

sulted in capacity benefits to other parts of the national airspace system.

(2) OBTAINING NECESSARY DATA.—The Administrator may require participating air carriers and airports to provide data necessary to evaluate the pilot program's impact.

(k) EXTENSION OF PILOT PROGRAM.—At the end of the 2-year period for which the pilot program is authorized, the Administrator, with the concurrence of the Attorney General, may continue the pilot program for an additional 2 years and expand participation in the program to up to 7 additional airports if the Administrator determines pursuant to subsection (j) that the pilot program has facilitated more effective use of air traffic capacity and if the Secretary, with the concurrence of the Attorney General, determines that the pilot program has had no adverse effect on airline competition or the availability of air services to communities. The Administrator shall select the additional airports to participate in the extended pilot program in the same manner in which airports were initially selected to participate.

(Added Pub. L. 108-176, title IV, § 423(a), Dec. 12, 2003, 117 Stat. 2552.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 108-176, which was approved Dec. 12, 2003.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

§ 40130. FAA authority to conduct criminal history record checks

(a) CRIMINAL HISTORY BACKGROUND CHECKS.—

(1) ACCESS TO INFORMATION.—The Administrator of the Federal Aviation Administration, for certification purposes of the Administration only, is authorized—

(A) to conduct, in accordance with the established request process, a criminal history background check of an airman in the criminal repositories of the Federal Bureau of Investigation and States by submitting positive identification of the airman to a fingerprint-based repository in compliance with section 217 of the National Crime Prevention and Privacy Compact Act of 1998 (42 U.S.C. 14616); and

(B) to receive relevant criminal history record information regarding the airman checked.

(2) RELEASE OF INFORMATION.—In accessing a repository referred to in paragraph (1), the Administrator shall be subject to the conditions and procedures established by the Department of Justice or the State, as appropriate, for other governmental agencies conducting background checks for noncriminal justice purposes.

(3) LIMITATION.—The Administrator may not use the authority under paragraph (1) to conduct criminal investigations.

(4) REIMBURSEMENT.—The Administrator may collect reimbursement to process the fingerprint-based checks under this subsection, to be used for expenses incurred, including Federal Bureau of Investigation fees, in providing these services.

(b) DESIGNATED EMPLOYEES.—The Administrator shall designate, by order, employees of the Administration who may carry out the authority described in subsection (a).

(Added Pub. L. 112-95, title VIII, § 802(a), Feb. 14, 2012, 126 Stat. 118.)

SUBPART II—ECONOMIC REGULATION

CHAPTER 411—AIR CARRIER CERTIFICATES

Sec.

- 41101. Requirement for a certificate.
- 41102. General, temporary, and charter air transportation certificates of air carriers.
- 41103. All-cargo air transportation certificates of air carriers.
- 41104. Additional limitations and requirements of charter air carriers.
- 41105. Transfers of certificates.
- 41106. Airlift service.
- 41107. Transportation of mail.
- 41108. Applications for certificates.
- 41109. Terms of certificates.
- 41110. Effective periods and amendments, modifications, suspensions, and revocations of certificates.
- 41111. Simplified procedure to apply for, amend, modify, suspend, and transfer certificates.
- 41112. Liability insurance and financial responsibility.
- 41113. Plans to address needs of families of passengers involved in aircraft accidents.

AMENDMENTS

1996—Pub. L. 104-264, title VII, § 703(b), Oct. 9, 1996, 110 Stat. 3268, added item 41113.

§ 41101. Requirement for a certificate

(a) GENERAL.—Except as provided in this chapter or another law—

(1) an air carrier may provide air transportation only if the air carrier holds a certificate issued under this chapter authorizing the air transportation;

(2) a charter air carrier may provide charter air transportation only if the charter air carrier holds a certificate issued under this chapter authorizing the charter air transportation; and

(3) an air carrier may provide all-cargo air transportation only if the air carrier holds a certificate issued under this chapter authorizing the all-cargo air transportation.

(b) THROUGH SERVICE AND JOINT TRANSPORTATION.—A citizen of the United States providing transportation in a State of passengers or property as a common carrier for compensation with aircraft capable of carrying at least 30 passengers, under authority granted by the appropriate State authority—

(1) may provide transportation for passengers and property that includes through service by the citizen over its routes in the State and in air transportation by an air carrier or foreign air carrier; and

(2) subject to sections 41309 and 42111 of this title, may make an agreement with an air car-

rier or foreign air carrier to provide the joint transportation.

