

AMENDMENTS

2005—Pub. L. 109-59 substituted “Federal Motor Carrier Safety Administration” for “Federal Highway Administration”.

§ 353. Toxicological testing of officers and employees

(a) COLLECTING SPECIMENS.—When the Secretary of Transportation or the head of a component of the Department of Transportation conducts post-accident or post-incident toxicological testing of an officer or employee of the Department, the Secretary or head shall collect the specimen from the officer or employee as soon as practicable after the accident or incident. The Secretary or head shall try to collect the specimen not later than 4 hours after the accident or incident.

(b) REPORTS.—The head of each component shall submit a report to the Secretary on the circumstances about the amount of time required to collect the specimen for a toxicological test conducted on an officer or employee who is reasonably associated with the circumstances of an accident or incident under the investigative jurisdiction of the National Transportation Safety Board.

(c) NONCOMPLIANCE NOT A DEFENSE.—An officer or employee required to submit to toxicological testing may not assert failure to comply with this section as a claim, cause of action, or defense in an administrative or judicial proceeding.

(Pub. L. 103-272, §4(j)(10)(A), July 5, 1994, 108 Stat. 1368.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
353	49 App.:1657-1.	Nov. 28, 1990, Pub. L. 101-641, § 5, 104 Stat. 4656.

In this section, the words “officer or employee” are substituted for “employee” for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (a), the words “Secretary of Transportation or the head of a component of the Department of Transportation” are substituted for “Department of Transportation, including any of its agencies” for consistency in the revised title and with other titles of the Code.

In subsection (b), the word “Secretary” is substituted for “Office of the Secretary of Transportation” for consistency in the revised title and with other titles of the Code. The words “within that agency” are omitted as unnecessary.

In subsection (c), the words “An officer or employee required to submit to toxicological testing may not assert” are substituted for “may not be asserted” for clarity.

§ 354. Investigative authority of Inspector General

(a) IN GENERAL.—The statutory authority of the Inspector General of the Department of Transportation includes authority to conduct, pursuant to Federal criminal statutes, investigations of allegations that a person or entity has engaged in fraudulent or other criminal activity relating to the programs and operations of the Department or its operating administrations.

(b) REGULATED ENTITIES.—The authority to conduct investigations referred to in subsection (a) extends to any person or entity subject to the laws and regulations of the Department or its operating administrations, whether or not they are recipients of funds from the Department or its operating administrations.

(Added and amended Pub. L. 108-168, §8(a), (b)(1), Dec. 6, 2003, 117 Stat. 2034.)

CODIFICATION

The text of section 228 of Pub. L. 106-159, formerly set out as a note under section 4 of the Inspector General Act of 1978, Pub. L. 95-452, set out in the Appendix to Title 5, Government Organization and Employees, which was transferred to this section, redesignated as text of section, and amended by Pub. L. 108-168, §8(a), (b)(1), was based on Pub. L. 106-159, title II, §228, Dec. 9, 1999, 113 Stat. 1773.

AMENDMENTS

2003—Pub. L. 108-168 renumbered section 228 of Pub. L. 106-159 as this section and substituted “Investigative authority of Inspector General” for “DOT Authority” in section catchline. See Codification note above.

CHAPTER 5—SPECIAL AUTHORITY

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AMENDMENTS

1998—Pub. L. 105-178, title IV, §4014(a)(2), June 9, 1998, 112 Stat. 411, added item 508.

1997—Pub. L. 105-102, §2(1), Nov. 20, 1997, 111 Stat. 2204, struck out “DUTIES AND” before “POWERS” in item for heading of subchapter I.

SUBCHAPTER I—POWERS

AMENDMENTS

1997—Pub. L. 105-102, §2(2), Nov. 20, 1997, 111 Stat. 2204, struck out “AND” before “POWERS”.

1995—Pub. L. 104-88, title III, §308(c)(1), Dec. 29, 1995, 109 Stat. 947, struck out “DUTIES” before “AND”.

§ 501. Definitions and application

- (a) In this chapter—
 - (1) the definitions in sections 10102 and 13102 of this title apply.
 - (2) “migrant worker” has the same meaning given that term in section 31501 of this title.
 - (3) “motor carrier of migrant workers” means a motor carrier of migrant workers subject to the jurisdiction of the Secretary of

Transportation under section 31502(c) of this title.

(b) APPLICATION.—This chapter only applies in carrying out sections 20302(a)(1)(B) and (C), (2), and (3), (c), and (d)(1) and 20303 and chapters 205 (except section 20504(b)), 211, 213 (in carrying out those sections and chapters), and 315 of this title.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2431; Pub. L. 98-216, §2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 102-548, §2(c), Oct. 28, 1992, 106 Stat. 3648; Pub. L. 103-272, §§4(j)(11)(A), 5(m)(9), July 5, 1994, 108 Stat. 1368, 1376; Pub. L. 104-88, title III, §308(c)(2), Dec. 29, 1995, 109 Stat. 947.)

HISTORICAL AND REVISION NOTES
PUB. L. 97-449

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
501(a)	(no source). 45:15.	Apr. 14, 1910, ch. 160, §6, 36 Stat. 299.
501(b)	49:26(g).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §25(g); added Aug. 26, 1937, ch. 818, 50 Stat. 837; Sept. 18, 1940, ch. 722, §14(b), 54 Stat. 919.
	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.

In the chapter, the source provisions are those in effect on March 31, 1967, the day before the effective date of the Department of Transportation Act (Pub. L. 89-670, 80 Stat. 931), because 49:1655(f)(2) gave the Secretary of Transportation the same powers enumerated in 49:1655(f)(2) that the Interstate Commerce Commission had before certain duties and powers under 49:1655(e) were transferred on April 1, 1967, from the Commission to the Secretary. All references to brokers in the source provisions are omitted as not being applicable to the duties and powers transferred to the Secretary of Transportation.

Subsection (a) is included to ensure that the identical definitions that are relevant are used without repeating them. The source provisions for the definitions are found in the revision notes for sections 3101, 3102(c), and 10102 of the revised title.

In subsection (b), the provisions of law to which the chapter applies are only certain laws listed in 49:1655(e). Those laws include the source provisions restated in chapter 31 of the revised title and 45:4, 5, 6 (in carrying out 45:4 and 5), 11, 12, 13 (proviso), 13 (less proviso in carrying out 45:11, 12, and 13 (proviso)), and 61-64b, and 49:26(a)-(f) (words before last semicolon) and (h). The administrative powers of the Secretary under the chapter are based on the administrative powers of 49:1655(f)(2). That provision lists administrative powers the Commission had under the Interstate Commerce Act (ch. 104, 24 Stat. 379) to carry out the Act, and certain other laws authorized the Commission to use its powers under the Act to carry out those other laws. The administrative powers listed in 49:1655(f)(2) and codified in the chapter therefore apply only to a law listed in 49:1655(e) that was a part of the Interstate Commerce Act or to which the powers of the Commission under the Act were applied. The text of 45:61-64b is included because section 4 of the Act of March 4, 1907 (ch. 2939, 34 Stat. 1417), stated, "It shall be the duty of the Interstate Commerce Commission to execute and enforce the provisions of this Act, and all powers granted to the Interstate Commerce Commission are hereby extended to it in the execution of this Act". The transfer to the Secretary was executed on March 31, 1967. The Act of March 4, 1907, was restated by the Act of December 26, 1969 (Pub. L. 91-169, 83 Stat. 463); section 4 was not included in the restatement. However, repeal by implication is not favored and the transfer was completed on March 31, 1967. Therefore, the text of 45:61-64b

is included within the scope of the chapter. The text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed.

PUB. L. 103-272

Section 4(j)(11) makes conforming amendments to 49:ch. 5 to reflect the restatement of 49:508 and related provisions in chapter 59 of the revised title.

AMENDMENTS

1995—Subsec. (a)(1). Pub. L. 104-88 substituted "sections 10102 and 13102" for "section 10102".

1994—Subsec. (a)(2). Pub. L. 103-272, §5(m)(9)(A), substituted "section 31501" for "section 3101".

Subsec. (a)(3). Pub. L. 103-272, §5(m)(9)(B), substituted "section 31502(c)" for "section 3102(c)".

