

SURFACE TRANSPORTATION REFORM AND REAUTHORIZATION ACT OF 2015 PROVISIONS OF INTEREST TO NSTA

Minimum Levels of Financial Responsibility - Section 5501/5503

The insurance provision for passenger carriers is essentially a modified version of the language NSTA advocated for in Congressman Perry's bill (HR 2077), which requires the Secretary of Transportation to do a comprehensive study of passenger carrier insurance limits, with a lot of the prescription in the Perry bill, PRIOR TO INITIATING a rulemaking to change minimum insurance limits. Study contents include: a review of accidents, injuries and fatalities in over the road bus and school bus industries, a review of insurance held by over the road bus and public and private school bus companies, including companies of various sizes, and an analysis of whether such insurance is adequate to cover claims, an analysis of whether and how insurance affects the behavior and safety record of motor carriers of passengers, including with respect to crash reduction; and an analysis of the anticipated impacts of an increase in financial responsibility on insurance premiums for passenger carriers and service availability. The provision requires consultation with representatives of the over the road bus and private school bus transportation industries, insurers of motor carriers of passengers, and representatives of bus drivers. There is no time deadline on the report.

[With regard to truck insurance requirements, the bill directs the Secretary to issue a report by April of 2016 on the differences between State and Federal truck insurance requirements, the extent to which current requirements adequately cover medical care, compensation, attorney fees and other identifiable costs, and the frequency with which insurance claims exceed the current requirements. Then, if they decide to pursue a rulemaking to increase truck insurance limits, they require the Secretary to consider various items prior to issuing a final rule. So essentially, the language in the bill would also halt the pending ANPRM for trucks until completion of the study by April of 2016.]

Committee staff agrees with our interpretation of the language that if it were enacted, it would require DOT to abandon their existing ANPRM with respect to passenger carriers, do the comprehensive study and then begin the rulemaking process over again.

CSA Reform – Sections 5221, 5222 and 5223

The bill requires a National Academy of Sciences study on the CSA program and SMS. The study must analyze the accuracy of BASIC in identifying high risk carriers and predicting future crash risk, methodology for BASIC, relative value of inspection information and roadside enforcement data, data collection gaps or data sufficiency problems, accuracy of safety data, whether ASIC percentiles for motor carriers of passengers should be calculated differently than for trucks, differences in safety violation reporting from various enforcement authorities, how members of the public use SMS and the effect of making SMS information public has had on reducing crashes and eliminating unsafe motor carriers. The study must consider whether SMS provides comparable precision and confidence for relative crash risk of large and small carriers, whether alternatives to SMS would ID high risk carriers more accurately and recommendations

of the GAO study. After submission of the study, DOT must submit a corrective action plan, which is required to be reviewed by the Inspector General of DOT.

Most importantly, 1 day after enactment of the bill, no information regarding analysis of violations, crashes in which a determination is made that the motor carrier or the commercial motor vehicle driver is not at fault, alerts or the relative percentile for each BASIC developed under CSA must be taken down from public view until the IG certifies that all the requirements cited above are complete. Information regarding alerts and the relative percentile for each BASIC developed under the CSA program may not be used for safety fitness determinations until IG makes the certification. Inspection and violation information submitted by commercial motor vehicle inspectors and qualified law enforcement officials, out of service rates, and absolute measures will remain available to the public.

Finally, the bill directs DOT to create a methodology to incorporate into the CSA program some items to allow for an improved SMS score for “beyond compliance” initiatives including installation of advanced safety equipment, use of enhanced driver fitness measures, adoption of fleet safety management tools, technologies and programs, or other metrics as determined appropriate by FMCSA.

Drug Free Commercial Drivers/Hair Follicle Testing – Section 5402

The bill permits pre-employment testing for use of alcohol and to use hair testing as an acceptable alternative to urine testing for pre-employment and random drug testing. The bill creates an exemption from hair testing for cmv operators with established religious beliefs that prohibit the cutting or removal of hair. The bill directs HHS to issue guidance for hair testing within 1 year.

FMCSA Regulatory Reform – Section 5202

The bill directs that if a proposed rule is likely to lead to promulgation of a major rule, before promulgating a proposed rule, the Secretary must issue either an ANPRM or proceed with a negotiated rulemaking.

