



## **SECTION 16**

This change reflects that state DMV may be the entity disqualifying a person from holding a CDL and adds two offenses to the existing list that are grounds for immediate disqualification from holding a CDL. (1) Operating a commercial motor vehicle while the driver's CDL is suspended; and (2) causing a fatality through negligent operation, or in violation of a felony criminal law in a commercial motor vehicle. These two additional offenses are mandated by federal law.

## **SECTION 17**

Federal law requires state DMV's to impose minimum suspension periods for a serious traffic violation and those periods must run consecutively, not concurrently. (The term "serious traffic violation" is defined in section 25 of the bill)

## **SECTION 18**

Federal law requires state DMV's to disqualify a person from holding a CDL for minimum time periods for certain offenses. That minimum time period increases if the offense occurred in a commercial motor vehicle transporting hazardous materials. (The term "hazardous materials" is defined in section 26 of the bill)

## **SECTION 19**

Federal law requires state DMV's to disqualify a person from holding a CDL for life for certain offenses when the person has previous convictions. These changes conform state law to the federal requirements.

## **SECTION 20**

Conforms current law requiring the surrender of a CDL to the court if the person is disqualified to require surrender of a CDL to the department.

## **SECTION 21**

Federal law requires certain minimum suspension periods for violating an "out of service" order, and longer suspension periods when the order involved a commercial motor vehicle transporting hazardous materials or a vehicle designed to transport 16 or more passengers.

## **SECTION 22**

Clarifies that it is the state DMV that imposes a disqualification after a court conviction for certain offenses.

## **SECTION 23**

Federal law allows the United States Department of Transportation to determine that a person's driving of a commercial motor vehicle constitutes an "imminent hazard" and the person is subject to disqualification from holding a CDL by the state DMV as specified in regulation.

Federal law also requires certain civil penalties for violations while operating a commercial motor vehicle.

In addition, federal law imposes certain civil penalties on "employers" who "knowingly" allow an employee to drive in violation of an out of service order or in violation of a railroad-highway grade crossing. The state DMV can adopt regulations to implement this section and those regs must be substantially similar to federal regs. ("Knowingly" is defined in AS 11.81.900)

#### **SECTION 24**

This section adds driving a commercial motor vehicle while the person is disqualified from holding a CDL to the list of offenses that will be a Class A Misdemeanor.

#### **SECTION 25**

This section adds several offenses to the current list of "serious traffic violations" that are mandated by federal law to be included.

#### **SECTION 26**

This section adds several definitions to AS 28.33.190. The definitions added are for "commerce"; "commercial driver's license"; "conviction"; "domicile"; "hazardous material"; and "imminent hazard".

## **SECTION 27**

Deletes the reference to "criminal justice information" as being defined in AS 12.62.900. It will now be defined in AS 28.05.065 and AS 28.90.990(a).

## **SECTION 28**

Provides for notice to the state DMV if a person changes their name or address.

## **SECTION 29**

State DMV's are prohibited from issuing a license to drive to an applicant if the applicant's license "revoked or cancelled" or if the person has been disqualified from driving a motor vehicle.

## **SECTION 30**

Adds the definition of "criminal justice information" to AS 28.90.990(a).

## **SECTION 31**

Repeals AS 28.33.140(b) and AS 28.33.190(8).

## **SECTION 32**

Regulations authority to DMV to implement the Act.

## **SECTION 33**

Section 32 of the Act takes effect immediately.

## **SECTION 34**

Effective date for rest of Act is July 1, 2007.

# ALASKA STATE LEGISLATURE

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Transportation

Vice Chair  
Fisheries

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Economic Development,  
Trade and Tourism  
State Affairs

REPRESENTATIVE KYLE JOHANSEN  
DISTRICT ONE

Sectional (Revised)

AS 28.05 – Motor Vehicle Administration  
AS 28.15 – Driver's Licenses  
AS 28.33 – Commercial Motor Vehicles  
AS 28.35 – Offenses and Accidents  
AS 28.37 – Driver's License Compact

## SECTION 1

Federal law requires states to look back 10 years at the criminal record of persons applying for licenses. Read together, sections (a) and (b) allow DMV access to the records it needs. The definition of "criminal justice information" is referenced in section 30 as having the meaning given in AS 12.62.900.

## SECTION 2

Federal law requires states to have an accurate database on drivers so the records of bad drivers can be accurately recorded and accessed when they later apply for a new license. This section requires persons to update their records with DMV or DPS when they change their name or address.

## SECTION 3

Federal law requires certain exemptions from a state's CDL licensing program and makes other exemptions discretionary with the state. This section adds 3 new exemptions. The first is for certain drivers in the military and is mandatory. The second is for drivers employed by a small city or village in an emergency situation for snow removal, and is discretionary at the state's election. The final exemption is for nonresidents with valid CDL's from their home state.

#### **SECTION 4**

Federal law contains a list of actions that prohibit the state DMV from issuing or renewing or reinstating a CDL to a person. This change matches up state law with the federal list for persons whose license is "suspended, revoked, cancelled, or withdrawn".

#### **SECTION 5**

Same as above in section 4 except the term "disqualified" from the federal act is incorporated into the state law.

#### **SECTION 6**

Section 6 allows school bus endorsements to expire at staggered times instead of all at once, which resulted in a flood of people trying to renew at the same time at DMV's.

#### **SECTION 7**

Federal law requires states to limit the number of times an instruction permit can be renewed. This is to make sure a person does not keep renewing an instruction permit rather than meeting the requirements for a full CDL.

#### **SECTION 8**

Federal law requires state DMV to look back into a person's driving record for 10 years when they apply for a CDL. The requirement of the applicant to provide their full "legal" name is to assist DMV in finding out whether their CDL is suspended, etc., in another state.

#### **SECTION 9**

Federal law requires state DMV's to maintain files of CDL applicants and holders. The change reflects that this duty is mandatory "shall" and not optional "may".

#### **SECTION 10**

Same as above in section 9, plus federal law requires state DMV to update their data every 10 days after receipt of a record by the DMV.

#### **SECTION 11**

Federal law requires state DMV to provide a certified abstract of a driving record to municipal, state, federal administrative, or a judicial agency within 10 days of a request.

#### **SECTION 12**

Federal law requires state DMV to forward a copy of the record of a conviction for a traffic offense of a person licensed in another jurisdiction to the DMV for that other jurisdiction. The change reflects that this duty is mandatory "shall" as opposed to discretionary or "may".

#### **SECTION 13**

Current law sets the periods for certain suspensions or revocations of a CDL in terms of "months" rather than a set time period of days. This leads to some persons having a CDL suspended or revoked for from 28 to 31 days, depending on the month. The changes set the time periods in numbers of days (30 and 90) to make all terms of suspension or revocation equal.

#### **SECTION 14**

Updates statutes to reflect that the state DMV is an entity that can disqualify a person from holding a CDL.

#### **SECTION 15**

Current state statutes allow a person 19 years of age or older to get a CDL. Federal law imposes a minimum age of 21 years old or older to drive in interstate commerce. Federal law also only allows a state DMV to issue a CDL to a person domiciled in that state.

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commercial motor vehicle while the driver's CDL is suspended and causing a fatality through negligent operation, or in violation of a felony criminal law in a commercial motor vehicle. These two additional offenses are mandated by federal law.

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Conforms current law requiring the surrender of a CDL to the court if the person is disqualified to require surrender of a CDL to the department.

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In addition, federal law imposes certain civil penalties on "employers" who "knowingly" allow an employee to drive in violation of an out of service order or in violation of a railroad-highway grade crossing. The state DMV can adopt regulations to implement this section and those regs must be substantially similar to federal regs. ("Knowingly" is defined in AS 11.81.900)

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AMENDMENT #1

OFFERED IN THE HOUSE  
STATE AFFAIRS COMMITTEE  
TO: HB 126

BY \_\_\_\_\_

- 1 Page 8, line 26, following "conviction":
- 2       Insert "of a person who holds or is required to have a commercial driver's license"
- 3
- 4 Page 10, line 1, following "(a)(1) - (5)":
- 5       Insert ", (9), or (10)"
- 6
- 7 Page 14, line 27:
- 8       Delete "in writing"
- 9       Insert "[IN WRITING]"

**Randall Ruaro**

**From:** Kerry Hennings [kerry\_hennings@admin.state.ak.us]  
**Sent:** Wednesday, February 21, 2007 9:16 AM  
**To:** Randall Ruaro  
**Cc:** Duane Bannock; Deborah Behr; Margaret Paton-Walsh  
**Subject:** Re: CDL Bill

Randy,

Spoke with Tony over at DHSS. He would like to see a slight language change in Section 1. *Am#2*

AS 28.05.065. Access to Information. (a) For purposes of carrying out the provisions of AS 28.05, AS 28.15, AS 28.33, and AS 28.35, an employee of the department assigned to perform functions under those chapters may access information about an adult or a minor [juvenile] charged with or [.] convicted of [.] or adjudicated a delinquent for] an offense.

Adjudication of a delinquent is not needed in this section as all offenses minors may be convicted of under Title 28 are reported through DPS. Adjudications are reported through a different system with DHSS. He would just like the verbiage to be correct.

Can this be added to the amendment you'll be putting forth next week?

Kerry

Randall Ruaro wrote:

Duane / Kerry / Mags:

Thanks for all your help getting the bill through State Affairs. I have meetings lined up for 2/27 with members of the Judiciary committee to line up support for the bill there. The schedule is: Ramras @ 9:30; Holmes @ 11:30; Samuels @ 3:30. Please let me know if any of you can attend telephonically or in person if you happen to be in Juneau.

We will be submitting a scheduling request to House Judiciary today, along with a copy of your amendment language for that committee to incorporate into a CS.

One issue has popped up. DHSS - Juvenile Justice (Tony Newman) have concerns about the language giving DMV access to juvenile records. Please call him and discuss these provisions of the bill with him right away so this does not become an issue that hangs us up in committee.

Thanks

Rand

**Table  
Penalties for Noncompliance and  
Section of HB 126 to Federal Authority**

Penalties	49 USC 31312 49 USC 31314
Section 1	49 USC 30304(e) 49 CFR 383.73(a)(3)
Section 2	49 CFR 383.141 49 CFR 384.205 49 CFR 384.206
Section 3	49 CFR 383.3(c) 49 CFR 383.3(d) 49 CFR 383.212
Section 4	49 CFR 383.5 49 CFR 384.201 49 CFR 384.210
Section 5	49 CFR 383.5 49 CFR 384.212
Section 6	49 CFR 383.93 49 CFR 383.123 49 CFR 384.201
Section 7	49 CFR 383.23(c)
Section 8	49 CFR 383.71 49 CFR 384.206
Section 9	49 USC 31311(a)(18) 49 CFR 384.207 49 CFR 384.225
Section 10	49 USC 31311(a)(19) 49 CFR 384.207 49 CFR 384.225
Section 11	49 CFR 384.225(c)
Section 12	49 USC 31311(a)(9)
Section 13	49 CFR 383.51
Section 14	49 CFR 383.51
Section 15	49 CFR 391.11(b)(1)
Section 16	49 USC 31310(b)(1)(D) 49 USC 31310(b)(1)(E)
Section 17	49 CFR 383.51(a)(4) 49 CFR 383.52(e)
Section 18	49 USC 5105 49 USC 5109 49 CFR 383.51(Tables)
Section 19	49 CFR 383.51 (Tables)
Section 20	Conforming amendment. It requires

	surrender of license of person who is disqualified from driving a commercial motor vehicle in an administrative action by the DMV.
Section 21	49 CFR 383.51(Table 4)
Section 22	Conforming amendment. It requires surrender of license of person who is disqualified from driving a commercial motor vehicle in an administrative action by the DMV.
Section 23	49 USC 31310(f) 49 CFR 383.52 49 CFR 383.53
Section 24	49 CFR 383.5 49 CFR 383.51
Section 25	49 USC 31301(12)
Section 26	49 CFR 383.5
Section 27	Conforming amendment
Section 28	DMV Forms
Section 29	49 CFR 383.5 49 CFR 383.51
Section 30	Conforming amendment
Section 31	Repealed sections
Section 32	Authority to DMV for regulations
Section 33	Effective Date for section 32
Section 34	Effective Date for rest of sections

**Assault with a dangerous weapon.** — The supreme court declined to hold that intoxication ought to be considered with respect to the general criminal intent necessary to the commission of the former crime of assault with a dangerous weapon. *Menard v. State*, 578 P.2d 968 (Alaska 1978) (decided under former AS 11.70.030).

**Failure to remain at scene of accident.** — Trial court did not err in instructing the jurors that they could not consider defendant's intoxication in deciding whether he acted knowingly with regard to the of-

ference of failing to remain at the scene of an accident and failing to render assistance to an injured person. *Williams v. State*, 737 P.2d 360 (Alaska Ct. App. 1987).

**Applied in** *Fox v. State*, 685 P.2d 1267 (Alaska Ct. App. 1984); *Abruzza v. State*, 705 P.2d 1261 (Alaska Ct. App. 1985).

**Cited in** *Baden v. State*, 667 P.2d 1275 (Alaska Ct. App. 1983); *Brown v. State*, 739 P.2d 182 (Alaska Ct. App. 1987); *Stevens v. State*, 748 P.2d 771 (Alaska Ct. App. 1988).

**Collateral references.** — Modern status of rules as to voluntary intoxication as defense to criminal charge, 8 ALR3d 1736.

**Drug addiction or related mental state as defense to criminal charge.** 73 ALR3d 16.

**When intoxication deemed voluntary so as to constitute a defense to criminal charge.** 73 ALR3d 195.

**Adequacy of defense counsel's representation of criminal client — pretrial conduct or conduct at unspecified time regarding issues of diminished capacity, intoxication, and unconsciousness.** 79 ALR5th 419.

**Sec. 11.81.640. Application of AS 11.81.600 — 11.81.630.** AS 11.81.600 — 11.81.630 apply only to this title. (§ 10 ch 166 SLA 1978)

#### NOTES TO DECISIONS

**Stated in** *Neitzel v. State*, 655 P.2d 325 (Alaska Ct. App. 1982).

**Cited in** *Brown v. State*, 739 P.2d 182 (Alaska Ct.

**App. 1987);** *Cole v. State*, 828 P.2d 175 (Alaska Ct. App. 1992); *Alvarez v. Ketchikan Gateway Borough*,

**91 P.3d 289 (Alaska Ct. App. 2004).**

### Article 6. Definitions.

#### Section 900. Definitions

**Sec. 11.81.900. Definitions.** (a) For purposes of this title, unless the context requires otherwise,

(1) a person acts "intentionally" with respect to a result described by a provision of law defining an offense when the person's conscious objective is to cause that result; when intentionally causing a particular result is an element of an offense, that intent need not be the person's only objective;

(2) a person acts "knowingly" with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated acts knowingly with respect to that conduct or circumstance;

(3) a person acts "recklessly" with respect to a result or to a circumstance described by a provision of law defining an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which the person would have been aware had that person not been intoxicated acts recklessly with respect to that risk;

(4) a person acts with "criminal negligence" with respect to a result or to a circumstance described by a provision of law defining an offense when the person fails to

PUBLIC LAW 106-159—DEC. 9, 1999

MOTOR CARRIER SAFETY IMPROVEMENT ACT  
OF 1999

Public Law 106-159  
106th Congress

An Act

Dec. 9, 1999  
[H.R. 3419]

To amend title 49, United States Code, to establish the Federal Motor Carrier Safety Administration, and for other purposes.

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

Motor Carrier  
Safety  
Improvement Act  
of 1999.  
49 USC 101 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the "Motor Carrier Safety Improvement Act of 1999".

(b) **TABLE OF CONTENTS.**—

- Sec. 1. Short title; table of contents.
- Sec. 2. Secretary defined.
- Sec. 3. Findings.
- Sec. 4. Purpose.

**TITLE I—FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

- Sec. 101. Establishment of Federal Motor Carrier Safety Administration.
- Sec. 102. Rev. as aligned budget authority.
- Sec. 103. Additional funding for motor carrier safety grant program.
- Sec. 104. Motor carrier safety strategy.
- Sec. 105. Commercial motor vehicle safety advisory committee.
- Sec. 106. Saving provisions.
- Sec. 107. Effective date.

