

Public Law 87-814

AN ACT

October 15, 1962
[S. 2568]

To amend the Act of September 7, 1950, to extend the regulatory authority of the Federal and State agencies concerned under the terms of the Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed at Washington May 31, 1949, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act entitled "Tuna Conventions Act of 1950" (16 U.S.C. 951) is amended by repealing subsection (e) in its entirety and substituting therefor a new subsection (e) as follows:

Tuna Conventions Act of 1950, amendment. 64 Stat. 777.

"(e) 'United States' shall include all areas under the sovereignty of the United States, the Trust Territory of the Pacific Islands, and the Canal Zone."

"United States."

SEC. 2. Section 6 of the Act entitled "Tuna Conventions Act of 1950" (16 U.S.C. 955) is amended by striking out the phrase "head of the enforcement agency" where it appears once each in subsections (a) and (b) and inserting in lieu thereof in both places the term "Secretary of the Interior," and by adding a new subsection (c) immediately following subsection (b), as follows:

"(c) Regulations required to carry out recommendations of the commission made pursuant to paragraph 5 of article II of the Convention for the Establishment of an Inter-American Tropical Tuna Commission shall be promulgated as hereinafter provided by the Secretary of the Interior upon approval of such recommendations by the Secretary of State and the Secretary of the Interior. The Secretary of the Interior shall cause to be published in the Federal Register a general notice of proposed rulemaking and shall afford interested persons an opportunity to participate in the rulemaking through (1) submission of written data, views, or arguments, and (2) oral presentation at a public hearing. Such regulations shall be published in the Federal Register and shall be accompanied by a statement of the considerations involved in the issuance of the regulations. After publication in the Federal Register such regulations shall be applicable to all vessels and persons subject to the jurisdiction of the United States on such date as the Secretary of the Interior shall prescribe, but in no event prior to an agreed date for the application by all countries whose vessels engage in fishing for species covered by the convention in the regulatory area on a meaningful scale, in terms of effect upon the success of the conservation program, of effective measures for the implementation of the commission's recommendations applicable to all vessels and persons subject to their respective jurisdictions. The Secretary of the Interior shall suspend at any time the application of any such regulations when, after consultation with the Secretary of State and the United States Commissioners, he determines that foreign fishing operations in the regulatory area are such as to constitute a serious threat to the achievement of the objectives of the commission's recommendations. The regulations thus promulgated may include the selection for regulation of one or more of the species covered by the convention; the division of the convention waters into areas; the establishment of one or more open or closed seasons as to each area; the limitation of the size of the fish and quantity of the catch which may be taken from each area within any season during which fishing is allowed; the limitation or prohibition of the incidental catch of a regulated species which may be retained, taken, possessed, or landed by vessels or persons fishing for other species of fish; the requiring of such clearance certificates for vessels as may be necessary to carry out the purposes of the convention and this Act; and such other measures incidental thereto as the Secretary of the Interior may

Regulations.

1 UST 230.

Publication in F. R.

Applicability.

deem necessary to implement the recommendations of the commission: *Provided*, That upon the promulgation of any such regulations the Secretary of the Interior shall promulgate additional regulations, with the concurrence of the Secretary of State, which shall become effective simultaneously with the application of the regulations hereinbefore referred to (1) to prohibit the entry into the United States, from any country when the vessels of such country are being used in the conduct of fishing operations in the regulatory area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the commission, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the commission and which were taken from the regulatory area; and (2) to prohibit entry into the United States, from any country, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the commission and which were taken from the regulatory area by vessels other than those of such country in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the commission. In the case of repeated and flagrant fishing operations in the regulatory area by the vessels of any country which seriously threaten the achievement of the objectives of the commission's recommendations, the Secretary of the Interior, with the concurrence of the Secretary of State, may, in his discretion, also prohibit the entry from such country of such other species of tuna, in any form, as may be under investigation by the commission and which were taken in the regulatory area. The aforesaid prohibitions shall continue until the Secretary of the Interior is satisfied that the condition warranting the prohibition no longer exists, except that all fish in any form of the species under regulation which were previously prohibited from entry shall continue to be prohibited from entry."

64 Stat. 778.

SEC. 3. Section 7 of the Act entitled "Tuna Conventions Act of 1950" (16 U.S.C. 956) is amended by deleting the section in its entirety and substituting in lieu thereof the following:

"Sec. 7. Any person authorized to carry out enforcement activities under this Act and any person authorized by the commissions shall have power without warrant or other process, to inspect, at any reasonable time, catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this Act to be made, kept, or furnished."

Violations.

SEC. 4. Section 8 of the Act entitled "Tuna Conventions Act of 1950" (16 U.S.C. 957) is amended by deleting the section in its entirety and substituting in lieu thereof the following:

Ante, p. 923.

"Sec. 8. (a) It shall be unlawful for any master or other person in charge of a fishing vessel of the United States to engage in fishing in violation of any regulation adopted pursuant to section 6(c) of this Act, or for any person knowingly to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish taken or retained in violation of such regulations.

