

apply specifically to mass transportation employees, or to the general public” are omitted as surplus.

In subsection (f)(3), the word “prevent” is substituted for “restrict the discretion of” to eliminate unnecessary words.

In subsection (g) the words “in accordance with such regulations” are omitted as surplus.

PUB. L. 103-429

This amends 49:5331(a)(3) to correct an erroneous cross-reference.

AMENDMENTS

2005—Subsec. (a)(3). Pub. L. 109-59, §3030(a), substituted “section 20140 or 31306 of this title or section 2303a, 7101(i), or 7302(e) of title 46” for “section 20140 or 31306 of this title” and inserted at end “The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or the Coast Guard.”.

Pub. L. 109-59, §3002(b)(4), substituted “public transportation” for “mass transportation” in two places.

Subsec. (b). Pub. L. 109-59, §3002(b)(3), substituted “Public” for “Mass” in heading.

Subsec. (b)(1)(A). Pub. L. 109-59, §3030(b), struck out “or section 103(e)(4) of title 23” after “5311 of this title”.

Pub. L. 109-59, §3002(b)(4), substituted “public transportation” for “mass transportation” wherever appearing.

Subsecs. (b)(1)(B), (2), (c)(2), (e). Pub. L. 109-59, §3002(b)(4), substituted “public transportation” for “mass transportation” wherever appearing.

Subsec. (f)(3). Pub. L. 109-59, §3030(c), struck out par. (3) which read as follows: “This section does not prevent the Secretary of Transportation from continuing in effect, amending, or further supplementing a regulation prescribed before October 28, 1991, governing the use of alcohol or a controlled substance by mass transportation employees.”

Subsec. (g). Pub. L. 109-59, §3030(b), struck out “or section 103(e)(4) of title 23” after “5311 of this title”.

1995—Subsec. (b)(1)(A). Pub. L. 104-59 added subpar. (A) and struck out former subpar. (A) which read as follows: “In the interest of mass transportation safety, the Secretary of Transportation shall prescribe regulations not later than October 28, 1992, that establish a program requiring mass transportation operations that receive financial assistance under section 5307, 5309, or 5311 of this title or section 103(e)(4) of title 23 to conduct preemployment, reasonable suspicion, random, and post-accident testing of mass transportation employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of alcohol or a controlled substance in violation of law or a United States Government regulation.”

1994—Subsec. (a)(3). Pub. L. 103-429 substituted “section 20140 or 31306” for “subchapter III of chapter 201 or section 31306”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

§ 5332. Nondiscrimination

(a) DEFINITION.—In this section, “person” includes a governmental authority, political subdivision, authority, legal representative, trust, unincorporated organization, trustee, trustee in bankruptcy, and receiver.

(b) PROHIBITIONS.—A person may not be excluded from participating in, denied a benefit of, or discriminated against under, a project, pro-

gram, or activity receiving financial assistance under this chapter because of race, color, creed, national origin, sex, or age.

(c) COMPLIANCE.—(1) The Secretary of Transportation shall take affirmative action to ensure compliance with subsection (b) of this section.

(2) When the Secretary decides that a person receiving financial assistance under this chapter is not complying with subsection (b) of this section, a civil rights law of the United States, or a regulation or order under that law, the Secretary shall notify the person of the decision and require action be taken to ensure compliance with subsection (b).

(d) AUTHORITY OF SECRETARY FOR NONCOMPLIANCE.—If a person does not comply with subsection (b) of this section within a reasonable time after receiving notice, the Secretary shall—

(1) direct that no further financial assistance of the United States Government under this chapter be provided to the person;

(2) refer the matter to the Attorney General with a recommendation that a civil action be brought;

(3) proceed under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); and

(4) take any other action provided by law.

(e) CIVIL ACTIONS BY ATTORNEY GENERAL.—The Attorney General may bring a civil action for appropriate relief when—

(1) a matter is referred to the Attorney General under subsection (d)(2) of this section; or

(2) the Attorney General believes a person is engaged in a pattern or practice in violation of this section.

(f) APPLICATION AND RELATIONSHIP TO OTHER LAWS.—This section applies to an employment or business opportunity and is in addition to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 834.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5332(a)	49 App.:1615(a)(5).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §19; added Nov. 6, 1978, Pub. L. 95-599, §314, 92 Stat. 2750.
5332(b)	49 App.:1615(a)(1) (1st sentence).	
5332(c)	49 App.:1615(a)(2), (3)(A).	
5332(d)	49 App.:1615(a)(3)(B).	
5332(e)	49 App.:1615(a)(4).	
5332(f)	49 App.:1615(a)(1) (last sentence).	

In subsection (a), the words “the term” and “one or more” are omitted as surplus. The words “partnerships, associations, corporations” and “mutual companies, joint-stock companies” are omitted because of 1:1.

In subsection (b), the word “receiving” is substituted for “funded in whole or in part through” to eliminate unnecessary words.

In subsection (c)(2), the words “directly or indirectly”, “issued”, and “necessary” are omitted as surplus.

