

104TH CONGRESS
1ST SESSION

H. R. 2539

To abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 26, 1995

Mr. SHUSTER (for himself, Mr. PETRI, Mr. RAHALL, and Ms. MOLINARI) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “ICC Termination Act
5 of 1995”.

1 **TITLE I—ABOLITION OF INTER-**
 2 **STATE COMMERCE COMMIS-**
 3 **SION**

4 **SEC. 101. ABOLITION.**

5 The Interstate Commerce Commission is abolished.

6 **SEC. 102. RAIL PROVISIONS.**

7 (a) AMENDMENT.—Subtitle IV of title 49, United
 8 States Code, is amended to read as follows:

9 **“SUBTITLE IV—INTERSTATE TRANSPORTATION**

“PART A—RAIL

“CHAPTER	Sec.
“101. GENERAL PROVISIONS	10101
“103. JURISDICTION	10301
“105. RATES	10501
“107. LICENSING	10701
“109. OPERATIONS	10901
“111. FINANCE	11101
“113. FEDERAL-STATE RELATIONS	11301
“115. ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES.	11501
“117. CIVIL AND CRIMINAL PENALTIES	11701

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

“CHAPTER	Sec.
“131. GENERAL PROVISIONS	13101
“133. ADMINISTRATIVE PROVISIONS	13301
“135. JURISDICTION	13501
“137. RATES AND THROUGH ROUTES	13701
“139. REGISTRATION	13901
“141. OPERATIONS OF CARRIERS	14101
“143. FINANCE	14301
“145. FEDERAL-STATE RELATIONS	14501
“147. ENFORCEMENT; INVESTIGATIONS; RIGHTS; REM- EDIES.	14701
“149. CIVIL AND CRIMINAL PENALTIES	14901

10 “PART A—RAIL

11 **“CHAPTER 101—GENERAL PROVISIONS**

“Sec.

“10101. Rail transportation policy.

“10102. Definitions.

“10103. Remedies are exclusive.

1 **“§ 10101. Rail transportation policy**

2 “In regulating the railroad industry, it is the policy
3 of the United States Government—

4 “(1) to allow, to the maximum extent possible,
5 competition and the demand for services to establish
6 reasonable rates for transportation by rail;

7 “(2) to minimize the need for Federal regu-
8 latory control over the rail transportation system
9 and to require fair and expeditious regulatory deci-
10 sions when regulation is required;

11 “(3) to promote a safe and efficient rail trans-
12 portation system by allowing rail carriers to earn
13 adequate revenues, as determined by the Panel;

14 “(4) to ensure the development and continu-
15 ation of a sound rail transportation system with ef-
16 fective competition among rail carriers and with
17 other modes, to meet the needs of the public and the
18 national defense;

19 “(5) to foster sound economic conditions in
20 transportation and to ensure effective competition
21 and coordination between rail carriers and other
22 modes;

23 “(6) to maintain reasonable rates where there is
24 an absence of effective competition and where rail

1 rates provide revenues which exceed the amount nec-
2 essary to maintain the rail system and to attract
3 capital;

4 “(7) to reduce regulatory barriers to entry into
5 and exit from the industry;

6 “(8) to operate transportation facilities and
7 equipment without detriment to the public health
8 and safety;

9 “(9) to encourage honest and efficient manage-
10 ment of railroads;

11 “(10) to require rail carriers, to the maximum
12 extent practicable, to rely on individual rate in-
13 creases, and to limit the use of increases of general
14 applicability;

15 “(11) to encourage fair wages and safe and
16 suitable working conditions in the railroad industry;

17 “(12) to avoid undue concentrations of market
18 power and to prohibit unlawful discrimination;

19 “(13) to ensure the availability of accurate cost
20 information in regulatory proceedings, while mini-
21 mizing the burden on rail carriers of developing and
22 maintaining the capability of providing such infor-
23 mation; and

24 “(14) to encourage and promote energy con-
25 servation.

1 **“§ 10102. Definitions**

2 “In this part—

3 “(1) ‘car service’ includes (A) the use, control,
4 supply, movement, distribution, exchange, inter-
5 change, and return of locomotives, cars, other vehi-
6 cles, and special types of equipment used in the
7 transportation of property by a rail carrier, and (B)
8 the supply of trains by a rail carrier;

9 “(2) ‘control’, when referring to a relationship
10 between persons, includes actual control, legal con-
11 trol, and the power to exercise control, through or
12 by (A) common directors, officers, stockholders, a
13 voting trust, or a holding or investment company, or
14 (B) any other means;

15 “(3) ‘Panel’ means the Transportation Adju-
16 dication Panel;

17 “(4) ‘person’, in addition to its meaning under
18 section 1 of title 1, includes a trustee, receiver, as-
19 signee, or personal representative of a person;

20 “(5) ‘rail carrier’ means a person providing
21 railroad transportation for compensation, but does
22 not include street, suburban, or interurban electric
23 railways not operated as part of the general system
24 of rail transportation;

25 “(6) ‘railroad’ includes—

1 “(A) a bridge, car float, lighter, and ferry
2 used by or in connection with a railroad;

3 “(B) the road used by a rail carrier and
4 owned by it or operated under an agreement;
5 and

6 “(C) a switch, spur, track, terminal, termi-
7 nal facility, and a freight depot, yard, and
8 ground, used or necessary for transportation;

9 “(7) ‘rate’ means a rate, fare, or charge for
10 transportation;

11 “(8) ‘State’ means a State of the United States
12 and the District of Columbia;

13 “(9) ‘transportation’ includes—

14 “(A) a locomotive, car, vehicle, yard, prop-
15 erty, facility, instrumentality, or equipment of
16 any kind related to the movement of passengers
17 or property, or both, by rail, regardless of own-
18 ership or an agreement concerning use; and

19 “(B) services related to that movement, in-
20 cluding receipt, delivery, elevation, transfer in
21 transit, refrigeration, icing, ventilation, storage,
22 handling, and interchange of passengers and
23 property; and

24 “(10) ‘United States’ means the States of the
25 United States and the District of Columbia.

1 **“§10103. Remedies are exclusive**

2 “Except as otherwise provided in this part, the rem-
3 edies provided under this part are exclusive and preempt
4 the remedies provided under any Federal or State statute.

5 **“CHAPTER 103—JURISDICTION**

“Sec.

“10301. General jurisdiction.

“10302. Authority to exempt rail carrier transportation.

6 **“§ 10301. General jurisdiction**

7 “(a)(1) Subject to this chapter and other law, the
8 Panel has jurisdiction over transportation by rail carrier
9 that is—

10 “(A) only by railroad; or

11 “(B) by railroad and water, when the transpor-
12 tation is under common control, management, or ar-
13 rangement for a continuous carriage or shipment.

14 “(2) Jurisdiction under paragraph (1) applies only to
15 transportation in the United States between a place in—

16 “(A) a State and a place in the same or an-
17 other State;

18 “(B) a State and a place in a territory or pos-
19 session of the United States;

20 “(C) a territory or possession of the United
21 States and a place in another such territory or pos-
22 session;

1 “(D) a territory or possession of the United
2 States and another place in the same territory or
3 possession;

4 “(E) the United States and another place in
5 the United States through a foreign country; or

6 “(F) the United States and a place in a foreign
7 country.

8 “(b) This part does not affect the power of a State
9 to exercise its police power, unless the State requirement
10 is inconsistent with an order of the Panel issued under
11 this part or is prohibited under this part.

12 “(c) The jurisdiction of the Panel over—

13 “(1) transportation by rail carriers, and the
14 remedies provided in this part with respect to rates,
15 classifications, rules, practices, and facilities of such
16 carriers; and

17 “(2) the construction, acquisition, operation,
18 abandonment, or discontinuance of spur, industrial,
19 team, switching, or side tracks, or facilities, even if
20 the tracks are located, or intended to be located, en-
21 tirely in one State,

22 is exclusive.

1 **“§ 10302. Authority to exempt rail carrier transpor-**
2 **tation**

3 “(a) In a matter related to a rail carrier providing
4 transportation subject to the jurisdiction of the Panel
5 under this part, the Panel, to the maximum extent consist-
6 ent with this part, shall exempt a person, class of persons,
7 or a transaction or service whenever the Panel finds that
8 the application of a provision of this part—

9 “(1) is not necessary to carry out the transpor-
10 tation policy of section 10101 of this title; and

11 “(2) either—

12 “(A) the transaction or service is of limited
13 scope; or

14 “(B) the application of the provision is not
15 needed to protect shippers from the abuse of
16 market power.

17 “(b) The Panel may, where appropriate, begin a pro-
18 ceeding under this section on its own initiative or on appli-
19 cation by the Secretary of Transportation or an interested
20 party. The Panel shall, within 90 days after receipt of any
21 such application, approve or disapprove such application.
22 If the application is approved, the Panel shall begin an
23 appropriate proceeding as soon as practicable. If the appli-
24 cation is disapproved, the reasons for the disapproval shall
25 be published in the Federal Register. Any proceeding

1 begun as a result of an application under this subsection
2 shall be completed within one year after it is begun.

3 “(c) The Panel may specify the period of time during
4 which an exemption granted under this section is effective.

5 “(d) The Panel may revoke an exemption, to the ex-
6 tent it specifies, when it finds that application of a provi-
7 sion of this part to the person, class, or transportation
8 is necessary to carry out the transportation policy of sec-
9 tion 10101 of this title.

10 “(e) No exemption order issued pursuant to this sec-
11 tion shall operate to relieve any rail carrier from an obliga-
12 tion to provide contractual terms for liability and claims
13 which are consistent with the provisions of section 11506
14 of this title. Nothing in this subsection or section 11506
15 of this title shall prevent rail carriers from offering alter-
16 native terms nor give the Panel the authority to require
17 any specific level of rates or services based upon the provi-
18 sions of section 11506 of this title.

19 “(f) The Panel may exercise its authority under this
20 section to exempt transportation that is provided by a rail
21 carrier.

22 “(g) The Panel may not exercise its authority under
23 this section to relieve a rail carrier of its obligation to pro-
24 tect the interests of employees as required by this part.

1 **“CHAPTER 105—RATES**

“SUBCHAPTER I—GENERAL AUTHORITY

- “10501. Standards for rates, classifications, through routes, rules, and practices.
- “10502. Authority for rail carriers to establish rates, classifications, rules, and practices.
- “10503. Authority for rail carriers to establish through routes.
- “10504. Authority and criteria: rates, classifications, rules, and practices prescribed by Panel.
- “10505. Authority: through routes, joint classifications, rates, and divisions prescribed by Panel.
- “10506. Rate agreements: exemption from antitrust laws.
- “10507. Determination of market dominance in rail rate proceedings.
- “10508. Inflation-based rate increases.
- “10509. Contracts.

“SUBCHAPTER II—SPECIAL CIRCUMSTANCES

- “10521. Government traffic.
- “10522. Emergency rates.
- “10523. Car utilization.

“SUBCHAPTER III—LIMITATIONS

- “10541. Prohibitions against discrimination by rail carriers.
- “10542. Facilities for interchange of traffic.
- “10543. Continuous carriage of freight.
- “10544. Transportation services or facilities furnished by shipper.
- “10545. Demurrage charges.

2 “SUBCHAPTER I—GENERAL AUTHORITY

3 **“§ 10501. Standards for rates, classifications, through**
4 **routes, rules, and practices**

5 “(a) A through route established by a rail carrier
6 must be reasonable. Divisions of joint rates by rail carriers
7 must be made without unreasonable discrimination
8 against a participating carrier and must be reasonable.

9 “(b) A rail carrier providing transportation subject
10 to the jurisdiction of the Panel under this part may not
11 discriminate in its rates against a connecting line of an-
12 other rail carrier providing transportation subject to the

1 jurisdiction of the Panel under this part or unreasonably
2 discriminate against that line in the distribution of traffic
3 that is not routed specifically by the shipper.

4 “(c) Except as provided in subsection (d) of this sec-
5 tion and unless a rate is prohibited by a provision of this
6 part, a rail carrier providing transportation subject to the
7 jurisdiction of the Panel under this part may establish any
8 rate for transportation or other service provided by the
9 rail carrier.

10 “(d)(1) If the Panel determines, under section 10507
11 of this title, that a rail carrier has market dominance over
12 the transportation to which a particular rate applies, the
13 rate established by such carrier for such transportation
14 must be reasonable.

15 “(2) In determining whether a rate established by a
16 rail carrier is reasonable for purposes of this section, the
17 Panel shall recognize the policy of this part that rail car-
18 riers shall earn adequate revenues, as established by the
19 Panel under section 10504(a)(2) of this title.

20 “(3) The Panel shall, within one year after the date
21 of the enactment of this paragraph, complete the pending
22 Interstate Commerce Commission non-coal rate guidelines
23 proceeding to establish simplified and expedited proce-
24 dures for the determination of rate reasonableness cases

1 in which a full presentation of constrained market pricing
2 evidence is impractical.

3 **“§ 10502. Authority for rail carriers to establish rates,**
4 **classifications, rules, and practices**

5 “A rail carrier providing transportation or service
6 subject to the jurisdiction of the Panel under this part
7 shall establish—

8 “(1) rates, including divisions of joint rates,
9 and classifications for transportation and service it
10 may provide under this part; and

11 “(2) rules and practices on matters related to
12 that transportation or service.

13 **“§ 10503. Authority for rail carriers to establish**
14 **through routes**

15 “Rail carriers providing transportation subject to the
16 jurisdiction of the Panel under this part shall establish
17 through routes with each other, shall establish rates and
18 classifications applicable to those routes, and shall estab-
19 lish rules for their operation and provide—

20 “(1) reasonable facilities for operating the
21 through route; and

22 “(2) reasonable compensation to persons enti-
23 tled to compensation for services related to the
24 through route.

1 **“§ 10504. Authority and criteria: rates, classifications,**
2 **rules, and practices prescribed by Panel**

3 “(a)(1) When the Panel, after a full hearing, decides
4 that a rate charged or collected by a rail carrier for trans-
5 portation subject to the jurisdiction of the Panel under
6 this part, or that a classification, rule, or practice of that
7 carrier does or will violate this part, the Panel may pre-
8 scribe the maximum rate, classification, rule, or practice
9 to be followed. The Panel may order the carrier to stop
10 the violation. When a rate, classification, rule, or practice
11 is prescribed under this subsection, the affected carrier
12 may not publish, charge, or collect a different rate and
13 shall adopt the classification and observe the rule or prac-
14 tice prescribed by the Panel.

15 “(2) The Panel shall maintain and revise as nec-
16 essary standards and procedures for establishing revenue
17 levels for rail carriers providing transportation subject to
18 its jurisdiction under this part that are adequate, under
19 honest, economical, and efficient management, to cover
20 total operating expenses, including depreciation and obso-
21 lescence, plus a reasonable and economic profit or return
22 (or both) on capital employed in the business. The Panel
23 shall make an adequate and continuing effort to assist
24 those carriers in attaining revenue levels prescribed under
25 this paragraph. Revenue levels established under this
26 paragraph should—

1 tation subject to the jurisdiction of the Panel under this
2 part.

3 “(2) The Panel may require a rail carrier to include
4 in a through route substantially less than the entire length
5 of its railroad and any intermediate railroad operated with
6 it under common management or control if that intermedi-
7 ate railroad lies between the terminals of the through
8 route only when—

9 “(A) required under sections 10541, 10542, or
10 11101 of this title;

11 “(B) inclusion of those lines would make the
12 through route unreasonably long when compared
13 with a practicable alternative through route that
14 could be established; or

15 “(C) the Panel decides that the proposed
16 through route is needed to provide adequate, and
17 more efficient or economic, transportation.

18 The Panel shall give reasonable preference, subject to this
19 subsection, to the rail carrier originating the traffic when
20 prescribing through routes.

21 “(b) The Panel shall prescribe the division of joint
22 rates to be received by a rail carrier providing transpor-
23 tation subject to its jurisdiction under this part when it
24 decides that a division of joint rates established by the
25 participating carriers under section 10503 of this title, or

1 under a decision of the Panel under subsection (a) of this
2 section, does or will violate section 10501 of this title.

3 “(c) If a division of a joint rate prescribed under a
4 decision of the Panel is later found to violate section
5 10501 of this title, the Panel may decide what division
6 would have been reasonable and order adjustment to be
7 made retroactive to the date the complaint was filed, the
8 date the order for an investigation was made, or a later
9 date that the Panel decides is justified. The Panel may
10 make a decision under this subsection effective as part of
11 its original decision.

12 **“§ 10506. Rate agreements: exemption from antitrust**
13 **laws**

14 “(a)(1) In this subsection—

15 “(A) the term ‘affiliate’ means a person control-
16 ling, controlled by, or under common control or own-
17 ership with another person and ‘ownership’ refers to
18 equity holdings in a business entity of at least 5 per-
19 cent;

20 “(B) the term ‘single-line rate’ refers to a rate
21 or allowance proposed by a single rail carrier that is
22 applicable only over its line and for which the trans-
23 portation (exclusive of terminal services by switch-
24 ing, drayage or other terminal carriers or agencies)
25 can be provided by that carrier; and

1 “(C) the term ‘practicably participates in the
2 movement’ shall have such meaning as the Panel
3 shall by regulation prescribe.

4 “(2)(A) A rail carrier providing transportation sub-
5 ject to the jurisdiction of the Panel under this part that
6 is a party to an agreement of at least 2 rail carriers that
7 relates to rates (including charges between rail carriers
8 and compensation paid or received for the use of facilities
9 and equipment), classifications, divisions, or rules related
10 to them, or procedures for joint consideration, initiation,
11 publication, or establishment of them, shall apply to the
12 Panel for approval of that agreement under this sub-
13 section. The Panel shall approve the agreement only when
14 it finds that the making and carrying out of the agreement
15 will further the transportation policy of section 10101 of
16 this title and may require compliance with conditions nec-
17 essary to make the agreement further that policy as a con-
18 dition of its approval. If the Panel approves the agree-
19 ment, it may be made and carried out under its terms
20 and under the conditions required by the Panel, and the
21 Sherman Act (15 U.S.C. 1, et seq.), the Clayton Act (15
22 U.S.C. 12, et seq.), the Federal Trade Commission Act
23 (15 U.S.C. 41, et seq.), sections 73 and 74 of the Wilson
24 Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19,
25 1936 (15 U.S.C. 13, 13a, 13b, 21a) do not apply to par-

1 ties and other persons with respect to making or carrying
2 out the agreement. However, the Panel may not approve
3 or continue approval of an agreement when the conditions
4 required by it are not met or if it does not receive a veri-
5 fied statement under subparagraph (B) of this paragraph.

6 “(B) The Panel may approve an agreement under
7 subparagraph (A) of this paragraph only when the rail
8 carriers applying for approval file a verified statement
9 with the Panel. Each statement must specify for each rail
10 carrier that is a party to the agreement—

11 “(i) the name of the carrier;

12 “(ii) the mailing address and telephone number
13 of its headquarter’s office; and

14 “(iii) the names of each of its affiliates and the
15 names, addresses, and affiliates of each of its offi-
16 cers and directors and of each person, together with
17 an affiliate, owning or controlling any debt, equity,
18 or security interest in it having a value of at least
19 \$1,000,000.

20 “(3)(A) An organization established or continued
21 under an agreement approved under this subsection shall
22 make a final disposition of a rule or rate docketed with
23 it by the 120th day after the proposal is docketed. Such
24 an organization may not—

1 “(i) permit a rail carrier to discuss, to partici-
2 pate in agreements related to, or to vote on single-
3 line rates proposed by another rail carrier, except
4 that for purposes of general rate increases and
5 broad changes in rates, classifications, rules, and
6 practices only, if the Panel finds at any time that
7 the implementation of this clause is not feasible, it
8 may delay or suspend such implementation in whole
9 or in part;

10 “(ii) permit a rail carrier to discuss, to partici-
11 pate in agreements related to, or to vote on rates re-
12 lated to a particular interline movement unless that
13 rail carrier practicably participates in the movement;
14 or

15 “(iii) if there are interline movements over two
16 or more routes between the same end points, permit
17 a carrier to discuss, to participate in agreements re-
18 lated to, or to vote on rates except with a carrier
19 which forms part of a particular single route. If the
20 Panel finds at any time that the implementation of
21 this clause is not feasible, it may delay or suspend
22 such implementation in whole or in part.

23 “(B)(i) In any proceeding in which a party alleges
24 that a rail carrier voted or agreed on a rate or allowance
25 in violation of this subsection, that party has the burden

1 of showing that the vote or agreement occurred. A showing
2 of parallel behavior does not satisfy that burden by itself.

3 “(ii) In any proceeding in which it is alleged that a
4 carrier was a party to an agreement, conspiracy, or com-
5 bination in violation of a Federal law cited in subsection
6 (a)(2)(A) of this section or of any similar State law, proof
7 of an agreement, conspiracy, or combination may not be
8 inferred from evidence that two or more rail carriers acted
9 together with respect to an interline rate or related matter
10 and that a party to such action took similar action with
11 respect to a rate or related matter on another route or
12 traffic. In any proceeding in which such a violation is al-
13 leged, evidence of a discussion or agreement between or
14 among such rail carrier and one or more other rail car-
15 riers, or of any rate or other action resulting from such
16 discussion or agreement, shall not be admissible if the dis-
17 cussion or agreement—

18 “(I) was in accordance with an agreement ap-
19 proved under paragraph (2) of this subsection; or

20 “(II) concerned an interline movement of the
21 rail carrier, and the discussion or agreement would
22 not, considered by itself, violate the laws referred to
23 in the first sentence of this clause.

1 In any proceeding before a jury, the court shall determine
2 whether the requirements of subclause (I) or (II) are satis-
3 fied before allowing the introduction of any such evidence.

4 “(C) An organization described in subparagraph (A)
5 of this paragraph shall provide that transcripts or sound
6 recordings be made of all meetings, that records of votes
7 be made, and that such transcripts or recordings and vot-
8 ing records be submitted to the Panel and made available
9 to other Federal agencies in connection with their statu-
10 tory responsibilities over rate bureaus, except that such
11 material shall be kept confidential and shall not be subject
12 to disclosure under section 552 of title 5, United States
13 Code.

14 “(4) Notwithstanding any other provision of this sub-
15 section, one or more rail carriers may enter into an agree-
16 ment, without obtaining prior Panel approval, that pro-
17 vides solely for compilation, publication, and other dis-
18 tribution of rates in effect or to become effective. The
19 Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15
20 U.S.C. 12 et seq.), the Federal Trade Commission Act (15
21 U.S.C. 41 et seq.), sections 73 and 74 of the Wilson Tariff
22 Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936
23 (15 U.S.C. 13, 13a, 13b, 21a) shall not apply to parties
24 and other persons with respect to making or carrying out
25 such agreement. However, the Panel may, upon applica-

1 tion or on its own initiative, investigate whether the par-
2 ties to such an agreement have exceeded its scope, and
3 upon a finding that they have, the Panel may issue such
4 orders as are necessary, including an order dissolving the
5 agreement, to ensure that actions taken pursuant to the
6 agreement are limited as provided in this paragraph.

7 “(5)(A) Whenever two or more shippers enter into
8 an agreement to discuss among themselves that relates to
9 the amount of compensation such shippers propose to be
10 paid by rail carriers providing transportation subject to
11 the jurisdiction of the Panel under this part, for use by
12 such rail carriers of rolling stock owned or leased by such
13 shippers, the shippers shall apply to the Panel for approval
14 of that agreement under this paragraph. The Panel shall
15 approve the agreement only when it finds that the making
16 and carrying out of the agreement will further the trans-
17 portation policy set forth in section 10101 of this title and
18 may require compliance with conditions necessary to make
19 the agreement further that policy as a condition of ap-
20 proval. If the Panel approves the agreement, it may be
21 made and carried out under its terms and under the terms
22 required by the Panel, and the antitrust laws set forth
23 in paragraph (2) of this subsection do not apply to parties
24 and other persons with respect to making or carrying out
25 the agreement. The Panel shall approve or disapprove an

1 agreement under this paragraph within one year after the
2 date application for approval of such agreement is made.

3 “(B) If the Panel approves an agreement described
4 in subparagraph (A) of this paragraph and the shippers
5 entering into such agreement and the rail carriers propos-
6 ing to use rolling stock owned or leased by such shippers,
7 under payment by such carriers or under a published al-
8 lowance, are unable to agree upon the amount of com-
9 pensation to be paid for the use of such rolling stock, any
10 party directly involved in the negotiations may require
11 that the matter be settled by submitting the issues in dis-
12 pute to the Panel. The Panel shall render a binding deci-
13 sion, based upon a standard of reasonableness and after
14 taking into consideration any past precedents on the sub-
15 ject matter of the negotiations, no later than 90 days after
16 the date of the submission of the dispute to the Panel.

17 “(C) Nothing in this paragraph shall be construed to
18 change the law in effect prior to the effective date of the
19 Staggers Rail Act of 1980 with respect to the obligation
20 of rail carriers to utilize rolling stock owned or leased by
21 shippers.

22 “(b) The Panel may require an organization estab-
23 lished or continued under an agreement approved under
24 this section to maintain records and submit reports. The
25 Panel may inspect a record maintained under this section.

1 “(c) The Panel may review an agreement approved
2 under subsection (a) of this section and shall change the
3 conditions of approval or terminate it when necessary to
4 comply with the public interest and subsection (a). The
5 Panel shall postpone the effective date of a change of an
6 agreement under this subsection for whatever period it de-
7 termines to be reasonably necessary to avoid unreasonable
8 hardship.

9 “(d) The Panel may begin a proceeding under this
10 section on its own initiative or on application. Action of
11 the Panel under this section—

12 “(1) approving an agreement;

13 “(2) denying, ending, or changing approval;

14 “(3) prescribing the conditions on which ap-
15 proval is granted; or

16 “(4) changing those conditions,

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

19 “(e) The Panel shall review each agreement approved
20 under subsection (a) of this section periodically, but at
21 least once every 3 years—

22 “(1) to determine whether the agreement or an
23 organization established or continued under one of
24 those agreements still complies with the require-
25 ments of that subsection and the public interest; and

1 “(2) to evaluate the success and effect of that
2 agreement or organization on the consuming public
3 and the national rail freight transportation system.
4 If the Panel finds that an agreement or organization does
5 not conform to the requirements of that subsection, it
6 shall end or suspend its approval.

7 “(f)(1) The Federal Trade Commission, in consulta-
8 tion with the Antitrust Division of the Department of Jus-
9 tice, shall prepare periodically an assessment of, and shall
10 report to the Panel on—

11 “(A) possible anticompetitive features of—

12 “(i) agreements approved or submitted for
13 approval under subsection (a) of this section;
14 and

15 “(ii) an organization operating under those
16 agreements; and

17 “(B) possible ways to alleviate or end an anti-
18 competitive feature, effect, or aspect in a manner
19 that will further the goals of this part and of the
20 transportation policy of section 10101 of this title.

21 “(2) Reports received by the Panel under this sub-
22 section shall be published and made available to the public
23 under section 552(a) of title 5.

1 **“§ 10507. Determination of market dominance in rail**
2 **rate proceedings**

3 “(a) In this section, ‘market dominance’ means an
4 absence of effective competition from other rail carriers
5 or modes of transportation for the transportation to which
6 a rate applies.

7 “(b) When a rate for transportation by a rail carrier
8 providing transportation subject to the jurisdiction of the
9 Panel under this part is challenged as being unreasonably
10 high, the Panel shall determine whether the rail carrier
11 proposing the rate has market dominance over the trans-
12 portation to which the rate applies. The Panel may make
13 that determination on its own initiative or on complaint.
14 A finding by the Panel that the rail carrier does not have
15 market dominance is determinative in a proceeding under
16 this part related to that rate or transportation unless
17 changed or set aside by the Panel or set aside by a court
18 of competent jurisdiction.

19 “(c) When the Panel finds in any proceeding that a
20 rail carrier proposing or defending a rate for transpor-
21 tation has market dominance over the transportation to
22 which the rate applies, it may then determine that rate
23 to be unreasonable if it exceeds a reasonable maximum
24 for that transportation. However, a finding of market
25 dominance does not establish a presumption that the pro-
26 posed rate exceeds a reasonable maximum.

1 “(d)(1) In this subsection—

2 “(A) the term ‘fixed and variable cost’ means
3 all cost incurred by rail carriers in the transpor-
4 tation of freight, but limiting the return on equity
5 capital to a rate equal to the embedded cost of debt;

6 “(B) the term ‘cost recovery percentage’ means
7 the lowest revenue-variable cost percentage which, if
8 all movements that produced revenues resulting in
9 revenue-variable cost percentages in excess of the
10 cost recovery percentage are deemed to have pro-
11 duced only revenues resulting in the cost recovery
12 percentage, would produce revenues which would be
13 equal, when combined with total revenues produced
14 by all other traffic transported by rail carrier, to the
15 total fixed and variable cost of the transportation of
16 all traffic by rail carrier; and

17 “(C) for purposes of determining the cost recov-
18 ery percentage only, the term ‘revenue-variable cost
19 percentage’ means the quotient, expressed as a per-
20 centage figure, obtained by dividing the total reve-
21 nues produced by the transportation of all traffic re-
22 ceived by rail carriers for rail transportation by the
23 total variable cost of such transportation.

24 “(2) In making a determination under this section,
25 the Panel shall find that the rail carrier establishing the

1 challenged rate does not have market dominance over the
2 transportation to which the rate applies if such rail carrier
3 proves that the rate charged results in a revenue-variable
4 cost percentage for such transportation that is less than
5 180 percent.

6 “(3) A finding by the Panel that a rate charged by
7 a rail carrier results in a revenue-variable cost percentage
8 for the transportation to which the rate applies that is
9 equal to or greater than 180 percent does not establish
10 a presumption that—

11 “(A) such rail carrier has or does not have mar-
12 ket dominance over such transportation; or

13 “(B) the proposed rate exceeds or does not ex-
14 ceed a reasonable maximum.

15 **“§ 10508. Inflation-based rate increases**

16 “(a) The Panel may, on a quarterly basis and consist-
17 ent with the rail transportation policy set forth in section
18 10101 of this title, prescribe a percentage rate index for
19 rail carriers in order to compensate for inflationary cost
20 increases. Such percentage rate index may be applicable
21 on an industry-wide, territory-wide, or carrier-by-carrier
22 basis.

23 “(b) For purposes of this section, a percentage rate
24 index may permit rate increases within a specified range
25 to allow carriers to recover a total revenue increase speci-

1 fied by the Panel as necessary to compensate for inflation-
2 ary cost increases.

3 **“§ 10509. Contracts**

4 “(a) One or more rail carriers providing transpor-
5 tation subject to the jurisdiction of the Panel under this
6 part may enter into a contract with one or more pur-
7 chasers of rail services to provide specified services under
8 specified rates and conditions.

9 “(b) A party to a contract entered into under this
10 section shall have no duty in connection with services pro-
11 vided under such contract other than those duties specified
12 by the terms of the contract.

13 “(c)(1) A contract that is authorized by this section,
14 and transportation under such contract, shall not be sub-
15 ject to this part, and may not be subsequently challenged
16 before the Panel or in any court on the grounds that such
17 contract violates a provision of this part.

18 “(2) The exclusive remedy for any alleged breach of
19 a contract entered into under this section shall be an ac-
20 tion in an appropriate State court or United States dis-
21 trict court, unless the parties otherwise agree.

22 “(d) Documents, papers, and records (and any copies
23 thereof) relating to a contract described in subsection (a)
24 shall not be subject to the mandatory disclosure require-
25 ments of section 552 of title 5.

1 “SUBCHAPTER II—SPECIAL CIRCUMSTANCES

2 **“§ 10521. Government traffic**

3 “A rail carrier providing transportation or service for
4 the United States Government may transport property for
5 the United States Government without charge or at a rate
6 reduced from the applicable commercial rate. Section 3709
7 of the Revised Statutes (41 U.S.C. 5) does not apply when
8 transportation for the United States Government can be
9 obtained from a rail carrier lawfully operating in the area
10 where the transportation would be provided.

11 **“§ 10522. Emergency rates**

12 “(a) The Panel may authorize a rail carrier providing
13 transportation or service subject to its jurisdiction under
14 this part to give reduced rates for service and transpor-
15 tation of property to or from an area in the United States
16 to provide relief during emergencies. When the Panel
17 takes action under this subsection, it must—

18 “(1) define the area of the United States in
19 which the reduced rates will apply;

20 “(2) specify the period during which the re-
21 duced rates are to be in effect; and

22 “(3) define the class of persons entitled to the
23 reduced rates.

24 “(b) The Panel may specify those persons entitled to
25 reduced rates by reference to those persons designated as

1 being in need of relief by the United States Government
2 or by a State government authorized to assist in providing
3 relief during the emergency. The Panel may act under this
4 section without regard to subchapter II of chapter 5 of
5 title 5.

6 **“§ 10523. Car utilization**

7 “In order to encourage more efficient use of freight
8 cars, notwithstanding any other provision of this part, rail
9 carriers shall be permitted to establish premium charges
10 for special services or special levels of services not other-
11 wise applicable to the movement. The Panel shall facilitate
12 development of such charges so as to increase the utiliza-
13 tion of equipment.

14 “SUBCHAPTER III—LIMITATIONS

15 **“§ 10541. Prohibitions against discrimination by rail**
16 **carriers**

17 “(a) A rail carrier providing transportation or service
18 subject to the jurisdiction of the Panel under this part
19 may not subject a person, place, port, or type of traffic
20 to unreasonable discrimination.

21 “(b) This section shall not apply to—

22 “(1) contracts described in section 10509 of
23 this title; or

24 “(2) rail rates applicable to different routes.

1 **“§ 10542. Facilities for interchange of traffic**

2 “A rail carrier providing transportation subject to the
3 jurisdiction of the Panel under this part shall provide rea-
4 sonable, proper, and equal facilities that are within its
5 power to provide for the interchange of traffic between,
6 and for the receiving, forwarding, and delivering of pas-
7 sengers and property to and from, its respective line and
8 a connecting line of another rail carrier.

9 **“§ 10543. Continuous carriage of freight**

10 “A rail carrier providing transportation or service
11 subject to the jurisdiction of the Panel under this part
12 may not enter a combination or arrangement to prevent
13 the carriage of freight from being continuous from the
14 place of shipment to the place of destination whether by
15 change of time schedule, carriage in different cars, or by
16 other means. The carriage of freight by those rail carriers
17 is considered to be a continuous carriage from the place
18 of shipment to the place of destination when a break of
19 bulk, stoppage, or interruption is not made in good faith
20 for a necessary purpose, and with the intent of avoiding
21 or unnecessarily interrupting the continuous carriage or
22 of evading this part.

23 **“§ 10544. Transportation services or facilities fur-**
24 **nished by shipper**

25 “A rail carrier providing transportation or service
26 subject to the jurisdiction of the Panel under this part

1 may publish a charge or allowance for transportation or
 2 service for property when the owner of the property, di-
 3 rectly or indirectly, furnishes a service related to or an
 4 instrumentality used in the transportation or service. The
 5 Panel may prescribe the maximum reasonable charge or
 6 allowance a rail carrier subject to its jurisdiction may pay
 7 for a service or instrumentality furnished under this sec-
 8 tion. The Panel may begin a proceeding under this section
 9 on its own initiative or on application.

10 **“§ 10545. Demurrage charges**

11 “A rail carrier providing transportation subject to the
 12 jurisdiction of the Panel under this part shall compute de-
 13 murrage charges, and establish rules related to those
 14 charges, in a way that fulfills the national needs related
 15 to—

16 “(1) freight car use and distribution; and

17 “(2) maintenance of an adequate supply of
 18 freight cars to be available for transportation of
 19 property.

20 **“CHAPTER 107—LICENSING**

“10701. Authorizing construction and operation of railroad lines.

“10702. Finance and construction transactions by Class II and Class III rail carriers and noncarriers.

“10703. Filing and procedure for notice of intent to abandon or discontinue.

“10704. Offers to purchase to avoid abandonment and discontinuance.

“10705. Offering abandoned rail properties for sale for public purposes.

“10706. Exception.

1 **“§ 10701. Authorizing construction and operation of**
2 **railroad lines**

3 “(a) A rail carrier providing transportation subject
4 to the jurisdiction of the Panel under this part may—

5 “(1) construct an extension to any of its rail-
6 road lines;

7 “(2) construct an additional railroad line;

8 “(3) acquire or operate an extended or addi-
9 tional railroad line; or

10 “(4) provide transportation over, or by means
11 of, an extended or additional railroad line;

12 only if the Panel issues a certificate authorizing such ac-
13 tivity under subsection (c).

14 “(b) A proceeding to grant authority under sub-
15 section (a) of this section begins when an application is
16 filed. On receiving the application, the Panel shall give
17 reasonable public notice of the beginning of such proceed-
18 ing.

19 “(c) The Panel shall issue a certificate authorizing
20 activities for which such authority is requested in an appli-
21 cation filed under subsection (b) unless the Panel finds
22 that such activities are inconsistent with the public con-
23 venience and necessity. Such certificate may approve the
24 application as filed, or with modifications, and may re-
25 quire compliance with conditions the Panel finds necessary
26 in the public interest.

