

## SUBCHAPTER III—LIMITATIONS

**§ 10741. Prohibitions against discrimination by rail carriers**

(a)(1) A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part may not subject a person, place, port, or type of traffic to unreasonable discrimination.

(2) For purposes of this section, a rail carrier engages in unreasonable discrimination when it charges or receives from a person a different compensation for a service rendered, or to be rendered, in transportation the rail carrier may perform under this part than it charges or receives from another person for performing a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances.

(b) This section shall not apply to—

(1) contracts described in section 10709 of this title;

(2) rail rates applicable to different routes; or

(3) discrimination against the traffic of another carrier providing transportation by any mode.

(c) Differences between rates, classifications, rules, and practices of rail carriers do not constitute a violation of this section if such differences result from different services provided by rail carriers.

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 819.)

## PRIOR PROVISIONS

A prior section 10741, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1390; Pub. L. 96-296, §33(d), July 1, 1980, 94 Stat. 825; Pub. L. 96-448, title II, §212, Oct. 14, 1980, 94 Stat. 1912; Pub. L. 99-521, §7(h), Oct. 22, 1986, 100 Stat. 2995, related to prohibitions against discrimination by common carriers, prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a). See sections 10741 and 15505 of this title.

**§ 10742. Facilities for interchange of traffic**

A rail carrier providing transportation subject to the jurisdiction of the Board under this part shall provide reasonable, proper, and equal facilities that are within its power to provide for the interchange of traffic between, and for the receiving, forwarding, and delivering of passengers and property to and from, its respective line and a connecting line of another rail carrier or of a water carrier providing transportation subject to chapter 137.

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 819.)

## PRIOR PROVISIONS

A prior section 10742, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1391, related to facilities for interchange of traffic, prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a). See sections 10742 and 15506 of this title.

**§ 10743. Liability for payment of rates**

(a)(1) Liability for payment of rates for transportation for a shipment of property by a shipper or consignor to a consignee other than the

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

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

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

(2) When the consignee is liable only for rates billed at the time of delivery under paragraph (1) of this subsection, the shipper or consignor, or, if the property is reconsigned or diverted, the beneficial owner, is liable for those additional rates regardless of the bill of lading or contract under which the property was transported. The beneficial owner is liable for all rates when the property is reconsigned or diverted by an agent but is refused or abandoned at its ultimate destination if the agent gave the rail carrier in the reconsignment or diversion order a notice of agency and the name and address of the beneficial owner. A consignee giving the rail carrier, and a reconsignor or diverter giving a rail carrier, erroneous information about the identity of the beneficial owner of the property is liable for the additional rates.

(b) Liability for payment of rates for transportation for a shipment of property by a shipper or consignor, named in the bill of lading as consignee, is determined under this subsection when the transportation is provided by a rail carrier under this part. When the shipper or consignor gives written notice, before delivery of the property, to the line-haul rail carrier that is to make ultimate delivery—

(1) to deliver the property to another party identified by the shipper or consignor as the beneficial owner of the property; and

(2) that delivery is to be made to that party on payment of all applicable transportation rates;

that party is liable for the rates billed at the time of delivery and for additional rates that may be found to be due after delivery if that party does not pay the rates required to be paid under paragraph (2) of this subsection on delivery. However, if the party gives written notice to the delivering rail carrier before delivery that the party is not the beneficial owner of the property and gives the rail carrier the name and address of the beneficial owner, then the party is not liable for those additional rates. A shipper, consignor, or party to whom delivery is made that gives the delivering rail carrier erroneous information about the identity of the beneficial owner, is liable for the additional rates regardless of the bill of lading or contract under which the property was transported. This subsection does not apply to a prepaid shipment of property.

(c)(1) A rail carrier may bring an action to enforce liability under subsection (a) of this section. That rail carrier must bring the action during the period provided in section 11705(a) of this title or by the end of the 6th month after final judgment against it in an action against the consignee, or the beneficial owner named by the consignee or agent, under that section.

(2) A rail carrier may bring an action to enforce liability under subsection (b) of this section. That carrier must bring the action during the period provided in section 11705(a) of this title or by the end of the 6th month after final judgment against it in an action against the shipper, consignor, or other party under that section.

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 819.)

#### PRIOR PROVISIONS

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

A prior section 10743, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1391; Pub. L. 99-521, §7(i), Oct. 22, 1986, 100 Stat. 2995, related to payment of rates, prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a). See section 13707 of this title.

#### § 10744. Continuous carriage of freight

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

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 821.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10745 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

A prior section 10744, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1391, related to liability for payment of rates, prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a). See sections 10743 and 13706 of this title.

#### § 10745. Transportation services or facilities furnished by shipper

A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part may establish a charge or allowance for transportation or service for property when the owner of the property, directly or indirectly, furnishes a service related to or an instrumentality used in the transportation or service. The Board may prescribe the maximum reasonable charge or allowance a rail carrier subject to its jurisdiction may pay for a service or instrumentality furnished under this section.

The Board may begin a proceeding under this section on its own initiative or on application.

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 821.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10747 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

A prior section 10745, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1392, related to continuous carriage of freight, prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a). See section 10744 of this title.

#### § 10746. Demurrage charges

A rail carrier providing transportation subject to the jurisdiction of the Board under this part shall compute demurrage charges, and establish rules related to those charges, in a way that fulfills the national needs related to—

- (1) freight car use and distribution; and
- (2) maintenance of an adequate supply of freight cars to be available for transportation of property.

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 821.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10750 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

A prior section 10746, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1393, related to transportation of commodities manufactured or produced by rail carrier, prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

#### § 10747. Designation of certain routes by shippers

(a)(1) When a person delivers property to a rail carrier for transportation subject to the jurisdiction of the Board under this part, the person may direct the rail carrier to transport the property over an established through route. When competing rail lines constitute a part of the route, the person shipping the property may designate the lines over which the property will be transported. The designation must be in writing. A rail carrier may be directed to transport property over a particular through route when—

- (A) there are at least 2 through routes over which the property could be transported;
- (B) a through rate has been established for transportation over each of those through routes; and
- (C) the rail carrier is a party to those routes and rates.

(2) A rail carrier directed to route property transported under paragraph (1) of this subsection must issue a through bill of lading containing the routing instructions and transport the property according to the instructions. When the property is delivered to a connecting rail carrier, that rail carrier must also receive and transport it according to the routing instructions and deliver it to the next succeeding rail carrier or consignee according to the instructions.

(b) The Board may prescribe exceptions to the authority of a person to direct the movement of traffic under subsection (a) of this section.

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 821.)