

(1) possession on board the vessel and production of documents evidencing the vessel's nationality as provided in article 5 of the 1958 Convention on the High Seas;

(2) flying its nation's ensign or flag; or

(3) a verbal claim of nationality or registry by the master or individual in charge of the vessel.

(e) AFFIRMATIVE DEFENSES.—

(1) IN GENERAL.—It is an affirmative defense to a prosecution for a violation of subsection (a), which the defendant has the burden to prove by a preponderance of the evidence, that the submersible vessel or semi-submersible vessel involved was, at the time of the offense—

(A) a vessel of the United States or lawfully registered in a foreign nation as claimed by the master or individual in charge of the vessel when requested to make a claim by an officer of the United States authorized to enforce applicable provisions of United States law;

(B) classed by and designed in accordance with the rules of a classification society;

(C) lawfully operated in government-regulated or licensed activity, including commerce, research, or exploration; or

(D) equipped with and using an operable automatic identification system, vessel monitoring system, or long range identification and tracking system.

(2) PRODUCTION OF DOCUMENTS.—The affirmative defenses provided by this subsection are proved conclusively by the production of—

(A) government documents evidencing the vessel's nationality at the time of the offense, as provided in article 5 of the 1958 Convention on the High Seas;

(B) a certificate of classification issued by the vessel's classification society upon completion of relevant classification surveys and valid at the time of the offense; or

(C) government documents evidencing licensure, regulation, or registration for commerce, research, or exploration.

(f) FEDERAL ACTIVITIES EXCEPTED.—Nothing in this section applies to lawfully authorized activities carried out by or at the direction of the United States Government.

(g) APPLICABILITY OF OTHER PROVISIONS.—Sections 70504 and 70505 of title 46 apply to offenses under this section in the same manner as they apply to offenses under section 70503 of such title.

(h) DEFINITIONS.—In this section, the terms “submersible vessel”, “semi-submersible vessel”, “vessel of the United States”, and “vessel without nationality” have the meaning given those terms in section 70502 of title 46.

(Added Pub. L. 110-407, title I, §102(a), Oct. 13, 2008, 122 Stat. 4296.)

#### Statutory Notes and Related Subsidiaries

##### FINDINGS AND DECLARATIONS

Pub. L. 110-407, title I, §101, Oct. 13, 2008, 122 Stat. 4296, provided that: “Congress finds and declares that operating or embarking in a submersible vessel or semi-submersible vessel without nationality and on an

international voyage is a serious international problem, facilitates transnational crime, including drug trafficking, and terrorism, and presents a specific threat to the safety of maritime navigation and the security of the United States.”

#### CHAPTER 111A—DESTRUCTION OF, OR INTERFERENCE WITH, VESSELS OR MARITIME FACILITIES

Sec.

2290. Jurisdiction and scope.

2291. Destruction of vessel or maritime facility.

2292. Imparting or conveying false information.

2293. Bar to prosecution.<sup>1</sup>

#### § 2290. Jurisdiction and scope

(a) JURISDICTION.—There is jurisdiction, including extraterritorial jurisdiction, over an offense under this chapter if the prohibited activity takes place—

(1) within the United States and within waters subject to the jurisdiction of the United States; or

(2) outside United States and—

(A) an offender or a victim is a national of the United States (as that term is defined under section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));<sup>1</sup>

(B) the activity involves a vessel in which a national of the United States was on board; or

(C) the activity involves a vessel of the United States (as that term is defined under section 2<sup>2</sup> of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903)).<sup>1</sup>

(b) SCOPE.—Nothing in this chapter shall apply to otherwise lawful activities carried out by or at the direction of the United States Government.

(Added Pub. L. 109-177, title III, §306(a), Mar. 9, 2006, 120 Stat. 237.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 2 of the Maritime Drug Law Enforcement Act, referred to in subsec. (a)(2)(C), probably means section 3 of the Maritime Drug Law Enforcement Act, Pub. L. 96-350, which was classified to section 1903 of former Title 46, Appendix, Shipping, and was repealed and restated in sections 70502 to 70506 of Title 46, Shipping, by Pub. L. 109-304, §§10(2), 19, Oct. 6, 2006, 120 Stat. 1683, 1710. Section 70502(b) of Title 46 defines “vessel of the United States”.

#### § 2291. Destruction of vessel or maritime facility

(a) OFFENSE.—Whoever knowingly—

(1) sets fire to, damages, destroys, disables, or wrecks any vessel;

(2) places or causes to be placed a destructive device, as defined in section 921(a)(4), destructive substance, as defined in section 31(a)(3), or an explosive, as defined in section 844(j) in, upon, or near, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any vessel, or any

<sup>1</sup>Editorially supplied. Section 2293 added by Pub. L. 109-177 without corresponding amendment of chapter analysis.

<sup>2</sup>So in original. There probably should be an additional closing parenthesis.

<sup>3</sup>See References in Text note below.