

and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

DEFINITIONS

Pub. L. 112-194, §5, Oct. 5, 2012, 126 Stat. 1451, provided that: "In this Act [enacting section 1909 of Title 41, Public Contracts, amending section 2784 of Title 10, Armed Forces, enacting provisions set out as notes under this section and sections 101 and 1909 of Title 41, and amending provisions set out as a note under this section]:

"(1) EXECUTIVE AGENCY.—The term 'executive agency' has the meaning given such term in section 133 of title 41, United States Code.

"(2) EMPLOYEE.—The term 'employee' has the meaning given such term in section 2(d)(3) of the Travel and Transportation Reform Act of 1998 (Public Law 105-264; 5 U.S.C. 5701 note)."

§ 5702. Per diem; employees traveling on official business

(a)(1) Under regulations prescribed pursuant to section 5707 of this title, an employee, when traveling on official business away from the employee's designated post of duty, or away from the employee's home or regular place of business (if the employee is described in section 5703 of this title), is entitled to any one of the following:

(A) a per diem allowance at a rate not to exceed that established by the Administrator of General Services for travel within the continental United States, and by the President or his designee for travel outside the continental United States;

(B) reimbursement for the actual and necessary expenses of official travel not to exceed an amount established by the Administrator for travel within the continental United States or an amount established by the President or his designee for travel outside the continental United States; or

(C) a combination of payments described in subparagraphs (A) and (B) of this paragraph.

(2) Any per diem allowance or maximum amount of reimbursement shall be established, to the extent feasible, by locality.

(3) For travel consuming less than a full day, the payment prescribed by regulation shall be allocated in such manner as the Administrator may prescribe.

(b)(1) Under regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who abandons the travel assignment prior to its completion—

(A) because of an incapacitating illness or injury which is not due to the employee's own misconduct is entitled to reimbursement for expenses of transportation to the employee's designated post of duty, or home or regular place of business, as the case may be, and to payments pursuant to subsection (a) of this section until that location is reached; or

(B) because of a personal emergency situation (such as serious illness, injury, or death of a member of the employee's family, or an emergency situation such as fire, flood, or act

of God), may be allowed, with the approval of an appropriate official of the agency concerned, reimbursement for expenses of transportation to the employee's designated post of duty, or home or regular place of business, as the case may be, and payments pursuant to subsection (a) of this section until that location is reached.

(2)(A) Under regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who, with the approval of an appropriate official of the agency concerned, interrupts the travel assignment prior to its completion for a reason specified in subparagraph (A) or (B) of paragraph (1) of this subsection, may be allowed (subject to the limitation provided in subparagraph (B) of this paragraph)—

(i) reimbursement for expenses of transportation to the location where necessary medical services are provided or the emergency situation exists,

(ii) payments pursuant to subsection (a) of this section until that location is reached, and

(iii) such reimbursement and payments for return to such assignment.

(B) The reimbursement which an employee may be allowed pursuant to subparagraph (A) of this paragraph shall be the employee's actual costs of transportation to the location where necessary medical services are provided or the emergency exists, and return to assignment from such location, less the costs of transportation which the employee would have incurred had such travel begun and ended at the employee's designated post of duty, or home or regular place of business, as the case may be. The payments which an employee may be allowed pursuant to subparagraph (A) of this paragraph shall be based on the additional time (if any) which was required for the employee's transportation as a consequence of the transportation's having begun and ended at a location on the travel assignment (rather than at the employee's designated post of duty, or home or regular place of business, as the case may be).

(3) Subject to the limitations contained in regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who interrupts the travel assignment prior to its completion because of an incapacitating illness or injury which is not due to the employee's own misconduct is entitled to payments pursuant to subsection (a) of this section at the location where the interruption occurred.

