

Public Law 96-454
96th Congress

An Act

To reduce regulation of and increase competition in the household goods moving industry, and for other purposes.

Oct. 15, 1980
[S. 1798]

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 "Household Goods Transportation Act of 1980".

DECLARATION OF POLICY

SEC. 2. (a) The Congress hereby finds—

(1) that a safe, stable, and financially sound system of transportation of household goods by motor common carriers is vital to the maintenance of a strong national economy and a strong national defense;

(2) that the best means of assuring such a system is through competition and reduced regulation;

(3) that maximum flexibility on the part of the carriers in the pricing of their services best serves the shippers of household goods and allows a variety of quality and price options to meet market demands; and

(4) that the interest of individual shippers can be best protected by allowing carriers of household goods maximum flexibility in serving the needs of their shippers, by providing accurate and complete information concerning carriers' performance and individual shippers' rights and remedies, by reducing the amount of unnecessary regulations, and by strengthening remedies for violations of those regulations that are necessary for protection of individual shippers.

(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.

Hearings.

DEFINITIONS

SEC. 3. (a) Section 10102 of title 49, United States Code, is amended—

(1) by inserting after paragraph (9) the following new paragraph:

"(10) 'household goods' means—

"(A) personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling and such other similar property as the Commission may provide by regulation; except that this subparagraph shall not be construed to include property moving from a factory or store, except such property as the householder has purchased with intent to use in his dwelling and which is

"Household goods."

Household
Goods
Transportation
Act
of 1980.
49 USC 10101
note.
49 USC 10101
note.

transported at the request of, and the transportation charges paid to the carrier by, the householder;

“(B) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment, or supply of such stores, offices, museums, institutions, hospitals, or other establishments and such other similar property as the Commission may provide by regulation; except that this subparagraph shall not be construed to include the stock-in-trade of any establishment, whether consignor or consignee, other than used furniture and used fixtures, except when transported as incidental to moving of the establishment, or a portion thereof, from one location to another; and

“(C) articles, including objects of art, displays, and exhibits, which because of their unusual nature or value require the specialized handling and equipment usually employed in moving household goods and such other similar articles as the Commission may provide by regulation; except that this subparagraph shall not be construed to include any article, whether crated or uncrated, which does not, because of its unusual nature or value, require the specialized handling and equipment usually employed in moving household goods.”; and

(2) by redesignating paragraphs (10) through (28) of such section, and any references thereto, as paragraphs (11) through (29), respectively.

26 USC 250.

(b)(1) Section 250(a)(1) of the Internal Revenue Code of 1954 is amended by striking out “10102(17)” and inserting in lieu thereof “10102(18)”.

(2) Section 5201(5) of title 39, United States Code, is amended by striking out “10102(11)” and inserting in lieu thereof “10102(12)”.

RATES

SEC. 4. (a) Chapter 107 of title 49, United States Code, is amended by inserting after section 10733 the following new section:

49 USC 10734.

“§10734. Household goods rates—estimates; guarantees of service

49 USC 10521.

“(a)(1) Subject to the provisions of paragraph (2) of this subsection, a motor common carrier providing transportation of household goods 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 a rate for the transportation of household goods which is based on the carrier’s written, binding estimate of charges for providing such transportation.

49 USC 10762.

“(2) Any rate established under this subsection must be available on a nonpreferential basis to shippers and must not result in charges to shippers which are predatory.

“(b)(1) Subject to the provisions of paragraph (2) of this subsection, a motor common carrier providing transportation of household goods 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 household goods which guarantee that the carrier will pick up and deliver such household goods at the times specified in the contract for such services and

provide a penalty or per diem payment in the event the carrier fails to pick up or deliver such household goods at the specified time. The charges, if any, for such guarantee and penalty provision may vary to reflect one or more options available to meet a particular shipper's needs but must be contained in the tariff the carrier publishes for such service under this title.

"(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 guarantee the pick up and delivery of household goods at the times specified in the contract for such services and which does not provide a penalty or per diem payment in the event the carrier fails to pick up or deliver household goods at the specified time."

(b) The analysis for chapter 107 of title 49, United States Code, is amended by inserting

"10734. Household goods rates—estimates; guarantees of service."

after

"10733. Rates for transportation of recyclable materials."

AGENTS

SEC. 5. (a)(1) Chapter 109 of title 49, United States Code, is amended by inserting after section 10933 the following new section:

"§10934. Household goods agents

49 USC 10934.

"(a) Each motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall be responsible for all acts or omissions of any of its agents which relate to the performance of household goods transportation services (including accessorial or terminal services) subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and which are within the actual or apparent authority of the agent from the carrier or which are ratified by the carrier.

