

Public Law 103-311
103d Congress

An Act

To amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1994, 1995, 1996, and 1997, and for other purposes.

Aug. 26, 1994
[H.R. 2178]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

**TITLE I—HAZARDOUS MATERIALS TRANSPORTATION
ACT AMENDMENTS**

Hazardous
Materials
Transportation
Authorization
Act of 1994.
49 USC 5101
note.

SEC. 101. SHORT TITLE.

This title may be cited as the “Hazardous Materials Transportation Authorization Act of 1994”.

SEC. 102. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

Section 5127(a) (relating to authorization of appropriations) is amended by striking out “the fiscal year ending September 30, 1993,” and inserting “fiscal year 1993, \$18,000,000 for fiscal year 1994, \$18,540,000 for fiscal year 1995, \$19,100,000 for fiscal year 1996, and \$19,670,000 for fiscal year 1997”.

SEC. 104. EXEMPTIONS FROM REQUIREMENT TO FILE REGISTRATION STATEMENT.

Section 5108(a) (relating to persons required to file) is amended by adding at the end the following new paragraph:

“(4) The Secretary may waive the filing of a registration statement, or the payment of a fee, required under this subsection, or both, for any person not domiciled in the United States who solely offers hazardous materials for transportation to the United States from a place outside the United States if the country of which such person is a domiciliary does not require persons domiciled in the United States who solely offer hazardous materials for transportation to the foreign country from places in the United States to file registration statements, or to pay fees, for making such an offer.”

SEC. 105. PLANNING GRANTS FOR INDIAN TRIBES.

(a) **AUTHORITY TO MAKE GRANTS.**—Section 5116(a)(1) (relating to planning grants) is amended—

(1) by inserting “and Indian tribes” after “States” the first place it appears; and

(2) by striking “in a State and between States” and inserting “on lands under the jurisdiction of a State or Indian tribe, and between lands under the jurisdiction of a State or Indian tribe and lands of another State or Indian tribe”.

(b) MAINTENANCE OF EFFORT.—Section 5116(a)(2) (relating to planning grants) is amended—

(1) by inserting “or Indian tribe” after “State” the first and third places it appears;

(2) by striking “the State” the second place it appears;

(3) by inserting “the State or Indian tribe” before “certifies”; and

(4) by inserting “the State” before “agrees”.

(c) COORDINATION OF PLANNING.—Section 5116(a) (relating to planning grants in general) is amended by adding at the end the following new paragraph:

“(3) A State or Indian tribe receiving a grant under this subsection shall ensure that planning under the grant is coordinated with emergency planning conducted by adjacent States and Indian tribes.”.

SEC. 106. TRAINING CRITERIA FOR SAFE HANDLING AND TRANSPORTATION.

Section 5107(d) (relating to coordination of training requirements) is amended—

(1) by inserting “or duplicate” after “conflict with”; and

(2) by striking “hazardous waste operations and” and inserting “hazard communication, and hazardous waste operations, and”.

SEC. 107. DISCLOSURE OF FEES LEVIED BY STATES, POLITICAL SUBDIVISIONS, AND INDIAN TRIBES.

Section 5125(g) (relating to fees) is amended—

(1) by inserting “(1)” after “(g) FEES.—”; and

(2) by adding at the end the following:

“(2) A State or political subdivision thereof or Indian tribe that levies a fee in connection with the transportation of hazardous materials shall, upon the Secretary’s request, report to the Secretary on—

“(A) the basis on which the fee is levied upon persons involved in such transportation;

“(B) the purposes for which the revenues from the fee are used;

“(C) the annual total amount of the revenues collected from the fee; and

“(D) such other matters as the Secretary requests.”.

SEC. 108. ANNUAL REPORT.

Section 5121(e) (relating to annual report) is amended—

(1) by striking “Annual” in the subsection heading, and

(2) by striking the first sentence and inserting the following: “The Secretary shall, once every 2 years, prepare and submit to the President for transmittal to the Congress a comprehensive report on the transportation of hazardous materials during the preceding 2 calendar years.”.

Reports.

SEC. 109. INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

Safety.
Science and
technology.
23 USC 307 note.

(a) **IN GENERAL.**—In implementing the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note), the Secretary of Transportation shall ensure that the National Intelligent Vehicle-Highway Systems Program addresses, in a comprehensive and coordinated manner, the use of intelligent vehicle-highway system technologies to promote hazardous materials transportation safety. The Secretary of Transportation shall ensure that 2 or more operational tests funded under such Act shall promote such safety and advance technology for providing information to persons who provide emergency response to hazardous materials transportation incidents.

(b) **GRANTS FOR CERTAIN EMERGENCY RESPONSE INFORMATION TECHNOLOGIES.**—

(1) In carrying out one of the operational tests under subsection (a), the Secretary of Transportation may make grants to one or more persons, including a State or local government or department, agency, or instrumentality thereof, to demonstrate the feasibility of establishing and operating computerized telecommunications emergency response information technologies that are used—

(A) to identify the contents of shipments of hazardous materials transported by motor carriers;

(B) to permit retrieval of data on shipments of hazardous materials transported by motor carriers;

(C) to link systems that identify, store, and allow the retrieval of data for emergency response to incidents and accidents involving transportation of hazardous materials by motor carrier; and

(D) to provide information to facilitate responses to accidents and incidents involving hazardous materials shipments by motor carriers either directly or through linkage with other systems.

