

**(b) CONTRACTS WITH SHIPPERS.—**

(1) **IN GENERAL.**—A carrier providing transportation or service subject to jurisdiction under chapter 135 may enter into a contract with a shipper, other than for the movement of household goods described in section 13102(10)(A), to provide specified services under specified rates and conditions. If the shipper and carrier, in writing, expressly waive any or all rights and remedies under this part for the transportation covered by the contract, the transportation provided under the contract shall not be subject to the waived rights and remedies and may not be subsequently challenged on the ground that it violates the waived rights and remedies. The parties may not waive the provisions governing registration, insurance, or safety fitness.

(2) **REMEDY FOR BREACH OF CONTRACT.**—The exclusive remedy for any alleged breach of a contract entered into under this subsection shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 890.)

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 11101 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

**EFFECTIVE DATE**

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104-88, see section 2 of Pub. L. 104-88, set out as a note under section 701 of this title.

**§ 14102. Leased motor vehicles**

(a) **GENERAL AUTHORITY OF SECRETARY.**—The Secretary may require a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 that uses motor vehicles not owned by it to transport property under an arrangement with another party to—

- (1) make the arrangement in writing signed by the parties specifying its duration and the compensation to be paid by the motor carrier;
- (2) carry a copy of the arrangement in each motor vehicle to which it applies during the period the arrangement is in effect;
- (3) inspect the motor vehicles and obtain liability and cargo insurance on them; and
- (4) have control of and be responsible for operating those motor vehicles in compliance with requirements prescribed by the Secretary on safety of operations and equipment, and with other applicable law as if the motor vehicles were owned by the motor carrier.

(b) **RESPONSIBLE PARTY FOR LOADING AND UNLOADING.**—The Secretary shall require, by regulation, that any arrangement, between a motor carrier of property providing transportation subject to jurisdiction under subchapter I of chapter 135 and any other person, under which such other person is to provide any portion of such transportation by a motor vehicle not owned by the carrier shall specify, in writing, who is responsible for loading and unloading the property onto and from the motor vehicle.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 890.)

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 11107 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

**§ 14103. Loading and unloading motor vehicles**

(a) **SHIPPER RESPONSIBLE FOR ASSISTING.**—Whenever a shipper or receiver of property requires that any person who owns or operates a motor vehicle transporting property in interstate commerce (whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135) be assisted in the loading or unloading of such vehicle, the shipper or receiver shall be responsible for providing such assistance or shall compensate the owner or operator for all costs associated with securing and compensating the person or persons providing such assistance.

(b) **COERCION PROHIBITED.**—It shall be unlawful to coerce or attempt to coerce any person providing transportation of property by motor vehicle for compensation in interstate commerce (whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135) to load or unload any part of such property onto or from such vehicle or to employ or pay one or more persons to load or unload any part of such property onto or from such vehicle; except that this subsection shall not be construed as making unlawful any activity which is not unlawful under the National Labor Relations Act or the Act of March 23, 1932 (47 Stat. 70; 29 U.S.C. 101 et seq.), commonly known as the Norris-LaGuardia Act.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 891.)

**REFERENCES IN TEXT**

The National Labor Relations Act, referred to in subsec. (b), is act July 5, 1935, ch. 372, 49 Stat. 449, as amended, which is classified generally to subchapter II (§151 et seq.) of chapter 7 of Title 29, Labor. For complete classification of this Act to the Code, see section 167 of Title 29 and Tables.

Act of March 23, 1932, commonly known as the Norris-LaGuardia Act, referred to in subsec. (b), is act Mar. 23, 1932, ch. 90, 47 Stat. 70, as amended, which is classified generally to chapter 6 (§101 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Title 29 and Tables.

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 11109 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

**§ 14104. Household goods carrier operations**

(a) **GENERAL REGULATORY AUTHORITY.**—

(1) **PAPERWORK MINIMIZATION.**—The Secretary may issue regulations, including regulations protecting individual shippers, in order to carry out this part with respect to the transportation of household goods by motor carriers subject to jurisdiction under subchapter I of chapter 135. The regulations and paperwork required of motor carriers providing transportation of household goods shall be minimized to the maximum extent feasible consistent with the protection of individual shippers.