49 USC 10521.

"(b) Each motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall use due diligence and reasonable care in selecting and maintaining agents who are sufficiently knowledgeable, fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services) and to fulfill the obligations imposed upon them by this subtitle and by such carrier.

"(c)(1) Whenever the Commission has reason to believe from a complaint or investigation that an agent providing household goods transportation services (including accessorial and terminal services) under the authority of a motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title has violated section 11901(j) or 11917 of this title or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), it may issue to such agent a complaint stating the charges and containing notice of the time and place of a hearing which shall be held no later than 60 days after service of the complaint to such agent.

Complaints.

Post, pp. 2019,
2021.

"(2) Such agent shall have the right to appear at such hearing and rebut the charges contained in the complaint.

Hearing.

Compliance orders.
Post, pp. 2019, 2021.

“(3) If such person does not appear at the hearing or if the Commission finds that the agent has violated section 11901(j) or 11917 of this title or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), it may issue an order to compel compliance with the requirement that the agent be fit, willing, and able. Thereafter, the Commission may issue an order to limit, condition, or prohibit such agent from any involvement in the transportation or provision of services incidental to the transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title if, after notice and an opportunity for a hearing, it finds that such agent, within a reasonable time after the date of issuance of a compliance order under this section, but in no event less than 30 days after such date of issuance, has willfully failed to comply with such order.

49 USC 10521.

Hearing.

“(4) Upon filing of a petition with the Commission by an agent who is the subject of an order issued pursuant to the second sentence of paragraph (3) of this subsection and after notice, a hearing shall be held with an opportunity to be heard. At such hearing, a determination shall be made whether the order issued pursuant to paragraph (3) of this subsection should be rescinded.

28 USC 2341 *et seq.*
Antitrust laws, applicability.

“(5) Any agent adversely affected or aggrieved by an order of the Commission issued under this subsection may seek relief in the appropriate United States court of appeals as provided by and in the manner prescribed in chapter 158 of title 28, United States Code.

“(d) The antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to discussions or agreements between a motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and its agents (whether or not an agent is also a carrier) related solely to (1) rates for the transportation of household goods under the authority of the principal carrier, (2) accessorial, terminal, storage, or other charges for services incidental to the transportation of household goods transported under the authority of the principal carrier, (3) allowances relating to transportation of household goods under the authority of the principal carrier, and (4) ownership of a motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title by an agent or membership on the board of directors of any such motor common carrier by an agent.”

(2) The analysis for chapter 109 of title 49, United States Code, is amended by inserting

“10934. Household goods agents.”

after

“10933. Authorizing abandonment of freight forwarder service.”

(b) Section 10322(a) of title 49, United States Code, is amended—

(1) by inserting “, or section 10934” before the period at the end of the first sentence; and

(2) by inserting “10934(c),” after “10928.”

(c) Subsection (b) of section 11342 of title 49, United States Code, is amended by inserting “(1)” after “(b)” and by adding at the end of such subsection the following new paragraphs:

“(2) In the case of an application for Commission approval of an agreement or combination between a motor common carrier providing transportation of household goods and its agents to pool or divide traffic or services or any part of their earnings, such agreement or

Traffic or services, pooling or dividing agreements.

combination shall be presumed to be in the interest of better service to the public and of economy in operation and not to restrain competition unduly if the practices proposed to be carried out under such agreement or combination are the same as or similar to practices carried out under agreements and combinations between motor common carriers providing transportation of household goods to pool or divide traffic or services or any part of their earnings approved by the Commission before the date of enactment of this paragraph.

“(3) The Commission shall streamline, simplify, and expedite, to the maximum extent practicable, the process (including, but not limited to, any paperwork) for submission and approval of applications under this section for agreements and combinations between motor common carriers providing transportation of household goods and their agents.”

Applications.

RULES AND REGULATIONS

SEC. 6. (a)(1) Chapter 111 of title 49, United States Code, is amended by inserting after section 11109 the following new section:

“§11110. Household goods carrier operations

49 USC 11110.

“(a)(1) The regulations and paperwork required of motor common carriers providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall be minimized to the maximum extent feasible consistent with the protection of individual shippers.

Regulations.

“(2) The Interstate Commerce Commission may issue regulations, including regulations protecting individual shippers, in order to carry out this subtitle with respect to the transportation of household goods by motor common carrier.

