

**§ 97.22**

mouth with tape, the use of excessive force, and sexual misconduct;

(e) Policies, practices, and procedures are in effect to ensure that juvenile prisoners are separated from adult prisoners during transportation, where practicable;

(f) Policies, practices, and procedures are in effect to ensure that female prisoners are separated from male prisoners during transportation, where practicable;

(g) Policies, practices, and procedures are in effect to ensure that female guards are on duty to supervise the transportation of female violent prisoners, where practicable;

(h) Staff are well trained in the handling and restraint of prisoners, including the proper use of firearms and other restraint devices, and have received specialized training in the area of sexual harassment; and

(i) Private transport companies are responsible for taking reasonable measures to insure the well being of the prisoners in their custody including, but not limited to, necessary stops for restroom use and meals, proper heating and ventilation of the transport vehicle, climate-appropriate uniforms, and prohibitions on the use of tobacco, in any form, in the transport vehicle.

**§ 97.22 No pre-emption of federal, State, or local laws or regulations.**

The regulations in this part implement the Act and do not pre-empt any applicable federal, State, or local law that may impose additional obligations on private prisoner transport companies or otherwise regulate the transportation of violent prisoners. All federal laws and regulations governing interstate commerce will continue to apply to private prisoner transport companies including, but not limited to: federal laws regulating the possession of weapons, Federal Aviation Administration or Transportation Security Administration rules and regulations governing travel on commercial aircraft, and all applicable federal, State, or local motor carrier regulations. The regulations in this part in no way pre-empt, displace, or affect the authority of States, local governments,

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or other federal agencies to address these issues.

**§ 97.24 No civil defense created.**

The regulations in this part on private prisoner transport companies are not intended to create a defense to any civil action, whether initiated by a unit of government or any other party. Compliance with the regulations in this part is not intended to and does not establish a defense against an allegation of negligence or breach of contract. Regardless of whether a contractual agreement establishes minimum precautions, the companies affected by the regulations in this part will remain subject to the standards of care that are imposed by constitutional, statutory, and common law upon their activities (or other activities of a similarly hazardous nature).

**§ 97.30 Enforcement.**

Any person who is found in violation of the regulations in this part will:

(a) Be liable to the United States for a civil penalty in an amount not to exceed \$10,000 for each violation;

(b) Be liable to the United States for the costs of prosecution; and

(c) Make restitution to any entity of the United States, of a State, or of an inferior political subdivision of a State, that expends funds for the purpose of apprehending any violent prisoner who escapes from a prisoner transport company as the result, in whole or in part, of a violation of the regulations in this part promulgated pursuant to the Act.

**PART 100—COST RECOVERY REGULATIONS, COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT OF 1994**

- Sec.
- 100.9 General.
- 100.10 Definitions.
- 100.11 Allowable costs.
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