

(i) a documented vessel owned by a citizen of the United States; or

(ii) a vessel last documented under the laws of the United States; or

(B) place under foreign registry, or operate under the authority of a foreign country, a documented vessel or a vessel last documented under the laws of the United States.

(2) EXCEPTIONS.—Paragraph (1)(A) does not apply to a vessel that has been operated only for pleasure or only as a fishing vessel, fish processing vessel, or fish tender vessel (as defined in section 2101 of this title).

(b) APPROVAL BEFORE DOCUMENTATION.—To promote financing with respect to a vessel to be documented under chapter 121 of this title, the Secretary may grant approval under subsection (a) before the vessel is documented.

(c) EXCEPTIONS.—Notwithstanding any other provision of this subtitle, the Merchant Marine Act, 1936, or any contract with the Secretary made under this subtitle or that Act, a person may place a vessel under foreign registry without the approval of the Secretary if—

(1)(A) the Secretary, in conjunction with the Secretary of Defense, determines that at least one replacement vessel of equal or greater military capability and of a capacity that is equivalent or greater, as measured by deadweight tons, gross tons, or container equivalent units, as appropriate, is documented under chapter 121 of this title by the owner of the vessel placed under foreign registry; and

(B) the replacement vessel is not more than 10 years old on the date of that documentation; or

(2) an operating agreement covering the vessel under chapter 531 of this title has expired.

(d) STATUS OF PROHIBITED TRANSACTION.—A charter, sale, or transfer of a vessel, or of an interest in or control of a vessel, in violation of this section is void.

(e) PENALTIES.—

(1) CRIMINAL PENALTY.—A person that knowingly sells, charters, or transfers a vessel, or an interest in or control of a vessel, in violation of this section shall be fined under title 18, imprisoned for not more than 5 years, or both.

(2) CIVIL PENALTY.—A person that sells, charters, or transfers a vessel, or an interest in or control of a vessel, in violation of this section is liable to the United States Government for a civil penalty of not more than \$10,000 for each violation.

(3) FORFEITURE.—A documented vessel may be seized by and forfeited to the Government if, in violation of this section, a person—

(A) knowingly sells, charters, or transfers the vessel or an interest in or control of the vessel; or

(B) places the vessel under foreign registry or operates the vessel under the authority of a foreign country.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1651.)

## HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
56101(a) .....	46 App.:808(c).	Sept. 7, 1916, ch. 451, §9(c), (d), 39 Stat. 730; July 15, 1918, ch. 152, §3, 40 Stat. 900; June 5, 1920, ch. 250, §18, 41 Stat. 994; Exec. Order No. 6166, §12, eff. June 10, 1933; June 29, 1936, ch. 858, title II, §204, title IX, §904, 49 Stat. 1987, 2016; June 23, 1938, ch. 600, §42, 52 Stat. 964; Pub. L. 89-346, §1, Nov. 8, 1965, 79 Stat. 1305; Pub. L. 97-31, §12(26), Aug. 6, 1981, 95 Stat. 155; Pub. L. 100-710, title I, §104(b)(3), Nov. 23, 1988, 102 Stat. 4750; Pub. L. 101-225, title III, §304(a), Dec. 12, 1989, 103 Stat. 1924; Pub. L. 104-324, title XI, [§]1113(c), (e), Oct. 19, 1996, 110 Stat. 3970, 3971; Pub. L. 107-295, title II, §205(d), Nov. 25, 2002, 116 Stat. 2096.
	46 App.:808a.	Pub. L. 98-454, title III, §302, Oct. 5, 1984, 98 Stat. 1734.
56101(b) .....	46 App.:808(f)	Sept. 7, 1916, ch. 451, §9(f), as added Pub. L. 104-324, title XI, §1136(b), Oct. 19, 1996, 110 Stat. 3987; Pub. L. 108-136, title XXXV, §3532(a)(1), Nov. 24, 2003, 117 Stat. 1817.
56101(c) .....	46 App.:808(e)	Sept. 7, 1916, ch. 451, §9(e), as added Pub. L. 104-239, §6, Oct. 8, 1996, 110 Stat. 3132; Pub. L. 108-136, title XXXV, §3532(a)(2), Nov. 24, 2003, 117 Stat. 1817.
56101(d) .....	46 App.:808(d)(1).	
56101(e) .....	46 App.:808(d)(2)-(4).	

