

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
32707(c)(1) ..	15:1990e(b)(3) (1st, 3d-last sentences).	
32707(c)(2) ..	15:1990e(b)(3) (2d sentence).	
32707(c)(3) ..	15:1990e(b)(4).	

In subsection (a), the words “inspection or impoundment” are substituted for “administrative inspections of the area, factory, warehouse, establishment, premises, or motor vehicle, or contents thereof” to eliminate unnecessary words and for consistency in this section.

In subsection (b)(1), the words “Except as provided in paragraph (4) of this subsection” are added for clarity. The words “an inspection or impoundment” are substituted for “any entry or administrative inspection (including impoundment of motor vehicles or motor vehicle equipment)” to eliminate unnecessary words.

In subsection (b)(2), before clause (A), the words “inspection or impoundment” are substituted for “the purpose of conducting administrative inspections authorized by section 1990d of this title and impoundment of motor vehicles or motor vehicle equipment appropriate to such inspections” for consistency in this section. The words “of the court or magistrate” are substituted for “his” for clarity. The words “and upon proper oath or affirmation” are omitted as surplus because of clause (B). Clause (A) is substituted for “showing probable cause” and “and establishing the grounds for issuing the warrant” to eliminate unnecessary words.

In subsection (b)(3), before clause (A), the words “when the judge or magistrate decides there is a reasonable basis for believing that probable cause exists to issue the warrant” are substituted for “If the judge or magistrate is satisfied that grounds for the application exist or that there is a reasonable basis for believing they exist” for consistency in this section and to eliminate unnecessary words. In clauses (A) and (C), the words “area, factory, warehouse, establishment” are omitted as being included in “premises”. In clause (A), the word “property” is substituted for “and, where appropriate, the type of property to be inspected, if any” to eliminate unnecessary words. In clause (B), the words “the name of the affiant” are substituted for “the name of the person or persons whose affidavit has been taken in support thereof” to eliminate unnecessary words. In clause (C), the words “command the person to whom it is directed” are omitted as surplus. The word “property” is added for consistency with the source provisions restated in clause (A) of this paragraph. In clause (E), the words “proof of service is to be filed” are substituted for “it shall be returned” for clarity.

In subsection (b)(4)(A), the words “factory, warehouse, establishment” are omitted as being included in “premises”.

Subsection (b)(4)(C) is substituted for 15:1990e(a)(3) to eliminate unnecessary words.

In subsection (b)(4)(D), the words “are to be inspected and copied” are substituted for “for access to and examination” for consistency.

In subsection (b)(4)(E), the words “in any other situations where” are omitted as surplus.

In subsection (c)(2)(A), the words “from whose possession or” are substituted for “from whom or from whose” for clarity.

In subsection (c)(3), the words “shall file the warrant, proof of service, and all documents filed about the warrant” are substituted for “shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them” to eliminate unnecessary words. The words “United States district court” are substituted for “district court of the United States” for consistency with the definition in section 32101 of the revised title and with other provisions of the chapter.

CHANGE OF NAME

Reference to United States magistrate or to magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

§ 32708. Confidentiality of information

(a) GENERAL.—Information obtained by the Secretary of Transportation under this chapter related to a confidential matter referred to in section 1905 of title 18 may be disclosed only—

- (1) to another officer or employee of the United States Government for use in carrying out this chapter; or
- (2) in a proceeding under this chapter.

(b) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1054.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
32708 .....	15:1990d(d).	Oct. 20, 1972, Pub. L. 92-513, 86 Stat. 947, §414(d); added July 14, 1976, Pub. L. 94-364, §408(2), 90 Stat. 987.

In subsection (a), before clause (1), the words “reported to or otherwise” and “or his representative” are omitted as surplus. The words “related to a confidential matter referred to” are substituted for “contains or relates to a trade secret or other matter referred to” to eliminate unnecessary words. The words “shall be considered confidential for the purpose of that section” are omitted as surplus.

In subsection (b), the words “a committee of Congress authorized to have the information” are substituted for “the duly authorized committees of the Congress” for clarity.

§ 32709. Penalties and enforcement

(a) CIVIL PENALTY.—(1) A person that violates this chapter or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than \$10,000 for each violation. A separate violation occurs for each motor vehicle or device involved in the violation. The maximum penalty under this subsection for a related series of violations is \$1,000,000.

(2) The Secretary of Transportation shall impose a civil penalty under this subsection. The Attorney General shall bring a civil action to collect the penalty. Before referring a penalty claim to the Attorney General, the Secretary may compromise the amount of the penalty. Before compromising the amount of the penalty, the Secretary shall give the person charged with a violation an opportunity to establish that the violation did not occur.

(3) In determining the amount of a civil penalty under this subsection, the Secretary shall consider—

- (A) the nature, circumstances, extent, and gravity of the violation;
- (B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(C) other matters that justice requires.

(b) **CRIMINAL PENALTY.**—A person that knowingly and willfully violates this chapter or a regulation prescribed or order issued under this chapter shall be fined under title 18, imprisoned for not more than 3 years, or both. If the person is a corporation, the penalties of this subsection also apply to a director, officer, or individual agent of a corporation who knowingly and willfully authorizes, orders, or performs an act in violation of this chapter or a regulation prescribed or order issued under this chapter without regard to penalties imposed on the corporation.

