

- (D) medical or scientific research;
- (E) necessary to protect the life or property of a person; or
- (F) performed as part of euthanizing an animal.

(2) GOOD-FAITH DISTRIBUTION.—This section does not apply to the good-faith distribution of an animal crush video to—

- (A) a law enforcement agency; or
- (B) a third party for the sole purpose of analysis to determine if referral to a law enforcement agency is appropriate.

(3) UNINTENTIONAL CONDUCT.—This section does not apply to unintentional conduct that injures or kills an animal.

(4) CONSISTENCY WITH RFRA.—This section shall be enforced in a manner that is consistent with section 3 of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb-1).

(e) NO PREEMPTION.—Nothing in this section shall be construed to preempt the law of any State or local subdivision thereof to protect animals.

(f) DEFINITIONS.—In this section—

(1) the term “animal crushing” means actual conduct in which one or more living non-human mammals, birds, reptiles, or amphibians is purposely crushed, burned, drowned, suffocated, impaled, or otherwise subjected to serious bodily injury (as defined in section 1365 and including conduct that, if committed against a person and in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242);

(2) the term “animal crush video” means any photograph, motion-picture film, video or digital recording, or electronic image that—

- (A) depicts animal crushing; and
- (B) is obscene; and

(3) the term “euthanizing an animal” means the humane destruction of an animal accomplished by a method that—

- (A) produces rapid unconsciousness and subsequent death without evidence of pain or distress; or
- (B) uses anesthesia produced by an agent that causes painless loss of consciousness and subsequent death.

(Added Pub. L. 106-152, §1(a), Dec. 9, 1999, 113 Stat. 1732; amended Pub. L. 111-294, §3(a), Dec. 9, 2010, 124 Stat. 3178; Pub. L. 116-72, §2(a), Nov. 25, 2019, 133 Stat. 1151.)

#### AMENDMENTS

2019—Pub. L. 116-72 amended section generally. Prior to amendment, section related to animal crush videos.

2010—Pub. L. 111-294 amended section generally. Prior to amendment, section related to depiction of animal cruelty.

#### SEVERABILITY

Pub. L. 111-294, §3(c), Dec. 9, 2010, 124 Stat. 3179, provided that: “If any provision of section 48 of title 18, United States Code (as amended by this section), or the application of the provision to any person or circumstance, is held to be unconstitutional, the provision and the application of the provision to other persons or circumstances shall not be affected thereby.”

#### FINDINGS

Pub. L. 111-294, §2, Dec. 9, 2010, 124 Stat. 3177, provided that: “The Congress finds the following:

“(1) The United States has a long history of prohibiting the interstate sale, marketing, advertising, exchange, and distribution of obscene material and speech that is integral to criminal conduct.

“(2) The Federal Government and the States have a compelling interest in preventing intentional acts of extreme animal cruelty.

“(3) Each of the several States and the District of Columbia criminalize intentional acts of extreme animal cruelty, such as the intentional crushing, burning, drowning, suffocating, or impaling of animals for no socially redeeming purpose.

“(4) There are certain extreme acts of animal cruelty that appeal to a specific sexual fetish. These acts of extreme animal cruelty are videotaped, and the resulting video tapes are commonly referred to as ‘animal crush videos’.

“(5) The Supreme Court of the United States has long held that obscenity is an exception to speech protected under the First Amendment to the Constitution of the United States.

“(6) In the judgment of Congress, many animal crush videos are obscene in the sense that the depictions, taken as a whole—

“(A) appeal to the prurient interest in sex;

“(B) are patently offensive; and

“(C) lack serious literary, artistic, political, or scientific value.

“(7) Serious criminal acts of extreme animal cruelty are integral to the creation, sale, distribution, advertising, marketing, and exchange of animal crush videos.

“(8) The creation, sale, distribution, advertising, marketing, and exchange of animal crush videos is intrinsically related and integral to creating an incentive for, directly causing, and perpetuating demand for the serious acts of extreme animal cruelty the videos depict. The primary reason for those criminal acts is the creation, sale, distribution, advertising, marketing, and exchange of the animal crush video image.

“(9) The serious acts of extreme animal cruelty necessary to make animal crush videos are committed in a clandestine manner that—

“(A) allows the perpetrators of such crimes to remain anonymous;

“(B) makes it extraordinarily difficult to establish the jurisdiction within which the underlying criminal acts of extreme animal cruelty occurred; and

“(C) often precludes proof that the criminal acts occurred within the statute of limitations.

“(10) Each of the difficulties described in paragraph (9) seriously frustrates and impedes the ability of State authorities to enforce the criminal statutes prohibiting such behavior.”

#### § 49. Enforcement of animal fighting prohibitions

(a) IN GENERAL.—Whoever violates subsection (a)(1), (b), (c), or (d) of section 26 of the Animal Welfare Act shall be fined under this title, imprisoned for not more than 5 years, or both, for each violation.

(b) ATTENDING AN ANIMAL FIGHTING VENTURE.—Whoever violates subsection (a)(2)(A) of section 26 of the Animal Welfare Act (7 U.S.C. 2156) shall be fined under this title, imprisoned for not more than 1 year, or both, for each violation.

(c) CAUSING AN INDIVIDUAL WHO HAS NOT ATTAINED THE AGE OF 16 TO ATTEND AN ANIMAL FIGHTING VENTURE.—Whoever violates subsection (a)(2)(B) of section 26 (7 U.S.C. 2156) of the Animal Welfare Act shall be fined under this title, imprisoned for not more than 3 years, or both, for each violation.

