

terest established by a conditional sales contract, mortgage, equipment trust, or other lien or title retention contract, or lease) in a motor vehicle when the interest secures payment or performance of an obligation.

(4) **PERFECTION.**—The term “perfection”, as related to a security interest, means taking action (including public filing, recording, notation on a certificate of title, and possession of collateral by the secured party), or the existence of facts, required under law to make a security interest enforceable against general creditors and subsequent lien creditors of a debtor, but does not include compliance with requirements related only to the establishment of a valid security interest between the debtor and the secured party.

(b) **REQUIREMENTS FOR PERFECTION OF SECURITY INTEREST.**—A security interest in a motor vehicle owned by, or in the possession and use of, a carrier registered under section 13902 of this title and owing payment or performance of an obligation secured by that security interest is perfected in all jurisdictions against all general, and subsequent lien, creditors of, and all persons taking a motor vehicle by sale (or taking or retaining a security interest in a motor vehicle) from, that carrier when—

(1) a certificate of title is issued for a motor vehicle under a law of a jurisdiction that requires or permits indication, on a certificate or title, of a security interest in the motor vehicle if the security interest is indicated on the certificate;

(2) a certificate of title has not been issued and the law of the State where the principal place of business of that carrier is located requires or permits public filing or recording of, or in relation to, that security interest if there has been such a public filing or recording; and

(3) a certificate of title has not been issued and the security interest cannot be perfected under paragraph (2) of this subsection, if the security interest has been perfected under the law (including the conflict of laws rules) of the State where the principal place of business of that carrier is located.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 894.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11304 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.

§ 14302. Pooling and division of transportation or earnings

(a) **APPROVAL REQUIRED.**—A carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 may not agree or combine with another such carrier to pool or divide traffic or services or any part of their earnings without the approval of the Board under this section.

(b) **STANDARDS FOR APPROVAL.**—The Board may approve and authorize an agreement or combination between or among motor carriers of passengers, or between a motor carrier of passengers and a rail carrier of passengers if the carriers involved assent to the pooling or division and the Board finds that a pooling or division of traffic, services, or earnings—

(1) will be in the interest of better service to the public or of economy of operation; and

(2) will not unreasonably restrain competition.

(c) **PROCEDURE.**—

(1) **APPLICATION.**—Any motor carrier of property may apply to the Board for approval of an agreement or combination with another such carrier to pool or divide traffic or any services or any part of their earnings by filing such agreement or combination with the Board not less than 50 days before its effective date.

(2) **DETERMINATION OF IMPORTANCE AND RESTRAINT ON COMPETITION.**—Prior to the effective date of the agreement or combination, the Board shall determine whether the agreement or combination is of major transportation importance and whether there is substantial likelihood that the agreement or combination will unduly restrain competition. If the Board determines that neither of these 2 factors exists, it shall, prior to such effective date and without a hearing, approve and authorize the agreement or combination, under such rules and regulations as the Board may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Board to be just and reasonable.

(3) **HEARING.**—If the Board determines either that the agreement or combination is of major transportation importance or that there is substantial likelihood that the agreement or combination will unduly restrain competition, the Board shall hold a hearing concerning whether the agreement or combination will be in the interest of better service to the public or of economy in operation and whether it will unduly restrain competition and shall suspend operation of such agreement or combination pending such hearing and final decision thereon. After such hearing, the Board shall indicate to what extent it finds that the agreement or combination will be in the interest of better service to the public or of economy in operation and will not unduly restrain competition and if assented to by all the carriers involved, shall to that extent, approve and authorize the agreement or combination, under such rules and regulations as the Board may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Board to be just and reasonable.

(4) **SPECIAL RULES FOR HOUSEHOLD GOODS CARRIERS.**—In the case of an application for Board approval of an agreement or combination between a motor carrier providing transportation of household goods and its agents to pool or divide traffic or services or any part of their earnings, such agreement or combination shall be presumed to be in the interest of better service to the public and of economy in operation and not to restrain competition un-

duly if the practices proposed to be carried out under such agreement or combination are the same as or similar to practices carried out under agreements and combinations between motor carriers providing transportation of household goods to pool or divide traffic or service of any part of their earnings approved by the Interstate Commerce Commission before January 1, 1996.

