

118TH CONGRESS  
1ST SESSION

# S. 2426

To establish a national motor carrier safety selection standard for entities that contract with certain motor carriers to transport goods, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 20, 2023

Mrs. FISCHER (for herself and Mr. CRAPO) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To establish a national motor carrier safety selection standard for entities that contract with certain motor carriers to transport goods, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Motor Carrier Safety  
5 Selection Standard Act of 2023”.

6 **SEC. 2. MOTOR CARRIER SELECTION STANDARD OF CARE.**

7 (a) DEFINITIONS.—In this section:

8 (1) COVERED ENTITY.—

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

3 (i) except as provided in subparagraph  
4 (B), a shipper or consignee of goods;

5 (ii) a broker, a freight forwarder, or a  
6 household goods freight forwarder (as  
7 those terms are defined in section 13102  
8 of title 49, United States Code);

9 (iii) an ocean transportation inter-  
10 mediary (as defined in section 40102 of  
11 title 46, United States Code), when ar-  
12 ranging for inland transportation as part  
13 of an international through movement in-  
14 volving ocean transportation between the  
15 United States and a foreign port;

16 (iv) an indirect air carrier holding a  
17 Standard Security Program approved by  
18 the Transportation Security Administra-  
19 tion, only to the extent that the person act-  
20 ing as an indirect air carrier is engaging  
21 in—

22 (I) activities as an air carrier (as  
23 defined in section 40102 of title 49,  
24 United States Code); or

1 (II) air commerce (as defined in  
2 that section);

3 (v) a customs broker licensed in ac-  
4 cordance with section 111.2 of title 19,  
5 Code of Federal Regulations (or a suc-  
6 cessor regulation), only to the extent that  
7 the person acting as a customs broker is  
8 engaging in—

9 (I) a movement under a customs  
10 bond; or

11 (II) a transaction involving cus-  
12 toms business (as defined in section  
13 111.1 of that title (or a successor reg-  
14 ulation)); or

15 (vi) a motor carrier registered under  
16 chapter 139 of title 49, United States  
17 Code.

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

21 (2) COVERED MOTOR CARRIER.—The term  
22 “covered motor carrier” means a motor carrier or a  
23 household goods motor carrier that is subject to  
24 Federal motor carrier financial responsibility and  
25 safety regulations.

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

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

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

11          (6) MOTOR CARRIER.—The term “motor car-  
12 rier” has the meaning given the term in section  
13 13102 of title 49, United States Code.

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

16          (b) SELECTION STANDARD.—

17           (1) IN GENERAL.—For any claim of negligent  
18 selection of a motor carrier against a covered entity  
19 with respect to the covered entity contracting with a  
20 covered motor carrier for the shipment of goods or  
21 household goods, the covered entity shall be consid-  
22 ered reasonable and prudent in the selection of that  
23 covered motor carrier if, not later than the date of  
24 shipment and not earlier than 45 days before that

1 date, the covered entity verifies that the covered  
2 motor carrier—

3 (A) is registered under section 13902 of  
4 title 49, United States Code, as a motor carrier  
5 or a household goods motor carrier;

6 (B) has at least the minimum insurance  
7 coverage required by Federal and State law;  
8 and

9 (C) has been confirmed by the Federal  
10 Motor Carrier Safety Administration, including  
11 through a public confirmation described in sub-  
12 section (c)(1), to be in compliance with all re-  
13 quired Federal Motor Carrier Safety Adminis-  
14 tration safety standards to operate as a motor  
15 carrier.

16 (2) SUNSET.—Paragraph (1) shall cease to be  
17 effective on the effective date of a regulation promul-  
18 gated under subsection (d)(1).

19 (c) PUBLIC CONFIRMATION.—The public confirma-  
20 tion described in paragraph (1)(C) shall include 1 of the  
21 following statements, depending on the status of the motor  
22 carrier:

23 (1) “This motor carrier is confirmed to meet all  
24 operating requirements of the Federal Motor Carrier

1 Safety Administration (FMCSA) and is authorized  
2 to operate on the nation’s roadways.”.

3 (2) “This motor carrier is not confirmed to op-  
4 erate on the nation’s roadways and fails to meet 1  
5 or more requirements of the Federal Motor Carrier  
6 Safety Administration (FMCSA) to operate as a  
7 motor carrier.”.

8 (d) SAFETY FITNESS RULE.—

9 (1) RULEMAKING.—Not later than 1 year after  
10 the date of enactment of this Act, the Secretary  
11 shall promulgate final regulations amending appen-  
12 dix B to part 385 of title 49, Code of Federal Regu-  
13 lations (or a successor regulation), to revise the  
14 methodology for issuance of motor carrier safety fit-  
15 ness determinations.

16 (2) CONSIDERATIONS.—In promulgating the  
17 regulations under paragraph (1), the Secretary shall  
18 consider the use of all available data to determine  
19 the fitness of a motor carrier.

20 (3) FACTORS FOR AN UNFIT DETERMINA-  
21 TION.—The regulations promulgated under para-  
22 graph (1) shall provide a procedure for the Secretary  
23 to determine whether a motor carrier is not fit to  
24 operate a commercial motor vehicle in or affecting

1 interstate commerce in accordance with section  
2 31144 of title 49, United States Code.

3 (4) REQUIREMENT.—The regulations promul-  
4 gated under paragraph (1) shall include the require-  
5 ments described in subsections (b)(1) and (c).

6 (e) EXEMPTION FOR INDIVIDUAL SHIPPERS.—For  
7 any claim of negligent selection of a motor carrier against  
8 a person acting as an individual shipper with respect to  
9 that person contracting with a covered motor carrier for  
10 the shipment of goods or household goods, that person  
11 shall, on demonstration that the person contracted with  
12 a covered motor carrier, be considered reasonable and pru-  
13 dent in the selection of that covered motor carrier without  
14 having to satisfy any of the requirements described in sub-  
15 section (b)(1) (or any similar requirement in the regula-  
16 tions promulgated under subsection (d)(1)).

17 (f) SAVINGS CLAUSE.—Nothing in this Act preempts  
18 or supersedes any State law (including regulations) relat-  
19 ing to drayage.

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