Public Law 96-296
96th Congress

An Act

To amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of property, and for other purposes.

July 1, 1980
[S. 2245]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Motor Carrier Act of 1980".

Motor Carrier Act of 1980.
49 USC 10101 note.

PURPOSE OF THE ACT

SEC. 2. This Act is part of the continuing effort by Congress to reduce unnecessary regulation by the Federal Government.

49 USC 10101 note.

CONGRESSIONAL FINDINGS

SEC. 3. (a) The Congress hereby finds that a safe, sound, competitive, and fuel efficient motor carrier system is vital to the maintenance of a strong national economy and a strong national defense; that the statutes governing Federal regulation of the motor carrier industry are outdated and must be revised to reflect the transportation needs and realities of the 1980's; that historically the existing regulatory structure has tended in certain circumstances to inhibit market entry, carrier growth, maximum utilization of equipment and energy resources, and opportunities for minorities and others to enter the trucking industry; that protective regulation has resulted in some operating inefficiencies and some anticompetitive pricing; that in order to reduce the uncertainty felt by the Nation's transportation industry, the Interstate Commerce Commission should be given explicit direction for regulation of the motor carrier industry and well-defined parameters within which it may act pursuant to congressional policy; that the Interstate Commerce Commission should not attempt to go beyond the powers vested in it by the Interstate Commerce Act and other legislation enacted by Congress; and that legislative and resulting changes should be implemented with the least amount of disruption to the transportation system consistent with the scope of the reforms enacted.

49 USC 10101 note.

49 USC prec. 1 note.

(b) The appropriate authorizing committees of Congress shall conduct periodic oversight hearings on the effects of this legislation, no less than annually for the first 5 years following the date of enactment of this Act, to ensure that this Act is being implemented according to congressional intent and purpose.

Periodic oversight hearings.

NATIONAL TRANSPORTATION POLICY

SEC. 4. Section 10101(a) of title 49, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

(3) by adding at the end thereof the following new paragraph:

"(7) with respect to transportation of property by motor carrier, to promote competitive and efficient transportation services in order to (A) meet the needs of shippers, receivers, and consumers; (B) allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping public; (C) allow the most productive use of equipment and energy resources; (D) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions; (E) provide and maintain service to small communities and small shippers; (F) improve and maintain a sound, safe, and competitive privately-owned motor carrier system; (G) promote greater participation by minorities in the motor carrier system; and (H) promote intermodal transportation."

MOTOR CARRIER ENTRY POLICY

SEC. 5. (a) Section 10922 of title 49, United States Code, is amended—

(1) in subsection (a) by inserting "of passengers" after "motor common carrier";

(2) by redesignating subsections (b), (c), (d), (e), and (f), and all references thereto, as subsections (c), (d), (e), (f), and (g), respectively; and

(3) by inserting after subsection (a) the following new subsection:

Certificate issuance.

"(b)(1) Except as provided in this section, the Interstate Commerce Commission shall issue a certificate to a person authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of property if the Commission finds—

49 USC 10521.

"(A) that the person is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission; and

"(B) on the basis of evidence presented by persons supporting the issuance of the certificate, that the service proposed will serve a useful public purpose, responsive to a public demand or need;

unless the Commission finds, on the basis of evidence presented by persons objecting to the issuance of a certificate, that the transportation to be authorized by the certificate is inconsistent with the public convenience and necessity.

"(2) In making a finding under paragraph (1) of this subsection, the Commission shall consider and, to the extent applicable, make findings on at least the following:

Ante, p. 793.

"(A) the transportation policy of section 10101(a) of this title; and

"(B) the effect of issuance of the certificate on existing carriers, except that the Commission shall not find diversion of revenue or traffic from an existing carrier to be in and of itself inconsistent with the public convenience and necessity.

Commission finding, limitation.

"(3) The Commission may not make a finding relating to public convenience and necessity under paragraph (1) of this subsection which is based upon general findings developed in rulemaking proceedings.

"(4) The provisions of paragraph (1) of this subsection (other than subparagraph (A)) shall not apply to applications under this subsection for authority to provide—

Transportation authority applications.

"(A) transportation to any community not regularly served by a motor common carrier of property certificated under this section;

"(B) transportation services which will be a direct substitute for abandoned rail service to a community if such abandonment results in such community not having any rail service and if such application is filed within 120 days after such abandonment has been approved by the Commission;

"(C) transportation for the United States Government of property other than used household goods, hazardous or secret materials, and sensitive weapons and munitions;

"(D) transportation of shipments weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds; and

"(E) transportation by motor vehicle of food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers if—

"(i) such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations; and

"(ii) after issuance of the certificate, such transportation (measured by tonnage) does not exceed, on an annual basis, the transportation provided by the motor vehicle (measured by tonnage) which is exempt from the jurisdiction of the Commission under section 10526(a)(6) of this title and the owner of the motor vehicle certifies to the Commission annually that he is complying with the provisions of this clause and provides to the Commission such information and records as the Commission may require.

Post, p. 797.

"(5) Notwithstanding any other provision of law, any carrier holding authority under paragraph (4)(D) of this subsection operating one or more commercial motor vehicles with a gross vehicle weight rating of 10,000 pounds or more shall be subject to commercial motor vehicle safety regulations promulgated by the Secretary of Transportation pursuant to this title with respect to its entire operations, including the operations of commercial motor vehicles with gross vehicle weight ratings less than 10,000 pounds.

"(6) The Commission shall streamline and simplify, to the maximum extent practicable, the process for issuance of certificates to which the provisions of paragraph (4)(E) of this subsection apply.

"(7) No motor common carrier of property may protest an application to provide transportation filed under this subsection unless—

Application protest by carrier.

"(A)(i) it possesses authority to handle, in whole or in part, the traffic for which authority is applied;

"(ii) it is willing and able to provide service that meets the reasonable needs of the shippers involved; and

"(iii) it has performed service within the scope of the application during the previous 12-month period or has, actively in good faith, solicited service within the scope of the application during such period;

"(B) it has pending before the Commission an application filed prior in time to the application being considered for substantially the same traffic; or

"(C) the Commission grants leave to intervene upon a showing of other interests that are not contrary to the transportation policy set forth in section 10101(a) of this title.

Ante, p. 793.

"(8) No motor contract carrier of property may protest an application to provide transportation filed under this subsection.".

(b) Section 11145 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

Reporting requirements, simplification.

"(c) The Commission shall streamline and simplify, to the maximum extent practicable, the reporting requirements applicable under this subchapter to motor common carriers of property with respect to transportation provided under certificates to which the provisions of section 10922(b)(4)(E) of this title apply and to motor contract carriers of property with respect to transportation provided under permits to which the provisions of section 10923(b)(5) of this title apply.".

Ante, p. 794.

Post, p. 799.

(c)(1) Section 10762(a)(1) of title 49, United States Code, is amended by striking out the last sentence and inserting in lieu thereof the following: "A motor contract carrier that serves only one shipper and has provided continuous transportation to that shipper for at least one year or a motor carrier of property providing transportation under a certificate to which the provisions of section 10922(b)(4)(E) of this title apply or under a permit to which the provisions of section 10923(b)(5) of this title apply may file only its minimum rates unless the Commission finds that filing of actual rates is required in the public interest.".

(2) Section 10762 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

Filing requirements, simplification.

"(g) The Commission shall streamline and simplify, to the maximum extent practicable, the filing requirements applicable under this section to motor common carriers of property with respect to transportation provided under certificates to which the provisions of section 10922(b)(4)(E) of this title apply and to motor contract carriers of property with respect to transportation provided under permits to which the provisions of section 10923(b)(5) of this title apply.".

REMOVAL OF CERTAIN RESTRICTIONS ON MOTOR CARRIER OPERATION

SEC. 6. Section 10922 of title 49, United States Code, is further amended by adding at the end thereof the following new subsections:

"(h)(1) Not later than 180 days after the date of enactment of this subsection, the Commission shall—

"(A) eliminate gateway restrictions and circuitous route limitations imposed upon motor common carriers of property; and

"(B) implement, by regulation, procedures to process expeditiously applications of individual motor carriers of property seeking removal of operating restrictions in order to—

"(i) reasonably broaden the categories of property authorized by the carrier's certificate or permit;

"(ii) authorize transportation or service to intermediate points on the carrier's routes;

"(iii) provide round-trip authority where only one-way authority exists;

"(iv) eliminate unreasonable or excessively narrow territorial limitations; or

"(v) eliminate any other unreasonable restriction that the Commission deems to be wasteful of fuel, inefficient, or contrary to the public interest.

"(2) The regulations promulgated by the Commission pursuant to paragraph (1)(B) of this subsection shall provide for final Commission action upon an application not later than 120 days after the date the application is filed with the Commission, except that in extraordinary circumstances, the Commission may extend such deadline for a period of not to exceed 90 additional days. Such regulations shall also provide for notice and the opportunity for interested parties to comment, but need not provide for oral evidentiary hearings. In granting or denying applications under paragraph (1)(B) of this subsection, the Commission shall (A) consider, among other things, the impact of the proposed restriction removal upon the consumption of energy resources, potential cost savings and improved efficiency, and the transportation policy set forth in section 10101(a) of this title, and (B) give special consideration to providing and maintaining service to small and rural communities and small shippers.

Regulations.

Notice and comment period.

Ante, p. 793.

"(i) A person holding (1) a certificate issued under subsection (b) of this section to provide transportation as a motor common carrier of property, and (2) a permit issued under section 10923 of this subchapter to provide transportation as a motor contract carrier of property, may transport property under the certificate in the same motor vehicle and at the same time as property under the permit.".