In subsection (a), the text of 46 App. U.S.C. 808a is omitted as unnecessary. In paragraph (1), the words “owned by a citizen of the United States” are omitted as unnecessary because ownership by a citizen is a requirement for documentation. See section 12103 as revised by the bill.

In subsection (c), before paragraph (1), the words “Notwithstanding any other provision of this subtitle, the Merchant Marine Act, 1936, or any contract with the Secretary made under this subtitle or that Act” are substituted for “Notwithstanding subsection (c)(2) of this section, the Merchant Marine Act, 1936 [46 App. U.S.C. 1101 et seq.], or any contract entered into with the Secretary of Transportation under that Act” because the Merchant Marine Act, 1936, is restated principally in this subtitle, but other provisions of that Act are being neither restated nor repealed.

## REFERENCES IN TEXT

The Merchant Marine Act, 1936, referred to in subsections (a)(1) and (c), is act June 29, 1936, ch. 858, 49 Stat. 1985, which was classified principally to chapter 27 (§1101 et seq.) of the former Appendix to this title. The Act, with the exception of title V, most of title VI, and sections 301, 801, 802, 809(a), and 909 thereof, was repealed and restated, mainly in this subtitle, by Pub. L. 109-304, §§8, 19, Oct. 6, 2006, 120 Stat. 1555, 1710. Title V and sections 301 and 909 of the Act are set out as notes under section 53101 of this title. Those portions of title VI not repealed by Pub. L. 109-304 and sections 802 and 809(a) of the Act were repealed by Pub. L. 114-120, title III, §313(a), Feb. 8, 2016, 130 Stat. 58. Section 801 of the Act was transferred to section 57522 of this title by Pub. L. 114-120, title III, §313(c)(1)(A), Feb. 8, 2016, 130 Stat. 58. For complete classification of the Act to the Code, see Tables. For disposition of sections of the former Appendix to Title 46, see Disposition Table preceding section 101 of this title.

### § 56102. Additional controls during war or national emergency

(a) IN GENERAL.—During war, or a national emergency declared by Presidential proclama-

tion, a person may not, without the approval of the Secretary of Transportation—

(1) place under foreign registry a vessel owned in whole or in part by a citizen of the United States or a corporation incorporated under the laws of the United States or of a State;

(2) sell, mortgage, lease, charter, deliver, or in any other manner transfer, or agree to sell, mortgage, lease, charter, deliver, or in any other manner transfer, to a person not a citizen of the United States—

(A) a vessel owned as described in paragraph (1), or an interest therein;

(B) a vessel documented under the laws of the United States, or an interest therein; or

(C) a facility for building or repairing vessels, or an interest therein;

(3) issue, assign, or transfer to a person not a citizen of the United States an instrument of indebtedness secured by a mortgage of a vessel to a trustee, by an assignment of an owner's interest in a vessel under construction to a trustee, or by a mortgage of a facility for building or repairing vessels to a trustee, unless the trustee or a substitute trustee is approved by the Secretary under subsection (b);

(4) enter into an agreement or understanding to construct a vessel in the United States for, or to be delivered to, a person not a citizen of the United States without expressly stipulating that construction will not begin until after the war or national emergency has ended;

(5) enter into an agreement or understanding whereby there is vested in, or for the benefit of, a person not a citizen of the United States the controlling interest in a corporation that is incorporated under the laws of the United States or a State and that owns a vessel or facility for building or repairing vessels; or

(6) cause or procure a vessel, constructed in whole or in part in the United States and never cleared for a foreign port, to depart from a port of the United States before it has been documented under the laws of the United States.

(b) TRUSTEES.—

(1) APPROVAL.—The Secretary shall approve a trustee or substitute trustee under subsection (a)(3) if and only if the trustee is a bank or trust company that—

(A) is organized as a corporation, and is doing business, under the laws of the United States or a State;

(B) is authorized under those laws to exercise corporate trust powers;

(C) is a citizen of the United States;

(D) is subject to supervision or examination by Federal or State authority; and

(E) has a combined capital and surplus (as set forth in its most recent published report of condition) of at least \$3,000,000.

