

(7) ORAL PRESENTATION OF EVIDENCE.—The arbitrator may provide for an oral presentation of a dispute concerning transportation of household goods by a party to the dispute (or a party's representative), but such oral presentation may be made only if all parties to the dispute expressly agree to such presentation and the date, time, and location of such presentation.

(8) DEADLINE FOR DECISION.—The arbitrator must, as expeditiously as possible but at least within 60 days of receipt of written notification of the dispute, render a decision based on the information gathered; except that, in any case in which a party to the dispute fails to provide in a timely manner any information concerning such dispute which the person settling the dispute may reasonably require to resolve the dispute, the arbitrator may extend such 60-day period for a reasonable period of time. A decision resolving a dispute may include any remedies appropriate under the circumstances, including repair, replacement, refund, reimbursement for expenses, compensation for damages, and an order requiring the payment of additional carrier charges.

(c) LIMITATION ON USE OF MATERIALS.—Materials and information obtained in the course of a decision making process to settle a dispute by arbitration under this section may not be used to bring an action under section 14905.

(d) ATTORNEY'S FEES TO SHIPPERS.—In any court action to resolve a dispute between a shipper of household goods and a carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 concerning the transportation of household goods by such carrier, the shipper shall be awarded reasonable attorney's fees if—

(1) the shipper submits a claim to the carrier within 120 days after the date the shipment is delivered or the date the delivery is scheduled, whichever is later;

(2) the shipper prevails in such court action; and

(3)(A) the shipper was not advised by the carrier during the claim settlement process that a dispute settlement program was available to resolve the dispute;

(B) a decision resolving the dispute was not rendered through arbitration under this section within the period provided under subsection (b)(8) of this section or an extension of such period under such subsection; or

(C) the court proceeding is to enforce a decision rendered through arbitration under this section and is instituted after the period for performance under such decision has elapsed.

(e) ATTORNEY'S FEES TO CARRIERS.—In any court action to resolve a dispute between a shipper of household goods and a carrier providing transportation, or service subject to jurisdiction under subchapter I or III of chapter 135 concerning the transportation of household goods by such carrier, such carrier may be awarded reasonable attorney's fees by the court only if the shipper brought such action in bad faith—

(1) after resolution of such dispute through arbitration under this section; or

(2) after institution of an arbitration proceeding by the shipper to resolve such dispute under this section but before—

(A) the period provided under subsection (b)(8) for resolution of such dispute (including, if applicable, an extension of such period under such subsection) ends; and

(B) a decision resolving such dispute is rendered.

(f) LIMITATION OF APPLICABILITY TO COLLECT-ON-DELIVERY TRANSPORTATION.—The provisions of this section shall apply only in the case of collect-on-delivery transportation of household goods.

(g) REVIEW BY SECRETARY.—Not later than 18 months after January 1, 1996, the Secretary shall complete a review of the dispute settlement program established under this section. If, after notice and opportunity for comment, the Secretary determines that changes are necessary to such program to ensure the fair and equitable resolution of disputes under this section, the Secretary shall implement such changes and transmit a report to Congress on such changes.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 910; amended Pub. L. 104-287, §5(38), Oct. 11, 1996, 110 Stat. 3392; Pub. L. 106-159, title II, §209(b), Dec. 9, 1999, 113 Stat. 1764; Pub. L. 109-59, title IV, §4208, Aug. 10, 2005, 119 Stat. 1757.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11711 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

AMENDMENTS

2005—Subsec. (a). Pub. L. 109-59, §4208(a), inserted “and to determine whether carrier charges, in addition to those collected at delivery, must be paid by shippers for transportation and services related to transportation of household goods” before period at end.

Subsec. (b)(6). Pub. L. 109-59, §4208(b), substituted “\$10,000” for “\$5,000” in two places.

Subsec. (b)(8). Pub. L. 109-59, §4208(c), substituted “compensation for damages, and an order requiring the payment of additional carrier charges” for “and compensation for damages”.

Subsec. (d)(3). Pub. L. 109-59, §4208(d), added subpar. (A) and redesignated former subpars. (A) and (B) as (B) and (C), respectively.

1999—Subsec. (b)(6). Pub. L. 106-159 substituted “\$5000” for “\$1000” in two places.

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

§ 14709. Tariff reconciliation rules for motor carriers of property

Subject to review and approval by the Board, motor carriers subject to jurisdiction under subchapter I of chapter 135 (other than motor carriers providing transportation of household goods) and shippers may resolve, by mutual consent, overcharge and under-charge claims resulting from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed upon rates, rules, or classifications in compliance with section 13702 or, with respect to transportation provided before January 1, 1996, sections 10761 and 10762, as in effect on December 31,

1995. Resolution of such claims among the parties shall not subject any party to the penalties for departing from a tariff.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 912; amended Pub. L. 104-287, § 5(39), Oct. 11, 1996, 110 Stat. 3392.)

