

**§ 10907. Exceptions**

(a) Notwithstanding sections 10901 and 10902 and subchapter III of chapter 113 of this title, and without the approval of the Interstate Commerce Commission, a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may enter into arrangements for the joint ownership or joint use of spur, industrial, team, switching, or side tracks.

(b) The Commission does not have authority under sections 10901–10906 of this title over—

(1) the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks if the tracks are located, or intended to be located, entirely in one State; or

(2) a street, suburban, or interurban electric railway that is not operated as part of a general system of rail transportation.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1407.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
10907(a) .....	49:1(18)(d) (1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §1(18)(d); added Feb. 5, 1976, Pub. L. 94–210, §801(a), 90 Stat. 126.
10907(b) .....	49:1(18)(d) (less 1st sentence). 49:1a(1) (last sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §1a(1) (last sentence); added Feb. 5, 1976, Pub. L. 94–210, §802, 90 Stat. 127; Oct. 19, 1976, Pub. L. 94–555, §218(a), 90 Stat. 2628.

In subsection (a), the words “contracts, agreements, or other” are omitted as surplus. The last sentence of 49:1a(1) is omitted because of article VI of the Constitution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10503, 11126, 11505, 11702, 11901 of this title.

**§ 10908. Discontinuing or changing interstate train or ferry transportation subject to State law**

(a) When a discontinuance or change in any part of the transportation of a train or ferry operating between a place in a State and a place in another State—

(1) is proposed by a carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title; and

(2) is subject to the law of a State, or to a regulation or order of, or proceeding pending before, a court or other authority of a State;

the carrier, notwithstanding that law, regulation, order, or proceeding, may discontinue or change the transportation—

(A) if it files a notice of the proposed discontinuance or change with the Commission at least 30 days before the discontinuance or change is intended to be effective and carries out the discontinuance or change under that notice;

(B) if it mails a copy of the notice to the chief executive officer of each State in which the train or ferry is operated and posts a copy

of the notice at each station, depot, or other facility served by the train or ferry; and

(C) except as otherwise provided by the Commission under this section.

(b) On petition or on its own initiative, the Commission may conduct a proceeding on the proposed discontinuance or change if it begins the proceeding between the date the carrier files the notice under subsection (a) of this section and the date on which the discontinuance or change is intended to be effective. After the proceeding begins, the Commission may order the carrier proposing the discontinuance or change to continue any part of the transportation pending completion of the proceeding and the decision of the Commission if the Commission serves a copy of its order on the carrier at least 10 days before the date on which the carrier intended the discontinuance or change to be effective. However, the Commission may not order the transportation continued for more than 4 months after the date on which the carrier intended the discontinuance or change to be effective.

(c) If, after a proceeding completed either before or after the proposed discontinuance or change has become effective, the Commission finds that any part of the transportation is required or permitted by present or future public convenience and necessity and will not unreasonably burden interstate or foreign commerce, the Commission may order the carrier to continue or restore that transportation for not to exceed one year from the date of the Commission order. On expiration of the Commission order, the jurisdiction of each State involved in the discontinuance or change is no longer superseded except to the extent this section is again invoked.

(Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1407.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
10908(a) .....	49:13a(1) (1st and 2d sentences).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §13a(1); added Aug. 12, 1958, Pub. L. 85–625, §5, 72 Stat. 571.
10908(b) .....	49:13a(1) (3d and 4th sentences).	
10908(c) .....	49:13a(1) (less sentences 1–4).	

In the section, the word “transportation” is substituted in each place for “operation or service” for consistency and as being more precise because the jurisdictional grant to the Interstate Commerce Commission under subchapter I of chapter 105 of the revised title is over transportation.

In subsection (a), the word “place” is substituted for “point” each time for consistency with other provisions of the subtitle. The words “or in the District of Columbia, or from a point in the District of Columbia to a point in any State” are omitted in view of the definition of “State” in section 10102 of the revised title. The words “but shall not be required to” are omitted as surplus. The word “law” is substituted for “any provision of the constitution or statutes” to eliminate redundancy. The words “or other authority” are substituted for “administrative or regulatory agency” for consistency and to eliminate redundancy. The words “chief executive officer” are substituted for “Governor” as more appropriate in view of the definition of “State” that includes the District of Columbia.

In subsection (b), the words “between the date the carrier files the notice under subsection (a) of this sec-

tion and the date on which the discontinuance or change is intended to be effective” are inserted for clarity and for consistency with subsection (a)(A) of this section. The word “petition” is substituted for “complaint” as being more appropriate. The words “without complaint” are omitted as surplus.

