

2993; Pub. L. 112-90, §2(c), Jan. 3, 2012, 125 Stat. 1905.)

ter or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including punitive damages.”

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
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.
60120(b)	49 App.:1679b(a)(2).	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.
60120(c)	49 App.:2008(a)(2).	
	49 App.:1677(c).	
	49 App.:2006(c).	

§ 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.)

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 chap-

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).	
60121(b)	49 App.:2014(c).	
60121(c)	49 App.:1686(e).	
60121(d)	49 App.:1686(f).	
60121(e)	49 App.:2014(f).	
60121(f)	49 App.:1686(d).	
60121(g)	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 written notice and an opportunity for a hearing, has violated section 60114(b), 60114(d), or 60118(a) of this title or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than \$200,000 for each violation. A separate violation occurs for each day the violation continues. The maximum civil penalty under this paragraph for a related series of violations is \$2,000,000.

(2) A person violating a standard or order under section 60103 or 60111 of this title is liable to the Government for a civil penalty of not more than \$50,000 for each violation. A penalty under this paragraph may be imposed in addition to penalties imposed under paragraph (1) of this subsection.

(3) A person violating section 60129, or an order issued thereunder, is liable to the Government for a civil penalty of not more than \$1,000 for each violation. The penalties provided by paragraph (1) do not apply to a violation of section 60129 or an order issued thereunder.

(b) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section—

(1) the Secretary shall consider—

(A) the nature, circumstances, and gravity of the violation, including adverse impact on the environment;

(B) with respect to the violator, the degree of culpability, any history of prior violations, and any effect on ability to continue doing business; and

(C) good faith in attempting to comply; and

(2) the Secretary may consider—

(A) the economic benefit gained from the violation without any reduction because of subsequent damages; and

(B) other matters that justice requires.

(c) COLLECTION AND COMPROMISE.—(1) The Secretary may request the Attorney General to bring a civil action in an appropriate district court of the United States to collect a civil penalty imposed under this section.

(2) The Secretary may compromise the amount of a civil penalty imposed under this section before referral to the Attorney General.

(d) SETOFF.—The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(e) DEPOSIT IN TREASURY.—Amounts collected under this section shall be deposited in the Treasury as miscellaneous receipts.

(f) PROHIBITION ON MULTIPLE PENALTIES FOR SAME ACT.—Separate penalties for violating a regulation prescribed under this chapter and for violating an order under section 60112 or 60118(b) of this title may not be imposed under this chapter if both violations are based on the same act.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1325; Pub. L. 107-355, §§6(b), 8(b)(1), (2), 21(3), Dec. 17, 2002, 116 Stat. 2992, 2993, 3010; Pub. L. 109-468, §2(a)(2), Dec. 29, 2006, 120 Stat. 3487; Pub. L. 112-90, §2(a), Jan. 3, 2012, 125 Stat. 1905.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
60122(a)(1) ..	49 App.:1679a(a)(1), (3) (1st sentence).	Aug. 12, 1968, Pub. L. 90-481, 82 Stat. 720, §11(a); added Nov. 30, 1979, Pub. L. 96-129, §104(b), 154, 93 Stat. 992, 1002; Oct. 31, 1988, Pub. L. 100-561, §106, 102 Stat. 2807; Oct. 24, 1992, Pub. L. 102-508, §112(a), 304(b), 106 Stat. 3295, 3308.
	49 App.:2007(a)(1), (2) (1st sentence).	Nov. 30, 1979, Pub. L. 96-129, §208(a), (b), (d), 93 Stat. 1009, 1010; Oct. 31, 1988, Pub. L. 100-561, §205, 102 Stat. 2811; Oct. 24, 1992, Pub. L. 102-508, §211(a), 106 Stat. 3304.
60122(a)(2) ..	49 App.:1679a(a)(2).	
60122(b)	49 App.:1679a(a)(3) (last sentence). 49 App.:2007(a)(2) (last sentence).	
60122(c)	49 App.:1679a(b) (1st sentence).	Aug. 12, 1968, Pub. L. 90-481, 82 Stat. 720, §11(b), (d); added Nov. 30, 1979, Pub. L. 96-129, §104(b), 93 Stat. 992, 993.
60122(d)	49 App.:2007(b) (1st sentence). 49 App.:1679a(b) (2d sentence).	