

(4), or (6)² of this title; or section 773e(b)² of this title.

(b) Fines; imprisonment

Any offense described in subsection (a) is punishable by a fine of not more than \$200,000 or imprisonment for not more than 6 months, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this subchapter, or places any such officer in fear of imminent bodily injury the offense is punishable by a fine of not more than \$400,000, or imprisonment for not more than 10 years or both.

(c) Federal jurisdiction

There is Federal jurisdiction over any offense described in this section.

(Pub. L. 97-176, § 9, May 17, 1982, 96 Stat. 81; Pub. L. 109-479, title III, § 301(c), Jan. 12, 2007, 120 Stat. 3623.)

Editorial Notes

REFERENCES IN TEXT

Subsec. (a) and pars. (2), (3), (4), and (6) of subsec. (a) of section 773e of this title, referred to in subsec. (a), were renumbered par. (1) and subpars. (B), (C), (D), and (F), respectively, of par. (1) of section 773e of this title by Pub. L. 114-81, title I, § 110(1), (2), Nov. 5, 2015, 129 Stat. 659.

Subsec. (b) of section 773e of this title, referred to in subsec. (a), was renumbered par. (2) of section 773e of this title by Pub. L. 114-81, title I, § 110(2), Nov. 5, 2015, 129 Stat. 659.

AMENDMENTS

2007—Subsec. (b). Pub. L. 109-479 substituted “\$200,000” for “\$50,000” and “\$400,000,” for “\$100,000.”

§ 773h. Forfeitures

(a) Civil forfeiture proceeding

Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 773e of this title shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(b) United States district court jurisdiction

Any district court of the United States shall have jurisdiction, upon application by the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (d).

(c) Seizure of forfeited property

If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this subchapter or for which security has not previously been obtained under

subsection (d). The provisions of the customs laws relating to—

- (1) the disposition of forfeited property;
- (2) the proceeds from the sale of forfeited property;
- (3) the remission or mitigation of forfeitures; and
- (4) the compromise of claims;

shall apply to any forfeiture ordered, and to any case in which forfeiture is alleged to be authorized, under this section, unless such provisions are inconsistent with the purposes, policy, and provisions of this subchapter. The duties and powers imposed upon the Commissioner of U.S. Customs and Border Protection or other persons under such provisions shall, with respect to this subchapter, be performed by officers or other persons designated for such purpose by the Secretary.

(d) Bond or other security; disposal of seized fish

(1) Any officer authorized to serve any process in rem which is issued by a court having jurisdiction under section 773i(d) of this title shall—

- (A) stay the execution of such process; or
- (B) discharge any fish seized pursuant to such process;

upon the receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(2) Any fish seized pursuant to this subchapter may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed by regulations of the Secretary or the Secretary of the department in which the Coast Guard is operating.

(e) Presumption of violation

For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel which is seized in connection with an act prohibited by section 773e of this title were taken or retained in violation of the Convention and this subchapter.

(Pub. L. 97-176, § 10, May 17, 1982, 96 Stat. 81; Pub. L. 114-125, title VIII, § 802(d)(2), Feb. 24, 2016, 130 Stat. 210.)

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

“Commissioner of U.S. Customs and Border Protection” substituted for “Commissioner of Customs” in concluding provisions of subsec. (c) on authority of section 802(d)(2) of Pub. L. 114-125, set out as a note under section 211 of Title 6, Domestic Security.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Sec-

²See References in Text note below.

retary of Homeland Security, and for treatment of related references, see sections 203(1), 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. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 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.

§ 773i. Administration and enforcement

(a) Secretary of Commerce and Secretary of department in which Coast Guard is operating

The Convention, this subchapter, and any regulation adopted under this subchapter, shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, and of any State agency, in the performance of such duties.

(b) Arrest, search and inspection, seizure; execution of warrants or other process

Any officer who is authorized by the Secretary, the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an agreement with such Secretaries under subsection (a) to enforce the Convention, this subchapter or any regulation adopted under this subchapter may—

(1) with or without a warrant or other process—

(A) arrest any person, if he has reasonable cause to believe that such person has committed an act prohibited by section 773e of this title;

(B) board, and search or inspect, any fishing vessel which is subject to this subchapter;

(C) at reasonable times enter, and search or inspect, shoreside facilities in which fish taken subject to this subchapter are processed, packed or held;

(D) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, an act prohibited by section 773e of this title;

(E) seize any fish (wherever found) taken or retained in the course of an act prohibited by section 773e of this title, or the proceeds of the sale of such fish; and

(F) seize any other evidence related to an act prohibited by section 773e of this title;

(2) execute any warrant or other process issued by any court of competent jurisdiction; and

(3) exercise any other lawful authority.

(c) Citation of owner or operator of offending vessel

If any officer authorized to enforce this subchapter (as provided for in this section) finds that a fishing vessel is operating or has been operated in the commission of an act prohibited by section 773e of this title, such officer may, in accordance with regulations issued jointly by the Secretary and the Secretary of the department in which the Coast Guard is operating, issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (b). If a permit has been issued pursuant to this subchapter for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

(d) United States district court jurisdiction

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under this subchapter. Any such court may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interest of justice.

(e) Witnesses; records and files

When requested by the appropriate authorities of Canada, officers or employees of the Coast Guard, the National Oceanic and Atmospheric Administration or any other agency of the United States may be directed to attend as a witness, and to produce such available records and files or duly certified copies thereof as may be necessary for the prosecution in Canada of any violation of the Convention or any Canadian law relating to the enforcement thereof.

(f) Investigations by Secretary of Commerce; powers; process

(1) In cooperation with such other agencies as may be appropriate, the Secretary may conduct or cause to be conducted such law enforcement investigations as are deemed necessary to carry out the purposes of this subchapter.

(2) For the purpose of all investigations which, in the opinion of the Secretary, are necessary and proper for the enforcement of this subchapter, the Secretary or any officer designated by him is empowered to administer oaths and affirmations, subpoena witnesses, take evidence, and require the production of any books, papers, or other documents which the Secretary deems relevant or material to the inquiry. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place or hearing.

(3) Process of the Secretary may be served by anyone duly authorized by him either—

(A) by delivering a copy thereof to the individual to be served, or to a member of the partnership to be served, or the president, sec-