

the policies set forth in section 4841 of this title.

**(c) Preemption**

The provisions of this section and the regulations issued pursuant thereto shall preempt any law, rule, or regulation of any of the several States or the District of Columbia, or any of the territories or possessions of the United States, or of any governmental subdivision thereof, which law, rule, or regulation pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States.

(Pub. L. 115-232, div. A, title XVII, §1773, Aug. 13, 2018, 132 Stat. 2234; Pub. L. 116-283, div. A, title X, §1081(d)(10), Jan. 1, 2021, 134 Stat. 3874.)

**Editorial Notes**

REFERENCES IN TEXT

Subchapter I, referred to in subsec. (b)(1), was in the original “part I”, meaning part I (§§1751-1768) of subtitle B of title XVII of div. A of Pub. L. 115-232, known as the Export Controls Act of 2018, which is classified principally to subchapter I of this chapter. For complete classification of part I to the Code, see section 1751 of Pub. L. 115-232, set out as a Short Title note under section 4801 of this title and Tables.

AMENDMENTS

2021—Subsec. (b)(1). Pub. L. 116-283 substituted “(2)(D)” for “(1)(D)” in reference to section 4811(2)(D) of this title.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116-283, div. A, title X, §1081(d), Jan. 1, 2021, 134 Stat. 3873, provided that the amendment made by section 1081(d)(10) is effective as of Aug. 13, 2018, and as if included in Pub. L. 115-232.

**§ 4843. Enforcement**

**(a) Criminal penalty**

A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of, an unlawful act under section 4842 of this title—

- (1) shall, upon conviction, be fined not more than \$1,000,000; or
- (2) if a natural person, may be imprisoned for not more than 20 years, or both.

**(b) Civil penalties**

The President may impose the following civil penalties on a person who violates section 4842 of this title or any regulation issued under this subchapter:

- (1) A fine of not more than \$300,000 or an amount that is twice the value of the transaction that is the basis of the violation with respect to which the penalty is imposed, whichever is greater.
- (2) Revocation of a license issued under subchapter I to the person.
- (3) A prohibition on the person’s ability to export, reexport, or in-country transfer any items controlled under subchapter I.

**(c) Procedures**

Any civil penalty or administrative sanction (including any suspension or revocation of au-

thority to export) under this section may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5 and shall be subject to judicial review in accordance with chapter 7 of such title.

**(d) Standards for levels of civil penalty**

The President may by regulation provide standards for establishing levels of civil penalty under this section based upon factors such as the seriousness of the violation, the culpability of the violator, and the violator’s record of cooperation with the Government in disclosing the violation.

(Pub. L. 115-232, div. A, title XVII, §1774, Aug. 13, 2018, 132 Stat. 2237; Pub. L. 116-283, div. A, title X, §1081(d)(11), Jan. 1, 2021, 134 Stat. 3874.)

**Editorial Notes**

REFERENCES IN TEXT

Subchapter I, referred to in subsec. (b)(2), (3), was in the original “part I”, meaning part I (§§1751-1768) of subtitle B of title XVII of div. A of Pub. L. 115-232, known as the Export Controls Act of 2018, which is classified principally to subchapter I of this chapter. For complete classification of part I to the Code, see section 1751 of Pub. L. 115-232, set out as a Short Title note under section 4801 of this title and Tables.

AMENDMENTS

2021—Subsec. (a). Pub. L. 116-283 inserted “under” before “section 4842 of this title”.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116-283, div. A, title X, §1081(d), Jan. 1, 2021, 134 Stat. 3873, provided that the amendment made by section 1081(d)(11) is effective as of Aug. 13, 2018, and as if included in Pub. L. 115-232.

**SUBCHAPTER III—ADMINISTRATIVE AUTHORITIES**

**§ 4851. Under Secretary of Commerce for Industry and Security**

**(a) Under Secretary of Commerce for Industry and Security**

The President shall appoint, by and with the advice and consent of the Senate, an Under Secretary of Commerce for Industry and Security, who shall carry out—

- (1) all functions of the Secretary under this chapter; and
- (2) all functions delegated to the Under Secretary of Commerce for Export Administration on the day before the date of the enactment of this Act.

**(b) Reference**

On and after August 13, 2018, any reference in any law or regulation to the Under Secretary of Commerce for Export Administration shall be deemed to be a reference to the Under Secretary of Commerce for Industry and Security.

**(c) Omitted**

**(d) Continuation in office**

The individual serving as Under Secretary of Commerce for Export Administration on the day

before August 13, 2018, may serve as the Under Secretary of Commerce for Industry and Security on and after that date without the need for renomination or reappointment.

(Pub. L. 115-232, div. A, title XVII, §1781, Aug. 13, 2018, 132 Stat. 2238; Pub. L. 116-6, div. H, title II, §205(a), Feb. 15, 2019, 133 Stat. 476.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original “this subtitle”, meaning subtitle B (§§1741-1781) of title XVII of div. A of Pub. L. 115-232, Aug. 13, 2018, 132 Stat. 2208, known as the Export Control Reform Act of 2018, which is classified principally to this chapter. For complete classification of subtitle B to the Code, see section 1741 of Pub. L. 115-232, set out as a Short Title note under section 4801 of this title and Tables.

The date of the enactment of this Act, referred to in subsec. (a)(2), probably means the date of enactment of Pub. L. 115-232, which enacted this section and was approved Aug. 13, 2018.

##### CODIFICATION

Section is comprised of section 1781 of Pub. L. 115-232. Subsec. (c) of section 1781 of Pub. L. 115-232 amended section 5314 of Title 5, Government Organization and Employees.

##### AMENDMENTS

2019—Pub. L. 116-6, §205(a)(3), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 116-6, §205(a)(1), (2), redesignated subsec. (a) as (b) and substituted “Reference” for “In general” in heading. Former subsec. (b) redesignated (c).

Subsecs. (c), (d). Pub. L. 116-6, §205(a)(1), redesignated subsecs. (b) and (c) as (c) and (d), respectively.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116-6, div. H, title II, §205(d), Feb. 15, 2019, 133 Stat. 477, provided that: “The amendments made by this section [amending this section and section 5314 of Title 5, Government Organization and Employees] shall take effect as if included in the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115-232).”

#### § 4852. Assistant Secretaries of Commerce

##### (a) In general

The President shall appoint, by and with the advice and consent of the Senate, two Assistant Secretaries of Commerce to assist the Under Secretary of Commerce for Industry and Security in carrying out the functions described in paragraphs (1) and (2) of section 4851(a) of this title.

##### (b) Continuation in office of one Assistant Secretary

An individual appointed as an Assistant Secretary of Commerce under section 15(a) of the Export Administration Act of 1979<sup>1</sup> (as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)) and serving in that position on the day before the date of the enactment of this Act may serve in one of the Assistant Secretary positions established under subsection (a) on and after that date without the need for renomination or reappointment.

(Pub. L. 115-232, div. A, title XVII, §1782, as added Pub. L. 116-6, div. H, title II, §205(b), Feb. 15, 2019, 133 Stat. 476.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 15(a) of the Export Administration Act of 1979, referred to subsec. (b), was classified to section 4617(a) of this title prior to repeal by Pub. L. 115-232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232.

The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), referred to in subsec. (b), is title II of Pub. L. 95-223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

The date of the enactment of this Act, referred to in subsec. (b), probably means the date of enactment of Pub. L. 115-232, which was approved Aug. 13, 2018.

<sup>1</sup> See References in Text note below.