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§ 191. Regulation of anchorage and movement of vessels during national emergency

Whenever the President by proclamation or Executive order declares a national emergency to exist by reason of actual or threatened war, insurrection, or invasion, or disturbance or threatened disturbance of the international relations of the United States, or whenever the Attorney General determines that an actual or anticipated mass migration of aliens en route to, or arriving off the coast of, the United States presents urgent circumstances requiring an immediate Federal response, the Secretary of Transportation may make, subject to the approval of the President, rules and regulations governing the anchorage and movement of any vessel, foreign or domestic, in the territorial waters of the United States, may inspect such vessel at any time, place guards thereon, and, if necessary in his opinion in order to secure such vessels from damage or injury, or to prevent damage or injury to any harbor or waters of the United States, or to secure the observance of the rights and obligations of the United States, may take, by and with the consent of the President, for such purposes, full possession and control of such vessel and remove therefrom the officers and crew thereof and all other persons not specially authorized by him to go or remain on board thereof.

Whenever the President finds that the security of the United States is endangered by reason of actual or threatened war, or invasion, or insurrection, or subversive activity, or of disturbances or threatened disturbances of the international relations of the United States, the President is authorized to institute such measures and issue such rules and regulations—

(a) to govern the anchorage and movement of any foreign-flag vessels in the territorial waters of the United States, to inspect such vessels at any time, to place guards thereon, and, if necessary in his opinion in order to secure such vessels from damage or injury, or to prevent damage or injury to any harbor or waters of the United States, or to secure the observance of rights and obligations of the United States, may take for such purposes full possession and control of such vessels and remove therefrom the officers and crew thereof, and all other persons not especially authorized by him to go or remain on board thereof;

(b) to safeguard against destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of similar nature, vessels, harbors, ports, and waterfront facilities in the United States and all territory and water, continental or insular, subject to the jurisdiction of the United States.

The President may delegate the authority to issue such rules and regulations to the Sec-

retary of the department in which the Coast Guard is operating. Any appropriation available to any of the Executive Departments shall be available to carry out the provisions of this title.¹

(June 15, 1917, ch. 30, title II, §1, 40 Stat. 220; Aug. 9, 1950, ch. 656, §1, 64 Stat. 427; Sept. 26, 1950, ch. 1049, §2(b), 64 Stat. 1038; Pub. L. 89-670, §6(b)(1), Oct. 15, 1966, 80 Stat. 938; Pub. L. 96-70, title III, §3302(a), Sept. 27, 1979, 93 Stat. 498; Pub. L. 104-208, div. C, title VI, §649, Sept. 30, 1996, 110 Stat. 3009-711; Pub. L. 108-293, title II, §223, Aug. 9, 2004, 118 Stat. 1040.)

REFERENCES IN TEXT

This title, referred to in text, means title II of act June 15, 1917, ch. 30, 40 Stat. 220, as amended, which enacted sections 191 and 192 to 194 of this title. For complete classification of title II to the Code, see Tables.

AMENDMENTS

2004—Pub. L. 108-293 inserted “The President may delegate the authority to issue such rules and regulations to the Secretary of the department in which the Coast Guard is operating.” at beginning of concluding provisions.

1996—Pub. L. 104-208, in first par., inserted “or whenever the Attorney General determines that an actual or anticipated mass migration of aliens en route to, or arriving off the coast of, the United States presents urgent circumstances requiring an immediate Federal response,” after “international relations of the United States.”

1979—Pub. L. 96-70 struck out second par., providing that within the territory and waters of the Canal Zone the Governor of the Canal Zone, with the approval of the President, shall exercise all the powers conferred by this section on the Secretary of the Treasury, and in cl. (b) of third par., struck out “the Canal Zone,” after “facilities in the United States.”

1950—Act Sept. 26, 1950, substituted “Governor of the Canal Zone” for “Governor of the Panama Canal” in second par.

Act Aug. 9, 1950, authorized the President to institute such rules and regulations to control anchorage and movement of foreign-flag vessels in United States waters when the national security is endangered.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96-70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

TERMINATION DATE OF 1950 AMENDMENT

Section 4 of act Aug. 9, 1950, provided that: “The provisions of this Act [amending this section and sections 192 and 194 of this title] shall expire on such date as may be specified by concurrent resolution of the two Houses of Congress.”

