Safety Board.

"(A) CONSENT.—The Secretary may grant access to an individual's record in the clearinghouse under this paragraph without the prior written or electronic consent of the individual. An individual who holds a commercial driver's license shall be deemed to consent to such access by obtaining a commercial driver's license.

"(B) PROTECTION OF PRIVACY OF INDIVIDUALS.—An official of the National Transportation Safety Board that receives an individual's record from the clearinghouse under this paragraph shall—

"(i) protect the privacy of the individual and the confidentiality of the record; and

"(ii) unless the official determines that the information in the individual's record should be reported under section 1131(e), ensure that the information in the record is not divulged to any person that is not directly involved with investigating the accident.

"(4) ADDITIONAL AUTHORIZED USERS.—The Secretary shall consider whether to grant access to the clearinghouse to additional users. The Secretary may authorize access to an individual's record from the clearinghouse to an additional user if the Secretary determines that granting access will further the purposes under subsection (a)(2). In determining whether the access will further the purposes under subsection (a)(2), the Secretary shall consider, among other things—

"(A) what use the additional user will make of the individual's record;

"(B) the costs and benefits of the use; and

"(C) how to protect the privacy of the individual and the confidentiality of the record.

"(i) ACCESS TO CLEARINGHOUSE BY INDIVIDUALS.—

"(1) IN GENERAL.—The Secretary shall establish a process for an individual to request and receive information from the clearinghouse—

"(A) to determine whether the clearinghouse contains a record pertaining to the individual;

"(B) to verify the accuracy of a record;

"(C) to update an individual's record, including completing the return-to-duty process described in title 49, Code of Federal Regulations; and

"(D) to determine whether the clearinghouse received requests for the individual's information.

"(2) DISPUTE PROCEDURE.—The Secretary shall establish a procedure, including an appeal process, for an individual to dispute and remedy an administrative error in the individual's record.

"(j) PENALTIES.—

"(1) IN GENERAL.—An employer, employee, medical review officer, or service agent who violates any provision of this section shall be subject to civil penalties under section 521(b)(2)(C) and criminal penalties under section 521(b)(6)(B), and any other applicable civil and criminal penalties, as determined by the Secretary.

"(2) VIOLATION OF PRIVACY.—The Secretary shall establish civil and criminal penalties, consistent with paragraph (1), for an authorized user who violates paragraph (2)(B) or (3)(B) of subsection (h).

"(k) COMPATIBILITY OF STATE AND LOCAL LAWS.—

"(1) PREEMPTION.—Except as provided under paragraph (2), any law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe related to a commercial driver's license holder subject to alcohol or controlled substance testing under title 49, Code of Federal Regulations, that is inconsistent with this section or a regulation issued pursuant to this section is preempted.

"(2) APPLICABILITY.—The preemption under paragraph (1) shall include—

"(A) the reporting of valid positive results from alcohol screening tests and drug tests;

"(B) the refusal to provide a specimen for an alcohol screening test or drug test; and

"(C) other violations of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

"(3) EXCEPTION.—A law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe shall not be preempted under

this subsection to the extent it relates to an action taken with respect to a commercial motor vehicle operator's commercial driver's license or driving record as a result of the driver's—

"(A) verified positive alcohol or drug test result;

"(B) refusal to provide a specimen for the test; or

"(C) other violations of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

"(l) DEFINITIONS.—In this section—

"(1) AUTHORIZED USER.—The term 'authorized user' means an employer, State licensing authority, National Transportation Safety Board, or other person granted access to the clearinghouse under subsection (h).

"(2) CHIEF COMMERCIAL DRIVER'S LICENSING OFFICIAL.—The term 'chief commercial driver's licensing official' means the official in a State who is authorized to—

"(A) maintain a record about commercial driver's licenses issued by the State; and

"(B) take action on commercial driver's licenses issued by the State.

"(3) CLEARINGHOUSE.—The term 'clearinghouse' means the clearinghouse established under subsection (a).

"(4) COMMERCIAL MOTOR VEHICLE OPERATOR.—The term 'commercial motor vehicle operator' means an individual who—

"(A) possesses a valid commercial driver's license issued in accordance with section 31308; and

"(B) is subject to controlled substances and alcohol testing under title 49, Code of Federal Regulations.

"(5) EMPLOYER.—The term 'employer' means a person or entity employing, or seeking to employ, 1 or more employees (including an individual who is self-employed) to be commercial motor vehicle operators.

"(6) MEDICAL REVIEW OFFICER.—The term 'medical review officer' means a licensed physician who is responsible for—

"(A) receiving and reviewing a laboratory result generated under the testing program;

"(B) evaluating a medical explanation for a controlled substances test under title 49, Code of Federal Regulations; and

"(C) interpreting the results of a controlled substances test.

"(7) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(8) SERVICE AGENT.—The term 'service agent' means a person or entity, other than an employee of the employer, who provides services to employers or employees under the testing program.

"(9) TESTING PROGRAM.—The term 'testing program' means the alcohol and controlled substances testing program required under title 49, Code of Federal Regulations.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 313 is amended by inserting after the item relating to section 31306 the following:

"31306a. National clearinghouse for positive controlled substance and alcohol test results of commercial motor vehicle operators.".

SEC. 403. DRUG AND ALCOHOL VIOLATION SANCTIONS.

Chapter 313 is amended—

(1) by redesignating section 31306(f) as 31306(f)(1); and

(2) by inserting after section 31306(f)(1) the following:

"(2) ADDITIONAL SANCTIONS.—The Secretary may require a State to revoke, suspend, or cancel the commercial driver's license of a commercial motor ve-

hicle operator who is found, based on a test conducted and confirmed under this section, to have used alcohol or a controlled substance in violation of law until the commercial motor vehicle operator completes the rehabilitation process under subsection (e).''; and

(3) by amending section 31310(d) to read as follows:

''(d) CONTROLLED SUBSTANCE VIOLATIONS.—The Secretary may permanently disqualify an individual from operating a commercial vehicle if the individual—

''(1) uses a commercial motor vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance; or

''(2) uses alcohol or a controlled substance, in violation of section 31306, 3 or more times.''.

SEC. 404. AUTHORIZATION OF APPROPRIATIONS.

From the funds authorized to be appropriated under section 31104(h) of title 49, United States Code, up to $5,000,000 is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to develop, design, and implement the national clearinghouse required by section 402 of this Act.

TITLE V—ENFORCEMENT

SEC. 501. INSPECTION DEMAND AND DISPLAY OF CREDENTIALS.

(a) SAFETY INVESTIGATIONS.—Section 504(c) is amended—

(1) by inserting ", or an employee of the recipient of a grant issued under section 31102 of this title" after "a contractor"; and

(2) by inserting ", in person or in writing" after "proper credentials".

(b) CIVIL PENALTY.—Section 521(b)(2)(E) is amended—

(1) by redesignating subparagraph (E) as subparagraph (E)(i); and

(2) by adding at the end the following:

"(ii) PLACE OUT OF SERVICE.—The Secretary may by regulation adopt procedures for placing out of service the commercial motor vehicle of a foreign-domiciled motor carrier that fails to promptly allow the Secretary to inspect and copy a record or inspect equipment, land, buildings, or other property.".

(c) HAZARDOUS MATERIALS INVESTIGATIONS.—Section 5121(c)(2) is amended by inserting ", in person or in writing," after "proper credentials".

(d) COMMERCIAL INVESTIGATIONS.—Section 14122(b) is amended by inserting ", in person or in writing" after "proper credentials".

SEC. 502. OUT OF SERVICE PENALTY FOR DENIAL OF ACCESS TO RECORDS.

Section 521(b)(2)(E) is amended—

(1) by inserting after "$10,000." the following: "In the case of a motor carrier, the Secretary may also place the violator's motor carrier operations out of service."; and

(2) by striking "such penalty" after "It shall be a defense to" and inserting "a penalty".

SEC. 503. PENALTIES FOR VIOLATION OF OPERATION OUT OF SERVICE ORDERS.

Section 521(b)(2) is amended by adding at the end the following:

"(F) PENALTY FOR VIOLATIONS RELATING TO OUT OF SERVICE ORDERS.—A motor carrier or employer (as defined in section 31132) that operates a commercial motor vehicle in commerce in violation of a prohibition on transportation under section 31144(c) of this title or an immi-

nent hazard out of service order issued under subsection (b)(5) of this section or section 5121(d) of this title shall be liable for a civil penalty not to exceed $25,000.".

SEC. 504. MINIMUM PROHIBITION ON OPERATION FOR UNFIT CARRIERS.

(a) IN GENERAL.—Section 31144(c)(1) is amended by inserting ", and such period shall be for not less than 10 days" after "operator is fit".

(b) OWNERS OR OPERATORS TRANSPORTING PASSENGERS.—Section 31144(c)(2) is amended by inserting ", and such period shall be for not less than 10 days" after "operator is fit".

(c) OWNERS OR OPERATORS TRANSPORTING HAZARDOUS MATERIAL.—Section 31144(c)(3) is amended by inserting before the period at the end of the first sentence the following: ", and such period shall be for not less than 10 days".

SEC. 505. MINIMUM OUT OF SERVICE PENALTIES.

Section 521(b)(7) is amended by adding at the end the following:

"The penalties may include a minimum duration for any out of service period, not to exceed 90 days.".

SEC. 506. IMPOUNDMENT AND IMMOBILIZATION OF COMMERCIAL MOTOR VEHICLES FOR IMMINENT HAZARD.

Section 521(b) is amended by adding at the end the following:

"(15) IMPOUNDMENT OF COMMERCIAL MOTOR VEHICLES.—

"(A) ENFORCEMENT OF IMMINENT HAZARD OUT-OF-SERVICE ORDERS.—

"(i) The Secretary, or an authorized State official carrying out motor carrier safety enforcement activities under section 31102, may enforce an imminent hazard out-of-service order issued under chapters 5, 51, 131 through 149, 311, 313, or 315 of this title, or a regulation promulgated thereunder, by towing and impounding a commercial motor vehicle until the order is rescinded.

"(ii) Enforcement shall not unreasonably interfere with the ability of a shipper, carrier, broker, or other party to arrange for the alternative transportation of any cargo or passenger being transported at the time the commercial motor vehicle is immobilized. In the case of a commercial motor

vehicle transporting passengers, the Secretary or authorized State official shall provide reasonable, temporary, and secure shelter and accommodations for passengers in transit.

"(iii) The Secretary's designee or an authorized State official carrying out motor carrier safety enforcement activities under section 31102, shall immediately notify the owner of a commercial motor vehicle of the impoundment and the opportunity for review of the impoundment. A review shall be provided in accordance with section 554 of title 5, except that the review shall occur not later than 10 days after the impoundment.

"(B) ISSUANCE OF REGULATIONS.—The Secretary shall promulgate regulations on the use of impoundment or immobilization of commercial motor vehicles as a means of enforcing additional out-of-service orders issued under chapters 5, 51, 131 through 149, 311, 313, or 315 of this title, or a regulation promulgated thereunder. Regulations promulgated under this subparagraph shall include consideration of public safety, the protection of passengers and cargo,

inconvenience to passengers, and the security of the commercial motor vehicle.

"(C) DEFINITION.—In this paragraph, the term 'impoundment' or 'impounding' means the seizing and taking into custody of a commercial motor vehicle or the immobilizing of a commercial motor vehicle through the attachment of a locking device or other mechanical or electronic means.".

SEC. 507. INCREASED PENALTIES FOR EVASION OF REGULATIONS.

(a) PENALTIES.—Section 524 is amended—

(1) by striking "knowingly and willfully";

(2) by inserting after "this chapter" the following: ", chapter 51, subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title, or a regulation issued under any of those provisions,";

(3) by striking "$200 but not more than $500" and inserting "$2,000 but not more than $5,000"; and

(4) by striking "$250 but not more than $2,000" and inserting "$2,500 but not more than $7,500".

(b) EVASION OF REGULATION.—Section 14906 is amended—

(1) by striking "$200" and inserting "at least $2,000";

(2) by striking "$250" and inserting "$5,000"; and

(3) by inserting after "a subsequent violation" the following:

", and may be subject to criminal penalties".

SEC. 508. FAILURE TO PAY CIVIL PENALTY AS A DISQUALIFYING OFFENSE.

(a) IN GENERAL.—Chapter 311 is amended by inserting after section 31151 the following:

"§ 31152. Disqualification for failure to pay

"An individual assessed a civil penalty under this chapter, or chapters 5, 51, or 149 of this title, or a regulation issued under any of those provisions, who fails to pay the penalty or fails to comply with the terms of a settlement with the Secretary, shall be disqualified from operating a commercial motor vehicle after the individual is notified in writing and is given an opportunity to respond. A disqualification shall continue until the penalty is paid, or the individual complies with the terms of the settlement, unless the nonpayment is because the individual is a debtor in a case under chapter 11 of title 11, United States Code.".

