

NO HUMAN TRAFFICKING ON OUR ROADS ACT

DECEMBER 18, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 3814) to disqualify from operating a commercial motor vehicle for life an individual who uses a commercial motor vehicle in committing a felony involving human trafficking, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE OF LEGISLATION

H.R. 3814 disqualifies an individual from operating a commercial motor vehicle (CMV) for life if the individual uses a commercial

motor vehicle (CMV) to commit a felony involving human trafficking.

#### BACKGROUND AND NEED FOR LEGISLATION

In summer 2017, 10 people died in San Antonio, Texas in the process of being illegally trafficked in a commercial motor vehicle. The Federal Motor Carrier Safety Administration (FMCSA) currently prohibits an individual from operating a CMV for life if they are convicted of committing specific crimes, including alcohol abuse, negligent manslaughter, and drug trafficking.

H.R. 3814 adds committing a felony involving human trafficking to that list of crimes.

#### HEARINGS

No hearings were held on H.R. 3814.

#### LEGISLATIVE HISTORY AND CONSIDERATION

On September 21, 2017, Congressman John Katko (R-NY) introduced H.R. 3814.

On November 30, 2017, the Committee on Transportation and Infrastructure met in open session to consider H.R. 3814. The Committee ordered the bill to be reported favorably to the House by a voice vote with a quorum present.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with consideration of H.R. 3814.

#### COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 3814 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, December 14, 2017.*

Hon. BILL SHUSTER,  
*Chairman, Committee on Transportation and Infrastructure,  
House of Representatives Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3814, the No Human Trafficking on Our Roads Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sarah Puro.

Sincerely,

KEITH HALL,  
*Director.*

Enclosure.

*H.R. 3814—No Human Trafficking on Our Roads Act*

H.R. 3814 would permanently prohibit anyone who has used a commercial motor vehicle to commit a felony involving severe human trafficking from operating a commercial motor vehicle. Under current law, state agencies are responsible for issuing commercial driver's licenses and complying with the requirements in the bill. The Federal Motor Carrier Safety Administration (FMCSA) has two full-time employees who provide training for state inspectors and investigators who combat criminal activities such as drug trafficking. H.R. 3814 would require FMCSA to expand that effort.

Using information from FMCSA, CBO expects that the agency would add the equivalent of less than one full-time employee annually to implement the provisions of the bill. CBO estimates that the compensation and benefits for that work would be less than \$100,000 each year. As a result, CBO estimates, implementing the bill would cost less than \$500,000 over the 2018–2022 period; such spending would be subject to the availability of appropriated funds.

Enacting H.R. 3814 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 3814 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 3814 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). As a condition of assistance, the bill would require states to ensure that people who commit acts of human trafficking will not be issued commercial driver's licenses. States already screen applicants for drug offenses, among others. Consequently, CBO estimates that the costs of the additional requirement would be small. Conditions of assistance are not considered intergovernmental mandates as defined in UMRA.

On August 29, 2017, CBO provided an estimate for S. 1532, the No Human Trafficking on Our Roads Act, as reported by the Senate Committee on Commerce, Science, and Transportation on August 3, 2017. The two pieces of legislation are similar and CBO's estimated costs are the same.

The CBO staff contacts for this estimate are Sarah Puro (for federal costs) and Jon Sperl (for mandates). The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

#### PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of H.R. 3814 is to disqualify individuals from operating a CMV for their lifetime if they used a CMV to commit a felony involving human trafficking.

#### ADVISORY OF EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. No provision in the bill includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

#### DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 3814 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(i) of H. Res. 5, 115th Cong. (2017), the Committee finds that enacting H.R. 3814 does not direct the completion of a specific rule making within the meaning of section 551 of title 5, United States Code.

#### FEDERAL MANDATE STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

#### PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 3814 does not preempt any state, local, or tribal law.

## ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

## APPLICABILITY OF LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

## SECTION-BY-SECTION ANALYSIS OF LEGISLATION

*Section 1. Short title*

Section 1 designates the short title of the bill as the No Human Trafficking on Our Roads Act.