**TITLE II—COMMERCIAL MOTOR VEHICLE AND DRIVER SAFETY**

- Sec. 201. Disqualifications.
- Sec. 202. Requirements for State participation.
- Sec. 203. State noncompliance.
- Sec. 204. Checks before issuance of driver's license.
- Sec. 205. Registration enforcement.
- Sec. 206. Delinquent payment of penalties.
- Sec. 207. State cooperation in registration enforcement.
- Sec. 208. Imminent hazard.
- Sec. 209. Household goods amendments.
- Sec. 210. New motor carrier entrant requirements.
- Sec. 211. Certification of safety auditors.
- Sec. 212. Commercial van re-linking.
- Sec. 213. 24-hour staffing of telephone hotline.
- Sec. 214. CDL school bus endorsement.
- Sec. 215. Medical certificate.
- Sec. 216. Implementation of Inspector General recommendations.
- Sec. 217. Periodic refiling of motor carrier identification reports.
- Sec. 218. Border staffing standards.
- Sec. 219. Foreign motor carrier penalties and disqualifications.
- Sec. 220. Traffic law initiative.
- Sec. 221. State-to-State notification of violation data.
- Sec. 222. Minimum and maximum assessments.
- Sec. 223. Motor carrier safety program report.
- Sec. 224. Study of commercial motor vehicle crash causation.
- Sec. 225. Data collection and analysis.
- Sec. 226. Drug test results study.
- Sec. 227. Approval of agreements.
- Sec. 228. DOT authority.

**SEC. 2. SECRETARY DEFINED.**

49 USC 101 note.

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

**SEC. 3. FINDINGS.**

49 USC 113 note.

Congress makes the following findings:

(1) The current rate, number, and severity of crashes involving motor carriers in the United States are unacceptable.

(2) The number of Federal and State commercial motor vehicle and operator inspections is insufficient and civil penalties for violators must be utilized to deter future violations.

(3) The Department of Transportation is failing to meet statutorily mandated deadlines for completing rulemaking proceedings on motor carrier safety and, in some significant safety rulemaking proceedings, including driver hours-of-service regulations, extensive periods have elapsed without progress toward resolution or implementation.

(4) Too few motor carriers undergo compliance reviews and the Department's data bases and information systems require substantial improvement to enhance the Department's ability to target inspection and enforcement resources toward the most serious safety problems and to improve States' ability to keep dangerous drivers off the roads.

(5) Additional safety inspectors and inspection facilities are needed in international border areas to ensure that commercial motor vehicles, drivers, and carriers comply with United States safety standards.

(6) The Department should rigorously avoid conflicts of interest in federally funded research.

(7) Meaningful measures to improve safety must be implemented expeditiously to prevent increases in motor carrier crashes, injuries, and fatalities.

(8) Proper use of Federal resources is essential to the Department's ability to improve its research, rulemaking, oversight, and enforcement activities related to commercial motor vehicles, operators, and carriers.

**SEC. 4. PURPOSES.**

49 USC 113 note.

The purposes of this Act are—

(1) to improve the administration of the Federal motor carrier safety program and to establish a Federal Motor Carrier Safety Administration in the Department of Transportation; and

(2) to reduce the number and severity of large-truck involved crashes through more commercial motor vehicle and operator inspections and motor carrier compliance reviews, stronger enforcement measures against violators, expedited completion of rulemaking proceedings, scientifically sound research, and effective commercial driver's license testing, recordkeeping and sanctions.

## TITLE I—FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

### SEC. 101. ESTABLISHMENT OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION.

(a) **IN GENERAL.**—Chapter 1 of title 49, United States Code, is amended by adding at the end the following:

#### “§ 113. Federal Motor Carrier Safety Administration

(a) **IN GENERAL.**—The Federal Motor Carrier Safety Administration shall be an administration of the Department of Transportation.

(b) **SAFETY AS HIGHEST PRIORITY.**—In carrying out its duties, the Administration shall consider the assignment and maintenance of safety as the highest priority, recognizing the clear intent, encouragement, and dedication of Congress to the furtherance of the highest degree of safety in motor carrier transportation.

(c) **ADMINISTRATOR.**—The head of the Administration shall be the Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be an individual with professional experience in motor carrier safety. The Administrator shall report directly to the Secretary of Transportation.

(d) **DEPUTY ADMINISTRATOR.**—The Administration shall have a Deputy Administrator appointed by the Secretary, with the approval of the President. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

(e) **CHIEF SAFETY OFFICER.**—The Administration shall have an Assistant Federal Motor Carrier Safety Administrator appointed in the competitive service by the Secretary, with the approval of the President. The Assistant Administrator shall be the Chief Safety Officer of the Administration. The Assistant Administrator shall carry out the duties and powers prescribed by the Administrator.

(f) **POWERS AND DUTIES.**—The Administrator shall carry out—

(1) duties and powers related to motor carriers or motor carrier safety vested in the Secretary by chapters 5, 51, 55, 57, 59, 113 through 148, 311, 313, 315, and 317 and by section 18 of the Noise Control Act of 1972 (42 U.S.C. 4917; 86 Stat. 1249–1250), except as otherwise delegated by the Secretary to any agency of the Department of Transportation other than the Federal Highway Administration, as of October 8, 1999; and

(2) additional duties and powers prescribed by the Secretary.

(g) **LIMITATION ON TRANSFER OF POWERS AND DUTIES.**—A duty or power specified in sub-section (f)(1) may only be transferred to another part of the Department when specifically provided by law.

(h) **EFFECT OF CERTAIN DECISIONS.**—A decision of the Administrator involving a duty or power specified in subsection (f)(1) and involving notice and hearing required by law is administratively final.

(i) **CONSULTATION.**—The Administrator shall consult with the Federal Highway Administrator and with the National Highway

Traffic Safety Administrator on matters related to highway and motor carrier safety."

(b) **ADMINISTRATIVE EXPENSES.**—Section 104(a)(1) of title 23, United States Code, is amended—

(1) in paragraph (1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and by moving the text of such clauses 2 ems to the right;

(2) in paragraph (1) by striking "exceed 1½ percent of all sums so made available", as the Secretary determines necessary—" and inserting "exceed—

"(A) 1½ percent of all sums so made available, as the Secretary determines necessary—";

(3) by striking the period at the end of paragraph (1)(A)(ii) (as redesignated by paragraphs (1) and (2) of this subsection) and inserting "; and" and the following:

"(B) one-third of 1 percent of all sums so made available, as the Secretary determines necessary, to administer the provisions of law to be financed from appropriations for motor carrier safety programs and motor carrier safety research."; and

(4) by adding at the end the following:

"(4) **LIMITATION ON TRANSFERABILITY.**—Unless expressly authorized by law, the Secretary may not transfer any sums deducted under paragraph (1) to a Federal agency or entity other than the Federal Highway Administration and the Federal Motor Carrier Safety Administration."

(c) **CONFORMING AMENDMENTS.**—

(1) **CHAPTER ANALYSIS.**—The analysis for chapter 1 of title 49, United States Code, is amended by adding at the end the following:

"113. Federal Motor Carrier Safety Administration."

(2) **FEDERAL HIGHWAY ADMINISTRATION.**—Section 104 of title 49, United States Code, is amended—

(A) in subsection (c)—

(i) by striking the semicolon at the end of paragraph (1) and inserting "; and";

(ii) by striking paragraph (2); and

(iii) by redesignating paragraph (3) as paragraph (2);

(B) by striking subsection (d); and

(C) by redesignating subsection (e) as subsection (d).

(d) **POSITIONS IN EXECUTIVE SERVICE.**—

(1) **ADMINISTRATOR.**—Section 5314 of title 5, United States Code, is amended by inserting after

"Administrator of the National Highway Traffic Safety Administration,"

the following:

"Administrator of the Federal Motor Carrier Safety Administration."

(2) **DEPUTY AND ASSISTANT ADMINISTRATORS.**—Section 5316 of title 5, United States Code, is amended by inserting after

"Deputy Administrator of the National Highway Traffic Safety Administration,"

the following:

"Deputy Administrator of the Federal Motor Carrier Safety Administration."

"Assistant Federal Motor Carrier Safety Administrator."

(e) **PERSONNEL LEVELS.**—The number of personnel positions at the Office of Motor Carrier Safety (and, beginning on January 1, 2000, the Federal Motor Carrier Safety Administration) at its headquarters location in fiscal year 2000 shall not be increased above the level transferred from the Federal Highway Administration to the Office of Motor Carrier Safety. The Secretary shall provide detailed justifications to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives for the personnel requested for fiscal years 2001, 2002, and 2003 for the Federal Motor Carrier Safety Administration when the President submits his budget, including a justification for increasing personnel at headquarters above the levels so transferred.

49 USC 31136  
note.

(f) **AUTHORITY TO PROMULGATE SAFETY STANDARDS FOR RETROFITTING.**—The authority under title 49, United States Code, to promulgate safety standards for commercial motor vehicles and equipment subsequent to initial manufacture is vested in the Secretary and may be delegated.

49 USC 330 note.

(g) **CONFLICTS OF INTEREST.**—

(1) **COMPLIANCE WITH REGULATION.**—In awarding any contract for research, the Secretary shall comply with section 332.209-70 of title 48, Code of Federal Regulations, as in effect on the date of the enactment of this section. The Secretary shall require that the text of such section be included in any request for proposal and contract for research made by the Secretary.

(2) **STUDY.**—

(A) **IN GENERAL.**—The Secretary shall conduct a study to determine whether or not compliance with the section referred to in paragraph (1) is sufficient to avoid conflicts of interest in contracts for research awarded by the Secretary and to evaluate whether or not compliance with such section unreasonably delays or burdens the awarding of such contracts.

(B) **CONSULTATION.**—In conducting the study under this paragraph, the Secretary shall consult, as appropriate, with the Inspector General of the Department of Transportation, the Comptroller General, the heads of other Federal agencies, research organizations, industry representatives, employee organizations, safety organizations, and other entities.

Deadline.

(C) **REPORT.**—Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study conducted under this paragraph.

**SEC. 106. REVENUE ALIGNED BUDGET AUTHORITY.**

(a) **IN GENERAL.**—Chapter 1 of title 23, United States Code, is amended—

(1) by redesignating the first section 110, relating to uniform transferability of Federal-aid highway funds, as section 126 and moving and inserting such section after section 125 of such chapter; and

(2) in the remaining section 110, relating to revenue aligned budget authority—

(A) in subsection (a)(2) by inserting "and the motor carrier safety grant program" after "relief"; and

(B) in subsection (b)(1)(A)—

(i) by inserting "and the motor carrier safety grant program" after "program";

(ii) by striking "title and" and inserting "title,"; and

(iii) by inserting ", and subchapter I of chapter 311 of title 49" after "21st Century".

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended—

(1) by striking

"110. Uniform transferability of Federal aid highway funds,"

(2) by inserting after the item relating to section 125 the following:

"126. Uniform transferability of Federal aid highway funds,"

and

(3) in the item relating to section 163 by striking "Sec."

**SEC. 163. ADDITIONAL FUNDING FOR MOTOR CARRIER SAFETY GRANT PROGRAM.**

(a) IN GENERAL.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to carry out section 31102 of title 49, United States Code, \$75,000,000 for each of fiscal years 2001 through 2003.

(b) INCREASED AUTHORIZATIONS FOR MOTOR CARRIER SAFETY GRANTS.—

(1) IN GENERAL.—Section 4003 of the Transportation Equity Act for the 21st Century (112 Stat. 395-396) is amended by adding at the end the following:

49 USC 31101  
note

"(i) INCREASED AUTHORIZATIONS FOR MOTOR CARRIER SAFETY GRANTS.—The amount made available to incur obligations to carry out section 31102 of title 49, United States Code, by section 31104(a) of such title for each of fiscal years 2001 through 2003 shall be increased by \$65,000,000."

(2) CORRESPONDING REDUCTION TO OBLIGATION CEILING.—

Section 1102 of such Act (23 U.S.C. 104 note; 112 Stat. 1115-1116) is amended by adding at the end the following:

"(j) REDUCTION IN OBLIGATION CEILING.—The limitation on obligations imposed by subsection (a) for each of fiscal years 2001 through 2003 shall be reduced by \$65,000,000."

(c) MAINTENANCE OF EFFORT.—The Secretary may not make, from funds made available by or under this section (including any amendment made by this section), a grant to a State unless the State first enters into a binding agreement with the Secretary that provides that the total expenditures of amounts of the State and its political subdivisions (not including amounts of the United States) for the development or implementation of programs for improving motor carrier safety and enforcement of regulations, standards, and orders of the United States on commercial motor vehicle safety, hazardous materials transportation safety, and compatible State regulations, standards, and orders will be maintained at a level at least equal to the average level of such expenditures for fiscal years 1997, 1998, and 1999.

49 USC 31102  
note

(d) EMERGENCY CDL GRANTS.—Section 31107 of title 49, United States Code, is amended by adding at the end the following:

“(c) EMERGENCY CDL GRANTS.—From amounts made available by subsection (a) for a fiscal year, the Secretary of Transportation may make a grant of up to \$1,000,000 to a State whose commercial driver’s license program may fail to meet the compliance requirements of section 31311(a).”

49 USC 31102  
note.

(e) STATE COMPLIANCE WITH CDL REQUIREMENTS.—

(1) WITHHOLDING OF ALLOCATION FOR NONCOMPLIANCE.—

If a State is not in substantial compliance with each requirement of section 31311 of title 49, United States Code, the Secretary shall withhold all amounts that would be allocated, but for this paragraph, to the State from funds made available by or under this section (including any amendment made by this section).

(2) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—Any funds withheld under paragraph (1) from any State shall remain available until June 30 of the fiscal year for which the funds are authorized to be appropriated.

(3) ALLOCATION OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds are withheld under paragraph (1) from allocation are to remain available for allocation to a State under paragraph (2), the Secretary determines that the State is in substantial compliance with each requirement of section 31311 of title 49, United States Code, the Secretary shall allocate to the State the withheld funds.

(4) PERIOD OF AVAILABILITY OF SUBSEQUENTLY ALLOCATED FUNDS.—Any funds allocated pursuant to paragraph (3) shall remain available for expenditure until the last day of the first fiscal year following the fiscal year in which the funds are so allocated. Sums not expended at the end of such period are released to the Secretary for reallocation.

(5) EFFECT OF NONCOMPLIANCE.—If, on June 30 of the fiscal year in which funds are withheld from allocation under paragraph (1), the State is not substantially complying with each requirement of section 31311 of title 49, United States Code, the funds are released to the Secretary for reallocation.

49 USC 31100  
note.

**SEC. 104. MOTOR CARRIER SAFETY STRATEGY.**

(a) SAFETY GOALS.—In conjunction with existing federally required strategic planning efforts, the Secretary shall develop a long-term strategy for improving commercial motor vehicle, operator, and carrier safety. The strategy shall include an annual plan and schedule for achieving, at a minimum, the following goals:

(1) Reducing the number and rates of crashes, injuries, and fatalities involving commercial motor vehicles.

(2) Improving the consistency and effectiveness of commercial motor vehicle, operator, and carrier enforcement and compliance programs.

(3) Identifying and targeting enforcement efforts at high-risk commercial motor vehicles, operators, and carriers.

(4) Improving research efforts to enhance and promote commercial motor vehicle, operator, and carrier safety and performance.

(b) CONTENTS OF STRATEGY.—

(1) **MEASURABLE GOALS.**—The strategy and annual plans under subsection (a) shall include, at a minimum, specific numeric or measurable goals designed to achieve the strategic goals of subsection (a). The purposes of the numeric or measurable goals are as follows:

(A) To increase the number of inspections and compliance reviews to ensure that all high-risk commercial motor vehicles, operators, and carriers are examined.

(B) To eliminate, with meaningful safety measures, the backlog of rulemakings.

(C) To improve the quality and effectiveness of data bases by ensuring that all States and inspectors accurately and promptly report complete safety information.

(D) To eliminate, with meaningful civil and criminal penalties for violations, the backlog of enforcement cases.

(E) To provide for a sufficient number of Federal and State safety inspectors, and provide adequate facilities and equipment, at international border areas.

(2) **RESOURCE NEEDS.**—In addition, the strategy and annual plans shall include estimates of the funds and staff resources needed to accomplish each activity. Such estimates shall also include the staff skills and training needed for timely and effective accomplishment of each goal.

(3) **SAVINGS CLAUSE.**—In developing and assessing progress toward meeting the measurable goals set forth in this subsection, the Secretary and the Federal Motor Carrier Safety Administrator shall not take any action that would impinge on the due process rights of motor carriers and drivers.

(c) **SUBMISSION WITH THE PRESIDENT'S BUDGET.**—Beginning with fiscal year 2001 and each fiscal year thereafter, the Secretary shall submit to Congress the strategy and annual plan at the same time as the President's budget submission.

(d) **ANNUAL PERFORMANCE.**—

(1) **ANNUAL PERFORMANCE AGREEMENT.**—For each of fiscal years 2001 through 2003, the following officials shall enter into annual performance agreements:

(A) The Secretary and the Federal Motor Carrier Safety Administrator.

(B) The Administrator and the Deputy Federal Motor Carrier Safety Administrator.

(C) The Administrator and the Chief Safety Officer of the Federal Motor Carrier Safety Administration.

