

115TH CONGRESS
2D SESSION

S. 3603

To require the Federal Motor Carrier Safety Administration to implement a national employer notification service.

IN THE SENATE OF THE UNITED STATES

OCTOBER 11, 2018

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

A BILL

To require the Federal Motor Carrier Safety Administration to implement a national employer notification service.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Miranda Vargas School
5 Bus Driver Red Flag Act” or “Miranda’s Law”.

6 **SEC. 2. NATIONAL EMPLOYER NOTIFICATION SERVICE.**

7 (a) DEFINITIONS.—In this section:

8 (1) EMPLOYER NOTIFICATION SERVICE.—The
9 term “employer notification service” means a service
10 that automatically provides to an employer a report

1 on the change in the status of the driving record or
2 driver's license of an employee who has a commercial
3 driver's license due to a conviction for a moving vio-
4 lation, a failure to appear, driver's license suspen-
5 sion, driver's license revocation, or any other action
6 taken against the driving privilege.

7 (2) SECRETARY.—The term “Secretary” means
8 the Secretary of Transportation.

9 (b) NATIONAL EMPLOYER NOTIFICATION SERV-
10 ICE.—

11 (1) IN GENERAL.—Not later than 1 year after
12 the date of enactment of this Act, the Secretary, act-
13 ing through the Federal Motor Carrier Safety Ad-
14 ministration, shall issue a final rule requiring the
15 implementation of a national employer notification
16 service that States may access.

17 (2) CONSIDERATIONS.—Before issuing a final
18 rule under paragraph (1), the Secretary shall con-
19 sider—

20 (A) the recommendations made by the
21 American Association of Motor Vehicle Admin-
22 istrators (AAMVA), including recommendations
23 on annual per driver fees for participating em-
24 ployers, in the report of the AAMVA entitled
25 “Employer Notification System Design & Best

1 Practices Recommendations”, produced for the
2 Federal Motor Carrier Safety Administration
3 under grant/cooperative agreement number
4 FMCDL-0143-13-01-03; and

5 (B) the results of the pilot program under
6 section 4022 of the Transportation Equity Act
7 for the 21st Century (49 U.S.C. 31309 note;
8 Public Law 105-178)—

9 (i) to assess the feasibility, costs, safe-
10 ty impacts, and benefits of a system simi-
11 lar to the pilot program; and

12 (ii) to assess methods for efficient ex-
13 change of driver safety data from existing
14 State systems.

15 (3) REQUIREMENTS.—

16 (A) EMPLOYER COMPLIANCE.—As part of
17 the final rule under paragraph (1), the Sec-
18 retary shall require any employer who has 1 or
19 more employees who holds a commercial driv-
20 er’s license with a school bus endorsement, pur-
21 suant to section 383.123 of title 49, Code of
22 Federal Regulations (or successor regulations),
23 to participate in the national employer notifica-
24 tion service.

25 (B) DRIVER NOTIFICATION.—

1 (i) SIMULTANEOUS DRIVER NOTIFICA-
2 TION.—As part of the final rule under
3 paragraph (1), the Secretary shall ensure
4 that whenever the national employer notifi-
5 cation service provides to an employer a re-
6 port on an employee, that employee shall
7 receive simultaneous notification and a
8 complete copy of the report.

9 (ii) FORM.—An employee described in
10 clause (i) shall be notified under that
11 clause—

12 (I) by mail sent to the address on
13 record for the employee with the driv-
14 er licensing agency in the State that
15 issued the commercial driver’s license
16 to the employee; or

17 (II) on request of the employee,
18 by mail sent to an alternative address
19 or by alternative means, including
20 electronic mail.

21 (iii) DRIVER ACCESS TO INFORMA-
22 TION.—Except as otherwise prohibited by
23 law, an employee shall be permitted to re-
24 view information retained or disseminated
25 by the national employer notification serv-

1 ice about that employee at no cost to the
2 employee.

3 (C) PROCEDURES FOR CORRECTING INFOR-
4 MATION.—As part of the final rule under para-
5 graph (1), the Secretary shall ensure that an
6 employee may, at no cost to the employee—

7 (i) challenge inaccurate information
8 retained or disseminated by the national
9 employer notification service;

10 (ii) request expedited treatment to
11 correct inaccurate information retained or
12 disseminated by the national employer no-
13 tification service, if that inaccurate infor-
14 mation is preventing the employee from
15 performing safety-sensitive functions; and

16 (iii) request that the Secretary—

17 (I) remove information retained
18 by the national employer notification
19 service relating to a traffic citation or
20 arrest if the traffic citation or arrest
21 did not result in a conviction; and

22 (II) notify the employer of the
23 employee of the removal of that infor-
24 mation.

1 (D) TREATMENT.—The implementation of
2 the national employer notification service in a
3 State shall be considered to be an eligible activ-
4 ity for a State commercial driver’s license pro-
5 gram implementation grant award under sec-
6 tion 31313(a)(2) of title 49, United States
7 Code.

8 (c) STATE IMPLEMENTATION.—

9 (1) IMPLEMENTATION.—Each State and em-
10 ployer described in subsection (b)(3)(A) shall begin
11 use of the national employer notification service by
12 not later than 2 years after the date on which Sec-
13 retary establishes the national employer notification
14 service pursuant to the final rule under subsection
15 (b)(1).

16 (2) ENFORCEMENT.—Beginning not later than
17 2 years after the date on which the Secretary estab-
18 lishes the national employment notification service
19 pursuant to the final rule under subsection (b)(1),
20 the Secretary shall ensure that the national em-
21 ployer notification service is included as part of the
22 requirements and standards of the commercial driver
23 license program, including the consequences of State
24 noncompliance, under part 384 of title 49, Code of
25 Federal Regulations (or successor regulations).

1 (3) ANNUAL INQUIRY EXEMPTION.—In accord-
2 ance with the regulatory guidance issued by the Fed-
3 eral Motor Carrier Safety Administration entitled
4 “Driver Qualifications; Regulatory Guidance Con-
5 cerning the Use of Computerized Employer Notifica-
6 tion Systems for the Annual Inquiry and Review of
7 Driving Records” (80 Fed. Reg. 13069 (March 12,
8 2015)), the Secretary shall ensure that an employer
9 participating in the national employer notification
10 service is exempt from the requirements for annual
11 inquiry and review of driving record pursuant to sec-
12 tion 391.25 of title 49, Code of Federal Regulations
13 (or successor regulations).

14 (d) APPLICABILITY TO SCHOOLS AND SCHOOL DIS-
15 TRICTS.—

16 (1) IN GENERAL.—For purposes of this section,
17 a school district, local educational agency, or school
18 shall be considered to be an “employer” for purposes
19 of the national employer notification service if the
20 school district, local educational agency, or school
21 organizes, sponsors, or pays for the transportation
22 of preprimary, primary, or secondary students to or
23 from school or on extracurricular trips.

24 (2) TREATMENT OF PRIVATE ENTITY.—For
25 purposes of this section, in the case of a school dis-

1 trict, local educational agency, or school that con-
2 tracts with a private entity to provide transportation
3 services for students traveling to or from school or
4 on an extracurricular trip, the private entity and the
5 school district, local educational agency, or school
6 shall be considered to be an “employer”.

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