(5) STREAMLINING AND SIMPLIFYING.—The Board shall streamline, simplify, and expedite, to the maximum extent practicable, the process (including any paperwork) for submission and approval of applications under this section for agreements and combinations between motor carriers providing transportation of household goods and their agents.

(d) CONDITIONS.—The Board may impose conditions governing the pooling or division and may approve and authorize payment of a reasonable consideration between the carriers.

(e) INITIATION OF PROCEEDING.—The Board may begin a proceeding under this section on its own initiative or on application.

(f) EFFECT OF APPROVAL.—A carrier may participate in an arrangement approved by or exempted by the Board under this section without the approval of any other Federal, State, or municipal body. A carrier participating in an approved or exempted arrangement is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the arrangement.

(g) CONTINUATION OF EXISTING AGREEMENTS.—Any agreements in operation under the provisions of this title on January 1, 1996, that are succeeded by this section shall remain in effect until further order of the Board.

(h) DEFINITIONS.—In this section, the following definitions apply:

(1) HOUSEHOLD GOODS.—The term “household goods” has the meaning such term had under section 10102(11) of this title, as in effect on December 31, 1995.

(2) TRANSPORTATION.—The term “transportation” means transportation that would be subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title, as in effect on December 31, 1995, if such subchapter were still in effect.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 895; amended Pub. L. 104-287, §5(37), Oct. 11, 1996, 110 Stat. 3392.)

HISTORICAL AND REVISION NOTES

PUB. L. 104-287, §5(37)(A), (B)

This sets out the effective date of 49:14302.

PUB. L. 104-287, §5(37)(C), (D)

This amends 49:14302(h)(1) and (2) for clarity and consistency.

REFERENCES IN TEXT

Section 10102(11) of this title, referred to in subsec. (h)(1), was omitted and a new section 10102 enacted in the general amendment of this subtitle by Pub. L. 104-88, title I, §102(a), Dec. 20, 1995, 109 Stat. 804, 806, effective Jan. 1, 1996.

Subchapter II of chapter 105 of this title, referred to in subsec. (h)(2), was omitted in the general amend-

ment of this subtitle by Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 11341 and 11342 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

AMENDMENTS

1996—Subsec. (c)(4). Pub. L. 104-287, §5(37)(A), substituted “January 1, 1996” for “the effective date of this section”.

Subsec. (g). Pub. L. 104-287, §5(37)(B), substituted “January 1, 1996,” for “the effective date of this section”.

Subsec. (h)(1). Pub. L. 104-287, §5(37)(C), substituted “December 31, 1995” for “the day before the effective date of this section”.

Subsec. (h)(2). Pub. L. 104-287, §5(37)(D), substituted “December 31, 1995” for “the day before such effective date”.

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104-88, set out as a note under section 701 of this title.

§ 14303. Consolidation, merger, and acquisition of control of motor carriers of passengers

(a) APPROVAL REQUIRED.—The following transactions involving motor carriers of passengers subject to jurisdiction under subchapter I of chapter 135 may be carried out only with the approval of the Board:

(1) Consolidation or merger of the properties or franchises of at least 2 carriers into one operation for the ownership, management, and operation of the previously separately owned properties.

(2) A purchase, lease, or contract to operate property of another carrier by any number of carriers.

(3) Acquisition of control of a carrier by any number of carriers.

(4) Acquisition of control of at least 2 carriers by a person that is not a carrier.

(5) Acquisition of control of a carrier by a person that is not a carrier but that controls any number of carriers.

(b) STANDARD FOR APPROVAL.—The Board shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. The Board shall consider at least the following:

(1) The effect of the proposed transaction on the adequacy of transportation to the public.

(2) The total fixed charges that result from the proposed transaction.

(3) The interest of carrier employees affected by the proposed transaction.

The Board may impose conditions governing the transaction.

(c) DETERMINATION OF COMPLETENESS OF APPLICATION.—Within 30 days after the date on which an application is filed under this section, the Board shall either publish a notice of the application in the Federal Register or reject the application if it is incomplete.

(d) COMMENTS.—Written comments about an application may be filed with the Board within 45 days after the date on which notice of the application is published under subsection (c).