

REFERENCES IN TEXT

Section 502(b) of the Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America, referred to in subsec. (b)(2), is contained in section 1 of Pub. L. 94-241, set out as a note under section 1801 of Title 48, Territories and Insular Possessions.

AMENDMENTS

2008—Subsec. (b). Pub. L. 110-181 inserted “or” after semicolon at end of par. (2), redesignated par. (4) as (3), and struck out former par. (3) which read as follows: “Canton Island until the President declares by proclamation that the coastwise laws apply to Canton Island; or”.

§ 55102. Transportation of merchandise

(a) DEFINITION.—In this section, the term “merchandise” includes—

- (1) merchandise owned by the United States Government, a State, or a subdivision of a State; and
- (2) valueless material.

(b) REQUIREMENTS.—Except as otherwise provided in this chapter or chapter 121 of this title, a vessel may not provide any part of the transportation of merchandise by water, or by land and water, between points in the United States to which the coastwise laws apply, either directly or via a foreign port, unless the vessel—

- (1) is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade; and
- (2) has been issued a certificate of documentation with a coastwise endorsement under chapter 121 or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

(c) PENALTY.—Merchandise transported in violation of subsection (b) is liable to seizure by and forfeiture to the Government. Alternatively, an amount equal to the value of the merchandise (as determined by the Secretary of Homeland Security) or the actual cost of the transportation, whichever is greater, may be recovered from any person transporting the merchandise or causing the merchandise to be transported.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1632.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)                                    | Source (Statutes at Large)  |
|-----------------|---|---|
| 55102 .....     | 46 App.:883 (words before 1st proviso, 11th proviso). | June 5, 1920, ch. 250, §27 (words before 1st proviso, 11th proviso), 41 Stat. 999; July 2, 1935, ch. 355, 49 Stat. 442; Pub. L. 95-410, title II, §213, Oct. 3, 1978, 92 Stat. 904; Pub. L. 101-329 [100-329], §1(a)(1), [§1(a)] June 7, 1988, 102 Stat. 588; Pub. L. 102-587, title V, §5501(b), Nov. 4, 1992, 106 Stat. 5085. |

In subsection (a)(1), the words “(as defined in section 2101 of the [sic] title 46)” are omitted because the definition of “State” is being moved to chapter 1 and will apply to the entire title.

In subsection (b), the words “may not provide any part of the transportation of” are substituted for “No . . . shall be transported” and “or for any part of the transportation” because of the reorganization of the language. The words “including Districts, Territories,

and possessions thereof” are omitted because of the definition of “United States” in chapter 1 of the revised title. The words “to which the coastwise laws apply” are substituted for “embraced within the coastwise laws” for consistency with section 55101. The words “is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade” are substituted for “owned by persons who are citizens of the United States”, and the words “has been issued a certificate of documentation with a coastwise endorsement under chapter 121” are substituted for “documented under the laws of the United States”, for clarity and consistency in the revised title. The words “or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement” are added for consistency with section 12102 as revised by the bill. The requirement that the vessel be built in the United States is omitted from this section for consistency with the requirements for a coastwise endorsement, which also require that the vessel be built in the United States except in certain circumstances. The words “or vessels to which the privilege of engaging in the coastwise trade is extended by section 808 of this Appendix or section 22 of this Act” are omitted because the relevant portion of section 808, and section 22, have been repealed.

In subsection (c), the words “any person” are substituted for “any consignor, seller, owner, importer, consignee, agent, or other person or persons” to eliminate unnecessary words.

§ 55103. Transportation of passengers

(a) IN GENERAL.—Except as otherwise provided in this chapter or chapter 121 of this title, a vessel may not transport passengers between ports or places in the United States to which the coastwise laws apply, either directly or via a foreign port, unless the vessel—

- (1) is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade; and
- (2) has been issued a certificate of documentation with a coastwise endorsement under chapter 121 or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

(b) PENALTY.—The penalty for violating subsection (a) is \$300 for each passenger transported and landed.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1633.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large)  |
|-----------------|--------------------|---|
| 55103 .....     | 46 App.:289.       | June 19, 1886, ch. 421, §8, 24 Stat. 81; Feb. 17, 1898, ch. 26, §2, 30 Stat. 248. |

This section is substituted for the source provision for consistency with section 55102. See 19 C.F.R. §§4.80, 4.80a (2004).

In subsection (b), the penalty amount reflects the adjustment for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note). See 19 C.F.R. §4.80(b)(2) (2004).

§ 55104. Transportation of passengers between Puerto Rico and other ports in the United States

(a) DEFINITIONS.—In this section:

- (1) CERTIFICATE.—The term “certificate” means a certificate of financial responsibility for indemnification of passengers for non-performance of transportation issued by the

Federal Maritime Commission under section 44102 of this title.

(2) PASSENGER VESSEL.—The term “passenger vessel” means a vessel of similar size, or offering similar service, as any other vessel transporting passengers under subsection (b).

(b) EXEMPTION.—Except as otherwise provided in this section, a vessel not qualified to engage in the coastwise trade may transport passengers between a port in Puerto Rico and another port in the United States.

