

In the Senate of the United States,

September 18, 1996.

Resolved, That the bill from the House of Representatives (H.R. 3159) entitled “An Act to amend title 49, United States Code, to authorize appropriations for fiscal years 1997, 1998, and 1999 for the National Transportation Safety Board, and for other purposes”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***TITLE I—NTSB AMENDMENTS***

2 ***SEC. 101. SHORT TITLE.***

3 *This title may be cited as the “National Transpor-*
4 *tation Safety Board Amendments of 1996”.*

5 ***SEC. 102. FOREIGN INVESTIGATIONS.***

6 *Section 1114 of title 49, United States Code, is amend-*
7 *ed—*

8 *(1) by striking “(b) and (c)” in subsection (a)*
9 *and inserting “(b), (c), and (e)”;* and

10 *(2) by adding at the end the following:*



1 “(e) *FOREIGN INVESTIGATIONS.*—

2 “(1) *IN GENERAL.*—*Notwithstanding any other*
3 *provision of law, neither the Board, nor any agency*
4 *receiving information from the Board, shall disclose*
5 *records or information relating to its participation in*
6 *foreign aircraft accident investigations; except that—*

7 “(A) *the Board shall release records per-*
8 *taining to such an investigation when the coun-*
9 *try conducting the investigation issues its final*
10 *report or 2 years following the date of the acci-*
11 *dent, whichever occurs first; and*

12 “(B) *the Board may disclose records and*
13 *information when authorized to do so by the*
14 *country conducting the investigation.*

15 “(2) *SAFETY RECOMMENDATIONS.*—*Nothing in*
16 *this subsection shall restrict the Board at any time*
17 *from referring to foreign accident investigation infor-*
18 *mation in making safety recommendations.”.*

19 **SEC. 103. PROTECTION OF VOLUNTARY SUBMISSION OF IN-**
20 **FORMATION.**

21 *Section 1114(b) of title 49, United States Code, is*
22 *amended by adding at the end the following:*

23 “(3) *PROTECTION OF VOLUNTARY SUBMISSION*
24 *OF INFORMATION.*—*Notwithstanding any other provi-*
25 *sion of law, neither the Board, nor any agency receiv-*

1 *ing information from the Board, shall disclose volun-*
2 *tarily provided safety-related information if that in-*
3 *formation is not related to the exercise of the Board's*
4 *accident or incident investigation authority under*
5 *this chapter and if the Board finds that the disclosure*
6 *of the information would inhibit the voluntary provi-*
7 *sion of that type of information."*

8 **SEC. 104. TRAINING.**

9 *Section 1115 of title 49, United States Code, is amend-*
10 *ed by adding at the end the following:*

11 *“(d) TRAINING OF BOARD EMPLOYEES AND*
12 *OTHERS.—The Board may conduct training of its*
13 *employees in those subjects necessary for the proper*
14 *performance of accident investigation. The Board*
15 *may also authorize attendance at courses given under*
16 *this subsection by other government personnel, person-*
17 *nel of foreign governments, and personnel from indus-*
18 *try or otherwise who have a requirement for accident*
19 *investigation training. The Board may require non-*
20 *Board personnel to reimburse some or all of the train-*
21 *ing costs, and amounts so reimbursed shall be credited*
22 *to the appropriation of the ‘National Transportation*
23 *Safety Board, Salaries and Expenses’ as offsetting*
24 *collections.”*

1 **SEC. 105. AUTHORIZATION OF APPROPRIATIONS.**

2 *Section 1118(a) of title 49, United States Code, is*
3 *amended—*

4 *(1) by striking “and”; and*

5 *(2) by inserting before the period at the end of*
6 *the first sentence the following: “, \$42,400,00 for fiscal*
7 *year 1997, \$44,400,000 for fiscal year 1998, and*
8 *\$46,600,000 for fiscal year 1999.”.*

9 **TITLE II—INTERMODAL**
10 **TRANSPORTATION**

11 **SEC. 201. SHORT TITLE.**

12 *This title may be cited as the “Intermodal Safe Con-*
13 *tainer Transportation Amendments Act of 1996”.*

14 **SEC. 202. AMENDMENT OF TITLE 49, UNITED STATES CODE.**

15 *Except as otherwise expressly provided, whenever in*
16 *this title an amendment or repeal is expressed in terms of*
17 *an amendment to, or repeal of, a section or other provision,*
18 *the reference shall be considered to be made to a section or*
19 *other provision of title 49 of the United States Code.*

20 **SEC. 203. DEFINITIONS.**

21 *Section 5901 (relating to definitions) is amended—*

22 *(1) by striking paragraph (1) and inserting the*
23 *following:*

24 *“(1) except as otherwise provided in this chapter,*
25 *the definitions in sections 10102 and 13102 of this*
26 *title apply.”;*

1 (2) by redesignating paragraphs (6) and (7) as
2 paragraphs (7) and (8), respectively; and

3 (3) by inserting after paragraph (5) the follow-
4 ing:

5 “(6) ‘gross cargo weight’ means the weight of the
6 cargo, packaging materials (including ice), pallets,
7 and dunnage.”.

