

ing for any part of the intermodal transportation of property” are substituted for “providing or arranging for any portion of intermodal transportation of property shall in no case be a beneficial owner of such property, for purposes of this paragraph, solely by reason of providing or arranging for such transportation” to eliminate unnecessary words.

In clause (3)(A), the words “(as such terms are defined in section 10102 of this title)” are omitted as unnecessary because of clause (1) of this section.

In clause (7), the words “property-carrying” are substituted for “cargo carrying” for consistency in the revised title.

Editorial Notes

AMENDMENTS

2006—Par. (3)(B). Pub. L. 109-304 substituted “section 40102 of title 46” for “section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702)”.

1996—Par. (1). Pub. L. 104-291, §203(1), added par. (1) and struck out former par. (1) which read as follows: “the definitions in section 10102 of this title apply.”

Pars. (6) to (8). Pub. L. 104-291, §203(2), (3), added par. (6) and redesignated former pars. (6) and (7) as (7) and (8), respectively.

§ 5902. Notifications and certifications

(a) **PRIOR NOTIFICATION.**—If the first carrier to which any loaded container or trailer having a projected gross cargo weight of more than 29,000 pounds is tendered for intermodal transportation is a motor carrier, the person tendering the container or trailer shall give the motor carrier a notification of the gross cargo weight and a reasonable description of the contents of the container or trailer before the tendering of the container or trailer. The notification may be transmitted electronically or by telephone. This subsection applies to any person within the United States who tenders a container or trailer subject to this chapter for intermodal transportation if the first carrier is a motor carrier.

(b) **CERTIFICATION.**—

(1) **IN GENERAL.**—A person who tenders a loaded container or trailer with an actual gross cargo weight of more than 29,000 pounds to a first carrier for intermodal transportation shall provide a certification of the contents of the container or trailer in writing, or electronically, before or when the container or trailer is so tendered.

(2) **CONTENTS OF CERTIFICATION.**—The certification required by paragraph (1) shall include—

- (A) the actual gross cargo weight;
- (B) a reasonable description of the contents of the container or trailer;
- (C) the identity of the certifying party;
- (D) the container or trailer number; and
- (E) the date of certification or transfer of data to another document, as provided for in paragraph (3).

(3) **TRANSFER OF CERTIFICATION DATA.**—A carrier who receives a certification may transfer the information contained in the certification to another document or to electronic format for forwarding to a subsequent carrier. The person transferring the information shall state on the forwarded document the date on which the data was transferred and the identity of the party who performed the transfer.

(4) **SHIPPING DOCUMENTS.**—For purposes of this chapter, a shipping document, prepared

by the person who tenders a container or trailer to a first carrier, that contains the information required by paragraph (2) meets the requirements of paragraph (1).

(5) **USE OF “FREIGHT ALL KINDS” TERM.**—The term “Freight All Kinds” or “FAK” may not be used for the purpose of certification under section 5902(b) after December 31, 2000, as a commodity description for a trailer or container if the weight of any commodity in the trailer or container equals or exceeds 20 percent of the total weight of the contents of the trailer or container. This subsection does not prohibit the use of the term after that date for rating purposes.

(6) **SEPARATE DOCUMENT MARKING.**—If a separate document is used to meet the requirements of paragraph (1), it shall be conspicuously marked “INTERMODAL CERTIFICATION”.

(7) **APPLICABILITY.**—This subsection applies to any person, domestic or foreign, who first tenders a container or trailer subject to this chapter for intermodal transportation within the United States.

(c) **FORWARDING CERTIFICATIONS TO SUBSEQUENT CARRIERS.**—A carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouse, or terminal operator shall forward the certification provided under subsection (b) of this section to a subsequent carrier transporting the container or trailer in intermodal transportation before or when the loaded intermodal container or trailer is tendered to the subsequent carrier. If no certification is received by the subsequent carrier before or when the container or trailer is tendered to it, the subsequent carrier may presume that no certification is required. The act of forwarding the certification may not be construed as a verification or affirmation of the accuracy or completeness of the information in the certification. If a person inaccurately transfers the information on the certification, or fails to forward the certification to a subsequent carrier, then that person is liable to any person who incurs any bond, fine, penalty, cost (including storage), or interest for any such fine, penalty, cost (including storage), or interest incurred as a result of the inaccurate transfer of information or failure to forward the certification. A subsequent carrier who incurs a bond, fine, penalty, or cost (including storage), or interest as a result of the inaccurate transfer of the information, or the failure to forward the certification, shall have a lien against the contents of the container or trailer under section 5905 in the amount of the bond, fine, penalty, or cost (including storage), or interest and all court costs and legal fees incurred by the carrier as a result of such inaccurate transfer or failure.

(d) **LIABILITY TO OWNER OR BENEFICIAL OWNER.**—If—

(1) a person inaccurately transfers information on a certification required by subsection (b)(1), or fails to forward a certification to the subsequent carrier;

(2) as a result of the inaccurate transfer of such information or a failure to forward a certification, the subsequent carrier incurs a bond, fine, penalty, or cost (including storage), or interest; and

(3) that subsequent carrier exercises its rights to a lien under section 5905, then that person is liable to the owner or beneficial owner, or to any other person paying the amount of the lien to the subsequent carrier, for the amount of the lien and all costs related to the imposition of the lien, including court costs and legal fees incurred in connection with it.

