

the ‘Federal Law Enforcement Animal Protection Act of 2000.’”

§ 1369. Destruction of veterans’ memorials

(a) Whoever, in a circumstance described in subsection (b), willfully injures or destroys, or attempts to injure or destroy, any structure, plaque, statue, or other monument on public property commemorating the service of any person or persons in the armed forces of the United States shall be fined under this title, imprisoned not more than 10 years, or both.

(b) A circumstance described in this subsection is that—

(1) in committing the offense described in subsection (a), the defendant travels or causes another to travel in interstate or foreign commerce, or uses the mail or an instrumentality of interstate or foreign commerce; or

(2) the structure, plaque, statue, or other monument described in subsection (a) is located on property owned by, or under the jurisdiction of, the Federal Government.

(Added Pub. L. 108–29, §2(a), May 29, 2003, 117 Stat. 772.)

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–29, §1, May 29, 2003, 117 Stat. 772, provided that: “This Act [enacting this section and provisions set out as a note under section 109 of Title 23, Highways] may be cited as the ‘Veterans’ Memorial Preservation and Recognition Act of 2003.’”

CHAPTER 67—MILITARY AND NAVY

Sec.

- 1381. Enticing desertion and harboring deserters.
- 1382. Entering military, naval, or Coast Guard property.
- [1383. Repealed.]
- 1384. Prostitution near military and naval establishments.
- 1385. Use of Army and Air Force as posse comitatus.
- 1386. Keys and keyways used in security applications by the Department of Defense.
- 1387. Demonstrations at cemeteries under the control of the National Cemetery Administration and at Arlington National Cemetery.
- 1388. Prohibition on disruptions of funerals of members or former members of the Armed Forces.
- 1389. Prohibition on attacks on United States servicemen on account of service.

AMENDMENTS

2009—Pub. L. 111–84, div. E, §4712(b), Oct. 28, 2009, 123 Stat. 2843, added item 1389.

2006—Pub. L. 109–464, §1(b), Dec. 22, 2006, 120 Stat. 3481, added item 1388.

Pub. L. 109–228, §3(b), May 29, 2006, 120 Stat. 389, added item 1387.

1991—Pub. L. 102–190, div. A, title X, §1090(b), Dec. 5, 1991, 105 Stat. 1486, added item 1386.

1990—Pub. L. 101–647, title XXXV, §3547, Nov. 29, 1990, 104 Stat. 4926, struck out item 1383 “Restrictions in military areas and zones”.

1956—Act Aug. 10, 1956, ch. 1041, §18(b), 70A Stat. 626, inserted item 1385.

§ 1381. Enticing desertion and harboring deserters

Whoever entices or procures, or attempts or endeavors to entice or procure any person in the Armed Forces of the United States, or who has

been recruited for service therein, to desert therefrom, or aids any such person in deserting or in attempting to desert from such service; or

Whoever harbors, conceals, protects, or assists any such person who may have deserted from such service, knowing him to have deserted therefrom, or refuses to give up and deliver such person on the demand of any officer authorized to receive him—

Shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 764; Pub. L. 103–322, title XXXIII, §330016(1)(I), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §94 (Mar. 4, 1909, ch. 321, §42, 35 Stat. 1097).

Mandatory punishment provisions were changed to alternative.

Words “armed forces” were substituted for repeated references to military service, naval service, soldier and seamen.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted “fined under this title” for “fined not more than \$2,000” in last par.

§ 1382. Entering military, naval, or Coast Guard property

Whoever, within the jurisdiction of the United States, goes upon any military, naval, or Coast Guard reservation, post, fort, arsenal, yard, station, or installation, for any purpose prohibited by law or lawful regulation; or

Whoever reenters or is found within any such reservation, post, fort, arsenal, yard, station, or installation, after having been removed therefrom or ordered not to reenter by any officer or person in command or charge thereof—

Shall be fined under this title or imprisoned not more than six months, or both.

(June 25, 1948, ch. 645, 62 Stat. 765; Pub. L. 103–322, title XXXIII, §330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §97 (Mar. 4, 1909, ch. 321, §45, 35 Stat. 1097; Mar. 28, 1940, ch. 73, 54 Stat. 80).

Reference to territory, Canal Zone, Puerto Rico and the Philippine Islands was omitted as covered by definition of United States in section 5 of this title.

Words “naval or Coast Guard” were inserted before “reservation” and words “yard, station, or installation” were inserted after “arsenal” in two places, so as to extend section to naval or Coast Guard property.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted “fined under this title” for “fined not more than \$500” in last par.

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.

Coast Guard transferred to Department of Transportation and all functions, powers, and duties, relating to Coast Guard, of Secretary of the Treasury and of other offices and officers of Department of the Treasury transferred to Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 108 of Title 49, Transportation.