(2) DISAPPROVAL.—If a trustee or substitute trustee ceases to meet the conditions in paragraph (1), the Secretary shall disapprove the trustee or substitute trustee. After the disapproval, the restrictions on transfer or assignment without the Secretary's approval in subsection (a)(3) apply.

(3) OPERATION OF VESSEL.—During a period when subsection (a) applies, a trustee referred

to in subsection (a)(3), even though approved as a trustee by the Secretary, may not operate the vessel under the mortgage or assignment without the Secretary's approval.

(c) STATUS OF PROHIBITED TRANSACTION.—A transaction in violation of this section is void.

(d) RECOVERY OF CONSIDERATION.—

(1) IN GENERAL.—A person that deposited or paid consideration in connection with a transaction prohibited by this section may recover the consideration after tender of the vessel, facility, stock, or other security, or interest therein, to the person entitled to it, or the forfeiture thereof to the United States Government.

(2) EXCEPTION.—Paragraph (1) does not apply if the person in whose interest the consideration was deposited, or to whom it was paid, entered into the transaction in the belief that the person depositing or paying the consideration was a citizen of the United States.

(e) PENALTIES.—

(1) CRIMINAL PENALTY.—A person that violates, or attempts or conspires to violate, this section shall be fined under title 18, imprisoned for not more than 5 years, or both.

(2) FORFEITURE.—The following shall be forfeited to the Government:

(A) A vessel, a facility for building or repairing vessels, or an interest in a vessel or such a facility, that is sold, mortgaged, leased, chartered, delivered, transferred, or documented, or agreed to be sold, mortgaged, leased, chartered, delivered, transferred, or documented, in violation of this section.

(B) Stock and other securities sold or transferred, or agreed to be sold or transferred, in violation of this section.

(C) A vessel departing in violation of subsection (a)(6).

(Pub. L. 109-304, § 8(c), Oct. 6, 2006, 120 Stat. 1652.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
56102(a) .....	46 App.:835(a)-(c) (less provisos), (d)-(f).	Sept. 7, 1916, ch. 451, § 37, as added July 15, 1918, ch. 152, § 4, 40 Stat. 901; Exec. Order No. 6166, § 12, eff. June 10, 1933; June 29, 1936, ch. 858, title II, § 204, title IX, § 904, 49 Stat. 1987, 2016; Pub. L. 89-346, § 2, Nov. 8, 1965, 79 Stat. 1306; Pub. L. 97-31, § 12(30), Aug. 6, 1981, 95 Stat. 156.
56102(b) .....	46 App.:835(c) (provisos).	
56102(c) .....	46 App.:835 (2d par. after cl. (f), last par. words before 9th comma).	
56102(d) .....	46 App.:835 (last par. words after 9th comma).	
56102(e) .....	46 App.:835 (1st, 3d pars. after cl. (f)).	

In this section, the words "facility for building or repairing vessels" are substituted for "shipyard, dry dock, shipbuilding or ship-repairing plant or facility" (or similar language) to eliminate unnecessary words.

In subsection (a)(1), the words "transfer to" and "or flag" are omitted as surplus. The words "Territory, District, or possession thereof" are omitted as unnecessary because of the definition of "State" in chapter 1 of the revised title.

In subsection (a)(3), the words “instrument of indebtedness” are substituted for “bond, note, or other evidence of indebtedness” to eliminate unnecessary words. The words “right, title, or” are omitted as unnecessary.

In subsection (a)(5), the words “or the majority of the voting power” are omitted as covered by “controlling interest”.

In subsection (b)(1), before subparagraph (A), the words “and only if” are added for clarity because the Secretary is required to disapprove a trustee that ceases to meet the specified conditions.

Subsections (c) and (d) are substituted for the source provisions to eliminate unnecessary words.

In subsection (e)(1), the words “guilty of a misdemeanor” are omitted, and the words “fined under title 18” are substituted for “punishable by a fine of not more than \$5000”, because of chapter 227 of title 18.

§ 56103. Conditional approvals

(a) IN GENERAL.—In approving an act or transportation under section 56101 or 56102 of this title, the Secretary of Transportation may do so absolutely or upon conditions the Secretary considers advisable. The Secretary shall state the conditions in the notice of approval.