(D) The Administrator and the regulatory ombudsman of the Administration designated by the Administrator under subsection (f).

(2) **GOALS.**—Each annual performance agreement entered into under paragraph (1) shall include the appropriate numeric or measurable goals of subsection (b).

(3) **PROGRESS ASSESSMENT.**—Consistent with the current performance appraisal system of the Department of Transportation, the Secretary shall assess the progress of each official (other than the Secretary) referred to in paragraph (1) toward achieving the goals in his or her performance agreement. The Secretary shall convey the assessment to such official, including identification of any deficiencies that should be remediated before the next progress assessment.

(4) **ADMINISTRATION.**—In deciding whether or not to award a bonus or other achievement award to an official of the Administration who is a party to a performance agreement required by this subsection, the Secretary shall give substantial weight to whether the official has made satisfactory progress toward meeting the goals of his or her performance agreement.

(e) **ACHIEVEMENT OF GOALS.**—

(1) **PROGRESS ASSESSMENT.**—No less frequently than semi-annually, the Secretary and the Administrator shall assess the progress of the Administration toward achieving the strategic goals of subsection (a). The Secretary and the Administrator shall convey their assessment to the employees of the Administration and shall identify any deficiencies that should be remediated before the next progress assessment.

(2) **REPORT TO CONGRESS.**—The Secretary shall report annually to Congress the contents of each performance agreement entered into under subsection (d) and the official's performance relative to the goals of the performance agreement. In addition, the Secretary shall report to Congress on the performance of the Administration relative to the goals of the motor carrier safety strategy and annual plan under subsection (a).

(f) **EXPEDITING REGULATORY PROCEEDINGS.**—The Administrator shall designate a regulatory ombudsman to expedite rulemaking proceedings. The Secretary and the Administrator shall each delegate to the ombudsman such authority as may be necessary for the ombudsman to expedite rulemaking proceedings of the Administration to comply with statutory and internal departmental deadlines, including authority to—

(1) make decisions to resolve disagreements between officials in the Administration who are participating in a rulemaking process; and

(2) ensure that sufficient staff are assigned to rulemaking projects to meet all deadlines.

49 USC 31100  
note.

**SEC. 106. COMMERCIAL MOTOR VEHICLE SAFETY ADVISORY COMMITTEE.**

(a) **ESTABLISHMENT.**—The Secretary may establish a commercial motor vehicle safety advisory committee to provide advice and recommendations on a range of motor carrier safety issues.

(b) **COMPOSITION.**—The members of the advisory committee shall be appointed by the Secretary and shall include representatives of the motor carrier industry, drivers, safety advocates, manufacturers, safety enforcement officials, law enforcement agencies of border States, and other individuals affected by rulemakings under consideration by the Department of Transportation. Representatives of a single interest group may not constitute a majority of the members of the advisory committee.

(c) **FUNCTION.**—The advisory committee shall provide advice to the Secretary on commercial motor vehicle safety regulations and other matters relating to activities and functions of the Federal Motor Carrier Safety Administration.

(d) **TERMINATION DATE.**—The advisory committee shall remain in effect until September 30, 2003.

49 USC 112 note.

**SEC. 108. SAVINGS PROVISION.**

(a) **TRANSFER OF ASSETS AND PERSONNEL.**—Except as otherwise provided in this Act and the amendments made by this Act, those

personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Federal Motor Carrier Safety Administration by this Act shall be transferred to the Administration for use in connection with the functions transferred, and unexpended balances of appropriations, allocations, and other funds of the Office of Motor Carrier Safety (including any predecessor entity) shall also be transferred to the Administration.

(b) **LEGAL DOCUMENTS.**—All orders, determinations, rules, regulations, permits, grants, loans, contracts, settlement agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the Office, any officer or employee of the Office, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this Act or the amendments made by this Act; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date), shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Administration, any other authorized official, a court of competent jurisdiction, or operation of law.

(c) **PROCEEDINGS.**—

(1) **IN GENERAL.**—The provisions of this Act shall not affect any proceedings or any application for any license pending before the Office at the time this Act takes effect, insofar as those functions are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(2) **STATUTORY CONSTRUCTION.**—Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any proceeding described in paragraph (1) under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(3) **ORDERLY TRANSFER.**—The Secretary is authorized to provide for the orderly transfer of pending proceedings from the Office.

(d) **SUITS.**—

(1) **IN GENERAL.**—This Act shall not affect suits commenced before the date of the enactment of this Act, except as provided in paragraphs (2) and (3). In all such suits, proceeding shall be had, appeals taken and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(2) **SUITS BY OR AGAINST OMCS.**—Any suit by or against the Office begun before January 1, 2000, shall be continued, insofar as it involves a function retained and transferred under this Act, with the Administration (to the extent the suit involves

functions transferred to the Administration under this Act) substituted for the Office.

(3) REMANDED CASES.—If the court in a suit described in paragraph (1) remands a case to the Administration, subsequent proceedings related to such case shall proceed in accordance with applicable law and regulations as in effect at the time of such subsequent proceedings.

(e) CONTINUANCE OF ACTIONS AGAINST OFFICERS.—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Office shall abate by reason of the enactment of this Act. No cause of action by or against the Office, or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this Act.

(f) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, an officer or employee of the Administration may, for purposes of performing a function transferred by this Act or the amendments made by this Act, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this Act or the amendments made by this Act.

(g) REFERENCES.—Any reference to the Office in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Office or an officer or employee of the Office is deemed to refer to the Administration or a member or employee of the Administration, as appropriate.

#### SEC. 107. EFFECTIVE DATE.

49 USC 104 note.

(a) IN GENERAL.—This Act shall take effect on the date of the enactment of this Act; except that the amendments made by section 101 shall take effect on January 1, 2000.

31 USC 1105  
note.

(b) BUDGET SUBMISSIONS.—The President's budget submission for fiscal year 2001 and each fiscal year thereafter shall reflect the establishment of the Federal Motor Carrier Safety Administration in accordance with this Act.

## TITLE II—COMMERCIAL MOTOR VEHICLE AND DRIVER SAFETY

#### SEC. 301. DISQUALIFICATIONS.

(a) DRIVING WHILE DISQUALIFIED AND CAUSING A FATALITY.—

(1) FIRST VIOLATION.—Section 31310(b)(1) of title 49, United States Code, is amended—

(A) by striking "or" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph

(C) and inserting a semicolon; and

(C) by adding at the end the following:

"(D) committing a first violation of driving a commercial motor vehicle when the individual's commercial driver's license is revoked, suspended, or canceled based on the individual's operation of a commercial motor vehicle or when the individual is disqualified from operating a commercial motor vehicle based on the individual's operation of a commercial motor vehicle; or

"(E) convicted of causing a fatality through negligent or criminal operation of a commercial motor vehicle."

(2) SECOND AND MULTIPLE VIOLATIONS.—Section 31310(c)(1) of such title is amended—

(A) by striking "or" at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (F);

(C) by inserting after subparagraph (C) the following:

"(D) committing more than one violation of driving a commercial motor vehicle when the individual's commercial driver's license is revoked, suspended or canceled based on the individual's operation of a commercial motor vehicle or when the individual is disqualified from operating a commercial motor vehicle based on the individual's operation of a commercial motor vehicle;

"(E) convicted of more than one offense of causing a fatality through negligent or criminal operation of a commercial motor vehicle; or"; and

(D) in subparagraph (F) (as redesignated by subparagraph (B) of this paragraph) by striking "clauses (A)–(C) of this paragraph" and inserting "subparagraphs (A) through (E)"

(3) CONFORMING AMENDMENT.—Section 31301(12)(C) of such title is amended by inserting ", other than a violation to which section 31310(b)(1)(E) or 31310(c)(1)(E) applies" after "a fatality".

(b) EMERGENCY DISQUALIFICATION; NONCOMMERCIAL MOTOR VEHICLE CONVICTIONS.—Section 31310 of such title is amended—

(1) by redesignating subsections (f), (g), and (h) as subsections (h), (i), and (j), respectively;

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

"(f) EMERGENCY DISQUALIFICATION.—

"(1) LIMITED DURATION.—The Secretary shall disqualify an individual from operating a commercial motor vehicle for not to exceed 30 days if the Secretary determines that allowing the individual to continue to operate a commercial motor vehicle would create an imminent hazard (as such term is defined in section 5102).

"(2) AFTER NOTICE AND HEARING.—The Secretary shall disqualify an individual from operating a commercial motor vehicle for more than 30 days if the Secretary determines, after notice and an opportunity for a hearing, that allowing the individual to continue to operate a commercial motor vehicle would create an imminent hazard (as such term is defined in section 5102).

"(g) NONCOMMERCIAL MOTOR VEHICLE CONVICTIONS.—

"(1) ISSUANCE OF REGULATIONS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall issue regulations providing for the disqualification by the Secretary from operating a commercial motor vehicle of an individual who holds a commercial driver's license and who has been convicted of—

"(A) a serious offense involving a motor vehicle (other than a commercial motor vehicle) that has resulted in the revocation, cancellation, or suspension of the individual's license; or

"(B) a drug or alcohol related offense involving a motor vehicle (other than a commercial motor vehicle).

Deadline.

"(2) REQUIREMENTS FOR REGULATIONS.—Regulations issued under paragraph (1) shall establish the minimum periods for which the disqualifications shall be in effect, but in no case shall the time periods for disqualification for noncommercial motor vehicle violations be more stringent than those for offenses or violations involving a commercial motor vehicle. The Secretary shall determine such periods based on the seriousness of the offenses on which the convictions are based."; and

(3) in subsection (h) (as redesignated by paragraph (1) of this subsection) by striking "(b)-(e)" each place it appears and inserting "(b) through (g)".

(c) SERIOUS TRAFFIC VIOLATIONS.—Section 31301(12) of such title is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (G); and

(3) by inserting after subparagraph (C) the following:

"(D) driving a commercial motor vehicle when the individual has not obtained a commercial driver's license;

"(E) driving a commercial motor vehicle when the individual does not have in his or her possession a commercial driver's license unless the individual provides, by the date that the individual must appear in court or pay any fine with respect to the citation, to the enforcement authority that issued the citation proof that the individual held a valid commercial driver's license on the date of the citation;

"(F) driving a commercial motor vehicle when the individual has not met the minimum testing standards—

"(i) under section 31305(a)(3) for the specific class of vehicle the individual is operating; or

"(ii) under section 31305(a)(5) for the type of cargo the vehicle is carrying; and".

(d) CONFORMING AMENDMENTS.—Section 31305(b)(1) of such title is amended—

(1) by striking "to operate the vehicle"; and

(2) by inserting before the period at the end the following: "to operate the vehicle and has a commercial driver's license to operate the vehicle".

#### SEC. 202. REQUIREMENTS FOR STATE PARTICIPATION.

(a) REQUESTS FOR DRIVING RECORD INFORMATION.—Section 31311(a)(8) of title 49, United States Code, is amended—

(1) by inserting "or renewing such a license" before the comma; and

(2) by striking "commercial" the second place it appears.

(b) RECORDING OF VIOLATIONS.—Section 31311(a)(8) of such title is amended by inserting before the period at the end the following: ", and the violation that resulted in the disqualification, revocation, suspension, or cancellation shall be recorded".

(c) NOTIFICATION OF STATE OFFICIALS.—Section 31311(a)(9) of such title is amended to read as follows:

"(9) If an individual violates a State or local law on motor vehicle traffic control (except a parking violation) and the individual—

"(A) has a commercial driver's license issued by another State; or

"(B) is operating a commercial vehicle without a commercial driver's license and has a driver's license issued by another State,

the State in which the violation occurred shall notify a State official designated by the issuing State of the violations not later than 10 days after the date the individual is found to have committed the violation."

(d) **PROVISIONAL LICENSES.**—Section 31311(a)(10) of such title is amended—

(1) by striking "(10)" and inserting "(10)(A)"; and

(2) by adding at the end the following:

"(B) The State may not issue a special license or permit (including a provisional or temporary license) to an individual who holds a commercial driver's license that permits the individual to drive a commercial motor vehicle during a period in which—

"(i) the individual is disqualified from operating a commercial motor vehicle; or

"(ii) the individual's driver's license is revoked, suspended, or canceled."

(e) **PENALTIES.**—Section 31311(a)(13) of such title is amended—

(1) by inserting "consistent with this chapter that" after "penalties"; and

(2) by striking "vehicle" the first place it appears and all that follows through the period at the end and inserting "vehicle."

(f) **RECORDS OF VIOLATIONS.**—Section 31311(a) of such title is amended by adding at the end the following:

"(18) The State shall maintain, as part of its driver information system, a record of each violation of a State or local motor vehicle traffic control law while operating a motor vehicle (except a parking violation) for each individual who holds a commercial driver's license. The record shall be available upon request to the individual, the Secretary, employers, prospective employers, State licensing and law enforcement agencies, and their authorized agents."

(g) **MASKING.**—Section 31311(a) of such title is further amended by adding at the end the following:

"(19) The State shall—

"(A) record in the driving record of an individual who has a commercial driver's license issued by the State; and

"(B) make available to all authorized persons and governmental entities having access to such record, all information the State receives under paragraph (9) with respect to the individual and every violation by the individual involving a motor vehicle (including a commercial motor vehicle) of a State or local law on traffic control (except a parking violation), not later than 10 days after the date of receipt of such information or the date of such violation, as the case may be. The State may not allow information regarding such violations to be withheld or masked in any way from the record of an individual possessing a commercial driver's license."

(h) **NONCOMMERCIAL MOTOR VEHICLE CONVICTIONS.**—Section 31311(a) of such title is further amended by adding at the end the following:

"(20) The State shall revoke, suspend, or cancel the commercial driver's license of an individual in accordance with regulations issued by the Secretary to carry out section 31310(g)."

**SEC. 203. STATE NONCOMPLIANCE.**

(a) IN GENERAL.—Chapter 313 of title 49, United States Code, is amended by inserting after section 31311 the following:

**"§ 31312. Decertification authority**

"(a) IN GENERAL.—If the Secretary of Transportation determines that a State is in substantial noncompliance with this chapter, the Secretary shall issue an order to—

"(1) prohibit that State from carrying out licensing procedures under this chapter; and

"(2) prohibit that State from issuing any commercial driver's licenses until such time the Secretary determines such State is in substantial compliance with this chapter.

"(b) EFFECT ON OTHER STATES.—A State (other than a State subject to an order under subsection (a)) may issue a non-resident commercial driver's license to an individual domiciled in a State that is prohibited from such activities under subsection (a) if that individual meets all requirements of this chapter and the non-resident licensing requirements of the issuing State.

"(c) PREVIOUSLY ISSUED LICENSES.—Nothing in this section shall be construed as invalidating or otherwise affecting commercial driver's licenses issued by a State before the date of issuance of an order under subsection (a) with respect to the State."

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 313 of such title is amended by inserting after the item relating to section 31311 the following:

"31312. Decertification authority."

**SEC. 204. CHECKS BEFORE ISSUANCE OF DRIVER'S LICENSES.**

Section 30304 of title 49, United States Code, is amended by adding at the end the following:

"(e) DRIVER RECORD INQUIRY.—Before issuing a motor vehicle operator's license to an individual or renewing such a license, a State shall request from the Secretary information from the National Driver Register under section 30302 and the commercial driver's license information system under section 31309 on the individual's driving record."

**SEC. 205. REGISTRATION ENFORCEMENT.**

Section 13902 of title 49, United States Code, is amended—

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

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

"(e) PENALTIES FOR FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS.—In addition to other penalties available under law, motor carriers that fail to register their operations as required by this section or that operate beyond the scope of their registrations may be subject to the following penalties:

"(1) OUT-OF-SERVICE ORDERS.—If, upon inspection or investigation, the Secretary determines that a motor vehicle providing transportation requiring registration under this section is operating without a registration or beyond the scope of its registration, the Secretary may order the vehicle out-of-service. Subsequent to the issuance of the out-of-service order, the

Secretary shall provide an opportunity for review in accordance with section 554 of title 5, United States Code; except that such review shall occur not later than 10 days after issuance of such order.

"(2) PERMISSION FOR OPERATIONS.—A person domiciled in a country contiguous to the United States with respect to which an action under subsection (c)(1)(A) or (c)(1)(B) is in effect and providing transportation for which registration is required under this section shall maintain evidence of such registration in the motor vehicle when the person is providing the transportation. The Secretary shall not permit the operation in interstate commerce in the United States of any motor vehicle in which there is not a copy of the registration issued pursuant to this section."

**SEC. 206. DELINQUENT PAYMENT OF PENALTIES.**

(a) REVOCATION OF REGISTRATION.—Section 13905(c) of title 49, United States Code, is amended—

(1) by inserting "(1) IN GENERAL.—" before "On application";

(2) by inserting "(A)" before "suspend";

(3) by striking the period at the end of the second sentence and inserting "; and (B) suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder: (i) for failure to pay a civil penalty imposed under chapter 5, 51, 149, or 311 of this title; or (ii) for failure to arrange and abide by an acceptable payment plan for such civil penalty, within 90 days of the time specified by order of the Secretary for the payment of such penalty. Subparagraph (B) 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.

