

PRIOR PROVISIONS

Prior sections 11908 to 11917 were omitted in the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

Section 11908, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1459; Pub. L. 99-521, § 13(b)(1), (2), Oct. 22, 1986, 100 Stat. 2998, 2999, related to penalty for abandonment of service by household goods freight forwarders.

Section 11909, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1460; Pub. L. 96-258, § 1(15), June 3, 1980, 94 Stat. 427; Pub. L. 97-424, title IV, § 427(a), Jan. 6, 1983, 96 Stat. 2168; Pub. L. 98-216, § 2(20), Feb. 14, 1984, 98 Stat. 6; Pub. L. 99-521, § 13(c), Oct. 22, 1986, 100 Stat. 2999; Pub. L. 103-180, § 6(c), Dec. 3, 1993, 107 Stat. 2051; Pub. L. 103-272, § 4(j)(35), July 5, 1994, 108 Stat. 1370, related to penalties for record keeping and reporting violations. See sections 11903, 14907, and 16102 of this title.

Section 11910, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1461; Pub. L. 96-448, title III, § 303(b), Oct. 14, 1980, 94 Stat. 1938; Pub. L. 99-521, § 13(d), Oct. 22, 1986, 100 Stat. 2999, related to penalties for unlawful disclosure of information. See sections 11904, 14908, and 16103 of this title.

Section 11911, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1462; Pub. L. 97-261, § 19(c), Sept. 20, 1982, 96 Stat. 1121, related to penalties for violations involving issuance of securities, disposition of funds, and restrictions on ownership.

Section 11912, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1462; Pub. L. 96-258, § 1(13)(C), June 3, 1980, 94 Stat. 427, related to penalties for violations by persons, not carriers, involving consolidations, mergers, and acquisitions of control.

Section 11913, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1463, related to penalty for disobedience to subpoenas. See sections 11905, 14909, and 16104 of this title.

Section 11913a, added Pub. L. 96-448, title III, § 303(a)(1), Oct. 14, 1980, 94 Stat. 1938, related to penalty for accounting principles violations.

Section 11914, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1463; Pub. L. 96-258, § 1(16), June 3, 1980, 94 Stat. 427; Pub. L. 97-424, title IV, § 427(b), Jan. 6, 1983, 96 Stat. 2168; Pub. L. 98-216, § 2(20), Feb. 14, 1984, 98 Stat. 6; Pub. L. 98-554, title II, § 226(c)(7), Oct. 30, 1984, 98 Stat. 2852, related to general criminal penalty when specific penalty not provided. See sections 11906, 14910, and 16105 of this title.

Section 11915, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1464, related to punishment of corporation for violations committed by certain individuals. See sections 11907, 14911, and 16106 of this title.

Section 11916, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1464, related to conclusiveness of rates in certain prosecutions. See section 14913 of this title.

Section 11917, added Pub. L. 96-454, § 9(a), Oct. 15, 1980, 94 Stat. 2021, related to weight-bumping in household goods transportation. See section 14912 of this title.

PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS

AMENDMENTS

1996—Pub. L. 104-287, § 5(26)(A), Oct. 11, 1996, 110 Stat. 3390, made technical amendment to part heading.

CHAPTER 131—GENERAL PROVISIONS

Sec.	
13101.	Transportation policy.
13102.	Definitions.
13103.	Remedies as cumulative.

AMENDMENTS

1996—Pub. L. 104-287, § 5(26)(B), Oct. 11, 1996, 110 Stat. 3390, made technical amendment to heading.

§ 13101. Transportation policy

(a) IN GENERAL.—To ensure the development, coordination, and preservation of a transpor-

tation system that meets the transportation needs of the United States, including the United States Postal Service and national defense, it is the policy of the United States Government to oversee the modes of transportation and—

(1) in overseeing those modes—

(A) to recognize and preserve the inherent advantage of each mode of transportation;

(B) to promote safe, adequate, economical, and efficient transportation;

(C) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

(D) to encourage the establishment and maintenance of reasonable rates for transportation, without unreasonable discrimination or unfair or destructive competitive practices;

(E) to cooperate with each State and the officials of each State on transportation matters; and

(F) to encourage fair wages and working conditions in the transportation industry;

(2) in overseeing transportation by motor carrier, to promote competitive and efficient transportation services in order to—

(A) encourage fair competition, and reasonable rates for transportation by motor carriers of property;

(B) promote efficiency in the motor carrier transportation system and to require fair and expeditious decisions when required;

(C) meet the needs of shippers, receivers, passengers, and consumers;

(D) allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping and traveling public;

(E) allow the most productive use of equipment and energy resources;

(F) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions;

(G) provide and maintain service to small communities and small shippers and intrastate bus services;

(H) provide and maintain commuter bus operations;

(I) improve and maintain a sound, safe, and competitive privately owned motor carrier system;

(J) promote greater participation by minorities in the motor carrier system;

(K) promote intermodal transportation;

(3) in overseeing transportation by motor carrier of passengers—

(A) to cooperate with the States on transportation matters for the purpose of encouraging the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of this part;

(B) to provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this part; and

(C) to ensure that Federal reform initiatives enacted by section 31138 and the Bus Regulatory Reform Act of 1982 are not nullified by State regulatory actions; and

(4) in overseeing transportation by water carrier, to encourage and promote service and

price competition in the noncontiguous domestic trade.

(b) ADMINISTRATION TO CARRY OUT POLICY.—This part shall be administered and enforced to carry out the policy of this section and to promote the public interest.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 853.)

REFERENCES IN TEXT

The Bus Regulatory Reform Act of 1982, referred to in subsec. (a)(3)(C), is Pub. L. 97-261, Sept. 20, 1982, 96 Stat. 1102. For complete classification of this Act to the Code, see Short Title of 1982 Amendment note set out under section 10101 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10101 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104-88, see section 2 of Pub. L. 104-88, set out as a note under section 1301 of this title.

§ 13102. Definitions

In this part, the following definitions shall apply:

(1) BOARD.—The term “Board” means the Surface Transportation Board.

(2) BROKER.—The term “broker” means a person, other than a motor carrier or an employee or agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by motor carrier for compensation.

(3) CARRIER.—The term “carrier” means a motor carrier, a water carrier, and a freight forwarder.

(4) CONTRACT CARRIAGE.—The term “contract carriage” means—

(A) for transportation provided before January 1, 1996, service provided pursuant to a permit issued under section 10923, as in effect on December 31, 1995; and

(B) for transportation provided after December 31, 1995, service provided under an agreement entered into under section 14101(b).

(5) CONTROL.—The term “control”, when referring to a relationship between persons, includes actual control, legal control, and the power to exercise control, through or by—

(A) common directors, officers, stockholders, a voting trust, or a holding or investment company, or

(B) any other means.

(6) FOREIGN MOTOR CARRIER.—The term “foreign motor carrier” means a person (including a motor carrier of property but excluding a motor private carrier)—

(A)(i) that is domiciled in a contiguous foreign country; or

(ii) that is owned or controlled by persons of a contiguous foreign country; and

(B) in the case of a person that is not a motor carrier of property, that provides

interstate transportation of property by motor vehicle under an agreement or contract entered into with a motor carrier of property (other than a motor private carrier or a motor carrier of property described in subparagraph (A)).

(7) FOREIGN MOTOR PRIVATE CARRIER.—The term “foreign motor private carrier” means a person (including a motor private carrier but excluding a motor carrier of property)—

(A)(i) that is domiciled in a contiguous foreign country; or

(ii) that is owned or controlled by persons of a contiguous foreign country; and

(B) in the case of a person that is not a motor private carrier, that provides interstate transportation of property by motor vehicle under an agreement or contract entered into with a person (other than a motor carrier of property or a motor private carrier described in subparagraph (A)).

(8) FREIGHT FORWARDER.—The term “freight forwarder” means a person holding itself out to the general public (other than as a pipeline, rail, motor, or water carrier) to provide transportation of property for compensation and in the ordinary course of its business—

(A) assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments;

(B) assumes responsibility for the transportation from the place of receipt to the place of destination; and

(C) uses for any part of the transportation a carrier subject to jurisdiction under this subtitle.

The term does not include a person using transportation of an air carrier subject to part A of subtitle VII.

(9) HIGHWAY.—The term “highway” means a road, highway, street, and way in a State.

(10) HOUSEHOLD GOODS.—The term “household goods”, as used in connection with transportation, means personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of such dwelling, and similar property if the transportation of such effects or property is—

(A) arranged and paid for by the householder, except such term does not include property moving from a factory or store, other than property that the householder has purchased with the intent to use in his or her dwelling and is transported at the request of, and the transportation charges are paid to the carrier by, the householder; or

(B) arranged and paid for by another party.

(11) HOUSEHOLD GOODS FREIGHT FORWARDER.—The term “household goods freight forwarder” means a freight forwarder of one or more of the following items: household goods, unaccompanied baggage, or used automobiles.

(12) HOUSEHOLD GOODS MOTOR CARRIER.—

(A) IN GENERAL.—The term “household goods motor carrier” means a motor carrier that, in the ordinary course of its business of providing transportation of household goods, offers some or all of the following additional services:

- (i) Binding and nonbinding estimates.
- (ii) Inventorying.
- (iii) Protective packing and unpacking of individual items at personal residences.
- (iv) Loading and unloading at personal residences.

(B) **INCLUSION.**—The term includes any person that is considered to be a household goods motor carrier under regulations, determinations, and decisions of the Federal Motor Carrier Safety Administration that are in effect on the date of enactment of the Household Goods Mover Oversight Enforcement and Reform Act of 2005.

(C) **LIMITED SERVICE EXCLUSION.**—The term does not include a motor carrier when the motor carrier provides transportation of household goods in containers or trailers that are entirely loaded and unloaded by an individual (other than an employee or agent of the motor carrier).

(13) **INDIVIDUAL SHIPPER.**—The term “individual shipper” means any person who—

- (A) is the shipper, consignor, or consignee of a household goods shipment;
- (B) is identified as the shipper, consignor, or consignee on the face of the bill of lading;
- (C) owns the goods being transported; and
- (D) pays his or her own tariff transportation charges.

(14) **MOTOR CARRIER.**—The term “motor carrier” means a person providing motor vehicle transportation for compensation.

(15) **MOTOR PRIVATE CARRIER.**—The term “motor private carrier” means a person, other than a motor carrier, transporting property by motor vehicle when—

- (A) the transportation is as provided in section 13501 of this title;
- (B) the person is the owner, lessee, or bailee of the property being transported; and
- (C) the property is being transported for sale, lease, rent, or bailment or to further a commercial enterprise.

(16) **MOTOR VEHICLE.**—The term “motor vehicle” means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway in transportation, or a combination determined by the Secretary, but does not include a vehicle, locomotive, or car operated only on a rail, or a trolley bus operated by electric power from a fixed overhead wire, and providing local passenger transportation similar to street-railway service.

(17) **NONCONTIGUOUS DOMESTIC TRADE.**—The term “noncontiguous domestic trade” means transportation subject to jurisdiction under chapter 135 involving traffic originating in or destined to Alaska, Hawaii, or a territory or possession of the United States.

(18) **PERSON.**—The term “person”, in addition to its meaning under section 1 of title 1, includes a trustee, receiver, assignee, or personal representative of a person.

(19) **PRE-ARRANGED GROUND TRANSPORTATION SERVICE.**—The term “pre-arranged ground transportation service” means transportation for a passenger (or a group of passengers) that

is arranged in advance (or is operated on a regular route or between specified points) and is provided in a motor vehicle with a seating capacity not exceeding 15 passengers (including the driver).

(20) **SECRETARY.**—The term “Secretary” means the Secretary of Transportation.

(21) **STATE.**—The term “State” means the 50 States of the United States and the District of Columbia.

(22) **TAXICAB SERVICE.**—The term “taxicab service” means passenger transportation in a motor vehicle having a capacity of not more than 8 passengers (including the driver), not operated on a regular route or between specified places, and that—

- (A) is licensed as a taxicab by a State or a local jurisdiction; or
- (B) is offered by a person that—
 - (i) provides local transportation for a fare determined (except with respect to transportation to or from airports) primarily on the basis of the distance traveled; and
 - (ii) does not primarily provide transportation to or from airports.

(23) **TRANSPORTATION.**—The term “transportation” includes—

- (A) a motor vehicle, vessel, warehouse, wharf, pier, dock, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, regardless of ownership or an agreement concerning use; and
- (B) services related to that movement, including arranging for, receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, handling, packing, unpacking, and interchange of passengers and property.

(24) **UNITED STATES.**—The term “United States” means the States of the United States and the District of Columbia.

(25) **VESSEL.**—The term “vessel” means a watercraft or other artificial contrivance that is used, is capable of being used, or is intended to be used, as a means of transportation by water.

(26) **WATER CARRIER.**—The term “water carrier” means a person providing water transportation for compensation.

(27) **OVER-THE-ROAD BUS.**—The term “over-the-road bus” means a bus characterized by an elevated passenger deck located over a baggage compartment.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 854; amended Pub. L. 104-287, § 5(27), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 106-159, title II, § 209(a), Dec. 9, 1999, 113 Stat. 1764; Pub. L. 107-298, § 3(a), Nov. 26, 2002, 116 Stat. 2343; Pub. L. 109-59, title IV, §§ 4142(a), 4202(b), Aug. 10, 2005, 119 Stat. 1747, 1751; Pub. L. 110-244, title III, § 305(c), June 6, 2008, 122 Stat. 1620; Pub. L. 110-291, § 3, July 30, 2008, 122 Stat. 2915.)

HISTORICAL AND REVISION NOTES

PUB. L. 104-287, § 5(27)(A)

This amends 49:13102(4)(A) by setting out the effective date of the ICC Termination Act of 1995 (Public Law 104-88, 109 Stat. 803) and the day before that date.

PUB. L. 104-287, §5(27)(B)

This amends 49:13102(4)(B) for clarity and consistency.

REFERENCES IN TEXT

Section 10923, referred to in par. (4)(A), was omitted in the general amendment of this subtitle by Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

The date of enactment of the Household Goods Mover Oversight Enforcement and Reform Act of 2005, referred to in par. (12)(B), is the date of enactment of subtitle B of title IV of Pub. L. 109-59, which was approved Aug. 10, 2005.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10102 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

AMENDMENTS

2008—Pars. (6)(B), (7)(B), (14), (15). Pub. L. 110-244 substituted “motor vehicle” for “commercial motor vehicle (as defined in section 31132)”.

Par. (27). Pub. L. 110-291 added par. (27).

2005—Pars. (6)(B), (7)(B). Pub. L. 109-59, §4142(a), substituted “commercial motor vehicle (as defined in section 31132)” for “motor vehicle”.

Par. (12). Pub. L. 109-59, §4202(b), added par. (12). Former par. (12) redesignated (14).

Pub. L. 109-59, §4142(a), substituted “commercial motor vehicle (as defined in section 31132)” for “motor vehicle”.

Par. (13). Pub. L. 109-59, §4202(b), added par. (13). Former par. (13) redesignated (15).

Pub. L. 109-59, §4142(a), substituted “commercial motor vehicle (as defined in section 31132)” for “motor vehicle” in introductory provisions.

Pars. (14) to (26). Pub. L. 109-59, §4202(b), redesignated pars. (12) to (24) as (14) to (26), respectively.

2002—Pars. (17) to (24). Pub. L. 107-298 added pars. (17) and (20) and redesignated former pars. (17), (18), (19), (20), (21), and (22) as pars. (18), (19), (21), (22), (23), and (24), respectively.

1999—Par. (10)(A). Pub. L. 106-159 substituted “, except such term does not include property moving from a factory or store, other than property that the householder has purchased with the intent to use in his or her dwelling and is transported at the request of, and the transportation charges are paid to the carrier by, the householder;” for “, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in his or her dwelling;”.

1996—Par. (4)(A). Pub. L. 104-287, §5(27)(A), substituted “January 1, 1996” for “the effective date of this section” and “December 31, 1995” for “the day before the effective date of this section”.

Par. (4)(B). Pub. L. 104-287, §5(27)(B), substituted “after December 31, 1995” for “on or after such date”.

APPLICATION OF CERTAIN PROVISIONS OF LAW

Pub. L. 109-59, title IV, §4202(c), Aug. 10, 2005, 119 Stat. 1752, provided that: “The provisions of title 49, United States Code, and this subtitle [subtitle B (§§4201-4216) of title IV of Pub. L. 109-59, see Short Title of 2005 Amendment note set out under section 10101 of this title] (including any amendments made by this subtitle), that relate to the transportation of household goods apply only to a household goods motor carrier (as defined in section 13102 of title 49, United States Code).”

DEFINITIONS

Pub. L. 109-59, title IV, §4202(a), Aug. 10, 2005, 119 Stat. 1751, provided that: “In this subtitle [subtitle B (§§4201-4216) of title IV of Pub. L. 109-59, see Short Title of 2005 Amendment note set out under section 10101 of this title], the terms ‘carrier’, ‘household goods’,

‘motor carrier’, ‘Secretary’, and ‘transportation’ have the meaning given to such terms in section 13102 of title 49, United States Code.”

§ 13103. Remedies as cumulative

Except as otherwise provided in this part, the remedies provided under this part are in addition to remedies existing under another law or common law.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 856.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10103 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

CHAPTER 133—ADMINISTRATIVE PROVISIONS

Sec.	
13301.	Powers.
13302.	Intervention.
13303.	Service of notice in proceedings.
13304.	Service of process in court proceedings.

§ 13301. Powers

(a) GENERAL POWERS OF SECRETARY.—Except as otherwise specified, the Secretary shall carry out this part. Enumeration of a power of the Secretary in this part does not exclude another power the Secretary may have in carrying out this part. The Secretary may prescribe regulations in carrying out this part.

(b) OBTAINING INFORMATION.—The Secretary may obtain from carriers providing, and brokers for, transportation and service subject to this part, and from persons controlling, controlled by, or under common control with those carriers or brokers to the extent that the business of that person is related to the management of the business of that carrier or broker, information the Secretary decides is necessary to carry out this part.

(c) SUBPOENA POWER.—

(1) BY SECRETARY.—The Secretary may subpoena witnesses and records related to a proceeding under this part from any place in the United States, to the designated place of the proceeding. If a witness disobeys a subpoena, the Secretary, or a party to a proceeding under this part, may petition a court of the United States to enforce that subpoena.

(2) ENFORCEMENT.—The district courts of the United States have jurisdiction to enforce a subpoena issued under this section. Trial is in the district in which the proceeding is conducted. The court may punish a refusal to obey a subpoena as a contempt of court.

(d) TESTIMONY OF WITNESSES.—

(1) PROCEDURE FOR TAKING TESTIMONY.—In a proceeding under this part, the Secretary may take the testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding pending under this part may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding is at issue on petition and answer.

(2) SUBPOENA.—If a witness fails to be deposed or to produce records under paragraph

(1) of this subsection, the Secretary may subpoena the witness to take a deposition, produce the records, or both.

(3) DEPOSITIONS.—A deposition may be taken before a judge of a court of the United States, a United States magistrate judge, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding.

(4) NOTICE OF DEPOSITION.—Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

(5) TRANSCRIPT.—The testimony of a person deposed under this subsection shall be taken under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent.

(6) FOREIGN COUNTRY.—The testimony of a witness who is in a foreign country may be taken by deposition before an officer or person designated by the Secretary or agreed on by the parties by written stipulation filed with the Secretary. A deposition shall be filed with the Secretary promptly.

(e) WITNESS FEES.—Each witness summoned before the Secretary or whose deposition is taken under this section and the individual taking the deposition are entitled to the same fees and mileage paid for those services in the courts of the United States.

(f) POWERS OF BOARD.—For those provisions of this part that are specified to be carried out by the Board, the Board shall have the same powers as the Secretary has under this section.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 856.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10321 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104-88, see section 2 of Pub. L. 104-88, set out as a note under section 1301 of this title.

§ 13302. Intervention

Under regulations of the Secretary, reasonable notice of, and an opportunity to intervene and participate in, a proceeding under this part related to transportation subject to jurisdiction under subchapter I of chapter 135 shall be given to interested persons.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 858.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10328 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

§ 13303. Service of notice in proceedings

(a) AGENTS FOR SERVICE OF PROCESS.—A carrier, a broker, or a freight forwarder providing transportation or service subject to jurisdiction under chapter 135 shall designate, in writing, an agent by name and post office address on whom service of notices in a proceeding before, and of actions of, the Secretary may be made.

(b) FILING WITH STATE.—A motor carrier providing transportation under this part shall also file the designation with the appropriate authority of each State in which it operates. The designation may be changed at any time in the same manner as originally made.

(c) NOTICE.—A notice to a motor carrier, freight forwarder, or broker shall be served personally or by mail on the motor carrier, freight forwarder, or broker or on its designated agent. Service by mail on the designated agent shall be made at the address filed for the agent. When notice is given by mail, the date of mailing is considered to be the time when the notice is served. If a motor carrier, freight forwarder, or broker does not have a designated agent, service may be made by posting a copy of the notice at the headquarters of the Department of Transportation.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 858.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10329 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

§ 13304. Service of process in court proceedings

(a) DESIGNATION OF AGENT.—A motor carrier or broker providing transportation subject to jurisdiction under chapter 135, including a motor carrier or broker operating within the United States while providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country, shall designate an agent in each State in which it operates by name and post office address on whom process issued by a court with subject matter jurisdiction may be served in an action brought against that carrier or broker. The designation shall be in writing and filed with the Department of Transportation and each State in which the carrier operates may require that an additional designation be filed with it. If a designation under this subsection is not made, service may be made on any agent of the carrier or broker within that State.

(b) CHANGE.—A designation under this section may be changed at any time in the same manner as originally made.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 858.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10330 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

CHAPTER 135—JURISDICTION

SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION

Sec.
13501. General jurisdiction.

- Sec.
13502. Exempt transportation between Alaska and other States.
13503. Exempt motor vehicle transportation in terminal areas.
13504. Exempt motor carrier transportation entirely in one State.
13505. Transportation furthering a primary business.
13506. Miscellaneous motor carrier transportation exemptions.
13507. Mixed loads of regulated and unregulated property.
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SUBCHAPTER II—WATER CARRIER
TRANSPORTATION

13521. General jurisdiction.

SUBCHAPTER III—FREIGHT FORWARDER
SERVICE

13531. General jurisdiction.

SUBCHAPTER IV—AUTHORITY TO EXEMPT

13541. Authority to exempt transportation or services.

SUBCHAPTER I—MOTOR CARRIER
TRANSPORTATION

§ 13501. General jurisdiction

The Secretary and the Board have jurisdiction, as specified in this part, over transportation by motor carrier and the procurement of that transportation, to the extent that passengers, property, or both, are transported by motor carrier—

- (1) between a place in—
(A) a State and a place in another State;
(B) a State and another place in the same State through another State;
(C) the United States and a place in a territory or possession of the United States to the extent the transportation is in the United States;
(D) the United States and another place in the United States through a foreign country to the extent the transportation is in the United States; or
(E) the United States and a place in a foreign country to the extent the transportation is in the United States; and

(2) in a reservation under the exclusive jurisdiction of the United States or on a public highway.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 859.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10521 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104-88, see section 2 of Pub. L. 104-88, set out as a note under section 1301 of this title.

§ 13502. Exempt transportation between Alaska and other States

To the extent that transportation by a motor carrier between a place in Alaska and a place in

another State under section 13501 is provided in a foreign country—

(1) neither the Secretary nor the Board has jurisdiction to impose a requirement over conduct of the motor carrier in the foreign country conflicting with a requirement of that country; but

(2) the motor carrier, as a condition of providing transportation in the United States, shall comply, with respect to all transportation provided between Alaska and the other State, with the requirements of this part related to rates and practices applicable to the transportation.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 859.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10522 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

§ 13503. Exempt motor vehicle transportation in terminal areas

(a) TRANSPORTATION BY CARRIERS.—

(1) IN GENERAL.—Neither the Secretary nor the Board has jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

- (A) is a transfer, collection, or delivery;
(B) is provided by—
(i) a rail carrier subject to jurisdiction under chapter 105;
(ii) a water carrier subject to jurisdiction under subchapter II of this chapter; or
(iii) a freight forwarder subject to jurisdiction under subchapter III of this chapter; and

(C) is incidental to transportation or service provided by the carrier or freight forwarder that is subject to jurisdiction under chapter 105 of this title or under subchapter II or III of this chapter.

(2) APPLICABILITY OF OTHER PROVISIONS.—Transportation exempt from jurisdiction under paragraph (1) of this subsection is subject to jurisdiction under chapter 105 when provided by such a rail carrier, under subchapter II of this chapter when provided by such a water carrier, and under subchapter III of this chapter when provided by such a freight forwarder.

(b) TRANSPORTATION BY AGENT.—

(1) IN GENERAL.—Except to the extent provided by paragraph (2) of this subsection, neither the Secretary nor the Board has jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

- (A) is a transfer, collection, or delivery; and
(B) is provided by a person as an agent or under other arrangement for—
(i) a rail carrier subject to jurisdiction under chapter 105 of this title;
(ii) a motor carrier subject to jurisdiction under this subchapter;
(iii) a water carrier subject to jurisdiction under subchapter II of this chapter; or

(iv) a freight forwarder subject to jurisdiction under subchapter III of this chapter.

(2) TREATMENT OF TRANSPORTATION BY PRINCIPAL.—Transportation exempt from jurisdiction under paragraph (1) of this subsection is considered transportation provided by the carrier or service provided by the freight forwarder for whom the transportation was provided and is subject to jurisdiction under chapter 105 of this title when provided for such a rail carrier, under this subchapter when provided for such a motor carrier, under subchapter II of this chapter when provided for such a water carrier, and under subchapter III of this chapter when provided for such a freight forwarder.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 860.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10523 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 13504. Exempt motor carrier transportation entirely in one State

Neither the Secretary nor the Board has jurisdiction under this subchapter over transportation, except transportation of household goods, by a motor carrier operating solely within the State of Hawaii. The State of Hawaii may regulate transportation exempt from jurisdiction under this section and, to the extent provided by a motor carrier operating solely within the State of Hawaii, transportation exempt under section 13503 of this title.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 860.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10525 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 13505. Transportation furthering a primary business

(a) IN GENERAL.—Neither the Secretary nor the Board has jurisdiction under this part over the transportation of property by motor vehicle when—

(1) the property is transported by a person engaged in a business other than transportation; and

(2) the transportation is within the scope of, and furthers a primary business (other than transportation) of the person.

(b) CORPORATE FAMILIES.—

(1) IN GENERAL.—Neither the Secretary nor the Board has jurisdiction under this part over transportation of property by motor vehicle for compensation provided by a person who is a member of a corporate family for other members of such corporate family.

(2) DEFINITION.—In this section, “corporate family” means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly a 100 percent interest.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 861.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10524 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 13506. Miscellaneous motor carrier transportation exemptions

(a) IN GENERAL.—Neither the Secretary nor the Board has jurisdiction under this part over—

(1) a motor vehicle transporting only school children and teachers to or from school;

(2) a motor vehicle providing taxicab service;

(3) a motor vehicle owned or operated by or for a hotel and only transporting hotel patrons between the hotel and the local station of a carrier;

(4) a motor vehicle controlled and operated by a farmer and transporting—

(A) the farmer’s agricultural or horticultural commodities and products; or

(B) supplies to the farm of the farmer;

(5) a motor vehicle controlled and operated by a cooperative association (as defined by section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a))) or by a federation of cooperative associations if the federation has no greater power or purposes than a cooperative association, except that if the cooperative association or federation provides transportation for compensation between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State—

(A) for a nonmember that is not a farmer, cooperative association, federation, or the United States Government, the transportation (except for transportation otherwise exempt under this subchapter)—

(i) shall be limited to transportation incidental to the primary transportation operation of the cooperative association or federation and necessary for its effective performance; and

(ii) may not exceed in each fiscal year 25 percent of the total transportation of the cooperative association or federation between those places, measured by tonnage; and

(B) the transportation for all nonmembers may not exceed in each fiscal year, measured by tonnage, the total transportation between those places for the cooperative association or federation and its members during that fiscal year;

(6) transportation by motor vehicle of—

(A) ordinary livestock;

(B) agricultural or horticultural commodities (other than manufactured products thereof);

(C) commodities listed as exempt in the Commodity List incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, other than frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, or hemp, or wool imported from a foreign country, wool tops and noils,

or wool waste (carded, spun, woven, or knitted);

(D) cooked or uncooked fish, whether breaded or not, or frozen or fresh shellfish, or byproducts thereof not intended for human consumption, other than fish or shellfish that have been treated for preserving, such as canned, smoked, pickled, spiced, corned, or kippered products; and

(E) livestock and poultry feed and agricultural seeds and plants, if such products (excluding products otherwise exempt under this paragraph) are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production;

(7) a motor vehicle used only to distribute newspapers;

(8)(A) transportation of passengers by motor vehicle incidental to transportation by aircraft;

(B) transportation of property (including baggage) by motor vehicle as part of a continuous movement which, prior or subsequent to such part of the continuous movement, has been or will be transported by an air carrier or (to the extent so agreed by the United States and approved by the Secretary) by a foreign air carrier; or

(C) transportation of property by motor vehicle in lieu of transportation by aircraft because of adverse weather conditions or mechanical failure of the aircraft or other causes due to circumstances beyond the control of the carrier or shipper;

(9) the operation of a motor vehicle in a national park or national monument;

(10) a motor vehicle carrying not more than 15 individuals in a single, daily roundtrip to commute to and from work;

(11) transportation of used pallets and used empty shipping containers (including intermodal cargo containers), and other used shipping devices (other than containers or devices used in the transportation of motor vehicles or parts of motor vehicles);

(12) transportation of natural, crushed, vesicular rock to be used for decorative purposes;

(13) transportation of wood chips;

(14) brokers for motor carriers of passengers, except as provided in section 13904(d);¹

(15) transportation of broken, crushed, or powdered glass; or

(16) the transportation of passengers by 9 to 15 passenger motor vehicles operated by youth or family camps that provide recreational or educational activities.

(b) EXEMPT UNLESS OTHERWISE NECESSARY.—Except to the extent the Secretary or Board, as applicable, finds it necessary to exercise jurisdiction to carry out the transportation policy of section 13101, neither the Secretary nor the Board has jurisdiction under this part over—

(1) transportation provided entirely in a municipality, in contiguous municipalities, or in a zone that is adjacent to, and commercially a

part of, the municipality or municipalities, except—

(A) when the transportation is under common control, management, or arrangement for a continuous carriage or shipment to or from a place outside the municipality, municipalities, or zone; or

(B) that in transporting passengers over a route between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State, the transportation is exempt from jurisdiction under this part only if the motor carrier operating the motor vehicle also is lawfully providing intrastate transportation of passengers over the entire route under the laws of each State through which the route runs;

(2) transportation by motor vehicle provided casually, occasionally, or reciprocally but not as a regular occupation or business, except when a broker or other person sells or offers for sale passenger transportation provided by a person authorized to transport passengers by motor vehicle under an application pending, or registration issued, under this part; or

(3) the emergency towing of an accidentally wrecked or disabled motor vehicle.

(Added Pub. L. 104–88, title I, § 103, Dec. 29, 1995, 109 Stat. 861; amended Pub. L. 105–102, § 2(8), Nov. 20, 1997, 111 Stat. 2204; Pub. L. 107–298, § 3(b)(1), Nov. 26, 2002, 116 Stat. 2343; Pub. L. 114–113, div. L, title I, § 136, Dec. 18, 2015, 129 Stat. 2851.)

HISTORICAL AND REVISION NOTES

PUB. L. 105–102

This amends 49:13506(a)(5) to correct a grammatical error.

REFERENCES IN TEXT

Section 13904(d), referred to in subsec. (a)(14), was redesignated section 13904(f) by Pub. L. 112–141, div. C, title II, § 32916(b)(2), July 6, 2012, 126 Stat. 821.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10526 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

AMENDMENTS

2015—Subsec. (a)(16). Pub. L. 114–113 added par. (16).

2002—Subsec. (a)(2). Pub. L. 107–298 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “a motor vehicle providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places;”.

1997—Subsec. (a)(5). Pub. L. 105–102 substituted “1141j(a))” for “1141j(a))”.

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§ 13507. Mixed loads of regulated and unregulated property

A motor carrier of property providing transportation exempt from jurisdiction under paragraph (6), (8), (11), (12), or (13) of section 13506(a) may transport property under such paragraph in the same vehicle and at the same time as prop-

¹ See References in Text note below.

erty which the carrier is authorized to transport under a registration issued under section 13902(a). Such transportation shall not affect the unregulated status of such exempt property or the regulated status of the property which the carrier is authorized to transport under such registration.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 863.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10528 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

§ 13508. Limited authority over cooperative associations

(a) IN GENERAL.—Notwithstanding section 13506(a)(5), any cooperative association (as defined by section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a))) or a federation of cooperative associations shall prepare and maintain such records relating to transportation provided by such association or federation, in such form as the Secretary or the Board may require by regulation to carry out the provisions of such section 13506(a)(5). The Secretary or the Board, or an employee designated by the Secretary or the Board, may on demand and display of proper credentials—

(1) inspect and examine the lands, buildings, and equipment of such association or federation; and

(2) inspect and copy any record of such association or federation.

(b) REPORTS.—Notwithstanding section 13506(a)(5), the Secretary or the Board may require a cooperative association or federation of cooperative associations described in subsection (a) of this section to file reports with the Secretary or the Board containing answers to questions about transportation provided by such association or federation.

(c) ENFORCEMENT.—The Secretary or the Board may bring a civil action to enforce subsections (a) and (b) of this section or a regulation or order of the Secretary or the Board issued under this section, when violated by a cooperative association or federation of cooperative associations described in subsection (a).

(d) REPORTING PENALTIES.—

(1) IN GENERAL.—A person required to make a report to the Secretary or the Board, answer a question, or maintain a record under this section, or an officer, agent, or employee of that person, that—

(A) does not make the report;

(B) does not specifically, completely, and truthfully answer the question; or

(C) does not maintain the record in the form and manner prescribed under this section;

is liable to the United States for a civil penalty of not more than \$500 for each violation and for not more than \$250 for each additional day the violation continues.

(2) VENUE.—Trial in a civil action under paragraph (1) shall be in the judicial district in which—

(A) the cooperative association or federation of cooperative associations has its principal office;

(B) the violation occurred; or

(C) the offender is found.

Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

(e) EVASION PENALTIES.—A person, or an officer, employee, or agent of that person, that by any means knowingly and willfully tries to evade compliance with the provisions of this section shall be fined at least \$200 but not more than \$500 for the first violation and at least \$250 but not more than \$2,000 for a subsequent violation.

(f) RECORDKEEPING PENALTIES.—A person required to make a report, answer a question, or maintain a record under this section, or an officer, agent, or employee of that person, that—

(1) willfully does not make that report;

(2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date that the question is required to be answered;

(3) willfully does not maintain that record in the form and manner prescribed;

(4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record;

(5) knowingly and willfully files a false report or record under this section;

(6) knowingly and willfully makes a false or incomplete entry in that record about a business-related fact or transaction; or

(7) knowingly and willfully maintains a record in violation of a regulation or order issued under this section;

shall be fined not more than \$5,000.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 863.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10529 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

SUBCHAPTER II—WATER CARRIER TRANSPORTATION

§ 13521. General jurisdiction

(a) GENERAL RULES.—The Secretary and the Board have jurisdiction over transportation insofar as water carriers are concerned—

(1) by water carrier between a place in a State and a place in another State, even if part of the transportation is outside the United States;

(2) by water carrier and motor carrier from a place in a State to a place in another State; except that if part of the transportation is outside the United States, the Secretary only has jurisdiction over that part of the transportation provided—

(A) by motor carrier that is in the United States; and

(B) by water carrier that is from a place in the United States to another place in the United States; and

(3) by water carrier or by water carrier and motor carrier between a place in the United

States and a place outside the United States, to the extent that—

(A) when the transportation is by motor carrier, the transportation is provided in the United States;

(B) when the transportation is by water carrier to a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States before transshipment from a place in the United States to a place outside the United States; and

(C) when the transportation is by water carrier from a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States after transshipment to a place in the United States from a place outside the United States.

(b) DEFINITIONS.—In this section, the terms “State” and “United States” include the territories and possessions of the United States.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 865.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10541 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

SUBCHAPTER III—FREIGHT FORWARDER SERVICE

§ 13531. General jurisdiction

(a) IN GENERAL.—The Secretary and the Board have jurisdiction, as specified in this part, over service that a freight forwarder undertakes to provide, or is authorized or required under this part to provide, to the extent transportation is provided in the United States and is between—

(1) a place in a State and a place in another State, even if part of the transportation is outside the United States;

(2) a place in a State and another place in the same State through a place outside the State; or

(3) a place in the United States and a place outside the United States.

(b) EXEMPTION OF CERTAIN AIR CARRIER SERVICE.—Neither the Secretary nor the Board has jurisdiction under subsection (a) of this section over service undertaken by a freight forwarder using transportation of an air carrier subject to part A of subtitle VII of this title.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 865.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10561 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

SUBCHAPTER IV—AUTHORITY TO EXEMPT

§ 13541. Authority to exempt transportation or services

(a) IN GENERAL.—In any matter subject to jurisdiction under this part, the Secretary or the

Board, as applicable, shall exempt a person, class of persons, or a transaction or service from the application, in whole or in part, of a provision of this part, or use this exemption authority to modify the application of a provision of this part as it applies to such person, class, transaction, or service, when the Secretary or Board finds that the application of that provision—

(1) is not necessary to carry out the transportation policy of section 13101;

(2) is not needed to protect shippers from the abuse of market power or that the transaction or service is of limited scope; and

(3) is in the public interest.

