

(Pub. L. 109–304, §7, Oct. 6, 2006, 120 Stat. 1540.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41101 .....	46 App.:1709(e).	Pub. L. 98–237, §10(e), Mar. 20, 1984, 98 Stat. 80.

§ 41102. General prohibitions

(a) OBTAINING TRANSPORTATION AT LESS THAN APPLICABLE RATES.—A person may not knowingly and willfully, directly or indirectly, by means of false billing, false classification, false weighing, false report of weight, false measurement, or any other unjust or unfair device or means, obtain or attempt to obtain ocean transportation for property at less than the rates or charges that would otherwise apply.

(b) OPERATING CONTRARY TO AGREEMENT.—A person may not operate under an agreement required to be filed under section 40302 or 40305 of this title if—

(1) the agreement has not become effective under section 40304 of this title or has been rejected, disapproved, or canceled; or

(2) the operation is not in accordance with the terms of the agreement or any modifications to the agreement made by the Federal Maritime Commission.

(c) PRACTICES IN HANDLING PROPERTY.—A common carrier, marine terminal operator, or ocean transportation intermediary may not fail to establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property.

(d) RETALIATION AND OTHER DISCRIMINATORY ACTIONS.—A common carrier, marine terminal operator, or ocean transportation intermediary, acting alone or in conjunction with any other person, directly or indirectly, may not—

(1) retaliate against a shipper, an agent of a shipper, an ocean transportation intermediary, or a motor carrier by refusing, or threatening to refuse, an otherwise-available cargo space accommodation; or

(2) resort to any other unfair or unjustly discriminatory action for—

(A) the reason that a shipper, an agent of a shipper, an ocean transportation intermediary, or motor carrier has—

(i) patronized another carrier; or

(ii) filed a complaint against the common carrier, marine terminal operator, or ocean transportation intermediary; or

(B) any other reason.

(Pub. L. 109–304, §7, Oct. 6, 2006, 120 Stat. 1540; Pub. L. 117–146, §5, June 16, 2022, 136 Stat. 1273.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41102(a) .....	46 App.:1709(a)(1).	Pub. L. 98–237, §10(a), Mar. 20, 1984, 98 Stat. 77.
41102(b) .....	46 App.:1709(a)(2), (3).	
41102(c) .....	46 App.:1709(d)(1).	Pub. L. 98–237, §10(d)(1), Mar. 20, 1984, 98 Stat. 77; Pub. L. 105–258, title I, §109(c)(2), Oct. 14, 1998, 112 Stat. 1909.

Editorial Notes

AMENDMENTS

2022—Subsec. (d). Pub. L. 117–146 added subsec. (d).

Statutory Notes and Related Subsidiaries

RULEMAKING ON DEMURRAGE OR DETENTION

Pub. L. 117–146, §7(b), June 16, 2022, 136 Stat. 1275, provided that:

“(1) IN GENERAL.—Not later than 45 days after the date of enactment of this Act [June 16, 2022], the Federal Maritime Commission shall initiate a rulemaking further defining prohibited practices by common carriers, marine terminal operators, shippers, and ocean transportation intermediaries under section 41102(c) of title 46, United States Code, regarding the assessment of demurrage or detention charges. The Federal Maritime Commission shall issue a final rule defining such practices not later than 1 year after the date of enactment of this Act.

“(2) CONTENTS.—The rule under paragraph (1) shall only seek to further clarify reasonable rules and practices related to the assessment of detention and demurrage charges to address the issues identified in the final rule published on May 18, 2020, entitled ‘Interpretive Rule on Demurrage and Detention Under the Shipping Act’ (or successor rule), including a determination of which parties may be appropriately billed for any demurrage, detention, or other similar per container charges.”

§ 41103. Disclosure of information

(a) PROHIBITION.—A common carrier, marine terminal operator, or ocean freight forwarder, either alone or in conjunction with any other person, directly or indirectly, may not knowingly disclose, offer, solicit, or receive any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to a common carrier, without the consent of the shipper or consignee, if the information—

(1) may be used to the detriment or prejudice of the shipper, the consignee, or any common carrier; or

(2) may improperly disclose its business transaction to a competitor.

(b) EXCEPTIONS.—Subsection (a) does not prevent providing the information—

(1) in response to legal process;

(2) to the Federal Maritime Commission or an agency of the United States Government; or

(3) to an independent neutral body operating within the scope of its authority to fulfill the policing obligations of the parties to an agreement effective under this part.

(c) DISCLOSURE FOR DETERMINING BREACH OR COMPILING STATISTICS.—An ocean common carrier that is a party to a conference agreement approved under this part, a receiver, trustee, lessee, agent, or employee of the carrier, or any other person authorized by the carrier to receive information—

(1) may give information to the conference or any person or agency designated by the conference, for the purpose of—

(A) determining whether a shipper or consignee has breached an agreement with the conference or its member lines;

(B) determining whether a member of the conference has breached the conference agreement; or