"(2) REGULATIONS.—Not later than 12 months after the date of the enactment of this paragraph, the Secretary, after notice and opportunity for public comment, shall issue regulations to provide for the suspension, amendment, or revocation of a registration under this part for failure to pay a civil penalty as provided in paragraph (1)(B)."; and

Deadline.

(4) by indenting paragraph (1) (as designated by paragraph (1) of this section) and aligning such paragraph with paragraph (2) of such section (as added by paragraph (3) of this section).

(b) PROHIBITED TRANSPORTATION BY COMMERCIAL MOTOR VEHICLE OPERATORS.—Section 521(b) of such title is amended—

(1) by redesignating paragraphs (8) through (13) as paragraphs (9) through (14), respectively; and

(2) by inserting after paragraph (7) the following:

"(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

Deadline.

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.”

**SEC. 207. STATE COOPERATION IN REGISTRATION ENFORCEMENT.**

Section 31102(b)(1) of title 49, United States Code, is amended—

(1) by aligning subparagraph (A) with subparagraph (B) of such section; and

(2) by striking subparagraph (R) and inserting the following:

“(R) ensures that the State will cooperate in the enforcement of registration requirements under section 13902 and financial responsibility requirements under sections 13906, 31138, and 31139 and regulations issued thereunder;”

**SEC. 208. IMMINENT HAZARD.**

Section 521(b)(5)(B) of title 49, United States Code, is amended by striking “is likely to result in” and inserting “substantially increases the likelihood of”.

**SEC. 209. HOUSEHOLD GOODS AMENDMENTS.**

(a) DEFINITION OF HOUSEHOLD GOODS.—Section 13102(10)(A) of title 49, United States Code, is amended by striking “, including” and all that follows through “dwelling,” and inserting “, except such term does not include property moving from a factory or store, other than property that the householder has purchased with the intent to use in his or her dwelling and is transported at the request of, and the transportation charges are paid to the carrier by, the householder;”.

(b) ARBITRATION REQUIREMENTS.—Section 14708(b)(6) of such title is amended by striking “\$1,000” each place it appears and inserting “\$5,000”.

(c) STUDY OF ENFORCEMENT OF CONSUMER PROTECTION RULES IN THE HOUSEHOLD GOODS MOVING INDUSTRY.—The Comptroller General shall conduct a study of the effectiveness of the Department of Transportation’s enforcement of household goods consumer protection rules under title 49, United States Code. The study shall also include a review of other potential methods of enforcing such rules, including allowing States to enforce such rules.

**SEC. 210. NEW MOTOR CARRIER ENTRANT REQUIREMENTS.**

(a) SAFETY REVIEWS.—Section 31144 of title 49, United States Code, is amended by adding at the end the following:

“(c) SAFETY REVIEWS OF NEW OPERATORS.—

“(1) IN GENERAL.—The Secretary shall require, by regulation, each owner and each operator granted new operating authority, after the date on which section 31148(b) is first implemented, to undergo a safety review within the first 18 months after the owner or operator, as the case may be, begins operations under such authority.

49 USC 14104  
note.

Regulations.

"(2) **ELEMENTS.**—In the regulations issued pursuant to paragraph (1), the Secretary shall establish the elements of the safety review, including basic safety management controls. In establishing such elements, the Secretary shall consider their effects on small businesses and shall consider establishing alternate locations where such reviews may be conducted for the convenience of small businesses.

"(3) **PHASE-IN OF REQUIREMENT.**—The Secretary shall phase in the requirements of paragraph (1) in a manner that takes into account the availability of certified motor carrier safety auditors.

"(4) **NEW ENTRANT AUTHORITY.**—Notwithstanding any other provision of this title, any new operating authority granted after the date on which section 31148(b) is first implemented shall be designated as new entrant authority until the safety review required by paragraph (1) is completed."

(b) **MINIMUM REQUIREMENTS.**—The Secretary shall initiate a rulemaking to establish minimum requirements for applicant motor carriers, including foreign motor carriers, seeking Federal interstate operating authority to ensure applicant carriers are knowledgeable about applicable Federal motor carrier safety standards. As part of that rulemaking, the Secretary shall consider the establishment of a proficiency examination for applicant motor carriers as well as other requirements to ensure such applicants understand applicable safety regulations before being granted operating authority.

49 USC 31144  
note.

**SEC. 311. CERTIFICATION OF SAFETY AUDITORS.**

(a) **IN GENERAL.**—Chapter 311 of title 49, United States Code, is amended by adding at the end the following:

**"§ 31148. Certified motor carrier safety auditors**

"(a) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this section, the Secretary of Transportation shall complete a rulemaking to improve training and provide for the certification of motor carrier safety auditors, including private contractors, to conduct safety inspection audits and reviews described in subsection (b).

Deadline.

"(b) **CERTIFIED INSPECTION AUDIT REQUIREMENT.**—Not later than 1 year after completion of the rulemaking required by subsection (a), any safety inspection audit or review required by, or based on the authority of, this chapter or chapter 5, 313, or 315 of this title and performed after December 31, 2002, shall be conducted by—

Deadline.

"(1) a motor carrier safety auditor certified under subsection (a); or

"(2) a Federal or State employee who, on the date of the enactment of this section, was qualified to perform such an audit or review.

"(c) **EXTENSION.**—If the Secretary determines that subsection (b) cannot be implemented within the 1-year period established by that subsection and notifies the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the determination and the reasons therefor, the Secretary may extend the deadline for compliance with subsection (b) by not more than 12 months.

"(d) APPLICATION WITH OTHER AUTHORITY.—The Secretary may not delegate the Secretary's authority to private contractors to issue ratings or operating authority, and nothing in this section authorizes any private contractor to issue ratings or operating authority.

"(e) OVERSIGHT RESPONSIBILITY.—The Secretary shall have authority over any motor carrier safety auditor certified under subsection (a), including the authority to decertify a motor carrier safety auditor."

(b) CONFORMING AMENDMENT.—The analysis for such chapter 311 is amended by adding at the end the following:

"31148. Certified motor carrier safety auditors."

**SEC. 212. COMMERCIAL VAN RULEMAKING.**

Deadline.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall complete Department of Transportation's rulemaking, Docket No. FHWA-99-5710, to amend Federal motor carrier safety regulations to determine which motor carriers operating commercial motor vehicles designed or used to transport between 9 and 15 passengers (including the driver) for compensation shall be covered. At a minimum, the rulemaking shall apply such regulations to—

(1) commercial vans commonly referred to as "camionetas"; and

(2) those commercial vans operating in interstate commerce outside commercial zones that have been determined to pose serious safety risks.

In no case should the rulemaking exempt from such regulations all motor carriers operating commercial vehicles designed or used to transport between 9 and 15 passengers (including the driver) for compensation.

**SEC. 213. 24-HOUR STAFFING OF TELEPHONE HOTLINE.**

Section 4017 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31143 note; 112 Stat. 413) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

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

"(c) STAFFING.—The toll-free telephone system shall be staffed 24 hours a day 7 days a week by individuals knowledgeable about Federal motor carrier safety regulations and procedures;" and

(3) in subsection (e) (as redesignated by paragraph (1) of this section)—

(A) by striking "104(a)" and inserting "104(a)(1)(B)"; and

(B) by striking "for each of fiscal years 1999" and inserting "for fiscal year 1999 and \$375,000 for each of fiscal years 2000".

49 USC 31306  
note.  
Regulations.

**SEC. 214. CDL SCHOOL BUS ENDORSEMENT.**

The Secretary shall conduct a rulemaking to establish a special commercial driver's license endorsement for drivers of school buses. The endorsement shall, at a minimum—

(1) include a driving skills test in a school bus; and

(2) address proper safety procedures for—

(A) loading and unloading children;

(B) using emergency exits; and

(C) traversing highway rail grade crossings.

**SEC. 216. MEDICAL CERTIFICATE.**

49 USC 31306

note.  
legislation.

The Secretary shall initiate a rulemaking to provide for a Federal medical qualification certificate to be made a part of commercial driver's licenses.

**SEC. 218. IMPLEMENTATION OF INSPECTOR GENERAL RECOMMENDATIONS.**

(a) **IN GENERAL.**—The Secretary shall implement the safety improvement recommendations provided for in the Department of Transportation Inspector General's Report TR-1999-091, except to the extent that such recommendations are specifically addressed in sections 206, 208, 217, and 222 of this Act, including any amendments made by such sections.

**(b) REPORTS TO CONGRESS.**—

(1) **REPORTS BY THE SECRETARY.**—Not later than 90 days after the date of the enactment of this Act, and every 90 days thereafter until each of the recommendations referred to in subsection (a) has been implemented, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the specific actions taken to implement such recommendations.

Deadline.

(2) **REPORTS BY THE INSPECTOR GENERAL.**—The Inspector General shall periodically transmit to the committees referred to in paragraph (1) a report assessing the Secretary's progress in implementing the recommendations referred to in subsection (a) and analyzing the number of violations cited by safety inspectors and the level of fines assessed and collected for such violations, and of the number of cases in which there are findings of extraordinary circumstances under section 222(c) of this Act and the circumstances in which these findings are made.

**SEC. 217. PERIODIC REFILEING OF MOTOR CARRIER IDENTIFICATION REPORTS.**

The Secretary shall amend section 385.21 of the Department of Transportation's regulations (49 CFR 385.21) to require periodic updating, not more frequently than once every 2 years, of the motor carrier identification report, form MCS-150, filed by each motor carrier conducting operations in interstate or foreign commerce. The initial update shall occur not later than 1 year after the date of the enactment of this Act.

Deadline.

**SEC. 218. BORDER STAFFING STANDARDS.**

49 USC 31120

note.  
Deadline.

(a) **DEVELOPMENT AND IMPLEMENTATION.**—Not later than 1 year after the date of the enactment of this Act, the Secretary shall develop and implement appropriate staffing standards for Federal and State motor carrier safety inspectors in international border areas.

(b) **FACTORS TO BE CONSIDERED.**—In developing standards under subsection (a), the Secretary shall consider volume of traffic, hours of operation of the border facility, types of commercial motor vehicles, types of cargo, delineation of responsibility between Federal and State inspectors, and such other factors as the Secretary determines appropriate.

(c) **MAINTENANCE OF EFFORT.**—The standards developed and implemented under subsection (a) shall ensure that the United

States and each State will not reduce its respective level of staffing of motor carrier safety inspectors in international border areas from its average level staffing for fiscal year 2000.

**(d) BORDER COMMERCIAL MOTOR VEHICLE AND SAFETY ENFORCEMENT PROGRAMS.—**

**(1) ENFORCEMENT.—**If, on October 1, 2001, and October 1 of each fiscal year thereafter, the Secretary has not ensured that the levels of staffing required by the standards developed under subsection (a) are deployed, the Secretary should designate the amount made available for allocation under section 31104(f)(2)(B) of title 49, United States Code, for such fiscal year for States, local governments, and other persons for carrying out border commercial motor vehicle safety programs and enforcement activities and projects.

**(2) ALLOCATION.—**If the Secretary makes a designation of an amount under paragraph (1), such amount shall be allocated by the Secretary to State agencies, local governments, and other persons that use and train qualified officers and employees in coordination with State motor vehicle safety agencies.

**(3) LIMITATION.—**If the Secretary makes a designation pursuant to paragraph (1) for a fiscal year, the Secretary may not make a designation under section 31104(f)(2)(B) of title 49, United States Code, for such fiscal year.

49 USC 14901  
note.

**SEC. 219. FOREIGN MOTOR CARRIER PENALTIES AND DISQUALIFICATIONS.**

**(a) GENERAL RULE.—**Subject to subsections (b) and (c), a foreign motor carrier or foreign motor private carrier (as such terms are defined under section 13102 of title 49, United States Code) that operates without authority, before the implementation of the land transportation provisions of the North American Free Trade Agreement, outside the boundaries of a commercial zone along the United States-Mexico border shall be liable to the United States for a civil penalty and shall be disqualified from operating a commercial motor vehicle anywhere within the United States as provided in subsections (b) and (c).

**(b) PENALTY FOR INTENTIONAL VIOLATION.—**The civil penalty for an intentional violation of subsection (a) by a carrier shall not be more than \$10,000 and may include a disqualification from operating a commercial motor vehicle anywhere within the United States for a period of not more than 6 months.

**(c) PENALTY FOR PATTERN OF INTENTIONAL VIOLATIONS.—**The civil penalty for a pattern of intentional violations of subsection (a) by a carrier shall not be more than \$25,000 and the carrier shall be disqualified from operating a commercial motor vehicle anywhere within the United States and the disqualification may be permanent.

**(d) LEASING.—**Before the implementation of the land transportation provisions of the North American Free Trade Agreement, during any period in which a suspension, condition, restriction, or limitation imposed under section 13902(c) of title 49, United States Code, applies to a motor carrier (as defined in section 13902(e) of such title), that motor carrier may not lease a commercial motor vehicle to another motor carrier or a motor private carrier to transport property in the United States.

(e) **SAVINGS CLAUSE.**—No provision of this section may be enforced if it is inconsistent with any international agreement of the United States.

(f) **ACTS OF EMPLOYEES.**—The actions of any employee driver of a foreign motor carrier or foreign motor private carrier committed without the knowledge of the carrier or committed unintentionally shall not be grounds for penalty or disqualification under this section.

**SEC. 220. TRAFFIC LAW INITIATIVE.**

(a) **IN GENERAL.**—In cooperation with one or more States, the Secretary may carry out a program to develop innovative methods of improving motor carrier compliance with traffic laws. Such methods may include the use of photography and other imaging technologies.

(b) **REPORT.**—The Secretary shall transmit to Congress a report on the results of any program conducted under this section, together with any recommendations as the Secretary determines appropriate.

**SEC. 221. STATE-TO-STATE NOTIFICATION OF VIOLATIONS DATA.**

(a) **DEVELOPMENT.**—In cooperation with the States, the Secretary shall develop a uniform system to support the electronic transmission of data State-to-State on convictions for all motor vehicle traffic control law violations by individuals possessing a commercial drivers' licenses as required by paragraphs (9) and (19) of section 31311(a) of title 49, United States Code.

(b) **STATUS REPORT.**—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status of the implementation of this section.

**SEC. 222. MINIMUM AND MAXIMUM ASSESSMENTS.**

(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.

49 USC 31311  
note

49 USC 31311  
note

Deadline

49 USC 321 note

**(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 and this Act 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.

**SEC. 233. MOTOR CARRIER SAFETY PROGRESS REPORT.**

Not later than May 25, 2000, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a status report on the Department of Transportation's quantitative progress toward reducing motor carrier fatalities by 50 percent by the year 2009.

**SEC. 234. STUDY OF COMMERCIAL MOTOR VEHICLE CRASH CAUSATION.**

(a) **OBJECTIVES.**—The Secretary shall conduct a comprehensive study to determine the causes of, and contributing factors to, crashes that involve commercial motor vehicles. The study shall also identify data requirements and collection procedures, reports, and other measures that will improve the Department of Transportation's and States' ability to—

- (1) evaluate future crashes involving commercial motor vehicles;
- (2) monitor crash trends and identify causes and contributing factors; and
- (3) develop effective safety improvement policies and programs.

(b) **DESIGN.**—The study shall be designed to yield information that will help the Department and the States identify activities and other measures likely to lead to significant reductions in the frequency, severity, and rate per mile traveled of crashes involving commercial motor vehicles, including vehicles described in section 311321(b) of title 49, United States Code. As practicable, the study shall rank such activities and measures by the reductions each would likely achieve, if implemented.

(c) **CONSULTATION.**—In designing and conducting the study, the Secretary shall consult with persons with expertise on—

- (1) crash causation and prevention;
- (2) commercial motor vehicles, drivers, and carriers, including passenger carriers;
- (3) highways and noncommercial motor vehicles and drivers;
- (4) Federal and State highway and motor carrier safety programs;
- (5) research methods and statistical analysis; and
- (6) other relevant topics.

(d) **PUBLIC COMMENT.**—The Secretary shall make available for public comment information about the objectives, methodology, implementation, findings, and other aspects of the study.

**(e) REPORTS.—**

(1) **IN GENERAL.**—The Secretary shall promptly transmit to Congress the results of the study, together with any legislative recommendations.

(2) **REVIEW AND UPDATE.**—The Secretary shall review the study at least once every 5 years and update the study and report as necessary.