(b) INITIATION OF PROCEEDING.—The Secretary or Board, as applicable, may, where appropriate, begin a proceeding under this section on the Secretary’s or Board’s own initiative or on application by an interested party.

(c) PERIOD OF EXEMPTION.—The Secretary or Board, as applicable, may specify the period of time during which an exemption granted under this section is effective.

(d) REVOCATION.—The Secretary or Board, as applicable, may revoke an exemption, to the extent specified, on finding that application of a provision of this part to the person, class, or transportation is necessary to carry out the transportation policy of section 13101.

(e) LIMITATIONS.—

(1) IN GENERAL.—The exemption authority under this section may not be used to relieve a person from the application of, and compliance with, any law, rule, regulation, standard, or order pertaining to cargo loss and damage, insurance, safety fitness, or activities approved under section 13703 or 14302 or not terminated under section 13907(d)(2).

(2) WATER CARRIERS.—The Secretary or Board, as applicable, may not exempt a water carrier from the application of, or compliance with, section 13701 or 13702 for transportation in the non-contiguous domestic trade.

(f) CONTINUATION OF CERTAIN EXISTING EXEMPTIONS FOR WATER CARRIERS.—The Secretary or Board, as applicable, shall not regulate or exercise jurisdiction under this part over the transportation by water carrier in the non-contiguous domestic trade of any cargo or type of cargo or service which was not subject to regulation by, or under the jurisdiction of, either the Federal Maritime Commission or Interstate Commerce Commission under Federal law in effect on November 1, 1995.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 866.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10505 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104-88, set out as a note under section 1301 of this title.

**CHAPTER 137—RATES AND THROUGH
ROUTES**

Sec.	
13701.	Requirements for reasonable rates, classifications, through routes, rules, and practices for certain transportation.
13702.	Tariff requirement for certain transportation.
13703.	Certain collective activities; exemption from antitrust laws.
13704.	Household goods rates—estimates; guarantees of service.
13705.	Requirements for through routes among motor carriers of passengers.
13706.	Liability for payment of rates.
13707.	Payment of rates.
13708.	Billing and collecting practices.
13709.	Procedures for resolving claims involving unfiled, negotiated transportation rates.
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13711.	Alternative procedure for resolving undercharge disputes.
13712.	Government traffic.
13713.	Food and grocery transportation.

§ 13701. Requirements for reasonable rates, classifications, through routes, rules, and practices for certain transportation

(a) REASONABLENESS.—

(1) CERTAIN HOUSEHOLD GOODS TRANSPORTATION; JOINT RATES INVOLVING WATER TRANSPORTATION.—A rate, classification, rule, or practice related to transportation or service provided by a carrier subject to jurisdiction under chapter 135 for transportation or service involving—

(A) a movement of household goods,

(B) a rate for a movement by or with a water carrier in noncontiguous domestic trade, or

(C) rates, rules, and classifications made collectively by motor carriers under agreements approved pursuant to section 13703,

must be reasonable.

(2) THROUGH ROUTES AND DIVISIONS OF JOINT RATES.—Through routes and divisions of joint rates for such transportation or service must be reasonable.

(b) PRESCRIPTION BY BOARD FOR VIOLATIONS.—When the Board finds it necessary to stop or prevent a violation of subsection (a), the Board shall prescribe the rate, classification, rule, practice, through route, or division of joint rates to be applied for such transportation or service.

(c) FILING OF COMPLAINT.—A complaint that a rate, classification, rule, or practice in noncontiguous domestic trade violates subsection (a) may be filed with the Board.

(d) ZONE OF REASONABLENESS.—

(1) IN GENERAL.—For purposes of this section, a rate or division of a motor carrier for service in noncontiguous domestic trade or water carrier for port-to-port service in that trade is reasonable if the aggregate of increases and decreases in any such rate or division is not more than 7.5 percent above, or more than 10 percent below, the rate or division in effect 1 year before the effective date of the proposed rate or division.

(2) ADJUSTMENTS TO THE ZONE.—The percentage specified in paragraph (1) shall be in-

creased or decreased, as the case may be, by the percentage change in the Producers Price Index, as published by the Department of Labor, that has occurred during the most recent 1-year period before the date the rate or division in question first took effect.

(3) DETERMINATIONS AFTER COMPLAINT.—The Board shall determine whether any rate or division of a carrier or service in noncontiguous domestic trade which is not within the range described in paragraph (1) is reasonable if a complaint is filed under subsection (c) or section 13702(b)(6).

(4) REPARATIONS.—Upon a finding of violation of subsection (a), the Board shall award reparations to the complaining shipper or shippers in an amount equal to all sums assessed and collected that exceed the determined reasonable rate, division, rate structure, or tariff. Upon complaint from any governmental agency or authority and upon a finding or violation of subsection (a), the Board shall make such orders as are just and shall require the carrier to return, to the extent practicable, to shippers all amounts plus interest, which the Board finds to have been assessed and collected in violation of subsection (a).

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 867.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 10701, 10704, and 10705 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104-88, see section 2 of Pub. L. 104-88, set out as a note under section 1301 of this title.

§ 13702. Tariff requirement for certain transportation

(a) IN GENERAL.—Except when providing transportation for charitable purposes without charge, a carrier subject to jurisdiction under chapter 135 may provide transportation or service that is—

(1) in noncontiguous domestic trade, except with regard to bulk cargo, forest products, recycled metal scrap, waste paper, and paper waste; or

(2) for movement of household goods;

only if the rate for such transportation or service is contained in a tariff that is in effect under this section. The carrier may not charge or receive a different compensation for the transportation or service than the rate specified in the tariff, whether by returning a part of that rate to a person, giving a person a privilege, allowing the use of a facility that affects the value of that transportation or service, or another device. A rate contained in a tariff shall be stated in money of the United States.

(b) TARIFF REQUIREMENTS FOR NONCONTIGUOUS DOMESTIC TRADE.—

(1) FILING.—A carrier providing transportation or service described in subsection (a)(1) shall publish and file with the Board tariffs containing the rates established for such

transportation or service. The carriers shall keep such tariffs available for public inspection. The Board shall prescribe the form and manner of publishing, filing, and keeping tariffs available for public inspection under this subsection.

(2) CONTENTS.—The Board may prescribe any specific information and charges to be identified in a tariff, but at a minimum tariffs must identify plainly—

- (A) the carriers that are parties to it;
- (B) the places between which property will be transported;
- (C) terminal charges if a carrier provides transportation or service subject to jurisdiction under subchapter III of chapter 135;
- (D) privileges given and facilities allowed; and
- (E) any rules that change, affect, or determine any part of the published rate.

(3) INLAND DIVISIONS.—A carrier providing transportation or service described in subsection (a)(1) under a joint rate for a through movement shall not be required to state separately or otherwise reveal in tariff filings the inland divisions of that through rate.

(4) TIME-VOLUME RATES.—Rates in tariffs filed under this subsection may vary with the volume of cargo offered over a specified period of time.

(5) CHANGES.—The Board may permit carriers to change rates, classifications, rules, and practices without filing complete tariffs under this subsection that cover matter that is not being changed when the Board finds that action to be consistent with the public interest. Those carriers may either—

- (A) publish new tariffs that incorporate changes, or
- (B) plainly indicate the proposed changes in the tariffs then in effect and make the tariffs as changed available for public inspection.

(6) COMPLAINTS.—A complaint that a rate or related rule or practice maintained in a tariff under this subsection violates section 13701(a) may be submitted to the Board for resolution.

(c) TARIFF REQUIREMENTS FOR HOUSEHOLD GOODS CARRIERS.—

(1) IN GENERAL.—A carrier providing transportation described in subsection (a)(2) shall maintain rates and related rules and practices in a published tariff. The tariff must be available for inspection by the Board and be made available for inspection by shippers upon reasonable request.

(2) NOTICE OF AVAILABILITY.—A carrier that maintains a tariff under this subsection may not enforce the provisions of the tariff unless the carrier has given notice that the tariff is available for inspection in its bill of lading or by other actual notice to individuals whose shipments are subject to the tariff.

(3) REQUIREMENTS.—A carrier that maintains a tariff under this subsection is bound by the tariff except as otherwise provided in this part. A tariff that does not comply with this subsection may not be enforced against any individual shipper.

(4) INCORPORATION BY REFERENCE.—A carrier may incorporate by reference the rates, terms,

and other conditions of a tariff in agreements covering the transportation of household goods.

(5) COMPLAINTS.—A complaint that a rate or related rule or practice maintained in a tariff under this subsection violates section 13701(a) may be submitted to the Board for resolution.

(d) INVALIDATION.—The Board may invalidate a tariff prepared by a carrier or carriers under this section if that tariff violates this section or a regulation of the Board carrying out this section.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 868.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 10761 and 10762 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

§ 13703. Certain collective activities; exemption from antitrust laws

(a) AGREEMENTS.—

(1) AUTHORITY TO ENTER.—A motor carrier providing transportation or service subject to jurisdiction under chapter 135 may enter into an agreement with one or more such carriers to establish—

- (A) through routes and joint rates;
- (B) rates for the transportation of household goods;
- (C) classifications;
- (D) mileage guides;
- (E) rules;
- (F) divisions;
- (G) rate adjustments of general application based on industry average carrier costs (so long as there is no discussion of individual markets or particular single-line rates); or
- (H) procedures for joint consideration, initiation, or establishment of matters described in subparagraphs (A) through (G).

(2) SUBMISSION OF AGREEMENT TO BOARD; APPROVAL.—An agreement entered into under paragraph (1) may be submitted by any carrier or carriers that are parties to such agreement to the Board for approval and may be approved by the Board only if it finds that such agreement is in the public interest.

(3) CONDITIONS.—The Board may require compliance with reasonable conditions consistent with this part to assure that the agreement furthers the transportation policy set forth in section 13101.

(4) INDEPENDENTLY ESTABLISHED RATES.—Any carrier which is a party to an agreement under paragraph (1) is not, and may not be, precluded from independently establishing its own rates, classification, and mileages or from adopting and using a noncollectively made classification or mileage guide.

(5) INVESTIGATIONS.—

(A) REASONABLENESS.—The Board may suspend and investigate the reasonableness of any rate, rule, classification, or rate adjustment of general application made pursuant to an agreement under this section.

(B) ACTIONS NOT IN THE PUBLIC INTEREST.—The Board may investigate any action taken

pursuant to an agreement approved under this section. If the Board finds that the action is not in the public interest, the Board may take such measures as may be necessary to protect the public interest with regard to the action, including issuing an order directing the parties to cease and desist or modify the action.

(6) EFFECT OF APPROVAL.—If the Board approves the agreement or renews approval of the agreement, it may be made and carried out under its terms and under the conditions required by the Board, and the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to parties and other persons with respect to making or carrying out the agreement.

(b) RECORDS.—The Board may require an organization established or continued under an agreement approved under this section to maintain records and submit reports. The Board, or its delegate, may inspect a record maintained under this section, or monitor any organization's compliance with this section.

(c) REVIEW.—

(1) IN GENERAL.—The Board may review an agreement approved under this section, on its own initiative or on request, and shall change the conditions of approval or terminate it when necessary to protect the public interest. Action of the Board under this section—

- (A) approving an agreement,
- (B) denying, ending, or changing approval,
- (C) prescribing the conditions on which approval is granted, or
- (D) changing those conditions,

has effect only as related to application of the antitrust laws referred to in subsection (a).

(2) PERIODIC REVIEW OF APPROVALS.—Subject to this section, in the 5-year period beginning on the date of the enactment of this paragraph and in each 5-year period thereafter, the Board shall initiate a proceeding to review any agreement approved pursuant to this section. Any such agreement shall be continued unless the Board determines otherwise.

(d) EXISTING AGREEMENTS.—

(1) AGREEMENTS EXISTING AS OF DECEMBER 31, 1995.—Agreements approved under former section 10706(b) and in effect on December 31, 1995, shall be treated for purposes of this section as approved by the Board under this section beginning on January 1, 1996.

(2) CASES PENDING AS OF DATE OF THE ENACTMENT.—Nothing in section 227 (other than subsection (b)) of the Motor Carrier Safety Improvement Act of 1999, including the amendments made by such section, shall be construed to affect any case brought under this section that is pending before the Board as of the date of the enactment of this paragraph.

(e) LIMITATIONS ON STATUTORY CONSTRUCTION.—

(1) UNDERCHARGE CLAIMS.—Nothing in this section shall serve as a basis for any undercharge claim.

(2) OBLIGATION OF SHIPPER.—Nothing in this title, the ICC Termination Act of 1995, or any amendments or repeals made by such Act shall

be construed as creating any obligation for a shipper based solely on a classification that was on file with the Interstate Commerce Commission or elsewhere on December 31, 1995.

(f) INDUSTRY STANDARD GUIDES.—

(1) IN GENERAL.—

(A) PUBLIC AVAILABILITY.—Routes, rates, classifications, mileage guides, and rules established under agreements approved under this section shall be published and made available for public inspection upon request.

(B) PARTICIPATION OF CARRIERS.—

(i) IN GENERAL.—A motor carrier of property whose routes, rates, classifications, mileage guides, rules, or packaging are determined or governed by publications established under agreements approved under this section must participate in the determining or governing publication for such provisions to apply.

(ii) POWER OF ATTORNEY.—The motor carrier of property shall issue a power of attorney to the publishing agent and, upon its acceptance, the agent shall issue a written certification to the motor carrier affirming its participation in the governing publication, and the certification shall be made available for public inspection.

(2) MILEAGE LIMITATION.—No carrier subject to jurisdiction under subchapter I or III of chapter 135 may enforce collection of its mileage rates unless such carrier—

(A) is a participant in a publication of mileages formulated under an agreement approved under this section; or

(B) uses a publication of mileage (other than a publication described in subparagraph (A)) that can be examined by any interested person upon reasonable request.

(g) SINGLE LINE RATE DEFINED.—In this section, the term “single line rate” means a rate, charge, or allowance proposed by a single motor carrier that is applicable only over its line and for which the transportation can be provided by that carrier.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 869; amended Pub. L. 104-287, § 5(28), Oct. 11, 1996, 110 Stat. 3391; Pub. L. 105-102, § 2(9), Nov. 20, 1997, 111 Stat. 2204; Pub. L. 106-159, title II, § 227, Dec. 9, 1999, 113 Stat. 1772; Pub. L. 108-7, div. I, title III, § 354, Feb. 20, 2003, 117 Stat. 421.)

HISTORICAL AND REVISION NOTES

PUB. L. 105-102

This amends 49:13703(a)(2) to correct an erroneous cross-reference.

REFERENCES IN TEXT

The date of the enactment of this paragraph, referred to in subsecs. (c)(2) and (d)(2), is the date of enactment of Pub. L. 106-159, which was approved Dec. 9, 1999.

Former section 10706(b), referred to in subsec. (d)(1), probably means section 10706(b) of this title as in effect before that section was omitted and a new section 10706 enacted in the general amendment of this subtitle by Pub. L. 104-88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 804, 812.

Section 227 of the Motor Carrier Safety Improvement Act of 1999, referred to in subsec. (d)(2), is section 227 of Pub. L. 106-159, which amended this section. See 1999 Amendment notes below.

The ICC Termination Act of 1995, referred to in subsec. (e)(2), is Pub. L. 104-88, Dec. 29, 1995, 109 Stat. 803. For complete classification of this Act to the Code, see Short Title of 1995 Amendment note set out under section 101 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10706 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

AMENDMENTS

2003—Subsecs. (d) to (h). Pub. L. 108-7 redesignated subsecs. (e) to (h) as (d) to (g), respectively, and struck out heading and text of former subsec. (d). Text read as follows: “The Board shall not take any action that would permit the establishment of nationwide collective ratemaking authority.”

1999—Subsec. (c). Pub. L. 106-159, §227(a), designated introductory provisions as par. (1) and inserted heading, redesignated former pars. (1) to (4) as subpars. (A) to (D), respectively, of par. (1) and realigned their margins, and added par. (2).

Subsec. (d). Pub. L. 106-159, §227(b), amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: “Subject to subsection (c), approval of an agreement under subsection (a) shall expire 3 years after the date of approval unless renewed under this subsection. The approval may be renewed upon request of the parties to the agreement if such parties resubmit the agreement to the Board, the agreement is unchanged, and the Board approves such renewal. The Board shall approve the renewal unless it finds that the renewal is not in the public interest. Parties to the agreement may continue to undertake activities pursuant to the previously approved agreement while the renewal request is pending.”

Subsec. (e). Pub. L. 106-159, §227(c), designated existing provisions as par. (1), inserted par. heading, and added par. (2).

1997—Subsec. (a)(2). Pub. L. 105-102 substituted “paragraph (1)” for “subsection (a)”.

1996—Subsec. (e). Pub. L. 104-287, §5(28)(A), substituted “December 31, 1995,” for “the day before the effective date of this section” and “January 1, 1996” for “such effective date”.

Subsec. (f)(2). Pub. L. 104-287, §5(28)(B), substituted “December 31, 1995” for “the day before the effective date of this section”.

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104-88, set out as a note under section 1301 of this title.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to “this title” deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111-314, set out as a note under section 101 of this title.

§ 13704. Household goods rates—estimates; guarantees of service

(a) IN GENERAL.—

(1) **AUTHORITY.**—Subject to the provisions of paragraph (2) of this subsection, a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 may establish a rate for the transportation of household goods which is based on the carrier’s written, binding estimate of charges for providing such transportation.

(2) **NONPREFERENTIAL; NONPREDATORY.**—Any rate established under this subsection must be

available on a nonpreferential basis to shippers and must not result in charges to shippers which are predatory.

(b) RATES FOR GUARANTEED SERVICE.—

(1) **AUTHORITY.**—Subject to the provisions of paragraph (2) of this subsection, a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 may establish rates for the transportation of household goods which guarantee that the carrier will pick up and deliver such household goods at the times specified in the contract for such services and provide a penalty or per diem payment in the event the carrier fails to pick up or deliver such household goods at the specified time. The charges, if any, for such guarantee and penalty provision may vary to reflect one or more options available to meet a particular shipper’s needs.

(2) **AUTHORITY OF SECRETARY TO REQUIRE NON-GUARANTEED SERVICE RATES.**—Before a carrier may establish a rate for any service under paragraph (1) of this subsection, the Secretary may require such carrier to have in effect and keep in effect, during any period such rate is in effect under paragraph (1), a rate for such service which does not guarantee the pick up and delivery of household goods at the times specified in the contract for such services and which does not provide a penalty or per diem payment in the event the carrier fails to pick up or deliver household goods at the specified time.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 872.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10735 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 13705. Requirements for through routes among motor carriers of passengers

(a) **ESTABLISHMENT; REASONABLENESS.**—A motor carrier providing transportation of passengers subject to jurisdiction under subchapter I of chapter 135 shall establish through routes with other carriers of the same type and shall establish individual and joint rates applicable to them. Such through route must be reasonable.

(b) **PRESCRIBED BY BOARD.**—When the Board finds it necessary to enforce the requirements of this section, the Board may prescribe through routes and the conditions under which those routes must be operated for motor carriers providing transportation of passengers subject to jurisdiction under subchapter I of chapter 135.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 872.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 10703 and 10705 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 13706. Liability for payment of rates

(a) **LIABILITY OF CONSIGNEE.**—Liability for payment of rates for transportation for a shipment of property by a shipper or consignor to a con-

signee other than the shipper or consignor, is determined under this section when the transportation is provided by motor carrier under this part. When the shipper or consignor instructs the carrier transporting the property to deliver it to a consignee that is an agent only, not having beneficial title to the property, the consignee is liable for rates billed at the time of delivery for which the consignee is otherwise liable, but not for additional rates that may be found to be due after delivery if the consignee gives written notice to the delivering carrier before delivery of the property—

(1) of the agency and absence of beneficial title; and

(2) of the name and address of the beneficial owner of the property if it is reconsigned or diverted to a place other than the place specified in the original bill of lading.

(b) **LIABILITY OF BENEFICIAL OWNER.**—When the consignee is liable only for rates billed at the time of delivery under subsection (a), the shipper or consignor, or, if the property is reconsigned or diverted, the beneficial owner is liable for those additional rates regardless of the bill of the lading or contract under which the property was transported. The beneficial owner is liable for all rates when the property is reconsigned or diverted by an agent but is refused or abandoned at its ultimate destination if the agent gave the carrier in the reconsignment or diversion order a notice of agency and the name and address of the beneficial owner. A consignee giving the carrier erroneous information about the identity of the beneficial owner of the property is liable for the additional rates.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 872.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10744 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 13707. Payment of rates

(a) **TRANSFER OF POSSESSION UPON PAYMENT.**—Except as provided in subsection (b), a carrier providing transportation or service subject to jurisdiction under this part shall give up possession at the destination of the property transported by it only when payment for the transportation or service is made.

(b) **EXCEPTIONS.**—

(1) **REGULATIONS.**—Under regulations of the Secretary governing the payment for transportation and service and preventing discrimination, those carriers may give up possession at destination of property transported by them before payment for the transportation or service. The regulations of the Secretary may provide for weekly or monthly payment for transportation provided by motor carriers and for periodic payment for transportation provided by water carriers.

(2) **EXTENSIONS OF CREDIT TO GOVERNMENTAL ENTITIES.**—Such a carrier (including a motor carrier being used by a household goods freight forwarder) may extend credit for transporting property for the United States Government, a State, a territory or possession of the

United States, or a political subdivision of any of them.

(3) **SHIPMENTS OF HOUSEHOLD GOODS.**—

(A) **IN GENERAL.**—A carrier providing transportation of a shipment of household goods shall give up possession of the household goods being transported at the destination upon payment of—

(i) 100 percent of the charges contained in a binding estimate provided by the carrier;

(ii) not more than 110 percent of the charges contained in a nonbinding estimate provided by the carrier; or

(iii) in the case of a partial delivery of the shipment, the prorated percentage of the charges calculated in accordance with subparagraph (B).

(B) **CALCULATION OF PRORATED CHARGES.**—For purposes of subparagraph (A)(iii), the prorated percentage of the charges shall be the percentage of the total charges due to the carrier as described in clause (i) or (ii) of subparagraph (A) that is equal to the percentage of the weight of that portion of the shipment delivered to the total weight of the shipment.

(C) **POST-CONTRACT SERVICES.**—Subparagraph (A) does not apply to additional services requested by a shipper after the contract of service is executed that were not included in the estimate.

(D) **IMPRACTICABLE OPERATIONS.**—Subparagraph (A) does not apply to impracticable operations, as defined by the applicable carrier tariff, except that the charges collected at delivery for such operations shall not exceed 15 percent of all other charges due at delivery. Any remaining charges due shall be paid within 30 days after the carrier presents its freight bill.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 873; amended Pub. L. 109-59, title IV, §4203, Aug. 10, 2005, 119 Stat. 1752.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10743 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

AMENDMENTS

2005—Subsec. (b)(3). Pub. L. 109-59 added par. (3).

§ 13708. Billing and collecting practices

(a) **DISCLOSURE.**—A motor carrier subject to jurisdiction under subchapter I of chapter 135 shall disclose, when a document is presented or electronically transmitted for payment to the person responsible directly to the motor carrier for payment or agent of such responsible person, the actual rates, charges, or allowances for any transportation service and shall also disclose, at such time, whether and to whom any allowance or reduction in charges is made.

(b) **FALSE OR MISLEADING INFORMATION.**—No person may cause a motor carrier to present false or misleading information on a document about the actual rate, charge, or allowance to any party to the transaction.

(c) **ALLOWANCES FOR SERVICES.**—When the actual rate, charge, or allowance is dependent

upon the performance of a service by a party to the transportation arrangement, such as tendering a volume of freight over a stated period of time, the motor carrier shall indicate in any document presented for payment to the person responsible directly to the motor carrier that a reduction, allowance, or other adjustment may apply.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 873.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10767 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 13709. Procedures for resolving claims involving unfiled, negotiated transportation rates

(a) TRANSPORTATION PROVIDED AT RATES OTHER THAN LEGAL TARIFF RATES.—

(1) IN GENERAL.—When a claim is made by a motor carrier of property (other than a household goods carrier) providing transportation subject to jurisdiction under subchapter II of chapter 105 (as in effect on December 31, 1995) or subchapter I of chapter 135, by a freight forwarder (other than a household goods freight forwarder), or by a party representing such a carrier or freight forwarder regarding the collection of rates or charges for such transportation in addition to those originally billed and collected by the carrier or freight forwarder for such transportation, the person against whom the claim is made may elect to satisfy the claim under the provisions of subsection (b), (c), or (d), upon showing that—

(A) the carrier or freight forwarder is no longer transporting property or is transporting property for the purpose of avoiding the application of this section; and

(B) with respect to the claim—

(i) the person was offered a transportation rate by the carrier or freight forwarder other than that legally on file at the time with the Board or with the Interstate Commerce Commission, as required, for the transportation service;

(ii) the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

(iii) the carrier or freight forwarder did not properly or timely file with the Board or with the Interstate Commerce Commission, as required, a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

(iv) such transportation rate was billed and collected by the carrier or freight forwarder; and

(v) the carrier or freight forwarder demands additional payment of a higher rate filed in a tariff.

(2) FORUM.—If there is a dispute as to the showing under paragraph (1)(A), such dispute shall be resolved by the court in which the claim is brought. If there is a dispute as to the showing under paragraph (1)(B), such dispute shall be resolved by the Board. Pending the resolution of any such dispute, the person

shall not have to pay any additional compensation to the carrier or freight forwarder.

(3) EFFECT OF SATISFACTION OF CLAIMS.—Satisfaction of the claim under subsection (b), (c), or (d) shall be binding on the parties, and the parties shall not be subject to chapter 119 of this title, as such chapter was in effect on December 31, 1995, or chapter 149.

(b) CLAIMS INVOLVING SHIPMENTS WEIGHING 10,000 POUNDS OR LESS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim if the shipments each weighed 10,000 pounds or less, by payment of 20 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Board.

(c) CLAIMS INVOLVING SHIPMENTS WEIGHING MORE THAN 10,000 POUNDS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim if the shipments each weighed more than 10,000 pounds, by payment of 15 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Board.

(d) CLAIMS INVOLVING PUBLIC WAREHOUSEMEN.—Notwithstanding subsections (b) and (c), a person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim by payment of 5 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid if such person is a public warehouseman. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Board.

(e) EFFECTS OF ELECTION.—When a person from whom additional legally applicable freight rates or charges are sought does not elect to use the provisions of subsection (b), (c) or (d), the person may pursue all rights and remedies existing under this part or, for transportation provided before January 1, 1996, all rights and remedies that existed under this title on December 31, 1995.

(f) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this section to challenge the reasonableness of the legally applicable freight rate or charges being claimed by a carrier or freight forwarder in addition to those already billed and collected, the person shall not have to pay any additional compensation to the carrier or freight forwarder until the Board has made a determination as to the reasonableness of the challenged rate as applied to the freight of the person against whom the claim is made.

(g) NOTIFICATION OF ELECTION.—

(1) GENERAL RULE.—A person must notify the carrier or freight forwarder as to its election to proceed under subsection (b), (c), or (d). Except as provided in paragraphs (2), (3), and (4), such election may be made at any time.

(2) DEMANDS FOR PAYMENT INITIALLY MADE AFTER DECEMBER 3, 1993.—If the carrier or

freight forwarder or party representing such carrier or freight forwarder initially demands the payment of additional freight charges after December 3, 1993, and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f) at the time of the making of such initial demand, the election must be made not later than the later of—

(A) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

(B) March 5, 1994.

(3) PENDING SUITS FOR COLLECTION MADE BEFORE DECEMBER 4, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has filed, before December 4, 1993, a suit for the collection of additional freight charges and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f), the election must be made not later than the 90th day following the date on which such notification is received.

(4) DEMANDS FOR PAYMENT MADE BEFORE DECEMBER 4, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has demanded the payment of additional freight charges, and has not filed a suit for the collection of such additional freight charges, before December 4, 1993, and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f), the election must be made not later than the later of—

(A) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

(B) March 5, 1994.

(h) CLAIMS INVOLVING SMALL-BUSINESS CONCERNS, CHARITABLE ORGANIZATIONS, AND RECYCLABLE MATERIALS.—

(1) IN GENERAL.—Notwithstanding subsections (b), (c), and (d), a person from whom the additional legally applicable and effective tariff rate or charges are sought shall not be liable for the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid—

(A) if such person qualifies as a small-business concern under the Small Business Act (15 U.S.C. 631 et seq.),

(B) if such person is an organization which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, or

(C) if the cargo involved in the claim is recyclable materials.

(2) RECYCLABLE MATERIALS DEFINED.—In this subsection, the term “recyclable materials” means waste products for recycling or reuse in the furtherance of recognized pollution control programs.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 874; amended Pub. L. 104-287, §5(29), Oct. 11, 1996, 110 Stat. 3391.)

HISTORICAL AND REVISION NOTES

PUB. L. 104-287, §5(29)(A)

This amends 49:13709(a)(1) and (3) for clarity and consistency.

PUB. L. 104-287, §5(29)(B)

This amends 49:13709(e) by setting out the effective date for 49:13709 and for clarity and consistency.

REFERENCES IN TEXT

Subchapter II of chapter 105, referred to in subsec. (a)(1), was omitted in the general amendment of this subtitle by Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

Chapter 119, referred to in subsec. (a)(3), was omitted and a new chapter 119 enacted in the general amendment of this subtitle by Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, 849, effective Jan. 1, 1996.

The Small Business Act, referred to in subsec. (h)(1)(A), is Pub. L. 85-536, §2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

Section 501 of the Internal Revenue Code of 1986, referred to in subsec. (h)(1)(B), is classified to section 501 of Title 26, Internal Revenue Code.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10701 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

AMENDMENTS

1996—Subsec. (a)(1), (3). Pub. L. 104-287, §5(29)(A), substituted “December 31, 1995” for “the day before the effective date of this section”.

Subsec. (e). Pub. L. 104-287, §5(29)(B), substituted “January 1, 1996” for “the effective date of this section” and “December 31, 1995” for “the day before such effective date”.

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104-88, set out as a note under section 1301 of this title.

§ 13710. Additional billing and collecting practices

(a) MISCELLANEOUS PROVISIONS.—

(1) INFORMATION RELATING TO BASIS OF RATE.—A motor carrier of property (other than a motor carrier providing transportation in noncontiguous domestic trade) shall provide to the shipper, on request of the shipper, a written or electronic copy of the rate, classification, rules, and practices, upon which any rate applicable to its shipment or agreed to between the shipper and carrier is based.

(2) REASONABLENESS OF RATES; COLLECTING ADDITIONAL CHARGES.—When the applicability or reasonableness of the rates and related provisions billed by a motor carrier is challenged by the person paying the freight charges, the Board shall determine whether such rates and provisions are reasonable under section 13701 or applicable based on the record before it.

(3) BILLING DISPUTES.—

(A) INITIATED BY MOTOR CARRIERS.—In those cases where a motor carrier (other than a motor carrier providing transportation of household goods or in noncontiguous domestic trade) seeks to collect

charges in addition to those billed and collected which are contested by the payor, the carrier may request that the Board determine whether any additional charges over those billed and collected must be paid. A carrier must issue any bill for charges in addition to those originally billed within 180 days of the receipt of the original bill in order to have the right to collect such charges.

(B) INITIATED BY SHIPPERS.—If a shipper seeks to contest the charges originally billed or additional charges subsequently billed, the shipper may request that the Board determine whether the charges billed must be paid. A shipper must contest the original bill or subsequent bill within 180 days of receipt of the bill in order to have the right to contest such charges.

(4) VOIDING OF CERTAIN TARIFFS.—Any tariff on file with the Interstate Commerce Commission on August 26, 1994, and not required to be filed after that date is null and void beginning on that date. Any tariff on file with the Interstate Commerce Commission on January 1, 1996, and not required to be filed after that date is null and void beginning on that date.

(b) RESOLUTION OF DISPUTES OVER STATUS OF COMMON CARRIER OR CONTRACT CARRIER.—If a motor carrier (other than a motor carrier providing transportation of household goods) that was subject to jurisdiction under subchapter II of chapter 105, as in effect on December 31, 1995, and that had authority to provide transportation as both a motor common carrier and a motor contract carrier and a dispute arises as to whether certain transportation that was provided prior to January 1, 1996, was provided in its common carrier or contract carrier capacity and the parties are not able to resolve the dispute consensually, the Board shall resolve the dispute.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 876; amended Pub. L. 104-287, §5(30), Oct. 11, 1996, 110 Stat. 3391.)

HISTORICAL AND REVISION NOTES

PUB. L. 104-287, §5(30)(A)

This sets out the effective date of 49:13710.

PUB. L. 104-287, §5(30)(B)

This amends 49:13710(b) by setting out the effective date for 49:13710 and for clarity and consistency.

REFERENCES IN TEXT

Subchapter II of chapter 105, referred to in subsec. (b), was omitted in the general amendment of this subtitle by Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 10762 and 11101 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

AMENDMENTS

1996—Subsec. (a)(4). Pub. L. 104-287, §5(30)(A), substituted “January 1, 1996,” for “the effective date of this section”.

Subsec. (b). Pub. L. 104-287, §5(30)(B), substituted “December 31, 1995” for “the day before the effective

date of this section” and “January 1, 1996,” for “the effective date of this section”.

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104-88, set out as a note under section 1301 of this title.

§ 13711. Alternative procedure for resolving undercharge disputes

(a) GENERAL RULE.—It shall be an unreasonable practice for a motor carrier of property (other than a household goods carrier) providing transportation subject to jurisdiction under subchapter I of chapter 135 or, before January 1, 1996, to have provided transportation that was subject to jurisdiction under subchapter II of chapter 105, as in effect on December 31, 1995, a freight forwarder (other than a household goods freight forwarder), or a party representing such a carrier or freight forwarder to attempt to charge or to charge for a transportation service the difference between (1) the applicable rate that was lawfully in effect pursuant to a tariff that was filed in accordance with this chapter or, with respect to transportation provided before January 1, 1996, in accordance with chapter 107, as in effect on the date the transportation was provided, by the carrier or freight forwarder applicable to such transportation service, and (2) the negotiated rate for such transportation service if the carrier or freight forwarder is no longer transporting property between places described in section 13501(1) or is transporting property between places described in section 13501(1) for the purpose of avoiding application of this section.

(b) JURISDICTION OF BOARD.—

(1) DETERMINATION.—The Board shall have jurisdiction to make a determination of whether or not attempting to charge or the charging of a rate by a motor carrier or freight forwarder or party representing a motor carrier or freight forwarder is an unreasonable practice under subsection (a). If the Board determines that attempting to charge or the charging of the rate is an unreasonable practice under subsection (a), the carrier, freight forwarder, or party may not collect the difference described in subsection (a) between the applicable rate and the negotiated rate for the transportation service.

(2) FACTORS TO CONSIDER.—In making a determination under paragraph (1), the Board shall consider—

(A) whether the person was offered a transportation rate by the carrier or freight forwarder or party other than that legally on file with the Interstate Commerce Commission or the Board, as required, at the time of the movement for the transportation service;

(B) whether the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

(C) whether the carrier or freight forwarder did not properly or timely file with the Interstate Commerce Commission or the Board, as required, a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

(D) whether the transportation rate was billed and collected by the carrier or freight forwarder; and

(E) whether the carrier or freight forwarder or party demands additional payment of a higher rate filed in a tariff.

(c) **STAY OF ADDITIONAL COMPENSATION.**—When a person proceeds under this section to challenge the reasonableness of the practice of a motor carrier, freight forwarder, or party described in subsection (a) to attempt to charge or to charge the difference described in subsection (a) between the applicable rate and the negotiated rate for the transportation service in addition to those charges already billed and collected for the transportation service, the person shall not have to pay any additional compensation to the carrier, freight forwarder, or party until the Board has made a determination as to the reasonableness of the practice as applied to the freight of the person against whom the claim is made.

(d) **TREATMENT.**—Subsection (a) is an exception to the requirements of section 13702 and, for transportation provided before January 1, 1996, to the requirements of sections 10761(a) and 10762, as in effect on December 31, 1995, as such sections relate to a filed tariff rate and other general tariff requirements.

(e) **NONAPPLICABILITY OF NEGOTIATED RATE DISPUTE RESOLUTION PROCEDURE.**—If a person elects to seek enforcement of subsection (a) with respect to a rate for a transportation or service, section 13709 shall not apply to such rate.

(f) **DEFINITIONS.**—In this section, the term “negotiated rate” means a rate, charge, classification, or rule agreed upon by a motor carrier or freight forwarder and a shipper through negotiations pursuant to which no tariff was lawfully and timely filed and for which there is written evidence of such agreement.

(g) **APPLICABILITY TO PENDING CASES.**—This section shall apply to all cases and proceedings pending on January 1, 1996.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 877; amended Pub. L. 104-287, §5(31), Oct. 11, 1996, 110 Stat. 3391.)

HISTORICAL AND REVISION NOTES

PUB. L. 104-287

This amends 49:13711(a), (d), and (g) by setting out the effective date of 49:13711 and for clarity and consistency.

