

“(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.

“(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 [Pub. L. 105–178, 49 U.S.C. 31104 note] (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.”

§ 31101. Definitions

In this subchapter—

(1) “commercial motor vehicle” means (except in section 31106) a self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo, if the vehicle—

(A) has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds, whichever is greater;

(B) is designed to transport more than 10 passengers including the driver; or

(C) is used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 of this title and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103.

(2) “employee” means a driver of a commercial motor vehicle (including an independent contractor when personally operating a commercial motor vehicle), a mechanic, a freight handler, or an individual not an employer, who—

(A) directly affects commercial motor vehicle safety in the course of employment by a commercial motor carrier; and

(B) is not an employee of the United States Government, a State, or a political subdivision of a State acting in the course of employment.

(3) “employer”—

(A) means a person engaged in a business affecting commerce that owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate the vehicle in commerce; but

(B) does not include the Government, a State, or a political subdivision of a State.

(4) “State” means a State of the United States, the District of Columbia, Puerto Rico,

the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 984; Pub. L. 105–178, title IV, §4003(a), June 9, 1998, 112 Stat. 395.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
31101	49 App.:2301(1), (3)–(6). 49 App.:2301(2).	Jan. 6, 1983, Pub. L. 97–424, §401(1), (3)–(6), 96 Stat. 2154, 2155. Jan. 6, 1983, Pub. L. 97–424, §401(2), 96 Stat. 2154; Oct. 30, 1984, Pub. L. 98–554, §228(a), (b), 98 Stat. 2852.

Before clause (1), the words “unless the context otherwise requires” are omitted as unnecessary. The text of 49 App.:2301(4) is omitted as unnecessary because of 1:1. The text of 49 App.:2301(5) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section.

In clause (1), before subclause (A), the words “(except in section 31106)” are added because the source provisions being restated in section 31106 of the revised title contain a definition of “commercial motor vehicle”.

In clause (4), the words “the Commonwealth of” are omitted for consistency in the revised title and with other titles of the United States Code.

AMENDMENTS

1998—Par. (1)(A). Pub. L. 105–178, §4003(a)(1), inserted “or gross vehicle weight” after “rating” and substituted “10,001 pounds, whichever is greater” for “10,000 pounds”.

Par. (1)(C). Pub. L. 105–178, §4003(a)(2), inserted “and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103” before period at end.

SAVINGS CLAUSE

Pub. L. 105–178, title IV, §4003(h), June 9, 1998, 112 Stat. 398, provided that: “Amendments made by this section [amending this section and sections 31102 to 31104 of this title] shall not affect any funds made available before the date of enactment of this Act [June 9, 1998].”

§ 31102. Grants to States

(a) GENERAL AUTHORITY.—Subject to this section and the availability of amounts, the Secretary of Transportation may make grants to States for the development or implementation of programs for improving motor carrier safety and the enforcement of regulations, standards, and orders of the United States Government on commercial motor vehicle safety, hazardous materials transportation safety, and compatible State regulations, standards, and orders.

(b) STATE PLAN PROCEDURES AND CONTENTS.—

(1) The Secretary shall prescribe procedures for a State to submit a plan under which the State agrees to assume responsibility for improving motor carrier safety and to adopt and enforce regulations, standards, and orders of the Government on commercial motor vehicle safety, hazardous materials transportation safety, or compatible State regulations, standards, and orders. The Secretary shall approve the plan if the Secretary decides the plan is adequate to promote the objectives of this section and the plan—

(A) implements performance-based activities, including deployment of technology to

FUNDING

Pub. L. 109-59, title IV, §4116(d), Aug. 10, 2005, 119 Stat. 1728, provided that: "Amounts made available pursuant to section 31104(i) of title 49, United States Code, shall be used by the Secretary [of Transportation] to carry out section 31149 of title 49, United States Code."

INCREASED AUTHORIZATIONS FOR MOTOR CARRIER SAFETY GRANTS

Pub. L. 105-178, title IV, §4003(i), as added by Pub. L. 106-159, title I, §103(b)(1), Dec. 9, 1999, 113 Stat. 1753, provided that: "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."