(f) **FUNDING.**—Of the amounts made available for each of fiscal years 2001, 2002, and 2003 under section 4003(i) of the Transportation Equity Act for the 21st Century (112 Stat. 395–398), as added by section 103(b)(1) of this Act, \$5,000,000 per fiscal year shall be available only to carry out this section.

**SEC. 228. DATA COLLECTION AND ANALYSIS.**

49 USC 31100  
note.

(a) **IN GENERAL.**—In cooperation with the States, the Secretary shall carry out a program to improve the collection and analysis of data on crashes, including crash causation, involving commercial motor vehicles.

(b) **PROGRAM ADMINISTRATION.**—The Secretary shall administer the program through the National Highway Traffic Safety Administration in cooperation with the Federal Motor Carrier Safety Administration. The National Highway Traffic Safety Administration shall—

(1) enter into agreements with the States to collect data and report the data by electronic means to a central data repository; and

Contracts.

(2) train State employees and motor carrier safety enforcement officials to assure the quality and uniformity of the data.

(c) **USE OF DATA.**—The National Highway Traffic Safety Administration shall—

(1) integrate the data, including driver citation and conviction information; and

(2) make the data base available electronically to the Federal Motor Carrier Safety Administration, the States, motor carriers, and other interested parties for problem identification, program evaluation, planning, and other safety-related activities.

(d) **REPORT.**—Not later than 3 years after the date on which the improved data program begins, the Secretary shall transmit a report to Congress on the program, together with any recommendations the Secretary finds appropriate.

Deadline.

(e) **FUNDING.**—Of the amounts deducted under section 104(a)(1)(B) of title 23, United States Code, for each of fiscal years 2001, 2002, and 2003 \$5,000,000 per fiscal year shall be available only to carry out this section.

(f) **ADDITIONAL FUNDING FOR INFORMATION SYSTEMS.**—

(1) **IN GENERAL.**—Of the amounts made available for each of fiscal years 2001, 2002, and 2003 under section 4003(i) of the Transportation Equity Act for the 21st Century (112 Stat. 395–398), as added by section 103(b)(1) of this Act, \$5,000,000 per fiscal year shall be available only to carry out section 31106 of title 49, United States Code.

(2) **AMOUNTS AS ADDITIONAL.**—The amounts made available by paragraph (1) shall be in addition to amounts made available under section 31107 of title 49, United States Code.

**SEC. 229. DRUG TEST RESULTS STUDY.**

49 USC 31306  
note.

(a) **IN GENERAL.**—The Secretary shall conduct a study of the feasibility and merits of—

(1) requiring medical review officers or employers to report all verified positive controlled substances test results on any driver subject to controlled substances testing under part 382

of title 49, Code of Federal Regulations, including the identity of each person tested and each controlled substance found, to the State that issued the driver's commercial driver's license; and

(2) requiring all prospective employers, before hiring any driver, to query the State that issued the driver's commercial driver's license on whether the State has on record any verified positive controlled substances test on such driver.

(b) **STUDY FACTORS.**—In carrying out the study under this section, the Secretary shall assess—

(1) methods for safeguarding the confidentiality of verified positive controlled substances test results;

(2) the costs, benefits, and safety impacts of requiring States to maintain records of verified positive controlled substances test results; and

(3) whether a process should be established to allow drivers—

(A) to correct errors in their records; and

(B) to expunge information from their records after a reasonable period of time.

Deadline.

(c) **REPORT.**—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study carried out under this section, together with such recommendations as the Secretary determines appropriate.

#### SEC. 227. APPROVAL OF AGREEMENTS.

(a) **REVIEW.**—Section 13703(c) of title 49, United States Code, is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(2) by striking "The Board" and inserting the following: "(1) IN GENERAL.—The Board";

(3) by adding at the end the following:

"(2) **PERIODIC REVIEW OF APPROVALS.**—Subject to this section, in the 5-year period beginning on the date of the enactment of this paragraph and in each 5-year period thereafter, the Board shall initiate a proceeding to review any agreement approved pursuant to this section. Any such agreement shall be continued unless the Board determines otherwise"; and

(4) by moving the remainder of the text of paragraph (1) (as designated by paragraph (2) of this subsection), including subparagraphs (A) through (D) (as designated by paragraph (1) of this subsection), 2 ems to the right.

(b) **LIMITATION.**—Section 13703(d) of such title is amended to read as follows:

"(d) **LIMITATION.**—The Board shall not take any action that would permit the establishment of nationwide collective ratemaking authority."

(c) **EXISTING AGREEMENTS.**—Section 13703(e) of such title is amended—

(1) by striking "Agreements" and inserting the following:

"(1) **AGREEMENTS EXISTING AS OF DECEMBER 31, 1995.**—Agreements";

(2) by adding at the end the following:

"(2) **CASES PENDING AS OF DATE OF THE ENACTMENT.**—Nothing in section 227 (other than subsection (b)) of the Motor

Carrier Safety Improvement Act of 1999, including the amendments made by such section, shall be construed to affect any case brought under this section that is pending before the Board as of the date of the enactment of this paragraph.”; and

(3) by aligning the left margin of paragraph (1) (as designated by paragraph (1) of this subsection) with paragraph (2) (as added by paragraph (2) of this subsection).

**SEC. 228. DOT AUTHORITY.**

5 USC app.

(a) **IN GENERAL.**—The statutory authority of the Inspector General of the Department of Transportation includes authority to conduct, pursuant to Federal criminal statutes, investigations of allegations that a person or entity has engaged in fraudulent or other criminal activity relating to the programs and operations of the Department or its operating administrations.

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

Approved December 9, 1999.

## MOTOR CARRIER SAFETY IMPROVEMENT ACT of 1999 (MCSIA) FACT SHEET

The Motor Carrier Safety Improvement Act (MCSIA) is a federal mandate instituted to enhance highway safety by imposing stricter penalties on those drivers who operate commercial motor vehicles. The new law, which goes into effect September 30, 2005, improves the commercial driver license (CDL) sanctioning process by strengthening the CDL disqualification process through the expansion of violations that result in disqualification. In addition, MCSIA requires states to disqualify CDL drivers who have high risk traffic offenses in their personal vehicles.

In support of MCSIA, two federal agencies, the Federal Motor Carrier Safety Administration (FMCSA) and the National Highway Traffic Safety Administration (NHTSA), issued rulemaking that affects the application process for CDL drivers. The following matrix describes the impact of the new federal requirements on commercial drivers.

### MCSIA CHANGES FOR COMMERCIAL DRIVERS

CATEGORY	PRE-MCSIA	POST-MCSIA
<b>APPLICATION</b>  New Applicant	<ul style="list-style-type: none"> <li>• Driver discloses last state of record</li> <li>• PennDOT complete check with last state of record</li> <li>• PennDOT checks DL&amp;C system to identify suspension in PA.</li> <li>• PennDOT checks PDPS to identify suspensions in other states.</li> <li>• PennDOT checks CDLIS.</li> </ul>	<ul style="list-style-type: none"> <li>• Drivers disclose all states where they were licensed in the past 10 years.</li> <li>• PennDOT checks with each state provided by driver and any history is made part of PA record.</li> <li>• PennDOT checks DL&amp;C system to identify suspension in PA.</li> <li>• PennDOT checks PDPS to identify suspensions in other states.</li> <li>• PennDOT checks CDLIS.</li> </ul> <p>CDL holders will be required to disclose this same information prior to renewing their CDL. PennDOT will mail a survey to CDL holders approximately 4 months prior to renewal to obtain this information. CDL holders who fail to provide the information will be unable to renew their CDL. CDL holders with a May expiry are the first to be impacted.</p>
<b>RECORD CHECKS</b>  Renewals  Duplicates	<ul style="list-style-type: none"> <li>• PennDOT checks PDPS.</li> <li>• PennDOT checks CDLIS.</li> <li>• No checks are completed.</li> </ul>	<ul style="list-style-type: none"> <li>• Same Process</li> <li>• Same Process</li> <li>• PennDOT checks PDPS and CDLIS</li> </ul>
<b>SANCTIONS</b>  General  ARD for a DUI  Refusal to Submit to Chemical Testing  Major Traffic Offense (MTO)  Serious Traffic Offense (STO)	<ul style="list-style-type: none"> <li>• CDL holders only receive a disqualification for convictions of major and serious traffic offenses occurring in a CMV.</li> <li>• ARD is not considered a conviction and does not result in a disqualification.</li> <li>• Refusal violations occurring in a non-CMV do not result in a disqualification.</li> <li>• The CMV violations not considered major offenses and do not count towards lifetime disqualification are driving a CMV while a CDL is revoked, suspended, cancelled or disqualified and causing a fatality through the negligent operation of a CMV.</li> <li>• Pennsylvania law requires a six month disqualification for the following violations: Driving a CMV without having a CDL, Driving without a CDL in possession and Driving without the proper class or endorsement. These violations are NOT considered STO's.</li> </ul>	<ul style="list-style-type: none"> <li>• CDL holder will be disqualified for convictions of major and serious traffic offenses occurring in any type of vehicle (CMV and non-CMV)</li> <li>• ARD is considered a conviction for the purposes of disqualifying a commercial driver and will result in a 1 year disqualification regardless of the vehicle type. ARD for DUI will also count towards lifetime disqualification. Two convictions for a DUI will result in a lifetime disqualification.</li> <li>• All refusal violations, regardless of vehicle type, will result in a 1 year disqualification. Refusal violations also count towards lifetime disqualifications.</li> <li>• CMV violations considered major offenses and count towards lifetime disqualification are: driving a CMV while a CDL is revoked, suspended, cancelled or disqualified and causing a fatality through the negligent operation of a CMV.</li> <li>• A six month disqualification will still be imposed as required by Pennsylvania law. In addition, these violations will also count as STO's.</li> </ul>

CATEGORY	PRE-MCSIA	POST-MCSIA
<b>RECORD KEEPING</b>	Only violations resulting in a sanction (points being assessed or suspension imposed) appear on any driver record.	All moving violations, regardless of where they occur (in PA or another state) and regardless of what vehicle, will appear on the record of a CDL holder.
<b>FINES/PENALTIES</b>		
Out-of-Service Order Violations for Drivers	<ul style="list-style-type: none"> <li>▪ Alcohol Related - Fine is \$1,000.</li> <li>▪ Non-alcohol Related - Fine is \$500.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Alcohol Related - Fine is not less than \$1,100 not more than \$2,750.</li> <li>▪ Non-alcohol Related - Fine is \$1,100.</li> </ul>
Out-of-Service Order Violations for Employers	<ul style="list-style-type: none"> <li>▪ \$500</li> </ul>	<ul style="list-style-type: none"> <li>▪ To be increased to \$2,750 in the future. Not yet effective.</li> </ul>

### **MCSIA PROGRAM NOTES:**

**ARD (Accelerated Rehabilitative Disposition)** – A program whereby individuals who are accepted into it can have the criminal record expunged after they complete the requirements of the program.

**CDLIS (Commercial Driver License Information System)** – Nationwide database of all commercial drivers.

**DL&C (Driver License & Control System)** - PennDOT's database of all licensed drivers and identification card holders.

**PDPS (Problem Driver Pointer System)** - Nationwide system that identifies the state(s) where an individual is under suspension. Drivers will have 3 to 6 months to resolve any out-of-state issue prior to renewal.

**Disqualification** – A prohibition from operating a commercial motor vehicle.

**MTO (Major Traffic Offense)** – A violation that results in the automatic disqualification of commercial driving privilege. Examples include driving under the influence and leaving the scene of an accident. Two or more major traffic offenses result in a lifetime disqualification. To find a complete list of Major Traffic Offenses, see the Disqualification and Traffic Offenses Fact sheet available at [www.dmv.state.pa.us](http://www.dmv.state.pa.us).

**STO (Serious Traffic Offense)** – A violation that does not automatically result in a disqualification. However, the accumulation of two or more serious traffic offenses within a 3 year period will result in a disqualification. Examples of serious traffic offenses are exceeding the speed limit by 15 mph or more, reckless driving and following too closely. To find a complete list of Serious Traffic Offenses, see the Disqualification and Traffic Offenses Fact Sheet available at [www.dmv.state.pa.us](http://www.dmv.state.pa.us).

**Out-of-Service Order** – An out-of-service order can be placed against a driver, a vehicle or both. A driver is prohibited from driving a commercial vehicle during a period that the driver or vehicle has been placed out-of-service.



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## Federal official looks into state's transportation

Expert says Alaska has done a good job meeting challenges

**ANCHORAGE** - The Lower 48 transportation industry could learn much from Alaska about how to better integrate its road, rail and port systems, said a federal safety administration executive.

"You folks have done a good job, out of necessity, of integrating the trucking network. We're just getting that in the Lower 48," John Hill, head of the Federal Motor Carrier Safety Administration, told members of the Alaska Trucking Association attending the group's annual meeting late last month.

Hill visited industry representatives and learned about the state's limited, yet challenging, road system.

"At one point, someone showed me a map, and then I really saw the road miles," he said.

In a later interview, Hill said he was impressed with the local industry's safety record despite its working conditions. During his visit, Hill tested the driving simulator at Carlile Transportation Systems, and the company gave him the royal treatment.

Carlile officials set the federal official up to run the infamous 450-mile Haul Road on the simulator, pulling a 53-foot trailer in the dark, with high winds and big ruts in the road.

"It's treacherous and lonely," he said.

But it was a good lesson in the lives of Alaska's truckers, he added. "It helps me realize that when we make decisions about the country, I have to think about that. When we write regulations, we can't assume that one size fits all.

"We've got to invest in transportation, but we cannot do it at the sake of safety," Hill said.

Operating under the Motor Carrier Safety Improvement Act, the Federal Motor Carrier Safety Administration works to reduce fatalities and injuries from crashes involving large commercial vehicles. The administration works with state law enforcement agencies, the U.S. Department of Transportation

and other stakeholders to enforce federal regulations, improve reporting, oversee safety studies and to conduct education campaigns.

The organization in March 2006 completed an analysis of nearly 1,000 crashes that involved commercial trucks that resulted in a fatality or injury. Driver error accounted for 87 percent of the accidents, and most involved failure to correctly recognize the situation or poor driving decisions. the study found.

The rest involved problems with the truck or the road, or were attributed to weather conditions.

Hill and his staff are laying the groundwork to expand the focus of safety from just the truck to include the driver. Truck drivers can get into accidents for the same reasons car drivers wreck - getting distracted as they talk on their cell phones or because they're tired.

The Motor Carrier Safety Improvement Act is up for reauthorization in 2010. Hill's office is investigating several technological safety features to propose as required installments to the nation's trucks.

Click here to return to story:

[http://www.juneauempire.com/stories/040807/sta\\_20070408009.shtml](http://www.juneauempire.com/stories/040807/sta_20070408009.shtml)



U.S. Department  
of Transportation

Federal Motor Carrier  
Safety Administration

1210 New Jersey Ave., S.E.  
Washington, D.C. 20590

Administrator

AUG 8 2007  
RECEIVED

Refer to: MC-ESL

The Honorable Sarah Palin  
Governor of Alaska  
Juneau, AK 99811

AUG 13 2007

DEPARTMENT OF ADMINISTRATION  
COMMISSIONER'S OFFICE

On May 17, 2006, the Federal Motor Carrier Safety Administration (FMCSA) issued a letter of substantial noncompliance to the State of Alaska for lack of statutory authority to enforce all the Commercial Driver's License (CDL) provisions of the Motor Carrier Safety Improvement Act of 1999 (MCSIA).

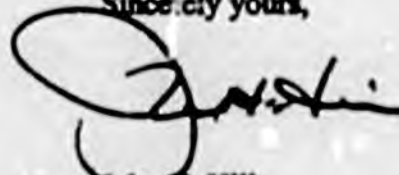
The FMCSA is now pleased to withdraw that determination based on passage of House Bill 126 which was signed by you on June 22. That bill addressed the previously identified MCSIA deficiencies. Consequently, Alaska will not experience any loss of Federal-aid highway funds on October 1, 2007.

The FMCSA CDL Division is also pleased to recognize that Alaska has passed the CDL Information System Structured Test administered by the American Association of Motor Vehicle Administrators related to the CDL provisions required by MCSIA.

The FMCSA wishes to recognize Duane Bannock and the staff of the Division of Motor Vehicles for their dedicated effort and leadership that has enabled Alaska to achieve compliance with the CDL provisions of MCSIA.

Again, thank you for your efforts and commitment to the goal of highway safety.

