

Clause (2) is added to avoid the necessity of repeating the substance of the definition every time a “dispatching service employee” is referred to in this chapter. The language in clause (2) is derived from 45:63.

Clause (3) is added to provide a definition of “employee” when the source provisions apply to all types of employees covered by this chapter.

Clause (4) is added to avoid the necessity of repeating the substance of the definition every time a “signal employee” is referred to in this chapter. The language in clause (4) is derived from 45:63a.

In clause (5), the words “train employee” are substituted for “employee” to distinguish the term from the terms “dispatching service employee” and “signal employee”. The word “actually” is omitted as surplus.

Editorial Notes

AMENDMENTS

2008—Par. (4). Pub. L. 110-432 struck out “employed by a railroad carrier” after “individual”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-432, div. A, title I, §108(g), Oct. 16, 2008, 122 Stat. 4866, provided that: “The amendments made by subsections (a), (b), and (c) [amending this section and sections 21103 and 21104 of this title] shall take effect 9 months after the date of enactment of this Act [Oct. 16, 2008].”

RECORD KEEPING AND REPORTING

Pub. L. 110-432, div. A, title I, §108(f), Oct. 16, 2008, 122 Stat. 4866, provided that:

“(1) REGULATIONS.—Not later than 180 days after the date of enactment of this Act [Oct. 16, 2008], the Secretary [of Transportation] shall prescribe a regulation revising the requirements for recordkeeping and reporting for Hours of Service of Railroad Employees contained in part 228 of title 49, Code of Federal Regulations—

“(A) to adjust record keeping and reporting requirements to support compliance with chapter 211 of title 49, United States Code, as amended by this Act;

“(B) to authorize electronic record keeping, and reporting of excess service, consistent with appropriate considerations for user interface; and

“(C) to require training of affected employees and supervisors, including training of employees in the entry of hours of service data.

“(2) PROCEDURE.—In lieu of issuing a notice of proposed rulemaking as contemplated by section 553 of title 5, United States Code, the Secretary may utilize the Railroad Safety Advisory Committee to assist in development of the regulation. The Secretary may propose and adopt amendments to the revised regulations thereafter as may be necessary in light of experience under the revised requirements.”

§ 21102. Nonapplication, exemption, and alternate hours of service regime

(a) GENERAL.—This chapter does not apply to a situation involving any of the following:

- (1) a casualty.
- (2) an unavoidable accident.
- (3) an act of God.
- (4) a delay resulting from a cause unknown and unforeseeable to a railroad carrier or its officer or agent in charge of the employee when the employee left a terminal.

(b) EXEMPTION.—The Secretary of Transportation may exempt a railroad carrier having not more than 15 employees covered by this chapter from the limitations imposed by this chapter. The Secretary may allow the exemption after a

full hearing, for good cause shown, and on deciding that the exemption is in the public interest and will not affect safety adversely. The exemption shall be for a specific period of time and is subject to review at least annually. The exemption may not authorize a carrier to require or allow its employees to be on duty more than a total of 16 hours in a 24-hour period.

(c) APPLICATION OF HOURS OF SERVICE REGIME TO COMMUTER AND INTERCITY PASSENGER RAILROAD TRAIN EMPLOYEES.—

(1) When providing commuter rail passenger transportation or intercity rail passenger transportation, the limitations on duty hours for train employees of railroad carriers, including public authorities operating passenger service, shall be solely governed by old section 21103 until the earlier of—

(A) the effective date of regulations prescribed by the Secretary under section 21109(b) of this chapter; or

(B) the date that is 3 years following the date of enactment of the Rail Safety Improvement Act of 2008.

(2) After the date on which old section 21103 ceases to apply, pursuant to paragraph (1), to the limitations on duty hours for train employees of railroad carriers with respect to the provision of commuter rail passenger transportation or intercity rail passenger transportation, the limitations on duty hours for train employees of such railroad carriers shall be governed by new section 21103, except as provided in paragraph (3).

(3) After the effective date of the regulations prescribed by the Secretary under section 21109(b) of this title, such carriers shall—

(A) comply with the limitations on duty hours for train employees with respect to the provision of commuter rail passenger transportation or intercity rail passenger transportation as prescribed by such regulations; and

(B) be exempt from complying with the provisions of old section 21103 and new section 21103 for such employees.

(4) In this subsection:

(A) The terms “commuter rail passenger transportation” and “intercity rail passenger transportation” have the meaning given those terms in section 24102 of this title.

(C)¹ The term “new section 21103” means section 21103 of this chapter as amended by the Rail Safety Improvement Act of 2008.

(D) The term “old section 21103” means section 21103 of this chapter as it was in effect on the day before the enactment of that Act.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 888; Pub. L. 110-432, div. A, title I, §108(d)(1), Oct. 16, 2008, 122 Stat. 4863.)

