

PRIOR PROVISIONS

Act July 5, 1884, ch. 229, § 8, 23 Stat. 148, relating to authority of Secretary of War to require owners of bridges which obstruct navigation to relieve the situation or be penalized, was probably omitted from the Code as superseded by this section and section 495 of this title, which by section 498b of this title were made applicable to bridges authorized prior to March 23, 1906.

Section would seem to supersede a provision of act Aug. 7, 1882, ch. 433, § 1, 22 Stat. 309, which read as follows: "That all parties owning, occupying, or operating bridges over any navigable river shall maintain at their own expense, from sunset to sunrise, throughout the year, such lights on their bridges as may be required by the Light-House Board for the security of navigation: and in addition thereto all persons owning, occupying, or operating any bridge over any navigable river shall, in any event, maintain all lights on their bridge that may be necessary for the security of navigation."

AMENDMENTS

2006—Pub. L. 109-241, which directed substitution of "Secretary of Homeland Security" for "Secretary of Transportation", was executed by making the substitution both places "Secretary of Transportation" appeared, to reflect the probable intent of Congress.

1987—Pub. L. 100-17 struck out last sentence relating to tolls.

1983—Pub. L. 97-449 substituted "Secretary of Transportation" for "Secretary of War" wherever appearing. See Transfer of Functions note below.

TRANSFER OF FUNCTIONS

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.

Functions, powers, and duties of Secretary of the Army [formerly War] and other offices and officers of Department of the Army [formerly War] relating to reasonableness of tolls and to location and clearances of bridges and causeways in navigable waters of United States under this section transferred to and vested in Secretary of Transportation by section 6(g)(4)(A), (6)(B) of Pub. L. 89-670. Pub. L. 97-449 amended this section to reflect transfer made by section 6(g)(4)(A), (6)(B) of Pub. L. 89-670, and repealed section 6(g)(4)(A), (6)(B).

Coast Guard transferred to Department of Transportation, and functions, powers, and duties relating to Coast Guard of Secretary of the Treasury and of other officers and offices of Department of the Treasury transferred to Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, Coast Guard shall operate as part of Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 108 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of Department of the Treasury, with certain exceptions, to Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of Coast Guard, and Commandant of Coast Guard, excepted from transfer when Coast Guard is operating as part of Navy under sections 1 and 3 of Title 14, Coast Guard.

"Commandant of the Coast Guard" substituted in text for "Secretary of Commerce" on authority of Reorg. Plan No. 3 of 1946, §§ 101 to 104, set out in the Appendix to Title 5, Government Organization and Employees.

Secretary of Commerce and Labor redesignated Secretary of Labor by act Mar. 4, 1913, which enacted Department of Labor.

CONNECTICUT RIVER BRIDGES

Acts Aug. 7, 1939, ch. 503, 53 Stat. 1234, and Apr. 24, 1946, ch. 214, 60 Stat. 122, were amended by act Aug. 9, 1955, ch. 631, 69 Stat. 552, to provide that the last sentence of this section should not be applicable to bridges constructed pursuant to acts Aug. 7, 1939 and Apr. 24, 1946.

§ 495. Violations of orders respecting bridges and accessory works

(a) Criminal penalties for violation; misdemeanor; fine; new offenses; jurisdiction: suits for recovery of removal expenses, enforcement of removal, and obstruction-to-navigation causes or questions

Any persons who shall willfully fail or refuse to comply with the lawful order of the Secretary of Transportation or the Chief of Engineers, made in accordance with the provisions of sections 491 to 498 of this title, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished in any court of competent jurisdiction by a fine not exceeding \$5,000, and every month such persons shall remain in default shall be deemed a new offense and subject such persons to additional penalties therefor; and in addition to the penalties above described the Secretary of Transportation and the Chief of Engineers may, upon refusal of the persons owning or controlling any such bridge and accessory works to comply with any lawful order issued by the Secretary of Transportation or Chief of Engineers in regard thereto, cause the removal of such bridge and accessory works at the expense of the persons owning or controlling such bridge, and suit for such expense may be brought in the name of the United States against such persons, and recovery had for such expense in any court of competent jurisdiction; and the removal of any structures erected or maintained in violation of the provisions of said sections, or the order or direction of the Secretary of Transportation or Chief of Engineers made in pursuance thereof may be enforced by injunction, mandamus, or other summary process, upon application to the district court in the district in which such structure may, in whole or in part, exist, and proper proceedings to this end may be instituted under the direction of the Attorney General of the United States at the request of the Secretary of Transportation; and in case of any litigation arising from any obstruction or alleged obstruction to navigation created by the construction of any bridge under said sections, the cause or question arising may be tried before the district court of the United States in any district which any portion of said obstruction or bridge touches.