TERMINATION OF WAR AND EMERGENCIES

Act July 25, 1947, ch. 327, §3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

REGULATIONS—POST-WAR GENERALLY

For regulations relating to safeguarding of vessels, harbors, ports, and waterfront facilities, under a finding that the security of the United States is endangered by reason of subversive activity, see Ex. Ord. No. 10173, Oct. 18, 1950, 15 F.R. 7005.

¹ See References in Text note below.

REGULATIONS—WORLD WAR II

Proc. No. 2732, June 2, 1947, 12 F.R. 3583, 61 Stat. 1069, revoked Proc. No. 2412, June 27, 1940, 5 F.R. 2419, 54 Stat. 2711, which granted consent of President to the exercise of certain powers under this section by the Secretary of the Treasury and the Governor of the Canal Zone.

REGULATIONS—WORLD WAR I

A proclamation was issued under this section on December 3, 1917.

SEPARABILITY

Section 4 of title XIII of act June 15, 1917, provided: "If any clause, sentence, paragraph, or part of this Act [see Tables for classification] shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered."

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.

"Secretary of Transportation" substituted for "Secretary of the Treasury" in first paragraph of text pursuant to section 6(b)(1) of Pub. L. 89-670, which transferred Coast Guard to Department of Transportation and transferred to and vested in Secretary of Transportation functions, powers, and duties, relating to Coast Guard, of Secretary of the Treasury and of other officers and offices of Department of the Treasury. See section 108 of Title 49, Transportation.

DELEGATION OF FUNCTIONS

For delegation to Secretary of the Treasury of authority vested in President by this section, see section 2(e) of Ex. Ord. No. 10289, Sept. 17, 1951, 16 F.R. 9499, as amended, set out as a note under section 301 of Title 3, The President.

PROC. NO. 6867. DECLARATION OF NATIONAL EMERGENCY AND INVOCATION OF EMERGENCY AUTHORITY RELATING TO REGULATION OF ANCHORAGE AND MOVEMENT OF VESSELS

Proc. No. 6867, Mar. 1, 1996, 61 F.R. 8843, provided:

WHEREAS, on February 24, 1996, Cuban military aircraft intercepted and destroyed two unarmed U.S.-registered civilian aircraft in international airspace north of Cuba;

WHEREAS the Government of Cuba has demonstrated a ready and reckless willingness to use excessive force, including deadly force, in the ostensible enforcement of its sovereignty;

WHEREAS, on July 13, 1995, persons in U.S.-registered vessels who entered into Cuban territorial waters suffered injury as a result of the reckless use of force against them by the Cuban military; and

WHEREAS the entry of U.S.-registered vessels into Cuban territorial waters could again result in injury to, or loss of life of, persons engaged in that conduct, due to the potential use of excessive force, including deadly force, against them by the Cuban military, and could threaten a disturbance in international relations;

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by the authority vested in me by the Constitution and the laws of the United States of America, including section 1 of title II of Public Law 65-24, ch. 30, June 15, 1917, as amended (50

U.S.C. 191), sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 *et seq.*) [50 U.S.C. 1621, 1631], and section 301 of title 3, United States Code, find and do hereby proclaim that a national emergency does exist by reason of a disturbance or threatened disturbance of international relations. In order to address this national emergency and to secure the observance of the rights and obligations of the United States, I hereby authorize and direct the Secretary of Transportation (the "Secretary") to make and issue such rules and regulations as the Secretary may find appropriate to regulate the anchorage and movement of vessels, and delegate to the Secretary my authority to approve such rules and regulations, as authorized by the Act of June 15, 1917 [see Tables for classification].

SECTION 1. The Secretary may make rules and regulations governing the anchorage and movement of any vessel, foreign or domestic, in the territorial waters of the United States, which may be used, or is susceptible of being used, for voyage into Cuban territorial waters and that may create unsafe conditions and threaten a disturbance of international relations. Any rule or regulation issued pursuant to this proclamation may be effective immediately upon issuance as such rule or regulation shall involve a foreign affairs function of the United States.

SEC. 2. The Secretary is authorized to inspect any vessel, foreign or domestic, in the territorial waters of the United States, at any time; to place guards on any such vessel; and, with my consent expressly hereby granted, take full possession and control of any such vessel and remove the officers and crew, and all other persons not specifically authorized by the Secretary to go or remain on board the vessel when necessary to secure the rights and obligations of the United States.

SEC. 3. The Secretary may request assistance from such departments, agencies, officers, or instrumentalities of the United States as the Secretary deems necessary to carry out the purposes of this proclamation. Such departments, agencies, officers, or instrumentalities shall, consistent with other provisions of law and to the extent practicable, provide requested assistance.

