

Public Law 112-141  
112th Congress

An Act

To authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

July 6, 2012  
[H.R. 4348]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; ORGANIZATION OF ACT INTO DIVISIONS;  
TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Moving Ahead for Progress in the 21st Century Act” or the “MAP-21”.

(b) **DIVISIONS.**—This Act is organized into 8 divisions as follows:

(1) Division A—Federal-aid Highways and Highway Safety Construction Programs.

(2) Division B—Public Transportation.

(3) Division C—Transportation Safety and Surface Transportation Policy.

(4) Division D—Finance.

(5) Division E—Research and Education.

(6) Division F—Miscellaneous.

(7) Division G—Surface Transportation Extension.

(8) Division H—Budgetary Effects.

(c) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; organization of Act into divisions; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Effective date.

**DIVISION A—FEDERAL-AID HIGHWAYS AND HIGHWAY SAFETY  
CONSTRUCTION PROGRAMS**

**TITLE I—FEDERAL-AID HIGHWAYS**

**Subtitle A—Authorizations and Programs**

- Sec. 1101. Authorization of appropriations.
- Sec. 1102. Obligation ceiling.
- Sec. 1103. Definitions.
- Sec. 1104. National Highway System.
- Sec. 1105. Apportionment.
- Sec. 1106. National highway performance program.
- Sec. 1107. Emergency relief.
- Sec. 1108. Surface transportation program.
- Sec. 1109. Workforce development.
- Sec. 1110. Highway use tax evasion projects.
- Sec. 1111. National bridge and tunnel inventory and inspection standards.
- Sec. 1112. Highway safety improvement program.
- Sec. 1113. Congestion mitigation and air quality improvement program.
- Sec. 1114. Territorial and Puerto Rico highway program.
- Sec. 1115. National freight policy.
- Sec. 1116. Prioritization of projects to improve freight movement.
- Sec. 1117. State freight advisory committees.

Moving Ahead for Progress in the 21st Century Act. State and local governments. 23 USC 101 note.

## Sec. 31002. Definition.

## Subtitle A—Highway Safety

- Sec. 31101. Authorization of appropriations.
- Sec. 31102. Highway safety programs.
- Sec. 31103. Highway safety research and development.
- Sec. 31104. National driver register.
- Sec. 31105. National priority safety programs.
- Sec. 31106. High visibility enforcement program.
- Sec. 31107. Agency accountability.
- Sec. 31108. Emergency medical services.
- Sec. 31109. Repeal of programs.

## Subtitle B—Enhanced Safety Authorities

- Sec. 31201. Definition of motor vehicle equipment.
- Sec. 31202. Permit reminder system for non-use of safety belts.
- Sec. 31203. Civil penalties.
- Sec. 31204. Motor vehicle safety research and development.
- Sec. 31205. Odometer requirements.
- Sec. 31206. Increased penalties and damages for odometer fraud.
- Sec. 31207. Extend prohibitions on importing noncompliant vehicles and equipment to defective vehicles and equipment.
- Sec. 31208. Conditions on importation of vehicles and equipment.
- Sec. 31209. Port inspections; samples for examination or testing.

## Subtitle C—Transparency and Accountability

- Sec. 31301. Public availability of recall information.
- Sec. 31302. National Highway Traffic Safety Administration outreach to manufacturer, dealer, and mechanic personnel.
- Sec. 31303. Public availability of communications to dealers.
- Sec. 31304. Corporate responsibility for National Highway Traffic Safety Administration reports.
- Sec. 31305. Passenger motor vehicle information program.
- Sec. 31306. Promotion of vehicle defect reporting.
- Sec. 31307. Whistleblower protections for motor vehicle manufacturers, part suppliers, and dealership employees.
- Sec. 31308. Anti-revolving door.
- Sec. 31309. Study of crash data collection.
- Sec. 31310. Update means of providing notification; improving efficacy of recalls.
- Sec. 31311. Expanding choices of remedy available to manufacturers of replacement equipment.
- Sec. 31312. Recall obligations and bankruptcy of manufacturer.
- Sec. 31313. Repeal of insurance reports and information provision.
- Sec. 31314. Monroney sticker to permit additional safety rating categories.