(e) NONAPPLICATION.—(1) The notification and certification requirements of subsections (a) and (b) of this section do not apply to any intermodal container or trailer containing consolidated shipments loaded by a motor carrier if that motor carrier—

(A) performs the highway portion of the intermodal movement; or

(B) assumes the responsibility for any weight-related fine or penalty incurred by any other motor carrier that performs a part of the highway transportation.

(2) Subsections (a) and (b) of this section and section 5903(c) of this title do not apply to a carrier when the carrier is transferring a loaded container or trailer to another carrier during intermodal transportation, unless the carrier is also the person tendering the loaded container or trailer to the first carrier.

(3) A carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouse, or terminal operator is deemed not to be a person tendering a loaded container or trailer to a first carrier under this section, unless the carrier, agent, broker, customs broker, freight forwarder, warehouse, or terminal operator assumes legal responsibility for loading property into the container or trailer.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 860; Pub. L. 104-291, title II, §204, Oct. 11, 1996, 110 Stat. 3453.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5902(a)	49:508(a)(1).	
5902(b)	49:508(a)(2).	
5902(c)	49:508(b).	
5902(d)(1)	49:508(e).	
5902(d)(2)	49:508(a)(4).	

In subsection (c), the words “shall forward” are substituted for “It shall be a violation of this section for . . . to fail to forward” for clarity. The words “may not be construed as” are substituted for “shall not constitute, or in any way be construed as” to eliminate unnecessary words.

In subsection (d)(2), the words “is deemed not to be” are substituted for “shall not be considered to be” for consistency in the revised title.

Editorial Notes

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-291, §204(a)(4), (5), substituted “electronically or by telephone. This subsection applies to any person within the United States who tenders a container or trailer subject to this chapter for intermodal transportation if the first carrier is a motor carrier.” for “electronically.”

Pub. L. 104-291, §204(a)(3), inserted “before the tendering of the container or trailer” after “contents of the container or trailer”.

Pub. L. 104-291, §204(a)(2), substituted “29,000 pounds is tendered for intermodal transportation is a motor

carrier, the person tendering the container or trailer shall give the motor carrier a” for “10,000 pounds (including packing material and pallets), the person shall give the carrier a written”.

Pub. L. 104-291, §204(a)(1), substituted “If the first carrier to which any” for “Before a person tenders to a first carrier for intermodal transportation a”.

Subsec. (b). Pub. L. 104-291, §204(b), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “Not later than when a person tenders to a first carrier for intermodal transportation a container or trailer to which subsection (a) of this section applies or a loaded container or trailer having an actual gross cargo weight of more than 10,000 pounds (including packing material and pallets), the person shall certify to the carrier in writing the actual gross cargo weight and a reasonable description of the contents of the container or trailer.”

Subsec. (c). Pub. L. 104-291, §204(c)(2), inserted at end “If a person inaccurately transfers the information on the certification, or fails to forward the certification to a subsequent carrier, then that person is liable to any person who incurs any bond, fine, penalty, cost (including storage), or interest for any such fine, penalty, cost (including storage), or interest incurred as a result of the inaccurate transfer of information or failure to forward the certification. A subsequent carrier who incurs a bond, fine, penalty, or cost (including storage), or interest as a result of the inaccurate transfer of the information, or the failure to forward the certification, shall have a lien against the contents of the container or trailer under section 5905 in the amount of the bond, fine, penalty, or cost (including storage), or interest and all court costs and legal fees incurred by the carrier as a result of such inaccurate transfer or failure.”

Pub. L. 104-291, §204(c)(1), substituted “transportation before or when the loaded intermodal container or trailer is tendered to the subsequent carrier. If no certification is received by the subsequent carrier before or when the container or trailer is tendered to it, the subsequent carrier may presume that no certification is required.” for “transportation.”

Subsec. (d). Pub. L. 104-291, §204(d), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 104-291, §204(d), (e), redesignated subsec. (d) as (e), added par. (1), redesignated former pars. (1) and (2) as (2) and (3), respectively, and adjusted margin of par. (2).

§ 5903. Prohibitions

(a) PROVIDING ERRONEOUS INFORMATION.—A person, To¹ whom section 5902(b) applies, tendering a loaded container or trailer may not provide erroneous information in a certification required by section 5902(b) of this title.

(b) TRANSPORTING PRIOR TO RECEIVING CERTIFICATION.—

(1) PRESUMPTION.—If no certification is received by a motor carrier before or when a loaded intermodal container or trailer is tendered to it, the motor carrier may presume that the gross cargo weight of the container or trailer is less than 29,001 pounds.

(2) COPY OF CERTIFICATION NOT REQUIRED TO ACCOMPANY CONTAINER OR TRAILER.—Notwithstanding any other provision of this chapter to the contrary, a copy of the certification required by section 5902(b) is not required to accompany the intermodal container or trailer.

(c) UNLAWFUL COERCION.—(1) A person may not coerce or attempt to coerce a person participating in intermodal transportation to transport a loaded container or trailer having an ac-

¹ So in original. Probably should not be capitalized.