

HISTORICAL AND REVISION NOTES—CONTINUED

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|----------------------------------|-----------------------------------|
| 60121(a)(3) .. | 49 App.:2014(b) (last sentence). | |
| 60121(b) | 49 App.:1686(c). | |
| 60121(c) | 49 App.:2014(c). | |
| 60121(d) | 49 App.:1686(e). | |
| | 49 App.:2014(e). | |
| | 49 App.:1686(f). | |
| | 49 App.:2014(f). | |
| | 49 App.:1686(d). | |
| | 49 App.:2014(d). | |

In subsection (a)(1), before clause (A), the text of 49 App.:1686(a) (last sentence, words after the comma) and 2014(a) (last sentence, words after the comma) is omitted as surplus because the amount in controversy is no longer a criterion. The word “bring” is substituted for “commence” for consistency in the revised title and with other titles of the United States Code. The words “mandatory or prohibitive”, “including interim equitable relief”, “State, municipality, or”, and “alleged to be” are omitted as surplus. The word “prescribed” is added for consistency in the revised title and with other titles of the Code.

In subsection (a)(2), the words “by regulation” are omitted as surplus because of 49:322(a).

In subsection (a)(3), the words “as a matter of right” are omitted as surplus.

In subsection (b), before clause (1), the words “in the interest of justice” and “of suit, including” are omitted as surplus. In clause (1), the words “by an attorney” and “advice and other” are omitted as surplus. The words “provided to a person under this section” are substituted for “providing . . . in connection with representing a person in an action brought under this section” to eliminate unnecessary words.

In subsection (c), the word “Federal” is omitted as surplus. The words “prescribed under this chapter” are added for clarity.

In subsection (d), the words “enforcement of this chapter or any order or regulation under this chapter or to seek any other” are omitted as surplus.

§ 60122. Civil penalties

(a) GENERAL PENALTIES.—(1) A person that the Secretary of Transportation decides, after written notice and an opportunity for a hearing, has violated section 60114(b), 60114(d), or 60118(a) of this title or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than \$200,000 for each violation. A separate violation occurs for each day the violation continues. The maximum civil penalty under this paragraph for a related series of violations is \$2,000,000.

(2) A person violating a standard or order under section 60103 or 60111 of this title is liable to the Government for a civil penalty of not more than \$50,000 for each violation. A penalty under this paragraph may be imposed in addition to penalties imposed under paragraph (1) of this subsection.

(3) A person violating section 60129, or an order issued thereunder, is liable to the Government for a civil penalty of not more than \$1,000 for each violation. The penalties provided by paragraph (1) do not apply to a violation of section 60129 or an order issued thereunder.

(b) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section—

(1) the Secretary shall consider—

(A) the nature, circumstances, and gravity of the violation, including adverse impact on the environment;

(B) with respect to the violator, the degree of culpability, any history of prior violations, and any effect on ability to continue doing business; and

(C) good faith in attempting to comply; and

(2) the Secretary may consider—

(A) the economic benefit gained from the violation without any reduction because of subsequent damages; and

(B) other matters that justice requires.

(c) COLLECTION AND COMPROMISE.—(1) The Secretary may request the Attorney General to bring a civil action in an appropriate district court of the United States to collect a civil penalty imposed under this section.

(2) The Secretary may compromise the amount of a civil penalty imposed under this section before referral to the Attorney General.

(d) SETOFF.—The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(e) DEPOSIT IN TREASURY.—Amounts collected under this section shall be deposited in the Treasury as miscellaneous receipts.

