

Public Law 95-208
95th Congress

An Act

To establish uniform structural requirements for intermodal cargo containers, subject to the jurisdiction of the United States, designed to be transported interchangeably by sea and land carriers, and moving in, or designed to move in, international trade, and for other purposes.

Dec. 13, 1977

[H.R. 8159]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Safe Container Act".

International
Safe Container
Act.

46 USC 1501
note.

46 USC 1501.

SEC. 2. DEFINITIONS.

As used in this Act—

(a) The term "Secretary" means the Secretary of Transportation.
(b) The term "Convention" means the International Convention for Safe Containers, and the annexes thereto, done at Geneva, Switzerland, December 2, 1972.

(c) The term "container" shall have the same meaning as that term is defined in the Convention.

(d) The term "international transport" means the transportation of a container—

(1) to any place within the jurisdiction of the United States from a place within a foreign country;

(2) by United States carriers between two points both of which are outside of the United States; or

(3) from any place within the jurisdiction of the United States to any place within a foreign country.

(e) The term "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(f) The term "new container" means a container (other than a container specially designed for air transport) which is used or is designed for use in international transport, the construction of which began on or after September 6, 1977.

(g) The term "existing container" means a container (other than a container specially designed for air transport) which is used or is designed for use in international transport and which is not a new container.

(h) The term "owner" means a person who owns a container, or, if a written lease or bailment provides for the lessee or bailee to exercise the owner's responsibility for maintaining and examining the container, the lessee or bailee of a container, to the extent such agreement so provides.

(i) The term "safety approval plate" shall have the same meaning as that term is defined in annex I of the Convention.

Containers,
approval and
examination.
46 USC 1502.

SEC. 3. DUTIES OF AN OWNER.

(a) Beginning on the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention, for new containers, and beginning on September 6, 1982, for existing containers, the owner of each such container—

(1) who is domiciled and has his principal office in the United States, shall have each such container initially approved in accordance with the procedure established by the Secretary or by the administration of another contracting party to the Convention; and shall, thereafter, have each such container periodically examined, as provided in the Convention, in accordance with the procedure established by the Secretary; and

(2) who is either domiciled or has his principal office in the United States, shall have each such container initially approved in accordance with the procedure established by the Secretary or by the administration of another contracting party to the Convention; and shall, thereafter, have each such container periodically examined, as provided in the Convention, in accordance with the procedure established by the administration of either the country where he is domiciled or has his principal office (so long as such country is a party to the Convention).

Any owner of either a new or existing container who is neither domiciled nor maintains a principal office in the United States, or in any other country which is a party to the Convention, may submit their containers for approval and periodic examination according to the procedure established by the Secretary.

(b) During the period beginning on the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention, and before September 6, 1982, an owner of an existing container may have such container approved according to the procedure established by the Secretary, and have a safety approval plate affixed to it, if such container is found to meet the standards of the Convention.

SEC. 4. DUTIES OF THE SECRETARY.

(a) On and after the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention, the Secretary shall enforce and carry out the provisions of the Convention, and, unless an earlier date is specifically provided, the provisions of this Act, in the United States.

(b) The Secretary shall, as soon as practicable after the date of enactment of this Act, promulgate, and from time to time, amend, those regulations he deems necessary for such enforcement. Such regulations, among other things, shall—

(1) establish procedures for the testing, inspection, and initial approval of existing and new containers and of designs for new containers, including procedures relating to the affixing, invalidating, and removal of safety approval plates for containers;

(2) establish procedures to be followed by owners of containers relating to the periodic examination of containers, as provided in the Convention; and

(3) provide a method for developing, collecting, and disseminating data concerning container safety and the international transport of containers.

Enforcement.
46 USC 1503.

Regulations.

Containers,
testing and
approval
procedures.
Periodic
examination.

Data, collection
and
dissemination.

(c) At any time after the date of enactment of this Act, the Secretary may—

(1) authorize the affixation of a safety approval plate to any container which, after examination, is found not to have a safety approval plate attached to it and which the owner has established meets the standards of the Convention; Safety approval plate, affixation.