## Subtitle D—Vehicle Electronics and Safety Standards

- Sec. 31401. National Highway Traffic Safety Administration electronics, software, and engineering expertise.
- Sec. 31402. Electronic systems performance.

## Subtitle E—Child Safety Standards

- Sec. 31501. Child safety seats.
- Sec. 31502. Child restraint anchorage systems.
- Sec. 31503. Rear seat belt reminders.
- Sec. 31504. Unattended passenger reminders.
- Sec. 31505. New deadline.

## Subtitle F—Improved Daytime and Nighttime Visibility of Agricultural Equipment

- Sec. 31601. Rulemaking on visibility of agricultural equipment.

**TITLE II—COMMERCIAL MOTOR VEHICLE SAFETY ENHANCEMENT ACT OF  
2012**

- Sec. 32001. Short title.
- Sec. 32002. References to title 49, United States Code.

## Subtitle A—Commercial Motor Vehicle Registration

- Sec. 32101. Registration of motor carriers.
- Sec. 32102. Safety fitness of new operators.
- Sec. 32103. Reincarnated carriers.

- Sec. 32104. Financial responsibility requirements.
- Sec. 32105. USDOT number registration requirement.
- Sec. 32106. Registration fee system.
- Sec. 32107. Registration update.
- Sec. 32108. Increased penalties for operating without registration.
- Sec. 32109. Revocation of registration for imminent hazard.
- Sec. 32110. Revocation of registration and other penalties for failure to respond to subpoena.
- Sec. 32111. Fleetwide out of service order for operating without required registration.
- Sec. 32112. Motor carrier and officer patterns of safety violations.

#### Subtitle B—Commercial Motor Vehicle Safety

- Sec. 32201. Crashworthiness standards.
- Sec. 32202. Canadian safety rating reciprocity.
- Sec. 32203. State reporting of foreign commercial driver convictions.
- Sec. 32204. Authority to disqualify foreign commercial drivers.
- Sec. 32205. Revocation of foreign motor carrier operating authority for failure to pay civil penalties.
- Sec. 32206. Rental truck accident study.

#### Subtitle C—Driver Safety

- Sec. 32301. Hours of service study and electronic logging devices.
- Sec. 32302. Driver medical qualifications.
- Sec. 32303. Commercial driver's license notification system.
- Sec. 32304. Commercial motor vehicle operator training.
- Sec. 32305. Commercial driver's license program.
- Sec. 32306. Commercial motor vehicle driver information systems.
- Sec. 32307. Employer responsibilities.
- Sec. 32308. Program to assist Veterans to acquire commercial driver's licenses.

#### Subtitle D—Safe Roads Act of 2012

- Sec. 32401. Short title.
- Sec. 32402. National clearinghouse for controlled substance and alcohol test results of commercial motor vehicle operators.

#### Subtitle E—Enforcement

- Sec. 32501. Inspection demand and display of credentials.
- Sec. 32502. Out of service penalty for denial of access to records.
- Sec. 32503. Penalties for violation of operation out of service orders.
- Sec. 32504. Impoundment and immobilization of commercial motor vehicles for imminent hazard.
- Sec. 32505. Increased penalties for evasion of regulations.
- Sec. 32506. Violations relating to commercial motor vehicle safety regulation and operators.
- Sec. 32507. Emergency disqualification for imminent hazard.
- Sec. 32508. Disclosure to State and local law enforcement agencies.
- Sec. 32509. Grade crossing safety regulations.

#### Subtitle F—Compliance, Safety, Accountability

- Sec. 32601. Motor carrier safety assistance program.
- Sec. 32602. Performance and registration information systems management program.
- Sec. 32603. Authorization of appropriations.
- Sec. 32604. Grants for commercial driver's license program implementation.
- Sec. 32605. Commercial vehicle information systems and networks.