(f) PROHIBITION ON MULTIPLE PENALTIES FOR SAME ACT.—Separate penalties for violating a regulation prescribed under this chapter and for violating an order under section 60112 or 60118(b) of this title may not be imposed under this chapter if both violations are based on the same act.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1325; Pub. L. 107–355, §§6(b), 8(b)(1), (2), 21(3), Dec. 17, 2002, 116 Stat. 2992, 2993, 3010; Pub. L. 109–468, §2(a)(2), Dec. 29, 2006, 120 Stat. 3487; Pub. L. 112–90, §2(a), Jan. 3, 2012, 125 Stat. 1905.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|--|---|
| 60122(a)(1) .. | 49 App.:1679a(a)(1), (3) (1st sentence). | Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §11(a); added Nov. 30, 1979, Pub. L. 96–129, §104(b), 154, 93 Stat. 992, 1002; Oct. 31, 1988, Pub. L. 100–561, §106, 102 Stat. 2807; Oct. 24, 1992, Pub. L. 102–508, §§112(a), 304(b), 106 Stat. 3295, 3308. |
| | 49 App.:2007(a)(1), (2) (1st sentence). | Nov. 30, 1979, Pub. L. 96–129, §208(a), (b), (d), 93 Stat. 1009, 1010; Oct. 31, 1988, Pub. L. 100–561, §205, 102 Stat. 2811; Oct. 24, 1992, Pub. L. 102–508, §211(a), 106 Stat. 3304. |
| 60122(a)(2) .. | 49 App.:1679a(a)(2). | |
| 60122(b) | 49 App.:1679a(a)(3) (last sentence). | |
| | 49 App.:2007(a)(2) (last sentence). | |
| 60122(c) | 49 App.:1679a(b) (1st sentence). | Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §11(b), (d); added Nov. 30, 1979, Pub. L. 96–129, §104(b), 93 Stat. 992, 993. |
| | 49 App.:2007(b) (1st sentence). | |
| 60122(d) | 49 App.:1679a(b) (2d sentence). | |
| | 49 App.:2007(b) (2d sentence). | |
| 60122(e) | 49 App.:1679a(b) (last sentence). | |
| | 49 App.:2007(b) (last sentence). | |
| 60122(f) | 49 App.:1679a(d). | |
| | 49 App.:2007(d). | |

In subsection (a)(1), the word “prescribed” is added for consistency in the revised title and with other titles

of the United States Code. The words “including any order issued under sections 1677(b) and 1679b(b)” in 49 App.:1679a(a)(1) and “including any order issued under section 2006(b) or 2008(b)” in 49 App.:2007(a)(1) are omitted as surplus. The word “occurs” is added for clarity.

In subsection (a)(2), the words “is determined by the Secretary to have” are omitted as surplus. The words “for each violation” are added for clarity and consistency. The word “imposed” is substituted for “to which such person may be subject” for consistency and to eliminate unnecessary words.

In subsection (b)(2), the word “violation” is substituted for “the person found to have committed the violation” for consistency and to eliminate unnecessary words. The words “the penalty” are omitted as surplus.

In subsection (c)(1), the words “The Secretary may request the Attorney General to bring a civil action” are substituted for “in an action brought by the Attorney General on behalf of the United States” for clarity, to eliminate unnecessary words, and because of 28:2461 and rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (d), the words “imposed or compromised under this section” are substituted for “of the penalty, when finally determined (or agreed upon in compromise)” to eliminate unnecessary words and for consistency. The words “liable for the penalty” are substituted for “charged” for clarity.

In subsection (f), the words “Separate penalties . . . prescribed under this chapter . . . may not be imposed under this chapter” are substituted for “Nothing in this title shall be construed to authorize . . . penalties” for clarity.

AMENDMENTS

2012—Subsec. (a)(1). Pub. L. 112-90, §2(a)(1), substituted “\$200,000” for “\$100,000” and “\$2,000,000” for “\$1,000,000”.

Subsec. (b)(1)(B). Pub. L. 112-90, §2(a)(2), struck out “the ability to pay,” after “violations,”.

2006—Subsec. (a)(1). Pub. L. 109-468 substituted “60114(b), 60114(d),” for “60114(b)”.

2002—Subsec. (a)(1). Pub. L. 107-355, §21(3), substituted “section 60114(b)” for “section 60114(c)”.

