

(A) loaded at a port in the United States and unloaded either at another port in the United States or at a port in Canada located in the Great Lakes Saint Lawrence Seaway System; or

(B) loaded at a port in Canada located in the Great Lakes Saint Lawrence Seaway System and unloaded at a port in the United States.

(Added Pub. L. 110-140, title XI, §1121(a), Dec. 19, 2007, 121 Stat. 1761; amended Pub. L. 112-213, title IV, § 405(b), Dec. 20, 2012, 126 Stat. 1571.)

AMENDMENTS

2012—Pub. L. 112-213, which directed amendment of section 55605, without specifying the title to be amended, by substituting “by a documented vessel” for “by vessel” in the matter preceding par. (1), was executed to this section, to reflect the probable intent of Congress.

PART E—CONTROL OF MERCHANT MARINE CAPABILITIES

CHAPTER 561—RESTRICTIONS ON TRANSFERS

- Sec. 56101. Approval required to transfer vessel to non-citizen.
56102. Additional controls during war or national emergency.
56103. Conditional approvals.
56104. Penalty for false statements.
56105. Forfeiture procedure.

§ 56101. Approval required to transfer vessel to noncitizen

(a) RESTRICTIONS.—

(1) IN GENERAL.—Except as otherwise provided in this section, section 12119 of this title, or section 611 of the Merchant Marine Act, 1936, a person may not, without the approval of the Secretary of Transportation—

- (A) sell, lease, charter, deliver, or in any other manner transfer, or agree to sell, lease, charter, deliver, or in any other manner transfer, to a person not a citizen of the United States, an interest in or control of—
(i) a documented vessel owned by a citizen of the United States; or
(ii) a vessel last documented under the laws of the United States; or

(B) place under foreign registry, or operate under the authority of a foreign country, a documented vessel or a vessel last documented under the laws of the United States.

(2) EXCEPTIONS.—Paragraph (1)(A) does not apply to a vessel that has been operated only for pleasure or only as a fishing vessel, fish processing vessel, or fish tender vessel (as defined in section 2101 of this title).

(b) APPROVAL BEFORE DOCUMENTATION.—To promote financing with respect to a vessel to be documented under chapter 121 of this title, the Secretary may grant approval under subsection (a) before the vessel is documented.

(c) EXCEPTIONS.—Notwithstanding any other provision of this subtitle, the Merchant Marine Act, 1936, or any contract with the Secretary made under this subtitle or that Act, a person

may place a vessel under foreign registry without the approval of the Secretary if—

(1)(A) the Secretary, in conjunction with the Secretary of Defense, determines that at least one replacement vessel of equal or greater military capability and of a capacity that is equivalent or greater, as measured by dead-weight tons, gross tons, or container equivalent units, as appropriate, is documented under chapter 121 of this title by the owner of the vessel placed under foreign registry; and

(B) the replacement vessel is not more than 10 years old on the date of that documentation; or

(2) an operating agreement covering the vessel under chapter 531 of this title has expired.

(d) STATUS OF PROHIBITED TRANSACTION.—A charter, sale, or transfer of a vessel, or of an interest in or control of a vessel, in violation of this section is void.

(e) PENALTIES.—

(1) CRIMINAL PENALTY.—A person that knowingly sells, charters, or transfers a vessel, or an interest in or control of a vessel, in violation of this section shall be fined under title 18, imprisoned for not more than 5 years, or both.

(2) CIVIL PENALTY.—A person that sells, charters, or transfers a vessel, or an interest in or control of a vessel, in violation of this section is liable to the United States Government for a civil penalty of not more than \$10,000 for each violation.

(3) FORFEITURE.—A documented vessel may be seized by and forfeited to the Government if, in violation of this section, a person—

(A) knowingly sells, charters, or transfers the vessel or an interest in or control of the vessel; or

(B) places the vessel under foreign registry or operates the vessel under the authority of a foreign country.

(Pub. L. 109-304, § 8(c), Oct. 6, 2006, 120 Stat. 1651.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Contains historical references for sections 56101(a) and 56101(b).

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
56101(c)	46 App.:808(e)	Sept. 7, 1916, ch. 451, §9(e), as added Pub. L. 104-239, §6, Oct. 8, 1996, 110 Stat. 3132; Pub. L. 108-136, title XXXV, §3532(a)(2), Nov. 24, 2003, 117 Stat. 1817.
56101(d)	46 App.:808(d)(1).	
56101(e)	46 App.:808(d)(2)–(4).	

In subsection (a), the text of 46 App. U.S.C. 808a is omitted as unnecessary. In paragraph (1), the words “owned by a citizen of the United States” are omitted as unnecessary because ownership by a citizen is a requirement for documentation. See section 12103 as revised by the bill.

