

CODIFICATION

“Magnuson-Stevens Fishery Conservation and Management Act” substituted for “Fishery Conservation and Management Act of 1976” in subsec. (e), on authority of Pub. L. 96-561, title II, §238(b), Dec. 22, 1980, 94 Stat. 3300, which provided that all references to the Fishery Conservation and Management Act of 1976 be redesignated as references to the Magnuson Fishery Conservation and Management Act and Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41, which provided that all references to the Magnuson Fishery Conservation and Management Act be redesignated as references to the Magnuson-Stevens Fishery Conservation and Management Act.

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 L. 110-234 were repealed by section 4(a) of Pub.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

2008—Subsec. (a)(1). Pub. L. 110-246, §8204(f), made technical corrections to directory language of Pub. L. 100-653, §102(c). See 1988 Amendment note below.

Pub. L. 110-246, §8204(c)(1), (2), substituted “subsections (b), (d), and (f) of section 3372” for “subsections (b) and (d) of section 3372” and “subsection (d) or (f) of section 3372” for “section 3372(d)”.

Subsec. (a)(2). Pub. L. 110-246, §8204(c)(3), substituted “subsection (b) or (f) of section 3372 of this title, except as provided in paragraph (1),” for “subsection 3372(b)”.

Subsec. (d)(1), (2). Pub. L. 110-246, §8204(f), made technical corrections to directory language of Pub. L. 100-653, §102(c). See 1988 Amendment note below.

Pub. L. 110-246, §8204(c)(1), substituted “subsections (b), (d), and (f) of section 3372” for “subsections (b) and (d) of section 3372” in pars. (1)(A), (B), and (2).

Subsec. (d)(3). Pub. L. 110-246, §8204(c)(2), substituted “subsection (d) or (f) of section 3372” for “section 3372(d)” in introductory provisions.

1988—Subsec. (a)(1). Pub. L. 100-653, §102(c), as amended by Pub. L. 110-246, §8204(f), substituted “(other than subsections (b) and (d) of section 3372 of this title)” for “(other than subsection 3372(b) of this title)”.

Pub. L. 100-653, §102(a), inserted “and any person who knowingly violates section 3372(d) of this title,” after “any underlying law, treaty, or regulation.”

Subsec. (c). Pub. L. 100-653, §103, amended first sentence generally. Prior to amendment, first sentence read as follows: “Any person against whom a civil penalty is assessed under this section may obtain review thereof in the appropriate district court of the United States by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary.”

Subsec. (d)(1), (2). Pub. L. 100-653, §102(c), as amended by Pub. L. 110-246, §8204(f), substituted “(other than subsections (b) and (d) of section 3372 of this title)” for “(other than subsection 3372(b) of this title)” in pars. (1)(A), (B), and (2).

Subsec. (d)(3). Pub. L. 100-653, §102(b), added par. (3).

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, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Pub. L. 110-234, title VIII, §8204(f), May 22, 2008, 122 Stat. 1294, and Pub. L. 110-246, §4(a), title VIII, §8204(f), June 18, 2008, 122 Stat. 1664, 2056, provided that the amendment made by section 8204(f) is effective Nov. 14, 1988, and as if included in the enactment of section 102(c) of Pub. L. 100-653.

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.]

TRANSFER OF FUNCTIONS

For transfer of functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under this chapter to the Secretary of Homeland Security, and for treatment of related references, see sections 231, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 3374. Forfeiture

(a) In general

(1) All fish or wildlife or plants imported, exported, transported, sold, received, acquired, or purchased contrary to the provisions of section 3372 of this title (other than section 3372(b) of this title), or any regulation issued pursuant thereto, shall be subject to forfeiture to the United States notwithstanding any culpability requirements for civil penalty assessment or criminal prosecution included in section 3373 of this title.

(2) All vessels, vehicles, aircraft, and other equipment used to aid in the importing, exporting, transporting, selling, receiving, acquiring, or purchasing of fish or wildlife or plants in a criminal violation of this chapter for which a felony conviction is obtained shall be subject to forfeiture to the United States if (A) the owner of such vessel, vehicle, aircraft, or equipment was at the time of the alleged illegal act a consenting party or privy thereto or in the exercise of due care should have known that such vessel, vehicle, aircraft, or equipment would be used in a criminal violation of this chapter, and (B) the violation involved the sale or purchase of, the offer of sale or purchase of, or the intent to sell or purchase, fish or wildlife or plants.