*Section 2. Lifetime disqualification without reinstatement*

Section 2 disqualifies individuals from operating a CMV for their lifetime if they used a CMV to commit a felony involving human trafficking.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

**TITLE 49, UNITED STATES CODE**

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**SUBTITLE VI—MOTOR VEHICLE AND DRIVER PROGRAMS**

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**PART B—COMMERCIAL**

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**CHAPTER 313—COMMERCIAL MOTOR VEHICLE OPERATORS**

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**§ 31310. Disqualifications**

(a) **BLOOD ALCOHOL CONCENTRATION LEVEL.**—In this section, the blood alcohol concentration level at or above which an individual when operating a commercial motor vehicle is deemed to be driving under the influence of alcohol is .04 percent.

(b) **FIRST VIOLATION OR COMMITTING FELONY.**—(1) Except as provided in paragraph (2) of this subsection and subsection (c) of this section, the Secretary of Transportation shall disqualify from operating a commercial motor vehicle for at least one year an individual—

(A) committing a first violation of driving a commercial motor vehicle under the influence of alcohol or a controlled substance;

(B) committing a first violation of leaving the scene of an accident involving a commercial motor vehicle operated by the individual;

(C) using a commercial motor vehicle in committing a felony (except a felony described in subsection (d) of this section);

(D) committing a first violation of driving a commercial motor vehicle when the individual's commercial driver's license is revoked, suspended, or canceled based on the individual's operation of a commercial motor vehicle or when the individual is disqualified from operating a commercial motor vehicle based on the individual's operation of a commercial motor vehicle; or

(E) convicted of causing a fatality through negligent or criminal operation of a commercial motor vehicle.

(2) If the vehicle involved in a violation referred to in paragraph (1) of this subsection is transporting hazardous material required to be placarded under section 5103 of this title, the Secretary shall disqualify the individual for at least 3 years.

(c) **SECOND AND MULTIPLE VIOLATIONS.**—(1) Subject to paragraph (2) of this subsection, the Secretary shall disqualify from operating a commercial motor vehicle for life an individual—

(A) committing more than one violation of driving a commercial motor vehicle under the influence of alcohol or a controlled substance;

(B) committing more than one violation of leaving the scene of an accident involving a commercial motor vehicle operated by the individual;

(C) using a commercial motor vehicle in committing more than one felony arising out of different criminal episodes;

(D) committing more than one violation of driving a commercial motor vehicle when the individual's commercial driver's license is revoked, suspended, or canceled based on the individual's operation of a commercial motor vehicle or when the individual is disqualified from operating a commercial motor vehicle based on the individual's operation of a commercial motor vehicle;

(E) convicted of more than one offense of causing a fatality through negligent or criminal operation of a commercial motor vehicle; or

(F) committing any combination of single violations or use described in subparagraphs (A) through (E).

(2) The Secretary may prescribe regulations establishing guidelines (including conditions) under which a disqualification for life under paragraph (1) of this subsection may be reduced to a period of not less than 10 years.

(d) **[CONTROLLED SUBSTANCE VIOLATIONS] LIFETIME DISQUALIFICATION WITHOUT REINSTATEMENT.**—**[The Secretary]** (1) **CONTROLLED SUBSTANCE VIOLATIONS.**—*The Secretary shall disqualify from operating a commercial motor vehicle for life an individual who uses a commercial motor vehicle in committing a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.*

(2) **HUMAN TRAFFICKING VIOLATIONS.**—*The Secretary shall disqualify from operating a commercial motor vehicle for life an individual who uses a commercial motor vehicle in committing a felony involving an act or practice described in paragraph (9) of section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(9)).*

(e) **SERIOUS TRAFFIC VIOLATIONS.**—(1) The Secretary shall disqualify from operating a commercial motor vehicle for at least 60 days an individual who, in a 3-year period, commits 2 serious traffic violations involving a commercial motor vehicle operated by the individual.

(2) The Secretary shall disqualify from operating a commercial motor vehicle for at least 120 days an individual who, in a 3-year period, commits 3 serious traffic violations involving a commercial motor vehicle operated by the individual.

