

**TITLE 46 - SHIPPING****Subtitle V - Merchant Marine****Part E - Control of Merchant Marine Capabilities****CHAPTER 561 - RESTRICTIONS ON TRANSFERS****§ 56101. Approval required to transfer vessel to noncitizen****(a) Restrictions.—**

**(1) In General.—** Except as otherwise provided in this section, section 12119 of this title, or section 611 of the Merchant Marine Act, 1936, a person may not, without the approval of the Secretary of Transportation—

**(A)** sell, lease, charter, deliver, or in any other manner transfer, or agree to sell, lease, charter, deliver, or in any other manner transfer, to a person not a citizen of the United States, an interest in or control of—

**(i)** a documented vessel owned by a citizen of the United States; or

**(ii)** a vessel last documented under the laws of the United States; or

**(B)** place under foreign registry, or operate under the authority of a foreign country, a documented vessel or a vessel last documented under the laws of the United States.

**(2) Exceptions.—** Paragraph (1)(A) does not apply to a vessel that has been operated only for pleasure or only as a fishing vessel, fish processing vessel, or fish tender vessel (as defined in section 2101 of this title).

**(b) Approval Before Documentation.—** To promote financing with respect to a vessel to be documented under chapter 121 of this title, the Secretary may grant approval under subsection (a) before the vessel is documented.

**(c) Exceptions.—** Notwithstanding any other provision of this subtitle, the Merchant Marine Act, 1936, or any contract with the Secretary made under this subtitle or that Act, a person may place a vessel under foreign registry without the approval of the Secretary if—

**(1) (A)** the Secretary, in conjunction with the Secretary of Defense, determines that at least one replacement vessel of equal or greater military capability and of a capacity that is equivalent or greater, as measured by deadweight tons, gross tons, or container equivalent units, as appropriate, is documented under chapter 121 of this title by the owner of the vessel placed under foreign registry; and

**(B)** the replacement vessel is not more than 10 years old on the date of that documentation; or

**(2)** an operating agreement covering the vessel under chapter 531 of this title has expired.

**(d) Status of Prohibited Transaction.—** A charter, sale, or transfer of a vessel, or of an interest in or control of a vessel, in violation of this section is void.

**(e) Penalties.—**

**(1) Criminal penalty.—** A person that knowingly sells, charters, or transfers a vessel, or an interest in or control of a vessel, in violation of this section shall be fined under title 18, imprisoned for not more than 5 years, or both.

**(2) Civil penalty.—** A person that sells, charters, or transfers a vessel, or an interest in or control of a vessel, in violation of this section is liable to the United States Government for a civil penalty of not more than \$10,000 for each violation.

**(3) Forfeiture.—** A documented vessel may be seized by and forfeited to the Government if, in violation of this section, a person—

**(A)** knowingly sells, charters, or transfers the vessel or an interest in or control of the vessel; or

**(B)** places the vessel under foreign registry or operates the vessel under the authority of a foreign country.

(Pub. L. 109–304, § 8(c), Oct. 6, 2006, 120 Stat. 1651.)

### Historical and Revision Notes

| Revised Section        | Source (U.S. Code)   | Source (Statutes at Large) |
|------------------------|--|----------------------------|
| 56101(a)               |  |                            |
| 46 App.:808(c).        |  |                            |
|                        | Sept. 7, 1916, ch. 451, § 9(c), (d), 39 Stat. 730; July 15, 1918, ch. 152, § 3, 40 Stat. 900; June 5, 1920, ch. 250, § 18, 41 Stat. 994; Exec. Order No. 6166, § 12, eff. June 10, 1933; June 29, 1936, ch. 858, title II, § 204, title IX, § 904, 49 Stat. 1987, 2016; June 23, 1938, ch. 600, § 42, 52 Stat. 964; Pub. L. 89–346, § 1, Nov. 8, 1965, 79 Stat. 1305; Pub. L. 97–31, § 12(26), Aug. 6, 1981, 95 Stat. 155; Pub. L. 100–710, title I, § 104(b)(3), Nov. 23, 1988, 102 Stat. 4750; Pub. L. 101–225, title III, § 304(a), Dec. 12, 1989, 103 Stat. 1924; Pub. L. 104–324, title XI, [§]1113(c), (e), Oct. 19, 1996, 110 Stat. 3970, 3971; Pub. L. 107–295, title II, § 205(d), Nov. 25, 2002, 116 Stat. 2096. |                            |
|                        | 46 App.:808a.  |                            |
|                        | Pub. L. 98–454, title III, § 302, Oct. 5, 1984, 98 Stat. 1734.   |                            |
| 56101(b)               |  |                            |
| 46 App.:808(f)         |  |                            |
|                        | Sept. 7, 1916, ch. 451, § 9(f), as added Pub. L. 104–324, title XI, § 1136(b), Oct. 19, 1996, 110 Stat. 3987; Pub. L. 108–136, title XXXV, § 3532(a)(1), Nov. 24, 2003, 117 Stat. 1817.  |                            |
| 56101(c)               |  |                            |
| 46 App.:808(e)         |  |                            |
|                        | Sept. 7, 1916, ch. 451, § 9(e), as added Pub. L. 104–239, § 6, Oct. 8, 1996, 110 Stat. 3132; Pub. L. 108–136, title XXXV, § 3532(a)(2), Nov. 24, 2003, 117 Stat. 1817.   |                            |
| 56101(d)               |  |                            |
| 46 App.:808(d)(1).     |  |                            |
| 56101(e)               |  |                            |
| 46 App.:808(d)(2)–(4). |  |                            |

In subsection (a), the text of 46 App. U.S.C. 808a is omitted as unnecessary. In paragraph (1), the words “owned by a citizen of the United States” are omitted as unnecessary because ownership by a citizen is a requirement for documentation. See section 12103 as revised by the bill.

In subsection (c), before paragraph (1), the words “Notwithstanding any other provision of this subtitle, the Merchant Marine Act, 1936, or any contract with the Secretary made under this subtitle or that Act” are substituted for “Notwithstanding subsection (c)(2) of this section, the Merchant Marine Act, 1936 [46 App. U.S.C. 1101 et seq.], or any contract entered into with the Secretary of Transportation under that Act” because the Merchant Marine Act, 1936, is restated principally in this subtitle, but other provisions of that Act are being neither restated nor repealed.

#### References in Text

The Merchant Marine Act, 1936, referred to in subsecs. (a)(1), (c), is act June 29, 1936, ch. 858, 49 Stat. 1985, which enacted provisions set out as notes under section 53101 of this title. For complete classification of this Act to the Code, see Short Title of 1936 Amendment note set out under section 101 of this title and Tables.