## (2) PERFORMANCE STANDARDS.—

(A) IN GENERAL.—Regulations of the Secretary protecting individual shippers shall include, where appropriate, reasonable performance standards for the transportation of household goods subject to jurisdiction under subchapter I of chapter 135.

(B) FACTORS TO CONSIDER.—In establishing performance standards under this paragraph, the Secretary shall take into account at least the following—

(i) the level of performance that can be achieved by a well-managed motor carrier transporting household goods;

(ii) the degree of harm to individual shippers which could result from a violation of the regulation;

(iii) the need to set the level of performance at a level sufficient to deter abuses which result in harm to consumers and violations of regulations;

(iv) service requirements of the carriers;

(v) the cost of compliance in relation to the consumer benefits to be achieved from such compliance; and

(vi) the need to set the level of performance at a level designed to encourage carriers to offer service responsive to shipper needs.

(3) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to limit the Secretary's authority to require reports from motor carriers providing transportation of household goods or to require such carriers to provide specified information to consumers concerning their past performance.

## (b) ESTIMATES.—

## (1) REQUIRED TO BE IN WRITING.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, every motor carrier providing transportation of household goods described in section 13102(10)(A) as a household goods motor carrier and subject to jurisdiction under subchapter I of chapter 135 shall conduct a physical survey of the household goods to be transported on behalf of a prospective individual shipper and shall provide the shipper with a written estimate of charges for the transportation and all related services.

(B) WAIVER.—A shipper may elect to waive a physical survey under this paragraph by written agreement signed by the shipper before the shipment is loaded. A copy of the waiver agreement must be retained as an addendum to the bill of lading and shall be subject to the same record inspection and preservation requirements of the Secretary as are applicable to bills of lading.

## (C) ESTIMATE.—

(i) IN GENERAL.—Notwithstanding a waiver under subparagraph (B), a carrier's statement of charges for transportation must be submitted to the shipper in writing and must indicate whether it is binding or nonbinding. The written estimate shall be based on a physical survey of the household goods if the household goods are located within a 50-mile radius of the loca-

tion of the carrier's household goods agent preparing the estimate.

(ii) BINDING.—A binding estimate under this paragraph must indicate that the carrier and shipper are bound by such charges. The carrier may impose a charge for providing a written binding estimate.

(iii) NONBINDING.—A nonbinding estimate under this paragraph must indicate that the actual charges will be based upon the actual weight of the individual shipper's shipment and the carrier's lawful tariff charges. The carrier may not impose a charge for providing a nonbinding estimate.

(2) OTHER INFORMATION.—At the time that a motor carrier provides the written estimate required by paragraph (1), the motor carrier shall provide the shipper a copy of the Department of Transportation publication FMCSA-ESA-03-005 (or its successor publication) entitled "Ready to Move?". Before the execution of a contract for service, the motor carrier shall provide the shipper copy of the Department of Transportation publication OCE 100, entitled "Your Rights and Responsibilities When You Move" required by section 375.213 of title 49, Code of Federal Regulations (or any successor regulation).

(3) APPLICABILITY OF ANTITRUST LAWS.—Any charge for an estimate of charges provided by a motor carrier to a shipper for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 shall be subject to the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12).

(c) FLEXIBILITY IN WEIGHING SHIPMENTS.—The Secretary shall issue regulations that provide motor carriers providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 with the maximum possible flexibility in weighing shipments, consistent with assurance to the shipper of accurate weighing practices. The Secretary shall not prohibit such carriers from backweighing shipments or from basing their charges on the reweigh weights if the shipper observes both the tare and gross weighings (or, prior to such weighings, waives in writing the opportunity to observe such weighings) and such weighings are performed on the same scale.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 891; amended Pub. L. 109-59, title IV, § 4205, Aug. 10, 2005, 119 Stat. 1753.)

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11110 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

## AMENDMENTS

2005—Subsec. (b). Pub. L. 109-59 added pars. (1) and (2), redesignated former par. (2) as (3), and struck out heading and text of former par. (1). Text read as follows: "Every motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135, upon request of a prospective shipper, may provide the shipper with an estimate of charges for transportation of household goods and for the proposed services. The Secretary shall not prohibit any such carrier from charging a prospective shipper

for providing a written, binding estimate for the transportation and proposed services.”