SEC. 4. The Secretary may seek assistance from State and local authorities in carrying out the purposes of this proclamation. Because State and local assistance may be essential for an effective response to this emergency, I urge all State and local officials to cooperate with Federal authorities and to take all actions within their lawful authority necessary to prevent the unauthorized departure of vessels intending to enter Cuban territorial waters.

SEC. 5. All powers and authorities delegated by this proclamation to the Secretary may be delegated by the Secretary to other officers and agents of the United States Government unless otherwise prohibited by law.

SEC. 6. This proclamation shall be immediately transmitted to the Congress and published in the Federal Register.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of March, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twentieth.

WILLIAM J. CLINTON.

CONTINUATION OF NATIONAL EMERGENCY DECLARED BY PROC. NO. 6867

Notice of President of the United States, dated Jan. 15, 2009, 74 F.R. 3959, provided:

On March 1, 1996, by Proclamation 6867 [set out above], a national emergency was declared to address the disturbance or threatened disturbance of international relations caused by the February 24, 1996, destruction by the Cuban government of two unarmed U.S.-registered civilian aircraft in international airspace north of Cuba. In July 1996 and on subsequent occasions, the Cuban government stated its intent to forcefully defend its sovereignty against any U.S.-registered vessels or aircraft that might enter Cuban terri-

torial waters or airspace while involved in a flotilla or peaceful protest. Since these events, the Cuban government has not demonstrated that it will refrain from the future use of reckless and excessive force against U.S. vessels or aircraft that may engage in memorial activities or peaceful protest north of Cuba. On February 26, 2004, by Proclamation 7757 [set out below], the scope of the national emergency was expanded in order to deny monetary and material support to the repressive Cuban government, which had taken a series of steps to destabilize relations with the United States, including threatening to abrogate the Migration Accords with the United States and to close the United States Interests Section. Further, Cuba's most senior officials repeatedly asserted that the United States intended to invade Cuba, despite explicit denials from the U.S. Secretaries of State and Defense that such action is planned. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Cuba and the emergency authority relating to the regulation of the anchorage and movement of vessels set out in Proclamation 6867 as amended and expanded by Proclamation 7757.

This notice shall be published in the Federal Register and transmitted to the Congress.

GEORGE W. BUSH.

Prior continuations of national emergency declared by Proc. No. 6867 were contained in the following:

Notice of President of the United States, dated Feb. 6, 2008, 73 F.R. 7459.

Notice of President of the United States, dated Feb. 26, 2007, 72 F.R. 9231.

Notice of President of the United States, dated Jan. 10, 2006, 71 F.R. 2133.

Notice of President of the United States, dated Feb. 18, 2005, 70 F.R. 8919.

Notice of President of the United States, dated Feb. 26, 2004, 69 F.R. 9513.

Notice of President of the United States, dated Feb. 27, 2003, 68 F.R. 9849.

Notice of President of the United States, dated Feb. 26, 2002, 67 F.R. 9387.

Notice of President of the United States, dated Feb. 27, 2001, 66 F.R. 12841.

Notice of President of the United States, dated Feb. 25, 2000, 65 F.R. 10929.

Notice of President of the United States, dated Feb. 24, 1999, 64 F.R. 9903.

Notice of President of the United States, dated Feb. 25, 1998, 63 F.R. 9923.

Notice of President of the United States, dated Feb. 27, 1997, 62 F.R. 9347.

PROC. NO. 7757. EXPANDING THE SCOPE OF THE NATIONAL EMERGENCY AND INVOCATION OF EMERGENCY AUTHORITY RELATING TO THE REGULATION OF THE ANCHORAGE AND MOVEMENT OF VESSELS INTO CUBAN TERRITORIAL WATERS

Proc. No. 7757, Feb. 26, 2004, 69 F.R. 9515, provided:

By the authority vested in me by the Constitution and the laws of the United States of America, in order to expand the scope of the national emergency declared in Proclamation 6867 of March 1, 1996 [set out above], based on the disturbance or threatened disturbance of the international relations of the United States caused by actions taken by the Cuban government, and in light of steps taken over the past year by the Cuban government to worsen the threat to United States international relations, and,

