

§ 2117. Termination for unsafe operation

An individual authorized to enforce this title—

(1) may remove a certificate required by this title from a vessel that is operating in a condition that does not comply with the provisions of the certificate;

(2) may order the individual in charge of a vessel that is operating that does not have on board the certificate required by this title to return the vessel to a mooring and to remain there until the vessel is in compliance with this title; and

(3) may direct the individual in charge of a vessel to which this title applies to immediately take reasonable steps necessary for the safety of individuals on board the vessel if the official observes the vessel being operated in an unsafe condition that the official believes creates an especially hazardous condition, including ordering the individual in charge to return the vessel to a mooring and to remain there until the situation creating the hazard is corrected or ended.

(Added Pub. L. 111-281, title VI, §608(a), Oct. 15, 2010, 124 Stat. 2967.)

§ 2118. Establishment of equipment standards

(a) In establishing standards for approved equipment required on vessels subject to part B of this title,¹ the Secretary shall establish standards that are—

(1) based on performance using the best available technology that is economically achievable; and

(2) operationally practical.

(b) Using the standards established under subsection (a), the Secretary may also certify life-saving equipment that is not required to be carried on vessels subject to part B of this title² to ensure that such equipment is suitable for its intended purpose.

(c) At least once every 10 years the Secretary shall review and revise the standards established under subsection (a) to ensure that the standards meet the requirements of this section.

(Added Pub. L. 111-281, title VI, §608(a), Oct. 15, 2010, 124 Stat. 2968.)

CHAPTER 23—OPERATION OF VESSELS GENERALLY

Table with 2 columns: Sec. and description of sections 2301 through 2307.

HISTORICAL AND REVISION NOTES

Chapter 23 lists requirements that relate to the general operation of all vessels. These include penalties

¹ So in original. Probably should be "this subtitle".

² So in original. Probably should be "this subtitle".

and injunctive relief for negligent operation of a vessel. It also provides penalties for failure to render assistance.

AMENDMENTS

2002—Pub. L. 107-295, title IV, §431(b), Nov. 25, 2002, 116 Stat. 2128, added item 2307.

1998—Pub. L. 105-383, title III, §§302(b), 304(d)(2), Nov. 13, 1998, 112 Stat. 3418, 3420, added item 2302, struck out former item 2302 "Penalties for negligent operations", and added item 2303a.

1984—Pub. L. 98-498, title II, §212(a)(1), Oct. 19, 1984, 98 Stat. 2305, added item 2306.

§ 2301. Application

Except as provided in sections 2304 and 2306 of this title, this chapter applies to a vessel operated on waters subject to the jurisdiction of the United States (including the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988) and, for a vessel owned in the United States, on the high seas.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 508; Pub. L. 98-498, title II, §212(a)(2), Oct. 19, 1984, 98 Stat. 2305; Pub. L. 105-383, title III, §301(b)(2), Nov. 13, 1998, 112 Stat. 3417; Pub. L. 109-304, §15(7), Oct. 6, 2006, 120 Stat. 1702.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section and Source section (U.S. Code). Row for 2301 pointing to 46:480.

Section 2301 provides that this chapter is applicable to all vessels, including foreign flag vessels, when operating on waters subject to the jurisdiction of the United States. Any vessel owned in the United States while operating on the high seas would be included. By ownership the Committee means those vessels that are documented or numbered under United States laws and those other vessels that are neither documented or numbered but are of national origin and are not documented under the laws of a foreign nation. This chapter is applicable to a foreign flag vessel that is in innocent passage through territorial waters of the United States, presently 3 miles seaward, whether or not it is bound to or from a port subject to the jurisdiction of the United States.

REFERENCES IN TEXT

Presidential Proclamation No. 5928, referred to in text, is set out under section 1331 of Title 43, Public Lands.

AMENDMENTS

2006—Pub. L. 109-304 substituted "sections 2304 and" for "section".

1998—Pub. L. 105-383 inserted "(including the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988)" after "of the United States".

1984—Pub. L. 98-498 substituted "Except as provided in section 2306 of this title, this chapter" for "This chapter".

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-498 effective 180 days after Oct. 19, 1984, see section 214 of Pub. L. 98-498, set out as an Effective Date note under section 2306 of this title.

§ 2302. Penalties for negligent operations and interfering with safe operation

(a) A person operating a vessel in a negligent manner or interfering with the safe operation of

a vessel, so as to endanger the life, limb, or property of a person is liable to the United States Government for a civil penalty of not more than \$5,000 in the case of a recreational vessel, or \$25,000 in the case of any other vessel.

(b) A person operating a vessel in a grossly negligent manner that endangers the life, limb, or property of a person commits a class A misdemeanor.

(c) An individual who is under the influence of alcohol, or a dangerous drug in violation of a law of the United States when operating a vessel, as determined under standards prescribed by the Secretary by regulation—

- (1) is liable to the United States Government for a civil penalty of not more than \$5,000; or
- (2) commits a class A misdemeanor.

