

warder or party other than that legally on file with the Interstate Commerce Commission or the Board, as required, at the time of the movement for the transportation service;

(B) whether the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

(C) whether the carrier or freight forwarder did not properly or timely file with the Interstate Commerce Commission or the Board, as required, a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

(D) whether the transportation rate was billed and collected by the carrier or freight forwarder; and

(E) whether the carrier or freight forwarder or party demands additional payment of a higher rate filed in a tariff.

(c) **STAY OF ADDITIONAL COMPENSATION.**—When a person proceeds under this section to challenge the reasonableness of the practice of a motor carrier, freight forwarder, or party described in subsection (a) to attempt to charge or to charge the difference described in subsection (a) between the applicable rate and the negotiated rate for the transportation service in addition to those charges already billed and collected for the transportation service, the person shall not have to pay any additional compensation to the carrier, freight forwarder, or party until the Board has made a determination as to the reasonableness of the practice as applied to the freight of the person against whom the claim is made.

(d) **TREATMENT.**—Subsection (a) is an exception to the requirements of section 13702 and, for transportation provided before January 1, 1996, to the requirements of sections 10761(a) and 10762, as in effect on December 31, 1995, as such sections relate to a filed tariff rate and other general tariff requirements.

(e) **NONAPPLICABILITY OF NEGOTIATED RATE DISPUTE RESOLUTION PROCEDURE.**—If a person elects to seek enforcement of subsection (a) with respect to a rate for a transportation or service, section 13709 shall not apply to such rate.

(f) **DEFINITIONS.**—In this section, the term “negotiated rate” means a rate, charge, classification, or rule agreed upon by a motor carrier or freight forwarder and a shipper through negotiations pursuant to which no tariff was lawfully and timely filed and for which there is written evidence of such agreement.

(g) **APPLICABILITY TO PENDING CASES.**—This section shall apply to all cases and proceedings pending on January 1, 1996.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 877; amended Pub. L. 104-287, §5(31), Oct. 11, 1996, 110 Stat. 3391.)

#### HISTORICAL AND REVISION NOTES

##### PUB. L. 104-287

This amends 49:13711(a), (d), and (g) by setting out the effective date of 49:13711 and for clarity and consistency.

#### REFERENCES IN TEXT

Subchapter II of chapter 105, referred to in subsec. (a), was omitted in the general amendment of this sub-

title by Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

Chapter 107, as in effect on the date transportation was provided, referred to in subsec. (a), means chapter 107 of this title, as in effect on the date transportation was provided with respect to transportation provided before Jan. 1, 1996. Chapter 107 (§10701 et seq.) was omitted and a new chapter 107 enacted in the general amendment of this subtitle by Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, 809, effective Jan. 1, 1996.

Sections 10761(a) and 10762, referred to in subsec. (d), were omitted in the general amendment of this subtitle by Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, effective Jan. 1, 1996.

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2(e) of Pub. L. 103-180, set out as a note under former section 10701 of this title.

#### AMENDMENTS

1996—Subsec. (a). Pub. L. 104-287, §5(31)(A), substituted “or, before January 1, 1996” for “or, before the effective date of this section”, “December 31, 1995” for “the day before the effective date of this section”, and “provided before January 1, 1996” for “provided before the effective date of this section”.

Subsec. (d). Pub. L. 104-287, §5(31)(B), substituted “January 1, 1996” for “the effective date of this section” and “December 31, 1995” for “the day before such effective date”.

Subsec. (g). Pub. L. 104-287, §5(31)(C), substituted “January 1, 1996” for “the effective date of this section”.

#### ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104-88, set out as a note under section 701 of this title.

### § 13712. Government traffic

A carrier providing transportation or service for the United States Government may transport property or individuals for the United States Government without charge or at a rate reduced from the applicable commercial rate. Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply when transportation for the United States Government can be obtained from a carrier lawfully operating in the area where the transportation would be provided.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 879.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10721 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

### § 13713. Food and grocery transportation

(a) **CERTAIN COMPENSATION PROHIBITED.**—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 non-discriminatory basis and does not exceed the actual cost to the seller of delivery to such customer.

(b) **SENSE OF CONGRESS.**—It is the sense of the Congress that any savings accruing to a cus-