#### Subtitle G—Motorcoach Enhanced Safety Act of 2012

- Sec. 32701. Short title.
- Sec. 32702. Definitions.
- Sec. 32703. Regulations for improved occupant protection, passenger evacuation, and crash avoidance.
- Sec. 32704. Fire prevention and mitigation.
- Sec. 32705. Occupant protection, collision avoidance, fire causation, and fire extinguisher research and testing.
- Sec. 32706. Concurrence of research and rulemaking.
- Sec. 32707. Improved oversight of motorcoach service providers.
- Sec. 32708. Report on feasibility, benefits, and costs of establishing a system of certification of training programs.
- Sec. 32709. Commercial driver's license passenger endorsement requirements.

## Subtitle D—Safe Roads Act of 2012

Safe Roads Act of  
2012.

### SEC. 32401. SHORT TITLE.

This subtitle may be cited as the “Safe Roads Act of 2012”.

49 USC 30101  
note.

### SEC. 32402. 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

Records.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Safe Roads Act of 2012, the Secretary of Transportation shall establish, operate, and maintain a national clearinghouse for records relating to alcohol and controlled substances testing of commercial motor vehicle operators.

Deadline.

“(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; and

“(B) to enhance the safety of our United States roadways by reducing accident and injuries involving the misuse of alcohol or use of controlled substances by operators of commercial motor vehicles.

“(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 electronically submitted to, and requested from, the clearinghouse by authorized users.

“(5) AUTHORIZED OPERATOR.—The Secretary may authorize a qualified private entity to operate and maintain the clearinghouse and to collect fees on behalf of the Secretary under subsection (e). The entity shall operate and maintain 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

Notification.

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

Time period.

“(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 for the purposes of auditing and evaluating the timeliness, accuracy, and completeness of data in the clearinghouse.

“(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—

Determination.

“(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 preemployment 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.

Notification.

“(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 requirements under title 49, Code of Federal Regulations.

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

“(3) EMPLOYMENT PROHIBITIONS.—After the clearinghouse is established under subsection (a), at a date determined to be appropriate by the Secretary and published in the Federal Register, an employer shall utilize the clearinghouse to determine whether any employment prohibitions exist and 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.—After the clearinghouse is established under subsection (a), at a date determined to be appropriate by the Secretary and published in the Federal Register, an employer shall request and review a commercial motor vehicle operator’s record from the clearinghouse annually for

Compliance.

Federal Register,  
publication.

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 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.—

Effective date.

Time period.

Procedures.

“(1) EMPLOYERS.—The Secretary shall establish a process for an employer, or an employer’s designated agent, 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.

Time period.

“(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 whether a prohibition applies with respect to 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 whether a prohibition applies with respect to the individual to operate a commercial motor vehicle for the employer.

Procedures.

“(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.

“(i) 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. Procedures.

“(j) 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— Procedures.

“(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. Appeal process.

“(k) 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 (1) or (2) of subsection (h).

“(l) 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).

“(m) DEFINITIONS.—In this section—

“(1) AUTHORIZED USER.—The term ‘authorized user’ means an employer, State licensing authority, 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.”.

TITLE 49 - TRANSPORTATION  
 SUBTITLE I - DEPARTMENT OF TRANSPORTATION  
 CHAPTER 5 - SPECIAL AUTHORITY  
 SUBCHAPTER II - PENALTIES

Sec. 521. Civil penalties

-STATUTE-

(a)(1) A person required under section 504 of this title to make, prepare, preserve, or submit to the Secretary of Transportation a record about rail carrier transportation, that does not make, prepare, preserve, or submit that record as required under that section, is liable to the United States Government for a civil penalty of \$500 for each violation.

(2) A rail carrier, and a lessor, receiver, or trustee of that carrier, violating section 504(c)(1) of this title, is liable to the Government for a civil penalty of \$100 for each violation.

(3) A rail carrier, a lessor, receiver, or trustee of that carrier, a person furnishing cars or protective service against heat or cold, and an officer, agent, or employee of one of them, required to make a report to the Secretary or answer a question, that does not make a report to the Secretary or does not specifically, completely, and truthfully answer the question, is liable to the Government for a civil penalty of \$100 for each violation.

(4) A separate violation occurs for each day a violation under this subsection continues.

