

[CHAPTER 765]

AN ACT

To authorize the appointment of graduates of the Naval Reserve Officers' Training Corps to the line of the Regular Navy, and for other purposes.

October 8, 1940
[H. R. 10406]
[Public, No. 808]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That officers of the Naval Reserve commissioned therein upon graduation from the Naval Reserve Officers' Training Corps shall be eligible for appointment to commissioned rank in the line of the Regular Navy in such numbers as the President may deem necessary. Officers so appointed shall, upon appointment, occupy the same grade, with the same precedence, occupied by them in the Naval Reserve.

Regular Navy.
Appointment to, of
commissioned Naval
Reserve officers.

SEC. 2. All appointees authorized by section 1 of this Act shall, on June 30 of the calendar year in which appointed, be less than twenty-six years of age, shall, on the same date, have completed at least one year of continuous active duty on board ships of the Navy, and shall, before appointment, establish their moral, physical, mental, and professional qualifications in accordance with such rules and regulations as the Secretary of the Navy may prescribe.

Requirements.

SEC. 3. Each officer appointed pursuant to the foregoing sections to the grade of ensign and each officer so appointed to a grade above that of ensign shall, respectively, become eligible for promotion, or for consideration by a line selection board as of the date the line officer next junior to him becomes so eligible: *Provided*, That the qualification of sea service prescribed in section 11 (c) of the Act of June 23, 1938 (52 Stat. 948), shall not apply to such officers while in the grade to which originally appointed.

Promotion.

SEC. 4. Any officer of the Naval Reserve and Marine Corps Reserve may, with his own consent, be employed on active duty other than training duty in time of peace for such periods as the Secretary of the Navy may determine: *Provided*, That pay and allowances of officers employed on active duty pursuant to this section shall be paid from appropriations for "Pay, Subsistence, and Transportation of Naval Personnel" and "Pay, Marine Corps", as the case may be.

Proviso.
Sea service,
34 U. S. C., Supp.
V, § 311.

Officers of Naval
and Marine Corps
Reserve.
Active duty in time
of peace.
Proviso.
Pay and allowances.

Approved, October 8, 1940.

[CHAPTER 777]

AN ACT

To amend section 4472 of the Revised Statutes (U. S. C., 1934 edition, title 46, sec. 465) to provide for the safe carriage of explosives or other dangerous or semidangerous articles or substances on board vessels; to make more effective the provisions of the International Convention for Safety of Life at Sea, 1929, relating to the carriage of dangerous goods; and for other purposes.

October 9, 1940
[H. R. 7357]
[Public, No. 809]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4472 of title 52 of the Revised Statutes, as amended (U. S. C., 1934 edition, title 46, sec. 465), is hereby amended to read as follows:

Carriage of danger-
ous cargoes.

"SEC. 4472. (1) The word 'vessel' as used in this section shall include every vessel, domestic or foreign, regardless of character, tonnage, size, service, and whether self-propelled or not, on the navigable waters of the United States, including its Territories and possessions, but not including the Panama Canal Zone and the Philippine Islands, whether arriving or departing, or under way, moored, anchored, aground, or while in drydock; it shall not include any public vessel which is not engaged in commercial service, nor any vessel subject to the provisions of section 4417a of the Revised Statutes, as amended, which is constructed or converted for the principal

"Vessel" defined.

46 U. S. C., Supp.
V, § 391a.

Proviso.
Applicability of sub-
section (3).

"Passenger-carrying
vessel" defined.

50 Stat. 1121.

Transportation of
dry fulminates in
bulk, etc.

Transportation of
high explosives on
passenger-carrying
vessels.

Transportation of
high explosives on
other vessels.

Transportation of
other explosives.

Proviso.
Applicability to
drums, etc., of certain
combustible liquids.

