

(B) specified amounts are deducted, pursuant to a written agreement between the shipper and the carrier, from any claim against the carrier with respect to the transportation of such property.

(d)(1) A civil action under this section may be brought in a district court of the United States or in a State court.

(2)(A) A civil action under this section may only be brought—

(i) against the originating rail carrier, in the judicial district in which the point of origin is located;

(ii) against the delivering rail carrier, in the judicial district in which the principal place of business of the person bringing the action is located if the delivering carrier operates a railroad or a route through such judicial district, or in the judicial district in which the point of destination is located; and

(iii) against the carrier alleged to have caused the loss or damage, in the judicial district in which such loss or damage is alleged to have occurred.

(B) In this section, “judicial district” means (i) in the case of a United States district court, a judicial district of the United States, and (ii) in the case of a State court, the applicable geographic area over which such court exercises jurisdiction.

(e) A rail carrier may not provide by rule, contract, or otherwise, a period of less than 9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date the carrier gives a person written notice that the carrier has disallowed any part of the claim specified in the notice. For the purposes of this subsection—

(1) an offer of compromise shall not constitute a disallowance of any part of the claim unless the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides reasons for such disallowance; and

(2) communications received from a carrier’s insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reasons for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 847.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11707 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

A prior section 11706, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1452; Pub. L. 97–258, §3(n), Sept. 13, 1982, 96 Stat. 1066; Pub. L. 99–521, §12(c), Oct. 22, 1986, 100 Stat. 2998; Pub. L. 103–180, §3, Dec. 3, 1993, 107 Stat. 2049; Pub. L. 103–429, §6(18), Oct. 31, 1994, 108 Stat. 4379, related to limitation on actions by and against common carriers, prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a). See sections 11705, 14705, and 15905 of this title.

§ 11707. Liability when property is delivered in violation of routing instructions

(a)(1) When a rail carrier providing transportation subject to the jurisdiction of the Board under this part diverts or delivers property to another rail carrier in violation of routing instructions in the bill of lading, both of those rail carriers are jointly and severally liable to the rail carrier that was deprived of its right to participate in hauling that property for the total amount of the rate it would have received if it participated in hauling the property.

(2) A rail carrier is not liable under paragraph (1) of this subsection when it diverts or delivers property in compliance with an order or regulation of the Board.

(3) A rail carrier to whom property is transported is not liable under this subsection if it shows that it had no notice of the routing instructions before transporting the property. The burden of proving lack of notice is on that rail carrier.

(b) The court shall award a reasonable attorney’s fee to the plaintiff in a judgment against the defendant rail carrier under subsection (a) of this section. The court shall tax and collect that fee as a part of the costs of the action.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29, 1995, 109 Stat. 849.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11710 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Prior sections 11707 to 11712 were omitted in the general amendment of this subtitle by Pub. L. 104–88, §102(a).

Section 11707, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1453; Pub. L. 96–258, §1(14), June 3, 1980, 94 Stat. 427; Pub. L. 96–296, §26(b), July 1, 1980, 94 Stat. 818; Pub. L. 96–448, title II, §211(c), Oct. 14, 1980, 94 Stat. 1911; Pub. L. 99–521, §12(d), Oct. 22, 1986, 100 Stat. 2998; Pub. L. 100–690, title IX, §9114, Nov. 18, 1988, 102 Stat. 4535, related to liability of common carriers under receipts and bills of lading. See sections 11706, 14706, and 15906 of this title.

Section 11708, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1454; Pub. L. 99–521, §12(e)(1), (2), Oct. 22, 1986, 100 Stat. 2998, related to private enforcement of motor carrier and household goods freight forwarder licensing requirements. See section 14707 of this title.

Section 11709, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1454, related to liability for issuance of securities by certain carriers.

Section 11710, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1455, related to liability when property is delivered in violation of routing instructions. See section 11707 of this title.

Section 11711, added Pub. L. 96–454, §7(a)(1), Oct. 15, 1980, 94 Stat. 2016; amended Pub. L. 97–261, §6(d)(2), Sept. 20, 1982, 96 Stat. 1107, related to dispute settlement program for household goods carriers. See section 14708 of this title.

Section 11712, added Pub. L. 103–180, §4(a), Dec. 3, 1993, 107 Stat. 2049, related to tariff reconciliation rules for motor common carriers of property. See section 14709 of this title.

CHAPTER 119—CIVIL AND CRIMINAL PENALTIES

Sec.	
11901.	General civil penalties.
11902.	Interference with railroad car supply.
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