WHEREAS the United States has determined that Cuba is a state-sponsor of terrorism and it is subject to the restrictions of section 6(j)(1)(A) of the Export Administration Act of 1979 [50 U.S.C. App. 2405(j)(1)(A)], section 620A of the Foreign Assistance Act of 1961 [22 U.S.C. 2371], and section 40 of the Arms Export Control Act [22 U.S.C. 2780];

WHEREAS the Cuban government has demonstrated a ready and reckless willingness to use excessive force,

including deadly force, against U.S. citizens, in the ostensible enforcement of its sovereignty, including the February 1996 shoot-down of two unarmed U.S.-registered civilian aircraft in international airspace, resulting in the deaths of three American citizens and one other individual;

WHEREAS the Cuban government has demonstrated a ready and reckless willingness to use excessive force, including deadly force, against U.S. citizens and its own citizens, including on July 13, 1995, when persons in U.S.-registered vessels that entered into Cuban territorial waters suffered injury as a result of the reckless use of force against them by the Cuban military, and including the July 1994 sinking of an unarmed Cuban-registered vessel, resulting in the deaths of 41 Cuban citizens;

WHEREAS the Cuban government has impounded U.S.-registered vessels in Cuban ports and forced the owners, as a condition of release, to violate U.S. law by requiring payments to be made to the Cuban government;

WHEREAS the entry of any U.S.-registered vessels into Cuban territorial waters could result in injury to, or loss of life of, persons engaged in that conduct, due to the potential use of excessive force, including deadly force, against them by the Cuban military, and could threaten a disturbance of international relations;

WHEREAS the unauthorized entry of vessels subject to the jurisdiction of the United States into Cuban territorial waters is in violation of U.S. law and contrary to U.S. policy;

WHEREAS the objectives of U.S. policy regarding Cuba are the end of the dictatorship and a rapid, peaceful transition to a representative democracy respectful of human rights and characterized by an open market economic system;

WHEREAS a critical initiative by the United States to advance these U.S. objectives is to deny resources to the repressive Cuban government, resources that may be used by that government to support terrorist activities and carry out excessive use of force against innocent victims, including U.S. citizens;

WHEREAS the unauthorized entry of U.S.-registered vessels into Cuban territorial waters is detrimental to the foreign policy of the United States, which is to deny monetary and material support to the repressive Cuban government, and, therefore, such unauthorized entries threaten to disturb the international relations of the United States by facilitating the Cuban government's support of terrorism, use of excessive force, and continued existence;

WHEREAS the Cuban government has over the course of its 45-year existence repeatedly used violence and the threat of violence to undermine U.S. policy interests. This same regime continues in power today, and has since 1959 maintained a pattern of hostile actions contrary to U.S. policy interests. Among other things, the Cuban government established a military alliance with the Soviet Union, and invited Soviet forces to install nuclear missiles in Cuba capable of attacking the United States, and encouraged Soviet authorities to use those weapons against the United States; it engaged in military adventurism in Africa; and it helped to form and provide material and political support to terrorist organizations that sought the violent overthrow of democratically elected governments in Central America and elsewhere in the hemisphere allied with the United States, thereby causing repeated disturbances of U.S. international relations;

WHEREAS the Cuban government has recently and over the last year taken a series of steps to destabilize relations with the United States, including threatening to abrogate the Migration Accords with the United States and to close the U.S. Interests Section, and Cuba's most senior officials repeatedly asserting that the United States intended to invade Cuba, despite explicit denials from the U.S. Secretaries of State and Defense that such action is planned, thereby causing a sudden and worsening disturbance of U.S. international relations;

WHEREAS U.S. concerns about these unforeseen Cuban government actions that threaten to disturb international relations were sufficiently grave that on May 8, 2003, the United States warned the Cuban government that political manipulations that resulted in a mass migration would be viewed as a “hostile act;”

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by the authority vested in me by the Constitution and the laws of the United States of America, including section 1 of title II of Public Law 65-24, ch. 30, June 15, 1917, as amended (50 U.S.C. 191), sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 *et seq.*) [50 U.S.C. 1621, 1631], and section 301 of title 3, United States Code, in order to expand the scope of the national emergency declared in Proclamation 6867 of March 1, 1996 [set out above], and to secure the observance of the rights and obligations of the United States, hereby authorize and direct the Secretary of Homeland Security (the “Secretary”) to make and issue such rules and regulations as the Secretary may find appropriate to regulate the anchorage and movement of vessels, and authorize and approve the Secretary’s issuance of such rules and regulations, as authorized by the Act of June 15, 1917 [see Tables for classification].