Nonapplicability of
subsection (6) to cer-
tain vessels, etc.

purpose of carrying inflammable or combustible liquid cargo in bulk in its own tanks: *Provided*, That the provisions of subsection (3) of this section shall apply to every such vessel subject to the provisions of section 4417a of the Revised Statutes, as amended, which is constructed or converted for the principal purpose of carrying inflammable or combustible liquid cargo in bulk in its own tanks.

"(2) The phrase 'passenger-carrying vessel' as used in this section, when applied to a vessel subject to any provision of the International Convention for Safety of Life at Sea, 1929, means a vessel which carries or is authorized to carry more than twelve passengers.

"(3) It shall be unlawful knowingly to transport, carry, convey, store, stow, or use on board any vessel fulminates or other detonating compounds in bulk in dry condition, or explosive compositions that ignite spontaneously or undergo marked decomposition when subjected for forty-eight consecutive hours to a temperature of one hundred and sixty-seven degrees Fahrenheit, or compositions containing an ammonium salt and a chlorate, or other like explosives.

"(4) It shall be unlawful knowingly to transport, carry, convey, store, stow, or use on board any passenger-carrying vessel any high explosives such as, and including, liquid nitroglycerin, dynamite, trinitrotoluene, picrates, detonating fuzes, fireworks that can be exploded en masse, or other explosives susceptible to detonation by a blasting cap or detonating fuze, except ships' signal and emergency equipment, and samples of such explosives (but not including liquid nitroglycerin) for laboratory or sales purposes in restricted quantities as may be permitted by regulations of the Secretary of Commerce established hereunder.

"(5) It shall be unlawful knowingly to transport, carry, convey, store, stow, or use on board any vessel other than a passenger-carrying vessel, any high explosive referred to in subsection (4) hereof except as permitted by the regulations of the Secretary of Commerce established hereunder.

"(6) (a) It shall be unlawful knowingly to transport, carry, convey, store, stow, or use (except as fuel for its own machinery) on board any vessel, except one specifically exempted by paragraph (b) of this subsection, any other explosives or other dangerous articles or substances, including inflammable liquids, inflammable solids, oxidizing materials, corrosive liquids, compressed gases, poisonous articles or substances, hazardous articles, and ships' stores and supplies of a dangerous nature, except as permitted by the regulations of the Secretary of Commerce established hereunder: *Provided*, That all of the provisions of this subsection relating to the transportation, carrying, conveying, storing, stowing, or use of explosives or other dangerous articles or substances shall apply to the transportation, carrying, conveying, storing, stowing, or using on board any passenger vessel of any barrels, drums, or other packages of any combustible liquid which gives off inflammable vapors (as determined by flash-point in open cup tester as used for test of burning oil) at or below a temperature of one hundred and fifty degrees Fahrenheit and above eighty degrees Fahrenheit.

"(b) This subsection shall not apply to—

"(i) vessels not exceeding fifteen gross tons when not engaged in carrying passengers for hire;

"(ii) vessels used exclusively for pleasure;

"(iii) vessels not exceeding five hundred gross tons while engaged in the fisheries;

"(iv) tugs or towing vessels: *Provided, however*, That any such vessel, when engaged in towing any vessel that has explosives, inflammable liquids, or inflammable compressed gases on board

on deck, shall be required to make such provisions to guard against and extinguish fire as shall be prescribed by the Board of Supervising Inspectors and approved by the Secretary of Commerce;

“(v) cable vessels, dredges, elevator vessels, fireboats, ice-breakers, pile drivers, pilot boats, welding vessels, salvage and wrecking vessels;

“(vi) inflammable or combustible liquid cargo in bulk: *Provided, however,* That the handling and stowage of any inflammable or combustible liquid cargo in bulk shall be subject to the provisions of section 4417a of the Revised Statutes, as amended.