(b) VIOLATIONS.—A violation of a condition of approval is subject to the same penalties as a violation resulting from an act done without the required approval. The violation occurs at the time the condition is violated.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1654.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 56103, 46 App.:839 (1st par.), Sept. 7, 1916, ch. 451, §41 (1st par.), as added July 15, 1918, ch. 152, §4, 40 Stat. 902; Exec. Order No. 6166, June 10, 1933, §12; June 29, 1936, ch. 858, title II, §204, title IX, §904, 49 Stat. 1987, 2016; Pub. L. 97–31, §12(32), Aug. 6, 1981, 95 Stat. 156.

This section is substituted for the source provision to eliminate unnecessary words.

§ 56104. Penalty for false statements

A person that knowingly makes a false statement of a material fact to the Secretary of Transportation or another officer, employee, or agent of the Department of Transportation, to obtain the Secretary’s approval under section 56101 or 56102 of this title, shall be fined under title 18, imprisoned for not more than 5 years, or both.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1654.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 56104, 46 App.:839 (last par.), Sept. 7, 1916, ch. 451, §41 (last par.), as added July 15, 1918, ch. 152, §4, 40 Stat. 903; Exec. Order No. 6166, June 10, 1933, §12; June 29, 1936, ch. 858, title II, §204, title IX, §904, 49 Stat. 1987, 2016; Pub. L. 97–31, §12(32), Aug. 6, 1981, 95 Stat. 156.

The words “guilty of a misdemeanor” are omitted, and the words “fined under title 18” are substituted for “subject to a fine of not more than \$5000”, because of chapter 227 of title 18.

§ 56105. Forfeiture procedure

(a) IN GENERAL.—A forfeiture under this chapter may be enforced in the same way as a forfeiture under the laws on the collection of duties. However, such a forfeiture may be remitted without seizure of the vessel.

(b) PRIOR CONVICTIONS.—In a proceeding under this chapter to enforce a forfeiture, a prior criminal conviction of a person for a violation of this chapter with respect to the subject matter of the forfeiture is prima facie evidence of the violation against the person convicted.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1654.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 56105(a), 46 App.:836, Sept. 7, 1916, ch. 451, §38, as added July 15, 1918, ch. 152, §4, 40 Stat. 902; Pub. L. 101–225, title III, §304(b), Dec. 12, 1989, 103 Stat. 1924. Row 2: 56105(b), 46 App.:837, Sept. 7, 1916, ch. 451, §39, as added July 15, 1918, ch. 152, §4, 40 Stat. 902.

CHAPTER 563—EMERGENCY ACQUISITION OF VESSELS

- Sec. 56301. General authority. 56302. Charter terms. 56303. Compensation. 56304. Disputed compensation. 56305. Vessel encumbrances. 56306. Use and transfer of vessels. 56307. Return of vessels. 56308. Transfer of substitute vessels. 56309. Emergency foreign vessel acquisition; purchase or requisition of vessels lying idle in United States waters<sup>1</sup> 56310. Voluntary purchase or charter agreements<sup>1</sup> 56311. Requisitioned vessels<sup>1</sup> 56312. Documented defined<sup>1</sup>

AMENDMENTS

2017—Pub. L. 115–91, div. C, title XXXV, §§3502(b)(8), 3504(e), Dec. 12, 2017, 131 Stat. 1911, 1913, added items 56308 to 56312.

§ 56301. General authority

During a national emergency declared by Presidential proclamation, or a period for which the President has proclaimed that the security of the national defense makes it advisable, the Secretary of Transportation may requisition or purchase, or requisition or charter the use of, a vessel owned by citizens of the United States, a documented vessel, or a vessel under construction in the United States.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1654.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 56301, 46 App.:1242(a) (1st, 2d sentences), June 29, 1936, ch. 858, title IX, §902(a) (1st, 2d sentences), 49 Stat. 2015; Pub. L. 97–31, §12(131), Aug. 6, 1981, 95 Stat. 165; Pub. L. 100–710, title I, §104(c), Nov. 23, 1988, 102 Stat. 4750.

<sup>1</sup> So in original. Probably should be followed by a period.