(2) Any project carried out with a grant under this subsection must involve two or more motor carriers of property. One of the motor carriers selected to participate in the project must be a carrier that transports mostly hazardous materials. The other motor carrier selected must be a regular-route common carrier that specializes in transporting less-than-truckload shipments. The motor carriers selected may be engaged in multimodal movements of hazardous materials with other motor carriers, rail carriers, or water carriers.

(3) To the maximum extent practicable, the Secretary of Transportation shall coordinate a project under this subsection with any existing Federal, State, and local government projects and private projects which are similar to the project under this subsection. The Secretary may require that a project under this subsection be carried out in conjunction with such similar Federal, State, and local government projects and private projects.

SEC. 110. RAIL TANK CAR SAFETY.

Regulations.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue final regulations under the following:

(1) The rulemaking proceeding under Docket HM-175A entitled "Crashworthiness Protection Requirements for Tank Cars".

(2) The rulemaking proceeding under Docket HM-201 entitled "Detection and Repair of Cracks, Pits, Corrosion, Lining Flaws, Thermal Protection Flaws and Other Defects of Tank Car Tanks".

49 USC 5103
note.

SEC. 111. SAFE PLACEMENT OF TRAIN CARS.

The Secretary of Transportation shall conduct a study of existing practices regarding the placement of cars on trains, with particular attention to the placement of cars that carry hazardous materials. In conducting the study, the Secretary shall consider whether such placement practices increase the risk of derailment, hazardous materials spills, or tank ruptures or have any other adverse effect on safety. The results of the study shall be submitted to Congress within 1 year after the date of enactment of this Act.

Regulations.

SEC. 112. GRADE CROSSING SAFETY.

The Secretary of Transportation shall, within 6 months after the date of enactment of this Act, amend regulations—

(1) under chapter 51 of title 49, United States Code (relating to transportation of hazardous materials), to prohibit the driver of a motor vehicle transporting hazardous materials in commerce, and

(2) under chapter 315 of such title (relating to motor carrier safety) to prohibit the driver of any commercial motor vehicle, from driving the motor vehicle onto a highway-rail grade crossing without having sufficient space to drive completely through the crossing without stopping.

Regulations.

SEC. 113. DRIVER'S RECORD OF DUTY STATUS.

(a) IN GENERAL.—

(1) The Secretary of Transportation shall prescribe regulations amending part 395 of title 49, Code of Federal Regulations, to improve—

(A) compliance by commercial motor vehicle drivers and motor carriers with hours of service requirements; and

(B) the effectiveness and efficiency of Federal and State enforcement officers reviewing such compliance.

Effective date.

(2) Such regulations shall be proposed not later than 12 months after the date of enactment of this Act and shall be issued and become effective not later than 18 months after such date of enactment. In prescribing the regulations, the Secretary of Transportation shall ensure that compliance can be achieved at a cost that is reasonable to drivers and motor carriers.

(b) CONTENTS OF REGULATIONS.—Such regulations shall include the following:

(1) A description of identification items (which include either driver name or vehicle number) that shall be part of a written or electronic document to enable such written or electronic document to be used by a motor carrier or by an enforcement officer as a supporting document to verify the accuracy of a driver's record of duty status.

(2) A provision specifying the number, type, and frequency of supporting documents that must be retained by a motor

carrier so as to allow verification of the accuracy of such documents at a reasonable cost, to the driver and the motor carrier, of record acquisition and retention.

(3) A provision specifying the period during which supporting documents shall be retained by the motor carrier. The period shall be at least 6 months from the date of a document's receipt.

(4) A provision to authorize, on a case-by-case basis, motor carrier self-compliance systems that ensure driver compliance with hours of service requirements and allow Federal and State enforcement officers the opportunity to conduct independent audits of such systems to validate compliance with section 395.8(k) of title 49, Code of Federal Regulations (or successor regulations thereto). Such authorization may also be provided by the Secretary to a group of motor carriers that meet specific conditions that may be established by regulation by the Secretary and that are subject to audit by Federal and State enforcement officers.

(5) A provision to allow a waiver, on a case-by-case basis, of certain requirements of section 395.8(k) of title 49, Code of Federal Regulations (or successor regulations thereto), when sufficient supporting documentation is provided directly and at a satisfactory frequency to enforcement personnel by an intelligent vehicle-highway system, as defined by section 6059 of the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note). Such waiver may also be allowed for a group of motor carriers that meet specific conditions that may be established by regulation by the Secretary.

(c) SUPPORTING DOCUMENT DEFINED.—For purposes of this section, a supporting document is any document that is generated or received by a motor carrier or commercial motor vehicle driver in the normal course of business that could be used, as produced or with additional identifying information, to verify the accuracy of a driver's record of duty status.

