

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

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 843.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11503 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

A prior section 11501, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1444; Pub. L. 96-448, title II, §214(a)-(c)(1), Oct. 14, 1980, 94 Stat. 1913, 1915; Pub. L. 97-261, §17(a), Sept. 20, 1982, 96 Stat. 1117; Pub. L. 99-521, §11(a), Oct. 22, 1986, 100 Stat. 2997; Pub. L. 103-272, §4(j)(34), July 5, 1994, 108 Stat. 1370; Pub. L. 103-305, title VI, §601(c), Aug. 23, 1994, 108 Stat. 1606; Pub. L. 103-311, title II, §211(b)(2), Aug. 26, 1994, 108 Stat. 1689, related to Interstate Commerce Commission authority over intrastate transportation, prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a). See section 14501 of this title.

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104-88, see section 2 of Pub. L. 104-88, set out as a note under section 701 of this title.

§ 11502. Withholding State and local income tax by rail carriers

(a) No part of the compensation paid by a rail carrier providing transportation subject to the jurisdiction of the Board under this part to an employee who performs regularly assigned duties as such an employee on a railroad in more than one State shall be subject to the income tax laws of any State or subdivision of that State, other than the State or subdivision thereof of the employee's residence.

(b) A rail carrier withholding pay from an employee under subsection (a) of this section shall file income tax information returns and other reports only with the State and subdivision of residence of the employee.

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 844.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11504 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

Prior sections 11502 to 11507 were omitted in the general amendment of this subtitle by Pub. L. 104-88, §102(a).

Section 11502, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1445, related to conferences and joint hearings with State authorities.

Section 11503, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1445, related to tax discrimination against rail transportation property. See section 11501 of this title.

Section 11503a, added Pub. L. 96-296, §31(a)(1), July 1, 1980, 94 Stat. 823; amended Pub. L. 97-261, §20, Sept. 20, 1982, 96 Stat. 1122, related to tax discrimination against motor carrier transportation property. See section 14502 of this title.

Section 11504, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1446; Pub. L. 97-261, §29(d), Sept. 20, 1982, 96 Stat. 1128; Pub. L. 101-322, §7, July 6, 1990, 104 Stat. 296; Pub. L. 103-272, §5(m)(33), July 5, 1994, 108 Stat. 1378, related to withholding State and local income tax by certain carriers. See sections 11502 and 14503 of this title.

Section 11505, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1448; Pub. L. 99-521, §11(b), Oct. 22, 1986, 100 Stat. 2998,

related to State action to enjoin rail carriers from certain actions.

Section 11506, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1448; Pub. L. 102-240, title IV, §4005, Dec. 18, 1991, 105 Stat. 2146, related to registration of motor carriers by a State.

Section 11507, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1449; Pub. L. 98-473, title II, §233, Oct. 12, 1984, 98 Stat. 2031, related to prison-made property governed by State law.

CHAPTER 117—ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES

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§ 11701. General authority

(a) Except as otherwise provided in this part, the Board may begin an investigation under this part only on complaint. If the Board finds that a rail carrier is violating this part, the Board shall take appropriate action to compel compliance with this part.

(b) A person, including a governmental authority, may file with the Board a complaint about a violation of this part by a rail carrier providing transportation or service subject to the jurisdiction of the Board under this part. The complaint must state the facts that are the subject of the violation. The Board may dismiss a complaint it determines does not state reasonable grounds for investigation and action. However, the Board may not dismiss a complaint made against a rail carrier providing transportation subject to the jurisdiction of the Board under this part because of the absence of direct damage to the complainant.

(c) A formal investigative proceeding begun by the Board under subsection (a) of this section is dismissed automatically unless it is concluded by the Board with administrative finality by the end of the third year after the date on which it was begun.

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 845.)

PRIOR PROVISIONS

A prior section 11701, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1449; Pub. L. 96-296, §26(a), July 1, 1980, 94 Stat. 818; Pub. L. 98-554, title II, §226(c)(4), Oct. 30, 1984, 98 Stat. 2851; Pub. L. 99-521, §12(a), Oct. 22, 1986, 100 Stat. 2998; Pub. L. 100-690, title IX, §9111(i), Nov. 18, 1988, 102 Stat. 4534; Pub. L. 103-272, §5(m)(34), July 5, 1994, 108 Stat. 1378, related to general authority of Interstate Commerce Commission to enforce this subtitle, prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a). See sections 11701, 14701, and 15901 of this title.

