

lows: “In the interest of mass transportation safety, the Secretary of Transportation shall prescribe regulations not later than October 28, 1992, that establish a program requiring mass transportation operations that receive financial assistance under section 5307, 5309, or 5311 of this title or section 103(e)(4) of title 23 to conduct preemployment, reasonable suspicion, random, and post-accident testing of mass transportation employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of alcohol or a controlled substance in violation of law or a United States Government regulation.”

1994—Subsec. (a)(3). Pub. L. 103-429 substituted “section 20140 or 31306” for “subchapter III of chapter 201 or section 31306”.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

§ 5332. Nondiscrimination

(a) DEFINITION.—In this section, “person” includes a governmental authority, political subdivision, authority, legal representative, trust, unincorporated organization, trustee, trustee in bankruptcy, and receiver.

(b) PROHIBITIONS.—A person may not be excluded from participating in, denied a benefit of, or discriminated against under, a project, program, or activity receiving financial assistance under this chapter because of race, color, religion, national origin, sex, disability, or age.

(c) COMPLIANCE.—(1) The Secretary shall take affirmative action to ensure compliance with subsection (b) of this section.

(2) When the Secretary decides that a person receiving financial assistance under this chapter is not complying with subsection (b) of this section, a civil rights law of the United States, or a regulation or order under that law, the Secretary shall notify the person of the decision and require action be taken to ensure compliance with subsection (b).

(d) AUTHORITY OF SECRETARY FOR NONCOMPLIANCE.—If a person does not comply with subsection (b) of this section within a reasonable time after receiving notice, the Secretary shall—

(1) direct that no further financial assistance of the United States Government under this chapter be provided to the person;

(2) refer the matter to the Attorney General with a recommendation that a civil action be brought;

(3) proceed under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); or

(4) take any other action provided by law.

(e) CIVIL ACTIONS BY ATTORNEY GENERAL.—The Attorney General may bring a civil action for appropriate relief when—

(1) a matter is referred to the Attorney General under subsection (d)(2) of this section; or

(2) the Attorney General believes a person is engaged in a pattern or practice in violation of this section.

(f) APPLICATION AND RELATIONSHIP TO OTHER LAWS.—This section applies to an employment

or business opportunity and is in addition to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 834; Pub. L. 112-141, div. B, §§20023(a), 20030(g), July 6, 2012, 126 Stat. 717, 731.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5332(a)	49 App.:1615(a)(5).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §19; added Nov. 6, 1978, Pub. L. 95-599, §314, 92 Stat. 2750.
5332(b)	49 App.:1615(a)(1) (1st sentence).	
5332(c)	49 App.:1615(a)(2), (3)(A).	
5332(d)	49 App.:1615(a)(3)(B).	
5332(e)	49 App.:1615(a)(4).	
5332(f)	49 App.:1615(a)(1) (last sentence).	

In subsection (a), the words “the term” and “one or more” are omitted as surplus. The words “partnerships, associations, corporations” and “mutual companies, joint-stock companies” are omitted because of 1:1.

In subsection (b), the word “receiving” is substituted for “funded in whole or in part through” to eliminate unnecessary words.

In subsection (c)(2), the words “directly or indirectly”, “issued”, and “necessary” are omitted as surplus.

In subsection (d), before clause (1), the words “does not” are substituted for “fails or refuses to” to eliminate unnecessary words. The words “period of” and “pursuant to paragraph (a) of this subsection” are omitted as surplus. In clause (2), the word “appropriate” is omitted as surplus. In clause (3), the words “proceed under” are substituted for “exercise the powers and functions provided by” to eliminate unnecessary words.

In subsection (e), before clause (1), the words “in any appropriate district court of the United States” and “including injunctive relief” are omitted as surplus.

In subsection (f), the words “considered to be” and “and not in lieu of” are omitted as surplus.

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsecs. (d)(3) and (f), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

AMENDMENTS

2012—Subsec. (b). Pub. L. 112-141, §20023(a)(1), substituted “religion” for “creed” and inserted “disability,” after “sex.”

Subsec. (c)(1). Pub. L. 112-141, §20030(g), struck out “of Transportation” after “Secretary”.

Subsec. (d)(3). Pub. L. 112-141, §20023(a)(2), substituted “or” for “and”.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§ 5333. Labor standards

(a) PREVAILING WAGES REQUIREMENT.—The Secretary of Transportation shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed with a grant or loan under this chapter be paid wages not less than those prevailing on

similar construction in the locality, as determined by the Secretary of Labor under sections 3141 through 3144, 3146, and 3147 of title 40. The Secretary of Transportation may approve a grant or loan only after being assured that required labor standards will be maintained on the construction work. For a labor standard under this subsection, the Secretary of Labor has the same duties and powers stated in Reorganization Plan No. 14 of 1950 (eff. May 24, 1950, 64 Stat. 1267) and section 3145 of title 40.