“(7) In order to secure effective provisions against the hazards of health, life, limb, or property created by explosives or other dangerous articles or substances to which subsection (3), (4), (5), or (6) of this section apply—

“(a) The Secretary of Commerce shall by regulations define, describe, name, and classify all explosives or other dangerous articles or substances, and shall establish such regulations as may be necessary to make effective the provisions of this section with respect to the descriptive names, packing, marking, labeling, and certification of such explosives or other dangerous articles or substances; with respect to the specifications of containers for explosives or other dangerous articles or substances; with respect to the marking and labeling of said containers; and shall accept and adopt for the purposes above mentioned in this subsection such definitions, descriptions, descriptive names, classifications, specifications of containers, packing, marking, labeling, and certification of explosives or other dangerous articles or substances to the extent as are or may be established from time to time by the Interstate Commerce Commission insofar as they apply to shippers by common carriers engaged in interstate or foreign commerce by water. The Secretary of Commerce shall also establish regulations with respect to the marking, handling, storage, stowage, and use of explosives or other dangerous articles or substances on board such vessels; with respect to the disposition of any explosives or other dangerous articles or substances found to be in an unsafe condition; with respect to the necessary shipping papers, manifests, cargo-stowage plans, and the description and descriptive names of explosives or other dangerous articles or substances to be entered in such shipping documents; also any other regulations for the safe transportation, carriage, conveyance, storage, stowage, or use of explosives or other dangerous articles or substances on board such vessels as the Secretary of Commerce shall deem necessary; and with respect to the inspection of all the foregoing mentioned in this paragraph. The Secretary of Commerce may utilize the services of the Bureau for the Safe Transportation of Explosives and Other Dangerous Articles, and of such other organizations whose services he may deem to be helpful.

“(b) The transportation, carriage, conveyance, storage, stowage, or use of such explosives or other dangerous articles or substances shall be in accordance with the regulations so established, which shall, insofar as applicable to them, respectively, be binding upon shippers and the owners, charterers, agents, masters, or persons in charge of such vessels, and upon all other persons transporting, carrying, conveying, storing, stowing, or using on board any such vessels any explosives or other dangerous articles or substances: *Provided,* That this section shall not be construed to prevent the transportation of military or naval forces with their accompanying munitions of war and stores.

46 U. S. C., Supp. V, § 391a.

Regulations by the Secretary of Commerce.

Definitions, descriptions, etc., of explosives.

Marking, handling, etc.

Utilization of helpful services.

Applicability of regulations.

Proviso. Military, etc., forces.

Nonexemption of vessels from certain requirements.

“(c) Nothing contained in this section shall be construed to relieve any vessel subject to the provisions of this section from any other of the requirements of title 52 (secs. 4399 to 4500, inclusive) of the Revised Statutes or Acts amendatory or supplementary thereto and regulations thereunder applicable to such vessel, which are not inconsistent herewith.

Local regulations.

“(d) Nothing contained in this section shall be construed as preventing the enforcement of reasonable local regulations now in effect or hereafter adopted, which are not inconsistent or in conflict with this section or the regulations of the Secretary of Commerce established hereunder.

Refusal to transport explosives, etc.

“(8) Any master, owner, charterer, or agent shall refuse to transport any explosives or other dangerous articles or substances in violation of any provisions of this section and the regulations established thereunder, and may require that any container or package which he has reason to believe contains explosives or other dangerous articles or substances be opened to ascertain the facts.

Public hearings on proposed regulations, etc.

“(9) Before any regulations or any additions, alterations, amendments, or repeals thereof are made under the provisions of this section, except in an emergency, such proposed regulations shall be published and public hearings with respect thereto shall be held on such notice as the Secretary of Commerce deems advisable under the circumstances. Any additions, alterations, amendments, or repeals of such regulations shall, unless a shorter time is authorized by the Secretary of Commerce, take effect ninety days after their promulgation.

Effective date of amendments, etc.

False or deceptive marking, etc.