REFERENCES IN TEXT

Subchapter II of chapter 105, referred to in subsec. (a), was omitted in the general amendment of this subtitle by Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

Chapter 107, as in effect on the date transportation was provided, referred to in subsec. (a), means chapter 107 of this title, as in effect on the date transportation was provided with respect to transportation provided before Jan. 1, 1996. Chapter 107 (§10701 et seq.) was omitted and a new chapter 107 enacted in the general amendment of this subtitle by Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, 809, effective Jan. 1, 1996.

Sections 10761(a) and 10762, referred to in subsec. (d), were omitted in the general amendment of this subtitle by Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2(e) of Pub. L. 103-180, set out as a note under former section 10701 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-287, §5(31)(A), substituted “or, before January 1, 1996” for “or, before the effective date of this section”, “December 31, 1995” for “the day before the effective date of this section”, and “provided before January 1, 1996” for “provided before the effective date of this section”.

Subsec. (d). Pub. L. 104-287, §5(31)(B), substituted “January 1, 1996” for “the effective date of this section” and “December 31, 1995” for “the day before such effective date”.

Subsec. (g). Pub. L. 104-287, §5(31)(C), substituted “January 1, 1996” for “the effective date of this section”.

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104-88, set out as a note under section 1301 of this title.

§ 13712. Government traffic

A carrier providing transportation or service for the United States Government may transport property or individuals for the United States Government without charge or at a rate reduced from the applicable commercial rate. Section 6101(b) to (d) of title 41 does not apply when transportation for the United States Government can be obtained from a carrier lawfully operating in the area where the transportation would be provided.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 879; amended Pub. L. 111-350, §5(o)(5), Jan. 4, 2011, 124 Stat. 3853.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10721 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

AMENDMENTS

2011—Pub. L. 111-350 substituted “Section 6101(b) to (d) of title 41” for “Section 3709 of the Revised Statutes (41 U.S.C. 5)”.

§ 13713. Food and grocery transportation

(a) **CERTAIN COMPENSATION PROHIBITED.**—Notwithstanding any other provision of law, it shall not be unlawful for a seller of food and grocery products using a uniform zone delivered pricing system to compensate a customer who picks up purchased food and grocery products at the shipping point of the seller if such compensation is available to all customers of the seller on a non-discriminatory basis and does not exceed the actual cost to the seller of delivery to such customer.

(b) **SENSE OF CONGRESS.**—It is the sense of the Congress that any savings accruing to a customer by reason of compensation permitted by subsection (a) of this section should be passed on to the ultimate consumer.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 879.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10732 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

CHAPTER 139—REGISTRATION

Sec.
 13901. Requirement for registration.¹
 13902. Registration of motor carriers.
 13903. Registration of freight forwarders.
 13904. Registration of brokers.
 13905. Effective periods of registration.
 13906. Security of motor carriers, motor private carriers, brokers, and freight forwarders.
 13907. Household goods agents.
 13908. Registration and other reforms.
 13909. Availability of information.

AMENDMENTS

2012—Pub. L. 112-141, div. C, title II, § 32914(b)(2), July 6, 2012, 126 Stat. 820, added item 13909.

2005—Pub. L. 109-59, title IV, § 4303(d)(2), Aug. 10, 2005, 119 Stat. 1763, inserted “motor private carriers,” after “motor carriers,” in item 13906.

§ 13901. Requirements for registration

(a) IN GENERAL.—A person may provide transportation as a motor carrier subject to jurisdiction under subchapter I of chapter 135 or service as a freight forwarder subject to jurisdiction under subchapter III of such chapter, or service as a broker for transportation subject to jurisdiction under subchapter I of such chapter only if the person is registered under this chapter to provide such transportation or service.

(b) REGISTRATION NUMBERS.—

(1) IN GENERAL.—If the Secretary registers a person under this chapter to provide transportation or service, including as a motor carrier, freight forwarder, or broker, the Secretary shall issue a distinctive registration number to the person for each such authority to provide transportation or service for which the person is registered.

(2) TRANSPORTATION OR SERVICE TYPE INDICATOR.—A number issued under paragraph (1) shall include an indicator of the type of transportation or service for which the registration number is issued, including whether the registration number is issued for registration of a motor carrier, freight forwarder, or broker.

(c) SPECIFICATION OF AUTHORITY.—For each agreement to provide transportation or service for which registration is required under this chapter, the registrant shall specify, in writing, the authority under which the person is providing such transportation or service.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 879; amended Pub. L. 112-141, div. C, title II, § 32914(a), July 6, 2012, 126 Stat. 819.)

AMENDMENTS

2012—Pub. L. 112-141 amended section generally. Prior to amendment, section read as follows: “A person may provide transportation or service subject to jurisdiction under subchapter I or III of chapter 135 or be a broker for transportation subject to jurisdiction under subchapter I of that chapter, only if the person is registered under this chapter to provide the transportation or service.”

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective

¹ So in original. Section catchline amended by Pub. L. 112-141 without corresponding amendment of chapter analysis.

tive and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104-88, see section 2 of Pub. L. 104-88, set out as a note under section 1301 of this title.

§ 13902. Registration of motor carriers

(a) MOTOR CARRIER GENERALLY.—

(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary of Transportation shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier using self-propelled vehicles the motor carrier owns, rents, or leases only if the Secretary determines that the person—

(A) is willing and able to comply with—

(i) this part and the applicable regulations of the Secretary and the Board;

(ii) any safety regulations imposed by the Secretary;

(iii) the duties of employers and employees established by the Secretary under section 31135;

(iv) the safety fitness requirements established by the Secretary under section 31144;

(v) the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations (or successor regulations), for transportation provided by an over-the-road bus; and

(vi) the minimum financial responsibility requirements established by the Secretary under sections 13906, 31138, and 31139;

(B) has been issued a USDOT number under section 31134;

(C) has disclosed any relationship involving common ownership, common management, common control, or common familial relationship between that person and any other motor carrier, freight forwarder, or broker, or any other applicant for motor carrier, freight forwarder, or broker registration, if the relationship occurred in the 3-year period preceding the date of the filing of the application for registration; and

(D) after the Secretary establishes a written proficiency examination pursuant to section 32101(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012, has passed the written proficiency examination.

(2) ADDITIONAL REGISTRATION REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.—In addition to meeting the requirements of paragraph (1), the Secretary may register a person to provide transportation of household goods as a household goods motor carrier only after that person—

(A) provides evidence of participation in an arbitration program and provides a copy of the notice of the arbitration program as required by section 14708(b)(2);

(B) identifies its tariff and provides a copy of the notice of the availability of that tariff for inspection as required by section 13702(c); and

(C) demonstrates, before being registered, through successful completion of a proficiency examination established by the Secretary, knowledge and intent to comply with applicable Federal laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage.

(3) CONSIDERATION OF EVIDENCE; FINDINGS.—The Secretary shall consider, and to the extent applicable, make findings on any evidence demonstrating that the registrant is unable to comply with any applicable requirement of paragraph (1) or, in the case of a registrant to which paragraph (2) applies, paragraph (1) or (2).

(4) WITHHOLDING.—If the Secretary determines that a registrant under this section does not meet, or is not able to meet, any requirement of paragraph (1) or, in the case of a registrant to which paragraph (2) applies, paragraph (1) or (2), the Secretary shall withhold registration.

(5) LIMITATION ON COMPLAINTS.—The Secretary may hear a complaint from any person concerning a registration under this subsection only on the ground that the registrant fails or will fail to comply with this part, the applicable regulations of the Secretary and the Board (including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or such successor regulations to those accessibility requirements as the Secretary may issue, for transportation provided by an over-the-road bus), the safety regulations of the Secretary, or the safety fitness or minimum financial responsibility requirements of paragraph (1) of this subsection. In the case of a registration for the transportation of household goods as a household goods motor carrier, the Secretary may also hear a complaint on the ground that the registrant fails or will fail to comply with the requirements of paragraph (2) of this subsection.

(6) SEPARATE REGISTRATION REQUIRED.—A motor carrier may not broker transportation services unless the motor carrier has registered as a broker under this chapter.

(b) MOTOR CARRIERS OF PASSENGERS.—

(1) REGISTRATION OF PRIVATE RECIPIENTS OF GOVERNMENTAL ASSISTANCE.—The Secretary shall register under subsection (a)(1) a private recipient of governmental assistance to provide special or charter transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

(2) REGISTRATION OF PUBLIC RECIPIENTS OF GOVERNMENTAL ASSISTANCE.—

(A) CHARTER TRANSPORTATION.—The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide special or charter transpor-

tation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that—

(i) the recipient meets the requirements of subsection (a)(1); and

(ii)(I) no motor carrier of passengers (other than a motor carrier of passengers which is a public recipient of governmental assistance) is providing, or is willing to provide, the transportation; or

(II) the transportation is to be provided entirely in the area in which the public recipient provides regularly scheduled mass transportation services.

(B) REGULAR-ROUTE TRANSPORTATION.—The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide regular-route transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

(C) TREATMENT OF CERTAIN PUBLIC RECIPIENTS.—Any public recipient of governmental assistance which is providing or seeking to provide transportation of passengers subject to jurisdiction under subchapter I of chapter 135 shall, for purposes of this part, be treated as a person which is providing or seeking to provide transportation of passengers subject to such jurisdiction.

(3) INTRASTATE TRANSPORTATION BY INTERSTATE CARRIERS.—A motor carrier of passengers that is registered by the Secretary under subsection (a) is authorized to provide regular-route transportation entirely in one State as a motor carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier provides interstate transportation of passengers.

(4) PREEMPTION OF STATE REGULATION REGARDING CERTAIN SERVICE.—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law relating to the provision of pickup and delivery of express packages, newspapers, or mail in a commercial zone if the shipment has had or will have a prior or subsequent movement by bus in intrastate commerce and, if a city within the commercial zone, is served by a motor carrier of passengers providing regular-route transportation of passengers subject to jurisdiction under subchapter I of chapter 135.

(5) JURISDICTION OVER CERTAIN INTRASTATE TRANSPORTATION.—Subject to section 14501(a), any intrastate transportation authorized by this subsection shall be treated as transportation subject to jurisdiction under subchapter I of chapter 135 until such time as the carrier takes such action as is necessary to establish under the laws of such State rates, rules, and practices applicable to such trans-

portation, but in no case later than the 30th day following the date on which the motor carrier of passengers first begins providing transportation entirely in one State under this paragraph.

(6) SPECIAL OPERATIONS.—This subsection shall not apply to any regular-route transportation of passengers provided entirely in one State which is in the nature of a special operation.

(7) SUSPENSION OR REVOCATION.—Intrastate transportation authorized under this subsection may be suspended or revoked by the Secretary under section 13905 of this title at any time.

(8) DEFINITIONS.—In this subsection, the following definitions apply:

(A) PUBLIC RECIPIENT OF GOVERNMENTAL ASSISTANCE.—The term “public recipient of governmental assistance” means—

- (i) any State,
- (ii) any municipality or other political subdivision of a State,
- (iii) any public agency or instrumentality of one or more States and municipalities and political subdivisions of a State,
- (iv) any Indian tribe, and
- (v) any corporation, board, or other person owned or controlled by any entity described in clause (i), (ii), (iii), or (iv),

which before, on, or after January 1, 1996, received governmental assistance for the purchase or operation of any bus.

(B) PRIVATE RECIPIENT OF GOVERNMENT ASSISTANCE.—The term “private recipient of government assistance” means any person (other than a person described in subparagraph (A)) who before, on, or after January 1, 1996, received governmental financial assistance in the form of a subsidy for the purchase, lease, or operation of any bus.

(C) RESTRICTIONS ON MOTOR CARRIERS DOMICILED IN OR OWNED OR CONTROLLED BY NATIONALS OF A CONTIGUOUS FOREIGN COUNTRY.—

(1) PREVENTION OF DISCRIMINATORY PRACTICES.—If the President, or the delegate thereof, determines that an act, policy, or practice of a foreign country contiguous to the United States, or any political subdivision or any instrumentality of any such country is unreasonable or discriminatory and burdens or restricts United States transportation companies providing, or seeking to provide, motor carrier transportation to, from, or within such foreign country, the President or such delegate may—

- (A) seek elimination of such practices through consultations; or
- (B) notwithstanding any other provision of law, suspend, modify, amend, condition, or restrict operations, including geographical restriction of operations, in the United States by motor carriers of property or passengers domiciled in such foreign country or owned or controlled by persons of such foreign country.

(2) EQUALIZATION OF TREATMENT.—Any action taken under paragraph (1)(A) to eliminate an act, policy, or practice shall be so devised so as to equal to the extent possible the bur-

dens or restrictions imposed by such foreign country on United States transportation companies.

(3) REMOVAL OR MODIFICATION.—The President, or the delegate thereof, may remove or modify in whole or in part any action taken under paragraph (1)(A) if the President or such delegate determines that such removal or modification is consistent with the obligations of the United States under a trade agreement or with United States transportation policy.

(4) PROTECTION OF EXISTING OPERATIONS.—Unless and until the President, or the delegate thereof, makes a determination under paragraph (1) or (3), nothing in this subsection shall affect—

(A) operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country permitted in the commercial zones along the United States-Mexico border as such zones were defined on December 31, 1995; or

(B) any existing restrictions on operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country or any modifications thereof pursuant to section 6 of the Bus Regulatory Reform Act of 1982.

(5) PUBLICATION; COMMENT.—Unless the President, or the delegate thereof, determines that expeditious action is required, the President shall publish in the Federal Register any determination under paragraph (1) or (3), together with a description of the facts on which such a determination is based and any proposed action to be taken pursuant to paragraph (1)(B) or (3), and provide an opportunity for public comment.

(6) DELEGATION TO SECRETARY.—The President may delegate any or all authority under this subsection to the Secretary, who shall consult with other agencies as appropriate. In accordance with the directions of the President, the Secretary may issue regulations to enforce this subsection.

(7) CIVIL ACTIONS.—Either the Secretary or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

(8) LIMITATION ON STATUTORY CONSTRUCTION.—This subsection shall not be construed as affecting the requirement for all foreign motor carriers and foreign motor private carriers operating in the United States to comply with all applicable laws and regulations pertaining to fitness, safety of operations, financial responsibility, and taxes imposed by section 4481 of the Internal Revenue Code of 1986.

(D) TRANSITION RULE.—

(1) IN GENERAL.—Pending the implementation of the rulemaking required by section 13908, the Secretary may register a person under this section—

(A) as a motor common carrier if such person would have been issued a certificate to

provide transportation as a motor common carrier under this subtitle on December 31, 1995; and

(B) as a motor contract carrier if such person would have been issued a permit to provide transportation as a motor contract carrier under this subtitle on such day.

(2) DEFINITIONS.—In this subsection, the terms “motor common carrier” and “motor contract carrier” have the meaning such terms had under section 10102 as such section was in effect on December 31, 1995.

(3) TERMINATION.—This subsection shall cease to be in effect on the transition termination date.

(e) PENALTIES FOR FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS.—In addition to other penalties available under law, motor carriers that fail to register their operations as required by this section or that operate beyond the scope of their registrations may be subject to the following penalties:

(1) OUT-OF-SERVICE ORDERS.—If, upon inspection or investigation, the Secretary determines that a motor carrier providing transportation requiring registration under this section is operating without a registration or beyond the scope of its registration, the Secretary may order the motor carrier operations out-of-service. Subsequent to the issuance of the out-of-service order, the Secretary shall provide an opportunity for review in accordance with section 554 of title 5, United States Code; except that such review shall occur not later than 10 days after issuance of such order.

(2) PERMISSION FOR OPERATIONS.—A person domiciled in a country contiguous to the United States with respect to which an action under subsection (c)(1)(A) or (c)(1)(B) is in effect and providing transportation for which registration is required under this section shall maintain evidence of such registration in the motor vehicle when the person is providing the transportation. The Secretary shall not permit the operation in interstate commerce in the United States of any motor vehicle in which there is not a copy of the registration issued pursuant to this section.

(f) MODIFICATION OF CARRIER REGISTRATION.—

(1) IN GENERAL.—On and after the transition termination date, the Secretary—

(A) may not register a motor carrier under this section as a motor common carrier or a motor contract carrier;

(B) shall register applicants under this section as motor carriers; and

(C) shall issue any motor carrier registered under this section after that date a motor carrier certificate of registration that specifies whether the holder of the certificate may provide transportation of persons, household goods, other property, or any combination thereof.

(2) PRE-EXISTING CERTIFICATES AND PERMITS.—The Secretary shall redesignate any motor carrier certificate or permit issued before the transition termination date as a motor carrier certificate of registration. On and after the transition termination date, any

person holding a motor carrier certificate of registration redesignated under this paragraph may provide both contract carriage (as defined in section 13102(4)(B)) and transportation under terms and conditions meeting the requirements of section 13710(a)(1). The Secretary may not, pursuant to any regulation or form issued before or after the transition termination date, make any distinction among holders of motor carrier certificates of registration on the basis of whether the holder would have been classified as a common carrier or as a contract carrier under—

(A) subsection (d) of this section, as that section was in effect before the transition termination date; or

(B) any other provision of this title that was in effect before the transition termination date.

(3) TRANSITION TERMINATION DATE DEFINED.—In this section, the term “transition termination date” means the first day of January occurring more than 12 months after the date of enactment of the Unified Carrier Registration Act of 2005.

(g) MOTOR CARRIER DEFINED.—In this section and sections 13905 and 13906, the term “motor carrier” includes foreign motor private carriers.

(h) UPDATE OF REGISTRATION.—

(1) IN GENERAL.—The Secretary shall require a registrant to update its registration under this section not later than 30 days after a change in the registrant’s address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.

(2) MOTOR CARRIERS OF PASSENGERS.—In addition to the requirements of paragraph (1), the Secretary shall require a motor carrier of passengers to update its registration information, including numbers of vehicles, annual mileage, and individuals responsible for compliance with Federal safety regulations quarterly for the first 2 years after being issued a registration under this section.

(i) REGISTRATION AS FREIGHT FORWARDER OR BROKER REQUIRED.—A motor carrier registered under this chapter—

(1) may only provide transportation of property with—

(A) self-propelled motor vehicles owned or leased by the motor carrier; or

(B) interchanges under regulations issued by the Secretary if the originating carrier—

(i) physically transports the cargo at some point; and

(ii) retains liability for the cargo and for payment of interchanged carriers; and

(2) may not arrange transportation except as described in paragraph (1) unless the motor carrier has obtained a separate registration as a freight forwarder or broker for transportation under section 13903 or 13904, as applicable.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 880; amended Pub. L. 104–287, §5(32), Oct. 11, 1996, 110 Stat. 3391; Pub. L. 106–159, title II, §205, Dec. 9, 1999, 113 Stat. 1762; Pub. L. 109–59, title IV, §§4113(b), 4204, 4303(c), Aug. 10, 2005, 119

Stat. 1725, 1753, 1762; Pub. L. 110–291, § 2, July 30, 2008, 122 Stat. 2915; Pub. L. 112–141, div. C, title II, §§ 32101(a), 32107(a), 32111, 32915, 32921(a), July 6, 2012, 126 Stat. 777, 781, 783, 820, 827; Pub. L. 114–94, div. A, title V, § 5508(a)(1), Dec. 4, 2015, 129 Stat. 1554.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287, § 5(32)(A)

This amends 49:13902(b)(8)(A) to correct a grammatical error and to set out the effective date of 49:13902(b).

PUB. L. 104–287, § 5(32)(B)

This sets out the effective date of 49:13902(b)(8).

PUB. L. 104–287, § 5(32)(C)

This amends 49:13902(c)(4)(A) and (d)(1) and (2) for clarity and consistency.

REFERENCES IN TEXT

Section 32101(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012, referred to in subsec. (a)(1)(D), is section 32101(b) of Pub. L. 112–141, which is set out as a note below.

Section 6 of the Bus Regulatory Reform Act of 1982, referred to in subsec. (c)(4)(B), is section 6 of Pub. L. 97–261, Sept. 20, 1982, 96 Stat. 1103, which amended former sections 10102, 10322, 10521, 10922, and 11711 of this title, section 250 of Title 26, Internal Revenue Code, and former section 5201 of Title 39, Postal Service.

Section 4481 of the Internal Revenue Code of 1986, referred to in subsec. (c)(8), is classified to section 4481 of Title 26, Internal Revenue Code.

Section 10102, referred to in subsec. (d)(2), was omitted and a new section 10102 enacted in the general amendment of this subtitle by Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 804, 806, effective Jan. 1, 1996.

The date of enactment of the Unified Carrier Registration Act of 2005, referred to in subsec. (f)(3), is the date of enactment of subtitle C of title IV of Pub. L. 109–59, which was approved Aug. 10, 2005.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10922 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

AMENDMENTS

2015—Subsec. (i)(2). Pub. L. 114–94 inserted “except as” before “described”.

2012—Subsec. (a)(1). Pub. L. 112–141, § 32915(1)(A), inserted “using self-propelled vehicles the motor carrier owns, rents, or leases” after “motor carrier” in introductory provisions.

Pub. L. 112–141, § 32101(a), amended par. (1) generally. Prior to amendment, text read as follows: “Except as provided in this section, the Secretary shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 of this title as a motor carrier if the Secretary finds that the person is willing and able to comply with—

“(A) this part and the applicable regulations of the Secretary and the Board;

“(B)(i) any safety regulations imposed by the Secretary;

“(ii) the duties of employers and employees established by the Secretary under section 31135; and

“(iii) the safety fitness requirements established by the Secretary under section 31144;

“(C) the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or such successor regulations to those accessibility requirements as the Secretary may issue, for transportation provided by an over-the-road bus; and

“(D) the minimum financial responsibility requirements established by the Secretary pursuant to sections 13906 and 31138.”

Subsec. (a)(2)(B). Pub. L. 112–141, § 32921(a)(1), substituted “section 13702(c); and” for “section 13702(c);”.

Subsec. (a)(2)(C). Pub. L. 112–141, § 32921(a)(2), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “provides evidence that it has access to, has read, is familiar with, and will observe all applicable Federal laws relating to consumer protection, estimating, consumers’ rights and responsibilities, and options for limitations of liability for loss and damage; and”.

Subsec. (a)(2)(D). Pub. L. 112–141, § 32921(a)(3), struck out subpar. (D) which read as follows: “discloses any relationship involving common stock, common ownership, common management, or common familial relationships between that person and any other motor carrier, freight forwarder, or broker of household goods within 3 years of the proposed date of registration.”

Subsec. (a)(6). Pub. L. 112–141, § 32915(1)(B), added par. (6).

Subsec. (e)(1). Pub. L. 112–141, § 32111, substituted “a motor carrier” for “a motor vehicle” and “order the motor carrier operations” for “order the vehicle”.

Subsec. (h). Pub. L. 112–141, § 32107(a), added subsec. (h).

Subsec. (i). Pub. L. 112–141, § 32915(2), added subsec. (i). 2008—Subsec. (a)(1)(C), (D). Pub. L. 110–291, § 2(a), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (a)(5). Pub. L. 110–291, § 2(b), inserted “(including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or such successor regulations to those accessibility requirements as the Secretary may issue, for transportation provided by an over-the-road bus)” after “Board”.

2005—Subsec. (a)(1)(B). Pub. L. 109–59, § 4113(b), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “any safety regulations imposed by the Secretary and the safety fitness requirements established by the Secretary under section 31144; and”.

Subsec. (a)(2), (3). Pub. L. 109–59, § 4204(1), (3), added pars. (2) and (3) and struck out former pars. (2) and (3) which read as follows:

“(2) CONSIDERATION OF EVIDENCE; FINDINGS.—The Secretary shall consider and, to the extent applicable, make findings on, any evidence demonstrating that the registrant is unable to comply with the requirements of subparagraph (A), (B), or (C) of paragraph (1).

“(3) WITHHOLDING.—If the Secretary determines that any registrant under this section does not meet the requirements of paragraph (1), the Secretary shall withhold registration.”

Subsec. (a)(4). Pub. L. 109–59, § 4204(3), added par. (4). Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 109–59, § 4204(2), (4), redesignated par. (4) as (5) and inserted at end “In the case of a registration for the transportation of household goods as a household goods motor carrier, the Secretary may also hear a complaint on the ground that the registrant fails or will fail to comply with the requirements of paragraph (2) of this subsection.”

Subsec. (d)(3). Pub. L. 109–59, § 4303(c)(1), added par. (3).

Subsecs. (f), (g). Pub. L. 109–59, § 4303(c)(2), added subsec. (f) and redesignated former subsec. (f) as (g).

1999—Subsecs. (e), (f). Pub. L. 106–159 added subsec. (e) and redesignated former subsec. (e) as (f).

1996—Subsec. (b)(8)(A). Pub. L. 104–287, § 5(32)(A), inserted “and” after “any Indian tribe,” in cl. (iv), struck out “and” after “clause (i), (ii), (iii), or (iv),” in cl. (v), and substituted “January 1, 1996,” for “the effective date of this subsection” in concluding provisions.

Subsec. (b)(8)(B). Pub. L. 104–287, § 5(32)(B), substituted “January 1, 1996,” for “the effective date of this paragraph”.

Subsecs. (c)(4)(A), (d)(1)(A), (2). Pub. L. 104–287, § 5(32)(C), substituted “December 31, 1995” for “the day before the effective date of 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.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by sections 32101(a), 32107(a), 32111, and 32915 of Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

Pub. L. 112-141, div. C, title II, §32921(c), July 6, 2012, 126 Stat. 828, provided that: "The amendments made by this section [amending this section and section 31144 of this title] shall take effect 2 years after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112-141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways]."

REGULATIONS

Pub. L. 109-59, title IV, § 4308, Aug. 10, 2005, 119 Stat. 1774, provided that: "The Secretary [of Transportation] may issue such regulations as the Secretary determines are necessary to carry out this subtitle [subtitle C (§§ 4301-4308) of title IV of Pub. L. 109-59, see Short Title of 2005 Amendment note set out under section 10101 of this title] and the amendments made by this subtitle."

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111-314, set out as a note under section 101 of this title.

WRITTEN PROFICIENCY EXAMINATION

Pub. L. 112-141, div. C, title II, §32101(b), July 6, 2012, 126 Stat. 777, provided that: "Not later than 18 months after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112-141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary [of Transportation] shall establish through a rulemaking a written proficiency examination for applicant motor carriers pursuant to section 13902(a)(1)(D) of title 49, United States Code. The written proficiency examination shall test a person's knowledge of applicable safety regulations, standards, and orders of the Federal government."

DEADLINE FOR IMPLEMENTATION OF REGISTRATION REQUIREMENTS

Pub. L. 110-291, § 4, July 30, 2008, 122 Stat. 2915, provided that: "Not later than 30 days after the date of enactment of this Act [July 30, 2008], the Secretary shall take necessary actions to implement the changes required by the amendment made by section 2(a) [amending this section] relating to registration of motor carriers providing transportation by an over-the-road bus."

COORDINATION WITH DEPARTMENT OF JUSTICE

Pub. L. 110-291, § 5, July 30, 2008, 122 Stat. 2916, provided that: "Not later than 6 months after the date of enactment of this Act [July 30, 2008], the Secretary of Transportation and the Attorney General shall enter into a memorandum of understanding to delineate the specific roles and responsibilities of the Department of Transportation and the Department of Justice, respectively, in enforcing the compliance of motor carriers of passengers providing transportation by an over-the-road bus (as defined in section 13102 of title 49, United States Code) with the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or such successor

regulations to those accessibility requirements as the Secretary may issue. Such memorandum shall recognize the Department of Transportation's statutory responsibilities as clarified by this Act [see Short Title of 2008 Amendment note set out under section 10101 of this title] (including the amendments made by this Act)."

AUTHORITY OF MEXICAN MOTOR CARRIERS TO OPERATE BEYOND UNITED STATES MUNICIPALITIES AND COMMERCIAL ZONES ON UNITED STATES-MEXICO BORDER

Pub. L. 110-28, title VI, §6901, May 25, 2007, 121 Stat. 183, provided that:

"(a) Hereafter, funds limited or appropriated for the Department of Transportation may be obligated or expended to grant authority to a Mexico-domiciled motor carrier to operate beyond United States municipalities and commercial zones on the United States-Mexico border only to the extent that—

"(1) granting such authority is first tested as part of a pilot program;

"(2) such pilot program complies with the requirements of section 350 of Public Law 107-87 [set out below] and the requirements of section 31315(c) of title 49, United States Code, related to pilot programs; and

"(3) simultaneous and comparable authority to operate within Mexico is made available to motor carriers domiciled in the United States.

"(b) Prior to the initiation of the pilot program described in subsection (a) in any fiscal year—

"(1) the Inspector General of the Department of Transportation shall transmit to Congress and the Secretary of Transportation a report verifying compliance with each of the requirements of subsection (a) of section 350 of Public Law 107-87, including whether the Secretary of Transportation has established sufficient mechanisms to apply Federal motor carrier safety laws and regulations to motor carriers domiciled in Mexico that are granted authority to operate beyond the United States municipalities and commercial zones on the United States-Mexico border and to ensure compliance with such laws and regulations; and

"(2) the Secretary of Transportation shall—

"(A) take such action as may be necessary to address any issues raised in the report of the Inspector General under subsection (b)(1) and submit a report to Congress detailing such actions; and

"(B) publish in the Federal Register, and provide sufficient opportunity for public notice and comment—

"(i) comprehensive data and information on the pre-authorization safety audits conducted before and after the date of enactment of this Act [May 25, 2007] of motor carriers domiciled in Mexico that are granted authority to operate beyond the United States municipalities and commercial zones on the United States-Mexico border;

"(ii) specific measures to be required to protect the health and safety of the public, including enforcement measures and penalties for noncompliance;

"(iii) specific measures to be required to ensure compliance with section 391.11(b)(2) and section 365.501(b) of title 49, Code of Federal Regulations;

"(iv) specific standards to be used to evaluate the pilot program and compare any change in the level of motor carrier safety as a result of the pilot program; and

"(v) a list of Federal motor carrier safety laws and regulations, including the commercial drivers license requirements, for which the Secretary of Transportation will accept compliance with a corresponding Mexican law or regulation as the equivalent to compliance with the United States law or regulation, including for each law or regulation an analysis as to how the corresponding United States and Mexican laws and regulations differ.

"(c) During and following the pilot program described in subsection (a), the Inspector General of the Depart-

ment of Transportation shall monitor and review the conduct of the pilot program and submit to Congress and the Secretary of Transportation an interim report, 6 months after the commencement of the pilot program, and a final report, within 60 days after the conclusion of the pilot program. Such reports shall address whether—

“(1) the Secretary of Transportation has established sufficient mechanisms to determine whether the pilot program is having any adverse effects on motor carrier safety;

“(2) Federal and State monitoring and enforcement activities are sufficient to ensure that participants in the pilot program are in compliance with all applicable laws and regulations; and

“(3) the pilot program consists of a representative and adequate sample of Mexico-domiciled carriers likely to engage in cross-border operations beyond United States municipalities and commercial zones on the United States-Mexico border.

“(d) In the event that the Secretary of Transportation in any fiscal year seeks to grant operating authority for the purpose of initiating cross-border operations beyond United States municipalities and commercial zones on the United States-Mexico border either with Mexico-domiciled motor coaches or Mexico-domiciled commercial motor vehicles carrying placardable quantities of hazardous materials, such activities shall be initiated only after the conclusion of a separate pilot program limited to vehicles of the pertinent type. Each such separate pilot program shall follow the same requirements and processes stipulated under subsections (a) through (c) of this section and shall be planned, conducted and evaluated in concert with the Department of Homeland Security or its Inspector General, as appropriate, so as to address any and all security concerns associated with such cross-border operations.”

RELATIONSHIP TO OTHER LAWS

Pub. L. 109-59, title IV, § 4302, Aug. 10, 2005, 119 Stat. 1761, provided that: “Except as provided in section 14504 of title 49, United States Code, and sections 14504a and 14506 of title 49, United States Code, as added by this subtitle, this subtitle [subtitle C (§§ 4301-4308) of title IV of Pub. L. 109-59, see Short Title of 2005 Amendment note set out under section 10101 of this title] is not intended to prohibit any State or any political subdivision of any State from enacting, imposing, or enforcing any law or regulation with respect to a motor carrier, motor private carrier, broker, freight forwarder, or leasing company that is not otherwise prohibited by law.”

SAFETY OF CROSS-BORDER TRUCKING BETWEEN UNITED STATES AND MEXICO

Pub. L. 107-87, title III, § 350, Dec. 18, 2001, 115 Stat. 864, as amended by Pub. L. 114-113, div. L, title I, § 130(b), Dec. 18, 2015, 129 Stat. 2850, provided that:

“(a) No funds limited or appropriated in this Act [see Tables for classification] may be obligated or expended for the review or processing of an application by a Mexican motor carrier for authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border until the Federal Motor Carrier Safety Administration—

“(1)(A) requires a safety examination of such motor carrier to be performed before the carrier is granted conditional operating authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border;

“(B) requires the safety examination to include—

“(i) verification of available performance data and safety management programs;

“(ii) verification of a drug and alcohol testing program consistent with part 40 of title 49, Code of Federal Regulations;

“(iii) verification of that motor carrier’s system of compliance with hours-of-service rules, including hours-of-service records;

“(iv) verification of proof of insurance;

“(v) a review of available data concerning that motor carrier’s safety history, and other information necessary to determine the carrier’s preparedness to comply with Federal Motor Carrier Safety rules and regulations and Hazardous Materials rules and regulations;

“(vi) an inspection of that Mexican motor carrier’s commercial vehicles to be used under such operating authority, if any such commercial vehicles have not received a decal from the inspection required in subsection (a)(5);

“(vii) an evaluation of that motor carrier’s safety inspection, maintenance, and repair facilities or management systems, including verification of records of periodic vehicle inspections;

“(viii) verification of drivers’ qualifications, including a confirmation of the validity of the Licencia de Federal de Conductor of each driver of that motor carrier who will be operating under such authority; and

“(ix) an interview with officials of that motor carrier to review safety management controls and evaluate any written safety oversight policies and practices.

“(C) requires that—

“(i) Mexican motor carriers with three or fewer commercial vehicles need not undergo on-site safety examination; however 50 percent of all safety examinations of all Mexican motor carriers shall be conducted onsite; and

“(ii) such on-site inspections shall cover at least 50 percent of estimated truck traffic in any year.

“(2) requires a full safety compliance review of the carrier consistent with the safety fitness evaluation procedures set forth in part 385 of title 49, Code of Federal Regulations, and gives the motor carrier a satisfactory rating, before the carrier is granted permanent operating authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border, and requires that any such safety compliance review take place within 18 months of that motor carrier being granted conditional operating authority, provided that—

“(A) Mexican motor carriers with three or fewer commercial vehicles need not undergo onsite compliance review; however 50 percent of all compliance reviews of all Mexican motor carriers shall be conducted on-site; and

“(B) any Mexican motor carrier with 4 or more commercial vehicles that did not undergo an on-site safety exam under (a)(1)(C), shall undergo an on-site safety compliance review under this section.

“(3) requires Federal and State inspectors to verify electronically the status and validity of the license of each driver of a Mexican motor carrier commercial vehicle crossing the border;

“(A) for every such vehicle carrying a placardable quantity of hazardous materials;

“(B) whenever the inspection required in subsection (a)(5) is performed; and

“(C) randomly for other Mexican motor carrier commercial vehicles, but in no case less than 50 percent of all other such commercial vehicles.

“(4) gives a distinctive Department of Transportation number to each Mexican motor carrier operating beyond the commercial zone to assist inspectors in enforcing motor carrier safety regulations including hours-of-service rules under part 395 of title 49, Code of Federal Regulations;

“(5) requires, with the exception of Mexican motor carriers that have been granted permanent operating authority for three consecutive years—

“(A) inspections of all commercial vehicles of Mexican motor carriers authorized, or seeking authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border that do not display a valid Commercial Vehicle Safety Alliance inspection decal, by certified inspectors in accordance with

the requirements for a Level I Inspection under the criteria of the North American Standard Inspection (as defined in section 350.105 of title 49, Code of Federal Regulations), including examination of the driver, vehicle exterior and vehicle under-carriage;

“(B) a Commercial Vehicle Safety Alliance decal to be affixed to each such commercial vehicle upon completion of the inspection required by clause (A) or a re-inspection if the vehicle has met the criteria for the Level I inspection; and

“(C) that any such decal, when affixed, expire at the end of a period of not more than 90 days, but nothing in this paragraph shall be construed to preclude the Administration from requiring reinspection of a vehicle bearing a valid inspection decal or from requiring that such a decal be removed when a certified Federal or State inspector determines that such a vehicle has a safety violation subsequent to the inspection for which the decal was granted.

“(6) requires State inspectors who detect violations of Federal motor carrier safety laws or regulations to enforce them or notify Federal authorities of such violations;

“(7)(A) equips all United States-Mexico commercial border crossings with scales suitable for enforcement action; equips 5 of the 10 such crossings that have the highest volume of commercial vehicle traffic with weigh-in-motion (WIM) systems; ensures that the remaining 5 such border crossings are equipped within 12 months; requires inspectors to verify the weight of each Mexican motor carrier commercial vehicle entering the United States at said WIM equipped high volume border crossings; and

“(B) initiates a study to determine which other crossings should also be equipped with weigh-in-motion systems;

“(8) the Federal Motor Carrier Safety Administration has implemented a policy to ensure that no Mexican motor carrier will be granted authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border unless that carrier provides proof of valid insurance with an insurance company licensed in the United States;

“(9) requires commercial vehicles operated by a Mexican motor carrier to enter the United States only at commercial border crossings where and when a certified motor carrier safety inspector is on duty and where adequate capacity exists to conduct a sufficient number of meaningful vehicle safety inspections and to accommodate vehicles placed out-of-service as a result of said inspections.

