

Public Law 101-500
101st Congress

An Act

To prohibit certain food transportation practices and to provide for regulation by the Secretary of Transportation that will safeguard food and certain other products from contamination during motor or rail transportation, and for other purposes.

Nov. 3, 1990
[H.R. 3386]

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Sanitary Food Transportation Act of 1990”.

Sanitary Food
Transportation
Act of 1990.
49 USC app.
2801 note.

SEC. 2. FINDINGS.

49 USC app.
2801.

Congress finds that—

(1) Americans are entitled to receive food and other consumer products that are not made unsafe as a result of certain transportation practices;

(2) the American public is threatened by the transportation of products potentially harmful to consumers in motor vehicles and rail vehicles which are used to transport food and other consumer products; and

(3) the risks posed to consumers by such transportation practices are unnecessary, and such practices must be terminated.

SEC. 3. DEFINITIONS.

49 USC app.
2802.

As used in this Act—

(1) **Food, food additives, drugs, devices, or cosmetics.**—The terms “food”, “food additives”, “drugs”, “devices”, and “cosmetics” have the meanings given to them by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(2) **Nonfood product.**—The term “nonfood product” means any material, substance, or product (including refuse and solid waste, as such term is defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)) which (except as provided under section 4(a)(2)) is not a food, food additive, drug, device, or cosmetic. Such term includes any class of such materials, substances, or products.

(3) **Refuse.**—The term “refuse” means any discarded material to be transported to or disposed of in a landfill or incinerator, or required by law to be transported to or disposed of in a landfill or incinerator.

(4) **Secretary.**—The term “Secretary” means the Secretary of Transportation.

(5) **State.**—The term “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, and any other territory or possession of the United States.

(6) TRANSPORTS OR TRANSPORTATION.—The term “transports” or “transportation” means any movement of property in commerce (including intrastate commerce) by motor vehicle or rail vehicle.

(7) UNITED STATES.—The term “United States” means all of the States.

49 USC app.
2803.

SEC. 4. REGULATIONS.

(a) IN GENERAL.—

(1) RESPONSIBILITY OF SECRETARY.—In accordance with this Act, the Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, shall issue regulations, pursuant to a rulemaking proceeding, with respect to the transportation of food, food additives, drugs, devices, and cosmetics in motor vehicles and rail vehicles which are used to transport either refuse or other nonfood products which, when so transported, would make such food, food additives, drugs, devices, or cosmetics unsafe to the health of humans or animals.

(2) TREATMENT AS NONFOOD PRODUCTS.—If a drug, device, or cosmetic is transported in a motor or rail vehicle at the same time or before a food or food additive is transported in such vehicle, the Secretary shall treat such drug, device, or cosmetic as a nonfood product if such transportation would make such food or food additive unsafe to the health of humans or animals.

(b) SPECIAL REQUIREMENTS.—In issuing regulations under subsection (a)(1), the Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, shall establish standards, requirements, and other provisions relating to—

(1) appropriate recordkeeping, identification, marking, certification, or other means of verification required to promote compliance with the requirements of sections 5, 6, and 7;

(2) appropriate decontamination, removal, disposal, and isolation standards with respect to regulations implementing sections 5 and 6; and

(3) appropriate materials for construction of tank trucks, rail tank cars, cargo tanks, and accessory equipment to comply with regulations implementing section 5.

(c) CONSIDERATIONS.—In issuing regulations under subsection (a)(1), the Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, shall consider each of the following and may establish standards, requirements, or other provisions relating to any or all of the following:

(1) The extent to which packaging or similar means of protecting and isolating commodities are adequate to ameliorate or eliminate the potential risks of transporting food, food additives, drugs, devices, or cosmetics in motor vehicles or rail vehicles used to transport nonfood products. If packaging standards are found to be adequate by the Secretary, regulations issued under subsection (a)(1) shall not apply to food, food additives, drugs, devices, or cosmetics or nonfood products which are packaged in packages which meet such standards.

(2) Appropriate compliance and enforcement measures for carrying out this Act.

(3) Appropriate minimum insurance or other liability requirements for any person covered by this Act.