Subsec. (a)(4) to (9). Pub. L. 103-272, §4(j)(11)(A), struck out pars. (4) to (9) which defined "beneficial owner", "carrier", "container", "initial carrier", "intermodal transportation", and "trailer", respectively.

Subsec. (b). Pub. L. 103-272, §5(m)(9)(C), added subsec. (b) and struck out former subsec. (b) which read as follows: "This chapter only applies in carrying out—

"(1) chapter 31 of this title; and

"(2) other duties and powers transferred to the Secretary under section 6(e) of the Department of Transportation Act (49 App. U.S.C. 1655(e)) and vested in the Interstate Commerce Commission before October 15, 1966."

1992—Subsec. (a)(4) to (9). Pub. L. 102-548 added pars. (4) to (9).

1984—Subsec. (b)(2). Pub. L. 98-216 substituted "49 App. U.S.C." for "49 U.S.C.".

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of this title.

SHORT TITLE OF 1992 AMENDMENT

Section 1 of Pub. L. 102-548 provided that: "This Act [enacting section 508 of this title, amending this section and section 521 of this title, and enacting provisions set out as notes under section 508 of this title] may be cited as the 'Intermodal Safe Container Transportation Act of 1992'."

§ 502. General authority

(a) The Secretary of Transportation shall carry out this chapter.

(b) The Secretary may—

(1) inquire into and report on the management of the business of rail carriers and motor carriers;

(2) inquire into and report on the management of the business of a person controlling, controlled by, or under common control with those carriers to the extent that the business of the person is related to the management of the business of that carrier; and

(3) obtain from those carriers and persons information the Secretary determines to be necessary.

(c) In carrying out this chapter as it applies to motor carriers, motor carriers of migrant workers, and motor private carriers, the Secretary may—

(1) confer and hold joint hearings with State authorities;

(2) cooperate with and use the services, records, and facilities of State authorities; and

(3) make cooperative agreements with a State to enforce the safety laws and regulations of a State and the United States related to highway transportation.

(d) The Secretary may subpoena witnesses and records related to a proceeding or investigation under this chapter from a place in the United States to the designated place of the proceeding or investigation. If a witness disobeys a subpoena, the Secretary, or a party to a proceeding or investigation before the Secretary, may petition the district court for the judicial district in which the proceeding or investigation is conducted to enforce the subpoena. The court may punish a refusal to obey an order of the court to comply with a subpoena as a contempt of court.

(e)(1) In a proceeding or investigation, the Secretary may take testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding or investigation pending before the Secretary may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding or investigation is at issue on petition and answer. If a witness fails to be deposed or to produce records under this subsection, the Secretary may subpoena the witness to take a deposition, produce the records, or both.

(2) A deposition may be taken before a judge of a court of the United States, a United States magistrate judge, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding or investigation.

(3) Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

(4) The testimony of a person deposed under this subsection shall be taken under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent.

(5) The testimony of a witness who is in a foreign country may be taken by deposition before an officer or person designated by the Secretary or agreed on by the parties by written stipulation filed with the Secretary. The deposition shall be filed with the Secretary promptly.

(f) Each witness summoned before the Secretary or whose deposition is taken under this section and the individual taking the deposition are entitled to the same fees and mileage paid for those services in the courts of the United States.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2431; Pub. L. 103-272, §4(j)(12), July 5, 1994, 108 Stat. 1368.)

HISTORICAL AND REVISION NOTES
PUB. L. 97-449

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
502	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 97-449

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
502(c)-(f)	49:304(a)(3) (last sentence) (related to "Sec. 305"). 49:304(a)(3a) (last sentence) (related to "Sec. 305").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 205"); added Aug. 9, 1935, ch. 498, 49 Stat. 546. Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 205"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 502	49 U.S. Code	Revised Section
(a), (b)	12(1)(a) (1st sentence, 2d sentence, and last sentence words before 1st semicolon). 304(a) (matter before (1)), (6), (7) (less words after semicolon).	10321 10321
(c)	305(f).	11502
(d)	12(1)(a) (last sentence words after last semicolon), (2), (3). 305(d) (related to Commission subpoena power).	10321 10321
(e)(1)-(3)	12(4). 305(d) (related to depositions taken by Commission).	10321 10321
(e)(4) and (5)	12(5), (6). 305(d) (related to depositions taken by Commission).	10321 10321
(f)	12(7). 18(1) (last sentence). 305(d) (related to depositions taken by Commission).	10321 10321 10321

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The text of 49:305(a)-(c), (e), and (g)-(j) is not included for motor carriers of migrant workers and motor private carriers because those provisions, while included in the enumeration in 49:304(a)(3) and (3a), are not included in the specific enumeration of 49:1655(f)(2)(B)(ii). In subsection (b), the text of 49:12(1)(a) (2d sentence words after semicolon) is omitted as unnecessary because the Secretary of Transportation already has authority under chapter 3 of the revised title to make recommendations to Congress.

In subsections (c)-(f), the text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed.

In subsection (c), the words "economic and" are omitted as not being transferred to the Secretary. The text of 49:305(f) (last sentence) is omitted as not applicable to this chapter.

In subsection (d), the reference to joint boards in 49:305(d) is omitted as not applicable to this chapter because 49:305(a) (establishing joint boards) is not included in the specific enumeration of 49:1655(f)(2)(B)(ii).

PUB. L. 103-272

Section 4(j)(12) amends 49:502(e)(2) and 10321(d)(3) to reflect the change in the name of United States magistrates to United States magistrate judges made by section 321 of the Judicial Improvements Act of 1990 (Public Law 101-650, 104 Stat. 5117).

AMENDMENTS

1994—Subsec. (e)(2). Pub. L. 103-272 inserted "judge" after "United States magistrate".

§ 503. Service of notice and process on certain motor carriers of migrant workers and on motor private carriers

(a) Each motor carrier of migrant workers (except a motor contract carrier) and each motor private carrier shall designate an agent by name and post office address on whom service of notices in a proceeding before, and actions of, the Secretary of Transportation may be made. The designation shall be in writing and filed with the Secretary. The carrier also shall file the designation with the authority of each State in which it operates having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of that State. The designation may be changed at any time in the same manner as originally made.

(b) A notice of the Secretary to a carrier under this section is served personally or by mail on that carrier or its designated agent. Service by mail on the designated agent is made at the address filed for the agent. When notice is given by mail, the date of mailing is considered to be the time when the notice is served. If the carrier does not have a designated agent, service may be made by posting a copy of the notice in the office of the secretary or clerk of the authority having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of the State in which the carrier maintains headquarters and with the Secretary.

(c) Each of those carriers, including such a carrier operating in the United States while providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country, shall designate an agent in each State in which it operates by name and post office address on whom process issued by a court with subject matter jurisdiction may be served in an action brought against that carrier. The designation shall be in writing and filed with the Secretary and with the authority of each State in which the carrier operates having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of that State. If a designation under this subsection is not made, service may be made on any agent of the carrier in that State. The designation may be changed at any time in the same manner as originally made.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2432.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
503	49:304(a)(3) (last sentence) (related to "Sec. 321").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 221"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 321").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 221"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.
	49:1655(e)(6)(D) (related to "Sec. 321(a), (c)").	Oct. 15, 1966, Pub. L. 89-670, §6(e)(6)(D) (related to "Sec. 221(a), (c)"), 80 Stat. 940.

The section is included because 49:1655(e)(6)(D) transferred to the Secretary of Transportation all functions, powers, and duties of the Interstate Commerce Commission under 49:321(a) and (c) to the extent those sub-

sections relate to motor carriers of migrant workers and motor private carriers. The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 503	49 U.S. Code	Revised Section
(a), (b)	321(a).	10329
(c)	321(c).	10330

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In the section, the words "motor carriers" are omitted because 49:1655(e)(6)(D) applies 49:321(a) and (c) only to motor carriers of migrant workers, other than motor contract carriers, and to motor private carriers, and 49:1655(f)(2)(B)(ii) contains no reference to 49:321. The text of 49:321(b) and (d) is not included because those provisions, while included in the enumeration in 49:304(a)(3) and (3a), are not included in the specific enumeration of 49:1655(e)(6)(D).

In subsection (b), the text of 49:321(a) (less 1st-5th sentences) is omitted as not applicable to this chapter.

