

(d) Vessels; liability in rem; exempt vessels; consent or privity of owners or bareboat charterers

Any vessel, except a public vessel engaged in noncommercial activities, used in a violation of this chapter or of any rule or regulation issued pursuant to this chapter, shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof; but no vessel shall be liable unless it shall appear that one or more of the owners, or bareboat charterers, was at the time of the violation, a consenting party or privity to such violation.

(Pub. L. 93-627, §15, Jan. 3, 1975, 88 Stat. 2140; Pub. L. 101-380, title IV, §4302(m), Aug. 18, 1990, 104 Stat. 539.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-380 substituted “commits a class A misdemeanor for each day of violation” for “shall on conviction be fined not more than \$25,000 for each day of violation or imprisoned for not more than 1 year, or both”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as an Effective Date note under section 2701 of this title.

DEPOSIT OF CERTAIN PENALTIES INTO OIL SPILL LIABILITY TRUST FUND

Penalties paid pursuant to this chapter and sections 1319(c) and 1321 of this title to be deposited in the Oil Spill Liability Trust Fund created under section 9509 of Title 26, Internal Revenue Code, see section 4304 of Pub. L. 101-380, set out as a note under section 9509 of Title 26.

§ 1515. Citizen civil action**(a) Equitable relief; case or controversy; district court jurisdiction**

Except as provided in subsection (b) of this section, any person may commence a civil action for equitable relief on his own behalf, whenever such action constitutes a case or controversy—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any provision of this chapter or any condition of a license issued pursuant to this chapter; or

(2) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this chapter which is not discretionary with the Secretary. Any action brought against the Secretary under this paragraph shall be brought in the district court for the District of Columbia or the district of the appropriate adjacent coastal State.

In suits brought under this chapter, the district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any provision of this chapter or any condition of a license issued pursuant to this chapter, or to order the Secretary to perform such act or duty, as the case may be.

(b) Notice; intervention of right by person

No civil action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to 60 days after the plaintiff has given notice of the violation (i) to the Secretary and (ii) to any alleged violator; or

(B) if the Secretary or the Attorney General has commenced and is diligently prosecuting a civil or criminal action with respect to such matters in a court of the United States, but in any such action any person may intervene as a matter of right; or

(2) under subsection (a)(2) of this section prior to 60 days after the plaintiff has given notice of such action to the Secretary.

Notice under this subsection shall be given in such a manner as the Secretary shall prescribe by regulation.

(c) Intervention of right by Secretary or Attorney General

In any action under this section, the Secretary or the Attorney General, if not a party, may intervene as a matter of right.

(d) Costs of litigation; attorney and witness fees

The Court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines that such an award is appropriate.

(e) Statutory or common law rights unaffected

Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement or to seek any other relief.

(Pub. L. 93-627, §16, Jan. 3, 1975, 88 Stat. 2140.)

§ 1516. Judicial review; persons aggrieved; jurisdiction of courts of appeal

Any person suffering legal wrong, or who is adversely affected or aggrieved by the Secretary's decision to issue, transfer, modify, renew, suspend, or revoke a license may, not later than 60 days after any such decision is made, seek judicial review of such decision in the United States Court of Appeals for the circuit within which the nearest adjacent coastal State is located. A person shall be deemed to be aggrieved by the Secretary's decision within the meaning of this chapter if he—

(A) has participated in the administrative proceedings before the Secretary (or if he did not so participate, he can show that his failure to do so was caused by the Secretary's failure to provide the required notice); and

(B) is adversely affected by the Secretary's action.

(Pub. L. 93-627, §17, Jan. 3, 1975, 88 Stat. 2141.)

§ 1517. Repealed. Pub. L. 101-380, title II, § 2003(a)(2), Aug. 18, 1990, 104 Stat. 507

Section, Pub. L. 93-627, §18, Jan. 3, 1975, 88 Stat. 2141; Pub. L. 98-419, §4(a), Sept. 25, 1984, 98 Stat. 1608, set penalties for discharge of oil into marine environment and provided for creation and maintenance of a Deepwater Port Liability Fund.

DEEPWATER PORT LIABILITY FUND

Amounts remaining in Deepwater Port Liability Fund established under former subsec. (f) of this section to be deposited in Oil Spill Liability Trust Fund established under section 9509 of Title 26, Internal Revenue Code, with that Fund to assume all liability incurred by the Deepwater Port Liability Fund, see section 2003(b) of Pub. L. 101-380, set out as a note under section 9509 of Title 26.

EFFECTIVE DATE OF REPEAL

Repeal applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as an Effective Date note under section 2701 of this title.