(Added Pub. L. 110-22, §2(a), May 3, 2007, 121 Stat. 88; amended Pub. L. 110-234, title XIV,

§14207(b), May 22, 2008, 122 Stat. 1462; Pub. L. 110-246, §4(a), title XIV, §14207(b), June 18, 2008, 122 Stat. 1664, 2224; Pub. L. 113-79, title XII, §12308(b)(2), Feb. 7, 2014, 128 Stat. 991; Pub. L. 115-334, title XII, §12616(d), Dec. 20, 2018, 132 Stat. 5016.)

#### REFERENCES IN TEXT

Section 26 of the Animal Welfare Act, referred to in text, is section 2156 of Title 7, Agriculture.

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

#### AMENDMENTS

2018—Subsec. (a). Pub. L. 115-334 substituted “(d)” for “(e)”.

2014—Pub. L. 113-79 designated existing provisions as subsec. (a), inserted heading, substituted “subsection (a)(1),” for “subsection (a),” and added subsecs. (b) and (c).

2008—Pub. L. 110-246, §14207(b), substituted “5 years” for “3 years”.

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-334 effective on the date that is one year after Dec. 20, 2018, see section 12616(e) of Pub. L. 115-334, set out as a note under section 2156 of Title 7, Agriculture.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

### CHAPTER 5—ARSON

Sec.

81. Arson within special maritime and territorial jurisdiction.

#### § 81. Arson within special maritime and territorial jurisdiction

Whoever, within the special maritime and territorial jurisdiction of the United States, willfully and maliciously sets fire to or burns any building, structure or vessel, any machinery or building materials or supplies, military or naval stores, munitions of war, or any structural aids or appliances for navigation or shipping, or attempts or conspires to do such an act, shall be imprisoned for not more than 25 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed, or both.

If the building be a dwelling or if the life of any person be placed in jeopardy, he shall be fined under this title or imprisoned for any term of years or for life, or both.

(June 25, 1948, ch. 645, 62 Stat. 688; Pub. L. 103-322, title XXXIII, §330016(1)(H), (K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104-132, title VII, §708(b), Apr. 24, 1996, 110 Stat. 1296; Pub. L. 107-56, title VIII, §§810(a), 811(a), Oct. 26, 2001, 115 Stat. 380, 381.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§464, 465 (Mar. 4, 1909, ch. 321, §§285, 286, 35 Stat. 1144).

Sections were consolidated and rewritten both as to form and substance and that part of each section relating to destruction of property by means other than burning constitutes section 1363 of this title.

The words “within the maritime and territorial jurisdiction of the United States” were added to preserve existing limitations of territorial applicability. (See section 7 of this title and note thereunder.)

The phrase “any building, structure, or vessel, any machinery or building materials and supplies, military or naval stores, munitions of war or any structural aids or appliances for navigation or shipping” was substituted for “any dwelling house, or any store, barn, stable, or other building, parcel of a dwelling house”, in section 464 of title 18, U.S.C., 1940 ed., and “any arsenal, armory, magazine, rope walk, ship house, warehouse, blockhouse, or barrack, or any storehouse, barn or stable, not parcel of a dwelling house, or any other building not mentioned in the section last preceding, or any vessel, built, building, or undergoing repair, or any lighthouse, or beacon, or any machinery, timber, cables, rigging, or other materials or appliances for building, repairing or fitting out vessels, or any pile of wood, boards, or other lumber, or any military, naval or victualing stores, arms, or other munitions of war”, in section 465 of title 18, U.S.C., 1940 ed. The substituted phrase is a concise and comprehensive description of the things enumerated in both sections.

The punishment provisions are new and are graduated with some regard to the gravity of the offense. It was felt that a possible punishment of 20 years for burning a wood pile or injuring or destroying an outbuilding was disproportionate and not in harmony with recent legislation.

#### AMENDMENTS

2001—Pub. L. 107-56, in first par., struck out “, or attempts to set fire to or burn” after “maliciously sets fire to or burns” and inserted “or attempts or conspires to do such an act,” before “shall be imprisoned” and, in second par., substituted “for any term of years or for life” for “not more than twenty years”.

1996—Pub. L. 104-132, in first par., substituted “imprisoned for not more than 25 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed, or both” for “fined under this title or imprisoned not more than five years, or both”.

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$1,000” in first par. and for “fined not more than \$5,000” in second par.

### CHAPTER 7—ASSAULT

Sec.

- 111. Assaulting, resisting, or impeding certain officers or employees.
- 112. Protection of foreign officials, official guests, and internationally protected persons.
- 113. Assaults within maritime and territorial jurisdiction.
- 114. Maiming within maritime and territorial jurisdiction.
- 115. Influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member.
- 116. Female genital mutilation.
- 117. Domestic assault by an habitual offender.<sup>1</sup>
- 118. Interference with certain protective functions.
- 119. Protection of individuals performing certain official duties.

#### AMENDMENTS

2008—Pub. L. 110-177, title II, §202(b), Jan. 7, 2008, 121 Stat. 2537, added item 119.

<sup>1</sup>Editorially supplied. Section 117 added by Pub. L. 109-162 without corresponding amendment of chapter analysis.