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by 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. Coast Guard, referred to in this section, was generally a service in Department of the Treasury, but such Plan excepted from transfer functions of Coast Guard and Commandant thereof when Coast Guard was operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

[§ 1383. Repealed. Pub. L. 94-412, title V, § 501(e), Sept. 14, 1976, 90 Stat. 1258]

Section, act June 25, 1948, ch. 645, 62 Stat. 765, dealt with criminal penalties for persons entering, remaining in, leaving, or committing any act in a military area or zone contrary to restrictions imposed by Executive Order or Secretary of the Army.

SAVINGS PROVISION

Repeal of this section by Pub. L. 94-412 not to affect any action taken or proceeding pending at the time of repeal, see section 501(h) of Pub. L. 94-412, set out as a note under section 1601 of Title 50, War and National Defense.

§ 1384. Prostitution near military and naval establishments

Within such reasonable distance of any military or naval camp, station, fort, post, yard, base, cantonment, training or mobilization place as the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or any two or all of them shall determine to be needful to the efficiency, health, and welfare of the Army, the Navy, or the Air Force, and shall designate and publish in general orders or bulletins, whoever engages in prostitution or aids or abets prostitution or procures or solicits for purposes of prostitution, or keeps or sets up a house of ill fame, brothel, or bawdy house, or receives any person for purposes of lewdness, assignation, or prostitution into any vehicle, conveyance, place, structure, or building, or permits any person to remain for the purpose of lewdness, assignation, or prostitution in any vehicle, conveyance, place, structure, or building or leases or rents or contracts to lease or rent any vehicle, conveyance, place, structure or building, or part thereof, knowing or with good reason to know that it is intended to be used for any of the purposes herein prohibited shall be fined under this title or imprisoned not more than one year, or both.

The Secretaries of the Army, Navy, and Air Force and the Federal Security Administrator shall take such steps as they deem necessary to suppress and prevent such violations thereof, and shall accept the cooperation of the authorities of States and their counties, districts, and other political subdivisions in carrying out the purpose of this section.

This section shall not be construed as conferring on the personnel of the Departments of the Army, Navy, or Air Force or the Federal Security Agency any authority to make criminal investigations, searches, seizures, or arrests of civilians charged with violations of this section.

(June 25, 1948, ch. 645, 62 Stat. 765; May 24, 1949, ch. 139, §35, 63 Stat. 94; Pub. L. 103-322, title XXXIII, §330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., §518a (July 11, 1941, ch. 287, 55 Stat. 583; May 15, 1945, ch. 126, 59 Stat. 168; May 15, 1946, ch. 258, 60 Stat. 182).

The word "whoever" was substituted for the words "person, corporation, partnership, or association" in conformity with section 1 of title 1, U.S.C., 1940 ed., General Provisions, as amended and without change of substance.

The provisions with reference to punishment of persons subject to military or naval law as provided in the Articles of War and the Articles for the Government of the Navy were omitted, as was the exception of such persons from the punishment provisions of this section. The Articles of War and Articles for the Government of the Navy are sufficiently complete in themselves to authorize the adequate punishment of military or naval personnel for violations of general criminal statutes as well as for disobedience of orders. See Articles of War, Article 96, section 1568 of title 10, U.S.C., 1940 ed., Army, and Articles for the Government of the Navy, Articles 1, 4, 22, 23, section 1200, of title 34, U.S.C., 1940 ed., Navy.

The revised section, in this respect, places violations on the same basis as other misdemeanors in violation of the general statutes of the United States and authorizes punishment of persons subject to military or naval law under such law, or in case the military or naval authorities turn the violator over to the civil authorities, the trial and punishment may be under the general law.

The phrase "and/or" appearing twice in section 581a of title 18, U.S.C., 1940 ed., was deleted to avoid uncertainty and ambiguity.

Words "shall be deemed guilty of a misdemeanor" were omitted because of definition of misdemeanor in section 1 of this title.

Changes were made in phraseology.

1949 ACT

This section [section 35] makes the following changes in section 1384 of title 18, U.S.C.:

1. In the first paragraph, substitutes "Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, and any two or all of them" for "Secretary of the Army or the Secretary of the Navy, or both", and substitutes "Army, the Navy, or the Air Force," for "Army or the Navy, or both.", in view of the establishment in 1947 of the Department of the Air Force, headed by a Secretary.

2. In the second paragraph, substitutes "The Secretaries of the Army, Navy, and Air Force" for "The Secretaries of the Army, and Navy", for the same reason given in item 1 above.

3. In the third paragraph, substitutes "Department of the Army, Navy, or Air Force" for "War or Navy Department" for the same reason given in item 1 above.

AMENDMENTS

1994—Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$1,000" in first par.

1949—Act May 24, 1949, made section applicable to the Air Force which was established as a separate department in 1947, headed by a Secretary.