§ 1517a. Omitted

CODIFICATION

Section, Pub. L. 101-164, title I, Nov. 21, 1989, 103 Stat. 1073, which authorized Secretary of Transportation to issue, and Secretary of the Treasury to purchase, notes or other obligations to meet obligations of Deepwater Port Liability Fund, applied to fiscal year ending Sept. 30, 1990, and was not repeated in subsequent appropriation acts.

Similar provisions were contained in the following prior appropriation acts:

- Pub. L. 100-457, title I, Sept. 30, 1988, 102 Stat. 2128.
- Pub. L. 100-202, §101(l) [title I], Dec. 22, 1987, 101 Stat. 1329-358, 1329-361.
- Pub. L. 99-500, §101(l) [H.R. 5205, title I], Oct. 18, 1986, 100 Stat. 1783-308, and Pub. L. 99-591, §101(l) [H.R. 5205, title I], Oct. 30, 1986, 100 Stat. 3341-308.
- Pub. L. 99-190, §101(e) [title I], Dec. 19, 1985, 99 Stat. 1267, 1270.
- Pub. L. 98-473, title I, §101(i) [title I], Oct. 12, 1984, 98 Stat. 1944, 1947.
- Pub. L. 98-78, title I, Aug. 15, 1983, 97 Stat. 455.
- Pub. L. 97-369, title I, Dec. 18, 1982, 95 Stat. 1767.
- Pub. L. 97-102, title I, Dec. 23, 1981, 95 Stat. 1444.
- Pub. L. 97-12, title I, June 5, 1981, 95 Stat. 67.

§ 1518. Relationship to other laws

(a) Federal Constitution, laws, and treaties applicable; other Federal requirements applicable; status of deepwater port; Federal or State authorities and responsibilities within territorial seas unaffected; notification by Secretary of State of intent to exercise jurisdiction; objections by foreign governments

(1) The Constitution, laws, and treaties of the United States shall apply to a deepwater port licensed under this chapter and to activities connected, associated, or potentially interfering with the use or operation of any such port, in the same manner as if such port were an area of exclusive Federal jurisdiction located within a State. Nothing in this chapter shall be construed to relieve, exempt, or immunize any person from any other requirement imposed by Federal law, regulation, or treaty. Deepwater ports licensed under this chapter do not possess the status of islands and have no territorial seas of their own.

(2) Except as otherwise provided by this chapter, nothing in this chapter shall in any way alter the responsibilities and authorities of a State or the United States within the territorial seas of the United States.

(3) The Secretary of State shall notify the government of each foreign state having vessels registered under its authority or flying its flag which may call at or otherwise utilize a deepwater port but which do not currently have an

agreement in effect as provided in subsection (c)(2)(A)(i) of this section that the United States intends to exercise jurisdiction over vessels calling at or otherwise utilizing a deepwater port and the persons on board such vessels. The Secretary of State shall notify the government of each such state that, absent its objection, its vessels will be subject to the jurisdiction of the United States whenever they—

(A) are calling at or otherwise utilizing a deepwater port; and

(B) are within the safety zone of such a deepwater port and are engaged in activities connected, associated, or potentially interfering with the use and operation of the deepwater port.

The Secretary of State shall promptly inform licensees of deepwater ports of all objections received from governments of foreign states in response to notifications made under this paragraph.

(b) Law of nearest adjacent coastal State as applicable Federal law; Federal administration and enforcement of such law; nearest adjacent coastal State defined

The law of the nearest adjacent coastal State, now in effect or hereafter adopted, amended, or repealed, is declared to be the law of the United States, and shall apply to any deepwater port licensed pursuant to this chapter, to the extent applicable and not inconsistent with any provision or regulation under this chapter or other Federal laws and regulations now in effect or hereafter adopted, amended, or repealed. All such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States. For purposes of this subsection, the nearest adjacent coastal State shall be that State whose seaward boundaries, if extended beyond 3 miles, would encompass the site of the deepwater port.

(c) Vessels of United States and foreign states subject to Federal jurisdiction; objections to jurisdiction; designation of agent for service of process; duty of licensee

(1) The jurisdiction of the United States shall apply to vessels of the United States and persons on board such vessels. The jurisdiction of the United States shall also apply to vessels, and persons on board such vessels, registered in or flying the flags of foreign states, whenever such vessels are—

(A) calling at or otherwise utilizing a deepwater port; and

(B) are within the safety zone of such a deepwater port, and are engaged in activities connected, associated, or potentially interfering with the use and operation of the deepwater port.

The jurisdiction of the United States under this paragraph shall not, however, apply to vessels registered in or flying the flag of any foreign state that has objected to the application of such jurisdiction.

(2) Except in a situation involving force majeure, a licensee shall not permit a vessel registered in or flying the flag of a foreign state to call at or otherwise utilize a deepwater port licensed under this chapter unless—