(b) TECHNICAL AMENDMENTS.—Section 31310, as amended by sections 206 and 310 of this Act, is amended—

(1) by redesignating subsections (h) through (k) as subsections (i) through (l), respectively; and

(2) by inserting after subsection (g) the following:

"(h) DISQUALIFICATION FOR FAILURE TO PAY.—The Secretary shall disqualify from operating a commercial motor vehicle any individual who fails to pay a civil penalty within the prescribed period, or fails to conform to the terms of a settlement with the Secretary. A disqualification shall continue until the penalty is paid, or the individual conforms to the terms of the settlement, unless the nonpayment is because the individual is a debtor in a case under chapter 11 of title 11, United States Code."; and

(3) in subsection (i), as redesignated, by striking "Notwithstanding subsections (b) through (g)" and inserting "Notwithstanding subsections (b) through (h)".

(c) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31151 the following:

"31152. Disqualification for failure to pay.".

SEC. 509. VIOLATIONS RELATING TO COMMERCIAL MOTOR VEHICLE SAFETY REGULATION AND OPERATORS.

Section 521(b)(2)(D) is amended by striking "ability to pay,".

SEC. 510. EMERGENCY DISQUALIFICATION FOR IMMINENT HAZARD.

Section 31310(f) is amended—

(1) in paragraph (1) by inserting "section 521 or" before "section 5102"; and

(2) in paragraph (2) by inserting "section 521 or" before "section 5102".

SEC. 511. INTRASTATE OPERATIONS OF INTERSTATE MOTOR CARRIERS.

(a) PROHIBITED TRANSPORTATION.—Section 521(b)(5) is amended by inserting after subparagraph (B) the following:

"(C) If an employee, vehicle, or all or part of an employer's commercial motor vehicle operations is ordered out of service under paragraph (5)(A), the commercial motor vehicle operations of the employee, vehicle, or employer that affect interstate commerce are also prohibited.".

(b) PROHIBITION ON OPERATION IN INTERSTATE COMMERCE AFTER NONPAYMENT OF PENALTIES.—Section 521(b)(8) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following:

"(B) ADDITIONAL PROHIBITION.—A person prohibited from operating in interstate commerce under paragraph (8)(A) may not operate any commercial motor vehicle where the operation affects interstate commerce.".

SEC. 512. ENFORCEMENT OF SAFETY LAWS AND REGULATIONS.

(a) ENFORCEMENT OF SAFETY LAWS AND REGULATIONS.—Chapter 311, as amended by sections 113 and 508 of this Act, is amended by adding after section 31153 the following:

"§ 31154. Enforcement of safety laws and regulations

"(a) IN GENERAL.—The Secretary may bring a civil action to enforce this part, or a regulation or order of the Secretary under this part, when violated by an employer, employee, or other person providing transportation or service under this subchapter or subchapter I.

"(b) VENUE.—In a civil action under subsection (a)—

"(1) trial shall be in the judicial district in which the employer, employee, or other person operates;

"(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

"(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31153 the following:

"31154. Enforcement of safety laws and regulations.".

SEC. 513. DISCLOSURE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

Section 31106(e) is amended—

(1) by redesignating subsection (e) as subsection (e)(1); and

(2) by inserting at the end the following:

"(2) IN GENERAL.—Notwithstanding any prohibition on disclosure of information in section 31105(h) or 31143(b) of this title or section 552a of title 5, the Secretary may disclose information maintained by the Secretary pursuant to chapters 51, 135, 311, or 313 of this title to appropriate personnel of a State agency or instrumentality authorized to carry out State commercial motor vehicle safety activities and commercial driver's license laws, or appropriate personnel of a local law enforcement agency, in ac-

cordance with standards, conditions, and procedures as determined by the Secretary. Disclosure under this section shall not operate as a waiver by the Secretary of any applicable privilege against disclosure under common law or as a basis for compelling disclosure under section 552 of title 5.".

TITLE VI—COMPLIANCE, SAFETY, ACCOUNTABILITY

SEC. 601. COMPLIANCE, SAFETY, ACCOUNTABILITY.

(a) IN GENERAL.—Section 31102 is amended—

(1) by amending the section heading to read:

"§ 31102. Compliance, safety, and accountability grants";

(2) by amending subsection (a) to read as follows:

"(a) GENERAL AUTHORITY.—Subject to this section, the Secretary of Transportation shall make and administer a compliance, safety, and accountability grant program to assist States, local governments, and other entities and persons with motor carrier safety and enforcement on highways and other public roads, new entrant safety audits, border enforcement, hazardous materials safety and security, consumer protection and household goods enforcement, and other programs and activities required to improve the safety of motor carriers as determined by the Secretary. The

Secretary shall allocate funding in accordance with section 31104 of this title.";

(3) in subsection (b)—

(A) by amending the heading to read as follows:

"(b) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—";

(B) by redesignating paragraphs (1) through (3) as (2) through (4), respectively;

(C) by inserting before paragraph (2), as redesignated, the following:

"(1) PROGRAM GOAL.—The goal of the Motor Carrier Safety Assistance Program is to ensure that the Secretary, States, local government agencies, and other political jurisdictions work in partnership to establish programs to improve motor carrier, commercial motor vehicle, and driver safety to support a safe and efficient surface transportation system by—

"(A) making targeted investments to promote safe commercial motor vehicle transportation, including transportation of passengers and hazardous materials;

"(B) investing in activities likely to generate maximum reductions in the number and

severity of commercial motor vehicle crashes and fatalities resulting from such crashes;

"(C) adopting and enforcing effective motor carrier, commercial motor vehicle, and driver safety regulations and practices consistent with Federal requirements; and

"(D) assessing and improving statewide performance by setting program goals and meeting performance standards, measures, and benchmarks.";

(D) in paragraph (2), as redesignated—

(i) by striking "make a declaration of" in subparagraph (I) and inserting "demonstrate";

(ii) by amending subparagraph (M) to read as follows:

"(M) ensures participation in appropriate Federal Motor Carrier Safety Administration systems and other information systems by all appropriate jurisdictions receiving Motor Carrier Safety Assistance Program funding;";

(iii) in subparagraph (Q), by inserting "and dedicated sufficient resources to" between "established" and "a program";

(iv) in subparagraph (W), by striking "and" after the semicolon;

(v) by amending subparagraph (X) to read as follows:

"(X) except in the case of an imminent or obvious safety hazard, ensures that an inspection of a vehicle transporting passengers for a motor carrier of passengers is conducted at a station, terminal, border crossing, maintenance facility, destination, weigh station, rest stop, turnpike service area, or a location where adequate food, shelter, and sanitation facilities are available for passengers, and reasonable accommodation is available for passengers with disabilities; and"; and

(vi) by adding after subparagraph (X) the following:

"(Y) ensures that the State will transmit to its roadside inspectors the notice of each federal exemption granted pursuant to section 31315(b) and provided to the State by the Secretary, including the name of the person granted the exemption and any terms and conditions that apply to the exemption."; and

(E) by amending paragraph (4), as redesignated, to read as follows:

"(4) MAINTENANCE OF EFFORT.—

"(A) IN GENERAL.—A plan submitted by a State under paragraph (2) shall provide that the total expenditure of amounts of the lead State agency responsible for implementing the plan will be maintained at a level at least equal to the average level of that expenditure for fiscal years 2004 and 2005.

"(B) AVERAGE LEVEL OF STATE EXPENDITURES.—In estimating the average level of State expenditure under subparagraph (A), the Secretary—

"(i) may allow the State to exclude State expenditures for Government-sponsored demonstration or pilot programs; and

"(ii) shall require the State to exclude State matching amounts used to receive Government financing under this subsection.

"(C) WAIVER.—Upon the request of a State, the Secretary may waive or modify the requirements of this paragraph for 1 fiscal year, if the Secretary determines that a waiver is equitable

due to exceptional or uncontrollable circumstances, such as a natural disaster or a serious decline in the financial resources of the State motor carrier safety assistance program agency.";

(4) by redesignating subsection (e) as subsection (h); and

(5) by inserting after subsection (d) the following:

"(e) NEW ENTRANT SAFETY ASSURANCE PROGRAM.—

"(1) PROGRAM GOAL.—The Secretary may make grants to States and local governments for pre-authorization safety audits and new entrant motor carrier audits as described in section 31144(g).

"(2) RECIPIENTS.—Grants made in support of this program may be provided to States and local governments.

"(3) FEDERAL SHARE.—The Federal share of a grant made under this program is 100 percent.

"(4) ELIGIBLE ACTIVITIES.—Eligible activities will be in accordance with criteria developed by the Secretary and posted in the Federal Register in advance of the grant application period.

"(5) DETERMINATION.—If the Secretary determines that a State or local government is unable to

conduct a new entrant motor carrier audit, the Secretary may use the funds to conduct the audit.

"(f) BORDER ENFORCEMENT.—

"(1) PROGRAM GOAL.—The Secretary of Transportation may make a grant for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

"(2) RECIPIENTS.—The Secretary of Transportation may make a grant to an entity, State, or other person for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

"(3) FEDERAL SHARE.—The Secretary shall reimburse a grantee at least 80 percent of the costs incurred in a fiscal year for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

"(4) ELIGIBLE ACTIVITIES.—An eligible activity will be in accordance with criteria developed by the Secretary and posted in the Federal Register in advance of the grant application period.

"(g) HIGH PRIORITY INITIATIVES.—

"(1) PROGRAM GOAL.—The Secretary may make grants to carry out high priority activities and projects that improve commercial motor vehicle safety

and compliance with commercial motor vehicle safety regulations, including activities and projects that—

"(A) are national in scope;

"(B) increase public awareness and education;

"(C) target unsafe driving of commercial motor vehicles and non-commercial motor vehicles in areas identified as high risk crash corridors;

"(D) improve consumer protection and enforcement of household goods regulations;

"(E) improve the movement of hazardous materials safely and securely, including activities related to the establishment of uniform forms and application procedures that improve the accuracy, timeliness, and completeness of commercial motor vehicle safety data reported to the Secretary; or

"(F) demonstrate new technologies to improve commercial motor vehicle safety.

"(2) RECIPIENTS.—The Secretary may allocate amounts to award grants to State agencies, local governments, and other persons for carrying out high priority activities and projects that improve commercial motor vehicle safety and compliance with com-

mercial motor vehicle safety regulations in accordance with the program goals specified in paragraph (1).

"(3) FEDERAL SHARE.—The Secretary shall reimburse a grantee at least 80 percent of the costs incurred in a fiscal year for carrying out the high priority activities or projects.

"(4) ELIGIBLE ACTIVITIES.—An eligible activity will be in accordance with criteria that is—

"(A) developed by the Secretary; and

"(B) posted in the Federal Register in advance of the grant application period.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by striking the item relating to section 31102 and inserting the following:

"31102. Compliance, safety, and accountability grants.".

SEC. 602. PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT PROGRAM.

Section 31106(b) is amended—

(1) by amending paragraph (3)(C) to read as follows—

"(C) establish and implement a process—

"(i) to cancel the motor vehicle registration and seize the registration plates of a vehicle when an employer is found liable under section 31310(j)(2)(C) for knowingly allowing or requiring an employee to oper-

ate such a commercial motor vehicle in violation of an out-of-service order; and

"(ii) to reinstate the vehicle registration or return the registration plates of the commercial motor vehicle, subject to sanctions under clause (i), if the Secretary permits such carrier to resume operations after the date of issuance of such order."; and

(2) by striking paragraph (4).

SEC. 603. COMMERCIAL MOTOR VEHICLE DEFINED.

Section 31101(1) is amended to read as follows:

"(1) 'commercial motor vehicle' means (except under section 31106) a self-propelled or towed vehicle used on the highways in commerce to transport passengers or property, if the vehicle—

"(A) has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds, whichever is greater;

"(B) is designed or used to transport more than 8 passengers, including the driver, for compensation;

"(C) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

"(D) is used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103.".

SEC. 604. DRIVER SAFETY FITNESS RATINGS.

Section 31144, as amended by section 204 of this Act, is amended by adding at the end the following:

"(i) COMMERCIAL MOTOR VEHICLE DRIVERS.—The Secretary may maintain by regulation a procedure for determining the safety fitness of a commercial motor vehicle driver and for prohibiting the driver from operating in interstate commerce. The procedure and prohibition shall include the following:

"(1) Specific initial and continuing requirements that a driver must comply with to demonstrate safety fitness.

"(2) The methodology and continually updated safety performance data that the Secretary will use to determine whether a driver is fit, including inspection results, serious traffic offenses, and crash involvement data.

"(3) Specific time frames within which the Secretary will determine whether a driver is fit.

"(4) A prohibition period or periods, not to exceed 1 year, that a driver that the Secretary determines is not fit will be prohibited from operating a commercial motor vehicle in interstate commerce. The period or periods shall begin on the 46th day after the date of the fitness determination and continue until the Secretary determines the driver is fit or until the prohibition period expires.

