

## HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
46303(a) .....	49 App.:1471(d) (words after 3d comma).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §901(d); added Oct. 12, 1984, Pub. L. 98-473, §2014(a)(1), 98 Stat. 2189.
46303(b) .....	49 App.:1471(a)(2) (related to 1471(d)).	Aug. 23, 1958, Pub. L. 85-726, §901(a)(2) (related to §901(d)), 72 Stat. 784; July 10, 1962, Pub. L. 87-528, §12, 76 Stat. 150; restated Oct. 24, 1978, Pub. L. 95-504, §35(b), 92 Stat. 1740; Oct. 12, 1984, Pub. L. 98-473, §2014(b), 98 Stat. 2189.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.
46303(c) .....	49 App.:1471(d) (words before 3d comma).	

In subsection (a), the words “deadly or” and “which shall be recoverable in a civil action brought in the name of the United States” are omitted as surplus.

In subsection (b)(1), the words “imposed under” are substituted for “provided for in” for consistency.

In subsection (b)(2), the words “imposed or compromised” are substituted for “The amount of such penalty when finally determined or fixed by order of the Board, or the amount agreed upon in compromise” to eliminate unnecessary words.

In subsection (c)(1), the words “State or political subdivision of a State” are substituted for “municipal or State government” for consistency in the revised title and with other titles of the United States Code. The words “or required” are omitted as surplus.

## AMENDMENTS

2004—Subsec. (b)(1). Pub. L. 108-458, §4027(c)(1), substituted “Secretary of Homeland Security” for “Secretary of Transportation”.

Subsec. (c)(2). Pub. L. 108-458, §4027(c)(2), substituted “Secretary of Homeland Security” for “Under Secretary of Transportation for Security”.

2001—Subsec. (c)(2). Pub. L. 107-71 inserted “or the Under Secretary of Transportation for Security” after “Federal Aviation Administration”.

## § 46304. Liens on aircraft

(a) AIRCRAFT SUBJECT TO LIENS.—When an aircraft is involved in a violation referred to in section 46301(a)(1)(A)–(C) of this title and the violation is by the owner of, or individual commanding, the aircraft, the aircraft is subject to a lien for the civil penalty.

(b) SEIZURE.—An aircraft subject to a lien under this section may be seized summarily and placed in the custody of a person authorized to take custody of it under regulations of the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator). A report on the seizure shall be submitted to the Attorney General. The Attorney General promptly shall bring a civil action in rem to enforce the lien or notify the Secretary or Administrator that the action will not be brought.

(c) RELEASE.—An aircraft seized under subsection (b) of this section shall be released from custody when—

- (1) the civil penalty is paid;
- (2) a compromise amount agreed on is paid;
- (3) the aircraft is seized under a civil action in rem to enforce the lien;

(4) the Attorney General gives notice that a civil action will not be brought under subsection (b) of this section; or

(5) a bond (in an amount and with a surety the Secretary or Administrator prescribes), conditioned on payment of the penalty or compromise, is deposited with the Secretary or Administrator.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1235; Pub. L. 108-176, title V, §503(d)(2), Dec. 12, 2003, 117 Stat. 2559.)

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<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
46304(a) .....	49 App.:1471(b).	Aug. 23, 1958, Pub. L. 85-726, §§901(b), 903(b)(2), (3), 72 Stat. 784, 786.
46304(b) .....	49 App.:1473(b)(2). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89-670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97-449, §7(b), 96 Stat. 2444.
46304(c) .....	49 App.:1473(b)(3). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	

In this section, the word “civil” is added before “penalty” for consistency in the revised title and with other titles of the United States Code.

In subsections (b) and (c), the word “Administrator” in section 902(b)(2) and (3) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 786) is retained on authority of 49:106(g). The words “Attorney General” are substituted for “United States attorney for the judicial district in which the seizure is made” and “United States attorney” because of 28:503 and 509.

In subsection (b), the words “report on the seizure” are substituted for “report of the cause” for clarity. The words “bring a civil action in rem” are substituted for “institute proceedings” for clarity and consistency in the revised title and with other titles of the Code and the Federal Rules of Civil Procedure (28 App. U.S.C.). The words “that the action will not be brought” are substituted for “of his failure to so act” for clarity.

In subsection (c)(3), the words “under a civil action in rem” are substituted for “in pursuance of process of any court in proceedings in rem” to eliminate unnecessary words and for consistency.

## AMENDMENTS

2003—Subsec. (a). Pub. L. 108-176 struck out “, (2), or (3)” after “section 46301(a)(1)(A)–(C)”.

## EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

## § 46305. Actions to recover civil penalties

A civil penalty under this chapter may be collected by bringing a civil action against the person subject to the penalty, a civil action in rem against an aircraft subject to a lien for a penalty, or both. The action shall conform as nearly as practicable to a civil action in admiralty, regardless of the place an aircraft in a civil action in rem is seized. However, a party may demand a jury trial of an issue of fact in an action involving a civil penalty under this chapter (except a penalty imposed by the Secretary of Transportation that formerly was imposed by

the Civil Aeronautics Board) if the value of the matter in controversy is more than \$20. Issues of fact tried by a jury may be reexamined only under common law rules.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1235.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
46305 .....	49 App.:1473(b)(1).	Aug. 23, 1958, Pub. L. 85-726, §903(b)(1), 72 Stat. 786; Oct. 24, 1978, Pub. L. 95-504, §36, 92 Stat. 1741.
	49 App.:1473(b)(4).	Aug. 23, 1958, Pub. L. 85-726, §903(b)(4), 72 Stat. 787.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.

The text of 49 App.:1473(b)(4) is omitted because of 28:ch. 131. The words “imposed or assessed” are omitted as surplus. The words “bringing a civil action” are substituted for “proceedings in personam”, the words “civil action in rem” are substituted for “proceedings in rem”, and the words “civil action” are substituted for “civil suits”, for consistency in the revised title and with other titles of the United States Code and the Federal Rules of Civil Procedure (28 App. U.S.C.). The words “regardless of the place an aircraft in a civil action in rem is seized” are substituted for 49 App.:1473(b)(1) (last sentence) to eliminate unnecessary words. The word “civil” is added after “involving a” for clarity. The words “(except a penalty imposed by the Secretary of Transportation that formerly was imposed by the Civil Aeronautics Board)” are substituted for “other than those assessed by the Board” because the Civil Aeronautics Board went out of existence and its duties and powers were transferred to the Secretary of Transportation.

**§ 46306. Registration violations involving aircraft not providing air transportation**

(a) APPLICATION.—This section applies only to aircraft not used to provide air transportation.

(b) GENERAL CRIMINAL PENALTY.—Except as provided by subsection (c) of this section, a person shall be fined under title 18, imprisoned for not more than 3 years, or both, if the person—

(1) knowingly and willfully forges or alters a certificate authorized to be issued under this part;

(2) knowingly sells, uses, attempts to use, or possesses with the intent to use, such a certificate;

(3) knowingly and willfully displays or causes to be displayed on an aircraft a mark that is false or misleading about the nationality or registration of the aircraft;

(4) obtains a certificate authorized to be issued under this part by knowingly and willfully falsifying or concealing a material fact, making a false, fictitious, or fraudulent statement, or making or using a false document knowing it contains a false, fictitious, or fraudulent statement or entry;

(5) owns an aircraft eligible for registration under section 44102 of this title and knowingly and willfully operates, attempts to operate, or allows another person to operate the aircraft when—

(A) the aircraft is not registered under section 44103 of this title or the certificate of registration is suspended or revoked; or

(B) the owner knows or has reason to know that the other person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

(6) knowingly and willfully operates or attempts to operate an aircraft eligible for registration under section 44102 of this title knowing that—

(A) the aircraft is not registered under section 44103 of this title;

(B) the certificate of registration is suspended or revoked; or

(C) the person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

(7) knowingly and willfully serves or attempts to serve in any capacity as an airman without an airman’s certificate authorizing the individual to serve in that capacity;

(8) knowingly and willfully employs for service or uses in any capacity as an airman an individual who does not have an airman’s certificate authorizing the individual to serve in that capacity; or

(9) operates an aircraft with a fuel tank or fuel system that has been installed or modified knowing that the tank, system, installation, or modification does not comply with regulations and requirements of the Administrator of the Federal Aviation Administration.

(c) CONTROLLED SUBSTANCE CRIMINAL PENALTY.—(1) In this subsection, “controlled substance” has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(2) A person violating subsection (b) of this section shall be fined under title 18, imprisoned for not more than 5 years, or both, if the violation is related to transporting a controlled substance by aircraft or aiding or facilitating a controlled substance violation and the transporting, aiding, or facilitating—

(A) is punishable by death or imprisonment of more than one year under a law of the United States or a State; or

(B) that is provided is related to an act punishable by death or imprisonment for more than one year under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance).

(3) A term of imprisonment imposed under paragraph (2) of this subsection shall be served in addition to, and not concurrently with, any other term of imprisonment imposed on the individual.

(d) SEIZURE AND FORFEITURE.—(1) The Administrator of Drug Enforcement or the Commissioner of Customs may seize and forfeit under the customs laws an aircraft whose use is related to a violation of subsection (b) of this section, or to aid or facilitate a violation, regardless of whether a person is charged with the violation.

(2) An aircraft’s use is presumed to have been related to a violation of, or to aid or facilitate a violation of—