

## 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.

## § 13102. Definitions

In this part, the following definitions shall apply:

(1) BOARD.—The term “Board” means the Surface Transportation Board.

(2) BROKER.—The term “broker” means a person, other than a motor carrier or an employee or agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by motor carrier for compensation.

(3) CARRIER.—The term “carrier” means a motor carrier, a water carrier, and a freight forwarder.

(4) CONTRACT CARRIAGE.—The term “contract carriage” means—

(A) for transportation provided before January 1, 1996, service provided pursuant to a permit issued under section 10923, as in effect on December 31, 1995; and

(B) for transportation provided after December 31, 1995, service provided under an agreement entered into under section 14101(b).

(5) CONTROL.—The term “control”, when referring to a relationship between persons, includes actual control, legal control, and the power to exercise control, through or by—

(A) common directors, officers, stockholders, a voting trust, or a holding or investment company, or

(B) any other means.

(6) FOREIGN MOTOR CARRIER.—The term “foreign motor carrier” means a person (including a motor carrier of property but excluding a motor private carrier)—

(A)(i) that is domiciled in a contiguous foreign country; or

(ii) that is owned or controlled by persons of a contiguous foreign country; and

(B) in the case of a person that is not a motor carrier of property, that provides interstate transportation of property by motor vehicle under an agreement or contract entered into with a motor carrier of property (other than a motor private carrier or a motor carrier of property described in subparagraph (A)).

(7) FOREIGN MOTOR PRIVATE CARRIER.—The term “foreign motor private carrier” means a person (including a motor private carrier but excluding a motor carrier of property)—

(A)(i) that is domiciled in a contiguous foreign country; or

(ii) that is owned or controlled by persons of a contiguous foreign country; and

(B) in the case of a person that is not a motor private carrier, that provides interstate transportation of property by motor vehicle under an agreement or contract entered into with a person (other than a motor carrier of property or a motor private carrier described in subparagraph (A)).

(8) FREIGHT FORWARDER.—The term “freight forwarder” means a person holding itself out to the general public (other than as a pipeline, rail, motor, or water carrier) to provide transportation of property for compensation and in the ordinary course of its business—

(A) assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments;

(B) assumes responsibility for the transportation from the place of receipt to the place of destination; and

(C) uses for any part of the transportation a carrier subject to jurisdiction under this subtitle.

The term does not include a person using transportation of an air carrier subject to part A of subtitle VII.

(9) HIGHWAY.—The term “highway” means a road, highway, street, and way in a State.

(10) HOUSEHOLD GOODS.—The term “household goods”, as used in connection with transportation, means personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of such dwelling, and similar property if the transportation of such effects or property is—

(A) arranged and paid for by the householder, except such term does not include property moving from a factory or store, other than property that the householder has purchased with the intent to use in his or her dwelling and is transported at the request of, and the transportation charges are paid to the carrier by, the householder; or

(B) arranged and paid for by another party.

(11) HOUSEHOLD GOODS FREIGHT FORWARDER.—The term “household goods freight forwarder” means a freight forwarder of one or more of the following items: household goods, unaccompanied baggage, or used automobiles.

(12) HOUSEHOLD GOODS MOTOR CARRIER.—

(A) IN GENERAL.—The term “household goods motor carrier” means a motor carrier that, in the ordinary course of its business of providing transportation of household goods, offers some or all of the following additional services:

(i) Binding and nonbinding estimates.

(ii) Inventorying.

(iii) Protective packing and unpacking of individual items at personal residences.

(iv) Loading and unloading at personal residences.

(B) INCLUSION.—The term includes any person that is considered to be a household goods motor carrier under regulations, determinations, and decisions of the Federal Motor Carrier Safety Administration that are in effect on the date of enactment of the Household Goods Mover Oversight Enforcement and Reform Act of 2005.

(C) LIMITED SERVICE EXCLUSION.—The term does not include a motor carrier when the motor carrier provides transportation of household goods in containers or trailers that are entirely loaded and unloaded by an individual (other than an employee or agent of the motor carrier).

(13) **INDIVIDUAL SHIPPER.**—The term “individual shipper” means any person who—

(A) is the shipper, consignor, or consignee of a household goods shipment;

(B) is identified as the shipper, consignor, or consignee on the face of the bill of lading;

(C) owns the goods being transported; and

(D) pays his or her own tariff transportation charges.

(14) **MOTOR CARRIER.**—The term “motor carrier” means a person providing motor vehicle transportation for compensation.