1 “(d)(1) When a certificate has been issued by the
2 Panel under this section or section 10702 authorizing the
3 construction or extension of a railroad line, no other rail
4 carrier may block any construction or extension authorized
5 by such certificate by refusing to permit the carrier to
6 cross its property if—

7 “(A) the construction does not unreasonably
8 interfere with the operation of the crossed line;

9 “(B) the operation does not materially interfere
10 with the operation of the crossed line; and

11 “(C) the owner of the crossing line compensates
12 the owner of the crossed line.

13 “(2) If the parties are unable to agree on the terms
14 of operation or the amount of payment for purposes of
15 paragraph (1) of this subsection, either party may submit
16 the matters in dispute to the Panel for determination. The
17 Panel shall make a determination under this paragraph
18 within 90 days after the dispute is submitted for deter-
19 mination.

20 “(e) Subsections (a), (b), and (c) of this section shall
21 only apply to Class I rail carriers.

1 **“§ 10702. Finance and construction transactions by**
2 **Class II and Class III rail carriers and**
3 **noncarriers**

4 “(a)(1) A Class II or Class III rail carrier providing
5 transportation subject to the jurisdiction of the Panel
6 under this part, or a noncarrier, may—

7 “(A) construct an extension of any of its rail-
8 road lines;

9 “(B) construct an additional railroad line; or

10 “(C) acquire or operate a railroad line,
11 only if the Panel issues a certificate authorizing such ac-
12 tivity under subsection (c).

13 “(2) A certificate issued by the Panel under sub-
14 section (c) shall also be required for—

15 “(A) a Class II or Class III rail carrier provid-
16 ing transportation subject to the jurisdiction of the
17 Panel under this part, or a noncarrier to provide
18 transportation over, or by means of, a railroad line
19 by trackage rights, lease, or joint ownership or joint
20 use of the railroad line (and terminals incidental
21 thereto);

22 “(B) a consolidation or merger of the properties
23 or franchises of at least 2 Class II or Class III rail
24 carriers into one corporation for the ownership,
25 management, and operation of the previously sepa-
26 rately owned properties;

1 “(C) the acquisition of control of a Class II or
2 Class III rail carrier by one or more Class II or
3 Class III rail carriers;

4 “(D) the acquisition of control of at least 2
5 Class II or Class III rail carriers by a person that
6 is not a rail carrier; and

7 “(E) the acquisition of control of a Class II or
8 Class III rail carrier by a person that is not a rail
9 carrier but that controls at least one Class II or
10 Class III rail carrier.

11 “(b) A proceeding to grant authority under sub-
12 section (a) begins when an application is filed. On receiv-
13 ing the application, the Panel shall give reasonable public
14 notice of the beginning of such proceeding.

15 “(c) The Panel shall issue a certificate authorizing
16 activities for which such authority is requested in an appli-
17 cation filed under subsection (b) unless the Panel finds
18 that such activities are inconsistent with the public con-
19 venience and necessity because—

20 “(1) as a result of the transaction, there is like-
21 ly to be substantial lessening of competition, cre-
22 ation of a monopoly, or restraint of trade in freight
23 surface transportation in any region of the United
24 States; and

1 “(2) the anticompetitive effects of the trans-
2 action outweigh the public interest in meeting sig-
3 nificant transportation needs.

4 Such certificate may approve the application as filed, or
5 with modifications, and may require compliance with con-
6 ditions the Panel finds necessary in the public interest.

7 “(d) When a person is involved in a transaction for
8 which approval is sought under this section, the Panel
9 shall require such person to protect the interest of affected
10 employees to an extent equal to the protection required
11 under sections 2 through 5 of the Worker Adjustment and
12 Retraining Notification Act (29 U.S.C. 2101–2104).

13 “(e) The authority of the Panel over transactions de-
14 scribed in subsection (a)(2) is exclusive. A rail carrier or
15 corporation participating in or resulting from such a
16 transaction may carry out the transaction, own and oper-
17 ate property, and exercise control or franchises acquired
18 through the transaction without the approval of a State
19 authority. A rail carrier, corporation, or person participat-
20 ing in that transaction is exempt from the antitrust laws
21 and from all other law, including State and municipal law,
22 as necessary to let that rail carrier, corporation, or person
23 carry out the transaction, hold, maintain, and operate
24 property and exercise control or franchises acquired
25 through the transaction.

1 **“§ 10703. Filing and procedure for notice of intent to**
2 **abandon or discontinue**

3 “(a)(1) A rail carrier providing transportation subject
4 to the jurisdiction of the Panel under this part who in-
5 tends to—

6 “(A) abandon any part of its railroad lines; or

7 “(B) discontinue the operation of all rail trans-
8 portation over any part of its railroad lines,

9 must file a notice of intent relating thereto with the Panel.

10 “(2) When a rail carrier providing transportation
11 subject to the jurisdiction of the Panel under this part
12 files a notice of intent, the notice shall include—

13 “(A) an accurate and understandable summary
14 of the rail carrier’s reasons for the proposed aban-
15 donment or discontinuance;

16 “(B) a statement indicating that each inter-
17 ested person is entitled to make recommendations to
18 the Panel on the future of the rail line; and

19 “(C)(i) a statement that the line is available for
20 sale in accordance with section 10704 of this title,
21 (ii) a statement that the rail carrier will promptly
22 provide to each interested party an estimate of the
23 minimum purchase price, calculated in accordance
24 with section 10704 of this title and (iii) the name
25 and business address of the person who is author-
26 ized to discuss sale terms for the rail carrier.

1 “(3) The rail carrier shall—

2 “(A) send by certified mail a copy of the notice
3 of intent to the chief executive officer of each State
4 that would be directly affected by the proposed
5 abandonment or discontinuance;

6 “(B) post a copy of the notice in each terminal
7 and station on each portion of a railroad line pro-
8 posed to be abandoned or over which all transpor-
9 tation is to be discontinued;

10 “(C) publish a copy of the notice for 3 consecu-
11 tive weeks in a newspaper of general circulation in
12 each county in which each such portion is located;

13 “(D) mail a copy of the notice, to the extent
14 practicable, to all shippers that have made signifi-
15 cant use (as designated by the Panel) of the railroad
16 line during the 12 months preceding the filing of the
17 notice of intent; and

18 “(E) attach to the notice filed with the Panel
19 an affidavit certifying the manner in which subpara-
20 graphs (A) through (D) of this paragraph have been
21 satisfied, and certifying that subparagraphs (A)
22 through (D) have been satisfied within the most re-
23 cent 30 days prior to the date the notice of intent
24 is filed.

1 “(b)(1) Except as provided in paragraph (2), abandon-
2 ment and discontinuance may occur as provided in sec-
3 tion 10704.

4 “(2) If, after considering the scope of an abandon-
5 ment or discontinuance proposed in a notice of intent filed
6 under this section, the Panel considers it necessary, to im-
7 prove the viability of the lines included within the proposed
8 abandonment or discontinuance for possible sale or trans-
9 fer and continued operation, and to enhance competitive
10 alternatives in the event of such sale or transfer, the Panel
11 may require the filing of a new notice of intent which en-
12 larges the scope of the proposed abandonment or dis-
13 continuance.

14 “(c)(1) In this subsection, the term ‘potentially sub-
15 ject to abandonment’ has the meaning given the term in
16 regulations of the Panel. The regulations may include
17 standards that vary by region of the United States and
18 by railroad or group of railroads.

19 “(2) Each rail carrier shall maintain a complete dia-
20 gram of the transportation system operated, directly or
21 indirectly, by the rail carrier. The rail carrier shall submit
22 to the Panel and publish amendments to its diagram that
23 are necessary to maintain the accuracy of the diagram.
24 The diagram shall—

1 “(A) include a detailed description of each of its
2 railroad lines potentially subject to abandonment;
3 and

4 “(B) identify each railroad line for which the
5 rail carrier plans to file a notice of intent to aban-
6 don or discontinue under subsection (a) of this sec-
7 tion.

8 **“§ 10704. Offers to purchase to avoid abandonment**
9 **and discontinuance**

10 “(a) Any rail carrier which has filed a notice of intent
11 to abandon or discontinue shall provide promptly to a
12 party considering an offer to purchase and shall provide
13 concurrently to the Panel—

14 “(1) a statement of the minimum purchase
15 price required;

16 “(2) its most recent reports on the physical
17 condition of that part of the railroad line involved in
18 the proposed abandonment or discontinuance;

19 “(3) traffic, revenue, and other data necessary
20 to determine the commercial potential of the railroad
21 line; and

22 “(4) any other information that the Panel con-
23 siders necessary to allow a potential offeror to cal-
24 culate an adequate purchase offer.

1 “(b) Within 6 months after a notice of intent is filed
2 under section 10703, any person may offer to purchase
3 the railroad line that is the subject of such notice of intent.
4 Such offer shall be filed concurrently with the Panel. If
5 the offer to purchase is less than the minimum purchase
6 price stated pursuant to subsection (a)(1), the offer shall
7 explain the basis of the disparity, and the manner in which
8 the offer is calculated.

9 “(c)(1) Unless the Panel, within 15 days after the
10 expiration of the 6-month period described in subsection
11 (b), finds that one or more financially responsible persons
12 (including a governmental authority) have offered to pur-
13 chase that part of the railroad line to be abandoned or
14 over which all rail transportation is to be discontinued,
15 abandonment or discontinuance may be carried out.

16 “(2) If the Panel finds that such an offer or offers
17 to purchase have been made within such period, abandon-
18 ment or discontinuance shall be postponed until—

19 “(A) the carrier and a financially responsible
20 person have reached agreement on a transaction for
21 sale of the line; or

22 “(B) the conditions and amount of compensa-
23 tion are established under subsection (e).

24 “(d) Except as provided in subsection (e)(3), if the
25 rail carrier and a financially responsible person (including

1 a governmental authority) fail to agree on the amount or
2 terms of the purchase, either party may, within 30 days
3 after the offer is made, request that the Panel establish
4 the conditions and amount of compensation.

5 “(e)(1) Whenever the Panel is requested to establish
6 the conditions and amount of compensation under this sec-
7 tion—

8 “(A) the Panel shall render its decision within
9 30 days;

10 “(B) the Panel shall determine the price and
11 other terms of sale, except that in no case shall the
12 Panel set a price which is below the fair market
13 value of the line (including, unless otherwise mutu-
14 ally agreed, all facilities on the line or portion nec-
15 essary to provide effective transportation services).

16 “(2) The decision of the Panel shall be binding on
17 both parties, except that the person who has offered to
18 purchase the line may withdraw his offer within 10 days
19 of the Panel’s decision. In such a case, the abandonment
20 or discontinuance may be carried out immediately, unless
21 other offers are being considered pursuant to paragraph
22 (3) of this subsection.

23 “(3) If a rail carrier receives more than one offer to
24 purchase, it shall select the offeror with whom it wishes
25 to transact business, and complete the sale agreement, or

1 request that the Panel establish the conditions and
2 amount of compensation before the 40th day after the ex-
3 piration of the 6-month period described in subsection (b).
4 If no agreement on sale is reached within such 40-day pe-
5 riod and the Panel has not been requested to establish
6 the conditions and amount of compensation, any other
7 offeror whose offer was made within the 6-month period
8 described in subsection (b) may request that the Panel es-
9 tablish the conditions and amount of compensation. If the
10 Panel has established the conditions and amount of com-
11 pensation, and the original offer has been withdrawn, any
12 other offeror whose offer was made within the 6-month
13 period described in subsection (b) may accept the Panel's
14 decision within 20 days after such decision, and the Panel
15 shall require the carrier to enter into a sale agreement
16 with such offeror, if such sale agreement incorporates the
17 Panel's decision.

18 “(4) No purchaser of a line or portion of line sold
19 under this section may transfer or discontinue service on
20 such line prior to the end of the second year after con-
21 summation of the sale, nor may such purchaser transfer
22 such line, except to the rail carrier from whom it was pur-
23 chased, prior to the end of the fifth year after consumma-
24 tion of the sale.

1 “(f) Upon abandonment of a railroad line under this
2 section, the obligation of the rail carrier abandoning the
3 line to provide transportation on that line, as required by
4 section 10901(a), is extinguished.

5 **“§ 10705. Offering abandoned rail properties for sale**
6 **for public purposes**

7 “When a rail carrier files a notice of intent to aban-
8 don or discontinue under section 10703, the Panel shall
9 find whether the rail properties that are involved in the
10 proposed abandonment or discontinuance are appropriate
11 for use for public purposes, including highways, other
12 forms of mass transportation, conservation, energy pro-
13 duction or transmission, or recreation. If the Panel finds
14 that the rail properties proposed to be abandoned are ap-
15 propriate for public purposes and not required for contin-
16 ued rail operations, the properties may be sold, leased, ex-
17 changed, or otherwise disposed of only under conditions
18 provided in the order of the Panel. The conditions may
19 include a prohibition on any such disposal for a period
20 of not more than 180 days after the effective date of the
21 order, unless the properties have first been offered, on rea-
22 sonable terms, for sale for public purposes.

23 **“§ 10706. Exception**

24 “Notwithstanding section 10701 and subchapter II
25 of chapter 111 of this title, and without the approval of

1 the Panel, a rail carrier providing transportation subject
 2 to the jurisdiction of the Panel under this part may enter
 3 into arrangements for the joint ownership or joint use of
 4 spur, industrial, team, switching, or side tracks.

5 **“CHAPTER 109—OPERATIONS**

“SUBCHAPTER I—GENERAL REQUIREMENTS

- “10901. Providing transportation, service, and rates.
- “10902. Use of terminal facilities.
- “10903. Switch connections and tracks.

“SUBCHAPTER II—CAR SERVICE

- “10921. Criteria.
- “10922. Compensation and practice.
- “10923. Rerouting traffic on failure of rail carrier to serve the public.
- “10924. War emergencies; embargoes imposed by carriers.

“SUBCHAPTER III—REPORTS AND RECORDS

- “10941. Definitions.
- “10942. Uniform accounting system.
- “10943. Depreciation charges.
- “10944. Records: form; inspection; preservation.
- “10945. Reports by rail carriers, lessors, and associations.

“SUBCHAPTER IV—RAILROAD COST ACCOUNTING

- “10961. Implementation of cost accounting principles.
- “10962. Rail carrier cost accounting system.
- “10963. Cost availability.
- “10964. Accounting and cost reporting.

6 “SUBCHAPTER I—GENERAL REQUIREMENTS

7 **“§ 10901. Providing transportation, service, and rates**

8 “(a) A rail carrier providing transportation or service
 9 subject to the jurisdiction of the Panel under this part
 10 shall provide the transportation or service on reasonable
 11 request. A rail carrier shall not be found to have violated
 12 this section because it fulfills its commitments under con-

1 tracts authorized under section 10509 of this title before
2 responding to reasonable requests for service.

3 “(b) A rail carrier shall also provide to any person,
4 on reasonable request, rates and other service terms. The
5 response by a rail carrier to a request for rates and other
6 service terms shall be in writing and forwarded to the re-
7 questing person promptly after receipt of the request.

8 **“§ 10902. Use of terminal facilities**

9 “(a) The Panel may require terminal facilities, in-
10 cluding main-line tracks for a reasonable distance outside
11 of a terminal, owned by a rail carrier providing transpor-
12 tation subject to the jurisdiction of the Panel under this
13 part, to be used by another rail carrier if the Panel finds
14 that use to be practicable and in the public interest with-
15 out substantially impairing the ability of the rail carrier
16 owning the facilities or entitled to use the facilities to han-
17 dle its own business. The rail carriers are responsible for
18 establishing the conditions and compensation for use of
19 the facilities. However, if the rail carriers cannot agree,
20 the Panel may establish conditions and compensation for
21 use of the facilities under the principle controlling com-
22 pensation in condemnation proceedings. The compensation
23 shall be paid or adequately secured before a rail carrier
24 may begin to use the facilities of another rail carrier under
25 this section.

1 “(b) A rail carrier whose terminal facilities are re-
2 quired to be used by another rail carrier under this section
3 is entitled to recover damages from the other rail carrier
4 for injuries sustained as the result of compliance with the
5 requirement or for compensation for the use, or both as
6 appropriate, in a civil action, if it is not satisfied with the
7 conditions for use of the facilities or if the amount of the
8 compensation is not paid promptly.

9 “(c)(1) The Panel may require rail carriers to enter
10 into reciprocal switching agreements, where it finds such
11 agreements to be practicable and in the public interest,
12 or where such agreements are necessary to provide com-
13 petitive rail service. The rail carriers entering into such
14 an agreement shall establish the conditions and compensa-
15 tion applicable to such agreement, but, if the rail carriers
16 cannot agree upon such conditions and compensation
17 within a reasonable period of time, the Panel may estab-
18 lish such conditions and compensation.

19 “(2) The Panel may require reciprocal switching
20 agreements entered into by rail carriers pursuant to this
21 subsection to contain provisions for the protection of the
22 interests of employees affected thereby.

23 “(d) The Panel shall complete any proceeding under
24 subsection (a) or (b) within 180 days after the filing of
25 the request for relief.

1 **“§ 10903. Switch connections and tracks**

2 “(a) On application of the owner of a lateral branch
3 line of railroad, or of a shipper tendering interstate traffic
4 for transportation, a rail carrier providing transportation
5 subject to the jurisdiction of the Panel under this part
6 shall construct, maintain, and operate, on reasonable con-
7 ditions, a switch connection to connect that branch line
8 or private side track with its railroad and shall furnish
9 cars to move that traffic to the best of its ability without
10 discrimination in favor of or against the shipper when the
11 connection—

12 “(1) is reasonably practicable;

13 “(2) can be made safely; and

14 “(3) will furnish sufficient business to justify
15 its construction and maintenance.

16 “(b) If a rail carrier fails to install and operate a
17 switch connection after application is made under sub-
18 section (a) of this section, the owner of the lateral branch
19 line of railroad or the shipper may file a complaint with
20 the Panel under section 11501 of this title. The Panel
21 shall investigate the complaint and decide the safety, prac-
22 ticability, justification, and compensation to be paid for
23 the connection. The Panel may direct the rail carrier to
24 comply with subsection (a) of this section only after a full
25 hearing.

1 “SUBCHAPTER II—CAR SERVICE

2 **“§ 10921. Criteria**

3 “(a)(1) A rail carrier providing transportation subject
4 to the jurisdiction of the Panel under this part shall fur-
5 nish safe and adequate car service and establish, observe,
6 and enforce reasonable rules and practices on car service.
7 The Panel may require a rail carrier to provide facilities
8 and equipment that are reasonably necessary to furnish
9 safe and adequate car service if the Panel decides that
10 the rail carrier has materially failed to furnish that serv-
11 ice. The Panel may begin a proceeding under this para-
12 graph when an interested person files an application with
13 it. The Panel may act only after a hearing on the record
14 and an affirmative finding, based on the evidence pre-
15 sented, that—

16 “(A) providing the facilities or equipment will
17 not materially and adversely affect the ability of the
18 rail carrier to provide safe and adequate transpor-
19 tation;

20 “(B) the amount spent for the facilities or
21 equipment, including a return equal to the rail car-
22 rier’s current cost of capital, will be recovered; and

23 “(C) providing the facilities or equipment will
24 not impair the ability of the rail carrier to attract
25 adequate capital.

1 “(2) The Panel may require a rail carrier to file its
2 car service rules with the Panel.

3 “(b) The Panel may designate and appoint agents
4 and agencies to make and carry out its directions related
5 to car service and matters under sections 10923 and
6 10924(a)(1) of this title.

7 **“§ 10922. Compensation and practice**

8 “(a) The regulations of the Panel on car service shall
9 encourage the purchase, acquisition, and efficient use of
10 freight cars. The regulations may include—

11 “(1) the compensation to be paid for the use of
12 a locomotive, freight car, or other vehicle;

13 “(2) the other terms of any arrangement for
14 the use by a rail carrier of a locomotive, freight car,
15 or other vehicle not owned by the rail carrier using
16 the locomotive, freight car, or other vehicle, whether
17 or not owned by another carrier, shipper, or third
18 person; and

19 “(3) sanctions for nonobservance.

20 “(b) The rate of compensation to be paid for each
21 type of freight car shall be determined by the expense of
22 owning and maintaining that type of freight car, including
23 a fair return on its cost giving consideration to current
24 costs of capital, repairs, materials, parts, and labor. In
25 determining the rate of compensation, the Panel shall con-

1 sider the transportation use of each type of freight car,
2 the national level of ownership of each type of freight car,
3 and other factors that affect the adequacy of the national
4 freight car supply.

5 **“§ 10923. Rerouting traffic on failure of rail carrier to**
6 **serve the public**

7 “(a) When the Panel considers that a rail carrier pro-
8 viding transportation subject to the jurisdiction of the
9 Panel under this part cannot transport the traffic offered
10 to it in a manner that properly serves the public, the Panel
11 may direct the handling, routing, and movement of the
12 traffic of that rail carrier and its distribution over other
13 railroad lines to promote commerce and service to the pub-
14 lic. Subject to subsection (b)(2) of this section, the rail
15 carriers may establish the terms of compensation between
16 themselves.

17 “(b)(1) Except as provided in paragraph (2) of this
18 subsection, the Panel may act under this section on its
19 own initiative or on application without regard to sub-
20 chapter II of chapter 5 of title 5.

21 “(2) When the rail carriers do not agree on the terms
22 of compensation under this section, the Panel may estab-
23 lish the terms for them in a later proceeding.

1 **“§ 10924. War emergencies; embargoes imposed by**
2 **carriers**

3 “(a)(1) When the President, during time of war or
4 threatened war, notifies the Panel that it is essential to
5 the defense and security of the United States to give pref-
6 erence or priority to the movement of certain traffic, the
7 Panel shall direct that preference or priority be given to
8 that traffic.

9 “(2) When the President, during time of war or
10 threatened war, demands that preference and precedence
11 be given to the transportation of troops and material of
12 war over all other traffic, all rail carriers providing trans-
13 portation subject to the jurisdiction of the Panel under
14 this part shall adopt every means within their control to
15 facilitate and expedite the military traffic.

16 “(b) An embargo imposed by any such rail carrier
17 does not apply to shipments consigned to agents of the
18 United States Government for its use. The rail carrier
19 shall deliver those shipments as promptly as possible.

20 **“SUBCHAPTER III—REPORTS AND RECORDS**

21 **“§ 10941. Definitions**

22 “In this subchapter—

23 “(1) the terms ‘carrier’, ‘broker’, and ‘lessor’
24 include a receiver or trustee of a carrier, broker, and
25 lessor, respectively;

1 “(2) the term ‘lessor’ means a person owning a
2 railroad that is leased to and operated by a carrier
3 providing transportation subject to the jurisdiction
4 of the Interstate Commerce Commission under this
5 part; and

6 “(3) the term ‘association’ means an organiza-
7 tion maintained by or in the interest of a group of
8 rail carriers or brokers providing transportation or
9 service subject to the jurisdiction of the Commission
10 under this part that performs a service, or engages
11 in activities, related to transportation under this
12 part.

13 **“§ 10942. Uniform accounting system**

14 “The Panel may prescribe a uniform accounting sys-
15 tem for classes of rail carriers providing, and brokers for,
16 transportation subject to the jurisdiction of the Panel
17 under this part. To the maximum extent practicable, the
18 Panel shall conform such system to generally accepted ac-
19 counting principles, and shall administer this subchapter
20 in accordance with such principles.

21 **“§ 10943. Depreciation charges**

22 “The Panel shall, for a class of rail carriers providing
23 transportation subject to its jurisdiction under this part,
24 prescribe, and change when necessary, those classes of
25 property for which depreciation charges may be included

1 under operating expenses and a rate of depreciation that
2 may be charged to a class of property. The Panel may
3 classify those rail carriers for purposes of this section. A
4 rail carrier for whom depreciation charges and rates of
5 depreciation are in effect under this section for any class
6 of property may not—

7 “(1) charge to operating expenses a deprecia-
8 tion charge on a class of property other than that
9 prescribed by the Panel;

10 “(2) charge another rate of depreciation; or

11 “(3) include other depreciation charges in oper-
12 ating expenses.

13 **“§ 10944. Records: form; inspection; preservation**

14 “(a) The Panel may prescribe the form of records re-
15 quired to be prepared or compiled under this subchapter—

16 “(1) by rail carriers, brokers, and lessors, in-
17 cluding records related to movement of traffic and
18 receipts and expenditures of money; and

19 “(2) by persons furnishing cars to or for a rail
20 carrier providing transportation subject to the juris-
21 diction of the Panel under this part to the extent re-
22 lated to those cars or that service.

23 “(b) The Panel, or an employee designated by the
24 Panel, may on demand and display of proper credentials—

1 “(2) An annual report shall be filed with the Panel
2 by the end of the third month after the end of the year
3 for which the report is made unless the Panel extends the
4 filing date or changes the period covered by the report.
5 The annual report and, if the Panel requires, any other
6 report made under this section, shall be made under oath.

7 “SUBCHAPTER IV—RAILROAD COST

8 ACCOUNTING

9 **“§ 10961. Implementation of cost accounting prin-**
10 **ciples**

11 “Not less than once every five years after the promul-
12 gation of original rules implementing the cost accounting
13 principles established by the Railroad Accounting Prin-
14 ciples Board, the Panel shall review such principles and
15 shall, by rule, make such changes in such principles as
16 are required to achieve the regulatory purposes of this
17 part. The Panel shall insure that the rules promulgated
18 under this section are the most efficient and least burden-
19 some means by which the required information may be de-
20 veloped for regulatory purposes. To the maximum extent
21 practicable, the Panel shall conform such rules to gen-
22 erally accepted accounting principles.

23 **“§ 10962. Rail carrier cost accounting system**

24 “(a) Each rail carrier shall have and maintain a cost
25 accounting system that is in compliance with the rules pro-

1 mulgated by the Panel under section 10961 of this title.
2 A rail carrier may, after notifying the Panel, make modi-
3 fications in such system unless, within 60 days after the
4 date of notification, the Panel finds such modifications to
5 be inconsistent with the rules promulgated by the Panel
6 under section 10961 of this title.

7 “(b) For purposes of determining whether the cost
8 accounting system of a rail carrier is in compliance with
9 the rules promulgated by the Panel, the Panel shall have
10 the right to examine and make copies of any documents,
11 papers, or records of such rail carrier relating to compli-
12 ance with such rules. Such documents, papers, and records
13 (and any copies thereof) shall not be subject to the manda-
14 tory disclosure requirements of section 552 of title 5.

15 **“§ 10963. Cost availability**

16 “As required by the rules of the Panel governing dis-
17 covery in Panel proceedings, rail carriers shall make rel-
18 evant cost data available to shippers, States, ports, com-
19 munities, and other interested parties that are a party to
20 a Panel proceeding in which such data are required.

21 **“§ 10964. Accounting and cost reporting**

22 “(a) To obtain expense and revenue information for
23 regulatory purposes, the Panel may promulgate reasonable
24 rules for rail carriers providing transportation subject to
25 the jurisdiction of the Panel under this part, prescribing

“11126. Employee protective arrangements in transactions involving rail carriers.

“11127. Supplemental orders.

1 “SUBCHAPTER I—EQUIPMENT TRUSTS AND
2 SECURITY INTERESTS

3 **“§ 11101. Equipment trusts: recordation; evidence of**
4 **indebtedness**

5 “(a) A mortgage, lease equipment trust agreement,
6 conditional sales agreement, or other instrument evidenc-
7 ing the mortgage, lease, conditional sale, or bailment of
8 railroad cars, locomotives, or other rolling stock, intended
9 for a use related to interstate commerce shall be filed with
10 the Panel. An assignment of a right or interest under one
11 of those instruments and an amendment to that instru-
12 ment or assignment including a release, discharge, or sat-
13 isfaction of any part of it shall also be filed with the Panel.
14 The instrument, assignment, or amendment must be in
15 writing, executed by the parties to it, and acknowledged
16 or verified under Panel regulations. When filed under this
17 section, that document is notice to, and enforceable
18 against, all persons. A document filed under this section
19 does not have to be filed, deposited, registered, or recorded
20 under another law of the United States, a State (or its
21 political subdivisions), or territory or possession of the
22 United States, related to filing, deposit, registration, or
23 recordation of those documents.

1 “(b) The Panel shall maintain a system for recording
2 each document filed under subsection (a) of this section
3 and mark each of them with a consecutive number and
4 the date and hour of their recordation. The Panel shall
5 maintain and keep open for public inspection an index of
6 documents filed under that subsection. That index shall
7 include the name and address of the principal debtors,
8 trustees, guarantors, and other parties to those documents
9 and may include other facts that will assist in determining
10 the rights of the parties to those transactions.

11 “(c) The Panel shall to the greatest extent practicable
12 perform its functions under this section through contracts
13 with private sector entities.

14 “(d) The Panel shall assess user fees for services per-
15 formed by the Panel or a contractor thereof under this
16 section. Such fees may be used by the Panel to offset its
17 costs, to the extent provided in advance in appropriations
18 Acts.

19 “SUBCHAPTER II—COMBINATIONS

20 “§ 11121. Scope of authority

21 “(a) The authority of the Panel under this sub-
22 chapter is exclusive. A rail carrier or corporation partici-
23 pating in or resulting from a transaction approved by or
24 exempted by the Panel under this subchapter may carry
25 out the transaction, own and operate property, and exer-

1 cise control or franchises acquired through the transaction
2 without the approval of a State authority. A rail carrier,
3 corporation, or person participating in that approved or
4 exempted transaction is exempt from the antitrust laws
5 and from all other law, including State and municipal law,
6 as necessary to let that rail carrier, corporation, or person
7 carry out the transaction, hold, maintain, and operate
8 property, and exercise control or franchises acquired
9 through the transaction.

10 “(b) The requirement to obtain the approval or au-
11 thorization of the Panel under this subchapter shall only
12 apply to transactions involving at least one Class I rail
13 carrier, and shall not apply to transactions described in
14 section 10702.

15 **“§ 11122. Limitation on pooling and division of trans-**
16 **portation or earnings**

17 “(a) A rail carrier providing transportation subject
18 to the jurisdiction of the Panel under this part may not
19 agree or combine with another of those rail carriers to pool
20 or divide traffic or services or any part of their earnings
21 without the approval of the Panel under this section or
22 section 10923 of this title. The Panel may approve and
23 authorize the agreement or combination if the rail carriers
24 involved assent to the pooling or division and the Panel

1 finds that a pooling or division of traffic, services, or earn-
2 ings—

3 “(1) will be in the interest of better service to
4 the public or of economy of operation; and

5 “(2) will not unreasonably restrain competition.

6 “(b) The Panel may impose conditions governing the
7 pooling or division and may approve and authorize pay-
8 ment of a reasonable consideration between the rail car-
9 riers.

10 “(c) The Panel may begin a proceeding under this
11 section on its own initiative or on application.

12 **“§ 11123. Consolidation, merger, and acquisition of**
13 **control**

14 “(a) The following transactions involving rail carriers
15 providing transportation subject to the jurisdiction of the
16 Panel under this part may be carried out only with the
17 approval and authorization of the Panel:

18 “(1) Consolidation or merger of the properties
19 or franchises of at least 2 rail carriers into one cor-
20 poration for the ownership, management, and oper-
21 ation of the previously separately owned properties.

22 “(2) A purchase, lease, or contract to operate
23 property of another rail carrier by any number of
24 rail carriers.

1 “(3) Acquisition of control of a rail carrier by
2 any number of rail carriers.

3 “(4) Acquisition of control of at least 2 rail car-
4 riers by a person that is not a rail carrier.

5 “(5) Acquisition of control of a rail carrier by
6 a person that is not a rail carrier but that controls
7 any number of rail carriers.

8 “(6) Acquisition by a rail carrier of trackage
9 rights over, or joint ownership in or joint use of, a
10 railroad line (and terminals incidental to it) owned
11 or operated by another rail carrier.

12 “(b) A person may carry out a transaction referred
13 to in subsection (a) of this section or participate in achiev-
14 ing the control or management, including the power to ex-
15 ercise control or management, in a common interest of
16 more than one of those rail carriers, regardless of how that
17 result is reached, only with the approval and authorization
18 of the Panel under this subchapter. In addition to other
19 transactions, each of the following transactions are consid-
20 ered achievements of control or management:

21 “(1) A transaction by a rail carrier that has the
22 effect of putting that rail carrier and person affili-
23 ated with it, taken together, in control of another
24 rail carrier.

1 posed transaction is located and shall notify those rail car-
2 riers. The Panel shall hold a public hearing unless the
3 Panel determines that a public hearing is not necessary
4 in the public interest.

5 “(b) In a proceeding under this section which involves
6 the merger or control of at least two Class I railroads,
7 as defined by the Panel, the Panel shall consider at least—

8 “(1) the effect of the proposed transaction on
9 the adequacy of transportation to the public;

10 “(2) the effect on the public interest of includ-
11 ing, or failing to include, other rail carriers in the
12 area involved in the proposed transaction;

13 “(3) the total fixed charges that result from the
14 proposed transaction;

15 “(4) the interest of rail carrier employees af-
16 fected by the proposed transaction; and

17 “(5) whether the proposed transaction would
18 have an adverse effect on competition among rail
19 carriers in the affected region or in the national rail
20 system.

21 “(c) The Panel shall approve and authorize a trans-
22 action under this section when it finds the transaction is
23 consistent with the public interest. The Panel may impose
24 conditions governing the transaction, including the divesti-
25 ture of parallel tracks or requiring the granting of track-

1 age rights. Any trackage rights conditions imposed to alle-
2 viate anticompetitive effects of the transaction shall pro-
3 vide for compensation levels to ensure that such effects
4 are alleviated. When the transaction contemplates a guar-
5 anty or assumption of payment of dividends or of fixed
6 charges or will result in an increase of total fixed charges,
7 the Panel may approve and authorize the transaction only
8 if it finds that the guaranty, assumption, or increase is
9 consistent with the public interest. The Panel may require
10 inclusion of other rail carriers located in the area involved
11 in the transaction if they apply for inclusion and the Panel
12 finds their inclusion to be consistent with the public inter-
13 est.

14 “(d) In a proceeding under this section which does
15 not involve the merger or control of at least two Class I
16 railroads, as defined by the Panel, the Panel shall approve
17 such an application unless it finds that—

18 “(1) as a result of the transaction, there is like-
19 ly to be substantial lessening of competition, cre-
20 ation of a monopoly, or restraint of trade in freight
21 surface transportation in any region of the United
22 States; and

23 “(2) the anticompetitive effects of the trans-
24 action outweigh the public interest in meeting sig-
25 nificant transportation needs.

1 In making such findings, the Panel shall, with respect to
2 any application that is part of a plan or proposal developed
3 under section 333(a)–(d) of this title, accord substantial
4 weight to any recommendations of the Secretary of Trans-
5 portation.

6 “(e)(1) To the extent provided in this subsection, a
7 proceeding under this subchapter relating to a transaction
8 involving at least one Class I rail carrier shall not be con-
9 sidered an adjudication required by statute to be deter-
10 mined on the record after opportunity for an agency hear-
11 ing, for the purposes of subchapter II of chapter 5 of title
12 5, United States Code.

13 “(2) Ex parte communications, as defined in section
14 551(14) of title 5, United States Code, shall be permitted
15 in proceedings described in paragraph (1) of this sub-
16 section, subject to the requirements of paragraph (3) of
17 this subsection.

18 “(3)(A) Any member or employee of the Panel who
19 makes or receives a written ex parte communication con-
20 cerning the merits of a proceeding described in paragraph
21 (1) shall promptly place the communication in the public
22 docket of the proceeding.

23 “(B) Any member or employee of the Panel who
24 makes or receives an oral ex parte communication con-
25 cerning the merits of a proceeding described in paragraph

1 (1) shall promptly place a written summary of the oral
2 communication in the public docket of the proceeding.

3 “(4) Nothing in this subsection shall be construed to
4 require the Panel or any of its members or employees to
5 engage in any ex parte communication with any person.
6 Nothing in this subsection or any other law shall be con-
7 strued to limit the authority of the members or employees
8 of the Panel, in their discretion, to note in the docket or
9 otherwise publicly the occurrence and substance of an ex
10 parte communication.

11 **“§ 11125. Consolidation, merger, and acquisition of**
12 **control: procedure**

13 “(a) The Panel shall publish notice of the application
14 under section 11124 in the Federal Register by the end
15 of the 30th day after the application is filed with the
16 Panel. However, if the application is incomplete, the Panel
17 shall reject it by the end of that period. The order of rejec-
18 tion is a final action of the Panel. The published notice
19 shall indicate whether the application involves—

20 “(1) the merger or control of at least two Class
21 I railroads, as defined by the Panel, to be decided
22 within the time limits specified in subsection (b) of
23 this section;

1 “(2) transactions of regional or national trans-
2 portation significance, to be decided within the time
3 limits specified in subsection (c) of this section; or

4 “(3) any other transaction covered by this sec-
5 tion, to be decided within the time limits specified in
6 subsection (d) of this section.