(5) Trial in a civil action under this subsection is in the judicial district in which the rail carrier has its principal operating office or in a district through which the railroad of the rail carrier runs.

(b) Violations Relating to Commercial Motor Vehicle Safety Regulation and Operators. -

(1) Notice. -

(A) In general. - If the Secretary finds that a violation of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), (!1) or 31502 of this title, or a violation of a regulation issued under any of those provisions, has occurred, the Secretary shall issue a written notice to the violator. Such notice shall describe with reasonable particularity the nature of the violation found and the provision which has been violated. The notice shall specify the proposed civil penalty, if any, and suggest actions which might be taken in order to abate the violation. The notice shall indicate that the violator may, within 15 days of service, notify the Secretary of the violator's intention to contest the matter. In the event of a contested notice, the Secretary shall afford such violator an opportunity for a hearing, pursuant to section 554 of title 5, following which the Secretary shall issue an order affirming, modifying, or vacating the notice of violation.

(B) Non-applicability to reporting and recordkeeping violations. - Subparagraph (A) shall not apply to reporting and recordkeeping violations.

(2) Civil Penalty. -

(A) In general. - Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act that is a violation of regulations issued by the Secretary under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title shall be liable to the United States for a civil penalty in an amount not to exceed \$10,000 for each offense. Notwithstanding any other provision of this section (except subparagraph (C)), no civil penalty shall be assessed

under this section against an employee for a violation in an amount exceeding \$2,500.

(B) Recordkeeping and reporting violations. - A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person -

(i) who does not make that report, does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered, or does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed \$1,000 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed \$10,000; or

(ii) who knowingly falsifies, destroys, mutilates, or changes a required report or record, knowingly files a false report with the Secretary, knowingly makes or causes or permits to be made a false or incomplete entry in that record about an operation or business fact or transaction, or knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed \$10,000 for each violation, if any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation.

(C) Violations pertaining to cdl's. - Any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of section 31302, 31303, 31304, 31305(b), or 31310(g)(1)(A) of this title shall be liable to the United States for a civil penalty not to exceed \$2,500 for each offense.

(D) Determination of amount. - The amount of any civil penalty, and a reasonable time for abatement of the violation, shall by written order be determined by the Secretary, taking into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. In each case, the assessment shall be calculated to induce further compliance.

(E) Copying of records and access to equipment, lands, and buildings. - A person subject to chapter 51 or a motor carrier, broker, freight forwarder, or owner or operator of a commercial motor vehicle subject to part B of subtitle VI who fails to allow promptly, upon demand, the Secretary (or an employee designated by the Secretary) to inspect and copy any record or inspect and examine equipment, lands, buildings and other property in accordance with sections 504(c), 5121(c), and 14122(b) shall be liable to the United States for a civil penalty not to exceed \$1,000 for each offense. Each day the Secretary is denied the right to inspect and copy any record or inspect and examine equipment, lands, buildings and other property shall constitute a separate offense, except that the total of all civil penalties against any violator for all offenses related to a single violation shall not exceed \$10,000. It shall be a defense to such penalty that the records did not exist at the time of the Secretary's request or could not be timely produced without unreasonable expense or effort. Nothing in this subparagraph amends or supersedes any remedy available to the Secretary under section 502(d), section 507(c), or any other provision of this title.

(3) The Secretary may require any violator served with a notice of violation to post a copy of such notice or statement of such

notice in such place or places and for such duration as the Secretary may determine appropriate to aid in the enforcement of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title, as the case may be.

(4) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, before referral to the Attorney General, such civil penalty may be compromised by the Secretary.

(5)(A) If, upon inspection or investigation, the Secretary determines that a violation of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title or a regulation issued under any of those provisions, or combination of such violations, poses an imminent hazard to safety, the Secretary shall order a vehicle or employee operating such vehicle out of service, or order an employer to cease all or part of the employer's commercial motor vehicle operations. In making any such order, the Secretary shall impose no restriction on any employee or employer beyond that required to abate the hazard. Subsequent to the issuance of the order, opportunity for review shall be provided in accordance with section 554 of title 5, except that such review shall occur not later than 10 days after issuance of such order.