(c) **CIVIL ACTIONS BY ATTORNEY GENERAL.**—The Attorney General may bring a civil action to enjoin a violation of this chapter or a regulation prescribed or order issued under this chapter. The action may be brought in the United States district court for the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpoena for a witness in the action may be served in any judicial district.

(d) **CIVIL ACTIONS BY STATES.**—(1) When a person violates this chapter or a regulation prescribed or order issued under this chapter, the chief law enforcement officer of the State in which the violation occurs may bring a civil action—

(A) to enjoin the violation; or

(B) to recover amounts for which the person is liable under section 32710 of this title for each person on whose behalf the action is brought.

(2) An action under this subsection may be brought in an appropriate United States district court or in a State court of competent jurisdiction. The action must be brought not later than 2 years after the claim accrues.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1054; Pub. L. 112–141, div. C, title I, §31206(1), July 6, 2012, 126 Stat. 761.)

#### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
32709(a) .....	15:1988(b) (related to violating rules).  15:1990b.	Oct. 20, 1972, Pub. L. 92–513, §408(b) (related to violating rules), 86 Stat. 963; restated July 14, 1976, Pub. L. 94–364, §406, 90 Stat. 983. Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §§412, 413; added July 14, 1976, Pub. L. 94–364, §408(2), 90 Stat. 984; Oct. 28, 1986, Pub. L. 99–579, §3, 100 Stat. 3311.
32709(b) .....	15:1988(b) (related to violating rules). 15:1990c.	
32709(c) .....	15:1990.	Oct. 20, 1972, Pub. L. 92–513, §410, 86 Stat. 963; restated July 14, 1976, Pub. L. 94–364, §407, 90 Stat. 984.
32709(d) .....	15:1990a.	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §411; added July 14, 1976, Pub. L. 94–364, §408(2), 90 Stat. 984.

In subsection (a)(1), the words “that violates this chapter” are substituted for “who commits any act or causes to be done any act that violates any provision of this subchapter or omits to do any act or causes to be omitted any act that is required by any such provi-

sion” in 15:1990b(a) for consistency and to eliminate unnecessary words. The words “or a regulation prescribed or order issued under this chapter” are substituted for “No transferor shall violate any rule prescribed under this section” in 15:1988 for consistency in the revised title and because “rule” is synonymous with “regulations”. The words “A separate violation occurs for each motor vehicle or device involved in the violation” are substituted for “A violation of any such provision shall, for purposes of this section, constitute a separate violation with respect to each motor vehicle or device involved” in 15:1990b(a) to eliminate unnecessary words.

In subsection (a)(2), the words “on behalf of the United States” are omitted as surplus. The words “Before compromising the amount of a penalty, the Secretary shall give” are substituted for “after affording” for clarity. The words “to present views and evidence in support thereof” and “alleged” are omitted as surplus.

In subsection (b), the words “that knowingly and willfully violates this chapter” are substituted for “knowingly and willfully commits any act or causes to be done any act that violates any provision of this subchapter or knowingly and willfully omits to do any act or causes to be omitted any act that is required by such provision” to eliminate unnecessary words. The words “or a regulation prescribed or order issued under this chapter” are substituted for “No transferor shall violate any rule prescribed under this section” in 15:1988 for consistency in the revised title and because “rule” is synonymous with “regulation”. The words “fined under title 18” are substituted for “fined not more than \$50,000” for consistency with title 18. The words “an act in violation of” are substituted for “any of the acts or practices constituting in whole or in part a violation of” to eliminate unnecessary words.

In subsections (c) and (d), the word “enjoin” is substituted for “restrain” for consistency.

In subsection (c), the words “The United States district courts shall have jurisdiction” are omitted because of 28:1331. The words “for cause shown and subject to the provisions of rule 65(a) and (b) of the Federal Rules of Civil Procedure” are omitted as surplus because the rules apply in the absence of an exemption from them. The words “the violation occurred” are substituted for “wherein any act, omission, or transaction constituting the violation occurred”, and the word “resides” is substituted for “is an inhabitant”, to eliminate unnecessary words. The words “may be served in” are substituted for “may run into” for clarity.

In subsection (d)(1), before clause (A), the words “this chapter or a regulation prescribed or order issued under this chapter” are substituted for “requirement imposed under this subchapter” for consistency. The words “civil action” are substituted for “any action” for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (d)(2), the words “without regard to the amount in controversy” are omitted because jurisdiction is now allowed under 28:1331 without regard to the amount in controversy. The words “United States district court” are substituted for “district court of the United States” for consistency with the definition in section 32101 of the revised title and with other provisions of the chapter.

#### AMENDMENTS

2012—Subsec. (a)(1). Pub. L. 112–141 substituted “\$10,000” for “\$2,000” and “\$1,000,000” for “\$100,000”.

#### 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.

#### § 32710. Civil actions by private persons

(a) **VIOLATION AND AMOUNT OF DAMAGES.**—A person that violates this chapter or a regulation