HISTORICAL AND REVISION NOTES

PUB. L. 104-287

This amends 49:14709 by setting out the effective date of 49:14709 and for clarity and consistency.

REFERENCES IN TEXT

Sections 10761 and 10762, referred to in text, were 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.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11712 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

AMENDMENTS

1996—Pub. L. 104-287 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”.

§ 14710. Enforcement of Federal laws and regulations with respect to transportation of household goods

(a) ENFORCEMENT BY STATES.—Notwithstanding any other provision of this title, a State authority may enforce the consumer protection provisions of this title that apply to individual shippers, as determined by the Secretary, and are related to the delivery and transportation of household goods in interstate commerce. Any fine or penalty imposed on a carrier in a proceeding under this subsection shall be paid, notwithstanding any other provision of law, to and retained by the State.

(b) NOTICE.—The State shall serve written notice to the Secretary or the Board, as the case may be, of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide the notice immediately upon instituting such civil action.

(c) ENFORCEMENT ASSISTANCE OUTREACH PLAN.—The Federal Motor Carrier Safety Administration shall implement an outreach plan to enhance the coordination and effective enforcement of Federal laws and regulations with respect to transportation of household goods between and among Federal and State law enforcement and consumer protection authorities. The outreach shall include, as appropriate, local law enforcement and consumer protection authorities.

(d) STATE AUTHORITY DEFINED.—In this section, the term “State authority” means an agency of a State that has authority under the laws of the State to regulate the intrastate movement of household goods.

(Added Pub. L. 109-59, title IV, § 4206(b)(1), Aug. 10, 2005, 119 Stat. 1754; amended Pub. L. 109-115, div. A, title I, § 173(a), (b), Nov. 30, 2005, 119 Stat. 2426.)

AMENDMENTS

2005—Subsec. (a). Pub. L. 109-115, § 173(a), (e), temporarily substituted “a State authority other than the attorney general of the state may, as *parens patriae*,” for “a State authority may” in first sentence and inserted second sentence which read as follows: “Any civil action for injunctive relief to enjoin such delivery or transportation or to compel a person to pay a fine or penalty assessed under chapter 149 shall be brought in an appropriate district court of the United States.” See Termination Date of 2005 Amendment note below.

Subsec. (b). Pub. L. 109-115, § 173(b), (e), temporarily amended subsec. (b) to read as follows: “EXERCISE OF ENFORCEMENT AUTHORITY.—The authority of this section shall be exercised subject to the requirements of sections 14711(b)–(f) of this title.” See Termination Date of 2005 Amendment note below.

TERMINATION DATE OF 2005 AMENDMENT

Pub. L. 109-115, div. A, title I, § 173(e), Nov. 30, 2005, 119 Stat. 2426, provided that: “The amendments made by this section [amending this section and section 14711 of this title] shall cease to be in effect after September 30, 2006.”

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to “this title” deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111-314, set out as a note under section 101 of this title.

WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS

Pub. L. 109-59, title IV, § 4213, Aug. 10, 2005, 119 Stat. 1759, as amended by Pub. L. 111-147, title IV, § 422(j), Mar. 18, 2010, 124 Stat. 87; Pub. L. 111-322, title II, § 2202(j), Dec. 22, 2010, 124 Stat. 3525; Pub. L. 112-5, title II, § 202(j), Mar. 4, 2011, 125 Stat. 17; Pub. L. 112-30, title I, § 122(i), Sept. 16, 2011, 125 Stat. 349; Pub. L. 112-102, title II, § 202(i), Mar. 30, 2012, 126 Stat. 274; Pub. L. 112-140, title II, § 202(i), June 29, 2012, 126 Stat. 395; Pub. L. 112-141, div. G, title II, § 112002(f), July 6, 2012, 126 Stat. 983, provided that:

“(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Aug. 10, 2005], the Secretary shall establish a working group of State attorneys general, State consumer protection administrators, and Federal and local law enforcement officials for the purpose of developing practices and procedures to enhance the Federal-State partnership in enforcement efforts, exchange of information, and coordination of enforcement efforts with respect to interstate transportation of household goods and of making legislative and regulatory recommendations to the Secretary concerning such enforcement efforts.

“(b) CONSULTATION.—In carrying out subsection (a), the working group shall consult with industries involved in the transportation of household goods, the public, and other interested parties.

“(c) FEDERAL ADVISORY COMMITTEE ACT EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the working group established under subsection (a).

“(d) TERMINATION DATE.—The working group shall remain in effect until September 30, 2012.”

[For definitions of “household goods”, “Secretary”, and “transportation” as used in section 4213 of Pub. L. 109-59, set out above, see section 4202(a) of Pub. L. 109-59, set out as a note under section 13102 of this title.]

§ 14711. Enforcement by State attorneys general

(a) IN GENERAL.—A State, as *parens patriae*, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enforce the consumer protec-