(b) EMPLOYEE PROTECTIVE ARRANGEMENTS.—(1) As a condition of financial assistance under sections 5307–5312, 5316,¹ 5318, 5323(a)(1), 5323(b), 5323(d), 5328,¹ 5337, and 5338(b) of this title, the interests of employees affected by the assistance shall be protected under arrangements the Secretary of Labor concludes are fair and equitable. The agreement granting the assistance under sections 5307–5312, 5316,¹ 5318, 5323(a)(1), 5323(b), 5323(d), 5328,¹ 5337, and 5338(b) shall specify the arrangements.

(2) Arrangements under this subsection shall include provisions that may be necessary for—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;

(B) the continuation of collective bargaining rights;

(C) the protection of individual employees against a worsening of their positions related to employment;

(D) assurances of employment to employees of acquired public transportation systems;

(E) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and

(F) paid training or retraining programs.

(3) Arrangements under this subsection shall provide benefits at least equal to benefits established under section 11326 of this title.

(4) Fair and equitable arrangements to protect the interests of employees utilized by the Secretary of Labor for assistance to purchase like-kind equipment or facilities, and grant amendments which do not materially revise or amend existing assistance agreements, shall be certified without referral.

(5) When the Secretary is called upon to issue fair and equitable determinations involving assurances of employment when one private transit bus service contractor replaces another through competitive bidding, such decisions shall be based on the principles set forth in the Department of Labor’s decision of September 21, 1994, as clarified by the supplemental ruling of November 7, 1994, with respect to grant NV–90–X021. This paragraph shall not serve as a basis for objections under section 215.3(d) of title 29, Code of Federal Regulations.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 835; Pub. L. 104–88, title III, § 308(e), Dec. 29, 1995, 109 Stat. 947; Pub. L. 105–178, title III, §3029(b)(9), June 9, 1998, 112 Stat. 372; Pub. L. 107–217, §3(n)(3), Aug. 21, 2002, 116 Stat. 1302; Pub. L. 109–59, title III, §§3002(b)(4), 3031, Aug. 10, 2005, 119 Stat. 1545, 1625; Pub. L. 112–141, div. B, §20030(h), July 6, 2012, 126 Stat. 731.)

¹ See References in Text note below.

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5333(a)	49 App.:1609(a), (b).	July 9, 1964, Pub. L. 88–365, §13, 78 Stat. 307; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), (b)(2), 80 Stat. 715, 716; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25.
5333(b)	49 App.:1609(c).	

In subsection (a), the words “take such action as may be necessary to”, “the performance of”, “the assistance of”, and “at rates” are omitted as surplus. The word “same” is added for clarity. The words “duties and powers” are substituted for “authority and functions” for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), the reference to sections 5307, 5308, 5310, and 5311 of the revised title is added for clarity because of 49 App.:1607a(e)(1), 1607a–2(a), 1612(b), and 1614(f), restated as sections 5307(n)(2), 5308(b)(1), 5310(a), and 5311(i) of the revised title. The reference to section 5312 is added for clarity because it is intended that 49 App.:1609(c) cover research, development, training, and demonstration projects. The words “terms and conditions of the protective” are omitted as surplus.

In subsection (b)(2), before clause (A), the words “without being limited to” are omitted as being included in “include”. The words “such provisions as may be necessary for” are omitted as surplus. In clause (C), the word “individual” is omitted as surplus.

In subsection (b)(3), the words “section 11347 of this title” are substituted for and coextensive with “section 5(2)(f) of the Act of February 4, 1887 (24 Stat. 379), as amended” in section 13(c) of the Urban Mass Transportation Act of 1964 (Public Law 88–365, 78 Stat. 307) on authority of section 3(b) of the Act of October 17, 1978 (Public Law 95–473, 92 Stat. 1466).

REFERENCES IN TEXT

Reorganization Plan No. 14 of 1950, referred to in subsection (a), is set out in the Appendix to Title 5, Government Organization and Employees.

Sections 5316 and 5328 of this title, referred to in subsection (b)(1), were repealed by Pub. L. 112–141, div. B, §20002(a), July 6, 2012, 126 Stat. 622.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–141 substituted “sections 3141 through 3144” for “sections 3141–3144”.

2005—Subsec. (b)(1). Pub. L. 109–59, §3031(1), substituted “5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and 5338(b)” for “5318(d), 5323(a)(1), (b), (d), and (e), 5328, 5337, and 5338(b)” in two places.

Subsec. (b)(2)(D). Pub. L. 109–59, §3002(b)(4), substituted “public transportation” for “mass transportation”.

Subsec. (b)(4), (5). Pub. L. 109–59, §3031(2), added pars. (4) and (5).