In subsection (c), the words “any part of the” are inserted before “transportation is required”, and the words “in whole or in part” are omitted later in the sentence, for clarity. The words “or permitted” and “present or future” are inserted for consistency with other provisions of subchapter I of chapter 109 of the revised title. The word “unreasonably” is substituted for “unduly” for consistency. See the revision note to section 10101 of the revised title. The words “the carrier to continue or restore” are substituted for “the continuance or restoration” to clarify who has the obligation to continue or restore is placed. The next-to-last sentence, related to the continued effectiveness of State action if notice is not filed, is omitted as surplus in view of subsection (a)(A) of this section. In the last sentence of the revised subsection, the words “except to the extent this section is again invoked” are substituted for “unless the procedure provided by this paragraph shall again be invoked by the carrier or carriers” as being more precise.

#### § 10909. Discontinuing or changing train or ferry transportation in one State

(a) When a carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title has proposed a discontinuance or change of any part of the transportation of a train or ferry operated by it entirely in one State and—

(1) the law of the State prohibits the discontinuance or change;

(2) the carrier has requested the State authority having jurisdiction over the discontinuance or change for permission to discontinue or change the transportation and the request has been denied; or

(3) the State authority has not acted finally by the 120th day after the carrier made the request;

the carrier may petition the Commission for permission to discontinue or change the transportation.

(b) When a petition is filed under subsection (a) of this section, the Commission shall notify the chief executive officer of the State in which the train or ferry is operated concerning the petition. Before acting on the petition, the Commission shall give interested parties a full hearing. If such a hearing is requested, the Commission shall give all interested parties at least 30 days notice of the hearing and shall hold the hearing in the State in which the train or ferry is operated. The Commission may cooperate with, and use the services, records, and facilities of, the State in carrying out this section.

(c) The Commission may grant permission to the carrier to discontinue or change any part of the transportation if the Commission finds that—

(1) the present or future public convenience and necessity require or permit the discontinuance or change to be authorized by the Commission; and

(2) continuing the transportation, without the proposed discontinuance or change, will constitute an unreasonable burden on the

interstate operations of the carrier or on interstate commerce.

(Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1408.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
10909(a) .....	49:13a(2) (1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 13a(2); added Aug. 12, 1958, Pub. L. 85-625, § 5, 72 Stat. 572.
10909(b), (c)	49:13a(2) (less 1st sentence).	

In the section, the word “transportation” is substituted each place for “operation or service” for consistency and as being more precise because the jurisdictional grant to the Interstate Commerce Commission under subchapter I of chapter 105 of the revised title is over transportation.

In subsection (a), the words “within the boundaries of a” and “duly” are omitted as surplus. The word “law” is substituted for “constitution or statutes” to eliminate redundancy. The words “requested” and “request” are substituted for “application or petition . . . filed” and “such an application or petition”, respectively, to provide one word to cover all kinds of forms that may be filed with a governmental authority and to avoid using the word “petition” in 2 different ways in the subsection. The word “permission” is substituted for “authority” to avoid confusion with the term “State authority”.

In subsection (b), the 2d sentence is restated for clarity to require the Commission to provide 2 different notices and for precision to cover the situation in which no hearing is requested. The words “chief executive officer” are substituted for “Governor” for consistency with other provisions of the subtitle.

In subsection (c), the word “permission” is substituted for “authority” to avoid confusion with the term “State authority”. The words “require or” are inserted for consistency with other provisions of subchapter I of chapter 109 of the revised title. The word “unreasonable” is substituted for “unjust and undue” for consistency and to eliminate redundancy. See the revision note to section 10101 of the revised title.

#### § 10910. Railroad development

(a) In this section—

(1) “financially responsible person” means a person who (A) is capable of paying the constitutional minimum value of the railroad line proposed to be acquired, and (B) is able to assure that adequate transportation will be provided over such line for a period of not less than 3 years. Such term includes a governmental authority but does not include a class I or a class II rail carrier.

(2) “railroad line” means (A) during the 3-year period beginning on the effective date of the Staggers Rail Act of 1980, a line of railroad which carried less than 3,000,000 gross ton miles of traffic per mile in the preceding calendar year, and (B) after the end of such 3-year period, any line of railroad.

(b)(1) When the Interstate Commerce Commission finds that—

(A)(i) the public convenience and necessity require or permit the sale of a particular railroad line under this section; or

(ii) a railroad line is on a system diagram map as required under section 10904 of this title, but the rail carrier owning such line has not filed an application to abandon such line under sections 10903 and 10904 of this title be-