

erence 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; Pub. L. 115-282, title VII, § 709(a), Dec. 4, 2018, 132 Stat. 4296.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
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.

AMENDMENTS

2018—Pars. (5) to (10). Pub. L. 115-282 added pars. (5) and (6) and redesignated former pars. (5) to (8) as (7) to (10), respectively.

§ 41105A. Authority

Nothing in section 41105, as amended by the Federal Maritime Commission Authorization Act of 2017, shall be construed to limit the authority of the Department of Justice regarding antitrust matters.

(Added Pub. L. 115-282, title VII, §709(b)(1), Dec. 4, 2018, 132 Stat. 4296.)

REFERENCES IN TEXT

Section 41105, as amended by the Federal Maritime Commission Authorization Act of 2017, referred to in text, is section 41105 of this title as amended by title VII of Pub. L. 115-282.

§ 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

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
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

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
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.

In subsection (b), the words "is subject to an action in rem to enforce the lien" are substituted for "may be libeled therefore" to modernize the language.

§ 41108. Additional penalties

(a) SUSPENSION OF TARIFFS.—For a violation of section 41104(1), (2), or (7)<sup>1</sup> of this title, the Federal Maritime Commission may suspend any or all tariffs of the common carrier, or that common carrier's right to use any or all tariffs of conferences of which it is a member, for a period not to exceed 12 months.

(b) OPERATING UNDER SUSPENDED TARIFF.—A common carrier that accepts or handles cargo for carriage under a tariff that has been suspended, or after its right to use that tariff has been suspended, is liable to the United States Government for a civil penalty of not more than \$50,000 for each shipment.

(c) FAILURE TO PROVIDE INFORMATION.—

(1) PENALTIES.—If the Commission finds, after notice and opportunity for a hearing, that a common carrier has failed to supply information ordered to be produced or compelled by subpoena under section 41303 of this title, the Commission may—

(A) suspend any or all tariffs of the carrier or the carrier's right to use any or all tariffs of conferences of which it is a member; and

(B) request the Secretary of Homeland Security to refuse or revoke any clearance required for a vessel operated by the carrier, and when so requested, the Secretary shall refuse or revoke the clearance.

(2) DEFENSE BASED ON FOREIGN LAW.—If, in defense of its failure to comply with a subpoena or discovery order, a common carrier alleges that information or documents located in a foreign country cannot be produced because of the laws of that country, the Commis-

<sup>1</sup> See References in Text note below.