(d) DEADLINES.—The rulemaking proceeding referred to in subsection (a)(1) shall be initiated within 30 days after the date of enactment of this Act. The regulations referred to in subsection (a)(1) shall be issued within 270 days after such date of enactment.

SEC. 5. TANK TRUCKS, RAIL TANK CARS, AND CARGO TANKS.

49 USC app.
2804.

(a) PROHIBITION.—At a minimum, the regulations issued under section 4(a)(1) shall prohibit any person from using, offering for use, or arranging for the use of a tank truck, rail tank car, or cargo tank used in motor vehicle transportation or rail transportation of food, food additives, drugs, devices, or cosmetics, if such tank truck, rail tank car, or cargo tank is used to transport a nonfood product (other than any nonfood product which is included on a list published under subsection (b)).

(b) LIST OF ACCEPTABLE NONFOOD PRODUCTS.—The Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, shall publish in the Federal Register a list of nonfood products which the Secretary has determined do not make food, food additives, drugs, devices, or cosmetics unsafe to the health of humans or animals as a result of transportation in a tank truck, rail tank car, or cargo tank which is used to transport food, food additives, drugs, devices, or cosmetics. The Secretary may periodically amend such list by publication in the Federal Register.

Federal
Register,
publication.

(c) IDENTIFICATION.—The regulations issued under section 4(a)(1) shall, at a minimum, provide that—

(1) no person shall use, offer for use, or arrange for the use of a tank truck or a cargo tank to provide motor vehicle transportation of only food, food additives, drugs, devices, or cosmetics or nonfood products which are included on the list published under subsection (b) unless such tank truck or cargo tank is identified, by a permanent marking on such tank truck or cargo tank, as transporting such food, food additives, drugs, devices, or cosmetics or nonfood products;

(2) no person shall use, offer for use, or arrange for the use of a tank truck or a cargo tank to provide motor vehicle transportation of a nonfood product which is not included on the list published under subsection (b) if such tank truck or cargo tank is identified pursuant to paragraph (1) as a tank truck or cargo tank transporting only food, food additives, drugs, devices, or cosmetics and nonfood products included on such a list; and

(3) no person shall receive, except for lawful disposal purposes, any food, food additive, drug, device, or cosmetic or nonfood product which has been transported in a tank truck or cargo tank in violation of paragraph (1) or (2).

(d) DISCLOSURE.—Any person who arranges for the use of a tank truck or a cargo tank used in motor vehicle transportation for the transportation of a food, food additive, drug, device, or cosmetic or nonfood product shall in making such arrangement disclose to the motor carrier or other appropriate person if the food, food additive, drug, device, or cosmetic or nonfood product being transported is to be used—

(1) as, or in the preparation of, a food or food additive, or

(2) as a nonfood product which is included in the list published under subsection (b).

49 USC app.
2805.

Federal
Register,
publication.

49 USC app.
2806.

Federal
Register,
publication.

49 USC app.
2807.

SEC. 6. MOTOR AND RAIL TRANSPORTATION OF NONFOOD PRODUCTS.

(a) **PROHIBITION.**—At a minimum, the regulations issued under section 4(a)(1) shall prohibit any person from using, offering for use, or arranging for the use of a motor vehicle or a rail vehicle, other than a tank truck, rail tank car, or cargo tank described in section 5, to provide transportation of food, food additives, drugs, devices, or cosmetics, if such vehicle is used to transport nonfood products included on a list published under subsection (b).

(b) **LIST OF UNACCEPTABLE NONFOOD PRODUCTS.**—

(1) **PUBLICATION.**—The Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, shall publish in the Federal Register a list of nonfood products which the Secretary has determined would make food, food additives, drugs, devices, or cosmetics unsafe to the health of humans or animals as a result of transportation in a motor vehicle or rail vehicle which is used to transport food, food additives, drugs, devices, or cosmetics. The Secretary may periodically amend the list by publication in the Federal Register.

(2) **CARDBOARD, PALLETS, BEVERAGE CONTAINERS, AND OTHER FOOD PACKAGING.**—The list published under paragraph (1) shall not include cardboard, pallets, beverage containers, and other food packaging except to the extent the Secretary determines that the transportation of cardboard, pallets, beverage containers, or other food packaging in a motor vehicle or rail vehicle which is used to transport food, food additives, drugs, devices, or cosmetics would make the food, food additives, drugs, devices, or cosmetics unsafe to the health of humans or animals.