SEC. 114. SAFETY PERFORMANCE HISTORY OF NEW DRIVERS.

(a) AMENDMENT OF REGULATIONS.—Within 18 months after the date of enactment of this Act, the Secretary of Transportation shall amend section 391.23 of title 49, Code of Federal Regulations (or successor regulations thereto), to—

(1) specify the safety information that must be sought under that section by a motor carrier with respect to a driver;

(2) require that such information be requested from former employers and that former employers furnish the requested information within 30 days after receiving the request; and

(3) ensure that the driver to whom such information applies has a reasonable opportunity to review and comment on the information.

(b) SAFETY INFORMATION.—The safety information required to be specified under subsection (a)(1) shall include information on—

(1) any motor vehicle accidents in which the driver was involved during the preceding 3 years;

(2) any failure of the driver, during the preceding 3 years, to undertake or complete a rehabilitation program under section 31302 of title 49, United States Code (relating to limitation on the number of driver's licenses), after being found to

have used, in violation of law or Federal regulation, alcohol or a controlled substance;

(3) any use by the driver, during the preceding 3 years, in violation of law or Federal regulation, of alcohol or a controlled substance subsequent to completing such a rehabilitation program; and

(4) any other matters determined by the Secretary of Transportation to be appropriate and useful for determining the driver's safety performance.

(c) **FORMER EMPLOYER.**—For purposes of this section, a former employer is any person who employed the driver in the preceding 3 years.

SEC. 115. RETENTION OF SHIPPING PAPERS.

Section 5110 (relating to shipping papers and disclosure) is amended by adding at the end the following new subsection:

“(e) **RETENTION OF PAPERS.**—After the hazardous material to which a shipping paper provided to a carrier under subsection (a) applies is no longer in transportation, the person who provided the shipping paper and the carrier required to maintain it under subsection (a) shall retain the paper or electronic image thereof for a period of 1 year to be accessible through their respective principal places of business. Such person and carrier shall, upon request, make the shipping paper available to a Federal, State, or local government agency at reasonable times and locations.”.

49 USC 5121
note.

SEC. 116. TOLL FREE NUMBER FOR REPORTING.

The Secretary of Transportation shall designate a toll free telephone number for transporters of hazardous materials and other individuals to report to the Secretary possible violations of chapter 51 of title 49, United States Code, or any order or regulation issued under that chapter.

SEC. 117. TECHNICAL CORRECTIONS.

(a) **AMENDMENTS RELATING TO PACKAGING.**—

(1) Sections 5102(3)(C)(ii) and 5102(4)(A)(iii) are each amended by striking “packages” and inserting “packagings”.

(2) Sections 5103(b)(1)(A)(iii), 5121(c)(1)(A), 5125(b)(1)(E), and 5126(a) are each amended by striking “a package or” and inserting “a packaging or a”.

(3) Section 5108(a)(1)(D) is amended—

(A) by striking “a bulk package” and inserting in lieu thereof “a bulk packaging”; and

(B) by striking “the package” and inserting “the bulk packaging”.

(b) **OTHER.**—Section 5104(a)(1) is amended by striking “or package” each place it appears and inserting “, package, or packaging (or a component of a container, package, or packaging)”.

SEC. 118. HOURS OF SERVICE RULEMAKING FOR FARMERS AND RETAIL FARM SUPPLIERS.

Not later than 3 months after the date of enactment of this Act the Secretary of Transportation shall initiate a rulemaking proceeding to determine whether or not the requirements of section 395.3 of title 49, Code of Federal Regulations, relating to hours of service, may be waived for farmers and retail farm suppliers when such farmers and retail farm suppliers are transporting crops

or farm supplies for agricultural purposes within a 50-mile radius of their distribution point or farm.

SEC. 119. TRAINING.

(a) **SUPPLEMENTAL PUBLIC SECTOR TRAINING GRANTS.**—Section 5116 (relating to planning and training grants, monitoring, and review) is amended by adding at the end the following new subsections:

“(j) **SUPPLEMENTAL TRAINING GRANTS.**—

“(1) In order to further the purposes of subsection (b), the Secretary shall, subject to the availability of funds, make grants to national nonprofit employee organizations engaged solely in fighting fires for the purpose of training instructors to conduct hazardous materials response training programs for individuals with statutory responsibility to respond to hazardous materials accidents and incidents.

“(2) For the purposes of this subsection the Secretary, after consultation with interested organizations, shall—

“(A) identify regions or locations in which fire departments or other organizations which provide emergency response to hazardous materials transportation accidents and incidents are in need of hazardous materials training; and

“(B) prioritize such needs and develop a means for identifying additional specific training needs.

“(3) Funds granted to an organization under this subsection shall only be used—

“(A) to train instructors to conduct hazardous materials response training programs;

“(B) to purchase training equipment used exclusively to train instructors to conduct such training programs; and

“(C) to disseminate such information and materials as are necessary for the conduct of such training programs.

