

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40705 .....	46 App.:1708(e).	Pub. L. 98-237, §9(e), Mar. 20, 1984, 98 Stat. 77; Pub. L. 105-258, title I, §108(16), Oct. 14, 1998, 112 Stat. 1909.

In subsection (b), the words “Notwithstanding any other law” are omitted as unnecessary.

§ 40706. Exceptions

This chapter does not apply to—

(1) a controlled carrier of a foreign country whose vessels are entitled by a treaty of the United States to receive national or most-favored-nation treatment; or

(2) a trade served only by controlled carriers.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1537.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40706 .....	46 App.:1708(f).	Pub. L. 98-237, §9(f), Mar. 20, 1984, 98 Stat. 77; Pub. L. 105-258, title I, §108(17)-(19), Oct. 14, 1998, 112 Stat. 1909.

In paragraph (1), the words “foreign country” are substituted for “state” for clarity and consistency.

CHAPTER 409—OCEAN TRANSPORTATION INTERMEDIARIES

Sec.	
40901.	License requirement.
40902.	Financial responsibility.
40903.	Suspension or revocation of license.
40904.	Compensation by common carriers.

§ 40901. License requirement

(a) IN GENERAL.—A person in the United States may not advertise, hold oneself out, or act as an ocean transportation intermediary unless the person holds an ocean transportation intermediary’s license issued by the Federal Maritime Commission. The Commission shall issue a license to a person that the Commission determines to be qualified by experience and character to act as an ocean transportation intermediary.

(b) EXCEPTION.—A person whose primary business is the sale of merchandise may forward shipments of the merchandise for its own account without an ocean transportation intermediary’s license.

(c) APPLICABILITY.—Subsection (a) and section 40902 do not apply to a person that performs ocean transportation intermediary services on behalf of an ocean transportation intermediary for which it is a disclosed agent.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1538; Pub. L. 115-282, title VII, §707(a), (b), Dec. 4, 2018, 132 Stat. 4295.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40901(a) .....	46 App.:1718(a).	Pub. L. 98-237, §19(a), (d), Mar. 20, 1984, 98 Stat. 87, 88; Pub. L. 105-258, title I, §116, Oct. 14, 1998, 112 Stat. 1912.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40901(b) .....	46 App.:1718(d).	

Editorial Notes

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-282, §707(a), inserted “advertise, hold oneself out, or” after “may not”.

Subsec. (c). Pub. L. 115-282, §707(b), added subsec. (c).

§ 40902. Financial responsibility

(a) IN GENERAL.—A person may not advertise, hold oneself out, or act as an ocean transportation intermediary unless the person furnishes a bond, proof of insurance, or other surety—

(1) in a form and amount determined by the Federal Maritime Commission to insure financial responsibility; and

(2) issued by a surety company found acceptable by the Secretary of the Treasury.

(b) SCOPE OF FINANCIAL RESPONSIBILITY.—A bond, insurance, or other surety obtained under this section—

(1) shall be available to pay any penalty assessed under section 41109 of this title or any order for reparation issued under section 41305 of this title;

(2) may be available to pay any claim against an ocean transportation intermediary arising from its transportation-related activities—

(A) with the consent of the insured ocean transportation intermediary and subject to review by the surety company; or

(B) when the claim is deemed valid by the surety company after the ocean transportation intermediary has failed to respond to adequate notice to address the validity of the claim; and

(3) shall be available to pay any judgment for damages against an ocean transportation intermediary arising from its transportation-related activities, if the claimant has first attempted to resolve the claim under paragraph (2) and the claim has not been resolved within a reasonable period of time.

(c) REGULATIONS ON COURT JUDGMENTS.—The Commission shall prescribe regulations for the purpose of protecting the interests of claimants, ocean transportation intermediaries, and surety companies with respect to the process of pursuing claims against ocean transportation intermediary bonds, insurance, or sureties through court judgments. The regulations shall provide that a judgment for monetary damages may not be enforced except to the extent that the damages claimed arise from the transportation-related activities of the insured ocean transportation intermediary, as defined by the Commission.

(d) RESIDENT AGENT.—An ocean transportation intermediary not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1538; Pub. L. 115-282, title VII, §707(c), Dec. 4, 2018, 132 Stat. 4295.)