§ 504. Reports and records

(a) In this section—

(1) "association" means an organization maintained by or in the interest of a group of rail carriers, motor carriers, motor carriers of migrant workers, or motor private carriers that performs a service, or engages in activities, related to transportation of that carrier.

(2) "carrier" means a motor carrier, motor carrier of migrant workers, motor private carrier, and rail carrier.

(3) "lessor" means a person owning a railroad that is leased to and operated by a rail carrier, and a person leasing a right to operate as a motor carrier, motor carrier of migrant workers, or motor private carrier to another.

(4) "lessor" and "carrier" include a receiver or trustee of that lessor or carrier, respectively.

(b)(1) The Secretary of Transportation may prescribe the form of records required to be prepared or compiled under this section by—

(A) carriers and lessors; and

(B) a person furnishing cars or protective service against heat or cold to or for a rail carrier.

(2) The Secretary may require—

(A) carriers, lessors, associations, or classes of them as the Secretary may prescribe, to file annual, periodic, and special reports with the Secretary containing answers to questions asked by the Secretary; and

(B) a person furnishing cars or protective service against heat or cold to a rail carrier to file reports with the Secretary containing answers to questions about those cars or service.

(c) The Secretary, or an employee (and, in the case of a motor carrier, a contractor) designated by the Secretary, may on demand and display of proper credentials—

(1) inspect the equipment of a carrier or lessor; and

(2) inspect and copy any record of—

(A) a carrier, lessor, or association;

(B) a person controlling, controlled by, or under common control with a carrier, if the

Secretary considers inspection relevant to that person's relation to, or transaction with, that carrier; and

(C) a person furnishing cars or protective service against heat or cold to or for a rail carrier if the Secretary prescribed the form of that record.

(d) The Secretary may prescribe the time period during which records must be preserved by a carrier, lessor, and person furnishing cars or protective service.

(e)(1) An annual report shall contain an account, in as much detail as the Secretary may require, of the affairs of a carrier, lessor, or association for the 12-month period ending on the 31st day of December of each year. The annual report shall be filed with the Secretary by the end of the 3d month after the end of the year for which the report is made unless the Secretary extends the filing date or changes the period covered by the report.

(2) The annual report and, if the Secretary requires, any other report made under this section shall be made under oath.

(f) No part of a report of an accident occurring in operations of a motor carrier, motor carrier of migrant workers, or motor private carrier and required by the Secretary, and no part of a report of an investigation of the accident made by the Secretary, may be admitted into evidence or used in a civil action for damages related to a matter mentioned in the report or investigation.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2433; Pub. L. 105-178, title IV, § 4006(b), June 9, 1998, 112 Stat. 401.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
504	49:304(a)(3) (last sentence) (related to "Sec. 320(a) (1st, 2d sentences), (b)-(g)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 220(a) (1st, 2d sentences), (b)-(g)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 320(a) (1st, 2d sentences), (b)-(g)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 220(a) (1st, 2d sentences), (b)-(g)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.
	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.
504(f)	49:320(f).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §220(f); added Sept. 18, 1940, ch. 722, §24, 54 Stat. 926.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 504	49 U.S. Code	Revised Section
(a)(1), (3), and (4).	20(8).	3501, 11141
(a)(2)	320(e). (no source).	11141
(b)(1)	20(5) (1st sentence), (6) (2d sentence, 1st cl.), (7)(b) (proviso).	11144

Section 504	49 U.S. Code	Revised Section
(b)(2)	320(d) (1st sentence). 20(1) (1st sentence less manner and form of reports), (6) (2d sentence, 2d cl.).	11144 11145
(c)	320(a) (1st sentence). 20(5) (less 1st sentence), (6) (less 2d sentence).	11145 11144
(d)	320(d) (3d and 4th sentences). 20(7)(b) (proviso).	11144 11144
(e)	320(d) (less 1st, 3d, and 4th sentences). 20(1) (1st sentence related to manner and form of reports). 320(a) (2d sentence), (b).	11144 11145 11145

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The provisions of 49:320(c) are not included for motor carriers of migrant workers and motor private carriers because those provisions, while included in the enumeration in 49:304(a)(3) and (3a), are not included in the specific enumeration of 49:1655(f)(2)(B)(ii).

In the section, the text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed. The text of 49:320(b) (related to 13-period accounting year) and (g) is not included because it was enacted after the effective date of the transfer authority under 49:1655.

In subsection (a), references to "water line" and "pipe line" are omitted as not applicable to this chapter. Clause (2) is added to provide a simple phrase to refer to all types of carriers to which the section applies.

In subsection (f), the words "the course of the" are omitted as surplus. The words "civil action" are substituted for "suit or action" because of rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

AMENDMENTS

1998—Subsec. (c). Pub. L. 105-178 inserted "(and, in the case of a motor carrier, a contractor)" after "employee" in introductory provisions.

§ 505. Arrangements and public records

(a) The Secretary of Transportation may require a motor carrier, motor carrier of migrant workers, or motor private carrier to file a copy of each arrangement related to a matter under this chapter that it has with another person. The Secretary may disclose the existence or contents of an arrangement between a motor contract carrier and a shipper filed under this section only if the disclosure is consistent with the public interest and is made as part of the record in a formal proceeding.

(b) Except as provided in subsection (a) of this section, all arrangements and statistics, tables, and figures contained in reports filed with the Secretary by a motor carrier under this chapter are public records. Such a public record, or a copy or extract of it, certified by the Secretary under seal is competent evidence in a proceeding of the Secretary, and, except as provided in section 504(f) of this title, in a judicial proceeding.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2434.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
505	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.
505(a)	49:304(a)(3) (last sentence) (related to "Sec. 320(a) (less 1st, 2d sentences)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 220(a) (less 1st, 2d sentences)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
	49:304(a)(3a) (last sentence) (related to "Sec. 320(a) (less 1st, 2d sentences)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 220(a) (less 1st, 2d sentences)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 505	49 U.S. Code	Revised Section
(a)	320(a) (less 1st, 2d sentences).	10764
(b)	16(13).	10303
	304(d) (related to administrative matters).	10303

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In subsection (a), the text of 49:320(a) (proviso) is not included for motor carriers of migrant workers and motor private carriers because that provision, while included in the enumeration in 49:304(a)(3) and (3a), is not included in the specific enumeration of 49:1655(f)(2)(B)(ii). The text of 40:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed. The words "also" and "with it" are omitted as surplus. The words "contract, agreement, or" are omitted as covered by "arrangement". The words "carrier or" are omitted as covered by "person". The words "related to a matter under this chapter" are substituted for "in relation to any traffic affected by the provisions of this chapter" for clarity because of section 501 of the revised title.

Subsection (b) does not apply to reports made to the Secretary by a rail carrier because 49:16(13) is not included in the specific enumeration of 49:1655(f)(2)(B)(ii). The subsection does not apply to motor carriers of migrant workers and motor private carriers because 49:304(d) only applies to motor carriers and 49:304(a)(3) and (3a) do not apply 49:304(d) to motor carriers of migrant workers and motor private carriers. References to schedules, classifications, and tariffs are omitted as not applicable to this chapter. The words "Except as provided in subsection (a) of this section" are added for clarity. The words "except as provided in section 504(f) of this title" are added for clarity and consistency because of the restatement of the chapter.

§ 506. Authority to investigate

(a) The Secretary of Transportation may begin an investigation under this chapter on the initiative of the Secretary or on complaint. If the Secretary finds that a rail carrier, motor carrier, motor carrier of migrant workers, or motor private carrier is violating this chapter, the Secretary shall take appropriate action to compel compliance with this chapter. The Secretary may take action only after giving the carrier notice of the investigation and an opportunity for a proceeding.

(b) A person, including a governmental authority, may file with the Secretary a complaint about a violation of this chapter by a carrier referred to in subsection (a) of this section. The

complaint must state the facts that are the subject of the violation. The Secretary may dismiss a complaint the Secretary determines does not state reasonable grounds for investigation and action. However, the Secretary may not dismiss a complaint made against a rail carrier because of the absence of direct damage to the complainant.

