

in the subsection. The words “the duties and powers of the officer” are substituted for “such functions, powers, and duties” in 49:1657(e)(2) for clarity and consistency. The words “the duties and powers specified in sections 103(c)(1), 104(c)(1), and 106(g)(1) of this title” are substituted for “any of the statutory duties and responsibilities specifically assigned to them by this chapter” in 49:1657(e)(3) for clarity. The words “may not be delegated to an officer or employee outside the Administration concerned” are substituted for “The Administrators established by section 1652(e) of this title . . . may not delegate . . . outside of their respective administrations” in 49:1657(e)(3) for clarity and because of the restatement of the section.

In subsection (c), before clause (1), the words “aviation duties and powers” are added because the source provisions being restated only applies to carrying out duties and powers related to the Federal Aviation Administration. In clause (2), the words “those departments, agencies, and instrumentalities” are substituted for “such other agencies and instrumentalities” in 49:1343(i) for clarity and consistency. The words “aviation . . . Department” are substituted for “Administration” in 49:1343(i) because of the transfer of aviation functions to the Secretary under 49:1655(c)(1).

In subsection (d), before clause (1), the words “aviation duties and powers” are substituted for “for the exercise and performance of the powers and duties vested in and imposed upon him by law” in 49:1344(a) because the source provisions being restated only applies to carrying out duties and powers related to the Federal Aviation Administration. The words “at the seat of government and elsewhere as may be necessary” after “expenditures” and “and as from time to time may be appropriated for by Congress” are omitted as surplus. In clause (8), the words “passenger-carrying aircraft and automobiles” are substituted for “passenger-carrying automobiles and aircraft” in 49:1344(a) for clarity. The words “such . . . as is necessary in the exercise and performance of the powers and duties of the Secretary” after “aircraft” in 49:1344(a) are omitted as unnecessary because of the restatement of the section. The text of 49:1344(a) (proviso) is omitted as unnecessary.

In subsection (e), before clause (1), the words “or in support of” are omitted as surplus. In clause (1), the words “making the property” are substituted for “for manufacture” for clarity. In clause (2), the word “formal” is omitted as unnecessary. The word “unreasonably” is substituted for “unduly” for consistency.

Editorial Notes

REFERENCES IN TEXT

Section 103(c)(1) of this title, referred to in subsec. (b), was struck out by Pub. L. 110-432, div. A, title I, §101, Oct. 16, 2008, 122 Stat. 4851. Provisions similar to those contained in former subsec. (c)(1) of section 103 are now contained in subsec. (g)(1) of section 103.

Statutory Notes and Related Subsidiaries

ELECTRONIC SIGNATURES

Pub. L. 115-271, title VIII, §8108(c), Oct. 24, 2018, 132 Stat. 4107, provided that: “Not later than 18 months after the date of the deadline under subsection (a)(2) [section 8108(a)(2) of Pub. L. 115-271, set out in a note under section 7301 of Title 5, Government Organization and Employees], the Secretary of Transportation shall issue a final rule revising part 40 of title 49, Code of Federal Regulations, to authorize, to the extent practicable, the use of electronic signatures or digital signatures executed to electronic forms instead of traditional handwritten signatures executed on paper forms.”

AVAILABILITY OF RECEIPTS FROM FITNESS CENTERS FOR OPERATION AND MAINTENANCE OF FACILITIES

Pub. L. 106-69, title III, §329, Oct. 9, 1999, 113 Stat. 1021, provided that: “Hereafter, notwithstanding any

other provision of law, receipts, in amounts determined by the Secretary, collected from users of fitness centers operated by or for the Department of Transportation shall be available to support the operation and maintenance of those facilities.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 105-277, div. A, §101(g) [title III, §332], Oct. 21, 1998, 112 Stat. 2681-439, 2681-471.

Pub. L. 105-66, title III, §332, Oct. 27, 1997, 111 Stat. 1447.

Pub. L. 104-205, title III, §344, Sept. 30, 1996, 110 Stat. 2976.

