

tablishing joint prices and divisions of joint prices referred to in subsection (b) of this section does not apply to the commuter air carrier. (Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1134.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41505(a)	49 App.:1482a(2), (3).	Oct. 24, 1978, Pub. L. 95-504, §37(c), 92 Stat. 1742.
41505(b)	49 App.:1482a(1) (1st sentence). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.
41505(c)	49 App.:1482a(1) (last sentence). 49 App.:1551(b)(1)(E).	

In subsection (a), the text of 49 App.:1482a(2)(A) is omitted as unnecessary because the definition of “air carrier” in 49 App.:1301(3) is restated in section 40102(a) of the revised title and applies to this section and because the functions of the Civil Aeronautics Board under 49 App.:1482a were transferred to the Secretary of Transportation by 49 App.:1551(b)(1)(E) and the complete name of the Secretary is used the first time the term appears in a section. The text of 49 App.:1482a(3) is omitted as executed. The reference in the source provisions to “section 416(b)(3) of the Federal Aviation Act of 1958 [49 App. U.S.C. 1386(b)(3)]” has been restated as though it were a reference to section 416(b)(4) to correct an apparent error in the Airline Deregulation Act of 1978 (Public Law 95-504, 92 Stat. 1705). Section 24 of H.R. 12611 of the 95th Congress (the derivative source for 416(b)(4)), added section 416(b)(3) to the Federal Aviation Act. Section 29(c) added provisions that eventually were classified as 49 App.:1482a. Those provisions contained a reference to section 416(b)(3). When S. 2493 (passed in lieu of the House bill after being amended to contain much of the text of the House bill) was reported by the conference committee and enacted into law, section 32 added what had been a new 416(b)(3) as a new 416(b)(4). However, the conference committee did not make a corresponding change in the cross-reference in section 37(c), that added 49 App.:1482a. See 124 Cong. Rec. 30714, 30716, 36521, 36524. The word “scheduled” is substituted for “pursuant to flight schedules” to eliminate unnecessary words. The words “the same 2 places” are substituted for “one pair of points” for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the words “Except as provided in subsection (c) of this section” are added for clarity. The words “pursuant to its authority” are omitted as surplus.

In subsection (c), the word “passengers” is substituted for “persons” for consistency in the revised title and with other titles of the Code. The words “through service by the commuter air carrier over the commuter air carrier’s routes” are substituted for “transportation over its routes” for clarity. The words “between air carriers and commuter air carriers” are omitted as surplus.

§ 41506. Price division filing requirements for foreign air transportation

Every air carrier and foreign air carrier shall keep currently on file with the Secretary of Transportation, if the Secretary requires, the established divisions of all joint prices for foreign air transportation in which the carrier participates.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1134.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41506	49 App.:1373(d). 49 App.:1551(a)(4)(B) (related to 49 App.:1373(d)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, §403(d), 72 Stat. 759. Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(a)(4)(B) (related to §403(d)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(c), (e), 98 Stat. 1703, 1704.

The words “foreign air transportation” are substituted for “air transportation” because 49 App.:1551(a)(4)(B) provides that 49 App.:1373 no longer applies to interstate or overseas air transportation and 49 App.:1376(a)–(e), restated in section 41901 of the revised title, governs rates for the transportation of mail by aircraft. See section 40102(a) of the revised title defining “air transportation” to mean interstate or foreign air transportation or the transportation of mail by aircraft.

§ 41507. Authority of the Secretary of Transportation to change prices, classifications, rules, and practices for foreign air transportation

(a) GENERAL.—When the Secretary of Transportation decides that a price charged or received by an air carrier or foreign air carrier for foreign air transportation, or a classification, rule, or practice affecting that price or the value of the transportation provided under that price, is or will be unreasonably discriminatory, the Secretary may—

(1) change the price, classification, rule, or practice as necessary to correct the discrimination; and

(2) order the air carrier or foreign air carrier to stop charging or collecting the discriminatory price or carrying out the discriminatory classification, rule, or practice.

(b) WHEN SECRETARY MAY ACT.—The Secretary may act under this section on the Secretary’s own initiative or on a complaint filed with the Secretary and only after notice and an opportunity for a hearing.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1134.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41507(a)	49 App.:1482(f) (words after 4th comma). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, §1002(f), 72 Stat. 789. Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.
41507(b)	49 App.:1482(f) (words before 4th comma). 49 App.:1551(b)(1)(E).	

In subsection (a), before clause (1), the words “individual or joint” are omitted as surplus. The words “charged or received” are substituted for “demanded, charged, collected, or received” to eliminate unnecessary words. The words “unreasonably discriminatory” are substituted for “unjustly discriminatory, or unduly preferential, or unduly prejudicial” for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101. In clause (2), the words “carrying out” are substituted for “enforcing” for clarity.