(B) In this paragraph, "imminent hazard" means any condition of vehicle, employee, or commercial motor vehicle operations which substantially increases the likelihood of serious injury or death if not discontinued immediately.

(6) Criminal Penalties. -

(A) In general. - Any person who knowingly and willfully violates any provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title, or a regulation issued under any of those provisions shall, upon conviction, be subject for each offense to a fine not to exceed \$25,000 or imprisonment for a term not to exceed one year, or both, except that, if such violator is an employee, the violator shall only be subject to penalty if, while operating a commercial motor vehicle, the violator's activities have led or could have led to death or serious injury, in which case the violator shall be subject, upon conviction, to a fine not to exceed \$2,500.

(B) Violations pertaining to cdls. - Any person who knowingly and willfully violates -

(i) any provision of section 31302, 31303(b) or (c), 31304, 31305(b), or 31310(g)(1)(A) of this title or a regulation issued under such section, or

(ii) with respect to notification of a serious traffic violation as defined under section 31301 of this title, any provision of section 31303(a) of this title or a regulation issued under section 31303(a),

shall, upon conviction, be subject for each offense to a fine not to exceed \$5,000 or imprisonment for a term not to exceed 90 days, or both.

(7) The Secretary shall issue regulations establishing penalty schedules designed to induce timely compliance for persons failing to comply promptly with the requirements set forth in any notices and orders under this subsection.

(8) Prohibition on operation in interstate commerce after nonpayment of penalties. -

(A) In general. - An owner or operator of a commercial motor vehicle against whom a civil penalty is assessed under this chapter or chapter 51, 149, or 311 of this title and who does not pay such penalty or fails to arrange and abide by an acceptable payment plan for such civil penalty may not operate in interstate commerce beginning on the 91st day after the date specified by order of the Secretary for payment of such penalty. This paragraph shall not apply to any person who is unable to pay a civil penalty because such person is a debtor in a case under chapter 11 of title 11, United States Code.

(B) Regulations. - Not later than 12 months after the date of

the enactment of this paragraph, the Secretary, after notice and an opportunity for public comment, shall issue regulations setting forth procedures for ordering commercial motor vehicle owners and operators delinquent in paying civil penalties to cease operations until payment has been made.

(9) Any aggrieved person who, after a hearing, is adversely affected by a final order issued under this section may, within 30 days, petition for review of the order in the United States Court of Appeals in the circuit wherein the violation is alleged to have occurred or where the violator has his principal place of business or residence, or in the United States Court of Appeals for the District of Columbia Circuit. Review of the order shall be based on a determination of whether the Secretary's findings and conclusions were supported by substantial evidence, or were otherwise not in accordance with law. No objection that has not been urged before the Secretary shall be considered by the court, unless reasonable grounds existed for failure or neglect to do so. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Secretary.

(10) All penalties and fines collected under this section shall be deposited into the Highway Trust Fund (other than the Mass Transit Account).

(11) In any action brought under this section, process may be served without regard to the territorial limits of the district of the State in which the action is brought.

(12) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, trial shall be by the court, or, upon demand of the accused, by a jury, conducted in accordance with the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(13) The provisions of this subsection shall not affect chapter 51 of this title or any regulation promulgated by the Secretary under chapter 51.

(14) As used in this subsection, the terms "commercial motor vehicle", "employee", "employer", and "State" have the meaning such terms have under section 31132 of this title.

-SOURCE-

(Pub. L. 97-449, Sec. 1(b), Jan. 12, 1983, 96 Stat. 2435; Pub. L. 98-554, title II, Sec. 213(b), Oct. 30, 1984, 98 Stat. 2842; Pub. L. 99-570, title XII, Sec. 12012, Oct. 27, 1986, 100 Stat. 3207-184; Pub. L. 101-500, Sec. 15(e)(2), Nov. 3, 1990, 104 Stat. 1220; Pub. L. 102-548, Sec. 2(b), Oct. 28, 1992, 106 Stat. 3648; Pub. L. 103-272, Secs. 4(j)(11)(D), 5(m)(11), July 5, 1994, 108 Stat. 1368, 1376; Pub. L. 104-287, Sec. 5(4), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 105-178, title IV, Sec. 4015(a), (b), June 9, 1998, 112 Stat. 411; Pub. L. 106-159, title II, Secs. 206(b), 208, Dec. 9, 1999, 113 Stat. 1763, 1764; Pub. L. 109-59, title IV, Secs. 4102(a), 4103, Aug. 10, 2005, 119 Stat. 1715, 1716.)