(15) **MOTOR PRIVATE CARRIER.**—The term “motor private carrier” means a person, other than a motor carrier, transporting property by motor vehicle when—

(A) the transportation is as provided in section 13501 of this title;

(B) the person is the owner, lessee, or bailee of the property being transported; and

(C) the property is being transported for sale, lease, rent, or bailment or to further a commercial enterprise.

(16) **MOTOR VEHICLE.**—The term “motor vehicle” means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway in transportation, or a combination determined by the Secretary, but does not include a vehicle, locomotive, or car operated only on a rail, or a trolley bus operated by electric power from a fixed overhead wire, and providing local passenger transportation similar to street-railway service.

(17) **NONCONTIGUOUS DOMESTIC TRADE.**—The term “noncontiguous domestic trade” means transportation subject to jurisdiction under chapter 135 involving traffic originating in or destined to Alaska, Hawaii, or a territory or possession of the United States.

(18) **PERSON.**—The term “person”, in addition to its meaning under section 1 of title 1, includes a trustee, receiver, assignee, or personal representative of a person.

(19) **PRE-ARRANGED GROUND TRANSPORTATION SERVICE.**—The term “pre-arranged ground transportation service” means transportation for a passenger (or a group of passengers) that is arranged in advance (or is operated on a regular route or between specified points) and is provided in a motor vehicle with a seating capacity not exceeding 15 passengers (including the driver).

(20) **SECRETARY.**—The term “Secretary” means the Secretary of Transportation.

(21) **STATE.**—The term “State” means the 50 States of the United States and the District of Columbia.

(22) **TAXICAB SERVICE.**—The term “taxicab service” means passenger transportation in a motor vehicle having a capacity of not more than 8 passengers (including the driver), not operated on a regular route or between specified places, and that—

(A) is licensed as a taxicab by a State or a local jurisdiction; or

(B) is offered by a person that—

(i) provides local transportation for a fare determined (except with respect to transportation to or from airports) pri-

marily on the basis of the distance traveled; and

(ii) does not primarily provide transportation to or from airports.

(23) **TRANSPORTATION.**—The term “transportation” includes—

(A) a motor vehicle, vessel, warehouse, wharf, pier, dock, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, regardless of ownership or an agreement concerning use; and

(B) services related to that movement, including arranging for, receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, handling, packing, unpacking, and interchange of passengers and property.

(24) **UNITED STATES.**—The term “United States” means the States of the United States and the District of Columbia.

(25) **VESSEL.**—The term “vessel” means a watercraft or other artificial contrivance that is used, is capable of being used, or is intended to be used, as a means of transportation by water.

(26) **WATER CARRIER.**—The term “water carrier” means a person providing water transportation for compensation.

(27) **OVER-THE-ROAD BUS.**—The term “over-the-road bus” means a bus characterized by an elevated passenger deck located over a baggage compartment.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 854; amended Pub. L. 104-287, § 5(27), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 106-159, title II, § 209(a), Dec. 9, 1999, 113 Stat. 1764; Pub. L. 107-298, § 3(a), Nov. 26, 2002, 116 Stat. 2343; Pub. L. 109-59, title IV, §§ 4142(a), 4202(b), Aug. 10, 2005, 119 Stat. 1747, 1751; Pub. L. 110-244, title III, § 305(c), June 6, 2008, 122 Stat. 1620; Pub. L. 110-291, § 3, July 30, 2008, 122 Stat. 2915.)

#### HISTORICAL AND REVISION NOTES

PUB. L. 104-287, § 5(27)(A)

This amends 49:13102(4)(A) by setting out the effective date of the ICC Termination Act of 1995 (Public Law 104-88, 109 Stat. 803) and the day before that date.

PUB. L. 104-287, § 5(27)(B)

This amends 49:13102(4)(B) for clarity and consistency.

#### REFERENCES IN TEXT

Section 10923, referred to in par. (4)(A), was omitted in the general amendment of this subtitle by Pub. L. 104-88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

The date of enactment of the Household Goods Mover Oversight Enforcement and Reform Act of 2005, referred to in par. (12)(B), is the date of enactment of subtitle B of title IV of Pub. L. 109-59, which was approved Aug. 10, 2005.

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10102 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

#### AMENDMENTS

2008—Pars. (6)(B), (7)(B), (14), (15). Pub. L. 110-244 substituted “motor vehicle” for “commercial motor vehicle (as defined in section 31132)”.

Par. (27). Pub. L. 110-291 added par. (27).  
 2005—Pars. (6)(B), (7)(B). Pub. L. 109-59, § 4142(a), substituted “commercial motor vehicle (as defined in section 31132)” for “motor vehicle”.

Par. (12). Pub. L. 109-59, § 4202(b), added par. (12). Former par. (12) redesignated (14).

