

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|----------------------------|--|
| 26102(a) | 45:649(a) (1st sentence). | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §810; added July 6, 1990, Pub. L. 101-322, § 3, 104 Stat. 295. |
| 26102(b) | 45:649(a) (last sentence). | |
| 26102(c) | 45:649(b). | |

In subsection (a), the words “Notwithstanding any other provision of law”, “whether for compensatory or”, and “occurring” are omitted as surplus.

In subsection (c), the words “an indemnification contract” are substituted for “coverage” for clarity.

Editorial Notes

AMENDMENTS

1994—Pub. L. 103-440 renumbered section 26102 of this title as this section.

§ 28103. Limitations on rail passenger transportation liability

(a) LIMITATIONS.—(1) Notwithstanding any other statutory or common law or public policy, or the nature of the conduct giving rise to damages or liability, in a claim for personal injury to a passenger, death of a passenger, or damage to property of a passenger arising from or in connection with the provision of rail passenger transportation, or from or in connection with any rail passenger transportation operations over or rail passenger transportation use of right-of-way or facilities owned, leased, or maintained by any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State, punitive damages, to the extent permitted by applicable State law, may be awarded in connection with any such claim only if the plaintiff establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others. If, in any case wherein death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, this paragraph shall not apply.

(2) The aggregate allowable awards to all rail passengers, against all defendants, for all claims, including claims for punitive damages, arising from a single accident or incident, shall not exceed \$200,000,000.

(b) CONTRACTUAL OBLIGATIONS.—A provider of rail passenger transportation may enter into contracts that allocate financial responsibility for claims.

(c) MANDATORY COVERAGE.—Amtrak shall maintain a total minimum liability coverage for claims through insurance and self-insurance of at least \$200,000,000 per accident or incident.

(d) EFFECT ON OTHER LAWS.—This section shall not affect the damages that may be recovered under the Act of April 27, 1908 (45 U.S.C. 51 et seq.; popularly known as the “Federal Employers’ Liability Act”) or under any workers compensation Act.

(e) DEFINITION.—For purposes of this section—

(1) the term “claim” means a claim made—

(A) against Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State; or

(B) against an officer, employee, affiliate engaged in railroad operations, or agent, of Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State;

(2) the term “punitive damages” means damages awarded against any person or entity to punish or deter such person or entity, or others, from engaging in similar behavior in the future; and

(3) the term “rail carrier” includes a person providing excursion, scenic, or museum train service, and an owner or operator of a privately owned rail passenger car.

(Added Pub. L. 105-134, title I, §161(a), Dec. 2, 1997, 111 Stat. 2577.)

Editorial Notes

REFERENCES IN TEXT

The Federal Employers’ Liability Act, referred to in subsec. (d), is act Apr. 22, 1908, ch. 149, 35 Stat. 65, as amended, which is classified generally to chapter 2 (§51 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see Short Title note set out under section 51 of Title 45 and Tables.

Statutory Notes and Related Subsidiaries

ADJUSTMENT BASED ON CONSUMER PRICE INDEX

Pub. L. 114-94, div. A, title XI, §11415(b), Dec. 4, 2015, 129 Stat. 1689, provided that: “The liability cap under section 28103(a)(2) of title 49, United States Code, shall be adjusted on the date of enactment of this Act [Dec. 4, 2015] to reflect the change in the Consumer Price Index-All Urban Consumers between such date and December 2, 1997, and the Secretary [of Transportation] shall provide appropriate public notice of such adjustment. The adjustment of the liability cap shall be effective 30 days after such notice. Every fifth year after the date of enactment of this Act, the Secretary shall adjust such liability cap to reflect the change in the Consumer Price Index-All Urban Consumers since the last adjustment. The Secretary shall provide appropriate public notice of each such adjustment, and the adjustment shall become effective 30 days after such notice.”

CHAPTER 283—STANDARD WORK DAY

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|--------|------------|
| Sec. | |
| 28301. | General. |
| 28302. | Penalties. |

§ 28301. General

(a) EIGHT HOUR DAY.—In contracts for labor and service, 8 hours shall be a day’s work and the standard day’s work for determining the compensation for services of an employee employed by a common carrier by railroad subject to subtitle IV of this title and actually engaged in any capacity in operating trains used for transporting passengers or property on railroads from—

(1) a State of the United States or the District of Columbia to any other State or the District of Columbia;

(2) one place in a territory or possession of the United States to another place in the same territory or possession;

- (3) a place in the United States to an adjacent foreign country; or
- (4) a place in the United States through a foreign country to any other place in the United States.