(c) The Secretary shall make a written report of each proceeding involving a rail carrier or motor carrier conducted and furnish a copy to each party to that proceeding. The report shall include the findings, conclusions, and the order of the Secretary. The Secretary may have the reports published for public use. A published report of the Secretary is competent evidence of its contents.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2434.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
506	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.
506(a), (b) ...	49:304(a)(3) (last sentence) (related to "Sec. 304(c)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 204(c)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546; Sept. 18, 1940, ch. 722, §20(b)(4), 54 Stat. 922.
	49:304(a)(3a) (last sentence) (related to "Sec. 304(c)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 204(c)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 506	49 U.S. Code	Revised Section
(a)	13(1) (1st sentence less words before semicolon, last sentence), (2) (1st, 2d sentences).	11701
	304(c) (1st sentence words after 5th comma, 2d sentence).	11701
(b)	13(1) (1st sentence words before semicolon).	11701
	13(2) (less 1st, 2d sentences).	11701
	304(c) (less 1st sentence words after 5th comma, 2d sentence).	11701
(c)	14.	10310
	304(d) (related to reports).	10310

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In subsections (a) and (b), the text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed.

Subsection (a) is patterned after 49:304(c). The words "violating this chapter" are substituted for "failed to comply with any such provision or requirement" for clarity.

In subsection (b), the text of 49:13(2) (last sentence) is omitted because 49:13(3) is not included in the specific enumeration of 49:1655(f)(2)(B)(ii). The words "referred to in subsection (a) of this section" are added for clarity.

Subsection (c) does not apply to motor carriers of migrant workers and motor private carriers because

49:304(d) applies only to motor carriers and 49:304(a)(3) and (3a) do not apply 49:304(d) to motor carriers of migrant workers and motor private carriers. The word "proceeding" is substituted for "investigation" for clarity and to conform to other sections of the revised title. The word "findings" is added for clarity. The word "decision" is omitted as covered by "conclusions". The words "or requirement" are omitted as covered by "order". The words "in the premises" are omitted as surplus. The words "and in case damages are awarded, such report shall include the findings of fact on which the award is made" are omitted as not applicable to this chapter. The words "entered of record", "and decisions in such form and manner as may be best adapted for public information and use", and "in all courts of the United States and of the several States without any further proof or authentication thereof" are omitted as surplus. The text of 49:14(3) (last sentence) is omitted as unnecessary.

§ 507. Enforcement

(a) The Secretary of Transportation may bring a civil action to enforce—

(1) an order of the Secretary under this chapter when violated by a rail carrier; and

(2) this chapter or a regulation or order of the Secretary under this chapter when violated by a motor carrier, motor carrier of migrant workers, motor private carrier, or freight forwarder.

(b) The Attorney General may, and on request of the Secretary shall, bring court proceedings to enforce this chapter or a regulation or order of the Secretary under this chapter and to prosecute a person violating this chapter or a regulation or order of the Secretary.

(c) The Attorney General, at the request of the Secretary, may bring an action in an appropriate district court of the United States for equitable relief to redress a violation by any person of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title, or an order or regulation issued under any of those provisions. Such district court shall have jurisdiction to determine any such action and may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

(d) A person injured because a rail carrier or freight forwarder does not obey an order of the Secretary under this chapter may bring a civil action to enforce that order under this subsection.

(e) In a civil action brought under subsection (a)(2) of this section against a motor carrier, motor carrier of migrant workers, or motor private carrier—

(1) trial is in the judicial district in which the carrier operates;

(2) process may be served without regard to the territorial limits of the district or of the State in which the action is brought; and

(3) a person participating with the carrier in a violation may be joined in the civil action without regard to the residence of the person.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2435; Pub. L. 98-554, title II, §213(a), Oct. 30, 1984, 98 Stat. 2841; Pub. L. 103-272, §5(m)(10), July 5, 1994, 108 Stat. 1376.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
507	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.
507(a), (d) ...	49:304(a)(3) (last sentence) (related to "Sec. 322(b)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 222(b)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 322(b)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 222(b)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 507	49 U.S. Code	Revised Section
(a)	16(12) (related to Commission action). 322(b)(1) (less 1st sentence last 18 words, 2d sentence, last sentence). 1017(b)(1) (related to Commission action).	11702 11702 11702
(b)	12(1)(a) (last sentence less words before 1st semicolon and after last semicolon). 16(12) (related to action by the Attorney General). 20(9).	11703 11703 11705
(c)	16(12) (related to action by private person). 1017(b)(1) (related to action by the Attorney General).	11703 11703
(d)	322(b)(1) (1st sentence last 18 words, 2d sentence, last sentence). 1017(b)(1) (related to action by private person).	11702 11705

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In the section, the text of 49:322(b)(2) and (3) is not included for motor carriers of migrant workers and motor private carriers because those provisions, while included in the enumeration in 49:304(a)(3) and (3a), are not included in the specific enumeration of 49:1655(f)(2)(B)(ii).

In subsections (a) and (d), the text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed.

In subsection (a), the words "or of any term or condition of any certificate or permit" are omitted as not applicable to this chapter.

In subsection (a)(1), reference to a civil action to enforce an order for the payment of money is omitted as not applicable to this chapter.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103-272 substituted "subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title" for "section 3102 of this title or the Motor Carrier Safety Act of 1984" and "any of those provisions" for "such section or Act".

1984—Subsecs. (c) to (e). Pub. L. 98-554 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

DOT IMPLEMENTATION PLAN

Pub. L. 105-178, title IV, §4026, June 9, 1998, 112 Stat. 416, provided that:

"(a) ASSESSMENT.—Not later than 18 months after the date of enactment of this section [June 9, 1998], the Secretary [of Transportation] shall assess the scope of

the problem of shippers, freight forwarders, brokers, consignees, or other persons (other than rail carriers, motor carriers, motor carriers of migrant workers, or motor private carriers) encouraging violations of chapter 5 of title 49, United States Code, or a regulation or order issued by the Secretary under such chapter.

“(b) SUBMISSION OF IMPLEMENTATION PLAN.—After completion of the assessment under subsection (a), the Secretary may submit to the Congress a plan for implementing authority (if subsequently provided by law) to investigate and bring civil actions to enforce chapter 5 of title 49, United States Code, or regulations or orders issued by the Secretary under such chapter with respect to persons described in subsection (a).

“(c) CONTENTS OF IMPLEMENTATION PLAN.—In developing the implementation plan under subsection (b), the Secretary shall consider, as appropriate—

“(1) in what circumstances the Secretary would exercise the new authority;

“(2) how the Secretary would determine that shippers, freight forwarders, brokers, consignees, or other persons committed violations described in subsection (a), including what types of evidence would be conclusive;

“(3) what procedures would be necessary during investigations to ensure the confidentiality of shipper contract terms prior to the Secretary’s findings of violations;

“(4) what impact the exercise of the new authority would have on the Secretary’s resources, including whether additional investigative or legal resources would be necessary and whether the staff would need specialized education or training to exercise properly such authority;

“(5) to what extent the Secretary would conduct educational activities for persons who would be subject to the new authority; and

“(6) any other information that would assist the Congress in determining whether to provide the Secretary the new authority.”

§ 508. Safety performance history of new drivers; limitation on liability

(a) LIMITATION ON LIABILITY.—No action or proceeding for defamation, invasion of privacy, or interference with a contract that is based on the furnishing or use of safety performance records in accordance with regulations issued by the Secretary may be brought against—

(1) a motor carrier requesting the safety performance records of an individual under consideration for employment as a commercial motor vehicle driver as required by and in accordance with regulations issued by the Secretary;

(2) a person who has complied with such a request; or

(3) the agents or insurers of a person described in paragraph (1) or (2).

(b) RESTRICTIONS ON APPLICABILITY.—

(1) MOTOR CARRIER REQUESTING.—Subsection (a) does not apply to a motor carrier requesting safety performance records unless—

(A) the motor carrier and any agents of the motor carrier have complied with the regulations issued by the Secretary in using the records, including the requirement that the individual who is the subject of the records be afforded a reasonable opportunity to review and comment on the records;

(B) the motor carrier and any agents and insurers of the motor carrier have taken all precautions reasonably necessary to protect the records from disclosure to any person, except for such an insurer, not directly in-

involved in deciding whether to hire that individual; and

(C) the motor carrier has used those records only to assess the safety performance of the individual who is the subject of those records in deciding whether to hire that individual.