7 “(b) If the application involves the merger or control
8 of two or more Class I railroads, as defined by the Panel,
9 the following conditions apply:

10 “(1) Written comments about an application
11 may be filed with the Panel within 45 days after no-
12 tice of the application is published under subsection
13 (a) of this section. Copies of such comments shall be
14 served on the Attorney General, who may decide to
15 intervene as a party to the proceeding. That decision
16 must be made by the 15th day after the date of re-
17 ceipt of the written comments, and if the decision is
18 to intervene, preliminary comments about the appli-
19 cation must be sent to the Panel by the end of the
20 15th day after the date of receipt of the written
21 comments.

22 “(2) The Panel shall require that applications
23 inconsistent with an application, notice of which was
24 published under subsection (a) of this section, and
25 applications for inclusion in the transaction, be filed

1 with it by the 90th day after publication of notice
2 under that subsection.

3 “(3) The Panel must conclude evidentiary pro-
4 ceedings by the end of the 6th month after the date
5 of publication of notice under subsection (a) of this
6 section. The Panel must issue a final decision by the
7 90th day after the date on which it concludes the
8 evidentiary proceedings.

9 “(c) If the application involves a transaction other
10 than the merger or control of at least two Class I rail-
11 roads, as defined by the Panel, which the Panel has deter-
12 mined to be of regional or national transportation signifi-
13 cance, the following conditions apply:

14 “(1) Written comments about an application,
15 including comments of the Attorney General, may be
16 filed with the Panel within 30 days after notice of
17 the application is published under subsection (a) of
18 this section.

19 “(2) The Panel shall require that applications
20 inconsistent with an application, notice of which was
21 published under subsection (a) of this section, and
22 applications for inclusion in the transaction, be filed
23 with it by the 60th day after publication of notice
24 under that subsection.

1 “(3) The Panel must conclude any evidentiary
2 proceedings by the 125th day after the date of publi-
3 cation of notice under subsection (a) of this section.
4 The Panel must issue a final decision by the 40th
5 day after the date on which it concludes the evi-
6 dentiary proceedings.

7 “(d) For all applications under this section other
8 than those specified in subsections (b) and (c) of this sec-
9 tion, the following conditions apply:

10 “(1) Written comments about an application,
11 including comments of the Attorney General, may be
12 filed with the Panel within 30 days after notice of
13 the application is published under subsection (a) of
14 this section.

15 “(2) The Panel must conclude any evidentiary
16 proceedings by the 105th day after the date of publi-
17 cation of notice under subsection (a) of this section.
18 The Panel must issue a final decision by the 40th
19 day after the date on which it concludes the evi-
20 dentiary proceedings.

21 **“§ 11126. Employee protective arrangements in trans-**
22 **actions involving rail carriers**

23 “When approval is sought for a transaction under
24 sections 11124 and 11125 of this title, the Panel shall
25 require the rail carrier to provide a fair arrangement at

1 least as protective of the interests of employees who are
2 affected by the transaction as the terms imposed under
3 this section before February 5, 1976, and the terms estab-
4 lished under section 24706(c) of this title. Notwithstand-
5 ing this part, the arrangement may be made by the rail
6 carrier and the authorized representative of its employees.
7 The arrangement and the order approving the transaction
8 must require that the employees of the affected rail carrier
9 will not be in a worse position related to their employment
10 as a result of the transaction during the 4 years following
11 the effective date of the final action of the Panel (or if
12 an employee was employed for a lesser period of time by
13 the rail carrier before the action became effective, for that
14 lesser period).

15 **“§ 11127. Supplemental orders**

16 “When cause exists, the Panel may make appropriate
17 orders supplemental to an order made in a proceeding
18 under sections 11122 through 11126 of this title.

19 **“CHAPTER 113—FEDERAL-STATE**
20 **RELATIONS**

“Sec.

“11301. Tax discrimination against rail transportation property.

“11302. Withholding State and local income tax by rail carriers.

21 **“§ 11301. Tax discrimination against rail transpor-**
22 **tation property**

23 “(a) In this section—

1 “(1) the term ‘assessment’ means valuation for
2 a property tax levied by a taxing district;

3 “(2) the term ‘assessment jurisdiction’ means a
4 geographical area in a State used in determining the
5 assessed value of property for ad valorem taxation;

6 “(3) the term ‘rail transportation property’
7 means property, as defined by the Panel, owned or
8 used by a rail carrier providing transportation sub-
9 ject to the jurisdiction of the Panel under this part;
10 and

11 “(4) the term ‘commercial and industrial prop-
12 erty’ means property, other than transportation
13 property and land used primarily for agricultural
14 purposes or timber growing, devoted to a commercial
15 or industrial use and subject to a property tax levy.

16 “(b) The following acts unreasonably burden and dis-
17 criminate against interstate commerce, and a State, sub-
18 division of a State, or authority acting for a State or sub-
19 division of a State may not do any of them:

20 “(1) Assess rail transportation property at a
21 value that has a higher ratio to the true market
22 value of the rail transportation property than the
23 ratio that the assessed value of other commercial
24 and industrial property in the same assessment ju-

1 jurisdiction has to the true market value of the other
2 commercial and industrial property.

3 “(2) Levy or collect a tax on an assessment
4 that may not be made under paragraph (1) of this
5 subsection.

6 “(3) Levy or collect an ad valorem property tax
7 on rail transportation property at a tax rate that ex-
8 ceeds the tax rate applicable to commercial and in-
9 dustrial property in the same assessment jurisdic-
10 tion.

11 “(4) Impose another tax that discriminates
12 against a rail carrier providing transportation sub-
13 ject to the jurisdiction of the Panel under this part.

14 “(c) Notwithstanding section 1341 of title 28 and
15 without regard to the amount in controversy or citizenship
16 of the parties, a district court of the United States has
17 jurisdiction, concurrent with other jurisdiction of courts
18 of the United States and the States, to prevent a violation
19 of subsection (b) of this section. Relief may be granted
20 under this subsection only if the ratio of assessed value
21 to true market value of rail transportation property ex-
22 ceeds by at least 5 percent the ratio of assessed value to
23 true market value of other commercial and industrial
24 property in the same assessment jurisdiction. The burden
25 of proof in determining assessed value and true market

1 value is governed by State law. If the ratio of the assessed
2 value of other commercial and industrial property in the
3 assessment jurisdiction to the true market value of all
4 other commercial and industrial property cannot be deter-
5 mined to the satisfaction of the district court through the
6 random-sampling method known as a sales assessment
7 ratio study (to be carried out under statistical principles
8 applicable to such a study), the court shall find, as a viola-
9 tion of this section—

10 “(1) an assessment of the rail transportation
11 property at a value that has a higher ratio to the
12 true market value of the rail transportation property
13 than the assessed value of all other property subject
14 to a property tax levy in the assessment jurisdiction
15 has to the true market value of all other commercial
16 and industrial property; and

17 “(2) the collection of an ad valorem property
18 tax on the rail transportation property at a tax rate
19 that exceeds the tax ratio rate applicable to taxable
20 property in the taxing district.

21 **“§ 11302. Withholding State and local income tax by**
22 **rail carriers**

23 “(a) No part of the compensation paid by a rail car-
24 rier providing transportation subject to the jurisdiction of
25 the Panel under this part to an employee who performs

1 regularly assigned duties as such an employee on a rail-
2 road in more than one State shall be subject to the income
3 tax laws of any State or subdivision of that State, other
4 than the State or subdivision thereof of the employee's res-
5 idence.

6 “(b) A rail carrier withholding pay from an employee
7 under subsection (a) of this section shall file income tax
8 information returns and other reports only with the State
9 and subdivision of residence of the employee.

10 **“CHAPTER 115—ENFORCEMENT: INVES-**
11 **TIGATIONS, RIGHTS, AND REMEDIES**

“Sec.

“11501. General authority.

“11502. Enforcement by the Panel.

“11503. Enforcement by the Attorney General.

“11504. Rights and remedies of persons injured by rail carriers.

“11505. Limitation on actions by and against rail carriers.

“11506. Liability of rail carriers under receipts and bills of lading.

12 **“§ 11501. General authority**

13 “(a) The Panel may begin an investigation under this
14 part on its own initiative or on complaint. If the Panel
15 finds that a rail carrier is violating this part, the Panel
16 shall take appropriate action to compel compliance with
17 this part.

18 “(b) A person, including a governmental authority,
19 may file with the Panel a complaint about a violation of
20 this part by a rail carrier providing transportation or serv-
21 ice subject to the jurisdiction of the Panel under this part.
22 The complaint must state the facts that are the subject

1 of the violation. The Panel may dismiss a complaint it de-
2 termines does not state reasonable grounds for investiga-
3 tion and action. However, the Panel may not dismiss a
4 complaint made against a rail carrier providing transpor-
5 tation subject to the jurisdiction of the Panel under this
6 part because of the absence of direct damage to the com-
7 plainant.

8 “(c) A formal investigative proceeding begun by the
9 Panel under subsection (a) of this section is dismissed
10 automatically unless it is concluded by the Panel with ad-
11 ministrative finality by the end of the third year after the
12 date on which it was begun.

13 **“§ 11502. Enforcement by the Panel**

14 “The Panel may bring a civil action—

15 “(1) to enjoin a rail carrier from violating sec-
16 tions 10701 through 10706 of this title, or a regula-
17 tion prescribed or order or certificate issued under
18 any of those sections;

19 “(2) to enforce subchapter II of chapter 111 of
20 this title and to compel compliance with the order of
21 the Panel under that subchapter; and

22 “(3) to enforce an order of the Panel, except a
23 civil action to enforce an order for the payment of
24 money, when it is violated by a rail carrier providing

1 transportation subject to the jurisdiction of the
2 Panel under this part.

3 **“§ 11503. Enforcement by the Attorney General**

4 “The Attorney General may, and on request of the
5 Panel shall, bring court proceedings to enforce this part,
6 or a regulation or order of the Panel or certificate or per-
7 mit issued under this part, and to prosecute a person vio-
8 lating this part or a regulation or order of the Panel or
9 certificate or permit issued under this part.

10 **“§ 11504. Rights and remedies of persons injured by**
11 **rail carriers**

12 “(a) A person injured because a rail carrier providing
13 transportation or service subject to the jurisdiction of the
14 Panel under this part does not obey an order of the Panel,
15 except an order for the payment of money, may bring a
16 civil action to enforce that order under this subsection.

17 “(b) A rail carrier providing transportation subject
18 to the jurisdiction of the Panel under this part is liable
19 for damages sustained by a person as a result of an act
20 or omission of that carrier in violation of this part.

21 “(c)(1) A person may file a complaint with the Panel
22 under section 11501(b) of this title or bring a civil action
23 under subsection (b) of this section to enforce liability
24 against a rail carrier providing transportation subject to
25 the jurisdiction of the Panel under this part.

1 “(2) When the Panel makes an award under sub-
2 section (b) of this section, the Panel shall order the rail
3 carrier to pay the amount awarded by a specific date. The
4 Panel may order a rail carrier providing transportation
5 subject to the jurisdiction of the Panel under this part
6 to pay damages only when the proceeding is on complaint.
7 The person for whose benefit an order of the Panel requir-
8 ing the payment of money is made may bring a civil action
9 to enforce that order under this paragraph if the rail car-
10 rier does not pay the amount awarded by the date pay-
11 ment was ordered to be made.

12 “(d)(1) When a person begins a civil action under
13 subsection (b) this section to enforce an order of the Panel
14 requiring the payment of damages by a rail carrier provid-
15 ing transportation subject to the jurisdiction of the Panel
16 under this part, the text of the order of the Panel must
17 be included in the complaint. In addition to the district
18 courts of the United States, a State court of general juris-
19 diction having jurisdiction of the parties has jurisdiction
20 to enforce an order under this paragraph. The findings
21 and order of the Panel are competent evidence of the facts
22 stated in them. Trial in a civil action brought in a district
23 court of the United States under this paragraph is in the
24 judicial district—

25 “(A) in which the plaintiff resides;

1 “(B) in which the principal operating office of
2 the rail carrier is located; or

3 “(C) if a rail carrier, through which the rail-
4 road line of that carrier runs.

5 In a civil action under this paragraph, the plaintiff is liable
6 for only those costs that accrue on an appeal taken by
7 the plaintiff.

8 “(2) All parties in whose favor the award was made
9 may be joined as plaintiffs in a civil action brought in a
10 district court of the United States under this subsection
11 and all the rail carriers that are parties to the order
12 awarding damages may be joined as defendants. Trial in
13 the action is in the judicial district in which any one of
14 the plaintiffs could bring the action against any one of
15 the defendants. Process may be served on a defendant at
16 its principal operating office when that defendant is not
17 in the district in which the action is brought. A judgment
18 ordering recovery may be made in favor of any of those
19 plaintiffs against the defendant found to be liable to that
20 plaintiff.

21 “(3) The district court shall award a reasonable at-
22 torney’s fee as a part of the damages for which a rail car-
23 rier is found liable under this subsection. The district
24 court shall tax and collect that fee as a part of the costs
25 of the action.

1 **“§ 11505. Limitation on actions by and against rail**
2 **carriers**

3 “(a) A rail carrier providing transportation or service
4 subject to the jurisdiction of the Panel under this part
5 must begin a civil action to recover charges for transpor-
6 tation or service provided by the carrier within 3 years
7 after the claim accrues.

8 “(b) A person must file a complaint with the Panel
9 to recover damages under section 11504(b) of this title
10 within 2 years after the claim accrues.

11 “(c) The limitation period under subsection (b) of
12 this section is extended for 6 months from the time written
13 notice is given to the claimant by the rail carrier of dis-
14 allowance of any part of the claim specified in the notice
15 if a written claim is given to the rail carrier within that
16 limitation period. The limitation period under subsection
17 (b) of this section is extended for 90 days from the time
18 the rail carrier begins a civil action under subsection (a)
19 of this section to recover charges related to the same
20 transportation or service, or collects (without beginning a
21 civil action under that subsection) the charge for that
22 transportation or service if that action is begun or collec-
23 tion is made within the appropriate period.

24 “(d) A person must begin a civil action to enforce
25 an order of the Panel against a rail carrier for the pay-

1 ment of money within one year after the date the order
2 required the money to be paid.

3 “(e) This section applies to transportation for the
4 United States Government. The time limitations under
5 this section are extended, as related to transportation for
6 or on behalf of the United States Government, for 3 years
7 from the date of—

8 “(1) payment of the rate for the transportation
9 or service involved;

10 “(2) subsequent refund for overpayment of that
11 rate; or

12 “(3) deduction made under section 3726 of title
13 31, whichever is later.

14 “(f) A claim related to a shipment of property accrues
15 under this section on delivery or tender of delivery by the
16 rail carrier.

17 **“§ 11506. Liability of rail carriers under receipts and**
18 **bills of lading**

19 “(a) A rail carrier providing transportation or service
20 subject to the jurisdiction of the Panel under this part
21 shall issue a receipt or bill of lading for property it receives
22 for transportation under this part. That rail carrier and
23 any other rail carrier that delivers the property and is pro-
24 viding transportation or service subject to the jurisdiction
25 of the Panel under this part are liable to the person enti-

1 tled to recover under the receipt or bill of lading. The li-
2 ability imposed under this subsection is for the actual loss
3 or injury to the property caused by—

4 “(1) the receiving rail carrier;

5 “(2) the delivering rail carrier; or

6 “(3) another rail carrier over whose line or
7 route the property is transported in the United
8 States or from a place in the United States to a
9 place in an adjacent foreign country when trans-
10 ported under a through bill of lading.

11 Failure to issue a receipt or bill of lading does not affect
12 the liability of a rail carrier. A delivering rail carrier is
13 deemed to be the rail carrier performing the line-haul
14 transportation nearest the destination but does not include
15 a rail carrier providing only a switching service at the des-
16 tination.

17 “(b) The rail carrier issuing the receipt or bill of lad-
18 ing under subsection (a) of this section or delivering the
19 property for which the receipt or bill of lading was issued
20 is entitled to recover from the rail carrier over whose line
21 or route the loss or injury occurred the amount required
22 to be paid to the owners of the property, as evidenced by
23 a receipt, judgment, or transcript, and the amount of its
24 expenses reasonably incurred in defending a civil action
25 brought by that person.

1 “(c)(1) A rail carrier may not limit or be exempt from
2 liability imposed under subsection (a) of this section ex-
3 cept as provided in this subsection. A limitation of liability
4 or of the amount of recovery or representation or agree-
5 ment in a receipt, bill of lading, contract, or rule in viola-
6 tion of this section is void.

7 “(2) A rail carrier of passengers may limit its liability
8 under its passenger rate for loss or injury of baggage car-
9 ried on trains carrying passengers.

10 “(3) A rail carrier providing transportation or service
11 subject to the jurisdiction of the Panel under this part
12 may establish rates for transportation of property under
13 which—

14 “(A) the liability of the rail carrier for such
15 property is limited to a value established by written
16 declaration of the shipper or by a written agreement
17 between the shipper and the carrier; or

18 “(B) specified amounts are deducted, pursuant
19 to a written agreement between the shipper and the
20 carrier, from any claim against the carrier with re-
21 spect to the transportation of such property.

22 “(d)(1) A civil action under this section may be
23 brought in a district court of the United States or in a
24 State court.

1 “(2)(A) A civil action under this section may only be
2 brought—

3 “(i) against the originating rail carrier, in the
4 judicial district in which the point of origin is lo-
5 cated;

6 “(ii) against the delivering rail carrier, in the
7 judicial district in which the principal place of busi-
8 ness of the person bringing the action is located if
9 the delivering carrier operates a railroad or a route
10 through such judicial district, or in the judicial dis-
11 trict in which the point of destination is located; and

12 “(iii) against the carrier alleged to have caused
13 the loss or damage, in the judicial district in which
14 such loss or damage is alleged to have occurred.

15 “(B) In this section, ‘judicial district’ means (i) in
16 the case of a United States district court, a judicial dis-
17 trict of the United States, and (ii) in the case of a State
18 court, the applicable geographic area over which such
19 court exercises jurisdiction.

20 “(e) A carrier may not provide by rule, contract, or
21 otherwise, a period of less than 9 months for filing a claim
22 against it under this section and a period of less than 2
23 years for bringing a civil action against it under this sec-
24 tion. The period for bringing a civil action is computed
25 from the date the carrier gives a person written notice that

1 the carrier has disallowed any part of the claim specified
 2 in the notice. For the purposes of this subsection—

3 “(1) an offer of compromise shall not constitute
 4 a disallowance of any part of the claim unless the
 5 carrier, in writing, informs the claimant that such
 6 part of the claim is disallowed and provides reasons
 7 for such disallowance; and

8 “(2) communications received from a carrier’s
 9 insurer shall not constitute a disallowance of any
 10 part of the claim unless the insurer, in writing, in-
 11 forms the claimant that such part of the claim is
 12 disallowed, provides reasons for such disallowance,
 13 and informs the claimant that the insurer is acting
 14 on behalf of the carrier.

15 **“CHAPTER 117—CIVIL AND CRIMINAL**
 16 **PENALTIES**

“Sec.

“11701. General civil penalties.

“11702. Interference with railroad car supply.

“11703. Record keeping and reporting violations.

“11704. Unlawful disclosure of information.

“11705. Disobedience to subpoenas.

“11706. General criminal penalty when specific penalty not provided.

“11707. Punishment of corporation for violations committed by certain individ-
 uals.

17 **“§ 11701. General civil penalties**

18 “(a) Except as otherwise provided in this section, a
 19 rail carrier providing transportation subject to the juris-
 20 diction of the Panel under this part, an officer or agent
 21 of that rail carrier, or a receiver, trustee, lessee, or agent

1 of one of them, knowingly violating an order of the Panel
2 under this part is liable to the United States Government
3 for a civil penalty of \$5,000 for each violation. Liability
4 under this subsection is incurred for each distinct viola-
5 tion. A separate violation occurs for each day the violation
6 continues.

7 “(b) A rail carrier providing transportation subject
8 to the jurisdiction of the Panel under this part, or a re-
9 ceiver or trustee of that rail carrier, violating a regulation
10 or order of the Panel under section 10924(a)(2) or (b)
11 of this title is liable to the United States Government for
12 a civil penalty of \$500 for each violation and for \$25 for
13 each day the violation continues.

14 “(c) A person knowingly authorizing, consenting to,
15 or permitting a violation of sections 10701 through 10706
16 of this title or of a requirement or a regulation under any
17 of those sections, is liable to the United States Govern-
18 ment for a civil penalty of not more than \$5,000.

19 “(d) A rail carrier, receiver, or operating trustee vio-
20 lating an order or direction of the Panel under section
21 10923 or 10924(a)(1) of this title is liable to the United
22 States Government for a civil penalty of at least \$100 but
23 not more than \$500 for each violation and for \$50 for
24 each day the violation continues.

1 “(e)(1) A person required under subchapter III of
2 chapter 109 of this title to make, prepare, preserve, or
3 submit to the Panel a record concerning transportation
4 subject to the jurisdiction of the Panel under this part
5 that does not make, prepare, preserve, or submit that
6 record as required under that subchapter, is liable to the
7 United States Government for a civil penalty of \$500 for
8 each violation.

9 “(2) A rail carrier providing transportation subject
10 to the jurisdiction of the Panel under this part, and a les-
11 sor, receiver, or trustee of that rail carrier, violating sec-
12 tion 10944(b)(1) of this title, is liable to the United States
13 Government for a civil penalty of \$100 for each violation.

14 “(3) A rail carrier providing transportation subject
15 to the jurisdiction of the Panel under this part, a lessor,
16 receiver, or trustee of that rail carrier, a person furnishing
17 cars or protective services against heat or cold, and an
18 officer, agent, or employee of one of them, required to
19 make a report to the Panel or answer a question that does
20 not make the report or does not specifically, completely,
21 and truthfully answer the question, is liable to the United
22 States Government for a civil penalty of \$100 for each
23 violation.

24 “(4) A separate violation occurs for each day viola-
25 tion under this subsection continues.

1 “(f) Trial in a civil action under subsections (a)
2 through (e) of this section is in the judicial district in
3 which the rail carrier has its principal operating office or
4 in a district through which the railroad of the rail carrier
5 runs.

6 **“§ 11702. Interference with railroad car supply**

7 “(a) A person that offers or gives anything of value
8 to another person acting for or employed by a rail carrier
9 providing transportation subject to the jurisdiction of the
10 Panel under this part intending to influence an action of
11 that other person related to supply, distribution, or move-
12 ment of cars, vehicles, or vessels used in the transpor-
13 tation of property, or because of the action of that other
14 person shall be fined not more than \$1,000, imprisoned
15 for not more than 2 years, or both.

16 “(b) A person acting for or employed by a rail carrier
17 providing transportation subject to the jurisdiction of the
18 Panel under this part that solicits, accepts, or receives
19 anything of value—

20 “(1) intending to be influenced by it in an ac-
21 tion of that person related to supply, distribution, or
22 movement of cars, vehicles, or vessels used in the
23 transportation of property; or

24 “(2) because of the action of that person,

1 shall be fined not more than \$1,000, imprisoned for not
2 more than 2 years, or both.

3 **“§ 11703. Record keeping and reporting violations**

4 “A person required to make a report to the Panel,
5 or make, prepare, or preserve a record, under subchapter
6 III of chapter 109 of this title about transportation sub-
7 ject to the jurisdiction of the Panel under this part that
8 knowingly and willfully—

9 “(1) makes a false entry in the report or
10 record;

11 “(2) destroys, mutilates, changes, or by another
12 means falsifies the record;

13 “(3) does not enter business related facts and
14 transactions in the record;

15 “(4) makes, prepares, or preserves the record in
16 violation of a regulation or order of the Panel; or

17 “(5) files a false report or record with the
18 Panel,

19 shall be fined not more than \$5,000, imprisoned for not
20 more than 2 years, or both.

21 **“§ 11704. Unlawful disclosure of information**

22 “(a) A—

23 “(1) rail carrier providing transportation sub-
24 ject to the jurisdiction of the Panel under this part,
25 or an officer, agent, or employee of that rail carrier,

1 or another person authorized to receive information
2 from that rail carrier, that knowingly discloses to
3 another person, except the shipper or consignee; or

4 “(2) a person who solicits or knowingly re-
5 ceives,

6 information described in subsection (b) without the con-
7 sent of the shipper or consignee shall be fined not more
8 than \$1,000.

9 “(b) The information referred to in subsection (a) is
10 information about the nature, kind, quantity, destination,
11 consignee, or routing of property tendered or delivered to
12 that rail carrier for transportation provided under this
13 part, or information about the contents of a contract au-
14 thorized under section 10509 of this title, that may be
15 used to the detriment of the shipper or consignee or may
16 disclose improperly, to a competitor, the business trans-
17 actions of the shipper or consignee.

18 “(c) This part does not prevent a rail carrier or
19 broker providing transportation subject to the jurisdiction
20 of the Panel under this part from giving information—

21 “(1) in response to legal process issued under
22 authority of a court of the United States or a State;

23 “(2) to an officer, employee, or agent of the
24 United States Government, a State, or a territory or
25 possession of the United States; or

1 and when that rail carrier is a corporation, a director or
2 officer of the corporation, or a receiver, trustee, lessee, or
3 person acting for or employed by the corporation that,
4 alone or with another person, willfully violates this part
5 or an order prescribed under this part, shall be fined not
6 more than \$5,000. However, if the violation is for dis-
7 crimination in rates charged for transportation, the person
8 may be imprisoned for not more than 2 years in addition
9 to being fined under this section. A separate violation oc-
10 curs each day a violation of section 11122 of this title con-
11 tinues.

12 **“§ 11707. Punishment of corporation for violations**
13 **committed by certain individuals**

14 “An act or omission that would be a violation of this
15 part if committed by a director, officer, receiver, trustee,
16 lessee, agent, or employee of a rail carrier providing trans-
17 portation or service subject to the jurisdiction of the Panel
18 under this part that is a corporation is also a violation
19 of this part by that corporation. The penalties of this
20 chapter apply to that violation. When acting in the scope
21 of their employment, the actions and omissions of individ-
22 uals acting for or employed by that rail carrier are consid-
23 ered to be the actions and omissions of that rail carrier
24 as well as that individual.”.

1 (b) CONFORMING AMENDMENT.—The item relating
 2 to subtitle IV in the table of subtitles of title 49, United
 3 States Code, is amended by striking “**Commerce**” and
 4 inserting in lieu thereof “**Transportation**”.

5 **SEC. 103. MOTOR CARRIER, WATER CARRIER, AND FREIGHT**
 6 **FORWARDER PROVISIONS.**

7 Subtitle IV of title 49, United States Code, is further
 8 amended by adding at the end the following:

9 “PART B—MOTOR CARRIERS, WATER CARRIERS,
 10 BROKERS, AND FREIGHT FORWARDERS
 11 **“CHAPTER 131—GENERAL PROVISIONS**

“Sec.

“13101. Transportation policy.

“13102. Definitions.

“13103. Remedies as cumulative.

12 **“§ 13101. Transportation policy**

13 “(a) IN GENERAL.—To ensure the development, co-
 14 ordination, and preservation of a transportation system
 15 that meets the transportation needs of the United States,
 16 including the United States Postal Service and national
 17 defense, it is the policy of the United States Government
 18 to oversee the modes of transportation and—

19 “(1) in overseeing those modes—

20 “(A) to recognize and preserve the inher-
 21 ent advantage of each mode of transportation;

22 “(B) to promote safe, adequate, economi-
 23 cal, and efficient transportation;

1 “(C) to encourage sound economic condi-
2 tions in transportation, including sound eco-
3 nomic conditions among carriers;

4 “(D) to encourage the establishment and
5 maintenance of reasonable rates for transpor-
6 tation, without unreasonable discrimination or
7 unfair or destructive competitive practices;

8 “(E) to cooperate with each State and the
9 officials of each State on transportation mat-
10 ters; and

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

13 “(2) in overseeing transportation by motor car-
14 rier, to promote competitive and efficient transpor-
15 tation services in order to—

16 “(A) encourage fair competition, and rea-
17 sonable rates for transportation by motor car-
18 riers of property;

19 “(B) promote efficiency in the motor car-
20 rier transportation system and to require fair
21 and expeditious decisions when required;

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

24 “(D) allow a variety of quality and price
25 options to meet changing market demands and

1 the diverse requirements of the shipping and
2 traveling public;

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

5 “(F) enable efficient and well-managed
6 carriers to earn adequate profits, attract cap-
7 ital, and maintain fair wages and working con-
8 ditions;

9 “(G) provide and maintain service to small
10 communities and small shippers and intrastate
11 bus services;

12 “(H) provide and maintain commuter bus
13 operations;

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

17 “(J) promote greater participation by mi-
18 norities in the motor carrier system; and

19 “(K) promote intermodal transportation;
20 and

21 “(3) in overseeing transportation by motor car-
22 rier of passengers—

23 “(A) to cooperate with the States on trans-
24 portation matters for the purpose of encourag-
25 ing the States to exercise intrastate regulatory

1 jurisdiction in accordance with the objectives of
2 this part;

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

6 “(C) to ensure that Federal reform initia-
7 tives enacted by section 31138 and the Bus
8 Regulatory Reform Act of 1982 are not nul-
9 lified by State regulatory actions.

10 “(b) ADMINISTRATION TO CARRY OUT POLICY.—
11 This part shall be administered and enforced to carry out
12 the policy of this section.

13 **“§ 13102. Definitions**

14 “In this part, the following definitions shall apply:

15 “(1) BROKER.—The term ‘broker’ means a per-
16 son, other than a motor carrier or an employee or
17 agent of a motor carrier, that as a principal or agent
18 sells, offers for sale, negotiates for, or holds itself
19 out by solicitation, advertisement, or otherwise as
20 selling, providing, or arranging for, transportation
21 by motor carrier for compensation.

22 “(2) CARRIER.—The term ‘carrier’ means a
23 motor carrier, a water carrier, and a freight for-
24 warder, and, for purposes of sections 13902, 13905,

1 and 13906, the term includes foreign motor carriers
2 and foreign motor private carriers.

3 “(3) CONTRACT CARRIAGE.—The term ‘contract
4 carriage’ means—

5 “(A) for transportation provided before the
6 effective date of this section, service provided
7 pursuant to a permit issued under section
8 10923, as in effect on the day before the effec-
9 tive date of this section; and

10 “(B) for transportation provided on or
11 after such date, service provided under an
12 agreement entered into under section 14101(b).

13 “(4) CONTROL.—The term ‘control’, when re-
14 ferring to a relationship between persons, includes
15 actual control, legal control, and the power to exer-
16 cise control, through or by—

17 “(A) common directors, officers, stockhold-
18 ers, a voting trust, or a holding or investment
19 company, or

20 “(B) any other means.

21 “(5) FOREIGN MOTOR CARRIER.—The term
22 ‘foreign motor carrier’ means a person (including a
23 motor carrier of property but excluding a motor pri-
24 vate carrier)—

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

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

5 “(B) in the case of a person that is not a
6 motor carrier of property, that provides inter-
7 state transportation of property by motor vehi-
8 cle under an agreement or contract entered into
9 with a motor carrier of property (other than a
10 motor private carrier or a motor carrier of
11 property described in subparagraph (A)).

12 “(6) FOREIGN MOTOR PRIVATE CARRIER.—The
13 term ‘foreign motor private carrier’ means a person
14 (including a motor private carrier but excluding a
15 motor carrier of property)—

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

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

20 “(B) in the case of a person that is not a
21 motor private carrier, that provides interstate
22 transportation of property by motor vehicle
23 under an agreement or contract entered into
24 with a person (other than a motor carrier of

1 property or a motor private carrier described in
2 subparagraph (A)).

3 “(7) FREIGHT FORWARDER.—The term ‘freight
4 forwarder’ means a person holding itself out to the
5 general public (other than as a pipeline, rail, motor,
6 or water carrier) to provide transportation of prop-
7 erty for compensation and in the ordinary course of
8 its business—

9 “(A) assembles and consolidates, or pro-
10 vides for assembling and consolidating, ship-
11 ments and performs or provides for break-bulk
12 and distribution operations of the shipments;

13 “(B) assumes responsibility for the trans-
14 portation from the place of receipt to the place
15 of destination; and

16 “(C) uses for any part of the transpor-
17 tation a carrier subject to jurisdiction under
18 this part.

19 The term does not include a person using transpor-
20 tation of an air carrier subject to part A of subtitle
21 VII.

22 “(8) HIGHWAY.—The term ‘highway’ means a
23 road, highway, street, and way in a State.

24 “(9) HOUSEHOLD GOODS.—The term ‘house-
25 hold goods’, as used in connection with transpor-

1 tation, means personal effects and property used or
2 to be used in a dwelling, when a part of the equip-
3 ment or supply of such dwelling, and similar prop-
4 erty if the transportation of such effects or property
5 is—

6 “(A) arranged and paid for by the house-
7 holder, including transportation of property
8 from a factory or store when the property is
9 purchased by the householder with intent to use
10 in his or her dwelling, or

11 “(B) arranged and paid for by another
12 party.

13 “(10) HOUSEHOLD GOODS FREIGHT FOR-
14 WARDER.—The term ‘household goods freight for-
15 warder’ means a freight forwarder of one or more of
16 the following items: household goods, unaccompanied
17 baggage, or used automobiles.

18 “(11) MOTOR CARRIER.—The term ‘motor car-
19 rier’ means a person providing motor vehicle trans-
20 portation for compensation.

21 “(12) MOTOR PRIVATE CARRIER.—The term
22 ‘motor private carrier’ means a person, other than a
23 motor carrier, transporting property by motor vehi-
24 cle when—

1 “(A) the transportation is as provided in
2 section 13501 of this title;

3 “(B) the person is the owner, lessee, or
4 bailee of the property being transported; and

5 “(C) the property is being transported for
6 sale, lease, rent, or bailment or to further a
7 commercial enterprise.

8 “(13) MOTOR VEHICLE.—The term ‘motor vehi-
9 cle’ means a vehicle, machine, tractor, trailer, or
10 semitrailer propelled or drawn by mechanical power
11 and used on a highway in transportation, or a com-
12 bination determined by the Secretary, but does not
13 include a vehicle, locomotive, or car operated only on
14 a rail, or a trolley bus operated by electric power
15 from a fixed overhead wire, and providing local pas-
16 senger transportation similar to street-railway serv-
17 ice.

18 “(14) NONCONTIGUOUS DOMESTIC TRADE.—
19 The term ‘noncontiguous domestic trade’ means
20 motor-water transportation subject to jurisdiction
21 under chapter 135 of this title involving traffic origi-
22 nating in or destined to Alaska, Hawaii, or a terri-
23 tory or possession of the United States.

24 “(15) PANEL.—The term ‘Panel’ means the
25 Transportation Adjudication Panel.

1 “(16) PERSON.—The term ‘person’, in addition
2 to its meaning under section 1 of title 1, includes a
3 trustee, receiver, assignee, or personal representative
4 of a person.

5 “(17) SECRETARY.—The term ‘Secretary’
6 means the Secretary of Transportation.

7 “(18) STATE.—The term ‘State’ means the 50
8 States of the United States and the District of Co-
9 lumbia.

10 “(19) TRANSPORTATION.—The term ‘transportation’ includes—

12 “(A) a motor vehicle, vessel, warehouse,
13 wharf, pier, dock, yard, property, facility, in-
14 strumentality, or equipment of any kind related
15 to the movement of passengers or property, or
16 both, regardless of ownership or an agreement
17 concerning use; and

18 “(B) services related to that movement, in-
19 cluding receipt, delivery, elevation, transfer in
20 transit, refrigeration, icing, ventilation, storage,
21 handling, and interchange of passengers and
22 property.

23 “(20) UNITED STATES.—The term ‘United
24 States’ means the States of the United States and
25 the District of Columbia.

1 “(21) VESSEL.—The term ‘vessel’ means a
2 watercraft or other artificial contrivance that is
3 used, is capable of being used, or is intended to be
4 used, as a means of transportation by water.

5 “(22) WATER CARRIER.—The term ‘water car-
6 rier’ means a person providing water transportation
7 for compensation.

8 **“§ 13103. Remedies as cumulative**

9 “Except as otherwise provided in this part, the rem-
10 edies provided under this part are in addition to remedies
11 existing under another law or common law.

12 **“CHAPTER 133—ADMINISTRATIVE PROVISIONS**

 “Sec.

 “13301. Powers.

 “13302. Intervention.

 “13303. Service of notice in proceedings.

 “13304. Service of process in court proceedings.

13 **“§ 13301. Powers**

14 “(a) GENERAL POWERS OF SECRETARY.—Except as
15 otherwise specified, the Secretary shall carry out this part.
16 Enumeration of a power of the Secretary in this part does
17 not exclude another power the Secretary may have in car-
18 rying out this part. The Secretary may prescribe regula-
19 tions in carrying out this part.