Pub. L. 107-355, §8(b)(1), substituted “\$100,000” for “\$25,000” and “\$1,000,000” for “\$500,000”.

Subsec. (a)(3). Pub. L. 107-355, §6(b), added par. (3).

Subsec. (b). Pub. L. 107-355, §8(b)(2), substituted “under this section—” and pars. (1) and (2) for “under this section, the Secretary shall consider—

“(1) the nature, circumstances, and gravity of the violation;

“(2) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on ability to continue doing business;

“(3) good faith in attempting to comply; and

“(4) other matters that justice requires.”

COMPTROLLER GENERAL STUDY

Pub. L. 107-355, §8(d), Dec. 17, 2002, 116 Stat. 2994, required the Comptroller General to study the actions, policies, and procedures of the Secretary of Transportation for assessing and collecting fines and penalties on operators of hazardous liquid and gas transmission pipelines, and to report, not later than 1 year after Dec. 17, 2002, the results of the study to certain committees of Congress.

§ 60123. Criminal penalties

(a) GENERAL PENALTY.—A person knowingly and willfully violating section 60114(b), 60118(a), or 60128 of this title or a regulation prescribed or order issued under this chapter shall be fined under title 18, imprisoned for not more than 5 years, or both.

(b) PENALTY FOR DAMAGING OR DESTROYING FACILITY.—A person knowingly and willfully dam-

aging or destroying an interstate gas pipeline facility, an interstate hazardous liquid pipeline facility, or either an intrastate gas pipeline facility or intrastate hazardous liquid pipeline facility that is used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce, or attempting or conspiring to do such an act, shall be fined under title 18, imprisoned for not more than 20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life.

(c) PENALTY FOR DAMAGING OR DESTROYING SIGN.—A person knowingly and willfully defacing, damaging, removing, or destroying a pipeline sign or right-of-way marker required by a law or regulation of the United States shall be fined under title 18, imprisoned for not more than one year, or both.

(d) PENALTY FOR NOT USING ONE-CALL NOTIFICATION SYSTEM OR NOT HEEDING LOCATION INFORMATION OR MARKINGS.—A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person—

(1) knowingly and willfully engages in an excavation activity—

(A) without first using an available one-call notification system to establish the location of underground facilities in the excavation area; or

(B) without paying attention to appropriate location information or markings the operator of a pipeline facility establishes; and

(2) subsequently damages—

(A) a pipeline facility that results in death, serious bodily harm, or actual damage to property of more than \$50,000;

(B) a pipeline facility, and knows or has reason to know of the damage, but does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or

(C) a hazardous liquid pipeline facility that results in the release of more than 50 barrels of product.

Penalties under this subsection may be reduced in the case of a violation that is promptly reported by the violator.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1325; Pub. L. 104-304, §§14, 18(b)(1), Oct. 12, 1996, 110 Stat. 3803, 3804; Pub. L. 107-56, title VIII, §§810(h), 811(k), Oct. 26, 2001, 115 Stat. 381, 382; Pub. L. 107-355, §§3(c), 8(c), 21(4), Dec. 17, 2002, 116 Stat. 2986, 2994, 3010.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|----------------------|--|
| 60123(a) | 49 App.:1679a(c)(1). | Aug. 12, 1968, Pub. L. 90-481, 82 Stat. 720, §11(c)(1); added Nov. 30, 1979, Pub. L. 96-129, §104(b), 93 Stat. 992; Oct. 24, 1992, Pub. L. 102-508, §304(b), 106 Stat. 3308. |
| | 49 App.:2007(c)(1). | Nov. 30, 1979, Pub. L. 96-129, §208(c)(1), (2), 93 Stat. 1010. |
| 60123(b) | 49 App.:1679a(c)(2). | Aug. 12, 1968, Pub. L. 90-481, 82 Stat. 720, §11(c)(2); added Nov. 30, 1979, Pub. L. 96-129, §104(b), 93 Stat. 992. |
| | 49 App.:2007(c)(2). | |