Post, p. 799.

EXEMPTIONS

SEC. 7. (a) Section 10526(a)(6) of title 49, United States Code, is amended—

(1) by inserting "or by-products thereof not intended for human consumption," after "fresh shellfish," in subparagraph (D);

(2) by striking out "and" at the end of subparagraph (C);

(3) by inserting "and" after the semicolon at the end of subparagraph (D); and

(4) by adding at the end of such section the following new subparagraph:

"(E) livestock and poultry feed and agricultural seeds and plants, if such products (excluding products otherwise exempt under this paragraph) are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production;".

Agricultural products.

(b) Section 10526(a)(8) of title 49, United States Code, is amended to read as follows:

"(8)(A) transportation of passengers by motor vehicle incidental to transportation by aircraft;

Aircraft passengers and baggage, transportation.

"(B) transportation of property (including baggage) by motor vehicle as part of a continuous movement which, prior or subsequent to such part of the continuous movement, has been or will be transported by an air carrier or (to the extent so agreed by the United States and approved by the Civil Aeronautics Board or its successor agency) by a foreign air carrier; or

"(C) transportation of property by motor vehicle in lieu of transportation by aircraft because of adverse weather conditions or mechanical failure of the aircraft or other causes due to circumstances beyond the control of the carrier or shipper;".

(c) Section 10526(a) of title 49, United States Code, is further amended by (1) striking the period at the end thereof and substituting a semicolon, and (2) adding at the end thereof the following new paragraphs:

"(10) transportation of used pallets and used empty shipping containers (including intermodal cargo containers), and other used shipping devices (other than containers or devices used in the transportation of motor vehicles or parts of motor vehicles);

"(11) transportation of natural, crushed, vesicular rock to be used for decorative purposes; or

"(12) transportation of wood chips.".

FOOD TRANSPORTATION

SEC. 8. (a) Subchapter II of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

49 USC 10732.

"§ 10732. Food and grocery transportation

Customer compensation.

"(a) Notwithstanding any other provision of law, it shall not be unlawful for a seller of food and grocery products using a uniform zone delivered pricing system to compensate a customer who picks up purchased food and grocery products at the shipping point of the seller if such compensation is available to all customers of the seller on a nondiscriminatory basis and does not exceed the actual cost to the seller of delivery to such customer.

Consumer savings.

Report to Congress.

"(b) It is the sense of the Congress that any savings accruing to a customer by reason of compensation permitted by subsection (a) of this section should be passed on to the ultimate consumer. The Interstate Commerce Commission shall monitor the extent to which such savings are being passed on and shall report its findings to the Congress not later than one year after the date of enactment of the Motor Carrier Act of 1980 and not less often than once a year thereafter. For purposes of this subsection, the Interstate Commerce Commission may exercise its powers to obtain relevant papers, books, documents, and other materials.".

Ante, p. 793.

(b) The index for subchapter II of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following:

"10732. Food and grocery transportation.".

PRIVATE CARRIAGE

SEC. 9. Section 10524 of title 49, United States Code, is amended by inserting "(a)" before "The" and by adding at the end of such section the following new subsections:

Transportation of property, jurisdiction.

"(b) The Commission does not have jurisdiction under this subchapter over transportation of property by motor vehicle for compensation provided by a person who is a member of a corporate family for other members of such corporate family if—

"(1) the parent corporation notifies the Commission of its intent or one of its subsidiaries' intent to provide the transportation;

"(2) the notice contains a list of participating subsidiaries and an affidavit that the parent corporation owns directly or indirectly a 100 percent interest in each of the subsidiaries;

Publication in Federal Register.

"(3) the Commission publishes the notice in the Federal Register within 30 days of receipt; and

"(4) a copy of the notice is carried in the cab of all vehicles conducting the transportation.

"(c) In this section, 'corporate family' means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly a 100 percent interest.". "Corporate family."

MOTOR CONTRACT CARRIERS

SEC. 10. (a)(1) Section 10102(12) of title 49, United States Code, is amended to read as follows:

"(12) 'motor contract carrier' means— "Motor contract carrier."

"(A) a person, other than a motor common carrier, providing motor vehicle transportation of passengers for compensation under continuing agreements with a person or a limited number of persons—

"(i) by assigning motor vehicles for a continuing period of time for the exclusive use of each such person; or

"(ii) designed to meet the distinct needs of each such person; and

"(B) a person providing motor vehicle transportation of property for compensation under continuing agreements with one or more persons—

"(i) by assigning motor vehicles for a continuing period of time for the exclusive use of each such person; or

"(ii) designed to meet the distinct needs of each such person.".

(2) Section 10923(b) of title 49, United States Code, is amended by—

(A) inserting in paragraph (2) "of passengers" after "motor contract carrier"; and

(B) redesignating paragraph (3) (and any references thereto) as paragraph (7) and inserting after paragraph (2) the following new paragraphs:

"(3) In deciding whether to approve the application of a person for a permit as a motor contract carrier of property, the Commission shall consider— Permits, application approval.

"(A) the nature of the transportation proposed to be provided;

"(B) the effect that granting the permit would have on the protesting carriers if such grant would endanger or impair their operations to an extent contrary to the public interest;

"(C) the effect that denying the permit would have on the person applying for the permit, its shippers, or both; and

"(D) the changing character of the requirements of those shippers.

"(4) No motor carrier of property may protest an application to provide transportation as a motor contract carrier of property filed under this section unless— Application protest by carrier.

"(A)(i) it possesses authority to handle, in whole or in part, the traffic for which authority is applied;

"(ii) it is willing and able to provide service that meets the reasonable needs of the shippers involved; and

"(iii) it has performed service within the scope of the application during the previous 12-month period or has, actively in good faith, solicited service within the scope of the application during such period;

"(B) it has pending before the Commission an application filed prior in time to the application being considered for substantially the same traffic; or

"(C) the Commission grants leave to intervene upon a showing of other interests that are not contrary to the transportation policy set forth in section 10101(a) of this title.

Ante, p. 793.

"(5)(A) The provisions of paragraph (2) of subsection (a) of this section and paragraph (3) of this subsection shall not apply to applications under this section for authority to provide transportation by motor vehicle of food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers if—

"(i) such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations; and

"(ii) after issuance of the permit, such transportation (measured by tonnage) does not exceed, on an annual basis, the transportation provided by the motor vehicle (measured by tonnage) which is exempt from the jurisdiction of the Commission under section 10526(a)(6) of this title and the owner of the motor vehicle certifies to the Commission annually that he is complying with the provisions of this subparagraph and provides to the Commission such information and records as the Commission may require.

Ante, p. 797.

Permit issuance process, simplification.

"(B) The Commission shall streamline and simplify, to the maximum extent practicable, the process for issuance of permits to which the provisions of subparagraph (A) of this paragraph apply.

Commission finding, limitation.

"(6) With respect to applications of persons for permits as motor contract carriers of property, the Commission may not make a finding relating to the public interest under subsection (a)(2) of this section which is based upon general findings developed in rulemaking proceedings.".

(3) Section 10923(d) of title 49, United States Code, is amended—

(A) in the first sentence of paragraph (1) by inserting the following immediately before the period at the end thereof: ", except that in the case of a motor contract carrier of property, the Commission may not require such carrier to limit its operations to carriage for a particular industry or within a particular geographic area"; and

(B) in paragraph (2) by striking "including each person or number or class of persons" and substituting "including each person or class of persons (and, in the case of a motor contract carrier of passengers, the number of persons)".

Certificates and permits, limitations.

(b) Section 10930(a) of title 49, United States Code, is amended—

(1) in paragraph (1) by striking "both a certificate of a motor common carrier and a permit of a motor contract carrier issued under this subchapter, or"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) if a person controls, is controlled by, or is under common control with, another person, one of them may not hold a certificate of a water common carrier, while the other holds a permit of a water contract carrier, to transport property over the same route or in the same area.".

(c) Section 10749 of title 49, United States Code, is amended—

(1) in subsection (a) by inserting ", or a motor contract carrier of property," after "carrier"; and

(2) in subsection (b)(1) by inserting ", or motor contract carrier of property," after "water common carrier".

(d) Section 10766(b) of title 49, United States Code, is amended—

(1) by inserting ", and motor contract carriers of property," after "carriers" in the first sentence;

(2) by inserting "or the motor contract carrier of property" after "carrier" in the third sentence; and

(3) by striking the fifth sentence.

(e) Section 10925 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) On application of a motor contract carrier of property who holds a permit issued under section 10923 of this title, or on complaint of a competing motor common carrier of property who holds a certificate under section 10922(b) of this title, or on its own initiative, if the Commission, after notice and an opportunity for a proceeding, determines that the operations under the permit or any part thereof—

Permit revocation, conditions.
Ante, p. 799.
Ante, p. 794.

"(A) do not conform with the operations of a motor contract carrier of property; and

"(B) are those of a motor common carrier of property;

the Commission may amend or revoke such permit or part thereof to conform the operations under such permit or part thereof to the operations of a motor contract carrier of property.

"(2) The Commission may issue in place of any permit or part thereof revoked under this subsection a certificate under section 10922(b) of this title which authorizes the holder of such certificate to provide transportation as a motor common carrier of property of the same property between the same points or within the same territory as authorized in the permit or part thereof.".

Certificate.

