

CHAPTER 463 -- PENALTIES

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Sec. 46301. Civil penalties

(a) General Penalty. -- (1) A person is liable to the United States Government for a civil penalty of not more than \$1,000 for violating --

(A) chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 411, section 41301-41306, 41308-41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705-41709, 41711, 41712, or 41731-41742, chapter 419, subchapter II of chapter 421, chapter 441 (except section 44109), or section 44701(a) or (b), 44702-44716, 44901, 44903(b) or (c), 44905, 44906, 44907(d)(1)(B), 44909(a), 44912-44915, 44932-44938, 46302, or 46303 of this title;

(B) a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies;

(C) any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title; or

(D) a regulation of the United States Postal Service under this part.

(2) A person operating an aircraft for the transportation of passengers or property for compensation (except an airman serving as an airman) is liable to the Government for a civil penalty of not more than \$10,000 for violating --

(A) chapter 401 (except sections 40103(a) and (d), 40105, 40106(b), 40116, and 40117) or section 44701(a) or (b), 44702-44716, 44901, 44903(b) or (c), 44905, 44906, 44912-44915, or 44932-44938 of this title; or

(B) a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies.

(3) A civil penalty of not more than \$10,000 may be imposed for each violation under paragraph (1) of this subsection related to --

(A) the transportation of hazardous material; or

(B) the registration or recordation under chapter 441 of this title of an aircraft not used to provide air transportation.

(4) A separate violation occurs under this subsection for each day the violation continues or, if applicable, for each flight involving the violation.

(b) Smoke Alarm Device Penalty. -- (1) A passenger may not tamper with, disable, or destroy a smoke alarm device located in a lavatory on an aircraft providing air transportation or intrastate air transportation.

(2) An individual violating this subsection is liable to the Government for a civil penalty of not more than \$2,000.

(c) Procedural Requirements. -- (1) The Secretary of Transportation may impose a civil penalty for the following violations only after notice and an opportunity for a hearing:

(A) a violation of subsection (b) of this section or chapter 411, section 41301-41306, 41308-41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705-41709, 41711, 41712, or 41731-41742, chapter 419, or subchapter II of chapter 421 of this title.

(B) a violation of a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies.

(C) a violation of any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title.

(D) a violation under subsection (a)(1) of this section related to the transportation of hazardous material.

(2) The Secretary shall give written notice of the finding of a violation and the civil penalty under paragraph (1) of this subsection.

(d) Administrative Imposition of Penalties.--(1) In this subsection --

(A) "flight engineer" means an individual who holds a flight engineer certificate issued under part 63 of title 14, Code of Federal Regulations.

(B) "mechanic" means an individual who holds a mechanic certificate issued under part 65 of title 14, Code of Federal Regulations.

(C) "pilot" means an individual who holds a pilot certificate issued under part 61 of title 14, Code of Federal Regulations.

(D) "repairman" means an individual who holds a repairman certificate issued under part 65 of title 14, Code of Federal Regulations.

(2) The Administrator of the Federal Aviation Administration may impose a civil penalty for a violation of chapter 401 (except sections 40103(a) and (d), 40105, 40106(b), 40116, and 40117), chapter 441 (except section 44109), or section 44701(a) or (b), 44702-44716, 44901, 44903(b) or (c), 44905, 44906, 44907(d)(1)(B), 44912-44915, 44932-44938, 46302, or 46303 of this title or a regulation prescribed or order issued under any of those provisions. The Administrator shall give written notice of the finding of a violation and the penalty.

(3) In a civil action to collect a civil penalty imposed by the Administrator under this subsection, the issues of liability and the amount of the penalty may not be reexamined.

(4) Notwithstanding paragraph (2) of this subsection, the

district courts of the United States have exclusive jurisdiction of a civil action involving a penalty the Administrator initiates if --

- (A) the amount in controversy is more than \$50,000;
- (B) the action is in rem or another action in rem based on the same violation has been brought;
- (C) the action involves an aircraft subject to a lien that has been seized by the Government; or
- (D) another action has been brought for an injunction based on the same violation.

(5)(A) The Administrator may issue an order imposing a penalty under this subsection against an individual acting as a pilot, flight engineer, mechanic, or repairman only after advising the individual of the charges or any reason the Administrator relied on for the proposed penalty and providing the individual an opportunity to answer the charges and be heard about why the order shall not be issued.