“(10) publishes—

“(A) interim final regulations under section 210(b) of the Motor Carrier Safety Improvement Act of 1999 [Pub. L. 106-159] (49 U.S.C. 31144 note) that establish minimum requirements for motor carriers, including foreign motor carriers, to ensure they are knowledgeable about Federal safety standards, that may include the administration of a proficiency examination;

“(B) interim final regulations under section 31148 of title 49, United States Code, that implement measures to improve training and provide for the certification of motor carrier safety auditors;

“(C) a policy under sections 218(a) and (b) of that Act (49 U.S.C. 31133 note) establishing standards for the determination of the appropriate number of Federal and State motor carrier inspectors for the United States-Mexico border;

“(D) a policy under section 219(d) of that Act (49 U.S.C. 14901 note) that prohibits foreign motor carriers from leasing vehicles to another carrier to transport products to the United States while the lessor is subject to a suspension, restriction, or limitation on its right to operate in the United States; and

“(E) a policy under section 219(a) of that Act (49 U.S.C. 14901 note) that prohibits foreign motor car-

riers from operating in the United States that is found to have operated illegally in the United States.

“(b) No vehicles owned or leased by a Mexican motor carrier and carrying hazardous materials in a placardable quantity may be permitted to operate beyond a United States municipality or commercial zone until the United States has completed an agreement with the Government of Mexico which ensures that drivers of such vehicles carrying such placardable quantities of hazardous materials meet substantially the same requirements as United States drivers carrying such materials.

“(c) No vehicles owned or leased by a Mexican motor carrier may be permitted to operate beyond United States municipalities and commercial zones under conditional or permanent operating authority granted by the Federal Motor Carrier Safety Administration until—

“(1) the Department of Transportation Inspector General conducts a comprehensive review of border operations within 180 days of enactment [probably means date of enactment of this Act, which was approved Dec. 18, 2001] to verify that—

“(A) all new inspector positions funded under this Act [see Tables for classification] have been filled and the inspectors have been fully trained;

“(B) each inspector conducting on-site safety compliance reviews in Mexico consistent with the safety fitness evaluation procedures set forth in part 385 of title 49, Code of Federal Regulations, is fully trained as a safety specialist;

“(C) the requirement of subparagraph (a)(2) has not been met by transferring experienced inspectors from other parts of the United States to the United States-Mexico border, undermining the level of inspection coverage and safety elsewhere in the United States;

“(D) the Federal Motor Carrier Safety Administration has implemented a policy to ensure compliance with hours-of-service rules under part 395 of title 49, Code of Federal Regulations, by Mexican motor carriers seeking authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border;

“(E) the information infrastructure of the Mexican government is sufficiently accurate, accessible, and integrated with that of United States enforcement authorities to allow United States authorities to verify the status and validity of licenses, vehicle registrations, operating authority and insurance of Mexican motor carriers while operating in the United States, and that adequate telecommunications links exist at all United States-Mexico border crossings used by Mexican motor carrier commercial vehicles, and in all mobile enforcement units operating adjacent to the border, to ensure that licenses, vehicle registrations, operating authority and insurance information can be easily and quickly verified at border crossings or by mobile enforcement units;

“(F) there is adequate capacity at each United States-Mexico border crossing used by Mexican motor carrier commercial vehicles to conduct a sufficient number of meaningful vehicle safety inspections and to accommodate vehicles placed out-of-service as a result of said inspections;

“(G) there is an accessible database containing sufficiently comprehensive data to allow safety monitoring of all Mexican motor carriers that apply for authority to operate commercial vehicles beyond United States municipalities and commercial zones on the United States-Mexico border and the drivers of those vehicles; and

“(H) measures are in place to enable United States law enforcement authorities to ensure the effective enforcement and monitoring of license revocation and licensing procedures of Mexican motor carriers.

“(2) The Secretary of Transportation certifies in writing in a manner addressing the Inspector Gen-

eral's findings in paragraphs (c)(1)(A) through (c)(1)(H) of this section that the opening of the border does not pose an unacceptable safety risk to the American public.

“(d) Repealed. Pub. L. 114-113, div. L, title I, §130(b), Dec. 18, 2015, 129 Stat. 2850.]

“(e) For purposes of this section, the term ‘Mexican motor carrier’ shall be defined as a Mexico-domiciled motor carrier operating beyond United States municipalities and commercial zones on the United States-Mexico border.

“(f) In addition to amounts otherwise made available in this Act, to be derived from the Highway Trust Fund, there is hereby appropriated to the Federal Motor Carrier Safety Administration, \$25,866,000 for the salary, expense, and capital costs associated with the requirements of this section.”

LIMITED MODIFICATION TO MORATORIUM ON ISSUANCE OF CERTIFICATES OR PERMITS WITH RESPECT TO MEXICO

Memorandum of President of the United States, May 6, 1993, 58 F.R. 27647, provided:

Memorandum for the Secretary of Transportation

Section 6 of the Bus Regulatory Reform Act of 1982 [Pub. L. 97-261, see former 49 U.S.C. 10922(m)(1), (2)] imposed a moratorium on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by persons of, a contiguous foreign country. The Act [Pub. L. 97-261, see Tables for classification] authorized the President to remove the moratorium in whole or in part for any country or political subdivision thereof upon determining that such action is in the national interest. Sixty days' advance notice to the Congress is required whenever the removal or modification applies to a contiguous foreign country or political subdivision thereof that substantially prohibits the granting of motor carrier authority to persons from the United States.

I am pleased that an agreement between the United States and Mexico has been concluded to ensure fair and reciprocal treatment for charter and tour bus interests on both sides of the border. The agreement reached, however, does not allow for full access to cross-border and domestic markets. Therefore, the moratorium must reflect the conditions under which operating authority may be issued to Mexican charter and tour companies under the agreement.

Pursuant to section 6 of the Bus Regulatory Reform Act of 1982, 49 U.S.C. section 10922(l)(2)(A) [see former 49 U.S.C. 10922(m)(2)(A)], I hereby make a limited modification to the moratorium imposed by that section and all actions taken by my predecessors under that section on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by persons of, a contiguous foreign country.

The moratorium is modified only to authorize the Interstate Commerce Commission to grant Mexican motor carriers authority to transport passengers in charter or special operations, in foreign commerce, in round trip or one-way service between Mexico and the United States pursuant to the following restrictions:

1. The Mexican motor carrier can conduct cross-border charter or special service in the United States only when the international tour or charter begins in Mexico;

2. Tickets or tour packages for such operations cannot be sold in the United States; and

3. The terms of the grants of authority given to Mexican motor carriers will be limited by the life of the agreement with Mexico covering reciprocal cross-border charter and special operations.

This action applies only to international charter and tour operations, does not allow for point-to-point service within the United States, and does not authorize companies to conduct cross-border regular route service. This action preserves the status quo with respect to Mexican trucking companies and Mexican companies engaged in regular route service, and will maintain the moratorium on those operations through September 25, 1994, unless earlier revoked or modified.

Accordingly, you are directed to notify the Congress today on my behalf that, effective 60 days hence, the moratorium will no longer be in effect for Mexican charter and tour bus companies subject to the above stated conditions. Because of this action, the Interstate Commerce Commission will then accept and process expeditiously all applications for operating authority from Mexican owned, controlled, or domiciled charter and tour bus firms. I should note that applications in Mexico by United States charter and tour bus firms will be similarly treated.

You are hereby authorized and directed to publish this determination in the Federal Register.

WILLIAM J. CLINTON.

Memorandum of President of the United States, Jan. 1, 1994, 59 F.R. 653, provided:

Memorandum for the Secretary of Transportation

Section 6 of the Bus Regulatory Reform Act of 1982 [Pub. L. 97-261, see former 49 U.S.C. 10922(m)(1), (2)] imposed a moratorium on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by, persons of a contiguous foreign country. The Act [Pub. L. 97-261, see Tables for classification] authorized the President to remove the moratorium in whole or in part for any country or political subdivision thereof upon determining that such action is in the national interest. Sixty days' advance notice to the Congress is required whenever the removal or modification applies to a foreign contiguous country or political subdivision thereof that substantially prohibits the granting of motor carrier authority to persons from the United States.

As set forth in the Statement of Administrative Action regarding the North American Free Trade Agreement (NAFTA) that I submitted to the Congress on November 3, 1993, the moratorium with respect to Mexico will be lifted in phases to coincide with the schedule of liberalization in the relevant provisions of the NAFTA. The NAFTA specifically states that the moratorium will not apply to the provision of cross-border charter or tour bus services as of the date of entry into force of the Agreement.

This is to give public notice that, pursuant to section 6 of the Bus Regulatory Reform Act of 1982, 49 U.S.C. section 10922(l)(2)(A) [see former 49 U.S.C. 10922(m)(2)(A)], on November 3, 1993, I gave the Congress notice of my intention to make a limited modification to the moratorium imposed by that section and all actions taken by my predecessors under that section on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by, persons of Mexico. This modification will take effect on January 1, 1994, the 60th day after my notice to the Congress.

The moratorium is modified only to authorize the Interstate Commerce Commission to grant Mexican motor carriers authority to transport passengers in charter or tour bus operations, in foreign commerce, in round-trip or one-way service between Mexico and the United States.

This action applies only to international charter or tour bus operations, does not allow for point-to-point bus service within the United States, and does not authorize companies to conduct cross-border regular route bus service.

Effective January 1, 1994, the Interstate Commerce Commission will begin to accept and process expeditiously all applications for operating authority from Mexican owned, controlled, or domiciled charter and tour bus firms.

This determination shall be published in the Federal Register.

WILLIAM J. CLINTON.

[Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 1302 of this title and section 101 of Pub. L. 104-88, set out as a

note under section 1301 of this title. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 1301 of this title.]

EXTENSION OF MORATORIUM

Memorandum of President of the United States, Mar. 2, 1995, 60 F.R. 12393, provided:

Memorandum for the Secretary of Transportation [and] the United States Trade Representative

Pursuant to section 6 of the Bus Regulatory Reform Act of 1982, 49 U.S.C. 10922(l)(1) and (2) [Pub. L. 97-261, see former 49 U.S.C. 10922(m)(1), (2)], I hereby extend for an additional 2 years both the moratorium imposed by that section and all actions taken by my predecessors under that section on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by persons of, a contiguous foreign country. This action preserves the *status quo* and will maintain the moratorium through September 19, 1996, unless earlier revoked or modified.

This memorandum shall be published in the Federal Register.

WILLIAM J. CLINTON.

Memorandum of President of the United States, Sept. 25, 1992, 57 F.R. 44647, extended moratorium through Sept. 19, 1994.

Memorandum of President of the United States, Sept. 17, 1990, 55 F.R. 38657, extended moratorium through Sept. 19, 1992.

Memorandum of President of the United States, Sept. 15, 1988, 53 F.R. 36430, extended moratorium through Sept. 19, 1990.

Memorandum of President of the United States, Sept. 23, 1986, 51 F.R. 34079, extended moratorium through Sept. 19, 1988.

Memorandum of President of the United States, Aug. 30, 1984, 49 F.R. 35001, extended moratorium through Sept. 19, 1986.

Memorandum of President of the United States, June 5, 2001, 66 F.R. 30799, provided:

Memorandum for the Secretary of Transportation
Section 6 of the Bus Regulatory Reform Act of 1982 [Pub. L. 97-261, see former 49 U.S.C. 10922(m)(1), (2)] imposed a moratorium on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by, persons of a contiguous foreign country, and authorized the President to modify the moratorium. The Interstate Commerce Commission Termination Act of 1995 (ICCTA) [ICC Termination Act of 1995, Pub. L. 104-88, see Tables for classification] maintained these restrictions, subject to modifications made prior to the enactment of the ICCTA [Dec. 29, 1995], and authorized the President to make further modifications to the moratorium. The relevant provisions of the ICCTA are codified at 49 U.S.C. 13902.

The North American Free Trade Agreement (NAFTA) established a schedule for liberalizing certain restrictions on investment in truck and bus services. Pursuant to 49 U.S.C. 13902(c)(3), I have determined that the following modifications to the moratorium are consistent with obligations of the United States under NAFTA and with U.S. transportation policy, and that the moratorium shall be modified accordingly. First, enterprises domiciled in the United States that are owned or controlled by persons of Mexico will be allowed to obtain operating authority to provide truck services for the transportation of international cargo between points in the United States. Second, enterprises domiciled in the United States that are owned or controlled by persons of Mexico will be allowed to obtain operating authority to provide bus services between points in the United States. These modifications shall be effective today.

Pursuant to 49 U.S.C. 13902(c)(5), I have determined that expeditious action is required to implement these modifications to the moratorium. Effective today, the Department of Transportation will accept and expeditiously

process applications, submitted by enterprises domiciled in the United States that are owned or controlled by persons of Mexico, to obtain operating authority to provide truck services for the transportation of international cargo between points in the United States or to provide bus services between points in the United States.

Motor carriers domiciled in the United States that are owned or controlled by persons of Mexico will be subject to the same Federal and State regulations and procedures that apply to all other U.S. carriers. These include safety regulations, such as drug and alcohol testing; insurance requirements; taxes and fees; and all other applicable laws and regulations, including those administered by the U.S. Customs Service, the Immigration and Naturalization Service, and the Department of Labor.

This memorandum shall be published in the Federal Register.

GEORGE W. BUSH.

Memorandum of President of the United States, Nov. 27, 2002, 67 F.R. 71795, provided:

Memorandum for the Secretary of Transportation
Section 6 of the Bus Regulatory Reform Act of 1982, Public Law 97-261, 96 Stat. 1103 [see former 49 U.S.C. 10922(m)(1), (2)], imposed a moratorium on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by persons of, a contiguous foreign country and authorized the President to modify the moratorium. The Interstate Commerce Commission Termination Act of 1995 (ICCTA), Public Law 104-88, 109 Stat. 803 [ICC Termination Act of 1995, see Tables for classification], maintained these restrictions, subject to modifications made prior to the enactment of the ICCTA [Dec. 29, 1995], and empowered the President to make further modifications to the moratorium.

Pursuant to 49 U.S.C. 13902(c)(3), I modified the moratorium on June 5, 2001, to allow motor carriers domiciled in the United States that are owned or controlled by persons of Mexico to obtain operating authority to transport international cargo by truck between points in the United States and to provide bus services between points in the United States.

The North American Free Trade Agreement (NAFTA) established a schedule for liberalizing certain restrictions on the provision of bus and truck services by Mexican-domiciled motor carriers in the United States. Pursuant to 49 U.S.C. 13902(c)(3), I hereby determine that the following modifications to the moratorium are consistent with obligations of the United States under NAFTA and with our national transportation policy and that the moratorium shall be modified accordingly.

First, qualified motor carriers domiciled in Mexico will be allowed to obtain operating authority to transport passengers in cross-border scheduled bus services. Second, qualified motor carriers domiciled in Mexico will be allowed to obtain operating authority to provide cross-border truck services. The moratorium on the issuance of certificates or permits to Mexican-domiciled motor carriers for the provision of truck or bus services between points in the United States will remain in place. These modifications shall be effective on the date of this memorandum.

Furthermore, pursuant to 49 U.S.C. 13902(c)(5), I hereby determine that expeditious action is required to implement this modification to the moratorium. Effective on the date of this memorandum, the Department of Transportation is authorized to act on applications, submitted by motor carriers domiciled in Mexico, to obtain operating authority to provide cross-border scheduled bus services and cross-border truck services. In reviewing such applications, the Department shall continue to work closely with the Department of Justice, the Office of Homeland Security, and other relevant Federal departments, agencies, and offices in order to help ensure the security of the border and to prevent potential threats to national security.

Motor carriers domiciled in Mexico operating in the United States will be subject to the same Federal and

State laws, regulations, and procedures that apply to carriers domiciled in the United States. These include safety regulations, such as drug and alcohol testing requirements; insurance requirements; taxes and fees; and other applicable laws and regulations, including those administered by the United States Customs Service, the Immigration and Naturalization Service, the Department of Labor, and Federal and State environmental agencies.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

§ 13903. Registration of freight forwarders

(a) IN GENERAL.—The Secretary shall register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder if the Secretary determines that the person—

- (1) has sufficient experience to qualify the person to act as a freight forwarder; and
- (2) is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary.

(b) DURATION.—A registration issued under subsection (a) shall only remain in effect while the freight forwarder is in compliance with section 13906(c).

(c) EXPERIENCE OR TRAINING REQUIREMENT.—Each freight forwarder shall employ, as an officer, an individual who—

- (1) has at least 3 years of relevant experience; or
- (2) provides the Secretary with satisfactory evidence of the individual's knowledge of related rules, regulations, and industry practices.

(d) REGISTRATION AS MOTOR CARRIER REQUIRED.—A freight forwarder may not provide transportation as a motor carrier unless the freight forwarder has registered separately under this chapter to provide transportation as a motor carrier.

(e) UPDATE OF REGISTRATION.—The Secretary shall require a freight forwarder to update its registration under this section not later than 30 days after a change in the freight forwarder's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 884; amended Pub. L. 109–59, title IV, §4142(b), Aug. 10, 2005, 119 Stat. 1747; Pub. L. 110–244, title III, §305(d), June 6, 2008, 122 Stat. 1620; Pub. L. 112–141, div. C, title II, §§32107(b), 32916(a), July 6, 2012, 126 Stat. 782, 820; Pub. L. 114–94, div. A, title V, §5508(a)(2), Dec. 4, 2015, 129 Stat. 1554.)

AMENDMENTS

2015—Subsec. (d). Pub. L. 114–94 struck out par. (1) designation and heading before “A freight forwarder”.

2012—Subsec. (a). Pub. L. 112–141, §32916(a)(1), substituted “determines that the person—” for “finds that the person is fit”, added par. (1), inserted par. (2) designation and “is fit” before “, willing”, and, in par. (2), struck out “and the Board” after “Secretary”.

Subsec. (b). Pub. L. 112–141, §32916(a)(3), added subsec. (b). Former subsec. (b) redesignated (d).

Subsec. (c). Pub. L. 112–141, §32916(a)(3), added subsec. (c). Former subsec. (c) redesignated (e).

Pub. L. 112–141, §32107(b), added subsec. (c).

Subsec. (d). Pub. L. 112–141, §32916(a)(4), amended subsec. (d) generally. Prior to amendment, text read as follows: “The freight forwarder may provide transportation as the carrier itself only if the freight forwarder also has registered to provide transportation as a carrier under this chapter.”

Pub. L. 112–141, §32916(a)(2), redesignated subsec. (b) as (d).

Subsec. (e). Pub. L. 112–141, §32916(a)(2), redesignated subsec. (c) as (e).

2008—Subsec. (a). Pub. L. 110–244 amended subsec. (a) generally. Prior to amendment, text read as follows:

“(1) HOUSEHOLD GOODS.—The Secretary shall register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder of household goods if the Secretary finds that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and the Board.

“(2) OTHERS.—The Secretary may register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder (other than a freight forwarder of household goods) if the Secretary finds that such registration is needed for the protection of shippers and that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and Board.”

2005—Subsec. (a). Pub. L. 109–59 designated existing provisions as par. (1) and inserted heading, inserted “of household goods” after “freight forwarder”, and added par. (2).

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.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

FINANCIAL RESPONSIBILITY REQUIREMENTS

Pub. L. 112–141, div. C, title II, §32104, July 6, 2012, 126 Stat. 780, provided that: “Not later than 6 months after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], and every 4 years thereafter, the Secretary shall—

“(1) issue a report on the appropriateness of—

“(A) the current minimum financial responsibility requirements under sections 31138 and 31139 of title 49, United States Code; and

“(B) the current bond and insurance requirements under sections 13904(f), 13903, and 13906 of title 49, United States Code; and

“(2) submit the report issued under paragraph (1) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.”

§ 13904. Registration of brokers

(a) IN GENERAL.—The Secretary shall register, subject to section 13906(b), a person to be a broker for transportation of property subject to jurisdiction under subchapter I of chapter 135, if the Secretary determines that the person—

(1) has sufficient experience to qualify the person to act as a broker for transportation; and

(2) is fit, willing, and able to be a broker for transportation and to comply with this part and applicable regulations of the Secretary.

(b) DURATION.—A registration issued under subsection (a) shall only remain in effect while the broker for transportation is in compliance with section 13906(b).

(c) EXPERIENCE OR TRAINING REQUIREMENTS.—Each broker shall employ, as an officer, an individual who—

(1) has at least 3 years of relevant experience; or

(2) provides the Secretary with satisfactory evidence of the individual's knowledge of related rules, regulations, and industry practices.

(d) REGISTRATION AS MOTOR CARRIER REQUIRED.—

(1) IN GENERAL.—A broker for transportation may not provide transportation as a motor carrier unless the broker has registered separately under this chapter to provide transportation as a motor carrier.

(2) LIMITATION.—This subsection does not apply to a motor carrier registered under this chapter or to an employee or agent of the motor carrier to the extent the transportation is to be provided entirely by the motor carrier, with other registered motor carriers, or with rail or water carriers.

(e) REGULATION TO PROTECT MOTOR CARRIERS AND SHIPPERS.—Regulations of the Secretary applicable to brokers registered under this section shall provide for the protection of motor carriers and shippers by motor vehicle.

(f) BOND AND INSURANCE.—The Secretary may impose on brokers for motor carriers of passengers such requirements for bonds or insurance or both as the Secretary determines are needed to protect passengers and carriers dealing with such brokers.

(g) UPDATE OF REGISTRATION.—The Secretary shall require a broker to update its registration under this section not later than 30 days after a change in the broker's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 884; amended Pub. L. 109-59, title IV, §4142(c), Aug. 10, 2005, 119 Stat. 1747; Pub. L. 110-244, title III, §305(e), June 6, 2008, 122 Stat. 1620; Pub. L. 112-141, div. C, title II, §§32107(c), 32916(b), July 6, 2012, 126 Stat. 782, 821.)

AMENDMENTS

2012—Subsec. (a). Pub. L. 112-141, §32916(b)(1), substituted “determines that the person—” for “finds that the person is fit”, added par. (1), and inserted par. (2) designation and “is fit” before “, willing”.

Subsecs. (b), (c). Pub. L. 112-141, §32916(b)(3), added subsecs. (b) and (c). Former subsecs. (b) and (c) redesignated (d) and (e), respectively.

Subsec. (d). Pub. L. 112-141, §32916(b)(4), amended subsec. (d) generally. Prior to amendment, text read as follows:

“(1) IN GENERAL.—The broker may provide the transportation itself only if the broker also has been registered to provide the transportation as a motor carrier under this chapter.

“(2) LIMITATION.—This subsection does not apply to a motor carrier registered under this chapter or to an employee or agent of the motor carrier to the extent the transportation is to be provided entirely by the motor carrier, with other registered motor carriers, or with rail or water carriers.”

Pub. L. 112-141, §32916(b)(2), redesignated subsec. (b) as (d). Former subsec. (d) redesignated (f).

Subsec. (e). Pub. L. 112-141, §32916(b)(5), amended subsec. (e) generally. Prior to amendment, text read as follows: “Regulations of the Secretary applicable to brokers registered under this section shall provide for the protection of shippers by motor vehicle.”

Pub. L. 112-141, §32916(b)(2), redesignated subsec. (c) as (e). Former subsec. (e) redesignated (g).

Pub. L. 112-141, §32107(c), added subsec. (e).

Subsecs. (f), (g). Pub. L. 112-141, §32916(b)(2), redesignated subsecs. (d) and (e) as (f) and (g), respectively.

2008—Subsec. (a). Pub. L. 110-244 amended subsec. (a) generally. Prior to amendment, text read as follows:

“(1) HOUSEHOLD GOODS.—The Secretary shall register, subject to section 13906(b), a person to be a broker of household goods for transportation of property subject to jurisdiction under subchapter I of chapter 135, if the Secretary finds that the person is fit, willing, and able to be a broker of household goods for transportation and to comply with this part and applicable regulations of the Secretary.

“(2) OTHERS.—The Secretary may register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a broker (other than a broker of household goods) if the Secretary finds that such registration is needed for the protection of shippers and that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and Board.”

2005—Subsec. (a). Pub. L. 109-59, §4142(c)(1), (3), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (a)(1). Pub. L. 109-59, §4142(c)(2), which directed amendment of par. (1) by inserting “of household goods” after “broker”, was executed by making the insertion in two places to reflect the probable intent of Congress.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§ 13905. Effective periods of registration

(a) PERSON HOLDING ICC AUTHORITY.—Any person having authority to provide transportation or service as a motor carrier, freight forwarder, or broker under this title, as in effect on December 31, 1995, shall be deemed, for purposes of this part, to be registered to provide such transportation or service under this part.

(b) PERSON REGISTERED WITH SECRETARY.—

(1) IN GENERAL.—Except as provided in paragraph (2), any person having registered with the Secretary to provide transportation or service as a motor carrier or motor private carrier under this title, as in effect on January 1, 2005, but not having registered pursuant to section 13902(a), shall be treated, for purposes of this part, to be registered to provide such transportation or service for purposes of sections 13908 and 14504a.

(2) EXCLUSIVELY INTRASTATE OPERATORS.—Paragraph (1) does not apply to a motor carrier or motor private carrier (including a transporter of waste or recyclable materials) engaged exclusively in intrastate transportation operations.

(c) EFFECTIVE PERIOD.—

(1) IN GENERAL.—Except as otherwise provided in this part, each registration issued under section 13902, 13903, or 13904—

(A) shall be effective beginning on the date specified by the Secretary; and

(B) shall remain in effect for such period as the Secretary determines appropriate by regulation.

(2) REISSUANCE OF REGISTRATION.—

(A) REQUIREMENT.—Not later than 4 years after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall require a freight forwarder or broker to renew its registration issued under this chapter.

(B) EFFECTIVE PERIOD.—Each registration renewal under subparagraph (A)—

(i) shall expire not later than 5 years after the date of such renewal; and

(ii) may be further renewed as provided under this chapter.

(d) SUSPENSION, AMENDMENTS, AND REVOCATIONS.—

(1) APPLICATIONS.—On application of the registrant, the Secretary may amend or revoke a registration.

(2) COMPLAINTS AND ACTIONS ON SECRETARY'S OWN INITIATIVE.—On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may—

(A) suspend, amend, or revoke any part of the registration of a motor carrier, foreign motor carrier, foreign motor private carrier, broker, or freight forwarder for willful failure to comply with—

(i) this part;

(ii) an applicable regulation or order of the Secretary or the Board, including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations (or successor regulations), for transportation provided by an over-the-road bus; or

(iii) a condition of its registration;

(B) withhold, suspend, amend, or revoke any part of the registration of a motor carrier, foreign motor carrier, foreign motor private carrier, broker, or freight forwarder for failure—

(i) to pay a civil penalty imposed under chapter 5, 51, 149, or 311;

(ii) to arrange and abide by an acceptable payment plan for such civil penalty, not later than 90 days after the date specified by order of the Secretary for the payment of such penalty; or

(iii) for failure¹ to obey a subpoena issued by the Secretary;

(C) withhold, suspend, amend, or revoke any part of a registration of a motor carrier, foreign motor carrier, foreign motor private carrier, broker, or freight forwarder following a determination by the Secretary that the motor carrier, broker, or freight forwarder failed to disclose, in its application for registration, a material fact relevant to its willingness and ability to comply with—

(i) this part;

(ii) an applicable regulation or order of the Secretary or the Board; or

(iii) a condition of its registration; or

(D) withhold, suspend, amend, or revoke any part of a registration of a motor carrier, foreign motor carrier, foreign motor private carrier, broker, or freight forwarder if the Secretary finds that the motor carrier, broker, or freight forwarder does not disclose any relationship through common ownership, common management, common control, or common familial relationship to any other motor carrier, broker, or freight forwarder, or any other applicant for motor carrier, broker, or freight forwarder registration that the Secretary determines is or was unwilling or unable to comply with the relevant requirements listed in section 13902, 13903, or 13904.

(3) LIMITATION.—Paragraph (2)(B) shall not apply to a person who is unable to pay a civil penalty because the person is a debtor in a case under chapter 11 of title 11.

(4) REGULATIONS.—Not later than 12 months after the date of the enactment of this paragraph, the Secretary, after notice and opportunity for public comment, shall issue regulations to provide for the suspension, amendment, or revocation of a registration under this part for failure to pay a civil penalty as provided in paragraph (2)(B).

(e) PROCEDURE.—Except on application of the registrant, or if the Secretary determines that the registrant failed to disclose a material fact in an application for registration in accordance with subsection (d)(2)(C), the Secretary may revoke a registration of a motor carrier, freight forwarder, or broker, only after—

(1) the Secretary has issued an order to the registrant under section 14701 requiring compliance with this part, a regulation of the Secretary, or a condition of the registration; and

(2) the registrant willfully does not comply with the order for a period of 30 days.

(f) EXPEDITED PROCEDURE.—

(1) PROTECTION OF SAFETY.—Notwithstanding subchapter II of chapter 5 of title 5, the Secretary—

(A) may suspend the registration of a motor carrier, a freight forwarder, or a broker for failure to comply with requirements of the Secretary pursuant to section 13904(e) or 13906 or an order or regulation of the Secretary prescribed under those sections; and

(B) shall revoke the registration of a motor carrier that has been prohibited from operating in interstate commerce for failure to comply with the safety fitness requirements of section 31144.

(2) IMMINENT HAZARD TO PUBLIC HEALTH.—Notwithstanding subchapter II of chapter 5 of title 5, the Secretary shall revoke the registration of a motor carrier if the Secretary finds that the carrier is or was conducting unsafe operations that are or were an imminent hazard to public health or property.

(3) NOTICE; PERIOD OF SUSPENSION.—The Secretary may suspend or revoke under this subsection the registration only after giving notice of the suspension or revocation to the reg-

¹ So in original. The words "for failure" probably should not appear.

istrant. A suspension remains in effect until the registrant complies with the applicable sections or, in the case of a suspension under paragraph (2), until the Secretary revokes the suspension.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 884; amended Pub. L. 104-287, §5(33), Oct. 11, 1996, 110 Stat. 3392; Pub. L. 105-102, §2(10), Nov. 20, 1997, 111 Stat. 2204; Pub. L. 106-159, title II, §206(a), Dec. 9, 1999, 113 Stat. 1763; Pub. L. 109-59, title IV, §§4104, 4303(a), Aug. 10, 2005, 119 Stat. 1716, 1761; Pub. L. 110-291, §2(b), July 30, 2008, 122 Stat. 2915; Pub. L. 112-141, div. C, title II, §§32103(a), 32109, 32205, 32917, 32933(a), July 6, 2012, 126 Stat. 778, 782, 785, 821, 830; Pub. L. 114-94, div. A, title V, §5508(a)(3), Dec. 4, 2015, 129 Stat. 1554.)

HISTORICAL AND REVISION NOTES

PUB. L. 104-287

This amends 49:13905(a) for clarity and consistency.

PUB. L. 105-102

This amends 49:13905(e)(1) to correct a grammatical error.

REFERENCES IN TEXT

The date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, referred to in subsec. (c)(2)(A), is the date of enactment of title II of div. C of Pub. L. 112-141, which was approved July 6, 2012.

The date of the enactment of this paragraph, referred to in subsec. (d)(4), is the date of enactment of Pub. L. 106-159, which was approved Dec. 9, 1999.

AMENDMENTS

2015—Subsec. (d)(2)(D). Pub. L. 114-94 substituted “the Secretary finds that” for “the Secretary finds that—”, struck out cl. (i) designation before “the motor carrier,” and inserted period at end.

2012—Subsec. (c). Pub. L. 112-141, §32917, amended subsec. (c) generally. Prior to amendment, text read as follows: “Except as otherwise provided in this part, each registration issued under section 13902, 13903, or 13904 shall be effective from the date specified by the Secretary and shall remain in effect for such period as the Secretary determines appropriate by regulation.”

Subsec. (d)(1). Pub. L. 112-141, §32103(a)(1)(B), added par. (1) and struck out former par. (1) which authorized the Secretary to amend or revoke a registration upon application, or suspend, amend or revoke a registration upon complaint or the Secretary’s own initiative after notice and opportunity for a proceeding.

Subsec. (d)(2). Pub. L. 112-141, §32205, inserted “foreign motor carrier, foreign motor private carrier,” after “registration of a motor carrier,” wherever appearing.

Pub. L. 112-141, §32103(a)(1)(B), added par. (2). Former par. (2) redesignated (4).

Subsec. (d)(3). Pub. L. 112-141, §32103(a)(1)(B), added par. (3).

Subsec. (d)(4). Pub. L. 112-141, §32103(a)(1)(C), substituted “paragraph (2)(B)” for “paragraph (1)(B)”.

Pub. L. 112-141, §32103(a)(1)(A), redesignated par. (2) as (4).

Subsec. (e). Pub. L. 112-141, §32103(a)(2), inserted “or if the Secretary determines that the registrant failed to disclose a material fact in an application for registration in accordance with subsection (d)(2)(C),” after “registrant.”

Subsec. (f)(1)(A). Pub. L. 112-141, §32933(a), substituted “section 13904(e)” for “section 13904(c)”.

Subsec. (f)(2). Pub. L. 112-141, §32109, amended par. (2) generally. Prior to amendment, text read as follows:

“Without regard to subchapter II of chapter 5 of title 5, the Secretary shall revoke the registration of a motor carrier of passengers if the Secretary finds that such carrier has been conducting unsafe operations which are an imminent hazard to public health or property.”

2008—Subsec. (d)(1)(A). Pub. L. 110-291 inserted “(including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or such successor regulations to those accessibility requirements as the Secretary may issue, for transportation provided by an over-the-road bus)” after “Board”.

2005—Subsecs. (b) to (d). Pub. L. 109-59, §4303(a), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 109-59, §4303(a)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 109-59, §4104(1), added par. (1) and struck out heading and text of former par. (1). Text read as follows: “Without regard to subchapter II of chapter 5 of title 5, the Secretary may suspend the registration of a motor carrier, a freight forwarder, or a broker for failure to comply with safety requirements of the Secretary or the safety fitness requirements pursuant to section 13904(c), 13906, or 31144 of this title, or an order or regulation of the Secretary prescribed under those sections.”

Subsec. (e)(2). Pub. L. 109-59, §4104(2), substituted “shall revoke the registration” for “may suspend a registration”.

Subsec. (e)(3). Pub. L. 109-59, §4104(3), added par. (3) and struck out heading and text of former par. (3). Text read as follows: “The Secretary may suspend under this subsection the registration only after giving notice of the suspension to the registrant. The suspension remains in effect until the registrant complies with those applicable sections or, in the case of a suspension under paragraph (2), until the Secretary revokes such suspension.”

Subsec. (f). Pub. L. 109-59, §4303(a)(1), redesignated subsec. (e) as (f).

1999—Subsec. (c). Pub. L. 106-159 inserted par. (1) designation and heading, inserted “(A)” before “suspend”, added cl. (B), realigned par. (1) margins, and added par. (2).

1997—Subsec. (e)(1). Pub. L. 105-102 struck out comma after “31144”.

1996—Subsec. (a). Pub. L. 104-287 substituted “December 31, 1995” for “the day before the effective date of 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.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

RELATIONSHIP TO OTHER LAWS

Except as provided in sections 14504, 14504a, and 14506 of this title, subtitle C (§§4301-4308) of title IV of Pub. L. 109-59 is not intended to prohibit any State or any political subdivision of any State from enacting, imposing, or enforcing any law or regulation with respect to a motor carrier, motor private carrier, broker, freight forwarder, or leasing company that is not otherwise prohibited by law, see section 4302 of Pub. L. 109-59, set out as a note under section 13902 of this title.

§ 13906. Security of motor carriers, motor private carriers, brokers, and freight forwarders

(a) MOTOR CARRIER REQUIREMENTS.—

(1) **LIABILITY INSURANCE REQUIREMENT.**—The Secretary may register a motor carrier under section 13902 only if the registrant files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary, in an amount not less than such amount as the Secretary prescribes pursuant to, or as is required by, sections 31138 and 31139, and the laws of the State or States in which the registrant is operating, to the extent applicable. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the registrant for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property (except property referred to in paragraph (3)¹ of this subsection), or both. A registration remains in effect only as long as the registrant continues to satisfy the security requirements of this paragraph.

(2) **SECURITY REQUIREMENT.**—Not later than 120 days after the date of enactment of the Unified Carrier Registration Act of 2005, any person, other than a motor private carrier, registered with the Secretary to provide transportation or service as a motor carrier under section 13905(b) shall file with the Secretary a bond, insurance policy, or other type of security approved by the Secretary, in an amount not less than required by sections 31138 and 31139.

(3) **AGENCY REQUIREMENT.**—A motor carrier shall comply with the requirements of sections 13303 and 13304. To protect the public, the Secretary may require any such motor carrier to file the type of security that a motor carrier is required to file under paragraph (1) of this subsection. This paragraph only applies to a foreign motor private carrier and foreign motor carrier operating in the United States to the extent that such carrier is providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country.

(4) **TRANSPORTATION INSURANCE.**—The Secretary may require a registered motor carrier to file with the Secretary a type of security sufficient to pay a shipper or consignee for damage to property of the shipper or consignee placed in the possession of the motor carrier as the result of transportation provided under this part. A carrier required by law to pay a shipper or consignee for loss, damage, or default for which a connecting motor carrier is responsible is subrogated, to the extent of the amount paid, to the rights of the shipper or consignee under any such security.