Sincerely yours,



John H. Hill

cc:

Annette Kreitzer, Commissioner, Alaska Department of Administration  
Duane Bannock, Director, Alaska Division of Motor Vehicles  
Leo Von Scheben, Commissioner, Alaska Department of  
Transportation and Public Facilities  
Dan Breeden, Director, Alaska Department of Transportation  
and Public Facilities  
Dominick Spataro, Division Chief, FMCSA CDL Division  
Tracey Lewellyn, FMCSA Division Administrator, Alaska  
William R. Padon, FMCSA Field Administrator, Western Service Center  
J. Richard Capka, Federal Highway Administrator  
David Miller, Division Administrator for Alaska, Federal Highway Administration



**American Association of  
Motor Vehicle Administrators**

Serving an International Community of Motor Vehicle and Law Enforcement Officials

## **Motor Carrier Safety Improvement Act of 1999 (MCSIA)**

(P.L. 106-159)

### **Related Content**

Documentation

Driver Services

Frequently Asked Questions

### **Purpose**

1. Establish a Federal Motor Carrier Safety Administration.
2. Reduce the number and severity of large-truck involved crashes through more commercial motor vehicle (CMV) and driver inspections and carrier compliance reviews, stronger enforcement, expedited completion of rules, sound research, and effective commercial driver's license (CDL) testing, record keeping, and sanctions.

### **Additional Provisions**

- Registration Enforcement and Penalties
- New Entrants and Certification of Safety Investigators
- Motor Carrier Safety Initiatives
- Data and Analysis
- Other Provisions

### **INSIDE THIS SECTION...**

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Manual Conviction/Withdrawal Reporting  
Specifications  
Documentation

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State of Vermont  
Agency of Transportation  
**DEPARTMENT OF MOTOR VEHICLES**  
120 State Street, Montpelier, VT 05603-0001

**INFORMATIONAL NOTICE**

December 5, 2005

**MOTOR CARRIER SAFETY IMPROVEMENT ACT (MCSIA)**

In accordance with Federal Motor Carrier Safety Regulation, 49 CFR 383.51, effective July 1, 2005, changes were made to the Disqualification of Commercial Driver Licenses. The following is an example of how convictions/adjudications can affect your Commercial Driver License status.

**\*\*\*\*\*WHILE DRIVING A COMMERCIAL VEHICLE\*\*\*\*\***

You will be disqualified from operating a Commercial Vehicle for one year, if convicted of one of the following:

- DWI (BAC .04)
- Leaving The Scene of An Accident
- DUI
- Driving While CDL License is Disqualified
- Refusal to Submit to BAC Test
- Driving with a Suspended License

You will be disqualified from operating a Commercial Vehicle for at least 60 days if at a Railroad Crossing you:

- Fail to Slow Down and Check for Trains
- Have to Stop on the Tracks to Get Over Them
- Fail to Stop for Lights or Enforcement Officer
- Don't Have Enough Undercarriage Clearance

What if you violate an Out-Service-Order?

- You will be issued a CDL Disqualification for no less than 90 days or more than 5 years depending on number of offenses

While driving a Commercial Vehicle you will receive a CDL disqualification for 60 days for committing any two of the following offenses in a 3-year period.

- Reckless Driving
- Following Too Close
- Not Having Your License in Your Possession
- Not Having Proper License Endorsements
- Excessive Speeding (+15 mph over the speed limit)
- Erratic Lane Changes
- Violating State or Local Motor Vehicle Law (not parking tickets) Involving a Fatality

**\*\*\*\*\*WHILE DRIVING YOUR PERSONAL NON-COMMERCIAL VEHICLE\*\*\*\*\***

You will be disqualified from operating a Commercial Vehicle for one year, if convicted of one of the following:

- DWI (BAC .08)
- Leaving The Scene of An Accident
- Refusal to Submit to BAC Test
- DUI
- Driving With a Suspended License

Other driving infractions with your non-commercial vehicle that will affect your CDL license:

- If your non-commercial operator license is suspended for excessive points (10 or more), and the triggering offense is the second disqualifying offense in a 3 year period, your CDL license will be disqualified for 60 days.
- Disqualifying offenses are:
  - Excessive Speeding (+15 mph over the speed limit)
  - Reckless Driving
  - Erratic Lane Changes
  - Following Too Close
  - Violating any Local, State or Federal Motor Vehicle Laws Involving a Fatality

A disqualification of your privilege to operate a Commercial Vehicle will result in your operating privileges being reduced to that of a Class D Operator License.

**David Scott**

---

**From:** Randall Ruaro  
**Sent:** Wednesday, February 07, 2007 9:53 AM  
**To:** Rep. Kyle Johansen; David Scott  
**Subject:** FW: Estimates of penalties for noncompliance with Federal CDL laws

Kyle:

Here are the estimates from DOT that now include the Motor Carrier Safety Assistance Program funding.

FFY 08 – total of \$10.4 million

FFY 09 – total of \$17.4 million

FFY 10 and forward, – similar amounts to FFY 09 if Alaska receives similar amounts under a new federal authorization bill.

Under that assumption, we have a five year total of  $10.4 + 17.4 + 17.4 + 17.4 + 17.4 = \$80.0$  million over a 5 year period that would be saved by our compliance bill.

Plus, perhaps just as importantly, the state would retain the ability to issue CDL's that allow for driving in interstate commerce. (Between Alaska and Canada for example or between Alaska and Washington state)

Dave,

Can you work these numbers and the interstate CDL issue into a press release and sponsor statement?

Randy

---

**From:** Mary Siroky [mailto:Mary\_Siroky@dot.state.ak.us]  
**Sent:** Wednesday, February 07, 2007 9:30 AM  
**To:** Randall Ruaro  
**Cc:** 'Carol A Taylor'; Jeff Ottesen; 'Nancy J Slagle'; Dan Breeden  
**Subject:** RE: Estimates of penalties for noncompliance with Federal CDL laws

Randy

384.401(a)(1) - withholding of 5% of the federal-aid highway funds required to be apportioned under sections 104(b)(1), (b)(3) and (b)(4) of title 23 U.S.C. is estimated to be a \$7 million reduction to DOT

Motor Carrier Safety Assistance Program funding this year is \$3.4 million so we can estimate that we would lose that amount of funding.

The second year of non compliance would be federal FY 09 (Oct 08) and would result in withholding of 10% of the federal-aid highway funds so approximately \$14 million and all the Motor Carrier Safety Assistance Program funding of \$3.4 million.

We do not have Federal fiscal year (FFY) 10 and out information as Safety-Lu (the federal authorization bill) ends at FFY'09.

2/7/2007

## **HB 126**

Mr. Chairman, members of the committee, thank you for taking your valuable time to hear HB 126. There is a CS before the committee to be adopted for discussion purposes. It is 25-LS0453\L Luckhaupt and is dated 2/23/07.

The CS makes 5 changes to the previous bill. None of these are major substantive changes. I will walk the committee through the changes, but I would note that we have Mr. Bannock, Ms. Hennings from DMV and Ms. Paton-Walsh from LAW on the line and they can address these in more detail if members wish.

4 of the changes correct minor technical drafting errors or clarify existing language, (sections 16, 18, 19, and 28). In addition to those changes, there is a change to section 1 to reflect some language DHSS's juvenile justice division suggested regarding access to records of minors.

In section 16, (page 8, line 26) following the word "conviction", the words "of a person who holds or is required to hold a CDL" are added. This change clarifies the section would not apply to a person holding a regular drivers license.

In sections 18 and 19, we are simply adding references to the new offenses described in subparagraphs (9) and (10) of AS 28.33.140(a). The bill adds these new offenses to the list of offenses in subparagraph (d) that will result in disqualification from holding a CDL for either a year, or (e), for life. The bill unintentionally omitted references to the new offenses in sections 18 and 19.

The other technical change was made to page 14, line 27, section 28, the same language is being deleted as in section 2 of the bill, "in writing". The change is for it to be shown in the correct drafting form with brackets and all capital letters instead of noncaps.

In section 1 of the bill, we worked with Tony Newman and the Division of Juvenile Justice on some language changes they suggested deleting the word "juvenile" and inserting the word "minor".

With that, Mr. Chairman, by my estimate, 90 to 95% of the statutory changes made by HB 126 are required to bring the state driving laws into compliance with federal mandates under the Motor Carrier Safety Improvement Act of 1999.

The changes in section 2 are not specifically required by federal law, but federal law does require states to check driving records of applicants and to do that effectively you need to have an updated data base that would include name and address changes.

The change in section 3 that would allow certain persons living in municipalities with under 3000 people to operate snow removal equipment in an emergency without a CDL is **not** mandated under federal law. It is discretionary and our state DMV has chosen to include that language as a policy decision.

The change in section 6 which would allow the expiration of a school bus endorsement in staggered time periods, rather than all at once on

September 1 of every year is **not** mandated under federal law but is DMV policy. My understanding is this change was made to avoid the flood of persons trying to renew at DMV offices at the same time every year.

MCSIA was passed by Congress in 1999 after it found the "current rate, number, and severity of crashes" involving commercial vehicles was "unacceptable". (Section 3)

MCSIA addressed the problem by requiring more vehicle and operator inspections, stronger enforcement measures against violators, and effective commercial driver's license testing, recordkeeping, and sanctions". (Section 4)

The goal was so important to Congress, that it attached "sticks" to get states to comply. The "sticks" are loss of 5-10% of federal highway aid funding, (and perhaps even more importantly, under Title 49 U.S.C. 31312(a)(1)) the loss of the state's ability to issue CDL's for work in interstate commerce.

The state has been notified it is out of compliance and penalties will be imposed by October of 2007 if this bill does not pass.

The sponsor shares the sentiments of many legislators in the body who resent the method used by Congress to gain compliance with federal laws, but we have to preserve the ability of Alaska truck drivers to work in interstate commerce. The Alaska Trucking Association has submitted a letter in support of the bill.

As to the roughly \$60 million dollars in federal highway funds over the next five federal fiscal years that would be lost for noncompliance, these funds would be used to make improvements in the state's roads and highway system that will hopefully save lives of Alaskans. It took only \$6.6 million dollars to straighten a corner that was known throughout the community in Ketchikan for the number of deadly accidents on it. Accidents on that corner have been reduced since then by roughly 60%.

# Drivers & Vehicles

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Law, rule and policy changes

CDL mailing address

Driver licenses now mailed

Drunk driving law changes

Entry level training

Motor Carrier Safety Improvement Act

Patriot Act

Photos on instruction permits

School bus

Social security number requirement

Social Security online verification (SSOLV)

Summary of major legislation

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## Motor Carrier Safety Improvement Act

Related links:

[Disqualification](#)

### Motor Carrier Safety Improvement Act (MCSIA) of 1999

Requirement/Criteria	Impact/Penalties	Date
Commercial Motor Vehicle (CMV) standards, penalties and requirements	Implements commercial driver license (CDL) improvements and creates penalties for offenses committed by a CDL holder in a non-CMV.	9/30/05
Major and serious traffic violations count whether in a CMV or non-CMV	Disqualifications apply to CMV privileges for offenses committed in a CMV or non-CMV when the violation is classified as a major or serious traffic violation.	9/30/05
Adds two new major offenses with new disqualification periods:	New disqualification periods: <ul style="list-style-type: none"> <li>1 year disqualification for first offense</li> <li>3 year disqualification for first offense if operating under "H" endorsement</li> <li>Lifetime disqualification for second and subsequent offenses</li> </ul>	9/30/05
Adds three new serious traffic violations:	Adds three new serious traffic violations: <ul style="list-style-type: none"> <li>Driving a CMV while disqualified, revoked, suspended or cancelled</li> <li>Causing a fatality through negligent operation of a CMV</li> <li>A person providing proof to the court of CDL licensing on date of violation</li> </ul>	9/30/05

shall not be guilty of this offense

- Driving a CMV without the proper class of CDL or required endorsement

Gives authority to the federal Secretary of DOT to disqualify a state's CDL driver if they pose an imminent hazard.

(Imminent hazard is defined as the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property or the environment may occur before the reasonably foreseeable completion date of a formal proceeding.)

- Disqualify for 30 days without a hearing 9/30/05
- Disqualification over 30 days requires a notice and a hearing

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Prohibits issuance of an occupational license for CDL operation under certain criteria.

Prohibits issuance of an occupational license for CDL operation when: 9/30/05

- the CMV privilege is disqualified
- the non-CMV privilege license is revoked, suspended or cancelled

States may continue to issue non-CMV occupational licenses.

State notification process

Requires states to notify the CDL holder's home state: 9/30/05

- within 30 days of any conviction for violation of traffic laws committed by the CDL holder in any vehicle (CMV or non-CMV) 9/30/05
- within 10 days of any conviction for

Prohibits conviction masking

violation of traffic laws committed by the CDL holder in any vehicle (CMV or non-CMV)


9/30/05

- States must keep a complete driver record of all violations of traffic law (CMV and non-CMV.)
- States must make a complete driving record available to persons and government with authorized access.

Driver history

States must make driver history available to other states, the federal Secretary of DOT, the driver, and motor carriers or prospective motor carriers.

9/30/05

 Return to top  
CDLIS notification

States must notify Commercial Driver License Information System (CDLIS) and the driver's home state within 10 days after disqualifying a CDL holder for at least 60 days, with the reason for the disqualification.

9/30/05

State requirements

States must:

9/30/05

- request complete driving record from all states in which the driver was previously licensed to operate any motor vehicle over the last 10 years.
- note the driver record that this record check was completed.
- perform this

check for drivers renewing for the first time, only after 3/30/02, provided a notation is made on the record confirming the record check and date.

**Application process** Driver must provide the names of all states where he/she was previously licensed for any CDL during the past 10 years. 9/30/05

**School bus endorsement**

- Requires an "S" endorsement
- Requires knowledge and skills tests

9/30/05

NOTE: Wisconsin already does this.

**Imposes new state sanctions for non-compliance**

- Prohibited from issuing CDLs
- Loss of all Motor Carrier Safety Assistance Program (MCSAP) funds
- 5% loss of federal-aid highway funds, 1st year
- 10% loss of federal-aid highway funds, 2nd and subsequent years


9/30/05

Printable version  (38 KB)

If you have questions:

- E-mail: [driverrecords.dmv@dot.state.wi.us](mailto:driverrecords.dmv@dot.state.wi.us)
- Call: (608) 266-2353

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Questions about the content of this page:  
Bureau of Driver Services, [driverrecords.dmv@dot.state.wi.us](mailto:driverrecords.dmv@dot.state.wi.us)

## LEGAL SERVICES

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LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 485-3887 or 485-2450  
FAX (907) 485-2029  
Mail Stop 3101

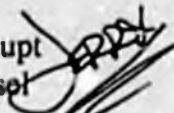
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

### MEMORANDUM

February 2, 2007

**SUBJECT:** Draft Omnibus Driver's License Bill  
(Work Order No. 25-LS0453\A)

**TO:** Representative Kyle Johansen  
Attn: Randy Ruero

**FROM:** Gerald P. Luckhaupt   
Legislative Counsel

Enclosed is the bill draft you requested. I have a few comments. You should look over the draft carefully. Randy has told me that the bill draft is designed to bring the department into compliance with new federal laws relating to commercial vehicles and their drivers. I am not familiar with those requirements and am unable at this time to tell you if this draft addresses that intent.

The material supplied was fairly clean but we did make a number of editorial changes and supplied terms and material that may have been overlooked. For example, several paragraphs of AS 28.33.150(a) were omitted from the draft - these were added back in as it did not appear that repeal of those provisions was intended. Also, the bill draft adds disqualification into several provisions as another action the department can take regarding licensing of drivers. In a few instances in those same provisions we added disqualification into a list that apparently was overlooked. There may be other places in statute where disqualification may need to be added as a form of action the department may take. Further, the assistant revisor noted that technically drivers are disqualified, not licenses, and changes were made accordingly.

The bill draft makes the department a criminal justice agency for purposes of access to criminal justice information. Criminal justice information includes nonconviction information among other information and does not include records of traffic offenses or juvenile information.<sup>1</sup> Definitions of "criminal justice activity" and "criminal justice agency" are found in AS 12.62.900(10) and (11). You may want to consider if federal law actually requires the department to be given this type or level of access to this information.

You repeal the definition for "hazardous materials" in the draft, but the term is still used in AS 28.33.140(d). Proposed AS 28.33.140(m) included the mental states "knowingly

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<sup>1</sup> AS 12.62.900(12).

Representative Kyle Johansen  
February 2, 2007  
Page 2

or willfully." Willfully is not often used in Alaska. It is sometimes used in other jurisdictions to mean something similar to "knowingly." "Knowingly" is a criminal mental state that may be greater than intended for a civil remedy. In any event I am not sure what is intended here.

The bill draft cites to federal regulations in a couple of places. See bill secs. 23 and 26. Since federal regulations can be changed from time to time, citing to federal regulations in essence gives the law-making power of the legislature to federal agencies. This practice is questionable at best and unconstitutional at worst. This can be corrected by citing to the regulation as it read on a particular date ( e.g., the language of the regulation on the date the bill passes the legislature or becomes law) or by requiring the department to adopt regulations that mirror the federal standards. Notwithstanding the delegation of law-making power problem, sec. 23 refers to 49 C.F.R. 383.53. This citation appears to be incorrect.