(B) An individual acting as a pilot, flight engineer, mechanic, or repairman may appeal an order imposing a penalty under this subsection to the National Transportation Safety Board. After notice and an opportunity for a hearing on the record, the Board shall affirm, modify, or reverse the order. The Board may modify a civil penalty imposed to a suspension or revocation of a certificate.

(C) When conducting a hearing under this paragraph, the Board is not bound by findings of fact of the Administrator but is bound by all validly adopted interpretations of laws and regulations the Administrator carries out and of written agency policy guidance available to the public related to sanctions to be imposed under this section unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law.

(D) When an individual files an appeal with the Board under this paragraph, the order of the Administrator is stayed.

(6) An individual substantially affected by an order of the Board under paragraph (5) of this subsection, or the Administrator when the Administrator decides that an order of the Board under paragraph (5) will have a significant adverse impact on carrying out this part, may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

(7)(A) The Administrator may impose a penalty on an individual (except an individual acting as a pilot, flight engineer, mechanic, or repairman) only after notice and an opportunity for a hearing on the record.

(B) In an appeal from a decision of an administrative law judge as the result of a hearing under subparagraph (A) of this paragraph, the Administrator shall consider only whether --

- (i) each finding of fact is supported by a preponderance of reliable, probative, and substantial evidence;
- (ii) each conclusion of law is made according to applicable law, precedent, and public policy; and
- (iii) the judge committed a prejudicial error that supports the appeal.

(C) Except for good cause, a civil action involving a penalty under this paragraph may not be initiated later than 2 years after the violation occurs.

(8) The maximum civil penalty the Administrator or Board may impose under this subsection is \$50,000.

(9) This subsection applies only to a violation occurring after August 25, 1992.

(e) Penalty Considerations. -- In determining the amount of a civil penalty under subsection (a)(3) of this section related to transportation of hazardous material, the Secretary shall consider --

(1) the nature, circumstances, extent, and gravity of the violation;

(2) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(3) other matters that justice requires.

(f) Compromise and Setoff. -- (1)(A) The Secretary may compromise the amount of a civil penalty imposed for violating --

(i) chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 441 (except section 44109), or section 44701(a) or (b), 44702-44716, 44901, 44903(b) or (c), 44905, 44906, 44907(d)(1)(B), 44912-44915, or 44932-44938 of this title; or

(ii) a regulation prescribed or order issued under any provision to which clause (i) of this subparagraph applies.

(B) The Postal Service may compromise the amount of a civil penalty imposed under subsection (a)(1)(D) of this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this subsection from amounts it owes the person liable for the penalty.

(g) Judicial Review. -- An order of the Secretary imposing a civil penalty may be reviewed judicially only under section 46110 of this title.

(h) Nonapplication. -- (1) This section does not apply to the following when performing official duties:

(A) a member of the armed forces of the United States.

(B) a civilian employee of the Department of Defense subject to the Uniform Code of Military Justice.

(2) The appropriate military authority is responsible for taking necessary disciplinary action and submitting to the Secretary (or the Administrator with respect to aviation safety duties and powers designated to be carried out by the Administrator) a timely report on action taken.

#### Sec. 46302. False information

(a) Civil Penalty. -- A person that, knowing the information to be false, gives, or causes to be given, under circumstances in which the information reasonably may be believed, false information about an alleged attempt being made or to be made to do an act that would violate section 46502(a), 46504, 46505, or 46506 of this title, is liable to the United States Government for a civil penalty of not more than \$10,000 for each violation.

(b) Compromise and Setoff. -- (1) The Secretary of Transportation may compromise the amount of a civil penalty

imposed under subsection (a) of this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

Sec. 46303. Carrying a weapon

(a) Civil Penalty. -- An individual who, when on, or attempting to board, an aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about the individual or the property of the individual a concealed dangerous weapon that is or would be accessible to the individual in flight is liable to the United States Government for a civil penalty of not more than \$10,000 for each violation.

(b) Compromise and Setoff. -- (1) The Secretary of Transportation may compromise the amount of a civil penalty imposed under subsection (a) of this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the individual liable for the penalty.