-MISC1-

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
521	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, Sec. 6(f)(2), 80 Stat. 940.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the

revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section	49 U.S. Code	Revised Section
521		
(a)	20(7)(a), (c)-(e).	11901
(b)	322(h).	11901

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In subsection (a)(3), the words "against heat and cold" are inserted for consistency with sections 11105 and 11901 of the revised title.

Subsection (b) does not apply to motor carriers of migrant workers and motor private carriers because 49:322(h) (1st sentence) only applies to motor carriers and 49:304(a)(3) and (3a) do not apply 49:322(h) (1st sentence) to motor carriers of migrant workers and motor private carriers. The reference to 49:303(c), 306(a)(1), and 309(a)(1) is omitted as not applicable to this chapter.

-REFTEXT-

#### REFERENCES IN TEXT

Section 31310(g)(1)(A), referred to in subsec. (b)(1)(A), was redesignated section 31310(i)(1)(A), by Pub. L. 106-159, title II, Sec. 201(b)(1), Dec. 9, 1999, 113 Stat. 1759.

The date of the enactment of this paragraph, referred to in subsec. (b)(8)(B), is the date of enactment of Pub. L. 106-159, which was approved Dec. 9, 1999.

The Federal Rules of Criminal Procedure, referred to in subsec. (b)(12), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

-MISC2-

#### AMENDMENTS

2005 - Subsec. (b). Pub. L. 109-59, Sec. 4103(1), inserted headings for subsec. (b), par. (1), and subpar. (A).

Subsec. (b)(2)(B). Pub. L. 109-59, Sec. 4102(a)(2), substituted "\$10,000" for "\$5,000" in cls. (i) and (ii).

Subsec. (b)(2)(B)(i). Pub. L. 109-59, Sec. 4102(a)(1), substituted "\$1,000" for "\$500".

Subsec. (b)(2)(E). Pub. L. 109-59, Sec. 4103(2), added subpar.(E).

1999 - Subsec. (b)(5)(B). Pub. L. 106-159, Sec. 208, substituted "substantially increases the likelihood of" for "is likely to result in".

Subsec. (b)(8) to (14). Pub. L. 106-159, Sec. 206(b), added par.

(8) and redesignated former pars. (8) to (13) as (9) to (14), respectively.

1998 - Subsec. (b)(1)(A). Pub. L. 105-178, Sec. 4015(a)(1), struck out "fix a reasonable time for abatement of the violation," before "specify the proposed civil penalty".

Subsec. (b)(1)(B). Pub. L. 105-178, Sec. 4015(a)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: "The Secretary shall, not later than 60 days after November 3, 1990, establish operational procedures to require a highway safety specialist or other appropriate representative of the Secretary to initiate, at the time of a safety review, compliance review, or other inspection or audit activity, or within a reasonable time thereafter, an enforcement action whenever any of the offenses referred to in paragraph (2)(A) and (B) can be documented, except recordkeeping violations not specified by the Secretary as serious. The procedures shall -

"(i) specify those serious recordkeeping violations for which an enforcement action shall be initiated, including instances in

which the falsification of records of duty status or drivers' medical certificates is required or permitted, and such other recordkeeping violations as the Secretary determines to be serious; and

"(ii) authorize, but not require, initiation of an enforcement action for recordkeeping violations not specified by the Secretary as serious."

