

(Added Pub. L. 102-190, div. A, title X, §1090(a), Dec. 5, 1991, 105 Stat. 1485.)

§ 1387. Demonstrations at cemeteries under the control of the National Cemetery Administration and at Arlington National Cemetery

Whoever violates section 2413 of title 38 shall be fined under this title, imprisoned for not more than one year, or both.

(Added Pub. L. 109-228, §3(a), May 29, 2006, 120 Stat. 388.)

§ 1388. Prohibition on disruptions of funerals of members or former members of the Armed Forces

(a) PROHIBITION.—For any funeral of a member or former member of the Armed Forces that is not located at a cemetery under the control of the National Cemetery Administration or part of Arlington National Cemetery, it shall be unlawful for any person to engage in an activity during the period beginning 120 minutes before and ending 120 minutes after such funeral, any part of which activity—

(1)(A) takes place within the boundaries of the location of such funeral or takes place within 300 feet of the point of the intersection between—

(i) the boundary of the location of such funeral; and

(ii) a road, pathway, or other route of ingress to or egress from the location of such funeral; and

(B) includes any individual willfully making or assisting in the making of any noise or diversion—

(i) that is not part of such funeral and that disturbs or tends to disturb the peace or good order of such funeral; and

(ii) with the intent of disturbing the peace or good order of such funeral;

(2)(A) is within 500 feet of the boundary of the location of such funeral; and

(B) includes any individual—

(i) willfully and without proper authorization impeding or tending to impede the access to or egress from such location; and

(ii) with the intent to impede the access to or egress from such location; or

(3) is on or near the boundary of the residence, home, or domicile of any surviving member of the deceased person's immediate family and includes any individual willfully making or assisting in the making of any noise or diversion—

(A) that disturbs or tends to disturb the peace of the persons located at such location; and

(B) with the intent of disturbing such peace.

(b) PENALTY.—Any person who violates subsection (a) shall be fined under this title or imprisoned for not more than 1 year, or both.

(c) CIVIL REMEDIES.—

(1) DISTRICT COURTS.—The district courts of the United States shall have jurisdiction—

(A) to prevent and restrain violations of this section; and

(B) for the adjudication of any claims for relief under this section.

(2) ATTORNEY GENERAL.—The Attorney General may institute proceedings under this section.

(3) CLAIMS.—Any person, including a surviving member of the deceased person's immediate family, who suffers injury as a result of conduct that violates this section may—

(A) sue therefor in any appropriate United States district court or in any court of competent jurisdiction; and

(B) recover damages as provided in subsection (d) and the cost of the suit, including reasonable attorneys' fees.

(4) ESTOPPEL.—A final judgment or decree rendered in favor of the United States in any criminal proceeding brought by the United States under this section shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by a person or by the United States.

(d) ACTUAL AND STATUTORY DAMAGES.—

(1) IN GENERAL.—In addition to any penalty imposed under subsection (b), a violator of this section is liable in an action under subsection (c) for actual or statutory damages as provided in this subsection.

(2) ACTIONS BY PRIVATE PERSONS.—A person bringing an action under subsection (c)(3) may elect, at any time before final judgment is rendered, to recover the actual damages suffered by him or her as a result of the violation or, instead of actual damages, an award of statutory damages for each violation involved in the action.

(3) ACTIONS BY ATTORNEY GENERAL.—In any action under subsection (c)(2), the Attorney General is entitled to recover an award of statutory damages for each violation involved in the action notwithstanding any recovery under subsection (c)(3).

(4) STATUTORY DAMAGES.—A court may award, as the court considers just, statutory damages in a sum of not less than \$25,000 or more than \$50,000 per violation.

(e) REBUTTABLE PRESUMPTION.—It shall be a rebuttable presumption that the violation was committed willfully for purposes of determining relief under this section if the violator, or a person acting in concert with the violator, did not have reasonable grounds to believe, either from the attention or publicity sought by the violator or other circumstance, that the conduct of such violator or person would not disturb or tend to disturb the peace or good order of such funeral, impede or tend to impede the access to or egress from such funeral, or disturb or tend to disturb the peace of any surviving member of the deceased person's immediate family who may be found on or near the residence, home, or domicile of the deceased person's immediate family on the date of the service or ceremony.

(f) DEFINITIONS.—In this section—

(1) the term "Armed Forces" has the meaning given the term in section 101 of title 10 and includes members and former members of the National Guard who were employed in the service of the United States; and