“(10) It shall be unlawful knowingly to deliver or cause to be delivered, or tender for shipment to any vessel subject to this section any explosives or any other dangerous articles or substances defined in the regulations of the Secretary of Commerce established hereunder under any false or deceptive descriptive name, marking, invoice, shipping paper, or other declaration and without informing the agent of such vessel in writing of the true character thereof at or before the time such delivery or transportation is made. It shall be unlawful for any person to tender for shipment, or ship on any vessel to which this section applies, any explosives or other dangerous articles or substances the transportation, carriage, conveyance, storage, stowage, or use of which on board vessels is prohibited by this section.

Tender or shipment of prohibited explosives.

Exemption of vessels upon certain findings.

“(11) The Secretary of Commerce may exempt any vessel or class of vessels from any of the provisions of this section or any regulations or parts thereof established hereunder upon a finding by him that the vessel, route, area of operations, conditions of the voyage, or other circumstances are such as to render the application of this section or any of the regulations established hereunder unnecessary for the purposes of safety: *Provided*, That except in an emergency such exception shall be made for any vessel or class of vessels only after a public hearing.

Provido.
Public hearing.

Enforcement agencies.

“(12) The provisions of this section and the regulations established hereunder shall be enforced primarily by the Bureau of Marine Inspection and Navigation of the Department of Commerce and the Coast Guard of the Department of the Treasury; and the Secretary of Commerce, with the consent of the head of any executive department, independent establishment, or other agency of the Government, may avail himself of the use of information, advice, services, facilities, officers, and employees thereof (including the field service) in carrying out the provisions of this section: *Provided*, That no officer or employee of the United States shall receive any additional compensation for such services, except as permitted by law.

Provido.
Additional compensation.

Detention of vessels violating provisions.

“(13) Any collector of customs may, upon his own knowledge, or upon the sworn information of any reputable citizen of the United

States, that any vessel subject to this section is violating any of the provisions of this section or of the regulations established hereunder, by written order served on the master, person in charge of such vessel, or the owner or charterer thereof, or the agent of the owner or charterer, detain such vessel until such time as the provisions of this section and of the regulations established hereunder have been complied with. If the vessel be ordered detained, the master, person in charge, or owner or charterer, or the agent of the owner or charterer thereof, may within five days appeal to the Secretary of Commerce, who may, after investigation, affirm, set aside, or modify the order of such collector. If any reputable citizen of the United States furnishes sworn information to any collector of customs that any vessel, subject to this section, is violating any of the provisions of this section or of the regulations established hereunder, and such information is knowingly false, the person so falsely swearing shall be deemed guilty of perjury.

“(14) Whoever shall knowingly violate any of the provisions of this section or of any regulations established under this section shall be subject to a penalty of not more than \$2,000 for each violation. In the case of any such violation on the part of the owner, charterer, agent, master, or person in charge of the vessel, such vessel shall be liable for the penalty and may be seized and proceeded against by way of libel in the district court of the United States in any district in which such vessel may be found.

“(15) When the death or bodily injury of any person results from the violation of this section or any regulations made in pursuance thereof, the person or persons who shall have knowingly violated or caused to be violated such provisions or regulations shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

“(16) The transportation by vessels of gasoline or any other inflammable or combustible liquid or inflammable gas when carried by motor vehicles using the same as a source of their own motive power, or motive power for driving auxiliaries forming a part of the vehicle, shall be lawful under the conditions as set forth in the regulations established by the Secretary of Commerce under this section: *Provided, however,* That the motor or motors in any vehicle be stopped immediately after entering the said vessel, and that the same be not restarted until immediately before said vehicle shall leave the vessel after said vessel has been made fast to the wharf or ferry bridge at which she lands. All other fire, if any, in such vehicle shall be extinguished before entering the said vessel and the same shall not be relighted until after said vehicle shall leave the vessel: *Provided further,* That the Secretary of Commerce, may, by regulation, permit the operation on board vessels of motive power for driving auxiliaries forming a part of motor vehicles, under such conditions as he may deem proper: *Provided further,* That any owner, charterer, agent, master, or other person having charge of a vessel shall have the right to refuse to transport motor vehicles the fuel tanks of which contain gasoline or other inflammable or combustible liquid or inflammable gas used as a source of power for the vehicle or its auxiliaries: *Provided further,* That the owner, motor carrier, and operator of any such vehicle in which all fires have not been extinguished or the motor or motors stopped as required by this subsection or regulations established thereunder, and the owner, charterer, agent, master, or person in charge of the vessel on which such vehicle is transported, shall each be liable to a penalty of not more than \$500, for which the motor vehicle and vessel, respectively, shall be liable: *And provided further,* That a violation of this subsection shall not subject any person to the penalty provided in subsection (14) or (15) hereof.”