ZONE OF RATE FREEDOM FOR MOTOR CARRIERS OF PROPERTY AND FREIGHT FORWARDERS

SEC. 11. Section 10708 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d)(1) Notwithstanding any other provision of this title, the Commission may not investigate, suspend, revise, or revoke any rate proposed by a motor common carrier of property or freight forwarder on the grounds that such rate is unreasonable on the basis that it is too high or too low if—

Rate changes, conditions.

"(A) the carrier notifies the Commission that it wishes to have the rate considered pursuant to this subsection; and

"(B) the aggregate of increases and decreases in any such rate is not more than 10 percent above the rate in effect one year prior to the effective date of the proposed rate, nor more than 10 percent below the lesser of the rate in effect on July 1, 1980 (or, in the case of any rate which a carrier first establishes after July 1, 1980, for a service not provided by such carrier on such date, such rate on the date such rate first becomes effective), or the rate in effect one year prior to the effective date of the proposed rate.

"(2) The Commission, by rule, may increase the percentages specified in paragraph (1)(B) of this subsection for any group of motor common carriers of property or freight forwarders if it finds that—

Increase of percentages, conditions.

"(A) there is sufficient actual and potential competition to regulate rates; and

"(B) there are benefits to (i) carriers or freight forwarders, (ii) shippers, and (iii) the public from further rate flexibility;

except that the Commission may not increase such percentages by more than 5 percentage points during any one-year period.

"(3)(A) In determining, pursuant to paragraph (1)(B) of this subsection, whether the aggregate of increases and decreases in a proposed rate that is to take effect on or before the 730th day following the date of enactment of this paragraph is more than 10 percent (or such other percentage as the Commission may establish under paragraph (2) of this subsection) above the rate in effect one year prior to the effective date of the proposed rate, general rate increases obtained in the one-year period prior to the effective date of the proposed rate shall not be included in such aggregate, except to the extent that such general rate increases exceed 5 percent of the rate in effect one year prior to the effective date of the proposed rate.

Rate change according to Producers Price Index.

"(B) In the case of a proposed rate that is to take effect after the 730th day following the date of enactment of this paragraph, the percentage which first appears in paragraph (1)(B) of this subsection (relating to the upper limit of the zone of ratemaking freedom), or such other percentage as the Commission may establish under paragraph (2) of this subsection in lieu of such percentage, shall be increased or decreased, as the case may be, by the percentage change in the Producers Price Index, as published by the Department of Labor, that has occurred during the one-year period prior to the effective date of the proposed rate.

Antitrust laws.

"(4) Any rate implemented by a carrier pursuant to this subsection shall be subject to the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), except that the docketing and publication of such rate by the carrier under section 10706(b) of this title shall not be construed as a violation of the antitrust laws. Nothing in this subsection shall limit the Commission's authority to suspend and investigate proposed rates on the basis that such rates may violate the provisions of section 10741 of this title or constitute predatory practices in contravention of the transportation policy set forth in section 10101(a) of this title.".

Post, p. 803.

49 USC 10741.

Ante, p. 793.

RATES AND LIABILITY BASED ON VALUE

SEC. 12. Section 10730 of title 49, United States Code, is amended by inserting "(a)" before "The Interstate Commerce Commission", by inserting "(including a motor common carrier of household goods but excluding any other motor common carrier of property)" after "authorize a carrier", and by adding at the end thereof the following new subsection:

"(b)(1) Subject to the provisions of paragraph (2) of this subsection, a motor common carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may, subject to the provisions of this chapter (including the general tariff requirements of section 10762 of this title), establish rates for the transportation of property (other than household goods) under which the liability of the carrier for such property is limited to a value established by written declaration of the shipper or by written agreement between the carrier and shipper if that value would be reasonable under the circumstances surrounding the transportation.

49 USC 10521.

Ante, p. 796.

"(2) Before a carrier may establish a rate for any service under paragraph (1) of this subsection, the Commission may require such

carrier to have in effect and keep in effect, during any period such rate is in effect under such paragraph, a rate for such service which does not limit the liability of the carrier.".

RULE OF RATEMAKING

SEC. 13. (a) Section 10701 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) In proceedings to determine the reasonableness of rate levels for a motor carrier of property or group of motor carriers of property, or in proceedings to determine the reasonableness of a territorial rate structure where rates are proposed through agreements authorized by section 10706(b) of this title, the Commission shall authorize revenue levels that are adequate under honest, economical, and efficient management to cover total operating expenses, including the operation of leased equipment and depreciation, plus a reasonable profit. The standards and procedures adopted by the Commission under this subsection shall allow the carriers to achieve revenue levels that will provide a flow of net income, plus depreciation, adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, attract and retain capital in amounts adequate to provide a sound motor carrier transportation system in the United States, and take into account reasonable estimated or foreseeable future costs.". *Infra.*

(b) Section 10704(b)(2) of title 49, United States Code, is amended to read as follows:

"(2)(A) When prescribing a rate, classification, rule, or practice for transportation or service by common carriers other than by rail carrier, the Commission shall consider, among other factors, the effect of the prescribed rate, classification, rule, or practice on the movement of traffic by that carrier.

"(B) When prescribing a rate, classification, rule, or practice for transportation or service by common carriers other than by rail carrier or motor carrier of property, the Commission shall consider, among other factors, the need for revenues that are sufficient, under honest, economical, and efficient management, to let the carrier provide that transportation or service.".

RATE BUREAUS

SEC. 14. (a) Section 10706 of title 49, United States Code, is amended by redesignating subsections (b), (c), (d), (e), (f), (g), and (h) (and any references thereto) as subsections (c), (d), (e), (f), (g), (h), and (i), respectively, and by inserting the following new subsection after subsection (a):

"(b)(1) In this subsection, 'single-line rate' refers to a rate, charge, or allowance proposed by a single motor common carrier of property that is applicable only over its line and for which the transportation can be provided by that carrier. "Single-line rate."

"(2) As provided by this subsection, a motor common carrier of property providing transportation or service subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may enter into an agreement with one or more such carriers concerning rates (including charges between carriers and compensation paid or received for the use of facilities and equipment), allowances, classifications, divisions, or rules related to them, or procedures for joint consideration, initiation, or establishment of 49 USC 10521.

them. Such agreement may be submitted to the Commission for approval by any carrier or carriers which are parties to such agreement and shall be approved by the Commission upon a finding that the agreement fulfills each requirement of this subsection, unless the Commission finds that such agreement is inconsistent with the transportation policy set forth in section 10101(a) of this title. The Commission may require compliance with reasonable conditions consistent with this subtitle to assure that the agreement furthers such transportation policy. If the Commission approves the agreement, it may be made and carried out under its terms and under the conditions required by the Commission, and the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to parties and other persons with respect to making or carrying out the agreement.

Ante, p. 793.

Agreements, approval conditions.

"(3) Agreements submitted to the Commission under this subsection may be approved by the Commission only if each of the following conditions are met:

"(A) Each carrier which is a party to an agreement must file with the Commission a verified statement that specifies its name, mailing address, and telephone number of its main office; the names of each of its affiliates; the names, addresses, and affiliates of each of its officers and directors; the names, addresses, and affiliates of each person, together with an affiliate, owning or controlling any debt, equity, or security interest in it having a value of at least $1,000,000. In this subparagraph, 'affiliate' means a person controlling, controlled by, or under common control or ownership with another person and 'ownership' means equity holdings in a business entity of at least 5 percent.

"Affiliate."
"Ownership."

Compliance requirements.

"(B) Any organization established or continued under an agreement approved under this subsection must comply with the following requirements:

"(i) subject to the provisions of subparagraphs (C) and (D) of this paragraph, (I) the organization may allow any member carrier to discuss any rate proposal docketed, but (II) after January 1, 1981, only those carriers with authority to participate in the transportation to which the rate proposal applies may vote upon such rate proposal;

"(ii) the organization may not interfere with each carrier's right of independent action and may not change or cancel any rate established by independent action after the date of enactment of this subsection, other than a general increase or broad rate restructuring, except that changes in such rates may be effected, with the consent of the carrier or carriers that initiated the independent action, for the purpose of tariff simplification, removal of discrimination, or elimination of obsolete items;

"(iii) the organization may not file a protest or complaint with the Commission against any tariff item published by or for the account of any motor carrier of property;

"(iv) the organization may not permit one of its employees or any employee committee to docket or act upon any proposal effecting a change in any tariff item published by or for the account of any of its member carriers;

"(v) upon request, the organization must divulge to any person the name of the proponent of a rule or rate docketed with it, must admit any person to any meeting at which rates or rules will be discussed or voted upon, and must divulge to

any person the vote cast by any member carrier on any proposal before the organization;

"(vi) the organization may not allow a carrier to vote for one or more other carriers without specific written authority from the carrier being represented; and

"(vii) the organization shall make a final disposition of a rule or rate docketed with it by the 120th day after the proposal is docketed, except that if unusual circumstances require, the organization may extend such period, subject to review by the Commission.

"(C) No agreement approved under this subsection may provide for discussion of or voting on rates to which the provisions of section 10708(d) or 10730(b) of this title apply, except that rates established or filed under section 10730 of this title before the date of enactment of the Motor Carrier Act of 1980 or changes with respect to such rates may be discussed or voted on under agreements approved under this subsection until January 1, 1984.

Ante, pp. 801, 802.

Ante, p. 793.

