

United States" for "fixed structures in or over navigable waters of the United States".

1956—Act June 4, 1956, amended section generally, vesting in Secretary rule-making authority, for the protection of maritime navigation, relative to the establishment, maintenance, and operation of lights and other signals on fixed structures in or over navigable waters of the United States, and excluding agencies of United States from its provisions.

§ 86. Marking of obstructions

The Secretary may mark for the protection of navigation any sunken vessel or other obstruction existing on the navigable waters or waters above the continental shelf of the United States in such manner and for so long as, in his judgment, the needs of maritime navigation require. The owner of such an obstruction shall be liable to the United States for the cost of such marking until such time as the obstruction is removed or its abandonment legally established or until such earlier time as the Secretary may determine. All moneys received by the United States from the owners of obstructions, in accordance with this section, shall be covered into the Treasury of the United States as miscellaneous receipts. This section shall not be construed so as to relieve the owner of any such obstruction from the duty and responsibility suitably to mark the same and remove it as required by law.

(Aug. 4, 1949, ch. 393, 63 Stat. 501; Pub. L. 89-191, Sept. 17, 1965, 79 Stat. 822; Pub. L. 93-283, §1(3), May 14, 1974, 88 Stat. 139.)

HISTORICAL AND REVISION NOTES

Based on title 33, U.S.C., 1946 ed., §736 (R.S. 4676; June 17, 1910, ch. 301, §6, 36 Stat. 538; Aug. 16, 1937, ch. 665, §1, 50 Stat. 666; 1939 Reorg. Plan No. II, §2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1974—Pub. L. 93-283 substituted "the navigable waters or waters above the continental shelf of the United States" for "any navigable waters of the United States".

1965—Pub. L. 89-191 vested sole responsibility for wreck marking in the Coast Guard by giving the Secretary discretionary authority to mark wrecks or other similar obstructions for as long as in his judgment the needs of maritime navigation may require, by removing reference to responsibility of the Department of the Army to mark wrecks, after abandonment and before removal, and by giving the Secretary the authority to terminate an owner's liability to pay the cost of marking a wreck.

[§ 87. Repealed. Pub. L. 94-546, § 1(6), (7), Oct. 18, 1976, 90 Stat. 2519]

Section, act Aug. 4, 1949, ch. 393, §1, 63 Stat. 501, related to color and numbering of buoys along coast, or in bays, harbors, sounds, or channels, as indicating whether such buoys were to be passed on the starboard or port hand and prescribed the coloring for buoys in channel ways.

§ 88. Saving life and property

(a) In order to render aid to distressed persons, vessels, and aircraft on and under the high seas and on and under the waters over which the United States has jurisdiction and in order to

render aid to persons and property imperiled by flood, the Coast Guard may:

(1) perform any and all acts necessary to rescue and aid persons and protect and save property;

(2) take charge of and protect all property saved from marine or aircraft disasters, or floods, at which the Coast Guard is present, until such property is claimed by persons legally authorized to receive it or until otherwise disposed of in accordance with law or applicable regulations, and care for bodies of those who may have perished in such catastrophes;

(3) furnish clothing, food, lodging, medicines, and other necessary supplies and services to persons succored by the Coast Guard; and

(4) destroy or tow into port sunken or floating dangers to navigation.

(b)(1) Subject to paragraph (2), the Coast Guard may render aid to persons and protect and save property at any time and at any place at which Coast Guard facilities and personnel are available and can be effectively utilized.

(2) The Commandant shall make full use of all available and qualified resources, including the Coast Guard Auxiliary and individuals licensed by the Secretary pursuant to section 8904(b) of title 46, United States Code, in rendering aid under this subsection in nonemergency cases.

(c) An individual who knowingly and willfully communicates a false distress message to the Coast Guard or causes the Coast Guard to attempt to save lives and property when no help is needed is—

(1) guilty of a class D felony;

(2) subject to a civil penalty of not more than \$5,000; and

(3) liable for all costs the Coast Guard incurs as a result of the individual's action.

(d) The Secretary shall establish a helicopter rescue swimming program for the purpose of training selected Coast Guard personnel in rescue swimming skills, which may include rescue diver training.

(Aug. 4, 1949, ch. 393, 63 Stat. 501; Pub. L. 91-278, §1(3), June 12, 1970, 84 Stat. 304; Pub. L. 100-448, §30(a), Sept. 28, 1988, 102 Stat. 1849; Pub. L. 101-595, title IV, §401, Nov. 16, 1990, 104 Stat. 2989; Pub. L. 104-324, title II, §213(a), Oct. 19, 1996, 110 Stat. 3915.)

HISTORICAL AND REVISION NOTES

Derived from title 14, U.S.C., 1946 ed., §§29, 53, 55, 60, 61, 62, 63, 104, and title 34, U.S.C., 1946 ed., §471 (R.S. 1536, R.S. 2759; June 18, 1878, ch. 265, §4, 20 Stat. 163; Apr. 19, 1906, ch. 1640, §§1-3, 34 Stat. 123; May 12, 1906, ch. 2454, 34 Stat. 190; June 24, 1914, ch. 124, 38 Stat. 387; Aug. 29, 1916, ch. 417, 39 Stat. 601; Aug. 6, 1947, ch. 502, 61 Stat. 786).

This section broadens existing law in that it authorizes the Coast Guard to engage in saving life and property in the broadest possible terms, without limitation as to place. This section reflects existing sentiment as to Coast Guard functions in relation to saving life and property. There is no intention to supersede or conflict with the present authority of the Civil Aeronautics Board to investigate certain aircraft wrecks. 81st Congress, House Report No. 557.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104-324 added subsec. (d).