“(4) The Secretary may only make a grant to an organization under this subsection in a fiscal year if the organization enters into an agreement with the Secretary to train instructors to conduct hazardous materials response training programs in such fiscal year that will use—

“(A) a course or courses developed or identified under subsection (g); or

“(B) other courses which the Secretary determines are consistent with the objectives of this subsection;

for training individuals with statutory responsibility to respond to accidents and incidents involving hazardous materials. Such agreement also shall provide that training courses shall be open to all such individuals on a nondiscriminatory basis.

“(5) The Secretary may impose such additional terms and conditions on grants to be made under this subsection as the Secretary determines are necessary to protect the interests of the United States and to carry out the objectives of this subsection.

“(k) **REPORTS.**—Not later than September 30, 1997, the Secretary shall submit to Congress a report on the allocation and uses of training grants authorized under subsection (b) for fiscal year 1993 through fiscal year 1996 and grants authorized under subsection (j) and section 5107 for fiscal years 1995 and 1996.

Such report shall identify the ultimate recipients of training grants and include a detailed accounting of all grant expenditures by grant recipients, the number of persons trained under the grant programs, and an evaluation of the efficacy of training programs carried out.”

(b) FUNDING.—Section 5127(b) (relating to appropriations for hazmat employee training) is amended—

(1) by inserting “(1)” after “TRAINING.—”, and

(2) by adding at the end the following:

“(2)(A) There shall be available to the Secretary for carrying out section 5116(j), from amounts in the account established pursuant to section 5116(i), \$250,000 for each of fiscal years 1995, 1996, 1997, and 1998.

“(B) In addition to amounts made available under subparagraph (A), there is authorized to be appropriated to the Secretary for carrying out section 5116(j) \$1,000,000 for each of the fiscal years 1995, 1996, 1997, and 1998.”

(c) HAZMAT EMPLOYEE TRAINING PROGRAM.—

(1) The first sentence of section 5107(e) (relating to hazmat employee training requirements and grants) is amended to read as follows: “The Secretary shall, subject to the availability of funds under section 5127(c)(3), make grants for training instructors to train hazmat employees under this section.”

(2) The second sentence of such section is amended by inserting “hazmat employee” after “nonprofit”.

(3) Section 5107 (relating to hazmat employee training requirements and grants) is amended by adding at the end thereof the following new subsection:

“(g) EXISTING EFFORT.—No grant under subsection (e) shall supplant or replace existing employer-provided hazardous materials training efforts or obligations.”

(4) Section 5127(b)(1) (relating to hazmat employee training funding) is amended to read as follows:

“(b) TRAINING OF HAZMAT EMPLOYEE INSTRUCTORS.—(1) There is authorized to be appropriated to the Secretary \$3,000,000 for each of fiscal years 1995, 1996, 1997, and 1998 to carry out section 5107(e).”

(d) CONFORMING AMENDMENTS.—

(1) Section 5108(g)(2)(A)(viii) is amended by striking “5107(e).”

(2) Section 5116(i)(1) is amended by striking “and section 5107(e).”

(3) Section 5116(i)(3) is amended by striking “and section 5107(e).”

SEC. 120. TIME FOR SECRETARIAL ACTION.

(a) EXEMPTIONS.—Section 5117 (relating to exemptions and exclusions) is amended—

(1) by redesignating subsections (c) and (d) as (d) and (e) respectively, and

(2) by inserting after subsection (b) the following:

“(c) APPLICATIONS TO BE DEALT WITH PROMPTLY.—The Secretary shall issue or renew the exemption for which an application was filed or deny such issuance or renewal within 180 days after the first day of the month following the date of the filing of such application, or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary’s decision on the

exemption is delayed, along with an estimate of the additional time necessary before the decision is made.”

(b) DECISIONS ON PREEMPTION.—Section 5125(d) (relating to decisions on preemption) is amended by inserting immediately after the second sentence the following: “The Secretary shall issue a decision on an application for a determination within 180 days after the date of the publication of the notice of having received such application, or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary’s decision on the application is delayed, along with an estimate of the additional time necessary before the decision is made.”

Federal
Register,
publication.

SEC. 121. STUDY OF HAZARDOUS MATERIALS TRANSPORTATION BY MOTOR CARRIERS NEAR FEDERAL PRISONS.

49 USC 5112
note.

(a) STUDY.—The Secretary of Transportation shall conduct a study to determine the safety considerations of transporting hazardous materials by motor carriers in close proximity to Federal prisons, particularly those housing maximum security prisoners. Such study shall include an evaluation of the ability of such facilities and the designated local planning agencies to safely evacuate such prisoners in the event of an emergency and any special training, equipment, or personnel that would be required by such facility and the designated local emergency planning agencies to carry out such evacuation. Such study shall not apply to or address issues concerning rail transportation of hazardous materials.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on the results of the study conducted under this section, along with the Secretary’s recommendations for any legislative or regulatory changes to enhance the safety regarding the transportation of hazardous materials by motor carriers near Federal prisons.

SEC. 122. USE OF FIBER DRUM PACKAGING.

