

# 49 USC 20135 - Sec. 20135. Licensing or certification of locomotive operators

[49 USC - US Code - Title 49: Transportation \(January 2003\)](#)

(a) General. - The Secretary of Transportation shall prescribe regulations and issue orders to establish a program requiring the licensing or certification, after one year after the program is established, of any operator of a locomotive. (b) Program Requirements. - The program established under subsection (a) of this section - (1) shall be carried out through review and approval of each railroad carrier's operator qualification standards; (2) shall provide minimum training requirements; (3) shall require comprehensive knowledge of applicable railroad carrier operating practices and rules; (4) except as provided in subsection (c)(1) of this section, shall require consideration, to the extent the information is available, of the motor vehicle driving record of each individual seeking licensing or certification, including - (A) any denial, cancellation, revocation, or suspension of a motor vehicle operator's license by a State for cause within the prior 5 years; and (B) any conviction within the prior 5 years of an offense described in section 30304(a)(3)(A) or (B) of this title; (5) may require, based on the individual's driving record, disqualification or the granting of a license or certification conditioned on requirements the Secretary prescribes; and (6) shall require an individual seeking a license or certification - (A) to request the chief driver licensing official of each State in which the individual has held a motor vehicle operator's license within the prior 5 years to provide information about the individual's driving record to the individual's employer, prospective employer, or the Secretary, as the Secretary requires; and (B) to make the request provided for in section 30305(b)(4) of this title for information to be sent to the individual's employer, prospective employer, or the Secretary, as the Secretary requires. (c) Waivers. - (1) The Secretary shall prescribe standards and establish procedures for waiving subsection (b)(4) of this section for an individual or class of individuals who the Secretary decides are not currently unfit to operate a locomotive.

However, the Secretary may waive subsection (b)(4) for an individual or class of individuals with a conviction, cancellation, revocation, or suspension described in paragraph (2)(A) or (B) of this subsection only if the individual or class, after the conviction, cancellation, revocation, or suspension, successfully completes a rehabilitation program established by a railroad carrier or approved by the Secretary. (2) If an individual, after the conviction, cancellation, revocation, or suspension, successfully completes a rehabilitation program established by a railroad carrier or approved by the Secretary, the individual may not be denied a license or certification under subsection (b) (4) of this section because of - (A) a conviction for operating a motor vehicle when under the influence of, or impaired by, alcohol or a controlled substance; or (B) the cancellation, revocation, or suspension of the individual's motor vehicle operator's license for operating a motor vehicle when under the influence of, or impaired by, alcohol or a controlled substance. (d) Opportunity for Hearing. - An individual denied a license or certification or whose license or certification is conditioned on requirements prescribed

under subsection (b)(4) of this section shall be entitled to a hearing under section 20103(e) of this title to decide whether the license has been properly denied or conditioned. (e) Opportunity to Examine and Comment on Information. - The Secretary, employer, or prospective employer, as appropriate, shall make information obtained under subsection (b)(6) of this section available to the individual.

The individual shall be given an opportunity to comment in writing about the information.

Any comment shall be included in any record or file maintained by the Secretary, employer, or prospective employer that contains information to which the comment is related.

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### **Historical And Revision Notes**

Revised Source (U.S. Code) Source (Statutes at Large) Section

20135(a) 45:431(i)(1). Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, Sec. 202(i); added June 22, 1988, Pub. L. 100-342, Secs. 4(a), 7(b), 102 Stat. 625, 628; Sept. 3, 1992, Pub. L. 102-365, Sec. 2(1), 106 Stat. 972. 20135(b) 45:431(i)(2). 20135(c)(1) 45:431(i)(4). 20135(c)(2) 45:431(i)(6). 20135(d) 45:431(i)(5). 20135(e) 45:431(i)(3).

In subsection (a), the words "within 12 months after June 22, 1988" are omitted as executed.

The words "including any locomotive engineer" are omitted as surplus.

The words "after one year after" are substituted for "after the expiration of 12 months following" to eliminate unnecessary words.

In subsection (b)(5), the word "requirements" is substituted for "terms" for consistency in this section.

In subsection (c)(1), the words "In establishing the program under this subsection" are omitted as surplus.

### **Section Referred To In Other Sections**

This section is referred to in section 20138 of this title.

Other documents:

United States of America, Plaintiff, Appellee, v. Joseph Digregorio, Hermis Yanis, Jr., Ruben Badillo, John Delvecchio,