(b) **BROKER FINANCIAL SECURITY REQUIREMENTS.**—

(1) **REQUIREMENTS.**—

(A) **IN GENERAL.**—The Secretary may register a person as a broker under section 13904 only if the person files with the Secretary a surety bond, proof of trust fund, or other fi-

ancial security, or a combination thereof, in a form and amount, and from a provider, determined by the Secretary to be adequate to ensure financial responsibility.

(B) **USE OF A GROUP SURETY BOND, TRUST FUND, OR OTHER SURETY.**—In implementing the standards established by subparagraph (A), the Secretary may authorize the use of a group surety bond, trust fund, or other financial security, or a combination thereof, that meets the requirements of this subsection.

(C) **PROOF OF TRUST OR OTHER FINANCIAL SECURITY.**—For purposes of subparagraph (A), a trust fund or other financial security may be acceptable to the Secretary only if the trust fund or other financial security consists of assets readily available to pay claims without resort to personal guarantees or collection of pledged accounts receivable.

(2) **SCOPE OF FINANCIAL RESPONSIBILITY.**—

(A) **PAYMENT OF CLAIMS.**—A surety bond, trust fund, or other financial security obtained under paragraph (1) shall be available to pay any claim against a broker arising from its failure to pay freight charges under its contracts, agreements, or arrangements for transportation subject to jurisdiction under chapter 135 if—

(i) subject to the review by the surety provider, the broker consents to the payment;

(ii) in any case in which the broker does not respond to adequate notice to address the validity of the claim, the surety provider determines that the claim is valid; or

(iii) the claim is not resolved within a reasonable period of time following a reasonable attempt by the claimant to resolve the claim under clauses (i) and (ii), and the claim is reduced to a judgment against the broker.

(B) **RESPONSE OF SURETY PROVIDERS TO CLAIMS.**—If a surety provider receives notice of a claim described in subparagraph (A), the surety provider shall—

(i) respond to the claim on or before the 30th day following the date on which the notice was received; and

(ii) in the case of a denial, set forth in writing for the claimant the grounds for the denial.

(C) **COSTS AND ATTORNEY'S FEES.**—In any action against a surety provider to recover on a claim described in subparagraph (A), the prevailing party shall be entitled to recover its reasonable costs and attorney's fees.

(3) **MINIMUM FINANCIAL SECURITY.**—Each broker subject to the requirements of this section shall provide financial security of \$75,000 for purposes of this subsection, regardless of the number of branch offices or sales agents of the broker.

(4) **CANCELLATION NOTICE.**—If a financial security required under this subsection is canceled—

(A) the holder of the financial security shall provide electronic notification to the

¹ See References in Text note below.

Secretary of the cancellation not later than 30 days before the effective date of the cancellation; and

(B) the Secretary shall immediately post such notification on the public Internet Website of the Department of Transportation.

(5) **SUSPENSION.**—The Secretary shall immediately suspend the registration of a broker issued under this chapter if the available financial security of that person falls below the amount required under this subsection.

(6) **PAYMENT OF CLAIMS IN CASES OF FINANCIAL FAILURE OR INSOLVENCY.**—If a broker registered under this chapter experiences financial failure or insolvency, the surety provider of the broker shall—

(A) submit a notice to cancel the financial security to the Administrator in accordance with paragraph (4);

(B) publicly advertise for claims for 60 days beginning on the date of publication by the Secretary of the notice to cancel the financial security; and

(C) pay, not later than 30 days after the expiration of the 60-day period for submission of claims—

(i) all uncontested claims received during such period; or

(ii) a pro rata share of such claims if the total amount of such claims exceeds the financial security available.

(7) **PENALTIES.**—

(A) **CIVIL ACTIONS.**—Either the Secretary or the Attorney General of the United States may bring a civil action in an appropriate district court of the United States to enforce the requirements of this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

(B) **CIVIL PENALTIES.**—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a broker registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be liable to the United States for a civil penalty in an amount not to exceed \$10,000.

(C) **ELIGIBILITY.**—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a broker registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be ineligible to provide² broker financial security for 3 years.

(8) **DEDUCTION OF COSTS PROHIBITED.**—The amount of the financial security required under this subsection may not be reduced by deducting attorney's fees or administrative costs.

(c) **FREIGHT FORWARDER FINANCIAL SECURITY REQUIREMENTS.**—

(1) **REQUIREMENTS.**—

(A) **IN GENERAL.**—The Secretary may register a person as a freight forwarder under

section 13903 only if the person files with the Secretary a surety bond, proof of trust fund, other financial security, or a combination of such instruments, in a form and amount, and from a provider, determined by the Secretary to be adequate to ensure financial responsibility.

(B) **USE OF A GROUP SURETY BOND, TRUST FUND, OR OTHER FINANCIAL SECURITY.**—In implementing the standards established under subparagraph (A), the Secretary may authorize the use of a group surety bond, trust fund, other financial security, or a combination of such instruments, that meets the requirements of this subsection.

(C) **SURETY BONDS.**—A surety bond obtained under this section may only be obtained from a bonding company that has been approved by the Secretary of the Treasury.

(D) **PROOF OF TRUST OR OTHER FINANCIAL SECURITY.**—For purposes of subparagraph (A), a trust fund or other financial security may not be accepted by the Secretary unless the trust fund or other financial security consists of assets readily available to pay claims without resort to personal guarantees or collection of pledged accounts receivable.

(2) **SCOPE OF FINANCIAL RESPONSIBILITY.**—

(A) **PAYMENT OF CLAIMS.**—A surety bond, trust fund, or other financial security obtained under paragraph (1) shall be available to pay any claim against a freight forwarder arising from its failure to pay freight charges under its contracts, agreements, or arrangements for transportation subject to jurisdiction under chapter 135 if—

(i) subject to the review by the surety provider, the freight forwarder consents to the payment;

(ii) in the case³ the freight forwarder does not respond to adequate notice to address the validity of the claim, the surety provider determines the claim is valid; or

(iii) the claim—

(I) is not resolved within a reasonable period of time following a reasonable attempt by the claimant to resolve the claim under clauses (i) and (ii); and

(II) is reduced to a judgment against the freight forwarder.

(B) **RESPONSE OF SURETY PROVIDERS TO CLAIMS.**—If a surety provider receives notice of a claim described in subparagraph (A), the surety provider shall—

(i) respond to the claim on or before the 30th day following receipt of the notice; and

(ii) in the case of a denial, set forth in writing for the claimant the grounds for the denial.

(C) **COSTS AND ATTORNEY'S FEES.**—In any action against a surety provider to recover on a claim described in subparagraph (A), the prevailing party shall be entitled to recover its reasonable costs and attorney's fees.

(3) **FREIGHT FORWARDER INSURANCE.**—

² So in original. Probably should be "provide".

³ So in original.

(A) IN GENERAL.—The Secretary may register a person as a freight forwarder under section 13903 only if the person files with the Secretary a surety bond, insurance policy, or other type of financial security that meets standards prescribed by the Secretary.

(B) LIABILITY INSURANCE.—A financial security filed by a freight forwarder under subparagraph (A) shall be sufficient to pay an amount, not to exceed the amount of the financial security, for each final judgment against the freight forwarder for bodily injury to, or death of, an individual, or loss of, or damage to, property (other than property referred to in subparagraph (C)), resulting from the negligent operation, maintenance, or use of motor vehicles by, or under the direction and control of, the freight forwarder while providing transfer, collection, or delivery service under this part.

(C) CARGO INSURANCE.—The Secretary may require a registered freight forwarder to file with the Secretary a surety bond, insurance policy, or other type of financial security approved by the Secretary, that will pay an amount, not to exceed the amount of the financial security, for loss of, or damage to, property for which the freight forwarder provides service.

(4) MINIMUM FINANCIAL SECURITY.—Each freight forwarder subject to the requirements of this section shall provide financial security of \$75,000, regardless of the number of branch offices or sales agents of the freight forwarder.

(5) CANCELLATION NOTICE.—If a financial security required under this subsection is canceled—

(A) the holder of the financial security shall provide electronic notification to the Secretary of the cancellation not later than 30 days before the effective date of the cancellation; and

(B) the Secretary shall immediately post such notification on the public Internet web site of the Department of Transportation.

(6) SUSPENSION.—The Secretary shall immediately suspend the registration of a freight forwarder issued under this chapter if its available financial security falls below the amount required under this subsection.

(7) PAYMENT OF CLAIMS IN CASES OF FINANCIAL FAILURE OR INSOLVENCY.—If a freight forwarder registered under this chapter experiences financial failure or insolvency, the surety provider of the freight forwarder shall—

(A) submit a notice to cancel the financial security to the Administrator in accordance with paragraph (5);

(B) publicly advertise for claims for 60 days beginning on the date of publication by the Secretary of the notice to cancel the financial security; and

(C) pay, not later than 30 days after the expiration of the 60-day period for submission of claims—

(i) all uncontested claims received during such period; or

(ii) a pro rata share of such claims if the total amount of such claims exceeds the financial security available.

(8) PENALTIES.—

(A) CIVIL ACTIONS.—Either the Secretary or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce the requirements of this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

(B) CIVIL PENALTIES.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a freight forwarder registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be liable to the United States for a civil penalty in an amount not to exceed \$10,000.

(C) ELIGIBILITY.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a freight forwarder registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be ineligible to provide freight forwarder financial security for 3 years

(9) DEDUCTION OF COSTS PROHIBITED.—The amount of the financial security required under this subsection may not be reduced by deducting attorney's fees or administrative costs.

(d) TYPE OF INSURANCE.—The Secretary may determine the type and amount of security filed under this section. A motor carrier may submit proof of qualifications as a self-insurer to satisfy the security requirements of this section. The Secretary shall adopt regulations governing the standards for approval as a self-insurer. Motor carriers which have been granted authority to self-insure as of January 1, 1996, shall retain that authority unless, for good cause shown and after notice and an opportunity for a hearing, the Secretary finds that the authority must be revoked.

(e) NOTICE OF CANCELLATION OF INSURANCE.—The Secretary shall issue regulations requiring the submission to the Secretary of notices of insurance cancellation sufficiently in advance of actual cancellation so as to enable the Secretary to promptly revoke or suspend the registration of any carrier or broker after the effective date of the cancellation.

(f) FORM OF ENDORSEMENT.—The Secretary shall also prescribe the appropriate form of endorsement to be appended to policies of insurance and surety bonds which will subject the insurance policy or surety bond to the full security limits of the coverage required under this section.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 885; amended Pub. L. 104-287, § 5(34), Oct. 11, 1996, 110 Stat. 3392; Pub. L. 109-59, title IV, § 4303(b), (d)(1), Aug. 10, 2005, 119 Stat. 1762, 1763; Pub. L. 112-141, div. C, title II, § 32918(a), July 6, 2012, 126 Stat. 822; Pub. L. 114-94, div. A, title V, § 5201, Dec. 4, 2015, 129 Stat. 1534.)

REFERENCES IN TEXT

Paragraph (3) of this subsection, referred to in subsec. (a)(1), was redesignated as paragraph (4) of subsec. (a) of

this section by Pub. L. 109-59, title IV, § 4303(b)(1), Aug. 10, 2005, 119 Stat. 1762.

The date of enactment of the Unified Carrier Registration Act of 2005, referred to in subsec. (a)(2), is the date of enactment of subtitle C of title IV of Pub. L. 109-59, which was approved Aug. 10, 2005.

AMENDMENTS

2015—Subsec. (e). Pub. L. 114-94 inserted “or suspend” after “revoke”.

2012—Subsecs. (b), (c). Pub. L. 112-141 added subsecs. (b) and (c) and struck out former subsecs. (b) and (c) which related to broker requirements and freight forwarder requirements, respectively.

2005—Pub. L. 109-59, § 4303(d)(1), inserted “motor private carriers,” after “motor carriers,” in section catchline.

Subsec. (a)(2) to (4). Pub. L. 109-59, § 4303(b), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

1996—Subsec. (d). Pub. L. 104-287 substituted “January 1, 1996,” for “the effective date of 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.

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-141, div. C, title II, § 32918(c), July 6, 2012, 126 Stat. 826, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the date that is 1 year after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112-141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways].”

REGULATIONS

Pub. L. 112-141, div. C, title II, § 32918(b), July 6, 2012, 126 Stat. 826, provided that: “Not later than 1 year after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112-141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary [of Transportation] shall issue regulations to implement and enforce the requirements under subsections (b) and (c) of section 13906 of title 49, United States Code, as amended by subsection (a).”

RELATIONSHIP TO OTHER LAWS

Except as provided in sections 14504, 14504a, and 14506 of this title, subtitle C (§§ 4301-4308) of title IV of Pub. L. 109-59 is not intended to prohibit any State or any political subdivision of any State from enacting, imposing, or enforcing any law or regulation with respect to a motor carrier, motor private carrier, broker, freight forwarder, or leasing company that is not otherwise prohibited by law, see section 4302 of Pub. L. 109-59, set out as a note under section 13902 of this title.

SELF-INSURANCE RULES

Pub. L. 104-88, title I, § 104(h), Dec. 29, 1995, 109 Stat. 920, provided that: “The Secretary of Transportation shall continue to enforce the rules and regulations of the Interstate Commerce Commission, as in effect on July 1, 1995, governing the qualifications for approval of a motor carrier as a self-insurer, until such time as the Secretary finds it in the public interest to revise such rules. The revised rules must provide for—

“(1) continued ability of motor carriers to qualify as self-insurers; and

“(2) the continued qualification of all carriers then so qualified under the terms and conditions set by the Interstate Commerce Commission or Secretary at the time of qualification.”

[Interstate Commerce Commission abolished by section 101 of Pub. L. 104-88, set out as a note under section 1301 of this title.]

§ 13907. Household goods agents

(a) CARRIERS RESPONSIBLE FOR AGENTS.—Each motor carrier providing transportation of household goods shall be responsible for all acts or omissions of any of its agents which relate to the performance of household goods transportation services (including accessorial or terminal services) and which are within the actual or apparent authority of the agent from the carrier or which are ratified by the carrier.

(b) STANDARD FOR SELECTING AGENTS.—Each motor carrier providing transportation of household goods shall use due diligence and reasonable care in selecting and maintaining agents who are sufficiently knowledgeable, fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services) and to fulfill the obligations imposed upon them by this part and by such carrier.

(c) ENFORCEMENT.—

(1) COMPLAINT.—Whenever the Secretary has reason to believe from a complaint or investigation that an agent providing household goods transportation services (including accessorial and terminal services) under the authority of a motor carrier providing transportation of household goods has violated section 14901(e) or 14912 or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), the Secretary may issue to such agent a complaint stating the charges and containing notice of the time and place of a hearing which shall be held no later than 60 days after service of the complaint to such agent.

(2) RIGHT TO DEFEND.—The agent shall have the right to appear at such hearing and rebut the charges contained in the complaint.

(3) ORDER.—If the agent does not appear at the hearing or if the Secretary finds that the agent has violated section 14901(e) or 14912 or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), the Secretary may issue an order to compel compliance with the requirement that the agent be fit, willing, and able. Thereafter, the Secretary may issue an order to limit, condition, or prohibit such agent from any involvement in the transportation or provision of services incidental to the transportation of household goods if, after notice and an opportunity for a hearing, the Secretary finds that such agent, within a reasonable time after the date of issuance of a compliance order under this section, but in no event less than 30 days after such date of issuance, has willfully failed to comply with such order.

(4) HEARING.—Upon filing of a petition with the Secretary by an agent who is the subject of an order issued pursuant to the second sentence of paragraph (3) of this subsection and after notice, a hearing shall be held with an opportunity to be heard. At such hearing, a determination shall be made whether the order issued pursuant to paragraph (3) of this subsection should be rescinded.

(5) COURT REVIEW.—Any agent adversely affected or aggrieved by an order of the Sec-

retary issued under this subsection may seek relief in the appropriate United States court of appeals as provided by and in the manner prescribed in chapter 158 of title 28, United States Code.

(d) LIMITATION ON APPLICABILITY OF ANTITRUST LAWS.—

(1) IN GENERAL.—The antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to discussions or agreements between a motor carrier providing transportation of household goods and its agents (whether or not an agent is also a carrier) related solely to—

(A) rates for the transportation of household goods under the authority of the principal carrier;

(B) accessorial, terminal, storage, or other charges for services incidental to the transportation of household goods transported under the authority of the principal carrier;

(C) allowances relating to transportation of household goods under the authority of the principal carrier; and

(D) ownership of a motor carrier providing transportation of household goods by an agent or membership on the board of directors of any such motor carrier by an agent.

(2) BOARD REVIEW.—The Board, upon its own initiative or request, shall review any activities undertaken under paragraph (1) and shall modify or terminate the activity if necessary to protect the public interest.

(e) DEFINITIONS.—In this section, the following definitions apply:

(1) HOUSEHOLD GOODS.—The term “household goods” has the meaning such term had under section 10102(11) of this title, as in effect on December 31, 1995.

(2) TRANSPORTATION.—The term “transportation” means transportation that would be subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title, as in effect on December 31, 1995, if such subchapter were still in effect.

(Added Pub. L. 104–88, title I, §103, Dec. 29, 1995, 109 Stat. 887; amended Pub. L. 104–287, §5(35), Oct. 11, 1996, 110 Stat. 3392.)

HISTORICAL AND REVISION NOTES

PUB. L. 104–287

This amends 49:13907(e)(1) and (2) for clarity and consistency.

REFERENCES IN TEXT

Section 10102(11) of this title, referred to in subsec. (e)(1), was omitted and a new section 10102 enacted in the general amendment of this subtitle by Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, 806, effective Jan. 1, 1996.

Subchapter II of chapter 105 of this title, referred to in subsec. (e)(2), was omitted in the general amendment of this subtitle by Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10934 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

AMENDMENTS

1996—Subsec. (e)(1). Pub. L. 104–287, §5(35)(A), substituted “December 31, 1995” for “the day before the effective date of this section”.

Subsec. (e)(2). Pub. L. 104–287, §5(35)(B), substituted “December 31, 1995” for “the day before such effective date”.

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§ 13908. Registration and other reforms

(a) ESTABLISHMENT OF UNIFIED CARRIER REGISTRATION SYSTEM.—The Secretary, in cooperation with the States, representatives of the motor carrier, motor private carrier, freight forwarder, and broker industries and after notice and opportunity for public comment, shall issue within 1 year after the date of enactment of the Unified Carrier Registration Act of 2005 regulations to establish an online Federal registration system, to be named the “Unified Carrier Registration System”, to replace—

(1) the current Department of Transportation identification number system, the single State registration system under section 14504;¹

(2) the registration system contained in this chapter and the financial responsibility information system under section 13906; and

(3) the service of process agent systems under sections 503 and 13304.

(b) ROLE AS CLEARINGHOUSE AND DEPOSITORY OF INFORMATION.—The Unified Carrier Registration System shall serve as a clearinghouse and depository of information on, and identification of, all foreign and domestic motor carriers, motor private carriers, brokers, freight forwarders, and others required to register with the Department of Transportation, including information with respect to a carrier’s safety rating, compliance with required levels of financial responsibility, and compliance with the provisions of section 14504a. The Secretary shall ensure that Federal agencies, States, representatives of the motor carrier industry, and the public have access to the Unified Carrier Registration System, including the records and information contained in the System.

(c) PROCEDURES FOR CORRECTING INFORMATION.—Not later than 60 days after the effective date of this section, the Secretary shall prescribe regulations establishing procedures that enable a motor carrier to correct erroneous information contained in any part of the Unified Carrier Registration System.

(d) FEE SYSTEM.—The Secretary shall establish, under section 9701 of title 31, a fee system for the Unified Carrier Registration System according to the following guidelines:

(1) REGISTRATION AND FILING EVIDENCE OF FINANCIAL RESPONSIBILITY.—The fee for new registrants shall as nearly as possible cover the costs of processing the registration.

(2) EVIDENCE OF FINANCIAL RESPONSIBILITY.—The fee for filing evidence of financial responsibility pursuant to this section shall not ex-

¹ See References in Text note below.

ceed \$10 per filing. No fee shall be charged for a filing for purposes of designating an agent for service of process or the filing of other information relating to financial responsibility.

(3) ACCESS AND RETRIEVAL FEES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the fee system shall include a nominal fee for the access to or retrieval of information from the Unified Carrier Registration System to cover the costs of operating and upgrading the System, including the personnel costs incurred by the Department and the costs of administration of the unified carrier registration agreement.

(B) EXCEPTIONS.—There shall be no fee charged under this paragraph—

(i) to any agency of the Federal Government or a State government or any political subdivision of any such government for the access to or retrieval of information and data from the Unified Carrier Registration System for its own use; or

(ii) to any representative of a motor carrier, motor private carrier, leasing company, broker, or freight forwarder (as each is defined in section 14504a) for the access to or retrieval of the individual information related to such entity from the Unified Carrier Registration System for the individual use of such entity.

(e) USE OF FEES FOR UNIFIED CARRIER REGISTRATION SYSTEM.—Fees collected under this section may be credited to the Department of Transportation appropriations account for purposes for which such fees are collected and shall be available for expenditure for such purposes until expended.

(f) APPLICATION TO CERTAIN INTRASTATE OPERATIONS.—Nothing in this section requires the registration of a motor carrier, a motor private carrier of property, or a transporter of waste or recyclable materials operating exclusively in intrastate transportation not otherwise required to register with the Secretary under another provision of this title.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 888; amended Pub. L. 104-287, §5(36), Oct. 11, 1996, 110 Stat. 3392; Pub. L. 109-59, title IV, §4304, Aug. 10, 2005, 119 Stat. 1763; Pub. L. 110-244, title III, §301(l), June 6, 2008, 122 Stat. 1617; Pub. L. 112-141, div. C, title II, §32106, July 6, 2012, 126 Stat. 781.)

HISTORICAL AND REVISION NOTES

PUB. L. 104-287, §5(36)(A)

This amends 49:13908(d)(1) for clarity and consistency.

PUB. L. 104-287, §5(36)(B)

This sets out the effective date of 49:13908.

REFERENCES IN TEXT

The date of enactment of the Unified Carrier Registration Act of 2005, referred to in subsec. (a), is the date of enactment of subtitle C of title IV of Pub. L. 109-59, which was approved Aug. 10, 2005.

Section 14504, referred to in subsec. (a)(1), was repealed by Pub. L. 109-59, title IV, §4305(a), Aug. 10, 2005, 119 Stat. 1764; Pub. L. 110-53, title XV, §1537(a), Aug. 3, 2007, 121 Stat. 467, effective Jan. 1, 2008.

The effective date of this section, referred to in subsec. (c), probably means the date of enactment of Pub.

L. 109-59, which amended this section generally and was approved Aug. 10, 2005.

AMENDMENTS

2012—Subsec. (d)(1). Pub. L. 112-141 struck out “but shall not exceed \$300” after “registration”.

2008—Subsecs. (e), (f). Pub. L. 110-244 added subsec. (e) and redesignated former subsec. (e) as (f).

2005—Pub. L. 109-59 amended heading and text of section generally. Prior to amendment, text consisted of subsecs. (a) to (e) relating to issuance of regulations to replace the current Department of Transportation identification number system, the single State registration system under section 14504, the registration system contained in this chapter, and the financial responsibility information system under section 13906 with a single, online, Federal system.

1996—Subsec. (d)(1). Pub. L. 104-287, §5(36)(A), substituted “December 31, 1995” for “the day before the effective date of this section”.

Subsec. (e). Pub. L. 104-287, §5(36)(B), substituted “January 1, 1996” for “the effective date of this section”.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

REGULATIONS

Pub. L. 110-53, title XV, §1537(b), Aug. 3, 2007, 121 Stat. 467, provided that: “Not later than October 1, 2007, the Federal Motor Carrier Safety Administration shall issue final regulations to establish the Unified Carrier Registration System, as required by section 13908 of title 49, United States Code, and set fees for the unified carrier registration agreement for calendar year 2007 or subsequent calendar years to be charged to motor carriers, motor private carriers, and freight forwarders under such agreement, as required by 14504a of title 49, United States Code.”

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to “this title” deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111-314, set out as a note under section 101 of this title.

RELATIONSHIP TO OTHER LAWS

Except as provided in sections 14504, 14504a, and 14506 of this title, subtitle C (§§4301-4308) of title IV of Pub. L. 109-59 is not intended to prohibit any State or any political subdivision of any State from enacting, imposing, or enforcing any law or regulation with respect to a motor carrier, motor private carrier, broker, freight forwarder, or leasing company that is not otherwise prohibited by law, see section 4302 of Pub. L. 109-59, set out as a note under section 13902 of this title.

§ 13909. Availability of information

The Secretary shall make information relating to registration and financial security required by this chapter publicly available on the Internet, including—

(1) the names and business addresses of the principals of each entity holding such registration;

(2) the status of such registration; and

(3) the electronic address of the entity’s surety provider for the submission of claims.

(Added Pub. L. 112-141, div. C, title II, §32914(b)(1), July 6, 2012, 126 Stat. 819.)

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination

Dates of 2012 Amendment note under section 101 of Title 23, Highways.

CHAPTER 141—OPERATIONS OF CARRIERS

SUBCHAPTER I—GENERAL REQUIREMENTS

Sec.

- 14101. Providing transportation and service.
- 14102. Leased motor vehicles.
- 14103. Loading and unloading motor vehicles.
- 14104. Household goods carrier operations.

SUBCHAPTER II—REPORTS AND RECORDS

- 14121. Definitions.
- 14122. Records: form; inspection; preservation.
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SUBCHAPTER I—GENERAL REQUIREMENTS

§ 14101. Providing transportation and service

(a) ON REASONABLE REQUEST.—A carrier providing transportation or service subject to jurisdiction under chapter 135 shall provide the transportation or service on reasonable request. In addition, a motor carrier shall provide safe and adequate service, equipment, and facilities.

(b) CONTRACTS WITH SHIPPERS.—

(1) IN GENERAL.—A carrier providing transportation or service subject to jurisdiction under chapter 135 may enter into a contract with a shipper, other than for the movement of household goods described in section 13102(10)(A), to provide specified services under specified rates and conditions. If the shipper and carrier, in writing, expressly waive any or all rights and remedies under this part for the transportation covered by the contract, the transportation provided under the contract shall not be subject to the waived rights and remedies and may not be subsequently challenged on the ground that it violates the waived rights and remedies. The parties may not waive the provisions governing registration, insurance, or safety fitness.

(2) REMEDY FOR BREACH OF CONTRACT.—The exclusive remedy for any alleged breach of a contract entered into under this subsection shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 890.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11101 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104-88, see section 2 of Pub. L. 104-88, set out as a note under section 1301 of this title.

§ 14102. Leased motor vehicles

(a) GENERAL AUTHORITY OF SECRETARY.—The Secretary may require a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 that uses motor vehicles not owned by it to transport property under an arrangement with another party to—

(1) make the arrangement in writing signed by the parties specifying its duration and the compensation to be paid by the motor carrier;

(2) carry a copy of the arrangement in each motor vehicle to which it applies during the period the arrangement is in effect;

(3) inspect the motor vehicles and obtain liability and cargo insurance on them; and

(4) have control of and be responsible for operating those motor vehicles in compliance with requirements prescribed by the Secretary on safety of operations and equipment, and with other applicable law as if the motor vehicles were owned by the motor carrier.

(b) RESPONSIBLE PARTY FOR LOADING AND UNLOADING.—The Secretary shall require, by regulation, that any arrangement, between a motor carrier of property providing transportation subject to jurisdiction under subchapter I of chapter 135 and any other person, under which such other person is to provide any portion of such transportation by a motor vehicle not owned by the carrier shall specify, in writing, who is responsible for loading and unloading the property onto and from the motor vehicle.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 890.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11107 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 14103. Loading and unloading motor vehicles

(a) SHIPPER RESPONSIBLE FOR ASSISTING.—Whenever a shipper or receiver of property requires that any person who owns or operates a motor vehicle transporting property in interstate commerce (whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135) be assisted in the loading or unloading of such vehicle, the shipper or receiver shall be responsible for providing such assistance or shall compensate the owner or operator for all costs associated with securing and compensating the person or persons providing such assistance.

(b) COERCION PROHIBITED.—It shall be unlawful to coerce or attempt to coerce any person providing transportation of property by motor vehicle for compensation in interstate commerce (whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135) to load or unload any part of such property onto or from such vehicle or to employ or pay one or more persons to load or unload any part of such property onto or from such vehicle; except that this subsection shall not be construed as making unlawful any activity which is not unlawful under the National Labor Relations Act or the Act of March 23, 1932 (47 Stat. 70; 29 U.S.C. 101 et seq.), commonly known as the Norris-LaGuardia Act.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 891.)

REFERENCES IN TEXT

The National Labor Relations Act, referred to in subsection (b), is act July 5, 1935, ch. 372, 49 Stat. 449, as amended, which is classified generally to subchapter II (§151 et seq.) of chapter 7 of Title 29, Labor. For complete classification of this Act to the Code, see section 167 of Title 29 and Tables.

Act of March 23, 1932, commonly known as the Norris-LaGuardia Act, referred to in subsec. (b), is act Mar. 23, 1932, ch. 90, 47 Stat. 70, as amended, which is classified generally to chapter 6 (§101 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Title 29 and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11109 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

COLLECTION OF DATA ON DELAYS IN GOODS MOVEMENT

Pub. L. 114-94, div. A, title V, §5501(b), Dec. 4, 2015, 129 Stat. 1550, provided that: "Not later than 2 years after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation] shall establish by regulation a process to collect data on delays experienced by operators of commercial motor vehicles before the loading and unloading of such vehicles and at other points in the pick-up and delivery process."

§ 14104. Household goods carrier operations

(a) GENERAL REGULATORY AUTHORITY.—

(1) PAPERWORK MINIMIZATION.—The Secretary may issue regulations, including regulations protecting individual shippers, in order to carry out this part with respect to the transportation of household goods by motor carriers subject to jurisdiction under subchapter I of chapter 135. The regulations and paperwork required of motor carriers providing transportation of household goods shall be minimized to the maximum extent feasible consistent with the protection of individual shippers.

(2) PERFORMANCE STANDARDS.—

(A) IN GENERAL.—Regulations of the Secretary protecting individual shippers shall include, where appropriate, reasonable performance standards for the transportation of household goods subject to jurisdiction under subchapter I of chapter 135.

(B) FACTORS TO CONSIDER.—In establishing performance standards under this paragraph, the Secretary shall take into account at least the following—

(i) the level of performance that can be achieved by a well-managed motor carrier transporting household goods;

(ii) the degree of harm to individual shippers which could result from a violation of the regulation;

(iii) the need to set the level of performance at a level sufficient to deter abuses which result in harm to consumers and violations of regulations;

(iv) service requirements of the carriers;

(v) the cost of compliance in relation to the consumer benefits to be achieved from such compliance; and

(vi) the need to set the level of performance at a level designed to encourage carriers to offer service responsive to shipper needs.

(3) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to limit the Secretary's authority to require reports from motor carriers providing transportation of household goods or to require such carriers to provide specified infor-

mation to consumers concerning their past performance.

(b) ESTIMATES.—

(1) REQUIRED TO BE IN WRITING.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, every motor carrier providing transportation of household goods described in section 13102(10)(A) as a household goods motor carrier and subject to jurisdiction under subchapter I of chapter 135 shall conduct a physical survey of the household goods to be transported on behalf of a prospective individual shipper and shall provide the shipper with a written estimate of charges for the transportation and all related services.

(B) WAIVER.—A shipper may elect to waive a physical survey under this paragraph by written agreement signed by the shipper before the shipment is loaded. A copy of the waiver agreement must be retained as an addendum to the bill of lading and shall be subject to the same record inspection and preservation requirements of the Secretary as are applicable to bills of lading.

(C) ESTIMATE.—

(i) IN GENERAL.—Notwithstanding a waiver under subparagraph (B), a carrier's statement of charges for transportation must be submitted to the shipper in writing and must indicate whether it is binding or nonbinding. The written estimate shall be based on a physical survey of the household goods if the household goods are located within a 50-mile radius of the location of the carrier's household goods agent preparing the estimate.

(ii) BINDING.—A binding estimate under this paragraph must indicate that the carrier and shipper are bound by such charges. The carrier may impose a charge for providing a written binding estimate.

(iii) NONBINDING.—A nonbinding estimate under this paragraph must indicate that the actual charges will be based upon the actual weight of the individual shipper's shipment and the carrier's lawful tariff charges. The carrier may not impose a charge for providing a nonbinding estimate.

(2) OTHER INFORMATION.—At the time that a motor carrier provides the written estimate required by paragraph (1), the motor carrier shall provide the shipper a copy of the Department of Transportation publication FMCSA-ESA-03-005 (or its successor publication) entitled "Ready to Move?". Before the execution of a contract for service, the motor carrier shall provide the shipper copy of the Department of Transportation publication OCE 100, entitled "Your Rights and Responsibilities When You Move" required by section 375.213 of title 49, Code of Federal Regulations (or any successor regulation).

(3) APPLICABILITY OF ANTITRUST LAWS.—Any charge for an estimate of charges provided by a motor carrier to a shipper for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 shall be subject to the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12).

(c) FLEXIBILITY IN WEIGHING SHIPMENTS.—The Secretary shall issue regulations that provide motor carriers providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 with the maximum possible flexibility in weighing shipments, consistent with assurance to the shipper of accurate weighing practices. The Secretary shall not prohibit such carriers from backweighing shipments or from basing their charges on the reweigh weights if the shipper observes both the tare and gross weighings (or, prior to such weighings, waives in writing the opportunity to observe such weighings) and such weighings are performed on the same scale.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 891; amended Pub. L. 109-59, title IV, § 4205, Aug. 10, 2005, 119 Stat. 1753.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11110 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

AMENDMENTS

2005—Subsec. (b). Pub. L. 109-59 added pars. (1) and (2), redesignated former par. (2) as (3), and struck out heading and text of former par. (1). Text read as follows: “Every motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135, upon request of a prospective shipper, may provide the shipper with an estimate of charges for transportation of household goods and for the proposed services. The Secretary shall not prohibit any such carrier from charging a prospective shipper for providing a written, binding estimate for the transportation and proposed services.”

STUDY OF ENFORCEMENT OF CONSUMER PROTECTION RULES IN HOUSEHOLD GOODS MOVING INDUSTRY

Pub. L. 106-159, title II, § 209(c), Dec. 9, 1999, 113 Stat. 1764, provided that: “The Comptroller General shall conduct a study of the effectiveness of the Department of Transportation’s enforcement of household goods consumer protection rules under title 49, United States Code. The study shall also include a review of other potential methods of enforcing such rules, including allowing States to enforce such rules.”

SUBCHAPTER II—REPORTS AND RECORDS

§ 14121. Definitions

In this subchapter, the following definitions apply:

- (1) CARRIER AND BROKER.—The terms “carrier” and “broker” include a receiver or trustee of a carrier and broker, respectively.
- (2) ASSOCIATION.—The term “association” means an organization maintained by or in the interest of a group of carriers or brokers providing transportation or service subject to jurisdiction under chapter 135 that performs a service, or engages in activities, related to transportation under this part.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 892.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11141 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

§ 14122. Records: form; inspection; preservation

(a) FORM OF RECORDS.—The Secretary or the Board, as applicable, may prescribe the form of

records required to be prepared or compiled under this subchapter by carriers and brokers, including records related to movement of traffic and receipts and expenditures of money.

(b) RIGHT OF INSPECTION.—The Secretary or Board, or an employee designated by the Secretary or Board, may on demand and display of proper credentials, in person or in writing—

- (1) inspect and examine the lands, buildings, and equipment of a carrier or broker; and
- (2) inspect and copy any record of—
 - (A) a carrier, broker, or association; and
 - (B) a person controlling, controlled by, or under common control with a carrier if the Secretary or Board, as applicable, considers inspection relevant to that person’s relation to, or transaction with, that carrier.

(c) PERIOD FOR PRESERVATION OF RECORDS.—The Secretary or Board, as applicable, may prescribe the time period during which operating, accounting, and financial records must be preserved by carriers and brokers.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 893; amended Pub. L. 112-141, div. C, title II, § 32501(d), July 6, 2012, 126 Stat. 803.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11144 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

AMENDMENTS

2012—Subsec. (b). Pub. L. 112-141 inserted “, in person or in writing” after “proper credentials”.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§ 14123. Financial reporting

(a) REPORTS.—

(1) ANNUAL REPORTS.—The Secretary shall require Class I and Class II motor carriers to file with the Secretary annual financial and safety reports, the form and substance of which shall be prescribed by the Secretary; except that, at a minimum, such reports shall include balance sheets and income statements.

(2) OTHER REPORTS.—The Secretary may require motor carriers, freight forwarders, brokers, lessors, and associations, or classes of them as the Secretary may prescribe, to file quarterly, periodic, or special reports with the Secretary and to respond to surveys concerning their operations.

(b) MATTERS TO BE COVERED.—In determining the matters to be covered by any reports to be filed under subsection (a), the Secretary shall consider—

- (1) safety needs;
- (2) the need to preserve confidential business information and trade secrets and prevent competitive harm;
- (3) private sector, academic, and public use of information in the reports; and
- (4) the public interest.

(c) EXEMPTIONS.—

(1) FROM FILING.—The Secretary may exempt upon good cause shown any party from the fi-

financial reporting requirements of subsection (a). Any request for such exemption must demonstrate, at a minimum, that an exemption is required to avoid competitive harm and preserve confidential business information that is not otherwise publicly available.