"(D) No agreement approved under this subsection may provide for discussion of or voting upon single-line rates on or after January 1, 1984, except that such date shall be July 1, 1984, if the Motor Carrier Ratemaking Study Commission does not submit its final report under section 14(b)(4) of the Motor Carrier Act of 1980 on or before January 1, 1983. This subparagraph and subparagraph (B)(i)(II) of this paragraph shall not apply to the following:

Single-line rates.

Ante, p. 803.

"(i) general rate increases or decreases if the agreement gives shippers, under specified procedures, at least 15 days' notice of the proposal and an opportunity to present comments on it before a tariff containing the increases or decreases is filed with the Commission and if discussion of such increases or decreases is limited to industry average carrier costs and, after the date of elimination of the antitrust immunity by this subparagraph, does not include discussion of individual markets or particular single-line rates;

"(ii) changes in commodity classifications;

"(iii) changes in tariff structures if discussion of such changes is limited to industry average carrier costs and, after the date of elimination of antitrust immunity by this subparagraph, does not include discussion of individual markets or particular single-line rates;

"(iv) publishing of tariffs, filing of independent actions for individual members carriers, providing of support services for members, and changes in rules or regulations which are of at least substantially general application throughout the area in which such changes will apply.

"(E) In any proceeding in which a party to such proceeding alleges that a carrier voted, discussed, or agreed on a rate or allowance in violation of this subsection, that party has the burden of showing that the vote, discussion, or agreement occurred. A showing of parallel behavior does not satisfy that burden by itself.

"(F) The Commission shall, by regulation, determine reasonable quorum standards to be applied for meetings of organizations established or continued under an agreement approved under this subsection.

Quorum standards.

"(4) Notwithstanding any other provision of this subtitle, before the date on which the antitrust immunity is eliminated for discussion of or voting on single-line rates by paragraph (3)(D) of this subsection, the Commission may not take any action which would, on the basis of the type of carrier service involved (including service by carriers singly or in combination with other carriers), result in the exclusion of one or more motor common carriers of property from discussion or voting under agreements authorized by this subsection on matters concerning rates, allowances, classifications, or divisions, except that before such date, the Commission may issue regulations which take effect on or after such date to carry out the provisions of such paragraph.".

Motor Carrier Ratemaking Study Commission. Establishment.

(b)(1) There is hereby established a Study Commission to be known as the Motor Carrier Ratemaking Study Commission, hereinafter in this section referred to as the "Study Commission".

(2) The Study Commission shall make a full and complete investigation and study of the collective ratemaking process for all rates of motor common carriers and upon the need or lack of need for continued antitrust immunity therefor. Such study shall estimate the impact of the elimination of such immunity upon rate levels and rate structures and describe the impact of the elimination of such immunity upon the Interstate Commerce Commission and its staff. The study shall give special consideration to the effect of the elimination of such immunity upon rural areas and small communities.

Membership.

(3) The Study Commission shall be comprised of ten members as follows:

(A) three members appointed by the President of the Senate, two from the membership of the Committee on Commerce, Science, and Transportation and one from the membership of the Committee on the Judiciary;

(B) three members appointed by the Speaker of the House of Representatives, two from the membership of the Committee on Public Works and Transportation and one from the membership of the Committee on the Judiciary; and

(C) four members of the public appointed by the President, two from the membership of national trade associations of shippers, one who is a motor common carrier of property from the membership of the national trade association of motor carriers, and one who is a motor common carrier of property from the membership of a major regional motor common carrier rate bureau.

Report to President and Congress. Termination. Records and papers.

(4) The Study Commission shall, not later than January 1, 1983, submit to the President and the Congress its final report including its findings and recommendations. The Study Commission shall cease to exist 6 months after submission of such report. All records and papers of the Study Commission shall thereupon be delivered to the Administrator of General Services for deposit in the Archives of the United States.

Liaison officer, appointment.

(5) The Chairman of the Study Commission, who shall be elected by the Commission from among its members, shall request the head of each Federal department or agency which has an interest in or a responsibility with respect to motor carrier collective ratemaking to appoint, and the head of such department or agency shall appoint, a liaison officer who shall work closely with the Study Commission and its staff in matters pertaining to this subsection. Such departments and agencies shall include, but not be limited to, the Department of

Transportation, the Interstate Commerce Commission, the Federal Trade Commission, and the Department of Justice.

(6) In carrying out its duties, the Study Commission shall seek the advice of various groups interested in motor carrier collective ratemaking including, but not limited to, State and local governments and public and private organizations working in the field of transportation.

(7)(A) The Study Commission or, on authorization of the Study Commission, any committee of two or more members may, for the purpose of carrying out the provisions of this subsection, hold such hearings and sit and act at such times and places as the Study Commission or such authorized committee may deem advisable. Hearings.

(B) The Study Commission is authorized to secure from any department, agency, or instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this subsection and each department, agency, and instrumentality is authorized and directed to furnish such information to the Study Commission upon request made by the Chairman. Information from Federal agencies.

(8)(A) Members of Congress who are members of the Study Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, per diem in accordance with the Rules of the House of Representatives or subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Study Commission. Members of Congress, travel expenses.

(B) Members of the Study Commission, except Members of Congress, shall each receive compensation at a rate not in excess of the maximum rate of pay for GS-18, as provided in the General Schedule under section 5332 of title 5, United States Code, and shall be entitled to reimbursement for travel expenses, per diem in accordance with the Rules of the House of Representatives or subsistence, and other necessary expenses incurred by them in performance of duties while serving as a Study Commission member. Compensation and expenses. 44 FR 58671.

(9)(A) The Study Commission is authorized to appoint and fix the compensation of a staff director and such additional personnel as may be necessary to enable it to carry out its functions. The Director and personnel may be appointed without regard to the provisions of title 5, United States Code, covering appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Any Federal employees subject to the civil service laws and regulations who may be employed by the Study Commission shall retain civil service status without interruption or loss of status or privilege. In no event shall an employee other than the staff director receive as compensation an amount in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code. In addition, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5, United States Code. Staff director and personnel, compensation. 5 USC 5101 *et seq.*, 5331. 44 FR 58671.

(B) The staff director shall be compensated at the rate of pay for a position at Level 2 of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code. 5 USC 5313.

(10) The Study Commission is authorized to enter into contracts or agreements for studies and surveys with public and private organiza- Functions.

tions and, if necessary, to transfer funds to Federal agencies from sums appropriated pursuant to this subsection to carry out such of its duties as the Study Commission determines can best be carried out in that manner.

(11) Any vacancy which may occur on the Study Commission shall not effect its powers or functions but shall be filled in the same manner in which the original appointment was made.

Appropriation authorization.

(12) There are hereby authorized to be appropriated, for fiscal years commencing on or after October 1, 1980, an amount not to exceed $3,000,000 to carry out this subsection. Funds appropriated under this subsection shall be available to the Study Commission until expended, except that any such funds which remain unobligated on the date that the Study Commission ceases to exist shall be forwarded to the Treasurer of the United States for deposit in the general fund of the United States Treasury.

(c) Section 10706(c) of title 49, United States Code, as redesignated by subsection (a) of this section, is amended by striking "(except a rail carrier)" and substituting "(except a rail carrier or a motor common carrier of property)".

(d) Section 10706 of title 49, United States Code, is further amended—

(1) in subsections (d), (f), and (g), as redesignated by subsection (a) of this section, by striking "subsection (a) or (b)" and substituting "subsection (a), (b), or (c)"; and

(2) in subsection (f), as redesignated by subsection (a) of this section, by inserting "or (c)" immediately before the period at the end of the first sentence.

49 USC 10706 note.

Ante, p. 803.

(e) Any organization established pursuant to an agreement approved by the Commission prior to the date of enactment of this Act under section 10706(b) of title 49, United States Code, may continue to function pursuant to such agreement until a new or amended agreement is finally disposed of by the Commission under section 10706 of title 49, United States Code, as amended by this section, so long as (1) such new or amended agreement is submitted to the Commission for approval within 120 days of such date of enactment, and (2) such organization complies with this section (including amendments made by this section and regulations issued under such amendments) during the period such new or amended agreement is being prepared, submitted to, and considered by the Commission.

LUMPING

SEC. 15. (a)(1) Subchapter I of chapter 111 of subtitle IV of title 49, United States Code, is amended by inserting the following new section immediately after section 11108:

49 USC 11109.

"§ 11109. Loading and unloading motor vehicles

"(a) Whenever a shipper or receiver of property requires that any person who owns or operates a motor vehicle transporting property in interstate commerce (whether or not such transportation is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title) be assisted in the loading or unloading of such vehicle, the shipper or receiver shall be responsible for providing such assistance or shall compensate the owner or operator for all costs associated with securing and compensating the person or persons providing such assistance.

49 USC 10521.

"(b) It shall be unlawful to coerce or attempt to coerce any person providing transportation of property by motor vehicle for compensation in interstate commerce (whether or not such transportation is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title) to load or unload any part of such property onto or from such vehicle or to employ or pay one or more persons to load or unload any part of such property onto or from such vehicle, except that this subsection shall not be construed as making unlawful any activity which is not unlawful under the National Labor Relations Act or the Act of March 23, 1932 (47 Stat. 70; 29 U.S.C. 101 et seq.), commonly known as the Norris-LaGuardia Act.". Coercion. 49 USC 10521.

(2) The analysis for subchapter I of chapter 111 of title 49, United States Code, is amended by adding at the end thereof the following:

"11109. Loading and unloading motor vehicles.".

(b)(1) Chapter 119 of title 49, United States Code, is amended by inserting the following new section immediately after section 11902:

"§ 11902a. Penalties for violations of rules relating to loading and unloading motor vehicles 49 USC 11902a.