20 “(b) OBTAINING INFORMATION.—The Secretary may
21 obtain from carriers providing, and brokers for, transpor-
22 tation and service subject to this part, and from persons
23 controlling, controlled by, or under common control with

1 those carriers or brokers to the extent that the business
2 of that person is related to the management of the busi-
3 ness of that carrier or broker, information the Secretary
4 decides is necessary to carry out this part.

5 “(c) SUBPOENA POWER.—

6 “(1) BY SECRETARY.—The Secretary may sub-
7 poena witnesses and records related to a proceeding
8 under this part from any place in the United States,
9 to the designated place of the proceeding. If a wit-
10 ness disobeys a subpoena, the Secretary, or a party
11 to a proceeding under this part, may petition a court
12 of the United States to enforce that subpoena.

13 “(2) ENFORCEMENT.—The district courts of the
14 United States have jurisdiction to enforce a sub-
15 poena issued under this section. Trial is in the dis-
16 trict in which the proceeding is conducted. The court
17 may punish a refusal to obey a subpoena as a con-
18 tempt of court.

19 “(d) TESTIMONY OF WITNESSES.—

20 “(1) PROCEDURE FOR TAKING TESTIMONY.—In
21 a proceeding under this part, the Secretary may
22 take the testimony of a witness by deposition and
23 may order the witness to produce records. A party
24 to a proceeding pending under this part may take
25 the testimony of a witness by deposition and may re-

1 quire the witness to produce records at any time
2 after a proceeding is at issue on petition and an-
3 swer.

4 “(2) SUBPOENA.—If a witness fails to be de-
5 posed or to produce records under paragraph (1) of
6 this subsection, the Secretary may subpoena the wit-
7 ness to take a deposition, produce the records, or
8 both.

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

18 “(4) NOTICE OF DEPOSITION.—Before taking a
19 deposition, reasonable notice must be given in writ-
20 ing by the party or the attorney of that party pro-
21 posing to take a deposition to the opposing party or
22 the attorney of record of that party, whoever is near-
23 est. The notice shall state the name of the witness
24 and the time and place of taking the deposition.

1 “(5) TRANSCRIPT.—The testimony of a person
2 deposed under this subsection shall be taken under
3 oath. The person taking the deposition shall prepare,
4 or cause to be prepared, a transcript of the testi-
5 mony taken. The transcript shall be subscribed by
6 the deponent.

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

13 “(e) WITNESS FEES.—Each witness summoned be-
14 fore the Secretary or whose deposition is taken under this
15 section and the individual taking the deposition are enti-
16 tled to the same fees and mileage paid for those services
17 in the courts of the United States.

18 “(f) POWERS OF PANEL.—For those provisions of
19 this part that are specified to be carried out by the Panel,
20 the Panel shall have the same powers as the Secretary
21 has under this section.

22 **“§ 13302. Intervention**

23 “Under regulations of the Secretary, reasonable no-
24 tice of, and an opportunity to intervene and participate
25 in, a proceeding under this part related to transportation

1 subject to jurisdiction under subchapter I of chapter 135
2 shall be given to interested persons.

3 **“§ 13303. Service of notice in proceedings**

4 “(a) AGENTS FOR SERVICE OF PROCESS.—A motor
5 carrier, a broker, or a freight forwarder providing trans-
6 portation or service subject to jurisdiction under chapter
7 135 of this title shall designate, in writing, an agent by
8 name and post office address on whom service of notices
9 in a proceeding before, and of actions of, the Secretary
10 may be made.

11 “(b) FILING WITH STATE.—A motor carrier provid-
12 ing transportation under this part shall also file the des-
13 ignation with the authority of each State in which it oper-
14 ates having jurisdiction to regulate transportation by
15 motor vehicle in intrastate commerce on the highways of
16 that State. The designation may be changed at any time
17 in the same manner as originally made.

18 “(c) NOTICE.—A notice to a motor carrier, freight
19 forwarder, or broker shall be served personally or by mail
20 on the motor carrier, freight forwarder, or broker or on
21 its designated agent. Service by mail on the designated
22 agent shall be made at the address filed for the agent.
23 When notice is given by mail, the date of mailing is consid-
24 ered to be the time when the notice is served. If a motor
25 carrier, freight forwarder, or broker does not have a des-

1 igned agent, service may be made by posting a copy of
 2 the notice at the headquarters of the Department of
 3 Transportation.

4 **“§ 13304. Service of process in court proceedings**

5 “(a) DESIGNATION OF AGENT.—A motor carrier or
 6 broker providing transportation subject to jurisdiction
 7 under chapter 135 of this title, including a motor carrier
 8 or broker operating within the United States while provid-
 9 ing transportation between places in a foreign country or
 10 between a place in one foreign country and a place in an-
 11 other foreign country, shall designate an agent in each
 12 State in which it operates by name and post office address
 13 on whom process issued by a court with subject matter
 14 jurisdiction may be served in an action brought against
 15 that carrier or broker. The designation shall be in writing
 16 and filed with the Department of Transportation. If a des-
 17 ignation under this subsection is not made, service may
 18 be made on any agent of the carrier or broker within that
 19 State.

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

23 **“CHAPTER 135—JURISDICTION**

 “SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION

“Sec.

“13501. General jurisdiction.

“13502. Exempt transportation between Alaska and other States.

1 “(D) the United States and another place
2 in the United States through a foreign country
3 to the extent the transportation is in the United
4 States; or

5 “(E) the United States and a place in a
6 foreign country to the extent the transportation
7 is in the United States; and

8 “(2) in a reservation under the exclusive juris-
9 diction of the United States or on a public highway.

10 **“§ 13502. Exempt transportation between Alaska and**
11 **other States**

12 “To the extent that transportation by a motor carrier
13 between a place in Alaska and a place in another State
14 under section 13501 is provided in a foreign country—

15 “(1) neither the Secretary nor the Panel has ju-
16 risdiction to impose a requirement over conduct of
17 the motor carrier in the foreign country conflicting
18 with a requirement of that country; but

19 “(2) the motor carrier, as a condition of provid-
20 ing transportation in the United States, shall com-
21 ply, with respect to all transportation provided be-
22 tween Alaska and the other State, with the require-
23 ments of this part related to rates and practices ap-
24 plicable to the transportation.

1 **“§ 13503. Exempt motor vehicle transportation in ter-**
2 **minal areas**

3 “(a) TRANSPORTATION BY CARRIERS.—

4 “(1) IN GENERAL.—Neither the Secretary nor
5 the Panel has jurisdiction under this subchapter
6 over transportation by motor vehicle provided in a
7 terminal area when the transportation—

8 “(A) is a transfer, collection, or delivery;

9 “(B) is provided by—

10 “(i) a rail carrier subject to jurisdic-
11 tion under chapter 105;

12 “(ii) a water carrier subject to juris-
13 diction under subchapter II of this chapter;

14 or

15 “(iii) a freight forwarder subject to
16 jurisdiction under subchapter III of this
17 chapter; and

18 “(C) is incidental to transportation or
19 service provided by the carrier or freight for-
20 warder that is subject to jurisdiction under
21 chapter 105 of this title or under subchapter II
22 or III of this chapter.

23 “(2) APPLICABILITY OF OTHER PROVISIONS.—

24 Transportation exempt from jurisdiction under para-
25 graph (1) of this subsection is subject to jurisdiction
26 under chapter 105 when provided by such a rail car-

1 rier, under subchapter II of this chapter when pro-
2 vided by such a water carrier, and under subchapter
3 III of this chapter when provided by such a freight
4 forwarder.

5 “(b) TRANSPORTATION BY AGENT.—

6 “(1) IN GENERAL.—Except to the extent pro-
7 vided by paragraph (2) of this subsection, neither
8 the Secretary nor the Panel has jurisdiction under
9 this subchapter over transportation by motor vehicle
10 provided in a terminal area when the transpor-
11 tation—

12 “(A) is a transfer, collection, or delivery;

13 and

14 “(B) is provided by a person as an agent
15 or under other arrangement for—

16 “(i) a rail carrier subject to jurisdic-
17 tion under chapter 105 of this title;

18 “(ii) a motor carrier subject to jurisdic-
19 tion under this subchapter;

20 “(iii) a water carrier subject to jurisdic-
21 tion under subchapter II of this chapter;

22 or

23 “(iv) a freight forwarder subject to ju-
24 risdiction under subchapter III of this
25 chapter.

1 “(2) TREATMENT OF TRANSPORTATION BY
2 PRINCIPAL.—Transportation exempt from jurisdic-
3 tion under paragraph (1) of this subsection is con-
4 sidered transportation provided by the carrier or
5 service provided by the freight forwarder for whom
6 the transportation was provided and is subject to ju-
7 risdiction under chapter 105 of this title when pro-
8 vided for such a rail carrier, under this subchapter
9 when provided for such a motor carrier, under sub-
10 chapter II of this chapter when provided for such a
11 water carrier, and under subchapter III of this chap-
12 ter when provided for such a freight forwarder.

13 **“§ 13504. Exempt motor carrier transportation en-**
14 **tirely in one State**

15 “Neither the Secretary nor the Panel has jurisdiction
16 under this subchapter over transportation, except trans-
17 portation of household goods, by a motor carrier operating
18 solely within the State of Hawaii. The State of Hawaii
19 may regulate transportation exempt from jurisdiction
20 under this section and, to the extent provided by a motor
21 carrier operating solely within the State of Hawaii, trans-
22 portation exempt under section 13503 of this title.

1 **“§ 13505. Transportation furthering a primary busi-**
2 **ness**

3 “(a) IN GENERAL.—Neither the Secretary nor the
4 Panel has jurisdiction under this part over the transpor-
5 tation of property by motor vehicle when—

6 “(1) the property is transported by a person en-
7 gaged in a business other than transportation; and

8 “(2) the transportation is within the scope of,
9 and furthers a primary business (other than trans-
10 portation) of the person.

11 “(b) CORPORATE FAMILIES.—

12 “(1) IN GENERAL.—Neither the Secretary nor
13 the Panel has jurisdiction under this part over
14 transportation of property by motor vehicle for com-
15 pensation provided by a person who is a member of
16 a corporate family for other members of such cor-
17 porate family.

18 “(2) DEFINITION.—In this section, ‘corporate
19 family’ means a group of corporations consisting of
20 a parent corporation and all subsidiaries in which
21 the parent corporation owns directly or indirectly a
22 100 percent interest.

23 **“§ 13506. Miscellaneous motor carrier transportation**
24 **exemptions**

25 “(a) IN GENERAL.—Neither the Secretary nor the
26 Panel has jurisdiction under this part over—

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

3 “(2) a motor vehicle providing taxicab service
4 and having a capacity of not more than 6 passengers
5 and not operated on a regular route or between
6 specified places;

7 “(3) a motor vehicle owned or operated by or
8 for a hotel and only transporting hotel patrons be-
9 tween the hotel and the local station of a common
10 carrier;

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

13 “(A) the farmer’s agricultural or horti-
14 cultural commodities and products; or

15 “(B) supplies to the farm of the farmer;

16 “(5) a motor vehicle controlled and operated by
17 a cooperative association (as defined by section
18 15(a) of the Agricultural Marketing Act (12 U.S.C.
19 1141j(a)) or by a federation of cooperative associa-
20 tions if the federation has no greater power or pur-
21 poses than a cooperative association, except that if
22 the cooperative association or federation provides
23 transportation for compensation between a place in
24 a State and a place in another State, or between a

1 place in a State and another place in the same State
2 through another State—

3 “(A) for a nonmember that is not a farm-
4 er, cooperative association, federation, or the
5 United States Government, the transportation
6 (except for transportation otherwise exempt
7 under this subchapter)—

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

13 “(ii) may not exceed in each fiscal
14 year 25 percent of the total transportation
15 of the cooperative association or federation
16 between those places, measured by ton-
17 nage; and

18 “(B) the transportation for all
19 nonmembers may not exceed in each fiscal year,
20 measured by tonnage, the total transportation
21 between those places for the cooperative asso-
22 ciation or federation and its members during
23 that fiscal year;

24 “(6) transportation by motor vehicle of—

25 “(A) ordinary livestock;

1 “(B) agricultural or horticultural commod-
2 ities (other than manufactured products there-
3 of);

4 “(C) commodities listed as exempt in the
5 Commodity List incorporated in ruling num-
6 bered 107, March 19, 1958, Bureau of Motor
7 Carriers, Interstate Commerce Commission,
8 other than frozen fruits, frozen berries, frozen
9 vegetables, cocoa beans, coffee beans, tea, ba-
10 nanas, or hemp, or wool imported from a for-
11 eign country, wool tops and noils, or wool waste
12 (carded, spun, woven, or knitted);

13 “(D) cooked or uncooked fish, whether
14 breaded or not, or frozen or fresh shellfish, or
15 byproducts thereof not intended for human con-
16 sumption, other than fish or shellfish that have
17 been treated for preserving, such as canned,
18 smoked, pickled, spiced, corned, or kippered
19 products; and

20 “(E) livestock and poultry feed and agri-
21 cultural seeds and plants, if such products (ex-
22 cluding products otherwise exempt under this
23 paragraph) are transported to a site of agricul-
24 tural production or to a business enterprise en-

1 gaged in the sale to agricultural producers of
2 goods used in agricultural production;

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

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

7 “(B) transportation of property (including bag-
8 gage) by motor vehicle as part of a continuous move-
9 ment which, prior or subsequent to such part of the
10 continuous movement, has been or will be trans-
11 ported by an air carrier or (to the extent so agreed
12 by the United States and approved by the Secretary)
13 by a foreign air carrier; or

14 “(C) transportation of property by motor vehi-
15 cle in lieu of transportation by aircraft because of
16 adverse weather conditions or mechanical failure of
17 the aircraft or other causes due to circumstances be-
18 yond the control of the carrier or shipper;

19 “(9) the operation of a motor vehicle in a na-
20 tional park or national monument;

21 “(10) a motor vehicle carrying not more than
22 15 individuals in a single, daily roundtrip to com-
23 mute to and from work;

24 “(11) transportation of used pallets and used
25 empty shipping containers (including intermodal

1 cargo containers), and other used shipping devices
2 (other than containers or devices used in the trans-
3 portation of motor vehicles or parts of motor vehi-
4 cles);

5 “(12) transportation of natural, crushed, vesic-
6 ular rock to be used for decorative purposes;

7 “(13) transportation of wood chips;

8 “(14) brokers for motor carriers of passengers,
9 except as provided in section 13904(d)); or

10 “(15) transportation of broken, crushed, or
11 powdered glass.

12 “(b) EXEMPT UNLESS OTHERWISE NECESSARY.—
13 Except to the extent the Secretary or Panel, as applicable,
14 finds it necessary to exercise jurisdiction to carry out the
15 transportation policy of section 13101, neither the Sec-
16 retary nor the Panel has jurisdiction under this part
17 over—

18 “(1) transportation provided entirely in a mu-
19 nicipality, in contiguous municipalities, or in a zone
20 that is adjacent to, and commercially a part of, the
21 municipality or municipalities, except—

22 “(A) when the transportation is under
23 common control, management, or arrangement
24 for a continuous carriage or shipment to or

1 from a place outside the municipality, municipi-
2 palities, or zone; or

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

13 “(2) transportation by motor vehicle provided
14 casually, occasionally, or reciprocally but not as a
15 regular occupation or business, except when a broker
16 or other person sells or offers for sale passenger
17 transportation provided by a person authorized to
18 transport passengers by motor vehicle under an ap-
19 plication pending, or registration issued, under this
20 part; or

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

1 **“§ 13507. Mixed loads of regulated and unregulated**
2 **property**

3 “A motor carrier of property providing transportation
4 exempt from jurisdiction under paragraph (6), (8), (11),
5 (12), or (13) of section 13506(a) may transport property
6 under such paragraph in the same vehicle and at the same
7 time as property which the carrier is authorized to trans-
8 port under a registration issued under section 13902(a).
9 Such transportation shall not affect the unregulated sta-
10 tus of such exempt property or the regulated status of the
11 property which the carrier is authorized to transport
12 under such registration.

13 **“§ 13508. Limited authority over cooperative associa-**
14 **tions**

15 “(a) IN GENERAL.—Notwithstanding section
16 13506(a)(5), any cooperative association (as defined by
17 section 15(a) of the Agricultural Marketing Act (12
18 U.S.C. 1141j(a))) or a federation of cooperative associa-
19 tions shall prepare and maintain such records relating to
20 transportation provided by such association or federation,
21 in such form as the Secretary or the Panel may require
22 by regulation to carry out the provisions of such section
23 13506(a)(5). The Secretary or the Panel, or an employee
24 designated by the Secretary or the Panel, may on demand
25 and display of proper credentials—

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

3 “(2) inspect and copy any record of such asso-
4 ciation or federation.

5 “(b) REPORTS.—Notwithstanding section
6 13506(a)(5), the Secretary or the Panel may require a co-
7 operative association or federation of cooperative associa-
8 tions described in subsection (a) of this section to file re-
9 ports with the Secretary or the Panel containing answers
10 to questions about transportation provided by such asso-
11 ciation or federation.

12 “(c) ENFORCEMENT.—The Secretary or the Panel
13 may bring a civil action to enforce subsections (a) and (b)
14 of this section or a regulation or order of the Secretary
15 or the Panel issued under this section, when violated by
16 a cooperative association or federation of cooperative asso-
17 ciations described in subsection (a).

18 “(d) REPORTING PENALTIES.—

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

23 “(A) does not make the report;

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

1 “(C) does not maintain the record in the
2 form and manner prescribed under this section;
3 is liable to the United States Government for a civil
4 penalty of not more than \$500 for each violation
5 and for not more than \$250 for each additional day
6 the violation continues.

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

10 “(A) the cooperative association or federa-
11 tion of cooperative associations has its principal
12 office;

13 “(B) the violation occurred; or

14 “(C) the offender is found.

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

18 “(e) EVASION PENALTIES.—A person, or an officer,
19 employee, or agent of that person, that by any means
20 knowingly and willfully tries to evade compliance with the
21 provisions of this section shall be fined at least \$200 but
22 not more than \$500 for the first violation and at least
23 \$250 but not more than \$2,000 for a subsequent violation.

24 “(f) RECORDKEEPING PENALTIES.—A person re-
25 quired to make a report, answer a question, or maintain

1 a record under this section, or an officer, agent, or em-
2 ployee of that person, that—

3 “(1) willfully does not make that report;

4 “(2) willfully does not specifically, completely,
5 and truthfully answer that question in 30 days from
6 the date that the question is required to be an-
7 swered;

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

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

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

14 “(6) knowingly and willfully makes a false or
15 incomplete entry in that record about a business-re-
16 lated fact or transaction; or

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

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

1 that a freight forwarder undertakes to provide, or is au-
2 thorized or required under this part to provide, to the ex-
3 tent transportation is provided in the United States and
4 is between—

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

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

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

12 “(b) EXEMPTION OF CERTAIN AIR CARRIER SERV-
13 ICE.—Neither the Secretary nor the Panel has jurisdiction
14 under subsection (a) of this section over service under-
15 taken by a freight forwarder using transportation of an
16 air carrier subject to part A of subtitle VII of this title.

17 “SUBCHAPTER IV—AUTHORITY TO EXEMPT

18 “§ 13541. **Authority to exempt transportation or serv-**
19 **ices**

20 “(a) IN GENERAL.—In any matter subject to juris-
21 diction under this part, the Secretary or the Panel, as ap-
22 plicable, shall exempt a person, class of persons, or a
23 transaction or service from the application of a provision
24 of this part, or use this exemption authority to modify the
25 application of a provision of this part as it applies to such

1 person, class, transaction, or service, when the Secretary
2 or Panel finds that the application of that provision in
3 whole or in part—

4 “(1) is not necessary to carry out the transpor-
5 tation policy of section 13101;

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

9 “(3) is in the public interest.

10 “(b) INITIATION OF PROCEEDING.—The Secretary or
11 Panel, as applicable, may, where appropriate, begin a pro-
12 ceeding under this section on the Secretary’s or Panel’s
13 own initiative or on application by an interested party.

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

17 “(d) REVOCATION.—The Secretary or Panel, as ap-
18 plicable, may revoke an exemption, to the extent specified,
19 on finding that application of a provision of this part to
20 the person, class, or transportation is necessary to carry
21 out the transportation policy of section 13101.

22 “(e) LIMITATIONS.—The exemption authority under
23 this section may not be used to relieve a person from the
24 application of, and compliance with, any law, rule, regula-
25 tion, standard, or order pertaining to cargo loss and dam-

1 age, insurance, safety fitness, or activities approved under
 2 section 13703 or not terminated under section
 3 13907(d)(2).

4 **“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. Billing and collecting practices. .

“13708. Procedures for resolving claims involving unfiled, negotiated transpor-
 tation rates.

“13709. Additional motor carrier undercharge provisions.

“13710. Alternative procedure for resolving undercharge disputes.

“13711. Government traffic.

“13712. Food and grocery transportation.

5 **“§ 13701. Requirements for reasonable rates, classi-**
 6 **fications, through routes, rules, and prac-**
 7 **tices for certain transportation**

8 “(a) REASONABLENESS.—

9 “(1) CERTAIN HOUSEHOLD GOODS TRANSPOR-
 10 TATION; JOINT RATES INVOLVING WATER TRANSPOR-
 11 TATION.—A rate, classification, rule, or practice re-
 12 lated to transportation or service provided by a car-
 13 rier subject to jurisdiction under subchapters I or
 14 III of chapter 135 of this title for transportation or
 15 service involving—

16 “(A) a movement of household goods de-
 17 scribed in section 13102(9)(A), or

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

10 “(b) TARIFF REQUIREMENTS FOR NONCONTIGUOUS
11 DOMESTIC TRADE.—

12 “(1) FILING.—A carrier providing transpor-
13 tation or service described in subsection (a)(1) shall
14 publish and file with the Panel tariffs containing the
15 rates established for such transportation or service.
16 The carriers shall keep such tariffs available for
17 public inspection. The Panel shall prescribe the form
18 and manner of publishing, filing, and keeping tariffs
19 available for public inspection under this subsection.

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

24 “(A) the carriers that are parties to it;

1 “(B) the places between which property
2 will be transported;

3 “(C) terminal charges if a carrier provides
4 transportation or service subject to jurisdiction
5 under subchapter III of chapter 135;

6 “(D) privileges given and facilities allowed;
7 and

8 “(E) any rules that change, affect, or de-
9 termine any part of the published rate.

10 “(3) CHANGES.—The Panel may permit car-
11 riers to change rates, classifications, rules, and prac-
12 tices without filing complete tariffs under this sub-
13 section that cover matter that is not being changed
14 when the Panel finds that action to be consistent
15 with the public interest. Those carriers may either—

16 “(A) publish new tariffs that incorporate
17 changes, or

18 “(B) plainly indicate the proposed changes
19 in the tariffs then in effect and kept open for
20 public inspection.

21 “(c) TARIFF REQUIREMENTS FOR HOUSEHOLD
22 GOODS CARRIERS.—

23 “(1) IN GENERAL.—A carrier providing trans-
24 portation described in subsection (a)(2) shall main-
25 tain rates and related rules and practices in a tariff.

1 The tariff must be submitted to the Panel for in-
2 spection and be made available for inspection by
3 shippers upon reasonable request.

4 “(2) NOTICE OF AVAILABILITY.—A carrier that
5 maintains a tariff under this subsection may not en-
6 force the provisions of the tariff unless the carrier
7 has given notice that the tariff is available for in-
8 spection in its bill of lading or by other actual notice
9 to individuals whose shipments are subject to the
10 tariff.

11 “(3) REQUIREMENTS.—A carrier that main-
12 tains a tariff under this subsection is bound by the
13 tariff except as otherwise provided in this part. A
14 tariff that does not comply with this subsection may
15 not be enforced against any individual shipper.

16 “(4) INCORPORATION BY REFERENCE.—A car-
17 rier may incorporate by reference the rates, terms,
18 and other conditions in a tariff in agreements cover-
19 ing the transportation of households described in
20 section 13102(9)(B).

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

1 “(d) INVALIDATION.—The Panel may invalidate a
2 tariff prepared by a carrier or carriers under this section
3 (other than subsection (e)) if that tariff violates this sec-
4 tion or a regulation of the Panel carrying out this section.

5 “(e) PORT-TO-PORT TRANSPORTATION.—

6 “(1) IN GENERAL.—

7 “(A) FILING REQUIREMENT.—Except with
8 regard to bulk cargo, forest products, recycled
9 metal scrap, waste paper, and paper waste,
10 each water common carrier subject to jurisdic-
11 tion under subchapter II of chapter 135 per-
12 forming transportation in domestic offshore
13 commerce shall file with the Panel, and keep
14 open to public inspection, tariffs showing all its
15 rates, charges, classifications, rules, and prac-
16 tices between all points or ports on its own
17 route and on any through transportation route
18 that has been established. Such carriers shall
19 not be required to state separately or otherwise
20 reveal in tariff filings the inland divisions of a
21 through rate. Such tariffs shall—

22 “(i) state the places between which
23 cargo will be carried;

24 “(ii) list each classification of cargo in
25 use;

1 “(iii) state separately each terminal or
2 other charge, privilege, or facility under
3 the control of the carrier and any rules or
4 regulations that in any way change, affect,
5 or determine any part of the aggregate of
6 the rates or charges; and

7 “(iv) include sample copies of any loy-
8 alty contract, bill of lading, contract of af-
9 freightment, or other document evidencing
10 the transportation agreement.

11 “(B) AVAILABILITY.—Copies of tariffs
12 shall be made available to any person, and a
13 reasonable charge may be assessed for them.

14 “(2) TIME-VOLUME RATES.—Rates shown in
15 tariffs filed under paragraph (1) may vary with the
16 volume of cargo offered over a specified period of
17 time.

18 “(3) RATES.—No new or initial rate required to
19 be filed under this subsection, or change in an exist-
20 ing rate required to be filed under this subsection,
21 that results in an increased cost to a shipper may
22 become effective earlier than 30 days after filing of
23 the rate with the Panel; except that the Panel, for
24 good cause, may allow such a new or initial rate or
25 change to become effective in less than 30 days. A

1 change in such an existing rate that results in a de-
2 creased cost to the shipper may become effective
3 upon publication and filing of the rate with the
4 Panel.

5 **“§ 13703. Certain collective activities; exemption from**
6 **antitrust laws**

7 “(a) AGREEMENTS.—

8 “(1) AUTHORITY TO ENTER.—A motor carrier
9 providing transportation or service subject to juris-
10 diction under chapter 135 may enter into an agree-
11 ment with one or more such carriers to establish—

12 “(A) through routes and joint rates;

13 “(B) rates for the transportation of house-
14 hold goods described in section 13102(9)(A);

15 “(C) classifications;

16 “(D) mileage guides;

17 “(E) rules;

18 “(F) divisions;

19 “(G) rate adjustments of general applica-
20 tion based on industry average carrier costs (so
21 long as there is no discussion of individual mar-
22 kets or particular single-line rates); or

23 “(H) procedures for joint consideration,
24 initiation, or establishment of matters described
25 in subparagraphs (A) through (G).

1 “(2) SUBMISSION OF AGREEMENT TO PANEL;
2 APPROVAL.—An agreement entered into under sub-
3 section (a) may be submitted by any carrier or car-
4 riers that are parties to such agreement to the Panel
5 for approval and may be approved by the Panel only
6 if it finds that such agreement is in the public inter-
7 est.

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

12 “(4) INVESTIGATIONS.—The Panel may sus-
13 pend and investigate the reasonableness of any clas-
14 sification or rate adjustment of general application
15 made pursuant to an agreement under this section.

16 “(5) EFFECT OF APPROVAL.—If the Panel ap-
17 proves the agreement or renews approval of the
18 agreement, it may be made and carried out under its
19 terms and under the conditions required by the
20 Panel, and the antitrust laws, as defined in the first
21 section of the Clayton Act (15 U.S.C. 12), do not
22 apply to parties and other persons with respect to
23 making or carrying out the agreement.

24 “(b) RECORDS.—The Panel may require an organiza-
25 tion established or continued under an agreement ap-

1 proved under this section to maintain records and submit
2 reports. The Panel, or its delegate, may inspect a record
3 maintained under this section, or monitor any organiza-
4 tion's compliance with this section.

5 “(c) REVIEW.—The Panel may review an agreement
6 approved under this section, on its own initiative or on
7 request, and shall change the conditions of approval or
8 terminate it when necessary to protect the public interest.
9 Action of the Panel under this section—

10 “(1) approving an agreement,

11 “(2) denying, ending, or changing approval,

12 “(3) prescribing the conditions on which ap-
13 proval is granted, or

14 “(4) changing those conditions,

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

17 “(d) EXPIRATION OF APPROVALS; RENEWALS.—Sub-
18 ject to subsection (c), approval of an agreement under sub-
19 section (a) shall expire 3 years after the date of approval
20 unless renewed under this subsection. The approval may
21 be renewed upon request of the parties to the agreement
22 if such parties resubmit the agreement to the Panel, the
23 agreement is unchanged, and the Panel approves such re-
24 newal. The Panel shall approve the renewal unless it finds
25 that the renewal is not in the public interest.

1 “(e) EXISTING AGREEMENTS.—Agreements approved
2 under former section 10706(b) and in effect on the day
3 before the effective date of this section shall be treated
4 for purposes of this section as approved by the Panel
5 under this section beginning on such effective date.

6 “(f) LIMITATIONS ON STATUTORY CONSTRUCTION.—

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

10 “(2) OBLIGATION OF SHIPPER.—Nothing in
11 this title, the ICC Termination Act of 1995, or any
12 amendments or repeals made by such Act shall be
13 construed as creating any obligation for a shipper
14 based solely on a classification that was on file with
15 the Interstate Commerce Commission or elsewhere
16 on the day before the effective date of this section.

17 “(g) MILEAGE RATE LIMITATION.—No carrier sub-
18 ject to jurisdiction under subchapter I or III of chapter
19 135 may enforce collection of its mileage rates unless such
20 carrier—

21 “(1) uses an independent publication of mileage
22 (other than a publication referred to in paragraph
23 (2)) which can be examined by any interested person
24 upon reasonable request; or

1 “(1) AUTHORITY.—Subject to the provisions of
2 paragraph (2) of this subsection, a motor carrier
3 providing transportation of household goods subject
4 to jurisdiction under subchapter I of chapter 135
5 may establish rates for the transportation of house-
6 hold goods which guarantee that the carrier will pick
7 up and deliver such household goods at the times
8 specified in the contract for such services and pro-
9 vide a penalty or per diem payment in the event the
10 carrier fails to pick up or deliver such household
11 goods at the specified time. The charges, if any, for
12 such guarantee and penalty provision may vary to
13 reflect one or more options available to meet a par-
14 ticular shipper’s needs.

15 “(2) AUTHORITY OF SECRETARY TO REQUIRE
16 NONGUARANTEED SERVICE RATES.—Before a carrier
17 may establish a rate for any service under paragraph
18 (1) of this subsection, the Secretary may require
19 such carrier to have in effect and keep in effect, dur-
20 ing any period such rate is in effect under para-
21 graph (1), a rate for such service which does not
22 guarantee the pick up and delivery of household
23 goods at the times specified in the contract for such
24 services and which does not provide a penalty or per

1 diem payment in the event the carrier fails to pick
2 up or deliver household goods at the specified time.

3 **“§ 13705. Requirements for through routes among**
4 **motor carriers of passengers**

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

11 “(b) PRESCRIBED BY PANEL.—When the Panel finds
12 it necessary to enforce the requirements of this section,
13 the Panel may prescribe through routes and the conditions
14 under which those routes must be operated for motor car-
15 riers providing transportation of passengers subject to ju-
16 risdiction under subchapter I of chapter 135.

17 **“§ 13706. Liability for payment of rates**

18 “(a) LIABILITY OF CONSIGNEE.—Liability for pay-
19 ment of rates for transportation for a shipment of prop-
20 erty by a shipper or consignor to a consignee other than
21 the shipper or consignor, is determined under this section
22 when the transportation is provided by motor carrier
23 under this part. When the shipper or consignor instructs
24 the carrier transporting the property to deliver it to a con-
25 signee that is an agent only, not having beneficial title

1 to the property, the consignee is liable for rates billed at
2 the time of delivery for which the consignee is otherwise
3 liable, but not for additional rates that may be found to
4 be due after delivery if the consignee gives written notice
5 to the delivering carrier before delivery of the property—

6 “(1) of the agency and absence of beneficial
7 title; and

8 “(2) of the name and address of the beneficial
9 owner of the property if it is reconsigned or diverted
10 to a place other than the place specified in the origi-
11 nal bill of lading.

12 “(b) LIABILITY OF BENEFICIAL OWNER.—When the
13 consignee is liable only for rates billed at the time of deliv-
14 ery under subsection (a), the shipper or consignor, or, if
15 the property is reconsigned or diverted, the beneficial
16 owner is liable for those additional rates regardless of the
17 bill of the lading or contract under which the property was
18 transported. The beneficial owner is liable for all rates
19 when the property is reconsigned or diverted by an agent
20 but is refused or abandoned at its ultimate destination if
21 the agent gave the carrier in the reconsignment or diver-
22 sion order a notice of agency and the name and address
23 of the beneficial owner. A consignee giving the carrier er-
24 roneous information about the identity of the beneficial
25 owner of the property is liable for the additional rates.

1 **“§ 13707. Billing and collecting practices**

2 “(a) TIMING.—A motor carrier subject to jurisdiction
3 under subchapter I of chapter 135 shall disclose, when a
4 document is presented or electronically transmitted for
5 payment to the person responsible directly to the motor
6 carrier for payment or agent of such responsible person,
7 the actual rates, charges, or allowances for any transpor-
8 tation service.

9 “(b) FALSE OR MISLEADING INFORMATION.—No
10 person may cause a motor carrier to present false or mis-
11 leading information on a document about the actual rate,
12 charge, or allowance to any party to the transaction.

13 “(c) ALLOWANCES FOR SERVICES.—When the actual
14 rate, charge, or allowance is dependent upon the perform-
15 ance of a service by a party to the transportation arrange-
16 ment, such as tendering a volume of freight over a stated
17 period of time, the motor carrier shall indicate in any doc-
18 ument presented for payment to the person responsible di-
19 rectly to the motor carrier that a reduction, allowance, or
20 other adjustment may apply.

21 **“§ 13708. Procedures for resolving claims involving**
22 **unfiled, negotiated transportation rates**

23 “(a) TRANSPORTATION PROVIDED BEFORE EFFEC-
24 TIVE DATE.—

25 “(1) IN GENERAL.—When a claim is made by
26 a motor carrier of property (other than a household

1 goods carrier) providing transportation subject to ju-
2 risdiction under subchapter II of chapter 105, as in
3 effect on the day before the effective date of this sec-
4 tion, by a freight forwarder (other than a household
5 goods freight forwarder), or by a party representing
6 such a carrier or freight forwarder regarding the col-
7 lection of rates or charges for such transportation in
8 addition to those originally billed and collected by
9 the carrier or freight forwarder for such transpor-
10 tation, the person against whom the claim is made
11 may elect to satisfy the claim under the provisions
12 of subsection (b), (c), or (d), upon showing that—

13 “(A) the carrier or freight forwarder is no
14 longer transporting property or is transporting
15 property for the purpose of avoiding the appli-
16 cation of this section; and

17 “(B) with respect to the claim—

18 “(i) the person was offered a trans-
19 portation rate by the carrier or freight for-
20 warder other than that legally on file with
21 the Interstate Commerce Commission for
22 the transportation service;

23 “(ii) the person tendered freight to
24 the carrier or freight forwarder in reason-

1 able reliance upon the offered transpor-
2 tation rate;

3 “(iii) the carrier or freight forwarder
4 did not properly or timely file with the
5 Interstate Commerce Commission a tariff
6 providing for such transportation rate or
7 failed to enter into an agreement for con-
8 tract carriage;

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

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

15 “(2) FORUM FOR RESOLUTION OF SHOWINGS.—
16 If there is a dispute as to the showing under para-
17 graph (1)(A), such dispute shall be resolved by the
18 court in which the claim is brought. If there is a dis-
19 pute as to the showing under paragraph (1)(B),
20 such dispute shall be resolved by the Panel. Pending
21 the resolution of any such dispute, the person shall
22 not have to pay any additional compensation to the
23 carrier or freight forwarder.

24 “(3) EFFECT OF SATISFACTION OF CLAIMS
25 UNDER DISPUTE RESOLUTION PROCEDURE.—Satis-

1 faction of a claim under subsection (b), (c), or (d)
2 shall be binding on the parties, and the parties shall
3 not be subject to chapter 119, as in effect on the
4 day before the effective date of this section.

5 “(b) CLAIMS INVOLVING SHIPMENTS WEIGHING
6 10,000 POUNDS OR LESS.—A person from whom the ad-
7 ditional legally applicable and effective tariff rate or
8 charges are sought may elect to satisfy the claim, if the
9 shipments each weighed 10,000 pounds or less, by pay-
10 ment of 20 percent of the difference between the carrier’s
11 applicable and effective tariff rate and the rate originally
12 billed and paid. In the event that a dispute arises as to
13 the rate that was legally applicable to the shipment, such
14 dispute shall be resolved by the Panel .

