

Infrastructure Investment and Jobs Act: Motor Carrier Safety Provisions' Impact on Employers

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The Motor Carrier Safety provisions in the \$1.2 trillion [Infrastructure Investment and Jobs Act](#) (IIJA) will impose new obligations on employers and require new studies that, in turn, could lead to additional legislation.

President Joe Biden signed the IIJA on November 15, 2021, as the manufacturing industry continues to be severely affected by delays in getting raw materials and products moved by truck and intermodal transportation. A few weeks before enactment of IIJA, Transportation Secretary Pete Buttigieg told CNN that passage of IIJA was essential to address these concerns. He also said, "... we need to deal with these long-term issues that have made us vulnerable to these kinds of bottlenecks when there are demand fluctuations, shocks and disruptions like the ones that have been caused by the pandemic."

CNN also reported that federal government officials are "working with state Departments of Motor Vehicles to help increase the issuance of Commercial Drivers Licenses in an effort to boost the number of truck drivers in the country." That labor shortage has exacerbated the delays in delivery of goods to manufacturers and consumers. Employers in the manufacturing and transportation industries should take note of the IIJA's provisions on Motor Carrier Safety.

Apprenticeship Pilot Program

The Apprenticeship Pilot Program responds in large part to concerns over acute labor shortages in the trucking industry. Section 23022 of the IIJA directs a pilot program be developed by January 14, 2022, that allows employers to establish an apprenticeship program for 18- to 20-year-old drivers (who already hold commercial driver's licenses) to drive as long-haul truckers.

Among other requirements, the apprentice drivers may only drive a commercial motor vehicle that includes an active braking collision mitigation system, a forward-facing video capture system, and a governed speed of 65 miles per hour. The program requires that the apprentice be accompanied in the passenger seat of the vehicle by an experienced driver.

The Department of Transportation will evaluate pertinent safety records of the program's drivers and report findings to Congress in three years.

Women of Trucking Advisory Board

The new IIJA provisions mandate formation of a Women of Trucking Advisory Board to encourage women to enter the field of trucking and to review and report on policies that provide education, training, mentorship, and outreach to women in the trucking industry and recruit, retain, and advance women in the trucking industry (Section 23017).

Other IIJA provisions address longer-term improvements in the trucking industry.

New and Enhanced Equipment

In terms of new equipment requirements, under IIJA Section 23010, the Secretary of Transportation will study and may mandate a motor vehicle safety standard. The standard would require any commercial motor vehicle meeting the provision's criteria, and manufactured after the effective date of the standard, to be equipped with an automatic emergency braking system.

Further, Section 23011 strengthens requirements on trailer underride guards. In part, the provision requires promulgation of regulations for trailers and semi-trailers manufactured after the operative date to be equipped with rear impact guards that are designed to prevent passenger compartment intrusion from a trailer or semi-trailer when a passenger motor vehicle is traveling 35 miles per hour under certain conditions. It also requires the Secretary of Transportation to conduct additional research on the design and development of rear impact guards that can prevent underride crashes and protect passengers in a passenger motor vehicle when that vehicle is traveling at higher speeds, up to 65 miles per hour. Section 23011 also requires formation of an Advisory Committee on Underride Protection.

This section also calls for research on the effectiveness and impact of *side* underride guards to better understand their overall effectiveness and “assess the feasibility, benefits, and costs of, and any impacts on intermodal equipment, freight mobility (including port operation), and freight capacity associated with installing side underride guards on newly manufactured trailers and semitrailers with a gross vehicle weight rating of 10,000 pounds or more.”

The Motor Carrier Safety provisions also require oversight of electronic logging devices (Section 23017). This requires a report be submitted to Congress analyzing the cost and effectiveness of electronic logging devices and detailing the processes (1) used by the Federal Motor Carrier Safety Administration (FMCSA) to review electronic device logs and protect proprietary and personally identifiable information obtained from devices; and (2) through which an operator may challenge or appeal a violation notice issued by FMCSA related to such an electronic logging device.

Study of Commercial Motor Vehicle Crash Causation

Employers in the trucking industry know the significance of and potential difficulties associated with crash investigations. Under Section 23006 of the IIJA, the Secretary of Transportation will conduct a comprehensive study to determine the causes of and contributing factors to crashes involving commercial motor vehicles and to “identify data requirements, data collection procedures, reports, and any other measures that can be used to improve the ability of States and the Secretary” to evaluate future crashes, monitor crash trends, and develop safety improvement policies and programs. The provision contemplates that, once the study is completed, the Secretary of Transportation will report to Congress and make legislative recommendations.

While not all of these provisions' impact will be immediate, employers affected by these new requirements, and the potential for additional legislation arising from the studies, task forces, and advisory boards commissioned by the Motor Carrier Safety Title of the IIJA, should closely monitor developments.

Please contact a Jackson Lewis attorney if you have any questions.

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