

ant is a required crewmember on the aircraft (as determined by the Administrator or a foreign government).

(c) LIMITATION ON APPLICABILITY.—

(1) IN GENERAL.—If a foreign government objects to the application of subsection (b) on the basis that subsection (b) provides for an extraterritorial application of the laws of the United States, the Secretary shall waive the application of subsection (b) to a foreign air carrier licensed by that foreign government at such time as an alternative prohibition negotiated under paragraph (2) becomes effective and is enforced by the Secretary.

(2) ALTERNATIVE PROHIBITION.—If, pursuant to paragraph (1), a foreign government objects to the prohibition under subsection (b), the Secretary shall enter into bilateral negotiations with the objecting foreign government to provide for an alternative smoking prohibition.

(d) ELECTRONIC CIGARETTES.—

(1) INCLUSION.—The use of an electronic cigarette shall be treated as smoking for purposes of this section.

(2) ELECTRONIC CIGARETTE DEFINED.—In this section, the term “electronic cigarette” means a device that delivers nicotine to a user of the device in the form of a vapor that is inhaled to simulate the experience of smoking.

(e) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1141; Pub. L. 106–181, title VII, §708(a), Apr. 5, 2000, 114 Stat. 159; Pub. L. 112–95, title IV, §401(a), Feb. 14, 2012, 126 Stat. 83; Pub. L. 115–254, div. B, title IV, §409, Oct. 5, 2018, 132 Stat. 3331.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 41706, 49 App.:1374(d)(1), Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §404(d)(1); added Dec. 22, 1987, Pub. L. 100-202, §328(a), 101 Stat. 1329-382; Nov. 21, 1989, Pub. L. 101-164, §335 (less effective date), 103 Stat. 1098, 1099. Row 2: 49 App.:1374 (note), Nov. 21, 1989, Pub. L. 101-164, §335 (related to effective date), 103 Stat. 1099.

In subsection (a), before clause (1), the words “On and after the date of expiration of the 4-month period following December 22, 1987” are omitted as executed. The words “of an aircraft” are added for clarity. The text of 49 App.:1374 (note) is omitted as executed.

Editorial Notes

AMENDMENTS

2018—Subsecs. (d), (e). Pub. L. 115–254 added subsec. (d) and redesignated former subsec. (d) as (e).

2012—Pub. L. 112–95, §401(a)(1), substituted “passenger” for “scheduled” in section catchline.

Subsecs. (a), (b). Pub. L. 112–95, §401(a)(2), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which read as follows:

“(a) SMOKING PROHIBITION IN INTRASTATE AND INTERSTATE AIR TRANSPORTATION.—An individual may not smoke in an aircraft in scheduled passenger interstate air transportation or scheduled passenger intrastate air transportation.

“(b) SMOKING PROHIBITION IN FOREIGN AIR TRANSPORTATION.—The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit smoking in any aircraft in scheduled passenger foreign air transportation.”

2000—Pub. L. 106–181 amended section catchline and text generally. Prior to amendment, text read as follows:

“(a) GENERAL.—An individual may not smoke in the passenger cabin or lavatory of an aircraft on a scheduled airline flight segment in air transportation or intrastate air transportation that is—

“(1) between places in a State of the United States, the District of Columbia, Puerto Rico, or the Virgin Islands;

“(2) between a place in any jurisdiction referred to in clause (1) of this subsection (except Alaska and Hawaii) and a place in any other of those jurisdictions; or

“(3)(A) scheduled for not more than 6 hours’ duration; and

“(B)(i) between a place referred to in clause (1) of this subsection (except Alaska and Hawaii) and Alaska or Hawaii; or

“(ii) between Alaska and Hawaii.

“(b) REGULATIONS.—The Secretary of Transportation shall prescribe regulations necessary to carry out this section.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–181, title VII, §708(b), Apr. 5, 2000, 114 Stat. 159, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date that is 60 days after the date of the enactment of this Act [Apr. 5, 2000].”

§ 41707. Incorporating contract terms into written instrument

To the extent the Secretary of Transportation prescribes by regulation, an air carrier may incorporate by reference in a ticket or written instrument any term of the contract for providing interstate air transportation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1141.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 41707, 49 App.:1381(b), Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §411(b); added Oct. 4, 1984, Pub. L. 98-443, §7(a), 98 Stat. 1706.

§ 41708. Reports

(a) APPLICATION.—To the extent the Secretary of Transportation finds necessary to carry out this subpart, this section and section 41709 of this title apply to a person controlling an air carrier or affiliated (within the meaning of section 11343(c) of this title) with a carrier.

