

Pub. L. 99-521, §5(a), Oct. 22, 1986, 100 Stat. 2994, related to intervention in Commission proceedings.

Section 10329, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1351; Pub. L. 99-521, §5(b), Oct. 22, 1986, 100 Stat. 2994, related to service of notice in Commission proceedings.

Section 10330, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1352, related to service of process in court proceedings.

Section 10341, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1352, authorized Commission to refer matters to joint boards.

Section 10342, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1353, related to establishment and membership of joint boards.

Section 10343, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1353, related to powers of joint boards.

Section 10344, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1354; Pub. L. 96-296, §36, July 1, 1980, 94 Stat. 826, related to administration and proceedings of joint boards.

Section 10361, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1355, related to Rail Services Planning Office.

Section 10362, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1355; Pub. L. 98-216, §2(5)-(7), Feb. 14, 1984, 98 Stat. 5; Pub. L. 99-509, title IV, §4033(c)(7), Oct. 21, 1986, 100 Stat. 1909; Pub. L. 103-272, §4(j)(13), July 5, 1994, 108 Stat. 1368, related to duties of Rail Services Planning Office.

Section 10363, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1356; Pub. L. 103-272, §4(j)(14), July 5, 1994, 108 Stat. 1369, related to appointment and duties of Director of Rail Services Planning Office.

Section 10364, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1356; Pub. L. 103-272, §5(m)(15), July 5, 1994, 108 Stat. 1377, related to powers of and assistance to Director.

Section 10381, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1357, related to Office of Rail Public Counsel.

Section 10382, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1357; Pub. L. 96-258, §1(3), June 3, 1980, 94 Stat. 425, related to duties and standing of Office of Rail Public Counsel.

Section 10383, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1357; Pub. L. 103-272, §4(j)(14), July 5, 1994, 108 Stat. 1369, related to duties and appointment of Director of Office of Rail Public Counsel.

Section 10384, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1358, related to staff of Office of Rail Public Counsel.

Section 10385, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1358; Pub. L. 103-272, §5(m)(15), July 5, 1994, 108 Stat. 1377, related to powers of Office of Rail Public Counsel.

Section 10386, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1358, related to reports concerning activities of Office of Rail Public Counsel.

Section 10387, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1358, related to budget requests and estimates of Office of Rail Public Counsel.

Section 10388, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1358; Pub. L. 96-73, title III, §301, Sept. 29, 1979, 93 Stat. 557, authorized appropriations for Office of Rail Public Counsel for fiscal year ending Sept. 30, 1980.

CHAPTER 105—JURISDICTION

| | |
|--------|--|
| Sec. | |
| 10501. | General jurisdiction. |
| 10502. | Authority to exempt rail carrier transportation. |

§ 10501. General jurisdiction

(a)(1) Subject to this chapter, the Board has jurisdiction over transportation by rail carrier that is—

(A) only by railroad; or

(B) by railroad and water, when the transportation is under common control, management, or arrangement for a continuous carriage or shipment.

(2) Jurisdiction under paragraph (1) applies only to transportation in the United States between a place in—

(A) a State and a place in the same or another State as part of the interstate rail network;

(B) a State and a place in a territory or possession of the United States;

(C) a territory or possession of the United States and a place in another such territory or possession;

(D) a territory or possession of the United States and another place in the same territory or possession;

(E) the United States and another place in the United States through a foreign country; or

(F) the United States and a place in a foreign country.

(b) The jurisdiction of the Board over—

(1) transportation by rail carriers, and the remedies provided in this part with respect to rates, classifications, rules (including car service, interchange, and other operating rules), practices, routes, services, and facilities of such carriers; and

(2) the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks, or facilities, even if the tracks are located, or intended to be located, entirely in one State,

is exclusive. Except as otherwise provided in this part, the remedies provided under this part with respect to regulation of rail transportation are exclusive and preempt the remedies provided under Federal or State law.

(c)(1) In this subsection—

(A) the term “local governmental authority”—

(i) has the same meaning given that term by section 5302(a)¹ of this title; and

(ii) includes a person or entity that contracts with the local governmental authority to provide transportation services; and

(B) the term “mass transportation” means transportation services described in section 5302(a)¹ of this title that are provided by rail.

(2) Except as provided in paragraph (3), the Board does not have jurisdiction under this part over—

(A) mass transportation provided by a local government authority; or

(B) a solid waste rail transfer facility as defined in section 10908 of this title, except as provided under sections 10908 and 10909 of this title.

(3)(A) Notwithstanding paragraph (2) of this subsection, a local governmental authority, described in paragraph (2), is subject to applicable laws of the United States related to—

(i) safety;

(ii) the representation of employees for collective bargaining; and

(iii) employment, retirement, annuity, and unemployment systems or other provisions related to dealings between employees and employers.

