

“employed by” and inserted “or agent, as applicable,” after “an employee”.

Subsecs. (c), (d). Pub. L. 114-94, § 11412(a)(3), added subsecs. (c) and (d).

2007—Pub. L. 110-53 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1994—Pub. L. 103-440 renumbered section 26101 of this title as this section.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

REGULATIONS

Pub. L. 114-94, div. A, title XI, § 11412(b), Dec. 4, 2015, 129 Stat. 1688, provided that: “Not later than 1 year after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation] shall revise the regulations in part 207 of title 49, Code of Federal Regulations (relating to railroad police officers), to permit a railroad to designate an individual, who is commissioned in the individual’s State of legal residence or State of primary employment and directly employed by or contracted by a railroad to enforce State laws for the protection of railroad property, personnel, passengers, and cargo, to serve in the States in which the railroad owns property.”

§ 28102. Limit on certain accident or incident liability

(a) GENERAL.—When a publicly financed commuter transportation authority established under Virginia law makes a contract to indemnify Amtrak for liability for operations conducted by or for the authority or to indemnify a rail carrier over whose tracks those operations are conducted, liability against Amtrak, the authority, or the carrier for all claims (including punitive damages) arising from an accident or incident in the District of Columbia related to those operations may not be more than the limits of the liability coverage the authority maintains to indemnify Amtrak or the carrier.

(b) MINIMUM REQUIRED LIABILITY COVERAGE.—A publicly financed commuter transportation authority referred to in subsection (a) of this section must maintain a total minimum liability coverage of at least \$200,000,000.

(c) EFFECTIVENESS.—This section is effective only after Amtrak or a rail carrier seeking an indemnification contract under this section makes an operating agreement with a publicly financed commuter transportation authority established under Virginia law to provide access to its property for revenue transportation related to the operations of the authority.

(Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 940, § 26102; renumbered § 28102, Pub. L. 103-440, title I, § 103(a)(1), Nov. 2, 1994, 108 Stat. 4616.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
26102(a)	45:649(a) (1st sentence).	Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, § 810; added July 6, 1990, Pub. L. 101-322, § 3, 104 Stat. 295.
26102(b)	45:649(a) (last sentence).	
26102(c)	45:649(b).	

In subsection (a), the words “Notwithstanding any other provision of law”, “whether for compensatory or”, and “occurring” are omitted as surplus.

In subsection (c), the words “an indemnification contract” are substituted for “coverage” for clarity.

AMENDMENTS

1994—Pub. L. 103-440 renumbered section 26102 of this title as this section.

§ 28103. Limitations on rail passenger transportation liability

(a) LIMITATIONS.—(1) Notwithstanding any other statutory or common law or public policy, or the nature of the conduct giving rise to damages or liability, in a claim for personal injury to a passenger, death of a passenger, or damage to property of a passenger arising from or in connection with the provision of rail passenger transportation, or from or in connection with any rail passenger transportation operations over or rail passenger transportation use of right-of-way or facilities owned, leased, or maintained by any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State, punitive damages, to the extent permitted by applicable State law, may be awarded in connection with any such claim only if the plaintiff establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others. If, in any case wherein death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, this paragraph shall not apply.

(2) The aggregate allowable awards to all rail passengers, against all defendants, for all claims, including claims for punitive damages, arising from a single accident or incident, shall not exceed \$200,000,000.

(b) CONTRACTUAL OBLIGATIONS.—A provider of rail passenger transportation may enter into contracts that allocate financial responsibility for claims.

(c) MANDATORY COVERAGE.—Amtrak shall maintain a total minimum liability coverage for claims through insurance and self-insurance of at least \$200,000,000 per accident or incident.

(d) EFFECT ON OTHER LAWS.—This section shall not affect the damages that may be recovered under the Act of April 27, 1908 (45 U.S.C. 51 et seq.; popularly known as the “Federal Employers’ Liability Act”) or under any workers compensation Act.

(e) DEFINITION.—For purposes of this section—

(1) the term “claim” means a claim made—

(A) against Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State; or

(B) against an officer, employee, affiliate engaged in railroad operations, or agent, of Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State;

(2) the term “punitive damages” means damages awarded against any person or entity to punish or deter such person or entity, or others, from engaging in similar behavior in the future; and

(3) the term “rail carrier” includes a person providing excursion, scenic, or museum train service, and an owner or operator of a privately owned rail passenger car.

(Added Pub. L. 105-134, title I, §161(a), Dec. 2, 1997, 111 Stat. 2577.)

