(c) Removal on other than arriving vessel or aircraft; expenses

If the Attorney General finds that removal of an alien crewman under this section on the vessel or aircraft on which he arrived is impracticable or impossible, or would cause undue hardship to such alien crewman, he may cause the alien crewman to be removed from the port of arrival or any other port on another vessel or aircraft of the same transportation line, unless the Attorney General finds this to be impracticable. All expenses incurred in connection with such removal, including expenses incurred in transferring an alien crewman from one place in the United States to another under such conditions and safeguards as the Attorney General shall impose, shall be paid by the owner or owners of the vessel or aircraft on which the alien arrived in the United States. The vessel or aircraft on which the alien arrived shall not be granted clearance until such expenses have been paid or their payment guaranteed to the satisfaction of the Attorney General. An alien crewman who is transferred within the United States in accordance with this subsection shall not be regarded as having been landed in the United States.

(June 27, 1952, ch. 477, title II, ch. 6, § 254, 66 Stat. 221; Pub. L. 101–649, title V, § 543(a)(4), Nov. 29, 1990, 104 Stat. 5058; Pub. L. 102–232, title III, § 306(c)(4)(C), Dec. 12, 1991, 105 Stat. 1752; Pub. L. 104–208, div. C, title III, § 308(e)(1)(I), (2)(F), (12), Sept. 30, 1996, 110 Stat. 3009–619, 3009–620.)

AMENDMENTS

1996—Pub. L. 104–208 substituted ''remove'' for ''deport'' in subsecs. (a) and (b), ''removal'' for ''deportation'' wherever appearing in subsecs. (a) and (c), and ''removed'' for ''deported'' in subsec. (c).

1991—Subsec. (a). Pub. L. 102–232 substituted ''Commissioner'' for ''collector of customs'' before period at end of penultimate sentence.

1990—Subsec. (a). Pub. L. 101–649 substituted ''Commissioner the sum of $3,000'' for ''collector of customs of the customs district in which the port of arrival is located or in which the failure to comply with the orders of the officer occurs the sum of $1,000'' and ''$500'' for ''$200''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104–208, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–232 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101–649, see section 310(1) of Pub. L. 102–232, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–649 applicable to actions taken after Nov. 29, 1990, see section 543(c) of Pub. L. 101–649, set out as a note under section 1221 of this title.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§ 1285. Employment on passenger vessels of aliens afflicted with certain disabilities

It shall be unlawful for any vessel or aircraft carrying passengers between a port of the United States and a port outside thereof to have employed on board upon arrival in the United States any alien afflicted with feeble-mindedness, insanity, epilepsy, tuberculosis in any form, leprosy, or any dangerous contagious disease. If it appears to the satisfaction of the Attorney General, from an examination made by a medical officer of the United States Public Health Service, and is so certified by such officer, that any such alien was so afflicted at the time he was shipped or engaged and taken on board such vessel or aircraft and that the existence of such affliction might have been detected by means of a competent medical examination at such time, the owner, commanding officer, agent, consignee, or master thereof shall pay for each alien so afflicted to the Commissioner the sum of $1,000. No vessel or aircraft shall be granted clearance pending the determination of the question of the liability to the payment of such sums, or while such sums remain unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of an amount sufficient to cover such sums or of a bond approved by the Commissioner with sufficient surety to secure the payment thereof. Any such fine may, in the discretion of the Attorney General, be mitigated or remitted.

(June 27, 1952, ch. 477, title II, ch. 6, § 255, 66 Stat. 222; Pub. L. 101–649, title V, § 543(a)(5), Nov. 29, 1990, 104 Stat. 5058.)

AMENDMENTS

1990—Pub. L. 101–649 substituted ''Commissioner the sum of $1,000'' for ''collector of customs of the customs district in which the port of arrival is located the sum of $50'' in second sentence, and ''Commissioner'' for ''collector of customs'' in third sentence.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–649 applicable to actions taken after Nov. 29, 1990, see section 543(c) of Pub. L. 101–649, set out as a note under section 1221 of this title.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§ 1286. Discharge of alien crewmen; penalties

It shall be unlawful for any person, including the owner, agent, consignee, charterer, master, or commanding officer of any vessel or aircraft, to pay off or discharge any alien crewman, except an alien lawfully admitted for permanent residence, employed on board a vessel or aircraft arriving in the United States without first having obtained the consent of the Attorney General. If it shall appear to the satisfaction of the Attorney General that any alien crewman has been paid off or discharged in the United States in violation of the provisions of this section, such owner, agent, consignee, charterer, master, commanding officer, or other person, shall pay to the Commissioner the sum of $3,000 for each

such violation. No vessel or aircraft shall be granted clearance pending the determination of the question of the liability to the payment of such sums, or while such sums remain unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of an amount sufficient to cover such sums, or of a bond approved by the Commissioner with sufficient surety to secure the payment thereof. Such fine may, in the discretion of the Attorney General, be mitigated to not less than $1,500 for each violation, upon such terms as he shall think proper.

