

G, title LVXXXIII [LXXXIII], § 8332(d)(4), (5), Jan. 1, 2021, 134 Stat. 4705.)

PART E—CONTROL OF MERCHANT MARINE
CAPABILITIES

CHAPTER 561—RESTRICTIONS ON
TRANSFERS

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283 substituted “marine highway” for “short sea” in section catchline and wherever appearing in text.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as a note under section 1824 of Title 2, The Congress.

§ 55605. Marine highway transportation defined

In this chapter, the term “marine highway transportation” means the carriage by a documented vessel of cargo—

- (1) that is—
 - (A) contained in intermodal cargo containers and loaded by crane on the vessel;
 - (B) loaded on the vessel by means of wheeled technology;
 - (C) shipped in discrete units or packages that are handled individually, palletized, or unitized for purposes of transportation; or
 - (D) freight vehicles carried aboard commuter ferry boats; and
- (2) that is—
 - (A) loaded at a port in the United States and unloaded either at another port in the United States or at a port in Canada located in the Great Lakes Saint Lawrence Seaway System; or
 - (B) loaded at a port in Canada located in the Great Lakes Saint Lawrence Seaway System and unloaded at a port in the United States.

(Added Pub. L. 110-140, title XI, § 1121(a), Dec. 19, 2007, 121 Stat. 1761; amended Pub. L. 112-213, title IV, § 405(b), Dec. 20, 2012, 126 Stat. 1571; Pub. L. 114-92, div. C, title XXXV, § 3508, Nov. 25, 2015, 129 Stat. 1223; Pub. L. 116-283, div. G, title LVXXXIII [LXXXIII], § 8332(d)(6), Jan. 1, 2021, 134 Stat. 4705.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283 substituted “Marine highway” for “Short sea” in section catchline and “marine highway transportation” for “short sea transportation” in introductory provisions.

2015—Par. (1)(C), (D). Pub. L. 114-92 added subpars. (C) and (D).

2012—Pub. L. 112-213, which directed amendment of section 55605, without specifying the title to be amended, by substituting “by a documented vessel” for “by vessel” in the matter preceding par. (1), was executed to this section, to reflect the probable intent of Congress.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as a note under section 1824 of Title 2, The Congress.

Sec.	
56101.	Approval required to transfer vessel to non-citizen.
56102.	Additional controls during war or national emergency.
56103.	Conditional approvals.
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§ 56101. Approval required to transfer vessel to noncitizen

(a) RESTRICTIONS.—

(1) IN GENERAL.—Except as otherwise provided in this section, section 12119 of this title, or section 611 of the Merchant Marine Act, 1936, a person may not, without the approval of the Secretary of Transportation—

- (A) sell, lease, charter, deliver, or in any other manner transfer, or agree to sell, lease, charter, deliver, or in any other manner transfer, to a person not a citizen of the United States, an interest in or control of—
 - (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.

Editorial Notes

REFERENCES IN TEXT

The Merchant Marine Act, 1936, referred to in subsecs. (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.

Statutory Notes and Related Subsidiaries

FOREIGN VESSEL CHARTERS FOR PASSENGER VESSELS

Pub. L. 116–283, div. C, title XXXV, §3502(b), Jan. 1, 2021, 134 Stat. 4398, provided that: “For fiscal year 2020 and each subsequent fiscal year, the Maritime Administrator shall make publicly available on an appropriate website of the Maritime Administration—

“(1) a detailed summary of each request for a determination, approval, or confirmation that a vessel charter for a passenger vessel is encompassed by the general approval of time charters issued pursuant to section 56101 of title 46, United States Code, or regulations prescribed pursuant to such section; and

“(2) the final action of the Administration with respect to such request, after the provision of notice and opportunity for public comment.”

§ 56102. Additional controls during war or national emergency

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