(b) APPLICATION.—Subsection (a) of this section—

- (1) does not apply to—
 - (A) an independently owned and operated railroad not exceeding one hundred miles in length;
 - (B) an electric street railroad; and
 - (C) an electric interurban railroad; but
- (2) does apply to an independently owned and operated railroad less than one hundred miles in length—
 - (A) whose principal business is leasing or providing terminal or transfer facilities to other railroads; or
 - (B) engaged in transfers of freight between railroads or between railroads and industrial plants.

(Added Pub. L. 104-287, § 5(56)(A), Oct. 11, 1996, 110 Stat. 3394.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|-------------------------|--|
| 28301 | 45:65. (uncodified). | Sept. 3, 5, 1916, ch. 436, § 1, 39 Stat. 721. Sept. 3, 5, 1916, ch. 436, §§ 2, 3, 39 Stat. 721. |

In subsection (a), the word “determining” is substituted for “reckoning” for clarity. The words “who are not or may hereafter be employed” are omitted as surplus. In clause (1), the words “or territory” are omitted because the existing territories of the United States are now connected to the United States by rail. In clause (2), the words “or possession of the United States” are added for consistency in the revised title and with other titles of the United States Code.

The text of sections 2 and 3 of the Act of September 3, 5, 1916 (ch. 436, 39 Stat. 721), is omitted to eliminate executed provisions.

§ 28302. Penalties

A person violating section 28301 of this title shall be fined under title 18, imprisoned not more than one year, or both.

(Added Pub. L. 104-287, § 5(56)(A), Oct. 11, 1996, 110 Stat. 3394.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|---|
| 28302 | 45:66. | Sept. 3, 5, 1916, ch. 436, § 4, 39 Stat. 722. |

The words “shall be guilty of a misdemeanor” are omitted, and the words “shall be fined under title 18” are substituted for “shall be fined not less than \$100 and not more than \$1,000”, for consistency with title 18. The words “upon conviction” are omitted as surplus.

CHAPTER 285—COMMUTER RAIL MEDIATION

- Sec. 28501. Definitions¹
- 28502. Surface Transportation Board mediation of trackage use requests.

¹ So in original. Probably should be followed by a period.

- Sec. 28503. Surface Transportation Board mediation of rights-of-way use requests.
- 28504. Applicability of other laws.
- 28505. Rules and regulations.

§ 28501. Definitions

In this chapter—

- (1) the term “Board” means the Surface Transportation Board;
- (2) the term “capital work” means maintenance, restoration, reconstruction, capacity enhancement, or rehabilitation work on trackage that would be treated, in accordance with generally accepted accounting principles, as a capital item rather than an expense;
- (3) the term “commuter rail passenger transportation” has the meaning given that term in section 24102;
- (4) the term “public transportation authority” means a local governmental authority (as defined in section 5302) established to provide, or make a contract providing for, commuter rail passenger transportation;
- (5) the term “rail carrier” means a person, other than a governmental authority, providing common carrier railroad transportation for compensation subject to the jurisdiction of the Board under chapter 105;
- (6) the term “segregated fixed guideway facility” means a fixed guideway facility constructed within the railroad right-of-way of a rail carrier but physically separate from trackage, including relocated trackage, within the right-of-way used by a rail carrier for freight transportation purposes; and
- (7) the term “trackage” means a railroad line of a rail carrier, including a spur, industrial, team, switching, side, yard, or station track, and a facility of a rail carrier.

(Added Pub. L. 110-432, div. B, title IV, § 401(a), Oct. 16, 2008, 122 Stat. 4955; amended Pub. L. 117-58, div. C, § 30001(b)(4), Nov. 15, 2021, 135 Stat. 890.)

Editorial Notes

AMENDMENTS

2021—Par. (4). Pub. L. 117-58 substituted “section 5302” for “section 5302(a)(6)”.

§ 28502. Surface Transportation Board mediation of trackage use requests

If, after a reasonable period of negotiation, a public transportation authority cannot reach agreement with a rail carrier to use trackage of, and have related services provided by, the rail carrier for purposes of commuter rail passenger transportation, the public transportation authority or the rail carrier may apply to the Board for nonbinding mediation. The Board shall conduct the nonbinding mediation in accordance with the mediation process of section 1109.4 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

(Added Pub. L. 110-432, div. B, title IV, § 401(a), Oct. 16, 2008, 122 Stat. 4955.)