EXECUTIVE ORDER NO. 11382

Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, as amended by Ex. Ord. No. 11428, Sept. 5, 1968, 32 F.R. 12719, upon establishment of Department of Transportation amended and revoked certain executive orders relating to transportation, and, in addition to any other authority, authorized Secretary of Transportation and Federal Aviation Administrator to redelegate and authorize successive redelegations of any authority conferred in the order or the orders amended by it.

§ 323. Personnel

(a) The Secretary of Transportation may appoint and fix the pay of officers and employees of the Department of Transportation and may prescribe their duties and powers.

(b) The Secretary may procure services under section 3109 of title 5. However, an individual may be paid not more than \$100 a day for services.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2423.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
323(a)	49:1343(d). 49:1343(f). 49:1657(a).	Aug. 23, 1958, Pub. L. 85-726, §302(f), 72 Stat. 746; Oct. 4, 1961, Pub. L. 87-367, §205(b), 75 Stat. 791; Oct. 11, 1962, Pub. L. 87-793, §1001(h), 76 Stat. 864. Aug. 23, 1958, Pub. L. 85-726, §302(h), 72 Stat. 746; Oct. 4, 1961, Pub. L. 87-367, §205(a), 75 Stat. 791. Oct. 15, 1966, Pub. L. 89-670, §9(a), (b), 80 Stat. 944; Mar. 27, 1978, Pub. L. 95-251, §2(a)(12), 92 Stat. 183.
323(b)	49:1343(g) (1st sentence 33d-43d words). 49:1657(b).	Aug. 23, 1958, Pub. L. 85-726, §302(i) (1st sentence 31st-41st words), 72 Stat. 747.

In the section, the word “pay” is substituted for “compensation” for consistency with title 5.

In subsection (a), the words “In addition to the authority contained in any other Act which is transferred to and vested in the Secretary, the National Transportation Safety Board, or any other officer in the Department” before “the Secretary” and “subject to the civil service and classification laws” before “to select” in 49:1657(a) are omitted as unnecessary because of title 5, especially sections 3301, 5101, and 5331. The word “appoint” is substituted for “select, employ, appoint” because it is inclusive. The words “attorneys, and agents” after “employees” in 49:1343(d) and “including investigators, attorneys, and administrative law judges” after “employees” in 49:1657(a) are omitted as included in “officers and employees”. The words “of the Department of Transportation” are substituted for “as are necessary to carry out the provisions of this chapter” for consistency.

The text of 49:1343(d) (words after 1st comma) is omitted because of section 414(a)(1)(B) of the Civil Service

Reform Act of 1978 (Pub. L. 95-454, 92 Stat. 1177). The text of 49:1343(f) is omitted because of section 414(a)(2)(A) of that Act.

In subsection (b), the word “procure” is substituted for “obtain” to conform to 5:3109. The words “unless otherwise specified in an appropriation Act” after “individuals” in 49:1657(b) are omitted as surplus.

Statutory Notes and Related Subsidiaries

POST-EMPLOYMENT POLICY STUDY

Pub. L. 112-141, div. C, title I, §31308(b), July 6, 2012, 126 Stat. 770, provided that:

“(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct a study of the Department’s policies relating to post-employment restrictions on employees who perform functions related to transportation safety.

“(2) REPORT.—Not later than 1 year after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112-141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Inspector General shall submit a report containing the results of the study conducted under paragraph (1) to—

“(A) the Committee on Commerce, Science, and Transportation of the Senate;

“(B) the Committee on Energy and Commerce of the House of Representatives; and

“(C) the Secretary of Transportation.

“(3) USE OF RESULTS.—The Secretary of Transportation shall review the results of the study conducted under paragraph (1) and take whatever action the Secretary determines to be appropriate.”

§ 324. Members of the armed forces

(a) The Secretary of Transportation—

(1) to ensure that national defense interests are safeguarded properly and that the Secretary is advised properly about the needs and special problems of the armed forces, shall provide for participation of members of the armed forces in carrying out the duties and powers of the Secretary related to the regulation and protection of air traffic, including providing for, and research and development of, air navigation facilities, and the allocation of airspace; and

(2) may provide for participation of members of the armed forces in carrying out other duties and powers of the Secretary.