49 USC 10521.

49 USC 10101.

“(3) Regulations of the Commission protecting individual shippers shall include, where appropriate, reasonable performance standards for the transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title. In establishing performance standards under this paragraph, the Commission shall take into account at least the following:

“(A) the level of performance that can be achieved by a well-managed motor common carrier transporting household goods;

“(B) the degree of harm to individual shippers which could result from a violation of the regulation;

“(C) the need to set the level of performance at a level sufficient to deter abuses which result in harm to consumers and violations of regulations;

“(D) service requirements of the carriers;

“(E) the cost of compliance in relation to the consumer benefits to be achieved from such compliance; and

“(F) the need to set the level of performance at a level designed to encourage carriers to offer service responsive to shipper needs.

“(4) Nothing in this section shall be construed to limit the Commission's authority to require reports from motor common carriers providing transportation of household goods or to require such carriers to provide specified information to consumers concerning their past performance.

“(b)(1) Every motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may, upon request of a prospective shipper, provide the shipper with an estimate of charges

Estimate of charges.

for transportation of household goods and for the proposed services. The Commission shall not prescribe specific formulas, forms, methods, or techniques for providing a prospective shipper with such an estimate. The Commission shall not prohibit any such carrier from charging a prospective shipper for providing a written, binding estimate for the transportation and proposed services, nor shall the Commission require the final charges to a shipper to be based on an estimate.

49 USC 10521.

Weighing regulations.

"(2) Any charge for an estimate of charges provided by a motor common carrier to a shipper for transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall be subject to the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12).

"(c) The Commission shall issue regulations that provide motor carriers providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title with the maximum possible flexibility in weighing shipments, consistent with assurance to the shipper of accurate weighing practices. The Commission shall not prohibit such carriers from backweighing shipments or from basing their charges on the reweigh weights if the shipper observes both the tare and gross weighings (or, prior to such weighings, waives in writing the opportunity to observe such weighings) and such weighings are performed on the same scale."

(2) The analysis for chapter 111 of title 49, United States Code, is amended by inserting

"11110. Household goods carrier operations."

after

"11109. Loading and unloading motor vehicles."

Rulemaking proceeding.
49 USC 11110
note.

Ante, p. 2015.

(b)(1) Not later than sixty days after the date of enactment of this Act, the Interstate Commerce Commission shall institute a rulemaking proceeding in which it shall review and revise all of its operational regulations pertaining to transportation of household goods to carry out the purposes of section 11110(a) of title 49, United States Code.

(2) The Interstate Commerce Commission shall conclude the rulemaking proceeding required by this subsection within two hundred and seventy days after the date of enactment of this Act.

(3) To the maximum extent feasible, the provisions of this section, including the amendments made by this section, shall apply to rules and regulations pertaining to transportation of household goods for the United States Government issued by departments, agencies, and instrumentalities of the United States (other than the Interstate Commerce Commission), including rules and regulations established for the distribution of such traffic, to the same extent as such provisions apply to rules and regulations issued by the Interstate Commerce Commission.

DISPUTE SETTLEMENT

SEC. 7. (a)(1) Chapter 117 of title 49, United States Code, is amended by inserting after section 11710 the following new section:

49 USC 11711.

Applications.

"§11711. Dispute settlement program for household goods carriers

"(a)(1) One or more motor common carriers providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title who want to establish

a program to settle disputes between such carriers and shippers of household goods concerning the transportation of household goods may submit an application for establishing such program to the Commission. Such application shall be in such form and contain such information as the Commission may, by regulation, require. The Commission shall review and approve, in accordance with the provisions of this section, each application submitted under this subsection.

“(2) The Commission shall approve, at least within 45 days of its filing, any application to establish a program for settling disputes concerning the transportation of household goods which meets the requirements of subsection (b) of this section.

Application approval.

“(3) The Commission may investigate at any time the functioning of any program approved under this section and, after notice and an opportunity for a hearing, may suspend or revoke its approval for failure to meet the requirements of this section and such regulations as the Commission may issue to carry out the provisions of this section.

Investigations.

“(b) No program for settling disputes concerning the transportation of household goods may be approved under this section unless the program is a fair and expeditious method for settling such disputes and complies with each of the following requirements and such regulations as the Commission may issue:

Program requirements.

“(1) The program is designed to prevent a carrier from having any special advantage in any case in which the claimant resides or does business at a place distant from the carrier's principal or other place of business.

