

119TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To require the Comptroller General of the United States to conduct a study on chameleon carriers in the United States and require the Administrator of the Federal Motor Carrier Safety Administration to plan, develop, and test an advanced automation tool to help enforcement personnel detect chameleon carrier applications under the registration process of the Department of Transportation, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. YOUNG (for himself and Mr. KIM) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To require the Comptroller General of the United States to conduct a study on chameleon carriers in the United States and require the Administrator of the Federal Motor Carrier Safety Administration to plan, develop, and test an advanced automation tool to help enforcement personnel detect chameleon carrier applications under the registration process of the Department of Transportation, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Safety and Account-  
3 ability in Freight Enforcement Act” or the “SAFE Act”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) **ADMINISTRATOR.**—The term “Adminis-  
7 trator” means the Administrator of the Federal  
8 Motor Carrier Safety Administration.

9 (2) **BROKER; FREIGHT FORWARDER; MOTOR**  
10 **CARRIER.**—The terms “broker”, “freight for-  
11 warder”, and “motor carrier” have the meanings  
12 given those terms in section 13102 of title 49,  
13 United States Code.

14 (3) **CHAMELEON CARRIER.**—The term “chame-  
15 leon carrier” means a motor carrier, intermodal  
16 equipment provider, broker, or freight forwarder, or  
17 an officer, employee, agent, authorized representa-  
18 tive, or other affiliated party of a motor carrier,  
19 intermodal equipment provider, broker, or freight  
20 forwarder, that has, directly or indirectly, operated  
21 or attempted to operate a motor carrier, intermodal  
22 equipment provider, broker, or freight forwarder  
23 under a new identity or as an affiliated entity—

24 (A) to avoid—

25 (i) complying with a Federal Motor  
26 Carrier Safety Administration order;

1 (ii) complying with a statutory or reg-  
2 ulatory requirement;

3 (iii) paying a civil penalty;

4 (iv) responding to an enforcement ac-  
5 tion; or

6 (v) being linked with a negative com-  
7 pliance history;

8 (B) to avoid or evade increased insurance  
9 premiums, policy cancellations, or underwriting  
10 restrictions by obtaining or attempting to ob-  
11 tain insurance coverage under a new or materi-  
12 ally different identity, ownership structure, or  
13 corporate form;

14 (C) to misrepresent ownership, control,  
15 management, or operational continuity to an in-  
16 surer, broker, or underwriter for the purpose of  
17 securing lower insurance rates or favorable cov-  
18 erage terms; or

19 (D) to reincorporate, re-register, or other-  
20 wise reconstitute a carrier entity following the  
21 denial, nonrenewal, or cancellation of an insur-  
22 ance policy due to safety, claims, or compliance  
23 history.

1           (4) USDOT NUMBER.—The term “USDOT  
2           number” means a USDOT number issued under sec-  
3           tion 31134 of title 49, United States Code.

4   **SEC. 3. REPORT ON CHAMELEON CARRIERS.**

5           (a) IN GENERAL.—Not later than 1 year after the  
6           date of enactment of this Act, the Comptroller General  
7           of the United States shall submit to Congress a report  
8           describing the results of a study that examines chameleon  
9           carriers on United States roadways.

10          (b) CONTENTS.—The report under subsection (a)  
11       shall include—

12               (1) the estimated number of chameleon carriers  
13               on United States roadways at any given time;

14               (2) the prevalence of chameleon carriers on  
15               United States roadways since the issuance of the re-  
16               port of the Government Accountability Office enti-  
17               tled “Motor Carrier Safety: New Applicant Reviews  
18               Should Expand to Identify Freight Carriers Evading  
19               Detection”, numbered GAO–12–364, and dated  
20               March 22, 2012;

21               (3) the estimated number of fatalities caused by  
22               chameleon carriers since the issuance of the report  
23               described in paragraph (2), including the number of  
24               fatalities in each State;

1           (4) the estimated number of serious bodily inju-  
2       ries caused by chameleon carriers since the issuance  
3       of the report described in paragraph (2), including  
4       the number of serious bodily injuries in each State;

