

Title 49 United States Code (USC) Section 40118 01/03/05

Title 49 - Transportation,
Subtitle VII - Aviation Programs,
Part A - Air Commerce and Safety,
subpart i - general,
Chapter 401 - General Provisions,
Sec. 40118. Government-financed air transportation -
STATUTE-

(a) Transportation by Air Carriers Holding Certificates. - A department, agency, or instrumentality of the United States Government shall take necessary steps to ensure that the transportation of passengers and property by air is provided by an air carrier holding a certificate under section 41102 of this title if –

(1) the department, agency, or instrumentality –

(A) obtains the transportation for itself or in carrying out an arrangement under which payment is made by the Government or payment is made from amounts provided for the use of the Government; or

(B) provides the transportation to or for a foreign country or international or other organization without reimbursement;

(2) the transportation is authorized by the certificate or by regulation or exemption of the Secretary of Transportation; and

(3) the air carrier is –

(A) available, if the transportation is between a place in the United States and a place outside the United States; or

(B) reasonably available, if the transportation is between 2 places outside the United States.

(b) Transportation by Foreign Air Carriers. - This section does not preclude the transportation of passengers and property by a foreign air carrier if the transportation is provided under a bilateral or multilateral air transportation agreement to which the Government and the government of a foreign country are parties if the agreement –

(1) is consistent with the goals for international aviation policy of section 40101(e) of this title; and

(2) provides for the exchange of rights or benefits of similar magnitude.

(c) Proof. - The Administrator of General Services shall prescribe regulations under which agencies may allow the expenditure of an appropriation for transportation in

violation of this section only when satisfactory proof is presented showing the necessity for the transportation.

(d) Certain Transportation by Air Outside the United States. – Notwithstanding subsections (a) and (c) of this section, any amount appropriated to the Secretary of State or the Administrator of the Agency for International Development may be used to pay for the transportation of an officer or employee of the Department of State or one of those agencies, a dependent of the officer or employee, and accompanying baggage, by a foreign air carrier when the transportation is between 2 places outside the United States.

(e) Relationship to Other Laws. - This section does not affect the application of the antidiscrimination provisions of this part.

(f) Prohibition of Certification or Contract Clause. –

(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the transportation of commercial items in order to implement a requirement in this section.

(2) In paragraph (1), the term "commercial item" has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)), except that it shall not include a contract for the transportation by air of passengers.

-SOURCE-

(Pub. L. 103-272, Sec. 1(e), July 5, 1994, 108 Stat. 1116; Pub. L.103-355, title VIII, Sec. 8301(h), Oct. 13, 1994, 108 Stat. 3398; Pub. L. 104-287, Sec. 5(68), Oct. 11, 1996, 110 Stat. 3395; Pub. L.104-316, title I, Sec. 127(d), Oct. 19, 1996, 110 Stat. 3840; Pub. L. 105-277, div. G, subdiv. A, title XII, Sec. 1225(h), title XIII, Sec. 1335(p), title XIV, Sec. 1422(b)(6), Oct. 21, 1998, 112 Stat. 2681-775, 2681-789, 2681-793; Pub. L. 108-176, title VIII, Sec. 806, Dec. 12, 2003, 117 Stat. 2588.)

-HISTORICAL AND REVISION NOTES-

PUB. L. 103-272

Revised Source (U.S. Code) Source (Statutes at Large)

Section

40118 (a) 49 App.:1517(a), Aug. 23, 1958, Pub. L.

(b). 85-726, 72 Stat. 731, Sec. 1117; added Jan. 3, 1975, Pub. L. 93-623, Sec. 5(a), 88 Stat. 2104; restated Feb. 15, 1980, Pub. L. 96-192, Sec. 21, 94 Stat. 43. 49 Aug. 23, 1958, Pub. L. App.:1551(b)(1)(E). 85-726, 72 Stat. 731, Sec. 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, Sec. 3(e), 98 Stat. 1704. 40118(b) 49 App.:1517(c). 40118(c) 49 App.:1517(d)(1st sentence). 40118(d) 49 App.:1518. Oct. 7, 1978, Pub. L. 95-426, Sec. 706, 92 Stat. 992. 40118(e) 49 App.:1517(d) (last sentence).

In this section, the word "passengers" is substituted for "persons" for consistency in the revised title. The words "(and their personal effects)" are omitted as being included in "property".

