

“(1) AGREEMENT.—The term ‘Agreement’ means an agreement described in section 303.

“(2) COMMISSION.—The term ‘Commission’ means a commission established pursuant to any Agreement.”

§ 28101. Rail police officers

(a) IN GENERAL.—Under regulations prescribed by the Secretary of Transportation, a rail police officer who is directly employed by or contracted by a rail carrier and certified or commissioned as a police officer under the laws of a State may enforce the laws of any jurisdiction in which the rail carrier owns property, to the extent of the authority of a police officer certified or commissioned under the laws of that jurisdiction, to protect—

(1) employees, passengers, or patrons of the rail carrier;

(2) property, equipment, and facilities owned, leased, operated, or maintained by the rail carrier;

(3) property moving in interstate or foreign commerce in the possession of the rail carrier; and

(4) personnel, equipment, and material moving by rail that are vital to the national defense.

(b) ASSIGNMENT.—A railroad police officer directly employed by or contracted by a railroad carrier and certified or commissioned as a police officer under the laws of a State may be temporarily assigned to assist a second railroad carrier in carrying out law enforcement duties upon the request of the second railroad carrier, at which time the police officer shall be considered to be an employee or agent, as applicable, of the second railroad carrier and shall have authority to enforce the laws of any jurisdiction in which the second railroad carrier owns property to the same extent as provided in subsection (a).

(c) TRANSFERS.—

(1) IN GENERAL.—If a railroad police officer directly employed by or contracted by a rail carrier and certified or commissioned as a police officer under the laws of a State transfers primary employment or residence from the certifying or commissioning State to another State or jurisdiction, the railroad police officer, not later than 1 year after the date of transfer, shall apply to be certified or commissioned as a police officer¹ under the laws of the State of new primary employment or residence.

(2) INTERIM PERIOD.—During the period beginning on the date of transfer and ending 1 year after the date of transfer, a railroad police officer directly employed by or contracted by a rail carrier and certified or commissioned as a police officer under the laws of a State may enforce the laws of the new jurisdiction in which the railroad police officer resides, to the same extent as provided in subsection (a).

(d) TRAINING.—

(1) IN GENERAL.—A State may recognize as meeting that State’s basic police officer certification or commissioning requirements for qualification as a rail police officer under this section any individual who successfully com-

pletes a program at a State-recognized police training academy in another State or at a Federal law enforcement training center and who is certified or commissioned as a police officer by that other State.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as superseding or affecting any State training requirements related to criminal law, criminal procedure, motor vehicle code, any other State law, or State-mandated comparative or annual in-service training academy or Federal law enforcement training center.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 939, §26101; renumbered §28101, Pub. L. 103-440, title I, §103(a)(1), Nov. 2, 1994, 108 Stat. 4616; amended Pub. L. 110-53, title XV, §1526(a), Aug. 3, 2007, 121 Stat. 452; Pub. L. 114-94, div. A, title XI, §11412(a), Dec. 4, 2015, 129 Stat. 1687.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
26101	45:446.	Nov. 29, 1990, Pub. L. 101-647, §1704, 104 Stat. 4846.

The words “to the extent of the authority of a police officer certified or commissioned under the laws of that jurisdiction” are placed before clause (1) rather than at the end of clause (4), as in the source provision, to reflect the probable intent of Congress.

Editorial Notes

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-94, §11412(a)(1), substituted “directly employed by or contracted by” for “employed by” in introductory provisions.

Subsec. (b). Pub. L. 114-94, §11412(a)(1), (2), substituted “directly employed by or contracted by” for “employed by” and inserted “or agent, as applicable,” after “an employee”.

Subsecs. (c), (d). Pub. L. 114-94, §11412(a)(3), added subsecs. (c) and (d).

2007—Pub. L. 110-53 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1994—Pub. L. 103-440 renumbered section 26101 of this title as this section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

REGULATIONS

Pub. L. 114-94, div. A, title XI, §11412(b), Dec. 4, 2015, 129 Stat. 1688, provided that: “Not later than 1 year after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation] shall revise the regulations in part 207 of title 49, Code of Federal Regulations (relating to railroad police officers), to permit a railroad to designate an individual, who is commissioned in the individual’s State of legal residence or State of primary employment and directly employed by or contracted by a railroad to enforce State laws for the protection of railroad property, personnel, passengers, and cargo, to serve in the States in which the railroad owns property.”

§ 28102. Limit on certain accident or incident liability

(a) GENERAL.—When a publicly financed commuter transportation authority established

¹ So in original. Probably should be “officer”.

under Virginia law makes a contract to indemnify Amtrak for liability for operations conducted by or for the authority or to indemnify a rail carrier over whose tracks those operations are conducted, liability against Amtrak, the authority, or the carrier for all claims (including punitive damages) arising from an accident or incident in the District of Columbia related to those operations may not be more than the limits of the liability coverage the authority maintains to indemnify Amtrak or the carrier.

(b) **MINIMUM REQUIRED LIABILITY COVERAGE.**—A publicly financed commuter transportation authority referred to in subsection (a) of this section must maintain a total minimum liability coverage of at least \$200,000,000.

(c) **EFFECTIVENESS.**—This section is effective only after Amtrak or a rail carrier seeking an indemnification contract under this section makes an operating agreement with a publicly financed commuter transportation authority established under Virginia law to provide access to its property for revenue transportation related to the operations of the authority.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 940, §26102; renumbered §28102, Pub. L. 103-440, title I, §103(a)(1), Nov. 2, 1994, 108 Stat. 4616.)

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 con-

scious, 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, 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