Subsec. (b)(2)(A). Pub. L. 105-178, Sec. 4015(b)(1), added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: "Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of a recordkeeping requirement issued by the Secretary under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title or which is a violation of chapter 59 of this title shall be liable to the United States for a civil penalty not to exceed \$500 for each offense. Each day of a violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses relating to any single violation shall not exceed \$2,500. If the Secretary determines that a serious pattern of safety violations, other than recordkeeping requirements, exists or has occurred, the Secretary may assess a civil penalty not to exceed \$1,000 for each offense; except that the maximum fine for each such pattern of safety violations shall not exceed \$10,000. If the Secretary determines that a substantial health or safety violation exists or has occurred which could reasonably lead to, or has resulted in, serious personal injury or death, the Secretary may assess a civil penalty not to exceed \$10,000 for each offense. Notwithstanding any other provision of this section (other than subparagraph (B)), except for recordkeeping violations, no civil penalty shall be assessed under this section against an employee for a violation unless the Secretary determines that such employee's actions constituted gross negligence or reckless disregard for safety, in which case such employee shall be liable for a civil penalty not to exceed \$1,000."

Subsec. (b)(2)(B) to (D). Pub. L. 105-178, Sec. 4015(b)(2), (3), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

1996 - Subsec. (b)(1)(B). Pub. L. 104-287 substituted "November 3, 1990" for "the date of enactment of this subparagraph" in introductory provisions.

1994 - Subsec. (b)(1)(A). Pub. L. 103-272, Sec. 5(m)(11)(A), substituted "a provision of 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" for "section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986" and "any of those provisions" for "such sections or Act".

Subsec. (b)(2)(A). Pub. L. 103-272, Sec. 5(m)(11)(B), substituted "under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title" for "pursuant to section 3102 of this title or the Motor Carrier Safety Act of 1984".

Pub. L. 103-272, Sec. 4(j)(11)(D), substituted "chapter 59 of this title" for "section 508 of this title".

Subsec. (b)(2)(B). Pub. L. 103-272, Sec. 5(m)(11)(C), substituted "section 31302, 31303, 31304, 31305(b), or 31310(g)(1)(A) of this title" for "section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986".

Subsec. (b)(3). Pub. L. 103-272, Sec. 5(m)(11)(D), substituted "subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title" for "section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986".

Subsec. (b)(5)(A). Pub. L. 103-272, Sec. 5(m)(11)(E), substituted "a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502

of this title" for "section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986" and "any of those provisions" for "such sections or Act".

Subsec. (b)(6)(A). Pub. L. 103-272, Sec. 5(m)(11)(F), substituted "subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title" for "section 3102 of this title, the Motor Carrier Safety Act of 1984", "any of those provisions" for "such section or Act", and "shall be subject" for "shall be liable".

Subsec. (b)(6)(B)(i). Pub. L. 103-272, Sec. 5(m)(11)(G), substituted "section 31302, 31303(b) or (c), 31304, 31305(b), or 31310(g)(1)(A) of this title" for "section 12002, 12003(b), 12003(c), 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986".

Subsec. (b)(6)(B)(ii). Pub. L. 103-272, Sec. 5(m)(11)(H), substituted "section 31301 of this title" for "section 12019 of such Act", "section 31303(a) of this title" for "section 12003(a) of such Act", and "section 31303(a)" for "such section 12003(a)".

Subsec. (b)(12). Pub. L. 103-272, Sec. 5(m)(11)(I), substituted "chapter 51 of this title" for "any provision of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801-1812)" and "chapter 51" for "such Act".

Subsec. (b)(13). Pub. L. 103-272, Sec. 5(m)(11)(J), substituted "section 31132 of this title" for "section 204 of the Motor Carrier Safety Act of 1984".

1992 - Subsec. (b)(2)(A). Pub. L. 102-548 inserted "or which is a violation of section 508 of this title" after "Act of 1984".

1990 - Subsec. (b)(1). Pub. L. 101-500 designated existing provisions as subpar. (A) and added subpar. (B).

1986 - Subsec. (b)(1). Pub. L. 99-570, Sec. 12012(a), inserted "or section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986" after "the Motor Carrier Safety Act of 1984" and substituted "such sections" for "such section".

Subsec. (b)(2). Pub. L. 99-570, Sec. 12012(b), (f)(1), inserted heading, designated existing provisions as subpars. (A) and (C) with corresponding headings, added subpar. (B), in subpar. (A) indented such subparagraph and aligned it with subpar. (B), and inserted exception relating to subpar. (B).