(2) FROM PUBLIC RELEASE.—

(A) IN GENERAL.—The Secretary shall allow, upon request, a filer of a report under subsection (a) that is not a publicly held corporation or that is not subject to financial reporting requirements of the Securities and Exchange Commission, an exemption from the public release of such report.

(B) PROCEDURE.—After a request under subparagraph (A) and notice and opportunity for comment but in no event later than 90 days after the date of such request, the Secretary shall approve such request if the Secretary finds that the exemption requested is necessary to avoid competitive harm and to avoid the disclosure of information that qualifies as a trade secret or privileged or confidential information under section 552(b)(4) of title 5.

(C) USE OF DATA FOR INTERNAL DOT PURPOSES.—If an exemption is granted under this paragraph, nothing shall prevent the Secretary from using data from reports filed under this subsection for internal purposes of the Department of Transportation or including such data in aggregate industry statistics released for publication if such inclusion would not render the filer's data readily identifiable.

(D) PENDING REQUESTS.—The Secretary shall not release publicly the report of a carrier making a request under subparagraph (A) while such request is pending.

(3) PERIOD OF EXEMPTIONS.—Exemptions granted under this subsection shall be for 3-year periods.

(d) STREAMLINING AND SIMPLIFICATION.—The Secretary shall streamline and simplify, to the maximum extent practicable, any reporting requirements the Secretary imposes under this section.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 893; amended Pub. L. 105-102, §2(11), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES

PUB. L. 105-102

This amends 49:14123(c)(2)(B) to correct a grammatical error.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11145 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

AMENDMENTS

1997—Subsec. (c)(2)(B). Pub. L. 105-102 inserted “in” before “no event”.

CHAPTER 143—FINANCE

Sec.

14301. Security interests in certain motor vehicles.

14302. Pooling and division of transportation or earnings.

Sec.

14303. Consolidation, merger, and acquisition of control of motor carriers of passengers.

§ 14301. Security interests in certain motor vehicles

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) MOTOR VEHICLE.—The term “motor vehicle” means a truck of rated capacity (gross vehicle weight) of at least 10,000 pounds, a highway tractor of rated capacity (gross combination weight) of at least 10,000 pounds, a property-carrying trailer or semitrailer with at least one load-carrying axle of at least 10,000 pounds, or a motor bus with a seating capacity of at least 10 individuals.

(2) LIEN CREDITOR.—The term “lien creditor” means a creditor having a lien on a motor vehicle and includes an assignee for benefit of creditors from the date of assignment, a trustee in a case under title 11 from the date of filing of the petition in that case, and a receiver in equity from the date of appointment of the receiver.

(3) SECURITY INTEREST.—The term “security interest” means an interest (including an interest established by a conditional sales contract, mortgage, equipment trust, or other lien or title retention contract, or lease) in a motor vehicle when the interest secures payment or performance of an obligation.

(4) PERFECTION.—The term “perfection”, as related to a security interest, means taking action (including public filing, recording, notation on a certificate of title, and possession of collateral by the secured party), or the existence of facts, required under law to make a security interest enforceable against general creditors and subsequent lien creditors of a debtor, but does not include compliance with requirements related only to the establishment of a valid security interest between the debtor and the secured party.

(b) REQUIREMENTS FOR PERFECTION OF SECURITY INTEREST.—A security interest in a motor vehicle owned by, or in the possession and use of, a carrier registered under section 13902 of this title and owing payment or performance of an obligation secured by that security interest is perfected in all jurisdictions against all general, and subsequent lien, creditors of, and all persons taking a motor vehicle by sale (or taking or retaining a security interest in a motor vehicle) from, that carrier when—

(1) a certificate of title is issued for a motor vehicle under a law of a jurisdiction that requires or permits indication, on a certificate or title, of a security interest in the motor vehicle if the security interest is indicated on the certificate;

(2) a certificate of title has not been issued and the law of the State where the principal place of business of that carrier is located requires or permits public filing or recording of, or in relation to, that security interest if there has been such a public filing or recording; and

(3) a certificate of title has not been issued and the security interest cannot be perfected under paragraph (2) of this subsection, if the

security interest has been perfected under the law (including the conflict of laws rules) of the State where the principal place of business of that carrier is located.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 894.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11304 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104-88, see section 2 of Pub. L. 104-88, set out as a note under section 1301 of this title.

§ 14302. Pooling and division of transportation or earnings

(a) APPROVAL REQUIRED.—A carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 may not agree or combine with another such carrier to pool or divide traffic or services or any part of their earnings without the approval of the Board under this section.

(b) STANDARDS FOR APPROVAL.—The Board may approve and authorize an agreement or combination between or among motor carriers of passengers, or between a motor carrier of passengers and a rail carrier of passengers if the carriers involved assent to the pooling or division and the Board finds that a pooling or division of traffic, services, or earnings—

(1) will be in the interest of better service to the public or of economy of operation; and

(2) will not unreasonably restrain competition.

(c) PROCEDURE.—

(1) APPLICATION.—Any motor carrier of property may apply to the Board for approval of an agreement or combination with another such carrier to pool or divide traffic or any services or any part of their earnings by filing such agreement or combination with the Board not less than 50 days before its effective date.

(2) DETERMINATION OF IMPORTANCE AND RESTRAINT ON COMPETITION.—Prior to the effective date of the agreement or combination, the Board shall determine whether the agreement or combination is of major transportation importance and whether there is substantial likelihood that the agreement or combination will unduly restrain competition. If the Board determines that neither of these 2 factors exists, it shall, prior to such effective date and without a hearing, approve and authorize the agreement or combination, under such rules and regulations as the Board may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Board to be just and reasonable.

(3) HEARING.—If the Board determines either that the agreement or combination is of major transportation importance or that there is substantial likelihood that the agreement or combination will unduly restrain competition, the Board shall hold a hearing concerning whether the agreement or combination will be in the interest of better service to the public

or of economy in operation and whether it will unduly restrain competition and shall suspend operation of such agreement or combination pending such hearing and final decision thereon. After such hearing, the Board shall indicate to what extent it finds that the agreement or combination will be in the interest of better service to the public or of economy in operation and will not unduly restrain competition and if assented to by all the carriers involved, shall to that extent, approve and authorize the agreement or combination, under such rules and regulations as the Board may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Board to be just and reasonable.

(4) SPECIAL RULES FOR HOUSEHOLD GOODS CARRIERS.—In the case of an application for Board approval of an agreement or combination between a motor carrier providing transportation of household goods and its agents to pool or divide traffic or services or any part of their earnings, such agreement or combination shall be presumed to be in the interest of better service to the public and of economy in operation and not to restrain competition unduly if the practices proposed to be carried out under such agreement or combination are the same as or similar to practices carried out under agreements and combinations between motor carriers providing transportation of household goods to pool or divide traffic or service of any part of their earnings approved by the Interstate Commerce Commission before January 1, 1996.

(5) STREAMLINING AND SIMPLIFYING.—The Board shall streamline, simplify, and expedite, to the maximum extent practicable, the process (including any paperwork) for submission and approval of applications under this section for agreements and combinations between motor carriers providing transportation of household goods and their agents.

(d) CONDITIONS.—The Board may impose conditions governing the pooling or division and may approve and authorize payment of a reasonable consideration between the carriers.

(e) INITIATION OF PROCEEDING.—The Board may begin a proceeding under this section on its own initiative or on application.

(f) EFFECT OF APPROVAL.—A carrier may participate in an arrangement approved by or exempted by the Board under this section without the approval of any other Federal, State, or municipal body. A carrier participating in an approved or exempted arrangement is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the arrangement.

(g) CONTINUATION OF EXISTING AGREEMENTS.—Any agreements in operation under the provisions of this title on January 1, 1996, that are succeeded by this section shall remain in effect until further order of the Board.

(h) DEFINITIONS.—In this section, the following definitions apply:

(1) HOUSEHOLD GOODS.—The term “household goods” has the meaning such term had under section 10102(11) of this title, as in effect on December 31, 1995.

(2) TRANSPORTATION.—The term “transportation” means transportation that would be subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title, as in effect on December 31, 1995, if such subchapter were still in effect.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 895; amended Pub. L. 104-287, §5(37), Oct. 11, 1996, 110 Stat. 3392.)

HISTORICAL AND REVISION NOTES

PUB. L. 104-287, §5(37)(A), (B)

This sets out the effective date of 49:14302.

PUB. L. 104-287, §5(37)(C), (D)

This amends 49:14302(h)(1) and (2) for clarity and consistency.

REFERENCES IN TEXT

Section 10102(11) of this title, referred to in subsec. (h)(1), was omitted and a new section 10102 enacted in the general amendment of this subtitle by Pub. L. 104-88, title I, §102(a), Dec. 20, 1995, 109 Stat. 804, 806, effective Jan. 1, 1996.

Subchapter II of chapter 105 of this title, referred to in subsec. (h)(2), was omitted in the general amendment of this subtitle by Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 11341 and 11342 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

AMENDMENTS

1996—Subsec. (c)(4). Pub. L. 104-287, §5(37)(A), substituted “January 1, 1996” for “the effective date of this section”.

Subsec. (g). Pub. L. 104-287, §5(37)(B), substituted “January 1, 1996,” for “the effective date of this section”.

Subsec. (h)(1). Pub. L. 104-287, §5(37)(C), substituted “December 31, 1995” for “the day before the effective date of this section”.

Subsec. (h)(2). Pub. L. 104-287, §5(37)(D), substituted “December 31, 1995” for “the day before such effective date”.

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104-88, set out as a note under section 1301 of this title.

§ 14303. Consolidation, merger, and acquisition of control of motor carriers of passengers

(a) APPROVAL REQUIRED.—The following transactions involving motor carriers of passengers subject to jurisdiction under subchapter I of chapter 135 may be carried out only with the approval of the Board:

(1) Consolidation or merger of the properties or franchises of at least 2 carriers into one operation for the ownership, management, and operation of the previously separately owned properties.

(2) A purchase, lease, or contract to operate property of another carrier by any number of carriers.

(3) Acquisition of control of a carrier by any number of carriers.

(4) Acquisition of control of at least 2 carriers by a person that is not a carrier.

(5) Acquisition of control of a carrier by a person that is not a carrier but that controls any number of carriers.

(b) STANDARD FOR APPROVAL.—The Board shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. The Board shall consider at least the following:

(1) The effect of the proposed transaction on the adequacy of transportation to the public.

(2) The total fixed charges that result from the proposed transaction.

(3) The interest of carrier employees affected by the proposed transaction.

The Board may impose conditions governing the transaction.

(c) DETERMINATION OF COMPLETENESS OF APPLICATION.—Within 30 days after the date on which an application is filed under this section, the Board shall either publish a notice of the application in the Federal Register or reject the application if it is incomplete.

(d) COMMENTS.—Written comments about an application may be filed with the Board within 45 days after the date on which notice of the application is published under subsection (c).

(e) DEADLINES.—The Board shall conclude evidentiary proceedings by the 240th day after the date on which notice of the application is published under subsection (c). The Board shall issue a final decision by the 180th day after the conclusion of the evidentiary proceedings. The Board may extend a time period under this subsection; except that the total of all such extensions with respect to any application shall not exceed 90 days.

(f) EFFECT OF APPROVAL.—A carrier or corporation participating in or resulting from a transaction approved by the Board under this section, or exempted by the Board from the application of this section pursuant to section 13541, may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A carrier, corporation, or person participating in the approved or exempted transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction.

(g) LIMITATION ON APPLICABILITY.—This section shall not apply to transactions involving carriers whose aggregate gross operating revenues were not more than \$2,000,000 during a period of 12 consecutive months ending not more than 6 months before the date of the agreement of the parties.

(h) APPLICABILITY OF CERTAIN PROVISIONS.—When the Board approves and authorizes a transaction under this section in which a person not a carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 acquires control of at least 1 carrier subject to such jurisdiction, the person is subject, as a carrier, to the following provisions of this title that apply to the carrier being acquired by that person, to the extent specified by the Board: sections 504(f), 14121-14123, 14901(a), and 14907.

(i) **INTERIM APPROVAL.**—Pending determination of an application filed under this section, the Board may approve, for a period of not more than 180 days, the operation of the properties sought to be acquired by the person proposing in the application to acquire those properties, when it appears that failure to do so may result in destruction of or injury to those properties or substantially interfere with their future usefulness in providing adequate and continuous service to the public. Transportation provided by a motor carrier under a grant of approval under this subsection is subject to this part.

(j) **SUPPLEMENTAL ORDERS.**—When cause exists, the Board may issue appropriate orders supplemental to an order made in a proceeding under this section.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 897.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 11341, 11343, 11344, 11345a, 11348, 11349, and 11351 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

CHAPTER 145—FEDERAL-STATE RELATIONS

Sec.	
14501.	Federal authority over intrastate transportation.
14502.	Tax discrimination against motor carrier transportation property.
14503.	Withholding State and local income tax by certain carriers.
[14504.	Repealed.]
14504a.	Unified Carrier Registration System plan and agreement.
14505.	State tax.
14506.	Identification of vehicles.

AMENDMENTS

2005—Pub. L. 109-59, title IV, §§ 4305(c), 4306(b), Aug. 10, 2005, 119 Stat. 1773, 1774, added items 14504a and 14506.

Pub. L. 109-59, title IV, § 4305(a), Aug. 10, 2005, 119 Stat. 1764, as amended by Pub. L. 110-53, title XV, § 1537(c), Aug. 3, 2007, 121 Stat. 467, struck out item 14504 “Registration of motor carriers by a State”, effective Jan. 1, 2008.

§ 14501. Federal authority over intrastate transportation

(a) **MOTOR CARRIERS OF PASSENGERS.**—

(1) **LIMITATION ON STATE LAW.**—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to—

(A) scheduling of interstate or intrastate transportation (including discontinuance or reduction in the level of service) provided by a motor carrier of passengers subject to jurisdiction under subchapter I of chapter 135 of this title on an interstate route;

(B) the implementation of any change in the rates for such transportation or for any charter transportation except to the extent that notice, not in excess of 30 days, of changes in schedules may be required; or

(C) the authority to provide intrastate or interstate charter bus transportation.

This paragraph shall not apply to intrastate commuter bus operations, or to intrastate bus transportation of any nature in the State of Hawaii.

(2) **MATTERS NOT COVERED.**—Paragraph (1) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle, or the authority of a State to regulate carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization.

(b) **FREIGHT FORWARDERS AND BROKERS.**—

(1) **GENERAL RULE.**—Subject to paragraph (2) of this subsection, no State or political subdivision thereof and no intrastate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to intrastate rates, intrastate routes, or intrastate services of any freight forwarder or broker.

(2) **CONTINUATION OF HAWAII’S AUTHORITY.**—Nothing in this subsection and the amendments made by the Surface Freight Forwarder Deregulation Act of 1986 shall be construed to affect the authority of the State of Hawaii to continue to regulate a motor carrier operating within the State of Hawaii.

(c) **MOTOR CARRIERS OF PROPERTY.**—

(1) **GENERAL RULE.**—Except as provided in paragraphs (2) and (3), a State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier (other than a carrier affiliated with a direct air carrier covered by section 41713(b)(4)) or any motor private carrier, broker, or freight forwarder with respect to the transportation of property.

(2) **MATTERS NOT COVERED.**—Paragraph (1)—

(A) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle or the hazardous nature of the cargo, or the authority of a State to regulate motor carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization;

(B) does not apply to the intrastate transportation of household goods; and

(C) does not apply to the authority of a State or a political subdivision of a State to enact or enforce a law, regulation, or other provision relating to the regulation of tow truck operations performed without the prior consent or authorization of the owner or operator of the motor vehicle.

(3) **STATE STANDARD TRANSPORTATION PRACTICES.**—

(A) **CONTINUATION.**—Paragraph (1) shall not affect any authority of a State, political subdivision of a State, or political authority of 2 or more States to enact or enforce a law,

regulation, or other provision, with respect to the intrastate transportation of property by motor carriers, related to—

- (i) uniform cargo liability rules,
- (ii) uniform bills of lading or receipts for property being transported,
- (iii) uniform cargo credit rules,
- (iv) antitrust immunity for joint line rates or routes, classifications, mileage guides, and pooling, or
- (v) antitrust immunity for agent-van line operations (as set forth in section 13907),

if such law, regulation, or provision meets the requirements of subparagraph (B).

(B) REQUIREMENTS.—A law, regulation, or provision of a State, political subdivision, or political authority meets the requirements of this subparagraph if—

- (i) the law, regulation, or provision covers the same subject matter as, and compliance with such law, regulation, or provision is no more burdensome than compliance with, a provision of this part or a regulation issued by the Secretary or the Board under this part; and
- (ii) the law, regulation, or provision only applies to a carrier upon request of such carrier.

(C) ELECTION.—Notwithstanding any other provision of law, a carrier affiliated with a direct air carrier through common controlling ownership may elect to be subject to a law, regulation, or provision of a State, political subdivision, or political authority under this paragraph.

(4) NONAPPLICABILITY TO HAWAII.—This subsection shall not apply with respect to the State of Hawaii.

(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to prevent a State from requiring that, in the case of a motor vehicle to be towed from private property without the consent of the owner or operator of the vehicle, the person towing the vehicle have prior written authorization from the property owner or lessee (or an employee or agent thereof) or that such owner or lessee (or an employee or agent thereof) be present at the time the vehicle is towed from the property, or both.

(d) PRE-ARRANGED GROUND TRANSPORTATION.—

(1) IN GENERAL.—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law requiring a license or fee on account of the fact that a motor vehicle is providing pre-arranged ground transportation service if the motor carrier providing such service—

(A) meets all applicable registration requirements under chapter 139 for the interstate transportation of passengers;

(B) meets all applicable vehicle and intrastate passenger licensing requirements of the State or States in which the motor carrier is domiciled or registered to do business; and

(C) is providing such service pursuant to a contract for—

- (i) transportation by the motor carrier from one State, including intermediate stops, to a destination in another State; or
- (ii) transportation by the motor carrier from one State, including intermediate stops in another State, to a destination in the original State.

(2) INTERMEDIATE STOP DEFINED.—In this section, the term “intermediate stop”, with respect to transportation by a motor carrier, means a pause in the transportation in order for one or more passengers to engage in personal or business activity, but only if the driver providing the transportation to such passenger or passengers does not, before resuming the transportation of such passenger (or at least 1 of such passengers), provide transportation to any other person not included among the passengers being transported when the pause began.

(3) MATTERS NOT COVERED.—Nothing in this subsection shall be construed—

(A) as subjecting taxicab service to regulation under chapter 135 or section 31138;

(B) as prohibiting or restricting an airport, train, or bus terminal operator from contracting to provide preferential access or facilities to one or more providers of pre-arranged ground transportation service; and

(C) as restricting the right of any State or political subdivision of a State to require, in a nondiscriminatory manner, that any individual operating a vehicle providing pre-arranged ground transportation service originating in the State or political subdivision have submitted to pre-licensing drug testing or a criminal background investigation of the records of the State in which the operator is domiciled, by the State or political subdivision by which the operator is licensed to provide such service, or by the motor carrier providing such service, as a condition of providing such service.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 899; amended Pub. L. 105-178, title IV, § 4016, June 9, 1998, 112 Stat. 412; Pub. L. 105-277, div. C, title I, § 106, Oct. 21, 1998, 112 Stat. 2681-586; Pub. L. 107-298, § 2, Nov. 26, 2002, 116 Stat. 2342; Pub. L. 109-59, title IV, §§ 4105(a), 4206(a), Aug. 10, 2005, 119 Stat. 1717, 1754; Pub. L. 114-94, div. A, title V, § 5514, Dec. 4, 2015, 129 Stat. 1557.)

REFERENCES IN TEXT

The Surface Freight Forwarder Deregulation Act of 1986, referred to in subsec. (b)(2), is Pub. L. 99-521, Oct. 22, 1986, 100 Stat. 2993. For complete classification of this Act to the Code, see Short Title of 1986 Amendment note set out under section 10101 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11501 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

AMENDMENTS

2015—Subsec. (c)(2)(C). Pub. L. 114-94 substituted “the regulation of tow truck operations” for “the price of

for-hire motor vehicle transportation by a tow truck, if such transportation is”.

2005—Subsec. (c)(2)(B). Pub. L. 109-59, §4206(a), inserted “intrastate” before “transportation”.

Subsec. (c)(5). Pub. L. 109-59, §4105(a), added par. (5).

2002—Subsec. (d). Pub. L. 107-298 added subsec. (d).

1998—Subsec. (a). Pub. L. 105-178 reenacted heading without change and amended text of subsec. (a) generally. Prior to amendment, text read as follows: “No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to scheduling of interstate or intrastate transportation (including discontinuance or reduction in the level of service) provided by motor carrier of passengers subject to jurisdiction under subchapter I of chapter 135 of this title on an interstate route or relating to the implementation of any change in the rates for such transportation or for any charter transportation except to the extent that notice, not in excess of 30 days, of changes in schedules may be required. This subsection shall not apply to intrastate commuter bus operations.”

Subsec. (a)(1). Pub. L. 105-277 substituted “operations, or to intrastate bus transportation of any nature in the State of Hawaii” for “operations” in concluding provisions.

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.

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104-88, see section 2 of Pub. L. 104-88, set out as a note under section 1301 of this title.

§ 14502. Tax discrimination against motor carrier transportation property

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ASSESSMENT.—The term “assessment” means valuation for a property tax levied by a taxing district.

(2) ASSESSMENT JURISDICTION.—The term “assessment jurisdiction” means a geographical area in a State used in determining the assessed value of property for ad valorem taxation.

(3) MOTOR CARRIER TRANSPORTATION PROPERTY.—The term “motor carrier transportation property” means property, as defined by the Secretary, owned or used by a motor carrier providing transportation in interstate commerce whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135.

(4) COMMERCIAL AND INDUSTRIAL PROPERTY.—The term “commercial and industrial property” means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use, and subject to a property tax levy.

(b) ACTS BURDENING INTERSTATE COMMERCE.—The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

(1) EXCESSIVE VALUATION OF PROPERTY.—Assess motor carrier transportation property at

a value that has a higher ratio to the true market value of the motor carrier transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

(2) TAX ON ASSESSMENT.—Levy or collect a tax on an assessment that may not be made under paragraph (1).

(3) AD VALOREM TAX.—Levy or collect an ad valorem property tax on motor carrier transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(c) JURISDICTION.—

(1) IN GENERAL.—Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a violation of subsection (b) of this section.

(2) LIMITATION IN RELIEF.—Relief may be granted under this subsection only if the ratio of assessed value to true market value of motor carrier transportation property exceeds, by at least 5 percent, the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction.

(3) BURDEN OF PROOF.—The burden of proof in determining assessed value and true market value is governed by State law.

(4) VIOLATION.—If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

(A) an assessment of the motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the assessment value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all such other property; and

(B) the collection of ad valorem property tax on the motor carrier transportation property at a tax rate that exceeds the tax rate rate applicable to taxable property in the taxing district.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 900.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11503a of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 14503. Withholding State and local income tax by certain carriers

(a) SINGLE STATE TAX WITHHOLDING.—

(1) IN GENERAL.—No part of the compensation paid by a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 or by a motor private carrier to an employee who performs regularly assigned duties in 2 or more States as such an employee with respect to a motor vehicle shall be subject to the income tax laws of any State or subdivision of that State, other than the State or subdivision thereof of the employee's residence.

(2) EMPLOYEE DEFINED.—In this subsection, the term “employee” has the meaning given such term in section 31132.

(b) SPECIAL RULES.—

(1) CALCULATION OF EARNINGS.—In this subsection, an employee is deemed to have earned more than 50 percent of pay in a State or subdivision of that State in which the time worked by the employee in the State or subdivision is more than 50 percent of the total time worked by the employee while employed during the calendar year.

(2) WATER CARRIERS.—A water carrier providing transportation subject to jurisdiction under subchapter II of chapter 135 shall file income tax information returns and other reports only with—

(A) the State and subdivision of residence of the employee (as shown on the employment records of the carrier); and

(B) the State and subdivision in which the employee earned more than 50 percent of the pay received by the employee from the carrier during the preceding calendar year.

(3) APPLICABILITY TO SAILORS.—This subsection applies to pay of a master, officer, or sailor who is a member of the crew on a vessel engaged in foreign, coastwise, intercoastal, or noncontiguous trade or in the fisheries of the United States.

(c) FILING OF INFORMATION.—A motor and motor private carrier withholding pay from an employee under subsection (a) of this section shall file income tax information returns and other reports only with the State and subdivision of residence of the employee.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 901.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11504 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

[§ 14504. Repealed. Pub. L. 109-59, title IV, § 4305(a), Aug. 10, 2005, 119 Stat. 1764; Pub. L. 110-53, title XV, § 1537(a), Aug. 3, 2007, 121 Stat. 467]

Section, added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 902; amended Pub. L. 110-53, title XV, §1537(a), Aug. 3, 2007, 121 Stat. 467, related to registration of motor carriers by a State.

Provisions similar to those in this section were contained in section 11506 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

EFFECTIVE DATE OF REPEAL

Pub. L. 109-59, title IV, §4305(a), Aug. 10, 2005, 119 Stat. 1764, as amended by Pub. L. 110-53, title XV,

§1537(c), Aug. 3, 2007, 121 Stat. 467, provided that this section and the item relating to this section in the analysis for this chapter are repealed effective Jan. 1, 2008.

TEMPORARY REENACTMENT OF SECTION

Pub. L. 110-53, title XV, §1537(a), Aug. 3, 2007, 121 Stat. 467, provided that section 14504 of this title, as in effect on Dec. 31, 2006, was to be in effect for the period beginning on Jan. 1, 2007, and ending on the earlier of Jan. 1, 2008, or the effective date of final regulations issued (none issued as of Jan. 1, 2008) pursuant to section 1537(b) of Pub. L. 110-53, set out as a note under section 13908 of this title.

§ 14504a. Unified Carrier Registration System plan and agreement

(a) DEFINITIONS.—In this section and section 14506 (except as provided in paragraph (5)), the following definitions apply:

(1) COMMERCIAL MOTOR VEHICLE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term “commercial motor vehicle”—

(i) for calendar years 2008 and 2009, has the meaning given the term in section 31101; and

(ii) for years beginning after December 31, 2009, means a self-propelled vehicle described in section 31101.

(B) EXCEPTION.—With respect to determining the size of a motor carrier or motor private carrier's fleet in calculating the fee to be paid by a motor carrier or motor private carrier pursuant to subsection (f)(1), the motor carrier or motor private carrier shall have the option to include, in addition to commercial motor vehicles as defined in subparagraph (A), any self-propelled vehicle used on the highway in commerce to transport passengers or property for compensation regardless of the gross vehicle weight rating of the vehicle or the number of passengers transported by such vehicle.

(2) BASE-STATE.—

(A) IN GENERAL.—Subject to subparagraph (B), the term “base-State” means, with respect to a unified carrier registration agreement, a State—

(i) that is in compliance with the requirements of subsection (e); and

(ii) in which the motor carrier, motor private carrier, broker, freight forwarder, or leasing company to which the agreement applies maintains its principal place of business.

(B) DESIGNATION OF BASE-STATE.—A motor carrier, motor private carrier, broker, freight forwarder, or leasing company may designate another State in which it maintains an office or operating facility to be its base-State in the event that—

(i) the State in which the motor carrier, motor private carrier, broker, freight forwarder, or leasing company maintains its principal place of business is not in compliance with the requirements of subsection (e); or

(ii) the motor carrier, motor private carrier, broker, freight forwarder, or leasing company does not have a principal place of business in the United States.

(3) **INTRASTATE FEE.**—The term “intrastate fee” means any fee, tax, or other type of assessment, including per vehicle fees and gross receipts taxes, imposed on a motor carrier or motor private carrier for the renewal of the intrastate authority or insurance filings of such carrier with a State.

(4) **LEASING COMPANY.**—The term “leasing company” means a lessor that is engaged in the business of leasing or renting for compensation motor vehicles without drivers to a motor carrier, motor private carrier, or freight forwarder.

(5) **MOTOR CARRIER.**—

(A) **THIS SECTION.**—In this section:

(i) **IN GENERAL.**—The term “motor carrier” includes all carriers that are otherwise exempt from this part—

(I) under subchapter I of chapter 135; or

(II) through exemption actions by the former Interstate Commerce Commission under this title.

(ii) **EXCLUSIONS.**—In this section, the term “motor carrier” does not include—

(I) any carrier subject to section 13504; or

(II) any other carrier that the board of directors of the unified carrier registration plan determines to be appropriate pursuant to subsection (d)(4)(C).

(B) **SECTION 14506.**—In section 14506, the term “motor carrier” includes all carriers that are otherwise exempt from this part—

(i) under subchapter I of chapter 135; or

(ii) through exemption actions by the former Interstate Commerce Commission under this title.

(6) **PARTICIPATING STATE.**—The term “participating State” means a State that has complied with the requirements of subsection (e).

(7) **SSRS.**—The term “SSRS” means the single state registration system in effect on the date of enactment of this section.

(8) **UNIFIED CARRIER REGISTRATION AGREEMENT.**—The terms “unified carrier registration agreement” and “UCR agreement” mean the interstate agreement developed under the unified carrier registration plan governing the collection and distribution of registration and financial responsibility information provided and fees paid by motor carriers, motor private carriers, brokers, freight forwarders, and leasing companies pursuant to this section.

(9) **UNIFIED CARRIER REGISTRATION PLAN.**—The terms “unified carrier registration plan” and “UCR plan” mean the organization of State, Federal, and industry representatives responsible for developing, implementing, and administering the unified carrier registration agreement.

(10) **VEHICLE REGISTRATION.**—The term “vehicle registration” means the registration of any commercial motor vehicle under the International Registration Plan (as defined in section 31701) or any other registration law or regulation of a jurisdiction.

(b) **APPLICABILITY OF PROVISIONS TO FREIGHT FORWARDERS.**—A freight forwarder that operates commercial motor vehicles and is not required

to register as a carrier pursuant to section 13903(b)¹ shall be subject to the provisions of this section as if the freight forwarder is a motor carrier.

(c) **UNREASONABLE BURDEN.**—For purposes of this section, it shall be considered an unreasonable burden upon interstate commerce for any State or any political subdivision of a State, or any political authority of two or more States—

(1) to enact, impose, or enforce any requirement or standards with respect to, or levy any fee or charge on, any motor carrier or motor private carrier providing transportation or service subject to jurisdiction under subchapter I of chapter 135 (in this section referred to as an “interstate motor carrier” and an “interstate motor private carrier”, respectively) in connection with—

(A) the registration with the State of the interstate operations of the motor carrier or motor private carrier;

(B) the filing with the State of information relating to the financial responsibility of a motor carrier or motor private carrier pursuant to sections 31138 or 31139;

(C) the filing with the State of the name of the local agent for service of process of the motor carrier or motor private carrier pursuant to section 503 or 13304; or

(D) the annual renewal of the intrastate authority, or the insurance filings, of the motor carrier or motor private carrier, or other intrastate filing requirement necessary to operate within the State if the motor carrier or motor private carrier is—

(i) registered under section 13902 or section 13905(b); and

(ii) in compliance with the laws and regulations of the State authorizing the carrier to operate in the State in accordance with section 14501(c)(2)(A); except with respect to—

(I) intrastate service provided by motor carriers of passengers that is not subject to the preemption provisions of section 14501(a);

(II) motor carriers of property, motor private carriers, brokers, or freight forwarders, or their services or operations, that are described in subparagraphs (B) and (C) of section 14501(c)(2); and

(III) the intrastate transportation of waste or recyclable materials by any carrier; or

(2) to require any interstate motor carrier or motor private carrier that also performs intrastate operations to pay any fee or tax which² a carrier engaged exclusively in intrastate operations is exempt.

(d) **UNIFIED CARRIER REGISTRATION PLAN.**—

(1) **BOARD OF DIRECTORS.**—

(A) **GOVERNANCE OF PLAN; ESTABLISHMENT.**—The unified carrier registration plan shall have a board of directors consisting of representatives of the Department of Transportation, participating States, and the motor carrier industry. The Secretary shall establish the board.

¹ See References in Text note below.

² So in original.

(B) COMPOSITION.—The board shall consist of 15 directors appointed by the Secretary as follows:

(i) FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION.—One director from each of the Federal Motor Carrier Safety Administration's 4 service areas (as those areas were defined by the Federal Motor Carrier Safety Administration on January 1, 2005) from among the chief administrative officers of the State agencies responsible for overseeing the administration of the UCR agreement.

(ii) STATE AGENCIES.—Five directors from the professional staffs of State agencies responsible for overseeing the administration of the UCR agreement in their respective States. Nominees for these 5 directorships shall be submitted to the Secretary by the national association of professional employees of the State agencies responsible for overseeing the administration of the UCR agreement in their respective States.

(iii) MOTOR CARRIER INDUSTRY.—Five directors from the motor carrier industry. At least 1 of the appointees under this clause shall be a representative of a national trade association representing the general motor carrier of property industry. At least 1 of the appointees under this clause shall represent a motor carrier that falls within the smallest fleet fee bracket.

(iv) DEPARTMENT OF TRANSPORTATION.—The Deputy Administrator of the Federal Motor Carrier Safety Administration, or such other presidential appointee from the Department, as the Secretary may appoint.

(C) CHAIRPERSON AND VICE-CHAIRPERSON.—The Secretary shall designate 1 director as chairperson and 1 director as vice-chairperson of the board. The chairperson and vice-chairperson shall serve in such capacity for the term of their appointment as directors.

(D) TERMS.—

(i) INITIAL TERMS.—In appointing the initial board, the Secretary shall designate 5 of the appointed directors for initial terms of 3 years, 5 of the appointed directors for initial terms of 2 years, and 5 of the appointed directors for initial terms of 1 year.

(ii) THEREAFTER.—After the initial term, all directors shall be appointed for terms of 3 years; except that the term of the Deputy Administrator or other individual designated by the Secretary under subparagraph (B)(iv) shall be at the discretion of the Secretary.

(iii) SUCCESSION.—A director may be appointed to succeed himself or herself.

(iv) END OF SERVICE.—A director may continue to serve on the board until his or her successor is appointed.

(2) RULES AND REGULATIONS GOVERNING THE UCR AGREEMENT.—The board of directors shall issue rules and regulations to govern the UCR agreement. The rules and regulations shall—

(A) prescribe uniform forms and formats, for—

(i) the annual submission of the information required by a base-State of a motor carrier, motor private carrier, leasing company, broker, or freight forwarder;

(ii) the transmission of information by a participating State to the Unified Carrier Registration System;

(iii) the payment of excess fees by a State to the designated depository and the distribution of fees by the depository to those States so entitled; and

(iv) the providing of notice by a motor carrier, motor private carrier, broker, freight forwarder, or leasing company to the board of the intent of such entity to change its base-State, and the procedures for a State to object to such a change under subparagraph (C);

(B) provide for the administration of the unified carrier registration agreement, including procedures for amending the agreement and obtaining clarification of any provision of the Agreement;

(C) provide procedures for dispute resolution under the agreement that provide due process for all involved parties; and

(D) designate a depository.

(3) COMPENSATION AND EXPENSES.—

(A) IN GENERAL.—Except for the representative of the Department appointed under paragraph (1)(B)(iv), no director shall receive any compensation or other benefits from the Federal Government for serving on the board or be considered a Federal employee as a result of such service.

(B) EXPENSES.—All directors shall be reimbursed for expenses they incur attending meetings of the board. In addition, the board may approve the reimbursement of expenses incurred by members of any subcommittee or task force appointed under paragraph (5) for carrying out the duties of the subcommittee or task force. The reimbursement of expenses to directors and subcommittee and task force members shall be under subchapter II of chapter 57 of title 5, United States Code, governing reimbursement of expenses for travel by Federal employees.

(4) MEETINGS.—

(A) IN GENERAL.—The board shall meet at least once per year. Additional meetings may be called, as needed, by the chairperson of the board, a majority of the directors, or the Secretary.

(B) QUORUM.—A majority of directors shall constitute a quorum.

(C) VOTING.—Approval of any matter before the board shall require the approval of a majority of all directors present at the meeting, except that a decision to approve the exclusion of carriers from the definition of the term "motor carrier" under subsection (a)(5) shall require an affirmative vote of $\frac{3}{4}$ of all such directors.²

(D) OPEN MEETINGS.—Meetings of the board and any subcommittees or task forces appointed under paragraph (5) shall be subject to the provisions of section 552b of title 5.

(5) SUBCOMMITTEES.—

(A) INDUSTRY ADVISORY SUBCOMMITTEE.—The chairperson shall appoint an industry advisory subcommittee. The industry advisory subcommittee shall consider any matter before the board and make recommendations to the board.

(B) OTHER SUBCOMMITTEES.—The chairperson shall appoint an audit subcommittee, a dispute resolution subcommittee, and any additional subcommittees and task forces that the board determines to be necessary.

(C) MEMBERSHIP.—The chairperson of each subcommittee shall be a director. The other members of subcommittees and task forces may be directors or nondirectors.

(D) REPRESENTATION ON SUBCOMMITTEES.—Except for the industry advisory subcommittee (the membership of which shall consist solely of representatives of entities subject to the fee requirements of subsection (f)), each subcommittee and task force shall include representatives of the participating States and the motor carrier industry.