5           (5) the estimated amount of property damage  
6       caused by chameleon carriers since the issuance of  
7       the report described in paragraph (2);

8           (6) an identification and analysis of the meth-  
9       ods and techniques used by chameleon carriers to  
10      evade Federal enforcement, including how those  
11      methods and techniques have evolved over time;

12          (7) an identification and analysis of the existing  
13      monitoring and enforcement capabilities, along with  
14      any shortcomings, of the Department of Transpor-  
15      tation to detect and mitigate chameleon carrier ac-  
16      tivity, including—

17           (A) the registration process for USDOT  
18      numbers;

19           (B) the existing software capabilities of the  
20      Department of Transportation to detect chame-  
21      leon carrier applicants;

22           (C) any recommendations for improving  
23      data fields within the Motor Carrier Manage-  
24      ment Information System; and

1 (D) any existing penalties prescribed under  
2 Federal statutes and regulations for chameleon  
3 carriers;

4 (8) any other relevant priorities, as determined  
5 necessary by the Comptroller General of the United  
6 States, in consultation with the Administrator; and

7 (9) any legislative recommendations to address  
8 matters relating to chameleon carriers.

9 (c) COLLABORATION.—In carrying out the study  
10 under subsection (a), the Comptroller General of the  
11 United States may collaborate with other Federal agen-  
12 cies, State and local governments, institutions of higher  
13 education, and private sector entities.

14 **SEC. 4. ADVANCED AUTOMATION TOOL.**

15 (a) IN GENERAL.—Not later than 1 year after the  
16 date of enactment of this Act, the Administrator shall de-  
17 velop, test, and implement an advanced automation tool  
18 to help Federal Motor Carrier Safety Administration reg-  
19 istration personnel detect chameleon carrier applications  
20 under the registration process for USDOT numbers.

21 (b) COLLABORATION.—

22 (1) IN GENERAL.—In developing the advanced  
23 automation tool under subsection (a), the Adminis-  
24 trator may collaborate with other Federal agencies,  
25 State and local governments, institutions of higher

1 education, and the private sector as necessary to de-  
2 velop and test the advanced automation tool.

3 (2) FEDERAL AGENCIES.—The Administrator  
4 and any Federal agency the Administrator deter-  
5 mines is relevant shall enter into a memorandum of  
6 understanding to share information needed to imple-  
7 ment the requirements described in subsection (c),  
8 which may include—

- 9 (A) the Department of the Treasury;
  - 10 (B) the Department of Justice;
  - 11 (C) the United States Postal Service;
  - 12 (D) the Department of Homeland Security;
  - 13 (E) the Department of Commerce;
  - 14 (F) the Department of State; and
  - 15 (G) relevant operating administrations
- 16 within the Department of Transportation.

17 (3) STATE AGENCIES.—The Administrator shall  
18 enter into a memorandum of understanding with any  
19 relevant State agency to share information needed to  
20 implement the requirements described in subsection  
21 (c).

22 (c) REQUIREMENTS.—The advanced automation tool  
23 developed under subsection (a) shall include—

1           (1) the ability to detect chameleon carrier-like  
2           characteristics that support evidence of substantial  
3           continuity between entities, including—

4                   (A) whether the new or affiliated entity  
5           was created for the purpose of evading statu-  
6           tory or regulatory requirements, a Federal  
7           Motor Carrier Safety Administration order, en-  
8           forcement action, or negative compliance his-  
9           tory;

10                   (B) the safety performance history of the  
11           previous entity, including, at a minimum—

12                           (i) any safety violations; and

13                           (ii) any enforcement actions of the  
14           Secretary of Transportation;

15                   (C) existing or inactive USDOT numbers;

16                   (D) consideration exchanged for assets  
17           purchased or transferred;

18                   (E) dates of company creation and dissolu-  
19           tion or cessation of operations;

20                   (F) commonality of ownership between the  
21           current and former company or between current  
22           companies;

23                   (G) commonality of officers and manage-  
24           ment personnel;

