

rately 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.)

#### Editorial Notes

##### 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).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section 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.

#### § 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.

#### Editorial Notes

##### 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”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section 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.

##### 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 car-

rier 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.)

#### Editorial Notes

##### 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).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section 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.

#### § 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.)

#### Editorial Notes

##### 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).