49 USC 5103
note.

(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than the 60th day following the date of enactment of this Act, the Secretary of Transportation shall initiate a rulemaking proceeding to determine whether the requirements of section 5103(b) of title 49, United States Code (relating to regulations for safe transportation), as they pertain to open head fiber drum packaging can be met for the domestic transportation of liquid hazardous materials (with respect to those classifications of liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) with standards other than the performance-oriented packaging standards adopted under docket number HM-181 contained in part 178 of title 49, Code of Federal Regulations.

(b) ISSUANCE OF STANDARDS.—If the Secretary of Transportation determines, as a result of the rulemaking proceeding initiated under subsection (a), that a packaging standard other than the performance-oriented packaging standards referred to in subsection (a) will provide an equal or greater level of safety for the domestic transportation of liquid hazardous materials than would be provided if such performance-oriented packaging standards were in effect, the Secretary shall issue regulations which implement such other standard and which take effect before October 1, 1996.

Regulations.

(c) COMPLETION OF RULEMAKING PROCEEDING.—The rulemaking proceeding initiated under subsection (a) shall be completed before October 1, 1995.

(d) LIMITATIONS.—

(1) The provisions of subsections (a), (b), and (c) shall not apply to packaging for those hazardous materials regulated by the Department of Transportation as poisonous by inhalation under chapter 51 of title 49, United States Code.

(2) Nothing in this section shall be construed to prohibit the Secretary of Transportation from issuing or enforcing regulations for the international transportation of hazardous materials.

49 USC 5101
note.

SEC. 123. BUY AMERICA.

(a) **COMPLIANCE WITH BUY AMERICAN ACT.**—None of the funds made available under this title may be expended in violation of sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c; popularly known as the "Buy American Act"), which are applicable to those funds.

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this title, it is the sense of Congress that entities receiving such assistance should, in expending such assistance, purchase only American-made equipment and products.

(2) In providing financial assistance under this title, the Secretary of Transportation shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by Congress.

(c) **PROHIBITION OF CONTRACTS.**—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this title, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

(d) RECIPROCIITY.—

(1) Except as provided in paragraph (2), no contract or subcontract may be made with funds authorized under this title to a company organized under the laws of a foreign country unless the Secretary of Transportation finds that such country affords comparable opportunities to companies organized under laws of the United States.

(2)(A) The Secretary of Transportation may waive the provisions of paragraph (1) if the products or services required are not reasonably available from companies organized under the laws of the United States. Any such waiver shall be reported to Congress.

(B) Paragraph (1) shall not apply to the extent that to do so would violate the General Agreement on Tariffs and Trade or any other international agreement to which the United States is a party.

Reports.

TITLE II—TRUCKING INDUSTRY REGULATORY REFORM

Trucking
Industry
Regulatory
Reform Act of
1994.
49 USC 10101
note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Trucking Industry Regulatory Reform Act of 1994".

SEC. 202. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 203. PURPOSE.

The purpose of this title is to enhance competition, safety, and efficiency in the motor carrier industry and to enhance efficiency in government.

49 USC 10101
note.

SEC. 204. TRANSPORTATION POLICY.

Section 10101(a)(2) (relating to transportation policy) is amended—

(1) by redesignating subparagraphs (A) through (I) as subparagraphs (C) through (K), respectively, and

(2) by inserting before subparagraph (C) (as so redesignated) the following: "(A) encourage fair competition, and reasonable rates for transportation by motor carriers of property; (B) promote Federal regulatory efficiency in the motor carrier transportation system and to require fair and expeditious regulatory decisions when regulation is required;"

SEC. 205. EXEMPTIONS.

(a) IN GENERAL.—Section 10505 (relating to authority to exempt rail carrier transportation) is amended—

(1) by inserting ", or a motor carrier providing transportation of property other than household goods, or in non-contiguous domestic trade," after "rail carrier providing transportation" in subsection (a),

(2) by inserting "section 10101 or" before "section 10101a" in subsection (a)(1) and subsection (d),

(3) by inserting ", or a motor carrier providing transportation of property other than household goods, or in non-contiguous domestic trade," after "rail carrier" in subsection (f), and

(4) by striking out "or" in subsection (g), and inserting after "subtitle" the following: ", (3) to relieve a motor carrier of property or other person from the application or enforcement of the provisions of sections 10706, 10761, 10762, 10927, and 11707 of this title, or (4) to exempt a motor carrier of property from the application of, and compliance with, any law, rule, regulation, standard, or order pertaining to cargo loss and damage; insurance; antitrust immunity for joint line rates and routes, classification of commodities (including uniform packaging rules), uniform bills of lading, or standardized mileage guides; or safety fitness."

(b) DEFINITION.—Section 10102 (relating to definitions) is amended by redesignating paragraphs (18) through (31) as (19)

through (32), respectively, and by inserting after paragraph (17) the following:

“(18) ‘non-contiguous domestic trade’ means motor-water transportation subject to the jurisdiction of the Commission under chapter 105 of this title involving traffic originating in or destined to Alaska, Hawaii, or a territory or possession of the United States.”