(f) **EMERGENCY DISQUALIFICATION.**—

(1) **LIMITED DURATION.**—The Secretary shall disqualify an individual from operating a commercial motor vehicle for not to exceed 30 days if the Secretary determines that allowing the individual to continue to operate a commercial motor vehicle would create an imminent hazard (as such term is defined in section 521 or section 5102).

(2) **AFTER NOTICE AND HEARING.**—The Secretary shall disqualify an individual from operating a commercial motor vehicle for more than 30 days if the Secretary determines, after notice and an opportunity for a hearing, that allowing the individual to continue to operate a commercial motor vehicle would create an imminent hazard (as such term is defined in section 521 or section 5102).

(g) **NONCOMMERCIAL MOTOR VEHICLE CONVICTIONS.**—

(1) **ISSUANCE OF REGULATIONS.**—The Secretary shall issue regulations providing for the disqualification by the Secretary from operating a commercial motor vehicle of an individual who holds a commercial driver's license and who has been convicted of—

(A) a serious offense involving a motor vehicle (other than a commercial motor vehicle) that has resulted in the revocation, cancellation, or suspension of the individual's license; or

(B) a drug or alcohol related offense involving a motor vehicle (other than a commercial motor vehicle).

(2) **REQUIREMENTS FOR REGULATIONS.**—Regulations issued under paragraph (1) shall establish the minimum periods for

which the disqualifications shall be in effect, but in no case shall the time periods for disqualification for noncommercial motor vehicle violations be more stringent than those for offenses or violations involving a commercial motor vehicle. The Secretary shall determine such periods based on the seriousness of the offenses on which the convictions are based.

(h) STATE DISQUALIFICATION.—Notwithstanding subsections (b) through (g) of this section, the Secretary does not have to disqualify an individual from operating a commercial motor vehicle if the State that issued the individual a license authorizing the operation has disqualified the individual from operating a commercial motor vehicle under subsections (b) through (g). Revocation, suspension, or cancellation of the license is deemed to be disqualification under this subsection.

(i) OUT-OF-SERVICE ORDERS.—(1)(A) To enforce section 392.5 of title 49, Code of Federal Regulations, the Secretary shall prescribe regulations establishing and enforcing an out-of-service period of 24 hours for an individual who violates section 392.5. An individual may not violate an out-of-service order issued under those regulations.

(B) The Secretary shall prescribe regulations establishing and enforcing requirements for reporting out-of-service orders issued under regulations prescribed under subparagraph (A) of this paragraph. Regulations prescribed under this subparagraph shall require at least that an operator of a commercial motor vehicle who is issued an out-of-service order to report the issuance to the individual's employer and to the State that issued the operator a driver's license.

(2) The Secretary shall prescribe regulations establishing sanctions and penalties related to violations of out-of-service orders by individuals operating commercial motor vehicles. The regulations shall require at least that—

(A) an operator of a commercial motor vehicle found to have committed a first violation of an out-of-service order shall be disqualified from operating such a vehicle for at least 180 days and liable for a civil penalty of at least \$2,500;

(B) an operator of a commercial motor vehicle found to have committed a 2d violation of an out-of-service order shall be disqualified from operating such a vehicle for at least 2 years and not more than 5 years and liable for a civil penalty of at least \$5,000; and

(C) an employer that knowingly allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall be liable for a civil penalty of not more than \$25,000; and

(D) an employer that knowingly and willfully allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall, upon conviction, be subject for each offense to imprisonment for a term not to exceed one year or a fine under title 18, or both.

(j) GRADE-CROSSING VIOLATIONS.—

(1) SANCTIONS.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations, by persons operating commercial motor vehicles, of laws and regulations pertaining to railroad-highway grade crossings.



(2) MINIMUM REQUIREMENTS.—The regulations issued under paragraph (1) shall, at a minimum, require that—

(A) the penalty for a single violation is not less than a 60-day disqualification of the driver's commercial driver's license; and

(B) any employer that knowingly allows, permits, authorizes, or requires an employee to operate a commercial motor vehicle in violation of such a law or regulation shall be subject to a civil penalty of not more than \$10,000.

(k) FOREIGN COMMERCIAL DRIVERS.—A foreign commercial driver shall be subject to disqualification under this section.

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