“(2) The program provides for adequate notice of the availability of such program, including a concise easy-to-read, accurate summary of the program and disclosure of the legal effects of election to utilize the program. Such notice must be given to persons for whom household goods are to be transported by the carrier before such goods are tendered to the carrier for transportation.

“(3) Upon request of a shipper, the carrier must promptly provide such forms and other information as are necessary for initiating an action under the program to resolve a dispute.

“(4) Each person, authorized pursuant to the program to arbitrate or otherwise settle disputes, must be independent of the parties to the dispute and must be capable, as determined under such regulations as the Commission may issue, to resolve such disputes fairly and expeditiously. The program must ensure that each person chosen to settle the disputes is authorized and able to obtain from the shipper or carrier any material and relevant information to the extent necessary to carry out a fair and expeditious decisionmaking process.

“(5) No fee for instituting a proceeding under the program may be charged the shipper; except that, if the program is binding solely on the carrier, the shipper may be charged a fee of not more than \$25 for instituting a proceeding under the program. In any case in which a shipper is charged a fee under this paragraph for instituting a proceeding under the program and such dispute is settled in favor of the shipper, the person settling the dispute must refund such fee to the shipper unless the person settling the dispute determines that such refund is inappropriate.

“(6) The program must not require the shipper to agree to utilize the dispute settlement program prior to the time that a dispute arises.

“(7) The program may provide for an oral presentation of a dispute concerning transportation of household goods by a party to the dispute (or a party’s representative), but such oral presentation may be made only if all parties to the dispute expressly agree to such presentation and the date, time, and location of such presentation.

“(8) Any person settling a dispute concerning transportation of household goods under the program must, as expeditiously as possible but at least within 60 days of receipt of written notification of the dispute, render a decision based on the information gathered, except that, in any case in which a party to the dispute fails to provide in a timely manner any information concerning such dispute which the person settling the dispute may reasonably require to resolve the dispute, the dispute settler may extend such 60-day period for a reasonable period of time. A decision resolving a dispute may include any remedies appropriate under the circumstances, including repair, replacement, refund, reimbursement for expenses, and compensation for damages.

“(c) Materials and information obtained in the course of a decision-making process to settle a dispute under a dispute settlement program approved under this section may not be used to bring an action under section 11910 of this title.

49 USC 11910.
Attorney fees.

“(d) In any court action to resolve a dispute between a shipper of household goods and a motor common carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title concerning the transportation of household goods by such carrier, the shipper shall be awarded reasonable attorney’s fees if—

49 USC 10521.

“(1) the shipper submits a claim to the carrier within 120 days after the date the shipment is delivered or the date the delivery is scheduled, whichever is later;

“(2) the shipper prevails in such court action; and

“(3)(A) no dispute settlement program approved under this section was available for use by the shipper to resolve the dispute; or

“(B) a decision resolving the dispute was not rendered under a dispute settlement program approved under this section within the period provided under subsection (b)(8) of this section or an extension of such period under such subsection; or

“(C) the court proceeding is to enforce a decision rendered under a dispute settlement program approved under this section and is instituted after the period for performance under such decision has elapsed.

Attorney fees.

“(e) In any court action to resolve a dispute between a shipper of household goods and a motor common carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title concerning the transportation of household goods by such carrier, such carrier may be awarded reasonable attorney’s fees by the court only if the shipper brought such action in bad faith—

“(1) after resolution of such dispute under a dispute settlement program approved under this section; or

“(2) after institution of a proceeding by the shipper to resolve such dispute under a dispute settlement program approved under this section but before (A) the period provided under subsection (b)(8) for resolution of such dispute (including, if applicable, an extension of such period under such subsection)

ends, and (B) a decision resolving such dispute is rendered under such program.

“(f) The provisions of this section shall apply only in the case of collect-on-delivery transportation of those types of household goods described in section 10102(10)(A) of this title.”

Ante, p. 2011.

(2) The analysis for chapter 117 of title 49, United States Code, is amended by inserting

“11711. Dispute settlement program for household goods carriers.”
after

“11710. Liability when property is delivered in violation of routing instructions.”

(b) The amendments made by this section shall take effect on the date of enactment of this Act, except that subsections (d) and (e) of section 11711 of title 49, United States Code, as inserted in chapter 117 of such title by subsection (a)(1) of this section, shall take effect on the two hundred and fortieth day following such date of enactment.

Effective date.
49 USC 11711
note.