(c) Nonapplication. -- This section does not apply to --

(1) a law enforcement officer of a State or political subdivision of a State, or an officer or employee of the Government, authorized to carry arms in an official capacity; or

(2) another individual the Administrator of the Federal Aviation Administration by regulation authorizes to carry arms in an official capacity.

Sec. 46304. Liens on aircraft

(a) Aircraft Subject to Liens. -- When an aircraft is involved in a violation referred to in section 46301(a)(1)(A)-(C), (2), or (3) of this title and the violation is by the owner of, or individual commanding, the aircraft, the aircraft is subject to a lien for the civil penalty.

(b) Seizure. -- An aircraft subject to a lien under this section may be seized summarily and placed in the custody of a person authorized to take custody of it under regulations of the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator). A report on the seizure shall be submitted to the Attorney General. The Attorney General promptly shall bring a civil action in rem to enforce the lien or notify the Secretary or Administrator that the action will not be brought.

(c) Release. -- An aircraft seized under subsection (b) of this section shall be released from custody when --

(1) the civil penalty is paid;

(2) a compromise amount agreed on is paid;

(3) the aircraft is seized under a civil action in rem to enforce the lien;

(4) the Attorney General gives notice that a civil action will not be brought under subsection (b) of this section; or

(5) a bond (in an amount and with a surety the Secretary or Administrator prescribes), conditioned on payment of the penalty or compromise, is deposited with the Secretary or Administrator.

Sec. 46305. Actions to recover civil penalties

A civil penalty under this chapter may be collected by bringing a civil action against the person subject to the penalty, a civil action in rem against an aircraft subject to a lien for a penalty, or both. The action shall conform as nearly as practicable to a civil action in admiralty, regardless of the place an aircraft in a civil action in rem is seized. However, a party may demand a jury trial of an issue of fact in an action involving a civil penalty under this chapter (except a penalty imposed by the Secretary of Transportation that formerly was imposed by the Civil Aeronautics Board) if the value of the matter in controversy is more than \$20. Issues of fact tried by a jury may be reexamined only under common law rules.

Sec. 46306. Registration violations involving aircraft not providing air transportation

(a) Application. -- This section applies only to aircraft not used to provide air transportation.

(b) General Criminal Penalty. -- Except as provided by subsection (c) of this section, a person shall be fined under title 18, imprisoned for not more than 3 years, or both, if the person --

- (1) knowingly and willfully forges or alters a certificate authorized to be issued under this part;
- (2) knowingly sells, uses, attempts to use, or possesses with the intent to use, such a certificate;
- (3) knowingly and willfully displays or causes to be displayed on an aircraft a mark that is false or misleading about the nationality or registration of the aircraft;
- (4) obtains a certificate authorized to be issued under this part by knowingly and willfully falsifying or concealing a material fact, making a false, fictitious, or fraudulent statement, or making or using a false document knowing it contains a false, fictitious, or fraudulent statement or entry;
- (5) owns an aircraft eligible for registration under section 44102 of this title and knowingly and willfully operates, attempts to operate, or allows another person to operate the aircraft when --
  - (A) the aircraft is not registered under section 44103 of this title or the certificate of registration is suspended or revoked; or
  - (B) the owner knows or has reason to know that the other person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;
- (6) knowingly and willfully operates or attempts to operate an aircraft eligible for registration under section 44102 of this title knowing that --
  - (A) the aircraft is not registered under section 44103 of this title;
  - (B) the certificate of registration is suspended or revoked; or
  - (C) the person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of

ownership;

(7) knowingly and willfully serves or attempts to serve in any capacity as an airman without an airman's certificate authorizing the individual to serve in that capacity;

(8) knowingly and willfully employs for service or uses in any capacity as an airman an individual who does not have an airman's certificate authorizing the individual to serve in that capacity; or

(9) operates an aircraft with a fuel tank or fuel system that has been installed or modified knowing that the tank, system, installation, or modification does not comply with regulations and requirements of the Administrator of the Federal Aviation Administration.

