

1990—Pub. L. 101-380 amended section generally. Prior to amendment, section read as follows: “A license, certificate 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,”.

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[(a) Repealed. Pub. L. 101-380, title IV, § 4103(a)(2)(B), Aug. 18, 1990, 104 Stat. 511.]

(b) 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.

(c) 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.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Rows for 7704(a), 7704(b), 7704(c).

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.

AMENDMENTS

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”.

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.

§ 7705. Subpenas and oaths

(a) An official designated to investigate or preside at a hearing on matters that are grounds for suspension or revocation of licenses, certificates of registry, and merchant mariners’ documents may administer oaths and issue subpoenas to compel the attendance and testimony of witnesses and the production of records or other evidence during investigations and at hearings.

(b) The jurisdictional limits of a subpoena issued under this section are the same as, and are enforceable in the same manner as, subpoenas issued under chapter 63 of this title.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 547; Pub. L. 99-36, §1(a)(9)(H), May 15, 1985, 99 Stat. 68.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row for 7705.

Section 7705 allows officials designated to investigate or preside at hearings on matters that are grounds for suspension and revocation proceedings to administer oaths and issue subpoenas.

AMENDMENTS

1985—Subsec. (a). Pub. L. 99-36 substituted “certificates of registry, and merchant mariners’ documents” for “certificates, and documents”.

§ 7706. Drug testing reporting

(a) RELEASE OF DRUG TEST RESULTS TO COAST GUARD.—Not later than 2 weeks after receiving from a Medical Review Officer a report of a verified positive drug test or verified test violation by a civilian employee of a Federal agency, an officer in the Public Health Services, or an officer in the National Oceanic and Atmospheric Administration Commissioned Officer Corps, who is employed in any capacity on board a vessel operated by the agency, the head of the agency shall release to the Commandant of the Coast Guard the report.

(b) STANDARDS, PROCEDURES, AND REGULATIONS.—The head of a Federal agency shall carry out a release under subsection (a) in accordance with the standards, procedures, and regulations applicable to the disclosure and reporting to the Coast Guard of drug tests results and drug test records of individuals employed on vessels documented under the laws of the United States.

(c) WAIVER.—Notwithstanding section 503(e) of the Supplemental Appropriations Act, 1987 (5

U.S.C. 7301 note), the report of a drug test of an employee may be released under this section without the prior written consent of the employee.

(Added Pub. L. 108-293, title IV, §414(a), Aug. 9, 2004, 118 Stat. 1046.)

REFERENCES IN TEXT

Section 503(e) of the Supplemental Appropriations Act, 1987, referred to in subsec. (c), is section 503(e) of Pub. L. 100-71, which is set out as a note under section 7301 of Title 5, Government Organization and Employees.

PART F—MANNING OF VESSELS

HISTORICAL AND REVISION NOTES

Part F provides for the manning of vessels including requirements generally for the number of individuals required, qualifications and conditions of employment, and duties; for masters and other licenses and registered individuals; for pilots; for unlicensed personnel; for small vessels; for tank vessels; and for pilotage on the Great Lakes. The Committee intends that all manning provisions throughout this subtitle will be interpreted to be consistent with one another.

CHAPTER 81—GENERAL

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HISTORICAL AND REVISION NOTES

Chapter 81 provides for the composition, citizenship, working hours, and other limitations affecting the complement of licensed individuals and crew on certain vessels, a safety watch onboard passenger vessels, membership in the Naval Reserve for certain deck and engineer officers, and penalties for violating, and regulatory authority for implementing its provisions.

AMENDMENTS

2010—Pub. L. 111-281, title IX, §§903(c)(1), 912(b), Oct. 15, 2010, 124 Stat. 3011, 3017, inserted period at end of item 8106 and added item 8107.

2006—Pub. L. 109-241, title III, §312(d), July 11, 2006, 120 Stat. 534, added item 8106.

Pub. L. 109-163, div. A, title V, §515(f)(3)(C), Jan. 6, 2006, 119 Stat. 3236, substituted "Citizenship and Navy Reserve requirements" for "Citizenship and Naval Reserve requirements" in item 8103.

1996—Pub. L. 104-324, title XI, §1146(b), Oct. 19, 1996, 110 Stat. 3993, added item 8105.

1990—Pub. L. 101-595, title VI, §603(7)(B), Nov. 16, 1990, 104 Stat. 2993, struck out item 8105 "Regulations".

§ 8101. Complement of inspected vessels

(a) The certificate of inspection issued to a vessel under part B of this subtitle shall state the complement of licensed individuals and crew (including lifeboatmen) considered by the Secretary to be necessary for safe operation. A manning requirement imposed on—

(1) a sailing school vessel shall consider the participation of sailing school instructors and sailing school students in the operation of that vessel;

(2) a mobile offshore drilling unit shall consider the specialized nature of the unit; and

(3) a tank vessel shall consider the navigation, cargo handling, and maintenance func-

tions of that vessel for protection of life, property, and the environment.

(b) The Secretary may modify the complement, by endorsement on the certificate, for reasons of changed conditions or employment.

(c) A requirement made under this section by an authorized official may be appealed to the Secretary under prescribed regulations.

(d) A vessel to which this section applies may not be operated without having in its service the complement required in the certificate of inspection.

(e) When a vessel is deprived of the service of a member of its complement without the consent, fault, or collusion of the owner, charterer, managing operator, agent, master, or individual in charge of the vessel, the master shall engage, if obtainable, a number of members equal to the number of those of whose services the master has been deprived. The replacements must be of the same or a higher grade or rating than those whose places they fill. If the master finds the vessel is sufficiently manned for the voyage, and replacements are not available to fill all the vacancies, the vessel may proceed on its voyage. Within 12 hours after the vessel arrives at its destination, the master shall report in writing to the Secretary the cause of each deficiency in the complement. A master failing to make the report is liable to the United States Government for a civil penalty of \$1,000 for each deficiency.

(f) The owner, charterer, or managing operator of a vessel not manned as required by this section is liable to the Government for a civil penalty of \$10,000.

(g) A person may not employ an individual as, and an individual may not serve as, a master, mate, engineer, radio officer, or pilot of a vessel to which this part applies or which is subject to inspection under chapter 33 of this title if the individual is not licensed by the Secretary. A person (including an individual) violating this subsection is liable to the Government for a civil penalty of not more than \$10,000. Each day of a continuing violation is a separate offense.

(h) The owner, charterer, or managing operator of a freight vessel of less than 100 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title, a small passenger vessel, or a sailing school vessel not manned as required by this section is liable to the Government for a civil penalty of \$1,000. The vessel also is liable in rem for the penalty.

(i) When the 2 next most senior licensed officers on a vessel reasonably believe that the master or individual in charge of the vessel is under the influence of alcohol or a dangerous drug and is incapable of commanding the vessel, the next most senior master, mate, or operator licensed under section 7101(c)(1) or (3) of this title shall—

(1) temporarily relieve the master or individual in charge;

(2) temporarily take command of the vessel;

(3) in the case of a vessel required to have a log under chapter 113 of this title, immediately enter the details of the incident in the log; and

(4) report those details to the Secretary—

(A) by the most expeditious means available; and