(c) This section does not apply to a justice or judge, except to the extent provided by section 456 of title 28.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 498; Pub. L. 91-114, §1, Nov. 10, 1969, 83 Stat. 190; Pub. L. 94-22, §3, May 19, 1975, 89 Stat. 84; Pub. L. 96-54, §2(a)(36), Aug. 14, 1979, 93 Stat. 383; Pub. L. 96-346, §1, Sept. 10, 1980, 94 Stat. 1148; Pub. L. 99-234, title I, §102, Jan. 2, 1986, 99 Stat. 1756; Pub. L. 102-378, §2(47), Oct. 2, 1992, 106 Stat. 1353.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 836.	June 9, 1949, ch. 185, § 3, 63 Stat. 166. Apr. 26, 1950, ch. 108, 64 Stat. 89. July 28, 1955, ch. 424, § 1, 69 Stat. 393. Aug. 14, 1961, Pub. L. 87-139, § 1, 8(a), 75 Stat. 339, 340.

In subsection (a), the term "employee" is substituted for "civilian officers and employees of the departments and establishments" in view of the definition of "employee" in sections 5701 and 2105. The words "in lieu of their actual expenses for subsistence and all fees or tips to porters and stewards" are omitted as unnecessary in view of the definition of "per diem allowance" in section 5701(4).

In subsection (b), the words "Under regulations prescribed under section 5707 of this title" are substituted for "in accordance with regulations promulgated and approved under sections 835-842 of this title".

In subsection (c), the words "Under regulations prescribed under section 5707 of this title" are substituted for "in accordance with regulations promulgated by the Director, Bureau of the Budget, pursuant to section 840 of this title."

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1992—Pub. L. 102-378 substituted "employees" for "employee" in section catchline.

1986—Subsec. (a). Pub. L. 99-234, §102(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Under regulations prescribed under section 5707 of this title, an employee while traveling on official business away from his designated post of duty, or in the case of an individual described under section 5703 of this title, his home or regular place of business, is entitled to (1) a per diem allowance for travel inside the continental United States at a rate not to exceed \$50, and (2) a per diem allowance for travel outside the continental United States, that may not exceed the rate established by the President, or his designee, for each locality where travel is to be performed. For travel consuming less than a full day, such rate may be allocated proportionately."

Subsec. (b). Pub. L. 99-234, §102(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Under regulations prescribed under section 5707 of this title, an employee who, while traveling on official business away from his designated post of duty or, in the case of an individual described under section 5703 of this title, his home or regular place of business, becomes incapacitated by illness or injury not due to his own misconduct, is entitled to the per diem allowance and appropriate transportation expenses to his designated post of duty, or home or regular place of business, as the case may be."

Subsec. (c). Pub. L. 99-234, §102, redesignated subsec. (e) as (c) and struck out former subsec. (c) which read as follows: "Under regulations prescribed under section 5707 of this title, the Administrator of General Services, or his designee, may prescribe conditions under which an employee may be reimbursed for the actual and necessary expenses of official travel when the maximum per diem allowance would be less than these expenses, except that such reimbursement shall not exceed \$75 for each day in a travel status within the continental United States when the per diem otherwise allowable is determined to be inadequate (1) due to the unusual circumstances of the travel assignment, or (2) for travel to high rate geographical areas designated as such in regulations prescribed under section 5707 of this title."

Subsec. (d). Pub. L. 99-234, §102(a), struck out subsec. (d) which read as follows: "Under regulations prescribed under section 5707 of this title, for travel outside the continental United States, the Administrator of General Services or his designee, may prescribe conditions under which an employee may be reimbursed for the actual and necessary expenses of official travel when the per diem allowance would be less than these expenses, except that such reimbursement shall not exceed \$33 for each day in a travel status outside the continental United States plus the locality per diem rate prescribed for such travel."

Subsec. (e). Pub. L. 99-234, §102(b), redesignated subsec. (e) as (c).

1980—Subsec. (a). Pub. L. 96-346, §1(1), increased to \$50 from \$35 the maximum per diem allowance for travel inside the continental United States.

Subsec. (c). Pub. L. 96-346, §1(2), increased to \$75 from \$50 the maximum reimbursement for actual and necessary expenses for travel within the continental United States.

Subsec. (d). Pub. L. 96-346, §1(3), increased to \$33 from \$21 the maximum reimbursement for travel outside the continental United States.

1979—Subsec. (c). Pub. L. 96-54 substituted "(1)" for "(A)" and "(2)" for "(B)".