(b) REQUIREMENTS.—The Secretary may require an air carrier or foreign air carrier—

(1)(A) to file annual, monthly, periodical, and special reports with the Secretary in the form and way prescribed by the Secretary; and (B) to file the reports under oath;

(2) to provide specific answers to questions on which the Secretary considers information to be necessary; and

(3) to file with the Secretary a copy of each agreement, arrangement, contract, or under-

standing between the carrier and another carrier or person related to transportation affected by this subpart.

(c) DIVERTED AND CANCELLED FLIGHTS.—

(1) MONTHLY REPORTS.—The Secretary shall require an air carrier referred to in paragraph (2) to file with the Secretary a monthly report on each flight of the air carrier that is diverted from its scheduled destination to another airport and each flight of the air carrier that departs the gate at the airport at which the flight originates but is cancelled before wheels-off time.

(2) APPLICABILITY.—An air carrier that is required to file a monthly airline service quality performance report pursuant to part 234 of title 14, Code of Federal Regulations, shall be subject to the requirement of paragraph (1).

(3) CONTENTS.—A monthly report filed by an air carrier under paragraph (1) shall include, at a minimum, the following information:

(A) For a diverted flight—

- (i) the flight number of the diverted flight;
- (ii) the scheduled destination of the flight;
- (iii) the date and time of the flight;
- (iv) the airport to which the flight was diverted;
- (v) wheels-on time at the diverted airport;
- (vi) the time, if any, passengers deplaned the aircraft at the diverted airport; and
- (vii) if the flight arrives at the scheduled destination airport—

(I) the gate-departure time at the diverted airport;

(II) the wheels-off time at the diverted airport;

(III) the wheels-on time at the scheduled arrival airport; and

(IV) the gate-arrival time at the scheduled arrival airport.

(B) For flights cancelled after gate departure—

- (i) the flight number of the cancelled flight;
- (ii) the scheduled origin and destination airports of the cancelled flight;
- (iii) the date and time of the cancelled flight;
- (iv) the gate-departure time of the cancelled flight; and
- (v) the time the aircraft returned to the gate.

(4) PUBLICATION.—The Secretary shall compile the information provided in the monthly reports filed pursuant to paragraph (1) in a single monthly report and publish such report on the Internet Web site of the Department of Transportation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1141; Pub. L. 112–95, title IV, § 402(a), Feb. 14, 2012, 126 Stat. 83.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41708(a)	49 App.:1377(e) (last sentence).	Aug. 23, 1958, Pub. L. 85–726, § 407(e) (last sentence), 72 Stat. 766.

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41708(b)	49 App.:1377(a).	Aug. 23, 1958, Pub. L. 85–726, § 407(a), 72 Stat. 766; Feb. 15, 1980, Pub. L. 96–192, §10, 94 Stat. 38.
	49 App.:1551(b)(1)(E).	

In subsection (a), the word “reasonably” is omitted as surplus. The words “carry out” are substituted for “administration” for consistency in the revised title. The words “section 11343(c) of this title” are substituted for “section 5(8) of the Interstate Commerce Act, as amended” in section 407(e) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 766), to cite the corresponding section of the revised title and correct the inaccurate reference to the definition of “affiliate”.

In subsection (b)(3), the word “copy” is substituted for “true copy” to eliminate an unnecessary word. The word “transportation” is substituted for “traffic” for consistency in the revised title.

Editorial Notes

AMENDMENTS

2012—Subsec. (c). Pub. L. 112–95 added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–95, title IV, § 402(b), Feb. 14, 2012, 126 Stat. 84, provided that: “Beginning not later than 90 days after the date of enactment of this Act [Feb. 14, 2012], the Secretary of Transportation shall require monthly reports pursuant to the amendment made by subsection (a) [amending this section].”

§ 41709. Records of air carriers

(a) REQUIREMENTS.—The Secretary of Transportation shall prescribe the form of records to be kept by an air carrier, including records on the movement of traffic, receipts and expenditures of money, and the time period during which the records shall be kept. A carrier may keep only records prescribed or approved by the Secretary. However, a carrier may keep additional records if the additional records do not impair the integrity of the records prescribed or approved by the Secretary and are not an unreasonable financial burden on the carrier.

(b) INSPECTION.—(1) The Secretary at any time may—

(A) inspect the land, buildings, and equipment of an air carrier or foreign air carrier when necessary to decide under subchapter II of this chapter or section 41102, 41103, or 41302 of this title whether a carrier is fit, willing, and able; and

(B) inspect records kept or required to be kept by an air carrier, foreign air carrier, or ticket agent.

(2) The Secretary may employ special agents or auditors to carry out this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1142.)