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TITLE 49--TRANSPORTATION

SUBTITLE VII--AVIATION PROGRAMS

PART A--AIR COMMERCE AND SAFETY

subpart ii--economic regulation

CHAPTER 411--AIR CARRIER CERTIFICATES

Sec. 41102. General, temporary, and charter air transportation  
certificates of air carriers

(a) Issuance.--The Secretary of Transportation may issue a certificate of public convenience and necessity to a citizen of the United States authorizing the citizen to provide any part of the following air transportation the citizen has applied for under section 41108 of this title:

- (1) air transportation as an air carrier.
- (2) temporary air transportation as an air carrier for a limited period.
- (3) charter air transportation as a charter air carrier.

(b) Findings Required for Issuance.--(1) Before issuing a certificate under subsection (a) of this section, the Secretary must find that the citizen is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this part and regulations of the Secretary.

(2) In addition to the findings under paragraph (1) of this subsection, the Secretary, before issuing a certificate under subsection (a) of this section for foreign air transportation, must find that the transportation is consistent with the public convenience and necessity.

(c) Temporary Certificates.--The Secretary may issue a certificate under subsection (a) of this section for interstate air transportation (except the transportation of passengers) or foreign air transportation for a temporary period of time (whether the application is for permanent or temporary authority) when the Secretary decides that a test period is desirable--

- (1) to decide if the projected services, efficiencies, methods, and prices and the projected results will materialize and remain for a sustained period of time; or
- (2) to evaluate the new transportation.

(d) Foreign Air Transportation.--The Secretary shall submit each decision authorizing the provision of foreign air transportation to the President under section 41307 of this title.

(Pub. L. 103-272, Sec. 1(e), July 5, 1994, 108 Stat. 1119.)

Historical and Revision Notes

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Revised Section  
Source (Statutes at Large)

Source (U.S. Code)

<p>41102(a).....  23, 1958, Pub. L. 85-726, Sec.  (1), (2), 72 Stat. 755; Oct. 24,  Pub. L. 95-504, Sec. 8, 92  1712; restated Feb. 15, 1980,  L. 96-192, Sec. 4, 94 Stat. 37.  23, 1958, Pub. L. 85-726, 72 Stat.  Sec. 401(d)(3); added July 10,  Pub. L. 87-528, Sec. 2, 76  143; Oct. 24, 1978, Pub. L. 95-  Sec. 8, 92 Stat. 1712; restated  15, 1980, Pub. L. 96-192, Sec.  Stat. 37.  23, 1958, Pub. L. 85-726, 72 Stat.  Sec. 1601(b) (1)(E); added Oct.  1984, Pub. L. 98-443, Sec. 3(e),  Stat. 1704.</p>	<p>49 App.:1371(d)(1) (words  before 1st comma and after  semicolon), (2) (1st-32d  words).</p> <p>49 App.:1371(d)(3) (words  before 6th comma).</p> <p>49 App.:1551(b)(1)(E).</p> <p>49 App.:1371(d)(1) (words  between 1st and last commas),  (2) (42d-last words), (3)  (words after 7th comma).  49 App.:1551(b)(1)(E).  49 App.:1371(d)(1) (words  between last comma and  semicolon), (2) (33d-41st  words), (3) (words between 6th  and 7th commas).  49 App.:1551(a)(1)(A).</p> <p>49 App.:1551(b)(1)(E).  49 App.:1371(d)(8) (1st  sentence).</p> <p>49 App.:1551(a)(1)(B),  (b)(1)(E).  (no source).</p>	<p>Aug.  401(d)  1978,  Stat.  Pub.  Aug.  731,  1962,  Stat.  504,  Feb.  4, 94  Aug.  731,  4,  98  Aug.  731,  Oct.  40(a),  Aug.  731,  added  Sec.</p>
<p>41102(b)(1).....  41102(b)(2).....  23, 1958, Pub. L. 85-726, 72 Stat.  Sec. 1601(a) (1)(A), (B); added  24, 1978, Pub. L. 95-504, Sec.  92 Stat. 1744.  41102(c).....  23, 1958, Pub. L. 85-726, 72 Stat.  Sec. 401(d)(8) (1st sentence);  Oct. 24, 1978, Pub. L. 95-504,  13, 92 Stat. 1718.  41102(d).....  -----  -----</p>	<p>49 App.:1371(d)(1) (words  between 1st and last commas),  (2) (42d-last words), (3)  (words after 7th comma).  49 App.:1551(b)(1)(E).  49 App.:1371(d)(1) (words  between last comma and  semicolon), (2) (33d-41st  words), (3) (words between 6th  and 7th commas).  49 App.:1551(a)(1)(A).</p> <p>49 App.:1551(b)(1)(E).  49 App.:1371(d)(8) (1st  sentence).</p> <p>49 App.:1551(a)(1)(B),  (b)(1)(E).  (no source).</p>	<p>Aug.  731,  4,  98  Aug.  731,  Oct.  40(a),  Aug.  731,  added  Sec.</p>

In this section, the words ``citizen of the United States'' and ``citizen'' are substituted for ``applicant'' for clarity and consistency because only a citizen of the United States may be an ``air carrier'' as defined in section 40102(a) of the revised title, and only an air carrier may be a ``charter air carrier'' as defined in section 40102(a). The word ``provide'' is substituted for ``perform'' for consistency in the revised title.

In subsection (a), before clause (1), the words ``of public convenience and necessity'' are added for clarity. The words ``any part of'' are substituted for ``the whole or any part of'' to eliminate unnecessary words. In clauses (2) and (3), the words ``In the case of'' are omitted as surplus. In clause (3), the words ``for such periods'' are omitted as surplus.

In subsection (b)(1), the word ``comply'' is substituted for ``conform'' for consistency in the revised title. The words ``properly'' and ``requirements'' are omitted as surplus. The word ``rules'' is omitted as being synonymous with ``regulations''.

In subsection (b)(2), the words ``foreign air transportation'' are added because 49 App.:1551(a)(1)(A) provides that 49 App.:1371(d)(1)-(3) no longer applies to interstate or overseas transportation of persons. After January 1, 1985, other interstate and overseas air transportation and the domestic air transportation of mail do not require a certificate of public convenience and necessity. See H. Rept. 98-793, 98th Cong., 2d Sess., p.10 (1984).

In subsection (c), before clause (1), the words ``issue a certificate'' are substituted for ``grant an application'' for consistency in this chapter. The words ``for interstate air transportation (except the transportation of passengers) or foreign air transportation'' are added for clarity and consistency. The word ``only'' is omitted as surplus. In clause (1), the word ``prices'' is substituted for ``rates, fares, charges'' because of the definition of ``price'' in section 40102(a) of the revised title. The words ``in fact'' are omitted as surplus. In clause (2), the words ``to assess the impact of the new services on the national air route structure, or otherwise'' are omitted as surplus.

Subsection (d) is added for clarity.

#### Section Referred to in Other Sections

This section is referred to in sections 40109, 40118, 41104, 41105, 41106, 41107, 41108, 41109, 41110, 41111, 41112, 41113, 41307, 41312, 41505, 41709, 41713, 41762, 44901, 44915, 46301, 46316, 47102 of this title; title 22 section 3650; title 29 section 1301; title 39 section 5402.