Pub. L. 109-59, § 4142(a), substituted “commercial motor vehicle (as defined in section 31132)” for “motor vehicle”.

Par. (13). Pub. L. 109-59, § 4202(b), added par. (13). Former par. (13) redesignated (15).

Pub. L. 109-59, § 4142(a), substituted “commercial motor vehicle (as defined in section 31132)” for “motor vehicle” in introductory provisions.

Pars. (14) to (26). Pub. L. 109-59, § 4202(b), redesignated pars. (12) to (24) as (14) to (26), respectively.

2002—Pars. (17) to (24). Pub. L. 107-298 added pars. (17) and (20) and redesignated former pars. (17), (18), (19), (20), (21), and (22) as pars. (18), (19), (21), (22), (23), and (24), respectively.

1999—Par. (10)(A). Pub. L. 106-159 substituted “, except such term does not include property moving from a factory or store, other than property that the householder has purchased with the intent to use in his or her dwelling and is transported at the request of, and the transportation charges are paid to the carrier by, the householder;” for “, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in his or her dwelling;”.

1996—Par. (4)(A). Pub. L. 104-287, § 5(27)(A), substituted “January 1, 1996” for “the effective date of this section” and “December 31, 1995” for “the day before the effective date of this section”.

Par. (4)(B). Pub. L. 104-287, § 5(27)(B), substituted “after December 31, 1995” for “on or after such date”.

APPLICATION OF CERTAIN PROVISIONS OF LAW

Pub. L. 109-59, title IV, § 4202(c), Aug. 10, 2005, 119 Stat. 1752, provided that: “The provisions of title 49, United States Code, and this subtitle [subtitle B (§§ 4201-4216) of title IV of Pub. L. 109-59, see Short Title of 2005 Amendment note set out under section 10101 of this title] (including any amendments made by this subtitle), that relate to the transportation of household goods apply only to a household goods motor carrier (as defined in section 13102 of title 49, United States Code).”

DEFINITIONS

Pub. L. 109-59, title IV, § 4202(a), Aug. 10, 2005, 119 Stat. 1751, provided that: “In this subtitle [subtitle B (§§ 4201-4216) of title IV of Pub. L. 109-59, see Short Title of 2005 Amendment note set out under section 10101 of this title], the terms ‘carrier’, ‘household goods’, ‘motor carrier’, ‘Secretary’, and ‘transportation’ have the meaning given to such terms in section 13102 of title 49, United States Code.”

§ 13103. Remedies as cumulative

Except as otherwise provided in this part, the remedies provided under this part are in addition to remedies existing under another law or common law.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 856.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10103 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

CHAPTER 133—ADMINISTRATIVE PROVISIONS

Sec.  
 13301. Powers.

Sec.  
 13302. Intervention.  
 13303. Service of notice in proceedings.  
 13304. Service of process in court proceedings.

§ 13301. Powers

(a) GENERAL POWERS OF SECRETARY.—Except as otherwise specified, the Secretary shall carry out this part. Enumeration of a power of the Secretary in this part does not exclude another power the Secretary may have in carrying out this part. The Secretary may prescribe regulations in carrying out this part.

(b) OBTAINING INFORMATION.—The Secretary may obtain from carriers providing, and brokers for, transportation and service subject to this part, and from persons controlling, controlled by, or under common control with those carriers or brokers to the extent that the business of that person is related to the management of the business of that carrier or broker, information the Secretary decides is necessary to carry out this part.

(c) SUBPOENA POWER.—

(1) BY SECRETARY.—The Secretary may subpoena witnesses and records related to a proceeding under this part from any place in the United States, to the designated place of the proceeding. If a witness disobeys a subpoena, the Secretary, or a party to a proceeding under this part, may petition a court of the United States to enforce that subpoena.

(2) ENFORCEMENT.—The district courts of the United States have jurisdiction to enforce a subpoena issued under this section. Trial is in the district in which the proceeding is conducted. The court may punish a refusal to obey a subpoena as a contempt of court.

(d) TESTIMONY OF WITNESSES.—

(1) PROCEDURE FOR TAKING TESTIMONY.—In a proceeding under this part, the Secretary may take the testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding pending under this part may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding is at issue on petition and answer.

(2) SUBPOENA.—If a witness fails to be deposed or to produce records under paragraph (1) of this subsection, the Secretary may subpoena the witness to take a deposition, produce the records, or both.

(3) DEPOSITIONS.—A deposition may be taken before a judge of a court of the United States, a United States magistrate judge, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding.

(4) NOTICE OF DEPOSITION.—Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

(5) TRANSCRIPT.—The testimony of a person deposed under this subsection shall be taken