

AMENDMENT

OFFERED BY MR. STAUBER OF MINNESOTA

At the end of subtitle D of title V, add the following:

1 **SEC. 53 ____ . MOTOR CARRIER SELECTION STANDARD OF**
2 **CARE.**

3 (a) SELECTION STANDARD.—

4 (1) IN GENERAL.—For any claim of negligent
5 selection of a motor carrier against a covered entity
6 with respect to the covered entity contracting with a
7 covered motor carrier for the shipment of goods or
8 household goods, the covered entity shall be consid-
9 ered reasonable and prudent in the selection of that
10 covered motor carrier if, not later than the date of
11 shipment and not earlier than 45 days before that
12 date, the covered entity verifies that the covered
13 motor carrier—

14 (A) is registered under section 13902 of
15 title 49, United States Code, as a motor carrier
16 or a household goods motor carrier;

17 (B) has at least the minimum insurance
18 coverage required by Federal and State law;
19 and

1 (C) has been confirmed by the Federal
2 Motor Carrier Safety Administration, including
3 through a public confirmation described in sub-
4 section (c)(1), to be in compliance with all re-
5 quired Federal Motor Carrier Safety Adminis-
6 tration safety standards to operate as a motor
7 carrier.

8 (2) SUNSET.—Paragraph (1) shall cease to be
9 effective on the effective date of a regulation promul-
10 gated under subsection (c)(1).

11 (b) PUBLIC CONFIRMATION.—The public confirma-
12 tion described in paragraph (1)(C) shall include 1 of the
13 following statements, depending on the status of the motor
14 carrier:

15 (1) “This motor carrier is confirmed to meet all
16 operating requirements of the Federal Motor Carrier
17 Safety Administration (FMCSA) and is authorized
18 to operate on the nation’s roadways.”.

19 (2) “This motor carrier is not confirmed to op-
20 erate on the nation’s roadways and fails to meet 1
21 or more requirements of the Federal Motor Carrier
22 Safety Administration (FMCSA) to operate as a
23 motor carrier.”.

24 (c) SAFETY FITNESS RULE.—

1 (1) RULEMAKING.—Not later than 1 year after
2 the date of enactment of this Act, the Secretary
3 shall promulgate final regulations amending appen-
4 dix B to part 385 of title 49, Code of Federal Regu-
5 lations (or a successor regulation), to revise the
6 methodology for issuance of motor carrier safety fit-
7 ness determinations.

8 (2) CONSIDERATIONS.—In promulgating the
9 regulations under paragraph (1), the Secretary shall
10 consider the use of all available data to determine
11 the fitness of a motor carrier.

12 (3) FACTORS FOR AN UNFIT DETERMINA-
13 TION.—The regulations promulgated under para-
14 graph (1) shall provide a procedure for the Secretary
15 to determine whether a motor carrier is not fit to
16 operate a commercial motor vehicle in or affecting
17 interstate commerce in accordance with section
18 31144 of title 49, United States Code.

19 (4) REQUIREMENT.—The regulations promul-
20 gated under paragraph (1) shall include the require-
21 ments described in subsections (a)(1) and (b).

22 (d) EXEMPTION FOR INDIVIDUAL SHIPPERS.—For
23 any claim of negligent selection of a motor carrier against
24 a person acting as an individual shipper with respect to
25 that person contracting with a covered motor carrier for

1 the shipment of goods or household goods, that person
2 shall, on demonstration that the person contracted with
3 a covered motor carrier, be considered reasonable and pru-
4 dent in the selection of that covered motor carrier without
5 having to satisfy any of the requirements described in sub-
6 section (a)(1) (or any similar requirement in the regula-
7 tions promulgated under subsection (c)(1)).

8 (e) SAVINGS CLAUSE.—Nothing in this Act preempts
9 or supersedes any State law (including regulations) relat-
10 ing to drayage.

11 (f) DEFINITIONS.—In this section:

12 (1) COVERED ENTITY.—

13 (A) IN GENERAL.—The term “covered en-
14 tity” means a person acting as—

15 (i) except as provided in subparagraph

16 (B), a shipper or consignee of goods;

17 (ii) a broker, a freight forwarder, or a
18 household goods freight forwarder (as
19 those terms are defined in section 13102
20 of title 49, United States Code);

21 (iii) an ocean transportation inter-
22 mediary (as defined in section 40102 of
23 title 46, United States Code), when ar-
24 ranging for inland transportation as part
25 of an international through movement in-

1 volving ocean transportation between the
2 United States and a foreign port;

3 (iv) an indirect air carrier holding a
4 Standard Security Program approved by
5 the Transportation Security Administra-
6 tion, only to the extent that the person act-
7 ing as an indirect air carrier is engaging
8 in—

9 (I) activities as an air carrier (as
10 defined in section 40102 of title 49,
11 United States Code); or

12 (II) air commerce (as defined in
13 that section);

14 (v) a customs broker licensed in ac-
15 cordance with section 111.2 of title 19,
16 Code of Federal Regulations (or a suc-
17 cessor regulation), only to the extent that
18 the person acting as a customs broker is
19 engaging in—

20 (I) a movement under a customs
21 bond; or

22 (II) a transaction involving cus-
23 toms business (as defined in section
24 111.1 of that title (or a successor reg-
25 ulation)); or

1 (vi) a motor carrier registered under
2 chapter 139 of title 49, United States
3 Code.

4 (B) EXCLUSION.—The term “covered enti-
5 ty” does not include a person acting as an indi-
6 vidual shipper.

7 (2) COVERED MOTOR CARRIER.—The term
8 “covered motor carrier” means a motor carrier or a
9 household goods motor carrier that is subject to
10 Federal motor carrier financial responsibility and
11 safety regulations, except for motor carriers that op-
12 erate commercial motor vehicles of passengers, as
13 defined in section 31101(1)(B) of 49, United States
14 Code.

15 (3) HOUSEHOLD GOODS.—The term “household
16 goods” has the meaning given the term in section
17 13102 of title 49, United States Code.

18 (4) HOUSEHOLD GOODS MOTOR CARRIER.—The
19 term “household goods motor carrier” has the mean-
20 ing given the term in section 13102 of title 49,
21 United States Code.

22 (5) INDIVIDUAL SHIPPER.—The term “indi-
23 vidual shipper” has the meaning given the term in
24 section 13102 of title 49, United States Code.

1 (6) MOTOR CARRIER.—The term “motor car-
2 rier” has the meaning given the term in section
3 13102 of title 49, United States Code, except for
4 motor carriers that operate commercial motor vehi-
5 cles of passengers, as defined in section 31101(1)(B)
6 of 49, United States Code.

7 (7) SECRETARY.—The term “Secretary” means
8 the Secretary of Transportation.