In subsection (b), the words “opportunity for a” are added for consistency in the revised title and with other titles of the United States Code.

§ 41508. Authority of the Secretary of Transportation to adjust divisions of joint prices for foreign air transportation

(a) GENERAL.—When the Secretary of Transportation decides that a division between air carriers, foreign air carriers, or both, of a joint price for foreign air transportation is or will be unreasonable or unreasonably discriminatory against any of those carriers, the Secretary shall prescribe a reasonable division of the joint price among those carriers. The Secretary may order the adjustment in the division of the joint price to be made retroactively to the date the complaint was filed, the date the order for an investigation was made, or a later date the Secretary decides is reasonable.

(b) WHEN SECRETARY MAY ACT.—The Secretary may act under this section on the Secretary's own initiative or on a complaint filed with the Secretary and only after notice and an opportunity for a hearing.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1135.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41508(a)	49 App.:1482(h) (words after 3d comma). 49 App.:1551(a)(5)(D) (related to 49 App.:1482(h)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, §1002(h), 72 Stat. 790; Nov. 9, 1977, Pub. L. 95-163, §18(c), 91 Stat. 1287. Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(a)(5)(D) (related to §1002(h)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(c), (e), 98 Stat. 1703, 1704.
41508(b)	49 App.:1482(h) (words before 3d comma). 49 App.:1551(a)(5)(D) (related to 49 App.:1482(h)), (b)(1)(E).	

In subsection (a), the words “interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the state of Hawaii, or overseas or” are omitted because 49:1551(a)(5)(D) provides that 49 App.:1482(h) applies only to foreign air transportation. The words “unreasonable or unreasonably discriminatory” are substituted for “unjust, unreasonable, inequitable, or unduly preferential or prejudicial” for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101. The words “against any of those carriers” are substituted for “as between the air carriers or foreign air carriers parties thereto” to eliminate unnecessary words. The word “retroactively” is added for clarity.

In subsection (b), the words “an opportunity for a” are added for consistency in the revised title and with other titles of the United States Code.

§ 41509. Authority of the Secretary of Transportation to suspend, cancel, and reject tariffs for foreign air transportation

(a) CANCELLATION AND REJECTION.—(1) On the initiative of the Secretary of Transportation or on a complaint filed with the Secretary, the Secretary may conduct a hearing to decide whether a price for foreign air transportation contained in an existing or newly filed tariff of an air carrier or foreign air carrier, a classification, rule, or practice affecting that price, or the value of the transportation provided under that price, is lawful. The Secretary may begin the

hearing at once and without an answer or another formal pleading by the air carrier or foreign air carrier, but only after reasonable notice. If, after the hearing, the Secretary decides that the price, classification, rule, or practice is or will be unreasonable or unreasonably discriminatory, the Secretary may cancel or reject the tariff and prevent the use of the price, classification, rule, or practice.

(2) With or without a hearing, the Secretary may cancel or reject an existing or newly filed tariff of a foreign air carrier and prevent the use of a price, classification, rule, or practice when the Secretary decides that the cancellation or rejection is in the public interest.

(3) In deciding whether to cancel or reject a tariff of an air carrier or foreign air carrier under this subsection, the Secretary shall consider—

(A) the effect of the price on the movement of traffic;

(B) the need in the public interest of adequate and efficient transportation by air carriers and foreign air carriers at the lowest cost consistent with providing the transportation;

(C) the standards prescribed under law related to the character and quality of transportation to be provided by air carriers and foreign air carriers;

(D) the inherent advantages of transportation by aircraft;

(E) the need of the air carrier and foreign air carrier for revenue sufficient to enable the air carrier and foreign air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier and foreign air carrier transportation;

(F) whether the price will be predatory or tend to monopolize competition among air carriers and foreign air carriers in foreign air transportation;

(G) reasonably estimated or foreseeable future costs and revenues for the air carrier or foreign air carrier for a reasonably limited future period during which the price would be in effect; and

(H) other factors.

(b) SUSPENSION.—(1)(A) Pending a decision under subsection (a)(1) of this section, the Secretary may suspend a tariff and the use of a price contained in the tariff or a classification, rule, or practice affecting that price.

(B) The Secretary may suspend a tariff of a foreign air carrier and the use of a price, classification, rule, or practice when the suspension is in the public interest.

(2) A suspension becomes effective when the Secretary files with the tariff and delivers to the air carrier or foreign air carrier affected by the suspension a written statement of the reasons for the suspension. To suspend a tariff, reasonable notice of the suspension must be given to the affected carrier.

(3) The suspension of a newly filed tariff may be for periods totaling not more than 365 days after the date the tariff otherwise would go into effect. The suspension of an existing tariff may be for periods totaling not more than 365 days after the effective date of the suspension. The Secretary may rescind at any time the suspension of a newly filed tariff and allow the price, classification, rule, or practice to go into effect.