"(5) A review by the Secretary, not later than 30 days after an unfit driver requests a review, of the driver's compliance with the requirements the driver failed to comply with and that resulted in the Secretary determining that the driver was not fit. The burden of proof shall be on the driver to demonstrate fitness.

"(6) The eligibility criteria for reinstatement, including the remedial measures the unfit driver must take for reinstatement.".

SEC. 605. UNIFORM ELECTRONIC CLEARANCE FOR COMMERCIAL MOTOR VEHICLE INSPECTIONS.

(a) IN GENERAL.—Chapter 311 is amended by adding after section 31109 the following:

"§ 31110. Withholding amounts for State noncompliance

"(a) FIRST FISCAL YEAR.—Subject to criteria established by the Secretary of Transportation, the Secretary may withhold up to 50 percent of the amount a State is otherwise eligible to receive under section 31102(b) on the first day of the fiscal year after the first fiscal year following the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2011 in which the State uses for at least 180 days an electronic commercial motor vehicle inspection selection system that does not employ a selection methodology approved by the Secretary.

"(b) SECOND FISCAL YEAR.—The Secretary shall withhold up to 75 percent of the amount a State is otherwise eligible to receive under section 31102(b) on the first day of the fiscal year after the second fiscal year following the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2011 in which the State uses for at least 180 days an electronic commercial motor vehicle inspection selection system that does not employ a selection methodology approved by the Secretary.

"(c) SUBSEQUENT AVAILABILITY OF WITHHELD FUNDS.—The Secretary may make the amounts withheld under subsection (a) or subsection (b) available to the State if the Secretary determines that the State has substantially complied with the requirement described under subsection

(a) or subsection (b) not later than 180 days after the beginning of the fiscal year in which amounts were withheld.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31109 the following:

"31110. Withholding amounts for State noncompliance.".

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

Section 31104 is amended to read as follows:

"§ 31104. Availability of amounts

"(a) IN GENERAL.—There are authorized to be appropriated from Highway Trust Fund (other than the Mass Transit Account) for Federal Motor Carrier Safety Administration programs the following:

"(1) COMPLIANCE, SAFETY, AND ACCOUNTABILITY GRANTS UNDER SECTION 31102.—

"(A) $249,717,000 for fiscal year 2012, provided that the Secretary shall set aside not less than $168,388,000 to carry out the motor carrier safety assistance program under section 31102(b); and

"(B) $253,814,000 for fiscal year 2013, provided that the Secretary shall set aside not less than $171,813,000 to carry out the motor carrier safety assistance program under section 31102(b).

"(2) DATA AND TECHNOLOGY GRANTS UNDER SECTION 31109.—

"(A) $30,000,000 for fiscal year 2012; and

"(B) $30,000,000 for fiscal year 2013.

"(3) DRIVER SAFETY GRANTS UNDER SECTION 31313.—

"(A) $31,000,000 for fiscal year 2012; and

"(B) $31,000,000 for fiscal year 2013.

"(4) CRITERIA.—The Secretary shall develop criteria to allocate the remaining funds under paragraphs (1), (2), and (3) for fiscal year 2013 and for each fiscal year thereafter not later than April 1 of the prior fiscal year.

"(b) AVAILABILITY AND REALLOCATION OF AMOUNTS.—

"(1) ALLOCATIONS AND REALLOCATIONS.—Amounts made available under subsection (a)(1) remain available until expended. Allocations to a State remain available for expenditure in the State for the fiscal year in which they are allocated and for the next fiscal year. Amounts not expended by a State during those 2 fiscal years are released to the Secretary for reallocation.

"(2) REDISTRIBUTION OF AMOUNTS.—The Secretary may, after August 1 of each fiscal year, upon

a determination that a State does not qualify for funding under section 31102(b) or that the State will not expend all of its existing funding, reallocate the State's funding. In revising the allocation and redistributing the amounts, the Secretary shall give preference to those States that require additional funding to meet program goals under section 31102(b).

"(3) PERIOD OF AVAILABILITY FOR DATA AND TECHNOLOGY GRANTS.—Amounts made available under subsection (a)(2) remain available for obligation for the fiscal year and the next 2 years in which they are appropriated. Allocations remain available for expenditure in the State for 5 fiscal years after they were obligated. Amounts not expended by a State during those 3 fiscal years are released to the Secretary for reallocation.

"(4) PERIOD OF AVAILABILITY FOR DRIVER SAFETY GRANTS.—Amounts made available under subsection (a)(3) of this section remain available for obligation for the fiscal year and the next fiscal year in which they are appropriated. Allocations to a State remain available for expenditure in the State for the fiscal year in which they are allocated and for the following 2 fiscal years. Amounts not expended by

a State during those 3 fiscal years are released to the Secretary for reallocation.

"(5) REALLOCATION.—The Secretary, upon a request by a State, may reallocate grant funds previously awarded to the State under a grant program authorized by section 31102, 31109, or 31313 to another grant program authorized by those sections upon a showing by the State that it is unable to expend the funds within the 12 months prior to their expiration provided that the State agrees to expend the funds within the remaining period of expenditure.

"(c) GRANTS AS CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant under sections 31102, 31109, and 31313 is a contractual obligation of the Government for payment of the Government's share of costs incurred in developing and implementing programs to improve commercial motor vehicle safety and enforce commercial driver's license regulations, standards, and orders.

"(d) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—On October 1 of each fiscal year or as soon after that as practicable, the Secretary may deduct, from amounts made available under—

"(A) subsection (a)(1) for that fiscal year, not more than 1.5 percent of those amounts for

administrative expenses incurred in carrying out section 31102 in that fiscal year;

"(B) subsection (a)(2) for that fiscal year, not more than 1.4 percent of those amounts for administrative expenses incurred in carrying out section 31109 in that fiscal year; and

"(C) subsection (a)(3) for that fiscal year, not more than 1.4 percent of those amounts for administrative expenses incurred in carrying out section 31313 in that fiscal year.

"(2) TRAINING.—The Secretary may use at least 50 percent of the amounts deducted from the amounts made available under sections (a)(1) and (a)(3) to train non-Government employees and to develop related training materials to carry out sections 31102, 31311, and 31313 of this title.

"(3) CONTRACTS.—The Secretary may use amounts deducted under paragraph (1) to enter into contracts and cooperative agreements with States, local governments, associations, institutions, corporations, and other persons, if the Secretary determines the contracts and cooperative agreements are cost-effective, benefit multiple jurisdictions of the United States, and enhance safety programs and related enforcement activities.

"(e) ALLOCATION CRITERIA AND ELIGIBILITY.—

"(1) On October 1 of each fiscal year or as soon as practicable after that date after making the deduction under subsection (d)(1)(A), the Secretary shall allocate amounts made available to carry out section 31102(b) for such fiscal year among the States with plans approved under that section. Allocation shall be made under the criteria prescribed by the Secretary.

"(2) On October 1 of each fiscal year or as soon as practicable after that date and after making the deduction under subsection (d)(1)(B) or (d)(1)(C), the Secretary shall allocate amounts made available to carry out sections 31109(a) and 31313(b)(1).

"(f) INTRASTATE COMPATIBILITY.—The Secretary shall prescribe regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety laws and regulations with Government motor carrier safety regulations to be enforced under section 31102(b). To the extent practicable, the guidelines and standards shall allow for maximum flexibility while ensuring a degree of uniformity that will not diminish transportation safety. In reviewing State plans and allocating amounts or making grants under section 153 of title 23, United States Code, the Secretary shall ensure that the guidelines and standards are applied uniformly.

"(g) WITHHOLDING AMOUNTS FOR STATE NONCOMPLIANCE.—

"(1) IN GENERAL.—Subject to criteria established by the Secretary, the Secretary may withhold up to 100 percent of the amounts a State is otherwise eligible to receive under section 31102(b) on October 1 of each fiscal year beginning after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2011 and continuing for the period that the State does not comply substantially with a requirement under section 31109(b).

"(2) SUBSEQUENT AVAILABILITY OF WITHHELD FUNDS.—The Secretary may make the amounts withheld in accordance with paragraph (1) available to a State if the Secretary determines that the State has substantially complied with a requirement under section 31109(b) not later than 180 days after the beginning of the fiscal year in which the amounts are withheld.

"(h) ADMINISTRATIVE EXPENSES.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary to pay administrative ex-

penses of the Federal Motor Carrier Safety Administration—

"(A) $250,819,000 for fiscal year 2012; and

"(B) $248,523,000 for fiscal year 2013.

"(2) USE OF FUNDS.—The funds authorized by this subsection shall be used for personnel costs, administrative infrastructure, rent, information technology, programs for research and technology, information management, regulatory development, the administration of the performance and registration information system management, outreach and education, other operating expenses, and such other expenses as may from time to time be necessary to implement statutory mandates of the Administration not funded from other sources.

"(i) AVAILABILITY OF FUNDS.—

"(1) PERIOD OF AVAILABILITY.—The amounts made available under this section shall remain available until expended.

"(2) INITIAL DATE OF AVAILABILITY.—Authorizations from the Highway Trust Fund (other than the Mass Transit Account) for this section shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal

year for which they are authorized, whichever occurs first.".

SEC. 607. HIGH RISK CARRIER REVIEWS.

(a) HIGH RISK CARRIER REVIEWS.—Section 31104(h), as amended by section 606 of this Act, is amended by adding at the end of paragraph (2) the following:

"From the funds authorized by this subsection, the Secretary shall ensure that a review is completed on each motor carrier that demonstrates through performance data that it poses the highest safety risk. At a minimum, a review shall be conducted whenever a motor carrier is among the highest risk carriers for 2 consecutive months.".

(b) CONFORMING AMENDMENT.—Section 4138 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31144 note) is repealed.

SEC. 608. DATA AND TECHNOLOGY GRANTS.

(a) IN GENERAL.—Section 31109 is amended to read as follows:

"§ 31109. Data and technology grants

"(a) GENERAL AUTHORITY.—The Secretary of Transportation shall establish and administer a data and technology grant program to assist the States with the implementation and maintenance of data systems. The Secretary shall allocate the funds in accordance with section 31104.

"(b) PERFORMANCE GOALS.—The Secretary may make a grant to a State to implement the performance and registration information system management requirements of section 31106(b) to develop, implement, and maintain commercial vehicle information systems and networks, and other innovative technologies that the Secretary determines improve commercial motor vehicle safety.

"(c) ELIGIBILITY.—To be eligible for a grant to implement the requirements of section 31106(b), the State shall design a program that—

"(1) links Federal motor carrier safety information systems with the State's motor carrier information systems;

"(2) determines the safety fitness of a motor carrier or registrant when licensing or registering the registrant or motor carrier or while the license or registration is in effect; and

"(3) denies, suspends, or revokes the commercial motor vehicle registrations of a motor carrier or registrant that was issued an operations out-of-service order by the Secretary.

"(d) REQUIRED PARTICIPATION.—The Secretary shall require States that participate in the program under section 31106 to—

"(1) comply with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under section 31106(b);

"(2) possess or seek the authority to possess for a time period not longer than determined reasonable by the Secretary, to impose sanctions relating to commercial motor vehicle registration on the basis of a Federal safety fitness determination; and

"(3) establish and implement a process to cancel the motor vehicle registration and seize the registration plates of a vehicle when an employer is found liable under section 31310(j)(2)(C) for knowingly allowing or requiring an employee to operate such a commercial motor vehicle in violation of an out of service order.

"(e) FEDERAL SHARE.—The total Federal share of the cost of a project payable from all eligible Federal sources shall be at least 80 percent.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by striking the item relating to section 31109 and inserting the following:

"31109. Data and technology grants.".

SEC. 609. DRIVER SAFETY GRANTS.

(a) DRIVER FOCUSED GRANT PROGRAM.—Section 31313 is amended to read as follows:

"§ 31313. Driver safety grants

"(a) GENERAL AUTHORITY.—The Secretary shall make and administer a driver focused grant program to assist the States, local governments, entities, and other persons with commercial driver's license systems, programs, training, fraud detection, reporting of violations and other programs required to improve the safety of drivers as the Federal Motor Carrier Safety Administration deems critical. The Secretary shall allocate the funds for the program in accordance with section 31104.

"(b) COMMERCIAL DRIVER'S LICENSE PROGRAM IMPROVEMENT GRANTS.—

"(1) PROGRAM GOAL.—The Secretary of Transportation may make a grant to a State in a fiscal year—

"(A) to comply with the requirements of section 31311;

"(B) in the case of a State that is making a good faith effort toward substantial compliance with the requirements of this section and section 31311, to improve its implementation of its commercial driver's license program;

"(C) for research, development demonstration projects, public education, and other special activities and projects relating to commercial driver licensing and motor vehicle safety that are

of benefit to all jurisdictions of the United States or are designed to address national safety concerns and circumstances;

"(D) for commercial driver's license program coordinators;

"(E) to implement or maintain a system to notify an employer of an operator of a commercial motor vehicle of the suspension or revocation of the operator's commercial driver's license consistent with the standards developed under section 304(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2011; or

"(F) to train operators of commercial motor vehicles, as defined under section 31301, and to train operators and future operators in the safe use of such vehicles. Funding priority for this discretionary grant program shall be to regional or multi-state educational or nonprofit associations serving economically distressed regions of the United States.