(June 27, 1952, ch. 477, title II, ch. 6, § 256, 66 Stat. 223; Pub. L. 101–649, title V, § 543(a)(6), Nov. 29, 1990, 104 Stat. 5058.)

AMENDMENTS

1990—Pub. L. 101–649 substituted ''Commissioner the sum of $3,000'' for ''collector of customs of the customs district in which the violation occurred the sum of $1,000'' in second sentence, ''Commissioner'' for ''collector of customs'' in third sentence, and ''$1,500'' for ''$500'' in fourth sentence.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–649 applicable to actions taken after Nov. 29, 1990, see section 543(c) of Pub. L. 101–649, set out as a note under section 1221 of this title.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§ 1287. Alien crewmen brought into the United States with intent to evade immigration laws; penalties

Any person, including the owner, agent, consignee, master, or commanding officer of any vessel or aircraft arriving in the United States from any place outside thereof, who shall knowingly sign on the vessel's articles, or bring to the United States as one of the crew of such vessel or aircraft, any alien, with intent to permit or assist such alien to enter or land in the United States in violation of law, or who shall falsely and knowingly represent to a consular officer at the time of application for visa, or to the immigration officer at the port of arrival in the United States, that such alien is a bona fide member of the crew employed in any capacity regularly required for normal operation and services aboard such vessel or aircraft, shall be liable to a penalty not exceeding $10,000 for each such violation, for which sum such vessel or aircraft shall be liable and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

(June 27, 1952, ch. 477, title II, ch. 6, § 257, 66 Stat. 223; Pub. L. 101–649, title V, § 543(a)(7), Nov. 29, 1990, 104 Stat. 5058.)

AMENDMENTS

1990—Pub. L. 101–649 substituted ''$10,000'' for ''$5,000''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–649 applicable to actions taken after Nov. 29, 1990, see section 543(c) of Pub. L. 101–649, set out as a note under section 1221 of this title.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§ 1288. Limitations on performance of longshore work by alien crewmen

(a) In general

For purposes of section 1101(a)(15)(D)(i) of this title, the term ''normal operation and service on board a vessel'' does not include any activity that is longshore work (as defined in subsection (b) of this section), except as provided under subsection (c), (d), or (e) of this section.

(b) "Longshore work" defined

(1) In general

In this section, except as provided in paragraph (2), the term ''longshore work'' means any activity relating to the loading or unloading of cargo, the operation of cargo-related equipment (whether or not integral to the vessel), and the handling of mooring lines on the dock when the vessel is made fast or let go, in the United States or the coastal waters thereof.

(2) Exception for safety and environmental protection

The term ''longshore work'' does not include the loading or unloading of any cargo for which the Secretary of Transportation has, under the authority contained in chapter 37 of title 46 (relating to Carriage of Liquid Bulk Dangerous Cargoes), section 1321 of title 33, section 4106 of the Oil Pollution Act of 1990, or section 5103(b), 5104, 5106, 5107, or 5110 of title 49 prescribed regulations which govern—

(A) the handling or stowage of such cargo,

(B) the manning of vessels and the duties, qualifications, and training of the officers and crew of vessels carrying such cargo, and

(C) the reduction or elimination of discharge during ballasting, tank cleaning, handling of such cargo.

(3) Construction

Nothing in this section shall be construed as broadening, limiting, or otherwise modifying the meaning or scope of longshore work for purposes of any other law, collective bargaining agreement, or international agreement.

(c) Prevailing practice exception

(1) Subsection (a) of this section shall not apply to a particular activity of longshore work in and about a local port if—

(A)(i) there is in effect in the local port one or more collective bargaining agreements each covering at least 30 percent of the number of individuals employed in performing longshore work and (ii) each such agreement (covering such percentage of longshore workers) permits the activity to be performed by alien crewmen under the terms of such agreement; or

(B) there is no collective bargaining agreement in effect in the local port covering at least 30 percent of the number of individuals employed in performing longshore work, and an employer of alien crewmen (or the employ-