

## HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41104 .....	46 App.:1709(b) (1)–(12).	Pub. L. 98–237, §10(b)(1)–(12), Mar. 20, 1984, 98 Stat. 77; Pub. L. 101–595, title VII, §710(c), Nov. 16, 1990, 104 Stat. 2997; Pub. L. 102–251, title II, §201(b), Mar. 9, 1992, 106 Stat. 60; Pub. L. 105–258, title I, §109(a), Oct. 14, 1998, 112 Stat. 1909; Pub. L. 105–383, title IV, §424(b), Nov. 13, 1998, 112 Stat. 3441.

**§ 41105. Concerted action**

A conference or group of two or more common carriers may not—

(1) boycott or take any other concerted action resulting in an unreasonable refusal to deal;

(2) engage in conduct that unreasonably restricts the use of intermodal services or technological innovations;

(3) engage in any predatory practice designed to eliminate the participation, or deny the entry, in a particular trade of a common carrier not a member of the conference, a group of common carriers, an ocean tramp, or a bulk carrier;

(4) negotiate with a non-ocean carrier or group of non-ocean carriers (such as truck, rail, or air operators) on any matter relating to rates or services provided to ocean common carriers within the United States by those non-ocean carriers, unless the negotiations and any resulting agreements are not in violation of the antitrust laws and are consistent with the purposes of this part, except that this paragraph does not prohibit the setting and publishing of a joint through rate by a conference, joint venture, or association of ocean common carriers;

(5) deny in the export foreign commerce of the United States compensation to an ocean freight forwarder or limit that compensation to less than a reasonable amount;

(6) allocate shippers among specific carriers that are parties to the agreement or prohibit a carrier that is a party to the agreement from soliciting cargo from a particular shipper, except as—

(A) authorized by section 40303(d) of this title;

(B) required by the law of the United States or the importing or exporting country; or

(C) agreed to by a shipper in a service contract;

(7) for service pursuant to a service contract, engage in any unjustly discriminatory practice in the matter of rates or charges with respect to any locality, port, or person due to the person's status as a shippers' association or ocean transportation intermediary; or

(8) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any locality, port, or person due to the person's status as a shippers' association or ocean transportation intermediary.

(Pub. L. 109–304, §7, Oct. 6, 2006, 120 Stat. 1542.)

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<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41105 .....	46 App.:1709(c).	Pub. L. 98–237, §10(c), Mar. 20, 1984, 98 Stat. 77; Pub. L. 105–258, title I, §109(b), Oct. 14, 1998, 112 Stat. 1910; Pub. L. 105–383, title IV, §424(b), Nov. 13, 1998, 112 Stat. 3441.

In paragraph (5), the words “ocean freight forwarder” are substituted for “ocean transportation intermediary, as defined by section 1702(17)(A) of this Appendix” because the definition of “ocean transportation intermediary” in section 1702(17)(A) contains a definition of “ocean freight forwarder” which is restated as a separate definition.

**§ 41106. Marine terminal operators**

A marine terminal operator may not—

(1) agree with another marine terminal operator or with a common carrier to boycott, or unreasonably discriminate in the provision of terminal services to, a common carrier or ocean tramp;

(2) give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any person; or

(3) unreasonably refuse to deal or negotiate.

(Pub. L. 109–304, §7, Oct. 6, 2006, 120 Stat. 1543.)

## HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41106(1) .....	46 App.:1709(d)(2).	Pub. L. 98–237, §10(d)(2), (3) (related to (b)(10)), (4), Mar. 20, 1984, 98 Stat. 77; Pub. L. 105–258, title I, §109(c), Oct. 14, 1998, 112 Stat. 1910.
41106(2) .....	46 App.:1709(d)(4).	
41106(3) .....	46 App.:1709(d)(3) (related to (b)(10)).	

**§ 41107. Monetary penalties**

(a) IN GENERAL.—A person that violates this part or a regulation or order of the Federal Maritime Commission issued under this part is liable to the United States Government for a civil penalty. Unless otherwise provided in this part, the amount of the penalty may not exceed \$5,000 for each violation or, if the violation was willfully and knowingly committed, \$25,000 for each violation. Each day of a continuing violation is a separate violation.

(b) LIEN ON CARRIER'S VESSELS.—The amount of a civil penalty imposed on a common carrier under this section constitutes a lien on the vessels operated by the carrier. Any such vessel is subject to an action in rem to enforce the lien in the district court of the United States for the district in which it is found.

(Pub. L. 109–304, §7, Oct. 6, 2006, 120 Stat. 1543.)

## HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41107 .....	46 App.:1712(a).	Pub. L. 98–237, §13(a), Mar. 20, 1984, 98 Stat. 82; Pub. L. 105–258, title I, §112(a), Oct. 14, 1998, 112 Stat. 1911.