PENALTIES

SEC. 8. (a) Section 11901 of title 49, United States Code, is amended—

(1) by adding at the end of subsection (g) the following new sentence: “After the date of enactment of this sentence, no penalties shall be imposed under this subsection for a violation relating to the transportation of household goods. Any such penalties that were imposed prior to such date of enactment shall be collected only in accordance with the provisions of subsection (h) of this section.”;

(2) by redesignating subsection (h) of such section, and any references thereto, as subsection (k) and inserting “, (h), (i)(1), or (j)” after “subsection (g)” in paragraph (2) of such subsection; and

(3) by inserting after subsection (g) the following new subsections:

“(h)(1) Any person required to make a report to the Commission, answer a question, or make, prepare, or preserve a record under this subtitle concerning transportation of household goods subject to jurisdiction of the Commission under subchapter II of chapter 105 of this title, or an officer, agent, or employee of such person, that (A) does not make the report, (B) does not specifically, completely, and truthfully answer the question, (C) does not make, prepare, or preserve the record in the form and manner prescribed by the Commission, or (D) does not comply with section 10921 of this title, is liable to the United States for a civil penalty of not more than \$500 for each violation and of not more than \$250 for each additional day during which the violation continues. No penalty shall be imposed under this paragraph for any failure to make, prepare, or preserve the record in the form and manner prescribed by the Commission unless the shipper or shippers have suffered harm as a result of such failure.

49 USC 10521.

49 USC 10921.

“(2) In determining and negotiating the amount of a civil penalty under this subsection, the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, whether the shipper has been adequately compensated before institution of the proceeding, and such other matters as fairness may require shall be taken into account.

“(i)(1) Subject to the provisions of paragraph (3) this subsection, if a common carrier providing transportation of household goods subject

49 USC 10521.

Violation
determi-
nation, written
notification.

to the jurisdiction of the Commission under subchapter II of chapter 105 of this title or a receiver or trustee of such carrier fails or refuses to comply with any regulation issued by the Commission relating to protection of individual shippers, such carrier, receiver, or trustee is liable to the United States for a civil penalty of not more than \$1,000 for each violation and of not more than \$500 for each additional day during which the violation continues.

“(2)(A) If the Commission determines—

“(i) that a common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title or a receiver or trustee of such carrier has failed or refused to comply with a regulation issued by the Commission relating to protection of individual shippers in excess of any performance standard established in such regulation; and

“(ii) with respect to each such failure or refusal, that the shipper or shippers have suffered harm as a result of such failure or refusal;

the Commission may, in writing, notify the carrier, receiver, or trustee of its determinations and may elect to assess civil penalties under this paragraph for such failures and refusals in lieu of proceeding under paragraph (1) of this subsection with respect to such failures and refusals. If the Commission elects to assess civil penalties under this paragraph, such civil penalties may only be assessed after notice and opportunity for a hearing.

“(B) Subject to the provisions of paragraph (3) of this subsection, the amount of a civil penalty which may be assessed under this paragraph for a failure or refusal shall not be more than \$1,000 for such failure or refusal and \$500 for each additional day during which such failure or refusal continues.

“(C) Notwithstanding the provisions of section 1336 of title 28, United States Code, a proceeding to enjoin or suspend, in whole or part, an order issued by the Commission assessing one or more civil penalties under this paragraph may only be brought in the United States court of appeals as provided by and in the manner prescribed in chapter 158 of such title.

28 USC 2341 *et*
seq.
Compensation of
shippers.

“(3) The amount of a civil penalty which may be assessed under paragraph (1) or (2) of this subsection for a failure or refusal shall not be more than \$500 for such failure or refusal and \$250 for each additional day during which such failure or refusal continues if, between the time the carrier, receiver, or trustee receives notice from the Commission of such failure or refusal and the commencement of the assessment hearing or trial, as the case may be, the carrier, receiver, or trustee adequately compensates the shipper or shippers, or offers adequate compensation to the shipper or shippers, for the harm they have suffered as a result of such failure or refusal.

“(4)(A) No civil penalty may be imposed under this subsection for a failure or refusal to comply with a regulation issued by the Commission relating to protection of individual shippers unless the shipper or shippers have suffered harm as a result of such failure or refusal.