(2) PERSON COMPLYING WITH REQUESTS.—Subsection (a) does not apply to a person complying with a request for safety performance records unless—

(A) the complying person and any agents of the complying person have taken all precautions reasonably necessary to ensure the accuracy of the records and have complied with the regulations issued by the Secretary in furnishing the records, including the requirement that the individual who is the subject of the records be afforded a reasonable opportunity to review and comment on the records; and

(B) the complying person and any agents and insurers of the complying person have taken all precautions reasonably necessary to protect the records from disclosure to any person, except for such an insurer, not directly involved in forwarding the records.

(3) PERSONS KNOWINGLY FURNISHING FALSE INFORMATION.—Subsection (a) does not apply to persons who knowingly furnish false information.

(c) PREEMPTION OF STATE AND LOCAL LAW.—No State or political subdivision thereof may enact, prescribe, issue, continue in effect, or enforce any law (including any regulation, standard, or other provision having the force and effect of law) that prohibits, penalizes, or imposes liability for furnishing or using safety performance records in accordance with regulations issued by the Secretary to carry out this section. Notwithstanding any provision of law, written authorization shall not be required to obtain information on the motor vehicle driving record of an individual under consideration for employment with a motor carrier.

(Added Pub. L. 105-178, title IV, § 4014(a)(1), June 9, 1998, 112 Stat. 409.)

CODIFICATION

Pub. L. 105-178, title IV, § 4014(a)(1), June 9, 1998, 112 Stat. 409, which directed the addition of section 508 at end of this chapter, was executed by adding this section at the end of subchapter I of this chapter to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 508, added Pub. L. 102-548, § 2(a), Oct. 28, 1992, 106 Stat. 3646, related to certification of weights and description, prior to repeal by Pub. L. 103-272, § 4(j)(11)(B), July 5, 1994, 108 Stat. 1368. See chapter 59 of this title.

EFFECTIVE DATE

Pub. L. 105-178, title IV, § 4014(b), June 9, 1998, 112 Stat. 411, provided that: “The amendments made by subsection (a) [enacting this section] shall take effect on January 31, 1999.”

SUBCHAPTER II—PENALTIES

§ 521. Civil penalties

(a)(1) A person required under section 504 of this title to make, prepare, preserve, or submit

to the Secretary of Transportation a record about rail carrier transportation, that does not make, prepare, preserve, or submit that record as required under that section, is liable to the United States Government for a civil penalty of \$500 for each violation.

(2) A rail carrier, and a lessor, receiver, or trustee of that carrier, violating section 504(c)(1) of this title, is liable to the Government for a civil penalty of \$100 for each violation.

(3) A rail carrier, a lessor, receiver, or trustee of that carrier, a person furnishing cars or protective service against heat or cold, and an officer, agent, or employee of one of them, required to make a report to the Secretary or answer a question, that does not make a report to the Secretary or does not specifically, completely, and truthfully answer the question, is liable to the Government for a civil penalty of \$100 for each violation.

(4) A separate violation occurs for each day a violation under this subsection continues.

(5) Trial in a civil action under this subsection is in the judicial district in which the rail carrier has its principal operating office or in a district through which the railroad of the rail carrier runs.

(b) VIOLATIONS RELATING TO COMMERCIAL MOTOR VEHICLE SAFETY REGULATION AND OPERATORS.—

(1) NOTICE.—

(A) IN GENERAL.—If the Secretary finds that a violation of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A),¹ or 31502 of this title, or a violation of a regulation issued under any of those provisions, has occurred, the Secretary shall issue a written notice to the violator. Such notice shall describe with reasonable particularity the nature of the violation found and the provision which has been violated. The notice shall specify the proposed civil penalty, if any, and suggest actions which might be taken in order to abate the violation. The notice shall indicate that the violator may, within 15 days of service, notify the Secretary of the violator's intention to contest the matter. In the event of a contested notice, the Secretary shall afford such violator an opportunity for a hearing, pursuant to section 554 of title 5, following which the Secretary shall issue an order affirming, modifying, or vacating the notice of violation.

(B) NONAPPLICABILITY TO REPORTING AND RECORDKEEPING VIOLATIONS.—Subparagraph (A) shall not apply to reporting and recordkeeping violations.

(2) CIVIL PENALTY.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act that is a violation of regulations issued by the Secretary under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title shall be liable to the United States for a civil penalty in an amount

not to exceed \$10,000 for each offense. Notwithstanding any other provision of this section (except subparagraph (C)), no civil penalty shall be assessed under this section against an employee for a violation in an amount exceeding \$2,500.

(B) RECORDKEEPING AND REPORTING VIOLATIONS.—A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person—

(i) who does not make that report, does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered, or does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed \$1,000 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed \$10,000; or

(ii) who knowingly falsifies, destroys, mutilates, or changes a required report or record, knowingly files a false report with the Secretary, knowingly makes or causes or permits to be made a false or incomplete entry in that record about an operation or business fact or transaction, or knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed \$10,000 for each violation, if any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation.

(C) VIOLATIONS PERTAINING TO CDLS.—Any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of section 31302, 31303, 31304, 31305(b), or 31310(g)(1)(A) of this title shall be liable to the United States for a civil penalty not to exceed \$2,500 for each offense.

(D) DETERMINATION OF AMOUNT.—The amount of any civil penalty, and a reasonable time for abatement of the violation, shall by written order be determined by the Secretary, taking into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. In each case, the assessment shall be calculated to induce further compliance.

(E) COPYING OF RECORDS AND ACCESS TO EQUIPMENT, LANDS, AND BUILDINGS.—A person subject to chapter 51 or a motor carrier, broker, freight forwarder, or owner or operator

¹ See References in Text note below.

of a commercial motor vehicle subject to part B of subtitle VI who fails to allow promptly, upon demand, the Secretary (or an employee designated by the Secretary) to inspect and copy any record or inspect and examine equipment, lands, buildings and other property in accordance with sections 504(c), 5121(c), and 14122(b) shall be liable to the United States for a civil penalty not to exceed \$1,000 for each offense. Each day the Secretary is denied the right to inspect and copy any record or inspect and examine equipment, lands, buildings and other property shall constitute a separate offense, except that the total of all civil penalties against any violator for all offenses related to a single violation shall not exceed \$10,000. It shall be a defense to such penalty that the records did not exist at the time of the Secretary's request or could not be timely produced without unreasonable expense or effort. Nothing in this subparagraph amends or supersedes any remedy available to the Secretary under section 502(d), section 507(c), or any other provision of this title.

(3) The Secretary may require any violator served with a notice of violation to post a copy of such notice or statement of such notice in such place or places and for such duration as the Secretary may determine appropriate to aid in the enforcement of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title, as the case may be.

(4) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, before referral to the Attorney General, such civil penalty may be compromised by the Secretary.

(5)(A) If, upon inspection or investigation, the Secretary determines that a violation of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title or a regulation issued under any of those provisions, or combination of such violations, poses an imminent hazard to safety, the Secretary shall order a vehicle or employee operating such vehicle out of service, or order an employer to cease all or part of the employer's commercial motor vehicle operations. In making any such order, the Secretary shall impose no restriction on any employee or employer beyond that required to abate the hazard. Subsequent to the issuance of the order, opportunity for review shall be provided in accordance with section 554 of title 5, except that such review shall occur not later than 10 days after issuance of such order.

(B) In this paragraph, "imminent hazard" means any condition of vehicle, employee, or commercial motor vehicle operations which substantially increases the likelihood of serious injury or death if not discontinued immediately.

(6) CRIMINAL PENALTIES.—

(A) IN GENERAL.—Any person who knowingly and willfully violates any provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title, or a regulation issued under any of those provisions shall, upon conviction, be subject for each offense to a fine not to exceed \$25,000 or

imprisonment for a term not to exceed one year, or both, except that, if such violator is an employee, the violator shall only be subject to penalty if, while operating a commercial motor vehicle, the violator's activities have led or could have led to death or serious injury, in which case the violator shall be subject, upon conviction, to a fine not to exceed \$2,500.