8 **SEC. 204. NOTIFICATION AND CERTIFICATION.**

9 (a) *PRIOR NOTIFICATION.*—Subsection (a) of section
10 5902 (relating to prior notification) is amended—

11 (1) by striking “Before a person tenders to a
12 first carrier for intermodal transportation a” and in-
13 serting “If the first carrier to which any”;

14 (2) by striking “10,000 pounds (including pack-
15 ing material and pallets), the person shall give the
16 carrier a written” and inserting “29,000 pounds is
17 tendered for intermodal transportation is a motor
18 carrier, the person tendering the container or trailer
19 shall give the motor carrier a”;

20 (3) by striking “trailer.” and inserting “trailer
21 before the tendering of the container or trailer.”;

22 (4) by striking “electronically.” and inserting
23 “electronically or by telephone.”; and

24 (5) by adding at the end thereof the following:
25 “This subsection applies to any person within the

1 *United States who tenders a container or trailer sub-*
2 *ject to this chapter for intermodal transportation if*
3 *the first carrier is a motor carrier.”.*

4 *(b) CERTIFICATION.—Subsection (b) of section 5902*
5 *(relating to certification) is amended to read as follows:*

6 *“(b) CERTIFICATION.—*

7 *“(1) IN GENERAL.—A person who tenders a load-*
8 *ed container or trailer with an actual gross cargo*
9 *weight of more than 29,000 pounds to a first carrier*
10 *for intermodal transportation shall provide a certifi-*
11 *cation of the contents of the container or trailer in*
12 *writing, or electronically, before or when the con-*
13 *tainer or trailer is so tendered.*

14 *“(2) CONTENTS OF CERTIFICATION.—The certifi-*
15 *cation required by paragraph (1) shall include—*

16 *“(A) the actual gross cargo weight;*

17 *“(B) a reasonable description of the con-*
18 *tents of the container or trailer;*

19 *“(C) the identity of the certifying party;*

20 *“(D) the container or trailer number; and*

21 *“(E) the date of certification or transfer of*
22 *data to another document, as provided for in*
23 *paragraph (3).*

24 *“(3) TRANSFER OF CERTIFICATION DATA.—A*
25 *carrier who receives a certification may transfer the*

1 *information contained in the certification to another*
2 *document or to electric format for forwarding to a*
3 *subsequent carrier. The person transferring the infor-*
4 *mation shall state on the forwarded document the*
5 *date on which the data was transferred and the iden-*
6 *tity of the party who performed the transfer.*

7 *“(4) SHIPPING DOCUMENTS.—For purposes of*
8 *this chapter, a shipping document, prepared by the*
9 *person who tenders a container or trailer to a first*
10 *carrier, that contains the information required by*
11 *paragraph (2) meets the requirements of paragraph*
12 *(1).*

13 *“(5) USE OF ‘FREIGHT ALL KINDS’ TERM.—The*
14 *term ‘Freight All Kinds’ or ‘FAK’ may not be used*
15 *for the purpose of certification under section 5902(b)*
16 *after December 31, 2000, as a commodity description*
17 *for a trailer or container if the weight of any com-*
18 *modity in the trailer or container equals or exceeds*
19 *20 percent of the total weight of the contents of the*
20 *trailer or container. This subsection does not prohibit*
21 *the use of the term after that date for rating purposes.*

22 *“(6) SEPARATE DOCUMENT MARKING.—If a sepa-*
23 *rate document is used to meet the requirements of*
24 *paragraph (1), it shall be conspicuously marked*
25 *‘INTERMODAL CERTIFICATION’.*

1 “(7) *APPLICABILITY.*—*This subsection applies to*
2 *any person, domestic or foreign, who first tenders a*
3 *container or trailer subject to this chapter for inter-*
4 *modal transportation within the United States.”.*

5 *(c) FORWARDING CERTIFICATIONS.*—*Subsection (c) of*
6 *section 5902 (relating to forwarding certifications to subse-*
7 *quent carriers) is amended—*

8 (1) *by striking “transportation.” and inserting*
9 *“transportation before or when the loaded intermodal*
10 *container or trailer is tendered to the subsequent car-*
11 *rier. If no certification is received by the subsequent*
12 *carrier before or when the container or trailer is ten-*
13 *dered to it, the subsequent carrier may presume that*
14 *no certification is required.”; and*

