

Authority for Assessment of a Civil Penalty for Simple Possession of a Controlled Substance

The only valid authority for assessment of a civil penalty for simple possession of a controlled substance by a CG Hearing Officer, is 46 USC § 70506, which is part of the Maritime Drug Law Enforcement Act (MDLEA).*

Authority to enforce this section has been delegated by the DHS Secretary to the Coast Guard. Chapter 7 of the Maritime Law Enforcement Manual (MLEM), COMDTINST M16247.1 (series) provides policy guidance for all drug law enforcement matters pertaining to the Coast Guard.

* Subsection (c) of 46 USC § 70506 states, “...Any individual on a vessel subject to the jurisdiction of the United States who is found by the Secretary, after notice and an opportunity for a hearing, to have knowingly or intentionally possessed a controlled substance...shall be liable to the United States for a civil penalty of not to exceed \$5,000 for each violation...” This was an amendment to the MDLEA made by section 302 of The Coast Guard Authorization Act of 2010 (Public Law 111-281). Authority to enforce the civil penalty was delegated to the Coast Guard in April, 2015.