United States Code Annotated
Title 46. Shipping (Refs & Annos)
Subtitle VII. Security and Drug Enforcement (Refs & Annos)
Chapter 705. Maritime Drug Law Enforcement

46 U.S.C.A. § 70501
Formerly cited as 46 App. USCA § 1902

§ 70501. Findings and declarations

Effective: October 13, 2008

Currentness

Congress finds and declares that (1) trafficking in controlled substances aboard vessels is a serious international problem, is universally condemned, and presents a specific threat to the security and societal well-being of the United States and (2) 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.

CREDIT(S)

(Pub.L. 109-304, § 10(2), Oct. 6, 2006, 120 Stat. 1685; Pub.L. 110-407, Title II, § 201, Oct. 13, 2008, 122 Stat. 4299.)

Notes of Decisions (3)

46 U.S.C.A. § 70501, 46 USCA § 70501
Current through PL 117-12 with the exception of PL 116-283. Incorporation of changes from PL 116-283 are in progress. See credits for details.

End of Document

46 U.S.C.A. § 70502
Formerly cited as 46 App. USCA § 1903

§ 70502. Definitions

Effective: October 13, 2008

Currentness

(a) Application of other definitions.--The definitions in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) apply to this chapter.

(b) Vessel of the United States.--In this chapter, the term "vessel of the United States" means--

(1) a vessel documented under chapter 121 of this title or numbered as provided in chapter 123 of this title;

(2) a vessel owned in any part by an individual who is a citizen of the United States, the United States Government, the government of a State or political subdivision of a State, or a corporation incorporated under the laws of the United States or of a State, unless--

(A) the vessel has been granted the nationality of a foreign nation under article 5 of the 1958 Convention on the High Seas; and

(B) a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the enforcement action by an officer or employee of the United States who is authorized to enforce applicable provisions of United States law; and

(3) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was sold to a person not a citizen of the United States, placed under foreign registry, or operated under the authority of a foreign nation, whether or not the vessel has been granted the nationality of a foreign nation.

(c) Vessel subject to the jurisdiction of the United States.--

(1) In general.--In this chapter, the term "vessel subject to the jurisdiction of the United States" includes--

(A) a vessel without nationality;

(B) a vessel assimilated to a vessel without nationality under paragraph (2) of article 6 of the 1958 Convention on the High Seas;

(C) a vessel registered in a foreign nation if that nation has consented or waived objection to the enforcement of United States law by the United States;

(D) a vessel in the customs waters of the United States;

(E) a vessel in the territorial waters of a foreign nation if the nation consents to the enforcement of United States law by the United States; and

(F) a vessel in the contiguous zone of the United States, as defined in Presidential Proclamation 7219 of September 2, 1999 (43 U.S.C. 1331 note), that--

(i) is entering the United States;

(ii) has departed the United States; or

(iii) is a hovering vessel as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401).

(2) Consent or waiver of objection.--Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under paragraph (1)(C) or (E)--

(A) may be obtained by radio, telephone, or similar oral or electronic means; and

(B) is proved conclusively by certification of the Secretary of State or the Secretary's designee.

(d) Vessel without nationality.--

(1) In general.--In this chapter, the term "vessel without nationality" includes--

(A) a vessel aboard which the master or individual in charge makes a claim of registry that is denied by the nation whose registry is claimed;

(B) a vessel aboard which the master or individual in charge fails, on request of an officer of the United States authorized to enforce applicable provisions of United States law, to make a claim of nationality or registry for that vessel; and

(C) a vessel aboard which the master or individual in charge makes a claim of registry and for which the claimed nation of registry does not affirmatively and unequivocally assert that the vessel is of its nationality.

(2) Response to claim of registry.--The response of a foreign nation to a claim of registry under paragraph (1)(A) or (C) may be made by radio, telephone, or similar oral or electronic means, and is proved conclusively by certification of the Secretary of State or the Secretary's designee.

(e) Claim of nationality or registry.--A claim of nationality or registry under this section includes only--

(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.

(f) Semi-submersible vessel; submersible vessel.--In this chapter:

(1) Semi-submersible vessel.--The term "semi-submersible vessel" means any watercraft constructed or adapted to be capable of operating with most of its hull and bulk under the surface of the water, including both manned and unmanned watercraft.

(2) Submersible vessel.--The term "submersible vessel" means a vessel that is capable of operating completely below the surface of the water, including both manned and unmanned watercraft.

