

bridge to so alter the same as to render navigation through or under it reasonably free, easy, and unobstructed, stating in such notice the changes required to be made, and prescribing in each case a reasonable time in which to make such changes, and if at the end of the time so specified the changes so required have not been made, the persons owning or controlling such bridge shall be deemed guilty of a violation of said sections; and all such alterations shall be made and all such obstructions shall be removed at the expense of the persons owning or operating said bridge. The persons owning or operating any such bridge shall maintain, at their own expense, such lights and other signals thereon as the Commandant of the Coast Guard shall prescribe. If the bridge shall be constructed with a draw, then the draw shall be opened promptly by the persons owning or operating such bridge upon reasonable signal for the passage of boats and other water craft.

(Mar. 23, 1906, ch. 1130, §4, 34 Stat. 85; Mar. 4, 1913, ch. 141, §1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§101–104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Pub. L. 97–449, §2(d)(1), Jan. 12, 1983, 96 Stat. 2440; Pub. L. 100–17, title I, §135(a), Apr. 2, 1987, 101 Stat. 173; Pub. L. 109–241, title IX, §902(k), July 11, 2006, 120 Stat. 568; Pub. L. 111–281, title IX, §903(a)(9), Oct. 15, 2010, 124 Stat. 3010; Pub. L. 114–120, title III, §306(b)(2)(B), Feb. 8, 2016, 130 Stat. 55.)

#### Editorial Notes

##### PRIOR PROVISIONS

Act July 5, 1884, ch. 229, §8, 23 Stat. 148, relating to authority of Secretary of War to require owners of bridges which obstruct navigation to relieve the situation or be penalized, was probably omitted from the Code as superseded by this section and section 495 of this title, which by section 498b of this title were made applicable to bridges authorized prior to March 23, 1906.

Section would seem to supersede a provision of act Aug. 7, 1882, ch. 433, §1, 22 Stat. 309, which read as follows: "That all parties owning, occupying, or operating bridges over any navigable river shall maintain at their own expense, from sunset to sunrise, throughout the year, such lights on their bridges as may be required by the Light-House Board for the security of navigation; and in addition thereto all persons owning, occupying, or operating any bridge over any navigable river shall, in any event, maintain all lights on their bridge that may be necessary for the security of navigation."

##### AMENDMENTS

2016—Pub. L. 114–120 substituted "Secretary of the department in which the Coast Guard is operating" for "Secretary of Homeland Security" in two places.

2010—Pub. L. 111–281 amended directory language of Pub. L. 109–241, §902(k). See 2006 Amendment note below.

2006—Pub. L. 109–241, §902(k), as amended by Pub. L. 111–281, substituted "Secretary of Homeland Security" for "Secretary of Transportation" in two places.

1987—Pub. L. 100–17 struck out last sentence relating to tolls.

1983—Pub. L. 97–449 substituted "Secretary of Transportation" for "Secretary of War" wherever appearing. See Transfer of Functions note below.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–281, title IX, §903(a), Oct. 15, 2010, 124 Stat. 3010, provided that the amendment by section 903(a)(9) is effective with enactment of Pub. L. 109–241.

#### CONNECTICUT RIVER BRIDGES

Acts Aug. 7, 1939, ch. 503, 53 Stat. 1234, and Apr. 24, 1946, ch. 214, 60 Stat. 122, were amended by act Aug. 9, 1955, ch. 631, 69 Stat. 552, to provide that the last sentence of this section should not be applicable to bridges constructed pursuant to acts Aug. 7, 1939 and Apr. 24, 1946.

#### 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.

Functions, powers, and duties of Secretary of the Army [formerly War] and other offices and officers of Department of the Army [formerly War] relating to reasonableness of tolls and to location and clearances of bridges and causeways in navigable waters of United States under this section transferred to and vested in Secretary of Transportation by section 6(g)(4)(A), (6)(B) of Pub. L. 89–670. Pub. L. 97–449 amended this section to reflect transfer made by section 6(g)(4)(A), (6)(B) of Pub. L. 89–670, and repealed section 6(g)(4)(A), (6)(B).

Coast Guard transferred to Department of Transportation, and functions, powers, and duties relating to Coast Guard of Secretary of the Treasury and of other officers and offices of Department of the Treasury transferred to Secretary of Transportation by Pub. L. 89–670, §6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89–670, however, provided that notwithstanding such transfer of functions, Coast Guard shall operate as part of Navy in time of war or when the President directs as provided in former section 3 (now 103) of Title 14, Coast Guard. See section 108 of Title 49, Transportation.

Secretary of Commerce and Labor redesignated Secretary of Labor by act Mar. 4, 1913, which enacted Department of Labor.

#### Executive Documents

##### TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Treasury, with certain exceptions, to Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of Coast Guard, and Commandant of Coast Guard, excepted from transfer when Coast Guard is operating as part of Navy under former sections 1 and 3 (now 101 and 103) of Title 14, Coast Guard.

"Commandant of the Coast Guard" substituted in text for "Secretary of Commerce" on authority of Reorg. Plan No. 3 of 1946, §§101 to 104, set out in the Appendix to Title 5, Government Organization and Employees.

