

Section 5112(b) requires that whenever the loading or stability conditions of a vessel change, the master or individual in charge of the vessel must record in the official logbook the position of the load line and the draft of the vessel.

Section 5112(c) is a new provision that provides that a vessel may be operated only if the loading distribution, stability, and margin of strength are adequate for the intended voyage or movement.

Section 5112(d) provides that subsections (a) and (b) do not apply to a submersible vessel.

§ 5113. Detention of vessels

(a) When the Secretary believes that a vessel is about to leave a place in the United States in violation of this chapter or a regulation prescribed under this chapter, the Secretary may detain the vessel by giving notice to the owner, charterer, managing operator, agent, master, or individual in charge of the vessel.

(b) A detained vessel may be cleared under section 60105 of this title only after the violation has been corrected. If the vessel was cleared before being detained, the clearance shall be withdrawn.

(c) Under regulations prescribed by the Secretary, the owner, charterer, managing operator, agent, master, or individual in charge of a detained vessel may petition the Secretary to review the detention order.

(d) After reviewing a petition, the Secretary may affirm, withdraw, or change the detention order. Before acting on the petition, the Secretary may require any independent survey that may be necessary to determine the condition of the vessel.

(e) The owner of a vessel is liable for the cost incident to a petition for review and any required survey if the vessel is found to be in violation of this chapter or a regulation prescribed under this chapter.

(Pub. L. 99-509, title V, § 5101(2), Oct. 21, 1986, 100 Stat. 1918; Pub. L. 109-304, § 15(20), Oct. 6, 2006, 120 Stat. 1703.)

HISTORICAL AND REVISION NOTES

Revised section 5113

Source: Section (U.S. Code) 46 App. U.S.C. 86h, 88f.

Section 5113 authorizes the Secretary to detain a vessel if the Secretary believes that the vessel is in violation of the load line requirements, and describes the process through which a vessel may be cleared. It also states that a vessel owner is liable for certain costs resulting from a petition for review and load line survey that is made pursuant to a violation of load line requirements.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-304 substituted “section 60105 of this title” for “section 4197 of the Revised Statutes (46 App. U.S.C. 91)”.

§ 5114. Use of Customs Service officers and employees for enforcement

(a) With the approval of the Secretary of the Treasury, the Secretary may use an officer or employee of the United States Customs Service to enforce this chapter and the regulations prescribed under this chapter.

(b) The Secretary shall consult with the Secretary of the Treasury before prescribing a regulation that affects the enforcement responsibilities

of an officer or employee of the Customs Service.

(Pub. L. 99-509, title V, § 5101(2), Oct. 21, 1986, 100 Stat. 1918; Pub. L. 101-595, title VI, § 603(4), Nov. 16, 1990, 104 Stat. 2993.)

HISTORICAL AND REVISION NOTES

Revised section 5114

Source: Section (U.S. Code) 46 App. U.S.C. 86

Section 5114(a) authorizes the Secretary to use a Customs Service officer or employee to enforce load line requirements. The expected role of a Customs Service officer or employee in this regard is to ensure that a vessel is carrying a load line certificate and that the load line is not submerged.

Section 5114(b) requires the Secretary to consult with the Secretary of the Treasury before prescribing a regulation that affects the enforcement responsibilities of a Customs Service officer or employee.

AMENDMENTS

1990—Pub. L. 101-595 substituted “officers and employees” for “officers employees” in section catchline.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 5115. Repealed. Pub. L. 101-595, title VI, § 603(5)(A), Nov. 16, 1990, 104 Stat. 2993]

Section, Pub. L. 99-509, title V, § 5101(2), Oct. 21, 1986, 100 Stat. 1918, authorized Secretary to prescribe regulations to carry out this chapter.

§ 5116. Penalties

(a) Except as otherwise provided in this section, the owner, charterer, managing operator, agent, master, and individual in charge of a vessel violating this chapter or a regulation prescribed under this chapter are each liable to the United States Government for a civil penalty of not more than \$5,000. Each day of a continuing violation is a separate violation. The vessel also is liable in rem for the penalty.

(b) The owner, charterer, managing operator, agent, master, and individual in charge of a vessel allowing, causing, attempting to cause, or failing to take reasonable care to prevent a violation of section 5112(a) of this title are each liable to the Government for a civil penalty of not more than \$10,000 plus an additional amount equal to twice the economic benefit of the overloading. The vessel also is liable in rem for the penalty.

(c) The master or individual in charge of a vessel violating section 5112(b) of this title is liable to the Government for a civil penalty of not more than \$5,000. The vessel also is liable in rem for the penalty.

(d) A person causing or allowing the departure of a vessel from a place within the jurisdiction of the United States in violation of a detention order issued under section 5113 of this title commits a class A misdemeanor.

(e) A person causing or allowing the alteration, concealment, or removal of a mark placed