"(a) Any person who knowingly authorizes, consents to, or permits a violation of subsection (a) or (b) of section 11109 of this title or who knowingly violates subsection (a) of such section is liable to the United States Government for a civil penalty of not more than $10,000 for each violation. *Ante*, p. 808.

"(b) Any person who knowingly violates section 11109(b) of this title shall be fined not more than $10,000, imprisoned for not more than 2 years, or both.".

(2) The analysis for chapter 119 of title 49, United States Code, is amended by inserting the following immediately after item 11902:

"11902a. Penalties for violations of rules relating to loading and unloading motor vehicles.".

(c) Section 11702(a)(2) of title 49, United States Code, is amended by inserting "or 11109" after "10930".

(d) Section 11107 of title 49, United States Code, is amended by inserting "(a)" before "Except" and by adding at the end thereof the following new subsection:

"(b) The Commission shall require, by regulation, that any arrangement, between a motor carrier of property providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and any other person, under which such other person is to provide any portion of such transportation by a motor vehicle not owned by the carrier shall specify, in writing, who is responsible for loading and unloading the property onto and from the motor vehicle.". Responsibility for loading and unloading.

(e) The Interstate Commerce Commission, in consultation with the Secretary of Transportation, the Secretary of Labor, the Secretary of Agriculture, and representatives of independent owner-operators, the motor carrier industry, shippers, receivers, consumers, and other interested persons, shall study, and report to the Congress, not later than 18 months after the date of enactment of this Act on loading and unloading practices in the motor carrier of property industry. Such report shall include (1) such recommendations for legislative and other changes in such practices as the Commission considers appropriate, and (2) any changes in such practices which the Commission is making by regulation. Loading and unloading practices. Study, report to Congress.

WRITTEN CONTRACTS PERTAINING TO CERTAIN INTERSTATE MOVEMENTS BY MOTOR CARRIER

SEC. 16. (a) Subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following new section:

49 USC 10527.

"§ 10527. Written contracts pertaining to certain interstate movements by motor vehicle

"(a) Notwithstanding the provisions of section 10526(a)(6) of this subchapter, the Interstate Commerce Commission, in cooperation with the Secretary of Agriculture, shall, where appropriate, require by regulation the use of written contracts for the interstate movement by motor vehicle of property described in such section and for brokerage services to be provided in connection with the interstate movement of such property.

Ante, p. 797.

"(b) A written contract between an owner or operator of a motor vehicle and a broker, shipper of property, or receiver of property which is required to be used by the Commission under this section shall specify the arrangements, including compensation, with respect to loading and unloading of the property transported under such contract. Whenever the shipper or receiver of the property transported under such contract requires that the operator of the vehicle load or unload any part of the property onto or from the vehicle contrary to any provision of such contract, the shipper or receiver shall compensate the owner or operator of the vehicle for all costs associated with loading or unloading that part of the property. Any person who knowingly violates the preceding sentence is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

Violation, penalty.

"(c) The Commission shall prescribe, by regulation, the minimum requirements and conditions of written contracts required to be used under this section.".

Minimum requirements.

(b) The analysis of subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following:

"10527. Written contracts pertaining to certain interstate movements by motor vehicle.".

(c) Section 11702(a)(2) of title 49, United States Code, is amended by inserting "10527 or" before "10930".

Ante, p. 809.

(d) The Interstate Commerce Commission and the Secretary of Agriculture may enter into agreements (including, but not limited to, memorandums of understanding) in carrying out the provisions of section 10527(a) of title 49, United States Code.

49 USC 10527 note.

Supra.

MOTOR CARRIER BROKERS OF PROPERTY

SEC. 17. (a) Section 10924 of title 49, United States Code, is amended—

(1) in subsection (a) by inserting "of passengers or household goods" after "transportation" the first place such term appears; and

(2) by redesignating subsections (b), (c), and (d) (and any references thereto) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b) The Interstate Commerce Commission shall issue, subject to section 10927(b) of this title, a license to a person authorizing the

Licenses.
49 USC 10927.

person to be a broker for transportation of property (other than household goods) subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, if the Commission finds that the person is fit, willing, and able— 49 USC 10521.

"(1) to be a broker for transportation to be authorized by the license; and

"(2) to comply with this subtitle and regulations of the Commission.".

(b) Section 10925(d)(1)(A) of title 49, United States Code, is amended by striking out "10924(d)" and inserting in lieu thereof "10924(e)".

FINANCE EXEMPTIONS

SEC. 18. (a) Section 11302(b) of title 49, United States Code, is amended by—

(1) striking "more than $1,000,000" and substituting "more than $5,000,000"; and

(2) striking "more than $200,000" and substituting "more than $1,000,000".

(b) Section 11343(d)(1) of title 49, United States Code, is amended by striking "more than $300,000" and substituting "more than $2,000,000".

UNIFORM STATE REGULATION

SEC. 19. Congress hereby declares and finds that the individual State regulations and requirements imposed upon interstate motor carriers regarding licensing, registration, and filings are in many instances confusing, lacking in uniformity, unnecessarily duplicative, and burdensome and that it is in the national interest to minimize the burdens of such regulations while at the same time preserving the legitimate interests of the State in such regulation. Therefore, the Congress directs the Secretary of Transportation and the Interstate Commerce Commission, in consultation with the States and the various State agencies which administer such requirements and regulations and with the motor carrier industry, including both the regulated and unregulated segments, to develop legislative or other recommendations to provide a more efficient and equitable system of State regulations for interstate motor carriers. Such recommendations shall be made to the Congress not later than 18 months after the date of enactment of this Act. Recommendations. Submittal to Congress.

POOLING ARRANGEMENTS

SEC. 20. (a) Section 11342(a) of title 49, United States Code, is amended by striking out "The Commission may" and inserting in lieu thereof "Except as provided in subsection (b) for agreements or combinations between or among motor common carriers of property, the Commission may".

(b) Section 11342 of title 49, United States Code, is amended by redesignating subsections (b), (c), and (d) (and any references thereto) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b) Any motor common carrier of property may apply to the Commission for approval of an agreement or combination with another motor common carrier of property to pool or divide traffic or any services or any part of their earnings by filing such agreement or combination with the Commission not less than 50 days before its effective date. Prior to the effective date of the agreement or

combination, the Commission shall determine whether the agreement or combination is of major transportation importance and whether there is substantial likelihood that the agreement or combination will unduly restrain competition. If the Commission determines that neither of these two factors exists, it shall, prior to such effective date and without a hearing, approve and authorize the agreement or combination, under such rules and regulations as the Commission may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Commission to be just and reasonable. If the Commission determines either that the agreement or combination is of major transportation importance or that there is a substantial likelihood that the agreement or combination will unduly restrain competition, the Commission shall hold a hearing concerning whether the agreement or combination will be in the interest of better service to the public or of economy in operation and whether it will unduly restrain competition and shall suspend operation of such agreement or combination pending such hearing and final decision thereon. After such hearing, the Commission shall indicate to what extent it finds that the agreement or combination will be in the interest of better service to the public or of economy in operation and will not unduly restrain competition and if assented to by all the carriers involved, shall, to that extent, approve and authorize the agreement or combination, under such rules and regulations as the Commission may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Commission to be just and reasonable.".

Hearing.

MIXED LOADS

Ante, p. 797.

SEC. 21. (a) Section 10526(a)(6) of title 49, United States Code, is amended by striking out "a motor vehicle carrying, for compensation, only property and that property consists" and inserting in lieu thereof "transportation by motor vehicle".

(b)(1) Subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following new section:

49 USC 10528.

"§ 10528. Mixed loads of regulated and unregulated property

"A motor carrier of property providing transportation exempt from the jurisdiction of the Commission under paragraph (6), (8), (10), (11), or (12) of section 10526(a) of this subchapter may transport property under such paragraph in the same vehicle and at the same time as property which the carrier is authorized to transport under a certificate issued under section 10922(b) of this subtitle or under a permit issued under section 10923 of this subtitle. Such transportation shall not affect the unregulated status of such exempt property or the regulated status of the property which the carrier is authorized to transport under such certificate or permit.".

Ante, pp. 797, 798.

Ante, p. 794.

Ante, pp. 799, 800.

(2) The analysis for subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following:

"10528. Mixed loads of regulated and unregulated property.".

JOINT RATES AND THROUGH ROUTES

SEC. 22. (a) Section 10703(b) of title 49, United States Code, is amended by inserting ", II (insofar as motor carriers of property are concerned)," immediately after "subchapter I".

(b) Section 10705 of title 49, United States Code, is amended by redesignating subsections (b), (c), (d), (e), and (f) (and any references thereto) as subsections (c), (d), (e), (f), and (g), respectively, and by inserting after subsection (a) the following new subsection:

"(b)(1) The Interstate Commerce Commission may, and shall when it considers it desirable in the public interest, prescribe through routes, joint classifications, joint rates (including maximum or minimum rates or both), the division of joint rates, and the conditions under which those routes must be operated, for a motor common carrier of property providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title with another such carrier or with a water common carrier of property.

49 USC 10521.

"(2) The Commission may not require a motor common carrier of property, without its consent, to include in a through route substantially less than the entire length of its route and the route of any intermediate carrier which is operated in conjunction and under common management or control with such motor common carrier of property which lies between the termini of such proposed through routes (A) unless inclusion of such routes would make the through route unreasonably circuitous as compared with another practicable through route which could otherwise be established, or (B) unless the Commission finds that the through route proposed to be established is needed in order to provide adequate, more efficient, or more economic transportation. In prescribing through routes the Commission shall, so far as is consistent with the public interest, and subject to the preceding sentence, give reasonable preference to the carrier which originates the traffic.".