(B) VIOLATIONS PERTAINING TO CDLS.—Any person who knowingly and willfully violates—

(i) any provision of section 31302, 31303(b) or (c), 31304, 31305(b), or 31310(g)(1)(A) of this title or a regulation issued under such section, or

(ii) with respect to notification of a serious traffic violation as defined under section 31301 of this title, any provision of section 31303(a) of this title or a regulation issued under section 31303(a),

shall, upon conviction, be subject for each offense to a fine not to exceed \$5,000 or imprisonment for a term not to exceed 90 days, or both.

(7) The Secretary shall issue regulations establishing penalty schedules designed to induce timely compliance for persons failing to comply promptly with the requirements set forth in any notices and orders under this subsection.

(8) PROHIBITION ON OPERATION IN INTERSTATE COMMERCE AFTER NONPAYMENT OF PENALTIES.—

(A) IN GENERAL.—An owner or operator of a commercial motor vehicle against whom a civil penalty is assessed under this chapter or chapter 51, 149, or 311 of this title and who does not pay such penalty or fails to arrange and abide by an acceptable payment plan for such civil penalty may not operate in interstate commerce beginning on the 91st day after the date specified by order of the Secretary for payment of such penalty. This paragraph shall not apply to any person who is unable to pay a civil penalty because such person is a debtor in a case under chapter 11 of title 11, United States Code.

(B) REGULATIONS.—Not later than 12 months after the date of the enactment of this paragraph, the Secretary, after notice and an opportunity for public comment, shall issue regulations setting forth procedures for ordering commercial motor vehicle owners and operators delinquent in paying civil penalties to cease operations until payment has been made.

(9) Any aggrieved person who, after a hearing, is adversely affected by a final order issued under this section may, within 30 days, petition for review of the order in the United States Court of Appeals in the circuit wherein the violation is alleged to have occurred or where the violator has his principal place of business or residence, or in the United States Court of Appeals for the District of Columbia Circuit. Review of the order shall be based on a determination of whether the Secretary's findings and conclusions were supported by substantial evidence, or were otherwise not in accordance with law. No objection that has not been urged before the Secretary shall be considered by the court, unless reasonable grounds existed for failure or neglect to do so. The commencement of proceed-

ings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Secretary.

(10) All penalties and fines collected under this section shall be deposited into the Highway Trust Fund (other than the Mass Transit Account).

(11) In any action brought under this section, process may be served without regard to the territorial limits of the district of the State in which the action is brought.

(12) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, trial shall be by the court, or, upon demand of the accused, by a jury, conducted in accordance with the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(13) The provisions of this subsection shall not affect chapter 51 of this title or any regulation promulgated by the Secretary under chapter 51.

(14) As used in this subsection, the terms "commercial motor vehicle", "employee", "employer", and "State" have the meaning such terms have under section 31132 of this title.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2435; Pub. L. 98-554, title II, §213(b), Oct. 30, 1984, 98 Stat. 2842; Pub. L. 99-570, title XII, §12012, Oct. 27, 1986, 100 Stat. 3207-184; Pub. L. 101-500, §15(e)(2), Nov. 3, 1990, 104 Stat. 1220; Pub. L. 102-548, §2(b), Oct. 28, 1992, 106 Stat. 3648; Pub. L. 103-272, §§4(j)(11)(D), 5(m)(11), July 5, 1994, 108 Stat. 1368, 1376; Pub. L. 104-287, §5(4), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 105-178, title IV, §4015(a), (b), June 9, 1998, 112 Stat. 411; Pub. L. 106-159, title II, §§206(b), 208, Dec. 9, 1999, 113 Stat. 1763, 1764; Pub. L. 109-59, title IV, §§4102(a), 4103, Aug. 10, 2005, 119 Stat. 1715, 1716.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
521	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 521	49 U.S. Code	Revised Section
(a)	20(7)(a), (c)-(e).	11901
(b)	322(h).	11901

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In subsection (a)(3), the words "against heat and cold" are inserted for consistency with sections 11105 and 11901 of the revised title.

Subsection (b) does not apply to motor carriers of migrant workers and motor private carriers because 49:322(h) (1st sentence) only applies to motor carriers and 49:304(a)(3) and (3a) do not apply 49:322(h) (1st sentence) to motor carriers of migrant workers and motor private carriers. The reference to 49:303(c), 306(a)(1), and 309(a)(1) is omitted as not applicable to this chapter.

REFERENCES IN TEXT

Section 31310(g)(1)(A), referred to in subsec. (b)(1)(A), was redesignated section 31310(i)(1)(A), by Pub. L. 106-159, title II, §201(b)(1), Dec. 9, 1999, 113 Stat. 1759.

The date of the enactment of this paragraph, referred to in subsec. (b)(8)(B), is the date of enactment of Pub. L. 106-159, which was approved Dec. 9, 1999.

The Federal Rules of Criminal Procedure, referred to in subsec. (b)(12), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

AMENDMENTS

2005—Subsec. (b). Pub. L. 109-59, §4103(1), inserted headings for subsec. (b), par. (1), and subpar. (A).

Subsec. (b)(2)(B). Pub. L. 109-59, §4102(a)(2), substituted "\$10,000" for "\$5,000" in cls. (i) and (ii).

Subsec. (b)(2)(B)(i). Pub. L. 109-59, §4102(a)(1), substituted "\$1,000" for "\$500".

Subsec. (b)(2)(E). Pub. L. 109-59, §4103(2), added subpar. (E).

1999—Subsec. (b)(5)(B). Pub. L. 106-159, §208, substituted "substantially increases the likelihood of" for "is likely to result in".

Subsec. (b)(8) to (14). Pub. L. 106-159, §206(b), added par. (8) and redesignated former pars. (8) to (13) as (9) to (14), respectively.

1998—Subsec. (b)(1)(A). Pub. L. 105-178, §4015(a)(1), struck out "fix a reasonable time for abatement of the violation," before "specify the proposed civil penalty".

Subsec. (b)(1)(B). Pub. L. 105-178, §4015(a)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: "The Secretary shall, not later than 60 days after November 3, 1990, establish operational procedures to require a highway safety specialist or other appropriate representative of the Secretary to initiate, at the time of a safety review, compliance review, or other inspection or audit activity, or within a reasonable time thereafter, an enforcement action whenever any of the offenses referred to in paragraph (2)(A) and (B) can be documented, except recordkeeping violations not specified by the Secretary as serious. The procedures shall—

"(i) specify those serious recordkeeping violations for which an enforcement action shall be initiated, including instances in which the falsification of records of duty status or drivers' medical certificates is required or permitted, and such other recordkeeping violations as the Secretary determines to be serious; and

"(ii) authorize, but not require, initiation of an enforcement action for recordkeeping violations not specified by the Secretary as serious."

Subsec. (b)(2)(A). Pub. L. 105-178, §4015(b)(1), added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: "Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of a recordkeeping requirement issued by the Secretary under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title or which is a violation of chapter 59 of this title shall be liable to the United States for a civil penalty not to exceed \$500 for each offense. Each day of a violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses relating to any single violation shall not exceed \$2,500. If the Secretary determines that a serious pattern of safety violations, other than recordkeeping requirements, exists or has occurred, the Secretary may assess a civil penalty not to exceed \$1,000 for each offense; except that the maximum fine for each such pattern of safety violations shall not exceed \$10,000. If the Secretary determines that a substantial health or safety violation exists or has occurred which could reasonably lead to, or has resulted in, serious personal injury or death, the Secretary may assess a civil penalty not to exceed \$10,000 for each offense. Notwithstanding any other provision of this section (other than subpara-

graph (B)), except for recordkeeping violations, no civil penalty shall be assessed under this section against an employee for a violation unless the Secretary determines that such employee's actions constituted gross negligence or reckless disregard for safety, in which case such employee shall be liable for a civil penalty not to exceed \$1,000."

Subsec. (b)(2)(B) to (D). Pub. L. 105-178, §4015(b)(2), (3), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

1996—Subsec. (b)(1)(B). Pub. L. 104-287 substituted "November 3, 1990" for "the date of enactment of this subparagraph" in introductory provisions.

1994—Subsec. (b)(1)(A). Pub. L. 103-272, §5(m)(11)(A), substituted "a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title" for "section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986" and "any of those provisions" for "such sections or Act".

Subsec. (b)(2)(A). Pub. L. 103-272, §5(m)(11)(B), substituted "under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title" for "pursuant to section 3102 of this title or the Motor Carrier Safety Act of 1984".