TRANSFER OF FUNCTIONS

Secretary and Department of Health, Education, and Welfare redesignated Secretary and Department of

Health and Human Services by section 3508(b) of Title 20, Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

§ 1385. Use of Army and Air Force as posse comitatus

Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined under this title or imprisoned not more than two years, or both.

(Added Aug. 10, 1956, ch. 1041, §18(a), 70A Stat. 626; amended Pub. L. 86-70, §17(d), June 25, 1959, 73 Stat. 144; Pub. L. 103-322, title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTE

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1385	10:15.	June 18, 1878, ch. 263, §15, 20 Stat. 152; Mar. 3, 1899, ch. 429, §363 (proviso); added June 6, 1900, ch. 786, §29 (less last proviso), 31 Stat. 330.

This section is revised to conform to the style and terminology used in title 18. It is not enacted as a part of title 10, United States Code, since it is more properly allocated to title 18.

AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$10,000”.

1959—Pub. L. 86-70 struck out provisions which made section inapplicable in Alaska.

§ 1386. Keys and keyways used in security applications by the Department of Defense

(a)(1) Whoever steals, purloins, embezzles, or obtains by false pretense any lock or key to any lock, knowing that such lock or key has been adopted by any part of the Department of Defense, including all Department of Defense agencies, military departments, and agencies thereof, for use in protecting conventional arms, ammunition or explosives, special weapons, and classified information or classified equipment shall be punished as provided in subsection (b).

(2) Whoever—

(A) knowingly and unlawfully makes, forges, or counterfeits any key, knowing that such key has been adopted by any part of the Department of Defense, including all Department of Defense agencies, military departments, and agencies thereof, for use in protecting conventional arms, ammunition or explosives, special weapons, and classified information or classified equipment; or

(B) knowing that any lock or key has been adopted by any part of the Department of Defense, including all Department of Defense agencies, military departments, and agencies

thereof, for use in protecting conventional arms, ammunition or explosives, special weapons, and classified information or classified equipment, possesses any such lock or key with the intent to unlawfully or improperly use, sell, or otherwise dispose of such lock or key or cause the same to be unlawfully or improperly used, sold, or otherwise disposed of,

shall be punished as provided in subsection (b).

(3) Whoever, being engaged as a contractor or otherwise in the manufacture of any lock or key knowing that such lock or key has been adopted by any part of the Department of Defense, including all Department of Defense agencies, military departments, and agencies thereof, for use in protecting conventional arms, ammunition or explosives, special weapons, and classified information or classified equipment, delivers any such finished or unfinished lock or any such key to any person not duly authorized by the Secretary of Defense or his designated representative to receive the same, unless the person receiving it is the contractor for furnishing the same or engaged in the manufacture thereof in the manner authorized by the contract, or the agent of such manufacturer, shall be punished as provided in subsection (b).

(b) Whoever commits an offense under subsection (a) shall be fined under this title or imprisoned not more than 10 years, or both.

(c) As used in this section, the term “key” means any key, keyblank, or keyway adopted by any part of the Department of Defense, including all Department of Defense agencies, military departments, and agencies thereof, for use in protecting conventional arms, ammunition or explosives, special weapons, and classified information or classified equipment.

(Added Pub. L. 102-190, div. A, title X, §1090(a), Dec. 5, 1991, 105 Stat. 1485.)

§ 1387. Demonstrations at cemeteries under the control of the National Cemetery Administration and at Arlington National Cemetery

Whoever violates section 2413 of title 38 shall be fined under this title, imprisoned for not more than one year, or both.

(Added Pub. L. 109-228, §3(a), May 29, 2006, 120 Stat. 388.)

§ 1388. Prohibition on disruptions of funerals of members or former members of the Armed Forces

(a) PROHIBITION.—For any funeral of a member or former member of the Armed Forces that is not located at a cemetery under the control of the National Cemetery Administration or part of Arlington National Cemetery, it shall be unlawful for any person to engage in an activity during the period beginning 60 minutes before and ending 60 minutes after such funeral, any part of which activity—

(1)(A) takes place within the boundaries of the location of such funeral or takes place within 150 feet of the point of the intersection between—

(i) the boundary of the location of such funeral; and

(ii) a road, pathway, or other route of ingress to or egress from the location of such funeral; and

(B) includes any individual willfully making or assisting in the making of any noise or diversion that is not part of such funeral and that disturbs or tends to disturb the peace or good order of such funeral with the intent of disturbing the peace or good order of that funeral; or

(2)(A) is within 300 feet of the boundary of the location of such funeral; and

(B) includes any individual willfully and without proper authorization impeding the access to or egress from such location with the intent to impede the access to or egress from such location.

(b) PENALTY.—Any person who violates subsection (a) shall be fined under this title, imprisoned for not more than 1 year, or both.