In subsection (d), before clause (1), the words “does not” are substituted for “fails or refuses to” to eliminate unnecessary words. The words “period of” and “pursuant to paragraph (a) of this subsection” are omitted as surplus. In clause (2), the word “appro-

appropriate" is omitted as surplus. In clause (3), the words "proceed under" are substituted for "exercise the powers and functions provided by" to eliminate unnecessary words.

In subsection (e), before clause (1), the words "in any appropriate district court of the United States" and "including injunctive relief" are omitted as surplus.

In subsection (f), the words "considered to be" and "and not in lieu of" are omitted as surplus.

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsecs. (d)(3) and (f), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

§ 5333. Labor standards

(a) PREVAILING WAGES REQUIREMENT.—The Secretary of Transportation shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed with a grant or loan under this chapter be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under sections 3141-3144, 3146, and 3147 of title 40. The Secretary of Transportation may approve a grant or loan only after being assured that required labor standards will be maintained on the construction work. For a labor standard under this subsection, the Secretary of Labor has the same duties and powers stated in Reorganization Plan No. 14 of 1950 (eff. May 24, 1950, 64 Stat. 1267) and section 3145 of title 40.

(b) EMPLOYEE PROTECTIVE ARRANGEMENTS.—(1) As a condition of financial assistance under sections 5307-5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and 5338(b) of this title, the interests of employees affected by the assistance shall be protected under arrangements the Secretary of Labor concludes are fair and equitable. The agreement granting the assistance under sections 5307-5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and 5338(b) shall specify the arrangements.

(2) Arrangements under this subsection shall include provisions that may be necessary for—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;

(B) the continuation of collective bargaining rights;

(C) the protection of individual employees against a worsening of their positions related to employment;

(D) assurances of employment to employees of acquired public transportation systems;

(E) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and

(F) paid training or retraining programs.

(3) Arrangements under this subsection shall provide benefits at least equal to benefits established under section 11326 of this title.

(4) Fair and equitable arrangements to protect the interests of employees utilized by the Secretary of Labor for assistance to purchase like-kind equipment or facilities, and grant amend-

ments which do not materially revise or amend existing assistance agreements, shall be certified without referral.

(5) When the Secretary is called upon to issue fair and equitable determinations involving assurances of employment when one private transit bus service contractor replaces another through competitive bidding, such decisions shall be based on the principles set forth in the Department of Labor's decision of September 21, 1994, as clarified by the supplemental ruling of November 7, 1994, with respect to grant NV-90-X021. This paragraph shall not serve as a basis for objections under section 215.3(d) of title 29, Code of Federal Regulations.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 835; Pub. L. 104-88, title III, §308(e), Dec. 29, 1995, 109 Stat. 947; Pub. L. 105-178, title III, §3029(b)(9), June 9, 1998, 112 Stat. 372; Pub. L. 107-217, §3(n)(3), Aug. 21, 2002, 116 Stat. 1302; Pub. L. 109-59, title III, §§3002(b)(4), 3031, Aug. 10, 2005, 119 Stat. 1545, 1625.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5333(a)	49 App.:1609(a), (b).	July 9, 1964, Pub. L. 88-365, §13, 78 Stat. 307; Sept. 8, 1966, Pub. L. 89-562, §2(a)(1), (b)(2), 80 Stat. 715, 716; May 25, 1967, Pub. L. 90-19, §20(a), 81 Stat. 25.
5333(b)	49 App.:1609(c).	

In subsection (a), the words "take such action as may be necessary to", "the performance of", "the assistance of", and "at rates" are omitted as surplus. The word "same" is added for clarity. The words "duties and powers" are substituted for "authority and functions" for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), the reference to sections 5307, 5308, 5310, and 5311 of the revised title is added for clarity because of 49 App.:1607a(e)(1), 1607a-2(a), 1612(b), and 1614(f), restated as sections 5307(n)(2), 5308(b)(1), 5310(a), and 5311(i) of the revised title. The reference to section 5312 is added for clarity because it is intended that 49 App.:1609(c) cover research, development, training, and demonstration projects. The words "terms and conditions of the protective" are omitted as surplus.

In subsection (b)(2), before clause (A), the words "without being limited to" are omitted as being included in "include". The words "such provisions as may be necessary for" are omitted as surplus. In clause (C), the word "individual" is omitted as surplus.

In subsection (b)(3), the words "section 11347 of this title" are substituted for and coextensive with "section 5(2)(f) of the Act of February 4, 1887 (24 Stat. 379), as amended" in section 13(c) of the Urban Mass Transportation Act of 1964 (Public Law 88-365, 78 Stat. 307) on authority of section 3(b) of the Act of October 17, 1978 (Public Law 95-473, 92 Stat. 1466).

REFERENCES IN TEXT

Reorganization Plan No. 14 of 1950, referred to in subsec. (a), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2005—Subsec. (b)(1). Pub. L. 109-59, §3031(1), substituted "5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and 5338(b)" for "5318(d), 5323(a)(1), (b), (d), and (e), 5328, 5337, and 5338(b)" in two places.

Subsec. (b)(2)(D). Pub. L. 109-59, §3002(b)(4), substituted "public transportation" for "mass transportation".

Subsec. (b)(4), (5). Pub. L. 109-59, §3031(2), added pars. (4) and (5).