CREDIT(S)

(Pub.L. 109-304, § 10(2), Oct. 6, 2006, 120 Stat. 1685; Pub.L. 109-241, Title III, § 303, July 11, 2006, 120 Stat. 527; Pub.L. 110-181, Div. C, Title XXXV, § 3525(a)(6), (b), Jan. 28, 2008, 122 Stat. 601; Pub.L. 110-407, Title II, § 203, Oct. 13, 2008, 122 Stat. 4300.)

Notes of Decisions (91)

46 U.S.C.A. § 70502, 46 USCA § 70502
Current through PL 117-12 with the exception of PL 116-283. Incorporation of changes from PL 116-283 are in progress. See credits for details.

KeyCite Red Flag - Severe Negative Treatment
Unconstitutional or PreemptedUnconstitutional as Applied by United States v. Davila-Mendoza, 11th Cir.(Fla.), Aug. 26, 2020

United States Code Annotated
Title 46. Shipping (Refs & Annos)
Subtitle VII. Security and Drug Enforcement (Refs & Annos)
Chapter 705. Maritime Drug Law Enforcement

46 U.S.C.A. § 70503
Formerly cited as 46 App. USCA § 1903

§ 70503. Prohibited acts

Effective: February 8, 2016

Currentness

(a) Prohibitions.--While on board a covered vessel, an individual may not knowingly or intentionally--

(1) manufacture or distribute, or possess with intent to manufacture or distribute, a controlled substance;

(2) destroy (including jettisoning any item or scuttling, burning, or hastily cleaning a vessel), or attempt or conspire to destroy, property that is subject to forfeiture under section 511(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)); or

(3) conceal, or attempt or conspire to conceal, more than $100,000 in currency or other monetary instruments on the person of such individual or in any conveyance, article of luggage, merchandise, or other container, or compartment of or aboard the covered vessel if that vessel is outfitted for smuggling.

(b) Extension beyond territorial jurisdiction.--Subsection (a) applies even though the act is committed outside the territorial jurisdiction of the United States.

(c) Nonapplication.--

(1) In general.--Subject to paragraph (2), subsection (a) does not apply to--

(A) a common or contract carrier or an employee of the carrier who possesses or distributes a controlled substance in the lawful and usual course of the carrier's business; or

(B) a public vessel of the United States or an individual on board the vessel who possesses or distributes a controlled substance in the lawful course of the individual's duties.

(2) Entered in manifest.--Paragraph (1) applies only if the controlled substance is part of the cargo entered in the vessel's manifest and is intended to be imported lawfully into the country of destination for scientific, medical, or other lawful purposes.

(d) Burden of proof.--The United States Government is not required to negative a defense provided by subsection (c) in a complaint, information, indictment, or other pleading or in a trial or other proceeding. The burden of going forward with the evidence supporting the defense is on the person claiming its benefit.

(e) Covered vessel defined.--In this section the term "covered vessel" means--

(1) a vessel of the United States or a vessel subject to the jurisdiction of the United States; or

(2) any other vessel if the individual is a citizen of the United States or a resident alien of the United States.

CREDIT(S)

(Pub.L. 109-304, § 10(2), Oct. 6, 2006, 120 Stat. 1687; Pub.L. 114-120, Title III, § 314(a), (b), (e)(1), Feb. 8, 2016, 130 Stat. 59.)

Notes of Decisions (194)

46 U.S.C.A. § 70503, 46 USCA § 70503
Current through PL 117-12 with the exception of PL 116-283. Incorporation of changes from PL 116-283 are in progress. See credits for details.

KeyCite Yellow Flag - Negative Treatment
Unconstitutional or PreemptedValidity Called into Doubt by United States v. Prado, 2nd Cir.(N.Y.), Aug. 05, 2019

46 U.S.C.A. § 70504
Formerly cited as 46 App. USCA § 1903

§ 70504. Jurisdiction and venue

Effective: December 12, 2017

Currentness

(a) Jurisdiction.--Jurisdiction of the United States with respect to a vessel subject to this chapter is not an element of an offense. Jurisdictional issues arising under this chapter are preliminary questions of law to be determined solely by the trial judge.

(b) Venue.--A person violating section 70503 or 70508--

(1) shall be tried in the district in which such offense was committed; or

(2) if the offense was begun or committed upon the high seas, or elsewhere outside the jurisdiction of any particular State or district, may be tried in any district.