15 “(c) CLAIMS INVOLVING SHIPMENTS WEIGHING
16 MORE THAN 10,000 POUNDS.—A person from whom the
17 additional legally applicable and effective tariff rate or
18 charges are sought may elect to satisfy the claim, if the
19 shipments each weighed more than 10,000 pounds, by
20 payment of 15 percent of the difference between the car-
21 rier’s applicable and effective tariff rate and the rate origi-
22 nally billed and paid. In the event that a dispute arises
23 as to the rate that was legally applicable to the shipment,
24 such dispute shall be resolved by the Panel.

1 “(d) CLAIMS INVOLVING PUBLIC WAREHOUSE-
2 MEN.—Notwithstanding subsections (b) and (c), a person
3 from whom the additional legally applicable and effective
4 tariff rate or charges are sought may elect to satisfy the
5 claim by payment of 5 percent of the difference between
6 the carrier’s applicable and effective tariff rate and the
7 rate originally billed and paid if such person is a public
8 warehouseman. In the event that a dispute arises as to
9 the rate that was legally applicable to the shipment, such
10 dispute shall be resolved by the Panel.

11 “(e) EFFECTS OF ELECTION.—When a person from
12 whom additional legally applicable freight rates or charges
13 are sought does not elect to use the provisions of sub-
14 sections (b), (c) or (d), the person may pursue all rights
15 and remedies existing under this title on the day before
16 the effective date of this section.

17 “(f) STAY OF ADDITIONAL COMPENSATION.—When
18 a person proceeds under this section to challenge the rea-
19 sonableness of the legally applicable freight rate or
20 charges being claimed by a carrier or freight forwarder
21 in addition to those already billed and collected, the person
22 shall not have to pay any additional compensation to the
23 carrier or freight forwarder until the Panel has made a
24 determination as to the reasonableness of the challenged

1 rate as applied to the freight of the person against whom
2 the claim is made.

3 “(g) NOTIFICATION OF ELECTION.—

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

9 “(2) DEMANDS FOR PAYMENT INITIALLY MADE
10 AFTER DECEMBER 3, 1993.—If the carrier or freight
11 forwarder or party representing such carrier or
12 freight forwarder initially demands the payment of
13 additional freight charges after December 3, 1993,
14 and notifies the person from whom additional freight
15 charges are sought of the provisions of subsections
16 (a) through (f) at the time of the making of such
17 initial demand, the election must be made not later
18 than the later of—

19 “(A) the 60th day following the filing of an
20 answer to a suit for the collection of such addi-
21 tional legally applicable freight rate or charges,
22 or

23 “(B) March 5, 1994.

24 “(3) PENDING SUITS FOR COLLECTION MADE
25 BEFORE DECEMBER 4, 1993.—If the carrier or

1 freight forwarder or party representing such carrier
2 or freight forwarder has filed, before December 4,
3 1993, a suit for the collection of additional freight
4 charges and notifies the person from whom addi-
5 tional freight charges are sought of the provisions of
6 subsections (a) through (f), the election must be
7 made not later than the 90th day following the date
8 on which such notification is received.

9 “(4) DEMANDS FOR PAYMENT MADE BEFORE
10 DECEMBER 4, 1993.—If the carrier or freight for-
11 warder or party representing such carrier or freight
12 forwarder has demanded the payment of additional
13 freight charges, and has not filed a suit for the col-
14 lection of such additional freight charges, before De-
15 cember 4, 1993, and notifies the person from whom
16 additional freight charges are sought of the provi-
17 sions of subsections (a) through (f), the election
18 must be made not later than the later of—

19 “(A) the 60th day following the filing of an
20 answer to a suit for the collection of such addi-
21 tional legally applicable freight rate or charges,
22 or

23 “(B) March 5, 1994.

1 “(h) CLAIMS INVOLVING SMALL-BUSINESS CON-
2 CERNS, CHARITABLE ORGANIZATIONS, AND RECYCLABLE
3 MATERIALS.—

4 “(1) IN GENERAL.—Notwithstanding sub-
5 sections (b), (c), and (d), a person from whom the
6 additional legally applicable and effective tariff rate
7 or charges are sought shall not be liable for the dif-
8 ference between the carrier’s applicable and effective
9 tariff rate and the rate originally billed and paid—

10 “(A) if such person qualifies as a small-
11 business concern under the Small Business Act
12 (15 U.S.C. 631 et seq.),

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

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

19 “(2) RECYCLABLE MATERIALS DEFINED.—In
20 this subsection, the term ‘recyclable materials’
21 means waste products for recycling or reuse in the
22 furtherance of recognized pollution control pro-
23 grams.

1 **“§ 13709. Additional motor carrier undercharge pro-**
2 **visions**

3 “(a) MISCELLANEOUS PROVISIONS.—

4 “(1) INFORMATION RELATING TO BASIS OF
5 RATE.—A motor carrier of property (other than a
6 motor carrier providing transportation in noncontig-
7 uous domestic trade) shall provide to the shipper, on
8 request of the shipper, a written or electronic copy
9 of the rate, classification, rules, and practices, upon
10 which any rate agreed to between the shipper and
11 carrier may have been based.

12 “(2) REASONABLENESS OF RATES; COLLECTING
13 ADDITIONAL CHARGES.—With respect to transpor-
14 tation provided before the effective date of this sec-
15 tion, when the applicability or reasonableness of the
16 rates and related provisions billed by a motor carrier
17 is challenged by the person paying the freight
18 charges, the Panel shall determine whether such
19 rates and provisions are reasonable or applicable
20 based on the record before it. In those cases where
21 a motor carrier (other than a motor carrier provid-
22 ing transportation of household goods or in non-
23 contiguous domestic trade) seeks to collect charges
24 in addition to those billed and collected which are
25 contested by the payor, the carrier may request that
26 the Panel determine whether any additional charges

1 over those billed and collected must be paid. A car-
2 rier must issue any bill for charges in addition to
3 those originally billed within 180 days of the receipt
4 of the original bill in order to have the right to col-
5 lect such charges.

6 “(3) CHARGES BEFORE EFFECTIVE DATE.—
7 With respect to transportation provided before the
8 effective date of this section, if a shipper seeks to
9 contest the charges originally billed or additional
10 charges subsequently billed, the shipper may request
11 that the Panel determine whether the charges billed
12 must be paid. A shipper must contest the original
13 bill or subsequent bill within 180 days of receipt of
14 the bill in order to have the right to contest such
15 charges.

16 “(4) VOIDING OF CERTAIN TARIFFS.—Any tar-
17 iff on file with the Interstate Commerce Commission
18 on August 26, 1994, and not required to be filed
19 after that date is null and void beginning on that
20 date. Any tariff on file with the Interstate Com-
21 merce Commission on the effective date of this sec-
22 tion and not required to be filed after that date is
23 null and void beginning on that date.

24 “(b) RESOLUTION OF DISPUTES OVER STATUS OF
25 COMMON CARRIER OR CONTRACT CARRIER.—If a motor

1 carrier (other than a motor carrier providing transpor-
2 tation of household goods) that was subject to jurisdiction
3 under subchapter II of chapter 105, as in effect on the
4 day before the effective date of this section, and that had
5 authority to provide transportation as both a motor com-
6 mon carrier and a motor contract carrier and a dispute
7 arises as to whether certain transportation that was pro-
8 vided prior to the effective date of this section was pro-
9 vided in its common carrier or contract carrier capacity
10 and the parties are not able to resolve the dispute consen-
11 sually, the Panel shall resolve the dispute.

12 **“§ 13710. Alternative procedure for resolving under-**
13 **charge disputes**

14 “(a) GENERAL RULE.—It shall be an unreasonable
15 practice for a motor carrier of property (other than a
16 household goods carrier) providing transportation that
17 was subject to jurisdiction under subchapter II of chapter
18 105 before the effective date of this section, a freight for-
19 warder (other than a household goods freight forwarder),
20 or a party representing such a carrier or freight forwarder
21 to attempt to charge or to charge for a transportation
22 service the difference between the applicable rate that was
23 lawfully in effect pursuant to a tariff that was filed in
24 accordance with chapter 107 of this title by the carrier
25 or freight forwarder applicable to such transportation

1 service and the negotiated rate for such transportation
2 service if the carrier or freight forwarder is no longer
3 transporting property between places described in section
4 13501(1) of this title or is transporting property between
5 places described in section 13501(1) of this title for the
6 purpose of avoiding application of this section.

7 “(b) JURISDICTION OF PANEL.—

8 “(1) DETERMINATION.—The Panel shall have
9 jurisdiction to make a determination of whether or
10 not attempting to charge or the charging of a rate
11 by a motor carrier or freight forwarder or party rep-
12 resenting a motor carrier or freight forwarder is an
13 unreasonable practice under subsection (a). If the
14 Panel determines that attempting to charge or the
15 charging of the rate is an unreasonable practice
16 under subsection (a), the carrier, freight forwarder,
17 or party may not collect the difference described in
18 subsection (a) between the applicable rate and the
19 negotiated rate for the transportation service.

20 “(2) FACTORS TO CONSIDER.—In making a de-
21 termination under paragraph (1), the Panel shall
22 consider—

23 “(A) whether the person was offered a
24 transportation rate by the carrier or freight for-
25 warder or party other than that legally on file

1 with the Interstate Commerce Commission at
2 the time of the movement for the transportation
3 service;

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

7 “(C) whether the carrier or freight for-
8 warder did not properly or timely file with the
9 Interstate Commerce Commission a tariff pro-
10 viding for such transportation rate or failed to
11 enter into an agreement for contract carriage;

12 “(D) whether the transportation rate was
13 billed and collected by the carrier or freight for-
14 warder; and

15 “(E) whether the carrier or freight for-
16 warder or party demands additional payment of
17 a higher rate filed in a tariff.

18 “(c) STAY OF ADDITIONAL COMPENSATION.—When
19 a person proceeds under this section to challenge the rea-
20 sonableness of the practice of a motor carrier, freight for-
21 warder, or party described in subsection (a) to attempt
22 to charge or to charge the difference described in sub-
23 section (a) between the applicable rate and the negotiated
24 rate for the transportation service in addition to those
25 charges already billed and collected for the transportation

1 service, the person shall not have to pay any additional
2 compensation to the carrier, freight forwarder, or party
3 until the Panel has made a determination as to the reason-
4 ableness of the practice as applied to the freight of the
5 person against whom the claim is made.

6 “(d) TREATMENT.—Subsection (a) is an exception to
7 the requirements of section 13702 and, for transportation
8 provided before the effective date of this section, to the
9 requirements of sections 10761(a) and 10762, relating to
10 a filed tariff rate and other general tariff requirements,
11 as in effect on the day before such effective date.

12 “(e) NONAPPLICABILITY OF NEGOTIATED RATE DIS-
13 PUTE RESOLUTION PROCEDURE.—If a person elects to
14 seek enforcement of subsection (a) with respect to a rate
15 for a transportation or service, section 13708 shall not
16 apply to such rate.

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

23 **“§ 13711. Government traffic**

24 “A carrier providing transportation or service for the
25 United States Government may transport property or indi-

1 viduals for the United States Government without charge
 2 or at a rate reduced from the applicable commercial rate.
 3 Section 3709 of the Revised Statutes (41 U.S.C. 5) does
 4 not apply when transportation for the United States Gov-
 5 ernment can be obtained from a carrier lawfully operating
 6 in the area where the transportation would be provided.

7 **“§ 13712. Food and grocery transportation**

8 “(a) CERTAIN COMPENSATION PROHIBITED.—Not-
 9 withstanding any other provision of law, it shall not be
 10 unlawful for a seller of food and grocery products using
 11 a uniform zone delivered pricing system to compensate a
 12 customer who picks up purchased food and grocery prod-
 13 ucts at the shipping point of the seller if such compensa-
 14 tion is available to all customers of the seller on a non-
 15 discriminatory basis and does not exceed the actual cost
 16 to the seller of delivery to such customer.

17 “(b) SENSE OF CONGRESS.—It is the sense of the
 18 Congress that any savings accruing to a customer by rea-
 19 son of compensation permitted by subsection (a) of this
 20 section should be passed on to the ultimate consumer.

21 **“CHAPTER 139—REGISTRATION**

“Sec.

“13901. Requirement for registration.

“13902. Registration of motor carriers.

“13903. Registration of freight forwarders.

“13904. Registration of motor carrier brokers.

“13905. Effective periods of registration.

“13906. Security of motor carriers, brokers, and freight forwarders.

“13907. Household goods agents.

“13908. Registration and other reforms.

1 **“§ 13901. Requirement for registration**

2 “A person may provide transportation or service sub-
3 ject to jurisdiction under subchapter I or III of chapter
4 135 or be a broker for transportation subject to jurisdic-
5 tion under subchapter I of that chapter, only if the person
6 is registered under this chapter to provide the transpor-
7 tation or service.

8 **“§ 13902. Registration of motor carriers**

9 “(a) MOTOR CARRIER GENERALLY.—

10 “(1) IN GENERAL.—Except as provided in this
11 section, the Secretary shall register a person to pro-
12 vide transportation subject to jurisdiction under sub-
13 chapter I of chapter 135 of this title as a motor car-
14 rier if the Secretary finds that the person is willing
15 and able to comply with—

16 “(A) this part and the applicable regula-
17 tions of the Secretary and the Panel;

18 “(B) any safety regulations imposed by the
19 Secretary and the safety fitness requirements
20 established by the Secretary under section
21 31144; and

22 “(C) the minimum financial responsibility
23 requirements established by the Secretary pur-
24 suant to sections 13906 and 31138.

25 “(2) CONSIDERATION OF EVIDENCE; FIND-
26 INGS.—The Secretary shall consider and, to the ex-

1 tent applicable, make findings on, any evidence dem-
2 onstrating that the registrant is unable to comply
3 with the requirements of subparagraph (A), (B), or
4 (C) of paragraph (1).

5 “(3) WITHHOLDING.—If the Secretary deter-
6 mines that any registrant under this section does
7 not meet the requirements of paragraph (1), the
8 Secretary shall withhold registration.

9 “(4) LIMITATION ON COMPLAINTS.—The Sec-
10 retary may hear a complaint from any person con-
11 cerning a registration under this subsection only on
12 the ground that the registrant fails or will fail to
13 comply with this part, the applicable regulations of
14 the Secretary and the Panel, the safety regulations
15 of the Secretary, or the safety fitness or minimum
16 financial responsibility requirements of paragraph
17 (1) of this subsection.

18 “(b) MOTOR CARRIERS OF PASSENGERS.—

19 “(1) INTRASTATE TRANSPORTATION.—A motor
20 carrier of passengers that is registered by the Sec-
21 retary under subsection (a) is authorized to provide
22 regular-route transportation entirely in one State as
23 a motor carrier of passengers if such intrastate
24 transportation is to be provided on a route over

1 which the carrier provides interstate transportation
2 of passengers.

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

17 “(3) TREATMENT.—Except as provided in sec-
18 tion 14501(a), any intrastate transportation author-
19 ized by this subsection shall be treated as transpor-
20 tation subject to jurisdiction under subchapter I of
21 chapter 135 until the 30th day following the date on
22 which the motor carrier of passengers first begins
23 providing transportation entirely in one State under
24 this paragraph and the carrier takes such action as
25 is necessary to establish under the laws of such

1 State rates, rules, and practices applicable to such
2 transportation.

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

7 “(5) SUSPENSION OR REVOCATION.—Intrastate
8 transportation authorized under this subsection may
9 be suspended or revoked by the Secretary under sec-
10 tion 13905 of this title at any time.

11 “(c) RESTRICTIONS ON MOTOR CARRIERS DOMI-
12 CILED IN OR OWNED OR CONTROLLED BY NATIONALS OF
13 A CONTIGUOUS FOREIGN COUNTRY.—

14 “(1) PREVENTION OF DISCRIMINATORY PRAC-
15 TICES.—If the President, or the delegate thereof, de-
16 termines that an act, policy, or practice of a foreign
17 country contiguous to the United States, or any po-
18 litical subdivision or any instrumentality of any such
19 country is unreasonable or discriminatory and bur-
20 dens or restricts United States transportation com-
21 panies providing, or seeking to provide, motor car-
22 rier transportation to, from, or within such foreign
23 country, the President or such delegate may—

24 “(A) seek elimination of such practices
25 through consultations; or

1 “(B) notwithstanding any other provision
2 of law, suspend, modify, amend, condition, or
3 restrict operations, including geographical re-
4 striction of operations, in the United States by
5 motor carriers of property or passengers domi-
6 ciled in such foreign country or owned or con-
7 trolled by persons of such foreign country.

8 “(2) EQUALIZATION OF TREATMENT.—Any ac-
9 tion taken under paragraph (1)(A) to eliminate an
10 act, policy, or practice shall be so devised so as to
11 equal to the extent possible the burdens or restric-
12 tions imposed by such foreign country on United
13 States transportation companies.

14 “(3) REMOVAL OR MODIFICATION.—The Presi-
15 dent, or the delegate thereof, may remove or modify
16 in whole or in part any action taken under para-
17 graph (1)(A) if the President or such delegate deter-
18 mines that such removal or modification is consist-
19 ent with the obligations of the United States under
20 a trade agreement or with United States transpor-
21 tation policy.

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

1 “(A) operations of motor carriers of prop-
2 erty or passengers domiciled in any contiguous
3 foreign country or owned or controlled by per-
4 sons of any contiguous foreign country per-
5 mitted in the commercial zones along the Unit-
6 ed States-Mexico border as such zones were de-
7 fined on the day before the effective date of this
8 section; or

9 “(B) any existing restrictions on oper-
10 ations of motor carriers of property or pas-
11 sengers domiciled in any contiguous foreign
12 country or owned or controlled by persons of
13 any contiguous foreign country or any modifica-
14 tions thereof pursuant to section 6 of the Bus
15 Regulatory Reform Act of 1982.

16 “(5) PUBLICATION; COMMENT.—Unless the
17 President, or the delegate thereof, determines that
18 expeditious action is required, the President shall
19 publish in the Federal Register any determination
20 under paragraph (1) or (3), together with a descrip-
21 tion of the facts on which such a determination is
22 based and any proposed action to be taken pursuant
23 to paragraph (1)(B) or (3) and provide an oppor-
24 tunity for public comment.

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

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

13 “(8) LIMITATION ON STATUTORY CONSTRUC-
14 TION.—This subsection shall not be construed as af-
15 fecting the requirement for all foreign motor carriers
16 operating in the United States to comply with all ap-
17 plicable laws and regulations pertaining to fitness,
18 safety of operations, financial responsibility, and
19 taxes imposed by section 4481 of the Internal Reve-
20 nue Code of 1986.

21 **“§ 13903. Registration of freight forwarders**

22 “(a) IN GENERAL.—The Secretary shall register a
23 person to provide service subject to jurisdiction under sub-
24 chapter III of chapter 135 as a freight forwarder if the
25 Secretary finds that the person is willing and able to pro-

1 vide the service and to comply with this part and applica-
2 ble regulations of the Secretary and the Panel.

3 “(b) REGISTRATION AS CARRIER REQUIRED.—The
4 freight forwarder may provide transportation as the car-
5 rier itself only if the freight forwarder also has registered
6 to provide transportation as a carrier under this chapter.

7 **“§ 13904. Registration of motor carrier brokers**

8 “(a) IN GENERAL.—The Secretary shall register,
9 subject to section 13906(b), a person to be a broker for
10 transportation of property subject to jurisdiction under
11 subchapter I of chapter 135, if the Secretary finds that
12 the person is willing and able to be a broker for transpor-
13 tation and to comply with this part and applicable regula-
14 tions of the Secretary .

15 “(b) LIMITATION.—

16 “(1) REGISTRATION AS CARRIER REQUIRED.—
17 The broker may provide transportation itself only if
18 the broker also has registered to provide transpor-
19 tation as a carrier under this chapter.

20 “(2) EXCEPTION.—This subsection does not
21 apply to a motor carrier registered under this chap-
22 ter or to an employee or agent of the motor carrier
23 to the extent the transportation is to be provided en-
24 tirely by the motor carrier, with other registered
25 motor carriers, or with rail or water carriers.

1 “(c) REGULATIONS TO PROTECT SHIPPERS.—Regu-
2 lations of the Secretary applicable to brokers registered
3 under this section shall provide for the protection of ship-
4 pers by motor vehicle.

5 “(d) BOND AND INSURANCE.—The Secretary may
6 impose on brokers for motor carriers of passengers such
7 requirements for bonds or insurance or both as the Sec-
8 retary determines are needed to protect passengers and
9 carriers dealing with such brokers.

10 **“§ 13905. Effective periods of registration**

11 “(a) IN GENERAL.—Each registration issued under
12 section 13902, 13903, or 13904 shall be effective from
13 the date specified by the Secretary and shall remain in
14 effect, except as otherwise provided in this part.

15 “(b) SUSPENSION, AMENDMENTS, AND REVOCA-
16 TIONS.—On application of the registrant, the Secretary
17 may amend or revoke a registration. On complaint or on
18 the Secretary’s own initiative and after notice and an op-
19 portunity for a proceeding, the Secretary may suspend,
20 amend, or revoke any part of the registration of a motor
21 carrier, broker, or freight forwarder for willful failure to
22 comply with this part, an applicable regulation or order
23 of the Secretary or of the Panel, or a condition of its reg-
24 istration.

1 “(c) PROCEDURE.—Except on application of the reg-
2 istrant, the Secretary may revoke a registration of a motor
3 carrier, freight forwarder, or broker, only after—

4 “(1) the Secretary has issued an order to the
5 registrant under section 14701 requiring compliance
6 with this part, a regulation of the Secretary, or a
7 condition of the registration of the registrant; and

8 “(2) the registrant willfully does not comply
9 with the order for a period of 30 days.

10 “(d) EXPEDITED PROCEDURE.—

11 “(1) PROTECTION OF SAFETY.—Without regard
12 to subchapter II of chapter 5 of title 5, the Sec-
13 retary may suspend the registration of a motor car-
14 rier, a freight forwarder, or a broker for failure to
15 comply with safety requirements of the Secretary or
16 the safety fitness requirements pursuant to section
17 13904(c), 13906, or 31144, of this title, or an order
18 or regulation of the Secretary prescribed under those
19 sections.

20 “(2) IMMINENT HAZARD TO PUBLIC HEALTH.—
21 Without regard to subchapter II of chapter 5 of title
22 5, the Secretary may suspend a registration of a
23 motor carrier of passengers if the Secretary finds
24 that such carrier has been conducting unsafe oper-

1 ations which are an imminent hazard to public
2 health or property.

3 “(3) NOTICE; PERIOD OF SUSPENSION.—The
4 Secretary may suspend under this subsection the
5 registration only after giving notice of the suspen-
6 sion to the registrant. The suspension remains in ef-
7 fect until the registrant complies with those applica-
8 ble sections or, in the case of a suspension under
9 paragraph (2), until the Secretary revokes such sus-
10 pension.

11 **“§ 13906. Security of motor carriers, brokers, and**
12 **freight forwarders**

13 “(a) MOTOR CARRIER REQUIREMENTS.—

14 “(1) LIABILITY INSURANCE REQUIREMENT.—
15 The Secretary may register a motor carrier under
16 section 13902 only if the registrant files with the
17 Secretary a bond, insurance policy, or other type of
18 security approved by the Secretary, in an amount
19 not less than such amount as the Secretary pre-
20 scribes pursuant to, or as is required by, sections
21 31138 and 31139, and the laws of the State or
22 States in which the registrant is operating, to the
23 extent applicable. The security must be sufficient to
24 pay, not more than the amount of the security, for
25 each final judgment against the registrant for bodily

1 injury to, or death of, an individual resulting from
2 the negligent operation, maintenance, or use of
3 motor vehicles, or for loss or damage to property
4 (except property referred to in paragraph (3) of this
5 subsection), or both. A registration remains in effect
6 only as long as the registrant continues to satisfy
7 the security requirements of this paragraph.

8 “(2) AGENCY REQUIREMENT.—A motor carrier
9 shall comply with the requirements of sections
10 13303 and 13304. To protect the public, the Sec-
11 retary may require any such motor carrier to file the
12 type of security that a motor carrier is required to
13 file under paragraph (1) of this subsection. This
14 paragraph only applies to a foreign motor private
15 carrier and foreign motor carrier operating in the
16 United States to the extent that such carrier is pro-
17 viding transportation between places in a foreign
18 country or between a place in one foreign country
19 and a place in another foreign country.

20 “(3) TRANSPORTATION INSURANCE.—The Sec-
21 retary may require a registered motor carrier to file
22 with the Secretary a type of security sufficient to
23 pay a shipper or consignee for damage to property
24 of the shipper or consignee placed in the possession
25 of the motor carrier as the result of transportation

1 provided under this part. A carrier required by law
2 to pay a shipper or consignee for loss, damage, or
3 default for which a connecting motor carrier is re-
4 sponsible is subrogated, to the extent of the amount
5 paid, to the rights of the shipper or consignee under
6 any such security.

7 “(b) BROKER REQUIREMENTS.—The Secretary may
8 register a person as a broker under section 13904 only
9 if the person files with the Secretary a bond, insurance
10 policy, or other type of security approved by the Secretary
11 to ensure that the transportation for which a broker ar-
12 ranges is provided. The registration remains in effect only
13 as long as the broker continues to satisfy the security re-
14 quirements of this subsection.

15 “(c) FREIGHT FORWARDER REQUIREMENTS.—

16 “(1) LIABILITY INSURANCE.—The Secretary
17 may register a person as a freight forwarder under
18 section 13903 of this title only if the person files
19 with the Secretary a bond, insurance policy, or other
20 type of security approved by the Secretary. The se-
21 curity must be sufficient to pay, not more than the
22 amount of the security, for each final judgment
23 against the freight forwarder for bodily injury to, or
24 death of, an individual, or loss of, or damage to,
25 property (other than property referred to in para-

1 graph (2) of this subsection), resulting from the neg-
2 ligent operation, maintenance, or use of motor vehi-
3 cles by or under the direction and control of the
4 freight forwarder when providing transfer, collection,
5 or delivery service under this part.

6 “(2) FREIGHT FORWARDER INSURANCE.—The
7 Secretary may require a registered freight forwarder
8 to file with the Secretary a bond, insurance policy,
9 or other type of security approved by the Secretary
10 sufficient to pay, not more than the amount of the
11 security, for loss of, or damage to, property for
12 which the freight forwarder provides service.

13 “(3) EFFECTIVE PERIOD.—The freight for-
14 warder’s registration remains in effect only as long
15 as the freight forwarder continues to satisfy the se-
16 curity requirements of this subsection.

17 “(d) TYPE OF INSURANCE.—The Secretary may de-
18 termine the type and amount of security filed under this
19 section. A motor carrier may submit proof of qualifications
20 as a self-insurer to satisfy the security requirements of
21 this section. The Secretary shall adopt regulations govern-
22 ing the standards for approval as a self-insurer. Motor
23 carriers which have been granted authority to self-insure
24 as of the effective date of this section shall retain that
25 authority unless, for good cause shown and after notice

1 and an opportunity for a hearing, the Secretary finds that
2 the authority must be revoked.

3 “(e) NOTICE OF CANCELLATION OF INSURANCE.—
4 The Secretary shall issue regulations requiring the sub-
5 mission to the Secretary of notices of insurance cancella-
6 tion sufficiently in advance of actual cancellation so as to
7 enable the Secretary to promptly revoke the registration
8 of any carrier or broker after the effective date of the can-
9 cellation.

10 “(f) FORM OF ENDORSEMENT.—The Secretary shall
11 also prescribe the appropriate form of endorsement to be
12 appended to policies of insurance and surety bonds which
13 will subject the insurance policy or surety bond to the full
14 security limits of the coverage required under this section.

15 **“§ 13907. Household goods agents**

16 “(a) CARRIERS RESPONSIBLE FOR AGENTS.—Each
17 motor carrier providing transportation of household goods
18 subject to jurisdiction under subchapter I of chapter 135
19 shall be responsible for all acts or omissions of any of its
20 agents which relate to the performance of household goods
21 transportation services (including accessorial or terminal
22 services) subject to jurisdiction under subchapter I of
23 chapter 135 and which are within the actual or apparent
24 authority of the agent from the carrier or which are rati-
25 fied by the carrier.

1 “(b) STANDARD FOR SELECTING AGENTS.—Each
2 motor carrier providing transportation of household goods
3 subject to jurisdiction under subchapter I of chapter 135
4 shall use due diligence and reasonable care in selecting
5 and maintaining agents who are sufficiently knowledge-
6 able, fit, willing, and able to provide adequate household
7 goods transportation services (including accessorial and
8 terminal services) and to fulfill the obligations imposed
9 upon them by this part and by such carrier.

10 “(c) ENFORCEMENT.—

11 “(1) COMPLAINT.—Whenever the Secretary has
12 reason to believe from a complaint or investigation
13 that an agent providing household goods transpor-
14 tation services (including accessorial and terminal
15 services) under the authority of a motor carrier pro-
16 viding transportation of household goods subject to
17 jurisdiction under subchapter I of chapter 135 has
18 violated section 14901(e) or 14912 or is consistently
19 not fit, willing, and able to provide adequate house-
20 hold goods transportation services (including acces-
21 sorial and terminal services), the Secretary may
22 issue to such agent a complaint stating the charges
23 and containing notice of the time and place of a
24 hearing which shall be held no later than 60 days
25 after service of the complaint to such agent.

1 “(2) RIGHT TO DEFEND.—The agent shall have
2 the right to appear at such hearing and rebut the
3 charges contained in the complaint.

4 “(3) ORDER.—If the agent does not appear at
5 the hearing or if the Secretary finds that the agent
6 has violated section 14901(e) or 14912 or is consist-
7 ently not fit, willing, and able to provide adequate
8 household goods transportation services (including
9 accessorial and terminal services), the Secretary may
10 issue an order to compel compliance with the re-
11 quirement that the agent be fit, willing, and able.
12 Thereafter, the Secretary may issue an order to
13 limit, condition, or prohibit such agent from any in-
14 volvement in the transportation or provision of serv-
15 ices incidental to the transportation of household
16 goods subject to jurisdiction under subchapter I of
17 chapter 135 if, after notice and an opportunity for
18 a hearing, the Secretary finds that such agent, with-
19 in a reasonable time after the date of issuance of a
20 compliance order under this section, but in no event
21 less than 30 days after such date of issuance, has
22 willfully failed to comply with such order.

23 “(4) HEARING.—Upon filing of a petition with
24 the Secretary by an agent who is the subject of an
25 order issued pursuant to the second sentence of

1 paragraph (3) of this subsection and after notice, a
2 hearing shall be held with an opportunity to be
3 heard. At such hearing, a determination shall be
4 made whether the order issued pursuant to para-
5 graph (3) of this subsection should be rescinded.

6 “(5) COURT REVIEW.—Any agent adversely af-
7 fected or aggrieved by an order of the Secretary is-
8 sued under this subsection may seek relief in the ap-
9 propriate United States court of appeals as provided
10 by and in the manner prescribed in chapter 158 of
11 title 28, United States Code.

12 “(d) LIMITATION ON APPLICABILITY OF ANTITRUST
13 LAWS.—

14 “(1) IN GENERAL.—The antitrust laws, as de-
15 fined in the first section of the Clayton Act (15
16 U.S.C. 12), do not apply to discussions or agree-
17 ments between a motor carrier providing transpor-
18 tation of household goods subject to jurisdiction
19 under subchapter I of chapter 135 and its agents
20 (whether or not an agent is also a carrier) related
21 solely to—

22 “(A) rates for the transportation of house-
23 hold goods under the authority of the principal
24 carrier;

1 “(B) accessorial, terminal, storage, or
2 other charges for services incidental to the
3 transportation of household goods transported
4 under the authority of the principal carrier;

5 “(C) allowances relating to transportation
6 of household goods under the authority of the
7 principal carrier; and

8 “(D) ownership of a motor carrier provid-
9 ing transportation of household goods subject to
10 jurisdiction under subchapter I of chapter 135
11 by an agent or membership on the board of di-
12 rectors of any such motor carrier by an agent.

13 “(2) PANEL REVIEW.—The Panel, upon its own
14 initiative or request, shall review any activities un-
15 dertaken under paragraph (1) and shall modify or
16 terminate the activity if necessary to protect the
17 public interest.

18 **“§ 13908. Registration and other reforms**

19 “(a) REGULATIONS REPLACING CERTAIN PRO-
20 GRAMS.—The Secretary, in cooperation with the States,
21 shall issue regulations to replace the current Department
22 of Transportation identification number system, the single
23 State registration system under section 14504, the reg-
24 istration system contained in chapter 139, and the finan-
25 cial responsibility information system under section 13906

1 with a single system. The new system shall serve as a
2 clearinghouse and depository of information on and identi-
3 fication of all foreign and domestic motor carriers, bro-
4 kers, freight forwarders, and others required to register
5 with the Department as well as information on safety fit-
6 ness and compliance with required levels of financial re-
7 sponsibility.

8 “(b) FACTORS TO BE CONSIDERED.—In conducting
9 the rulemaking under subsection (a) with respect to the
10 single State registration system under section 14504, the
11 Secretary shall, at a minimum, consider the following fac-
12 tors:

13 “(1) Funding for State enforcement of motor
14 carrier safety regulations.

15 “(2) Whether the existing single State registra-
16 tion system is duplicative and burdensome.

17 “(3) The justification and need for collecting
18 the statutory fee for such system under section
19 14504(c)(2)(B)(iv).

20 “(4) The public safety.

21 “(5) The efficient delivery of transportation
22 services.

23 “(c) FEE SYSTEM.—The Secretary may establish fees
24 as part of any system implemented under subsection (a).
25 The system operation and upgrade, including all personnel

1 costs associated with the system, shall be fully supported
2 by user fees collected.

3 “(d) DEADLINE FOR CONCLUSION; MODIFICA-
4 TIONS.—Not later than 18 months after the effective date
5 of this section, the Secretary—

6 “(1) shall conclude the rulemaking under this
7 section;

8 “(2) may implement such changes under this
9 section as the Secretary considers appropriate and in
10 the public interest; and

11 “(3) shall transmit to Congress a report on any
12 findings of the rulemaking and the changes being
13 implemented under this section, together with such
14 recommendations for legislative language necessary
15 to conform this part to such changes.

16 **“CHAPTER 141—OPERATIONS OF**
17 **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.

“14123. Financial reporting.

1 “SUBCHAPTER I—GENERAL REQUIREMENTS

2 **“§ 14101. Providing transportation and service**

3 “(a) ON REASONABLE REQUEST.—A carrier provid-
4 ing transportation or service subject to jurisdiction under
5 chapter 135 shall provide the transportation or service on
6 reasonable request. In addition, a motor carrier shall pro-
7 vide safe and adequate service, equipment, and facilities.

8 “(b) CONTRACTS WITH SHIPPERS.—

9 “(1) IN GENERAL.—A carrier providing trans-
10 portation or service subject to jurisdiction under
11 chapter 135 may enter into a contract with a ship-
12 per, other than for the movement of household goods
13 described in section 13102(9)(A), to provide speci-
14 fied services under specified rates and conditions. If
15 the shipper, in writing, expressly waives all rights
16 and remedies under this part for the transportation
17 covered by the contract, the transportation provided
18 under the contract shall not be subject to this part
19 and may not be subsequently challenged on the
20 ground that it violates a provision of this part.

21 “(2) REMEDY FOR BREACH OF CONTRACT.—
22 The exclusive remedy for any alleged breach of a
23 contract entered into under this subsection shall be
24 an action in an appropriate State court or United

1 States district court, unless the parties otherwise
2 agree.

3 **“§ 14102. Leased motor vehicles**

4 “(a) GENERAL AUTHORITY OF SECRETARY.—The
5 Secretary may require a motor carrier providing transpor-
6 tation subject to jurisdiction under subchapter I of chapter
7 135 that uses motor vehicles not owned by it to transport
8 property under an arrangement with another party to—

9 “(1) make the arrangement in writing signed
10 by the parties specifying its duration and the com-
11 pensation to be paid by the motor carrier;

12 “(2) carry a copy of the arrangement in each
13 motor vehicle to which it applies during the period
14 the arrangement is in effect;

15 “(3) inspect the motor vehicles and obtain li-
16 ability and cargo insurance on them; and

17 “(4) have control of and be responsible for op-
18 erating those motor vehicles in compliance with re-
19 quirements prescribed by the Secretary on safety of
20 operations and equipment, and with other applicable
21 law as if the motor vehicles were owned by the
22 motor carrier.

23 “(b) RESPONSIBLE PARTY FOR LOADING AND UN-
24 LOADING.—The Secretary shall require, by regulation,
25 that any arrangement, between a motor carrier of property

1 providing transportation subject to jurisdiction under sub-
2 chapter I of chapter 135 and any other person, under
3 which such other person is to provide any portion of such
4 transportation by a motor vehicle not owned by the carrier
5 shall specify, in writing, who is responsible for loading and
6 unloading the property onto and from the motor vehicle.

