

Aug. 19, 1964, Pub. L. 88-446, title V, §506, 78 Stat. 475.  
 Oct. 17, 1963, Pub. L. 88-149, title V, §506, 77 Stat. 264.  
 Aug. 9, 1962, Pub. L. 87-577, title V, §506, 76 Stat. 328.  
 Aug. 17, 1961, Pub. L. 87-144, title VI, §606, 75 Stat. 375.  
 July 7, 1960, Pub. L. 86-601, title V, §506, 74 Stat. 350.  
 Aug. 18, 1959, Pub. L. 86-166, title V, §606, 73 Stat. 378.  
 Aug. 22, 1958, Pub. L. 85-724, title VI, §606, 72 Stat. 724.  
 Aug. 2, 1957, Pub. L. 85-117, title VI, §607, 71 Stat. 323.  
 July 2, 1956, ch. 488, title VI, §607, 70 Stat. 468.  
 July 13, 1955, ch. 358, title VI, §609, 69 Stat. 315.  
 June 30, 1954, ch. 432, title VII, §709, 68 Stat. 351.  
 Aug. 1, 1953, ch. 305, title VI, §614, 67 Stat. 351.  
 July 10, 1952, ch. 630, title VI, §616, 66 Stat. 533.  
 Oct. 18, 1951, ch. 512, title VI, §616, 65 Stat. 446.  
 Sept. 6, 1950, ch. 896, Ch. X, title VI, §619, 64 Stat. 755.  
 Oct. 29, 1949, ch. 787, title VI, §625, 63 Stat. 1021.  
 June 24, 1948, ch. 632, §2, 62 Stat. 667.  
 July 30, 1947, ch. 357, title I, §2, 61 Stat. 569.

## EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98-525, set out as a note under section 520b of this title.

**§ 2640. Charter air transportation of members of the armed forces**

(a) REQUIREMENTS.—(1) The Secretary of Defense may not enter into a contract with an air carrier for the charter air transportation of members of the armed forces unless the air carrier—

(A) meets, at a minimum, the safety standards established by the Secretary of Transportation under chapter 447 of title 49;

(B) has at least 12 months of experience operating services in air transportation that are substantially equivalent to the service sought by the Department of Defense; and

(C) undergoes a technical safety evaluation.

(2) For purposes of paragraph (1)(C), a technical safety evaluation—

(A) shall include inspection of a representative number of aircraft; and

(B) shall be conducted in accordance with regulations prescribed by the Secretary, after consultation with the Secretary of Transportation.

(b) INSPECTIONS.—The Secretary shall provide for inspections of each air carrier that contracts with the Department of Defense for the charter air transportation of members of the armed forces. The inspections shall be conducted in accordance with standards established by the Secretary, after consultation with the Secretary of Transportation, and shall include, at a minimum, the following:

(1) An on-site capability survey of the air carrier conducted at least once every two years.

(2) A performance evaluation of the air carrier conducted at least once every six months.

(3) A preflight safety inspection of each aircraft conducted at any time during the operation of, but not more than 72 hours before, each internationally scheduled charter mission departing the United States.

(4) A preflight safety inspection of each aircraft used for domestic charter missions conducted to the greatest extent practical.

(5) Operational check-rides on aircraft conducted periodically.

(c) COMMERCIAL AIRLIFT REVIEW BOARD.—The Secretary shall establish a Commercial Airlift

Review Board within the Department of Defense. The Board shall consist of personnel from the Department of Defense and other Government personnel as may be appropriate. The duties of the Board shall be—

(1) to make recommendations to the Secretary on suspension and reinstatement of air carriers under subsection (d);

(2) to make recommendations to the Secretary on waivers under subsection (g); and

(3) to carry out such other duties and make recommendations on such other matters as the Secretary considers appropriate.

(d) SUSPENSION AND REINSTATEMENT.—(1) The Secretary shall establish guidelines for the suspension of air carriers under contract with the Department of Defense for the charter air transportation of members of the armed forces and for the reinstatement of air carriers that have been so suspended. The guidelines—

(A) shall require the immediate determination of whether to suspend an air carrier if an aircraft of the air carrier is involved in a fatal accident; and

(B) may require the suspension of an air carrier—

(i) if the carrier is in violation of any order, rule, regulation, or standard prescribed under chapter 447 of title 49; or

(ii) if an aircraft of the air carrier is involved in a serious accident.

(2) The Commercial Airlift Review Board shall make recommendations to the Secretary on suspension and reinstatement under this subsection.

(3) The Secretary shall include in each contract subject to this section the provisions on suspension and reinstatement established under this subsection.

(e) AUTHORITY TO LEAVE UNSAFE AIRCRAFT.—A representative of the Military Airlift Command, the Military Traffic Management Command, or such other agency as may be designated by the Secretary of Defense (or if there is no such representative reasonably available, the senior officer on board a chartered aircraft) may order members of the armed forces to leave a chartered aircraft if the representative (or officer) determines that a condition exists on the aircraft which may endanger the safety of the members.

(f) FAA INFORMATION.—The Secretary shall request the Secretary of Transportation to provide to the Secretary a report on each inspection performed by Federal Aviation Administration personnel, and the status of corrective actions taken, on each aircraft of an air carrier under contract with the Department of Defense for the charter air transportation of members of the armed forces.

(g) WAIVER.—After considering recommendations by the Commercial Airlift Review Board, the Secretary may waive any provision of this section in an emergency.

