

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
	45:64a(a)(2).	Mar. 4, 1907, ch. 2939, §5(a)(2), 34 Stat. 1417; Dec. 26, 1969, Pub. L. 91-169, §1, 83 Stat. 464; July 8, 1976, Pub. L. 94-348, §4(e), 90 Stat. 819; restated Oct. 10, 1980, Pub. L. 96-423, §12, 94 Stat. 1816; June 22, 1988, Pub. L. 100-342, §16(6)(B), 102 Stat. 635.
	45:64a(b).	Mar. 4, 1907, ch. 2939, §5(b), 34 Stat. 1417; restated Dec. 26, 1969, Pub. L. 91-169, §1, 83 Stat. 464.
	45:64a(c).	Mar. 4, 1907, ch. 2939, §5(c), 34 Stat. 1417; restated Dec. 26, 1969, Pub. L. 91-169, §1, 83 Stat. 464; June 22, 1988, Pub. L. 100-342, §16(6)(C), 102 Stat. 635.

In this section, the words “Attorney General” are substituted for “United States attorney” because of 28:509. The words “civil action” are substituted for “suit or suits”, “action”, and “prosecutions” for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (a)(1), the words “(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)” are omitted as surplus because of the definition of “person” in 1:1 and because the provision being violated indicates to whom it applies. The words “violating chapter 211 of this title” are substituted for “that requires or permits any employee to go, be, or remain on duty in violation of section 62, section 63, or section 63a of this title, or that violates any other provision of this chapter” to eliminate unnecessary words. The words “to the United States Government for a civil penalty” are substituted for “for a penalty” for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2), the words “The Secretary of Transportation imposes a civil penalty under this subsection” are substituted for “as the Secretary of Transportation deems reasonable” for clarity and consistency.

In subsection (a)(3), the words “section 3711 of title 31” are substituted for “sections 3711 and 3716 to 3718 of title 31” because penalties are compromised under 31:3711. In clause (B), the words “prior or subsequent” are omitted as unnecessary.

In subsection (a)(4), the words “the Secretary shall refer the matter to the Attorney General for collection” are substituted for “recovered in a suit or suits to be brought by” for clarity. The text of 45:64a(b) is omitted as obsolete.

In subsection (b)(1), the words “The Attorney General shall bring a civil action in a district court of the United States to collect a civil penalty that is referred to the Attorney General for collection under subsection (a) of this section after satisfactory information is presented to the Attorney General” are substituted for “It shall be the duty of the United States attorney to bring such an action upon satisfactory information being lodged with him” for clarity and consistency in this section and with other provisions of the revised title.

In subsection (c), the words “any proceeding” are substituted for “all prosecutions” for consistency in the revised title.

PUB. L. 104-287

This amends 49:21303(a)(1) to correct a grammatical error.

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsec. (a)(1), is the date of enactment of div. A of Pub. L. 110-432, which was approved Oct. 16, 2008.

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110-432, §108(e)(2)(B), inserted “including section 21103 (as such section was in effect on the day before the date of enactment of the Rail Safety Improvement Act of 2008),” after “chapter 211 of this title,”.

Subsec. (a)(2). Pub. L. 110-432, §302(c), substituted “\$25,000.” for “\$10,000.” and “\$100,000.” for “\$20,000.”

1996—Subsec. (a)(1). Pub. L. 104-287 inserted a comma after “chapter 211 of this title”.

1994—Subsec. (a)(1). Pub. L. 103-440 inserted “or violating any provision of a waiver applicable to that person that has been granted under section 21108 of this title,” after “chapter 211 of this title”.

§ 21304. Willfulness requirement for penalties against individuals

A civil penalty under this subchapter may be imposed against an individual only for a willful violation. An individual is deemed not to have committed a willful violation if the individual was following the direct order of a railroad carrier official or supervisor under protest communicated to the official or supervisor. The individual is entitled to document the protest.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 893.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
21304	45:6 (1st sentence words between 23d and 24th commas, 2d sentence words after 2d comma, 3d sentence).	Mar. 2, 1893, ch. 196, §6 (1st sentence words between 23d and 24th commas, 2d sentence words after 2d comma, 3d sentence), 27 Stat. 532; restated June 22, 1988, Pub. L. 100-342, §13(1)(F), 102 Stat. 630; Sept. 3, 1992, Pub. L. 102-365, §9(a)(3), 106 Stat. 977.
	45:13 (1st sentence words after last comma, 3d, 4th sentences).	Apr. 14, 1910, ch. 160, §4 (1st sentence words after last comma, 3d, 4th sentences), 36 Stat. 299; June 22, 1988, Pub. L. 100-342, §13(3)(C)(iii), (v), 102 Stat. 632.
	45:34 (1st sentence words after last comma, 3d, 4th sentences).	Feb. 17, 1911, ch. 103, §9 (1st sentence words after last comma, 3d, 4th sentences), 36 Stat. 916; June 22, 1988, Pub. L. 100-342, §14(7), 102 Stat. 633.
	45:43 (1st sentence words after last comma, 3d sentence words after 5th comma, 4th sentence).	May 6, 1910, ch. 208, §7 (1st sentence words after last comma, 3d sentence words after 5th comma, 4th sentence), 36 Stat. 351; Sept. 13, 1960, Pub. L. 86-762, §3, 74 Stat. 904; restated June 22, 1988, Pub. L. 100-342, §15(4), 102 Stat. 634.
	45:64a(a)(1) (1st sentence words after last comma, 5th sentence words after last comma, 6th sentence).	Mar. 4, 1907, ch. 2939, §5(a)(1) (1st sentence words after last comma, 5th sentence words after last comma, 6th sentence), 34 Stat. 1417; restated June 22, 1988, Pub. L. 100-342, §16(6)(A), 102 Stat. 635.
	45:438(c) (2d, 9th, last sentences).	Oct. 16, 1970, Pub. L. 91-458, §209(c) (2d, 8th, last sentences), 84 Stat. 975; June 22, 1988, Pub. L. 100-342, §3(a)(3)(A), (C), 102 Stat. 624; Sept. 3, 1992, Pub. L. 102-365, §4(c)(1), 106 Stat. 974.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
	49 App.:26(h) (1st sentence words after last comma, 4th sentence words after last comma, 5th sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §25(h) (1st sentence words after last comma, 4th sentence words after last comma, 5th sentence); added Feb. 28, 1920, ch. 91, §441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 837; Sept. 18, 1940, ch. 722, §14(b), 54 Stat. 919; June 22, 1988, Pub. L. 100-342, §17(7), 102 Stat. 636.