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104-88, see section 2 of Pub. L. 104-88, set out as a note under section 701 of this title.

§ 11702. Enforcement by the Board

The Board may bring a civil action—

(1) to enjoin a rail carrier from violating sections 10901 through 10906 of this title, or a regulation prescribed or order or certificate issued under any of those sections;

(2) to enforce subchapter II of chapter 113 of this title and to compel compliance with an order of the Board under that subchapter; and

(3) to enforce an order of the Board, except a civil action to enforce an order for the payment of money, when it is violated by a rail carrier providing transportation subject to the jurisdiction of the Board under this part.

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 845.)

PRIOR PROVISIONS

A prior section 11702, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1450; Pub. L. 96-296, §§15(c), 16(c), July 1, 1980, 94 Stat. 809, 810; Pub. L. 97-261, §25(e), Sept. 20, 1982, 96 Stat. 1125; Pub. L. 98-554, title II, §226(c)(5), Oct. 30, 1984, 98 Stat. 2851; Pub. L. 100-690, title IX, §9111(j), Nov. 18, 1988, 102 Stat. 4534, related to authority of Interstate Commerce Commission to bring a civil action to enforce various provisions of this subtitle, prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a). See sections 11702, 14702, and 15902 of this title.

§ 11703. Enforcement by the Attorney General

(a) The Attorney General may, and on request of the Board shall, bring court proceedings to enforce this part, or a regulation or order of the Board or certificate issued under this part, and to prosecute a person violating this part or a regulation or order of the Board or certificate issued under this part.

(b) The United States Government may bring a civil action on behalf of a person to compel a rail carrier providing transportation subject to the jurisdiction of the Board under this part to provide that transportation to that person in compliance with this part at the same rate charged, or on conditions as favorable as those given by the rail carrier, for like traffic under similar conditions to another person.

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 845.)

PRIOR PROVISIONS

A prior section 11703, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1450, related to authority of Attorney General and United States Government to bring civil actions to enforce this subtitle, prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a). See sections 11703, 14703, and 15903 of this title.

§ 11704. Rights and remedies of persons injured by rail carriers

(a) A person injured because a rail carrier providing transportation or service subject to the jurisdiction of the Board under this part does not obey an order of the Board, except an order for the payment of money, may bring a civil action in a United States District Court to enforce that order under this subsection.

(b) A rail carrier providing transportation subject to the jurisdiction of the Board under this part is liable for damages sustained by a person as a result of an act or omission of that carrier in violation of this part. A rail carrier providing transportation subject to the jurisdiction of the Board under this part is liable to a person for

amounts charged that exceed the applicable rate for the transportation.

(c)(1) A person may file a complaint with the Board under section 11701(b) of this title or bring a civil action under subsection (b) of this section to enforce liability against a rail carrier providing transportation subject to the jurisdiction of the Board under this part.

(2) When the Board makes an award under subsection (b) of this section, the Board shall order the rail carrier to pay the amount awarded by a specific date. The Board may order a rail carrier providing transportation subject to the jurisdiction of the Board under this part to pay damages only when the proceeding is on complaint. The person for whose benefit an order of the Board requiring the payment of money is made may bring a civil action to enforce that order under this paragraph if the rail carrier does not pay the amount awarded by the date payment was ordered to be made.

(d)(1) When a person begins a civil action under subsection (b) of this section to enforce an order of the Board requiring the payment of damages by a rail carrier providing transportation subject to the jurisdiction of the Board under this part, the text of the order of the Board must be included in the complaint. In addition to the district courts of the United States, a State court of general jurisdiction having jurisdiction of the parties has jurisdiction to enforce an order under this paragraph. The findings and order of the Board are competent evidence of the facts stated in them. Trial in a civil action brought in a district court of the United States under this paragraph is in the judicial district—

(A) in which the plaintiff resides;

(B) in which the principal operating office of the rail carrier is located; or

(C) through which the railroad line of that carrier runs.

In a civil action under this paragraph, the plaintiff is liable for only those costs that accrue on an appeal taken by the plaintiff.