"(2) PRIORITY.—The Secretary shall give priority, in making grants under paragraph (1)(B), to a State that will use the grants to achieve compliance with the requirements of the Motor Carrier Safety Improvement Act of 1999 (113 Stat. 1748), including

the amendments made by the Commercial Motor Vehicle Safety Enhancement Act of 2011.

"(3) RECIPIENTS.—The Secretary may allocate grants to State agencies, local governments, and other persons for carrying out activities and projects that improve commercial driver's license safety and compliance with commercial driver's license and commercial motor vehicle safety regulations in accordance with the program goals under paragraph (1) and that train operators on commercial motor vehicles. The Secretary may make a grant to a State to comply with section 31311 for commercial driver's license program coordinators and for notification systems.

"(4) FEDERAL SHARE.—The Federal share of a grant made under this program shall be at least 80 percent, except that the Federal share of grants for commercial driver license program coordinators and training commercial motor vehicle operators shall be 100 percent.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 313 is amended by striking the item relating to section 31313 and inserting the following:

"31313. Driver safety grants.".

SEC. 610. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.

Not later than 6 months after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that includes—

(1) established time frames and milestones for resuming the Commercial Vehicle Information Systems and Networks Program; and

(2) a strategic workforce plan for its grants management office to ensure that it has determined the skills and competencies that are critical to achieving its mission goals.

TITLE VII—MOTORCOACH ENHANCED SAFETY ACT OF 2011

SEC. 701. SHORT TITLE.

This title may be cited as the "Motorcoach Enhanced Safety Act of 2011".

SEC. 702. DEFINITIONS.

In this Act:

(1) ADVANCED GLAZING.—The term "advanced glazing" means glazing installed in a portal on the side or the roof of a motorcoach that is designed to be highly resistant to partial or complete occupant ejection in all types of motor vehicle crashes.

(2) BUS.—The term "bus" has the meaning given the term in section 571.3(b) of title 49, Code of Federal Regulations (as in effect on the day before the date of enactment of this Act).

(3) COMMERCIAL MOTOR VEHICLE.—Except as otherwise specified, the term "commercial motor vehicle" has the meaning given the term in section 31132(1) of title 49, United States Code.

(4) DIRECT TIRE PRESSURE MONITORING SYSTEM.—The term "direct tire pressure monitoring system" means a tire pressure monitoring system that is capable of directly detecting when the air pressure level in any tire is significantly under-inflated and providing the driver a low tire pressure warning as to which specific tire is significantly under-inflated.

(5) ELECTRONIC ON-BOARD RECORDER.—The term "electronic on-board recorder" means an electronic device that acquires and stores data showing the record of duty status of the vehicle operator and performs the functions required of an automatic on-board recording device in section 395.15(b) of title 49, Code of Federal Regulations.

(6) EVENT DATA RECORDER.—The term "event data recorder" has the meaning given that term in section 563.5 of title 49, Code of Federal Regulations.

(7) MOTOR CARRIER.—The term "motor carrier" means—

(A) a motor carrier (as defined in section 13102(14) of title 49, United States Code); or

(B) a motor private carrier (as defined in section 13102(15) of that title).

(8) MOTORCOACH.—The term "motorcoach" has the meaning given the term "over-the-road bus" in section 3038(a)(3) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note), but does not include—

(A) a bus used in public transportation provided by, or on behalf of, a public transportation agency; or

(B) a school bus, including a multifunction school activity bus.

(9) MOTORCOACH SERVICES.—The term "motorcoach services" means passenger transportation by motorcoach for compensation.

(10) MULTIFUNCTION SCHOOL ACTIVITY BUS.—The term "multifunction school activity bus" has the meaning given the term in section 571.3(b) of title 49, Code of Federal Regulations (as in effect on the day before the date of enactment of this Act).

(11) PORTAL.—The term "portal" means any opening on the front, side, rear, or roof of a motorcoach that could, in the event of a crash involving the motorcoach, permit the partial or complete ejection of any occupant from the motorcoach, including a young child.

(12) PROVIDER OF MOTORCOACH SERVICES.—The term "provider of motorcoach services" means a motor carrier that provides passenger transportation services with a motorcoach, including per-trip compensation and contracted or chartered compensation.

(13) PUBLIC TRANSPORTATION.—The term "public transportation" has the meaning given the term in section 5302 of title 49, United States Code.

(14) SAFETY BELT.—The term "safety belt" has the meaning given the term in section 153(i)(4)(B) of title 23, United States Code.

(15) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

SEC. 703. REGULATIONS FOR IMPROVED OCCUPANT PROTECTION, PASSENGER EVACUATION, AND CRASH AVOIDANCE.

(a) REGULATIONS REQUIRED WITHIN 1 YEAR.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prescribe regulations requiring safety

belts to be installed in motorcoaches at each designated seating position.

(b) REGULATIONS REQUIRED WITHIN 2 YEARS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall prescribe the following commercial motor vehicle regulations:

(1) ROOF STRENGTH AND CRUSH RESISTANCE.—The Secretary shall establish improved roof and roof support standards for motorcoaches that substantially improve the resistance of motorcoach roofs to deformation and intrusion to prevent serious occupant injury in rollover crashes involving motorcoaches.

(2) ANTI-EJECTION SAFETY COUNTERMEASURES.—The Secretary shall require advanced glazing to be installed in each motorcoach portal and shall consider other portal improvements to prevent partial and complete ejection of motorcoach passengers, including children. In prescribing such standards, the Secretary shall consider the impact of such standards on the use of motorcoach portals as a means of emergency egress.

(3) ROLLOVER CRASH AVOIDANCE.—The Secretary shall require motorcoaches to be equipped with stability enhancing technology, such as electronic stability control and torque vectoring, to reduce the

number and frequency of rollover crashes among motorcoaches.

(c) COMMERCIAL MOTOR VEHICLE TIRE PRESSURE MONITORING SYSTEMS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall prescribe the following commercial vehicle regulation:

(1) IN GENERAL.—The Secretary shall require motorcoaches to be equipped with direct tire pressure monitoring systems that warn the operator of a commercial motor vehicle when any tire exhibits a level of air pressure that is below a specified level of air pressure established by the Secretary.

(2) PERFORMANCE REQUIREMENTS.—The regulation prescribed by the Secretary under this subsection shall include performance requirements to ensure that direct tire pressure monitoring systems are capable of—

(A) providing a warning to the driver when 1 or more tires are underinflated;

(B) activating in a specified time period after the underinflation is detected; and

(C) operating at different vehicle speeds.

(d) APPLICATION OF REGULATIONS.—

(1) NEW MOTORCOACHES.—Any regulation prescribed in accordance with subsection (a), (b), or (c)

shall apply to all motorcoaches manufactured more than 2 years after the date on which the regulation is published as a final rule.

(2) RETROFIT REQUIREMENTS FOR EXISTING MOTORCOACHES.—

(A) IN GENERAL.—The Secretary may, by regulation, provide for the application of any requirement established under subsection (a) or (b)(2) to motorcoaches manufactured before the date on which the requirement applies to new motorcoaches under paragraph (1) based on an assessment of the feasibility, benefits, and costs of retrofitting the older motorcoaches.

(B) ASSESSMENT.—The Secretary shall complete an assessment with respect to safety belt retrofits not later than 1 year after the date of enactment of this Act and with respect to anti-ejection countermeasure retrofits not later than 2 years after the date of enactment of this Act.

(e) FAILURE TO MEET DEADLINE.—If the Secretary determines that a final rule cannot be issued before the deadline established under this section, the Secretary shall—

(1) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and

the Committee on Energy and Commerce of the House of Representatives that explains why the deadline cannot be met; and

(2) establish a new deadline for the issuance of the final rule.

SEC. 704. STANDARDS FOR IMPROVED FIRE SAFETY.

(a) EVALUATIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall initiate the following rulemaking proceedings:

(1) FLAMMABILITY STANDARD FOR EXTERIOR COMPONENTS.—The Secretary shall establish requirements for fire hardening or fire resistance of motorcoach exterior components to prevent fire and smoke inhalation injuries to occupants.

(2) SMOKE SUPPRESSION.—The Secretary shall update Federal Motor Vehicle Safety Standard Number 302 (49 C.F.R. 571.302; relating to flammability of interior materials) to improve the resistance of motorcoach interiors and components to burning and permit sufficient time for the safe evacuation of passengers from motorcoaches.

(3) PREVENTION OF, AND RESISTANCE TO, WHEEL WELL FIRES.—The Secretary shall establish requirements—

(A) to prevent and mitigate the propagation of wheel well fires into the passenger compartment; and

(B) to substantially reduce occupant deaths and injuries from such fires.

(4) AUTOMATIC FIRE SUPPRESSION.—The Secretary shall establish requirements for motorcoaches to be equipped with highly effective fire suppression systems that automatically respond to and suppress all fires in such motorcoaches.

(5) PASSENGER EVACUATION.—The Secretary shall establish requirements for motorcoaches to be equipped with—

(A) improved emergency exit window, door, roof hatch, and wheelchair lift door designs to expedite access and use by passengers of motorcoaches under all emergency circumstances, including crashes and fires; and

(B) emergency interior lighting systems, including luminescent or retroreflectorized delineation of evacuation paths and exits, which are triggered by a crash or other emergency incident to accomplish more rapid and effective evacuation of passengers.

(6) CAUSATION AND PREVENTION OF MOTORCOACH FIRES.—The Secretary shall examine the principle causes of motorcoach fires and vehicle design changes intended to reduce the number of motorcoach fires resulting from those principle causes.

(b) DEADLINE.—Not later than 42 months after the date of enactment of this Act, the Secretary shall—

(1) issue final rules in accordance with subsection (a); or

(2) if the Secretary determines that any standard is not warranted based on the requirements and considerations set forth in subsection (a) and (b) of section 30111 of title 49, United States Code, submit a report that describes the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(c) TIRE PERFORMANCE STANDARD.—Not later than 3 years after the date of enactment of this Act, the Secretary shall—

(1) issue a final rule upgrading performance standards for tires used on motorcoaches, including

an enhanced endurance test and a new high-speed performance test; or

(2) if the Secretary determines that a standard is not warranted based on the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, submit a report that describes the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

SEC. 705. OCCUPANT PROTECTION, COLLISION AVOIDANCE, FIRE CAUSATION, AND FIRE EXTINGUISHER RESEARCH AND TESTING.

(a) SAFETY RESEARCH INITIATIVES.—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete the following research and testing:

(1) IMPROVED FIRE EXTINGUISHERS.—The Secretary shall research and test the need to install improved fire extinguishers or other readily available firefighting equipment in motorcoaches to effectively extinguish fires in motorcoaches and prevent passenger deaths and injuries.

(2) INTERIOR IMPACT PROTECTION.—The Secretary shall research and test enhanced occupant impact protection standards for motorcoach interiors to reduce substantially serious injuries for all passengers of motorcoaches.

(3) COMPARTMENTALIZATION SAFETY COUNTERMEASURES.—The Secretary shall require enhanced compartmentalization safety countermeasures for motorcoaches, including enhanced seating designs, to substantially reduce the risk of passengers being thrown from their seats and colliding with other passengers, interior surfaces, and components in the event of a crash involving a motorcoach.

(4) COLLISION AVOIDANCE SYSTEMS.—The Secretary shall research and test forward and lateral crash warning systems applications for motorcoaches.

(b) RULEMAKING.—Not later than 2 years after the completion of each research and testing initiative required under subsection (a), the Secretary shall issue final motor vehicle safety standards if the Secretary determines that such standards are warranted based on the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code.

SEC. 706. MOTORCOACH REGISTRATION.