(c) DEFINITIONS.—In this section:

(1) The term “Armed Forces” has the meaning given the term in section 101 of title 10.

(2) The term “funeral of a member or former member of the Armed Forces” means any ceremony or memorial service held in connection with the burial or cremation of a member or former member of the Armed Forces.

(3) The term “boundary of the location”, with respect to a funeral of a member or former member of the Armed Forces, means—

(A) in the case of a funeral of a member or former member of the Armed Forces that is held at a cemetery, the property line of the cemetery;

(B) in the case of a funeral of a member or former member of the Armed Forces that is held at a mortuary, the property line of the mortuary;

(C) in the case of a funeral of a member or former member of the Armed Forces that is held at a house of worship, the property line of the house of worship; and

(D) in the case of a funeral of a member or former member of the Armed Forces that is held at any other kind of location, the reasonable property line of that location.

(Added Pub. L. 109-464, §1(a), Dec. 22, 2006, 120 Stat. 3480.)

§ 1389. Prohibition on attacks on United States servicemen on account of service

(a) IN GENERAL.—Whoever knowingly assaults or batters a United States serviceman or an immediate family member of a United States serviceman, or who knowingly destroys or injures the property of such serviceman or immediate family member, on account of the military service of that serviceman or status of that individual as a United States serviceman, or who attempts or conspires to do so, shall—

(1) in the case of a simple assault, or destruction or injury to property in which the damage or attempted damage to such property is not more than \$500, be fined under this title in an amount not less than \$500 nor more than \$10,000 and imprisoned not more than 2 years;

(2) in the case of destruction or injury to property in which the damage or attempted damage to such property is more than \$500, be fined under this title in an amount not less than \$1000 nor more than \$100,000 and imprisoned not more than 5 years; and

(3) in the case of a battery, or an assault resulting in bodily injury, be fined under this title in an amount not less than \$2500 and imprisoned not less than 6 months nor more than 10 years.

(b) EXCEPTION.—This section shall not apply to conduct by a person who is subject to the Uniform Code of Military Justice.

(c) DEFINITIONS.—In this section—

(1) the term “Armed Forces” has the meaning given that term in section 1388;

(2) the term “immediate family member” has the meaning given that term in section 115; and

(3) the term “United States serviceman”—

(A) means a member of the Armed Forces; and

(B) includes a former member of the Armed Forces during the 5-year period beginning on the date of the discharge from the Armed Forces of that member of the Armed Forces.

(Added Pub. L. 111-84, div. E, §4712(a), Oct. 28, 2009, 123 Stat. 2842.)

REFERENCES IN TEXT

The Uniform Code of Military Justice, referred to in subsec. (b), is classified generally to chapter 47 (§801 et seq.) of Title 10, Armed Forces.

[CHAPTER 68—REPEALED]

[§§ 1401 to 1407. Repealed. Pub. L. 91-513, title III, § 1101(b)(1)(A), Oct. 27, 1970, 84 Stat. 1292]

Section 1401, acts July 18, 1956, ch. 629, title II, § 201, 70 Stat. 572; July 12, 1960, Pub. L. 86-624, §13(a), 74 Stat. 413, defined “heroin” and “United States”.

Section 1402, act July 18, 1956, ch. 629, title II, § 201, 70 Stat. 572, provided for surrender to Secretary of the Treasury of all legally possessed heroin within 120 days of July 19, 1956.

Section 1403, act July 18, 1956, ch. 629, title II, § 201, 70 Stat. 573, set penalties for unlawful use of communications facilities in commission of offenses involving importation or exportation of narcotics.

Section 1404, act July 18, 1956, ch. 629, title II, § 201, 70 Stat. 573, granted the United States right to appeal from grant of a motion to suppress in prosecutions involving unlawful exportation or importation of narcotics.

Section 1405, acts July 18, 1956, ch. 629, title III, § 201, 70 Stat. 573; Oct. 17, 1968, Pub. L. 90-578, title III, §301(a)(1), 82 Stat. 1115, set out procedure for issuance of search warrants.

Section 1406, act July 18, 1956, ch. 629, title II, § 201, 70 Stat. 574, provided for authority to grant immunity from prosecution of any witnesses compelled to testify or produce evidence after claiming his privilege against self-incrimination. See section 6001 et seq. of this title. Section was repealed earlier by Pub. L. 91-452, title II, §224(a), Oct. 15, 1970, 84 Stat. 929, with such repeal to be effective on the sixtieth day following Oct. 15, 1970, but with such repeal not to affect any immunity to which any individual was entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970.

Section 1407, act July 18, 1956, ch. 629, title II, § 201, 70 Stat. 574, prohibited border crossings by any person addicted to or using drugs or any person convicted of any violation of narcotic or marihuana laws of the United States or of any State, the penalty for which is imprisonment for more than one year.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 1105(a)