

§ 58109. Penalties

(a) INDIVIDUALS.—An individual convicted of violating section 58101(d), 58103, or 58105 of this title shall be fined under title 18, imprisoned for at least one year but not more than 5 years, or both.

(b) ORGANIZATIONS.—An organization convicted of committing an act prohibited by this subtitle shall be fined under title 18.

(c) INELIGIBILITY TO RECEIVE BENEFITS.—An individual or organization convicted of violating a section referred to in subsection (a) is ineligible, at the discretion of the Secretary of Transportation, to receive any benefit under the construction-differential subsidy or operating-differential subsidy programs, or a charter under chapter 575 of this title, for 5 years after the conviction.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1673.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 58109, 46 App.:1228 (1st, 2d pars.), June 29, 1936, ch. 858, title VIII, §806(b), (c), 49 Stat. 2014; Pub. L. 97–31, §12(125), Aug. 6, 1981, 95 Stat. 164.

In subsection (a), the word “individual” is substituted for “natural person” for consistency in the revised title. The words “convicted of violating section 58101(d), 58103, or 58105 of this title” are substituted for “found guilty of any act or acts declared in this chapter to constitute a misdemeanor” because the sections referred to restate the provisions which declare certain acts to be misdemeanors and because the restatement of those provisions does not use the word “misdemeanor”. The words “in any district court of the United States” are omitted as unnecessary. The words “shall be fined under title 18, imprisoned for at least one year but not more than five years, or both” are substituted for “shall be punished by a fine of not more than \$10,000, or by imprisonment for not less than one year or more than five years, or by both fine and imprisonment” because of chapter 227 of title 18. See 18 U.S.C. 3559 (which classifies offenses based on the maximum term of imprisonment) and 3571 (which establishes fines based on those classifications).

In subsection (b), the word “organization” is substituted for “corporation” to reflect the probable intent that the penalty should apply to other organizations in addition to corporations. The words “convicted of committing an act prohibited by this subtitle” are substituted for “found guilty of any act or acts declared in this chapter to be unlawful” for clarity and consistency. The words “shall be fined under title 18” are substituted for “shall be punished by a fine of not more than \$25,000” for consistency with subsection (a).

In subsection (c), the words “An individual or organization convicted of violating a section referred to in subsection (a)” are substituted for “any person or corporation convicted of a misdemeanor under the provisions of this chapter” for consistency in the section. Reference to the Federal Maritime Commission is omitted because the Commission does not administer any of the provisions referred to.

Subtitle VI—Clearance, Tonnage Taxes, and Duties

Chapter 601. Arrival and Departure Requirements 60101
603. Tonnage Taxes and Light Money 60301

Chapter 605. Discriminating Duties and Reciprocal Privileges 60501

Editorial Notes

PRIOR PROVISIONS

A prior subtitle VI, consisting of chapter 701, was redesignated subtitle VII of this title by Pub. L. 109–241, title IX, §901(k)(1), July 11, 2006, 120 Stat. 564. An identical amendment was made by Pub. L. 109–304, §9(a), Oct. 6, 2006, 120 Stat. 1674, prior to its repeal by Pub. L. 110–181, div. C, title XXXV, §3529(c)(1), Jan. 28, 2008, 122 Stat. 603.

CHAPTER 601—ARRIVAL AND DEPARTURE REQUIREMENTS

Sec. 60101. Boarding arriving vessels before inspection.
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60105. Clearance of vessels.
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§ 60101. Boarding arriving vessels before inspection

(a) REGULATIONS.—The Secretary of Homeland Security shall prescribe and enforce regulations on the boarding of a vessel arriving at a port of the United States before the vessel has been inspected and secured.

(b) CRIMINAL PENALTY.—A person violating a regulation prescribed under this section shall be fined under title 18, imprisoned for not more than 6 months, or both.

(c) RELATIONSHIP TO OTHER LAW.—This section shall be construed as supplementary to section 2279 of title 18.

(Pub. L. 109–304, §9(b), Oct. 6, 2006, 120 Stat. 1674.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 60101, 46 App.:163, Mar. 31, 1900, ch. 120, §§1–3, 31 Stat. 58.

In subsection (a), the Secretary of Homeland Security is substituted for the Commissioner of Customs because the functions of the Customs Service and of the Secretary of the Treasury relating thereto were transferred to the Secretary of Homeland Security by section 403(1) of the Homeland Security Act of 2002 (Pub. L. 107–296, 116 Stat. 2178). The functions of the Commissioner of Customs previously were vested in the Secretary of the Treasury under section 321(c) of title 31. For prior related transfers of functions, see the transfer of functions note under 46 App. U.S.C. 163. The word “shall” is substituted for “is authorized and directed to” for consistency in the revised title and to eliminate unnecessary words. The word “port” is substituted for “seaports” for consistency in the revised title. The word “secured” is substituted for “placed in security” to eliminate unnecessary words. The words “from time to time”, “properly”, and “and for that purpose to employ any of the officers of the United States Customs Service” are omitted as unnecessary.

In subsection (b), the words “fined under title 18, imprisoned for not more than 6 months, or both” are substituted for “subject to a penalty of not more than \$100

or imprisonment not to exceed six months, or both” because of chapter 227 of title 18. The words “in the discretion of the court” are omitted as unnecessary.