(c) CLERICAL AMENDMENTS.—

(1) The caption of section 10505 is amended by inserting “and motor carrier” after “rail carrier”.

(2) The chapter analysis for chapter 105 is amended by inserting “and motor carrier” after “rail carrier” in the item relating to section 10505.

SEC. 206. TARIFF FILING.

(a) AUTHORITY TO ESTABLISH RATES.—Section 10702(b) (relating to authority for carriers to establish rates, classifications, rules, and practices) is amended by inserting “, except a motor contract carrier of property,” after “A contract carrier”.

(b) PROHIBITION OF TRANSPORTATION WITHOUT TARIFF.—Section 10761(a) (relating to transportation prohibited without tariff) is amended—

(1) by inserting “(excluding a motor common carrier providing transportation of property, other than household goods, under an individually determined rate, classification, rule, or practice, as defined in section 10102(13) or in noncontiguous domestic trade)” after “chapter 105 of this title”, and

(2) by striking out “That carrier” in the second sentence and inserting “A carrier subject to this subsection”,

(3) by inserting before the period at the end of the first sentence the following: “, except that a motor carrier of property the application of whose rates is determined or governed by a tariff on file with the Commission cannot collect its rates unless the carrier is a participant in those tariffs”, and

(4) by inserting before the period at the end of the second sentence the following: “, except that a motor carrier of property the application of whose rates are determined or governed by a tariff on file with the Commission shall issue a power of attorney to the tariff publishing agent of such tariff and, upon its acceptance, the agent shall issue a notice to the participating carrier certifying its continuing participation in such tariff, which certification shall be kept open for public inspection”.

(c) GENERAL TARIFF REQUIREMENT.—Section 10762(a) (relating to general tariff requirement) is amended—

(1) by inserting “(excluding a motor common carrier providing transportation of property, other than household goods, under an individually determined rate, classification, rule, or practice, as defined in section 10102(13), or in noncontiguous domestic trade)” after “A motor common carrier” in the second sentence of paragraph (1),

(2) by inserting “(excluding a motor common carrier providing transportation of property, other than household goods, under an individually determined rate, classification, rule, or practice, as defined in section 10102(13), or in noncontiguous domestic trade)” after “carriers” in the third sentence of paragraph (1),

(3) by striking the last sentence of paragraph (1) and inserting the following: "A motor contract carrier of property is not required to publish or file actual or minimum rates under this subtitle. Except as provided in the Negotiated Rates Act of 1993 and the amendments made by that Act, nothing in the Trucking Industry Regulatory Reform Act of 1994 (and the amendments made by that Act) creates any obligation for a shipper based solely on a rate that was on file with the Commission or elsewhere on the date of enactment of such Act.", and

(4) by adding at the end the following:

"(3) A motor common carrier of property (other than a motor common carrier providing transportation of household goods or in noncontiguous domestic trade) shall provide to the shipper, on request of the shipper, a written or electronic copy of the rate, classification, rules, and practices, upon which any rate agreed to between the shipper and carrier may have been based. When the applicability or reasonableness of the rates and related provisions billed by a motor common carrier is challenged by the person paying the freight charges, the Commission shall determine whether such rates and provisions are reasonable or applicable based on the record before it. In those cases where a motor common carrier (other than a motor common carrier providing transportation of household goods or in noncontiguous domestic trade) seeks to collect charges in addition to those billed and collected which are contested by the payor, the carrier may request that the Commission determine whether any additional charges over those billed and collected must be paid. A carrier must issue any bill for charges in addition to those originally billed within 180 days of the original bill in order to have the right to collect such charges.

"(4) If a shipper seeks to contest the charges originally billed, the shipper may request that the Commission determine whether the charges originally billed must be paid. A shipper must contest the original bill within 180 days in order to have the right to contest such charges.

"(5) Any tariff on file with the Commission on the date of enactment of the Trucking Industry Regulatory Reform Act of 1994 not required to be filed with the Commission after the enactment of that Act is null and void beginning on that date."

Termination
date.

(d) PROPOSED RATE CHANGES.—

(1) COMMON CARRIERS.—Section 10762(c)(1) (relating to proposed rate changes) is amended by inserting "(excluding a motor common carrier providing transportation of property other than household goods, under an individually determined rate, classification, rule, or practice defined in section 10102(13), or in a noncontiguous domestic trade)" after "common carrier".

(2) CONTRACT CARRIERS.—Section 10762(c)(2) (relating to proposed rate changes) is amended by inserting "(except a motor contract carrier of property)" after "contract carrier".

(e) EFFECT ON NEGOTIATED RATES ACT.—Section 10762 (relating to general tariff requirements) is amended by adding at the end thereof the following new subsection:

“(j) Nothing in this section shall affect the application of the provisions of the Negotiated Rates Act of 1993 (or the amendments made by that Act) to undercharge claims for transportation provided prior to the date of enactment of the Trucking Industry Regulatory Reform Act of 1994.”