(a) REGISTRATION REQUIREMENTS.—Section 13902(b) is amended—

(1) by redesignating paragraphs (1) through (8) as paragraphs (4) through (11), respectively; and

(2) by inserting before paragraph (4), as redesignated, the following:

"(1) ADDITIONAL REGISTRATION REQUIREMENTS FOR PROVIDERS OR MOTORCOACH SERVICES.—In addition to meeting the requirements under subsection (a)(1), the Secretary may not register a person to provide motorcoach services until after the person—

"(A) undergoes a preauthorization safety audit, including verification, in a manner sufficient to demonstrate the ability to comply with Federal rules and regulations, of—

"(i) a drug and alcohol testing program under part 40 of title 49, Code of Federal Regulations;

"(ii) the carrier's system of compliance with hours-of-service rules, including hours-of-service records;

"(iii) the ability to obtain required insurance;

"(iv) driver qualifications, including the validity of the commercial driver's li-

cense of each driver who will be operating under such authority;

"(v) disclosure of common ownership, common control, common management, common familial relationship, or other corporate relationship with another motor carrier or applicant for motor carrier authority during the past 3 years;

"(vi) records of the State inspections, or of a Level I or V Commercial Vehicle Safety Alliance Inspection, for all vehicles that will be operated by the carrier;

"(vii) safety management programs, including vehicle maintenance and repair programs; and

"(viii) the ability to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and the Over-the-Road Bus Transportation Accessibility Act of 2007 (122 Stat. 2915);

"(B) has been interviewed to review safety management controls and the carrier's written safety oversight policies and practices; and

"(C) through the successful completion of a written examination developed by the Secretary,

has demonstrated proficiency to comply with and carry out the requirements and regulations described in subsection (a)(1).

"(2) PRE-AUTHORIZATION SAFETY AUDIT.—The pre-authorization safety audit required under paragraph (1)(A) shall be completed on-site not later than 90 days following the submission of an application for operating authority.

"(3) FEE.—The Secretary may establish, under section 9701 of title 31, a fee of not more than $1,200 for new registrants that as nearly as possible covers the costs of performing a preauthorization safety audit. Amounts collected under this subsection shall be deposited in the Highway Trust Fund (other than the Mass Transit Account).".

(b) SAFETY REVIEWS OF NEW OPERATORS.—Section 31144(g)(1) is amended by inserting "transporting property" after "each operator".

(c) CONFORMING AMENDMENT.—Section 24305(a)(3)(A)(i) is amended by striking "section 13902(b)(8)(A)" and inserting "section 13902(b)(11)(A)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of enactment of this Act.

SEC. 707. IMPROVED OVERSIGHT OF MOTORCOACH SERVICE PROVIDERS.

Section 31144, as amended by sections 204 and 604 of this Act, is amended by adding at the end the following:

"(j) PERIODIC SAFETY REVIEWS OF PROVIDERS OF MOTORCOACH SERVICES.—

"(1) SAFETY REVIEW.—

"(A) IN GENERAL.—The Secretary shall—

"(i) determine the safety fitness of all providers of motorcoach services registered with the Federal Motor Carrier Safety Administration; and

"(ii) assign a safety fitness rating to each such provider.

"(B) APPLICABILITY.—Subparagraph (A) shall apply—

"(i) to any provider of motorcoach services registered with the Administration after the date of enactment of the Motorcoach Enhanced Safety Act of 2011 beginning not later than 2 years after the date of such registration; and

"(ii) to any provider of motorcoach services registered with the Administration on or before the date of enactment of that

Act beginning not later than 3 years after the date of enactment of that Act.

"(2) PERIODIC REVIEW.—The Secretary shall establish, by regulation, a process for monitoring the safety performance of each provider of motorcoach services on a regular basis following the assignment of a safety fitness rating, including progressive intervention to correct unsafe practices.

"(3) ENFORCEMENT STRIKE FORCES.—In addition to the enhanced monitoring and enforcement actions required under paragraph (2), the Secretary may organize special enforcement strike forces targeting providers of motorcoach services.

"(4) PERIODIC UPDATE OF SAFETY FITNESS RATING.—In conducting the safety reviews required under this subsection, the Secretary shall reassess the safety fitness rating of each provider not less frequently than once every 3 years.

"(5) MOTORCOACH SERVICES DEFINED.—In this subsection, the term 'provider of motorcoach services' has the meaning given such term in section 702 of the Motorcoach Enhanced Safety Act of 2011.".

SEC. 708. REPORT ON FEASIBILITY, BENEFITS, AND COSTS OF ESTABLISHING A SYSTEM OF CERTIFICATION OF TRAINING PROGRAMS.

Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that describes the feasibility, benefits, and costs of establishing a system of certification of public and private schools and of motor carriers and motorcoach operators that provide motorcoach driver training.

SEC. 709. REPORT ON DRIVER'S LICENSE REQUIREMENTS FOR 9- TO 15-PASSENGER VANS.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that examines requiring all or certain classes of drivers operating a vehicle, which is designed or used to transport not fewer than 9 and not more than 15 passengers (including a driver) in interstate commerce, to have a commercial driver's license passenger-carrying endorsement and be tested in accordance with a drug and alcohol testing

program under part 40 of title 49, Code of Federal Regulations.

(b) CONSIDERATIONS.—In developing the report under subsection (a), the Secretary shall consider—

(1) the safety benefits of the requirement described in subsection (a);

(2) the scope of the population that would be impacted by such requirement;

(3) the cost to the Federal Government and State governments to meet such requirement; and

(4) the impact on safety benefits and cost from limiting the application of such requirement to certain drivers of such vehicles, such as drivers who are compensated for driving.

SEC. 710. EVENT DATA RECORDERS.

(a) EVALUATION.—Not later than 1 year after the date of enactment of this Act, the Secretary, after considering the performance requirements for event data recorders for passenger vehicles under part 563 of title 49, Code of Federal Regulations, shall complete an evaluation of event data recorders, including requirements regarding specific types of vehicle operations, events and incidents, and systems information to be recorded, for event data recorders to be used on motorcoaches used by motor carriers in interstate commerce.

(b) STANDARDS AND REGULATIONS.—Not later than 2 years after completing the evaluation required under subsection (a), the Secretary shall issue standards and regulations based on the results of that evaluation.

SEC. 711. SAFETY INSPECTION PROGRAM FOR COMMERCIAL MOTOR VEHICLES OF PASSENGERS.

Not later than 3 years after the date of enactment of this Act, the Secretary shall complete a rulemaking proceeding to consider requiring States to conduct annual inspections of commercial motor vehicles designed or used to transport passengers, including an assessment of—

(1) the risks associated with improperly maintained or inspected commercial motor vehicles designed or used to transport passengers;

(2) the effectiveness of existing Federal standards for the inspection of such vehicles in—

(A) mitigating the risks described in paragraph (1); and

(B) ensuring the safe and proper operation condition of such vehicles; and

(3) the costs and benefits of a mandatory State inspection program.

SEC. 712. DISTRACTED DRIVING.

(a) IN GENERAL.—Chapter 311, as amended by sections 113, 508, and 512 of this Act, is amended by adding after section 31154 the following:

"§ 31155. Regulation of the use of distracting devices in motorcoaches

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of the Motorcoach Enhanced Safety Act of 2011, the Secretary of Transportation shall prescribe regulations on the use of electronic or wireless devices, including cell phones and other distracting devices, by an individual employed as the operator of a motorcoach (as defined in section 702 of that Act).

"(b) BASIS FOR REGULATIONS.—The Secretary shall base the regulations prescribed under subsection (a) on accident data analysis, the results of ongoing research, and other information, as appropriate.

"(c) PROHIBITED USE.—Except as provided under subsection (d), the Secretary shall prohibit the use of the devices described in subsection (a) in circumstances in which the Secretary determines that their use interferes with a driver's safe operation of a motorcoach.

"(d) PERMITTED USE.—The Secretary may permit the use of a device that is otherwise prohibited under subsection (c) if the Secretary determines that such use is necessary

for the safety of the driver or the public in emergency circumstances.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 311 is amended by inserting after the item relating to section 31154 the following:

''31155. Regulation of the use of distracting devices in motorcoaches.''.

SEC. 713. REGULATIONS.

Any standard or regulation prescribed or modified pursuant to the Motorcoach Enhanced Safety Act of 2011 shall be prescribed or modified in accordance with section 553 of title 5, United States Code.

TITLE VIII—SAFE HIGHWAYS AND INFRASTRUCTURE PRESERVATION

SEC. 801. COMPREHENSIVE TRUCK SIZE AND WEIGHT LIMITS STUDY.

(a) TRUCK SIZE AND WEIGHT LIMITS STUDY.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with each relevant State and other applicable Federal agencies, shall commence a comprehensive truck size and weight limits study. The study shall—

(1) provide data on accident frequency and factors related to accident risk of each route of the National Highway System in each State that allows a vehicle to operate with size and weight limits that are

in excess of the Federal law and regulations and its correlation to truck size and weight limits;

(2) evaluate the impacts to the infrastructure of each route of the National Highway System in each State that allows a vehicle to operate with size and weight limits that are in excess of the Federal law and regulations, including—

(A) an analysis that quantifies the cost and benefits of the impacts in dollars;

(B) an analysis of the percentage of trucks operating in excess of the Federal size and weight limits; and

(C) an analysis that examines the ability of each State to recover the cost for the impacts, or the benefits incurred;

(3) evaluate the impacts and frequency of violations in excess of the Federal size and weight law and regulations to determine the cost of the enforcement of the law and regulations, and the effectiveness of the enforcement methods;

(4) examine the relationship between truck performance and crash involvement and its correlation to Federal size and weight limits, including the impacts on crashes;

(5) assess the impacts that truck size and weight limits in excess of the Federal law and regulations have in the risk of bridge failure contributing to the structural deficiencies of bridges or in the useful life of a bridge, including the impacts resulting from the number of bridge loadings;

(6) analyze the impacts on safety and infrastructure in each State that allows a truck to operate in excess of Federal size and weight limitations in truck-only lanes; and

(7) compare and contrast the safety and infrastructure impacts of the Federal limits regarding truck size and weight limits in relation to—

(A) six-axle and other alternative configurations of tractor-trailers; and

(B) safety records of foreign nations with truck size and weight limits and tractor-trailer configurations that differ from the Federal law and regulations.

(b) REPORT.—Not later than 2 years after the date that the study is commenced under subsection (a), the Secretary shall submit a final report on the study, including all findings and recommendations, to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the

Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 802. COMPILATION OF EXISTING STATE TRUCK SIZE AND WEIGHT LIMIT LAWS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the States, shall begin to compile—

(1) a list for each State, as applicable, that describes each route of the National Highway System that allows a vehicle to operate in excess of the Federal truck size and weight limits that—

(A) was authorized under State law on or before the date of enactment of this Act; and

(B) was in actual and lawful operation on a regular or periodic basis (including seasonal operations) on or before the date of enactment of this Act;

(2) a list for each State, as applicable, that describes—

(A) the size and weight limitations applicable to each segment of the National Highway System in that State as listed under paragraph (1);

(B) each combination that exceeds the Interstate weight limit, but that the Department of

Transportation, other Federal agency, or a State agency has determined on or before the date of enactment of this Act, could be or could have been lawfully operated in the State; and

(C) each combination that exceeds the Interstate weight limit, but that the Secretary determines could have been lawfully operated on a non-Interstate segment of the National Highway System in the State on or before the date of enactment of this Act; and

(3) a list of each State law that designates or allows designation of size and weight limitations in excess of Federal law and regulations on routes of the National Highway System, including nondivisible loads.

(b) SPECIFICATIONS.—The Secretary, in consultation with the States, shall specify whether the determinations under paragraphs (1) and (2) of subsection (a) were made by the Department of Transportation, other Federal agency, or a State agency.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a final report of the compilation under subsection (a) to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate

and the Committee on Transportation and Infrastructure of the House of Representatives.

TITLE IX—MISCELLANEOUS

SEC. 901. DETENTION TIME STUDY.

(a) STUDY.—Not later than 30 days after the date of enactment of this Act, the Secretary shall task the Motor Carrier Safety Advisory Committee to study the extent to which detention time contributes to drivers violating hours of service requirements and driver fatigue. In conducting this study, the Committee shall—

(1) examine data collected from driver and vehicle inspections;

(2) consult with—

(A) motor carriers and drivers, shippers, and representatives of ports and other facilities where goods are loaded and unloaded;

(B) government officials; and

(C) other parties as appropriate; and

(3) provide recommendations to the Secretary for addressing issues identified in the study.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall provide a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives

that includes recommendations for legislation and for addressing the results of the study.

SEC. 902. PROHIBITION OF COERCION.

Section 31136(a) is amended by—

(1) striking "and" at the end of paragraph (3);

(2) striking the period at the end of paragraph (4) and inserting "; and"; and

(3) adding after subsection (4) the following:

"(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.".

SEC. 903. MOTOR CARRIER SAFETY ADVISORY COMMITTEE.

(a) MEMBERSHIP.—Section 4144(b)(1) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31100 note), is amended by inserting "nonprofit employee labor organizations representing commercial motor vehicle drivers," after "industry,".

(b) TERMINATION DATE.—Section 4144(d) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31100 note), is amended by

striking "March 31, 2012" and inserting "September 30, 2013".

SEC. 904. WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS.

(a) WAIVER STANDARDS.—Section 31315(a) is amended—

(1) by inserting "and" at the end of paragraph (2);

(2) by striking paragraph (3); and

(3) redesignating paragraph (4) as paragraph (3).