(d) For a penalty imposed under this section, the vessel also is liable in rem unless the vessel is—

- (1) owned by a State or a political subdivision of a State;
- (2) operated principally for governmental purposes; and
- (3) identified clearly as a vessel of that State or subdivision.

(e)(1) A vessel may not transport Government-impelled cargoes if—

(A) the vessel has been detained and determined to be substandard by the Secretary for violation of an international safety convention to which the United States is a party, and the Secretary has published notice of that detention and determination in an electronic form, including the name of the owner of the vessel; or

(B) the operator of the vessel has on more than one occasion had a vessel detained and determined to be substandard by the Secretary for violation of an international safety convention to which the United States is a party, and the Secretary has published notice of that detention and determination in an electronic form, including the name of the owner of the vessel.

(2) The prohibition in paragraph (1) expires for a vessel on the earlier of—

(A) 1 year after the date of the publication in electronic form on which the prohibition is based; or

(B) any date on which the owner or operator of the vessel prevails in an appeal of the violation of the relevant international convention on which the detention is based.

(3) As used in this subsection, the term “Government-impelled cargo” means cargo for which a Federal agency contracts directly for shipping by water or for which (or the freight of which) a Federal agency provides financing, including financing by grant, loan, or loan guarantee, resulting in shipment of the cargo by water.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 508; Pub. L. 98–557, § 7(a), Oct. 30, 1984, 98 Stat. 2862; Pub. L. 101–380, title IV, §§ 4105(b)(2), 4302(a), Aug. 18, 1990, 104 Stat. 513, 537; Pub. L. 102–587, title V, § 5102, Nov. 4, 1992, 106 Stat. 5071; Pub. L. 105–383, title III, §§ 302(a), 304(c), title IV, § 408(a), Nov. 13, 1998, 112 Stat. 3417, 3419, 3430; Pub. L. 107–295, title III, § 325, Nov. 25, 2002, 116 Stat. 2105.)

HISTORICAL AND REVISION NOTES

| Revised section | Source section (U.S. Code) |
|-----------------|----------------------------|
| 2302(a) | 46:1461(d) 46:1484(b) |
| 2302(b) | 46:1461(d) 46:1483 |
| 2302(c) | 46:1484(b) |

Section 2302 states that the negligent operation of a vessel is prohibited. These acts are subject to civil and criminal penalties and the involved vessel is subject to an in rem action. The negligent operation provisions have their genesis in the Act of April 25, 1940, 54 Stat. 167, when Congress prescribed that no person shall operate any motorboat or *any vessel* in a reckless or negligent manner. This provision was directed at all vessels and not those solely engaged in recreational boating. When the Federal Boat Safety Act of 1971, P.L. 92–75, 85 Stat. 217 (46 U.S.C. 1461) was enacted it adopted the reckless or negligent operation provisions of the 1940 Act. It adopted for the first time a provision for assessing civil penalties in addition to criminal penalties. It dropped the word “reckless” because of redundancy. It also combined the two classes of vessels; “any motorboat or any vessel” into one class by using the word “vessel” and defined vessel as including every description of watercraft.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–295 substituted “\$5,000 in the case of a recreational vessel, or \$25,000 in the case of any other vessel” for “\$1,000”

1998—Pub. L. 105–383, § 302(a)(1), substituted “Penalties for negligent operations and interfering with safe operation” for “Penalties for negligent operations” in section catchline.

Subsec. (a). Pub. L. 105–383, § 302(a)(2), substituted “or interfering with the safe operation of a vessel, so as to endanger” for “that endangers”.

Subsec. (c)(1). Pub. L. 105–383, § 304(c), substituted “\$5,000; or” for “\$1,000 for a first violation and not more than \$5,000 for a subsequent violation; or”.

Subsec. (e). Pub. L. 105–383, § 408(a), added subsec. (e).

1992—Subsec. (c)(1). Pub. L. 102–587 substituted “\$1,000 for a first violation and not more than \$5,000 for a subsequent violation” for “\$1,000”.

1990—Subsec. (b). Pub. L. 101–380, § 4302(a)(1), substituted “commits a class A misdemeanor” for “shall be fined not more than \$5,000, imprisoned for not more than one year, or both”.

Subsec. (c). Pub. L. 101–380, §§ 4105(b)(2), 4302(a)(2)(A), substituted “under the influence of alcohol, or a dangerous drug in violation of a law of the United States” for “intoxicated” and struck out “, shall be” after “by the Secretary by regulation”.

Subsec. (c)(1). Pub. L. 101–380, § 4302(a)(2)(B), substituted “is liable” for “liable”.

Subsec. (c)(2). Pub. L. 101–380, § 4302(a)(2)(C), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “fined not more than \$5,000, imprisoned for not more than one year, or both.”

1984—Subsecs. (c), (d). Pub. L. 98–557 added subsec. (c) and redesignated former subsec. (c) as (d).

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–383, title IV, § 408(b), Nov. 13, 1998, 112 Stat. 3431, provided that: “The amendment made by subsection (a) [amending this section] takes effect January 1, 1999.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101–380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

§ 2303. Duties related to marine casualty assistance and information

(a) The master or individual in charge of a vessel involved in a marine casualty shall—