

thereof, for use in protecting conventional arms, ammunition or explosives, special weapons, and classified information or classified equipment, possesses any such lock or key with the intent to unlawfully or improperly use, sell, or otherwise dispose of such lock or key or cause the same to be unlawfully or improperly used, sold, or otherwise disposed of,

shall be punished as provided in subsection (b).

(3) Whoever, being engaged as a contractor or otherwise in the manufacture of any lock or key knowing that such lock or key has been adopted by any part of the Department of Defense, including all Department of Defense agencies, military departments, and agencies thereof, for use in protecting conventional arms, ammunition or explosives, special weapons, and classified information or classified equipment, delivers any such finished or unfinished lock or any such key to any person not duly authorized by the Secretary of Defense or his designated representative to receive the same, unless the person receiving it is the contractor for furnishing the same or engaged in the manufacture thereof in the manner authorized by the contract, or the agent of such manufacturer, shall be punished as provided in subsection (b).

(b) Whoever commits an offense under subsection (a) shall be fined under this title or imprisoned not more than 10 years, or both.

(c) As used in this section, the term “key” means any key, keyblank, or keyway adopted by any part of the Department of Defense, including all Department of Defense agencies, military departments, and agencies thereof, for use in protecting conventional arms, ammunition or explosives, special weapons, and classified information or classified equipment.

(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

(2) the term “immediate family” means, with respect to a person, the immediate family members of such person, as such term is defined in section 115 of this title.

(Added Pub. L. 109-464, §1(a), Dec. 22, 2006, 120 Stat. 3480; amended Pub. L. 112-154, title VI, §601(b), Aug. 6, 2012, 126 Stat. 1196.)

AMENDMENTS

2012—Pub. L. 112-154 amended section generally. Prior to amendment, section prohibited disruptions of funerals of members or former members of the Armed Forces during period beginning 60 minutes before and ending 60 minutes after such funerals within funeral boundaries, within 150 feet of certain intersections or within 300 feet of funeral boundaries and provided criminal penalties and definitions.

PURPOSE AND AUTHORITY

Pub. L. 112-154, title VI, §601(a), Aug. 6, 2012, 126 Stat. 1195, provided that:

“(1) PURPOSE.—The purpose of this section [amending this section and section 2413 of Title 38, Veterans' Benefits] is to provide necessary and proper support for the recruitment and retention of the Armed Forces and militia employed in the service of the United States by protecting the dignity of the service of the members of such Forces and militia, and by protecting the privacy of their immediate family members and other attendees during funeral services for such members.

“(2) CONSTITUTIONAL AUTHORITY.—Congress finds that this section is a necessary and proper exercise of its powers under the Constitution, article I, section 8, paragraphs 1, 12, 13, 14, 16, and 18, to provide for the common defense, raise and support armies, provide and maintain a navy, make rules for the government and

regulation of the land and naval forces, and provide for organizing and governing such part of the militia as may be employed in the service of the United States.”

§ 1389. Prohibition on attacks on United States servicemen on account of service

(a) IN GENERAL.—Whoever knowingly assaults or batters a United States serviceman or an immediate family member of a United States serviceman, or who knowingly destroys or injures the property of such serviceman or immediate family member, on account of the military service of that serviceman or status of that individual as a United States serviceman, or who attempts or conspires to do so, shall—

(1) in the case of a simple assault, or destruction or injury to property in which the damage or attempted damage to such property is not more than \$500, be fined under this title in an amount not less than \$500 nor more than \$10,000 and imprisoned not more than 2 years;

(2) in the case of destruction or injury to property in which the damage or attempted damage to such property is more than \$500, be fined under this title in an amount not less than \$1000 nor more than \$100,000 and imprisoned not more than 5 years; and

(3) in the case of a battery, or an assault resulting in bodily injury, be fined under this title in an amount not less than \$2500 and imprisoned not less than 6 months nor more than 10 years.

(b) EXCEPTION.—This section shall not apply to conduct by a person who is subject to the Uniform Code of Military Justice.

(c) DEFINITIONS.—In this section—

(1) the term “Armed Forces” has the meaning given that term in section 1388;

(2) the term “immediate family member” has the meaning given that term in section 115; and

(3) the term “United States serviceman”—

(A) means a member of the Armed Forces; and

(B) includes a former member of the Armed Forces during the 5-year period beginning on the date of the discharge from the Armed Forces of that member of the Armed Forces.

(Added Pub. L. 111-84, div. E, §4712(a), Oct. 28, 2009, 123 Stat. 2842.)

REFERENCES IN TEXT

The Uniform Code of Military Justice, referred to in subsec. (b), is classified generally to chapter 47 (§801 et seq.) of Title 10, Armed Forces.

[CHAPTER 68—REPEALED]

[§§ 1401 to 1407. Repealed. Pub. L. 91-513, title III, § 1101(b)(1)(A), Oct. 27, 1970, 84 Stat. 1292]

Section 1401, acts July 18, 1956, ch. 629, title II, §201, 70 Stat. 572; July 12, 1960, Pub. L. 86-624, §13(a), 74 Stat. 413, defined “heroin” and “United States”.

Section 1402, act July 18, 1956, ch. 629, title II, §201, 70 Stat. 572, provided for surrender to Secretary of the Treasury of all legally possessed heroin within 120 days of July 19, 1956.

Section 1403, act July 18, 1956, ch. 629, title II, §201, 70 Stat. 573, set penalties for unlawful use of communications facilities in commission of offenses involving importation or exportation of narcotics.