

Subtitle D—Safe Roads Act of 2012

SEC. 32401. SHORT TITLE.

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

SEC. 32402. NATIONAL CLEARINGHOUSE FOR CONTROLLED SUBSTANCE AND ALCOHOL TEST RESULTS OF COMMERCIAL MOTOR VEHICLE OPERATORS.

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

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

(2) by inserting after section 31306 the following:

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

“(a) ESTABLISHMENT.—

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

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

“(A) to improve compliance with the Department of Transportation’s alcohol and controlled substances testing program applicable to commercial motor vehicle operators; and MAP-21 -
Enrolled Bill - P.L. 112-141

“(B) to enhance the safety of our United States roadways by reducing accident and injuries involving the misuse of alcohol or use of controlled substances by operators of commercial motor vehicles. “(3) CONTENTS.—The clearinghouse shall function as a repository for records relating to the positive test results and test refusals of commercial motor vehicle operators and violations by such operators of prohibitions set forth in subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

“(4) ELECTRONIC EXCHANGE OF RECORDS.—The Secretary shall ensure that records can be electronically submitted to, and requested from, the clearinghouse by authorized users.

“(5) AUTHORIZED OPERATOR.—The Secretary may authorize a qualified private entity to operate and maintain the clearinghouse and to collect fees on behalf of the Secretary under subsection (e). The entity shall operate and maintain the clearinghouse and permit access to driver information and records from the clearinghouse in accordance with this section. “(b) DESIGN OF CLEARINGHOUSE.—

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

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

“(B) the findings and recommendations contained in the Government Accountability Office’s May 2008 report to Congress entitled ‘Motor Carrier Safety: Improvements to Drug Testing Programs Could Better Identify Illegal Drug Users and Keep Them off the Road.’ “(2)

DEVELOPMENT OF SECURE PROCESSES.—In establishing the clearinghouse, the Secretary shall develop a secure process for—

“(A) administering and managing the clearinghouse in compliance with applicable Federal security standards; “(B) registering and authenticating authorized users of the clearinghouse; “(C) registering and authenticating persons required to report to the clearinghouse under subsection (g); “(D) preventing the unauthorized access of information

from the clearinghouse; “(E) storing and transmitting data; “(F) persons required to report to the clearinghouse

under subsection (g) to timely and accurately submit electronic data to the clearinghouse;

“(G) generating timely and accurate reports from the clearinghouse in response to requests for information by authorized users; and

“(H) updating an individual’s record upon completion of the return-to-duty process described in title 49, Code of Federal Regulations. “(3) EMPLOYER ALERT OF POSITIVE TEST RESULT.—In estab-

lishing the clearinghouse, the Secretary shall develop a secure MAP-21 - Enrolled Bill - P.L. 112-141

method for electronically notifying an employer of each additional positive test result or other noncompliance—

“(A) for an employee, that is entered into the clearinghouse during the 7-day period immediately following an employer’s inquiry about the employee; and

“(B) for an employee who is listed as having multiple employers. “(4) ARCHIVE CAPABILITY.—

In establishing the clearing

house, the Secretary shall develop a process for archiving all clearinghouse records for the purposes of auditing and evaluating the timeliness, accuracy, and completeness of data in the clearinghouse.

“(5) FUTURE NEEDS.—

“(A) INTEROPERABILITY WITH OTHER DATA SYSTEMS.— In establishing the clearinghouse, the Secretary shall consider—

“(i) the existing data systems containing regulatory and safety data for commercial motor vehicle operators; “(ii) the efficacy of using or combining clearinghouse data with 1 or more of such systems; and

“(iii) the potential interoperability of the clearinghouse with such systems. “(B) SPECIFIC CONSIDERATIONS.—In carrying out

subparagraph (A), the Secretary shall determine— “(i) the clearinghouse’s capability for interoperability with— “(I) the National Driver Register established under section 30302; “(II) the Commercial Driver’s License Information System established under section 31309;

“(III) the Motor Carrier Management Information System for preemployment screening services under section 31150; and

“(IV) other data systems, as appropriate; and

“(ii) any change to the administration of the current testing program, such as forms, that is necessary to collect data for the clearinghouse.

“(c) STANDARD FORMATS.—The Secretary shall develop standard formats to be used—

“(1) by an authorized user of the clearinghouse to— “(A) request a record from the clearinghouse; and “(B) obtain the consent of an individual who is the

subject of a request from the clearinghouse, if applicable; and “(2) to notify an individual that a positive alcohol or con

trolled substances test result, refusing to test, and a violation of any of the prohibitions under subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations), will be reported to the clearinghouse. “(d) PRIVACY.—A release of information from the clearinghouse

shall—

“(1) comply with applicable Federal privacy laws, including the fair information practices under the Privacy Act of 1974 (5 U.S.C. 552a);

“(2) comply with applicable sections of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); and MAP-21 - Enrolled Bill - P.L. 112-141

“(3) not be made to any person or entity unless expressly authorized or required by law. “(e) FEES.—“(1) AUTHORITY TO COLLECT FEES.—Except as provided under paragraph (3), the Secretary may collect a reasonable, customary, and nominal fee from an authorized user of the clearinghouse for a request for information from the clearinghouse.

“(2) USE OF FEES.—Fees collected under this subsection shall be used for the operation and maintenance of the clearinghouse.

“(3) LIMITATION.—The Secretary may not collect a fee from an individual requesting information from the clearinghouse that pertains to the record of that individual. “(f) EMPLOYER REQUIREMENTS.—

“(1) DETERMINATION CONCERNING USE OF CLEARINGHOUSE.—The Secretary shall determine if an employer is authorized to use the clearinghouse to meet the alcohol and controlled substances testing requirements under title 49, Code of Federal Regulations.

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

“(3) EMPLOYMENT PROHIBITIONS.—After the clearinghouse is established under subsection (a), at a date determined to be appropriate by the Secretary and published in the Federal Register, an employer shall utilize the clearinghouse to determine whether any employment prohibitions exist and shall not hire an individual to operate a commercial motor vehicle unless the employer determines that the individual, during the preceding 3-year period—

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

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

“(ii) tested positive for the use of alcohol or controlled substances and completed the required return-to-duty process under title 49, Code of Federal Regulations; “(B)(i) did not refuse to take an alcohol or controlled

substance test under title 49, Code of Federal Regulations; or

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

“(C) did not violate any other provision of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations). “(4) ANNUAL REVIEW.—After the clearinghouse is estab

lished under subsection (a), at a date determined to be appropriate by the Secretary and published in the Federal Register, an employer shall request and review a commercial motor vehicle operator’s record from the clearinghouse annually for