7 **“§ 14103. Loading and unloading motor vehicles**

8 “(a) SHIPPER RESPONSIBLE FOR ASSISTING.—
9 Whenever a shipper or receiver of property requires that
10 any person who owns or operates a motor vehicle trans-
11 porting property in interstate commerce (whether or not
12 such transportation is subject to jurisdiction under sub-
13 chapter I of chapter 135) be assisted in the loading or
14 unloading of such vehicle, the shipper or receiver shall be
15 responsible for providing such assistance or shall com-
16 pensate the owner or operator for all costs associated with
17 securing and compensating the person or persons provid-
18 ing such assistance.

19 “(b) COERCION PROHIBITED.—It shall be unlawful
20 to coerce or attempt to coerce any person providing trans-
21 portation of property by motor vehicle for compensation
22 in interstate commerce (whether or not such transpor-
23 tation is subject to jurisdiction under subchapter I of
24 chapter 135) to load or unload any part of such property
25 onto or from such vehicle or to employ or pay one or more

1 persons to load or unload any part of such property onto
2 or from such vehicle; except that this subsection shall not
3 be construed as making unlawful any activity which is not
4 unlawful under the National Labor Relations Act or the
5 Act of March 23, 1932 (47 Stat. 70; 29 U.S.C. 101 et
6 seq.), commonly known as the Norris-LaGuardia Act.

7 **“§ 14104. Household goods carrier operations**

8 “(a) GENERAL REGULATORY AUTHORITY.—

9 “(1) PAPERWORK MINIMIZATION.—The Sec-
10 retary may issue regulations, including regulations
11 protecting individual shippers, in order to carry out
12 this part with respect to the transportation of house-
13 hold goods by motor carriers subject to jurisdiction
14 under subchapter I of chapter 135. The regulations
15 and paperwork required of motor carriers providing
16 transportation of household goods shall be mini-
17 mized to the maximum extent feasible consistent
18 with the protection of individual shippers.

19 “(2) PERFORMANCE STANDARDS.—

20 “(A) IN GENERAL.—Regulations of the
21 Secretary protecting individual shippers shall
22 include, where appropriate, reasonable perform-
23 ance standards for the transportation of house-
24 hold goods subject to jurisdiction under sub-
25 chapter I of chapter 135.

1 “(B) FACTORS TO CONSIDER.—In estab-
2 lishing performance standards under this para-
3 graph, the Secretary shall take into account at
4 least the following:

5 “(i) the level of performance that can
6 be achieved by a well-managed motor car-
7 rier transporting household goods;

8 “(ii) the degree of harm to individual
9 shippers which could result from a viola-
10 tion of the regulation;

11 “(iii) the need to set the level of per-
12 formance at a level sufficient to deter
13 abuses which result in harm to consumers
14 and violations of regulations;

15 “(iv) service requirements of the car-
16 riers;

17 “(v) the cost of compliance in relation
18 to the consumer benefits to be achieved
19 from such compliance; and

20 “(vi) the need to set the level of per-
21 formance at a level designed to encourage
22 carriers to offer service responsive to ship-
23 per needs.

24 “(3) LIMITATIONS ON STATUTORY CONSTRUC-
25 TION.—Nothing in this section shall be construed to

1 limit the Secretary's authority to require reports
2 from motor carriers providing transportation of
3 household goods or to require such carriers to pro-
4 vide specified information to consumers concerning
5 their past performance.

6 “(b) ESTIMATES.—

7 “(1) AUTHORITY TO PROVIDE WITHOUT COM-
8 PENSATION.—Every motor carrier providing trans-
9 portation of household goods subject to jurisdiction
10 under subchapter I of chapter 135, upon request of
11 a prospective shipper, may provide the shipper with
12 an estimate of charges for transportation of house-
13 hold goods and for the proposed services. The Sec-
14 retary shall not prohibit any such carrier from
15 charging a prospective shipper for providing a writ-
16 ten, binding estimate for the transportation and pro-
17 posed services.

18 “(2) APPLICABILITY OF ANTITRUST LAWS.—
19 Any charge for an estimate of charges provided by
20 a motor carrier to a shipper for transportation of
21 household goods subject to jurisdiction under sub-
22 chapter I of chapter 135 shall be subject to the anti-
23 trust laws, as defined in the first section of the Clay-
24 ton Act (15 U.S.C. 12).

1 “(c) FLEXIBILITY IN WEIGHING SHIPMENTS.—The
2 Secretary shall issue regulations that provide motor car-
3 riers providing transportation of household goods subject
4 to jurisdiction under subchapter I of chapter 135 with the
5 maximum possible flexibility in weighing shipments, con-
6 sistent with assurance to the shipper of accurate weighing
7 practices. The Secretary shall not prohibit such carriers
8 from backweighing shipments or from basing their charges
9 on the reweigh weights if the shipper observes both the
10 tare and gross weighings (or, prior to such weighings,
11 waives in writing the opportunity to observe such
12 weighings) and such weighings are performed on the same
13 scale.

14 “SUBCHAPTER II—REPORTS AND RECORDS

15 “§ 14121. **Definitions**

16 “In this subchapter, the following definitions apply:

17 “(1) CARRIER AND BROKER.—The terms ‘car-
18 rier’ and ‘broker’ include a receiver or trustee of a
19 carrier and broker, respectively.

20 “(2) ASSOCIATION.—The term ‘association’
21 means an organization maintained by or in the in-
22 terest of a group of carriers or brokers providing
23 transportation or service subject to jurisdiction
24 under chapter 135 that performs a service, or en-

1 gages in activities, related to transportation under
2 this part.

3 **“§ 14122. Records: form; inspection; preservation**

4 “(a) FORM OF RECORDS.—The Secretary or the
5 Panel, as applicable, may prescribe the form of records
6 required to be prepared or compiled under this subchapter
7 by carriers and brokers, including records related to move-
8 ment of traffic and receipts and expenditures of money.

9 “(b) RIGHT OF INSPECTION.—The Secretary or
10 Panel, or an employee designated by the Secretary or
11 Panel, may on demand and display of proper credentials—

12 “(1) inspect and examine the lands, buildings,
13 and equipment of a carrier or broker; and

14 “(2) inspect and copy any record of—

15 “(A) a carrier, broker, or association; and

16 “(B) a person controlling, controlled by, or
17 under common control with a carrier if the Sec-
18 retary or Panel, as applicable, considers inspec-
19 tion relevant to that person’s relation to, or
20 transaction with, that carrier.

21 “(c) PERIOD FOR PRESERVATION OF RECORDS.—
22 The Secretary or Panel, as applicable, may prescribe the
23 time period during which operating, accounting, and fi-
24 nancial records must be preserved by carriers.

1 **“§ 14123. Financial reporting**2 **【To be supplied】**3 **“CHAPTER 143—FINANCE**

“Sec.

“14301. Security interests in certain motor vehicles.

“14302. Pooling and division of transportation or earnings.

4 **“§ 14301. Security interests in certain motor vehicles**5 **“(a) DEFINITIONS.—**In this section, the following
6 definitions apply:7 **“(1) MOTOR VEHICLE.—**The term ‘motor vehi-
8 cle’ means a truck of rated capacity (gross vehicle
9 weight) of at least 10,000 pounds, a highway tractor
10 of rated capacity (gross combination weight) of at
11 least 10,000 pounds, a property-carrying trailer or
12 semitrailer with at least one load-carrying axle of at
13 least 10,000 pounds, or a motor bus with a seating
14 capacity of at least 10 individuals.15 **“(2) LIEN CREDITOR.—**The term ‘lien creditor’
16 means a creditor having a lien on a motor vehicle
17 and includes an assignee for benefit of creditors
18 from the date of assignment, a trustee in a case
19 under title 11 from the date of filing of the petition
20 in that case, and a receiver in equity from the date
21 of appointment of the receiver.22 **“(3) SECURITY INTEREST.—**The term ‘security
23 interest’ means an interest (including an interest es-
24 tablished by a conditional sales contract, mortgage,

1 equipment trust, or other lien or title retention con-
2 tract, or lease) in a motor vehicle when the interest
3 secures payment or performance of an obligation.

4 “(4) PERFECTION.—The term ‘perfection’, as
5 related to a security interest, means taking action
6 (including public filing, recording, notation on a cer-
7 tificate of title, and possession of collateral by the
8 secured party), or the existence of facts, required
9 under law to make a security interest enforceable
10 against general creditors and subsequent lien credi-
11 tors of a debtor, but does not include compliance
12 with requirements related only to the establishment
13 of a valid security interest between the debtor and
14 the secured party.

15 “(b) REQUIREMENTS FOR PERFECTION OF SECURITY
16 INTEREST.—A security interest in a motor vehicle owned
17 by, or in the possession and use of, a carrier registered
18 under section 13902 of this title and owing payment or
19 performance of an obligation secured by that security in-
20 terest is perfected in all jurisdictions against all general,
21 and subsequent lien, creditors of, and all persons taking
22 a motor vehicle by sale (or taking or retaining a security
23 interest in a motor vehicle) from, that carrier when—

24 “(1) a certificate of title is issued for a motor
25 vehicle under a law of a jurisdiction that requires or

1 permits indication, on a certificate or title, of a secu-
2 rity interest in the motor vehicle if the security in-
3 terest is indicated on the certificate;

4 “(2) a certificate of title has not been issued
5 and the law of the State where the principal place
6 of business of that carrier is located requires or per-
7 mits public filing or recording of, or in relation to,
8 that security interest if there has been such a public
9 filing or recording; and

10 “(3) a certificate of title has not been issued
11 and the security interest cannot be perfected under
12 paragraph (2) of this subsection, if the security in-
13 terest has been perfected under the law (including
14 the conflict of laws rules) of the State where the
15 principal place of business of that carrier is located.

16 **“§14302. Pooling and division of transportation or**
17 **earnings**

18 “(a) APPROVAL REQUIRED.—A carrier providing
19 transportation subject to jurisdiction under subchapter I
20 of chapter 135 of this title may not agree or combine with
21 another such carrier to pool or divide traffic or services
22 or any part of their earnings without the approval of the
23 Panel under this section.

24 “(b) STANDARDS FOR APPROVAL.—The Panel may
25 approve and authorize an agreement or combination be-

1 tween or among motor carriers of passengers, or between
2 a motor carrier of passengers and a rail carrier of pas-
3 sengers if the carriers involved assent to the pooling or
4 division and the Panel finds that a pooling or division of
5 traffic, services, or earnings—

6 “(1) will be in the interest of better service to
7 the public or of economy of operation; and

8 “(2) will not unreasonably restrain competition.

9 “(c) PROCEDURE.—

10 “(1) APPLICATION.—Any motor carrier of prop-
11 erty may apply to the Panel for approval of an
12 agreement or combination with another such carrier
13 to pool or divide traffic or any services or any part
14 of their earnings by filing such agreement or com-
15 bination with the Panel not less than 50 days before
16 its effective date.

17 “(2) DETERMINATION OF IMPORTANCE AND RE-
18 STRAINT ON COMPETITION.—Prior to the effective
19 date of the agreement or combination, the Panel
20 shall determine whether the agreement or combina-
21 tion is of major transportation importance and
22 whether there is substantial likelihood that the
23 agreement or combination will unduly restrain com-
24 petition. If the Panel determines that neither of
25 these 2 factors exists, it shall, prior to such effective

1 date and without a hearing, approve and authorize
2 the agreement or combination, under such rules and
3 regulations as the Panel may issue, and for such
4 consideration between such carriers and upon such
5 terms and conditions as shall be found by the Panel
6 to be just and reasonable.

7 “(3) HEARING.—If the Panel determines either
8 that the agreement or combination is of major trans-
9 portation importance or that there is substantial
10 likelihood that the agreement or combination will
11 unduly restrain competition, the Panel shall hold a
12 hearing concerning whether the agreement or com-
13 bination will be in the interest of better service to
14 the public or of economy in operation and whether
15 it will unduly restrain competition and shall suspend
16 operation of such agreement or combination pending
17 such hearing and final decision thereon. After such
18 hearing, the Panel shall indicate to what extent it
19 finds that the agreement or combination will be in
20 the interest of better service to the public or of econ-
21 omy in operation and will not unduly restrain com-
22 petition and if assented to by all the carriers in-
23 volved, shall to that extent, approve and authorize
24 the agreement or combination, under such rules and
25 regulations as the Panel may issue, and for such

1 consideration between such carriers and upon such
2 terms and conditions as shall be found by the Panel
3 to be just and reasonable.

4 “(4) SPECIAL RULES FOR HOUSEHOLD GOODS
5 CARRIERS.—In the case of an application for Panel
6 approval of an agreement or combination between a
7 motor carrier providing transportation of household
8 goods and its agents to pool or divide traffic or serv-
9 ices or any part of their earnings, such agreement
10 or combination shall be presumed to be in the inter-
11 est of better service to the public and of economy in
12 operation and not to restrain competition unduly if
13 the practices proposed to be carried out under such
14 agreement or combination are the same as or similar
15 to practices carried out under agreements and com-
16 binations between motor carriers providing transpor-
17 tation of household goods to pool or divide traffic or
18 service of any part of their earnings approved by the
19 Interstate Commerce Commission before the effec-
20 tive date of this section.

21 “(5) STREAMLINING AND SIMPLIFYING.—The
22 Panel shall streamline, simplify, and expedite, to the
23 maximum extent practicable, the process (including
24 any paperwork) for submission and approval of ap-
25 plications under this section for agreements and

1 combinations between motor carriers providing
2 transportation of household goods and their agents.

3 “(d) CONDITIONS.—The Panel may impose condi-
4 tions governing the pooling or division and may approve
5 and authorize payment of a reasonable consideration be-
6 tween the carriers.

7 “(e) INITIATION OF PROCEEDING.—The Panel may
8 begin a proceeding under this section on its own initiative
9 or on application.

10 “(f) EFFECT OF APPROVAL.—A carrier may partici-
11 pate in an arrangement approved by or exempted by the
12 Panel under this section without the approval of any other
13 Federal, State, or municipal body. A carrier participating
14 in an approved or exempted arrangement is exempt from
15 the antitrust laws and from all other law, including State
16 and municipal law, as necessary to let that person carry
17 out the arrangement.

18 **“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. Registration of motor carriers by a State.

“14505. State tax.

19 **“§ 14501. Federal authority over intrastate transpor-**
20 **tation**

21 “(a) MOTOR CARRIERS OF PASSENGERS.—No State
22 or political subdivision thereof and no interstate agency

1 or other political agency of two or more States shall enact
2 or enforce any law, rule, regulation, standard, or other
3 provision having the force and effect of law relating to
4 scheduling of interstate or intrastate transportation (in-
5 cluding discontinuance or reduction in the level of service)
6 provided by motor carrier of passengers subject to juris-
7 diction under subchapter I of chapter 135 of this title on
8 an interstate route or relating to the implementation of
9 any change in the rates for such transportation or for any
10 charter transportation except to the extent that notice, not
11 in excess of 30 days, of changes in schedules may be re-
12 quired. This subsection shall not apply to intrastate com-
13 muter bus operations.

14 “(b) FREIGHT FORWARDERS AND BROKERS.—

15 “(1) GENERAL RULE.—Subject to paragraph
16 (2) of this subsection, no State or political subdivi-
17 sion thereof and no intrastate agency or other politi-
18 cal agency of two or more States shall enact or en-
19 force any law, rule, regulation, standard, or other
20 provision having the force and effect of law relating
21 to intrastate rates, intrastate routes, or intrastate
22 services of any freight forwarder or broker.

23 “(2) CONTINUATION OF HAWAII’S AUTHOR-
24 ITY.—Nothing in this subsection and the amend-
25 ments made by the Surface Freight Forwarder De-

1 regulation Act of 1986 shall be construed to affect
2 the authority of the State of Hawaii to continue to
3 regulate a motor carrier operating within the State
4 of Hawaii.

5 “(c) MOTOR CARRIERS OF PROPERTY.—

6 “(1) GENERAL RULE.—Except as provided in
7 paragraphs (2) and (3), a State, political subdivision
8 of a State, or political authority of 2 or more States
9 may not enact or enforce a law, regulation, or other
10 provision having the force and effect of law related
11 to a price, route, or service of any motor carrier
12 (other than a carrier affiliated with a direct air car-
13 rier covered by section 41713(b)(4)) or any motor
14 private carrier, broker, or freight forwarder with re-
15 spect to the transportation of property.

16 “(2) MATTERS NOT COVERED.—Paragraph
17 (1)—

18 “(A) shall not restrict the safety regulatory
19 authority of a State with respect to motor vehi-
20 cles, the authority of a State to impose highway
21 route controls or limitations based on the size
22 or weight of the motor vehicle or the hazardous
23 nature of the cargo, or the authority of a State
24 to regulate motor carriers with regard to mini-
25 mum amounts of financial responsibility relat-

1 ing to insurance requirements and self-insur-
2 ance authorization;

3 “(B) does not apply to the transportation
4 of household goods; and

5 “(C) does not apply to the authority of a
6 State or a political subdivision of a State to
7 enact or enforce a law, regulation, or other pro-
8 vision relating to the price of for-hire motor ve-
9 hicle transportation by a tow truck, if such
10 transportation is performed—

11 “(i) at the request of a law enforce-
12 ment officer; or

13 “(ii) without the prior consent or au-
14 thorization of the owner or operator of the
15 motor vehicle.

16 “(3) STATE STANDARD TRANSPORTATION PRAC-
17 TICES.—

18 “(A) CONTINUATION.—Paragraph (1) shall
19 not affect any authority of a State, political
20 subdivision of a State, or political authority of
21 2 or more States to enact or enforce a law, reg-
22 ulation, or other provision, with respect to the
23 intrastate transportation of property by motor
24 carriers, related to—

25 “(i) uniform cargo liability rules,

1 “(ii) uniform bills of lading or receipts
2 for property being transported,

3 “(iii) uniform cargo credit rules, or

4 “(iv) antitrust immunity for joint line
5 rates or routes, classifications, and mileage
6 guides,

7 if such law, regulation, or provision meets the
8 requirements of subparagraph (B).

9 “(B) REQUIREMENTS.—A law, regulation,
10 or provision of a State, political subdivision, or
11 political authority meets the requirements of
12 this subparagraph if—

13 “(i) the law, regulation, or provision
14 covers the same subject matter as, and
15 compliance with such law, regulation, or
16 provision is no more burdensome than
17 compliance with, a provision of this part or
18 a regulation issued by the Secretary or the
19 Panel under this part; and

20 “(ii) the law, regulation, or provision
21 only applies to a carrier upon request of
22 such carrier.

23 “(C) ELECTION.—Notwithstanding any
24 other provision of law, a carrier affiliated with
25 a direct air carrier through common controlling

1 ownership may elect to be subject to a law, reg-
2 ulation, or provision of a State, political sub-
3 division, or political authority under this para-
4 graph.

5 “(4) This subsection shall not apply with re-
6 spect to the State of Hawaii until August 22, 1997.

7 **“§ 14502. Tax discrimination against motor carrier**
8 **transportation property**

9 “(a) DEFINITIONS.—In this section, the following
10 definitions apply:

11 “(1) ASSESSMENT.—The term ‘assessment’
12 means valuation for a property tax levied by a taxing
13 district.

14 “(2) ASSESSMENT JURISDICTION.—The term
15 ‘assessment jurisdiction’ means a geographical area
16 in a State used in determining the assessed value of
17 property for ad valorem taxation.

18 “(3) MOTOR CARRIER TRANSPORTATION PROP-
19 erty.—The term ‘motor carrier transportation
20 property’ means property, as defined by the Sec-
21 retary, owned or used by a motor carrier providing
22 transportation in interstate commerce whether or
23 not such transportation is subject to jurisdiction
24 under subchapter I of chapter 135.

1 “(4) COMMERCIAL AND INDUSTRIAL PROP-
2 ERTY.—The term ‘commercial and industrial prop-
3 erty’ means property, other than transportation
4 property and land used primarily for agricultural
5 purposes or timber growing, devoted to a commercial
6 or industrial use, and subject to a property tax levy.

7 “(b) ACTS BURDENING INTERSTATE COMMERCE.—
8 The following acts unreasonably burden and discriminate
9 against interstate commerce and a State, subdivision of
10 a State, or authority acting for a State or subdivision of
11 a State may not do any of them:

12 “(1) EXCESSIVE VALUATION OF PROPERTY.—
13 Assess motor carrier transportation property at a
14 value that has a higher ratio to the true market
15 value of the motor carrier transportation property
16 than the ratio that the assessed value of other com-
17 mercial and industrial property in the same assess-
18 ment jurisdiction has to the true market value of the
19 other commercial and industrial property.

20 “(2) TAX ON ASSESSMENT.—Levy or collect a
21 tax on an assessment that may not be made under
22 paragraph (1).

23 “(3) AD VALOREM TAX.—Levy or collect an ad
24 valorem property tax on motor carrier transportation
25 property at a tax rate that exceeds the tax rate ap-

1 plicable to commercial and industrial property in the
2 same assessment jurisdiction.

3 “(c) JURISDICTION.—

4 “(1) IN GENERAL.—Notwithstanding section
5 1341 of title 28 and without regard to the amount
6 in controversy or citizenship of the parties, a district
7 court of the United States has jurisdiction, concur-
8 rent with other jurisdiction of courts of the United
9 States and the States, to prevent a violation of sub-
10 section (b) of this section.

11 “(2) LIMITATION IN RELIEF.—Relief may be
12 granted under this subsection only if the ratio of as-
13 sessed value to true market value of motor carrier
14 transportation property exceeds by at least 5 per-
15 cent, the ratio of assessed value to true market value
16 of other commercial and industrial property in the
17 same assessment jurisdiction.

18 “(3) BURDEN OF PROOF.—The burden of proof
19 in determining assessed value and true market value
20 is governed by State law.

21 “(4) VIOLATION.—If the ratio of the assessed
22 value of other commercial and industrial property in
23 the assessment jurisdiction to the true market value
24 of all other commercial and industrial property can-
25 not be determined to the satisfaction of the district

1 court through the random-sampling method known
2 as a sales assessment ratio study (to be carried out
3 under statistical principles applicable to such a
4 study), the court shall find, as a violation of this sec-
5 tion—

6 “(A) an assessment of the motor carrier
7 transportation property at a value that has a
8 higher ratio to the true market value of the
9 motor carrier transportation property than the
10 assessment value of all other property subject
11 to a property tax levy in the assessment juris-
12 diction has to the true market value of all such
13 other property; and

14 “(B) the collection of ad valorem property
15 tax on the motor carrier transportation prop-
16 erty at a tax rate that exceeds the tax ratio rate
17 applicable to taxable property in the taxing dis-
18 trict.

19 **“§ 14503. Withholding State and local income tax by**
20 **certain carriers**

21 “(a) SINGLE STATE TAX WITHHOLDING.—

22 “(1) IN GENERAL.—No part of the compensa-
23 tion paid by a motor carrier providing transportation
24 subject to jurisdiction under subchapter I of chapter
25 135 or by a motor private carrier to an employee

1 who performs regularly assigned duties in 2 or more
2 States as such an employee with respect to a motor
3 vehicle shall be subject to the income tax laws of any
4 State or subdivision of that State, other than the
5 State or subdivision thereof of the employee's resi-
6 dence.

7 “(2) EMPLOYEE DEFINED.—In this subsection,
8 the term ‘employee’ has the meaning given such
9 term in section 31132.

10 “(b) SPECIAL RULES.—

11 “(1) CALCULATION OF EARNINGS.—In this sub-
12 section, an employee is deemed to have earned more
13 than 50 percent of pay in a State or subdivision of
14 that State in which the time worked by the employee
15 in the State or subdivision is more than 50 percent
16 of the total time worked by the employee while em-
17 ployed during the calendar year.

18 “(2) WATER CARRIERS.—A water carrier pro-
19 viding transportation subject to jurisdiction under
20 subchapter II of chapter 135 shall file income tax
21 information returns and other reports only with—

22 “(A) the State and subdivision of residence
23 of the employee (as shown on the employment
24 records of the carrier); and

1 “(B) the State and subdivision in which
2 the employee earned more than 50 percent of
3 the pay received by the employee from the car-
4 rier during the preceding calendar year.

5 “(3) APPLICABILITY TO SAILORS.—This sub-
6 section applies to pay of a master, officer, or sailor
7 who is a member of the crew on a vessel engaged in
8 foreign, coastwise, intercoastal, or noncontiguous
9 trade or in the fisheries of the United States.

10 “(c) FILING OF INFORMATION.—A motor and motor
11 private carrier withholding pay from an employee under
12 subsection (a) of this section shall file income tax informa-
13 tion returns and other reports only with the State and
14 subdivision of residence of the employee.

15 **“§ 14504. Registration of motor carriers by a State**

16 “(a) DEFINITIONS.—In this section, the terms
17 ‘standards’ and ‘amendments to standards’ mean the
18 specification of forms and procedures required by regula-
19 tions of the Secretary to prove the lawfulness of transpor-
20 tation by motor carrier referred to in section 13501.

21 “(b) GENERAL RULE.—The requirement of a State
22 that a motor carrier, providing transportation subject to
23 jurisdiction under subchapter I of chapter 135 and provid-
24 ing transportation in that State, must register with the
25 State is not an unreasonable burden on transportation re-

1 ferred to in section 13501 when the State registration is
2 completed under standards of the Secretary under sub-
3 section (c). When a State registration requirement im-
4 poses obligations in excess of the standards of the Sec-
5 retary, the part in excess is an unreasonable burden.

6 “(c) SINGLE STATE REGISTRATION SYSTEM.—

7 “(1) IN GENERAL.—The Secretary shall main-
8 tain standards for implementing a system under
9 which—

10 “(A) a motor carrier is required to register
11 annually with only one State by providing evi-
12 dence of its Federal registration under chapter
13 139;

14 “(B) the State of registration shall fully
15 comply with standards prescribed under this
16 section; and

17 “(C) such single State registration shall be
18 deemed to satisfy the registration requirements
19 of all other States.

20 “(2) SPECIFIC REQUIREMENTS.—

21 “(A) EVIDENCE OF FEDERAL REGISTRA-
22 TION; PROOF OF INSURANCE; PAYMENT OF
23 FEES.—Under the standards of the Secretary
24 implementing the single State registration sys-
25 tem described in paragraph (1) of this sub-

1 section, only a State acting in its capacity as
2 registration State under such single State sys-
3 tem may require a motor carrier registered by
4 the Secretary under this part—

5 “(i) to file and maintain evidence of
6 such Federal registration;

7 “(ii) to file satisfactory proof of re-
8 quired insurance or qualification as a self-
9 insurer;

10 “(iii) to pay directly to such State fee
11 amounts in accordance with the fee system
12 established under subparagraph (B)(iv) of
13 this paragraph, subject to allocation of fee
14 revenues among all States in which the
15 carrier operates and which participate in
16 the single State registration system; and

17 “(iv) to file the name of a local agent
18 for service of process.

19 “(B) RECEIPTS; FEE SYSTEM.—The stand-
20 ards of the Secretary—

21 “(i) shall require that the registration
22 State issue a receipt, in a form prescribed
23 under the standards, reflecting that the
24 carrier has filed proof of insurance as pro-
25 vided under subparagraph (A)(ii) of this

1 paragraph and has paid fee amounts in ac-
2 cordance with the fee system established
3 under clause (iv) of this subparagraph;

4 “(ii) shall require that copies of the
5 receipt issued under clause (i) of this sub-
6 paragraph be kept in each of the carrier’s
7 commercial motor vehicles;

8 “(iii) shall not require decals, stamps,
9 cab cards, or any other means of register-
10 ing or identifying specific vehicles operated
11 by the carrier;

12 “(iv) shall establish a fee system for
13 the filing of proof of insurance as provided
14 under subparagraph (A)(ii) of this para-
15 graph that—

16 “(I) will be based on the number
17 of commercial motor vehicles the car-
18 rier operates in a State and on the
19 number of States in which the carrier
20 operates;

21 “(II) will minimize the costs of
22 complying with the registration sys-
23 tem; and

24 “(III) will result in a fee for each
25 participating State that is equal to

1 the fee, not to exceed \$10 per vehicle,
2 that such State collected or charged
3 as of November 15, 1991; and

4 “(v) shall not authorize the charging
5 or collection of any fee for filing and main-
6 taining a certificate or permit under sub-
7 paragraph (A)(i) of this paragraph.

8 “(C) PROHIBITED FEES.—The charging or
9 collection of any fee under this section that is
10 not in accordance with the fee system estab-
11 lished under subparagraph (B)(iv) of this para-
12 graph shall be deemed to be a burden on inter-
13 state commerce.

14 “(D) LIMITATION ON PARTICIPATION BY
15 STATES.—Only a State which, as of January 1,
16 1991, charged or collected a fee for a vehicle
17 identification stamp or number under part 1023
18 of title 49, Code of Federal Regulations, shall
19 be eligible to participate as a registration State
20 under this subsection or to receive any fee reve-
21 nue under this subsection.

22 **“§ 14505. State tax**

23 “A State or political subdivision thereof may not col-
24 lect or levy a tax, fee, head charge, or other charge on—

1 “(1) a passenger traveling in interstate com-
2 merce by motor carrier;

3 “(2) the transportation of a passenger traveling
4 in interstate commerce by motor carrier;

5 “(3) the sale of passenger transportation in
6 interstate commerce by motor carrier; or

7 “(4) the gross receipts derived from such trans-
8 portation.

9 **“CHAPTER 147—ENFORCEMENT;**
10 **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.

11 **“§ 14701. General authority**

12 “(a) INVESTIGATIONS.—The Secretary or the Panel,
13 as applicable, may begin an investigation under this part
14 on the Secretary’s or the Panel’s own initiative or on com-
15 plaint. If the Secretary or Panel, as applicable finds that
16 a carrier or broker is violating this part, the Secretary
17 or Panel, as applicable, shall take appropriate action to
18 compel compliance with this part. If the Secretary finds
19 that a foreign motor carrier or foreign motor private car-
20 rier is violating chapter 139, the Secretary shall take ap-

1 appropriate action to compel compliance with that chapter.
2 The Secretary or Panel, as applicable, may take action
3 under this subsection only after giving the carrier or
4 broker notice of the investigation and an opportunity for
5 a proceeding.

6 “(b) COMPLAINTS.—A person, including a govern-
7 mental authority, may file with the Secretary or Panel,
8 as applicable, a complaint about a violation of this part
9 by a carrier providing, or broker for, transportation or
10 service subject to jurisdiction under this part or a foreign
11 motor carrier or foreign motor private carrier providing
12 transportation registered under section 13902 of this title.
13 The complaint must state the facts that are the subject
14 of the violation. The Secretary or Panel, as applicable,
15 may dismiss a complaint that it determines does not state
16 reasonable grounds for investigation and action.

17 “(c) DEADLINE.—A formal investigative proceeding
18 begun by the Secretary or Panel under subsection (a) of
19 this section is dismissed automatically unless it is con-
20 cluded with administrative finality by the end of the 3d
21 year after the date on which it was begun.

22 **“§ 14702. Enforcement by the regulatory authority**

23 “(a) IN GENERAL.—The Secretary or the Panel, as
24 applicable, may bring a civil action—

25 “(1) to enforce section 14103 of this title; or

1 “(2) to enforce this part, or a regulation or
2 order of the Secretary or Panel, as applicable, when
3 violated by a carrier or broker providing transpor-
4 tation or service subject to jurisdiction under sub-
5 chapter I or III of chapter 135 of this title or by
6 a foreign motor carrier or foreign motor private car-
7 rier providing transportation registered under sec-
8 tion 13902 of this title.

9 “(b) VENUE.—In a civil action under subsection
10 (a)(2) of this section—

11 “(1) trial is in the judicial district in which the
12 carrier, foreign motor carrier, foreign motor private
13 carrier, or broker operates;

14 “(2) process may be served without regard to
15 the territorial limits of the district or of the State
16 in which the action is instituted; and

17 “(3) a person participating with a carrier or
18 broker in a violation may be joined in the civil action
19 without regard to the residence of the person.

20 “(c) STANDING.—The Panel, through its own attor-
21 neys, may bring or participate in any civil action involving
22 motor carrier undercharges.

1 **“§ 14703. Enforcement by the Attorney General**

2 “The Attorney General may, and on request of either
3 the Secretary of Transportation or Intermodal Surface
4 Transportation Panel shall, bring court proceedings—

5 “(1) to enforce this part or a regulation or
6 order of the Secretary or Panel or terms of registra-
7 tion under this part; and

8 “(2) to prosecute a person violating this part or
9 a regulation or order of the Secretary or Panel or
10 term of registration under this part.

11 **“§ 14704. Rights and remedies of persons injured by**
12 **carriers or brokers**

13 “(a) ENFORCEMENT OF ORDER.—A person injured
14 because a carrier or broker providing transportation or
15 service subject to jurisdiction under chapter 135 does not
16 obey an order of the Secretary or the Panel, as applicable,
17 under this part, except an order for the payment of money,
18 may bring a civil action to enforce that order under this
19 subsection.

20 “(b) LIABILITY AND DAMAGES.—

21 “(1) LIABILITY FOR EXCEEDING TARIFF
22 RATE.—A carrier providing transportation or service
23 subject to jurisdiction under chapter 135 is liable to
24 a person for amounts charged that exceed the appli-
25 cable rate for transportation or service contained in
26 a tariff in effect under section 13702 of this title.

1 “(2) DAMAGES FOR VIOLATIONS.—A carrier or
2 broker providing transportation or service subject to
3 jurisdiction under chapter 135 is liable for damages
4 sustained by a person as a result of an act or omis-
5 sion of that carrier or broker in violation of this
6 part.

7 “(c) ELECTION.—

8 “(1) COMPLAINT TO DOT OR PANEL; CIVIL AC-
9 TION.—A person may file a complaint with the
10 Panel or the Secretary, as applicable, under section
11 14701(b) of this title or bring a civil action under
12 subsection (b)(1) or (2) of this section to enforce li-
13 ability against a carrier or broker providing trans-
14 portation or service subject to jurisdiction under
15 chapter 135. A person may bring a civil action for
16 injunctive relief for violations of sections 14102 and
17 14103.

18 “(2) ORDER OF DOT OR PANEL.—

19 “(A) IN GENERAL.—When the Panel or
20 Secretary, as applicable, makes an award under
21 subsection (b) of this section, the Panel or Sec-
22 retary, as applicable, shall order the carrier to
23 pay the amount awarded by a specific date. The
24 Panel or Secretary, as applicable, may order a
25 carrier or broker providing transportation or

1 service subject to jurisdiction under chapter
2 135 to pay damages only when the proceeding
3 is on complaint.

4 “(B) ENFORCEMENT BY CIVIL ACTION.—
5 The person for whose benefit an order of the
6 Panel or Secretary requiring the payment of
7 money is made may bring a civil action to en-
8 force that order under this paragraph if the
9 carrier or broker does not pay the amount
10 awarded by the date payment was ordered to be
11 made.

12 “(d) PROCEDURE.—

13 “(1) IN GENERAL.—When a person begins a
14 civil action under subsection (b) of this section to
15 enforce an order of the Panel or Secretary requiring
16 the payment of damages by a carrier or broker pro-
17 viding transportation or service subject to jurisdic-
18 tion under chapter 135 of this title, the text of the
19 order of the Panel or Secretary must be included in
20 the complaint. In addition to the district courts of
21 the United States, a State court of general jurisdic-
22 tion having jurisdiction of the parties has jurisdic-
23 tion to enforce an order under this paragraph. The
24 findings and order of the Panel or Secretary are
25 competent evidence of the facts stated in them. Trial

1 in a civil action brought in a district court of the
2 United States under this paragraph is in the judicial
3 district in which the plaintiff resides or in which the
4 principal operating office of the carrier or broker is
5 located. In a civil action under this paragraph, the
6 plaintiff is liable for only those costs that accrue on
7 an appeal taken by the plaintiff.

8 “(2) PARTIES.—All parties in whose favor the
9 award was made may be joined as plaintiffs in a civil
10 action brought in a district court of the United
11 States under this subsection and all the carriers that
12 are parties to the order awarding damages may be
13 joined as defendants. Trial in the action is in the ju-
14 dicial district in which any one of the plaintiffs could
15 bring the action against any one of the defendants.
16 Process may be served on a defendant at its prin-
17 cipal operating office when that defendant is not in
18 the district in which the action is brought. A judg-
19 ment ordering recovery may be made in favor of any
20 of those plaintiffs against the defendant found to be
21 liable to that plaintiff.

22 “(3) ATTORNEY’S FEES.—The district court
23 shall award a reasonable attorney’s fee as a part of
24 the damages for which a carrier or broker is found
25 liable under this subsection. The district court shall

1 tax and collect that fee as a part of the costs of the
2 action.

3 **“§ 14705. Limitation on actions by and against car-**
4 **riers**

5 “(a) IN GENERAL.—A carrier providing transpor-
6 tation or service subject to jurisdiction under chapter 135
7 must begin a civil action to recover charges for transpor-
8 tation or service provided by the carrier within 18 months
9 after the claim accrues.

