

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

## HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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 On determining that a violation has occurred, the Secretary of Transportation may declare the contract or charter rescinded.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

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
58107 .....	46 App.:1115.	June 29, 1936, ch. 858, title II, §205, 49 Stat. 1987; Pub. L. 97-31, §12(62), Aug. 6, 1981, 95 Stat. 159.

§ 58108. Charges for transportation subject to subtitle IV of title 49

(a) PROHIBITION.—A carrier may not charge, collect, or receive for transportation subject to subtitle IV of title 49 of persons or property, under any joint rate, fare, or charge, or under any export, import, or other proportional rate, fare, or charge, that is based in whole or in part on the fact that the persons or property affected are to be transported to, or have been transported from, a port in a territory or possession of the United States or in a foreign country, by a carrier by water in foreign commerce, any lower rate, fare, or charge than the carrier charges, collects, or receives for the transportation of persons or similar property for the same distance, in the same direction, and over the same route, in commerce wholly within the United States, unless the vessel used for the transportation is or was at the time of the transportation documented under the laws of the United States.

(b) SUSPENSION OF PROHIBITION.—Whenever the Secretary of Transportation believes that adequate shipping facilities to or from any port in a territory or possession of the United States or a foreign country are not being provided by vessels documented under the laws of the United States, the Secretary shall certify this fact to the Surface Transportation Board. On receiving the certification, the Board may by order suspend the operation of subsection (a) with respect to the rates, fares, and charges for the transportation by rail of persons and property transported from or to be transported to those ports, for such time and under such terms and conditions as the Secretary may specify in the order or in any supplemental order.

(c) TERMINATION OF SUSPENSION.—Whenever the Secretary believes that adequate shipping facilities are being provided to those ports by vessels documented under the laws of the United States, and certifies that fact to the Board, the Board may order the termination of the suspension.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1673.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
58108 .....	46 App.:884.	June 5, 1920, ch. 250, §28, 41 Stat. 999; Ex. Ord. No. 6166, §12, eff. June 10, 1933; June 29, 1936, ch. 858, §§204, 904, 49 Stat. 1987, 2016; Pub. L. 97-31, §12(50), Aug. 6, 1981, 95 Stat. 157; Pub. L. 104-88, title III, §321(3), Dec. 29, 1995, 109 Stat. 950.

The words "territory or possession" are substituted for "possession or dependency" for consistency in the revised title.

§ 58109. Penalties

(a) INDIVIDUALS.—An individual convicted of violating section 58101(d), 58103, or 58105 of this title shall be fined under title 18, imprisoned for at least one year but not more than 5 years, or both.

(b) ORGANIZATIONS.—An organization convicted of committing an act prohibited by this subtitle shall be fined under title 18.

(c) INELIGIBILITY TO RECEIVE BENEFITS.—An individual or organization convicted of violating a section referred to in subsection (a) is ineligible, at the discretion of the Secretary of Transportation, to receive any benefit under the construction-differential subsidy or operating-differential subsidy programs, or a charter under chapter 575 of this title, for 5 years after the conviction.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1673.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
58109 .....	46 App.:1228 (1st, 2d pars.).	June 29, 1936, ch. 858, title VIII, §806(b), (c), 49 Stat. 2014; Pub. L. 97-31, §12(125), Aug. 6, 1981, 95 Stat. 164.

In subsection (a), the word "individual" is substituted for "natural person" for consistency in the revised title. The words "convicted of violating section 58101(d), 58103, or 58105 of this title" are substituted for "found guilty of any act or acts declared in this chapter to constitute a misdemeanor" because the sections referred to restate the provisions which declare certain acts to be misdemeanors and because the restatement of those provisions does not use the word "misdemeanor". The words "in any district court of the United States" are omitted as unnecessary. The words "shall be fined under title 18, imprisoned for at least one year but not more than five years, or both" are substituted for "shall be punished by a fine of not more than \$10,000, or by imprisonment for not less than one year or more than five years, or by both fine and imprisonment" because of chapter 227 of title 18. See 18 U.S.C. 3559 (which classifies offenses based on the maximum term of imprisonment) and 3571 (which establishes fines based on those classifications).

In subsection (b), the word "organization" is substituted for "corporation" to reflect the probable intent that the penalty should apply to other organizations in addition to corporations. The words "convicted of committing an act prohibited by this subtitle" are substituted for "found guilty of any act or acts declared in this chapter to be unlawful" for clarity and consistency. The words "shall be fined under title 18" are substituted for "shall be punished by a fine of not more than \$25,000" for consistency with subsection (a).

In subsection (c), the words "An individual or organization convicted of violating a section referred to in subsection (a)" are substituted for "any person or corporation convicted of a misdemeanor under the provisions of this chapter" for consistency in the section. Reference to the Federal Maritime Commission is omitted because the Commission does not administer any of the provisions referred to.

Subtitle VI—Clearance, Tonnage Taxes, and Duties

Chapter	Sec.
<b>601. Arrival and Departure Requirements .....</b>	<b>60101</b>
<b>603. Tonnage Taxes and Light Money ....</b>	<b>60301</b>