(c) PROPRIETARY OR EXCLUSIVE RIGHT NOT CONFERRED.—A certificate issued under this chapter does not confer a proprietary or exclusive right to use airspace, an airway of the United States, or an air navigation facility.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1118.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--|---|
| 41101(a)(1) .. | 49 App.:1371(a). | Aug. 23, 1958, Pub. L. 85-726, §401(a), (i), 72 Stat. 754, 756. |
| 41101(a)(2) .. | 49 App.:1301(14) (related to certificate). | Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §101(14) (related to certificate); added Oct. 24, 1978, Pub. L. 95-504, §2(a)(1), 92 Stat. 1705. |
| 41101(a)(3) .. | (no source). | |
| 41101(b) | 49 App.:1371(d) (4)(A)(i), (ii) (related to joint services). | Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §401(d) (4)(A)(i), (ii) (related to joint services); added Nov. 9, 1977, Pub. L. 95-163, §9, 91 Stat. 1281; restated Oct. 24, 1978, Pub. L. 95-504, §9, 92 Stat. 1713. |
| 41101(c) | 49 App.:1371(i). | |

In subsections (a)(2) and (c), the words “issued under this chapter” are added for clarity.

In subsection (a), the word “provide” is substituted for “engage in” for consistency in the revised title. The words before clause (1) are added to inform the reader that other provisions of the chapter and other laws qualify the requirement of being licensed by the Secretary of Transportation. In clause (1), the word “holds” is substituted for “there is in force” to eliminate unnecessary words. The words “under this chapter” are substituted for “by the Board” for clarity. In clause (2), the words “of public convenience and necessity” are omitted as surplus. Clause (3) is included to inform the reader at the beginning of this chapter about all of the types of certificates and permits that the Secretary may issue under this subchapter.

In subsection (b), the word “passengers” is substituted for “persons” for consistency in the revised title. Before clause (1), the words “Notwithstanding any other provision of this chapter” are omitted as surplus. The words “providing transportation” are substituted for “undertakes . . . the carriage of” for consistency in the revised title. The words “or hire” are omitted as surplus and for consistency. The words “for such carriage within such State” are omitted as surplus. In clause (1), the words “through service” are substituted for “transportation” the first time it appears for clarity. In clause (2), the words “the requirements of” and “for such through services” are omitted as surplus.

In subsection (c), the word “property” is omitted as surplus. The words “landing area” are omitted because they are included in the definition of “air navigation facility” in section 40102(a) of the revised title.

§ 41102. General, temporary, and charter air transportation certificates of air carriers

(a) ISSUANCE.—The Secretary of Transportation may issue a certificate of public convenience and necessity to a citizen of the United States authorizing the citizen to provide any part of the following air transportation the citizen has applied for under section 41108 of this title:

- (1) air transportation as an air carrier.
- (2) temporary air transportation as an air carrier for a limited period.

(3) charter air transportation as a charter air carrier.

(b) FINDINGS REQUIRED FOR ISSUANCE.—(1) Before issuing a certificate under subsection (a) of this section, the Secretary must find that the citizen is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this part and regulations of the Secretary.

(2) In addition to the findings under paragraph (1) of this subsection, the Secretary, before issuing a certificate under subsection (a) of this section for foreign air transportation, must find that the transportation is consistent with the public convenience and necessity.

(c) TEMPORARY CERTIFICATES.—The Secretary may issue a certificate under subsection (a) of this section for interstate air transportation (except the transportation of passengers) or foreign air transportation for a temporary period of time (whether the application is for permanent or temporary authority) when the Secretary decides that a test period is desirable—

- (1) to decide if the projected services, efficiencies, methods, and prices and the projected results will materialize and remain for a sustained period of time; or
- (2) to evaluate the new transportation.

(d) FOREIGN AIR TRANSPORTATION.—The Secretary shall submit each decision authorizing the provision of foreign air transportation to the President under section 41307 of this title.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1119.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--|---|
| 41102(a) | 49 App.:1371(d)(1) (words before 1st comma and after semicolon); (2) (1st-32d words). 49 App.:1371(d)(3) (words before 6th comma). 49 App.:1551(b)(1)(E). | Aug. 23, 1958, Pub. L. 85-726, §401(d)(1), (2), 72 Stat. 755; Oct. 24, 1978, Pub. L. 95-504, §8, 92 Stat. 1712; restated Feb. 15, 1980, Pub. L. 96-192, §4, 94 Stat. 37. Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §401(d)(3); added July 10, 1962, Pub. L. 87-528, §2, 76 Stat. 143; Oct. 24, 1978, Pub. L. 95-504, §8, 92 Stat. 1712; restated Feb. 15, 1980, Pub. L. 96-192, §4, 94 Stat. 37. Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b) (1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704. |
| 41102(b)(1) .. | 49 App.:1371(d)(1) (words between 1st and last commas), (2) (42d-last words), (3) (words after 7th comma). | |
| 41102(b)(2) .. | 49 App.:1551(b)(1)(E). 49 App.:1371(d)(1) (words between last comma and semicolon); (2) (33d-41st words), (3) (words between 6th and 7th commas). 49 App.:1551(a)(1)(A). | |
| 41102(c) | 49 App.:1551(b)(1)(E). 49 App.:1371(d)(8) (1st sentence). 49 App.:1551(a)(1)(B), (b)(1)(E). | Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(a) (1)(A), (B); added Oct. 24, 1978, Pub. L. 95-504, §40(a), 92 Stat. 1744. Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §401(d)(8) (1st sentence); added Oct. 24, 1978, Pub. L. 95-504, §13, 92 Stat. 1718. |