1975—Subsec. (a). Pub. L. 94-22 substituted provision relating to determination of per diem allowance under regulations prescribed under section 5707 for provision allowing for such determination by agency concerned, inserted provisions relating to an individual described under section 5703 and to proportionate allocation of rates for travel consuming less than a full day, struck out provision relating to Director of Bureau of Budget or another officer of Government of the United States as persons who may be designees, and raised maximum allowance from \$25 to \$35.

Subsec. (b). Pub. L. 94-22 inserted provision relating to an individual described under section 5703, inserted "appropriate" before "transportation", and "or home or regular place of business, as the case may be." after "expenses to his designated post of duty".

Subsec. (c). Pub. L. 94-22 substituted the Administrator of General Services, or his designee, for the head of the agency concerned, as the party who may prescribe conditions for reimbursement for actual and necessary expenses, raised from \$40 to \$50 the maximum reimbursement for travel within the continental United States when the rate otherwise allowable is inadequate due to unusual circumstances or due to travel to areas designated as high rate areas, and struck out a provision, now covered by subsec. (d), for a maximum allowance per day for travel outside the continental United States.

Subsecs. (d), (e). Pub. L. 94-22 transferred from subsec. (c) to (d) provisions for reimbursement for actual and necessary expenses for travel outside the continental United States and raised from \$18 to \$21 the maximum reimbursement for such expenses, and redesignated former subsec. (d) as (e).

1969—Subsec. (a). Pub. L. 91-114 increased the per diem allowance for travel inside the continental United States from not to exceed the rate of \$16 to not to exceed the rate of \$25.

Subsec. (c). Pub. L. 91-114 in cl. (1) increased the amount authorized to be named in the travel authorization for each day in a travel status inside the continental United States from not to exceed \$30 to not to exceed \$40, and in cl. (2) increased the amount authorized to be named in the travel authorization for each day in a travel status outside the continental United States from not to exceed the maximum per diem allowance plus \$10 to not to exceed the maximum per diem allowance plus \$18.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-234 effective (1) on effective date of regulations to be promulgated not later than 150 days after Jan. 2, 1986, or (2) 180 days after Jan. 2, 1986, whichever occurs first, see section 301(a) of Pub. L. 99-234, set out as a note under section 5701 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-54 effective July 12, 1979, see section 2(b) of Pub. L. 96-54, set out as a note under section 305 of this title.

DELEGATION OF FUNCTIONS

Authority of President under subsec. (a) of this section to establish maximum rates of per diem allowances to extent that such authority pertains to travel status of employees while enroute to, from, or between localities situated outside 48 contiguous States of United States and District of Columbia delegated to Administrator of General Services, see section 1(2) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

Authority of President under subsec. (a) of this section to establish maximum rates of per diem allowances and reimbursements for actual and necessary expenses of official travel for employees of Government to extent that such authority pertains to travel status in localities in Alaska, Hawaii, the Commonwealth of Puerto Rico, and possessions of United States delegated to Secretary of Defense, see section 1(h) of Ex. Ord. No. 10621, set out as a note under section 301 of Title 3.

RETENTION OF TRAVEL PROMOTIONAL ITEMS

Pub. L. 107-107, div. A, title XI, §1116, Dec. 28, 2001, 115 Stat. 1241, provided that:

“(a) DEFINITION.—In this section, the term ‘agency’ has the meaning given that term under section 5701 of title 5, United States Code.

“(b) RETENTION OF TRAVEL PROMOTIONAL ITEMS.—To the extent provided under subsection (c), a Federal employee, member of the Foreign Service, member of a uniformed service, any family member or dependent of such an employee or member, or other individual who receives a promotional item (including frequent flyer miles, upgrade, or access to carrier clubs or facilities) as a result of using travel or transportation services obtained at Federal Government expense or accepted under section 1353 of title 31, United States Code, may retain the promotional item for personal use if the promotional item is obtained under the same terms as those offered to the general public and at no additional cost to the Federal Government.

“(c) LIMITATION.—Subsection (b)—

“(1) applies only to travel that—

“(A) is at the expense of an agency; or

“(B) is accepted by an agency under section 1353 of title 31, United States Code; and

“(2) does not apply to travel by any officer, employee, or other official of the Government who is not in or under any agency.