(b) Application of customs laws

All provisions of law relating to the seizure, forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this chapter, insofar as such provisions of law are applicable and not inconsistent with the provisions of this chapter, except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Treasury Department may, for the purposes of this chapter, also be exercised or performed by the Secretary or by such persons as he may designate: *Provided*, That any warrant for search or seizure shall be issued in accordance with rule 41 of the Federal Rules of Criminal Procedure.

(c) Storage cost

Any person convicted of an offense, or assessed a civil penalty, under section 3373 of this title shall be liable for the costs incurred in the storage, care, and maintenance of any fish or wildlife or plant seized in connection with the violation concerned.

(d) Civil forfeitures

Civil forfeitures under this section shall be governed by the provisions of chapter 46 of title 18.

(Pub. L. 97-79, §5, Nov. 16, 1981, 95 Stat. 1076; Pub. L. 110-234, title VIII, §8204(d), May 22, 2008, 122 Stat. 1294; Pub. L. 110-246, §4(a), title VIII, §8204(d), June 18, 2008, 122 Stat. 1664, 2056.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(2) and (b), was in the original “this Act”, meaning Pub. L. 97-79, Nov. 16, 1981, 95 Stat. 1073, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3371 of this title and Tables.

Rule 41 of the Federal Rules of Criminal Procedure, referred to in subsec. (b), is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

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

2008—Subsec. (d). Pub. L. 110-246, §8204(d), added subsec. (d).

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.

TRANSFER OF FUNCTIONS

For transfer of functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under this chapter to the Secretary of Homeland Security, and for treatment of related references, see sections 231, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 3375. Enforcement

(a) In general

The provisions of this chapter and any regulations issued pursuant thereto shall be enforced by the Secretary, the Secretary of Transportation, or the Secretary of the Treasury. Such Secretary may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or any State agency or Indian tribe for purposes of enforcing this chapter.

(b) Powers

Any person authorized under subsection (a) to enforce this chapter may carry firearms; may, when enforcing this chapter, make an arrest without a warrant, in accordance with any guidelines which may be issued by the Attorney General, for any offense under the laws of the United States committed in the person's presence, or for the commission of any felony under the laws of the United States, if the person has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; may search and seize, with or without a warrant, in accordance with any guidelines which may be issued by the Attorney General;¹ *Provided*, That an arrest for a felony violation of this chapter that is not committed in the pres-

¹ So in original. The semicolon probably should be a colon.

ence or view of any such person and that involves only the transportation, acquisition, receipt, purchase, or sale of fish or wildlife or plants taken or possessed in violation of any law or regulation of any State shall require a warrant; may make an arrest without a warrant for a misdemeanor violation of this chapter if he has reasonable grounds to believe that the person to be arrested is committing a violation in his presence or view; and may execute and serve any subpoena, arrest warrant, search warrant issued in accordance with rule 41 of the Federal Rules of Criminal Procedure, or other warrant of civil or criminal process issued by any officer or court of competent jurisdiction for enforcement of this chapter. Any person so authorized, in coordination with the Secretary of the Treasury, may detain for inspection and inspect any vessel, vehicle, aircraft, or other conveyance or any package, crate, or other container, including its contents, upon the arrival of such conveyance or container in the United States or the customs waters of the United States from any point outside the United States or such customs waters, or, if such conveyance or container is being used for exportation purposes, prior to departure from the United States or the customs waters of the United States. Such person may also inspect and demand the production of any documents and permits required by the country of natal origin, birth, or reexport of the fish or wildlife. Any fish, wildlife, plant, property, or item seized shall be held by any person authorized by the Secretary pending disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of such fish, wildlife, plants, property, or item pursuant to section 3374 of this title; except that the Secretary may, in lieu of holding such fish, wildlife, plant, property, or item, permit the owner or consignee to post a bond or other surety satisfactory to the Secretary.

(c) Jurisdiction of district courts

The several district courts of the United States, including the courts enumerated in section 460 of title 28, shall have jurisdiction over any actions arising under this chapter. The venue provisions of title 18 and title 28 shall apply to any actions arising under this chapter. The judges of the district courts of the United States and the United States magistrate judges may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this chapter and any regulations issued thereunder.

(d) Rewards and certain incidental expenses

Beginning in fiscal year 1983, the Secretary or the Secretary of the Treasury shall pay, from sums received as penalties, fines, or forfeitures of property for any violation of this chapter or any regulation issued hereunder (1) a reward to any person who furnishes information which leads to an arrest, a criminal conviction, civil penalty assessment, or forfeiture of property for any violation of this chapter or any regulation issued hereunder, and (2) the reasonable and necessary costs incurred by any person in providing temporary care for any fish, wildlife, or plant pending the disposition of any civil or criminal