Preference to carrier.

(c) Section 10705(c) of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by inserting "or (b)" after "subsection (a)" in the first sentence and by striking out "or water carrier" in the second sentence and inserting in lieu thereof "carrier, water carrier, or motor common carrier of property".

(d) The first sentence of section 10705(e) of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by striking out "a rail or water common carrier tariff" and inserting in lieu thereof "a tariff of a rail carrier, water common carrier, or motor common carrier of property".

(e) Subsection (f)(1) of section 10705 of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by striking out "subsection (a) or (b)" and inserting in lieu thereof "subsection (a), (b), or (c)".

(f) Section 10705 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection:

"(h) Any motor common carrier of property who is a party to a through route and joint rate, whether established by such carrier under section 10703 of this title or prescribed by the Commission under subsection (b) of this section, shall promptly pay divisions or make interline settlements, as the case may be, with other carriers which are parties to such through route and joint rate. In the event of undue delinquency in the settlement of such divisions or interline settlements, such through routes and joint rates may be suspended or canceled under rules prescribed by the Commission.".

Division payments or interline settlements.
49 USC 10703.

(g) Section 10705(g) of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by striking out "subsection (e)" and inserting in lieu thereof "subsection (f)".

(h) Section 10703(a)(4) of title 49, United States Code, is amended by adding at the end thereof the following new subparagraph:

Contracts.

"(E) A freight forwarder may enter into contracts with a rail carrier or with a water common carrier providing transportation subject to the Shipping Act, 1916 (46 U.S.C. 801 et seq.) or the Intercoastal Shipping Act, 1933 (46 U.S.C. 843-848). Not later than 180 days after the date of enactment of this subparagraph, the Commission shall promulgate regulations implementing the provisions of this subparagraph.".

Regulations.

TEMPORARY AUTHORITIES AND EMERGENCY TEMPORARY AUTHORITIES

SEC. 23. Section 10928 of title 49, United States Code, is amended by—

(1) inserting "(a)" before "Without";

(2) inserting "of passengers" after "motor carrier" each place such term appears; and

(3) adding at the end thereof the following new subsections:

49 USC 10321.
5 USC 551.

"(b)(1) Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, the Commission, pursuant to such regulations as the Commission may issue, may grant a motor carrier of property temporary authority to provide transportation to a place or in an area having no motor carrier of property capable of meeting the immediate needs of the place or area. Unless suspended or revoked, the Commission may grant the temporary authority for not more than 270 days. A grant of temporary authority does not establish a presumption that permanent authority to provide transportation will be granted under this subchapter.

"(2) The Commission shall take final action upon an application filed under this subsection no later than 90 days after the date the application is filed with the Commission.

"(c)(1) Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, the Commission, pursuant to such regulations as the Commission may issue, may grant a motor carrier of property emergency temporary authority to provide transportation to a place or in an area having no motor carrier of property capable of meeting the immediate needs of the place or area if the Commission determines that, due to emergency conditions, there is not sufficient time to process an application for temporary authority under subsection (b) of this section. Unless suspended or revoked, the Commission may grant the emergency temporary authority for not more than 30 days, and the Commission may extend such authority for a period of not more than 90 days. A grant of emergency temporary authority does not establish a presumption that permanent authority to provide transportation will be granted under this subchapter.

Time extension.

"(2) The Commission shall take final action upon an application filed under this subsection not later than 15 days after the date the application is filed with the Commission.".

COOPERATIVE ASSOCIATIONS

SEC. 24. (a) Section 10526(a)(5)(A)(ii) of title 49, United States Code, is amended by striking out "15 percent" and inserting in lieu thereof "25 percent".

(b)(1) Subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10529. Limited authority over cooperative associations 49 USC 10529.

"(a) Notwithstanding section 10526(a)(5) of this title, any cooperative association (as defined by section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) or a federation of cooperative associations which is required to notify the Commission under such section 10526(a)(5) shall prepare and maintain such records relating to transportation provided by such association or federation, in such form, as the Commission may require by regulation to carry out the provisions of such section 10526(a)(5). The Commission or an employee designated by the Commission, may on demand and display of proper credentials— Notification; recordkeeping. 49 USC 10526.

"(1) inspect and examine the lands, buildings, and equipment of such association or federation; and Inspection rights.

"(2) inspect and copy any record of such association or federation.

"(b) Notwithstanding section 10526(a)(5) of this title, the Commission may require a cooperative association or federation of cooperative associations described in subsection (a) of this section to file reports with the Commission containing answers to questions about transportation provided by such association or federation. Filing of reports.

"(c) The Commission may bring a civil action to enforce subsections (a) and (b) of this section or a regulation or order of the Commission issued under this section, when violated by a cooperative association or federation of cooperative associations described in subsection (a). Civil action.

"(d)(1) A person required to make a report to the Commission, answer a question, or maintain a record under this section, or an officer, agent, or employee of that person, that (A) does not make the report, (B) does not specifically, completely, and truthfully answer the question, or (C) does not maintain the record in the form and manner prescribed by the Commission, is liable to the United States Government for a civil penalty of not more than $500 for each violation and for not more than $250 for each additional day the violation continues. Noncompliance penalty.

"(2) Trial in a civil action under paragraph (1) of this subsection shall be in the judicial district in which (A) the cooperative association or federation of cooperative associations has its principal office, (B) the violation occurred, or (C) the offender is found. Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

"(e) A person, or an officer, employee, or agent of that person, that by any means knowingly and willfully tries to evade compliance with the provisions of this section 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.

"(f) A person required to make a report to the Commission, answer a question, or maintain a record under this section, 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 Commission requires the question to be answered, (3) willfully does not maintain that record in the form and manner prescribed by the Commission, (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 Commission under this section, (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 maintains a record in violation of a regulation or order of the Violations, penalties.

Commission issued under this section, shall be fined not more than $5,000.".

(2) The analysis for subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following:

"10529. Limited authority over cooperative associations.".

Repeal.

(c) Subsection (c) of section 11144 of title 49, United States Code, is hereby repealed.

PROCEDURAL REFORM

SEC. 25. (a) Section 10322 of title 49, United States Code, is amended to read as follows:

"§ 10322. Commission action and appellate procedure in non-rail proceedings

"(a) This section applies to a matter before the Interstate Commerce Commission over which the Commission has jurisdiction under chapter 105 of this title, other than a matter involving a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of such chapter. The deadlines set forth in this section do not apply to the following sections of this subtitle: 10525(c), 10708(b), 10922(h)(2), 10928, 11345a, and 11701(c).

49 USC 10501.

49 USC 10525, 10708, *ante*, pp. 796, 814, *post*, pp. 819, 818.

"(b)(1) Except as provided in paragraph (2) of this subsection, a division, individual commissioner, employee board, or an employee delegated under section 10305 of this title to make an initial decision in a matter related to a carrier (other than a rail carrier), or, in the case of a matter referred to a joint board under section 10341 of this title, such joint board—

Oral hearing; decisions.

49 USC 10305.

49 USC 10341.

"(A) shall, in any case in which an oral hearing is held or the Commission has found that an issue of general transportation importance is involved, complete all evidentiary proceedings related to the matter not later than the 180th day following institution of the proceeding and shall issue in writing the initial decision not later than the 270th day following institution of the proceeding; and

"(B) shall, in the case of all other proceedings subject to this section, issue in writing the initial decision by the 180th day following institution of the proceeding.

If evidence is submitted in writing or testimony is taken at an oral hearing, the initial decision shall include specific findings of fact, specific and separate conclusions of law, an order, and justification for the findings of fact, conclusions of law, and order.

"(2) In any case involving an application for authority to provide motor carrier transportation incidental to trailer-on-flatcar or container-on-flatcar service by rail under subchapter II of chapter 109 of this subtitle, a final decision on such application shall be issued in writing not later than the 180th day following the date such application is filed with the Commission.

49 USC 10921.

Publication in Federal Register.

"(3) At the earliest practicable time after the filing of an application for authority under subchapter II of chapter 109 of this title, the Commission shall publish in the Federal Register notice of the filing of such application.

Waiver.

"(c) The Commission, or a division designated by the Commission, may waive the requirement for an initial decision under subsection (b) of this section and may require the matter to be considered by the Commission or such division on finding that the matter involves a question of Commission policy, a new or novel issue of law, or an issue of general transportation importance or that waiver of the initial

decision is required for the timely execution of the Commission's functions. If the requirement for an initial decision is waived, a final decision shall be issued in writing within the time limit established for the issuance of the initial decision under subsection (b) of this section.

"(d) In a proceeding under this section in which the parties have had at least an opportunity to submit evidence in written form, such parties shall have an opportunity to present arguments to the initial decisionmaker. The decisionmaker shall determine whether the arguments should be presented orally or in writing and may require that written arguments be submitted simultaneously with written submissions of evidence and that oral arguments be presented at an oral hearing. Upon issuance of an initial decision under this section, copies of such decision shall be served on the parties and submitted to the Commission.

Initial decisions.

"(e) An initial decision under this section becomes a final decision on the 20th day after it is served on the interested parties, unless—

"(1) an interested party files an appeal during the 20-day period or, if authorized by the Commission or division designated by the Commission, by the end of an additional period of not more than 20 days; or

"(2) the Commission stays or postpones under subsection (f)(1) of this section the initial decision not later than the 20th day following the date it is served on the parties.