(c) Controlled Substance Criminal Penalty. -- (1) In this subsection, "controlled substance" has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(2) A person violating subsection (b) of this section shall be fined under title 18, imprisoned for not more than 5 years, or both, if the violation is related to transporting a controlled substance by aircraft or aiding or facilitating a controlled substance violation and the transporting, aiding, or facilitating --

(A) is punishable by death or imprisonment of more than one year under a law of the United States or a State; or

(B) provided is related to an act punishable by death or imprisonment for more than one year under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance).

(3) A term of imprisonment imposed under paragraph (2) of this subsection shall be served in addition to, and not concurrently with, any other term of imprisonment imposed on the individual.

(d) Seizure and Forfeiture. -- (1) The Administrator of Drug Enforcement or the Commissioner of Customs may seize and forfeit under the customs laws an aircraft whose use is related to a violation of subsection (b) of this section, or to aid or facilitate a violation, regardless of whether a person is charged with the violation.

(2) An aircraft's use is presumed to have been related to a violation of, or to aid or facilitate a violation of --

(A) subsection (b)(1) of this section if the aircraft certificate of registration has been forged or altered;

(B) subsection (b)(3) of this section if there is an external display of false or misleading registration numbers or country of registration;

(C) subsection (b)(4) of this section if --

(i) the aircraft is registered to a false or fictitious person; or

(ii) the application form used to obtain the aircraft certificate of registration contains a material false statement;

(D) subsection (b)(5) of this section if the aircraft was operated when it was not registered under section 44103 of this title; or

(E) subsection (b)(9) of this section if the aircraft has a fuel tank or fuel system that was installed or altered --

(i) in violation of a regulation or requirement of the Administrator of the Federal Aviation Administration; or

(ii) if a certificate required to be issued for the installation or alteration is not carried on the aircraft.

(3) The Administrator of the Federal Aviation Administration, the Administrator of Drug Enforcement, and the Commissioner shall agree to a memorandum of understanding to establish procedures to carry out this subsection.

(e) Relationship to State Laws. -- This part does not prevent a State from establishing a criminal penalty, including providing for forfeiture and seizure of aircraft, for a person that --

(1) knowingly and willfully forges or alters an aircraft certificate of registration;

(2) knowingly sells, uses, attempts to use, or possesses with the intent to use, a fraudulent aircraft certificate of registration;

(3) knowingly and willfully displays or causes to be displayed on an aircraft a mark that is false or misleading about the nationality or registration of the aircraft; or

(4) obtains an aircraft certificate of registration from the Administrator of the Federal Aviation Administration by --

(A) knowingly and willfully falsifying or concealing a material fact;

(B) making a false, fictitious, or fraudulent statement; or

(C) making or using a false document knowing it contains a false, fictitious, or fraudulent statement or entry.

#### Sec. 46307. Violation of national defense airspace

A person that knowingly or willfully violates section 40103(b)(3) of this title or a regulation prescribed or order issued under section 40103(b)(3) shall be fined under title 18, imprisoned for not more than one year, or both.

#### Sec. 46308. Interference with air navigation

A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person --

(1) with intent to interfere with air navigation in the United States, exhibits in the United States a light or signal at a place or in a way likely to be mistaken for a true light or signal established under this part or for a true light or signal used at an air navigation facility;

(2) after a warning from the Administrator of the Federal Aviation Administration, continues to maintain a misleading light or signal; or

(3) knowingly interferes with the operation of a true light or signal.

#### Sec. 46309. Concession and price violations

(a) Criminal Penalty for Offering, Granting, Giving, or Helping To Obtain Concessions and Lower Prices. -- An air carrier, foreign air carrier, ticket agent, or officer, agent, or employee of an air carrier, foreign air carrier, or ticket agent shall be fined under title 18 if the air carrier, foreign air carrier, ticket agent, officer, agent, or employee --

(1) knowingly and willfully offers, grants, or gives, or causes to be offered, granted, or given, a rebate or other concession in violation of this part; or

(2) by any means knowingly and willfully assists, or willingly allows, a person to obtain transportation or services subject to this part at less than the price lawfully in effect.

(b) Criminal Penalty for Receiving Rebates, Privileges, and Facilities. -- A person shall be fined under title 18 if the person by any means --

(1) knowingly and willfully solicits, accepts, or receives a rebate of a part of a price lawfully in effect for the foreign air transportation of property, or a service related to the foreign air transportation; or

(2) knowingly solicits, accepts, or receives a privilege or facility related to a matter the Secretary of Transportation requires be specified in a currently effective tariff applicable to the foreign air transportation of property.