Pub. L. 103-272, §4(j)(11)(D), substituted "chapter 59 of this title" for "section 508 of this title".

Subsec. (b)(2)(B). Pub. L. 103-272, §5(m)(11)(C), substituted "section 31302, 31303, 31304, 31305(b), or 31310(g)(1)(A) of this title" for "section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986".

Subsec. (b)(3). Pub. L. 103-272, §5(m)(11)(D), substituted "subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title" for "section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986".

Subsec. (b)(5)(A). Pub. L. 103-272, §5(m)(11)(E), substituted "a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title" for "section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986" and "any of those provisions" for "such sections or Act".

Subsec. (b)(6)(A). Pub. L. 103-272, §5(m)(11)(F), substituted "subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title" for "section 3102 of this title, the Motor Carrier Safety Act of 1984", "any of those provisions" for "such section or Act", and "shall be subject" for "shall be liable".

Subsec. (b)(6)(B)(i). Pub. L. 103-272, §5(m)(11)(G), substituted "section 31302, 31303(b) or (c), 31304, 31305(b), or 31310(g)(1)(A) of this title" for "section 12002, 12003(b), 12003(c), 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986".

Subsec. (b)(6)(B)(ii). Pub. L. 103-272, §5(m)(11)(H), substituted "section 31301 of this title" for "section 12019 of such Act", "section 31303(a) of this title" for "section 12003(a) of such Act", and "section 31303(a)" for "such section 12003(a)".

Subsec. (b)(12). Pub. L. 103-272, §5(m)(11)(I), substituted "chapter 51 of this title" for "any provision of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801-1812)" and "chapter 51" for "such Act".

Subsec. (b)(13). Pub. L. 103-272, §5(m)(11)(J), substituted "section 31132 of this title" for "section 204 of the Motor Carrier Safety Act of 1984".

1992—Subsec. (b)(2)(A). Pub. L. 102-548 inserted "or which is a violation of section 508 of this title" after "Act of 1984".

1990—Subsec. (b)(1). Pub. L. 101-500 designated existing provisions as subpar. (A) and added subpar. (B).

1986—Subsec. (b)(1). Pub. L. 99-570, §12012(a), inserted "or section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986"

after "the Motor Carrier Safety Act of 1984" and substituted "such sections" for "such section".

Subsec. (b)(2). Pub. L. 99-570, §12012(b), (f)(1), inserted heading, designated existing provisions as subpars. (A) and (C) with corresponding headings, added subpar. (B), in subpar. (A) indented such subparagraph and aligned it with subpar. (B), and inserted exception relating to subpar. (B).

Subsec. (b)(3). Pub. L. 99-570, §12012(c), inserted "or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986" after "the Motor Carrier Safety Act of 1984".

Subsec. (b)(5)(A). Pub. L. 99-570, §12012(d), inserted "or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986" after "the Motor Carrier Safety Act of 1984" and substituted "such sections" for "such section".

Subsec. (b)(6). Pub. L. 99-570, §12012(e), (f)(2), (g)(1), inserted heading, designated existing provisions as subpar. (A) with corresponding heading, added subpar. (B), in subpar. (A) indented such subparagraph and aligned it with subpar. (B), and substituted "to a fine" for "for a fine" in two places.

Subsec. (b)(13). Pub. L. 99-570, §12012(g)(2), substituted "section 204" for "section 4".

1984—Subsec. (b)(1). Pub. L. 98-554 substituted provisions relating to notice to violators and opportunity for hearings for former provisions which set forth penalties for failure to make reports and keep records.

Subsec. (b)(2). Pub. L. 98-554 substituted provisions setting forth amount of civil penalties for former provisions which related to the place of trial and manner of service of process for violations of recordkeeping and reporting provisions.

Subsec. (b)(3) to (13). Pub. L. 98-554 added pars. (3) to (13).

DEEMED REFERENCES TO TO CHAPTERS 509 AND 511 OF TITLE 51

General references to "this title" deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111-314, set out as a note under section 101 of this title.

MINIMUM AND MAXIMUM ASSESSMENTS

Pub. L. 106-159, title II, §222, Dec. 9, 1999, 113 Stat. 1769, provided that:

"(a) IN GENERAL.—The Secretary of Transportation should ensure that motor carriers operate safely by imposing civil penalties at a level calculated to ensure prompt and sustained compliance with Federal motor carrier safety and commercial driver's license laws.

"(b) ESTABLISHMENT.—The Secretary—

"(1) should establish and assess minimum civil penalties for each violation of a law referred to in subsection (a); and

"(2) shall assess the maximum civil penalty for each violation of a law referred to in subsection (a) by any person who is found to have committed a pattern of violations of critical or acute regulations issued to carry out such a law or to have previously committed the same or a related violation of critical or acute regulations issued to carry out such a law.

"(c) EXTRAORDINARY CIRCUMSTANCES.—If the Secretary determines and documents that extraordinary circumstances exist which merit the assessment of any civil penalty lower than any level established under subsection (b), the Secretary may assess such lower penalty. In cases where a person has been found to have previously committed the same or a related violation of critical or acute regulations issued to carry out a law referred to in subsection (a), extraordinary circumstances may be found to exist when the Secretary determines that repetition of such violation does not demonstrate a failure to take appropriate remedial action.

"(d) REPORT TO CONGRESS.—

"(1) IN GENERAL.—The Secretary shall conduct a study of the effectiveness of the revised civil pen-

alties established in the Transportation Equity Act for the 21st Century [Pub. L. 105-178, see Tables for classification] and this Act [see Tables for classification] in ensuring prompt and sustained compliance with Federal motor carrier safety and commercial driver's license laws.

“(2) SUBMISSION TO CONGRESS.—The Secretary shall transmit the results of such study and any recommendations to Congress by September 30, 2002.”

REPORT; PENALTIES; EFFECTIVENESS

Section 213(d) of Pub. L. 98-554 directed Secretary of Transportation to conduct a study of effectiveness of civil and criminal penalties established by amendments made by section 213 of Pub. L. 98-554 in deterring violations of commercial motor vehicle safety regulations issued under title II of Pub. L. 98-554 and in effectively prosecuting such violations when they occur, which study was to examine the effectiveness of penalties in effect before Oct. 30, 1984, in comparison to the penalties established by the amendments made by title II of Pub. L. 98-554, and was to further investigate the need for, and make recommendations concerning, increased fine levels for civil and criminal penalties, and the need for additional categories of civil and criminal penalties to deter further, and prosecute effectively, violations of such commercial motor vehicle safety regulations, and further directed Secretary to submit to Congress a report on the findings of this study, together with legislative recommendations, not later than 2 years after Oct. 30, 1984.

§ 522. Reporting and record keeping violations

A person required to make a report to the Secretary of Transportation, or make, prepare, or preserve a record, under section 504 of this title about transportation by rail carrier, that knowingly and willfully (1) makes a false entry in the report or record, (2) destroys, mutilates, changes, or by another means falsifies the record, (3) does not enter business related facts and transactions in the record, (4) makes, prepares, or preserves the record in violation of a regulation or order of the Secretary, or (5) files a false report or record with the Secretary, shall be fined not more than \$5,000, imprisoned for not more than 2 years, or both.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2436; Pub. L. 105-178, title IV, § 4015(c), June 9, 1998, 112 Stat. 412.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
522	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.
522(b)	49:304(a)(3) (last sentence) (related to “Sec. 322(g)”).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to “Sec. 222(g)”); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to “Sec. 322(g)”).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to “Sec. 222(g)”); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 522	49 U.S. Code	Revised Section
(a)	20(7)(b) (less proviso).	11909
(b)	322(g).	11909

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed.

AMENDMENTS

1998—Pub. L. 105-178 struck out “(a)” before “A person required to make a report to the Secretary of Transportation” and struck out subsec. (b) which read as follows: “A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person, that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered, (3) willfully does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, (4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record, (5) knowingly and willfully files a false report or record with the Secretary, (6) knowingly and willfully makes a false or incomplete entry in that record about a business related fact or transaction, or (7) knowingly and willfully makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be fined not more than \$5,000.”