I removed sec. 32 as the catchlines of statute sections are within the discretion of the revisor of statutes and do not need to be changed by the legislature.

Section 21 of the bill draft increases license disqualifications for commercial drivers who violate out-of-service orders. This section also adds new criteria for violating out-of-service orders for transporting passengers or hazardous materials. The penalties do not seem to fit with the existing penalties as they merely duplicate those penalties and duplicate the terms used in the definition provided for "previously convicted."

Note that sec. 28 amends the Driver's License Compact. I am assuming that this will not cause problems with other states that are parties to the compact. You may want to have the department confirm this.

Note that the amendment to AS 28.15.031(b) in sec. 4 appears to prevent a disqualified person from obtaining a regular driver's license. This seems consistent with sec. 5's amendment of AS 28.37.150(1), but not with the amendment to AS 28.37.150(4).

Finally, the concept of "eligible unit of state government" was included in AS 28.15.021(9) as requested, but you should be aware that villages are generally not given powers under AS 28.

GPL:med:ljw  
07-052.med

Enclosure

## Missouri Department of Revenue

### Frequently Asked Questions - Motor Carrier Safety Improvement Act (MCSIA)

- What is considered "masking" under the MCSIA?
- Pursuant to federal and state law, commercial driving privileges may be disqualified if the driver leaves the scene of an accident. What is meant by "leaving the scene of an accident?"
- A CDL holder is convicted of a non-disqualifying offense that occurred in a non-CMV. The driver loses his or her base driving privileges for operating a non-CMV as a result of the conviction. May a state issue a "limited driving privilege" in this instance?
- A driver has been issued multiple tickets for speeding less than fifteen miles per hour over the posted speed limit in a noncommercial vehicle. The driver's license is suspended due to the accumulation of points. Does the driver lose all privileges to drive any motor vehicle – noncommercial or commercial?
- Why can't a driver obtain a limited driving privilege to operate a commercial motor vehicle?
- If a person is only eligible to receive a limited driving privilege to operate a personal vehicle, does the person have to downgrade the commercial driver license to a non-CDL?
- A driver is convicted of a serious motor vehicle offense and moves from the state that will disqualify his license. The driver obtains a driver license in another state prior to the license disqualification and avoids being disqualified immediately. The driver subsequently causes a serious motor vehicle accident and fatally injures two people. Pending state license disqualification proceedings, would this situation qualify for the federal imminent hazard disqualification?
- Why does the state disqualify a driver's commercial driving privilege when a traffic ticket is received in a personal vehicle?
- Why is the department so strict with CDL drivers?
- When individuals apply for a CDL, they must advise the license clerk what states they were previously licensed in. Will there be a problem if the applicant knows what states he/she was previously licensed in but cannot remember the license numbers assigned?

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#### What is considered "masking" under the MCSIA?

The state of Missouri requested clarification from the Federal Motor Carrier Safety Administration regarding the masking provisions outlined in the Motor Carrier Safety Improvement Act that became effective on September 30, 2005. The following scenarios were addressed and responses published on March 20, 2006.

**Note) FMCSA:** Generally, for masking or diversion to occur, there first must be a judgment of guilt. For example, masking may occur when the court holds the paperwork on a conviction for some reason and does not allow the State to take appropriate action. Diversion may occur when the court allows a driver – after an adjudication of guilt – to perform alternate services such as traffic school to get the conviction erased.

**Situation #1:** CDL holder issued traffic citation for Driving While Intoxicated in his private vehicle. Prosecutor reviews the records and determines that there is a problem with the evidence and decides not to prosecute the case, so no charges are filed with court. No conviction is entered.

**Response) FMCSA:** No violation of 49 CFR §383/384. The federal CDL regulations require a conviction as defined by §383.5. In this case, the evidence did not support the burden of proof to be properly adjudicated by the prosecutor and there were no excepted actions taken to otherwise circumvent the regulations (i.e., no masking or diversion of the offense or penalty).

**Situation #2:** CMV operator is issued traffic citation for "Careless and Imprudent" driving. Prosecutor files charges for "Careless and Imprudent Driving". Case goes to trial and contrary evidence is presented by operator to show he was not driving in a careless and imprudent manner and court ultimately dismisses the case.

**Response) FMCSA:** No violation of 49 CFR §383/384. Again, the federal regulations require a conviction and in this case the court found flawed or lacking evidence to convict the driver on the offense cited. There were no excepted actions taken by the court to otherwise circumvent the regulations (i.e., no masking or diversion of the offense or penalty). Ultimately, the driver in this case received his/her day in court and prevailed.

**Situation #3:** CMV operator issued traffic citation for "Improper lane change in a CMV". Prior to the citation being filed with the court the prosecutor determines to only file the charge as a "defective muffler". Final conviction is for "defective muffler" and that is the only charge ever signed by the prosecutor or filed with the court.

**Response) FMCSA:** This practice is not in violation of 49 §CFR 384.226 because the violation was reduced before a judgment of guilt was pronounced. Before we can apply the conditions in 49 §CFR 384.226 to determine whether masking has taken place, there has to be a judgment of guilt (conviction) for a violation. The masking provision in 49 CFR §384.226 do not prevent plea bargaining from taking place.

**Situation #4:** CDL holder is issued a traffic citation for "Excessive Speed" in private vehicle (speeding 75 mph in 60 mph zone). After original charge is filed with court, prosecutor amends original charge to "Speeding 65 mph in a 60 mph zone". Final conviction is for Speeding 65 mph in a 60 mph zone.

**Response) FMCSA:** This practice is not in violation of 49 §CFR 384.226 because the violation was reduced before a judgment of guilt was pronounced. Before we can apply the conditions in 49 §CFR 384.226 to determine whether masking has taken place, there has to be a judgment of guilt (conviction) for a violation. The masking provision in 49 CFR §384.226 do not prevent plea bargaining from taking place.

**Situation #5:** CDL holder operating a non-commercial vehicle and is issued a traffic citation for "Failure to Yield Right of Way". Prosecutor files charges for "Failure to Yield Right of Way". Court convicts person of "Failure to Yield Right of Way" and the conviction is posted in the driver's record, but allows a Driver Improvement Program in lieu of having the director assess points on the Missouri driving record.

**Response) FMCSA:** The failure to assign "points" does not violate 49 CFR §383/384. However, if the federal regulations required the imposition of a disqualification period for the convicted offense and the court then allowed a Driver Improvement Program in lieu of having the director impose a disqualification for the prescribed period of time this would be in violation of 49 CFR §384.215/284.213/384.231 as a diversion deferral program.

**Situation #6:** CMV operator is issued a traffic citation for "Operating a CMV while Suspended/Revoked/Withdrawn". Prosecutor files charges for "Operating CMV while license suspended/revoked/withdrawn". Final conviction is for "Operating CMV while license suspended/revoked/withdrawn. Later, court allows attorney for CMV operator to withdraw original plea and conviction and after new court hearing, court ultimately enters a conviction for "Improper CDL Class/Endorsement".

**Response) FMCSA:** This is not in violation of 49 CFR §384.226 because the court vacated (withdrew) the original conviction or adjudication of guilt. By granting the attorney's request to vacate (withdraw) the original plea and conviction, the court has nullified the conviction. The definition of "conviction" in 49 CFR §383.5 defines a conviction to mean "an unvacated adjudication of guilt".

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### **Pursuant to federal and state law, commercial driving privileges may be disqualified if the driver leaves the scene of an accident. What is meant by "leaving the scene of an accident?"**

As used in 40 CFR 383, the disqualifying offense of "leaving the scene of an accident involving a CMV" is all-inclusive and covers the entire range of situations where the driver of the CMV is required by state law to stop after an accident and either give information to the other party, render aid, or attempt to locate and notify the operator or owner of other vehicles involved in the accident.

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**A CDL holder is convicted of a non-disqualifying offense that occurred in a non-CMV. The driver loses his or her base driving privileges for operating a non-CMV as a result of the conviction. May a state issue a "limited driving privilege" in this instance?**

Yes, but such limited driving privileges cannot include commercial driving privileges.

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**A driver has been issued multiple tickets for speeding less than fifteen miles per hour over the posted speed limit in a noncommercial vehicle. The driver's license is suspended due to the accumulation of points. Does the driver lose all privileges to drive any motor vehicle – noncommercial or commercial?**

Yes. When the base privilege is suspended because of too many points, the driver loses the ability to drive any motor vehicle during the period of the suspension. Once the base privilege suspension is reinstated, the driver can resume driving both noncommercial and commercial motor vehicles as long as no commercial disqualification was entered. The driver may obtain limited driving privileges to drive noncommercial vehicles during a period of base license suspension but cannot obtain commercial driving privileges.

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**Why can't a driver obtain a limited driving privilege to operate a commercial motor vehicle?**

Section 302.309 RSMo. clearly states a CDL driver is no longer able to receive any kind of license to operate a CMV while the driving privilege is under suspension, revocation or disqualification. Limited driving privileges are only available to allow the operation of a noncommercial motor vehicle if the applicant is otherwise eligible.

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**If a person is only eligible to receive a limited driving privilege to operate a personal vehicle, does the person have to downgrade the commercial driver license to a non-CDL?**

No. The limited driving privilege order states that you are only eligible to operate a class E, F, or M type of vehicle.

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**A driver is convicted of a serious motor vehicle offense and moves from the state that will disqualify his license. The driver obtains a driver license in another state prior to**

**the license disqualification and avoids being disqualified immediately. The driver subsequently causes a serious motor vehicle accident and fatally injures two people. Pending state license disqualification proceedings, would this situation qualify for the federal imminent hazard disqualification?**

Yes, this situation would fit within the federal definition of imminent hazard.

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**Why does the state disqualify a driver's commercial driving privilege when a traffic ticket is received in a personal vehicle?**

According to 49 CFR 383.51 and 302.700, RSMo., CDL drivers who are convicted of certain disqualifying offenses while operating their personal vehicle may have their CDL privilege disqualified. There are some offenses that must be committed in a CMV for disqualification action to be taken.

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**Why is the department so strict with CDL drivers?**

The Motor Carrier Safety Improvement Act (MCSIA) states that CDL drivers are professional drivers and should be held to a higher standard. The state legislature passed a law in 2004 (Senate Bill 1233) to include the changes from MCSIA into state law. The department is only enforcing the state and federal laws.

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**When individuals apply for a CDL, they must advise the license clerk what states they were previously licensed in. Will there be a problem if the applicant knows what states he/she was previously licensed in but cannot remember the license numbers assigned?**

No. The license office clerk will be able to check the other states' records by your name and birth date.

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# Alaska State Legislature

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**Session:**

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Juneau, AK 99801-1182  
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**Representative Kyle Johansen**  
District 1

**FOR IMMEDIATE RELEASE:** June 25, 2007

**CONTACT:** David Scott 247-4672

## **Rep. Johansen's Highway Safety Bill signed by Palin**

(Anchorage) – Governor Palin today signed HB 126. The bill, sponsored by Rep. Kyle Johansen (R-Ketchikan), chairman of the House Transportation Committee, addresses highway safety and licensing for commercial drivers.

"Updating and improving our commercial driver's licensing and safety laws will reduce the number of crashes, injuries, and fatalities involving commercial motor vehicles on Alaska's roads," Johansen said. "The state was notified by the federal government it was out of compliance and facing severe penalties. We reviewed the problem and quickly passed a bill affecting 5 different chapters of Title 28 to fix the problems"

The federal law Alaska was noncompliant with is the Motor Carrier Safety Improvement Act of 1999 (MCSIA).

Johansen noted that passage of HB 126 means Alaska will maintain \$7 million in federal highway construction funds in federal fiscal year 2008 and approximately \$14 million a year in succeeding federal fiscal years.

*Put Total estimated savings*

"While this bill maintains Alaska's cut of the federal-aid highway funds, the real accomplishment is safer roads," Johansen continued. "Commercial driver safety is vital to all Alaskans."

MCSIA requires more vehicle and operator inspections, stronger enforcement measures against violators, and effective commercial driver's license testing and recordkeeping efforts.

"This bill also makes good business sense," Johansen said. "Another penalty the state and the trucking industry were facing was the loss of the ability to issue commercial driver's licenses for driving between Alaska and another state or country. We had to avoid that penalty. HB 126 preserves the ability of those Alaskans who hold commercial driver's licenses to work in interstate commerce."

The bill takes effect July 1, 2007.

###

# Alaska State Legislature

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## Representative Kyle Johansen District 1

**FOR IMMEDIATE RELEASE:** April 30, 2007

**CONTACT:** Randy Ruaro 465-3424

### **Rep. Johansen's Highway Safety Bill Passes Senate**

(Juneau) – The Alaska Senate today passed highway safety legislation introduced by Rep. Kyle Johansen (R-Ketchikan), chairman of the House Transportation Committee.

"The legislation changes our CDL program to reduce the number of crashes, injuries, and fatalities involving commercial motor vehicles on Alaska's roads," Johansen said. "We acted quickly in producing a bill in a complicated area of the law affecting 5 different chapters of Title 28 to ensure Alaska's federal highway construction funds and Motor Carrier Safety Assistance Program funds were maintained."

HB 126 will bring Alaska into compliance with the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA). MCSIA was enacted to enhance the safety of commercial vehicle operations and reduce the number and severity of truck crashes on highways.

MCSIA accomplishes its goals by requiring more vehicle and operator inspections, stronger enforcement measures against violators, and effective commercial driver's license testing and recordkeeping efforts.

The state received notice from the federal Department of Transportation it was in noncompliance with the MCSIA. The state has until October 1, 2007 to get into compliance or it will lose up to \$7 million in federal highway construction funds in federal fiscal year 2008 and \$14 million a year for each year of noncompliance after 2008. In total, approximately \$60 million dollars in federal funding was at risk.

"While this bill maintains Alaska's cut of the federal-aid highway funds, what we are really trying to do is reduce crashes, injuries and fatalities involving large trucks and buses on Alaska's roads," Johansen said. "Commercial driver safety is vital to all Alaskans."

Passage of HB 126 is also critical since another penalty for noncompliance is loss of the ability to issue commercial driver's licenses to Alaskans that are valid for working in interstate commerce.

HB 126 will be transmitted to the governor for signature.

###

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## Representative Kyle Johansen District 1

**FOR IMMEDIATE RELEASE:** March 23, 2007

**CONTACT:** Randy Ruaro 465-3424

### **Rep. Johansen's Highway Safety Bill Passes House**

(Juneau) – The Alaska House of Representatives today passed highway safety legislation introduced by Rep. Kyle Johansen (R-Ketchikan), chairman of the House Transportation Committee.

HB 126 will bring Alaska into compliance with the Motor Carrier Safety Improvement Act (MCSIA), instituted to enhance the safety of commercial vehicle operations and reduce the number and severity of truck crashes on highways.

Noncompliance with MCSIA's mandate involves fiscal penalties. By adopting the more stringent standards and requirements of MCSIA, Alaska will maintain \$27.8 million of its federal-aid highway funds over the next two federal fiscal years (FFY), and approximately \$80 million over the next five FFY.

"While this bill maintains Alaska's cut of the federal-aid highway funds we are really trying to reduce crashes, injuries and fatalities involving large trucks and buses on Alaska's roads," Johansen said. "Commercial driver safety is vital to all Alaskans."

MCSIA requires more vehicle and operator inspections, stronger enforcement measures against violators, and effective commercial driver's license testing, recordkeeping and sanctions.

"As to the roughly \$80 million in federal highway funds over the next five federal fiscal years that would be lost because of noncompliance, these funds would be used to make safety improvements in the state's roads and highway system that will hopefully save lives of Alaskans," Johansen said. "For instance, HB 126 will save approximately \$14 million in federal fiscal year 2009. It took only \$6.6 million to straighten the Mud Bight corner in Ketchikan; a corner that was known throughout the community for the number of deadly accidents on it. Accidents on that corner have been reduced since then by roughly 60%."

HB 126 also makes good business sense in that it preserves the ability of those Alaskans who hold commercial driver's licenses to work in interstate commerce.

Without the passage of HB 126, Alaska will be out of compliance on October 1, 2007.

###

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**Representative Kyle Johansen**  
District 1

**FOR IMMEDIATE RELEASE: June 25, 2007**

**CONTACT: David Scott 247-4672**

## **Rep. Johansen's Highway Safety Bill** **Signed By Governor Palin**

(Anchorage) – Today, Governor Palin signed HB 126. The bill addresses highway safety and licensing for commercial drivers. It was sponsored by Rep. Kyle Johansen (R-Ketchikan), chairman of the House Transportation Committee.

"Updating and improving our commercial driver's licensing and safety laws will reduce the number of crashes, injuries, and fatalities involving commercial motor vehicles on Alaska's roads," Johansen said. "The state was notified by the federal government it was out of compliance and facing severe penalties. We reviewed the problem and quickly passed a bill affecting 5 different chapters of Title 28 to fix the problems.