#### § 494a. Study of bridges over navigable waters

The Commandant of the Coast Guard shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a comprehensive study on the construction or alteration of any bridge, drawbridge, or causeway over the navigable waters of the United States with a channel depth of 25 feet or greater that may impede or obstruct future navigation to or from port facilities and for which a permit under the Act of March 23, 1906 (33 U.S.C. 491 et seq.),

popularly known as the Bridge Act of 1906, was requested during the period beginning on January 1, 2006, and ending on August 3, 2011.

(Pub. L. 111-281, title IX, §905, Oct. 15, 2010, 124 Stat. 3012; Pub. L. 112-213, title VII, §702(a), Dec. 20, 2012, 126 Stat. 1580.)

#### Editorial Notes

##### REFERENCES IN TEXT

Act of March 23, 1906 (33 U.S.C. 491 et seq.), popularly known as the Bridge Act of 1906, referred to in text, is act Mar. 23, 1906, ch. 1130, 34 Stat. 84, which enacted sections 491 to 494 and 495 to 498 of this title. For complete classification of this Act of the Code, see Short Title note set out under section 491 of this title and Tables.

##### AMENDMENTS

2012—Pub. L. 112-213 amended section generally. Prior to amendment, text read as follows: “The Commandant of the Coast Guard shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a comprehensive study on the proposed construction or alteration of any bridge, drawbridge, or causeway over navigable waters with a channel depth of 25 feet or greater of the United States that may impede or obstruct future navigation to or from port facilities.”

#### § 495. Violations of orders respecting bridges and accessory works

##### (a) Criminal penalties for violation; misdemeanor; fine; new offenses; jurisdiction; suits for recovery of removal expenses, enforcement of removal, and obstruction-to-navigation causes or questions

Any persons who shall willfully fail or refuse to comply with the lawful order of the Secretary of the department in which the Coast Guard is operating or the Chief of Engineers, made in accordance with the provisions of sections 491 to 494 and 495 to 498 of this title, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished in any court of competent jurisdiction by a fine not exceeding \$5,000, and every month such persons shall remain in default shall be deemed a new offense and subject such persons to additional penalties therefor; and in addition to the penalties above described the Secretary of the department in which the Coast Guard is operating and the Chief of Engineers may, upon refusal of the persons owning or controlling any such bridge and accessory works to comply with any lawful order issued by the Secretary of the department in which the Coast Guard is operating or Chief of Engineers in regard thereto, cause the removal of such bridge and accessory works at the expense of the persons owning or controlling such bridge, and suit for such expense may be brought in the name of the United States against such persons, and recovery had for such expense in any court of competent jurisdiction; and the removal of any structures erected or maintained in violation of the provisions of said sections or the order or direction of the Secretary of the department in which the Coast Guard is operating or Chief of Engineers made in pursuance thereof may be enforced by injunction, mandamus, or other summary process, upon application to the district court in the dis-

trict in which such structure may, in whole or in part, exist, and proper proceedings to this end may be instituted under the direction of the Attorney General of the United States at the request of the Secretary of the department in which the Coast Guard is operating; and in case of any litigation arising from any obstruction or alleged obstruction to navigation created by the construction of any bridge under said sections, the cause or question arising may be tried before the district court of the United States in any district which any portion of said obstruction or bridge touches.

##### (b) Civil penalties for violation; separate offenses; notice and hearing; assessment, collection, and remission; civil actions

Whoever violates any provision of sections 491 to 494 and 495 to 498 of this title, or any order issued under sections 491 to 494 and 495 to 498 of this title, shall be liable to a civil penalty of not more than \$25,000 for a violation occurring in 2008 and any year thereafter. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of the department in which the Coast Guard is operating may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

(Mar. 23, 1906, ch. 1130, §5, 34 Stat. 85; Mar. 3, 1911, ch. 231, §§289, 291, 36 Stat. 1167; Pub. L. 97-322, title I, §108(c), Oct. 15, 1982, 96 Stat. 1584; Pub. L. 97-449, §2(d)(1), Jan. 12, 1983, 96 Stat. 2440; Pub. L. 108-293, title VI, §601(a), Aug. 9, 2004, 118 Stat. 1050; Pub. L. 114-120, title III, §306(b)(2)(C), Feb. 8, 2016, 130 Stat. 55; Pub. L. 115-232, div. C, title XXXV, §3548(b), Aug. 13, 2018, 132 Stat. 2328.)

#### Editorial Notes

##### CODIFICATION

The words “district court” were substituted for “circuit court,” upon incorporation into the Code, the Circuit Courts being abolished by act Mar. 3, 1911, and their powers and duties transferred to the district courts by section 291 of that act.

##### AMENDMENTS

2018—Subsec. (b). Pub. L. 115-232 struck out “\$5,000 for a violation occurring in 2004; \$10,000 for a violation occurring in 2005; \$15,000 for a violation occurring in 2006; \$20,000 for a violation occurring in 2007; and” after “civil penalty of not more than”.

2016—Pub. L. 114-120 substituted “Secretary of the department in which the Coast Guard is operating” for “Secretary of Transportation” wherever appearing.

2004—Subsec. (b). Pub. L. 108-293 substituted “\$5,000 for a violation occurring in 2004; \$10,000 for a violation occurring in 2005; \$15,000 for a violation occurring in 2006; \$20,000 for a violation occurring in 2007; and \$25,000 for a violation occurring in 2008 and any year thereafter” for “\$1,000”.

1983—Subsec. (a). Pub. L. 97-449 substituted “Secretary of Transportation” for “Secretary of War” wherever appearing. See Transfer of Functions note below.