§ 523. Unlawful disclosure of information

(a) A motor carrier, or an officer, receiver, trustee, lessee, or employee of that carrier, or another person authorized by that carrier to receive information from that carrier, may not knowingly disclose to another person (except the shipper or consignee), and another person may not solicit, or knowingly receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier without the consent of the shipper or consignee if that information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee.

(b) This chapter does not prevent a motor carrier, motor carrier of migrant workers, or motor private carrier from giving information—

(1) in response to legal process issued under authority of a court of the United States or a State;

(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; and

(3) to another motor carrier, motor carrier of migrant workers, or motor private carrier, or its agent, to adjust mutual traffic accounts in the ordinary course of business.

(c) An employee of the Secretary of Transportation delegated to make an inspection under section 504 of this title who knowingly discloses information acquired during that inspection, except as directed by the Secretary, a court, or a judge of that court, shall be fined not more than \$500, imprisoned for not more than 6 months, or both.

(Pub. L. 97-449, § 1(b), Jan. 12, 1983, 96 Stat. 2436.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
523	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, § 6(f)(2), 80 Stat. 940.
523(b)	49:304(a)(3) (last sentence) (related to "Sec. 322(f)"). 49:304(a)(3a) (last sentence) (related to "Sec. 322(f)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3) (last sentence) (related to "Sec. 222(d), (f)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546. Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3a) (last sentence) (related to "Sec. 222(d), (f)"); added Aug. 3, 1956, ch. 905, § 2, 70 Stat. 958.
523(c)	49:304(a)(3) (last sentence) (related to "Sec. 322(d)"). 49:304(a)(3a) (last sentence) (related to "Sec. 322(d)").	

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 523	49 U.S. Code	Revised Section
(a)	322(e).	11910
(b)	322(f).	11910
(c)	20(7)(f).	11910
	322(d).	11910

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

Subsection (a) does not apply to motor carriers of migrant workers and motor private carriers because 49:322(e) only applies to motor carriers and 49:304(a)(3) and (3a) do not apply 49:322(e) to motor carriers of migrant workers and motor private carriers. The words "engaged in interstate or foreign commerce" are omitted as unnecessary because of the restatement of the chapter.

In subsections (b) and (c), the text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed.

§ 524. Evasion of regulation of motor carriers

A person, or an officer, employee, or agent of that person, that by any means knowingly and willfully tries to evade regulation of motor carriers under this chapter shall be fined at least \$200 but not more than \$500 for the first violation and at least \$250 but not more than \$2,000 for a subsequent violation.

(Pub. L. 97-449, § 1(b), Jan. 12, 1983, 96 Stat. 2437.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
524	49:1655(f)(2).	Oct. 15, 1966, Pub. L. 89-670, § 6(f)(2), 80 Stat. 940.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an

explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 524	49 U.S. Code	Revised Section
	322(c) (related to evasion of regulation).	11906

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The section does not apply to motor carriers of migrant workers and motor private carriers because 49:322(c) (related to evasion of regulation) only applies to motor carriers and 49:304(a)(3) and (3a) do not apply 49:322(c) (related to evasion of regulation) to motor carriers of migrant workers and motor private carriers.

§ 525. Disobedience to subpoenas

A motor carrier, motor carrier of migrant workers, or motor private carrier not obeying a subpoena or requirement of the Secretary of Transportation under this chapter to appear and testify or produce records shall be fined at least \$100 but not more than \$5,000, imprisoned for not more than one year, or both.

(Pub. L. 97-449, § 1(b), Jan. 12, 1983, 96 Stat. 2437.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
525	49:304(a)(3) (last sentence) (related to "Sec. 305(d) (related to liability)"). 49:304(a)(3a) (last sentence) (related to "Sec. 305(d) (related to liability)"). 49:1655(f)(2).	Feb. 4, 1887, ch. 104, 24 Stat., 379, § 204(a)(3) (last sentence) (related to "Sec. 205(d) (related to liability)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546. Feb. 4, 1887, ch. 104, 24 Stat., 379, § 204(a)(3a) (last sentence) (related to "Sec. 205(d) (related to liability)"); added Aug. 3, 1956, ch. 905, § 2, 70 Stat. 958. Oct. 15, 1966, Pub. L. 89-670, § 6(f)(2), 80 Stat. 940.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 525	49 U.S. Code	Revised Section
	305(d) (related to liability).	11913

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The section does not apply to the liability of a rail carrier because 49:46 is not included in the specific enumeration of 49:1655(f)(2)(B)(ii). The text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed. The words "under this chapter" are added for clarity.

§ 526. General criminal penalty when specific penalty not provided

When another criminal penalty is not provided under a provision of this chapter, subchapter III

of chapter 311 (except sections 31138 and 31139), or section 31502 of this title, a person that knowingly and willfully violates any of those provisions or a regulation or order of the Secretary of Transportation under any of those provisions, related to transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, shall be fined at least \$100 but not more than \$500 for the first violation and at least \$200 but not more than \$500 for a subsequent violation. A separate violation occurs each day the violation continues.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2437; Pub. L. 98-554, title II, §213(c), Oct. 30, 1984, 98 Stat. 2844; Pub. L. 103-272, §5(m)(12), July 5, 1994, 108 Stat. 1377.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
526	49:304(a)(3) (last sentence) (related to "Sec. 322(a)"). 49:304(a)(3a) (last sentence) (related to "Sec. 322(a)"). 49:1655(f)(2).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3) (last sentence) (related to "Sec. 222(a)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546. Feb. 4, 1887, ch. 104, 24 Stat. 379, §204(a)(3a) (last sentence) (related to "Sec. 222(a)"); added Aug. 3, 1956, ch. 905, §2, 70 Stat. 958. Oct. 15, 1966, Pub. L. 89-670, §6(f)(2), 80 Stat. 940.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 526	49 U.S. Code	Revised Section
	322(a).	11914

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The reference to a certificate, permit, or licence is omitted as not applicable to this chapter. The text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed.

AMENDMENTS

1994—Pub. L. 103-272 substituted "a provision of this chapter, subchapter III of chapter 311 (except sections 31138 and 31139), or section 31502 of this title, a person that knowingly and willfully violates any of those provisions or a regulation or order of the Secretary of Transportation under any of those provisions" for "this chapter, section 3102 of this title, or the Motor Carrier Safety Act of 1984, a person that knowingly and willfully violates a provision of this chapter or such section or Act, or a regulation or order of the Secretary of Transportation under this chapter or such section or Act".

1984—Pub. L. 98-554 inserted " , section 3102 of this title, or the Motor Carrier Safety Act of 1984" after "chapter" the first place it appears and inserted "or such section or Act" after "chapter" the second and third places it appears.

CHAPTER 7—SURFACE TRANSPORTATION BOARD

SUBCHAPTER I—ESTABLISHMENT

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- 702. Functions.
- 703. Administrative provisions.
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SUBCHAPTER II—ADMINISTRATIVE

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SUBCHAPTER I—ESTABLISHMENT

§ 701. Establishment of Board

(a) ESTABLISHMENT.—There is hereby established within the Department of Transportation the Surface Transportation Board.

(b) MEMBERSHIP.—(1) The Board shall consist of 3 members, to be appointed by the President, by and with the advice and consent of the Senate. Not more than 2 members may be appointed from the same political party.

(2) At any given time, at least 2 members of the Board shall be individuals with professional standing and demonstrated knowledge in the fields of transportation or transportation regulation, and at least one member shall be an individual with professional or business experience (including agriculture) in the private sector.

(3) The term of each member of the Board shall be 5 years and shall begin when the term of the predecessor of that member ends. An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, shall be appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified, but for a period not to exceed one year. The President may remove a member for inefficiency, neglect of duty, or malfeasance in office.

(4) On January 1, 1996, the members of the Interstate Commerce Commission serving unexpired terms on December 29, 1995, shall become members of the Board, to serve for a period of time equal to the remainder of the term for which they were originally appointed to the Interstate Commerce Commission. Any member of the Interstate Commerce Commission whose term expires on December 31, 1995, shall become a member of the Board, subject to paragraph (3).

(5) No individual may serve as a member of the Board for more than 2 terms. In the case of an individual who becomes a member of the Board pursuant to paragraph (4), or an individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, such individual may not be appointed for more than one additional term.

(6) A member of the Board may not have a pecuniary interest in, hold an official relation to,