CREDIT(S)

(Pub.L. 109-304, § 10(2), Oct. 6, 2006, 120 Stat. 1688; Pub.L. 110-407, Title II, § 202(b)(2), Oct. 13, 2008, 122 Stat. 4300; Pub.L. 115-91, Div. A, Title X, § 1012(a), Dec. 12, 2017, 131 Stat. 1546.)

Notes of Decisions (27)

46 U.S.C.A. § 70504, 46 USCA § 70504
Current through PL 117-12 with the exception of PL 116-283. Incorporation of changes from PL 116-283 are in progress.

See credits for details.

End of Document

46 U.S.C.A. § 70505
Formerly cited as 46 App. USCA § 1903

§ 70505. Failure to comply with international law as a defense

Effective: October 13, 2008

Currentness

A person charged with violating section 70503 of this title, or against whom a civil enforcement proceeding is brought under section 70508, does not have standing to raise a claim of failure to comply with international law as a basis for a defense. A claim of failure to comply with international law in the enforcement of this chapter may be made only by a foreign nation. A failure to comply with international law does not divest a court of jurisdiction and is not a defense to a proceeding under this chapter.

CREDIT(S)

(Pub.L. 109-304, § 10(2), Oct. 6, 2006, 120 Stat. 1688; Pub.L. 110-407, Title II, § 202(b)(3), Oct. 13, 2008, 122 Stat. 4300.)

Notes of Decisions (2)

46 U.S.C.A. § 70505, 46 USCA § 70505
Current through PL 117-12 with the exception of PL 116-283. Incorporation of changes from PL 116-283 are in progress. See credits for details.

KeyCite Red Flag - Severe Negative Treatment
Unconstitutional or PreemptedUnconstitutional as Applied by United States v. Davila-Mendoza, 11th Cir.(Fla.), Aug. 26, 2020

46 U.S.C.A. § 70506
Formerly cited as 46 App. USCA § 1903

§ 70506. Penalties

Effective: February 8, 2016

Currentness

(a) Violations.--A person violating paragraph (1) of section 70503(a) of this title shall be punished as provided in section 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 960). However, if the offense is a second or subsequent offense as provided in section 1012(b) of that Act (21 U.S.C. 962(b)), the person shall be punished as provided in section 1012 of that Act (21 U.S.C. 962).

(b) Attempts and conspiracies.--A person attempting or conspiring to violate section 70503 of this title is subject to the same penalties as provided for violating section 70503.

(c) Simple possession.--

(1) In general.--Any individual on a vessel subject to the jurisdiction of the United States who is found by the Secretary, after notice and an opportunity for a hearing, to have knowingly or intentionally possessed a controlled substance within the meaning of the Controlled Substances Act (21 U.S.C. 812) shall be liable to the United States for a civil penalty of not to exceed $5,000 for each violation. The Secretary shall notify the individual in writing of the amount of the civil penalty.

(2) Determination of amount.--In determining the amount of the penalty, the Secretary shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(3) Treatment of civil penalty assessment.--Assessment of a civil penalty under this subsection shall not be considered a conviction for purposes of State or Federal law but may be considered proof of possession if such a determination is relevant.

(d) Penalty.--A person violating paragraph (2) or (3) of section 70503(a) shall be fined in accordance with section 3571 of title 18, imprisoned not more than 15 years, or both.

CREDIT(S)

(Pub.L. 109-304, § 10(2), Oct. 6, 2006, 120 Stat. 1688; Pub.L. 111-281, Title III, § 302, Oct. 15, 2010, 124 Stat. 2923; Pub.L. 114-120, Title III, § 314(c), Feb. 8, 2016, 130 Stat. 59.)

Notes of Decisions (39)

46 U.S.C.A. § 70506, 46 USCA § 70506
Current through PL 117-12 with the exception of PL 116-283. Incorporation of changes from PL 116-283 are in progress. See credits for details.

End of Document

United States Code Annotated
Title 46. Shipping (Refs & Annos)
Subtitle VII. Security and Drug Enforcement (Refs & Annos)
Chapter 705. Maritime Drug Law Enforcement

46 U.S.C.A. § 70507
Formerly cited as 46 App. USCA § 1904

§ 70507. Forfeitures

Effective: February 8, 2016

Currentness

(a) In general.--Property described in section 511(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)) that is used or intended for use to commit, or to facilitate the commission of, an offense under section 70503 or 70508 of this title may be seized and forfeited in the same manner that similar property may be seized and forfeited under section 511 of that Act (21 U.S.C. 881).