Subsec. (b)(3). Pub. L. 99-570, Sec. 12012(c), inserted "or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986" after "the Motor Carrier Safety Act of 1984".

Subsec. (b)(5)(A). Pub. L. 99-570, Sec. 12012(d), inserted "or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986" after "the Motor Carrier Safety Act of 1984" and substituted "such sections" for "such section".

Subsec. (b)(6). Pub. L. 99-570, Sec. 12012(e), (f)(2), (g)(1), inserted heading, designated existing provisions as subpar. (A) with corresponding heading, added subpar. (B), in subpar. (A) indented such subparagraph and aligned it with subpar. (B), and substituted "to a fine" for "for a fine" in two places.

Subsec. (b)(13). Pub. L. 99-570, Sec. 12012(g)(2), substituted "section 204" for "section 4".

1984 - Subsec. (b)(1). Pub. L. 98-554 substituted provisions relating to notice to violators and opportunity for hearings for former provisions which set forth penalties for failure to make reports and keep records.

Subsec. (b)(2). Pub. L. 98-554 substituted provisions setting forth amount of civil penalties for former provisions which related to the place of trial and manner of service of process for violations of recordkeeping and reporting provisions.

Subsec. (b)(3) to (13). Pub. L. 98-554 added pars. (3) to (13).

#### DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111-314, set out as a note

under section 101 of this title.

#### MINIMUM AND MAXIMUM ASSESSMENTS

Pub. L. 106-159, title II, Sec. 222, Dec. 9, 1999, 113 Stat. 1769, provided that:

"(a) In General. - The Secretary of Transportation should ensure that motor carriers operate safely by imposing civil penalties at a level calculated to ensure prompt and sustained compliance with Federal motor carrier safety and commercial driver's license laws.

"(b) Establishment. - The Secretary -

"(1) should establish and assess minimum civil penalties for each violation of a law referred to in subsection (a); and

"(2) shall assess the maximum civil penalty for each violation of a law referred to in subsection (a) by any person who is found to have committed a pattern of violations of critical or acute regulations issued to carry out such a law or to have previously committed the same or a related violation of critical or acute regulations issued to carry out such a law.

"(c) Extraordinary Circumstances. - If the Secretary determines and documents that extraordinary circumstances exist which merit the assessment of any civil penalty lower than any level established under subsection (b), the Secretary may assess such lower penalty. In cases where a person has been found to have previously committed the same or a related violation of critical or acute regulations issued to carry out a law referred to in subsection (a), extraordinary circumstances may be found to exist when the Secretary determines that repetition of such violation does not demonstrate a failure to take appropriate remedial action.

"(d) Report to Congress. -

"(1) In general. - The Secretary shall conduct a study of the effectiveness of the revised civil penalties established in the Transportation Equity Act for the 21st Century [Pub. L. 105-178, see Tables for classification] and this Act [see Tables for classification] in ensuring prompt and sustained compliance with Federal motor carrier safety and commercial driver's license laws.

"(2) Submission to congress. - The Secretary shall transmit the results of such study and any recommendations to Congress by September 30, 2002."

#### REPORT; PENALTIES; EFFECTIVENESS

Section 213(d) of Pub. L. 98-554 directed Secretary of Transportation to conduct a study of effectiveness of civil and criminal penalties established by amendments made by section 213 of Pub. L. 98-554 in deterring violations of commercial motor vehicle safety regulations issued under title II of Pub. L. 98-554 and in effectively prosecuting such violations when they occur, which study was to examine the effectiveness of penalties in effect before Oct. 30, 1984, in comparison to the penalties established by the amendments made by title II of Pub. L. 98-554, and was to further investigate the need for, and make recommendations concerning, increased fine levels for civil and criminal penalties, and the need for additional categories of civil and criminal penalties to deter further, and prosecute effectively, violations of such commercial motor vehicle safety regulations, and further directed Secretary to submit to Congress a report on the findings of this study, together with legislative recommendations, not later than 2 years after Oct. 30, 1984.

-FOOTNOTE-

(\*1) See References in Text note below.