(2) delegate and withdraw the delegation of authority to initially approve existing and new containers and designs for new containers, and to authorize the affixing of safety approval plates; and Authority delegation.

(3) establish a schedule of fees to be charged and collected for services performed by the Secretary, or under authority delegated by the Secretary, relating to the testing, inspection, and initial approval of containers and container designs. Fees.

(d) Those delegations made under subsection (c) (2) may be made to any person, including any public or private agency or nonprofit organization. The Secretary before making any delegation under such subsection, shall promulgate regulations relating to— Regulations.

(1) the criteria to be followed in selecting a person, public or private agency, or nonprofit organization as a recipient of delegated functions under such subsection;

(2) the manner in which such recipient shall carry out such delegated functions, including the records such recipient must keep, and a detailed description of the exact functions such recipient may exercise; and

(3) the review that will be carried out by the Secretary to determine that any recipient of delegated functions is performing properly the functions so delegated.

No recipient of authority delegated under such subsection may assess or collect, or attempt to assess or collect, any penalty for violation of any provision of this Act, the Convention, or any order of the Secretary issued under this Act, or issue or attempt to issue any detention or other order. Any records required to be kept by regulations promulgated by the Secretary under this subsection shall be available to the Secretary, for inspection, upon request. The name and address of the recipient, if other than the owner, together with the functions so delegated and the period of designation, shall be published in the Federal Register and otherwise publicized as appropriate.

Records, availability.
Publication in Federal Register.

(e) The Secretary shall, to the maximum possible extent, encourage the development and use of intermodal transport, using containers constructed to facilitate economical, safe, and expeditious handling of containerized cargo without intermediate reloading while such cargo is in transport over land, air, and sea areas.

SEC. 5. ENFORCEMENT.

(a) (1) On and after the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention, to ensure compliance with this Act, and with the Convention, the Secretary may— 46 USC 1504.

(A) examine, or require to be examined, new containers, and existing containers which are subject to this Act, in international transport, and test, inspect, and approve designs for new containers and new containers being manufactured; Container examination, testing, and approval.

(B) issue a detention order removing or excluding a container from service until the owner of the container establishes to the Secretary's satisfaction that the container meets the standards of the Convention, if the container is subject to this Act and does Detention order.

- not have a valid safety approval plate attached to it, or if there is significant evidence that such a container bearing a safety approval plate is in a condition which creates an obvious risk to safety; and
- Noncompliance.** (C) take whatever other appropriate action he deems necessary, including issuance of any necessary orders, to remove the container involved from service, or restrict its use, in those instances where he finds that a container is not in compliance with the provisions of this Act or the Convention but does not present an obvious risk to safety.
- Unsafe or invalid container, movement.** The Secretary may permit the movement to another location of a container which he finds to be unsafe or which does not have a valid safety approval plate affixed to it, under whatever restriction he considers necessary and consistent with the intent of the Convention, for repair or other appropriate disposition.
- Internationally used container examination, effective date. Examination and approval, payment.** (2) Beginning on September 6, 1982, the Secretary may examine or require to be examined any existing container in international transport.
- (b) The owner of the container involved in any action taken by the Secretary under this section with respect to an examination of a container, shall pay for or reimburse the Secretary for expenses arising from such actions, except for the costs of routine examinations of containers or safety approval plates. In addition, the owner of containers submitted to the procedure established by the Secretary for testing, inspection, and initial approval, and the manufacturers who submit designs of containers to the procedures established by the Secretary for testing, inspection, and initial approval shall pay for or reimburse the Secretary for the expenses arising from such testing, inspection or approval. Funds received by the Secretary in reimbursement shall be credited to the appropriations bearing the cost thereof.
- (c) A container bearing a safety approval plate authorized by a country which is a party to the Convention shall be presumed to be in a safe condition unless there is significant evidence that the container creates an obvious risk to safety.
- Order issuance, notification.** (d) Whenever the Secretary issues a detention or other order under this section, he shall promptly notify, in writing, either the owner of the container subject to such order, his agent, or, when the identity of such owner is not apparent from the container of shipping documents, the custodian. The notification shall reasonably identify the container involved, give the location of the container, and reasonably describe the condition or situation which gave rise to the order. An order issued by the Secretary under this section shall remain in effect until the container is declared by the Secretary, or under regulations promulgated by the Secretary, to be in compliance with the standards of the Convention, or until it is permanently removed from service, whichever first occurs.
- (e) If there is reason to believe that a container to which there is affixed a safety approval plate issued by a foreign country was defective at the time of approval, the Secretary shall notify the country which issued the approval of such defect.
- SEC. 6. PENALTIES.**
- 46 USC 1505.** (a) On and after the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention, any owner, agent, or custodian who—
- (1) has been notified of an order issued by the Secretary under section 5; and

