

(B) another place in the same State through another State or through a place outside the United States.

(5) "intrastate commerce" means trade, traffic, or transportation in a State that is not interstate commerce.

(6) "regulation" includes a standard or order.

(7) "State" means a State of the United States, the District of Columbia, and, in sections 31136 and 31140-31142¹ of this title, a political subdivision of a State.

(8) "State law" includes a law enacted by a political subdivision of a State.

(9) "State regulation" includes a regulation prescribed by a political subdivision of a State.

(10) "United States" means the States of the United States and the District of Columbia.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1000; Pub. L. 104-88, title I, §104(f), Dec. 29, 1995, 109 Stat. 919; Pub. L. 105-178, title IV, §4008(a), June 9, 1998, 112 Stat. 404.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|---|
| 31132 | 49 App.:2503. | Oct. 30, 1984, Pub. L. 98-554, §204, 98 Stat. 2833. |

The text of 49 App.:2503(6) is omitted as unnecessary because of 1:1. The text of 49 App.:2503(8) is omitted as surplus because the complete name of the Commercial Motor Vehicle Safety Regulatory Review Panel is used the first time the term appears in a section. The text of 49 App.:2503(9) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section.

REFERENCES IN TEXT

Section 31140 of this title, referred to in par. (7), was repealed by Pub. L. 105-178, title IV, §4008(d), June 9, 1998, 112 Stat. 404.

AMENDMENTS

1998—Par. (1)(A). Pub. L. 105-178, §4008(a)(1), inserted "or gross vehicle weight" after "rating" and ", whichever is greater" after "pounds".

Par. (1)(B). Pub. L. 105-178, §4008(a)(2), which directed substitution of "more than 8 passengers (including the driver) for compensation;" for "passengers" and all that follows through semicolon at end, was executed by making the substitution for "passengers for compensation, but excluding vehicles providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places;" to reflect the probable intent of Congress.

1995—Par. (1)(B) to (D). Pub. L. 104-88 added subpars. (B) and (C), redesignated former subpar. (C) as (D), and struck out former subpar. (B) which read as follows: "is designed to transport more than 15 passengers including the driver; or".

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 521, 14503 of this title.

¹ See References in Text note below.

§31133. General powers of the Secretary of Transportation

(a) GENERAL.—In carrying out this subchapter and regulations prescribed under section 31102 of this title, the Secretary of Transportation may—

- (1) conduct and make contracts for inspections and investigations;
- (2) compile statistics;
- (3) make reports;
- (4) issue subpoenas;
- (5) require production of records and property;
- (6) take depositions;
- (7) hold hearings;
- (8) prescribe recordkeeping and reporting requirements;
- (9) conduct or make contracts for studies, development, testing, evaluation, and training; and
- (10) perform other acts the Secretary considers appropriate.

(b) CONSULTATION.—In conducting inspections and investigations under subsection (a) of this section, the Secretary shall consult, as appropriate, with employers and employees and their authorized representatives and offer them a right of accompaniment.

(c) DELEGATION.—The Secretary may delegate to a State receiving a grant under section 31102 of this title those duties and powers related to enforcement (including conducting investigations) of this subchapter and regulations prescribed under this subchapter that the Secretary considers appropriate.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1001; Pub. L. 105-178, title IV, §4006(a), June 9, 1998, 112 Stat. 401.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------------------------|---|
| 31133(a) | 49 App.:2510(a), (b) (1st sentence). | Oct. 30, 1984, Pub. L. 98-554, §211, 98 Stat. 2841. |
| 31133(b) | 49 App.:2510(c). | |
| 31133(c) | 49 App.:2510(b) (last sentence). | |

In subsection (a), the words before clause (1) are substituted for "In carrying out the Secretary's functions under this chapter, the Secretary is authorized to" and "to carry out the provisions of this chapter, or regulations issued pursuant to section 2302 of this Appendix" to eliminate unnecessary words. Clause (10) is substituted for "perform such acts . . . as the Secretary determines necessary". The text of 49 App.:2510(a) is omitted as covered by 49 App.:2510(b) (1st sentence).