(B) The Board has jurisdiction under sections 11102 and 11103 of this title over transportation

¹ See References in Text note below.

provided by a local governmental authority only if the Board finds that such governmental authority meets all of the standards and requirements for being a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission that were in effect immediately before January 1, 1996. The enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of employees and employers by the Railway Labor Act, the Railroad Retirement Act of 1974, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act.

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 807; amended Pub. L. 104-287, §5(21), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 110-432, div. A, title VI, §602, Oct. 16, 2008, 122 Stat. 4900.)

REFERENCES IN TEXT

Section 5302 of this title, referred to in subsec. (c)(1)(A)(i), (B), was amended generally by Pub. L. 112-141, div. B, §20004, July 6, 2012, 126 Stat. 623, and, as so amended, no longer contains a subsec. (a) or a definition of “mass transportation”. However, the term “local governmental authority” is defined elsewhere in that section.

The ICC Termination Act of 1995, referred to in subsec. (c)(3)(B), is Pub. L. 104-88, Dec. 29, 1995, 109 Stat. 803. For complete classification of this Act to the Code, see Short Title of 1995 Amendment note set out under section 101 of this title and Tables.

The Railway Labor Act, referred to in subsec. (c)(3)(B), is act May 20, 1926, ch. 347, 44 Stat. 577, as amended, which is classified principally to chapter 8 (§151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

The Railroad Retirement Act of 1974, referred to in subsec. (c)(3)(B), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93-445, title I, §101, Oct. 16, 1974, 88 Stat. 1305, which is classified generally to subchapter IV (§231 et seq.) of chapter 9 of Title 45. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of Title 45, section 231t of Title 45, and Tables.

The Railroad Retirement Tax Act, referred to in subsec. (c)(3)(B), is act Aug. 16, 1954, ch. 736, §§3201, 3202, 3211, 3212, 3221, and 3231 to 3233, 68A Stat. 431, as amended, which is classified generally to chapter 22 (§3201 et seq.) of Title 26, Internal Revenue Code. For complete classification of this Act to the Code, see section 3233 of Title 26 and Tables.

The Railroad Unemployment Insurance Act, referred to in subsec. (c)(3)(B), is act June 25, 1938, ch. 680, 52 Stat. 1094, as amended, which is classified principally to chapter 11 (§351 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 367 of Title 45 and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 10501 and 10504 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

A prior section 10501, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1359; Pub. L. 96-448, title II, §214(c)(3)-(5), Oct. 14, 1980, 94 Stat. 1915; Pub. L. 103-272, §4(j)(15), July 5, 1994, 108 Stat. 1369, related to jurisdiction of the Interstate Commerce Commission, prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a). See sections 10501 and 15301 of this title.

AMENDMENTS

2008—Subsec. (c)(2). Pub. L. 110-432 amended par. (2) generally. Prior to amendment, text read as follows:

“Except as provided in paragraph (3), the Board does not have jurisdiction under this part over mass transportation provided by a local governmental authority.” 1996—Subsec. (c)(3)(B). Pub. L. 104-287 substituted “January 1, 1996” for “the effective date of the ICC Termination Act of 1995”.

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.

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.

§ 10502. Authority to exempt rail carrier transportation

(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Board under this part, the Board, to the maximum extent consistent with this part, shall exempt a person, class of persons, or a transaction or service whenever the Board finds that the application in whole or in part of a provision of this part—

(1) is not necessary to carry out the transportation policy of section 10101 of this title; and

(2) either—

(A) the transaction or service is of limited scope; or

(B) the application in whole or in part of the provision is not needed to protect shippers from the abuse of market power.

(b) The Board may, where appropriate, begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party. The Board shall, within 90 days after receipt of any such application, determine whether to begin an appropriate proceeding. If the Board decides not to begin a class exemption proceeding, the reasons for the decision shall be published in the Federal Register. Any proceeding begun as a result of an application under this subsection shall be completed within 9 months after it is begun.

(c) The Board may specify the period of time during which an exemption granted under this section is effective.

(d) The Board may revoke an exemption, to the extent it specifies, when it finds that application in whole or in part of a provision of this part to the person, class, or transportation is necessary to carry out the transportation policy of section 10101 of this title. The Board shall, within 90 days after receipt of a request for revocation under this subsection, determine whether to begin an appropriate proceeding. If the Board decides not to begin a proceeding to revoke a class exemption, the reasons for the decision shall be published in the Federal Register. Any proceeding begun as a result of a request under this subsection shall be completed within 9 months after it is begun.

(e) No exemption order issued pursuant to this section shall operate to relieve any rail carrier from an obligation to provide contractual terms for liability and claims which are consistent with the provisions of section 11706 of this title. Nothing in this subsection or section 11706 of