(h) AUTHORITY TO PROTECT SAFETY-RELATED INFORMATION VOLUNTARILY PROVIDED BY AN AIR CARRIER.—(1) Subject to paragraph (2), the Secretary of Defense may (notwithstanding any other provision of law) withhold from public disclosure safety-related information that is pro-

vided to the Secretary voluntarily by an air carrier for the purposes of this section.

(2) Information may be withheld under paragraph (1) from public disclosure only if the Secretary determines that—

(A) the disclosure of the information would inhibit an air carrier from voluntarily providing, in the future, safety-related information for the purposes of this section or for other air safety purposes involving the Department of Defense or another Federal agency; and

(B) the receipt of such information generally enhances the fulfillment of responsibilities under this section or other air safety responsibilities involving the Department of Defense or another Federal agency.

(3) If the Secretary provides to the head of another agency safety-related information described in paragraph (1) with respect to which the Secretary has made a determination described in paragraph (2), the head of that agency shall (notwithstanding any other provision of law) withhold the information from public disclosure unless the disclosure is specifically authorized by the Secretary.

(i) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section, including requirements and identification of inspecting personnel with respect to preflight safety inspections required by subsection (b)(3).

(j) DEFINITIONS.—In this section:

(1) The terms “air carrier”, “aircraft”, “air transportation”, and “charter air transportation” have the meanings given such terms by section 40102(a) of title 49.

(2) The term “members of the armed forces” means members of the Army, Navy, Air Force, and Marine Corps.

(Added Pub. L. 99-661, div. A, title XII, §1204(a)(1), Nov. 14, 1986, 100 Stat. 3969; amended Pub. L. 103-272, §5(b)(1), July 5, 1994, 108 Stat. 1373; Pub. L. 105-85, div. A, title X, §1075(a), Nov. 18, 1997, 111 Stat. 1911.)

#### AMENDMENTS

1997—Subsecs. (h) to (j). Pub. L. 105-85 added subsec. (h) and redesignated former subsecs. (h) and (i) as (i) and (j), respectively.

1994—Subsecs. (a)(1)(A), (d)(1)(B)(i). Pub. L. 103-272, §5(b)(1)(A), substituted “chapter 447 of title 49” for “title VI of the Federal Aviation Act of 1958 (49 U.S.C. App. 1421 et seq.)”.

Subsec. (i)(1). Pub. L. 103-272, §5(b)(1)(B), substituted “section 40102(a) of title 49” for “sections 101(3), 101(5), 101(10), and 101(15), respectively, of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(3), 1301(5), 1301(10), and 1301(15))”.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-85, div. A, title X, §1075(b), Nov. 18, 1997, 111 Stat. 1911, provided that: “Subsection (h) of section 2640 of title 10, United States Code, as added by subsection (a), shall apply with respect to requests for information made on or after the date of the enactment of this Act [Nov. 18, 1997].”

#### EFFECTIVE DATE

Pub. L. 99-661, div. A, title XII, §1204(c), Nov. 14, 1986, 100 Stat. 3971, provided that: “Section 2640 of title 10, United States Code, as added by subsection (a), shall apply only to contracts which are entered into on or after the date on which the regulations required by subsection (b) are prescribed [set out below].”

#### REGULATIONS

Pub. L. 99-661, div. A, title XII, §1204(b), Nov. 14, 1986, 100 Stat. 3971, required Secretary of Defense, not later than 120 days after Nov. 14, 1986, to prescribe regulations required by this section.

#### § 2641. Transportation of certain veterans on Department of Defense aeromedical evacuation aircraft

(a) The Secretary of Defense may provide transportation on an aircraft operating under the aeromedical evacuation system of the Department of Defense for the purpose of transporting a veteran to or from a Department of Veterans Affairs medical facility or of transporting the remains of a deceased veteran who died at such a facility after being transported to the facility under this subsection. Transportation of the remains of a deceased veteran under this subsection may be provided to the place from which the veteran was transported to the facility or to any other destination which is not farther away from the facility than such place.

(b) Transportation under this section shall be provided in accordance with an agreement entered into between the Secretary of Defense and the Secretary of Veterans Affairs. Such an agreement shall provide that transportation may be furnished to a veteran (or for the remains of a veteran) on an aircraft referred to in subsection (a) only if—

(1) the Secretary of Veterans Affairs notifies the Secretary of Defense that the veteran needs or has been furnished medical care or services in a Department of Veterans Affairs facility and the Secretary of Veterans Affairs requests such transportation in connection with the travel of such veteran (or of the remains of such veteran) to or from the Department of Veterans Affairs facility where the care or services are to be furnished or were furnished to such veteran;

(2) there is space available for the veteran (or the remains of the veteran) on the aircraft; and

(3) there is an adequate number of medical and other service attendants to care for all persons being transported on the aircraft.

(c) A veteran is not eligible for transportation under this section unless the veteran is a primary beneficiary within the meaning of clause (A) of section 8111(g)(5) of title 38.

(d)(1) A charge may not be imposed on a veteran (or on the survivors of a veteran) for transportation provided to the veteran (or for the remains of the veteran) under this section.

(2) An agreement under subsection (b) shall provide that the Department of Veterans Affairs shall reimburse the Department of Defense for any costs incurred in providing transportation to veterans (or for the remains of veterans) under this section that would not otherwise have been incurred by the Department of Defense.

(e) In this section, the term “veteran” has the meaning given that term in section 101(2) of title 38.

(Added Pub. L. 100-180, div. A, title XII, §1250(a)(1), Dec. 4, 1987, 101 Stat. 1167; amended