

this title, may not unjustly discriminate in any manner so as to give preference, directly or indirectly, to cargo in which the contractor or charterer has a direct or indirect ownership, purchase, or vending interest.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1672.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
58105	46 App.:1226.	June 29, 1936, ch. 858, title VIII, § 808, 49 Stat. 2015.

The words “and whosoever shall violate this provision shall be guilty of a misdemeanor” are omitted because section 3559 of title 18 provides for the classification of offenses. See the revision notes for section 58109 of the revised title.

§ 58106. Concerted discriminatory activities

(a) PROHIBITION.—A contractor receiving an operating-differential subsidy, or a charterer under chapter 575 of this title, may not continue as a party to or conform to an agreement with another carrier by water, or engage in a practice in concert with another carrier by water, that is unjustly discriminatory or unfair to any other citizen of the United States operating a common carrier by water employing only vessels documented under the laws of the United States on an established trade route from and to a United States port.

(b) GOVERNMENT PAYMENT PROHIBITED.—No payment or subsidy of any kind may be paid, directly or indirectly, out of funds of the United States Government to a contractor or charterer that has violated subsection (a).

(c) CIVIL ACTION.—A person whose business or property is injured by a violation of subsection (a) may bring a civil action in the district court of the United States for the district in which the defendant resides, is found, or has an agent. If the person prevails, the person shall be awarded—

- (1) 3 times the damages; and
- (2) costs, including reasonable attorney fees.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1672.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
58106	46 App.:1227.	June 29, 1936, ch. 858, title VIII, § 810, 49 Stat. 2015.

In subsection (b), the words “United States Government” are substituted for “United States or any agency of the United States” for consistency and to eliminate unnecessary words.

In subsection (c), the words “bring a civil action” are substituted for “sue” for consistency in the revised title. The words “without respect to the amount in controversy” are omitted because section 1331 of title 28 no longer contains a requirement of any particular amount in controversy for jurisdiction of civil actions arising under the laws of the United States. The words “If the person prevails” are added for clarity.

§ 58107. Discrimination at ports by water common carriers

(a) PROHIBITION.—A common carrier by water may not, directly or indirectly, through an agreement, conference, association, under-

standing, or otherwise, prevent or attempt to prevent any other common carrier by water from serving any port described in subsection (b) at the same rates the first carrier charges at the nearest port already regularly served by it.

(b) PORTS.—A port referred to in subsection (a) is one that is—

- (1) designed for the accommodation of ocean-going vessels;
- (2) located on an improvement project authorized by law or by a Federal agency; and
- (3) located within the continental limits of the United States.

(c) OTHER AUTHORITY NOT LIMITED.—This section does not limit the authority otherwise vested in the Secretary of Transportation and the Federal Maritime Commission.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1672.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
58107	46 App.:1115.	June 29, 1936, ch. 858, title II, § 205, 49 Stat. 1987; Pub. L. 97–31, §12(62), Aug. 6, 1981, 95 Stat. 159.

§ 58108. Charges for transportation subject to subtitle IV of title 49

(a) PROHIBITION.—A carrier may not charge, collect, or receive for transportation subject to subtitle IV of title 49 of persons or property, under any joint rate, fare, or charge, or under any export, import, or other proportional rate, fare, or charge, that is based in whole or in part on the fact that the persons or property affected are to be transported to, or have been transported from, a port in a territory or possession of the United States or in a foreign country, by a carrier by water in foreign commerce, any lower rate, fare, or charge than the carrier charges, collects, or receives for the transportation of persons or similar property for the same distance, in the same direction, and over the same route, in commerce wholly within the United States, unless the vessel used for the transportation is or was at the time of the transportation documented under the laws of the United States.

(b) SUSPENSION OF PROHIBITION.—Whenever the Secretary of Transportation believes that adequate shipping facilities to or from any port in a territory or possession of the United States or a foreign country are not being provided by vessels documented under the laws of the United States, the Secretary shall certify this fact to the Surface Transportation Board. On receiving the certification, the Board may by order suspend the operation of subsection (a) with respect to the rates, fares, and charges for the transportation by rail of persons and property transported from or to be transported to those ports, for such time and under such terms and conditions as the Secretary may specify in the order or in any supplemental order.

(c) TERMINATION OF SUSPENSION.—Whenever the Secretary believes that adequate shipping facilities are being provided to those ports by vessels documented under the laws of the United States, and certifies that fact to the Board, the