#### Sec. 46310. Reporting and recordkeeping violations

(a) General Criminal Penalty. -- An air carrier or an officer, agent, or employee of an air carrier shall be fined under title 18 for intentionally --

(1) failing to make a report or keep a record under this part;

(2) falsifying, mutilating, or altering a report or record under this part; or

(3) filing a false report or record under this part.

(b) Safety Regulation Criminal Penalty. -- An air carrier or an officer, agent, or employee of an air carrier shall be fined under title 18, imprisoned for not more than 5 years, or both, for intentionally falsifying or concealing a material fact, or inducing reliance on a false statement of material fact, in a report or record under section 44701(a) or (b) or 44702-44716 of this title.

#### Sec. 46311. Unlawful disclosure of information

(a) Criminal Penalty. -- The Secretary of Transportation, the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator, or an officer or employee of the Secretary or Administrator shall be fined under title 18, imprisoned for not more than 2 years, or both, if the Secretary, Administrator, officer, or employee knowingly and willfully discloses information that --

(1) the Secretary, Administrator, officer, or employee acquires when inspecting the records of an air carrier; or

(2) is withheld from public disclosure under section 40115 of this title.

(b) Nonapplication. -- Subsection (a) of this section does

not apply if --

(1) the officer or employee is directed by the Secretary or Administrator to disclose information that the Secretary or Administrator had ordered withheld; or

(2) the Secretary, Administrator, officer, or employee is directed by a court of competent jurisdiction to disclose the information.

(c) Withholding Information From Congress. -- This section does not authorize the Secretary or Administrator to withhold information from a committee of Congress authorized to have the information.

Sec. 46312. Transporting hazardous material

A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person, in violation of a regulation or requirement related to the transportation of hazardous material prescribed by the Secretary of Transportation under this part --

(1) willfully delivers, or causes to be delivered, property containing hazardous material to an air carrier or to an operator of a civil aircraft for transportation in air commerce; or

(2) recklessly causes the transportation in air commerce of the property.

Sec. 46313. Refusing to appear or produce records

A person not obeying a subpoena or requirement of the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) to appear and testify or produce records shall be fined under title 18, imprisoned for not more than one year, or both.

Sec. 46314. Entering aircraft or airport area in violation of security requirements

(a) Prohibition. -- A person may not knowingly and willfully enter, in violation of security requirements prescribed under section 44901, 44903(b) or (c), or 44906 of this title, an aircraft or an airport area that serves an air carrier or foreign air carrier.

(b) Criminal Penalty. -- (1) A person violating subsection (a) of this section shall be fined under title 18, imprisoned for not more than one year, or both.

(2) A person violating subsection (a) of this section with intent to commit, in the aircraft or airport area, a felony under a law of the United States or a State shall be fined under title 18, imprisoned for not more than 10 years, or both.

Sec. 46315. Lighting violations involving transporting controlled substances by aircraft not providing air transportation

(a) Application. -- This section applies only to aircraft not used to provide air transportation.

(b) Criminal Penalty. -- A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if --

(1) the person knowingly and willfully operates an aircraft in violation of a regulation or requirement of the Administrator of the Federal Aviation Administration

related to the display of navigation or anticollision lights;

(2) the person is knowingly transporting a controlled substance by aircraft or aiding or facilitating a controlled substance offense; and

(3) the transporting, aiding, or facilitating --

(A) is punishable by death or imprisonment for more than one year under a law of the United States or a State; or

(B) is provided in connection with an act punishable by death or imprisonment for more than one year under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance).

Sec. 46316. General criminal penalty when specific penalty not provided

(a) Criminal Penalty. -- Except as provided by subsection (b) of this section, when another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates this part, a regulation prescribed or order issued by the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) under this part, or any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title shall be fined under title 18. A separate violation occurs for each day the violation continues.

(b) Nonapplication. -- Subsection (a) of this section does not apply to chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 441 (except section 44109), chapter 445, and sections 44701(a) and (b), 44702-44716, 44901, 44903(b) and (c), 44905, 44906, 44912-44915, and 44932-44938 of this title.