Appeal, if detained.

False information deemed perjury.

Penalty.

Liability of vessel for penalty.

Death, etc., resulting from violations.

Penalty.

Transportation of gasoline, etc., used by motor vehicles.

Provisos. Motors to be stopped.

Other fire to be extinguished.

Operation of motor vehicle auxiliaries.

Right of refusal to transport vehicles.

Liability for violations.

Penalty.

Limitation of penalty.

- Fire prevention.** SEC. 2. (a) Such provision to guard against and extinguish fire shall be made on every vessel which is subject to the provisions of subsection (4), (5), or (6) of Section 1 of this Act, or of any other section of title 52 of the Revised Statutes, as amended (sections 4399 to 4500, inclusive), or Acts amendatory or supplementary thereto, as shall be prescribed by the Board of Supervising Inspectors and approved by the Secretary of Commerce.
- Lifeboats, etc., using combustible fuel.** (b) Nothing herein contained shall prohibit the use by any vessel of motorboats, launches, or lifeboats equipped with engines using an inflammable or combustible fuel, nor shall anything herein contained prohibit such motorboats, launches, or lifeboats from carrying such inflammable or combustible fuel in their tanks: *Provided*, That no such inflammable or combustible fuel for the engines of such motorboats, launches, or lifeboats shall be carried except as may be prescribed by regulations of the Board of Supervising Inspectors with the approval of the Secretary of Commerce: *Provided further*, That the use of such lifeboats shall be under such regulations as shall be prescribed by the Board of Supervising Inspectors with the approval of the Secretary of Commerce.
- Proviso. Carrying of fuel for lifeboats, etc.** SEC. 3. Section 4417a of the Revised Statutes (U. S. C., 1934 edition, title 46, Supp. V, sec. 391a) is hereby amended by deleting from paragraph 2 thereof the following proviso: "Provided, That the provisions of this section shall not apply to common carriers engaged in interstate or foreign commerce which transport such liquid cargo by water insofar only as such common carriers are subject to the regulations formulated by the Interstate Commerce Commission under the provisions of section 233 of the Act of March 4, 1909 (ch. 321, 35 Stat. 1135), as amended (18 U. S. C. 383)"; and by amending the second proviso in paragraph 4 thereof to read as follows: "*And provided further*, That no permit shall be issued under the provisions of this section authorizing the presence on board any vessel of any of the materials expressly prohibited from being thereon by subsection (3) of section 4472 of the Revised Statutes, as amended".
- Use of lifeboats.** SEC. 4. Section 4424 of the Revised Statutes, as amended (U. S. C., 1934 edition, title 46, sec. 402), is amended by deleting the words "or whenever any passenger steam vessel receives or carries any gunpowder on board, not having a certificate authorizing the same, placed and kept as required, or shall carry any gunpowder at a place or in a manner not authorized by such certificate".
- R. S. § 4417a, amendment. 49 Stat. 1889.** SEC. 5. Section 4457 of the Revised Statutes (U. S. C., 1934 edition, title 46, sec. 414) is amended by deleting the words "certificates authorizing gunpowder to be carried as freight by any steamer carrying passengers, and of".
- Proviso. Permits for prohibited materials. 46 U. S. C. § 465.** SEC. 6. Sections 232, 233, 234, and 235 of the Criminal Code, as amended (U. S. C., 1934 edition, title 18, secs. 382 to 385, inclusive), are amended:
- R. S. § 4424, amendment.** (a) By striking out "vessel" and "vessels" wherever appearing in sections 232, 234, and 235;
- (b) By striking out "or water" where first appearing in section 233; and
- (c) By striking out "or water" where last appearing in section 235.
- R. S. § 4457, amendment.** SEC. 7. Sections 4278, 4279, and 4280 of the Revised Statutes (U. S. C., 1934 edition, title 46, secs. 172, 173, 174); section 4288 of the Revised Statutes, as amended (U. S. C., 1934 edition, title 46, sec. 175); the Act of August 26, 1935 (U. S. C., 1934 edition, title 46, Supp. V, secs. 178, 179); sections 4422, as amended, 4473, 4475, and 4476 of the Revised Statutes (U. S. C., 1934 edition, title 46, secs. 401, 466, 468, and 469) are hereby repealed.
- Criminal Code, amendments. 35 Stat. 1134, 1135.** SEC. 8. There are hereby authorized to be appropriated such sums of money as may be necessary to carry out the provisions of this Act.
- Repeals. 49 Stat. 868.**
- Appropriation authorized.**