In subsection (a), before clause (1), the words "Except as provided in subsection (c) of this section" are omitted as surplus. The words "department, agency, or instrumentality" are substituted for "agency" for consistency in the revised title and with other titles of the United States Code. The words "or agencies" are omitted because of 1:1. In clause (1), before subclause (A), the words "executive" and "other" are omitted as surplus. In subclause (A), the words "procure, contract for, or otherwise" are omitted as surplus. The words "for itself or in carrying out an arrangement under which payment is made by the Government or payment is made from amounts provided for the use of the Government" are substituted for "in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other special arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or conditionally granted or utilized by or otherwise" for clarity and to eliminate unnecessary words. In subclause (B), the word "country" is substituted for "nation" for consistency in the revised title and with other titles of the Code. The words "international or other organization" are substituted for "international agency, or other organization, of whatever nationality" to eliminate unnecessary words. The words "provisions for" are omitted as surplus.

In subsection (b), before clause (1), the words "government of a foreign country" are substituted for "foreign government" for consistency in the revised title and with other titles of the Code. The words "or governments" are omitted because of 1:1.

In subsection (c), the words "for payment for personnel or cargo transportation" are omitted as surplus.

In subsection (d), the words "the limitations established by" are omitted as surplus. The words "after October 7, 1978" are omitted as executed. The words "Secretary of State" are substituted for "Department of State" because of 22:2651. The words "Director of the United States Information Agency" are substituted for "International Communication Agency" in section 706 of the Act of October 7, 1978 (Public Law 95-426, 92 Stat. 992), because of section 2 of Reorganization Plan No. 2 of 1977 (eff. July 1, 1978, 91 Stat. 1636) and section 303(b) of the United States Information Agency

Authorization Act, Fiscals Year 1982 and 1983 (Public Law 97-241, 96 Stat. 291). The words "Director of the United States International Development Cooperation Agency" are substituted for "Agency for International Development (or any successor agency)" in section 706 because of section 6(a)(3) of Reorganization Plan No. 2 of 1979 (eff. October 1, 1979, 93 Stat. 1379). The words "a foreign air carrier" are substituted for "air carriers which do not hold certificates under section 1371 of this Appendix" for clarity. See H. Conf. Rept. No. 95-1535, 95th Cong., 2d Sess., p. 45 (1978).

In subsection (e), the word "affect" is substituted for "prevent" for clarity. The words "to such traffic" are omitted as surplus.

PUB. L. 104-287, SEC. 5(68)(A)

This amends the catchline for 49:40118(d) to make a clarifying amendment.

PUB. L. 104-287, SEC. 5(68)(B)

This amends 49:40118(f)(1) to make a clarifying amendment.

AMENDMENTS

2003 - Subsec. (f)(2). Pub. L. 108-176 inserted ", except that it shall not include a contract for the transportation by air of passengers" before period at end.

1998 - Subsec. (d). Pub. L. 105-277, Sec. 1422(b)(6), substituted "or the Administrator of the Agency for International Development" for "the Director of the United States International Development Cooperation Agency".

Pub. L. 105-277, Sec. 1335(p), struck out ", the Director of the United States Information Agency," after "Secretary of State".

Pub. L. 105-277, Sec. 1225(h), struck out ", or the Director of the Arms Control and Disarmament Agency" before "may be used to pay".

1996 - Subsec. (c). Pub. L. 104-316 substituted "Administrator of General Services shall prescribe regulations under which agencies may" for "Comptroller General shall".
Subsec. (d). Pub. L. 104-287, Sec. 5(68)(A), substituted "Certain Transportation by Air Outside the United States" for "Transportation by Foreign Air Carriers" in heading.
Subsec. (f). Pub. L. 104-287, Sec. 5(68)(B), inserted heading.

1994 - Subsec. (f). Pub. L. 103-355 added subsec. (f).

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1225(h) of Pub. L. 105-277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States Arms Control and Disarmament Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1201 of Pub. L. 105-277, set out as an Effective Date note under section 6511 of Title 22.

Amendment by section 1335(p) of Pub. L. 105-277 effective on earlier of Oct. 1, 1999, or date of abolition of the United States Information Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1301 of Pub. L. 105-277, set out as an Effective Date note under section 6531 of Title 22.

Amendment by section 1422(b)(6) of Pub. L. 105-277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States International Development Cooperation Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1401 of Pub. L. 105-277, set out as an Effective Date note under section 6561 of Title 22.

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 251 of Title 41, Public Contracts.