“(B) In addition, no civil penalty may be imposed under this subsection for a failure or refusal to comply with a regulation issued by the Commission relating to protection of individual shippers—

“(i) if, before receiving notice from the Commission of such failure or refusal, the carrier, receiver, or trustee adequately compensates the shipper or shippers, or offers adequate compensation to the shipper or shippers, for the harm they have suffered as a result of such failure or refusal; or

“(ii) in the case of a carrier, receiver, or trustee that does not know or have reason to know that the shipper or shippers have suffered harm as a result of such failure or refusal before receiving notice from the Commission of such failure or refusal, if such carrier, receiver, or trustee adequately compensates the shipper or shippers, or offers adequate compensation to the shipper or shippers, for such harm before commencement under this subsection of the assessment hearing or trial, as the case may be.

“(5) In determining and negotiating the amount of a civil penalty under this subsection, the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, and such other matters as fairness may require shall be taken into account.

“(j) Any person that knowingly engages in or knowingly authorizes an agent or other person (1) to falsify documents used in the transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title which evidence the weight of a shipment, or (2) to charge for accessorial services which are not performed or for which the carrier is not entitled to be compensated in any case in which such services are not reasonably necessary in the safe and adequate movement of the shipment, is liable to the United States for a civil penalty of not more than \$2,000 for each violation and of not more than \$5,000 for each subsequent violation. Any State may bring a civil action in the United States district courts to compel a person to pay a civil penalty assessed under this subsection.”

Falsifying
documents;
illegal charges.
49 USC 10521.

(b)(1) Section 11348(a) of title 49, United States Code, is amended by striking out “(h)(1)” and inserting in lieu thereof “(k)(1)”.

(2) Section 2342(5) of title 28, United States Code, is amended by inserting “and all final orders of such Commission made reviewable under section 11901(i)(2) of title 49, United States Code” after “section 2321 of this title”.

WEIGHT BUMPING

SEC. 9. (a) Chapter 119 of title 49, United States Code, is amended by inserting after section 11916 the following new section:

“§11917. Weight-bumping in household goods transportation

49 USC 11917.

“(a) For the purposes of this section, ‘weight-bumping’ means the knowing and willful making or securing of a fraudulent weight on a shipment of household goods which is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title.

“Weight-bumping.”

“(b) Any individual who has been found to have committed weight-bumping shall, for each offense, be fined at least \$1,000 but not more than \$10,000, imprisoned for not more than 2 years, or both.”

Penalties.

(b) The analysis for chapter 119 of title 49, United States Code, is amended by inserting

“11917. Weight-bumping in household goods transportation.”

after

“11916. Conclusiveness of rates in certain prosecutions.”

GOVERNMENT TRAFFIC

SEC. 10. (a) Section 10922(b) of title 49, United States Code, is amended by adding at the end thereof the following new paragraph:

“(9) Notwithstanding the provisions of paragraph (4) of this subsection, 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 for the United States Government of used household goods which transportation is incidental to a pack and crate service on behalf of the Department of Defense.”

(b) Subsection (b) of section 10721 of title 49, United States Code, is amended—

(1) by inserting before the period at the end of paragraph (1) of such subsection the following: “; except that any rates for the transportation of household goods for the United States Government shall not be predatory”;

(2) by adding at the end of such subsection the following new paragraph:

“(3) Nothing in this subsection shall limit the Commission’s authority to suspend and investigate proposed rates for the transportation of household goods for the United States Government on the basis that such rates constitute predatory practices in contravention of the transportation policy set forth in section 10101(a) of this title. However, pending final Commission action in a proceeding under section 10708 of this title to determine whether a proposed rate for the transportation of household goods for the United States Government under this subsection is predatory or not, the Commission may suspend the proposed rate under subsection (b) of such section 10708 only if it appears from specific facts shown by the verified complaint of a person that—

“(A) without suspension, the proposed rate will cause substantial injury to the complainant; and

“(B) it is likely that the complainant will prevail on the merits.”.

Commission authority.

49 USC 10101.

49 USC 10708.

TECHNICAL AMENDMENTS

SEC. 11. (a) Section 10526(a) of title 49, United States Code, is amended by striking out "or" at the end of paragraph (9) and by redesignating the last three paragraphs (the second paragraph (10) and paragraphs (11) and (12)) of such section as paragraphs (11), (12), and (13), respectively.

(b) Section 10528 of title 49, United States Code, is amended by striking out "(10), (11), or (12)" and inserting in lieu thereof "(11), (12), or (13)". *Ante*, p. 812.

Approved October 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1372 (Comm. on Public Works and Transportation).
SENATE REPORT No. 96-497 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Dec. 20, considered and passed Senate.
Vol. 126 (1980): Sept. 25, considered and passed House, amended.
Sept. 30, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 42 (1980): Oct. 15, Presidential statement.