

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
60119(b)(2) ..	49 App.:1674b(b)(4)(C).	

In this section, the word “judicial” is omitted as surplus.

In subsection (a)(1), the words “Except as provided in subsection (b) of this section” are added for clarity. The words “who is or will be . . . or aggrieved” are omitted as surplus. The word “prescribed” is added for consistency in the revised title and with other titles of the United States Code. The word “Circuit” is added to complete the proper title of the Court. The word “resides” is substituted for “located” for clarity and for consistency in the revised title and with other titles of the Code. The words “or other officer designated by him for that purpose” are omitted as surplus because of 49:322(b).

In subsection (a)(2), the text of 49 App.:1675(b) and 2005(b) is omitted as surplus because of 28:1331 and because 5.ch. 7 applies in the absence of an exception. The text of 49 App.:1675(d) and 2005(d) is omitted as covered by rule 43 of the Federal Rules of Appellate Procedure (28 App. U.S.C.). The words “affirming or setting aside, in whole or in part, any such regulation or order of the Secretary” are omitted as surplus. The words “may be reviewed only” are substituted for “shall be final, subject to review” for consistency. The words “and not in substitution for” are omitted as surplus.

In subsection (b)(1), the words “adversely affected” are substituted for “aggrieved” for consistency in the revised title and with other titles of the Code. The word “only” is omitted as surplus. The text of 49 App.:1674b(b)(4)(B) (1st sentence) is omitted as surplus because 28:2112 applies in the absence of an exception. The text of 49 App.:1674b(b)(4)(B) (2d sentence) is omitted as surplus and because of 28:1651.

In subsection (b)(2), the words “and decree” are omitted as surplus. The words “may be reviewed only” are substituted for “shall be final, except that such judgment and decree shall be subject to review” for consistency and to eliminate unnecessary words. The words “upon certiorari” are omitted as surplus because of 28:1254(1).

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–90, §2(d)(1), substituted “, Orders, and Other Final Agency Actions” for “and Waiver Orders” in heading.

Subsec. (a)(1). Pub. L. 112–90, §2(d)(2), substituted “order issued under this chapter” for “order issued about an application for a waiver under section 60118(c) or (d) of this title”.

Subsec. (a)(3). Pub. L. 112–90, §20(b), added par. (3).

§ 60120. Enforcement

(a) CIVIL ACTIONS.—

(1) CIVIL ACTIONS TO ENFORCE THIS CHAPTER.—

At the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter, including section 60112, or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties, considering the same factors as prescribed for the Secretary in an administrative case under section 60122. The maximum amount of civil penalties for administrative enforcement actions under section 60122 shall not apply to enforcement actions under this section.

(2) CIVIL ACTIONS TO REQUIRE COMPLIANCE WITH SUBPOENAS OR ALLOW FOR INSPECTIONS.—

At the request of the Secretary, the Attorney General may bring a civil action in a district court of the United States to require a person to comply immediately with a subpoena or to allow an officer, employee, or agent authorized by the Secretary to enter the premises, and inspect the records and property, of the person to decide whether the person is complying with this chapter. The action may be brought in the judicial district in which the defendant resides, is found, or does business. The court may punish a failure to obey the order as a contempt of court.

(b) JURY TRIAL DEMAND.—In a trial for criminal contempt for violating an injunction issued under this section, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(c) EFFECT ON TORT LIABILITY.—This chapter does not affect the tort liability of any person.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1323; Pub. L. 107–355, §8(b)(3), Dec. 17, 2002, 116 Stat. 2993; Pub. L. 112–90, §2(c), Jan. 3, 2012, 125 Stat. 1905.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
60120(a)(1) ..	49 App.:1677(b)(2).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §10(b)(2); added Nov. 30, 1979, Pub. L. 96–129, §§104(a)(1), 152(a), 93 Stat. 992, 999.
	49 App.:1679b(a)(1).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §12(a); added Nov. 30, 1979, Pub. L. 96–129, §104(b), 93 Stat. 993.
	49 App.:2006(b)(2).	Nov. 30, 1979, Pub. L. 96–129, §§207(b)(2), (c), 209(a), 93 Stat. 1009, 1010.
60120(a)(2) ..	49 App.:2008(a)(1).	Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §14(f); added Oct. 24, 1992, Pub. L. 102–508, §112(b), 106 Stat. 3295.
	49 App.:1681(f).	Nov. 30, 1979, Pub. L. 96–129, 93 Stat. 989, §211(f); added Oct. 24, 1992, Pub. L. 102–508, §211(b), 106 Stat. 3304.
	49 App.:2010(f).	
60120(b)	49 App.:1679b(a)(2).	
	49 App.:2008(a)(2).	
60120(c)	49 App.:1677(c).	Aug. 12, 1968, Pub. L. 90–481, §10(c), 82 Stat. 725; Nov. 30, 1979, Pub. L. 96–129, §§104(a)(1), 152(a), 93 Stat. 992, 999.
	49 App.:2006(c).	

In subsection (a)(1), the text of 49 App.:1677(b)(2) and 2006(b)(2) and the words “shall have jurisdiction to determine such actions” in 49 App.:1679b(a)(1) and 2008(a)(1) are omitted as redundant and because of 28:1331 and 1345. The word “civil” is added for consistency in the revised title and with other titles of the United States Code and because of rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words “to enforce this chapter” are substituted for “for equitable relief to redress or restrain a violation by any person of a provision of this chapter” to eliminate unnecessary words. The word “prescribed” is substituted for “issued” for consistency in the revised title and with other titles of the Code. The words “necessary or . . . mandatory or prohibitive injunctive relief, interim equitable relief, and” are omitted as surplus.