In subsection (c), before paragraph (1), the words “Notwithstanding any other provision of this subtitle, the Merchant Marine Act, 1936, or any contract with the Secretary made under this subtitle or that Act” are substituted for “Notwithstanding subsection (c)(2) of this section, the Merchant Marine Act, 1936 [46 App. U.S.C. 1101 et seq.], or any contract entered into with the Secretary of Transportation under that Act” because the Merchant Marine Act, 1936, is restated principally in this subtitle, but other provisions of that Act are being neither restated nor repealed.

REFERENCES IN TEXT

The Merchant Marine Act, 1936, referred to in subsections. (a)(1), (c), is act June 29, 1936, ch. 858, 49 Stat. 1985, which enacted provisions set out as notes under section 53101 of this title. For complete classification of this Act to the Code, see Short Title of 1936 Amendment note set out under section 101 of this title and Tables.

§ 56102. Additional controls during war or national emergency

(a) IN GENERAL.—During war, or a national emergency declared by Presidential proclamation, a person may not, without the approval of the Secretary of Transportation—

(1) place under foreign registry a vessel owned in whole or in part by a citizen of the United States or a corporation incorporated under the laws of the United States or of a State;

(2) sell, mortgage, lease, charter, deliver, or in any other manner transfer, or agree to sell, mortgage, lease, charter, deliver, or in any other manner transfer, to a person not a citizen of the United States—

(A) a vessel owned as described in paragraph (1), or an interest therein;

(B) a vessel documented under the laws of the United States, or an interest therein; or

(C) a facility for building or repairing vessels, or an interest therein;

(3) issue, assign, or transfer to a person not a citizen of the United States an instrument of indebtedness secured by a mortgage of a vessel to a trustee, by an assignment of an owner’s interest in a vessel under construction to a trustee, or by a mortgage of a facility for building or repairing vessels to a trustee, unless the trustee or a substitute trustee is approved by the Secretary under subsection (b);

(4) enter into an agreement or understanding to construct a vessel in the United States for, or to be delivered to, a person not a citizen of the United States without expressly stipulating that construction will not begin until after the war or national emergency has ended;

(5) enter into an agreement or understanding whereby there is vested in, or for the benefit of, a person not a citizen of the United States the controlling interest in a corporation that is incorporated under the laws of the United States or a State and that owns a vessel or facility for building or repairing vessels; or

(6) cause or procure a vessel, constructed in whole or in part in the United States and never cleared for a foreign port, to depart from a port of the United States before it has been documented under the laws of the United States.

(b) TRUSTEES.—

(1) APPROVAL.—The Secretary shall approve a trustee or substitute trustee under subsection (a)(3) if and only if the trustee is a bank or trust company that—

(A) is organized as a corporation, and is doing business, under the laws of the United States or a State;

(B) is authorized under those laws to exercise corporate trust powers;

(C) is a citizen of the United States;

(D) is subject to supervision or examination by Federal or State authority; and

(E) has a combined capital and surplus (as set forth in its most recent published report of condition) of at least \$3,000,000.

(2) DISAPPROVAL.—If a trustee or substitute trustee ceases to meet the conditions in paragraph (1), the Secretary shall disapprove the trustee or substitute trustee. After the disapproval, the restrictions on transfer or assignment without the Secretary’s approval in subsection (a)(3) apply.

(3) OPERATION OF VESSEL.—During a period when subsection (a) applies, a trustee referred to in subsection (a)(3), even though approved as a trustee by the Secretary, may not operate the vessel under the mortgage or assignment without the Secretary’s approval.

(c) STATUS OF PROHIBITED TRANSACTION.—A transaction in violation of this section is void.

(d) RECOVERY OF CONSIDERATION.—

(1) IN GENERAL.—A person that deposited or paid consideration in connection with a transaction prohibited by this section may recover the consideration after tender of the vessel, facility, stock, or other security, or interest therein, to the person entitled to it, or the forfeiture thereof to the United States Government.

(2) EXCEPTION.—Paragraph (1) does not apply if the person in whose interest the consideration was deposited, or to whom it was paid, entered into the transaction in the belief that the person depositing or paying the consideration was a citizen of the United States.

(e) PENALTIES.—

(1) CRIMINAL PENALTY.—A person that violates, or attempts or conspires to violate, this section shall be fined under title 18, imprisoned for not more than 5 years, or both.

(2) FORFEITURE.—The following shall be forfeited to the Government:

(A) A vessel, a facility for building or repairing vessels, or an interest in a vessel or such a facility, that is sold, mortgaged,