FMCSA Guidance – Section 5203

The bill directs each guidance document to be publicly available. Every five years, the Secretary will review guidance documents and either incorporate into regs or reissue an updated version of the guidance document. Once every 5 years the Secretary must conduct a comprehensive review of guidance documents and make them subject to notice and comment.

Prioritizing Statutory Rulemakings – Section 5303

This provision directs FMCSA to prioritize completion of all outstanding rulemakings required by statute before beginning any other rulemaking. This provision will be extremely helpful in stopping unwanted rulemakings.

Seattle Penalty for Continued Exemptions from Enforcement of Charter Service Rule – Section 3011

The bill directs that if Seattle is exempt from the charter service rule, it loses its transit formula grant funds for that fiscal year. The lost funds can be restored in the following fiscal year if Seattle is no longer exempt.

Congestion Mitigation and Air Quality (CMAQ) Program – Section 1109

The bill also contains language to modify the existing priority for diesel retrofits under the Congestion Management and Air Quality (CMAQ) program. MAP-21 provided for priority consideration of projects that are proven to reduce small particulate matter (PM 2.5), including diesel retrofits, but still states and mpo's continued to utilize the funds for other types of transportation projects. The bill modifies the priority by adding language that the priority applies to projects that are proven to reduce direct emissions of PM 2.5, including diesel retrofits. There is also a requirement that to the maximum extent practicable, funding shall be used on the most cost-effective projects and programs that are proven to reduce directly emitted fine particulate matter. The language is intended to make it easier to obtain diesel retrofit funding out of CMAQ.

Under Age 21 Commercial Motor Vehicle Drivers - Section 5404

The bill directs the Secretary to create a Task Force to evaluate and make recs on a graduated CDL pilot program to allow a novice licensed driver between ages of 19 years 6 months and 21 years to safely operate a cmv in a limited capacity between States that enter into a bi-State agreement. Task force members shall include State motor vehicle administrators, motor carriers, labor, safety advocates and other stakeholders. After making recommendations, the bill directs the Secretary to create a pilot program limited to no more than 6 bi-State agreements and no more than 10 motor carriers, and no haz mat or special configurations. The IG will issue a report on the results of the pilot.

Parity in Tolling with Public Transit - Section 1401

The bill gives public toll authorities the ability in levying tolls to designate classes of vehicles that are exempt from tolls or charge different toll rates for different classes of vehicles, if equal rates are charged for all public transportation vehicles and over-the-road buses, whether publicly or privately owned. School buses are not specifically called out in there, though the intent is clearly to ensure all public passenger vehicles are treated the same, whether public or private. Is this an issue for NSTA?

Overdue Regulations – Section 5301

The bill directs the Secretary to finalize overdue regulations related to the Clearinghouse for Controlled Substances and Alcohol Test Results, Electronic Logging and Standards for Training within 30 days or notify the Congress why they are not implemented and establish new deadlines.

Windshield Mounted Safety Technology – Section 5302

The bill directs the Secretary within 6 months to issue regulations to permanently allow the voluntary mounting on the inside of a vehicle's windshield of vehicle safety technologies (lane departure warning systems, collision avoidance systems, on board video event recording devices and any other technology deemed appropriate) if the Secretary determines that such mounting is

likely to achieve a level of safety that is equivalent to or greater than the level of safety that would be achieved without such mounting.

En Route Inspections – Section 5101

The bill provides that exception the case of an imminent hazard or obvious safety hazard, an inspection of a vehicle transporting passengers is conducted at a bus station, terminal, border crossing, maintenance facility, destination or other location where a motor carrier may make a planned stop (excluding a weigh station).

Self Reporting of En Route Equipment Failures – Section 5304

The bill directs GAO to do a study on the cost and feasibility of establishing a self-reporting system for commercial motor vehicle drivers or motor carriers with respect to en route equipment failures.

Opportunities for Veterans – Section 5401

The bill directs the Secretary to modify regulations to exempt veterans from a portion of the driving test if the vet had experience in the armed forces or reserves driving vehicles similar to cmv's, ensure that a vet may apply for an exemption for the one year period on date they separate from the military and credit military training for satisfying minimum standards for training and knowledge.

Marijuana – Impaired Driving – Section 4007

The bill requires the Secretary to conduct a study on marijuana-impaired driving and submit recommendations on effective detection and measuring of driving under the influence of marijuana, if feasible, an impairment standard and methodologies for increased data collection regarding prevalence and effects of marijuana-impaired driving.