SECTION 1. The Secretary may make rules and regulations governing the anchorage and movement of any vessel, foreign or domestic, in the territorial waters of the United States, which may be used, or is susceptible of being used, for voyage into Cuban territorial waters and that may create unsafe conditions, or result in unauthorized transactions, and thereby threaten a disturbance of international relations. Any rule or regulation issued pursuant to this proclamation may be effective immediately upon issuance as such rule or regulation shall involve a foreign affairs function of the United States.

SEC. 2. The Secretary is authorized to inspect any vessel, foreign or domestic, in the territorial waters of the United States, at any time; to place guards on any such vessel; and, with my consent expressly hereby granted, take full possession and control of any such vessel and remove the officers and crew and all other persons not specifically authorized by the Secretary to go or remain on board the vessel when necessary to secure the rights and obligations of the United States.

SEC. 3. The Secretary may request assistance from such departments, agencies, officers, or instrumentalities of the United States as the Secretary deems necessary to carry out the purposes of this proclamation. Such departments, agencies, officers, or instrumentalities shall, consistent with other provisions of law and to the extent practicable, provide requested assistance.

SEC. 4. The Secretary may seek assistance from State and local authorities in carrying out the purposes of this proclamation. Because State and local assistance may be essential for an effective response to this emergency, I urge all State and local officials to cooperate with Federal authorities and to take all actions within their lawful authority necessary to prevent the unauthorized departure of vessels intending to enter Cuban territorial waters.

SEC. 5. All powers and authorities delegated by this proclamation to the Secretary may be delegated by the Secretary to other officers and agents of the United States Government unless otherwise prohibited by law.

SEC. 6. Any provisions of Proclamation 6867 [set out above] that are inconsistent with the provisions of this proclamation are superseded to the extent of such inconsistency.

SEC. 7. This proclamation shall be immediately transmitted to the Congress and published in the Federal Register.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of February, in the year of our Lord two thousand four, and of the Independence of the United States of America the two hundred and twenty-eighth.

GEORGE W. BUSH.

§ 191a. Transfer of Secretary of Transportation’s powers to Secretary of Navy when Coast Guard operates as part of Navy

When the Coast Guard operates as a part of the Navy pursuant to section 3 of title 14, the powers conferred on the Secretary of Transportation by section 191 of this title, shall vest in and be exercised by the Secretary of the Navy.

(Nov. 15, 1941, ch. 471, §2, 55 Stat. 763; Pub. L. 87-845, §11, Oct. 18, 1962, 76A Stat. 699; Pub. L. 89-670, §6(b)(1), Oct. 15, 1966, 80 Stat. 938.)

AMENDMENTS

1962—Pub. L. 87-845 substituted “section 3 of title 14” for “section 1 of title 14”.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-845 effective Jan. 2, 1963, see section 25 of Pub. L. 87-845, set out as a note under section 414 of Title 28, Judiciary and Judicial Procedure.

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.

“Secretary of Transportation” substituted in text for “Secretary of the Treasury” pursuant to section 6(b)(1) of Pub. L. 89-670, which transferred Coast Guard to Department of Transportation and transferred to and vested in Secretary of Transportation functions, powers, and duties, relating to Coast Guard, of Secretary of the Treasury and of other officers and offices of Department of the Treasury. See section 108 of Title 49, Transportation.

§ 191b. Repealed. Pub. L. 96-70, title III, § 3303(a)(5), Sept. 27, 1979, 93 Stat. 499

Section, acts Nov. 15, 1941, ch. 471, §4, 55 Stat. 763; Sept. 26, 1950, ch. 1049, §2(b), 64 Stat. 1038; Oct. 18, 1962, Pub. L. 87-845, §12, 76A Stat. 699, provided that this section, section 191a of this title, and section 91 of title 14 not affect the authority of the Governor of the Canal Zone conferred by section 191 of this title or section 34 of Title 2, Canal Zone Code.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1979, see section 3304 of Pub. L. 96-70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

§ 191c. Repealed. Aug. 4, 1949, ch. 393, §20, 63 Stat. 561

Section, act Nov. 15, 1941, ch. 471, §1, 55 Stat. 763, related to control of anchorage and movement of vessels to insure safety of naval vessels. See section 91 of Title 14, Coast Guard.

§ 192. Seizure and forfeiture of vessel; fine and imprisonment

(a) In general

If any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this title,¹ or obstructs or interferes

¹ See References in Text note below.