(f) DEFINITION.—Section 10102 (relating to definitions) is amended—

(1) by redesignating paragraphs (13) through (32) as (14) through (33), and

(2) by inserting after paragraph (12) the following:

“(13) ‘individually determined rate, classification, rule, or practice’ means a rate, classification, rule, or practice established by—

“(A) a single motor common carrier for application to transportation that it can provide over its line; or

“(B) 2 or more interlining carriers without participation in an organization established or continued under an agreement approved under section 10706(b) for application to transportation that the interlining carriers can provide jointly over their lines.”.

SEC. 207. MOTOR COMMON CARRIER LICENSING.

(a) IN GENERAL.—Section 10922 (relating to certification of motor and water carriers) is amended—

(1) by redesignating subsections (b) through (l) as (c) through (m), respectively, and by inserting after subsection (a) the following new subsection:

“(b)(1) Except as provided in this section, the Commission shall issue a certificate to a person authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of property if the Commission finds that the person is able to comply with—

“(A) this subtitle, the regulations of the Commission, and any safety requirements imposed by the Commission,

“(B) the safety fitness requirements established by the Secretary of Transportation in consultation with the Commission under section 31144 of this title, and

“(C) the minimum financial responsibility requirements established by the Commission pursuant to section 10927 of this title.

“(2) In making a finding under paragraph (1), the Commission shall consider and, to the extent applicable, make findings on, any evidence demonstrating that the applicant is unable to comply with the requirements of subparagraph (A), (B), or (C) of that paragraph.

“(3) The Commission shall find any applicant for authority to operate as a motor carrier under this section to be unfit if the applicant does not meet the safety and safety fitness requirements under paragraph (1)(A) or (1)(B) of this subsection and shall deny the application.

“(4) A person may protest an application under this subsection to provide transportation only on the ground that the applicant fails or will fail to comply with this subtitle, the regulations of the Commission, the safety requirements of the Commission, or the safety fitness or minimum financial responsibility requirements of paragraph (1) of this subsection.”.

(b) PUBLIC CONVENIENCE AND NECESSITY.—Section 10922(c) (relating to public convenience and necessity) as redesignated by subsection (a), is amended—

(1) by striking “carrier of property” in paragraph (1) and inserting “carrier of household goods”,

(2) by striking paragraphs (4) and (6) and redesignating paragraphs (5), (7), (8), and (9) as (4), (5), (6), and (7), respectively,

(3) by striking “carrier holding authority under paragraph (4)(D) of this subsection” in paragraph (4) (as redesignated) and inserting “motor carrier providing transportation of shipments weighing 100 pounds or less transported in a motor vehicle in which no one package exceeds 100 pounds”,

(4) by striking “of property” in paragraph (5) (as redesignated) and inserting “of household goods”,

(5) by striking “of property” in paragraph (6) (as redesignated) and inserting “of household goods”, and

(6) by striking “Notwithstanding the provisions of paragraph (4) of this subsection, the provisions” in paragraph (7) (as redesignated) and inserting “The provisions”.

(c) CERTIFICATE SPECIFICATIONS.—Section 10922(f)(1) (relating to specifications for certificate), as redesignated by subsection (a) of this section, is amended by inserting “of household goods or passengers” after “motor common carrier”.

(d) PUBLIC CONVENIENCE AND NECESSITY.—Section 10922(h)(1) (relating to public convenience and necessity), as redesignated by subsection (a) of this section, is amended by inserting “of household goods or passengers” after “motor common carrier”.

SEC. 208. MOTOR CONTRACT CARRIER LICENSING.

(a) AUTHORITY TO ISSUE PERMITS.—Section 10923(a) (relating to authority to issue permits) is amended by inserting “of household goods or passengers” after “motor contract carrier”.

(b) MOTOR CONTRACT CARRIER PERMITS.—Section 10923 (relating to permits of motor and water contract carriers and household goods freight forwarders) is amended by redesignating subsections (b) through (e) as (c) through (f), respectively, and by inserting after subsection (a) the following new subsection:

“(b)(1) Except as provided in this section and section 10930 of this title, the Commission shall issue a permit to a person authorizing the person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor contract carrier of property other than household goods if the Commission finds that the person is able to comply with—

“(A) this subtitle, the regulations of the Commission, and any safety requirements imposed by the Commission,

“(B) the safety fitness requirements established by the Secretary of Transportation in consultation with the Commission pursuant to section 31144 of this title, and

“(C) the minimum financial responsibility requirements established by the Commission pursuant to section 10927 of this title.

“(2) In deciding whether to approve the application of a person for a permit as a motor contract carrier of property other than household goods the Commission shall consider any evidence demonstrating that the applicant is unable to comply with this subtitle,

the regulations of the Commission, safety requirements of the Commission, or the safety fitness and minimum financial responsibility requirements of subsection (b)(1).

“(3) The Commission shall find any applicant for authority to operate as a motor carrier of property other than household goods under this subsection to be unfit if the applicant does not meet the safety and safety fitness requirements of paragraph (1)(A) or (1)(B) of this subsection and shall deny the application.