(b) Prima facie evidence of violation.--Practices commonly recognized as smuggling tactics may provide prima facie evidence of intent to use a vessel to commit, or to facilitate the commission of, an offense under section 70503 of this title, and may support seizure and forfeiture of the vessel, even in the absence of controlled substances aboard the vessel. The following indicia, among others, may be considered, in the totality of the circumstances, to be prima facie evidence that a vessel is intended to be used to commit, or to facilitate the commission of, such an offense:

(1) The construction or adaptation of the vessel in a manner that facilitates smuggling, including--

(A) the configuration of the vessel to ride low in the water or present a low hull profile to avoid being detected visually or by radar;

(B) the presence of any compartment or equipment that is built or fitted out for smuggling, not including items such as a safe or lock-box reasonably used for the storage of personal valuables;

(C) the presence of an auxiliary tank not installed in accordance with applicable law or installed in such a manner as to enhance the vessel's smuggling capability;

(D) the presence of engines that are excessively over-powered in relation to the design and size of the vessel;

(E) the presence of materials used to reduce or alter the heat or radar signature of the vessel and avoid detection;

(F) the presence of a camouflaging paint scheme, or of materials used to camouflage the vessel, to avoid detection; or

(G) the display of false vessel registration numbers, false indicia of vessel nationality, false vessel name, or false vessel homeport.

(2) The presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel.

(3) The presence of excessive fuel, lube oil, food, water, or spare parts, inconsistent with legitimate vessel operation, inconsistent with the construction or equipment of the vessel, or inconsistent with the character of the vessel's stated purpose.

(4) The operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation and in a manner of navigation consistent with smuggling tactics used to avoid detection by law enforcement authorities.

(5) The failure of the vessel to stop or respond or heave to when hailed by government authority, especially where the vessel conducts evasive maneuvering when hailed.

(6) The declaration to government authority of apparently false information about the vessel, crew, or voyage or the failure to identify the vessel by name or country of registration when requested to do so by government authority.

(7) The presence of controlled substance residue on the vessel, on an item aboard the vessel, or on an individual aboard the vessel, of a quantity or other nature that reasonably indicates manufacturing or distribution activity.

(8) The use of petroleum products or other substances on the vessel to foil the detection of controlled substance residue.

(9) The presence of a controlled substance in the water in the vicinity of the vessel, where given the currents, weather conditions, and course and speed of the vessel, the quantity or other nature is such that it reasonably indicates manufacturing or distribution activity.

CREDIT(S)

(Pub.L. 109-304, § 10(2), Oct. 6, 2006, 120 Stat. 1688; Pub.L. 114-120, Title III, § 314(d), Feb. 8, 2016, 130 Stat. 59.)

Notes of Decisions (3)

46 U.S.C.A. § 70507, 46 USCA § 70507
Current through PL 117-12 with the exception of PL 116-283. Incorporation of changes from PL 116-283 are in progress. See credits for details.

End of Document

United States Code Annotated
Title 46. Shipping (Refs & Annos)
Subtitle VII. Security and Drug Enforcement (Refs & Annos)
Chapter 705. Maritime Drug Law Enforcement

46 U.S.C.A. § 70508

§ 70508. Operation of submersible vessel or semi-submersible vessel without nationality

Effective: October 13, 2008

Currentness

(a) In general.--An individual may not operate by any means or embark in any submersible vessel or semi-submersible vessel that is without nationality and that is navigating or has navigated into, through, or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country, with the intent to evade detection.

(b) Evidence of intent to evade detection.--In any civil enforcement proceeding for a violation of subsection (a), the presence of any of the indicia described in paragraph (1)(A), (E), (F), or (G), or in paragraph (4), (5), or (6), of section 70507(b) may be considered, in the totality of the circumstances, to be prima facie evidence of intent to evade detection.

(c) Defenses.--

(1) In general.--It is a defense in any civil enforcement proceeding for a violation of subsection (a) that the submersible vessel or semi-submersible vessel involved was, at the time of the violation--

(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 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 research or exploration.

(d) Civil penalty.--A person violating this section shall be liable to the United States for a civil penalty of not more than $1,000,000.

CREDIT(S)

(Added Pub.L. 110-407, Title II, § 202(a), Oct. 13, 2008, 122 Stat. 4299.)

46 U.S.C.A. § 70508, 46 USCA § 70508
Current through PL 117-12 with the exception of PL 116-283. Incorporation of changes from PL 116-283 are in progress. See credits for details.

End of Document