§ 31105. Employee protections

(a) PROHIBITIONS.—(1) A person may not discharge an employee, or discipline or discriminate against an employee regarding pay, terms, or privileges of employment, because—

(A)(i) the employee, or another person at the employee's request, has filed a complaint or begun a proceeding related to a violation of a commercial motor vehicle safety or security regulation, standard, or order, or has testified or will testify in such a proceeding; or

(ii) the person perceives that the employee has filed or is about to file a complaint or has begun or is about to begin a proceeding related to a violation of a commercial motor vehicle safety or security regulation, standard, or order;

(B) the employee refuses to operate a vehicle because—

(i) the operation violates a regulation, standard, or order of the United States related to commercial motor vehicle safety, health, or security; or

(ii) the employee has a reasonable apprehension of serious injury to the employee or the public because of the vehicle's hazardous safety or security condition;

(C) the employee accurately reports hours on duty pursuant to chapter 315;

(D) the employee cooperates, or the person perceives that the employee is about to cooperate, with a safety or security investigation by the Secretary of Transportation, the Secretary of Homeland Security, or the National Transportation Safety Board; or

(E) the employee furnishes, or the person perceives that the employee is or is about to furnish, information to the Secretary of Transportation, the Secretary of Homeland Security, the National Transportation Safety Board, or any Federal, State, or local regulatory or law enforcement agency as to the facts relating to any accident or incident resulting in injury or death to an individual or damage to property occurring in connection with commercial motor vehicle transportation.

(2) Under paragraph (1)(B)(ii) of this subsection, an employee's apprehension of serious injury is reasonable only if a reasonable individual in the circumstances then confronting the employee would conclude that the hazardous safety or security condition establishes a real

danger of accident, injury, or serious impairment to health. To qualify for protection, the employee must have sought from the employer, and been unable to obtain, correction of the hazardous safety or security condition.

(b) FILING COMPLAINTS AND PROCEDURES.—(1) An employee alleging discharge, discipline, or discrimination in violation of subsection (a) of this section, or another person at the employee's request, may file a complaint with the Secretary of Labor not later than 180 days after the alleged violation occurred. All complaints initiated under this section shall be governed by the legal burdens of proof set forth in section 42121(b). On receiving the complaint, the Secretary of Labor shall notify, in writing, the person alleged to have committed the violation of the filing of the complaint.

(2)(A) Not later than 60 days after receiving a complaint, the Secretary of Labor shall conduct an investigation, decide whether it is reasonable to believe the complaint has merit, and notify, in writing, the complainant and the person alleged to have committed the violation of the findings. If the Secretary of Labor decides it is reasonable to believe a violation occurred, the Secretary of Labor shall include with the decision findings and a preliminary order for the relief provided under paragraph (3) of this subsection.

(B) Not later than 30 days after the notice under subparagraph (A) of this paragraph, the complainant and the person alleged to have committed the violation may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of objections does not stay a reinstatement ordered in the preliminary order. If a hearing is not requested within the 30 days, the preliminary order is final and not subject to judicial review.

(C) A hearing shall be conducted expeditiously. Not later than 120 days after the end of the hearing, the Secretary of Labor shall issue a final order. Before the final order is issued, the proceeding may be ended by a settlement agreement made by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

(3)(A) If the Secretary of Labor decides, on the basis of a complaint, a person violated subsection (a) of this section, the Secretary of Labor shall order the person to—

(i) take affirmative action to abate the violation;

(ii) reinstate the complainant to the former position with the same pay and terms and privileges of employment; and

(iii) pay compensatory damages, including backpay with interest and compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

(B) If the Secretary of Labor issues an order under subparagraph (A) of this paragraph and the complainant requests, the Secretary of Labor may assess against the person against whom the order is issued the costs (including attorney fees) reasonably incurred by the complainant in bringing the complaint. The Secretary of Labor shall determine the costs that reasonably were incurred.

(C) Relief in any action under subsection (b) may include punitive damages in an amount not to exceed \$250,000.

(c) DE NOVO REVIEW.—With respect to a complaint under paragraph (1),¹ if the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury.

(d) JUDICIAL REVIEW AND VENUE.—A person adversely affected by an order issued after a hearing under subsection (b) of this section may file a petition for review, not later than 60 days after the order is issued, in the court of appeals of the United States for the circuit in which the violation occurred or the person resided on the date of the violation. Review shall conform to chapter 7 of title 5. The review shall be heard and decided expeditiously. An order of the Secretary of Labor subject to review under this subsection is not subject to judicial review in a criminal or other civil proceeding.