STUDY OF ENFORCEMENT OF CONSUMER PROTECTION  
RULES IN HOUSEHOLD GOODS MOVING INDUSTRY

Pub. L. 106-159, title II, § 209(c), Dec. 9, 1999, 113 Stat. 1764, provided that: “The Comptroller General shall conduct a study of the effectiveness of the Department of Transportation’s enforcement of household goods consumer protection rules under title 49, United States Code. The study shall also include a review of other potential methods of enforcing such rules, including allowing States to enforce such rules.”

SUBCHAPTER II—REPORTS AND RECORDS

§ 14121. Definitions

In this subchapter, the following definitions apply:

(1) CARRIER AND BROKER.—The terms “carrier” and “broker” include a receiver or trustee of a carrier and broker, respectively.

(2) ASSOCIATION.—The term “association” means an organization maintained by or in the interest of a group of carriers or brokers providing transportation or service subject to jurisdiction under chapter 135 that performs a service, or engages in activities, related to transportation under this part.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 892.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11141 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

§ 14122. Records: form; inspection; preservation

(a) FORM OF RECORDS.—The Secretary or the Board, as applicable, may prescribe the form of records required to be prepared or compiled under this subchapter by carriers and brokers, including records related to movement of traffic and receipts and expenditures of money.

(b) RIGHT OF INSPECTION.—The Secretary or Board, or an employee designated by the Secretary or Board, may on demand and display of proper credentials—

(1) inspect and examine the lands, buildings, and equipment of a carrier or broker; and

(2) inspect and copy any record of—

(A) a carrier, broker, or association; and

(B) a person controlling, controlled by, or under common control with a carrier if the Secretary or Board, as applicable, considers inspection relevant to that person’s relation to, or transaction with, that carrier.

(c) PERIOD FOR PRESERVATION OF RECORDS.—The Secretary or Board, as applicable, may prescribe the time period during which operating, accounting, and financial records must be preserved by carriers and brokers.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 893.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11144 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

§ 14123. Financial reporting

(a) REPORTS.—

(1) ANNUAL REPORTS.—The Secretary shall require Class I and Class II motor carriers to file with the Secretary annual financial and safety reports, the form and substance of which shall be prescribed by the Secretary; except that, at a minimum, such reports shall include balance sheets and income statements.

(2) OTHER REPORTS.—The Secretary may require motor carriers, freight forwarders, brokers, lessors, and associations, or classes of them as the Secretary may prescribe, to file quarterly, periodic, or special reports with the Secretary and to respond to surveys concerning their operations.

(b) MATTERS TO BE COVERED.—In determining the matters to be covered by any reports to be filed under subsection (a), the Secretary shall consider—

(1) safety needs;

(2) the need to preserve confidential business information and trade secrets and prevent competitive harm;

(3) private sector, academic, and public use of information in the reports; and

(4) the public interest.

(c) EXEMPTIONS.—

(1) FROM FILING.—The Secretary may exempt upon good cause shown any party from the financial reporting requirements of subsection (a). Any request for such exemption must demonstrate, at a minimum, that an exemption is required to avoid competitive harm and preserve confidential business information that is not otherwise publicly available.

(2) FROM PUBLIC RELEASE.—

(A) IN GENERAL.—The Secretary shall allow, upon request, a filer of a report under subsection (a) that is not a publicly held corporation or that is not subject to financial reporting requirements of the Securities and Exchange Commission, an exemption from the public release of such report.

(B) PROCEDURE.—After a request under subparagraph (A) and notice and opportunity for comment but in no event later than 90 days after the date of such request, the Secretary shall approve such request if the Secretary finds that the exemption requested is necessary to avoid competitive harm and to avoid the disclosure of information that qualifies as a trade secret or privileged or confidential information under section 552(b)(4) of title 5.

(C) USE OF DATA FOR INTERNAL DOT PURPOSES.—If an exemption is granted under this paragraph, nothing shall prevent the Secretary from using data from reports filed under this subsection for internal purposes of the Department of Transportation or including such data in aggregate industry statistics released for publication if such inclusion would not render the filer’s data readily identifiable.

(D) PENDING REQUESTS.—The Secretary shall not release publicly the report of a carrier making a request under subparagraph (A) while such request is pending.

(3) PERIOD OF EXEMPTIONS.—Exemptions granted under this subsection shall be for 3-year periods.