SEC. 7. DEDICATED VEHICLES.

At a minimum, the regulations issued under section 4(a)(1) shall prohibit any person from using, offering for use, or arranging for the use of a motor vehicle or rail vehicle to provide transportation of asbestos, in forms or quantities determined by the Secretary to be necessary, or of products which present an extreme danger to human or animal health, despite any decontamination, removal, disposal, packaging, or other isolation procedures, unless such motor vehicle or rail vehicle is used only to provide transportation of one or more of the following: asbestos, such extremely dangerous products, refuse. The Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, shall publish in the Federal Register a list of the products covered by this section. The Secretary may periodically amend such list by publication in the Federal Register.

SEC. 8. WAIVER AUTHORITY.

The Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, may waive, in whole or in part, application of any provision of this Act or any regulations issued under this Act with respect to any class of persons, class of motor vehicles, class of rail vehicles, class of food, food additives, drugs, devices, or cosmetics, class of refuse, or class of nonfood products, if the Secretary determines that such waiver would not result in transportation of food, food additives, drugs,

devices, or cosmetics that would be unsafe to human or animal health and otherwise is not contrary to the public interest and this Act. Any waiver under this section shall be published in the Federal Register, together with the reasons for such waiver.

Federal
Register,
publication.
49 USC app.
2808.

SEC. 9. FOOD TRANSPORTATION INSPECTIONS.

(a) **INSPECTION AUTHORITY.**—With respect to commercial motor vehicles, the Secretary may carry out the requirements of this Act and assist in carrying out compatible State laws and regulations through means that include inspections conducted by State employees which are funded with money authorized under sections 402 through 404 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2302-2304) to carry out the motor carrier safety assistance program, if the recipient States agree to assist in the enforcement of this Act or are enforcing compatible State laws and regulations.

(b) **ASSISTANCE OF OTHER AGENCIES.**—Upon request by the Secretary, the Secretary of Agriculture, the Secretary of Health and Human Services, the Administrator of the Environmental Protection Agency, and the heads of other appropriate Federal agencies shall provide assistance, to the extent such assistance is available, to the Secretary for the purpose of carrying out this Act, including assistance in the training of personnel under a program established under subsection (c).

(c) **TRAINING PROGRAM.**—The Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, the Administrator of the Environmental Protection Agency, and the heads of appropriate State transportation and food safety agencies, shall develop and carry out a training program for inspectors to conduct vigorous enforcement of this Act and regulations issued under this Act or compatible State laws and regulations. As part of such training program, the inspectors, including State inspectors or personnel paid with funds under the motor carrier safety assistance program, shall be trained in the recognition of adulteration problems associated with the transportation of food, food additives, drugs, devices, and cosmetics and in the procedures for securing the assistance of the appropriate Federal and State agencies to support such enforcement.

SEC. 10. POWERS AND DUTIES OF THE SECRETARY.

49 USC app.
2809.

The Secretary shall have the same powers, duties, and authorities under this Act with respect to transportation regulated under this Act as the Secretary has under section 109 (other than subsections (c)(1), (d), and (e) of such section) of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801 et seq.) with respect to transportation regulated under such Act.

SEC. 11. VIOLATIONS, PENALTIES, AND SPECIFIC RELIEF.

49 USC app.
2810.

(a) **VIOLATIONS, PENALTIES.**—Civil and criminal violations of regulations or orders issued under this Act shall be determined, and civil and criminal penalties for such violations shall be imposed, in the same manner and to the same extent that violations are determined and penalties are imposed under section 110 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1809).

(b) **EQUITABLE RELIEF.**—The Secretary shall request equitable relief and take action to eliminate or ameliorate an imminent hazard with respect to any violation of regulations issued under this

Act, or of an order issued under this Act, in the same manner and to the same extent that the Secretary is authorized to take under section 111 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1810).

Indians.
49 USC app.
2811.