“(4) A person may protest an application under this subsection to provide transportation only on the ground that the applicant fails or will fail to comply with this subtitle, the regulations of the Commission, safety requirements of the Commission, or the safety fitness or minimum financial responsibility requirements of paragraph (1).”

(c) APPLICATION FILING REQUIREMENTS.—Section 10923(c) (relating to application filing requirements), as redesignated by subsection (b) of this section, is amended—

(1) by striking “motor contract carrier of property” in paragraphs (3) and (4) and inserting “motor contract carrier of household goods”,

(2) by striking paragraph (5) and redesignating paragraphs (6) and (7) as (5) and (6), respectively, and

(3) by striking “motor contract carriers of property” in paragraph (5) (as redesignated) and inserting “motor contract carriers of household goods”.

(d) CONDITIONS OF TRANSPORTATION OR SERVICE.—Section 10923(e) (relating to conditions of transportation or service), as redesignated by subsection (b) of this section, is amended—

(1) by inserting “of passengers or household goods” after “contract carrier” in paragraph (1), and

(2) by striking “each person or class of persons (and, in the case of a motor contract carrier of passengers, the number of persons)” in paragraph (2) and inserting “in the case of a motor contract carrier of passengers, the number of persons,”.

SEC. 209. REVOCATION OF MOTOR CARRIER AUTHORITY.

Section 10925(d)(1) (relating to effective period of certificates, permits, and licenses) is amended—

(1) by striking “if a motor carrier or broker” in subparagraph (A) and inserting “if a motor carrier of passengers, motor common carrier of household goods, or broker”,

(2) by striking “and” at the end of subparagraph (A),

(3) by redesignating subparagraph (B) as (D) and inserting after subparagraph (A) the following new subparagraphs:

“(B) if a motor contract carrier of property, for failure to comply with safety requirements of the Commission or the safety fitness requirements pursuant to section 10701, 10924(e), 10927 (b) or (d), or 31144, of this title;

“(C) if a motor common carrier of property other than household goods, for failure to comply with safety requirements of the Commission or the safety fitness requirements pursuant to section 10701, 10702, 10924(e), 10927 (b) or (d), or 31144 of this title; and”.

SEC. 210. STUDY OF INTERSTATE COMMERCE COMMISSION FUNCTIONS.

(a) INTERSTATE COMMERCE COMMISSION REPORT.—The Interstate Commerce Commission shall prepare and submit to the Sec-

retary of Transportation and to each committee of the Congress having jurisdiction over legislation affecting the Commission a report identifying and analyzing all regulatory responsibilities of the Commission. The Commission shall make recommendations concerning specific statutory and regulatory functions of the Commission that could be eliminated or restructured. The Commission shall submit the report within 60 days after the date of enactment of this Act.

(b) **SECRETARY OF TRANSPORTATION STUDY.**—The Secretary of Transportation shall study the feasibility and efficiency of merging the Interstate Commerce Commission into the Department of Transportation as an independent agency, combining it with other Federal agencies, retaining the Interstate Commerce Commission in its present form, eliminating the agency and transferring all or some of its functions to the Department of Transportation or other Federal agencies, and other organizational changes that lead to government, transportation, or public interest efficiencies. The study shall consider the cost savings that might be achieved, the efficient allocation of resources, the elimination of unnecessary functions, and responsibility for regulatory functions. The Secretary shall solicit comments from the public with respect to both the Department's and the Commission's findings. The Secretary shall submit the results of such study together with any recommendations to the Congress within 4 months after the date of the submission of the Interstate Commerce Commission report required in subsection (a).

SEC. 211. LIMITATION ON STATE REGULATION OF INTRASTATE TRANSPORTATION OF PASSENGERS BY BUS.

(a) **IN GENERAL.**—Chapter 109 (relating to licensing) is amended by adding at the end thereof the following new section:

“§ 10936. Limitation on State regulation of intrastate passengers by bus

“A State or political subdivision of a State may not enforce any law or regulation relating to intrastate fares for the transportation of passengers by bus by an interstate motor carrier of passengers over a route authorized by the Commission.”.

(b) **CONFORMING AMENDMENTS.**—

(1) Section 10521(b)(1) is amended by inserting “10936,” after “10935.”.

(2) Section 11501(e) is amended—

(A) by striking all but paragraph (5),

(B) by redesignating paragraph (5) as subsection (e),

and

(C) by striking “paragraph” and inserting “subsection”.

(3) The table of sections for subchapter IV of chapter 109 is amended by adding at the end the following new item:
"10936. Limitation on State regulation of intrastate passengers by bus."

49 USC 10101
note.

SEC. 212. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect upon the enactment of this Act, except for sections 207 and 208, which shall take effect on January 1, 1995.

Approved August 26, 1994.

LEGISLATIVE HISTORY—H.R. 2178 (S. 1640):

HOUSE REPORTS: No. 103-336, Pt. 1 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 103-217 accompanying S. 1640 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 139 (1993): Nov. 21, considered and passed House.

Vol. 140 (1994): Aug. 11, considered and passed Senate, amended, in lieu of S. 1640.

Aug. 16, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):

Aug. 21, Presidential statement.