

of Transportation shall issue rules and regulations to implement this subsection.

(c) Civil penalties for violation; notice and hearing; assessment, collection, and remission; civil actions

Whoever violates any rule or regulation issued under subsection (a) or (b) of this section, shall be liable to a civil penalty of not more than \$5,000 for a violation occurring in 2004; \$10,000 for a violation occurring in 2005; \$15,000 for a violation occurring in 2006; \$20,000 for a violation occurring in 2007; and \$25,000 for a violation occurring in 2008 and any year thereafter. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

(Aug. 18, 1894, ch. 299, § 5, 28 Stat. 362; June 13, 1902, ch. 1079, § 6, 32 Stat. 374; Pub. L. 90-578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 97-322, title I, § 108(a), Oct. 15, 1982, 96 Stat. 1582; Pub. L. 97-449, § 2(d)(1), Jan. 12, 1983, 96 Stat. 2440; Pub. L. 100-448, § 21, Sept. 28, 1988, 102 Stat. 1846; Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 108-293, title VI, § 601(b), Aug. 9, 2004, 118 Stat. 1050.)

CODIFICATION

The last proviso of subsec. (a) of this section was from a part of section 6 of act June 13, 1902, which reads as follows: "Any regulations heretofore or hereafter prescribed by the Secretary of War in pursuance of the fourth and fifth sections of the river and harbor Act of August eighteenth, eighteen hundred and ninety-four [this section and section 1 of this title], and any regulations hereafter prescribed in pursuance of the aforesaid section four as amended by section eleven of this Act [section 1 of this title], may be enforced as provided in section seventeen of the river and harbor Act of March third, eighteen hundred and ninety-nine [section 413 of this title], the provisions whereof are hereby made applicable to the said regulations."

The last paragraph of section 1 of this title is also from a part of section 6 of act June 13, 1902.

Except for the last proviso of subsec. (a), this section was from act Aug. 18, 1894.

AMENDMENTS

2004—Subsec. (c). Pub. L. 108-293 substituted "\$5,000 for a violation occurring in 2004; \$10,000 for a violation occurring in 2005; \$15,000 for a violation occurring in 2006; \$20,000 for a violation occurring in 2007; and \$25,000 for a violation occurring in 2008 and any year thereafter" for "\$1,000".

1988—Subsec. (a). Pub. L. 100-448 inserted at end "Any rules and regulations made in pursuance of this section shall, to the extent practical and feasible, provide for regularly scheduled openings of drawbridges during seasons of the year, and during times of the day, when scheduled openings would help reduce motor vehicle traffic delays and congestion on roads and highways linked by drawbridges."

1983—Subsec. (a). Pub. L. 97-449 substituted "Secretary of Transportation" for "Secretary of War" wherever appearing. See Transfer of Functions note below.

1982—Subsec. (a). Pub. L. 97-322, § 108(a)(1)-(4), designated existing provisions as subsec. (a); struck out from second sentence after "boats," the clause "or who shall unreasonably delay the opening of said draw after reasonable signal shall have been given."; substituted in first proviso "subsection" for "section"; and in second proviso provided for punishment of "willful" violation of rules and regulations.

Subsecs. (b), (c). Pub. L. 97-322, § 108(a)(5), added subsecs. (b) and (c).

CHANGE OF NAME

"Magistrate judge" substituted in text for "magistrate" pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, "magistrate" substituted for "commissioner" pursuant to Pub. L. 90-578. See chapter 43 (§ 631 et seq.) of Title 28.

TRANSFER OF FUNCTIONS

Section 6(g)(2) of Pub. L. 89-670 transferred functions, powers, and duties of Secretary of the Army [formerly War] and other officers and offices of Department of the Army [formerly War] relating to drawbridge operating regulations under this section to Secretary of Transportation. Pub. L. 97-449 amended this section to reflect transfer made by section 6(g)(2) of Pub. L. 89-670, and repealed section 6(g)(2).

§ 500. Deflection of current; liability to riparian owners

Whenever complaint shall be made to the Secretary of the Army that by reason of the placing in any navigable waters of the United States of any bridge pier or abutment, the current of such waters has been so deflected from its natural course as to cause by producing caving of banks or otherwise serious damage or danger to property, it shall be his duty to make inquiry, and if it shall be ascertained that the complaint is well founded, he shall cause the owners or persons operating such bridge to repair such damage or prevent such danger to property by such means as he shall indicate and within such time as he may name, and in default thereof the owners or persons operating such bridge shall be liable in any court of competent jurisdiction to the persons injured in a sum double the amount of said injury: *Provided, however,* That nothing herein contained shall be construed so as to affect any rights of action which may have existed prior to August 11, 1888.

(Aug. 11, 1888, ch. 860, § 2, 25 Stat. 423; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CODIFICATION

Section was from the River and Harbor Appropriation Act of 1888.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of the Army and other offices and officers of Department of the Army under sections 491 to 494 and 495 to 498 of this

title to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670, §6(g)(6)(B), Oct. 15, 1966, 80 Stat. 931. Pub. L. 97-449 amended sections 491 to 494 and 495 to 498 of this title to reflect transfer made by section 6(g)(6)(B) of Pub. L. 89-670, and repealed section 6(g)(6)(B).