1990—Subsec. (c). Pub. L. 101-595 added subsec. (c).
 1988—Subsec. (b). Pub. L. 100-448 designated existing provisions as par. (1), substituted “Subject to paragraph (2), the Coast Guard” for “The Coast Guard”, and added par. (2).

1970—Subsec. (a). Pub. L. 91-278 substituted “on and under the high seas and on and under the waters” for “on the high seas and on waters” in introductory text.

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.

MODERNIZATION OF NATIONAL DISTRESS AND RESPONSE SYSTEM

Pub. L. 107-295, title III, §346, Nov. 25, 2002, 116 Stat. 2107, provided that:

“(a) REPORT.—The Secretary of the department in which the Coast Guard is operating shall prepare a status report on the modernization of the National Distress and Response System and transmit the report, not later than 60 days after the date of enactment of this Act [Nov. 25, 2002] and annually thereafter until completion of the project, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

“(b) CONTENTS.—The report required by subsection (a) shall—

“(1) set forth the scope of the modernization, the schedule for completion of the System, and information on progress in meeting the schedule and on any anticipated delays;

“(2) specify the funding expended to-date on the System, the funding required to complete the System, and the purposes for which the funds were or will be expended;

“(3) describe and map the existing public and private communications coverage throughout the waters of the coastal and internal regions of the continental United States, Alaska, Hawaii, Guam, and the Caribbean, and identify locations that possess direction-finding, asset-tracking communications, and digital selective calling service;

“(4) identify areas of high risk to boaters and Coast Guard personnel due to communications gaps;

“(5) specify steps taken by the Secretary to fill existing gaps in coverage, including obtaining direction-finding equipment, digital recording systems, asset-tracking communications, use of commercial VHF services, and digital selective calling services that meet or exceed Global Maritime Distress and Safety System requirements adopted under the International Convention for the Safety of Life at Sea [see 33 U.S.C. 1602 and notes thereunder];

“(6) identify the number of VHF-FM radios equipped with digital selective calling sold to United States boaters;

“(7) list all reported marine accidents, casualties, and fatalities occurring in areas with existing communications gaps or failures, including incidents associated with gaps in VHF-FM coverage or digital selected calling capabilities and failures associated with inadequate communications equipment aboard the involved vessels during calendar years 1997 and thereafter;

“(8) identify existing systems available to close all identified marine safety gaps before January 1, 2003, including expeditious receipt and response by appropriate Coast Guard operations centers to VHF-FM digital selective calling distress signal; and

“(9) identify actions taken to-date to implement the recommendations of the National Transportation Safety Board in its Report No. MAR-99-01.”

HELICOPTER RESCUE SWIMMING PROGRAM

Pub. L. 98-557, §9, Oct. 30, 1984, 98 Stat. 2862, required Secretary of department in which Coast Guard was operating to use such sums as necessary, from amounts appropriated for operation and maintenance of Coast Guard, to establish helicopter rescue swimming program for purpose of training selected Coast Guard personnel in rescue swimming skills, prior to repeal by Pub. L. 104-324, title II, §213(b), Oct. 19, 1996, 110 Stat. 3915.

COAST GUARD POLICIES AND PROCEDURES FOR TOWING AND SALVAGE OF DISABLED VESSELS FOR MINIMIZATION OF COAST GUARD COMPETITION OR INTERFERENCE WITH COMMERCIAL ENTERPRISE

Pub. L. 97-322, title I, §113, Oct. 15, 1982, 96 Stat. 1585, as amended by Pub. L. 100-448, §30(b), Sept. 28, 1988, 102 Stat. 1850, provided that: “The Commandant of the Coast Guard shall review Coast Guard policies and procedures for towing and salvage of disabled vessels in order to further minimize the possibility of Coast Guard competition or interference (other than by the Coast Guard Auxiliary) with private towing activities or other commercial enterprise.”

§ 89. Law enforcement

(a) The Coast Guard may make inquiries, examinations, inspections, searches, seizures, and arrests upon the high seas and waters over which the United States has jurisdiction, for the prevention, detection, and suppression of violations of laws of the United States. For such purposes, commissioned, warrant, and petty officers may at any time go on board of any vessel subject to the jurisdiction, or to the operation of any law, of the United States, address inquiries to those on board, examine the ship's documents and papers, and examine, inspect, and search the vessel and use all necessary force to compel compliance. When from such inquiries, examination, inspection, or search it appears that a breach of the laws of the United States rendering a person liable to arrest is being, or has been committed, by any person, such person shall be arrested or, if escaping to shore, shall be immediately pursued and arrested on shore, or other lawful and appropriate action shall be taken; or, if it shall appear that a breach of the laws of the United States has been committed so as to render such vessel, or the merchandise, or any part thereof, on board of, or brought into the United States by, such vessel, liable to forfeiture, or so as to render such vessel liable to a fine or penalty and if necessary to secure such fine or penalty, such vessel or such merchandise, or both, shall be seized.

(b) The officers of the Coast Guard insofar as they are engaged, pursuant to the authority contained in this section, in enforcing any law of the United States shall:

(1) be deemed to be acting as agents of the particular executive department or independent establishment charged with the administration of the particular law; and

(2) be subject to all the rules and regulations promulgated by such department or independent establishment with respect to the enforcement of that law.

(c) The provisions of this section are in addition to any powers conferred by law upon such officers, and not in limitation of any powers conferred by law upon such officers, or any other officers of the United States.