"(b) It shall be unlawful for the master or any person in charge of any fishing vessel of the United States or any person on board such vessel to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this Act to be made, kept, or furnished; or to fail to stop upon being hailed by a duly authorized official of the United States; or to refuse to permit the duly authorized officials of the United States or authorized officials of the commissions to board such vessel or inspect its catch, equipment, books, documents, records, or other articles or question the persons on board in accordance with the provisions of this Act, or the convention, as the case may be.

"(c) It shall be unlawful for any person to import, in violation of any regulation adopted pursuant to section 6(c) of this Act, from any country, any fish in any form of those species subject to regulation pursuant to a recommendation of the commission, or any tuna in any form not under regulation but under investigation by the commission, during the period such fish have been denied entry in accordance with the provisions of section 6(c) of this Act. In the case of any fish as described in this subsection offered for entry into the United States, the Secretary of the Interior shall require proof satisfactory to him that such fish is not ineligible for such entry under the terms of section 6(c) of this Act.

Ante, p. 923.

"(d) Any person violating any provision of subsection (a) of this section shall be fined not more than \$25,000, and for a subsequent violation of any provisions of said subsection (a) shall be fined not more than \$50,000.

Penalties.

"(e) Any person violating any provision of subsection (b) of this section shall be fined not more than \$1,000, and for a subsequent violation of any provision of subsection (b) shall be fined not more than \$5,000.

"(f) Any person violating any provision of subsection (c) of this section shall be fined not more than \$100,000.

"(g) All fish taken or retained in violation of subsection (a) of this section, or the monetary value thereof, may be forfeited.

"(h) All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act."

SEC. 5. Section 10 of the Act entitled "Tuna Conventions Act of 1950" (16 U.S.C. 959) is amended by deleting the section in its entirety and substituting in lieu thereof the following:

64 Stat. 779.

"SEC. 10. (a) The judges of the United States district courts and United States commissioners may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act and the regulations issued pursuant thereto.

Enforcement.

"(b) Enforcement of the provisions of this Act and the regulations issued pursuant thereto shall be the joint responsibility of the United States Coast Guard, the United States Department of the Interior, and the United States Bureau of Customs. In addition, the Secretary of the Interior may designate officers and employees of the States of the United States, of the Commonwealth of Puerto Rico, and of American Samoa to carry out enforcement activities hereunder. When so designated, such officers and employees are authorized to function as Federal law enforcement agents for these purposes.

"(c) Any person authorized to carry out enforcement activities hereunder shall have the power to execute any warrant or process issued by any officer or court of competent jurisdiction for the enforcement of this Act.

"(d) Such person so authorized shall have the power—

"(1) with or without a warrant or other process, to arrest any persons subject to the jurisdiction of the United States at any place within the jurisdiction of the United States committing in his presence or view a violation of this Act or the regulations issued thereunder;

"(2) with or without a warrant or other process, to search any vessel subject to the jurisdiction of the United States, and, if as a result of such search he has reasonable cause to believe that such

vessel or any person on board is engaging in operations in violation of the provisions of this Act or the regulations issued thereunder, then to arrest such person.

"(e) Such person so authorized may seize, whenever and wherever lawfully found; all fish taken or retained in violation of the provisions of this Act or the regulations issued pursuant thereto. Any fish so seized may be disposed of pursuant to the order of a court of competent jurisdiction, pursuant to the provisions of subsection (f) of this section or, if perishable, in a manner prescribed by regulations of the Secretary of the Interior.

"(f) Notwithstanding the provisions of section 2464 of title 28 of the United States Code, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any fish seized if the process has been levied, on receiving from the claimant of the fish a bond or stipulation for the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the offense, conditioned to deliver the fish seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the fish may be sold for not less than its reasonable market value and the proceeds of such sale placed in the registry of the court pending judgment in the case."

SEC. 6. Nothing in this Act shall be construed to amend or repeal the provisions of section 4311 of the Revised Statutes, as amended (46 U.S.C. 251).

Approved October 15, 1962.

Public Law 87-815

AN ACT

October 15, 1962
[S. 2697]

To amend title 38, United States Code, to provide an extension of the period within which certain educational programs must be begun and completed in the case of persons called to active duty during the Berlin crisis, and for other purposes.

Veterans.
Education or
training, waiver of
time limitation.
72 Stat. 1177.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1613 of title 38, United States Code, is amended by inserting "(a)" immediately before "No", and by adding at the end thereof the following new subsection:

"(b) In computing the three-year period referred to in section 1612(a) of this title and the eight- and five-year periods referred to in subsection (a) of this section, the Administrator shall disregard in the case of any eligible veteran any period of active duty performed by such veteran, before August 1, 1962, pursuant to (1) a call or order thereto issued to him as a Reserve after July 30, 1961, or (2) an extension of an enlistment, appointment, or period of duty with the Armed Forces pursuant to section 2 of Public Law 87-117."

75 Stat. 242.
10 USC 263
note.

War orphans'
educational
assistance.
72 Stat. 1194.

SEC. 2. (a) Section 1712(a) of title 38, United States Code, is amended by redesignating paragraph (4) as paragraph (5), and by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) if the death of the parent from whom eligibility is derived