

(3) The authority in subsection (c)(4) may not be construed as preempting the authority of a flight commander to determine who boards the aircraft and any other matters in connection with safe operation of the aircraft.

(g) CONSTRUCTION.—The authority to provide transportation under the travel program is in addition to any other authority under law to provide transportation on Department of Defense aircraft on a space-available basis.

(Added Pub. L. 110-181, div. A, title III, § 374(a), Jan. 28, 2008, 122 Stat. 82; amended Pub. L. 112-239, div. A, title VI, § 622(a), Jan. 2, 2013, 126 Stat. 1779; Pub. L. 115-232, div. A, title VI, § 624, Aug. 13, 2018, 132 Stat. 1801; Pub. L. 116-283, div. A, title X, § 1081(a)(43), Jan. 1, 2021, 134 Stat. 3873.)

AMENDMENTS

2021—Subsec. (a)(3)(B). Pub. L. 116-283 substituted “subsection (c)(6)” for “subsection (c)(5)”.

2018—Subsec. (c)(4) to (6). Pub. L. 115-232, § 624(a), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

Subsecs. (f), (g). Pub. L. 115-232, § 624(b), added subsec. (f) and redesignated former subsec. (f) as (g).

2013—Pub. L. 112-239 amended section generally. Prior to amendment, section related to increased priority for space-available transportation on Department of Defense aircraft for certain members and former members of the uniformed services.

STUDY ON SPACE-AVAILABLE TRAVEL SYSTEM OF THE DEPARTMENT OF DEFENSE

Pub. L. 114-328, div. A, title III, § 352, Dec. 23, 2016, 130 Stat. 2089, provided that:

“(a) STUDY REQUIRED.—Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall seek to enter into a contract with a federally funded research and development center to conduct an independent study on the space-available travel system of the Department of Defense.

“(b) REPORT REQUIRED.—Not later than 180 days after entering into a contract with a federally funded research and development center under subsection (a), the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report summarizing the results of the study conducted under such subsection.

“(c) ELEMENTS.—The report under subsection (b) shall include, with respect to the space-available travel system, the following:

“(1) A determination of—

“(A) the capacity of the system as of the date of the enactment of this Act [Dec. 23, 2016];

“(B) the projected capacity of the system for the 10-year period following such date of enactment; and

“(C) the projected number of reserve retirees, active duty retirees, and dependents of such retirees that will exist by the end of such 10-year period.

“(2) Estimates of system capacity based [on] the projections described in paragraph (1).

“(3) A discussion of the efficiency of the system and data regarding the use of available space with respect to each category of passengers eligible for space-available travel under existing regulations.

“(4) A description of the effect on system capacity if eligibility for space-available travel is extended to—

“(A) drilling reserve component personnel and dependents of such personnel on international flights;

“(B) dependents of reserve component retirees who are less than 60 years of age;

“(C) retirees who are less than 60 years of age on international flights;

“(D) drilling reserve component personnel traveling to drilling locations; and

“(E) members or former members of the Armed Forces who have a disability rated as total, if space-available travel is provided to such members on the same basis as such travel is provided to members of the Armed Forces entitled to retired or retainer pay.

“(5) A discussion of logistical and management problems, including congestion at terminals, waiting times, lodging availability, and personal hardships experienced by travelers.

“(6) An evaluation of the cost of the system and whether space-available travel is and can remain cost-neutral.

“(7) An evaluation of the feasibility of expanding the categories of passengers eligible for space-available travel to include—

“(A) in the case of overseas travel, retired members of an active or reserve component, including retired members of reserve components, who, but for being under the eligibility age applicable to the member under section 12731 of title 10, United States Code, would be eligible for retired pay under chapter 1223 of such title;

“(B) unmarried widows and widowers of active or reserve component members of the Armed Forces; and

“(C) members or former members of the Armed Forces who have a disability rated as total, if space-available travel is provided to such members on the same basis as such travel is provided to members of the Armed Forces entitled to retired or retainer pay.

