

Dec. 21, 2000, 114 Stat. 2763, 2763A–248; Pub. L. 106–562, title I, §106(a)(2), Dec. 23, 2000, 114 Stat. 2799.)

Editorial Notes

REFERENCES IN TEXT

Subsection (a), referred to in text, was a reference to subsection (a) of section 3 of Pub. L. 104–91 when the text of this section was originally enacted as subsec. (d) of section 3 of Pub. L. 104–91, set out in a note under section 1165 of this title, see Codification note below.

CODIFICATION

The text of this section as added by Pub. L. 106–554 and Pub. L. 106–562 is based on the text of Pub. L. 104–91, §3(d), Jan. 6, 1996, 110 Stat. 9, as amended by Pub. L. 106–554, §1(a)(4) [div. B, title I, §144(e)(6)(A)(i)], Dec. 21, 2000, 114 Stat. 2763, 2763A–248; Pub. L. 106–562, title I, §106(a)(1), Dec. 23, 2000, 114 Stat. 2799. Pub. L. 104–91, §3(d), was included in a note set out under section 1165 of this title prior to being redesignated and transferred by Pub. L. 106–554 and Pub. L. 106–562 so as to appear as section 212 of Pub. L. 89–702.

Another section 212 of Pub. L. 89–702 is classified to section 1169a of this title.

SUBCHAPTER III—ENFORCEMENT

§ 1171. Seizure and forfeiture of vessels

(a) Every vessel subject to the jurisdiction of the United States that is employed in any manner in connection with a violation of the provision of this chapter, including its tackle, apparel, furniture, appurtenances, cargo, and stores shall be subject to forfeiture; and all fur seals, or parts thereof, taken or retained in violation of this chapter, or the monetary value thereof, shall be forfeited.

(b) All provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of a vessel, including its tackle, apparel, furniture, appurtenances, cargo, and stores for violation of the customs laws, the disposition of such vessel, including its tackle, apparel, furniture, appurtenances, cargo, and stores 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 chapter, insofar as such provisions of law are applicable and not inconsistent with the provisions of this chapter.

(Pub. L. 89–702, title III, §301, Nov. 2, 1966, 80 Stat. 1096; Pub. L. 98–129, §2, Oct. 14, 1983, 97 Stat. 844.)

Editorial Notes

AMENDMENTS

1983—Pub. L. 98–129 amended section generally, substituting provisions, which were contained in section 1181 of this title, relating to seizure and forfeiture of vessels for provisions prohibiting the taking of sea otters on the high seas.

§ 1172. Practice and procedure

(a) Joint responsibility; designation by Secretary of State officers and employees as Federal law enforcement agents; non-Federal employees for civil service purposes

Enforcement of the provisions of this chapter is the joint responsibility of the Secretary, the

Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating. In addition, the Secretary may designate officers and employees of the States of the United States to enforce the provisions of this chapter which relate to persons or vessels subject to the jurisdiction of the United States. When so designated, such officers and employees are authorized to function as Federal law enforcement agents for these purposes; but they shall not be held and considered as employees of the United States for the purpose of any laws administered by the Office of Personnel Management.

(b) Issuance of warrants and other process

The judges of the United States district courts and United States magistrate judges may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process, including warrants or other process issued in admiralty proceedings in Federal district courts, as may be required for enforcement of this chapter and any regulations issued thereunder.

(c) Execution of warrants or other process by enforcement agents

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 chapter.

(d) Arrests and searches by enforcement agents

Such person so authorized shall have the power—

(1) with or without a warrant or other process, to arrest any person committing in his presence or view a violation of this chapter or the regulations issued thereunder;

(2) with a warrant or other process or without a warrant, if he has reasonable cause to believe that a vessel subject to the jurisdiction of the United States or any person on board is in violation of any provision of this chapter or the regulations issued thereunder, to search such vessel and to arrest such person.

(e) Seizure of vessels and related articles

Such person so authorized may seize any vessel subject to the jurisdiction of the United States, together with its tackle, apparel, furniture, appurtenances, cargo, and stores, used or employed contrary to the provisions of this chapter or the regulations issued hereunder or which it reasonably appears has been used or employed contrary to the provisions of this chapter or the regulations issued hereunder.