(c) EXPIRATION OF EXEMPTION.—

(1) WHEN COASTWISE-QUALIFIED VESSEL OFFERING SERVICE.—On a showing to the Secretary of the department in which the Coast Guard is operating, by the vessel owner or charterer, that a United States passenger vessel qualified to engage in the coastwise trade is offering or advertising passenger service between a port in Puerto Rico and another port in the United States pursuant to a certificate, the Secretary shall notify the owner or operator of each vessel transporting passengers under subsection (b) to terminate that transportation within 270 days after the Secretary’s notification. Except as provided in subsection (d), the authority to transport passengers under subsection (b) expires at the end of that 270-day period.

(2) WHEN NON-COASTWISE-QUALIFIED VESSEL OFFERING SERVICE.—On a showing to the Secretary, by the vessel owner or charterer, that a United States passenger vessel not qualified to engage in the coastwise trade is offering or advertising passenger service between a port in Puerto Rico and another port in the United States pursuant to a certificate, the Secretary shall notify the owner or operator of each foreign vessel transporting passengers under subsection (b) to terminate that transportation within 270 days after the Secretary’s notification. Except as provided in subsection (d), the authority of a foreign vessel to transport passengers under subsection (b) expires at the end of that 270-day period.

(d) DELAYING EXPIRATION.—If the vessel offering or advertising the service described in subsection (c) has not begun that service within 270 days after the Secretary’s notification, the expiration provided by subsection (c) is delayed until 90 days after the vessel offering or advertising the service begins that service.

(e) REINSTATEMENT OF EXEMPTION.—If the Secretary finds that the service on which an expiration was based is no longer available, the expired authority to transport passengers is reinstated.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1633.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)                                   | Source (Statutes at Large)                    |
|-----------------|--|---|
| 55104(a)(1) ..  | 46 App.:289c(b) (related to meaning of certificate). | Pub. L. 98-563, Oct. 30, 1984, 98 Stat. 2916. |
| 55104(a)(2) ..  | 46 App.:289c(e).                                     |   |
| 55104(b) .....  | 46 App.:289c(a).                                     |   |
| 55104(c) .....  | 46 App.:289c(b).                                     |   |
| 55104(d) .....  | 46 App.:289c(c).                                     |   |
| 55104(e) .....  | 46 App.:289c(d).                                     |   |

In subsection (a), the definition of “certificate” is added based on the language in 46 App. U.S.C. 289c(b)(1)

and (2) to avoid repeating the substance of the definition twice in the section.

In subsection (b), the words “Notwithstanding any other provision of law” and “directly or by way of a foreign port” are omitted as unnecessary.

§ 55105. Transportation of hazardous waste

(a) IN GENERAL.—The transportation of hazardous waste, as defined in section 1004(5) of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6903(5)), from a point in the United States to sea for incineration is deemed to be transportation of merchandise under section 55102 of this title.

(b) NONAPPLICATION TO CERTAIN FOREIGN VESSELS.—

(1) IN GENERAL.—Subsection (a) does not apply to transportation performed by a foreign ocean incineration vessel owned by or under construction on May 1, 1982, for a corporation wholly owned by citizens of the United States under section 50501(a)–(c) of this title.

(2) STANDARDS FOR INCINERATION EQUIPMENT.—Incineration equipment on a vessel described in paragraph (1) must meet standards of the Coast Guard and the Environmental Protection Agency.

(3) INSPECTION.—A vessel described in paragraph (1) shall be inspected by the Coast Guard, regardless of whether inspected by the nation in which it is registered. The inspection shall be the same as would be required of a vessel of the United States, including dry-dock inspection and internal examination of tanks and void spaces. The inspection may be made concurrently with an inspection by that nation or within one year after the initial issuance or next scheduled issuance of the Safety of Life at Sea Safety Construction Certificate. In making the inspection, the Coast Guard shall refer to the condition of the hull and superstructure established by the initial foreign certification as the basis for evaluating the current condition of the hull and superstructure. The Coast Guard shall allow the substitution of fittings, material, apparatus, equipment, and appliances different from those required for vessels of the United States if satisfied they are equivalent and at least as effective as those required for vessels of the United States. A satisfactory inspection under this paragraph shall be certified in writing by the Secretary of Homeland Security.

(c) EFFECTIVE DATE.—Subsection (a) is not effective until an appropriate vessel has been built and documented under chapter 121 of this title.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1634; Pub. L. 109-241, title IX, §902(o), July 11, 2006, 120 Stat. 569; Pub. L. 110-181, div. C, title XXXV, §3525(a)(4), (b), Jan. 28, 2008, 122 Stat. 601.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)   | Source (Statutes at Large)  |
|-----------------|--|---|
| 55105 .....     | 46 App.:883 (2d-6th sentences, last sentence less provisos). | June 5, 1920, ch. 250, §27 (2d-6th sentences, last sentence less provisos), 41 Stat. 999; July 2, 1935, ch. 355, 49 Stat. 442; Pub. L. 97-389, title V, §502, Dec. 29, 1982, 96 Stat. 1954. |

In subsection (a), the words “after December 31, 1983” are omitted as obsolete. The words “transportation of