

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1671.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
58103 .....	46 App.:1223(d).	June 29, 1936, ch. 858, title VIII, §805(d), 49 Stat. 2013; June 23, 1938, ch. 600, §§36, 37, 52 Stat. 963; Pub. L. 91-603, §4(e), Dec. 31, 1970, 84 Stat. 1675; Pub. L. 97-31, §12(122), Aug. 6, 1981, 95 Stat. 164; Pub. L. 104-239, §4(b)(2), Oct. 8, 1996, 110 Stat. 3131.

In subsection (a), the words “contractor holding a contract under the operating-differential subsidy program or under chapter 575 of this title” are substituted for “contractor holding a contract authorized under part A of subchapter VI or VII of this chapter” for the reasons explained under section 58101.

§ 58104. Willful violation constitutes breach of contract or charter

A willful violation of any provision of sections 58101-58103 of this title constitutes a breach of the contract or charter. On determining that a violation has occurred, the Secretary of Transportation may declare the contract or charter rescinded.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1672.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
58104 .....	46 App.:1223(f).	June 29, 1936, ch. 858, title VIII, §805(f), 49 Stat. 2014; Pub. L. 97-31, §12(122), Aug. 6, 1981, 95 Stat. 164.

The words “in force under this chapter” and “forthwith” are omitted as unnecessary. The words “and any person willfully violating the provisions of this section shall be guilty of a misdemeanor” are omitted because section 3559 of title 18 provides for the classification of offenses. See the revision notes for section 58109 of the revised title.

§ 58105. Preferences for cargo in which charterer has interest

A contractor receiving an operating-differential subsidy, or a charterer under chapter 575 of this title, may not unjustly discriminate in any manner so as to give preference, directly or indirectly, to cargo in which the contractor or charterer has a direct or indirect ownership, purchase, or vending interest.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1672.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
58105 .....	46 App.:1226.	June 29, 1936, ch. 858, title VIII, §808, 49 Stat. 2015.

The words “and whosoever shall violate this provision shall be guilty of a misdemeanor” are omitted because section 3559 of title 18 provides for the classification of offenses. See the revision notes for section 58109 of the revised title.

§ 58106. Concerted discriminatory activities

(a) PROHIBITION.—A contractor receiving an operating-differential subsidy, or a charterer

under chapter 575 of this title, may not continue as a party to or conform to an agreement with another carrier by water, or engage in a practice in concert with another carrier by water, that is unjustly discriminatory or unfair to any other citizen of the United States operating a common carrier by water employing only vessels documented under the laws of the United States on an established trade route from and to a United States port.

(b) GOVERNMENT PAYMENT PROHIBITED.—No payment or subsidy of any kind may be paid, directly or indirectly, out of funds of the United States Government to a contractor or charterer that has violated subsection (a).

(c) CIVIL ACTION.—A person whose business or property is injured by a violation of subsection (a) may bring a civil action in the district court of the United States for the district in which the defendant resides, is found, or has an agent. If the person prevails, the person shall be awarded—

- (1) 3 times the damages; and
- (2) costs, including reasonable attorney fees.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1672.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
58106 .....	46 App.:1227.	June 29, 1936, ch. 858, title VIII, §810, 49 Stat. 2015.

In subsection (b), the words “United States Government” are substituted for “United States or any agency of the United States” for consistency and to eliminate unnecessary words.

In subsection (c), the words “bring a civil action” are substituted for “sue” for consistency in the revised title. The words “without respect to the amount in controversy” are omitted because section 1331 of title 28 no longer contains a requirement of any particular amount in controversy for jurisdiction of civil actions arising under the laws of the United States. The words “If the person prevails” are added for clarity.

§ 58107. Discrimination at ports by water common carriers

(a) PROHIBITION.—A common carrier by water may not, directly or indirectly, through an agreement, conference, association, understanding, or otherwise, prevent or attempt to prevent any other common carrier by water from serving any port described in subsection (b) at the same rates the first carrier charges at the nearest port already regularly served by it.

(b) PORTS.—A port referred to in subsection (a) is one that is—

- (1) designed for the accommodation of ocean-going vessels;
- (2) located on an improvement project authorized by law or by a Federal agency; and
- (3) located within the continental limits of the United States.

(c) OTHER AUTHORITY NOT LIMITED.—This section does not limit the authority otherwise vested in the Secretary of Transportation and the Federal Maritime Commission.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1672.)