15 (2) *by adding at the end thereof the following:*
16 *“If a person inaccurately transfers the information on*
17 *the certification, or fails to forward the certification*
18 *to a subsequent carrier, then that person is liable to*
19 *any person who incurs any bond, fine, penalty, cost*
20 *(including storage), or interest for any such fine, pen-*
21 *alty, cost (including storage), or interest incurred as*
22 *a result of the inaccurate transfer of information or*
23 *failure to forward the certification. A subsequent car-*
24 *rier who incurs a bond, fine, penalty, or cost (includ-*
25 *ing storage), or interest as a result of the inaccurate*

1 *transfer of the information, or the failure to forward*
2 *the certification, shall have a lien against the contents*
3 *of the container or trailer under section 5905 in the*
4 *amount of the bond, fine, penalty, or cost (including*
5 *storage), or interest and all court costs and legal fees*
6 *incurred by the carrier as a result of such inaccurate*
7 *transfer or failure.”.*

8 *(d) LIABILITY.—Section 5902 is amended by redesignig-*
9 *nating subsection (d) as subsection (e), and by inserting*
10 *after subsection (c) the following:*

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

13 *“(1) a person inaccurately transfers information*
14 *on a certification required by subsection (b)(1), or*
15 *fails to forward a certification to the subsequent car-*
16 *rier;*

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

21 *“(3) that subsequent carrier exercises its rights to*
22 *a lien under section 5905,*

23 *then that person is liable to the owner or beneficial owner,*
24 *or to any other person paying the amount of the lien to*
25 *the subsequent carrier, for the amount of the lien and all*

1 *costs related to the imposition of the lien, including court*
 2 *costs and legal fees incurred in connection with it.”.*

3 *(e) NONAPPLICATION.—Subsection (e) of section 5902,*
 4 *as redesignated, is amended—*

5 *(1) by redesignating paragraphs (1) and (2) as*
 6 *paragraphs (2) and (3), respectively; and*

7 *(2) by inserting before paragraph (2), as redesign-*
 8 *ated, the following:*

9 *“(1) The notification and certification require-*
 10 *ments of subsections (a) and (b) of this section do not*
 11 *apply to any intermodal container or trailer contain-*
 12 *ing consolidated shipments loaded by a motor carrier*
 13 *if that motor carrier—*

14 *“(A) performs the highway portion of the*
 15 *intermodal movement; or*

16 *“(B) assumes the responsibility for any*
 17 *weight-related fine or penalty incurred by any*
 18 *other motor carrier that performs a part of the*
 19 *highway transportation.”.*

20 **SEC. 205. PROHIBITIONS.**

21 *Section 5903 (relating to prohibitions) is amended—*

22 *(1) by inserting after “person” a comma and the*
 23 *following: “To whom section 5902(b) applies,”;*

24 *(2) by striking subsection (b) and inserting the*
 25 *following:*

1 “(b) *TRANSPORTING PRIOR TO RECEIVING CERTIFI-*
2 *CATION.*—

3 “(1) *PRESUMPTION.*—*If no certification is re-*
4 *ceived by a motor carrier before or when a loaded*
5 *intermodal container or trailer is tendered to it, the*
6 *motor carrier may presume that the gross cargo*
7 *weight of the container or trailer is less than 29,001*
8 *pounds.*

9 “(2) *COPY OF CERTIFICATION NOT REQUIRED TO*
10 *ACCOMPANY CONTAINER OR TRAILER.*—*Notwithstand-*
11 *ing any other provision of this chapter to the con-*
12 *trary, a copy of the certification required by section*
13 *5902(b) is not required to accompany the intermodal*
14 *container or trailer.”;*

15 (3) *by striking “10,000 pounds (including pack-*
16 *ing materials and pallets)” in subsection (c)(1) and*
17 *inserting “29,000 pounds”; and*

18 (4) *by adding at the end the following:*

19 “(d) *NOTICE TO LEASED OPERATORS.*—

20 “(1) *IN GENERAL.*—*If a motor carrier knows*
21 *that the gross cargo weight of an intermodal con-*
22 *tainer or trailer subject to the certification require-*
23 *ments of section 5902(b) would result in a violation*
24 *of applicable State gross vehicle weight laws, then—*

1 “(A) the motor carrier shall give notice to
2 the operator of a vehicle which is leased by the
3 vehicle operator to a motor carrier that trans-
4 ports an intermodal container or trailer of the
5 gross cargo weight of the container or trailer as
6 certified to the motor carrier under section
7 5902(b);

8 “(B) the notice shall be provided to the op-
9 erator prior to the operator being tendered the
10 container or trailer;

11 “(C) the notice required by this subsection
12 shall be in writing, but may be transmitted elec-
13 tronically; and

14 “(D) the motor carrier shall bear the burden
15 of proof to establish that it tendered the required
16 notice to the operator.

