

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
44709(c)	49 App.:1655(c)(1). 49 App.:1429(a) (3d sentence). 49 App.:1431(e) (words between 4th and 5th commas).	
44709(d)(1) ..	49 App.:1655(c)(1). 49 App.:1429(a) (4th sentence). 49 App.:1431(e) (words after 4th comma).	
44709(d)(2) ..	49 App.:1429(a) (6th sentence).	
44709(d)(3) ..	49 App.:1429(a) (5th sentence).	
44709(e)	49 App.:1655(c)(1). 49 App.:1429(a) (7th sentence).	
44709(f)	49 App.:1655(c)(1). 49 App.:1429(a) (8th-last sentences less Administrator under subch. VII). 49 App.:1655(c)(1).	

In this section, the word “Administrator” in section 609(a) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 779) is retained on authority of 49:106(g). The words “modifying”, “modify”, and “modified” are omitted as surplus.

In subsection (a), the words “airman holding a certificate issued under section 44703 of this title” are substituted for “civil airman” for clarity.

In subsection (b)(1), before subclause (A), the words “certificate issued under this chapter” are substituted for “type certificate, production certificate, airworthiness certificate, airman certificate, air carrier operating certificate, air navigation facility certificate (including airport operating certificate), or air agency certificate” to eliminate unnecessary words.

In subsection (b)(2), the words “in his discretion” and “regarding the use or operation of an aircraft” in 49 App.:1429(b) are omitted as surplus.

In subsection (c), the words “cases of” in 49 App.:1429(a) are omitted as surplus.

In subsection (d)(1), before clause (A), the word “adversely” is substituted for “whose certificate is” in 49 App.:1429(a), and the words “an opportunity for a” are added, for consistency in the revised title and with other titles of the United States Code. The words “of the FAA” in 49 App.:1431(e) are omitted as surplus.

In subsection (d)(2), the words “consistent with this subsection” are omitted as surplus.

In subsection (d)(3), the word “Administrator” is substituted for “Federal Aviation Administration” because of 49:106(b) and (g).

In subsection (e), before clause (1), the words “the effectiveness of” are omitted as surplus.

Editorial Notes

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-254 designated existing provisions as par. (1), inserted heading, and added par. (2).

2012—Subsec. (d)(3). Pub. L. 112-153 struck out “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” after “Administrator”.

2003—Subsec. (a). Pub. L. 108-176 inserted “design organization, production certificate holder,” after “appliance.”

2000—Subsec. (e). Pub. L. 106-181 amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: “When a person files an appeal

with the Board under subsection (d) of the section, the order of the Administrator is stayed. However, if the Administrator advises the Board that an emergency exists and safety in air commerce or air transportation requires the order to be effective immediately—

“(1) the order is effective; and

“(2) the Board shall make a final disposition of the appeal not later than 60 days after the Administrator so advises the Board.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of this title.

§ 44710. Revocations of airman certificates for controlled substance violations

(a) DEFINITION.—In this section, “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).

(b) REVOCATION.—(1) The Administrator of the Federal Aviation Administration shall issue an order revoking an airman certificate issued an individual under section 44703 of this title after the individual is convicted, 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), of an offense punishable by death or imprisonment for more than one year if the Administrator finds that—

(A) an aircraft was used to commit, or facilitate the commission of, the offense; and

(B) the individual served as an airman, or was on the aircraft, in connection with committing, or facilitating the commission of, the offense.

(2) The Administrator shall issue an order revoking an airman certificate issued an individual under section 44703 of this title if the Administrator finds that—

(A) the individual knowingly carried out an activity punishable, 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), by death or imprisonment for more than one year;

(B) an aircraft was used to carry out or facilitate the activity; and

(C) the individual served as an airman, or was on the aircraft, in connection with carrying out, or facilitating the carrying out of, the activity.

(3) The Administrator has no authority under paragraph (1) of this subsection to review whether an airman violated a law of the United States or a State related to a controlled substance.

(c) ADVICE TO HOLDERS AND OPPORTUNITY TO ANSWER.—Before the Administrator revokes a certificate under subsection (b) of this section, the Administrator must—

(1) advise the holder of the certificate of the charges or reasons on which the Administrator relies for the proposed revocation; and

(2) provide the holder of the certificate an opportunity to answer the charges and be heard why the certificate should not be revoked.