§ 501. Omitted

CODIFICATION

Section, R.S. §5250, gave assent of Congress to construction of bridges across the Maquoketa River in Iowa.

§ 502. Alteration, removal, or repair of bridge or accessory obstructions to navigation

(a) Criminal penalties for violation; alteration or removal requirements; notice and hearing; specification of changes; time for compliance; notice to United States attorney; misdemeanor; fine; new offenses

Whenever the Secretary of Transportation shall have good reason to believe that any railroad or other bridge over any of the navigable waterways of the United States is an unreasonable obstruction to the free navigation of such waters on account of insufficient height, width of span, or otherwise, or where there is difficulty in passing the draw opening or the draw span of such bridge by rafts, steamboats, or other water craft, it shall be the duty of the said Secretary, first giving the parties reasonable opportunity to be heard, to give notice to the persons or corporations owning or controlling such bridge so to alter the same as to render navigation through or under it reasonably free, easy, and unobstructed; and in giving such notice he shall specify the changes that are required to be made, and shall prescribe in each case a reasonable time in which to make them. If at the end of such time the alteration has not been made, the Secretary of Transportation shall forthwith notify the United States attorney for the district in which such bridge is situated, to the end that the criminal proceedings hereinafter in this section mentioned may be taken. If the persons, corporation, or association owning or controlling any railroad or other bridge shall, after receiving notice to that effect, as hereinbefore required, from the Secretary of Transportation and within the time prescribed by him willfully fail or refuse to remove the same or to comply with the lawful order of the Secretary of the Army in the premises, such persons, corporation, or association shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine not exceeding \$5,000, and every month such persons, corporation, or association shall remain in default in respect to the removal or alteration of such bridge shall be deemed a new offense, and subject the persons, corporation, or association so offending to the penalties above prescribed.

(b) Proper repair requirement

No owner or operator of any bridge, drawbridge, or causeway shall endanger, unreasonably obstruct, or make hazardous the free navigation of any navigable water of the United States by reason of the failure to keep the

bridge, drawbridge, or causeway and any accessory works in proper repair.

(c) Civil penalties for violation; separate offenses; notice and hearing; assessment, collection, and remission; civil actions

Whoever violates any provision of this section, or any order issued under this section, shall be liable to a civil penalty of not more than \$5,000 for a violation occurring in 2004; \$10,000 for a violation occurring in 2005; \$15,000 for a violation occurring in 2006; \$20,000 for a violation occurring in 2007; and \$25,000 for a violation occurring in 2008 and any year thereafter. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

(Mar. 3, 1899, ch. 425, §18, 30 Stat. 1153; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; Jan. 31, 1928, ch. 14, §1, 45 Stat. 54; June 25, 1948, ch. 646, §§1, 39, 62 Stat. 909, 992; Pub. L. 97-322, title I, §108(b), Oct. 15, 1982, 96 Stat. 1583; Pub. L. 108-293, title VI, §601(c), Aug. 9, 2004, 118 Stat. 1050.)

CODIFICATION

Section is from act Mar. 3, 1899, popularly known as the "Rivers and Harbors Appropriation Act of 1899".

The words "or from the existing circuit courts," which followed "district courts" in the proviso were superseded by the abolition of the circuit courts and the transfer of their jurisdiction to the district courts, by act Mar. 3, 1911.

PRIOR PROVISIONS

This section superseded act Aug. 11, 1888, ch. 860, §§9, 10, 25 Stat. 424, as amended by act Sept. 19, 1890, ch. 907, §§4, 5, 26 Stat. 453, which required the Secretary of War to provide against obstructions to navigation by bridges, and prescribed a punishment on the owner's default in making the required alterations.

The Secretary of War was authorized to make the required changes in bridges obstructing navigation on the owner's failure to do so, and the Attorney General was required to institute proceedings against the owner for the recovery of the cost of such changes, by act July 5, 1884, ch. 229, §8, 23 Stat. 148.

AMENDMENTS

2004—Subsec. (c). Pub. L. 108-293 substituted "\$5,000 for a violation occurring in 2004; \$10,000 for a violation occurring in 2005; \$15,000 for a violation occurring in 2006; \$20,000 for a violation occurring in 2007; and \$25,000 for a violation occurring in 2008 and any year thereafter" for "\$1,000".

1982—Subsec. (a). Pub. L. 97-322 designated existing provisions as subsec. (a), substituted "Secretary of Transportation" for "Secretary of War" wherever appearing, and struck out "recommended by the Chief of Engineers" after "specify the charges".

Subsecs. (b), (c). Pub. L. 97-322 added subsecs. (b) and (c).

1948—Act June 25, 1948, §39, repealed proviso at end relating to appeals. See sections 1252 and 1253 of title 28.