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TITLE 33--NAVIGATION AND NAVIGABLE WATERS

CHAPTER 11--BRIDGES OVER NAVIGABLE WATERS

SUBCHAPTER I--GENERAL PROVISIONS

Sec. 502. Alteration, removal, or repair of bridge or accessory
obstructions to navigation

- (a) Criminal penalties for violation; alteration or removal requirements; notice and hearing; specification of changes; time for compliance; notice to United States attorney; misdemeanor; fine; new offenses

Whenever the Secretary of Transportation shall have good reason to believe that any railroad or other bridge over any of the navigable waterways of the United States is an unreasonable obstruction to the free navigation of such waters on account of insufficient height, width of span, or otherwise, or where there is difficulty in passing the draw opening or the draw span of such bridge by rafts, steamboats, or other water craft, it shall be the duty of the said Secretary, first giving the parties reasonable opportunity to be heard, to give notice to the persons or corporations owning or controlling such bridge so to alter the same as to render navigation through or under it reasonably free, easy, and unobstructed; and in giving such notice he shall specify the changes that are required to be made, and shall prescribe in each case a reasonable time in which to make them. If at the end of such time the alteration has not been made, the Secretary of Transportation shall forthwith notify the United States attorney for the district in which such bridge is situated, to the end that the criminal proceedings hereinafter in this section mentioned may be taken. If the persons, corporation, or association owning or controlling any railroad or other bridge shall, after receiving notice to that effect, as hereinbefore required, from the Secretary of Transportation and within the time prescribed by him willfully fail or refuse to remove the same or to comply with the lawful order of the Secretary of the Army in the premises, such persons, corporation, or association shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine not exceeding \$5,000, and every month such persons, corporation, or association shall remain in default in respect to the removal or alteration of such bridge shall be deemed a new offense, and subject the persons, corporation, or association so offending to the penalties above prescribed.

- (b) Proper repair requirement

No owner or operator of any bridge, drawbridge, or causeway shall endanger, unreasonably obstruct, or make hazardous the free navigation of any navigable water of the United States by reason of the failure to keep the bridge, drawbridge, or causeway and any accessory works in proper repair.

- (c) Civil penalties for violation; separate offenses; notice and

hearing; assessment, collection, and remission; civil actions

Whoever violates any provision of this section, or any order issued under this section, 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 continues 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. 3, 1899, ch. 425, Sec. 18, 30 Stat. 1153; Mar. 3, 1911, ch. 231, Sec. 291, 36 Stat. 1167; Jan. 31, 1928, ch. 14, Sec. 1, 45 Stat. 54; June 25, 1948, ch. 646, Secs. 1, 39, 62 Stat. 909, 992; Pub. L. 97-322, title I, Sec. 108(b), Oct. 15, 1982, 96 Stat. 1583; Pub. L. 108-293, title VI, Sec. 601(c), Aug. 9, 2004, 118 Stat. 1050.)

Codification

Section is from act Mar. 3, 1899, popularly known as the ``Rivers and Harbors Appropriation Act of 1899''.

The words ``or from the existing circuit courts,''' which followed ``district courts'' in the proviso were superseded by the abolition of the circuit courts and the transfer of their jurisdiction to the district courts, by act Mar. 3, 1911.

Prior Provisions

This section superseded act Aug. 11, 1888, ch. 860, Secs. 9, 10, 25 Stat. 424, as amended by act Sept. 19, 1890, ch. 907, Secs. 4, 5, 26 Stat. 453, which required the Secretary of War to provide against obstructions to navigation by bridges, and prescribed a punishment on the owner's default in making the required alterations.

The Secretary of War was authorized to make the required changes in bridges obstructing navigation on the owner's failure to do so, and the Attorney General was required to institute proceedings against the owner for the recovery of the cost of such changes, by act July 5, 1884, ch. 229, Sec. 8, 23 Stat. 148.

Amendments

2004--Subsec. (c). 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''.

1982--Subsec. (a). Pub. L. 97-322 designated existing provisions as subsec. (a), substituted ``Secretary of Transportation'' for ``Secretary of War'' wherever appearing, and struck out ``recommended by the Chief of Engineers'' after ``specify the charges''.

Subsecs. (b), (c). Pub. L. 97-322 added subsecs. (b) and (c).

1948--Act June 25, 1948, Sec. 39, repealed proviso at end relating to appeals. See sections 1252 and 1253 of title 28.

Change of Name

Act June 25, 1948, eff. Sept. 1, 1948, substituted ``United States attorney'' for ``district attorney of the United States''. See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision Notes thereunder.

Effective Date of 1948 Amendment

Amendment by act June 25, 1948 effective Sept. 1, 1948, see section 38 of act June 25, 1948, set out as an Effective Date note preceding section 1 of Title 28, Judiciary and Judicial Procedure.

Limitation on Application

Section as not applicable to bridges constructed under sections 491 to 498 of this title, see section 494 of this title.