“(8) Such other factors relating to the efficiency and cost of the system as the Secretary determines to be appropriate.

“(d) ADDITIONAL RESPONSIBILITIES.—In addition to carrying out subsections (a) through (c), the Secretary of Defense shall—

“(1) analyze the methods used to prioritize among the categories of individuals eligible for space-available travel and make recommendations for—

“(A) re-ordering the priority of such categories; and

“(B) adding additional categories of eligible individuals; and

“(2) collect data on travelers who request but do not obtain available travel spaces under the space-available travel system.

“(e) DISABILITY RATED AS TOTAL DEFINED.—In this section, the term ‘disability rated as total’ has the meaning given the term in section 1414(e)(3) of title 10, United States Code.”

§ 2642. Transportation services provided to certain non-Department of Defense agencies and entities: use of Department of Defense reimbursement rate

(a) AUTHORITY.—Subject to subsection (b), the Secretary of Defense may authorize the use of the Department of Defense reimbursement rate for military transportation services provided by a component of the Department of Defense as follows:

(1) For military transportation services provided to the Central Intelligence Agency, if the Secretary of Defense determines that those military transportation services are provided for activities related to national security objectives.

(2) For military transportation services provided to the Department of State for the transportation of armored motor vehicles to a foreign country to meet requirements of the Department of State for armored motor vehicles associated with the overseas travel of the Secretary of State in that country.

(3) For military transportation services provided to any element of the Federal Government outside the Department of Defense in circumstances other than those specified in paragraphs (1) and (2), but only if the Secretary of Defense determines that the provision of such services will promote the improved use of transportation capacity without any negative effect on the national security objectives or the national security interests contained within the United States commercial transportation industry.

(4) For military transportation services provided in support of foreign military sales.

(5) For military transportation services provided to a State, local, or tribal agency (including any organization composed of State, local, or tribal agencies).

(6) For military transportation services provided to a Department of Defense contractor when transporting supplies that are for, or destined for, a Department of Defense entity.

(b) **TERMINATION OF AUTHORITY FOR CERTAIN CATEGORIES OF TRANSPORTATION.**—The provisions of paragraphs (3), (4), (5), and (6) of subsection (a) shall apply only to military transportation services provided before October 1, 2024.

(c) **DEFINITION.**—In this section, the term “Department of Defense reimbursement rate” means the amount charged a component of the Department of Defense by another component of the Department of Defense.

(Added Pub. L. 102–88, title V, §501(a), Aug. 14, 1991, 105 Stat. 435; amended Pub. L. 108–136, div. A, title X, §1006(a), (b)(1), Nov. 24, 2003, 117 Stat. 1585; Pub. L. 111–84, div. A, title III, §351(a), Oct. 28, 2009, 123 Stat. 2262; Pub. L. 111–383, div. A, title X, §1075(b)(40), Jan. 7, 2011, 124 Stat. 4371; Pub. L. 113–66, div. A, title X, §1073(a), (b), Dec. 26, 2013, 127 Stat. 869; Pub. L. 113–291, div. A, title X, §§1044(a)–(c)(1), 1071(f)(22), (g)(4), Dec. 19, 2014, 128 Stat. 3493, 3494, 3511; Pub. L. 115–91, div. A, title X, §1081(f), Dec. 12, 2017, 131 Stat. 1601; Pub. L. 116–92, div. A, title III, §373, Dec. 20, 2019, 133 Stat. 1332.)

AMENDMENTS

2019—Subsec. (b). Pub. L. 116–92 substituted “October 1, 2024” for “October 1, 2019”.

2017—Subsec. (a)(3). Pub. L. 115–91, §1081(f), which directed substitution of “September 30” for “October 28” in the amendment made by Pub. L. 113–291, §1044(a)(2)(A), was executed by making the substitution the second place appearing in the quoted language to be stricken by that amendment, to reflect the probable intent of Congress. See 2014 Amendment note below.