The word “official” is added the 2d time it appears for consistency in this section.

SUBCHAPTER II—CRIMINAL PENALTIES

§ 21311. Records and reports

(a) RECORDS AND REPORTS UNDER CHAPTER 201.—A person shall be fined under title 18, imprisoned for not more than 2 years, or both, if the person knowingly and willfully—

- (1) makes a false entry in a record or report required to be made or preserved under chapter 201 of this title;
- (2) destroys, mutilates, changes, or by another means falsifies such a record or report;
- (3) does not enter required specified facts and transactions in such a record or report;
- (4) makes or preserves such a record or report in violation of a regulation prescribed or order issued under chapter 201 of this title; or
- (5) files a false record or report with the Secretary of Transportation.

(b) ACCIDENT AND INCIDENT REPORTS.—A railroad carrier not filing a report in violation of section 20901 of this title shall be fined not more than \$2,500. A separate violation occurs for each day the violation continues.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 893; Pub. L. 110-432, div. A, title III, §310, Oct. 16, 2008, 122 Stat. 4882.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
21311(a)	45:438(e).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §209(e); added Oct. 10, 1980, Pub. L. 96-423, §7, 94 Stat. 1814.
21311(b)	45:39 (related to fine).	May 6, 1910, ch. 208, §2 (related to fine), 36 Stat. 351; Jan. 3, 1975, Pub. L. 93-633, §204(b), 88 Stat. 2166; June 22, 1988, Pub. L. 100-342, §15(2), 102 Stat. 634; Sept. 3, 1992, Pub. L. 102-365, §4(a)(3), 106 Stat. 973.

In subsection (a), before clause (1), the words “fined under title 18” are substituted for “fined not more than \$5,000” for consistency with title 18. In clause (1), the word “prepared” is omitted as surplus. In clause (4), the word “prepares” is omitted as surplus.

In subsection (b), the words “shall be deemed guilty of a misdemeanor” are omitted for consistency with title 18. The words “upon conviction thereof by a court of competent jurisdiction” and “punished by a” are omitted as surplus.

AMENDMENTS

2008—Subsec. (b). Pub. L. 110-432 amended subsec. (b) generally. Prior to amendment, text read as follows: “A railroad carrier not filing the report required by sec-

tion 20901 of this title shall be fined not more than \$500 for each violation and not more than \$500 for each day during which the report is overdue.”

PART B—ASSISTANCE

CHAPTER 221—LOCAL RAIL FREIGHT ASSISTANCE

- Sec.
- 22101. Financial assistance for State projects.
 - 22102. Eligibility.
 - 22103. Applications.
 - 22104. State rail plan financing.
 - 22105. Sharing project costs.
 - 22106. Limitations on financial assistance.
 - 22107. Records, audits, and information.
 - 22108. Authorization of appropriations.

§ 22101. Financial assistance for State projects

(a) GENERAL.—The Secretary of Transportation shall provide financial assistance to a State, as provided under this chapter, for a rail freight assistance project of the State when a rail carrier subject to part A of subtitle IV of this title maintains a rail line in the State. The assistance is for the cost of—

- (1) acquiring, in any way the State considers appropriate, an interest in a rail line or rail property to maintain existing, or to provide future, rail freight transportation, but only if the Surface Transportation Board has authorized, or exempted from the requirements of that authorization, the abandonment of, or the discontinuance of rail transportation on, the rail line related to the project;
- (2) improving and rehabilitating rail property on a rail line to the extent necessary to allow adequate and efficient rail freight transportation on the line, but only if the rail carrier certifies that the rail line related to the project carried not more than 5,000,000 gross ton-miles of freight a mile in the prior year; and

(3) building rail or rail-related facilities (including new connections between at least 2 existing rail lines, intermodal freight terminals, sidings, bridges, and relocation of existing lines) to improve the quality and efficiency of the rail freight transportation, but only if the rail carrier certifies that the rail line related to the project carried not more than 5,000,000 gross ton-miles of freight a mile in the prior year.

(b) CALCULATING COST-BENEFIT RATIO.—The Secretary shall establish a methodology for calculating the ratio of benefits to costs of projects proposed under this chapter. In establishing the methodology, the Secretary shall consider the need for equitable treatment of different regions of the United States and different commodities transported by rail. The establishment of the methodology is committed to the discretion of the Secretary.

(c) CONDITIONS.—(1) Assistance for a project shall be provided under this chapter only if—

- (A) a rail carrier certifies that the rail line related to the project carried more than 20 carloads a mile during the most recent year during which transportation was provided by the carrier on the line; and
- (B) the ratio of benefits to costs for the project, as calculated using the methodology