

*105 P.L. 178, *; 112 Stat. 107, **;
1998 Enacted H.R. 2400; 105 Enacted H.R. 2400*

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PROPERTIES INC.

PUBLIC LAW 105-178 [H.R. 2400]
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TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

105 P.L. 178; 112 Stat. 107; 1998 Enacted H.R. 2400; 105 Enacted H.R. 2400

Sec. 4014. SAFETY PERFORMANCE HISTORY OF NEW DRIVERS; LIMITATION ON LIABILITY.

(a) In General.--

(1) In general.-- Chapter 5 is amended by adding at the end the following:

[410]** 508 "Sec. 508. Safety performance history of new drivers; limitation on liability

"(a) Limitation on Liability.--No action or proceeding for defamation, invasion of privacy, or interference with a contract that is based on the furnishing or use of safety performance records in accordance with regulations issued by the Secretary may be brought against--

"(1) a motor carrier requesting the safety performance records of an individual under consideration for employment as a commercial motor vehicle driver as required by and in accordance with regulations issued by the Secretary;

"(2) a person who has complied with such a request; or

"(3) the agents or insurers of a person described in paragraph (1) or (2).

"(b) Restrictions on Applicability.--

"(1) Motor carrier requesting.-- Subsection (a) does not apply to a motor carrier requesting safety performance records unless--

"(A) the motor carrier and any agents of the motor carrier have complied with the regulations issued by the Secretary in using the records, including the requirement that the individual who is the subject of the records be afforded a reasonable opportunity to review and comment on the records;

"(B) the motor carrier and any agents and insurers of the motor carrier have taken all precautions reasonably necessary to protect the records from disclosure to any person, except for such an insurer, not directly involved in deciding whether to hire that individual; and

"(C) the motor carrier has used those records only to assess the safety performance of the individual who is the subject of those records in deciding whether to hire that individual.

"(2) Person complying with requests.-- Subsection (a) does not apply to a person complying with a request for safety performance records unless--

"(A) the complying person and any agents of the complying person have taken all precautions reasonably necessary to ensure the accuracy of the records and have complied with the regulations issued by the Secretary in furnishing the records, including the requirement that the individual who is the subject of the records be afforded a reasonable opportunity to review and comment on the records; and

"(B) the complying person and any agents and insurers of the complying person have taken all precautions reasonably necessary to protect the records from disclosure to any person, except for such an insurer, not directly involved in forwarding the records.

"(3) Persons knowingly furnishing false information.-- Subsection (a) does not apply to persons who knowingly furnish false information.

"(c) Preemption of State and Local Law.--No State or political subdivision thereof may enact, prescribe, issue, continue in effect, or enforce any law (including any regulation, standard, or other provision having the force and effect of law) that prohibits, **[**411]** penalizes, or imposes liability for furnishing or using safety performance records in accordance with regulations issued by the Secretary to carry out this section. Notwithstanding any provision of law, written authorization shall not be required to obtain information on the motor vehicle driving record of an individual under consideration for employment with a motor carrier."

(2) Conforming amendment.-- The analysis for chapter 5 is amended by inserting after the item relating to section 507 the following:

"508. Safety performance history of new drivers; limitation on liability."

(b) <[49 USC 508](#) note> Effective Date.--The amendments made by subsection (a) shall take effect on January 31, 1999.

(c) Safety Performance History of New Drivers.--

(1) Matters to be included.-- As part of the rulemaking that the Secretary is conducting under section 114 of the Hazardous Materials Transportation Authorization Act of 1994 (108 Stat. 1677-1678) to amend section 391.23 of title 49, Code of Federal Regulations (or successor regulations thereto), the Secretary shall amend such section 391.23 (in addition to the matters set forth in such section 114) to provide protection for driver privacy and to establish procedures for review, correction, and rebuttal of the safety performance records of a commercial motor vehicle driver.

(2) Completion.-- The rulemaking and the amendments referred to in paragraph (1) shall be completed by January 31, 1999.