In subsection (a)(2), the words “the Attorney General may bring a civil action in a district court of the United States” are substituted for “such district court shall, upon the request of the Attorney General . . .

have jurisdiction to issue to such person an order” for clarity and consistency and because of 28:1331 and 1345. The words “contumacy or” are omitted as surplus. The word “premises” is added for clarity and consistency. The words “or examine” are omitted as being included in “inspect”.

In subsection (b), the words “mandatory or prohibitive” are omitted as surplus. The words “the defendant may demand a jury trial” are substituted for “trial shall be by the court or, upon demand of the accused, by a jury” to eliminate unnecessary words and for consistency in the revised title and with other titles of the Code.

In subsection (c), the words “common law or statutory” are omitted as surplus.

AMENDMENTS

2012—Subsec. (a)(1). Pub. L. 112-90 added at end “The maximum amount of civil penalties for administrative enforcement actions under section 60122 shall not apply to enforcement actions under this section.”

Subsec. (a). Pub. L. 107-355 reenacted subsec. heading without change, added par. (1) and struck out former par. (1), inserted par. (2) heading and realigned margins. Prior to amendment, par. (1) read as follows: “On the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including punitive damages.”

§ 60121. Actions by private persons

(a) GENERAL AUTHORITY.—(1) A person may bring a civil action in an appropriate district court of the United States for an injunction against another person (including the United States Government and other governmental authorities to the extent permitted under the 11th amendment to the Constitution) for a violation of this chapter or a regulation prescribed or order issued under this chapter. However, the person—

(A) may bring the action only after 60 days after the person has given notice of the violation to the Secretary of Transportation or to the appropriate State authority (when the violation is alleged to have occurred in a State certified under section 60105 of this title) and to the person alleged to have committed the violation;

(B) may not bring the action if the Secretary or authority has begun and diligently is pursuing an administrative proceeding for the violation; and

(C) may not bring the action if the Attorney General of the United States, or the chief law enforcement officer of a State, has begun and diligently is pursuing a judicial proceeding for the violation.

(2) The Secretary shall prescribe the way in which notice is given under this subsection.

(3) The Secretary, with the approval of the Attorney General, or the Attorney General may intervene in an action under paragraph (1) of this subsection.

(b) COSTS AND FEES.—The court may award costs, reasonable expert witness fees, and a reasonable attorney’s fee to a prevailing plaintiff in a civil action under this section. The court may award costs to a prevailing defendant when the action is unreasonable, frivolous, or meritless. In this subsection, a reasonable attorney’s fee is a fee—

(1) based on the actual time spent and the reasonable expenses of the attorney for legal services provided to a person under this section; and

(2) computed at the rate prevailing for providing similar services for actions brought in the court awarding the fee.

(c) STATE VIOLATIONS AS VIOLATIONS OF THIS CHAPTER.—In this section, a violation of a safety standard or practice of a State is deemed to be a violation of this chapter or a regulation prescribed or order issued under this chapter only to the extent the standard or practice is not more stringent than a comparable minimum safety standard prescribed under this chapter.

(d) ADDITIONAL REMEDIES.—A remedy under this section is in addition to any other remedies provided by law. This section does not restrict a right to relief that a person or a class of persons may have under another law or at common law. (Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1324.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
60121(a)(1) ..	49 App.:1686(a), (b) (1st sentence).	Aug. 12, 1968, Pub. L. 90-481, 82 Stat. 720, §19; added Oct. 11, 1976, Pub. L. 94-477, §8, 90 Stat. 2075; Nov. 30, 1979, Pub. L. 96-129, §104(b), 93 Stat. 992; Nov. 30, 1979, Pub. L. 96-129, §215, 93 Stat. 1014.
60121(a)(2) ..	49 App.:2014(a), (b) (1st sentence). 49 App.:1686(b) (last sentence). 49 App.:2014(b) (last sentence).	
60121(a)(3) ..	49 App.:1686(c). 49 App.:2014(c).	
60121(b)	49 App.:1686(e). 49 App.:2014(e).	
60121(c)	49 App.:1686(f). 49 App.:2014(f).	
60121(d)	49 App.:1686(d). 49 App.:2014(d).	

In subsection (a)(1), before clause (A), the text of 49 App.:1686(a) (last sentence, words after the comma) and 2014(a) (last sentence, words after the comma) is omitted as surplus because the amount in controversy is no longer a criterion. The word “bring” is substituted for “commence” for consistency in the revised title and with other titles of the United States Code. The words “mandatory or prohibitive”, “including interim equitable relief”, “State, municipality, or”, and “alleged to be” are omitted as surplus. The word “prescribed” is added for consistency in the revised title and with other titles of the Code.

In subsection (a)(2), the words “by regulation” are omitted as surplus because of 49:322(a).

In subsection (a)(3), the words “as a matter of right” are omitted as surplus.

In subsection (b), before clause (1), the words “in the interest of justice” and “of suit, including” are omitted as surplus. In clause (1), the words “by an attorney” and “advice and other” are omitted as surplus. The words “provided to a person under this section” are substituted for “providing . . . in connection with representing a person in an action brought under this section” to eliminate unnecessary words.

In subsection (c), the word “Federal” is omitted as surplus. The words “prescribed under this chapter” are added for clarity.

In subsection (d), the words “enforcement of this chapter or any order or regulation under this chapter or to seek any other” are omitted as surplus.

§ 60122. Civil penalties

(a) GENERAL PENALTIES.—(1) A person that the Secretary of Transportation decides, after writ-