(e) CIVIL ACTIONS TO ENFORCE.—If a person fails to comply with an order issued under subsection (b) of this section, the Secretary of Labor shall bring a civil action to enforce the order in the district court of the United States for the judicial district in which the violation occurred.

(f) NO PREEMPTION.—Nothing in this section preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.

(g) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.

(h) DISCLOSURE OF IDENTITY.—

(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation or the Secretary of Homeland Security may not disclose the name of an employee who has provided information about an alleged violation of this part, or a regulation prescribed or order issued under any of those provisions.

(2) The Secretary of Transportation or the Secretary of Homeland Security shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement. The Secretary making such disclosure shall provide reasonable advance notice to the affected employee if disclosure of that person's identity or identifying information is to occur.

(i) PROCESS FOR REPORTING SECURITY PROBLEMS TO THE DEPARTMENT OF HOMELAND SECURITY.—

(1) ESTABLISHMENT OF PROCESS.—The Secretary of Homeland Security shall establish through regulations, after an opportunity for notice and comment, a process by which any person may report to the Secretary of Homeland Security regarding motor carrier vehicle security problems, deficiencies, or vulnerabilities.

(2) ACKNOWLEDGMENT OF RECEIPT.—If a report submitted under paragraph (1) identifies the person making the report, the Secretary of Homeland Security shall respond promptly to such person and acknowledge receipt of the report.

(3) STEPS TO ADDRESS PROBLEM.—The Secretary of Homeland Security shall review and consider the information provided in any report submitted under paragraph (1) and shall take appropriate steps to address any problems or deficiencies identified.

(j) DEFINITION.—In this section, “employee” means a driver of a commercial motor vehicle (including an independent contractor when personally operating a commercial motor vehicle), a mechanic, a freight handler, or an individual not an employer, who—

(1) directly affects commercial motor vehicle safety or security in the course of employment by a commercial motor carrier; and

(2) is not an employee of the United States Government, a State, or a political subdivision of a State acting in the course of employment.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 990; Pub. L. 110–53, title XV, §1536, Aug. 3, 2007, 121 Stat. 464.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
31105(a)	49 App.:2305(a), (b).	Jan. 6, 1983, Pub. L. 97–424, §405(a)–(d), 96 Stat. 2157.
31105(b)	49 App.:2305(c).	
31105(c)	49 App.:2305(d).	
31105(d)	49 App.:2305(e).	Jan. 6, 1983, Pub. L. 97–424, §405(e), 96 Stat. 2158; Nov. 8, 1984, Pub. L. 98–620, §402(51), 98 Stat. 3361.

In subsection (a)(1), before clause (A), the words “in any manner” are omitted as surplus. The word “conditions” is omitted as included in “terms”. In clauses (A) and (B), the word “rule” is omitted as being synonymous with “regulation”. In clause (A), the word “begun” is substituted for “instituted or caused to be instituted” for consistency in the revised title and to eliminate unnecessary words. In clause (B), the words before subclause (i) are substituted for “for refusing to operate a vehicle when” and “or because of” for clarity and consistency. In subclause (ii), the words “vehicle’s unsafe condition” are substituted for “unsafe condition of such equipment” for consistency.

Subsection (a)(2) is substituted for 49 App.:2305(b) (2d, last sentences) for clarity and to eliminate unnecessary words.

In subsection (b)(1), the words “alleging such discharge, discipline, or discrimination” are omitted as surplus.

In subsection (b)(2)(B), the words “Not later than 30 days after the notice under subparagraph (A) of this paragraph” are substituted for “Thereafter” and “within thirty days” for clarity.

¹ So in original. Probably should be “subsection (b)(1),”.

In subsection (b)(2)(C), the words “Before the final order is issued” are substituted for “In the interim” for clarity.

Subsection (b)(3)(A) is substituted for 49 App.:2305(c)(2)(B) (1st sentence) for clarity and to eliminate unnecessary words. In clause (ii), the word “conditions” is omitted as included in “terms”. The provision for back pay is moved from clause (ii) to clause (iii) for clarity.

In subsection (b)(3)(B), the words “a sum equal to the aggregate amount of all” and “and expenses” are omitted as surplus. The words “in bringing the complaint” are substituted for “for, or in connection with, the bringing of the complaint upon which the order was issued” to eliminate unnecessary words.