Final decision review.

"(f)(1) Before an initial decision under this section becomes a final decision, the Commission or a division or an employee board designated by the Commission, may review the initial decision on its own initiative and shall review an initial decision if a timely appeal is filed under subsection (e) of this section.

Appeals.

"(2) An initial decision may be reviewed on the record on which it is based or by a further hearing. If an initial decision is reviewed, it shall be stayed pending final determination of the matter and it becomes a final decision only after the final determination is made. If a timely appeal is filed under subsection (e) of this section, the final determination shall be made not later than the 50th day after the appeal is filed. If an initial decision under this section is reviewed by the Commission or a division or an employee board designated by the Commission on its own initiative, the final decision shall be made not later than the 50th day after initiation of such review.

"(3) Notwithstanding the provisions of paragraph (2) of this subsection, if an initial decision under this section is reviewed by further hearing, such review shall be completed, and a final decision made, not later than the 120th day following the date the further hearing is granted.

"(4) Review of, or appeal from, an initial decision under this section shall be conducted under section 557 of title 5. The Commission may prescribe rules limiting and defining the issues and pleadings on review under subsection (b) of such section.

Commission action, proceeding reopening and reconsideration.

"(g)(1) The Commission may, at any time on its own initiative because of material error, new evidence, or substantially changed circumstances—

"(A) reopen a proceeding;

"(B) grant rehearing, reargument, or reconsideration of an action of the Commission; and

"(C) change an action of the Commission.

An interested party may petition to reopen and reconsider an action of the Commission under this paragraph under regulations of the Commission.

"(2) The Commission may grant a rehearing, reargument, or reconsideration of an action of the Commission that was taken by a division or an employee board designated by the Commission if it finds that—

"(A) the action involved a matter of general transportation importance; or

"(B) the action would be affected materially because of clear and convincing new evidence or changed circumstances.

An interested party may petition for rehearing, reargument, or reconsideration of an action of the Commission under this paragraph under regulations of the Commission. The Commission may stay an action pending a final determination under this paragraph. The Commission shall complete reconsideration and take final action by the 120th day after the petition is granted.

Stay of Commission action.

"(3) If the Commission initiates any action under paragraph (1) of this subsection, final disposition under such paragraph shall be made not later than the 120th day following the date action is initiated.

Effective date.

"(h) A final decision under this section shall be effective on the date it is served on the parties, and a civil action to enforce, enjoin, suspend, or set aside the decision may be filed after that date.

Time period, extension.

"(i) In extraordinary circumstances, the Commission may extend a time period established by this section, except that the total of all such extensions with respect to any matter subject to the provisions of this section shall not exceed 90 days.".

Repeal.

(b) Section 10323 of title 49, United States Code, is hereby repealed.

(c)(1) Section 10324(a) of title 49, United States Code, is amended by striking out the last sentence.

(2) Section 10324(c) of title 49, United States Code, is amended to read as follows:

49 USC 10327.

"(c) An action of the Commission under section 10327 of this title is enforceable, unless the Commission stays or postpones such action.".

Repeal.

(d) Section 10325 of title 49, United States Code, is hereby repealed.

(e) Section 10327(a) of title 49, United States Code, is amended by striking out "Notwithstanding sections 10322, 10323, and 10324(c) of this title, this" and inserting in lieu thereof "This".

(f) The index for subchapter II of chapter 103 of title 49, United States Code, is amended by striking out the items relating to sections 10322, 10323, 10324, and 10325 and inserting in lieu thereof the following:

"10322. Commission action and appellate procedure in non-rail proceedings.
"10323. Repealed.
"10324. Commission action.
"10325. Repealed.".

ENFORCEMENT

SEC. 26. (a) Section 11701(c) of title 49, United States Code, is amended by striking "related to a rail carrier".

(b) Section 11707(e) of title 49, United States Code, is amended by adding the following at the end thereof: "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.".

(c) Section 1114 of title 18, United States Code, is amended by inserting "Interstate Commerce Commission," after "Consumer Product Safety Commission,".

MERGER PROCEDURE

SEC. 27. (a) Subchapter III of chapter 113 of title 49, United States Code, is amended by inserting after section 11345 the following new section:

"§ 11345a. Consolidation, merger, and acquisition of control: motor carrier of property procedure

49 USC 11345a.

"(a) If a motor carrier of property providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title is involved in a proposed transaction under section 11343 of this title, this section and section 11344 of this title also apply to the transaction. The Commission shall publish notice of the application in the Federal Register by the end of the 30th day after the application is filed with the Commission. However, if the application is incomplete, the Commission shall reject it by the end of that period. The order of rejection is a final decision of the Commission under section 10322 of this title.

49 USC 10521.

49 USC 11343, 11344.

Publication in Federal Register.

Ante, p. 816.

"(b) Written comments about an application may be filed with the Commission within 45 days after notice of the application is published under subsection (a) of this section.

"(c) The Commission must conclude evidentiary proceedings by the 240th day after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 180th day after the date it concludes the evidentiary proceedings. In extraordinary circumstances, the Commission may extend a time period established by this section, except that the total of all such extensions with respect to any application shall not exceed 90 days.

"(d) The Commission may waive the requirement that an initial decision be made under section 10322 of this title and make a final decision itself when it determines that action is required for the timely execution of its functions under this subchapter or that an application governed by this section is of major transportation importance. The decision of the Commission under this subsection is a final decision under section 10322 of this title.".

Waiver.

(b) The analysis of subchapter III of chapter 113 of title 49, United States Code, is amended by inserting after

"11345. Consolidation, merger, and acquisition of control: rail carrier procedure."

the following:

"11345a. Consolidation, merger, and acquisition of control: motor carrier of property procedure.".

SMALL COMMUNITY SERVICE STUDY

SEC. 28. (a) The Interstate Commerce Commission shall make a full investigation and study of motor carrier service to small communities (with emphasis on communities of population 5,000 and under), and

Report to President and Congress.

shall submit a report, including legislative or other recommendations, to the President and the Congress not later than September 1, 1982.

Contents of report.

(b) The report shall include an analysis of the common carrier obligation to provide service to small community shippers and an assessment of whether the Commission is enforcing such obligation. If the Commission determines that it is not fully enforcing such obligation, then it shall explain why not, and detail what steps it would need to take and what resources it would have to have in order to enforce such obligation. The report shall also describe the extent to which motor carriers were providing service to small communities prior to the date of enactment of this Act, and evaluate the effect of this Act on such service. The report shall include specific recommendations regarding ways to ensure the provision and maintenance of motor carrier service to small communities.

Data for report.

(c)(1) To develop data for its report, the Commission shall monitor—

(A) complaints to determine the number and kinds of complaints by small community shippers; and

(B) applications for new and expanded service to determine whether motor carriers are seeking to serve small community shippers.

Additional data.

(2) The Commission may develop additional data by any other means, including surveys of small community shippers and motor carriers providing service to such communities to determine the reliability of such service and the availability of quality and price options. The Commission is authorized to enter into contracts or agreements with public and private organizations to carry out such surveys of shippers and motor carriers.

Contracts.

Appropriation authorization.

(d) There is hereby authorized to be appropriated for fiscal years 1981 and 1982 such sums as are necessary to carry out the provisions of this section.

INSURANCE

SEC. 29. Section 10927(a)(1) of title 49, United States Code, is amended by striking out "approved by the Commission." and inserting in lieu thereof "approved by the Commission, in an amount not less than such amount as the Secretary of Transportation prescribes pursuant to, or as is required by, the provisions of section 30 the Motor Carrier Act of 1980.".

Infra.

MINIMUM FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

Regulations. 49 USC 10927 note.

SEC. 30. (a)(1) The Secretary of Transportation shall establish regulations to require minimal levels of financial responsibility sufficient to satisfy liability amounts to be determined by the Secretary covering public liability, property damage, and environmental restoration for the transportation of property for hire by motor vehicle in the United States from a place in one State to a place in another State, from a place in a State to another place in such State through a place outside of such State, or between a place in a State and a place outside the United States.

(2) The minimal level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle shall not be less than $750,000, except that the Secretary, by regulation, may reduce such amount (but not to an amount less than $500,000) for any class of vehicles or operations for the two-year period beginning on the effective date of the regulations issued under such

paragraph or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

(3) If, at the end of the one-year period beginning on the date of enactment of this Act, the Secretary has not established regulations to require minimal levels of financial responsibility as required by paragraph (1) of this subsection for any class of transportation of property for hire by motor vehicle from a place in a State to a place in another State or from a place in a State to another place in such State through another State, the levels of financial responsibility for such class of transportation shall be the $750,000 amount set forth in paragraph (2) of this subsection, until such time as the Secretary, by regulation, changes such amount under this subsection. Notwithstanding the provisions of such paragraph, the Secretary may only make reductions in such amount under such paragraph for the two-year period beginning on the 366th day following the date of enactment of this Act or any part of such period.

Amount reductions.

(b)(1) The Secretary shall establish regulations to require minimal levels of financial responsibility sufficient to satisfy liability amounts to be determined by the Secretary covering public liability, property damage, and environmental restoration for the transportation of hazardous materials (as defined by the Secretary), oil or hazardous substances (as defined by the Administrator of the Environmental Protection Agency), or hazardous wastes (as defined by the Administrator of the Environmental Protection Agency) by motor vehicle in interstate or intrastate commerce.

Regulations.

(2) The minimal level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle transporting in interstate or intrastate commerce—

Hazardous substances.