2014—Pub. L. 113–291, §1044(c)(1), amended section catchline generally, substituting “Transportation services provided to certain non-Department of Defense agencies and entities: use of Department of Defense reimbursement rate” for “Transportation services provided to certain other agencies: use of Department of Defense reimbursement rate”.

Subsec. (a). Pub. L. 113–291, §1044(a)(1), substituted “Subject to subsection (b), the Secretary” for “The Secretary” in introductory provisions.

Subsec. (a)(3). Pub. L. 113–291, §1071(g)(4), amended Pub. L. 113–66, §1073(a)(2)(B). See 2013 Amendment note below.

Pub. L. 113–291, §1071(f)(22), inserted “and” before “military transportation services provided in support”. Amendment was executed prior to amendment by Pub. L. 113–291, §1044(a)(2)(B), see below, pursuant to section

1071(k) of Pub. L. 113–291, set out as a note under section 101 of this title.

Pub. L. 113–291, §1044(a)(2)(B), substituted “Department of Defense” for “Department of Defense and military transportation services provided in support of foreign military sales”.

Pub. L. 113–291, §1044(a)(2)(A), as amended by Pub. L. 115–91, §1081(f), substituted “For” for “During the period beginning on October 28, 2009, and ending on September 30, 2019, for”. See 2017 Amendment note above.

Subsec. (a)(4) to (6). Pub. L. 113–291, §1044(a)(3), added pars. (4) to (6).

Subsecs. (b), (c). Pub. L. 113–291, §1044(b), added subsec. (b) and redesignated former subsec. (b) as (c).

2013—Pub. L. 113–66, §1073(b), substituted “Transportation” for “Airlift” in section catchline.

Subsec. (a). Pub. L. 113–66, §1073(a)(1), substituted “transportation services” for “airlift services” wherever appearing and “transportation capacity” for “airlift capacity” in par. (3).

Subsec. (a)(3). Pub. L. 113–66, §1073(a)(2)(B), as amended by Pub. L. 113–291, §1071(g)(4), inserted “military transportation services provided in support of foreign military sales” after “Department of Defense”.

Pub. L. 113–66, §1073(a)(2)(A), (C), substituted “September 30, 2019” for “October 28, 2014” and “transportation industry” for “air industry”.

2011—Subsec. (a)(3). Pub. L. 111–383 substituted “During the period beginning on October 28, 2009, and ending on October 28, 2014” for “During the five-year period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2010”.

2009—Subsec. (a)(3). Pub. L. 111–84 added par. (3).

2003—Pub. L. 108–136, §1006(b)(1), substituted “Airlift services provided to certain other agencies: use of Department of Defense reimbursement rate” for “Reimbursement rate for airlift services provided to Central Intelligence Agency” as section catchline.

Subsec. (a). Pub. L. 108–136, §1006(a), inserted “as follows:

“(1) For military airlift services provided” before “to the Central Intelligence Agency”, and added par. (2).

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title X, §1081(f), Dec. 12, 2017, 131 Stat. 1601, provided that the amendment made by section 1081(f) is effective as of Dec. 19, 2014, and as if included in Pub. L. 113–291 as enacted.

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–291, div. A, title X, §1071(g), Dec. 19, 2014, 128 Stat. 3511, provided that the amendment made by section 1071(g)(4) is effective as of Dec. 26, 2013, and as if included in Pub. L. 113–66 as enacted.

§ 2643. Commissary and exchange services: transportation overseas

(a) **TRANSPORTATION OPTIONS.**—The Secretary of Defense shall authorize the officials responsible for operation of commissaries and military exchanges to negotiate directly with private carriers for the most cost-effective transportation of commissary and exchange supplies to destinations outside the continental United States without relying on the Air Mobility Command, the Military Sealift Command, or the Military Traffic Management Command. Section 2631 of this title, regarding the preference for vessels of the United States or belonging to the United States in the transportation of supplies by sea, shall apply to the negotiation of contracts for sea-borne transportation under the authority of this section.

(b) **PAYMENT OF TRANSPORTATION COSTS.**—Section 2483(b)(5) of this title, regarding the use of