(b) A member of the Coast Guard on active duty may be appointed, detailed, or assigned to a position in the Department of Transportation, except the position of Secretary, Deputy Secretary, or Assistant Secretary for Administration. A retired member of the Coast Guard may be appointed, detailed, or assigned to a position in the Department.

(c) The Secretary of Transportation and the Secretary of a military department may make cooperative agreements, including agreements on reimbursement as may be considered appropriate by the Secretaries, under which a member of the armed forces may be appointed, detailed, or assigned to the Department of Transportation under this section. The Secretary of Transportation shall send a report each year to the appropriate committees of Congress on agreements made to carry out subsection (a)(2) of this section, including the number, rank, and position of each member appointed, detailed, or assigned under those agreements.

(d) The Secretary of a military department does not control the duties and powers of a

member of the armed forces appointed, detailed, or assigned under this section when those duties and powers pertain to the Department of Transportation. A member of the armed forces appointed, detailed, or assigned under subsection (a)(2) of this section may not be charged against a statutory limitation on grades or strengths of the armed forces. The appointment, detail, or assignment and service of a member under this section to a position in the Department of Transportation does not affect the status, office, rank, or grade held by that member, or a right or benefit arising from that status, office, rank, or grade.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2423.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
324(a)(1)	49:1343(a)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85-726, §302(c)(1), (2) (related to cooperative agreements), 72 Stat. 745.
324(a)(2)	49:1657(c) (1st sentence).	Oct. 15, 1966, Pub. L. 89-670, §9(c), (d), 80 Stat. 944.
324(b)	49:1657(p).	Oct. 15, 1966, Pub. L. 89-670, §9(p), 80 Stat. 947; Oct. 28, 1974, Pub. L. 93-496, §16(b), 88 Stat. 1533.
324(c)	49:1343(a)(1) (less 1st sentence), 49:1657(c) (less 1st sentence), (d)(2).	
324(d)	49:1343(a)(2) (related to cooperative agreements), 49:1657(d)(1).	

In the section, the words “members of the armed forces” are substituted for “military personnel”, “Members of the Army, the Navy, the Air Force, or the Marine Corps”, and “members of the armed services” for clarity and to conform to title 10.

In subsection (a)(2), the words “other duties and powers of the Secretary” are substituted for “the functions of the Department” for clarity and consistency.

In subsection (b), the words “Notwithstanding any provision of this chapter or other law” before “a member” and “Subject to the provisions of title 5” before “a retired” are omitted as unnecessary.

In subsection (c), the words “The Secretary of Transportation and the Secretary of a military department may make cooperative agreements under which” are substituted for “by the appropriate Secretary, pursuant to cooperative agreements with the Secretary of Transportation” in 49:1343(a)(1) and 49:1657(c) for clarity. The words “or the Coast Guard” before “may be detailed” in 49:1343(a)(1) (2d sentence) are omitted because of the transfer of the Coast Guard to the Secretary under 49:1655(b) and the transfer of aviation functions to the Secretary under 49:1655(c)(1). The words “may be appointed, detailed, or assigned” are substituted for “may be detailed” for clarity and consistency in 49:1343(a)(1) and 49:1657(c). The words “to the Department of Transportation” are substituted for “for service in the Administration to effect such participation” in 49:1343(a)(1) because of the transfer of aviation functions to the Secretary under 49:1655(c)(1) and to eliminate unnecessary words. The words “in writing” after “annually” in 49:1657(d)(2) are omitted as unnecessary. The words “each member appointed, detailed, or assigned” are substituted for “personnel appointed” and “members of the armed services detailed” in 49:1657(d)(2) for clarity and consistency.

In subsection (d), the words “The Secretary of a military department” are substituted for “his armed force or any officer thereof” in 49:1657(d)(1) and “the department from which detailed or appointed or by any agency or officer thereof” in 49:1343(a)(2) for clarity and consistency. The words “directly or indirectly” before “with respect to” are omitted as surplus. The words