(b) EXEMPTION STANDARDS.—Section 31315(b)(4) is amended—

(1) in subparagraph (A), by inserting "(or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149)" after "Federal Register";

(2) by amending subparagraph (B) to read as follows:

"(B) UPON GRANTING A REQUEST.—Upon granting a request and before the effective date of the exemption, the Secretary shall publish in the Federal Register (or, in the case of an exemption from the physical qualification standards for

commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149) the name of the person granted the exemption, the provisions from which the person is exempt, the effective period, and the terms and conditions of the exemption.''; and

(3) in subparagraph (C), by inserting ''(or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149)'' after ''Federal Register''.

(c) PROVIDING NOTICE OF EXEMPTIONS TO STATE PERSONNEL.—Section 31315(b)(7) is amended to read as follows:

''(7) NOTIFICATION OF STATE COMPLIANCE AND ENFORCEMENT PERSONNEL.—Before the effective date of an exemption, the Secretary shall notify a State safety compliance and enforcement agency, and require the agency pursuant to section 31102(b)(1)(Y) to notify the State's roadside inspectors, that a person will be operating pursuant to an exemption and the terms and conditions that apply to the exemption.''.

(d) PILOT PROGRAMS.—Section 31315(c)(1) is amended by striking "in the Federal Register".

(e) REPORT TO CONGRESS.—Section 31315 is amended by adding after subsection (d) the following:

"(e) REPORT TO CONGRESS.—The Secretary shall submit an annual report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives listing the waivers, exemptions, and pilot programs granted under this section, and any impacts on safety.

"(f) WEB SITE.—The Secretary shall ensure that the Federal Motor Carrier Safety Administration web site includes a link to the web site established by the Secretary to implement the requirements under sections 31149 and 31315. The link shall be in a clear and conspicuous location on the home page of the Federal Motor Carrier Safety Administration web site and be easily accessible to the public.".

SEC. 905. TRANSPORTATION OF HORSES.

Section 80502 is amended—

(1) in subsection (c), by striking "This section does not" and inserting "Subsections (a) and (b) shall not";

(2) by redesignating subsection (d) as subsection (e);

(3) by inserting after subsection (c) the following:

"(d) TRANSPORTATION OF HORSES.—

"(1) PROHIBITION.—No person may transport, or cause to be transported, a horse from a place in a State, the District of Columbia, or a territory or possession of the United States through or to a place in another State, the District of Columbia, or a territory or possession of the United States in a motor vehicle containing 2 or more levels stacked on top of each other.

"(2) MOTOR VEHICLE DEFINED.—In this subsection, the term 'motor vehicle'—

"(A) means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways; and

"(B) does not include a vehicle operated exclusively on a rail or rails."; and

(4) in subsection (e), as redesignated—

(A) by striking "A rail carrier" and inserting the following:

"(1) IN GENERAL.—A rail carrier";

(B) by striking "this section" and inserting "subsection (a) or (b)"; and

(C) by striking "On learning" and inserting before "of a violation" the following:

"(2) TRANSPORTATION OF HORSES IN MULTI-LEVEL TRAILER.—

"(A) CIVIL PENALTY.—A person that knowingly violates subsection (d) is liable to the United States Government for a civil penalty of at least $100 but not more than $500 for each violation. A separate violation occurs under subsection (d) for each horse that is transported, or caused to be transported, in violation of subsection (d).

"(B) RELATIONSHIP TO OTHER LAWS.—The penalty provided under subparagraph (A) shall be in addition to any penalty or remedy available under any other law.

"(3) CIVIL ACTION.—On learning".

TITLE X—HOUSEHOLD GOODS TRANSPORTATION

SEC. 1001. ADDITIONAL REGISTRATION REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.

(a) Section 13902(a)(2) is amended—

(1) in subparagraph (B), by striking "section 13702(c);" and inserting "section 13702(c); and";

(2) by amending subparagraph (C) to read as follows:

"(C) demonstrates, before being registered, through successful completion of a proficiency examination established by the Secretary, knowledge and intent to comply with applicable Federal laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage."; and

(3) by striking subparagraph (D).

(b) COMPLIANCE REVIEWS OF NEW HOUSEHOLD GOODS MOTOR CARRIERS.—Section 31144(g), as amended by section 102 of this Act, is amended by adding at the end the following:

"(6) ADDITIONAL REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.—(A) In addition to the requirements of this subsection, the Secretary shall require, by regulation, each registered household goods motor carrier to undergo a consumer protection standards review not later than 18 months after the household goods motor carrier begins operations under such authority.

"(B) ELEMENTS.—In the regulations issued pursuant to subparagraph (A), the Secretary shall establish the elements of the consumer protections standards review, including basic management controls. In establishing the elements, the Secretary shall consider the effects on small businesses and shall consider establishing alternate locations where such reviews may be conducted for the convenience of small businesses.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of enactment of this Act.

SEC. 1002. FAILURE TO GIVE UP POSSESSION OF HOUSEHOLD GOODS.

(a) INJUNCTIVE RELIEF.—Section 14704(a)(1) is amended by striking "and 14103" and inserting ", 14103, and 14915(c)".

(b) CIVIL PENALTIES.—Section 14915(a)(1) is amended by adding at the end the following:

"The United States may assign all or a portion of the civil penalty to an aggrieved shipper. The Secretary of Transportation shall establish criteria upon which such assignments shall be made. The Secretary may order, after notice and an opportunity for a proceeding, that a person

found holding a household goods shipment hostage return the goods to an aggrieved shipper.".

SEC. 1003. SETTLEMENT AUTHORITY.

(a) SETTLEMENT OF GENERAL CIVIL PENALTIES.—Section 14901 is amended by adding at the end the following:

"(h) SETTLEMENT OF HOUSEHOLD GOODS CIVIL PENALTIES.—Nothing in this section shall be construed to prohibit the Secretary from accepting partial payment of a civil penalty as part of a settlement agreement in the public interest, or from holding imposition of any part of a civil penalty in abeyance.".

(b) SETTLEMENT OF HOUSEHOLD GOODS CIVIL PENALTIES.—Section 14915(a) is amended by adding at the end the following:

"(4) SETTLEMENT AUTHORITY.—Nothing in this section shall be construed as prohibiting the Secretary from accepting partial payment of a civil penalty as part of a settlement agreement in the public interest, or from holding imposition of any part of a civil penalty in abeyance.".

SEC. 1004. HOUSEHOLD GOODS TRANSPORTATION ASSISTANCE PROGRAM.

(a) JOINT ASSISTANCE PROGRAM.—Not later than 18 months after the date of enactment of this Act, the Secretary

shall develop and implement a joint assistance program, through the Federal Motor Carrier Safety Administration—

(1) to educate consumers about the household goods motor carrier industry pursuant to the recommendations of the task force established under section 1005 of this Act;

(2) to improve the Federal Motor Carrier Safety Administration's implementation, monitoring, and coordination of Federal and State household goods enforcement activities;

(3) to assist a consumer with the timely resolution of an interstate household goods hostage situation, as appropriate; and

(4) to conduct other enforcement activities as designated by the Secretary.

(b) JOINT ASSISTANCE PROGRAM PARTNERSHIP.—The Secretary—

(1) may partner with 1 or more household goods motor carrier industry groups to implement the joint assistance program under subsection (a); and

(2) shall ensure that each participating household goods motor carrier industry group—

(A) implements the joint assistance program in the best interest of the consumer;

(B) implements the joint assistance program in the public interest;

(C) accurately represents its financial interests in providing household goods mover services in the normal course of business and in assisting consumers resolving hostage situations;

(D) does not hold itself out or misrepresent itself as an agent of the Federal government;

(E) abides by Federal regulations and guidelines for the provision of assistance and receipt of compensation for household goods mover services; and

(F) accurately represents the Federal and State remedies that are available to consumers for resolving interstate household goods hostage situations.

(c) REPORT.—The Secretary shall submit a report annually to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives providing a detailed description of the joint assistance program under subsection (a).

(d) PROHIBITION.—The joint assistance program under subsection (a) may not include the provision of funds

by the United States to a consumer for lost, stolen, or damaged items.

SEC. 1005. HOUSEHOLD GOODS CONSUMER EDUCATION PROGRAM.

(a) TASK FORCE.—The Secretary of Transportation shall establish a task force to develop recommendations to ensure that a consumer is informed of Federal law concerning the transportation of household goods by a motor carrier, including recommendations—

(1) on how to condense publication ESA 03005 of the Federal Motor Carrier Safety Administration into a format that can be more easily used by a consumer; and

(2) on the use of state-of-the-art education techniques and technologies, including the use of the Internet as an educational tool.

(b) TASK FORCE MEMBERS.—The task force shall be comprised of—

(1) individuals with expertise in consumer affairs;

(2) educators with expertise in how people learn most effectively; and

(3) representatives of the household goods moving industry.

(c) RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this Act, the task force shall complete its recommendations under subsection (a). Not later than 1 year after the task force completes its recommendations under subsection (a), the Secretary shall issue regulations implementing the recommendations, as appropriate.

(d) FEDERAL ADVISORY COMMITTEE ACT EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the task force.

(e) TERMINATION.—The task force shall terminate 2 years after the date of enactment of this Act.

TITLE XI—TECHNICAL AMENDMENTS

SEC. 1101. UPDATE OF OBSOLETE TEXT.

(a) Section 31137(e), as redesignated by section 301 of this Act, is amended by striking "Not later than December 1, 1990, the Secretary shall prescribe" and inserting "The Secretary shall maintain".

(b) Section 31151(a) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—The Secretary of Transportation shall maintain a program to ensure that intermodal equipment used to transport intermodal containers is safe and systematically maintained."; and

(2) by striking paragraph (4).

(c) Section 31307(b) is amended by striking "Not later than December 18, 1994, the Secretary shall prescribe" and inserting "The Secretary shall maintain".

(d) Section 31310(g)(1) is amended by striking "Not later than 1 year after the date of enactment of this Act, the" and inserting "The".

(e) Section 4123(f) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1736), is amended by striking "Not later than 1 year after the date of enactment of this Act, the" and inserting "The".

SEC. 1102. CORRECTION OF INTERSTATE COMMERCE COMMISSION REFERENCES.

(a) SAFETY INFORMATION AND INTERVENTION IN INTERSTATE COMMERCE COMMISSION PROCEEDINGS.—Chapter 3 is amended—

(1) by repealing section 307;

(2) in the analysis, by striking the item relating to section 307;

(3) in section 333(d)(1)(C), by striking "Interstate Commerce Commission" and inserting "Surface Transportation Board"; and

(4) in section 333(e)—

(A) by striking "Interstate Commerce Commission" and inserting "Surface Transportation Board"; and

(B) by striking "Commission" and inserting "Board".

(b) FILING AND PROCEDURE FOR APPLICATION TO ABANDON OR DISCONTINUE.—Section 10903(b)(2) is amended by striking "24706(c) of this title" and inserting "24706(c) of this title before May 31, 1998".

(c) RIGHTS AND REMEDIES OF PERSONS INJURED BY CARRIERS OR BROKERS.—

(1) Section 14704 is amended—

(A) in subsection (a)—

(i) by striking "IN GENERAL.—" and all that follows through "injured" and inserting "ENFORCEMENT OF ORDER.—A person injured"; and

(ii) by redesignating paragraph (2) as subsection (b)(1); and

(B) in subsection (b)—

(i) by redesignating subsection (b) as paragraph (2);

(ii) by striking "LIABILITY AND DAMAGES FOR EXCEEDING TARIFF RATE.—" and all that follows through "A carrier"

and inserting "EXCEEDING TARIFF RATE.—"; and

(iii) by striking "DAMAGES FOR VIOLATIONS.—" in paragraph (1), as redesignated, and inserting "OTHER VIOLATIONS.—".

(2) Section 14705(c) is amended by striking "14704(b)" and inserting "14704(b)(2)".

(d) TECHNICAL AMENDMENTS TO PART C OF SUBTITLE V.—

(1) Section 24307(b)(3) is amended by striking "Interstate Commerce Commission" and inserting "Surface Transportation Board".

(2) Section 24311 is amended—

(A) by striking "Interstate Commerce Commission" and inserting "Surface Transportation Board";

(B) by striking "Commission" each place it appears and inserting "Board"; and

(C) by striking "Commission's" and inserting "Board's".

(3) Section 24902 is amended—

(A) by striking "Interstate Commerce Commission" each place it appears and inserting "Surface Transportation Board"; and

(B) by striking "Commission" each place it appears and inserting "Board".

(4) Section 24904 is amended—

(A) by striking "Interstate Commerce Commission" and inserting "Surface Transportation Board"; and

(B) by striking "Commission" each place it appears and inserting "Board".

SEC. 1103. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 14504a(c)(1) is amended—

(1) in subparagraph (C), by striking "sections" and inserting "section"; and

(2) in subparagraph (D)(ii)(II) by striking the period at the end and inserting "; and".

(b) Section 31103(a) is amended by striking "section 31102(b)(1)(E)" and inserting "section 31102(b)(2)(E)".