SEC. 12. RELATIONSHIP TO OTHER LAWS.

The provisions of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801 et seq.) relating to the relationship of that Act to a law, regulation, order, ruling, provision, or other requirement of a State or political subdivision thereof or of an Indian tribe shall apply with respect to the relationship of this Act to a law, regulation, order, ruling, provision, or other requirement of a State or political subdivision thereof or of an Indian tribe which concerns a subject covered under this Act.

49 USC app.
2812.

SEC. 13. COORDINATION PROCEDURES.

Not later than 1 year after the date of enactment of this Act, the Secretary, after consultation with appropriate State officials, shall establish procedures to promote more effective coordination between the agencies of the United States and agencies of the States with regulatory authority over motor carrier safety and railroad safety with respect to implementation and enforcement of this Act.

Effective dates.
49 USC app.
2801 note.

SEC. 14. APPLICABILITY.

This Act shall take effect on the date of enactment of this Act, except that sections 11 and 12 shall only apply to transportation occurring on or after the date that regulations issued under section 4(a)(1) take effect.

Motor Carrier
Safety Act of
1990.
49 USC app.
2501 note.

SEC. 15. MOTOR CARRIER SAFETY.

(a) **SHORT TITLE.**—This section may be cited as the "Motor Carrier Safety Act of 1990".

(b) **MOTOR CARRIER SAFETY RATINGS.**—

(1) **AMENDMENT.**—The Hazardous Materials Transportation Act (49 U.S.C. App. 1801 et seq.) is amended by adding at the end the following new section:

"SEC. 117. UNSATISFACTORY SAFETY RATINGS.

"(a) **PROHIBITION ON TRANSPORTATION.**—Effective January 1, 1991, if a motor carrier receives a safety rating from the Secretary which is unsatisfactory, such motor carrier shall have 45 days to take such action as may be necessary to improve such safety rating to conditional or satisfactory. After the last day of such 45-day period, if such motor carrier has not received a safety rating from the Secretary which is conditional or satisfactory, such motor carrier shall not operate a commercial motor vehicle (as defined in section 204(1) of the Motor Carrier Safety Act of 1984)—

"(1) to provide transportation of hazardous materials for which placarding of motor vehicles is required in accordance with the regulations issued under this title, or

"(2) to transport more than 15 passengers, including the driver, until such motor carrier has received such a safety rating from the Secretary.

"(b) **REVIEW OF RATING.**—If a motor carrier who has received an unsatisfactory safety rating from the Secretary requests the Secretary to review the conditions and other factors which resulted in such motor carrier receiving the unsatisfactory safety rating, the

49 USC app.
1814.

Secretary shall conduct such review within 30 days after the date of such request.

“(c) PROHIBITION ON FEDERAL AGENCY USE.—No Federal agency may use a motor carrier who has an unsatisfactory safety rating from the Secretary—

“(1) to provide transportation of hazardous materials for which placarding of motor vehicles is required in accordance with the regulations issued under this title, or

“(2) to transport more than 15 passengers, including the driver.”.

“(2) PUBLIC AVAILABILITY OF SAFETY RATINGS.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Interstate Commerce Commission, shall issue a final rule amending the Federal motor carrier safety regulations contained in subchapter B of chapter III of title 49, Code of Federal Regulations, to establish a system to make readily available to the public, and to periodically update, the safety ratings of motor carriers which have been assigned unsatisfactory safety ratings by the Secretary.

Regulations.

(c) IMMINENT HAZARDS TO SAFETY.—Not later than January 1 of 1992 and 1993, the Secretary shall submit to Congress a report describing the actions taken under section 521(b)(5) of title 49, United States Code, with respect to any violation, or combination of violations, that poses an imminent hazard to safety.

Reports.

(d) PROCEDURES TO ENSURE TIMELY CORRECTION OF SAFETY VIOLATIONS.—

(1) ISSUANCE OF FINAL RULE.—The Secretary shall, within 9 months after the date of enactment of this Act, issue a final rule establishing procedures to ensure the proper and timely correction of commercial motor vehicle safety violations noted during inspections funded with moneys authorized under section 404 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2304) to carry out the motor carrier safety assistance program.

