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TITLE 33--NAVIGATION AND NAVIGABLE WATERS

CHAPTER 11--BRIDGES OVER NAVIGABLE WATERS

SUBCHAPTER I--GENERAL PROVISIONS

Sec. 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 United States, and such magistrate judge, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States: Provided further, That whenever, in the opinion of the Secretary of Transportation, the public interests require it, he may make rules and regulations 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, and any willful violation thereof shall be punished as hereinbefore provided: Provided further, That any regulations made in pursuance of this section may be enforced as provided in section 413 of this title, the provisions whereof are made applicable to the said regulations. Any rules and regulations made in pursuance of this section shall, to the extent practical and feasible, provide for regularly scheduled openings of drawbridges during seasons of the year, and during times of the day, when scheduled openings would help reduce motor vehicle traffic delays and congestion on roads and highways linked by drawbridges.

(b) Nonstructural vessel appurtenances; unreasonable delays

No vessel owner or operator shall signal a drawbridge to open for any nonstructural vessel appurtenance which is not essential to navigation or which is easily lowered and no person shall unreasonably delay the opening of a draw after the signal required by rules or

regulations under this section has been given. The Secretary of Transportation shall issue rules and regulations to implement this subsection.

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

Whoever violates any rule or regulation issued under subsection (a) or (b) of 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. 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.

(Aug. 18, 1894, ch. 299, Sec. 5, 28 Stat. 362; June 13, 1902, ch. 1079, Sec. 6, 32 Stat. 374; Pub. L. 90-578, title IV, Sec. 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 97-322, title I, Sec. 108(a), Oct. 15, 1982, 96 Stat. 1582; Pub. L. 97-449, Sec. 2(d)(1), Jan. 12, 1983, 96 Stat. 2440; Pub. L. 100-448, Sec. 21, Sept. 28, 1988, 102 Stat. 1846; Pub. L. 101-650, title III, Sec. 321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 108-293, title VI, Sec. 601(b), Aug. 9, 2004, 118 Stat. 1050.)

#### Codification

The last proviso of subsec. (a) of this section was from a part of section 6 of act June 13, 1902, which reads as follows: ``Any regulations heretofore or hereafter prescribed by the Secretary of War in pursuance of the fourth and fifth sections of the river and harbor Act of August eighteenth, eighteen hundred and ninety-four [this section and section 1 of this title], and any regulations hereafter prescribed in pursuance of the aforesaid section four as amended by section eleven of this Act [section 1 of this title], may be enforced as provided in section seventeen of the river and harbor Act of March third, eighteen hundred and ninety-nine [section 413 of this title], the provisions whereof are hereby made applicable to the said regulations.''

The last paragraph of section 1 of this title is also from a part of section 6 of act June 13, 1902.

Except for the last proviso of subsec. (a), this section was from act Aug. 18, 1894.

#### 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''.

1988--Subsec. (a). Pub. L. 100-448 inserted at end ``Any rules and regulations made in pursuance of this section shall, to the extent practical and feasible, provide for regularly scheduled openings of drawbridges during seasons of the year, and during times of the day,

when scheduled openings would help reduce motor vehicle traffic delays and congestion on roads and highways linked by drawbridges.'

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, Sec. 108(a)(1)-(4), designated existing provisions as subsec. (a); struck out from second sentence after ``boats,''' the clause ``or who shall unreasonably delay the opening of said draw after reasonable signal shall have been given,'''; substituted in first proviso ``subsection'' for ``section''; and in second proviso provided for punishment of ``willful'' violation of rules and regulations.

Subsecs. (b), (c). Pub. L. 97-322, Sec. 108(a)(5), added subsecs. (b) and (c).

#### Change of Name

``Magistrate judge'' substituted in text for ``magistrate'' pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, ``magistrate'' substituted for ``commissioner'' pursuant to Pub. L. 90-578. See chapter 43 (Sec. 631 et seq.) of Title 28.

#### Transfer of Functions

Section 6(g)(2) of Pub. L. 89-670 transferred functions, powers, and duties of Secretary of the Army [formerly War] and other officers and offices of Department of the Army [formerly War] relating to drawbridge operating regulations under this section to Secretary of Transportation. Pub. L. 97-449 amended this section to reflect transfer made by section 6(g)(2) of Pub. L. 89-670, and repealed section 6(g)(2).