(2) fails to take reasonable and prompt action to prevent or stop a container subject to that order from being moved in violation of that order;

shall be subject to a civil penalty of not more than \$5,000 for each container so moved. Each day the container remains in service while the order is in effect shall be treated as a separate violation.

(b) The Secretary shall assess and collect any penalty incurred under this section, and, in his discretion may remit, mitigate, or compromise any such penalty. No penalty shall be assessed until after the person charged has been given notice and an opportunity for a hearing. In assessing, remitting, mitigating, or compromising a penalty the Secretary shall consider the gravity of the violation, the hazards involved, and the record of the person charged with respect to violations of this Act or of the Convention. Upon failure of any person to pay any penalty assessed against him by the Secretary, the Secretary shall request the Attorney General to begin an action in any district court of the United States to recover the amount of the penalty unpaid.

Assessment,
collection, and
remittance.

Recovery actions.

SEC. 7. EMPLOYEE PROTECTION.

(a) No person shall discharge or in any manner discriminate against an employee because the employee has reported the existence of an unsafe container or reported a violation of this Act to the Secretary or his agents.

46 USC 1506.

(b) An employee who believes that he has been discharged or discriminated against in violation of this section may, within 60 days after the violation occurs, file a complaint alleging discrimination with the Secretary of Labor.

Complaint, filing.

(c) The Secretary of Labor may investigate the complaint and, if he determines that this section has been violated, bring an action in an appropriate United States district court. The district court shall have jurisdiction to restrain violations of subsection (a) of this section and to order appropriate relief, including rehiring and reinstatement of the employee to his former position with back pay.

Investigation.

Jurisdiction.

(d) Within 30 days after the receipt of a complaint filed under this section the Secretary of Labor shall notify the complainant of his intended action regarding the complaint.

Notification to
complainant.

SEC. 8. AMENDMENTS TO THE CONVENTION.

(a) The Secretary of State, with the concurrence of the Secretary, may propose amendments to the Convention or may request a conference for amending the Convention in accordance with article IX of the Convention. An amendment communicated to the United States in accordance with article IX (2) of the Convention may be accepted for the United States by the President, with the advice and consent of the Senate. The President may make a declaration that the United States does not accept an amendment.

46 USC 1507.

(b) The Secretary of State, with the concurrence of the Secretary, may propose amendments to the annexes of the Convention, may propose a conference for amending annexes to the Convention and shall consider and act on amendments to the annexes of the Convention adopted by the Maritime Safety Committee and communicated to the United States in accordance with article X (2) of the Convention. If a proposed amendment is approved by the United States, the amendment shall enter into force in accordance with article X of the Convention. If any proposed amendment is objected to, the Secretary of State shall promptly communicate the objection as provided in article X (3) of the Convention.

Arbitrator,
appointment by
Secretary of
State.

(c) The Secretary of State, with the concurrence of the Secretary, shall appoint an arbitrator when one is required to resolve a dispute within the meaning of article XIII of the Convention.

46 USC 1508.

SEC. 9. AUTHORIZATION OF APPROPRIATION.

Beginning with the fiscal year ending September 30, 1979, and for each fiscal year thereafter, there are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

Approved December 13, 1977.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-693, pt. 1 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 95-552 accompanying S. 1597 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 123 (1977):

Nov. 1, considered and passed House; also S. 1597 considered and passed Senate.

Nov. 4, considered and passed Senate, amended, in lieu of S. 1597.

Nov. 29, House concurred in Senate amendment.