(2) VERIFICATION PROGRAM.—Such final rule shall establish a verification program for Federal inspectors and States which are participating in the motor carrier safety assistance program to ensure that commercial motor vehicles and operators thereof found in violation of safety requirements have subsequently been brought into compliance with such safety requirements. The final rule shall, among other things, institute—

(A) a nationwide system for random reinspection of the commercial motor vehicles and operators thereof that have been declared out-of-service as a result of such safety violations, the main purpose of which system shall be to verify that the violations have been corrected on a timely basis;

(B) a program of accountability for correcting all safety violations, which shall provide that—

(i) the operator of a commercial motor vehicle for which a safety violation has been noted shall be issued a form prescribed by the Secretary;

(ii) the making of the repairs necessary to correct such violation and the date, location, and time of such repairs shall be certified on such form by the person making such repairs;

(iii) the motor carrier responsible for such commercial motor vehicle or operator shall certify on such

form that, based on the knowledge of the carrier, the repairs necessary to correct such violation have been made; and

(iv) appropriate State penalties shall be assessed for false statements on such forms or for failure to return such forms to the appropriate State entity; and

(C) a system for ensuring that appropriate State penalties are assessed for failure to correct any such safety violation.

(e) SERIOUS SAFETY VIOLATIONS.—

(1) FINDINGS.—Congress finds that—

(A) the present system for ensuring compliance with Federal motor carrier safety laws and regulations needs improvement;

(B) relying primarily upon voluntary compliance methods has not resulted in an acceptable level of commercial motor vehicle safety; and

(C) improvements in the existing enforcement authorities are required to bring about greater safety.

(2) OPERATIONAL PROCEDURES.—In light of the findings in paragraph (1), section 521(b)(1) of title 49, United States Code, is amended—

(A) by redesignating the existing text as subparagraph (A); and

(B) by adding at the end the following new subparagraph:

“(B) The Secretary shall, not later than 60 days after the date of enactment of this subparagraph, establish operational procedures to require a highway safety specialist or other appropriate representative of the Secretary to initiate, at the time of a safety review, compliance review, or other inspection or audit activity, or within a reasonable time thereafter, an enforcement action whenever any of the offenses referred to in paragraph (2) (A) and (B) can be documented, except recordkeeping violations not specified by the Secretary as serious. The procedures shall—

“(i) specify those serious recordkeeping violations for which an enforcement action shall be initiated, including instances in which the falsification of records of duty status or drivers' medical certificates is required or permitted, and such other recordkeeping violations as the Secretary determines to be serious; and

“(ii) authorize, but not require, initiation of an enforcement action for recordkeeping violations not specified by the Secretary as serious.”.

(f) TRUCK VISIBILITY.—

(1) INITIATION OF RULEMAKING PROCEEDING.—Not later than 90 days after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding on the need to adopt methods for making trucks or any category of trucks more visible to motorists so as to reduce accidents, particularly at night, taking into consideration such factors as truck illumination and truck color.

(2) COMPLETION OF PROCEEDING.—The proceeding under this subsection shall be completed not later than 2 years after the date of enactment of this Act or, if the Secretary determines that it is not feasible to complete the proceeding within such 2-year period, such proceeding may be extended by the Secretary for up to 1 additional year.

(g) DEFINITIONS.—As used in this section—

Records.

(1) COMMERCIAL MOTOR VEHICLE.—The term “commercial motor vehicle” has the meaning given such term in section 204(1) of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2503(1)).

(2) TRUCK.—The term “truck” means a commercial motor vehicle that meets the description set forth in section 204(1) (A) or (C) of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2503(1) (A) or (C)).

Approved November 3, 1990.

LEGISLATIVE HISTORY—H.R. 3386 (S. 2393):

HOUSE REPORTS: No. 101-390 Pt. 1 (Comm. on Public Works and Transportation) and Pt. 2 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 101-332 accompanying S. 2393 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 136 (1990):

Mar. 27, considered and passed House.

Sept. 20, considered and passed Senate, amended, in lieu of S. 2393.

Oct. 15, House concurred in Senate amendment with amendments.

Oct. 19, Senate concurred in House amendments.