In subsection (c), the words “section 2279 of title 18” are substituted for “section forty-six hundred and six of the Revised Statutes” in the Act of Mar. 31, 1900, because R.S. §4606 (formerly classified to 46 U.S.C. 708 (1946 ed.)) was replaced by 18 U.S.C. 2279 in the codification of title 18 by the Act of June 25, 1948 (ch. 645, 62 Stat. 683). The words “section 9 of act August 2, 1882 (22 Stat. 189)” are omitted because that law was repealed by section 4(b) of Public Law 98-89 (Aug. 26, 1983, 97 Stat. 600).

§ 60102. Production of certificate on entry

On entry of a vessel documented under chapter 121 of this title, the master or other individual in charge of the vessel shall produce the certificate of documentation to the customs officer at the place where the vessel is entered. If the certificate is not produced, the vessel is not entitled to the privileges of a documented vessel.

(Pub. L. 109-304, §9(b), Oct. 6, 2006, 120 Stat. 1674.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
60102	46 App.:57.	R.S. §4184.

The words “vessel documented under chapter 121 of this title” are substituted for “vessel, recorded in pursuance of title 48 of the Revised Statutes”, and the words “certificate of documentation” are substituted for “certificate of such record”, for consistency with chapter 121 of title 46. The words “in charge” are substituted for “having the command or charge” to eliminate unnecessary words. The words “customs officer” are substituted for “collector of the district” because the office of collector of customs was abolished by Reorganization Plan No. 1 of 1965. For additional requirements relating to entry of vessels, see 19 U.S.C. 1434.

§ 60103. Oath of ownership on entry

(a) REQUIRED STATEMENT.—On entry of a vessel of the United States from a foreign port, the individual designated under subsection (b) shall state under oath that—

- (1) the vessel’s certificate of documentation contains the names of all the owners of the vessel; or
- (2) part of the ownership has been transferred since the certificate was issued and, to the best of the individual’s knowledge and belief, the vessel is still owned only by citizens of the United States.

(b) PERSON TO MAKE STATEMENT.—The statement under subsection (a) shall be made by—

- (1) an owner if one resides at the port of entry; or
- (2) the master if an owner does not reside at the port of entry.

(c) CONSEQUENCE OF NOT MAKING STATEMENT.—If the appropriate individual does not make the statement required by this section, the vessel is not entitled to the privileges of a vessel of the United States.

(Pub. L. 109-304, §9(b), Oct. 6, 2006, 120 Stat. 1674.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
60103	46 App.:42.	R.S. §4173.

In subsection (a), the words “certificate of documentation” and “certificate” are substituted for “register” for consistency with chapter 121 of the revised title. In paragraph (2), the words “sold or” are omitted as unnecessary. The words “owned only by citizens of the United States” are substituted for “no foreign subject or citizen has . . . any share, by way of trust, confidence, or otherwise” for consistency in the revised title and to eliminate unnecessary words.

§ 60104. Depositing certificates of documentation with consular officers

(a) REQUIREMENT OF MASTER.—When a vessel owned by citizens of the United States, on a voyage from a port in the United States, arrives at a foreign port, the master of the vessel shall deposit the vessel’s certificate of documentation with a consular officer at the foreign port if there is a consular officer at that port.

(b) RETURN OF CERTIFICATE.—When the master produces a clearance from the appropriate officer of the foreign port, the consular officer shall return the certificate of documentation to the master if the master has complied with the provisions of law related to the discharge of seamen in a foreign country and the payment of fees of consular officers.

(c) CIVIL PENALTY AND COLLECTION.—The master of a vessel failing to deposit the certificate of documentation as required by subsection (a) is liable to the United States Government for a civil penalty of \$500. The consular officer shall bring an action to recover the penalty in any court of competent jurisdiction. The action shall be brought in the name of the consular officer for the benefit of the United States.

(Pub. L. 109-304, §9(b), Oct. 6, 2006, 120 Stat. 1675.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
60104	46 App.:354. 46 App.:355.	R.S. §4309; Apr. 5, 1906, ch. 1366, § 3, 34 Stat. 100. R.S. §4310; Apr. 5, 1906, ch. 1366, § 3, 34 Stat. 100.

In this section, the words “certificate of documentation” are substituted for “register” and “papers” for consistency with chapter 121 of title 46. The words “sea-letter, and Mediterranean passport” in R.S. §4309 are omitted because the use of those documents was discontinued by Presidential proclamation on April 10, 1815. The words “consular officer” are substituted for “consul or vice consul” for consistency with 22 U.S.C. 4205. The words “commercial agent, or vice commercial agent” in R.S. §§4309 and 4310 are omitted because of the abolition of the grade of commercial agent by the Act of Apr. 5, 1906 (ch. 1366, 34 Stat. 99).

In subsection (b), the words “or commander” are omitted as unnecessary and for consistency in the section.

In subsection (c), the word “failing” is substituted for “refuses or neglects” to eliminate unnecessary words. The words “liable to the United States Government for a civil penalty” are substituted for “liable to a penalty” for clarity and for consistency in the revised title.

§ 60105. Clearance of vessels

(a) VESSELS OF THE UNITED STATES.—Except as otherwise provided by law, a vessel of the United States shall obtain clearance from the Secretary of Homeland Security before proceeding from a port or place in the United States—