(d) APPEALS.—(1) An individual whose certificate is revoked by the Administrator under subsection (b) of this section may appeal the revocation order to the National Transportation Safety Board. The Board shall affirm or reverse the order after providing notice and an opportunity for a hearing on the record. When conducting the hearing, the Board is not bound by findings of fact of the Administrator.

(2) When an individual files an appeal with the Board under this subsection, the order of the Administrator revoking the certificate is stayed. However, if the Administrator advises the Board that safety in air transportation or air commerce requires the immediate effectiveness of the order—

(A) the order remains effective; and

(B) the Board shall make a final disposition of the appeal not later than 60 days after the Administrator so advises the Board.

(3) An individual substantially affected by an order of the Board under this subsection, or the Administrator when the Administrator decides that an order of the Board will have a significant adverse effect 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.

(e) ACQUITTAL.—(1) The Administrator may not revoke, and the Board may not affirm a revocation of, an airman certificate under subsection (b)(2) of this section on the basis of an activity described in subsection (b)(2)(A) if the holder of the certificate is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity.

(2) If the Administrator has revoked an airman certificate under this section because of an activity described in subsection (b)(2)(A) of this section, the Administrator shall reissue a certificate to the individual if—

(A) the individual otherwise satisfies the requirements for a certificate under section 44703 of this title; and

(B)(i) the individual subsequently is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity; or

(ii) the conviction on which a revocation under subsection (b)(1) of this section is based is reversed.

(f) WAIVERS.—The Administrator may waive the requirement of subsection (b) of this section that an airman certificate of an individual be revoked if—

(1) a law enforcement official of the United States Government or of a State requests a waiver; and

(2) the Administrator decides that the waiver will facilitate law enforcement efforts.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1191; Pub. L. 112-153, §2(c)(3), Aug. 3, 2012, 126 Stat. 1161.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
44710(a)	49 App.:1429(c)(4).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §609(c)(1), (2), (4); added Oct. 19, 1984, Pub. L. 98-499, §2(a), 98 Stat. 2312, 2313.
44710(b)(1) ..	49 App.:1429(c)(1) (1st sentence).	
44710(b)(2) ..	49 App.:1429(c)(2) (1st sentence).	
44710(b)(3) ..	49 App.:1429(c)(1) (last sentence).	
44710(c)	49 App.:1429(c)(3) (1st sentence).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §609(c)(3); added Oct. 19, 1984, Pub. L. 98-499, §2(a), 98 Stat. 2312; Aug. 26, 1992, Pub. L. 102-345, §3(b), 106 Stat. 926.
44710(d)	49 App.:1429(c)(3) (2d-last sentences).	
44710(e)(1) ..	49 App.:1429(c)(2) (last sentence).	
44710(e)(2) ..	49 App.:1422(b)(2)(C).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §602(b)(2)(C); added Oct. 19, 1984, Pub. L. 98-499, §3, 98 Stat. 2313.
44710(f)	49 App.:1429(c)(5).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §609(c)(5); added Nov. 18, 1988, Pub. L. 100-690, §7204(b), 102 Stat. 4425.

In subsection (b)(1) and (2), before each clause (A), the words “of any person” are omitted as surplus. The words “issued . . . under section 44703 of this title” are added for clarity.

In subsection (b)(1), the word “offense” is substituted for “crime” for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(2)(C), the words “in connection with carrying out, or facilitating the carrying out of, the activity” are substituted for “in connection with such activity or the facilitation of such activity” for consistency with the source provisions restated in paragraph (1)(B) of this subsection.

In subsection (d)(1), the word “Administrator” is substituted for “Federal Aviation Administration” because of 49:106(b) and (g).

In subsection (e)(1), the words “on appeal” and “contained” are omitted as surplus.

In subsection (e)(2)(B)(i), the word “contained” is omitted as surplus.

In subsection (e)(2)(B)(ii), the words “judgment of” are omitted as surplus.

Editorial Notes

AMENDMENTS

2012—Subsec. (d)(1). Pub. L. 112-153 struck out “but shall be 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” after “findings of fact of the Administrator”.

§ 44711. Prohibitions and exemption

(a) PROHIBITIONS.—A person may not—

(1) operate a civil aircraft in air commerce without an airworthiness certificate in effect or in violation of a term of the certificate;

(2) serve in any capacity as an airman with respect to a civil aircraft, aircraft engine, propeller, or appliance used, or intended for use, in air commerce—

(A) without an airman certificate authorizing the airman to serve in the capacity for which the certificate was issued; or

(B) in violation of a term of the certificate or a regulation prescribed or order issued