10 “(b) OVERCHARGES.—A person must begin a civil ac-
11 tion to recover overcharges within 18 months after the
12 claim accrues. If the claim is against a carrier providing
13 transportation subject to jurisdiction under chapter 135
14 and an election to file a complaint with the Panel or Sec-
15 retary, as applicable, is made under section 14704(c)(1),
16 the complaint must be filed within 3 years after the claim
17 accrues.

18 “(c) DAMAGES.—A person must file a complaint with
19 the Panel or Secretary, as applicable, to recover damages
20 under section 14704(b)(2) of this title within 2 years after
21 the claim accrues.

22 “(d) EXTENSIONS.—The limitation periods under
23 subsection (b) of this section are extended for 6 months
24 from the time written notice is given to the claimant by
25 the carrier of disallowance of any part of the claim speci-

1 filed in the notice if a written claim is given to the carrier
2 within those limitation periods. The limitation periods
3 under subsection (b) of this section and the 2-year period
4 under subsection (c) of this section are extended for 90
5 days from the time the carrier begins a civil action under
6 subsection (a) of this section to recover charges related
7 to the same transportation or service, or collects (without
8 beginning a civil action under that subsection) the charge
9 for that transportation or service if that action is begun
10 or collection is made within the appropriate period.

11 “(e) PAYMENT.—A person must begin a civil action
12 to enforce an order of the Panel or Secretary against a
13 carrier for the payment of money within 1 year after the
14 date the order required the money to be paid.

15 “(f) GOVERNMENT TRANSPORTATION.—This section
16 applies to transportation for the United States Govern-
17 ment. The time limitations under this section are ex-
18 tended, as related to transportation for or on behalf of
19 the United States Government, for 3 years from the later
20 of the date of—

21 “(1) payment of the rate for the transportation
22 or service involved;

23 “(2) subsequent refund for overpayment of that
24 rate; or

1 “(3) deduction made under section 3726 of title
2 31.

3 “(g) ACCRUAL DATE.—A claim related to a shipment
4 of property accrues under this section on delivery or ten-
5 der of delivery by the carrier.

6 **“§ 14706. Liability of carriers under receipts and bills**
7 **of lading**

8 “(a) GENERAL LIABILITY.—

9 “(1) MOTOR CARRIERS AND FREIGHT FOR-
10 WARDERS.—A carrier providing transportation or
11 service subject to jurisdiction under subchapter I or
12 III of chapter 135 shall issue a receipt or bill of lad-
13 ing for property it receives for transportation under
14 this part. That carrier and any other carrier that de-
15 livers the property and is providing transportation or
16 service subject to jurisdiction under subchapter I or
17 III of chapter 135 or chapter 105 are liable to the
18 person entitled to recover under the receipt or bill of
19 lading. The liability imposed under this paragraph is
20 for the actual loss or injury to the property caused
21 by (A) the receiving carrier, (B) the delivering car-
22 rier, or (C) another carrier over whose line or route
23 the property is transported in the United States or
24 from a place in the United States to a place in an
25 adjacent foreign country when transported under a

1 through bill of lading and, except in the case of a
2 freight forwarder, applies to property reconsigned or
3 diverted under a tariff filed under section 13702 of
4 this title. Failure to issue a receipt or bill of lading
5 does not affect the liability of a carrier. A delivering
6 carrier is deemed to be the carrier performing the
7 line-haul transportation nearest the destination but
8 does not include a carrier providing only a switching
9 service at the destination.

10 “(2) FREIGHT FORWARDER.—A freight for-
11 warder is both the receiving and delivering carrier.
12 When a freight forwarder provides service and uses
13 a motor carrier providing transportation subject to
14 jurisdiction under subchapter I of chapter 135 to re-
15 ceive property from a consignor, the motor carrier
16 may execute the bill of lading or shipping receipt for
17 the freight forwarder with its consent. With the con-
18 sent of the freight forwarder, a motor carrier may
19 deliver property for a freight forwarder on the
20 freight forwarder’s bill of lading, freight bill, or ship-
21 ping receipt to the consignee named in it, and re-
22 ceipt for the property may be made on the freight
23 forwarder’s delivery receipt.

24 “(b) APPORTIONMENT.—The carrier issuing the re-
25 ceipt or bill of lading under subsection (a) of this section

1 or delivering the property for which the receipt or bill of
2 lading was issued is entitled to recover from the carrier
3 over whose line or route the loss or injury occurred the
4 amount required to be paid to the owners of the property,
5 as evidenced by a receipt, judgment, or transcript, and the
6 amount of its expenses reasonably incurred in defending
7 a civil action brought by that person.

8 “(c) SPECIAL RULES.—

9 “(1) LIMITATION OF LIABILITY BY CON-
10 TRACT.—A carrier may limit or be exempt from li-
11 ability imposed under subsection (a) of this section
12 by a mutual written agreement, that is referred to
13 in the receipt, bill of lading, or contract for the
14 transportation involved entered into with the ship-
15 per, to limit liability to a specified amount.

16 “(2) WATER CARRIERS.—If loss or injury to
17 property occurs while it is in the custody of a water
18 carrier, the liability of that carrier is determined by
19 its bill of lading and the law applicable to water
20 transportation. The liability of the initial or deliver-
21 ing carrier is the same as the liability of the water
22 carrier.

23 “(d) CIVIL ACTIONS.—

24 “(1) AGAINST DELIVERING CARRIER.—A civil
25 action under this section may be brought against a

1 delivering carrier (other than a rail carrier) in a dis-
2 trict court of the United States or in a State court.
3 Trial, if the action is brought in a district court of
4 the United States is in a judicial district, and if in
5 a State court, is in a State through which the de-
6 fendant carrier operates.

7 “(2) AGAINST CARRIER RESPONSIBLE FOR
8 LOSS.—A civil action under this section may be
9 brought against the carrier alleged to have caused
10 the loss or damage, in the judicial district in which
11 such loss or damage is alleged to have occurred.

12 “(3) JURISDICTION OF COURTS.—A civil action
13 under this section may be brought in a United
14 States district court or in a State court.

15 “(4) JUDICIAL DISTRICT DEFINED.—In this
16 section, ‘judicial district’ means—

17 “(A) in the case of a United States district
18 court, a judicial district of the United States;
19 and

20 “(B) in the case of a State court, the ap-
21 plicable geographic area over which such court
22 exercises jurisdiction.

23 “(e) MINIMUM PERIOD FOR FILING CLAIMS.—

24 “(1) IN GENERAL.—A carrier may not provide
25 by rule, contract, or otherwise, a period of less than

1 9 months for filing a claim against it under this sec-
2 tion and a period of less than 2 years for bringing
3 a civil action against it under this section. The pe-
4 riod for bringing a civil action is computed from the
5 date the carrier gives a person written notice that
6 the carrier has disallowed any part of the claim
7 specified in the notice.

8 “(2) SPECIAL RULES.—For the purposes of this
9 subsection—

10 “(A) an offer of compromise shall not con-
11 stitute a disallowance of any part of the claim
12 unless the carrier, in writing, informs the claim-
13 ant that such part of the claim is disallowed
14 and provides reasons for such disallowance; and

15 “(B) communications received from a car-
16 rier’s insurer shall not constitute a disallowance
17 of any part of the claim unless the insurer, in
18 writing, informs the claimant that such part of
19 the claim is disallowed, provides reason for such
20 disallowance, and informs the claimant that the
21 insurer is acting on behalf of the carrier.

22 “(f) LIMITING LIABILITY OF HOUSEHOLD GOODS
23 CARRIERS TO DECLARED VALUE.—A carrier or group of
24 carriers subject to jurisdiction under subchapter I or III
25 of chapter 135 may petition the Panel to modify, elimi-

1 nate, or establish rates for the transportation of household
2 goods under which the liability of the carrier for that prop-
3 erty is limited to a value established by written declaration
4 of the shipper or by a written agreement.

5 “(g) MODIFICATIONS AND REFORMS.—

6 “(1) STUDY.—The Secretary shall conduct a
7 study to determine whether any modifications or re-
8 forms should be made to the loss and damage provi-
9 sions of this section.

10 “(2) FACTORS TO CONSIDER.—In conducting
11 the study, the Secretary, at a minimum, shall con-
12 sider—

13 “(A) the efficient delivery of transportation
14 services;

15 “(B) international and intermodal har-
16 mony;

17 “(C) the public interest; and

18 “(D) the interest of carriers and shippers.

19 “(3) REPORT.—Not later than 18 months after
20 the effective date of this section, the Secretary shall
21 submit to Congress a report on the results of the
22 study, together with any recommendations of the
23 Secretary (including legislative recommendations)
24 for implementing modifications or reforms identified
25 by the Secretary as being appropriate.

1 **“§ 14707. Private enforcement of registration require-**
2 **ment**

3 “(a) IN GENERAL.—If a person provides transpor-
4 tation by motor vehicle or service in clear violation of sec-
5 tion 13901–13904 or 13906, a person injured by the
6 transportation or service may bring a civil action to en-
7 force any such section. In a civil action under this sub-
8 section, trial is in the judicial district in which the person
9 who violated that section operates.

10 “(b) PROCEDURE.—A copy of the complaint in a civil
11 action under subsection (a) shall be served on the Sec-
12 retary and a certificate of service must appear in the com-
13 plaint filed with the court. The Secretary may intervene
14 in a civil action under subsection (a). The Secretary may
15 notify the district court in which the action is pending that
16 the Secretary intends to consider the matter that is the
17 subject of the complaint in a proceeding before the Sec-
18 retary. When that notice is filed, the court shall stay fur-
19 ther action pending disposition of the proceeding before
20 the Secretary.

21 “(c) ATTORNEY’S FEES.—In a civil action under sub-
22 section (a), the court may determine the amount of and
23 award a reasonable attorney’s fee to the prevailing party.
24 That fee is in addition to costs allowable under the Fed-
25 eral Rules of Civil Procedure.

1 **“§ 14708. Dispute settlement program for household**
2 **goods carriers**

3 “(a) OFFERING SHIPPERS ARBITRATION.—As a con-
4 dition of registration under section 13902 or 13903, a car-
5 rier providing transportation of household goods subject
6 to jurisdiction under subchapter I or III of chapter 135
7 must agree to offer to shippers neutral arbitration as a
8 means of settling disputes between such carriers and ship-
9 pers of household goods concerning the transportation of
10 household goods.

11 “(b) ARBITRATION REQUIREMENTS.—

12 “(1) PREVENTION OF SPECIAL ADVANTAGE.—
13 The arbitration that is offered must be designed to
14 prevent a carrier from having any special advantage
15 in any case in which the claimant resides or does
16 business at a place distant from the carrier’s prin-
17 cipal or other place of business.

18 “(2) NOTICE OF ARBITRATION PROCEDURE.—
19 The carrier must provide the shipper an adequate
20 notice of the availability of neutral arbitration, in-
21 cluding a concise easy-to-read, accurate summary of
22 the arbitration procedure, any applicable fees, and
23 disclosure of the legal effects of election to utilize ar-
24 bitration. Such notice must be given to persons for
25 whom household goods are to be transported by the

1 carrier before such goods are tendered to the carrier
2 for transportation.

3 “(3) PROVISION OF FORMS.—Upon request of a
4 shipper, the carrier must promptly provide such
5 forms and other information as are necessary for
6 initiating an action to resolve a dispute under arbi-
7 tration.

8 “(4) INDEPENDENCE OF ARBITRATOR.—Each
9 person authorized to arbitrate or otherwise settle
10 disputes must be independent of the parties to the
11 dispute and must be capable, as determined under
12 such regulations as the Secretary may issue, to re-
13 solve such disputes fairly and expeditiously. The car-
14 rier must ensure that each person chosen to settle
15 the disputes is authorized and able to obtain from
16 the shipper or carrier any material and relevant in-
17 formation to the extent necessary to carry out a fair
18 and expeditious decision making process.

19 “(5) LIMITATION ON FEES.—No fee of more
20 than \$25 may be charged a shipper for instituting
21 an arbitration proceeding under this subsection. In
22 any case in which a shipper is charged a fee under
23 this paragraph for instituting an arbitration pro-
24 ceeding and such dispute is settled in favor of the
25 shipper, the person settling the dispute must refund

1 such fee to the shipper unless the person settling the
2 dispute determines that such refund is inappropriate.
3

4 “(6) REQUESTS.—The carrier must not require
5 the shipper to agree to utilize arbitration prior to
6 the time that a dispute arises. If the shipper re-
7 quests arbitration, such shall be binding on the par-
8 ties.

9 “(7) ORAL PRESENTATION OF EVIDENCE.—The
10 arbitrator may provide for an oral presentation of a
11 dispute concerning transportation of household
12 goods by a party to the dispute (or a party’s rep-
13 resentative), but such oral presentation may be
14 made only if all parties to the dispute expressly
15 agree to such presentation and the date, time, and
16 location of such presentation.

17 “(8) DEADLINE FOR DECISION.—The arbitrator
18 must, as expeditiously as possible but at least within
19 60 days of receipt of written notification of the dis-
20 pute, render a decision based on the information
21 gathered; except that, in any case in which a party
22 to the dispute fails to provide in a timely manner
23 any information concerning such dispute which the
24 person settling the dispute may reasonably require
25 to resolve the dispute, the arbitrator may extend

1 such 60-day period for a reasonable period of time.

2 A decision resolving a dispute may include any remedies appropriate under the circumstances, including
3 repair, replacement, refund, reimbursement for expenses, and compensation for damages.
4
5

6 “(c) LIMITATION ON USE OF MATERIALS.—Materials
7 and information obtained in the course of a decision making
8 process to settle a dispute by arbitration under this
9 section may not be used to bring an action under section
10 14905.

11 “(d) ATTORNEY’S FEES TO SHIPPERS.—In any court
12 action to resolve a dispute between a shipper of household
13 goods and a motor carrier providing transportation or
14 service subject to jurisdiction under subchapter I or III
15 of chapter 135 concerning the transportation of household
16 goods by such carrier, the shipper shall be awarded reasonable attorney’s fees if—
17

18 “(1) the shipper submits a claim to the carrier
19 within 120 days after the date the shipment is delivered or the date the delivery is scheduled, whichever
20 is later;
21

22 “(2) the shipper prevails in such court action;
23 and

24 “(3)(A) a decision resolving the dispute was not
25 rendered through arbitration under this section with-

1 in the period provided under subsection (b)(8) of
2 this section or an extension of such period under
3 such subsection; or

4 “(B) the court proceeding is to enforce a deci-
5 sion rendered through arbitration under this section
6 and is instituted after the period for performance
7 under such decision has elapsed.

8 “(e) ATTORNEY’S FEES TO CARRIERS.—In any court
9 action to resolve a dispute between a shipper of household
10 goods and a carrier providing transportation, or service
11 subject to jurisdiction under subchapter I or III of chapter
12 135 concerning the transportation of household goods by
13 such carrier, such carrier may be awarded reasonable at-
14 torney’s fees by the court only if the shipper brought such
15 action in bad faith—

16 “(1) after resolution of such dispute through
17 arbitration under this section; or

18 “(2) after institution of an arbitration proceed-
19 ing by the shipper to resolve such dispute under this
20 section but before—

21 “(A) the period provided under subsection
22 (b)(8) for resolution of such dispute (including,
23 if applicable, an extension of such period under
24 such subsection) ends; and

- “14906. Evasion of regulation of carriers and brokers.
- “14907. Record keeping and reporting violations. .
- “14908. Unlawful disclosure of information..
- “14909. Disobedience to subpoenas. .
- “14910. General criminal 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.

1 **“§ 14901. General civil penalties**

2 “(a) REPORTING AND RECORDKEEPING.—A person
 3 required to make a report to the Secretary or the Panel,
 4 answer a question, or make, prepare, or preserve a record
 5 under this part concerning transportation subject to juris-
 6 diction under subchapter I or III of chapter 135 or trans-
 7 portation by a foreign carrier registered under section
 8 13902, or an officer, agent, or employee of that person
 9 that—

10 “(1) does not make the report;

11 “(2) does not specifically, completely, and
 12 truthfully answer the question;

13 “(3) does not make, prepare, or preserve the
 14 record in the form and manner prescribed;

15 “(4) does not comply with section 13901; or

16 “(5) does not comply with section 13902(c);

17 is liable to the United States Government for a civil pen-
 18 alty of not less than \$500 for each violation and for each
 19 additional day the violation continues; except that, in the
 20 case of a person who is not registered under this part to
 21 provide transportation of passengers, or an officer, agent,

1 or employee of such person, that does not comply with sec-
2 tion 13901 with respect to providing transportation of
3 passengers, the amount of the civil penalty shall not be
4 less than \$2,000 for each violation and for each additional
5 day the violation continues.

6 “(b) TRANSPORTATION OF HAZARDOUS WASTES.—
7 A person subject to jurisdiction under subchapter I of
8 chapter 135, or an officer, agent, or employee of that per-
9 son, and who is required to comply with section 13901
10 of this title but does not so comply with respect to the
11 transportation of hazardous wastes as defined by the En-
12 vironmental Protection Agency pursuant to section 3001
13 of the Solid Waste Disposal Act (but not including any
14 waste the regulation of which under the Solid Waste Dis-
15 posal Act has been suspended by Congress) shall be liable
16 to the United States for a civil penalty not to exceed
17 \$20,000 for each violation.

18 “(c) FACTORS TO CONSIDER IN DETERMINING
19 AMOUNT.—In determining and negotiating the amount of
20 a civil penalty under subsection (a) or (d) concerning
21 transportation of household goods, the degree of culpabil-
22 ity, any history of prior such conduct, the degree of harm
23 to shipper or shippers, ability to pay, the effect on ability
24 to do business, whether the shipper has been adequately
25 compensated before institution of the proceeding, and such

1 other matters as fairness may require shall be taken into
2 account.

3 “(d) PROTECTION OF HOUSEHOLD GOODS SHIP-
4 PERS.—If a carrier providing transportation of household
5 goods subject to jurisdiction under subchapter I or III of
6 chapter 135 or a receiver or trustee of such carrier fails
7 or refuses to comply with any regulation issued by the Sec-
8 retary or the Panel relating to protection of individual
9 shippers, such carrier, receiver, or trustee is liable to the
10 United States for a civil penalty of not less than \$1,000
11 for each violation and for each additional day during which
12 the violation continues.

13 “(e) VIOLATION RELATING TO TRANSPORTATION OF
14 HOUSEHOLD GOODS.—Any person that knowingly en-
15 gages in or knowingly authorizes an agent or other per-
16 son—

17 “(1) to falsify documents used in the transpor-
18 tation of household goods subject to jurisdiction
19 under subchapter I or III of chapter 135 which evi-
20 dence the weight of a shipment; or

21 “(2) to charge for accessorial services which are
22 not performed or for which the carrier is not entitled
23 to be compensated in any case in which such services
24 are not reasonably necessary in the safe and ade-
25 quate movement of the shipment;

1 is liable to the United States for a civil penalty of not
2 less than \$2,000 for each violation and of not less than
3 \$5,000 for each subsequent violation. Any State may bring
4 a civil action in the United States district courts to compel
5 a person to pay a civil penalty assessed under this sub-
6 section.

7 “(f) VENUE.—Trial in a civil action under sub-
8 sections (a) through (e) of this section is in the judicial
9 district in which—

10 “(1) the carrier or broker has its principal of-
11 fice;

12 “(2) the carrier or broker was authorized to
13 provide transportation or service under this part
14 when the violation occurred;

15 “(3) the violation occurred; or

16 “(4) the offender is found.

17 Process in the action may be served in the judicial district
18 of which the offender is an inhabitant or in which the of-
19 fender may be found.

20 **“§ 14902. Civil penalty for accepting rebates from car-**
21 **rier**

22 “A person—

23 “(1) delivering property to a carrier providing
24 transportation or service subject to jurisdiction
25 under chapter 135 for transportation under this part

1 or for whom that carrier will transport the property
2 as consignor or consignee for that person from a
3 State or territory or possession of the United States
4 to another State or possession, territory, or to a for-
5 eign country; and

6 “(2) knowingly accepting or receiving by any
7 means a rebate or offset against the rate for trans-
8 portation for, or service of, that property contained
9 in a tariff required under section 13702;

10 is liable to the United States Government for a civil pen-
11 alty in an amount equal to 3 times the amount of money
12 that person accepted or received as a rebate or offset and
13 3 times the value of other consideration accepted or re-
14 ceived as a rebate or offset. In a civil action under this
15 section, all money or other consideration received by the
16 person during a period of 6 years before an action is
17 brought under this section may be included in determining
18 the amount of the penalty, and if that total amount is
19 included, the penalty shall be 3 times that total amount.

20 **“§ 14903. Tariff violations**

21 “(a) CRIMINAL PENALTY FOR UNDERCHARGING.—A
22 person that knowingly offers, grants, gives, solicits, ac-
23 cepts, or receives by any means transportation or service
24 provided for property by a carrier subject to jurisdiction
25 under chapter 135 at less than the rate in effect under

1 section 13702 shall be fined at least \$1,000 but not more
2 than \$20,000, imprisoned for not more than 2 years, or
3 both.

4 “(b) GENERAL CRIMINAL PENALTY.—A carrier pro-
5 viding transportation or service subject to jurisdiction
6 under chapter 135 or an officer, director, receiver, trustee,
7 lessee, agent, or employee of a corporation that is subject
8 to jurisdiction under that chapter, that willfully does not
9 observe its tariffs as required under section 13702, shall
10 be fined at least \$1,000 but not more than \$20,000, im-
11 prisoned for not more than 2 years, or both.

12 “(c) ACTIONS OF AGENTS AND EMPLOYEES.—When
13 acting in the scope of their employment, the actions and
14 omissions of persons acting for or employed by a carrier
15 or shipper that is subject to subsection (a) or (b) of this
16 section are considered to be the actions and omissions of
17 that carrier or shipper as well as that person.

18 “(d) VENUE.—Trial in a criminal action under this
19 section is in the judicial district in which any part of the
20 violation is committed or through which the transportation
21 is conducted.

22 **“§ 14904. Additional rate violations**

23 “(a) REBATES BY AGENTS.—A person, or an officer,
24 employee, or agent of that person, that—

1 “(1) knowingly offers, grants, gives, solicits, ac-
2 cepts, or receives a rebate for concession, in violation
3 of a provision of this part related to motor carrier
4 transportation subject to jurisdiction under sub-
5 chapter I of chapter 135; or

6 (2) by any means knowingly and willfully as-
7 sists or permits another person to get transportation
8 that is subject to jurisdiction under that subchapter
9 at less than the rate in effect for that transportation
10 under section 13702,

11 shall be fined at least \$200 for the first violation and at
12 least \$250 for a subsequent violation.

13 “(b) UNDERCHARGING.—

14 “(1) FREIGHT FORWARDER.—A freight for-
15 warder providing service subject to jurisdiction
16 under subchapter III of chapter 135, or an officer,
17 agent, or employee of that freight forwarder, that
18 knowingly and willfully assists a person in getting,
19 or willingly permits a person to get, service provided
20 under that subchapter at less than the rate in effect
21 for that service under section 13702, shall be fined
22 not more than \$500 for the first violation and not
23 more than \$2,000 for a subsequent violation.

24 “(2) AGENTS AND OTHERS.—A person that
25 knowingly and willfully by any means gets, or at-

1 **“§ 14907. Record keeping and reporting violations**

2 “A person required to make a report to the Secretary
3 or the Panel, as applicable, answer a question, or make,
4 prepare, or preserve a record under this part about trans-
5 portation subject to jurisdiction under subchapter I or III
6 of chapter 135, or an officer, agent, or employee of that
7 person, that—

8 “(1) willfully does not make that report;

9 “(2) willfully does not specifically, completely,
10 and truthfully answer that question in 30 days from
11 the date the Secretary or Panel, as applicable, re-
12 quires the question to be answered;

13 “(3) willfully does not make, prepare, or pre-
14 serve that record in the form and manner pre-
15 scribed;

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

18 “(5) knowingly and willfully files a false report
19 or record;

20 “(6) knowingly and willfully makes a false or
21 incomplete entry in that record about a business re-
22 lated fact or transaction; or

23 “(7) knowingly and willfully makes, prepares,
24 or preserves a record in violation of an applicable
25 regulation or order of the Secretary or Panel;

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

1 **“§ 14908. Unlawful disclosure of information**

2 “(a) DISCLOSURE OF SHIPMENT AND ROUTING IN-
3 FORMATION.—

4 “(1) VIOLATIONS.—A carrier or broker provid-
5 ing transportation subject to jurisdiction under sub-
6 chapter I, II, or III of chapter 135 or an officer, re-
7 ceiver, trustee, lessee, or employee of that carrier or
8 broker, or another person authorized by that carrier
9 or broker to receive information from that carrier or
10 broker may not knowingly disclose to another per-
11 son, except the shipper or consignee, and another
12 person may not solicit, or knowingly receive, infor-
13 mation about the nature, kind, quantity, destination,
14 consignee, or routing of property tendered or deliv-
15 ered to that carrier or broker for transportation pro-
16 vided under this part without the consent of the
17 shipper or consignee if that information may be used
18 to the detriment of the shipper or consignee or may
19 disclose improperly to a competitor the business
20 transactions of the shipper or consignee.

21 “(2) FINE; VENUE.—A person violating para-
22 graph (1) of this subsection shall be fined not less
23 than \$2,000. Trial in a criminal action under this
24 paragraph is in the judicial district in which any
25 part of the violation is committed.

1 “(b) LIMITATION ON STATUTORY CONSTRUCTION.—
2 This part does not prevent a carrier or broker providing
3 transportation subject to jurisdiction under chapter 135
4 from giving information—

5 “(1) in response to legal process issued under
6 authority of a court of the United States or a State;

7 “(2) to an officer, employee, or agent of the
8 United States Government, a State, or a territory or
9 possession of the United States; or

10 “(3) to another carrier or its agent to adjust
11 mutual traffic accounts in the ordinary course of
12 business.

13 **“§ 14909. Disobedience to subpoenas**

14 “A person not obeying a subpoena or requirement of
15 the Secretary or the Panel to appear and testify or
16 produce records shall be fined not less than \$5,000, im-
17 prisoned for not more than 1 year, or both.

18 **“§ 14910. General criminal penalty when specific pen-
19 alty not provided**

20 “When another criminal penalty is not provided
21 under this chapter, a person that knowingly and willfully
22 violates a provision of this part or a regulation or order
23 prescribed under this part, or a condition of a registration
24 under this part related to transportation that is subject
25 to jurisdiction under subchapter I or III of chapter 135

1 or a condition of a registration under section 13902, shall
2 be fined at least \$500 for the first violation and at least
3 \$500 for a subsequent violation. A separate violation oc-
4 curs each day the violation continues.

5 **“§ 14911. Punishment of corporation for violations**
6 **committed by certain individuals**

7 “An act or omission that would be a violation of this
8 part if committed by a director, officer, receiver, trustee,
9 lessee, agent, or employee of a carrier providing transpor-
10 tation or service subject to jurisdiction under chapter 135
11 that is a corporation is also a violation of this part by
12 that corporation. The penalties of this chapter apply to
13 that violation. When acting in the scope of their employ-
14 ment, the actions and omissions of individuals acting for
15 or employed by that carrier are considered to be the ac-
16 tions and omissions of that carrier as well as that individ-
17 ual.

18 **“§ 14912. Weight-bumping in household goods trans-**
19 **portation**

20 “(a) WEIGHT-BUMPING DEFINED.—For the pur-
21 poses of this section, ‘weight-bumping’ means the knowing
22 and willful making or securing of a fraudulent weight on
23 a shipment of household goods which is subject to jurisdic-
24 tion under subchapter I or III of chapter 135.

1 “(f) LOWER COVERAGE PERMITTED FOR CERTAIN
2 OPERATIONS.—Under regulations promulgated by the
3 Secretary, the minimum amount set forth in subsection
4 (b)(1) shall not apply to motor vehicles used, under a pro-
5 gram funded in whole or in part with a Federal transit
6 grant, to provide supplemental para-transit services for
7 the elderly and disabled.”.

8 (c) TRANSPORTERS OF PROPERTY.—Section
9 31139(e) of such title is amended by adding at the end
10 thereof the following:

11 “(3) A motor carrier may obtain the required
12 amount of financial responsibility from more than
13 one source provided the cumulative amount is equal
14 to the minimum requirements of this section.”.

15 (d) COMMERCIAL MOTOR VEHICLE DEFINED.—Sec-
16 tion 31132(1) of such title is amended—

17 (1) by redesignating subparagraph (C) as sub-
18 paragraph (D); and

19 (2) by striking subparagraph (B) and inserting
20 the following:

21 “(B) is designed or used to transport pas-
22 sengers for compensation, but excluding vehicles
23 providing taxicab service and having a capacity
24 of not more than 6 passengers and not operated
25 on a regular route or between specified places;

1 “(C) is designed or used to transport more
2 than 15 passengers, including the driver, and is
3 not used to transport passengers for compensa-
4 tion; or”.

5 (e) SELF-INSURANCE RULES.—The Secretary of
6 Transportation shall continue to enforce the rules and reg-
7 ulations of the Interstate Commerce Commission, as in ef-
8 fect on July 1, 1995, governing the qualifications for ap-
9 proval of a motor carrier as a self-insurer, until such time
10 as the Secretary finds it in the public interest to revise
11 such rules. The revised rules must provide for—

12 (1) continued ability of motor carriers to qualify
13 as self-insurers; and

14 (2) the continued qualification of all carriers
15 then so qualified under the terms and conditions set
16 by the Interstate Commerce Commission or Sec-
17 retary at the time of qualification.

18 **TITLE II—TRANSPORTATION**

19 **ADJUDICATION PANEL**

20 **SEC. 201. TITLE 49 AMENDMENT.**

21 (a) AMENDMENT.—Subtitle I of title 49, United
22 States Code, is amended by adding at the end the follow-
23 ing new chapter:

1 **“CHAPTER 7—TRANSPORTATION**
 2 **ADJUDICATION PANEL**

 “SUBCHAPTER I—ESTABLISHMENT

Sec.

- “701. Establishment of Panel.
- “702. Functions.
- “703. Administrative provisions.
- “704. Annual report.
- “705. Authorization of appropriations.
- “706. Reporting official action.

 “SUBCHAPTER II—ADMINISTRATIVE

- “721. Powers.
- “722. Panel action.
- “723. Service of notice in panel proceedings.
- “724. Service of process in court proceedings.
- “725. National organization of State commissions.
- “726. Administrative support.
- “727. Definitions.

3 “SUBCHAPTER I—ESTABLISHMENT

4 **“§ 701. Establishment of Panel**

5 “(a) ESTABLISHMENT.—There is hereby established
 6 within the Department of Transportation the Transpor-
 7 tation Adjudication Panel.

8 “(b) MEMBERSHIP.—(1) The Panel shall consist of
 9 3 members, to be appointed by the President, by and with
 10 the advice and consent of the Senate. Not more than 2
 11 members may be appointed from the same political party.

12 “(2) At any given time, at least 2 members of the
 13 Panel shall be individuals with professional standing and
 14 demonstrated knowledge in the fields of transportation or
 15 transportation regulation, and at least one member shall
 16 be an individual with professional or business experience
 17 in the private sector.

1 “(3) The term of each member of the Panel shall be
2 5 years and shall begin when the term of the predecessor
3 of that member ends. An individual appointed to fill a va-
4 cancy occurring before the expiration of the term for which
5 the predecessor of that individual was appointed, shall be
6 appointed for the remainder of that term. When the term
7 of office of a member ends, the member may continue to
8 serve until a successor is appointed and qualified, but for
9 a period not to exceed one year. The President may re-
10 move a member for inefficiency, neglect of duty, or malfea-
11 sance in office.

12 “(4) On the effective date of this section, the mem-
13 bers of the Interstate Commerce Commission then serving
14 unexpired terms shall become members of the Panel, to
15 serve for a period of time equal to the remainder of the
16 term for which they were originally appointed to the Inter-
17 state Commerce Commission.

18 “(5) No individual may serve as a member of the
19 Panel for more than 2 terms, including service as a mem-
20 ber of the Interstate Commerce Commission. In the case
21 of an individual appointed to fill a vacancy occurring be-
22 fore the expiration of the term for which the predecessor
23 of that individual was appointed, such individual may not
24 be appointed for more than one additional term.

1 “(6) A member of the Panel may not have a pecu-
2 niary interest in, hold an official relation to, or own stock
3 in or bonds of, a carrier providing transportation by any
4 mode and may not engage in another business, vocation,
5 or employment.

6 “(7) A vacancy in the membership of the Panel does
7 not impair the right of the remaining members to exercise
8 all of the powers of the Panel. The Panel may designate
9 a member to act as Director during any period in which
10 there is no Director designated by the President.

11 “(c) DIRECTOR.—(1) There shall be at the head of
12 the Panel a Director, who shall be designated by the Presi-
13 dent from among the members of the Panel. The Panel
14 shall be administered under the supervision and direction
15 of the Director. The Director shall receive compensation
16 at the rate prescribed for level III of the Executive Sched-
17 ule under section 5314 of title 5.

18 “(2) Subject to the general policies, decisions, find-
19 ings, and determinations of the Panel the Director shall
20 be responsible for administering the Panel. The Director
21 may delegate the powers granted under this paragraph to
22 an officer, employee, or office of the Panel. The Director
23 shall—

24 “(A) appoint and supervise, other than regular
25 and full time employees in the immediate offices of

1 another member, the officers and employees of the
2 Panel, including attorneys to provide legal aid and
3 service to the Panel and its members, and to rep-
4 resent the Panel in any case in court;

5 “(B) appoint the heads of offices with the ap-
6 proval of the Panel;

7 “(C) distribute Panel responsibilities among of-
8 ficers and employees and offices of the Panel;

9 “(D) prepare requests for appropriations for
10 the Panel and submit those requests to the Presi-
11 dent and Congress with the prior approval of the
12 Panel; and

13 “(E) supervise the expenditure of funds allo-
14 cated by the Panel for major programs and pur-
15 poses.

16 **“§ 702. Functions**

17 “Except as otherwise provided in the ICC Termi-
18 nation Act of 1995, or the amendments made thereby, the
19 Panel shall perform all functions that, immediately before
20 the effective date of such Act, were functions of the Inter-
21 state Commerce Commission or were performed by any of-
22 ficer or employee of the Interstate Commerce Commission
23 in the capacity as such officer or employee.

1 **“§ 703. Administrative provisions**

2 “(a) EXECUTIVE REORGANIZATION.—Chapter 9 of
3 title 5, United States Code, shall apply to the Panel in
4 the same manner as it does to an independent regulatory
5 agency.

6 “(b) OPEN MEETINGS.—For purposes of section
7 552b of title 5, United States Code, the Panel shall be
8 deemed to be an agency.

9 “(c) INDEPENDENCE.—In the performance of their
10 functions, the members, employees, and other personnel
11 of the Panel shall not be responsible to or subject to the
12 supervision or direction of any officer, employee, or agent
13 of any other part of the Department of Transportation.

14 “(d) REPRESENTATION BY ATTORNEYS.—Attorneys
15 designated by the Director of the Panel may appear for,
16 and represent the Panel in, any civil action brought in con-
17 nection with any function carried out by the Panel pursu-
18 ant to this chapter or subtitle IV or as otherwise author-
19 ized by law.

20 “(e) ADMISSION TO PRACTICE.—Subject to section
21 500 of title 5, the Panel may regulate the admission of
22 individuals to practice before it and may impose a reason-
23 able admission fee.

24 “(f) BUDGET REQUESTS.—In each annual request
25 for appropriations by the President, the Secretary of
26 Transportation shall identify the portion thereof intended

1 for the support of the Panel and include a statement by
2 the Panel—

3 “(1) showing the amount requested by the
4 Panel in its budgetary presentation to the Secretary
5 and the Office of Management and Budget; and

6 “(2) an assessment of the budgetary needs of
7 the Panel.

8 “(g) DIRECT TRANSMITTAL TO CONGRESS.—The
9 Panel shall transmit to Congress copies of budget esti-
10 mates, requests, and information (including personnel
11 needs), legislative recommendations, prepared testimony
12 for congressional hearings, and comments on legislation
13 at the same time they are sent to the Secretary of Trans-
14 portation. An officer of an agency may not impose condi-
15 tions on or impair communications by the Panel with Con-
16 gress, or a committee or member of Congress, about the
17 information.

18 **“§ 704. Annual report**

19 “The Panel shall annually transmit to the Congress
20 a report on its activities.

21 **“§ 705. Authorization of appropriations**

22 “There are authorized to be appropriated to the Sec-
23 retary of Transportation for the activities of the Panel—

24 “(1) \$8,421,000 for fiscal year 1996;

25 “(2) \$12,000,000 for fiscal year 1997; and

1 “(3) \$12,000,000 for fiscal year 1998.