2002—Subsec. (a). Pub. L. 107–217 substituted “sections 3141–3144, 3146, and 3147 of title 40” for “the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a–276a–5)” and “section 3145 of title 40” for “section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)”.

1998—Subsec. (b)(1). Pub. L. 105–178 substituted “5338(b)” for “5338(j)(5)” in two places.

1995—Subsec. (b)(3). Pub. L. 104–88 substituted “11326” for “11347”.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of this title.

§ 5334. Administrative provisions

(a) GENERAL AUTHORITY.—In carrying out this chapter, the Secretary of Transportation may—

(1) prescribe terms for a project that receives Federal financial assistance under this chapter (except terms the Secretary of Labor prescribes under section 5333(b) of this title);

(2) sue and be sued;

(3) foreclose on property or bring a civil action to protect or enforce a right conferred on the Secretary of Transportation by law or agreement;

(4) buy property related to a loan under this chapter;

(5) agree to pay an annual amount in place of a State or local tax on real property acquired or owned under this chapter;

(6) sell, exchange, or lease property, a security, or an obligation;

(7) obtain loss insurance for property and assets the Secretary of Transportation holds;

(8) consent to a modification in an agreement under this chapter;

(9) include in an agreement or instrument under this chapter a covenant or term the Secretary of Transportation considers necessary to carry out this chapter;

(10) collect fees to cover the costs of training or conferences, including costs of promotional materials, sponsored by the Federal Transit Administration to promote public transportation and credit amounts collected to the appropriation concerned; and

(11) issue regulations as necessary to carry out the purposes of this chapter.

(b) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—

(1) IN GENERAL.—Except for purposes of national defense or in the event of a national or regional emergency, or for purposes of establishing and enforcing a program to improve the safety of public transportation systems in the United States as described in section 5329, the Secretary may not regulate the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter. The Secretary may not regulate the rates, fares, tolls, rentals, or other charges prescribed by any provider of public transportation.

(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement.

(c) PROCEDURES FOR PRESCRIBING REGULATIONS.—(1) The Secretary shall prepare an agenda listing all areas in which the Secretary intends to propose regulations governing activities under this chapter within the following 12 months. The Secretary shall publish the proposed agenda in the Federal Register as part of the Secretary's semiannual regulatory agenda that lists regulatory activities of the Federal Transit Administration. The Secretary shall submit the agenda to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastruc-

ture and the Committee on Appropriations of the House of Representatives on the day the agenda is published.

(2) Except for emergency regulations, the Secretary shall give interested parties at least 60 days to participate in a regulatory proceeding under this chapter by submitting written information, views, or arguments, with or without an oral presentation, except when the Secretary for good cause finds that public notice and comment are unnecessary because of the routine nature or insignificant impact of the regulation or that an emergency regulation should be issued. The Secretary may extend the 60-day period if the Secretary decides the period is insufficient to allow diligent individuals to prepare comments or that other circumstances justify an extension.

(3) An emergency regulation ends 120 days after it is issued.

(4) The Secretary shall comply with this subsection when proposing or carrying out a regulation governing an activity under this chapter, except for a routine matter or a matter with no significant impact.

(d) BUDGET PROGRAM AND SET OF ACCOUNTS.—The Secretary shall—

(1) submit each year a budget program as provided in section 9103 of title 31; and

(2) maintain a set of accounts for audit under chapter 35 of title 31.

(e) DEPOSITORY AND AVAILABILITY OF AMOUNTS.—The Secretary shall deposit amounts made available to the Secretary under this chapter in a checking account in the Treasury. Receipts, assets, and amounts obtained or held by the Secretary to carry out this chapter are available for administrative expenses to carry out this chapter.

(f) BINDING EFFECT OF FINANCIAL TRANSACTION.—A financial transaction of the Secretary under this chapter and a related voucher are binding on all officers and employees of the United States Government.

(g) DEALING WITH ACQUIRED PROPERTY.—Notwithstanding another law related to the Government acquiring, using, or disposing of real property, the Secretary may deal with property acquired under paragraph (3) or (4) of subsection (a) in any way. However, this subsection does not—

(1) deprive a State or political subdivision of a State of jurisdiction of the property; or

(2) impair the civil rights, under the laws of a State or political subdivision of a State, of an inhabitant of the property.

(h) TRANSFER OF ASSETS NO LONGER NEEDED.—(1) If a recipient of assistance under this chapter decides an asset acquired under this chapter at least in part with that assistance is no longer needed for the purpose for which it was acquired, the Secretary may authorize the recipient to transfer the asset to a local governmental authority to be used for a public purpose with no further obligation to the Government. The Secretary may authorize a transfer for a public purpose other than public transportation only if the Secretary decides—

(A) the asset will remain in public use for at least 5 years after the date the asset is transferred;