(c) Section 31103(b) is amended by striking "authorized by section 31104(f)(2)".

(d) Section 31309(b)(2) is amended by striking "31308(2)" and inserting "31308(3)".

TITLE XII—SURFACE TRANSPORTATION AND FREIGHT POLICY ACT OF 2011

SEC. 1201. SHORT TITLE.

This title may be cited as the "Surface Transportation and Freight Policy Act of 2011".

SEC. 1202. ESTABLISHMENT OF A NATIONAL SURFACE TRANSPORTATION AND FREIGHT POLICY.

(a) IN GENERAL.—Subchapter I of chapter 3, as amended by section 1102 of this Act, is amended—

(1) by redesignating sections 304 through 306 as sections 307 through 309, respectively;

(2) by redesignating sections 308 and 309 as sections 310 and 311, respectively;

(3) by redesignating sections 303 and 303a as sections 305 and 306, respectively; and

(4) by inserting after section 302 the following:

"§ 303. National surface transportation policy

"(a) POLICY.—It is the policy of the United States to develop a comprehensive national surface transportation system that advances the national interest and defense, interstate and foreign commerce, the efficient and safe interstate mobility of people and goods, and the protection of the environment. The system shall be built, maintained, managed, and operated as a partnership between the Fed-

eral, State, and local governments and the private sector and shall be coordinated with the overall transportation system of the United States, including the Nation's air, rail, pipeline, and water transportation systems. The Secretary of Transportation shall be responsible for carrying out this policy and for defining the Federal government's role in the system.

"(b) OBJECTIVES.—The objectives of the policy shall be to facilitate and advance—

"(1) the improved accessibility and reduced travel times for persons and goods within and between nations, regions, States, and metropolitan areas;

"(2) the safety and health of the public;

"(3) the security of the Nation and the public;

"(4) environmental protection;

"(5) energy conservation and security, including reducing transportation-related energy use;

"(6) international and interstate freight movement, trade enhancement, job creation, and economic development;

"(7) responsible planning to address population distribution and employment and sustainable development;

"(8) the preservation and adequate performance of system-critical transportation assets, as defined by the Secretary;

"(9) reasonable access to the national surface transportation system for all system users, including rural communities;

"(10) the sustainable, balanced, and adequate financing of the national surface transportation system; and

"(11) innovation in transportation services, infrastructure, and technology.

"(c) GOALS.—

"(1) SPECIFIC GOALS.—The goals of the policy shall be—

"(A) to reduce average per capita peak period travel times on an annual basis;

"(B) to reduce national motor vehicle-related and truck-related fatalities by 50 percent by 2030;

"(C) to reduce national surface transportation delays per capita on an annual basis;

"(D) to improve the access to employment opportunities and other economic activities;

"(E) to increase the percentage of system-critical surface transportation assets, as defined

by the Secretary, that are in a state of good repair by 20 percent by 2030;

"(F) to improve access to public transportation, intercity passenger rail services, and nonmotorized transportation where travel demand warrants;

"(G) to reduce passenger and freight transportation infrastructure-related delays entering into and out of international points of entry on an annual basis;

"(H) to increase travel time reliability on major freight corridors that connect major population centers to freight generators and international gateways on an annual basis;

"(I) to ensure adequate transportation of domestic energy supplies and promote energy security;

"(J) to maintain or reduce the percentage of gross domestic product consumed by transportation costs; and

"(K) to reduce transportation-related impacts on the environment and on communities on an annual basis.

"(2) BASELINES.—Not later than 2 years after the date of enactment of the Surface Transportation

and Freight Policy Act of 2011, the Secretary shall develop baselines for the goals and shall determine appropriate methods of data collection to measure the attainment of the goals.".

(b) FREIGHT POLICY.—Subchapter I of chapter 3, as amended by section 1202(a) of this Act, is amended by adding at the end the following:

"§ 312. National freight transportation policy.

"(a) NATIONAL FREIGHT TRANSPORTATION POLICY.—It is the policy of the United States to improve the efficiency, operation, and security of the national transportation system to move freight by leveraging investments and promoting partnerships that advance interstate and foreign commerce, promote economic competitiveness and job creation, improve the safe and efficient mobility of goods, and protect the public health and the environment.

"(b) OBJECTIVES.—The objectives of the policy are—

"(1) to target investment in freight transportation projects that strengthen the economic competitiveness of the United States with a focus on domestic industries and businesses and the creation and retention of high-value jobs;

"(2) to promote and advance energy conservation and the environmental sustainability of freight movements;

"(3) to facilitate and advance the safety and health of the public, including communities adjacent to freight movements;

"(4) to provide for systematic and balanced investment to improve the overall performance and reliability of the national transportation system to move freight, including ensuring trade facilitation and transportation system improvements are mutually supportive;

"(5) to promote partnerships between Federal, State, and local governments, the private sector, and other transportation stakeholders to leverage investments in freight transportation projects; and

"(6) to encourage adoption of operational policies, such as intelligent transportation systems, to improve the efficiency of freight-related transportation movements and infrastructure.".

(c) CONFORMING AMENDMENTS.—The table of contents for chapter 3 is amended—

(1) by redesignating the items relating to sections 304 through 306 as sections 307 through 309, respectively;

(2) by redesignating the items relating to sections 308 and 309 as sections 310 and 311, respectively;

(3) by redesignating the items relating to sections 303 and 303a as sections 305 and 306, respectively;

(4) by inserting after the item relating to section 302 the following:

"303. National surface transportation policy."; and

(5) by inserting after the item relating to section 311 the following:

"312. National freight transportation policy.".

SEC. 1203. SURFACE TRANSPORTATION AND FREIGHT STRATEGIC PLAN.

(a) SURFACE TRANSPORTATION AND FREIGHT STRATEGIC PLAN.—Subchapter I of chapter 3, as amended by section 1202 of this Act, is amended by inserting after section 303 the following—

"§ 304. National surface transportation and freight strategic performance plan.

"(a) DEVELOPMENT.—Not later than 2 years after the date of enactment of the Surface Transportation and Freight Policy Act of 2011, the Secretary of Transportation shall develop and implement a National Surface Transportation and Freight Performance Plan to achieve the policy, objectives, and goals set forth in sections 303 and 312 .

"(b) CONTENTS.—The plan shall include—

"(1) an assessment of the current performance of the national surface transportation system and an

analysis of the system's ability to achieve the policy, objectives, and goals set forth in sections 303 and 312;

"(2) an analysis of emerging and long-term projected trends, including economic and national trade policies, that will impact the performance, needs, and uses of the national surface transportation system, including the system to move freight;

"(3) a description of the major challenges to effectively meeting the policy, objectives, and goals set forth in sections 303 and 312 and a plan to address such challenges;

"(4) a comprehensive strategy and investment plan to meet the policy, objectives, and goals set forth in sections 303 and 312, including a strategy to develop the coalitions, partnerships, and other collaborative financing efforts necessary to ensure stable, reliable funding and completion of freight corridors and projects;

"(5) initiatives to improve transportation modeling, research, data collection, and analysis, including those to assess impacts on public health, and environmental conditions;

"(6) a plan for any reorganization of the Department of Transportation or its agencies necessary

to meet the policy, objectives, and goals set forth in sections 303 and 312;

"(7) guidelines to encourage the appropriate balance of means to finance the national transportation system to move freight to implement the plan and the investment plan proposed under paragraph (4); and

"(8) a list of priority freight corridors and gateways to be improved and developed to meet the policy, objectives, and goals set forth in section 312.

"(c) CONSULTATION.—In developing the plan required by subsection (a), the Secretary shall—

"(1) consult with appropriate Federal agencies, local, State, and tribal governments, public and private transportation stakeholders, non-profit organizations representing transportation employees, appropriate foreign governments, and other interested parties;

"(2) consider on-going Federal, State, and corridor-wide transportation plans;

"(3) provide public notice and hearings and solicit public comments on the plan, and

"(4) as appropriate, establish advisory committees to assist with developing the plan.

"(d) SUBMITTAL AND PUBLICATION.—The Secretary shall—

"(1) submit the completed plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives; and

"(2) post the completed plan on the Department of Transportation's public web site.

"(e) PROGRESS REPORTS.—The Secretary shall submit biennial progress reports on the implementation of the plan beginning 2 years after the date of submittal of the plan under subsection (d)(1). Each progress report shall—

"(1) describe progress made toward fully implementing the plan and achieving the policies, objectives, and goals established under sections 303 and 312;

"(2) describe challenges and obstacles to full implementation;

"(3) describe updates to the plan necessary to reflect changed circumstances or new developments; and

"(4) make policy and legislative recommendations the Secretary believes are necessary and appropriate to fully implement the plan.

"(f) DATA.—The Secretary shall have the authority to conduct studies, gather information, and require the production of data necessary to develop or update this plan, consistent with Federal privacy standards.

"(g) IMPLEMENTATION.—The Secretary shall—

"(1) develop appropriate performance criteria and data collections systems for each Federal surface transportation program to evaluate:

"(A) whether such programs are consistent with the policy, objectives, and goals established by sections 303 and 312; and

"(B) how effective such programs are in contributing to the achievement of the policy, objectives, and goals established by sections 303 and 312;

"(2) using the criteria developed under paragraph (1), periodically evaluate each such program and provide the results to the public;

"(3) based on the evaluation performed under paragraph (2), make any necessary changes or improvements to such programs to ensure such consistency and effectiveness;

"(4) implement this section in a manner that is consistent with sections 302, 5503, 10101, and 13101 of this title and section 101 of title 23 to the extent that such sections do not conflict with the policy, objectives, and goals established by sections 303 and 312;

"(5) review, update, and reissue all relevant surface transportation planning requirements to ensure that such requirements require that regional, State, and local surface transportation planning efforts funded with Federal funds are consistent with the policy, objectives, and goals established by this section; and

"(6) require States and metropolitan planning organizations to annually report on the use of Federal surface transportation funds, including a description of—

"(A) which projects and priorities were funded with such funds;

"(B) the rationale and method employed for apportioning such funds to the projects and priorities; and

"(C) how the obligation of such funds is consistent with or advances the policy, objectives, and goals established by sections 303 and 312.".

(b) CONFORMING AMENDMENT.—The table of contents for chapter 3 is amended by inserting after the item relating to section 303 the following:

"304. National surface transportation and freight strategic performance plan.".

SEC. 1204. TRANSPORTATION INVESTMENT DATA AND PLANNING TOOLS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall—

(1) develop new tools or improve existing tools to support an outcome-oriented, performance-based approach to evaluate proposed freight-related and other surface transportation projects. These new or improved tools shall include—

(A) a systematic cost-benefit analysis;

(B) an evaluation of external effects on congestion, pollution, the environment, and the public health;

(C) a valuation of modal alternatives; and

(D) other elements to assist in effective transportation planning; and

(2) facilitate the collection of transportation-related data to support a broad range of evaluation methods and techniques such as demand forecasts, modal diversion forecasts, estimates of the effect of proposed investments on congestion, pollution, public health, and other factors, to assist in making transportation investment decisions. At a minimum, the Secretary, in consultation with other relevant Federal agencies, shall consider any improvements to the Commodity Flow Survey that reduce identified freight

data gaps and deficiencies and help evaluate forecasts of transportation demand.

(b) CONSULTATION.—To the extent practicable, the Secretary shall consult with Federal, State, and local transportation planners to develop, improve, and implement the tools and collect the data under subsection (a).

(c) ESTABLISHMENT OF PILOT PROGRAM.—

(1) ESTABLISHMENT.—To assist in the development of tools under subsection (a) and to inform the National Surface Transportation and Freight Performance Plan required by section 304 of title 49, United States Code, the Secretary shall establish a pilot program under which the Secretary shall conduct case studies of States and metropolitan planning organizations that are designed—

(A) to provide more detailed, in-depth analysis and data collection with respect to transportation programs; and

(B) to apply rigorous methods of measuring and addressing the effectiveness of program participants in achieving national transportation goals.

(2) PRELIMINARY REQUIREMENTS.—

(A) SOLICITATION.—The Secretary shall solicit applications to participate in the pilot pro-

gram from States and metropolitan planning organizations.

(B) NOTIFICATION.—A State or metropolitan planning organization that desires to participate in the pilot program shall notify the Secretary of such desire before a date determined by the Secretary.

(C) SELECTION.—

(i) NUMBER OF PROGRAM PARTICIPANTS.—The Secretary shall select to participate in the pilot program—

(I) not fewer than 3, and not more than 5, States; and

(II) not fewer than 3, and not more than 5, metropolitan planning organizations.

(ii) TIMING.—The Secretary shall select program participants not later than 3 months after the date of enactment of this Act.

(iii) DIVERSITY OF PROGRAM PARTICIPANTS.—The Secretary shall, to the extent practicable, select program participants that represent a broad range of geographic and demographic areas (including rural

and urban areas) and types of transportation programs.