In subsection (b), the words "In conducting inspections and investigations" are substituted for "To carry out the Secretary's inspection and investigation functions" to eliminate unnecessary words. The words "or the Secretary's agent" are omitted as unnecessary.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105-178 inserted "and make contracts for" after "conduct".

BORDER STAFFING STANDARDS

Pub. L. 106-159, title II, §218, Dec. 9, 1999, 113 Stat. 1767, provided that:

"(a) DEVELOPMENT AND IMPLEMENTATION.—Not later than 1 year after the date of the enactment of this Act [Dec. 9, 1999], the Secretary shall develop and imple-

ment 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.”

§ 31134. Repealed. Pub. L. 105-178, title IV, § 4008(c), June 9, 1998, 112 Stat. 404]

Section, Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1001; Pub. L. 104-287, §5(9), Oct. 11, 1996, 110 Stat. 3389, related to Commercial Motor Vehicle Safety Regulatory Review Panel.

§ 31135. Duties of employers and employees

Each employer and employee shall comply with regulations on commercial motor vehicle safety prescribed by the Secretary of Transportation under this subchapter that apply to the employer’s or employee’s conduct.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1003.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|--|
| 31135 | 49 App.:2504. | Oct. 30, 1984, Pub. L. 98-554, § 205, 98 Stat. 2834. |

§ 31136. United States Government regulations

(a) MINIMUM SAFETY STANDARDS.—Subject to section 30103(a) of this title, the Secretary of Transportation shall prescribe regulations on commercial motor vehicle safety. The regulations shall prescribe minimum safety standards for commercial motor vehicles. At a minimum, the regulations shall ensure that—

- (1) commercial motor vehicles are maintained, equipped, loaded, and operated safely;
- (2) the responsibilities imposed on operators of commercial motor vehicles do not impair their ability to operate the vehicles safely;

(3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely; and

(4) the operation of commercial motor vehicles does not have a deleterious effect on the physical condition of the operators.

(b) ELIMINATING AND AMENDING EXISTING REGULATIONS.—The Secretary may not eliminate or amend an existing motor carrier safety regulation related only to the maintenance, equipment, loading, or operation (including routing) of vehicles carrying material found to be hazardous under section 5103 of this title until an equivalent or more stringent regulation has been prescribed under section 5103.

(c) PROCEDURES AND CONSIDERATIONS.—(1) A regulation under this section shall be prescribed under section 553 of title 5 (without regard to sections 556 and 557 of title 5).

(2) Before prescribing regulations under this section, the Secretary shall consider, to the extent practicable and consistent with the purposes of this chapter—

- (A) costs and benefits; and
- (B) State laws and regulations on commercial motor vehicle safety, to minimize their unnecessary preemption.

(d) EFFECT OF EXISTING REGULATIONS.—If the Secretary does not prescribe regulations on commercial motor vehicle safety under this section, regulations on commercial motor vehicle safety prescribed by the Secretary before October 30, 1984, and in effect on October 30, 1984, shall be deemed in this subchapter to be regulations prescribed by the Secretary under this section.

(e) EXEMPTIONS.—The Secretary may grant in accordance with section 31315 waivers and exemptions from, or conduct pilot programs with respect to, any regulations prescribed under this section.

(f) LIMITATIONS ON MUNICIPALITY AND COMMERCIAL ZONE EXEMPTIONS AND WAIVERS.—(1) The Secretary may not—

- (A) exempt a person or commercial motor vehicle from a regulation related to commercial motor vehicle safety only because the operations of the person or vehicle are entirely in a municipality or commercial zone of a municipality; or
- (B) waive application to a person or commercial motor vehicle of a regulation related to commercial motor vehicle safety only because the operations of the person or vehicle are entirely in a municipality or commercial zone of a municipality.

(2) If a person was authorized to operate a commercial motor vehicle in a municipality or commercial zone of a municipality in the United States for the entire period from November 19, 1987, through November 18, 1988, and if the person is otherwise qualified to operate a commercial motor vehicle, the person may operate a commercial motor vehicle entirely in a municipality or commercial zone of a municipality notwithstanding—

- (A) paragraph (1) of this subsection;
- (B) a minimum age requirement of the United States Government for operation of the vehicle; and