

§ 973e. Criminal offenses**(a) Prohibited acts**

A person is guilty of a criminal offense if he or she commits any act prohibited by section 973c(a)(8), (10), (11), or (12) of this title.

(b) Sentence and fine

Any offense described in subsection (a) of this section is punishable by a fine of not more than \$50,000, or imprisonment for not more than 6 months, or both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any Authorized Officer, Authorized Party Officer, or observer under the Treaty in the conduct of their duties, or places any such Authorized Officer, Authorized Party Officer, or observer in fear of imminent bodily injury, the offense is punishable by a fine of not more than \$100,000 or imprisonment for not more than 10 years, or both.

(c) Jurisdiction

The district courts of the United States shall have jurisdiction over any offense described in this section.

(Pub. L. 100-330, §7, June 7, 1988, 102 Stat. 594.)

§ 973f. Civil penalties**(a) Determination of liability; amount; participation by Secretary of State in assessment proceeding**

Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, to have committed an act prohibited by section 973c of this title, shall be liable to the United States Code¹ for a civil penalty. Before issuing a notice of violation, the Secretary shall consult with the Secretary of State. The amount of the civil penalty shall be determined in accordance with considerations set forth in the Treaty and shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require. Except for those acts prohibited by section 973c(a)(4), (5), (7), (8), (10), (11), and (12), and section 973c(b)(1), (2), (3), and (7) of this title, the amount of the civil penalty shall not exceed \$250,000 for each violation. Upon written notice, the Secretary of State shall have the right to participate in any proceeding initiated to assess a civil penalty for violation of this chapter.

(b) Judicial review of assessment; procedures applicable

Any person against whom a civil penalty is assessed under subsection (a) of this section may obtain review thereof in the United States district court for the appropriate district by filing a complaint in such court within 30 days from the date of the order and by simultaneously serving a copy of the complaint by certified mail on the Secretary, the Attorney General of the United States, and the appropriate United

States Attorney. The Secretary shall promptly file in the court a certified copy of the record upon which the violation was found or the penalty imposed. The findings and order of the Secretary shall be set aside or modified by the court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5.

(c) Failure to pay assessment of civil penalty; recovery by Attorney General

Except as provided in subsection (g) of this section, if any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States.

(d) In rem liability for civil penalty; jurisdiction; maritime lien on vessel

Except as provided in subsection (g) of this section, a fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 973c of this title shall be liable in rem for any civil penalty assessed for the violation under this section and may be proceeded against in any district court of the United States having jurisdiction thereof. The penalty shall constitute a maritime lien on the vessel which may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(e) Compromise, etc., of civil penalty

The Secretary, after consultation with the Secretary of State, may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(f) Conduct of hearings

For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may 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 contempt or refusal to obey a subpoena served upon a person pursuant to this subsection, the district court of the United States for any district in which the person is found, resides, or transacts business, upon application by the United States and after notice to the person, shall have jurisdiction to issue an order requiring the 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 the order of the court may be punished by the court as a contempt thereof.

(g) Waiver of referral to Attorney General

If a vessel used in a violation of section 973c(a)(1), (2), (3), (4), (5), (6), (7), (8), (9), or (13) or section 973c(b) of this title for which a civil penalty has been assessed—

(1) had a valid license under the Treaty at the time of the violation, and

¹ So in original. "Code" probably should not appear.