SEC. 9. This Act shall become effective six months after the date of approval, except as to subsection (7) of section 1 hereof, which subsection shall become effective on the date of approval. Such initial regulations as may be necessary to make the Act effective shall be promulgated within ninety days from the date of approval hereof: *Provided, however,* That during any national emergency proclaimed by the President, he may, in his discretion, accelerate any or all provisions of this section.

SEC. 10. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the remainder of the Act, and the application of the provisions thereof, shall not be affected thereby.

Approved, October 9, 1940.

[CHAPTER 778]

AN ACT

To authorize the Secretary of the Treasury to order retired commissioned and warrant officers of the Coast Guard to active duty during time of national emergency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any commissioned or warrant officer of the Coast Guard on the retired list may at any time, with his consent, in the discretion of the Secretary of the Treasury, be ordered to active duty.

SEC. 2. That all authority or discretion vested in the Secretary of the Navy to order commissioned and warrant officers of the Coast Guard on the retired list to active duty while the Coast Guard is not operating as a part of the Navy, is hereby transferred to and vested in the Secretary of the Treasury.

Approved, October 9, 1940.

[CHAPTER 779]

AN ACT

To assist in the national-defense program by amending sections 3477 and 3737 of the Revised Statutes to permit the assignment of claims under public contracts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 3477 and 3737 of the Revised Statutes be amended by adding at the end of each such section the following new paragraph:

"The provisions of the preceding paragraph shall not apply in any case in which the moneys due or to become due from the United States or from any agency or department thereof, under a contract providing for payments aggregating \$1,000 or more, are assigned to a bank, trust company, or other financing institution, including any Federal lending agency: *Provided,*

"1. That in the case of any contract entered into prior to the date of approval of the Assignment of Claims Act of 1940, no claim shall be assigned without the consent of the head of the department or agency concerned;

"2. That in the case of any contract entered into after the date of approval of the Assignment of Claims Act of 1940, no claim shall be assigned if it arises under a contract which forbids such assignment;

"3. That unless otherwise expressly permitted by such contract any such assignment shall cover all amounts payable under such contract and not already paid, shall not be made to more than one party, and shall not be subject to further assignment, except that

Effective dates.

Promulgation of initial regulations.

Proviso.
Acceleration of provisions during national emergency.

Separability of provisions.

October 9, 1940
[H. R. 10337]
[Public, No. 810]

Coast Guard.
Active duty of retired officers.

Transfer of authority.

October 9, 1940
[H. R. 10464]
[Public, No. 811]

Assignment of Claims Act of 1940.
31 U. S. C. § 203; 41 U. S. C. § 15.

Assignment of claims upon U. S. to banks, etc.

Proviso.

Prior contracts; consent to assignment.

Contracts forbidding assignment.

Limitations on assignment.