17 “(2) REIMBURSEMENT.—If the operator of a
18 leased vehicle transporting a container or trailer sub-
19 ject to this chapter is fined because of a violation of
20 a State’s gross vehicle weight laws or regulations and
21 the lessee motor carrier cannot establish that it ten-
22 dered to the operator the notice required by para-
23 graph (1) of this subsection, then the operator shall be
24 entitled to reimbursement from the motor carrier in
25 the amount of any fine and court costs resulting from

1 *the failure of the motor carrier to tender the notice to*
2 *the operator.”.*

3 **SEC. 206. LIENS.**

4 *Section 5905 (relating to liens) is amended—*

5 *(1) by striking subsection (a) and inserting the*
6 *following:*

7 *“(a) GENERAL.—If a person involved in the inter-*
8 *modal transportation of a loaded container or trailer for*
9 *which a certification is required by section 5902(b) of this*
10 *title is required, because of a violation of a State’s gross*
11 *vehicle weight laws or regulations, to post a bond or pay*
12 *a fine, penalty, cost (including storage), or interest result-*
13 *ing from—*

14 *“(1) erroneous information provided by the cer-*
15 *tifying party in the certification to the first carrier*
16 *in violation of section 5903(a) of this title;*

17 *“(2) the failure of the party required to provide*
18 *the certification to the first carrier to provide it;*

19 *“(3) the failure of a person required under sec-*
20 *tion 5902(c) to forward the certification to forward it;*
21 *or*

22 *“(4) an error occurring in the transfer of infor-*
23 *mation on the certification to another document*
24 *under section 5902(b)(3) or (c), then the person post-*
25 *ing the bond, or paying the fine, penalty, costs (in-*

1 *cluding storage), or interest has a lien against the*
2 *contents equal to the amount of the bond, fine, pen-*
3 *alty, cost (including storage), or interest incurred,*
4 *until the person receives a payment of that amount*
5 *from the owner or beneficial owner of the contents, or*
6 *from the person responsible for making or forwarding*
7 *the certification, or transferring the information from*
8 *the certification to another document.”;*

9 (2) *by inserting a comma and “or the owner or*
10 *beneficial owner of the contents,” after “first carrier”*
11 *in subsection 9(b)(1); and*

12 (3) *by striking “cost, or interest.” in subsection*
13 *(b)(1) and inserting “cost (including storage), or in-*
14 *terest. The lien shall remain in effect until the lien*
15 *holder has received payment for all costs and expenses*
16 *described in subsection (a) of this section.”.*

17 **SEC. 207. PERISHABLE AGRICULTURAL COMMODITIES.**

18 *Section 5906 (relating to perishable agricultural com-*
19 *modities) is amended by striking “Sections 5904(a)(2) an*
20 *5905 of this title do” and inserting “Section 5905 of this*
21 *title does”.*

22 **SEC. 208. EFFECTIVE DATE.**

23 (a) *IN GENERAL.*—*Section 5907 (relating to regula-*
24 *tions and effective date) is amended to read as follows:*

1 **“§ 5907. Effective date**

2 *“This chapter shall take effect 180 days after the date*
3 *of enactment of the Intermodal Safe Container Transpor-*
4 *tation Amendments Act of 1996.”.*

5 **(b) CLERICAL AMENDMENT.**—*The table of sections for*
6 *chapter 59 is amended by striking the item relating to sec-*
7 *tion 5907 and inserting the following:*

“5907. Effective date”.

8 **SEC. 209. RELATIONSHIP TO OTHER LAWS.**

9 **(a) IN GENERAL.**—*Chapter 59 is amended by adding*
10 *at the end thereof the following:*

11 **“§ 5908. Relationship to other laws**

12 *“Nothing in this chapter affects—*

13 *“(1) chapter 51 (relating to transportation of*
14 *hazardous material) or the regulations promulgated*
15 *under that chapter; or*

16 *“(2) any State highway weight or size law or*
17 *regulation applicable to tractor-trailer combina-*
18 *tions.”.*

1 **(b) CLERICAL AMENDMENT.**—*The table of sections for*
2 *such chapter is amended by adding at the end thereof the*
3 *following:*

“5908. Relationship to other laws”.

Attest:

Secretary.

HR 3159 EAS—2

HR 3159 EAS—3

HR 3159 EAS—4

HR 3159 EAS—5

HR 3159 EAS—6

HR 3159 EAS—7

HR 3159 EAS—8

HR 3159 EAS—9

HR 3159 EAS—10

104TH CONGRESS
2^D SESSION

H. R. 3159

AMENDMENT