

tificate of registry, or merchant mariner's document issued by the Secretary may be suspended or revoked if, when acting under the authority of that license, certificate, or document, the holder—

“(1) has violated or failed to comply with this subtitle, a regulation prescribed under this subtitle, or any other law or regulation intended to promote marine safety or to protect navigable waters.

“(2) has committed an act of incompetence, misconduct, or negligence.”

1985—Pub. L. 99-36 substituted “certificate of registry,” for first reference to “certificate.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

§ 7704. Dangerous drugs as grounds for revocation

(a) If it is shown at a hearing under this chapter that a holder of a license, certificate of registry, or merchant mariner's document issued under this part, within 10 years before the beginning of the proceedings, has been convicted of violating a dangerous drug law of the United States or of a State, the license, certificate, or document shall be suspended or revoked.

(b) If it is shown that a holder has been a user of, or addicted to, a dangerous drug, the license, certificate of registry, or merchant mariner's document shall be revoked unless the holder provides satisfactory proof that the holder is cured.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 546; Pub. L. 99-36, §1(a)(9)(F), (G), May 15, 1985, 99 Stat. 68; Pub. L. 101-380, title IV, §4103(a)(2)(B), Aug. 18, 1990, 104 Stat. 511; Pub. L. 108-293, title IV, §402, Aug. 9, 2004, 118 Stat. 1043; Pub. L. 115-232, div. C, title XXXV, §3545(b), Aug. 13, 2018, 132 Stat. 2326.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
7704(a)	46:239a(a)
7704(b)	46:239b(b)(1)
7704(c)	46:239b(b)(2)

Section 7704 requires the Secretary to revoke the license, certificate, or document of any individual who has been convicted of a dangerous drug law within 10 years before the beginning of the suspension or revocation procedures. This section has expanded current law to incorporate violations involving “controlled substances” which are not narcotic. This includes PCP and LSD. Unless it can be done under existing law, the suspension or revocation of an individual's license based on the use of a “controlled substance” only applies to the use or conviction after the date of enactment of this Act.

This section also provides that anyone who has been a user of or addicted to a dangerous drug since July 14, 1954, may be subjected to revocation procedures unless the individual provides satisfactory proof of being cured.

In sections 7503(b)(2) and 7704(c), the term “use”, when applying to “narcotic drugs” or “controlled substances”, is not intended to include the use of “off the shelf” drugs or drugs acquired with a prescription lawfully issued by a medical doctor, as long as the drugs are used by the individual in the recommended amounts and the drugs will not impair the individual's ability to perform duties.

Editorial Notes

AMENDMENTS

2018—Subsecs. (a) to (c). Pub. L. 115-232 redesignated subsecs. (b) and (c) as (a) and (b), respectively.

2004—Subsec. (b). Pub. L. 108-293 inserted “suspended or” after “shall be”.

1990—Subsec. (a). Pub. L. 101-380 struck out subsec. (a) which defined “dangerous drug” for purpose of this section as narcotic drug, controlled substance, and marihuana.

1985—Subsec. (b). Pub. L. 99-36, §1(a)(9)(F), substituted “merchant mariner's document” for first reference to “document”.

Subsec. (c). Pub. L. 99-36, §1(a)(9)(G), substituted “certificate of registry, or merchant mariner's document” for “certificate, or document”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

§ 7704a. Sexual harassment or sexual assault as grounds for suspension or revocation

(a) SEXUAL HARASSMENT.—If it is shown at a hearing under this chapter that a holder of a license, certificate of registry, or merchant mariner's document issued under this part, within 5 years before the beginning of the suspension and revocation proceedings, is the subject of an official finding of sexual harassment, then the license, certificate of registry, or merchant mariner's document may be suspended or revoked.

(b) SEXUAL ASSAULT.—If it is shown at a hearing under this chapter that a holder of a license, certificate of registry, or merchant mariner's document issued under this part, within 10 years before the beginning of the suspension and revocation proceedings, is the subject of an official finding of sexual assault, then the license, certificate of registry, or merchant mariner's document shall be revoked.

(c) OFFICIAL FINDING.—

(1) IN GENERAL.—In this section, the term “official finding” means—

(A) a legal proceeding or agency finding or decision that determines the individual committed sexual harassment or sexual assault in violation of any Federal, State, local, or Tribal law or regulation; or

(B) a determination after an investigation by the Coast Guard that, by a preponderance of the evidence, the individual committed sexual harassment or sexual assault if the investigation affords appropriate due process rights to the subject of the investigation.

(2) ADMINISTRATIVE LAW JUDGE REVIEW.—

(A) COAST GUARD INVESTIGATION.—A determination under paragraph (1)(B) shall be reviewed and affirmed by an administrative law judge within the same proceeding as any suspension or revocation of a license, certificate of registry, or merchant mariner's document under subsection (a) or (b).

(B) LEGAL PROCEEDING.—A determination under paragraph (1)(A) that an individual committed sexual harassment or sexual assault is conclusive in suspension and revocation proceedings.