“(d) REGULATORY AUTHORITY.—Any agency with authority to prescribe regulations governing the acquisition, acceptance, use, or disposal of any travel or transportation services obtained at Government expense or accepted under section 1353 of title 31, United States Code, may prescribe regulations to carry out subsection (b) with respect to those travel or transportation services.

“(e) REPEAL OF SUPERSEDED LAW.—[Repealed section 6008 of Pub. L. 103-355, formerly set out as a note below.]

“(f) APPLICABILITY.—This section shall apply with respect to promotional items received before, on, or after the date of enactment of this Act [Dec. 28, 2001].”

COST SAVINGS FOR OFFICIAL TRAVEL

Pub. L. 103-355, title VI, §6008, Oct. 13, 1994, 108 Stat. 3367, related to maximizing practicable cost savings for official travel through use of frequent traveler programs, prior to repeal by Pub. L. 107-107, div. A, title XI, §1116(e), Dec. 28, 2001, 115 Stat. 1241.

REPORTS TO CONGRESS OF PER DIEM AND MILEAGE ALLOWANCE PAYMENTS FOR FISCAL YEARS 1979 THROUGH 1981; RULES AND REGULATIONS

Section 3 of Pub. L. 96-346, for fiscal years 1979 to 1981, directed the Administrator of General Services to

collect by fiscal year information with respect to agencies spending more than \$5,000,000 annually on transportation of people, identifying general causes and purposes of travel and estimates of total payments, average cost and duration of trip, and identifying by specific agency of travel practices which appear to be inefficient and recommendations to Congress on the applicability of alternatives to travel as well as other techniques to improve use of travel in carrying out program objectives relating travel to mission.

EX. ORD. NO. 12561. DELEGATION OF FUNCTIONS RELATING TO TRAVEL OUTSIDE CONTINENTAL UNITED STATES

Ex. Ord. No. 12561, July 1, 1986, 51 F.R. 24299, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including Section 102(a) of the Federal Civilian Employee and Contractor Travel Expenses Act of 1985 (Public Law 99-234) (“the Act”) [amending this section] and Section 301 of Title 3 of the United States Code, it is ordered as follows:

SECTION 1. Section 1 of Executive Order No. 10621 of July 1, 1955, as amended [3 U.S.C. 301 note], is further amended by redesignating the current subsection (i) as subsection (g); by revoking the current subsection (o); and by adding the following new subsection (h):

“(h) The authority vested in the President by Section 102(a) of the Federal Civilian Employee and Contractor Travel Expenses Act of 1985, 5 U.S.C. 5702(a), to establish maximum rates of per diem allowances and reimbursements for the actual and necessary expenses of official travel for employees of the Government to the extent that such authority pertains to travel status in localities in Alaska, Hawaii, the Commonwealth of Puerto Rico, and possessions of the United States.”

SEC. 2. There is hereby delegated to the Secretary of State the authority vested in the President by Section 102(a) of the Act (5 U.S.C. 5702(a)) to establish maximum rates of per diem allowances and reimbursements for the actual and necessary expenses of official travel for employees of the Government to the extent that such authority pertains to travel status in localities (including the Trust Territories of the Pacific Islands) in any area situated outside the United States, the Commonwealth of Puerto Rico, and possessions of the United States.

SEC. 3. Executive Order No. 11294 of August 4, 1966, is revoked.

RONALD REAGAN.

§ 5703. Per diem, travel, and transportation expenses; experts and consultants; individuals serving without pay

An employee serving intermittently in the Government service as an expert or consultant and paid on a daily when-actually-employed basis, or serving without pay or at \$1 a year, may be allowed travel or transportation expenses, under this subchapter, while away from his home or regular place of business and at the place of employment or service.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 499; Pub. L. 91-114, §2, Nov. 10, 1969, 83 Stat. 190; Pub. L. 94-22, §4, May 19, 1975, 89 Stat. 85.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	5 U.S.C. 73b-2.	Aug. 2, 1946, ch. 744, §5, 60 Stat. 808. July 28, 1955, ch. 424, §2, 69 Stat. 394. Aug. 14, 1961, Pub. L. 87-139, §§2, 8(b), 75 Stat. 339, 340.

Subsection (a) is added on authority of section 18 of the Act of Aug. 2, 1946, ch. 744, 60 Stat. 811.