REFERENCES IN TEXT

The Federal Employers’ Liability Act, referred to in subsec. (d), is act Apr. 22, 1908, ch. 149, 35 Stat. 65, as amended, which is classified generally to chapter 2 (§51 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see Short Title note set out under section 51 of Title 45 and Tables.

ADJUSTMENT BASED ON CONSUMER PRICE INDEX

Pub. L. 114-94, div. A, title XI, §11415(b), Dec. 4, 2015, 129 Stat. 1689, provided that: “The liability cap under section 28103(a)(2) of title 49, United States Code, shall be adjusted on the date of enactment of this Act [Dec. 4, 2015] to reflect the change in the Consumer Price Index-All Urban Consumers between such date and December 2, 1997, and the Secretary [of Transportation] shall provide appropriate public notice of such adjustment. The adjustment of the liability cap shall be effective 30 days after such notice. Every fifth year after the date of enactment of this Act, the Secretary shall adjust such liability cap to reflect the change in the Consumer Price Index-All Urban Consumers since the last adjustment. The Secretary shall provide appropriate public notice of each such adjustment, and the adjustment shall become effective 30 days after such notice.”

CHAPTER 283—STANDARD WORK DAY

Sec.	
28301.	General.
28302.	Penalties.

§ 28301. General

(a) EIGHT HOUR DAY.—In contracts for labor and service, 8 hours shall be a day’s work and the standard day’s work for determining the compensation for services of an employee employed by a common carrier by railroad subject to subtitle IV of this title and actually engaged in any capacity in operating trains used for transporting passengers or property on railroads from—

(1) a State of the United States or the District of Columbia to any other State or the District of Columbia;

(2) one place in a territory or possession of the United States to another place in the same territory or possession;

(3) a place in the United States to an adjacent foreign country; or

(4) a place in the United States through a foreign country to any other place in the United States.

(b) APPLICATION.—Subsection (a) of this section—

(1) does not apply to—

(A) an independently owned and operated railroad not exceeding one hundred miles in length;

(B) an electric street railroad; and

(C) an electric interurban railroad; but

(2) does apply to an independently owned and operated railroad less than one hundred miles in length—

(A) whose principal business is leasing or providing terminal or transfer facilities to other railroads; or

(B) engaged in transfers of freight between railroads or between railroads and industrial plants.

(Added Pub. L. 104-287, §5(56)(A), Oct. 11, 1996, 110 Stat. 3394.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
28301	45:65. (uncodified).	Sept. 3, 5, 1916, ch. 436, §1, 39 Stat. 721. Sept. 3, 5, 1916, ch. 436, §§2, 3, 39 Stat. 721.

In subsection (a), the word “determining” is substituted for “reckoning” for clarity. The words “who are not or may hereafter be employed” are omitted as surplus. In clause (1), the words “or territory” are omitted because the existing territories of the United States are now connected to the United States by rail. In clause (2), the words “or possession of the United States” are added for consistency in the revised title and with other titles of the United States Code.

The text of sections 2 and 3 of the Act of September 3, 5, 1916 (ch. 436, 39 Stat. 721), is omitted to eliminate executed provisions.

§ 28302. Penalties

A person violating section 28301 of this title shall be fined under title 18, imprisoned not more than one year, or both.

(Added Pub. L. 104-287, §5(56)(A), Oct. 11, 1996, 110 Stat. 3394.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
28302	45:66.	Sept. 3, 5, 1916, ch. 436, §4, 39 Stat. 722.

The words “shall be guilty of a misdemeanor” are omitted, and the words “shall be fined under title 18” are substituted for “shall be fined not less than \$100 and not more than \$1,000”, for consistency with title 18. The words “upon conviction” are omitted as surplus.

CHAPTER 285—COMMUTER RAIL MEDIATION

Sec.	
28501.	Definitions ¹
28502.	Surface Transportation Board mediation of trackage use requests.
28503.	Surface Transportation Board mediation of rights-of-way use requests.
28504.	Applicability of other laws.
28505.	Rules and regulations.

§ 28501. Definitions

In this chapter—

(1) the term “Board” means the Surface Transportation Board;

(2) the term “capital work” means maintenance, restoration, reconstruction, capacity enhancement, or rehabilitation work on trackage that would be treated, in accordance with generally accepted accounting principles, as a capital item rather than an expense;

(3) the term “commuter rail passenger transportation” has the meaning given that term in section 24102;

(4) the term “public transportation authority” means a local governmental authority (as

¹ So in original. Probably should be followed by a period.