(6) DELEGATION OF AUTHORITY.—The board may contract with any person or any agency of a State to perform administrative functions required under the unified carrier registration agreement, but may not delegate its decision or policy-making responsibilities.

(7) DETERMINATION OF FEES.—

(A) RECOMMENDATION BY BOARD.—The board shall recommend to the Secretary the initial annual fees to be assessed carriers, leasing companies, brokers, and freight forwarders under the unified carrier registration agreement. In making its recommendation to the Secretary for the level of fees to be assessed in any agreement year, and in setting the fee level, the board and the Secretary shall consider—

(i) the administrative costs associated with the unified carrier registration plan and the agreement;

(ii) whether the revenues generated in the previous year and any surplus or shortage from that or prior years enable the participating States to achieve the revenue levels set by the board; and

(iii) the provisions governing fees under subsection (f)(1).

(B) SETTING FEES.—The Secretary shall set the initial annual fees for the next agreement year and any subsequent adjustment of those fees—

(i) within 90 days after receiving the board's recommendation under subparagraph (A); and

(ii) after notice and opportunity for public comment.

(8) LIABILITY PROTECTIONS FOR DIRECTORS.—No individual appointed to serve on the board shall be liable to any other director or to any other party for harm, either economic or non-economic, caused by an act or omission of the individual arising from the individual's service on the board if—

(A) the individual was acting within the scope of his or her responsibilities as a director; and

(B) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the right or safety of the party harmed by the individual.

(9) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the unified carrier registration plan, the board, or its committees.

(10) CERTAIN FEES NOT AFFECTED.—This section does not limit the amount of money a State may charge for vehicle registration or the amount of any fuel use tax a State may impose pursuant to the International Fuel Tax Agreement (as defined in section 31701).

(e) STATE PARTICIPATION.—

(1) STATE PLAN.—No State shall be eligible to participate in the unified carrier registration plan or to receive any revenues derived under the UCR agreement, unless the State submits to the Secretary, not later than 3 years after the date of enactment of the Unified Carrier Registration Act of 2005, a plan—

(A) identifying the State agency that has or will have the legal authority, resources, and qualified personnel necessary to administer the agreement in accordance with the rules and regulations promulgated by the board of directors; and

(B) demonstrating that an amount at least equal to the revenue derived by the State from the unified carrier registration agreement shall be used for motor carrier safety programs, enforcement, or the administration of the UCR plan and UCR agreement.

(2) AMENDED PLANS.—A State that submits a plan under this subsection may change the agency designated in the plan by filing an amended plan with the Secretary and the chairperson of the board of directors.

(3) WITHDRAWAL OF PLAN.—If a State withdraws, or notifies the Secretary that it is withdrawing, the plan it submitted under this subsection, the State may no longer participate in the unified carrier registration agreement or receive any portion of the revenues derived under the agreement. The Secretary shall notify the chairperson upon receiving notice from a State that it is withdrawing its plan or withdrawing from the agreement, or both.

(4) TERMINATION OF ELIGIBILITY.—If a State fails to submit a plan to the Secretary in accordance with paragraph (1) or withdraws its plan under paragraph (3), the State may not submit or resubmit a plan or participate in the agreement.

(5) PROVISION OF PLAN TO CHAIRPERSON.—The Secretary shall provide a copy of each plan submitted under this subsection to the chairperson of the board of directors not later than 10 days after date of submission of the plan.

(f) CONTENTS OF UNIFIED CARRIER REGISTRATION AGREEMENT.—The unified carrier registration agreement shall provide the following:

(1) FEES.—(A) Fees charged—

(i) to a motor carrier, motor private carrier, or freight forwarder under the UCR

agreement shall be based on the number of commercial motor vehicles owned or operated by the motor carrier, motor private carrier, or freight forwarder; and

(ii) to a broker or leasing company under the UCR agreement shall be equal to the smallest fee charged to a motor carrier, motor private carrier, and freight forwarder under this paragraph.

(B) The fees shall be determined by the Secretary based upon the recommendation of the board under subsection (d)(7).

(C) The board shall develop for purposes of charging fees no more than 6 and no less than 4 brackets of carriers (including motor private carriers) based on the size of fleet.

(D) The fee scale shall be progressive in the amount of the fee.

(E) The board may ask the Secretary to adjust the fees within a reasonable range on an annual basis if the revenues derived from the fees—

(i) are insufficient to provide the revenues to which the States are entitled under this section; or

(ii) exceed those revenues.

(2) DETERMINATION OF OWNERSHIP OR OPERATION.—For purposes of this subsection, a commercial motor vehicle is owned or operated by a motor carrier, motor private carrier, or freight forwarder if the vehicle is registered under Federal law or State law, or both, in the name of the motor carrier, motor private carrier, or freight forwarder or is controlled by the motor carrier, motor private carrier, or freight forwarder under a long term lease during a vehicle registration year.

(3) CALCULATION OF NUMBER OF COMMERCIAL MOTOR VEHICLES OWNED OR OPERATED.—The number of commercial motor vehicles owned or operated by a motor carrier, motor private carrier, or freight forwarder for purposes of paragraph (1) shall be based either on the number of commercial motor vehicles the motor carrier, motor private carrier, or freight forwarder has indicated it operates on its most recently filed MCS-150 or the total number of such vehicles it owned or operated for the 12-month period ending on June 30 of the year immediately prior to the registration year of the Unified Carrier Registration System. A motor carrier may include in the calculation of its fleet size for purposes of paragraph (1) any commercial motor vehicle. Motor carriers and motor private carriers in the calculation of their fleet size for purposes of paragraph (1) may elect not to include commercial motor vehicles used exclusively in the intrastate transportation of property, waste, or recyclable material.

(4) PAYMENT OF FEES.—Motor carriers, motor private carriers, leasing companies, brokers, and freight forwarders shall pay all fees required under this section to their base-State pursuant to the UCR Agreement.

(g) PAYMENT OF FEES.—Revenues derived under the UCR Agreement shall be allocated to participating States as follows:

(1) A State that participated in the SSRS in the last registration year under the SSRS end-

ing before the date of enactment of the Unified Carrier Registration Act of 2005 and complies with subsection (e) is entitled to receive under this section a portion of the revenues generated under the UCR agreement equivalent to the revenues it received under the SSRS in such last registration year, as long as the State continues to comply with subsection (e).

(2) A State that collected intrastate registration fees from interstate motor carriers, interstate motor private carriers, or interstate exempt carriers and complies with subsection (e) is entitled to receive under this section an additional portion of the revenues generated under the UCR agreement equivalent to the revenues it received from such carriers in the last calendar year ending before the date of enactment of the Unified Carrier Registration Act of 2005, as long as the State continues to comply with subsection (e).

(3) States that comply with subsection (e) but did not participate in SSRS during such last registration year shall be entitled under this section to an annual allotment not to exceed \$500,000 from the revenues generated under the UCR agreement, as long as the State continues to comply with the provisions of subsection (e).

(4) The amount of revenues generated under the UCR agreement to which a State is entitled under this section shall be calculated by the board and approved by the Secretary.

(h) DISTRIBUTION OF UCR AGREEMENT REVENUES.—

(1) ELIGIBILITY.—Each State that is in compliance with subsection (e) shall be entitled under this section to a portion of the revenues derived from the UCR Agreement in accordance with subsection (g).

(2) ENTITLEMENT TO REVENUES.—A State that is in compliance with subsection (e) may retain an amount of the gross revenues it collects from motor carriers, motor private carriers, brokers, freight forwarders and leasing companies under the UCR agreement equivalent to the portion of revenues to which the State is entitled under subsection (g). All revenues a participating State collects in excess of the amount to which the State is so entitled shall be forwarded to the depository designated by the board under subsection (d)(2)(D).

(3) DISTRIBUTION OF FUNDS FROM DEPOSITORY.—The excess funds deposited in the depository shall be distributed by the board of directors as follows:

(A) On a pro rata basis to each participating State that did not collect revenues under the UCR agreement equivalent to the amount such State is entitled under subsection (g), except that the sum of the gross revenues collected under the UCR agreement by a participating State and the amount distributed to it from the depository shall not exceed the amount to which the State is entitled under subsection (g).

(B) After all distributions under subparagraph (A) have been made, to pay the administrative costs of the UCR plan and the UCR agreement.

(4) RETENTION OF CERTAIN EXCESS FUNDS.—Any excess funds held by the depository after distributions and payments under paragraphs (3)(A) and (3)(B) shall be retained in the depository, and the fees charged under the UCR agreement to motor carriers, motor private carriers, leasing companies, freight forwarders, and brokers for the next fee year shall be reduced by the Secretary accordingly.

(1) ENFORCEMENT.—

(1) CIVIL ACTIONS.—Upon request by the Secretary, the Attorney General may bring a civil action in the United States district court described in paragraph (2) to enforce an order issued to require compliance with this section and with the terms of the UCR agreement.

(2) VENUE.—An action under this section may be brought only in a United States district court in the State in which compliance with the order is required.

(3) RELIEF.—Subject to section 1341 of title 28, the court, on a proper showing shall issue a temporary restraining order or a preliminary or permanent injunction requiring that the State or any person comply with this section.

(4) ENFORCEMENT BY STATES.—Nothing in this section—

(A) prohibits a participating State from issuing citations and imposing reasonable fines and penalties pursuant to the applicable laws and regulations of the State on any motor carrier, motor private carrier, freight forwarder, broker, or leasing company for failure to—

- (i) submit information documents as required under subsection (d)(2); or
- (ii) pay the fees required under subsection (f); or

(B) authorizes a State to require a motor carrier, motor private carrier, or freight forwarder to display as evidence of compliance any form of identification in excess of those permitted under section 14506 on or in a commercial motor vehicle.

(j) APPLICATION TO INTRASTATE CARRIERS.—Notwithstanding any other provision of this section, a State may elect to apply the provisions of the UCR agreement to motor carriers and motor private carriers and freight forwarders subject to its jurisdiction that operate solely in intrastate commerce within the borders of the State.

(Added Pub. L. 109-59, title IV, §4305(b), Aug. 10, 2005, 119 Stat. 1764; amended Pub. L. 110-244, title III, §301(m)–(p), June 6, 2008, 122 Stat. 1617; Pub. L. 110-432, div. A, title VII, §701(d), Oct. 16, 2008, 122 Stat. 4906; Pub. L. 112-141, div. C, title II, §32933(b), July 6, 2012, 126 Stat. 830.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a)(7), is the date of enactment of Pub. L. 109-59, which was approved Aug. 10, 2005.

Section 13903(b), referred to in subsec. (b), was redesignated section 13903(d) by Pub. L. 112-141, div. C, title II, §32916(a)(2), July 6, 2012, 126 Stat. 820.

The Federal Advisory Committee Act, referred to in subsec. (d)(9), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The date of enactment of the Unified Carrier Registration Act of 2005, referred to in subsecs. (e)(1) and (g)(1), (2), is the date of enactment of subtitle C of title IV of Pub. L. 109-59, which was approved Aug. 10, 2005.

AMENDMENTS

2012—Subsec. (c)(1)(C). Pub. L. 112-141, §32933(b)(1), substituted “section” for “sections”.

Subsec. (c)(1)(D)(ii)(II). Pub. L. 112-141, §32933(b)(2), substituted “; and” for period at end.

2008—Subsec. (a). Pub. L. 110-432, §701(d)(1)(A), inserted “(except as provided in paragraph (5))” after “14506” in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 110-432, §701(d)(1)(B), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: “Except as provided in subparagraph (B), the term ‘commercial motor vehicle’ has the meaning such term has under section 31101.”

Subsec. (a)(1)(B). Pub. L. 110-244, §301(m), substituted “determining the size of a motor carrier or motor private carrier’s fleet in calculating the fee to be paid by a motor carrier or motor private carrier pursuant to subsection (f)(1), the motor carrier or motor private carrier” for “a motor carrier required to make any filing or pay any fee to a State with respect to the motor carrier’s authority or insurance related to operation within such State, the motor carrier”.

Subsec. (a)(5). Pub. L. 110-432, §701(d)(1)(C), added par. (5) and struck out former par. (5). Prior to amendment, text read as follows: “The term ‘motor carrier’ includes all carriers that are otherwise exempt from this part under subchapter I of chapter 135 or exemption actions by the former Interstate Commerce Commission under this title.”

Subsec. (c)(1)(B). Pub. L. 110-244, §301(p)(1), substituted “a” for “the a”.

Subsec. (c)(2). Pub. L. 110-244, §301(n), substituted “exclusively in intrastate operations” for “exclusively in interstate operations”.

Subsec. (d)(4)(C). Pub. L. 110-432, §701(d)(2), inserted before period “, except that a decision to approve the exclusion of carriers from the definition of the term ‘motor carrier’ under subsection (a)(5) shall require an affirmative vote of $\frac{3}{4}$ of all such directors.”

Subsec. (f)(1)(A)(i). Pub. L. 110-244, §301(p)(2), struck out “in connection with the filing of proof of financial responsibility” before “under the UCR agreement”.

Subsec. (f)(1)(A)(ii). Pub. L. 110-244, §301(o), (p)(3), substituted “under the UCR agreement” for “in connection with such a filing” and struck out “or” before “under this paragraph.”

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to “this title” deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111-314, set out as a note under section 101 of this title.

§ 14505. State tax

A State or political subdivision thereof may not collect or levy a tax, fee, head charge, or other charge on—

- (1) a passenger traveling in interstate commerce by motor carrier;
- (2) the transportation of a passenger traveling in interstate commerce by motor carrier;
- (3) the sale of passenger transportation in interstate commerce by motor carrier; or

(4) the gross receipts derived from such transportation.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 904.)

§ 14506. Identification of vehicles

(a) RESTRICTION ON REQUIREMENTS.—No State, political subdivision of a State, interstate agency, or other political agency of two or more States may enact or enforce any law, rule, regulation standard, or other provision having the force and effect of law that requires a motor carrier, motor private carrier, freight forwarder, or leasing company to display any form of identification on or in a commercial motor vehicle (as defined in section 14504a), other than forms of identification required by the Secretary of Transportation under section 390.21 of title 49, Code of Federal Regulations.

(b) EXCEPTION.—Notwithstanding subsection (a), a State may continue to require display of credentials that are required—

(1) under the International Registration Plan under section 31704;

(2) under the International Fuel Tax Agreement under section 31705 or under an applicable State law if, on October 1, 2006, the State has a form of highway use taxation not subject to collection through the International Fuel Tax Agreement;

(3) under a State law regarding motor vehicle license plates or other displays that the Secretary determines are appropriate;

(4) in connection with Federal requirements for hazardous materials transportation under section 5103; or

(5) in connection with the Federal vehicle inspection standards under section 31136.

(Added Pub. L. 109-59, title IV, §4306(a), Aug. 10, 2005, 119 Stat. 1773; amended Pub. L. 110-244, title III, §301(q), June 6, 2008, 122 Stat. 1617.)

AMENDMENTS

2008—Subsec. (b)(2). Pub. L. 110-244 inserted “or under an applicable State law if, on October 1, 2006, the State has a form of highway use taxation not subject to collection through the International Fuel Tax Agreement” before semicolon at end.

CHAPTER 147—ENFORCEMENT; INVESTIGATIONS; RIGHTS; REMEDIES

Sec.	
14701.	General authority.
14702.	Enforcement by the regulatory authority.
14703.	Enforcement by the Attorney General.
14704.	Rights and remedies of persons injured by carriers or brokers.
14705.	Limitation on actions by and against carriers.
14706.	Liability of carriers under receipts and bills of lading.
14707.	Private enforcement of registration requirement.
14708.	Dispute settlement program for household goods carriers.
14709.	Tariff reconciliation rules for motor carriers of property.
14710.	Enforcement of Federal laws and regulations with respect to transportation of household goods.
14711.	Enforcement by State attorneys general.

AMENDMENTS

2005—Pub. L. 109-59, title IV, §4206(c), Aug. 10, 2005, 119 Stat. 1757, added items 14710 and 14711.

§ 14701. General authority

(a) INVESTIGATIONS.—The Secretary or the Board, as applicable, may begin an investigation under this part on the Secretary’s or the Board’s own initiative or on complaint. If the Secretary or Board, as applicable, finds that a carrier or broker is violating this part, the Secretary or Board, as applicable, shall take appropriate action to compel compliance with this part. If the Secretary finds that a foreign motor carrier or foreign motor private carrier is violating chapter 139, the Secretary shall take appropriate action to compel compliance with that chapter. The Secretary or Board, as applicable, may take action under this subsection only after giving the carrier or broker notice of the investigation and an opportunity for a proceeding.

(b) COMPLAINTS.—A person, including a governmental authority, may file with the Secretary or Board, as applicable, a complaint about a violation of this part by a carrier providing, or broker for, transportation or service subject to jurisdiction under this part or a foreign motor carrier or foreign motor private carrier providing transportation registered under section 13902 of this title. The complaint must state the facts that are the subject of the violation. The Secretary or Board, as applicable, may dismiss a complaint that it determines does not state reasonable grounds for investigation and action.

(c) DEADLINE.—A formal investigative proceeding begun by the Secretary or Board under subsection (a) of this section is dismissed automatically unless it is concluded with administrative finality by the end of the 3d year after the date on which it was begun.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 904.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11701 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104-88, see section 2 of Pub. L. 104-88, set out as a note under section 1301 of this title.

CONSUMER COMPLAINT INFORMATION

Pub. L. 109-59, title IV, §4214, Aug. 10, 2005, 119 Stat. 1759, provided that:

“(a) ESTABLISHMENT OF SYSTEM.—Not later than 1 year after the date of enactment of this Act [Aug. 10, 2005], the Secretary shall—

“(1) establish (A) a system for filing and logging consumer complaints relating to household goods motor carriers for the purpose of compiling or linking complaint information gathered by the Department of Transportation and the States with regard to such carriers, (B) a database of the complaints, and (C) a procedure for the public to have access, subject to section 552(a) of title 5, United States Code, to aggregated information and for carriers to challenge duplicate or fraudulent information in the database;

“(2) issue regulations requiring each motor carrier of household goods to submit on a quarterly basis a report summarizing—

“(A) the number of shipments that originate and are delivered for individual shippers during the reporting period by the carrier;

“(B) the number and general category of complaints lodged by consumers with the carrier;

“(C) the number of claims filed with the carrier for loss and damage in excess of \$500;

“(D) the number of such claims resolved during the reporting period;

“(E) the number of such claims declined in the reporting period; and

“(F) the number of such claims that are pending at the close of the reporting period; and

“(3) develop a procedure to forward a complaint, including the motor carrier bill of lading number, if known, related to the complaint to a motor carrier named in such complaint and to an appropriate State authority (as defined in section 14710(d) of title 49, United States Code) in the State in which the complainant resides.

“(b) USE OF INFORMATION.—The Secretary shall consider information in the data base established under subsection (a) in its household goods compliance and enforcement program.”

[For definitions of “carrier”, “household goods”, “motor carrier”, and “Secretary” as used in section 4214 of Pub. L. 109-59, set out above, see section 4202(a) of Pub. L. 109-59, set out as a note under section 13102 of this title.]

§ 14702. Enforcement by the regulatory authority

(a) IN GENERAL.—The Secretary or the Board, as applicable, may bring a civil action—

(1) to enforce section 14103 of this title; or

(2) to enforce this part, or a regulation or order of the Secretary or Board, as applicable, when violated by a carrier or broker providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 of this title or by a foreign motor carrier or foreign motor private carrier providing transportation registered under section 13902 of this title.

(b) VENUE.—In a civil action under subsection (a)(2) of this section—

(1) trial is in the judicial district in which the carrier, foreign motor carrier, foreign motor private carrier, or broker operates;

(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.

(c) STANDING.—The Board, through its own attorneys, may bring or participate in any civil action involving motor carrier undercharges.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 905.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11702 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 14703. Enforcement by the Attorney General

The Attorney General may, and on request of either the Secretary or the Board shall, bring court proceedings—

(1) to enforce this part or a regulation or order of the Secretary or Board or terms of registration under this part; and

(2) to prosecute a person violating this part or a regulation or order of the Secretary or Board or term of registration under this part.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 905.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11703 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 14704. Rights and remedies of persons injured by carriers or brokers

(a) IN GENERAL.—

(1) ENFORCEMENT OF ORDER.—A person injured because a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 does not obey an order of the Secretary or the Board, as applicable, under this part, except an order for the payment of money, may bring a civil action to enforce that order under this subsection. A person may bring a civil action for injunctive relief for violations of sections 14102, 14103, and 14915(c).

(2) DAMAGES FOR VIOLATIONS.—A carrier or broker providing transportation or service subject to jurisdiction under chapter 135 is liable for damages sustained by a person as a result of an act or omission of that carrier or broker in violation of this part.

(b) LIABILITY AND DAMAGES FOR EXCEEDING TARIFF RATE.—A carrier providing transportation or service subject to jurisdiction under chapter 135 is liable to a person for amounts charged that exceed the applicable rate for transportation or service contained in a tariff in effect under section 13702.

(c) ELECTION.—

(1) COMPLAINT TO DOT OR BOARD; CIVIL ACTION.—A person may file a complaint with the Board or the Secretary, as applicable, under section 14701(b) or bring a civil action under subsection (b) to enforce liability against a carrier or broker providing transportation or service subject to jurisdiction under chapter 135.

(2) ORDER OF DOT OR BOARD.—

(A) IN GENERAL.—When the Board or Secretary, as applicable, makes an award under subsection (b) of this section, the Board or Secretary, as applicable, shall order the carrier to pay the amount awarded by a specific date. The Board or Secretary, as applicable, may order a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 to pay damages only when the proceeding is on complaint.

(B) ENFORCEMENT BY CIVIL ACTION.—The person for whose benefit an order of the Board or Secretary requiring the payment of money is made may bring a civil action to enforce that order under this paragraph if the carrier or broker does not pay the amount awarded by the date payment was ordered to be made.

(d) PROCEDURE.—

(1) IN GENERAL.—When a person begins a civil action under subsection (b) of this section to enforce an order of the Board or Secretary requiring the payment of damages by a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title, the text of the order of the Board or Secretary must be included in the complaint. In addition to the district courts of

the United States, a State court of general jurisdiction having jurisdiction of the parties has jurisdiction to enforce an order under this paragraph. The findings and order of the Board or Secretary are competent evidence of the facts stated in them. Trial in a civil action brought in a district court of the United States under this paragraph is in the judicial district in which the plaintiff resides or in which the principal operating office of the carrier or broker is located. In a civil action under this paragraph, the plaintiff is liable for only those costs that accrue on an appeal taken by the plaintiff.

(2) PARTIES.—All parties in whose favor the award was made may be joined as plaintiffs in a civil action brought in a district court of the United States under this subsection and all the carriers that are parties to the order awarding damages may be joined as defendants. Trial in the action is in the judicial district in which any one of the plaintiffs could bring the action against any one of the defendants. Process may be served on a defendant at its principal operating office when that defendant is not in the district in which the action is brought. A judgment ordering recovery may be made in favor of any of those plaintiffs against the defendant found to be liable to that plaintiff.

(e) ATTORNEY'S FEES.—The district court shall award a reasonable attorney's fee under this section. The district court shall tax and collect that fee as part of the costs of the action.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 905; amended Pub. L. 112-141, div. C, title II, § 32922(a), July 6, 2012, 126 Stat. 828.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11705 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

AMENDMENTS

2012—Subsec. (a)(1). Pub. L. 112-141 substituted “, 14103, and 14915(c)” for “and 14103”.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§ 14705. Limitation on actions by and against carriers

(a) IN GENERAL.—A carrier providing transportation or service subject to jurisdiction under chapter 135 must begin a civil action to recover charges for transportation or service provided by the carrier within 18 months after the claim accrues.

(b) OVERCHARGES.—A person must begin a civil action to recover overcharges within 18 months after the claim accrues. If the claim is against a carrier providing transportation subject to jurisdiction under chapter 135 and an election to file a complaint with the Board or Secretary, as applicable, is made under section 14704(c)(1), the complaint must be filed within 3 years after the claim accrues.

(c) DAMAGES.—A person must file a complaint with the Board or Secretary, as applicable, to

recover damages under section 14704(b) within 2 years after the claim accrues.

(d) EXTENSIONS.—The limitation periods under subsection (b) of this section are extended for 6 months from the time written notice is given to the claimant by the carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the carrier within those limitation periods. The limitation periods under subsections (b) and (c) of this section are extended for 90 days from the time the carrier begins a civil action under subsection (a) to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

(e) PAYMENT.—A person must begin a civil action to enforce an order of the Board or Secretary against a carrier within 1 year after the date of the order.

(f) GOVERNMENT TRANSPORTATION.—This section applies to transportation for the United States Government. The time limitations under this section are extended, as related to transportation for or on behalf of the United States Government, for 3 years from the later of the date of—

(1) payment of the rate for the transportation or service involved;

(2) subsequent refund for overpayment of that rate; or

(3) deduction made under section 3726 of title 31.

(g) ACCRUAL DATE.—A claim related to a shipment of property accrues under this section on delivery or tender of delivery by the carrier.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 907.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11706 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

§ 14706. Liability of carriers under receipts and bills of lading

(a) GENERAL LIABILITY.—

(1) MOTOR CARRIERS AND FREIGHT FORWARDERS.—A carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 shall issue a receipt or bill of lading for property it receives for transportation under this part. That carrier and any other carrier that delivers the property and is providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 or chapter 105 are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this paragraph is for the actual loss or injury to the property caused by (A) the receiving carrier, (B) the delivering carrier, or (C) another carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a through bill of lading and, except in the case of a freight for-

warder, applies to property reconsigned or diverted under a tariff under section 13702. Failure to issue a receipt or bill of lading does not affect the liability of a carrier. A delivering carrier is deemed to be the carrier performing the line-haul transportation nearest the destination but does not include a carrier providing only a switching service at the destination.

(2) FREIGHT FORWARDER.—A freight forwarder is both the receiving and delivering carrier. When a freight forwarder provides service and uses a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 to receive property from a consignor, the motor carrier may execute the bill of lading or shipping receipt for the freight forwarder with its consent. With the consent of the freight forwarder, a motor carrier may deliver property for a freight forwarder on the freight forwarder's bill of lading, freight bill, or shipping receipt to the consignee named in it, and receipt for the property may be made on the freight forwarder's delivery receipt.

(b) APPORTIONMENT.—The carrier issuing the receipt or bill of lading under subsection (a) of this section or delivering the property for which the receipt or bill of lading was issued is entitled to recover from the carrier over whose line or route the loss or injury occurred the amount required to be paid to the owners of the property, as evidenced by a receipt, judgment, or transcript, and the amount of its expenses reasonably incurred in defending a civil action brought by that person.

(c) SPECIAL RULES.—

(1) MOTOR CARRIERS.—

(A) SHIPPER WAIVER.—Subject to the provisions of subparagraph (B), a carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 may, subject to the provisions of this chapter (including with respect to a motor carrier, the requirements of section 13710(a)), establish rates for the transportation of property (other than household goods described in section 13102(10)(A)) under which the liability of the carrier for such property is limited to a value established by written or electronic declaration of the shipper or by written agreement between the carrier and shipper if that value would be reasonable under the circumstances surrounding the transportation.

(B) CARRIER NOTIFICATION.—If the motor carrier is not required to file its tariff with the Board, it shall provide under section 13710(a)(1) to the shipper, on request of the shipper, a written or electronic copy of the rate, classification, rules, and practices upon which any rate applicable to a shipment, or agreed to between the shipper and the carrier, is based. The copy provided by the carrier shall clearly state the dates of applicability of the rate, classification, rules, or practices.

(C) PROHIBITION AGAINST COLLECTIVE ESTABLISHMENT.—No discussion, consideration, or approval as to rules to limit liability under this subsection may be undertaken by

carriers acting under an agreement approved pursuant to section 13703.

(2) WATER CARRIERS.—If loss or injury to property occurs while it is in the custody of a water carrier, the liability of that carrier is determined by its bill of lading and the law applicable to water transportation. The liability of the initial or delivering carrier is the same as the liability of the water carrier.

(d) CIVIL ACTIONS.—

(1) AGAINST DELIVERING CARRIER.—A civil action under this section may be brought against a delivering carrier in a district court of the United States or in a State court. Trial, if the action is brought in a district court of the United States is in a judicial district, and if in a State court, is in a State through which the defendant carrier operates.

(2) AGAINST CARRIER RESPONSIBLE FOR LOSS.—A civil action under this section may be brought against the carrier alleged to have caused the loss or damage, in the judicial district in which such loss or damage is alleged to have occurred.

(3) JURISDICTION OF COURTS.—A civil action under this section may be brought in a United States district court or in a State court.

(4) JUDICIAL DISTRICT DEFINED.—In this section, "judicial district" means—

(A) in the case of a United States district court, a judicial district of the United States; and

(B) in the case of a State court, the applicable geographic area over which such court exercises jurisdiction.

(e) MINIMUM PERIOD FOR FILING CLAIMS.—

(1) IN GENERAL.—A carrier may not provide by rule, contract, or otherwise, a period of less than 9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date the carrier gives a person written notice that the carrier has disallowed any part of the claim specified in the notice.

(2) SPECIAL RULES.—For the purposes of this subsection—

(A) an offer of compromise shall not constitute a disallowance of any part of the claim unless the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides reasons for such disallowance; and

(B) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reason for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.

(f) LIMITING LIABILITY OF HOUSEHOLD GOODS CARRIERS TO DECLARED VALUE.—

(1) IN GENERAL.—A carrier or group of carriers subject to jurisdiction under subchapter I or III of chapter 135 may petition the Board to modify, eliminate, or establish rates for the transportation of household goods under which

the liability of the carrier for that property is limited to a value established by written declaration of the shipper or by a written agreement.

(2) FULL VALUE PROTECTION OBLIGATION.—Unless the carrier receives a waiver in writing under paragraph (3), a carrier's maximum liability for household goods that are lost, damaged, destroyed, or otherwise not delivered to the final destination is an amount equal to the replacement value of such goods, subject to a maximum amount equal to the declared value of the shipment and to rules issued by the Surface Transportation Board and applicable tariffs.

(3) APPLICATION OF RATES.—The released rates established by the Board under paragraph (1) (commonly known as "released rates") shall not apply to the transportation of household goods by a carrier unless the liability of the carrier for the full value of such household goods under paragraph (2) is waived, in writing, by the shipper.

(g) MODIFICATIONS AND REFORMS.—

(1) STUDY.—The Secretary shall conduct a study to determine whether any modifications or reforms should be made to the loss and damage provisions of this section, including those related to limitation of liability by carriers.

(2) FACTORS TO CONSIDER.—In conducting the study, the Secretary, at a minimum, shall consider—

- (A) the efficient delivery of transportation services;
- (B) international and intermodal harmony;
- (C) the public interest; and
- (D) the interest of carriers and shippers.

(3) REPORT.—Not later than 12 months after January 1, 1996, the Secretary shall submit to Congress a report on the results of the study, together with any recommendations of the Secretary (including legislative recommendations) for implementing modifications or reforms identified by the Secretary as being appropriate.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 907; amended Pub. L. 104-287, §5(38), Oct. 11, 1996, 110 Stat. 3392; Pub. L. 109-59, title IV, §4207, Aug. 10, 2005, 119 Stat. 1757.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 10730 and 11707 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

AMENDMENTS

2005—Subsec. (f). Pub. L. 109-59 designated existing provisions as par. (1), inserted heading, and added pars. (2) and (3).

1996—Subsec. (g)(3). Pub. L. 104-287 substituted "January 1, 1996" for "the effective date of this section".

REVIEW OF LIABILITY OF CARRIERS

Pub. L. 109-59, title IV, §4215, Aug. 10, 2005, 119 Stat. 1760, provided that:

"(a) REVIEW.—Not later than 1 year after the date of enactment of this Act [Aug. 10, 2005], the Surface Transportation Board shall complete a review of the current Federal regulations regarding the level of li-

ability protection provided by motor carriers that provide transportation of household goods and revise such regulations, if necessary, to provide enhanced protection in the case of loss or damage.

"(b) DETERMINATIONS.—The review required by subsection (a) shall include a determination of—

"(1) whether the current regulations provide adequate protection;

"(2) the benefits of purchase by a shipper of insurance to supplement the carrier's limitations on liability; and

"(3) whether there are abuses of the current regulations that leave the shipper unprotected in the event of loss and damage to a shipment of household goods."

[For definitions of "carrier", "household goods", "motor carrier", and "transportation" as used in section 4215 of Pub. L. 109-59, set out above, see section 4202(a) of Pub. L. 109-59, set out as a note under section 13102 of this title.]

§ 14707. Private enforcement of registration requirement

(a) IN GENERAL.—If a person provides transportation by motor vehicle or service in clear violation of section 13901-13904 or 13906, a person injured by the transportation or service may bring a civil action to enforce any such section. In a civil action under this subsection, trial is in the judicial district in which the person who violated that section operates.

(b) PROCEDURE.—A copy of the complaint in a civil action under subsection (a) shall be served on the Secretary and a certificate of service must appear in the complaint filed with the court. The Secretary may intervene in a civil action under subsection (a). The Secretary may notify the district court in which the action is pending that the Secretary intends to consider the matter that is the subject of the complaint in a proceeding before the Secretary. When that notice is filed, the court shall stay further action pending disposition of the proceeding before the Secretary.

(c) ATTORNEY'S FEES.—In a civil action under subsection (a), the court may determine the amount of and award a reasonable attorney's fee to the prevailing party. That fee is in addition to costs allowable under the Federal Rules of Civil Procedure.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 910.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (c), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11708 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 14708. Dispute settlement program for household goods carriers

(a) OFFERING SHIPPERS ARBITRATION.—As a condition of registration under section 13902 or 13903, a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 must agree to offer in accordance with this section to shippers of household goods arbitration as a means of settling disputes between such carriers and ship-

pers of household goods concerning damage or loss to the household goods transported and to determine whether carrier charges, in addition to those collected at delivery, must be paid by shippers for transportation and services related to transportation of household goods.

(b) ARBITRATION REQUIREMENTS.—

(1) PREVENTION OF SPECIAL ADVANTAGE.—The arbitration that is offered must be designed to prevent a carrier from having any special advantage in any case in which the claimant resides or does business at a place distant from the carrier's principal or other place of business.

(2) NOTICE OF ARBITRATION PROCEDURE.—The carrier must provide the shipper an adequate notice of the availability of neutral arbitration, including a concise easy-to-read, accurate summary of the arbitration procedure, any applicable costs, and disclosure of the legal effects of election to utilize arbitration. Such notice must be given to persons for whom household goods are to be transported by the carrier before such goods are tendered to the carrier for transportation.

(3) PROVISION OF FORMS.—Upon request of a shipper, the carrier must promptly provide such forms and other information as are necessary for initiating an action to resolve a dispute under arbitration.

(4) INDEPENDENCE OF ARBITRATOR.—Each person authorized to arbitrate or otherwise settle disputes must be independent of the parties to the dispute and must be capable, as determined under such regulations as the Secretary may issue, to resolve such disputes fairly and expeditiously. The carrier must ensure that each person chosen to settle the disputes is authorized and able to obtain from the shipper or carrier any material and relevant information to the extent necessary to carry out a fair and expeditious decisionmaking process.

(5) APPORTIONMENT OF COSTS.—No shipper may be charged more than half of the cost for instituting an arbitration proceeding that is brought under this section. In the decision, the arbitrator may determine which party shall pay the cost or a portion of the cost of the arbitration proceeding, including the cost of instituting the proceeding.

(6) REQUESTS.—The carrier must not require the shipper to agree to utilize arbitration prior to the time that a dispute arises. If the dispute involves a claim for \$10,000 or less and the shipper requests arbitration, such arbitration shall be binding on the parties. If the dispute involves a claim for more than \$10,000 and the shipper requests arbitration, such arbitration shall be binding on the parties only if the carrier agrees to arbitration.

(7) ORAL PRESENTATION OF EVIDENCE.—The arbitrator may provide for an oral presentation of a dispute concerning transportation of household goods by a party to the dispute (or a party's representative), but such oral presentation may be made only if all parties to the dispute expressly agree to such presentation and the date, time, and location of such presentation.

(8) DEADLINE FOR DECISION.—The arbitrator must, as expeditiously as possible but at least

within 60 days of receipt of written notification of the dispute, render a decision based on the information gathered; except that, in any case in which a party to the dispute fails to provide in a timely manner any information concerning such dispute which the person settling the dispute may reasonably require to resolve the dispute, the arbitrator may extend such 60-day period for a reasonable period of time. A decision resolving a dispute may include any remedies appropriate under the circumstances, including repair, replacement, refund, reimbursement for expenses, compensation for damages, and an order requiring the payment of additional carrier charges.

(c) LIMITATION ON USE OF MATERIALS.—Materials and information obtained in the course of a decision making process to settle a dispute by arbitration under this section may not be used to bring an action under section 14905.

(d) ATTORNEY'S FEES TO SHIPPERS.—In any court action to resolve a dispute between a shipper of household goods and a carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 concerning the transportation of household goods by such carrier, the shipper shall be awarded reasonable attorney's fees if—

(1) the shipper submits a claim to the carrier within 120 days after the date the shipment is delivered or the date the delivery is scheduled, whichever is later;

(2) the shipper prevails in such court action; and

(3)(A) the shipper was not advised by the carrier during the claim settlement process that a dispute settlement program was available to resolve the dispute;

(B) a decision resolving the dispute was not rendered through arbitration under this section within the period provided under subsection (b)(8) of this section or an extension of such period under such subsection; or

(C) the court proceeding is to enforce a decision rendered through arbitration under this section and is instituted after the period for performance under such decision has elapsed.