1 (H) identity of physical or mailing address-  
2 es, telephone numbers, fax numbers, or email  
3 addresses;

4 (I) identity of motor vehicle equipment;

5 (J) continuity of liability insurance policies  
6 or commonality of coverage under those poli-  
7 cies;

8 (K) commonality of drivers and other em-  
9 ployees;

10 (L) continuation of carrier facilities and  
11 other physical assets;

12 (M) continuity or commonality of nature  
13 and scope of operations; and

14 (N) advertising, corporate name, or other  
15 acts through which the company holds itself out  
16 to the public;

17 (2) the ability to detect lapses in insurance cov-  
18 erage;

19 (3) the ability to compile evidence of the chame-  
20 leon carrier-like characteristics under paragraph (1)  
21 relevant to—

22 (A) a determination of whether to approve  
23 a registration application; or

24 (B) a determination of whether to issue a  
25 USDOT number;

1           (4) the ability to provide automated decision  
2 support relevant to a determination described in  
3 paragraph (3), while keeping responsibility for final  
4 determinations with employees of the Federal Motor  
5 Carrier Safety Administration;

6           (5) the ability to automate information sharing  
7 between Federal agencies; and

8           (6) any other relevant priorities, as determined  
9 necessary by the Administrator.

10 (d) APPEALS FOR REDETERMINATION.—

11           (1) IN GENERAL.—In establishing the advanced  
12 automation tool under subsection (a), the Adminis-  
13 trator shall develop an appeals process pursuant to  
14 which a person denied a USDOT number on the  
15 basis of a flag by that tool may seek a review of the  
16 denial.

17           (2) NOTIFICATION.—In establishing the ad-  
18 vanced automation tool under subsection (a), the  
19 Administrator shall provide for a process pursuant  
20 to which a person denied a USDOT number as de-  
21 scribed in paragraph (1) shall receive a notification  
22 of that denial that—

23           (A) includes the factors flagged by the  
24 tool; and

1 (B) provides instructions to the person to  
2 correct the application for the USDOT number  
3 not later than 30 days after receipt of the noti-  
4 fication.

5 (3) TIMING OF REDETERMINATION.—The ap-  
6 peals process developed under paragraph (1) shall  
7 provide for a redetermination on the amended appli-  
8 cation for a USDOT number to take effect not later  
9 than 30 days after the receipt of a corrected applica-  
10 tion under paragraph (2)(B).

11 (e) BRIEFING.—Not later than 30 days after the date  
12 of enactment of this Act, the Administrator shall brief the  
13 congressional committees of jurisdiction on the issue of  
14 chameleon carriers and any ongoing efforts or progress  
15 that the Administration has made to combat that issue  
16 or meet the objectives of this Act.

17 (f) RULE OF CONSTRUCTION.—Nothing in this Act  
18 allows the final use of an automated decision made by the  
19 advanced automation tool developed under subsection (a)  
20 for any relevant registration or the issuance of a USDOT  
21 number.

22 (g) DATA PRIVACY.—In developing the advanced au-  
23 tomation tool under subsection (a), the Administrator  
24 shall ensure that data used by that tool is not disclosed  
25 for a purpose not described in this section.

1 (h) AUDIT AND REPORT ON EFFECTIVENESS.—

2 (1) IN GENERAL.—Not later than 2 years after  
3 the date of implementation of the advanced automa-  
4 tion tool developed under subsection (a), the Inspec-  
5 tor General of the Department of Transportation  
6 shall submit to Congress a report on the effective-  
7 ness of that tool.

8 (2) CONTENTS.—The report under paragraph  
9 (1) shall include—

10 (A) the results of an audit of the effective-  
11 ness of the advanced automation tool developed  
12 under subsection (a);

13 (B) empirical data on outcomes of the use  
14 of that tool, including—

15 (i) the number of flagged and rejected  
16 applications for USDOT numbers;

17 (ii) any reduction in severe crashes;  
18 and

19 (iii) the number of errors and applica-  
20 tion redeterminations under subsection (d);  
21 and

22 (C) any recommendations to improve the  
23 effectiveness of the tool.