(A) hazardous substances (as defined by the Administrator of the Environmental Protection Agency) in cargo tanks, portable tanks, or hopper-type vehicles, with capacities in excess of 3,500 water gallons,

(B) in bulk class A explosives, poison gas, liquefied gas, or compressed gas, or

(C) large quantities of radioactive materials,

shall not be less than $5,000,000, except that the Secretary, by regulation, may reduce such amount (but not to an amount less than $1,000,000) for any class of vehicles or operations for the two-year period beginning on the effective date of the regulations issued under this subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

Amounts, limitation.

(3) The minimal level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle transporting in interstate or intrastate commerce any material, oil, substance, or waste not subject to the provisions of paragraph (2) of this subsection shall not be less than $1,000,000, except that (A) the Secretary, by regulation, may reduce such amount (but not to an amount less than $500,000) for any class of vehicles or operations for the two-year period beginning on the effective date of the regulations issued under this subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service, and (B) in the case of any class of vehicles transporting any such material, oil, substance, or waste in intrastate commerce other than in bulk, the Secretary, by regulation, may reduce such amount if the

Secretary finds that such reduction will not adversely affect public safety.

(4) If, at the end of the one-year period beginning on the date of enactment of this Act, the Secretary has not established regulations to require minimal levels of financial responsibility as required by paragraph (1) of this subsection for any class of transportation of hazardous materials, oil, hazardous substances, or hazardous wastes by motor vehicle in interstate or intrastate commerce, the levels of financial responsibility for such class of transportation shall be the $5,000,000 amount set forth in paragraph (2) of this subsection or the $1,000,000 amount set forth in paragraph (3) of this subsection, as the case may be, until such time as the Secretary, by regulation, changes such amount under this subsection. Notwithstanding the provisions of paragraph (2) or (3)(A) of this subsection, the Secretary may only make reductions in such amount under such paragraph for the two-year period beginning on the 366th day following the date of enactment of this Act or any part of such period.

Amount reductions.

(c) Financial responsibility may be established under this section by any one or any combination of the following methods acceptable to the Secretary: evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. Any bond filed shall be issued by a bonding company authorized to do business in the United States. The Secretary shall establish, by regulation, methods and procedures to assure compliance with this section.

Violation, determination of penalty amount.

(d)(1) Any person (except an employee who acts without knowledge) who is determined by the Secretary, after notice and opportunity for a hearing, to have knowingly violated this section or a regulation issued under this section shall be liable to the United States for civil penalty of not more than $10,000 for each violation, and if any such violation is a continuing one each day of violation constitutes a separate offense. The amount of any such penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

Civil penalty, recovery.

(2) 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, prior to referral to the Attorney General, such civil penalty may be compromised by the Secretary. The amount of such penalty, when finally determined (or agreed upon in compromise), may be deducted from any sums owed by the United States to the person charged. All penalties collected under this subsection shall be deposited in the Treasury of the United States as miscellaneous receipts.

Report to Congress.

(e) Not later than one year after the date of enactment of this Act, the Secretary shall report to Congress upon the regulations issued under this section. The Secretary shall describe the various levels of financial responsibility mandated and the rationale for selecting the final limits. The Secretary shall also include an estimate of the impact of the regulations upon the safety of motor vehicle transportation, the economic condition of the motor carrier industry (including, but not limited to, small and minority motor carriers and independent owner-operators), and the ability of the insurance industry to provide the designated coverage. The Secretary shall make recom-

Recommendations for further legislation.

mendations with respect to the need for further legislation related to levels of financial responsibility, including to what extent, if any, minimum statutory levels should be modified.

(f) This section shall only apply to motor vehicles having a gross vehicle weight rating of 10,000 pounds or more.

(g) For purposes of this section, the term—

(1) "Secretary" means the Secretary of Transportation; and "Secretary."

(2) "State" (including its use in the terms "interstate" and "intrastate") means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Marianas. "State."

IMPOSITION OF STATE TAX ON MOTOR CARRIER TRANSPORTATION PROPERTY

SEC. 31. (a)(1) Chapter 115 of title 49, United States Code, is amended by inserting after section 11503 the following new section:

"§ 11503a. Tax discrimination against motor carrier transportation property 49 USC 11503a.

"(a) In this section— Definitions.

"(1) 'assessment' means valuation for a property tax levied by a taxing district;

"(2) 'assessment jurisdiction' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation;

"(3) 'motor carrier transportation property' means property, as defined by the Interstate Commerce Commission, owned or used by a motor carrier of property providing transportation in interstate commerce whether or not such transportation is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title; and 49 USC 10521.

"(4) 'commercial and industrial property' means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy.

"(b) The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them: Prohibited discriminatory acts.

"(1) assess motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property;

"(2) levy or collect a tax on an assessment that may not be made under paragraph (1) of this subsection;

"(3) levy or collect an ad valorem property tax on motor carrier transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

"(c) Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a

Granting of relief, conditions.

violation of subsection (b) of this section. Relief may be granted under this subsection only if the ratio of assessed value to true market value of motor carrier transportation property exceeds by at least 5 percent, the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction. The burden of proof in determining assessed value and true market value is governed by State law. If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

Violations.

"(1) an assessment of the motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the assessment value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all other commercial and industrial property; and

"(2) the collection of ad valorem property tax on the motor carrier transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.".

(2) The chapter analysis of chapter 115 of title 49, United States Code, is amended by inserting after

"11503. Tax discrimination against rail transportation property."

the following:

"11503a. Tax discrimination against motor carrier transportation property.".

(b) Section 10521(b)(4) of title 49, United States Code, is amended by inserting "section 11503a and" after "in".

RATES FOR TRANSPORTATION OF RECYCLABLE MATERIALS

SEC. 32. (a) Subchapter II of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

49 USC 10733.

"§ 10733. Rates for transportation of recyclable materials

"(a) A motor carrier of property providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may provide transportation of recyclable materials without charge or at a reduced rate.

49 USC 10521.

"Recyclable materials."

"(b) In this section, 'recyclable materials' means waste products for recycling or reuse in the furtherance of recognized pollution control programs.".

(b) The analysis for subchapter II of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following:

"10733. Rates for transportation of recyclable materials.".

BUSINESS ENTERTAINMENT EXPENSES

SEC. 33. (a) Subchapter III of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10751. Business entertainment expenses 49 USC 10751.

"(a) Any business entertainment expense incurred by a person providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title (other than transportation by rail) shall not constitute a violation of section 10741 or 10761 of this title if such expense would not be unlawful if incurred by a person or corporation not subject to such jurisdiction of the Commission. 49 USC 10501 *et seq.* *Infra.*

"(b) Any business entertainment expense authorized under this section that is paid or incurred by a person providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title (other than transportation by rail) shall not be taken into account in determining the cost of service or the rate base for purposes of this title.

"(c) Within 180 days after the date of enactment of the Motor Carrier Act of 1980, the Commission shall institute a rulemaking proceeding pursuant to which it shall issue rules establishing appropriate standards and guidelines for authorized business entertainment expenses under this section. Such standards and guidelines shall be consistent with standards and guidelines applicable under existing law to persons not subject to this subtitle, including competing unregulated surface transportation carriers.". Standards and guidelines. *Ante,* p. 793.

(b) The analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10750 the following new item:

"10751. Business entertainment expenses.".

(c) Section 10761 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) This section shall not apply to expenses authorized under section 10751 of this title.".

(d) Section 10741 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) This section shall not apply to expenses authorized under section 10751 of this title.".

COORDINATED TRANSPORTATION SERVICES

SEC. 34. (a) Section 10922 of title 49, United States Code, is amended by adding the following new subsection: *Ante,* p. 796.

"(j) A motor common carrier of property may deliver to or receive from a rail carrier a trailer moving in trailer-on-flat-car service at any point on the route of the rail carrier if the motor carrier is authorized to serve the origin and destination points of the traffic.".

(b) Section 10923 of title 49, United States Code, is amended by adding the following new subsection: *Ante,* p. 800.

"(e) A motor contract carrier of property may deliver to or receive from a rail carrier a trailer moving in trailer-on-flat-car service at any point on the route of the rail carrier if the motor carrier is authorized to serve the origin and destination points of the traffic.".

JOB REFERRAL

SEC. 35. The Secretary of Labor shall establish, maintain, and periodically publish a comprehensive list of jobs available with motor carriers of property holding certificates or permits issued by the Interstate Commerce Commission under subchapter II of chapter 109 of title 49, United States Code. Such list shall include that information and detail, such as job descriptions and required skills, as the List of available jobs, publication. 49 USC 10921 note. 49 USC 10921.

Employment aid.

Secretary deems relevant and necessary. In addition to publishing the list, the Secretary shall assist a person previously employed by any such carrier in finding other employment. In order to carry out this section, the Secretary may require regulated motor carriers of property to file reports, data, and other information.

ADMINISTRATION

Rent payment.

SEC. 36. Section 10344(f) of title 49, United States Code, is amended by adding at the end thereof the following new sentence: "The Commission shall pay the rent for any space or facilities assigned under this subsection at rates determined in accordance with section 210(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(j)).".

Approved July 1, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1069 accompanying H.R. 6418 (Comm. on Public Works and Transportation).
SENATE REPORT No. 96-641 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 15, considered and passed Senate.
June 19, H.R. 6418 considered and passed House; passage vacated and S. 2245, amended, passed in lieu.
June 20, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 27:
July 1, Presidential statement.