(2) All parties in whose favor the award was made may be joined as plaintiffs in a civil action brought in a district court of the United States under this subsection and all the rail carriers that are parties to the order awarding damages may be joined as defendants. Trial in the action is in the judicial district in which any one of the plaintiffs could bring the action against any one of the defendants. Process may be served on a defendant at its principal operating office when that defendant is not in the district in which the action is brought. A judgment ordering recovery may be made in favor of any of those plaintiffs against the defendant found to be liable to that plaintiff.

(3) The district court shall award a reasonable attorney's fee as a part of the damages for which a rail carrier is found liable under this subsection. The district court shall tax and collect that fee as a part of the costs of the action.

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 846.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11705 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

A prior section 11704, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1451, related to actions by private persons to enjoin abandonment of service, prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

§ 11705. Limitation on actions by and against rail carriers

(a) A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part must begin a civil action to recover charges for transportation or service provided by the carrier within 3 years after the claim accrues.

(b) A person must begin a civil action to recover overcharges under section 11704(b) of this title within 3 years after the claim accrues, whether or not a complaint is filed under section 11704(c)(1).

(c) A person must file a complaint with the Board to recover damages under section 11704(b) of this title within 2 years after the claim accrues.

(d) The limitation period under subsection (b) of this section is extended for 6 months from the time written notice is given to the claimant by the rail carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the rail carrier within that limitation period. The limitation periods under subsections (b) and (c) of this section are extended for 90 days from the time the rail carrier begins a civil action under subsection (a) of this section to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

(e) A person must begin a civil action to enforce an order of the Board against a rail carrier for the payment of money within one year after the date the order required the money to be paid.

(f) This section applies to transportation for the United States Government. The time limitations under this section are extended, as related to transportation for or on behalf of the United States Government, for 3 years from the date of—

- (1) payment of the rate for the transportation or service involved;
- (2) subsequent refund for overpayment of that rate; or
- (3) deduction made under section 3726 of title 31, whichever is later.

(g) A claim related to a shipment of property accrues under this section on delivery or tender of delivery by the rail carrier.

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

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11706 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

A prior section 11705, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1451; Pub. L. 99-521, § 12(b), Oct. 22, 1986, 100 Stat. 2998, related to rights and remedies of persons injured by certain carriers, prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a). See sections 11704, 14704, and 15904 of this title.

§ 11706. Liability of rail carriers under receipts and bills of lading

(a) A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part shall issue a receipt or bill of lading for property it receives for transportation under this part. That rail carrier and any other carrier that delivers the property and is providing transportation or service subject to the jurisdiction of the Board under this part are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this subsection is for the actual loss or injury to the property caused by—

- (1) the receiving rail carrier;
- (2) the delivering rail carrier; or
- (3) another rail carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a through bill of lading.

Failure to issue a receipt or bill of lading does not affect the liability of a rail carrier. A delivering rail carrier is deemed to be the rail carrier performing the line-haul transportation nearest the destination but does not include a rail carrier providing only a switching service at the destination.

(b) The rail carrier issuing the receipt or bill of lading under subsection (a) of this section or delivering the property for which the receipt or bill of lading was issued is entitled to recover from the rail carrier over whose line or route the loss or injury occurred the amount required to be paid to the owners of the property, as evidenced by a receipt, judgment, or transcript, and the amount of its expenses reasonably incurred in defending a civil action brought by that person.

(c)(1) A rail carrier may not limit or be exempt from liability imposed under subsection (a) of this section except as provided in this subsection. A limitation of liability or of the amount of recovery or representation or agreement in a receipt, bill of lading, contract, or rule in violation of this section is void.

(2) A rail carrier of passengers may limit its liability under its passenger rate for loss or injury of baggage carried on trains carrying passengers.

(3) A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part may establish rates for transportation of property under which—

(A) the liability of the rail carrier for such property is limited to a value established by written declaration of the shipper or by a written agreement between the shipper and the carrier; or

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

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

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

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

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

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

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

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

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

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

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

PRIOR PROVISIONS

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

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

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

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

amount of the rate it would have received if it participated in hauling the property.

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

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

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

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

PRIOR PROVISIONS

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

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

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

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

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

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

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

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

CHAPTER 119—CIVIL AND CRIMINAL PENALTIES

Sec.

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§ 11901. General civil penalties

(a) Except as otherwise provided in this section, a rail carrier providing transportation sub-