¹ So in original. No subpar. (B) has been enacted.

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
21102(a)	45:63a(d) (related to 45:64a).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(d) (related to §5); added July 8, 1976, Pub. L. 94-348, §4(d), 90 Stat. 819; June 22, 1988, Pub. L. 100-342, §16(4), 102 Stat. 635.
	45:64a(d).	Mar. 4, 1907, ch. 2939, §5(d), 34 Stat. 1417; restated Dec. 26, 1969, Pub. L. 91-169, §1, 83 Stat. 464; June 22, 1988, Pub. L. 100-342, §16(6)(D), 102 Stat. 635.
21102(b)	45:63a(d) (related to 45:64a).	
	45:64a(e).	Mar. 4, 1907, ch. 2939, §5(e), 34 Stat. 1417; restated Dec. 26, 1969, Pub. L. 91-169, §1, 83 Stat. 464.

In subsection (b), the words “with respect to one or more of its employees” are omitted as surplus because the authority to exempt a railroad carrier includes the authority to exempt only some of the employees of the carrier. The words “carrier to require or allow its employees to be on duty” are substituted for “any railroad described in this section to work its employees” for clarity and consistency in this chapter.

Editorial Notes

REFERENCES IN TEXT

The Rail Safety Improvement Act of 2008, referred to in subsec. (c)(1)(B), (4)(C), (D), is div. A of Pub. L. 110-432, Oct. 16, 2008, 122 Stat. 4848. For complete classification of this Act to the Code, see Short Title of 2008 Amendment note set out under section 20101 of this title and Tables.

AMENDMENTS

2008—Pub. L. 110-432, §108(d)(1)(A), substituted “Non-application, exemption, and alternate hours of service regime” for “Nonapplication and exemption” in section catchline.

Subsec. (c). Pub. L. 110-432, §108(d)(1)(B), added subsec. (c).

§ 21103. Limitations on duty hours of train employees

(a) IN GENERAL.—Except as provided in subsection (d) of this section, a railroad carrier and its officers and agents may not require or allow a train employee to—

(1) remain on duty, go on duty, wait for deadhead transportation, be in deadhead transportation from a duty assignment to the place of final release, or be in any other mandatory service for the carrier in any calendar month where the employee has spent a total of 276 hours—

(A) on duty;

(B) waiting for deadhead transportation, or in deadhead transportation from a duty assignment to the place of final release; or

(C) in any other mandatory service for the carrier;

(2) remain or go on duty for a period in excess of 12 consecutive hours;

(3) remain or go on duty unless that employee has had at least 10 consecutive hours off duty during the prior 24 hours; or

(4) remain or go on duty after that employee has initiated an on-duty period each day for—

(A) 6 consecutive days, unless that employee has had at least 48 consecutive hours

off duty at the employee’s home terminal during which time the employee is unavailable for any service for any railroad carrier except that—

(i) an employee may work a seventh consecutive day if that employee completed his or her final period of on-duty time on his or her sixth consecutive day at a terminal other than his or her home terminal; and

(ii) any employee who works a seventh consecutive day pursuant to subparagraph (i) shall have at least 72 consecutive hours off duty at the employee’s home terminal during which time the employee is unavailable for any service for any railroad carrier; or

(B) except as provided in subparagraph (A), 7 consecutive days, unless that employee has had at least 72 consecutive hours off duty at the employee’s home terminal during which time the employee is unavailable for any service for any railroad carrier, if—

(i) for a period of 18 months following the date of enactment of the Rail Safety Improvement Act of 2008, an existing collective bargaining agreement expressly provides for such a schedule or, following the expiration of 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, collective bargaining agreements entered into during such period expressly provide for such a schedule;

(ii) such a schedule is provided for by a pilot program authorized by a collective bargaining agreement; or

(iii) such a schedule is provided for by a pilot program under section 21108 of this chapter related to employees’ work and rest cycles.

The Secretary may waive paragraph (4), consistent with the procedural requirements of section 20103, if a collective bargaining agreement provides a different arrangement and such an arrangement is in the public interest and consistent with railroad safety.

(b) DETERMINING TIME ON DUTY.—In determining under subsection (a) of this section the time a train employee is on or off duty, the following rules apply:

(1) Time on duty begins when the employee reports for duty and ends when the employee is finally released from duty.

(2) Time the employee is engaged in or connected with the movement of a train is time on duty.

(3) Time spent performing any other service for the railroad carrier during a 24-hour period in which the employee is engaged in or connected with the movement of a train is time on duty.

(4) Time spent in deadhead transportation to a duty assignment is time on duty, but time spent in deadhead transportation from a duty assignment to the place of final release is neither time on duty nor time off duty.

(5) An interim period available for rest at a place other than a designated terminal is time on duty.

(6) An interim period available for less than 4 hours rest at a designated terminal is time on duty.