In subsection (c), the words “or aggrieved” and “with respect to which the order was issued, allegedly” are omitted as surplus. The words “in accordance with the provisions of chapter 7 of title 5 and” are omitted because 5:ch. 7 applies unless otherwise stated.

In subsection (d), the text of 49 App.:2305(e) (last sentence) is omitted as unnecessary.

AMENDMENTS

2007—Pub. L. 110-53 amended text of section generally. Prior to amendment, section related to, in subsec. (a), prohibition against discharge or discipline of, or discrimination against, an employee regarding pay, terms, or privileges of employment for certain actions, in subsec. (b), procedures for filing of complaint, in subsec. (c), judicial review and venue, and, in subsec. (d), civil action to enforce an order.

EMPLOYEE PROTECTIONS

Pub. L. 105-178, title IV, §4023, June 9, 1998, 112 Stat. 415, provided that: “Not later than 2 years after the date of enactment of this Act [June 9, 1998], the Secretary [of Transportation], in conjunction with the Secretary of Labor, shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the effectiveness of existing statutory employee protections provided for under section 31105 of title 49, United States Code. The report shall include recommendations to address any statutory changes necessary to strengthen the enforcement of such employee protection provisions.”

§ 31106. Information systems

(a) INFORMATION SYSTEMS AND DATA ANALYSIS.—

(1) IN GENERAL.—Subject to the provisions of this section, the Secretary shall establish and operate motor carrier, commercial motor vehicle, and driver information systems and data analysis programs to support safety regulatory and enforcement activities required under this title.

(2) NETWORK COORDINATION.—In cooperation with the States, the information systems under this section shall be coordinated into a network providing accurate identification of motor carriers and drivers, commercial motor vehicle registration and license tracking, and motor carrier, commercial motor vehicle, and driver safety performance data.

(3) DATA ANALYSIS CAPACITY AND PROGRAMS.—The Secretary shall develop and maintain under this section data analysis capacity and programs that provide the means to—

(A) identify and collect necessary motor carrier, commercial motor vehicle, and driver data;

(B) evaluate the safety fitness of motor carriers and drivers;

(C) develop strategies to mitigate safety problems and to use data analysis to address and measure the effectiveness of such strategies and related programs;

(D) determine the cost-effectiveness of Federal and State safety compliance and enforcement programs and other countermeasures;

(E) adapt, improve, and incorporate other information and information systems as the Secretary determines appropriate;

(F) ensure, to the maximum extent practical, all the data is complete, timely, and accurate across all information systems and initiatives; and

(G) establish and implement a national motor carrier safety data correction system.

(4) STANDARDS.—To implement this section, the Secretary shall prescribe technical and operational standards to ensure—

(A) uniform, timely, and accurate information collection and reporting by the States and other entities as determined appropriate by the Secretary;

(B) uniform Federal, State, and local policies and procedures necessary to operate the information system; and

(C) the reliability and availability of the information to the Secretary and States.

(b) PERFORMANCE AND REGISTRATION INFORMATION PROGRAM.—

(1) INFORMATION CLEARINGHOUSE.—The Secretary shall include, as part of the motor carrier information system authorized by this section, a program to establish and maintain a clearinghouse and repository of information related to State registration and licensing of commercial motor vehicles, the registrants of such vehicles, and the motor carriers operating such vehicles. The clearinghouse and repository may include information on the safety fitness of each of the motor carriers and registrants and other information the Secretary considers appropriate, including information on motor carrier, commercial motor vehicle, and driver safety performance.

(2) DESIGN.—The program shall link Federal motor carrier safety information systems with State commercial vehicle registration and licensing systems and shall be designed to enable a State to—

(A) determine the safety fitness of a motor carrier or registrant when licensing or registering the registrant or motor carrier or while the license or registration is in effect; and

(B) deny, suspend, or revoke the commercial motor vehicle registrations of a motor carrier or registrant that has been issued an operations out-of-service order by the Secretary.

(3) CONDITIONS FOR PARTICIPATION.—The Secretary shall require States, as a condition of participation in the program, to—

(A) comply with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under subsection (a)(4);

(B) possess or seek the authority to possess for a time period no longer than deter-