(b) Civil penalties for violation; separate offenses; notice and hearing; assessment, collection, and remission; civil actions

Whoever violates any provision of sections 491 to 498 of this title, or any order issued under sections 491 to 498 of this title, shall be liable to a civil penalty of not more than \$5,000 for a violation occurring in 2004; \$10,000 for a violation occurring in 2005; \$15,000 for a violation occurring in 2006; \$20,000 for a violation occurring in 2007; and \$25,000 for a violation occurring in 2008 and any year thereafter. Each day a violation con-

tinues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

(Mar. 23, 1906, ch. 1130, § 5, 34 Stat. 85; Mar. 3, 1911, ch. 231, §§ 289, 291, 36 Stat. 1167; Pub. L. 97-322, title I, § 108(c), Oct. 15, 1982, 96 Stat. 1584; Pub. L. 97-449, § 2(d)(1), Jan. 12, 1983, 96 Stat. 2440; Pub. L. 108-293, title VI, § 601(a), Aug. 9, 2004, 118 Stat. 1050.)

CODIFICATION

The words “district court” were substituted for “circuit court,” upon incorporation into the Code, the Circuit Courts being abolished by act Mar. 3, 1911, and their powers and duties transferred to the district courts by section 291 of that act.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108-293 substituted “\$5,000 for a violation occurring in 2004; \$10,000 for a violation occurring in 2005; \$15,000 for a violation occurring in 2006; \$20,000 for a violation occurring in 2007; and \$25,000 for a violation occurring in 2008 and any year thereafter” for “\$1,000”.

1983—Subsec. (a). Pub. L. 97-449 substituted “Secretary of Transportation” for “Secretary of War” wherever appearing. See Transfer of Functions note below.

1982—Subsec. (a). Pub. L. 97-322, § 108(c)(1)–(3), designated existing provisions as subsec. (a), provided for punishment of persons who shall “willfully” fail to comply with lawful orders, and struck out “shall be deemed guilty of a violation of said sections, and any persons who shall be guilty of a violation of said sections” after “sections 491 to 498 of this title.”

Subsec. (b). Pub. L. 97-322, § 108(c)(4), added subsec. (b).

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of the Army [formerly War] and other offices and officers of Department the Army [formerly War] under this section to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(B), Oct. 15, 1966, 80 Stat. 941. Pub. L. 97-449 amended this section to reflect transfer made by section 6(g)(6)(B) of Pub. L. 89-670, and repealed section 6(g)(6)(B).

§ 496. Time for commencement and completion of bridge

Whenever Congress shall after March 23, 1906, by law authorize the construction of any bridge over or across any of the navigable waters of the United States, and no time for the commencement and completion of such bridge is named in said Act, the authority thereby granted shall cease and be null and void unless the actual construction of the bridge authorized in such Act be commenced within one year and completed within three years from the date of the passage of such Act.

(Mar. 23, 1906, ch. 1130, § 6, 34 Stat. 86.)

§ 497. “Persons” defined

The word “persons” as used in sections 491 to 498 of this title, shall be construed to import both the singular and the plural, as the case demands, and shall include municipalities, quasi-municipal corporations, corporations, companies, and associations.

(Mar. 23, 1906, ch. 1130, § 7, 34 Stat. 86.)

§ 498. Reservation of right to alter or repeal

The right to alter, amend, or repeal sections 491 to 498 of this title, is expressly reserved as to any and all bridges which may be built in accordance with the provisions of said sections, and the United States shall incur no liability for the alteration, amendment, or repeal thereof to the owner or owners or any other persons interested in any bridge which shall have been constructed in accordance with its provisions.

(Mar. 23, 1906, ch. 1130, § 8, 34 Stat. 86.)

§ 498a. Repealed. Pub. L. 100-17, title I, § 135(b), Apr. 2, 1987, 101 Stat. 174

Section, act June 10, 1930, ch. 441, § 17, 46 Stat. 552, provided that, in the case of bridges authorized prior to June 10, 1930, by Acts of Congress, where Congress has specifically reserved the right to regulate tolls, such bridges, with respect to regulation of all tolls, be subject to sections 491 to 498 of this title.

§ 498b. Repealed. Pub. L. 100-17, title I, § 135(c), Apr. 2, 1987, 101 Stat. 174

Section, act June 27, 1930, ch. 640, § 1, 46 Stat. 821, provided that, in case of any bridge authorized prior to Mar. 23, 1906, by Act of Congress, where Congress has specifically reserved the right to alter, amend, or repeal such Act, regulation of all tolls be subject to sections 491 to 498 of this title.

§ 499. Regulations for drawbridges

(a) Criminal penalties for violations; enforcement; rules and regulations

It shall be the duty of all persons owning, operating, and tending the drawbridges built prior to August 18, 1894, or which may thereafter be built across the navigable rivers and other waters of the United States, to open, or cause to be opened, the draws of such bridges under such rules and regulations as in the opinion of the Secretary of Transportation the public interests require to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law. Every such person who shall willfully fail or refuse to open, or cause to be opened, the draw of any such bridge for the passage of a boat or boats, as provided in such regulations, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than \$2,000 nor less than \$1,000, or by imprisonment (in the case of a natural person) for not exceeding one year, or by both such fine and imprisonment, in the discretion of the court: *Provided*, That the proper action to enforce the provisions of this subsection may be commenced before any magistrate judge, judge, or court of the