(e) ATTORNEY'S FEES TO CARRIERS.—In any court action to resolve a dispute between a shipper of household goods and a carrier providing transportation, or service subject to jurisdiction under subchapter I or III of chapter 135 concerning the transportation of household goods by such carrier, such carrier may be awarded reasonable attorney's fees by the court only if the shipper brought such action in bad faith—

(1) after resolution of such dispute through arbitration under this section; or

(2) after institution of an arbitration proceeding by the shipper to resolve such dispute under this section but before—

(A) the period provided under subsection (b)(8) for resolution of such dispute (including, if applicable, an extension of such period under such subsection) ends; and

(B) a decision resolving such dispute is rendered.

(f) LIMITATION OF APPLICABILITY TO COLLECTION-DELIVERY TRANSPORTATION.—The provisions of this section shall apply only in the case of

collect-on-delivery transportation of household goods.

(g) REVIEW BY SECRETARY.—Not later than 18 months after January 1, 1996, the Secretary shall complete a review of the dispute settlement program established under this section. If, after notice and opportunity for comment, the Secretary determines that changes are necessary to such program to ensure the fair and equitable resolution of disputes under this section, the Secretary shall implement such changes and transmit a report to Congress on such changes.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 910; amended Pub. L. 104-287, §5(38), Oct. 11, 1996, 110 Stat. 3392; Pub. L. 106-159, title II, §209(b), Dec. 9, 1999, 113 Stat. 1764; Pub. L. 109-59, title IV, §4208, Aug. 10, 2005, 119 Stat. 1757.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11711 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

AMENDMENTS

2005—Subsec. (a). Pub. L. 109-59, §4208(a), inserted “and to determine whether carrier charges, in addition to those collected at delivery, must be paid by shippers for transportation and services related to transportation of household goods” before period at end.

Subsec. (b)(6). Pub. L. 109-59, §4208(b), substituted “\$10,000” for “\$5,000” in two places.

Subsec. (b)(8). Pub. L. 109-59, §4208(c), substituted “compensation for damages, and an order requiring the payment of additional carrier charges” for “and compensation for damages”.

Subsec. (d)(3). Pub. L. 109-59, §4208(d), added subpar. (A) and redesignated former subpars. (A) and (B) as (B) and (C), respectively.

1999—Subsec. (b)(6). Pub. L. 106-159 substituted “\$5000” for “\$1000” in two places.

1996—Subsec. (g). Pub. L. 104-287 substituted “January 1, 1996” for “the effective date of this section”.

§ 14709. Tariff reconciliation rules for motor carriers of property

Subject to review and approval by the Board, motor carriers subject to jurisdiction under subchapter I of chapter 135 (other than motor carriers providing transportation of household goods) and shippers may resolve, by mutual consent, overcharge and under-charge claims resulting from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed upon rates, rules, or classifications in compliance with section 13702 or, with respect to transportation provided before January 1, 1996, sections 10761 and 10762, as in effect on December 31, 1995. Resolution of such claims among the parties shall not subject any party to the penalties for departing from a tariff.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 912; amended Pub. L. 104-287, §5(39), Oct. 11, 1996, 110 Stat. 3392.)

HISTORICAL AND REVISION NOTES

PUB. L. 104-287

This amends 49:14709 by setting out the effective date of 49:14709 and for clarity and consistency.

REFERENCES IN TEXT

Sections 10761 and 10762, referred to in text, were omitted in the general amendment of this subtitle by Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11712 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

AMENDMENTS

1996—Pub. L. 104-287 substituted “January 1, 1996” for “the effective date of this section” and “December 31, 1995” for “the day before the effective date of this section”.

§ 14710. Enforcement of Federal laws and regulations with respect to transportation of household goods

(a) ENFORCEMENT BY STATES.—Notwithstanding any other provision of this title, a State authority may enforce the consumer protection provisions of this title that apply to individual shippers, as determined by the Secretary, and are related to the delivery and transportation of household goods in interstate commerce. Any fine or penalty imposed on a carrier in a proceeding under this subsection shall be paid, notwithstanding any other provision of law, to and retained by the State.

(b) NOTICE.—The State shall serve written notice to the Secretary or the Board, as the case may be, of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide the notice immediately upon instituting such civil action.

(c) ENFORCEMENT ASSISTANCE OUTREACH PLAN.—The Federal Motor Carrier Safety Administration shall implement an outreach plan to enhance the coordination and effective enforcement of Federal laws and regulations with respect to transportation of household goods between and among Federal and State law enforcement and consumer protection authorities. The outreach shall include, as appropriate, local law enforcement and consumer protection authorities.

(d) STATE AUTHORITY DEFINED.—In this section, the term “State authority” means an agency of a State that has authority under the laws of the State to regulate the intrastate movement of household goods.

(Added Pub. L. 109-59, title IV, §4206(b)(1), Aug. 10, 2005, 119 Stat. 1754; amended Pub. L. 109-115, div. A, title I, §173(a), (b), Nov. 30, 2005, 119 Stat. 2426.)

AMENDMENTS

2005—Subsec. (a). Pub. L. 109-115, §173(a), (e), temporarily substituted “a State authority other than the attorney general of the state may, as *parens patriae*,” for “a State authority may” in first sentence and inserted second sentence which read as follows: “Any civil action for injunctive relief to enjoin such delivery or transportation or to compel a person to pay a fine or penalty assessed under chapter 149 shall be brought in an appropriate district court of the United States.” See Termination Date of 2005 Amendment note below.

Subsec. (b). Pub. L. 109-115, §173(b), (e), temporarily amended subsec. (b) to read as follows: “EXERCISE OF ENFORCEMENT AUTHORITY.—The authority of this section shall be exercised subject to the requirements of sections 14711(b)–(f) of this title.” See Termination Date of 2005 Amendment note below.

TERMINATION DATE OF 2005 AMENDMENT

Pub. L. 109-115, div. A, title I, §173(e), Nov. 30, 2005, 119 Stat. 2426, provided that: “The amendments made by this section [amending this section and section 14711 of this title] shall cease to be in effect after September 30, 2006.”

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to “this title” deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111-314, set out as a note under section 101 of this title.

WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS

Pub. L. 109-59, title IV, §4213, Aug. 10, 2005, 119 Stat. 1759, as amended by Pub. L. 111-147, title IV, §422(j), Mar. 18, 2010, 124 Stat. 87; Pub. L. 111-322, title II, §2202(j), Dec. 22, 2010, 124 Stat. 3525; Pub. L. 112-5, title II, §202(j), Mar. 4, 2011, 125 Stat. 17; Pub. L. 112-30, title I, §122(i), Sept. 16, 2011, 125 Stat. 349; Pub. L. 112-102, title II, §202(i), Mar. 30, 2012, 126 Stat. 274; Pub. L. 112-140, title II, §202(i), June 29, 2012, 126 Stat. 395; Pub. L. 112-141, div. G, title II, §112002(f), July 6, 2012, 126 Stat. 983, directed the Secretary of Transportation to establish a working group to enhance the Federal-State partnership with respect to interstate transportation of household goods to remain in effect until Sept. 30, 2012.

§ 14711. Enforcement by State attorneys general

(a) IN GENERAL.—A State, as *parens patriae*, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enforce the consumer protection provisions of this title that apply to individual shippers, as determined by the Secretary, and are related to the delivery and transportation of household goods by a household goods motor carrier subject to jurisdiction under subchapter I of chapter 135 or regulations or orders of the Secretary or the Board issued under such provisions or to impose the civil penalties authorized by this part or such regulations or orders, whenever the attorney general of the State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a carrier or broker providing transportation subject to jurisdiction under subchapter I or III of chapter 135 or a foreign motor carrier providing transportation that is registered under section 13902 and is engaged in household goods transportation that violates this part or a regulation or order of the Secretary or Board, as applicable, issued under this part.

(b) NOTICE AND CONSENT.—

(1) IN GENERAL.—The State shall serve written notice to the Secretary or the Board, as the case may be, of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action.

(2) CONDITIONS.—The Secretary or the Board—

(A) shall review the initiation of a civil action under this section by a State if—

(i) the carrier or broker that is the subject of the action is not registered with the Department of Transportation;

(ii) the license of the carrier or broker for failure to file proof of required bodily injury or cargo liability insurance is pending, or the license has been revoked for any other reason by the Department;

(iii) the carrier is not rated or has received a conditional or unsatisfactory safety rating by the Department; or

(iv) the carrier or broker has been licensed with the Department for less than 5 years; and

(B) may review if the carrier or broker fails to meet criteria developed by the Secretary that are consistent with this section.

(3) CONGRESSIONAL NOTIFICATION.—The Secretary shall notify the Committee on Commerce, Science, and Transportation, of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of any criteria developed by the Secretary under paragraph (2)(B).

(4) 60-DAY DEADLINE.—The Secretary or the Board shall be considered to have consented to any civil action of a State under this section if the Secretary or the Board has taken no action with respect to the notice within 60 calendar days after the date on which the Secretary or the Board received notice under paragraph (1).

(c) AUTHORITY TO INTERVENE.—Upon receiving the notice required by subsection (b), the Secretary or board may intervene in a civil action of a State under this section and upon intervening—

(1) be heard on all matters arising in such civil action; and

(2) file petitions for appeal of a decision in such civil actions.

(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this section shall—

(1) convey a right to initiate or maintain a class action lawsuit in the enforcement of a Federal law or regulation; or

(2) prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(e) VENUE; SERVICE OF PROCESS.—In a civil action brought under subsection (a)—

(1) the venue shall be a Federal judicial district in which—

(A) the carrier, foreign motor carrier, or broker operates;

(B) the carrier, foreign motor carrier, or broker was authorized to provide transportation at the time the complaint arose; or

(C) where the defendant in the civil action is found;

(2) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and

(3) a person who participated with a carrier or broker in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

(f) ENFORCEMENT OF STATE LAW.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court to enforce a criminal statute of such State.

(Added Pub. L. 109–59, title IV, §4206(b)(1), Aug. 10, 2005, 119 Stat. 1755; amended Pub. L. 109–115, div. A, title I, §173(c), (d), Nov. 30, 2005, 119 Stat. 2426.)

AMENDMENTS

2005—Subsec. (b)(1). Pub. L. 109–115, §173(c), (e), temporarily inserted at end “The State may initiate a civil action under subsection (a) if it is reviewable under subsection (b)(2).” See Termination Date of 2005 Amendment note below.

Subsec. (b)(4). Pub. L. 109–115, §173(d), (e), temporarily inserted “that is subject to review under subsection (b)(2)” before “if the Secretary”. See Termination Date of 2005 Amendment note below.

TERMINATION DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–115 to cease to be in effect after Sept. 30, 2006, see section 173(e) of Pub. L. 109–115, set out as a note under section 14710 of this title.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to “this title” deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

CHAPTER 149—CIVIL AND CRIMINAL PENALTIES

Sec.	
14901.	General civil penalties.
14902.	Civil penalty for accepting rebates from carrier.
14903.	Tariff violations.
14904.	Additional rate violations.
14905.	Penalties for violations of rules relating to loading and unloading motor vehicles.
14906.	Evasion of regulation of carriers and brokers.
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14910.	General civil penalty when specific penalty not provided.
14911.	Punishment of corporation for violations committed by certain individuals.
14912.	Weight-bumping in household goods transportation.
14913.	Conclusiveness of rates in certain prosecutions.
14914.	Civil penalty procedures.
14915.	Penalties for failure to give up possession of household goods.
14916.	Unlawful brokerage activities.

AMENDMENTS

2012—Pub. L. 112–141, div. C, title II, §32919(b), July 6, 2012, 126 Stat. 827, added item 14916.

2005—Pub. L. 109–59, title IV, §4210(b), Aug. 10, 2005, 119 Stat. 1759, added item 14915.

§ 14901. General civil penalties

(a) REPORTING AND RECORDKEEPING.—A person required to make a report to the Secretary or

the Board, answer a question, or make, prepare, or preserve a record under this part concerning transportation subject to jurisdiction under subchapter I or III of chapter 135 or transportation by a foreign carrier registered under section 13902, or an officer, agent, or employee of that person that—

- (1) does not make the report;
- (2) does not specifically, completely, and truthfully answer the question;
- (3) does not make, prepare, or preserve the record in the form and manner prescribed;
- (4) does not comply with section 13901; or
- (5) does not comply with section 13902(c);

is liable to the United States for a civil penalty of not less than \$1,000 for each violation and for each additional day the violation continues; except that, in the case of a person or an officer, agent, or employee of such person, that does not comply with section 13901 or section 13902(c) of this title, the amount of the civil penalty shall not be less than \$10,000 for each violation, or \$25,000 for each violation relating to providing transportation of passengers.

(b) TRANSPORTATION OF HAZARDOUS WASTES.—A person subject to jurisdiction under subchapter I of chapter 135, or an officer, agent, or employee of that person, and who is required to comply with section 13901 of this title but does not so comply with respect to the transportation of hazardous wastes as defined by the Environmental Protection Agency pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Congress) shall be liable to the United States for a civil penalty not less than \$20,000, but not to exceed \$40,000 for each violation.

(c) FACTORS TO CONSIDER IN DETERMINING AMOUNT.—In determining and negotiating the amount of a civil penalty under subsection (a) or (d) concerning transportation of household goods, the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, whether the shipper has been adequately compensated before institution of the proceeding, and such other matters as fairness may require shall be taken into account.

(d) PROTECTION OF HOUSEHOLD GOODS SHIPPERS.—

(1) IN GENERAL.—If a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 or a receiver or trustee of such carrier fails or refuses to comply with any regulation issued by the Secretary or the Board relating to protection of individual shippers, such carrier, receiver, or trustee is liable to the United States for a civil penalty of not less than \$1,000 for each violation and for each additional day during which the violation continues.

(2) ESTIMATE OF BROKER WITHOUT CARRIER AGREEMENT.—If a broker for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 makes an estimate of the cost of transporting any such goods before entering into an agreement with a carrier to provide transportation of household goods subject to such jurisdiction, the broker is lia-

ble to the United States for a civil penalty of not less than \$10,000 for each violation.

(3) UNAUTHORIZED TRANSPORTATION.—If a person provides transportation of household goods subject to jurisdiction under subchapter I of chapter 135 or provides broker services for such transportation without being registered under chapter 139 to provide such transportation or services as a motor carrier or broker, as the case may be, such person is liable to the United States for a civil penalty of not less than \$25,000 for each violation.

(e) VIOLATION RELATING TO TRANSPORTATION OF HOUSEHOLD GOODS.—Any person that knowingly engages in or knowingly authorizes an agent or other person—

(1) to falsify documents used in the transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 which evidence the weight of a shipment; or

(2) to charge for accessorial services which are not performed or for which the carrier is not entitled to be compensated in any case in which such services are not reasonably necessary in the safe and adequate movement of the shipment;

is liable to the United States for a civil penalty of not less than \$2,000 for each violation and of not less than \$5,000 for each subsequent violation. Any State may bring a civil action in the United States district courts to compel a person to pay a civil penalty assessed under this subsection.

(f) VENUE.—Trial in a civil action under subsections (a) through (e) of this section is in the judicial district in which—

(1) the carrier or broker has its principal office;

(2) the carrier or broker was authorized to provide transportation or service under this part when the violation occurred;

(3) the violation occurred; or

(4) the offender is found.

Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

(g) BUSINESS ENTERTAINMENT EXPENSES.—

(1) IN GENERAL.—Any business entertainment expense incurred by a water carrier providing transportation subject to this part shall not constitute a violation of this part if that expense would not be unlawful if incurred by a person not subject to this part.

(2) COST OF SERVICE.—Any business entertainment expense subject to paragraph (1) that is paid or incurred by a water carrier providing transportation subject to this part shall not be taken into account in determining the cost of service or the rate base for purposes of section 13702.

(h) SETTLEMENT OF CIVIL PENALTIES.—Nothing in this section shall be construed to prohibit the Secretary from accepting partial payment of a civil penalty as part of a settlement agreement in the public interest, or from holding imposition of any part of a civil penalty in abeyance.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 913; amended Pub. L. 109-59, title IV, §4209, Aug. 10, 2005, 119 Stat. 1758; Pub. L.

112-141, div. C, title II, §§32108, 32923(a), July 6, 2012, 126 Stat. 782, 828; Pub. L. 114-94, div. A, title V, §5508(a)(4), (b)(1), Dec. 4, 2015, 129 Stat. 1554.)

REFERENCES IN TEXT

The Solid Waste Disposal Act, referred to in subsec. (b), is title II of Pub. L. 89-272, as amended generally by Pub. L. 94-580, §2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§6901 et seq.) of Title 42, The Public Health and Welfare, Section 3001 of the Act is classified to section 6921 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 42 and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 10751 and 11901 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-94, §5508(b)(1), amended Pub. L. 112-141, §32108(a)(4). See 2012 Amendment note below.

Subsec. (h). Pub. L. 114-94, §5508(a)(4), struck out “Household Goods” after “Settlement of” in heading.

2012—Subsec. (a). Pub. L. 112-141, §32108(a)(4), as amended by Pub. L. 114-94, §5508(b)(1), substituted “\$10,000 for each violation, or \$25,000 for each violation relating to providing transportation of passengers” for “\$2,000 for each violation and for each additional day the violation continues” in concluding provisions.

Pub. L. 112-141, §32108(a)(1)-(3), substituted “\$1,000” for “\$500” and “or section 13902(c) of this title,” for “with respect to providing transportation of passengers,” and struck out “who is not registered under this part to provide transportation of passengers,” after “in the case of a person” in concluding provisions.

Subsec. (b). Pub. L. 112-141, §32108(b), substituted “not less than \$20,000, but not to exceed \$40,000” for “not to exceed \$20,000”.

Subsec. (h). Pub. L. 112-141, §32923(a), added subsec. (h).

2005—Subsec. (d). Pub. L. 109-59 designated existing provisions as par. (1), inserted heading, and added pars. (2) and (3).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by section 5508(a)(4) of 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.

Pub. L. 114-94, div. A, title V, §5508(b), Dec. 4, 2015, 129 Stat. 1554, provided that the amendment made by section 5508(b)(1) is effective as of July 6, 2012, and as if included in Pub. L. 112-141 as enacted.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104-88, see section 2 of Pub. L. 104-88, set out as a note under section 1301 of this title.

FOREIGN MOTOR CARRIER PENALTIES AND DISQUALIFICATIONS

Pub. L. 106-159, title II, §219, Dec. 9, 1999, 113 Stat. 1768, provided that:

“(a) GENERAL RULE.—Subject to subsections (b) and (c), a foreign motor carrier or foreign motor private carrier (as such terms are defined under section 13102 of title 49, United States Code) that operates without authority, before the implementation of the land trans-

portation provisions of the North American Free Trade Agreement, outside the boundaries of a commercial zone along the United States-Mexico border shall be liable to the United States for a civil penalty and shall be disqualified from operating a commercial motor vehicle anywhere within the United States as provided in subsections (b) and (c).

“(b) PENALTY FOR INTENTIONAL VIOLATION.—The civil penalty for an intentional violation of subsection (a) by a carrier shall not be more than \$10,000 and may include a disqualification from operating a commercial motor vehicle anywhere within the United States for a period of not more than 6 months.

“(c) PENALTY FOR PATTERN OF INTENTIONAL VIOLATIONS.—The civil penalty for a pattern of intentional violations of subsection (a) by a carrier shall not be more than \$25,000 and the carrier shall be disqualified from operating a commercial motor vehicle anywhere within the United States and the disqualification may be permanent.

“(d) LEASING.—Before the implementation of the land transportation provisions of the North American Free Trade Agreement, during any period in which a suspension, condition, restriction, or limitation imposed under section 13902(c) of title 49, United States Code, applies to a motor carrier (as defined in section 13902(e) of such title), that motor carrier may not lease a commercial motor vehicle to another motor carrier or a motor private carrier to transport property in the United States.

“(e) SAVINGS CLAUSE.—No provision of this section may be enforced if it is inconsistent with any international agreement of the United States.

“(f) ACTS OF EMPLOYEES.—The actions of any employee driver of a foreign motor carrier or foreign motor private carrier committed without the knowledge of the carrier or committed unintentionally shall not be grounds for penalty or disqualification under this section.”

§ 14902. Civil penalty for accepting rebates from carrier

A person—

(1) delivering property to a carrier providing transportation or service subject to jurisdiction under chapter 135 for transportation under this part or for whom that carrier will transport the property as consignor or consignee for that person from a State or territory or possession of the United States to another State or possession, territory, or to a foreign country; and

(2) knowingly accepting or receiving by any means a rebate or offset against the rate for transportation for, or service of, that property contained in a tariff required under section 13702;

is liable to the United States for a civil penalty in an amount equal to 3 times the amount of money that person accepted or received as a rebate or offset and 3 times the value of other consideration accepted or received as a rebate or offset. In a civil action under this section, all money or other consideration received by the person during a period of 6 years before an action is brought under this section may be included in determining the amount of the penalty, and if that total amount is included, the penalty shall be 3 times that total amount.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 915.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11902 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 14903. Tariff violations

(a) CIVIL PENALTY FOR UNDERCHARGING AND OVERCHARGING.—A person that offers, grants, gives, solicits, accepts, or receives by any means transportation or service provided for property by a carrier subject to jurisdiction under chapter 135 at a rate different than the rate in effect under section 13702 is liable to the United States for a civil penalty of not more than \$100,000 for each violation.

(b) GENERAL CRIMINAL PENALTY.—A carrier providing transportation or service subject to jurisdiction under chapter 135 or an officer, director, receiver, trustee, lessee, agent, or employee of a corporation that is subject to jurisdiction under that chapter, that willfully does not observe its tariffs as required under section 13702, shall be fined under title 18 or imprisoned not more than 2 years, or both.

(c) ACTIONS OF AGENTS AND EMPLOYEES.—When acting in the scope of their employment, the actions and omissions of persons acting for or employed by a carrier or shipper that is subject to this section are considered to be the actions and omissions of that carrier or shipper as well as that person.

(d) VENUE.—Trial in a criminal action under this section is in the judicial district in which any part of the violation is committed or through which the transportation is conducted.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 915; amended Pub. L. 105-102, §2(12), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES

PUB. L. 105-102

This amends 49:14903(a) to correct a grammatical error.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11903 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

AMENDMENTS

1997—Subsec. (a). Pub. L. 105-102 inserted “a” before “civil penalty of not more than”.

§ 14904. Additional rate violations

(a) REBATES BY AGENTS.—A person, or an officer, employee, or agent of that person, that—

(1) offers, grants, gives, solicits, accepts, or receives a rebate for concession, in violation of a provision of this part related to motor carrier transportation subject to jurisdiction under subchapter I of chapter 135; or

(2) by any means assists or permits another person to get transportation that is subject to jurisdiction under that subchapter at less than the rate in effect for that transportation under section 13702,

is liable to the United States for a civil penalty of \$200 for the first violation and \$250 for a subsequent violation.

(b) UNDERCHARGING.—

(1) FREIGHT FORWARDER.—A freight forwarder providing service subject to jurisdiction under subchapter III of chapter 135, or an officer, agent, or employee of that freight for-

warder, that assists a person in getting, or willingly permits a person to get, service provided under that subchapter at less than the rate in effect for that service under section 13702, is liable to the United States for a civil penalty of not more than \$500 for the first violation and not more than \$2,000 for a subsequent violation.

(2) OTHERS.—A person that by any means gets, or attempts to get, service provided under subchapter III of chapter 135 at less than the rate in effect for that service under section 13702, is liable to the United States for a civil penalty of not more than \$500 for the first violation and not more than \$2,000 for a subsequent violation.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 915.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11904 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 14905. Penalties for violations of rules relating to loading and unloading motor vehicles

(a) CIVIL PENALTIES.—Whoever knowingly authorizes, consents to, or permits a violation of subsection (a) or (b) of section 14103 or who knowingly violates subsection (a) of such section is liable to the United States for a civil penalty of not more than \$10,000 for each violation.

(b) CRIMINAL PENALTIES.—Whoever knowingly violates section 14103(b) of this title shall be fined under title 18 or imprisoned not more than 2 years, or both.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 916.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11902a of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 14906. Evasion of regulation of carriers and brokers

A person, or an officer, employee, or agent of that person, that by any means tries to evade regulation provided under this part for carriers or brokers is liable to the United States for a civil penalty of at least \$2,000 for the first violation and at least \$5,000 for a subsequent violation, and may be subject to criminal penalties.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 916; amended Pub. L. 112-141, div. C, title II, §32505(b), July 6, 2012, 126 Stat. 804.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11906 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

AMENDMENTS

2012—Pub. L. 112-141 substituted “at least \$2,000” for “\$200” and “\$5,000” for “\$250” and inserted “, and may be subject to criminal penalties” after “a subsequent violation”.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effec-

tive and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§ 14907. Recordkeeping and reporting violations

A person required to make a report to the Secretary or the Board, as applicable, answer a question, or make, prepare, or preserve a record under this part about transportation subject to jurisdiction under subchapter I or III of chapter 135, or an officer, agent, or employee of that person, that—

(1) does not make that report;

(2) does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary or Board, as applicable, requires the question to be answered;

(3) does not make, prepare, or preserve that record in the form and manner prescribed;

(4) falsifies, destroys, mutilates, or changes that report or record;

(5) files a false report or record;

(6) makes a false or incomplete entry in that record about a business related fact or transaction; or

(7) makes, prepares, or preserves a record in violation of an applicable regulation or order of the Secretary or Board;

is liable to the United States for a civil penalty of not more than \$5,000.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 916.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11909 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 14908. Unlawful disclosure of information

(a) DISCLOSURE OF SHIPMENT AND ROUTING INFORMATION.—

(1) VIOLATIONS.—A carrier or broker providing transportation subject to jurisdiction under subchapter I, II, or III of chapter 135 or an officer, receiver, trustee, lessee, or employee of that carrier or broker, or another person authorized by that carrier or broker to receive information from that carrier or broker may not disclose to another person, except the shipper or consignee, and a person may not solicit, or receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier or broker for transportation provided under this part without the consent of the shipper or consignee if that information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee.

(2) PENALTY.—A person violating paragraph (1) of this subsection is liable to the United States for a civil penalty of not more than \$2,000.

(b) LIMITATION ON STATUTORY CONSTRUCTION.—This part does not prevent a carrier or broker providing transportation subject to jurisdiction under chapter 135 from giving information—

(1) in response to legal process issued under authority of a court of the United States or a State;

(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; or

(3) to another carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 917.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11910 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 14909. Disobedience to subpoenas

Whoever does not obey a subpoena or requirement of the Secretary or the Board to appear and testify or produce records shall be fined under title 18 or imprisoned not more than 1 year, or both.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 917.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11913 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 14910. General civil penalty when specific penalty not provided

When another civil penalty is not provided under this chapter, a person that violates a provision of this part or a regulation or order prescribed under this part, or a condition of a registration under this part related to transportation that is subject to jurisdiction under subchapter I or III of chapter 135 or a condition of a registration of a foreign motor carrier or foreign motor private carrier under section 13902, is liable to the United States for a civil penalty of \$500 for each violation. A separate violation occurs each day the violation continues.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 917.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11914 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 14911. Punishment of corporation for violations committed by certain individuals

An act or omission that would be a violation of this part if committed by a director, officer, receiver, trustee, lessee, agent, or employee of a carrier providing transportation or service subject to jurisdiction under chapter 135 that is a corporation is also a violation of this part by that corporation. The penalties of this chapter apply to that violation. When acting in the scope of their employment, the actions and omissions of individuals acting for or employed by that carrier are considered to be the actions and omissions of that carrier as well as that individual.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 917.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11915 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 14912. Weight-bumping in household goods transportation

(a) WEIGHT-BUMPING DEFINED.—For the purposes of this section, “weight-bumping” means the knowing and willful making or securing of a fraudulent weight on a shipment of household goods which is subject to jurisdiction under subchapter I or III of chapter 135.

(b) PENALTY.—Whoever has been found to have committed weight-bumping shall be fined under title 18 or imprisoned not more than 2 years, or both.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 918.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11917 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 14913. Conclusiveness of rates in certain prosecutions

When a carrier publishes or files a particular rate under section 13702 or participates in such a rate, the published or filed rate is conclusive proof against that carrier, its officers, and agents that it is the legal rate for that transportation or service in a proceeding begun under section 14902 or 14903. A departure, or offer to depart, from that published or filed rate is a violation of those sections.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 918.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11916 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 14914. Civil penalty procedures

(a) IN GENERAL.—After notice and an opportunity for a hearing, a person found by the Surface Transportation Board to have violated a provision of law that the Board carries out or a regulation prescribed under that law by the Board that is related to transportation which occurs under subchapter II of chapter 135 for which a civil penalty is provided, is liable to the United States for the civil penalty provided. The amount of the civil penalty shall be assessed by the Board by written notice. In determining the amount of the penalty, the Board shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(b) COMPROMISE.—The Board may compromise, modify, or remit, with or without consideration, a civil penalty until the assessment is referred to the Attorney General.

(c) COLLECTION.—If a person fails to pay an assessment of a civil penalty after it has become final, the Board may refer the matter to the Attorney General for collection in an appropriate district court of the United States.

(d) REFUNDS.—The Board may refund or remit a civil penalty collected under this section if—

(1) application has been made for refund or remission of the penalty within 1 year from the date of payment; and

(2) the Board finds that the penalty was unlawfully, improperly, or excessively imposed. (Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 918.)

§ 14915. Penalties for failure to give up possession of household goods

(a) CIVIL PENALTY.—

(1) IN GENERAL.—Whoever is found holding a household goods shipment hostage is liable to the United States for a civil penalty of not less than \$10,000 for each violation. The United States may assign all or a portion of the civil penalty to an aggrieved shipper. The Secretary of Transportation shall establish criteria upon which such assignments shall be made. The Secretary may order, after notice and an opportunity for a proceeding, that a person found holding a household goods shipment hostage return the goods to an aggrieved shipper.

(2) EACH DAY, A SEPARATE VIOLATION.—Each day a carrier is found to have failed to give up possession of household goods may constitute a separate violation.

(3) SUSPENSION.—If the person found holding a shipment hostage is a carrier or broker, the Secretary may suspend for a period of not less than 12 months nor more than 36 months the registration of such carrier or broker under chapter 139. The force and effect of such suspension of a carrier or broker shall extend to and include any carrier or broker having the same ownership or operational control as the suspended carrier or broker.

(4) SETTLEMENT AUTHORITY.—Nothing in this section shall be construed as prohibiting the Secretary from accepting partial payment of a civil penalty as part of a settlement agreement in the public interest, or from holding imposition of any part of a civil penalty in abeyance.

(b) CRIMINAL PENALTY.—Whoever has been convicted of having failed to give up possession of household goods shall be fined under title 18 or imprisoned for not more than 2 years, or both.

(c) FAILURE TO GIVE UP POSSESSION OF HOUSEHOLD GOODS DEFINED.—For purposes of this section, the term “failed to give up possession of household goods” means the knowing and willful failure, in violation of a contract, to deliver to, or unload at, the destination of a shipment of household goods that is subject to jurisdiction under subchapter I or III of chapter 135 of this title, for which charges have been estimated by the motor carrier providing transportation of such goods, and for which the shipper has tendered a payment described in clause (i), (ii), or (iii) of section 13707(b)(3)(A).

(Added Pub. L. 109-59, title IV, §4210(a), Aug. 10, 2005, 119 Stat. 1758; amended Pub. L. 112-141, div. C, title II, §§32922(b), 32923(b), July 6, 2012, 126 Stat. 828.)

AMENDMENTS

2012—Subsec. (a)(1). Pub. L. 112-141, §32922(b), inserted at end “The United States may assign all or a portion of the civil penalty to an aggrieved shipper. The Secretary of Transportation shall establish criteria upon which such assignments shall be made. The Secretary

may order, after notice and an opportunity for a proceeding, that a person found holding a household goods shipment hostage return the goods to an aggrieved shipper.”

Subsec. (a)(4). Pub. L. 112-141, §32923(b), added par. (4).

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§ 14916. Unlawful brokerage activities

(a) PROHIBITED ACTIVITIES.—A person may provide interstate brokerage services as a broker only if that person—

(1) is registered under, and in compliance with, section 13904; and

(2) has satisfied the financial security requirements under section 13906.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) a non-vessel-operating common carrier (as defined in section 40102 of title 46) or an ocean freight forwarder (as defined in section 40102 of title 46) when arranging for inland transportation as part of an international through movement involving ocean transportation between the United States and a foreign port;

(2) a customs broker licensed in accordance with section 111.2 of title 19, Code of Federal Regulations, only to the extent that the customs broker is engaging in a movement under a customs bond or in a transaction involving customs business, as defined by section 111.1 of title 19, Code of Federal Regulations; or

(3) an indirect air carrier holding a Standard Security Program approved by the Transportation Security Administration, only to the extent that the indirect air carrier is engaging in the activities as an air carrier as defined in section 40102(2) or in the activities defined in section 40102(3).

(c) CIVIL PENALTIES AND PRIVATE CAUSE OF ACTION.—Any person who knowingly authorizes, consents to, or permits, directly or indirectly, either alone or in conjunction with any other person, a violation of subsection (a) is liable—

(1) to the United States Government for a civil penalty in an amount not to exceed \$10,000 for each violation; and

(2) to the injured party for all valid claims incurred without regard to amount.

(d) LIABLE PARTIES.—The liability for civil penalties and for claims under this section for unauthorized brokering shall apply, jointly and severally—

(1) to any corporate entity or partnership involved; and

(2) to the individual officers, directors, and principals of such entities.

(Added Pub. L. 112-141, div. C, title II, §32919(a), July 6, 2012, 126 Stat. 827; amended Pub. L. 114-94, div. A, title V, §5508(a)(5), Dec. 4, 2015, 129 Stat. 1554.)

AMENDMENTS

2015—Pub. L. 114-94 substituted section symbol for “SEC.” before section designation.

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.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

PART C—PIPELINE CARRIERS

AMENDMENTS

1996—Pub. L. 104-287, §5(40), Oct. 11, 1996, 110 Stat. 3392, made technical amendment to part heading.

CHAPTER 151—GENERAL PROVISIONS

Sec.

15101. Transportation policy.
15102. Definitions.
15103. Remedies as cumulative.

AMENDMENTS

1996—Pub. L. 104-287, §5(41), Oct. 11, 1996, 110 Stat. 3392, struck out duplicative chapter heading.

§ 15101. Transportation policy

(a) IN GENERAL.—To ensure the development, coordination, and preservation of a transportation system that meets the transportation needs of the United States, including the national defense, it is the policy of the United States Government to oversee the modes of transportation and in overseeing those modes—

(1) to recognize and preserve the inherent advantage of each mode of transportation;

(2) to promote safe, adequate, economical, and efficient transportation;

(3) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

(4) to encourage the establishment and maintenance of reasonable rates for transportation without unreasonable discrimination or unfair or destructive competitive practices;

(5) to cooperate with each State and the officials of each State on transportation matters; and

(6) to encourage fair wages and working conditions in the transportation industry.

(b) ADMINISTRATION TO CARRY OUT POLICY.—This part shall be administered and enforced to carry out the policy of this section.

(Added Pub. L. 104-88, title I, §106(a), Dec. 29, 1995, 109 Stat. 921; amended Pub. L. 105-102, §2(13), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES

PUB. L. 105-102

This amends 49:15101(a) to correct a grammatical error.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10101 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

AMENDMENTS

1997—Subsec. (a). Pub. L. 105-102 struck out “of” after “Government to oversee”.

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104-88, see section 2 of Pub. L. 104-88, set out as a note under section 1301 of this title.

GAO REPORT

Pub. L. 104-88, title I, §106(b), Dec. 29, 1995, 109 Stat. 932, directed the Comptroller General, within 3 years after Jan. 1, 1996, to transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report regarding the impact of regulations on the competitiveness of pipelines and to recommend whether to continue, revise, or sunset such regulations.

§ 15102. Definitions

In this part—

(1) BOARD.—The term “Board” means the Surface Transportation Board.

(2) PIPELINE CARRIER.—The term “pipeline carrier” means a person providing pipeline transportation for compensation.

(3) RATE.—The term “rate” means a rate or charge for transportation.

(4) STATE.—The term “State” means a State of the United States and the District of Columbia.

(5) TRANSPORTATION.—The term “transportation” includes—

(A) property, facilities, instrumentalities, or equipment of any kind related to the movement of property, regardless of ownership or an agreement concerning use; and

(B) services related to that movement, including receipt, delivery, transfer in transit, storage, handling, and interchange of property.

(6) UNITED STATES.—The term “United States” means the States of the United States and the District of Columbia.

(Added Pub. L. 104-88, title I, §106(a), Dec. 29, 1995, 109 Stat. 921.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10102 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 15103. Remedies as cumulative

Except as otherwise provided in this part, the remedies provided under this part are in addition to remedies existing under another law or common law.

(Added Pub. L. 104-88, title I, §106(a), Dec. 29, 1995, 109 Stat. 922.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10103 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

CHAPTER 153—JURISDICTION

Sec.

15301. General pipeline jurisdiction.
15302. Authority to exempt pipeline carrier transportation.

AMENDMENTS

1996—Pub. L. 104-287, §5(42), Oct. 11, 1996, 110 Stat. 3392, struck out duplicative chapter heading.