2 **“§ 706. Reporting official action**

3 “(a) The Panel shall make a written report of each
4 proceeding conducted on complaint or on its own initiative
5 and furnish a copy to each party to that proceeding. The
6 report shall include the findings, conclusions, and the
7 order of the Panel and, if damages are awarded, the find-
8 ings of fact supporting the award. The Panel may have
9 its reports published for public use. A published report
10 of the Panel is competent evidence of its contents.

11 “(b)(1) When action of the Panel in a matter related
12 to a rail carrier is taken by the Panel, an individual mem-
13 ber of the Panel, or another individual or group of individ-
14 uals designated to take official action for the Panel, the
15 written statement of that action (including a report, order,
16 decision and order, vote, notice, letter, policy statements,
17 or regulation) shall indicate—

18 “(A) the official designation of the individual or
19 group taking the action;

20 “(B) the name of each individual taking, or
21 participating in taking, the action; and

22 “(C) the vote or position of each participating
23 individual.

24 “(2) If an individual member of a group taking an
25 official action referred to in paragraph (1) of this sub-

1 section does not participate in it, the written statement
2 of the action shall indicate that the member did not par-
3 ticipate. An individual participating in taking an official
4 action is entitled to express the views of that individual
5 as part of the written statement of the action. In addition
6 to any publication of the written statement, it shall be
7 made available to the public under section 552(a) of title
8 5.

9 “SUBCHAPTER II—ADMINISTRATIVE

10 “§ 721. Powers

11 “(a) The Panel shall carry out this chapter and sub-
12 title IV. Enumeration of a power of the Panel in this chap-
13 ter or subtitle IV does not exclude another power the
14 Panel may have in carrying out this chapter or subtitle
15 IV. The Panel may prescribe regulations in carrying out
16 this chapter and subtitle IV.

17 “(b) The Panel may—

18 “(1) inquire into and report on the manage-
19 ment of the business of carriers providing, and bro-
20 kers for, transportation and services subject to sub-
21 title IV;

22 “(2) inquire into and report on the manage-
23 ment of the business of a person controlling, con-
24 trolled by, or under common control with those car-
25 riers or brokers to the extent that the business of

1 that person is related to the management of the
2 business of that carrier or broker; and

3 “(3) obtain from those carriers, brokers, and
4 persons information the Panel decides is necessary
5 to carry out subtitle IV.

6 “(c)(1) The Panel may subpoena witnesses and
7 records related to a proceeding of the Panel from any
8 place in the United States, to the designated place of the
9 proceeding. If a witness disobeys a subpoena, the Panel,
10 or a party to a proceeding before the Panel, may petition
11 a court of the United States to enforce that subpoena.

12 “(2) The district courts of the United States have
13 jurisdiction to enforce a subpoena issued under this sec-
14 tion. Trial is in the district in which the proceeding is con-
15 ducted. The court may punish a refusal to obey a sub-
16 poena as a contempt of court.

17 “(d)(1) In a proceeding, the Panel may take the testi-
18 mony of a witness by deposition and may order the witness
19 to produce records. A party to a proceeding pending before
20 the Panel may take the testimony of a witness by deposi-
21 tion and may require the witness to produce records at
22 any time after a proceeding is at issue on petition and
23 answer.

24 “(2) If a witness fails to be deposed or to produce
25 records under paragraph (1) of this subsection, the Panel

1 may subpoena the witness to take a deposition, produce
2 the records, or both.

3 “(3) A deposition may be taken before a judge of a
4 court of the United States, a United States magistrate
5 judge, a clerk of a district court, or a chancellor, justice,
6 or judge of a supreme or superior court, mayor or chief
7 magistrate of a city, judge of a county court, or court of
8 common pleas of any State, or a notary public who is not
9 counsel or attorney of a party or interested in the proceed-
10 ing.

11 “(4) Before taking a deposition, reasonable notice
12 must be given in writing by the party or the attorney of
13 that party proposing to take a deposition to the opposing
14 party or the attorney of record of that party, whoever is
15 nearest. The notice shall state the name of the witness
16 and the time and place of taking the deposition.

17 “(5) The testimony of a person deposed under this
18 subsection shall be taken under oath. The person taking
19 the deposition shall prepare, or cause to be prepared, a
20 transcript of the testimony taken. The transcript shall be
21 subscribed by the deponent.

22 “(6) The testimony of a witness who is in a foreign
23 country may be taken by deposition before an officer or
24 person designated by the Panel or agreed on by the parties

1 by written stipulation filed with the Panel. A deposition
2 shall be filed with the Panel promptly.

3 “(e) Each witness summoned before the Panel or
4 whose deposition is taken under this section and the indi-
5 vidual taking the deposition are entitled to the same fees
6 and mileage paid for those services in the courts of the
7 United States.

8 **“§ 722. Panel action**

9 “(a) Unless otherwise provided in subtitle IV, the
10 Panel may determine, within a reasonable time, when its
11 actions, other than an action ordering the payment of
12 money, take effect.

13 “(b) An action of the Panel remains in effect under
14 its own terms or until superseded. The Panel may change,
15 suspend, or set aside any such action on notice. Notice
16 may be given in a manner determined by the Panel. A
17 court of competent jurisdiction may suspend or set aside
18 any such action.

19 “(c) The Panel may, at any time on its own initiative
20 because of material error, new evidence, or substantially
21 changed circumstances—

22 “(1) reopen a proceeding;

23 “(2) grant rehearing, reargument, or reconsid-
24 eration of an action of the Panel; or

25 “(3) change an action of the Panel.

1 An interested party may petition to reopen and reconsider
2 an action of the Panel under this subsection under regula-
3 tions of the Panel.

4 “(d) Notwithstanding subtitle IV, an action of the
5 Panel under this section is final on the date on which it
6 is served, and a civil action to enforce, enjoin, suspend,
7 or set aside the action may be filed after that date.

8 **“§ 723. Service of notice in Panel proceedings**

9 “(a) A carrier providing transportation subject to the
10 jurisdiction of the Panel under subtitle IV shall designate
11 an agent in the District of Columbia, on whom service of
12 notices in a proceeding before, and of actions of, the Panel
13 may be made.

14 “(b) A designation under subsection (a) of this sec-
15 tion shall be in writing and filed with the Panel.

16 “(c) Except as otherwise provided, notices of the
17 Panel shall be served on its designated agent at the office
18 or usual place of residence in the District of Columbia of
19 that agent. A notice of action of the Panel shall be served
20 immediately on the agent or in another manner provided
21 by law. If that carrier does not have a designated agent,
22 service may be made by posting the notice in the office
23 of the Panel.

24 “(d) In a proceeding involving the lawfulness of clas-
25 sifications, rates, or practices of a rail carrier that has

1 not designated an agent under this section, service of no-
2 tice of the Panel on an attorney in fact for the carrier
3 constitutes service of notice on the carrier.

4 **“§ 724. Service of process in court proceedings**

5 “(a) A carrier providing transportation subject to the
6 jurisdiction of the Panel under subtitle IV shall designate
7 an agent in the District of Columbia on whom service of
8 process in an action before a district court may be made.
9 Except as otherwise provided, process in an action before
10 a district court shall be served on the designated agent
11 of that carrier at the office or usual place of residence
12 in the District of Columbia of that agent. If the carrier
13 does not have a designated agent, service may be made
14 by posting the notice in the office of the Panel.

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

17 **“§ 725. National organization of State commissions**

18 “The Administrator of General Services shall assign
19 space and facilities for the use of the national organization
20 of the State commissions and their representatives. The
21 space and facilities shall be available for the use of the
22 State commissions and their representatives cooperating
23 with the Panel or with another department, agency, or in-
24 strumentality of the United States Government. The rent-

1 al for such space shall be paid by the national organiza-
2 tion's Federal agency members other than the Panel.

3 **“§ 726. Administrative support**

4 “The Secretary of Transportation shall provide ap-
5 propriate administrative support for the Panel.

6 **“§ 727. Definitions**

7 “All terms used in this chapter that are defined in
8 subtitle IV shall have the meaning given those terms in
9 that subtitle.”.

10 (b) TABLE OF CHAPTERS AMENDMENT.—The table
11 of chapters of subtitle I of title 49, United States Code,
12 is amended by adding at the end the following new item:

“7. TRANSPORTATION ADJUDICATION PANEL 701”.

13 **SEC. 202. REORGANIZATION.**

14 The Director of the Transportation Adjudication
15 Panel (in this Act referred to as the “Panel”) may allocate
16 or reallocate any function of the Panel, consistent with
17 this title and subchapter I of chapter 7, as amended by
18 section 201 of this title, among the members or employees
19 of the Panel, and may establish, consolidate, alter, or dis-
20 continue in the Panel any organizational entities that were
21 entities of the Interstate Commerce Commission, as the
22 Director considers necessary or appropriate.

23 **SEC. 203. TRANSFER OF ASSETS.**

24 Except as otherwise provided in this Act and the
25 amendments made by this Act, so much of the personnel,

1 property, records, and unexpended balances of appropria-
2 tions, allocations, and other funds employed, used, held,
3 available, or to be made available in connection with a
4 function transferred to the Panel by this Act shall be
5 available to the Panel at such time or times as the Presi-
6 dent directs for use in connection with the functions trans-
7 ferred.

8 **SEC. 204. SAVING PROVISIONS.**

9 (a) LEGAL DOCUMENTS.—All orders, determinations,
10 rules, regulations, permits, grants, loans, contracts, agree-
11 ments, certificates, licenses, and privileges—

12 (1) that have been issued, made, granted, or al-
13 lowed to become effective by the President, the
14 Interstate Commerce Commission, any officer or em-
15 ployee of the Interstate Commerce Commission, or
16 any other Government official, or by a court of com-
17 petent jurisdiction, in the performance of any func-
18 tion that is transferred by this Act or the amend-
19 ments made by this Act; and

20 (2) that are in effect on the effective date of
21 such transfer (or become effective after such date
22 pursuant to their terms as in effect on such effective
23 date),

24 shall continue in effect according to their terms until
25 modified, terminated, superseded, set aside, or revoked in

1 accordance with law by the President, the Panel, any other
2 authorized official, a court of competent jurisdiction, or
3 operation of law.

4 (b) PROCEEDINGS.—(1) Except as provided in para-
5 graph (2), the Panel shall assume responsibility for the
6 continuation of all proceedings pending before the Inter-
7 state Commerce Commission, and shall complete such pro-
8 ceedings in accordance with law and regulations as in ef-
9 fect before the date of the enactment of this Act.

10 (2) In the case of a proceeding under a provision of
11 law repealed, and not reenacted, by this Act, such proceed-
12 ing shall be terminated.

13 (c) SUITS.—(1) This Act shall not affect suits com-
14 menced before the date of the enactment of this Act, ex-
15 cept that the Panel shall assume the position of the Inter-
16 state Commerce Commission, and, except as provided in
17 paragraph (2), in all such suits, proceeding shall be had,
18 appeals taken, and judgments rendered in the same man-
19 ner and with the same effect as if this Act had not been
20 enacted.

21 (2) If the court in a suit described in paragraph (1)
22 remands a case to the Panel, subsequent proceedings re-
23 lated to such case shall proceed in accordance with appli-
24 cable law and regulations as in effect at the time of such
25 subsequent proceedings.

1 (d) EXERCISE OF AUTHORITIES.—Except as other-
2 wise provided by law, an officer or employee of the Panel
3 may, for purposes of performing a function transferred by
4 this Act or the amendments made by this Act, exercise
5 all authorities under any other provision of law that were
6 available with respect to the performance of that function
7 to the official responsible for the performance of the func-
8 tion immediately before the effective date of the transfer
9 of the function under this Act or the amendments made
10 by this Act.

11 **SEC. 205. REFERENCES.**

12 Any reference to the Interstate Commerce Commis-
13 sion in any other Federal law, Executive order, rule, regu-
14 lation, or delegation of authority, or any document of or
15 pertaining to the Interstate Commerce Commission or an
16 officer or employee of the Interstate Commerce Commis-
17 sion, is deemed to refer to the Panel or a member or em-
18 ployee of the Panel, as appropriate.

19 **TITLE III—CONFORMING**
20 **AMENDMENTS**

21 **Subtitle A—Amendments to United**
22 **States Code**

23 **SEC. 301. TITLE 5 AMENDMENTS.**

24 (a) COMPENSATION FOR POSITIONS AT LEVEL III.—
25 Section 5314 of title 5, United States Code, is amended

1 by striking “Chairman, Interstate Commerce Commis-
2 sion.” and inserting in lieu thereof “Director, Transpor-
3 tation Adjudication Panel.”.

4 (b) COMPENSATION FOR POSITIONS AT LEVEL IV.—
5 Section 5315 of title 5, United States Code, is amended
6 by striking “Members, Interstate Commerce Commis-
7 sion.” and inserting in lieu thereof “Members, Transpor-
8 tation Adjudication Panel.”.

9 **SEC. 302. TITLE 11 AMENDMENTS.**

10 Subchapter IV of chapter 11 of title 11, United
11 States Code, is amended—

12 (1) by amending section 1162 to read as fol-
13 lows:

14 **“§ 1162. Definition**

15 “In this subchapter, ‘Panel’ means the “Transpor-
16 tation Adjudication Panel.”; and

17 (2) by striking “Commission” each place it ap-
18 pears and inserting in lieu thereof “Panel”.

19 **SEC. 303. TITLE 18 AMENDMENT.**

20 Section 6001(1) of title 18, United States Code, is
21 amended by striking “Interstate Commerce Commission”
22 and inserting in lieu thereof “Transportation Adjudication
23 Panel”.

1 **SEC. 304. INTERNAL REVENUE CODE OF 1986 AMEND-**
2 **MENTS.**

3 (a) SECTION 3231.—Section 3231 of the Internal
4 Revenue Code of 1986 is amended—

5 (1) by striking “Interstate Commerce Commis-
6 sion” in subsection (a) and inserting in lieu thereof
7 “Transportation Adjudication Panel”; and

8 (2) by striking “an express carrier, sleeping car
9 carrier, or” in subsection (g) and inserting in lieu
10 thereof “a”.

11 (b) SECTION 7701.—Section 7701 of the Internal
12 Revenue Code of 1986 is amended—

13 (1) in paragraph (33)(B), by striking “Federal
14 Power Commission” and inserting in lieu thereof
15 “Federal Energy Regulatory Commission”;

16 (2) in paragraph (33)(C)(i), by striking “Inter-
17 state Commerce Commission” and inserting in lieu
18 thereof “Transportation Adjudication Panel”;

19 (3) in paragraph (33)(C)(ii), by striking “Inter-
20 state Commerce Commission” and inserting in lieu
21 thereof “Federal Energy Regulatory Commission”;

22 (4) in paragraph (33)(F), by striking “Inter-
23 state Commerce Commission under subchapter III of
24 chapter 105” and inserting in lieu thereof “Trans-
25 portation Adjudication Panel under subchapter II of
26 chapter 135”;

1 (5) in paragraph (33)(G), by striking “sub-
2 chapter I of chapter 105” and inserting in lieu
3 thereof “part A of subtitle IV”; and

4 (6) in paragraph (33)(H), by striking “sub-
5 chapter I of chapter 105” and inserting in lieu
6 thereof “part A of subtitle IV”.

7 **SEC. 305. TITLE 28 AMENDMENTS.**

8 (a) CHAPTER 157 AMENDMENTS.—(1) Chapter 157
9 of title 28, United States Code, is amended—

10 (A) by striking “**INTERSTATE COM-**
11 **MERCE COMMISSION**” in the chapter head-
12 ing and inserting in lieu thereof “**TRANSPOR-**
13 **TATION ADJUDICATION PANEL**”;

14 (B) by striking “**Commission’s**” in the sec-
15 tion heading of section 2321 and inserting in lieu
16 thereof “**Panel’s**”;

17 (C) by striking “Interstate Commerce Commis-
18 sion” each place it appears and inserting in lieu
19 thereof “Transportation Adjudication Panel”;

20 (D) by striking “Commission’s” each place it
21 appears and inserting in lieu thereof “Panel’s”; and

22 (E) by striking “Commission” each place it ap-
23 pears and inserting in lieu thereof “Panel”.

24 (2)(A) The item relating to chapter 157 in the table
25 of chapters of title 28, United States Code, is amended

1 by striking “Interstate Commerce Commission” and in-
2 serting in lieu thereof “Transportation Adjudication
3 Panel”.

4 (B) The item relating to section 2321 in the table
5 of sections of chapter 157 of title 28, United States Code,
6 is amended by striking “Commission’s” and inserting in
7 lieu thereof “Panel’s”.

8 (b) CHAPTER 158 AMENDMENTS.—Chapter 158 of
9 title 28, United States Code, is amended—

10 (1) by striking “the Interstate Commerce Com-
11 mission,” in section 2341(3)(A);

12 (2) by striking “and” at the end of section
13 2341(3)(C);

14 (3) by striking the period at the end of section
15 2341(3)(D) and inserting in lieu thereof “; and”;

16 (4) by inserting at the end of section 2341(3)
17 the following new subparagraph:

18 “(E) the Panel, when the order was en-
19 tered by the Transportation Adjudication
20 Panel.”; and

21 (5) in section 2342, by—

22 (A) inserting “or pursuant to part B of
23 subtitle IV of title 49, United States Code” at
24 the end of paragraph (3)(A); and

1 (B) striking paragraph (5) and inserting
2 the following:

3 “(5) all rules, regulations, or final orders of the
4 Transportation Adjudication Panel made reviewable
5 by section 2321 of this title; and”.

6 **SEC. 306. TITLE 39 AMENDMENTS.**

7 Title 39, United States Code, is amended—

8 (1) in section 5005(b)(3), by striking “Inter-
9 state Commerce Commission” and inserting in lieu
10 thereof “Transportation Adjudication Panel”; and

11 (2) in chapter 52—

12 (A) by amending paragraph (1) of section
13 5201 to read as follows:

14 “(1) ‘Panel’ means the Transportation Adju-
15 dication Panel;”;

16 (B) by striking subsection (f) of section
17 5203, and redesignating subsection (g) of such
18 section as subsection (f);

19 (C) in subsection (f) of section 5203, as so
20 redesignated by subparagraph (B) of this para-
21 graph, by striking “Commission” and inserting
22 in lieu thereof “Panel”;

23 (D) by striking “**Interstate Com-**
24 **merce Commission**” in the section heading

1 of section 5207 and inserting in lieu thereof
2 **“Transportation Adjudication Panel”**;

3 (E) by striking “Commission’s” in section
4 5208(a) and inserting in lieu thereof “Panel’s”;

5 (F) by striking “Commission” each place it
6 appears and inserting in lieu thereof “Panel”;
7 and

8 (G) in the item relating to section 5207 in
9 the table of sections, by striking “Interstate
10 Commerce Commission” and inserting in lieu
11 thereof “Transportation Adjudication Panel”.

12 **SEC. 307. TITLE 49 AMENDMENTS.**

13 Title 49, United States Code, is amended—

14 (1) in section 22106(e)(1) by striking “applica-
15 tion for abandonment of” and inserting in lieu there-
16 of “notice of intent to abandon”; and

17 (2) by repealing subsection (d) of section
18 24705.

19 **Subtitle B—Other Amendments**

20 **SEC. 311. AGRICULTURAL ADJUSTMENT ACT OF 1938**
21 **AMENDMENT.**

22 Section 201 of the Agricultural Adjustment Act of
23 1938 (7 U.S.C. 1291) is amended—

1 (1) by striking “Interstate Commerce Commis-
2 sion” each place it appears and inserting in lieu
3 thereof “Transportation Adjudication Panel”;

4 (2) by striking “Commission” each place it ap-
5 pears and inserting in lieu thereof “Panel”; and

6 (3) by striking “Commission’s” in subsection
7 (b) and inserting in lieu thereof “Panel’s”.

8 **SEC. 312. ANIMAL WELFARE ACT AMENDMENT.**

9 Section 15(a) of the Animal Welfare Act (7 U.S.C.
10 2145(a)) is amended by striking “Interstate Commerce
11 Commission” and inserting in lieu thereof “Transpor-
12 tation Adjudication Panel”.

13 **SEC. 313. FEDERAL ELECTION CAMPAIGN ACT OF 1971**
14 **AMENDMENTS.**

15 Section 401 of the Federal Election Campaign Act
16 of 1971 is amended—

17 (1) by striking “Interstate Commerce Commis-
18 sion shall each promulgate, within ninety days after
19 the date of enactment of this Act” and inserting in
20 lieu thereof “Transportation Adjudication Panel
21 shall each maintain”; and

22 (2) by inserting “or Board” after “or such
23 Commission”.

1 **SEC. 314. FAIR CREDIT REPORTING ACT AMENDMENT.**

2 Section 621(b)(4) of the Fair Credit Reporting Act
3 (15 U.S.C. 1681s(b)(4)) is amended by striking “Inter-
4 state Commerce Commission with respect to any common
5 carrier subject to those Acts” and inserting in lieu thereof
6 “Secretary of Transportation, with respect to all carriers
7 subject to the jurisdiction of the Transportation Adjudica-
8 tion Panel”.

9 **SEC. 315. EQUAL CREDIT OPPORTUNITY ACT AMENDMENT.**

10 Section 704(a)(4) of the Equal Credit Opportunity
11 Act (15 U.S.C. 1691c(a)(4)) is amended by striking
12 “Interstate Commerce Commission with respect to any
13 common carrier subject to those Acts” and inserting in
14 lieu thereof “Secretary of Transportation, with respect to
15 all carriers subject to the jurisdiction of the Transpor-
16 tation Adjudication Panel”.

17 **SEC. 316. FAIR DEBT COLLECTION PRACTICES ACT AMEND-**
18 **MENT.**

19 Section 814(b)(4) of the Fair Debt Collection Prac-
20 tices Act (15 U.S.C. 1692l(b)(4)) is amended by striking
21 “Interstate Commerce Commission with respect to any
22 common carrier subject to those Acts” and inserting in
23 lieu thereof “Secretary of Transportation, with respect to
24 all carriers subject to the jurisdiction of the Transpor-
25 tation Adjudication Panel”.

1 **SEC. 317. NATIONAL TRAILS SYSTEM ACT AMENDMENTS.**

2 The National Trails System Act is amended—

3 (1) in section 8(d)—

4 (A) by striking “Chairman of the Inter-
5 state Commerce Commission” and inserting in
6 lieu thereof “Director of the Transportation
7 Adjudication Panel”; and

8 (B) by striking “Commission” and insert-
9 ing in lieu thereof “Panel”; and

10 (2) in section 9(b), by striking “Interstate
11 Commerce Commission” and inserting in lieu thereof
12 “Transportation Adjudication Panel”.

13 **SEC. 318. CLAYTON ACT AMENDMENTS.**

14 The Clayton Act is amended—

15 (1) in section 7 (15 U.S.C. 18)—

16 (A) by striking “Interstate Commerce
17 Commission” and inserting in lieu thereof
18 “Transportation Adjudication Panel”; and

19 (B) by inserting “, Board,” after “vesting
20 such power in such Commission”;

21 (2) in section 11(a) (15 U.S.C. 21(a)), by strik-
22 ing “Interstate Commerce Commission where appli-
23 cable to common carriers subject to the Interstate
24 Commerce Act, as amended” and inserting in lieu
25 thereof “Transportation Adjudication Panel where

1 applicable to common carriers subject to subtitle IV
2 of title 49, United States Code”; and

3 (3) in section 16 (15 U.S.C. 22), by striking
4 “in equity for injunctive relief” and all that follows
5 through “Interstate Commerce Commission” and in-
6 serting in lieu thereof “for injunctive relief against
7 any common carrier subject to the jurisdiction of the
8 Transportation Adjudication Panel under subtitle IV
9 of title 49, United States Code”.

10 **SEC. 319. INSPECTOR GENERAL ACT OF 1978 AMENDMENT.**

11 Section 8G(a)(2) of the Inspector General Act of
12 1978 (5 U.S.C. App.) is amended by striking “the Inter-
13 state Commerce Commission,”.

14 **SEC. 320. ENERGY POLICY ACT OF 1992 AMENDMENTS.**

15 Subsections (a) and (d) of section 1340 of the Energy
16 Policy Act of 1992 (42 U.S.C. 13369(a) and (d)) are
17 amended by striking “Interstate Commerce Commission”
18 and inserting in lieu thereof “Transportation Adjudication
19 Panel”.

20 **SEC. 321. MERCHANT MARINE ACT, 1920, AMENDMENTS**

21 The Merchant Marine Act, 1920, is amended—

22 (1) in section 8 (46 U.S.C. App. 867)—

23 (A) by striking “Interstate Commerce
24 Commission” both places it appears and insert-

1 ing in lieu thereof “Transportation Adjudica-
2 tion Panel”; and

3 (B) by striking “commission” and insert-
4 ing in lieu thereof “board”; and

5 (2) in section 28 (46 U.S.C. App. 884)—

6 (A) by striking “Interstate Commerce
7 Commission” and inserting in lieu thereof
8 “Transportation Adjudication Panel”; and

9 (B) by striking “commission” each place it
10 appears and inserting in lieu thereof “Panel”.

11 **SEC. 322. RAILWAY LABOR ACT AMENDMENTS.**

12 Section 1 of the Railway Labor Act (45 U.S.C. 151)
13 is amended—

14 (1) by striking “express company, sleeping-car
15 company, carrier by railroad, subject to the Inter-
16 state Commerce Act” in the first paragraph and in-
17 serting in lieu thereof “railroad subject to the juris-
18 diction of the Transportation Adjudication Panel”;

19 (2) by striking “Interstate Commerce Commis-
20 sion” each place it appears in the first and fifth
21 paragraphs and inserting in lieu thereof “Transpor-
22 tation Adjudication Panel”; and

23 (3) by striking “Commission” each place it ap-
24 pears in the fifth paragraph and inserting in lieu
25 thereof “Panel”.

1 **SEC. 323. RAILROAD RETIREMENT ACT OF 1974 AMEND-**
2 **MENTS.**

3 Section 1 of the Railroad Retirement Act of 1974 (45
4 U.S.C. 231) is amended—

5 (1) by amending subsection (a)(1)(i) to read as
6 follows:

7 “(i) any carrier by railroad subject to the juris-
8 diction of the Transportation Adjudication Panel
9 under part A of subtitle IV of title 49, United States
10 Code;”;

11 (2) by striking “Interstate Commerce Commis-
12 sion is hereby authorized and directed upon request
13 of the Board” in subsection (a)(2)(ii) and inserting
14 in lieu thereof “Transportation Adjudication Panel
15 is hereby authorized and directed upon request of
16 the Railroad Retirement Board”; and

17 (3) by striking “Interstate Commerce Commis-
18 sion” in subsection (o) and inserting in lieu thereof
19 “Transportation Adjudication Panel”.

20 **SEC. 324. RAILROAD UNEMPLOYMENT INSURANCE ACT**
21 **AMENDMENTS.**

22 The Railroad Unemployment Insurance Act is
23 amended—

24 (1) by striking “Interstate Commerce Commis-
25 sion is hereby authorized and directed upon request
26 of the Board” in section 1(a) (45 U.S.C. 351(a))

1 and inserting in lieu thereof “Transportation Adju-
2 dication Panel is hereby authorized and directed
3 upon request of the Railroad Retirement Board”;

4 (2) by amending paragraph (b) of such section
5 1 to read as follows:

6 “(b) The term ‘carrier’ means a railroad subject to
7 the jurisdiction of the Transportation Adjudication Panel
8 under part A of subtitle IV of title 49, United States
9 Code.”;

10 and

11 (3) by striking “Interstate Commerce Commis-
12 sion, adjusted, as determined by the Board” in sec-
13 tion 2(h)(3) (45 U.S.C. 352(h)(3)) and inserting in
14 lieu thereof “Transportation Adjudication Panel, ad-
15 justed, as determined by the Railroad Retirement
16 Board”.

17 **SEC. 325. EMERGENCY RAIL SERVICES ACT OF 1970 AMEND-**
18 **MENTS.**

19 The Emergency Rail Services Act of 1970 is amend-
20 ed—

21 (1) by amending paragraph (2) of section 2 (45
22 U.S.C. 661(2)) to read as follows:

23 “(2) ‘Panel’ means the Transportation Adju-
24 dication Panel.”;

1 (2) by striking “Interstate Commerce Commis-
2 sion” in section 6(a) (45 U.S.C. 665(a)) and insert-
3 ing in lieu thereof “Panel”; and

4 (3) by striking “Commission” each place it ap-
5 pears and inserting in lieu thereof “Panel”.

6 **SEC. 326. ALASKA RAILROAD TRANSFER ACT OF 1982**

7 **AMENDMENTS.**

8 Section 608 of the Alaska Railroad Transfer Act of
9 1982 (45 U.S.C. 1207) is amended by striking “Interstate
10 Commerce Commission” each place it appears and insert-
11 ing in lieu thereof “Transportation Adjudication Panel”.

12 **SEC. 327. REGIONAL RAIL REORGANIZATION ACT OF 1973**

13 **AMENDMENTS.**

14 The Regional Rail Reorganization Act of 1973 is
15 amended—

16 (1) in section 304(d)(3) (45 U.S.C.
17 744(d)(3))—

18 (A) by striking “this title,” and all that
19 follows through “(A) shall take” and inserting
20 in lieu thereof “this title, the Commission shall
21 take”; and

22 (B) by striking “this subsection; and” and
23 all that follows through “205(d)(6) of this Act”
24 and inserting in lieu thereof “this subsection”;

25 (2) in section 308 (45 U.S.C. 748)—

1 (A) by repealing subsection (d); and

2 (B) by striking the first sentence of sub-
3 section (f); and

4 (3) in section 707 (45 U.S.C. 797f)—

5 (A) by inserting “(a)” at the beginning of
6 the text; and

7 (B) by adding at the end the following new
8 subsections:

9 “(b) Notwithstanding any agreement or arrangement
10 in effect as of the date of the enactment of this subsection,
11 the Corporation may not sell or transfer ownership or
12 management, in whole or in part, of any facility acquired
13 by the Corporation under this Act that is used for the
14 repair, rehabilitation, or maintenance of cars or loco-
15 motives, without first obtaining the express consent of the
16 authorized representatives of the employees at such facil-
17 ity covered by collective bargaining agreements. Any
18 transaction undertaken in violation of this subsection shall
19 be considered a change in the status quo in violation of
20 the Railway Labor Act.

21 “(c) Notwithstanding any agreement or arrangement
22 in effect as of the date of the enactment of this subsection,
23 any transfer by the Corporation of ownership, in whole
24 or in part, of a car or locomotive that was repaired, reha-
25 bilitated, or maintained, before the date of the enactment

1 of this subsection, at a facility acquired by the Corporation
2 under this Act, without first obtaining the express consent
3 of the authorized representatives of the employees at such
4 facility covered by collective bargaining agreements, is pro-
5 hibited. Any transaction undertaken in violation of this
6 subsection shall be considered a change in the status quo
7 in violation of the Railway Labor Act.”.

8 **SEC. 328. MILWAUKEE RAILROAD RESTRUCTURING ACT**
9 **AMENDMENT.**

10 Section 18 of the Milwaukee Railroad Restructuring
11 Act (45 U.S.C. 916) is repealed.

12 **SEC. 329. ROCK ISLAND RAILROAD TRANSITION AND EM-**
13 **PLOYEE ASSISTANCE ACT AMENDMENTS.**

14 The Rock Island Railroad Transition and Employee
15 Assistance Act is amended—

16 (1) in section 104(a) (45 U.S.C. 1003(a)) by
17 striking “section 11125 of title 49, United States
18 Code, or”;

19 (2) by repealing section 120 (45 U.S.C. 1015).

20 **SEC. 330. RAILROAD REVITALIZATION AND REGULATORY**
21 **REFORM ACT OF 1976 AMENDMENTS.**

22 The Railroad Revitalization and Regulatory Reform
23 Act of 1976 is amended—

24 (1) in section 505(a)(3) (45 U.S.C.
25 825(a)(3))—

1 (A) by striking “A financially responsible
2 person (as defined in section 10910(a)(1) of
3 title 49, United States Code)” and inserting in
4 lieu thereof “(A) A financially responsible per-
5 son”; and

6 (B) by inserting at the end the following
7 new subparagraph:

8 “(B) For purposes of this paragraph, the term ‘finan-
9 cially responsible person’ means a person who (i) is capa-
10 ble of paying the constitutional minimum value of the rail-
11 road line proposed to be acquired, and (ii) is able to assure
12 that adequate transportation will be provided over such
13 line for a period of not less than 3 years. Such term in-
14 cludes a governmental authority but does not include a
15 class I or class II rail carrier.”;

16 (2) in section 509(b) (45 U.S.C. 829(b)) by
17 striking paragraph (2); and

18 (3) in section 510 (45 U.S.C. 830) by striking
19 “the provisions of section 20a of the Interstate Com-
20 merce Act (49 U.S.C. 20a), nor”.

21 **SEC. 331. SERVICE CONTRACT ACT OF 1965 AMENDMENT.**

22 Section 7(3) of the Service Contract Act of 1965 (41
23 U.S.C. 356(3)) is amended by striking “where published
24 tariff rates are in effect”.

1 **SEC. 332. FISCAL YEAR 1982 CONTINUING RESOLUTION**
2 **AMENDMENT.**

3 Section 115 of the Joint Resolution entitled “Joint
4 Resolution making further continuing appropriations for
5 the fiscal year 1982, and for other purposes” (95 Stat.
6 1196) is repealed.

7 **SEC. 333. MIGRANT AND SEASONAL AGRICULTURAL WORK-**
8 **ER PROTECTION ACT.**

9 Section 401(b) of the Migrant and Seasonal Agricul-
10 tural Worker Protection Act (29 U.S.C. 1841(b)) is
11 amended by—

12 (1) striking “part II of the Interstate Com-
13 merce Act (49 U.S.C. 301 et seq.) , or any successor
14 provision of” in paragraph (2)(C) and inserting
15 “part B of”; and

16 (2) striking “part II of the Interstate Com-
17 merce Act (49 U.S.C. 301 et seq.), and any succes-
18 sor provision of” in paragraph (3) and inserting
19 “part B of”.

20 **SEC. 334. FEDERAL AVIATION ADMINISTRATION AUTHOR-**
21 **IZATION ACT OF 1994.**

22 Section 601(d) of the Federal Aviation Administra-
23 tion Authorization Act of 1994 (Public Law 103–305) is
24 amended by striking all after “subsection (c)” and insert-
25 ing “shall not take effect as long as section 11501(g)(2)
26 of title 49, United States Code, applies to that State.”.

1 **SEC. 335. TERMINATION OF CERTAIN MARITIME AUTHOR-**
2 **ITY.**

3 (a) REPEAL OF INTERCOASTAL SHIPPING ACT,
4 1933.—The Act of March 3, 1933 (Chapter 199; 46 App.
5 U.S.C. 843 et seq.), commonly referred to as the
6 Intercoastal Shipping Act, 1933, is repealed effective Sep-
7 tember 30, 1996.

8 (b) REPEAL OF PROVISIONS OF SHIPPING ACT,
9 1916.—The following provisions of the Shipping Act,
10 1916, are repealed effective September 30, 1996:

- 11 (1) Section 3 (46 U.S.C. App. 804).
- 12 (2) Section 14 (46 U.S.C. App. 812).
- 13 (3) Section 15 (46 U.S.C. App. 814).
- 14 (4) Section 16 (46 U.S.C. App. 815).
- 15 (5) Section 17 (46 U.S.C. App. 816).
- 16 (6) Section 18 (46 U.S.C. App. 817).
- 17 (7) Section 19 (46 U.S.C. App. 818).
- 18 (8) Section 20 (46 U.S.C. App. 819).
- 19 (9) Section 21 (46 U.S.C. App. 820).
- 20 (10) Section 22 (46 U.S.C. App. 821).
- 21 (11) Section 23 (46 U.S.C. App. 822).
- 22 (12) Section 24 (46 U.S.C. App. 823).
- 23 (13) Section 25 (46 U.S.C. App. 824).
- 24 (14) Section 27 (46 U.S.C. App. 826).
- 25 (15) Section 29 (46 U.S.C. App. 828).
- 26 (16) Section 30 (46 U.S.C. App. 829).

- 1 (17) Section 31 (46 U.S.C. App. 830).
- 2 (18) Section 32 (46 U.S.C. App. 831).
- 3 (19) Section 33 (46 U.S.C. App. 832).
- 4 (20) Section 35 (46 U.S.C. App. 833a).
- 5 (21) Section 43 (46 U.S.C. App. 841a).
- 6 (22) Section 45 (46 U.S.C. App. 841c).

○

HR 2539 IH—2

HR 2539 IH—3

HR 2539 IH—4

HR 2539 IH—5

HR 2539 IH—6

HR 2539 IH—7

HR 2539 IH—8

HR 2539 IH—9

HR 2539 IH—10

HR 2539 IH—11

HR 2539 IH—12

HR 2539 IH—13

HR 2539 IH—14

HR 2539 IH—15

HR 2539 IH—16

HR 2539 IH—17

HR 2539 IH—18

HR 2539 IH—19

HR 2539 IH—20