(f) Seizure and disposition of fur seals

Such person so authorized may seize, whenever and wherever lawfully found, all fur seals taken or retained in violation of this chapter or the regulations issued thereunder. Any fur seals so seized or forfeited to the United States pursuant to this chapter shall be disposed of in accordance with the provisions of section 1155 of this title.

(Pub. L. 89–702, title III, §302, Nov. 2, 1966, 80 Stat. 1097; Pub. L. 98–129, §2, Oct. 14, 1983, 97

Stat. 844; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

Editorial Notes

AMENDMENTS

1983—Pub. L. 98-129 amended section generally, substituting provisions, which were contained in section 1182 of this title, relating to practice and procedure in connection with the enforcement of this chapter for provisions which had authorized the sale by the Secretary of sea otter skins that had been forfeited to or seized by the United States.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

“United States magistrate judges” substituted for “United States magistrates” in subsec. (b) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 1173. Regulations

The Secretary is authorized to prescribe such regulations as he deems necessary and appropriate to carry out the provisions of this subchapter.

(Pub. L. 89-702, title III, §303, as added Pub. L. 98-129, §2, Oct. 14, 1983, 97 Stat. 845.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1183 of this title, prior to the complete revision of this chapter by Pub. L. 98-129.

§ 1174. Penalties

(a) Any person who knowingly violates any provision of this chapter or of any permit or regulation issued thereunder shall, upon conviction, be fined not more than \$20,000 for such violation, or imprisoned for not more than one year, or both.

(b) Any person who violates any provision of this chapter or any regulation or permit issued hereunder may be assessed a civil penalty by the Secretary of not more than \$10,000 for each such violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Hearings held during proceedings for the assessment of civil penalties authorized by this subsection shall be conducted in accordance with section 554 of title 5. The Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or re-

fusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof. Any civil penalty assessed may be remitted or mitigated by the Secretary for good cause shown. Upon any failure to pay a penalty assessed under this subsection, the Secretary may request the Attorney General to institute civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty, and such court shall have jurisdiction to hear and decide any such action.

(Pub. L. 89-702, title III, §304, as added Pub. L. 98-129, §2, Oct. 14, 1983, 97 Stat. 845.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1184 of this title, prior to the complete revision of this chapter by Pub. L. 98-129.

§ 1175. Authorization of appropriations

(a) There are authorized to be appropriated to the operations, research, and facilities account of the National Oceanic and Atmospheric Administration in the Department of Commerce, such sums as may be necessary, up to \$2,000,000, for fiscal year 1984 for the purpose of upgrading Federal property to be transferred pursuant to section 1165 of this title, \$736,000 for fiscal year 1984 for the purposes of sections 1154 and 1168 of this title and such sums as may be necessary for each fiscal year thereafter for the purposes of sections 1154 and 1168 of this title.

(b) The contract authority of the Secretary under this chapter is effective for any fiscal year only to the extent that appropriations are available for such purposes.

(Pub. L. 89-702, title III, §305, as added Pub. L. 98-129, §2, Oct. 14, 1983, 97 Stat. 845.)

§§ 1181 to 1187. Omitted

Editorial Notes

CODIFICATION

Sections were omitted in the general revision of this chapter by Pub. L. 98-129, §2, Oct. 14, 1983, 97 Stat. 835.

Section 1181, Pub. L. 89-702, title IV, §401, Nov. 2, 1966, 80 Stat. 1097, related to seizure and forfeiture of vessels. See section 1171 of this title.

Section 1182, Pub. L. 89-702, title IV, §402, Nov. 2, 1966, 80 Stat. 1097; Pub. L. 90-578, title IV, §402(b)(2), Oct. 17, 1968, 82 Stat. 1118; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; 1978 Reorg. Plan No. 2 of 1978, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3784, set out additional enforcement provisions. See section 1172 of this title.

Section 1183, Pub. L. 89-702, title IV, §403, Nov. 2, 1966, 80 Stat. 1098; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, authorized the Secretary of