Johansen noted that passage of HB 126 means Alaska will maintain \$7 million dollars in federal highway construction funds in federal fiscal year 2008 and approximately \$14 million dollars a year in succeeding federal fiscal years.

"While this bill maintains Alaska's cut of the federal-aid highway funds, the real accomplishment is safer roads," Johansen continued. "Commercial driver safety is vital to all Alaskans."

MCSIA requires more vehicle and operator inspections, stronger enforcement measures against violators, and effective commercial driver's license testing and recordkeeping efforts.

"This bill also makes good business sense," Johansen said. "Another penalty the state and the trucking industry was facing was the loss of the ability to issue commercial drivers licenses for driving between Alaska and another state or country. We had to avoid that penalty. HB 126 preserves the ability of Alaskans who hold commercial driver's licenses to work in interstate commerce."

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Representative Kyle Johansen  
District 1

**FOR IMMEDIATE RELEASE:** June 25, 2007

**CONTACT:** David Scott 247-4672

## **Johansen's MCSIA Compliance Legislation Enacted** **Palin Signs HB 126**

(Anchorage) – Governor Sarah Palin today signed highway safety legislation which ensures the state will continue to receive federal highway funds and brings the state into compliance with newer, stricter standards. HB 126, sponsored by Rep. Kyle Johansen (R-Ketchikan), chairman of the House Transportation Committee, effects commercial driver's licenses (CDLs) and most importantly for Alaska, the Motor Carrier Safety Improvement Act (MCSIA) mandates which could have stripped more than \$21 million in federal highway funds in the coming two fiscal years without swift passage.

"This law changes our CDL program to reduce the number of crashes, injuries, and fatalities involving commercial motor vehicles on Alaska's roads," Johansen said. "We acted quickly in producing a bill in a complicated area of the law to ensure Alaska's federal highway construction funds and Motor Carrier Safety Assistance Program funds were maintained."

"While this bill maintains Alaska's cut of the federal-aid highway funds, the real accomplishment is safer roads," Johansen said. "Commercial driver safety is vital to all Alaskans."

MCSIA requires more vehicle and operator inspections, stronger enforcement measures against violators, and effective commercial driver's license testing and recordkeeping efforts.

"This bill also makes good business sense," Johansen said. "It preserves the ability of those Alaskans who hold commercial driver's licenses to work in interstate commerce."

The bill takes effect July 1, 2007.

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**HB**

**164**



# Assessment of Cruise Ship and Ferry Wastewater Impacts in Alaska

Alaska Department of Environmental Conservation

Commercial Passenger Vessel Environmental Compliance Program

February 9, 2004

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## Executive Summary

Cruise ships by their sheer size and passenger number are a highly visible industry in Alaska. Concerns about cruise ship pollution led to the creation of the Alaska Cruise Ship Initiative (ACSI) in 2000. Wastewater samples taken as part of the ACSI in 2000 indicated that the blackwater<sup>1</sup> treatment systems were not working properly and that graywater<sup>2</sup> quality was similar to blackwater. This information led to state and federal laws that now regulate cruise ship and ferry blackwater and graywater discharge in Alaska.

Before the passage of the state cruise ship law, blackwater and graywater from large cruise ships did not meet Alaska Water Quality Standards for ammonia, free chlorine, fecal coliform, copper, and zinc at the end of pipe. These ships would have exceeded Alaska Water Quality Standards for free chlorine, fecal coliform, and dissolved copper if they discharged while stationary. However, Alaska Water Quality Standards, except fecal coliform, were probably met in the receiving water while ships discharged underway due to substantial dilution.

Since the passage of the state law in 2001 and federal cruise ship law in 2000, most large cruise ships discharging into Alaska waters<sup>3</sup> have installed advanced wastewater treatment systems. The effluent quality produced by the advanced systems has dramatically improved from waste water discharged from most ships in 2000-2002. Therefore ADEC considered the 2003 data to assess the impact of large cruise ship effluent in receiving waters. In 2003, these systems produced wastewater that met Alaska Water Quality Standards for most tested pollutants at the end of pipe. After applying a conservative dilution factor, Alaska Water Quality Standards were met in receiving water for all tested pollutants. Whole Effluent Toxicity (WET) testing conducted during 2003 in conjunction with dilution estimates indicates that effluent from ships with advanced wastewater treatment systems does not pose a risk to aquatic organisms, even during stationary discharge. No tested pollutant is present in concentrations that cause risks to human health.

Small cruise ships and Alaska Marine Highway System (AMHS) ferries use traditional treatment, not advanced systems to treat their blackwater. The quality of small ship effluent has remained relatively consistent from 2001 to 2003. Therefore, ADEC used all the data available to assess the impact of small vessel effluent on receiving waters. The wastewater produced by small vessels frequently exceeds eight (ammonia, free chlorine, fecal coliform, arsenic, copper, nickel, selenium, and zinc) Alaska Water Quality Standards at the end of pipe. After applying a conservative dilution factor, four (free chlorine, fecal coliform, copper, and zinc) Alaska Water Quality Standards may be exceeded in receiving water during stationary discharge. The discharge met Alaska Water Quality Standards for all tested pollutants in the receiving water during underway discharge due to the large dilution factor. In addition, WET testing conducted on six small vessels in conjunction with the sampling results indicates that small ship stationary effluent does pose some risk to the marine environment. Due to the high concentration of fecal coliform, the effluent from some small ships may pose a risk to human health in areas where aquatic life is harvested for raw consumption.

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<sup>1</sup> Black water is sewage.

<sup>2</sup> Graywater originates from showers, galley, laundry, etc.

<sup>3</sup> Alaska water is defined as 3 nautical miles from shore and the waters of the Alexander Archipelago defined in AS 46.03.290(1)(A).

The wastewater samples taken from large and small vessels to date indicate that hazardous chemicals are not being discharged through these wastewater systems.

ADEC recommends that small vessels remain in the commercial passenger vessel program. Small vessels were granted three years to come into compliance with the cruise ship wastewater effluent standards. Further, in 2004, these vessels may submit an interim protection plan that, if approved by ADEC, extends the time for compliance with the effluent standards. This plan must detail the steps that the owner is taking to comply with the wastewater discharge limits including a description of the practices used to limit the adverse impacts of their discharges. Violations and fines could be levied against ships that are found violating the terms of their approved plan.

## 1. INTRODUCTION

### 1.1. Assessment Report

The 2001 state cruise ship legislation directed the Alaska Department of Environmental Conservation (ADEC) to submit a report to the Governor assessing commercial passenger vessels' discharges in Alaska marine waters. Using information from the 2000 – 2003 cruise ship seasons and other sources, this report satisfies the requirements to:

1. Characterize, to the extent possible, the risks to the marine and human environments posed by the discharge of sewage and graywater from commercial passenger vessels;
2. Evaluate the sewage and graywater treatment systems and technologies on the vessels, including an evaluation of whether small commercial passenger vessels should be made subject to the discharge limitations in AS 46.03.463; and
3. Recommend further action by the state in relation to the matters discussed in the report.

This report also presents general background information and detailed appendices of wastewater sampling data, in response to the numerous requests received by ADEC staff from industry, environmental groups, and other government agencies. Bilge and ballast water issues are a maritime wide concern and are beyond the scope of the 2001 legislation and this report.

### 1.2. Cruise Ship Industry Trends in Alaska

The first steamships began carrying tourists to Alaska in 1884,<sup>4</sup> making tourism one of Alaska's oldest industries. The number of cruise ship passengers that visit Alaska has increased by almost three and a half times since 1990. In 1990, 235,000 passengers traveled to Southeast Alaska. By 2003, the number of cruise ship passengers in Southeast Alaska increased to roughly 800,000<sup>5</sup> with tens of thousands of crew (Figure 1). By comparison, the state's population is approximately 650,000.<sup>6</sup> Roughly 95% of the current cruise ship traffic is concentrated in Southeast Alaska, a region with a population of approximately 73,000 people.<sup>7</sup> This makes the cruise ship industry extremely visible in the region. For example, Skagway - with a summer population of 1,200 people - often has more than 12,000 people visiting in a day. The other 5% of cruise ship traffic is directed primarily toward Southcentral Alaska, but a few small cruise ships visit Western Alaska.

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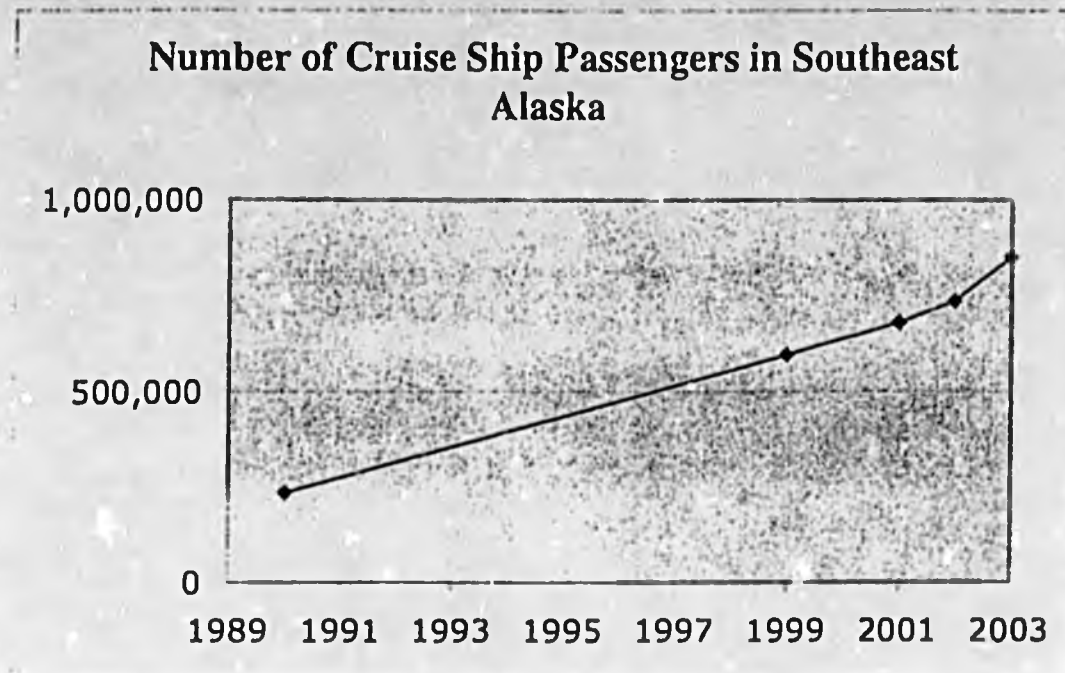
<sup>4</sup> Alaska Permanent Fund Corporation Alaska History Page <http://www.apfc.org/library/AKHistoryDefini/sa5>

<sup>5</sup> ADEC 2003 registration information

<sup>6</sup> Alaska Department of Labor and Workforce Development, Workforce Info Home Page <http://almis.labor.state.ak.us/PAGEID=7&SUBID=115>

<sup>7</sup> Alaska Department of Labor and Workforce Development, Borough & Census Area Estimates 2000 – 2003, <http://146.63.75.50/research/pop/estimates/02/2-1.xls>

Figure 1. Cruise Ship Passenger Increase in Southeast Alaska



Source: Southeast Conference Report and ADEC Registration Statistics

The three most popular large cruise ship ports are Juneau, Ketchikan, and Skagway. Large ships tend to stop at the main Southeast Alaska ports and a large tidewater glacier (Glacier Bay or Hubbard). Some large cruise lines have trips that start in Southcentral Alaska (Seward) travel through southeast Alaska and end in Vancouver. The next voyage is reversed.

Alaska Marine Highway System (AMHS) ferries travel between Southeastern Alaska communities including Ketchikan, Juneau, and Skagway. These calls generally only last an hour or two. Small cruise lines explore remote bays and channels. They call on smaller Alaska ports and Native villages as well as the larger ports for most of a day. The small ships may venture from Alaska ports across the Bering Sea to the Russian Far East. The most popular ports for small ships are Sitka, Bartlett Cove, Skagway, Ketchikan, and Juneau

Table 1 shows the number of cruise ship visits per port per year in 2003.<sup>8</sup> There are often multiple ships in a port in a single day.

<sup>8</sup> These numbers are derived from the 2003 Cruise Line Agencies of Alaska ship schedule. The actual visits may have varied slightly.

Table 1. Cruise Ship Visits Per Port in 2003

Place Name	Description	Number of small ship visits per year	Number of large ship visits per year
Adak	Port in Aleutian Islands	1	0
Anchorage	Port in Southcentral Alaska	8	0
Attu	Port in the Aleutian Islands	5	
Baranof Warm Springs	Port in Southeast Alaska	1	0
Bartlett Cove	Port inside Glacier Bay National Park	122	0
Cold Bay	Remote site	1	0
College Fjord	Tidewater Glacier in South central Alaska	7	147
Cordova	Port in Southcentral Alaska	16	0
Dutch Harbor	Unalaska Island (one of the Fox Is.) in the Aleutian Is.	7	3
Elfin Cove	Port in Southeast Alaska	25	0
Glacier Bay	Tidewater Glaciers, National Park in SE AK	See Bartlett Cove	207
Haines	Port in Southeast Alaska (Northern Lynn Canal)	67	13
Homer	Port in Southcentral (western Kenai Peninsula)	10	2
Hubbard Glacier	Tidewater Glacier near Yakutat on Gulf of Alaska	0	151
Icy Bay	Tidewater Glacier near Yakutat on Gulf of Alaska	0	2
Juneau	Port in Southeast Alaska	96	448
Ketchikan	Port in Southeast Alaska	100	408
Kodiak	Port in Kodiak Island (South central Alaska)	4	3
Misty Fjords	National Monument near Ketchikan	50	33
Nome	Western Alaska	2	3
Petersburg	Port in Southeast Alaska	96	0
Seward	Port in South Kenai Peninsula	0	98
Sitka	Port in Southeast Alaska (outside coast)	140	140
Skagway	Port in Southeast Alaska (Northern Lynn Canal)	100	328

Place Name	Description	Number of small ship visits per year	Number of large ship visits per year
St. Matthew	Island in the Bering Sea	9	0
St. Paul	Island in the Bering Sea	9	0
Tracy Arm	Tidewater Glacier in Southeast Alaska (between Juneau & Wrangell)	100	128
Valdez	Port in South central Alaska	16	0
Whittier	Port in South central Alaska	32	0
Wrangell	Port in Southeast Alaska	32	8

### 1.3. Concern about Cruise Ship Industry Environmental Practices

Tourism shares the rich marine environment with commercial fisheries, one of Alaska's largest private employers. Over 50% of America's seafood (5.1 billion of 9.4 billion pounds) is harvested from Alaska's waters.<sup>9</sup> The commercial fishing industry depends on the perception and actuality that Alaskan fish come from uncontaminated waters.

Alaska's Native peoples subsist off the bounty of the sea, relying heavily upon marine resources for nutrition, sustenance, cultural integrity, and spiritual well being. Alaska Natives were alarmed over potential cruise ship pollution and the fouling of especially vulnerable food items such as filter feeding mollusks.

In July 1999, Royal Caribbean Cruise Lines (RCCL) entered a federal criminal plea agreement involving total penalties of \$6,500,000 for 1994 and 1995 environmental violations in Alaska including knowingly discharging oil and hazardous substances (dry-cleaning and photo processing chemicals) and making false entries in federally required Oil Record Books. RCCL admitted to a "fleet-wide practice of discharging oil contaminated bilge waste" and to submitting false statements in numerous jurisdictions. The \$6,500,000 for Alaska violations was part of a larger \$18,000,000 total federal plea agreement. In January 2000, RCCL entered into a state civil settlement for the Alaska violations. The state settlement required RCCL expenditures of over \$3,325,000. This illegal discharge outraged many Alaskans, who began to question whether cruise ships met Alaska Water Quality Standards enforced by the Alaska Department of Environmental Conservation (ADEC).

Because of its international nature, the cruise industry was excluded from many of the U.S. environmental laws and regulations that land-based industries are required to meet. EPA did not issue a permit under the federal Clean Water Act for cruise ship wastewater discharges because of a marine vessels exemption that dates from the 1970s. The U.S. Coast Guard certifies marine sanitation devices (MSDs) for American flagged ships and checks to ensure that all applicable vessels have certified MSDs during ship inspections. They did not, however, monitor the wastewater effluent quality.

Large cruise ships operate under MARPOL (International Convention for the Prevention of Pollution from Ships), an environmental treaty drafted by the International Maritime

<sup>9</sup> "Fisheries of the United States 2002." September 2003. National Marine Fisheries Service, NOAA, U.S. Dept. of Commerce