(d) CASE STUDIES.—

(1) BASELINE REPORT.—Not later than 6 months after the date of enactment of this Act, each program participant shall submit to the Secretary a baseline report that—

(A) describes the reporting and data collection processes of the program participant for transportation investments that are in effect on the date of the report;

(B) assesses how effective the program participant is in achieving the national surface transportation goals in section 303 of title 49, United States Code;

(C) describes potential improvements to the methods and metrics used to measure the effectiveness of the program participant in achieving national surface transportation goals in section 303 of title 49, United States Code, and the challenges to implementing such improvements; and

(D) includes an assessment of whether, and specific reasons why, the preparation and submission of the baseline report may be limited, incomplete, or unduly burdensome, including

any recommendations for facilitating the preparation and submission of similar reports in the future.

(2) EVALUATION.—Each program participant shall work cooperatively with the Secretary to evaluate the methods and metrics used to measure the effectiveness of the program participant in achieving national surface transportation goals in section 303 of title 49, United States Code, including—

(A) by considering the degree to which such methods and metrics take into account—

(i) the factors that influence the effectiveness of the program participant in achieving the national surface transportation goals;

(ii) all modes of transportation; and

(iii) the transportation program as a whole, rather than individual projects within the transportation program; and

(B) by identifying steps that could be used to implement the potential improvements identified under paragraph (1)(C).

(3) FINAL REPORT.—Not later than 18 months after the date of enactment of this section, each pro-

gram participant shall submit to the Secretary a comprehensive final report that—

(A) contains an updated assessment of the effectiveness of the program participant in achieving national surface transportation goals under section 303 of title 49, United States Code; and

(B) describes the ways in which the performance of the program participant in collecting and reporting data and carrying out the transportation program of the program participant has improved or otherwise changed since the date of submission of the baseline report under subparagraph (A).

SEC. 1205. NATIONAL FREIGHT INFRASTRUCTURE INVESTMENT GRANTS.

(a) ESTABLISHMENT OF PROGRAM.—Chapter 55 is amended by adding at the end the following:

"SUBCHAPTER III—FINANCIAL ASSISTANCE

"§ 5581. National freight infrastructure investment grants.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall establish a competitive grant program to provide financial assistance for capital investments

that improve the efficiency of the national transportation system to move freight.

"(b) ELIGIBLE PROJECTS.—An applicant is eligible for a grant under this section for—

"(1) a port development or improvement project;

"(2) a multimodal terminal facility project;

"(3) a land port of entry project;

"(4) a freight rail improvement or capacity expansion project;

"(5) an intelligent transportation system project primarily for freight benefit that reduces congestion or improves safety;

"(6) a project that improves access to a port or terminal facility;

"(7) a highway project to reduce congestion or improve safety; or

"(8) planning, preparation, or design of any project described in paragraph (1), (2), (3), (4), (5), (6), or (7).

"(c) PROJECT SELECTION CRITERIA.—In determining whether to award a grant to an eligible applicant under this section, the Secretary shall consider the extent to which the project—

"(1) supports the objectives of the National Surface Transportation and Freight Performance Plan developed under section 304;

"(2) leverages Federal investment by encouraging non-Federal contributions to the project, including contributions from public-private partnerships;

"(3) improves the mobility of goods and commodities;

"(4) incorporates new and innovative technologies, including freight-related intelligent transportation systems;

"(5) improves energy efficiency or reduces greenhouse gas emissions;

"(6) helps maintain or protect the environment, including reducing air and water pollution;

"(7) reduces congestion;

"(8) improves the condition of the freight infrastructure, including bringing it into a state of good repair;

"(9) improves safety, including reducing transportation accidents, injuries, and fatalities;

"(10) demonstrates that the proposed project cannot be readily and efficiently realized without Federal support and participation; and

"(11) enhances national or regional economic development, growth, and competitiveness.

"(d) PRIORITY.—The Secretary shall give priority to projects that have the highest system performance improvement relative to their benefit-cost analysis, as measured by the tools developed under section 1204 of the Surface Transportation and Freight Policy Act of 2011 and those that support domestic manufacturing of goods.

"(e) LETTERS OF INTENT.—

"(1) IN GENERAL.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a major capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

"(2) WRITTEN NOTICE.—Not later than 30 days before issuing a letter under paragraph (1), the Secretary shall provide written notice of the proposed letter or agreement to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The Secretary shall include with the notification a copy of the proposed letter or agreement, the criteria used under subsection

(c) for selecting the project for a grant award, and a description of how the project meets such criteria.

"(3) SUBJECT TO AVAILABILITY OF FUNDS.—An obligation or administrative commitment may be made only when amounts are made available. Each letter of intent shall state that the contingent commitment is not an obligation of the Federal Government, and is subject to the availability of funds under Federal law and to Federal laws in force or enacted after the date of the contingent commitment.

"(f) FEDERAL SHARE OF NET PROJECT COST.—

"(1) IN GENERAL.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost.

"(2) FEDERAL SHARE.—The Federal share of a grant for the project shall not exceed 80 percent of the project net capital cost.

"(3) PRIORITY.—The Secretary shall give priority in allocating future obligations and contingent commitments to incur obligations to grant requests seeking a lower Federal share of the project net capital cost.

"(g) COOPERATIVE AGREEMENTS.—

"(1) IN GENERAL.—An applicant may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project funded with a grant under this subchapter.

"(2) FORMS OF PARTICIPATION.—Participation by an entity under paragraph (1) may consist of—

"(A) ownership or operation of any land, facility, vehicle, or other physical asset associated with the project;

"(B) cost-sharing of any project expense or non-Federal share of the project cost, including in kind contributions;

"(C) carrying out administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

"(D) any other form of participation approved by the Secretary.

"(h) OVERSIGHT PROGRAM.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary shall establish an oversight program to monitor the effective and efficient use of funds authorized to carry out this section.

"(B) MINIMUM REQUIREMENT.—At a minimum, the oversight program shall be responsive to all areas relating to financial integrity and project delivery.

"(2) FINANCIAL INTEGRITY.—

"(A) FINANCIAL MANAGEMENT SYSTEMS.—The Secretary shall perform annual reviews that address elements of the applicant's financial management systems that affect projects approved under subsection (a).

"(B) PROJECT COSTS.—The Secretary shall develop minimum standards for estimating project costs and shall periodically evaluate the practices of applicants for estimating project costs, awarding contracts, and reducing project costs.

"(3) PROJECT DELIVERY.—The Secretary shall perform annual reviews that address elements of the project delivery system of an applicant, which elements include 1 or more activities that are involved in the life cycle of a project from conception to completion of the project.

"(4) RESPONSIBILITY OF THE APPLICANTS.—

"(A) IN GENERAL.—Each applicant shall submit to the Secretary for approval such plans,

specifications, and estimates for each proposed project as the Secretary may require.

"(B) APPLICANT SUBRECIPIENTS.—The applicant shall be responsible for determining that a subrecipient of Federal funds under this section—

"(i) has adequate project delivery systems for projects approved under this section; and

"(ii) has sufficient accounting controls to properly manage such Federal funds.

"(C) PERIODIC REVIEW.—The Secretary shall periodically review the monitoring of subrecipients by the applicant.

"(5) SPECIFIC OVERSIGHT RESPONSIBILITIES.—Nothing in this section shall affect or discharge any oversight responsibility of the Secretary specifically provided for under this title or other Federal law.

"(i) MAJOR PROJECTS.—

"(1) IN GENERAL.—A recipient of a grant for a project under this section with an estimated total cost of $500,000,000 or more, and a recipient for such other projects as may be identified by the Secretary, shall submit to the Secretary for each project—

"(A) a project management plan; and

"(B) an annual financial plan.

"(2) PROJECT MANAGEMENT PLAN.—A project management plan shall document—

"(A) the procedures and processes that are in effect to provide timely information to the project decisionmakers to effectively manage the scope, costs, schedules, and quality of, and the Federal requirements applicable to, the project; and

"(B) the role of the agency leadership and management team in the delivery of the project.

"(3) FINANCIAL PLAN.—A financial plan shall—

"(A) be based on detailed estimates of the cost to complete the project; and

"(B) provide for the annual submission of updates to the Secretary that are based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

"(j) OTHER PROJECTS.—A recipient of Federal financial assistance for a project under this title with an estimated total cost of $100,000,000 or more that is not covered by subsection (i) shall prepare an annual financial plan. Annual financial plans prepared under this subsection shall

be made available to the Secretary for review upon the request of the Secretary.

"(k) OTHER TERMS AND CONDITIONS.—The Secretary shall determine what additional grant terms and conditions are necessary and appropriate to meet the requirements of this section.

"(l) REGULATIONS.—Not later than 1 year after the date of enactment of the Surface Transportation and Freight Policy Act of 2011, the Secretary shall prescribe regulations to implement this section.

"(m) APPLICANT DEFINED.—In this subchapter, the term 'applicant' includes a State, a political subdivision of a State, a metropolitan planning organization, government-sponsored authorities and corporations, and the District of Columbia.

"(n) SECRETARIAL OVERSIGHT.—

"(1) IN GENERAL.—The Secretary may use not more than 1 percent of amounts made available in a fiscal year for capital projects under this subchapter to enter into contracts to oversee the construction of such projects.

"(2) PERMISSIBLE USES.—The Secretary may use amounts available under paragraph (1) to make contracts for safety, procurement, management, and

financial compliance reviews and audits of a recipient of amounts under paragraph (1).

"(3) COST.—The Federal Government shall pay the entire cost of carrying out a contract under this subsection.".

(b) CONFORMING AMENDMENT.—The table of contents for chapter 55 is amended by adding at the end the following:

"SUBCHAPTER III. FINANCIAL ASSISTANCE"

"5581. National freight infrastructure investment grants.".

SEC. 1206. PORT INFRASTRUCTURE DEVELOPMENT INITIATIVE.

Section 50302(c)(3)(C) of title 46, United States Code, is amended to read as follows:

"(C) TRANSFERS.—Amounts appropriated or otherwise made available for any fiscal year for a marine facility or intermodal facility that includes maritime transportation may be transferred, at the option of the recipient of such amounts, to the Fund and administered by the Administrator as a component of a project under the program.".

SEC. 1207. OFFICE OF FREIGHT PLANNING AND DEVELOPMENT.

(a) IN GENERAL.—Section 102 is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following:

"(h) OFFICE OF FREIGHT PLANNING AND DEVELOPMENT.—

"(1) ESTABLISHMENT.—There is established within the Office of the Secretary an Office of Freight Planning and Development. The Office shall—

"(A) coordinate investment of Federal funding to improve the efficiency of the national transportation system to move freight consistent with the policy and objectives of section 312;

"(B) facilitate communication among government, public, and private freight transportation stakeholders;

"(C) support the Secretary in the development of the National Freight Transportation Strategic Plan; and

"(D) carry out other duties, as prescribed by the Secretary.

"(2) ORGANIZATION.—The head of the Office shall be the Assistant Secretary of Freight Planning and Development.".

(b) CONFORMING AMENDMENTS.—

(1) Section 102(e) is amended by striking "4" and inserting "5".

(2) Section 5315 of title 5, United States Code, is amended by striking "(4)" in the item relating to Assistant Secretaries of Transportation and inserting "(5)".

SEC. 1208. SAFETY FOR MOTORIZED AND NONMOTORIZED USERS.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

"§ 413. Safety for motorized and nonmotorized users

"(a) IN GENERAL.—Not later than 2 years after the date of enactment of the Surface Transportation and Freight Policy Act of 2011, subject to subsection (b), the Secretary shall establish standards to ensure that the design of Federal surface transportation projects provides for the safe and adequate accommodation, in all phases of project planning, development, and operation, of all users of the transportation network, including motorized and nonmotorized users.

"(b) WAIVER FOR STATE LAW OR POLICY.—The Secretary may waive the application of standards established under subsection (a) to a State that has adopted a law or policy that provides for the safe and adequate accommodation as certified by the State (or other grantee), in all

phases of project planning and development, of users of the transportation network on federally funded surface transportation projects, as determined by the Secretary.

"(c) COMPLIANCE.—

"(1) IN GENERAL.—Each State department of transportation shall submit to the Secretary, at such time, in such manner, and containing such information as the Secretary shall require, a report describing the implementation by the State of measures to achieve compliance with this section.

"(2) DETERMINATION BY SECRETARY.—On receipt of a report under paragraph (1), the Secretary shall determine whether the applicable State has achieved compliance with this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by adding at the end the following:

"413. Safety for motorized and nonmotorized users.".

Calendar No. 543

112TH CONGRESS
2D SESSION

S. 1950

[Report No. 112–238]

A BILL

To amend title 49, United States Code, to improve commercial motor vehicle safety and reduce commercial motor vehicle-related accidents and fatalities, to authorize the Federal Motor Carrier Safety Administration, and for other purposes.

NOVEMBER 13, 2012

Reported with an amendment