

rage 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
 - (C) compiling statistics of cargo movement; and
- (2) may not prevent the conference or its designee from soliciting or receiving information for any of those purposes.

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

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41103(c)	46 App.:1709(b) (last sentence).	

In subsection (a), the words “marine terminal operator, or ocean freight forwarder” are added because of 46 App. U.S.C. 1709(d)(3) and (5). The words “ocean freight forwarder” are substituted for “ocean transportation intermediaries, as defined by section 1702(17)(A) of this Appendix” in 46 App. U.S.C. 1709(d)(5) because the definition of “ocean transportation intermediary” in section 1702(17)(A) contains a definition of “ocean freight forwarder” which is restated as a separate definition.

In subsection (b), the words “does not prevent” are substituted for “Nothing . . . shall be construed to prevent” to eliminate unnecessary words.

In subsection (c)(1), the words “may give information” are substituted for “Nor shall it be prohibited . . . to give information” to eliminate unnecessary words. The words “firm, corporation” are omitted as unnecessary because firms and corporations are persons.

In subsection (c)(2), the words “may not prevent” are substituted for “Nor shall it be prohibited . . . to prevent” to reflect the probable intent of Congress. The words “but the use of such information for any other purpose prohibited by this chapter or any other Act is prohibited” are omitted as unnecessary.

§ 41104. Common carriers

(a) IN GENERAL.—A common carrier, either alone or in conjunction with any other person, directly or indirectly, shall not—

- (1) allow a person to obtain transportation for property at less than the rates or charges established by the carrier in its tariff or service contract by means of false billing, false classification, false weighing, false measurement, or any other unjust or unfair device or means;
- (2) provide service in the liner trade that is—
 - (A) not in accordance with the rates, charges, classifications, rules, and practices contained in a tariff published or a service contract entered into under chapter 405 of this title, unless excepted or exempted under section 40103 or 40501(a)(2) of this title; or
 - (B) under a tariff or service contract that has been suspended or prohibited by the Federal Maritime Commission under chapter 407 or 423 of this title;
- (3) unreasonably refuse cargo space accommodations when available, or resort to other unfair or unjustly discriminatory methods;

(4) for service pursuant to a tariff, engage in any unfair or unjustly discriminatory practice in the matter of—

- (A) rates or charges;
- (B) cargo classifications;
- (C) cargo space accommodations or other facilities, with due regard being given to the proper loading of the vessel and the available tonnage;
- (D) loading and landing of freight; or
- (E) adjustment and settlement of claims;

(5) for service pursuant to a service contract, engage in any unfair or unjustly discriminatory practice against any commodity group or type of shipment or in the matter of rates or charges with respect to any port;

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41103(a)	46 App.:1709(b)(13), (d)(3) (related to (b)(13)), (5).	Pub. L. 98-237, § 10(b)(13), (words after cl. (13)), (d)(3) (related to (b)(13)), (5), Mar. 20, 1984, 98 Stat. 79, 80; Pub. L. 101-595, title VII, § 710(c)(1), (2), Nov. 16, 1990, 104 Stat. 2997; Pub. L. 105-258, title I, § 109(a)(10), (11), (16), (17), (c)(3), Oct. 14, 1998, 112 Stat. 1910, 1911.
41103(b)	46 App.:1709(b) (next-to-last sentence).	