

AUTHORITY TO IMPOSE SMALL FINES

APRIL 9, 1962.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HARRIS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 1668]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 1668) to authorize the imposition of forfeitures for certain violations of the rules and regulations of the Federal Communications Commission in the common carrier and safety and special fields, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment strikes out all after the enacting clause and inserts the following:

That title V of the Communications Act of 1934 is amended by adding at the end thereof a new section as follows:

“FORFEITURE IN CASES OF VIOLATIONS OF CERTAIN RULES AND REGULATIONS

“SEC. 510. (a) Where any radio station other than licensed radio stations in the broadcast service or stations governed by the provisions of parts II and III of title III and section 507 of this Act—

“(1) is operated by any person not holding a valid radio operator license or permit of the class prescribed in the rules and regulations of the Commission for the operation of such station;

“(2) fails to identify itself at the times and in the manner prescribed in the rules and regulations of the Commission;

“(3) transmits any false call contrary to regulations of the Commission;

“(4) is operated on a frequency not authorized by the Commission for use by such station;

“(5) transmits unauthorized communications on any frequency designated as a distress or calling frequency in the rules and regulations of the Commission;

“(6) interferes with any distress call or distress communication contrary to the regulations of the Commission;

“(7) fails to attenuate spurious emissions to the extent required by the rules and regulations of the Commission;

“(8) is operated with power in excess of that authorized by the Commission;

"(9) renders a communication service not authorized by the Commission for the particular station;

"(10) is operated with a type of emission not authorized by the Commission;

"(11) is operated with transmitting equipment other than that authorized by the Commission; or

"(12) fails to respond to official communications from the Commission; the licensee of the station shall, in addition to any other penalty prescribed by law, forfeit to the United States a sum not to exceed \$100. In the case of a violation of clause (2), (3), (5), or (6) of this subsection, the person operating such station shall, in addition to any other penalty prescribed by law, forfeit to the United States a sum not to exceed \$100. The violation of the provisions of each numbered clause of this subsection shall constitute a separate offense: *Provided*, That \$100 shall be the maximum amount of forfeiture liability for which the licensee or person operating such station shall be liable under this section for the violation of the provisions of any one of the numbered clauses of this subsection, irrespective of the number of violations thereof, occurring within ninety days prior to the date the notice of apparent liability is issued or sent as provided in subsection (c) of this section: *And provided further*, That \$500 shall be the maximum amount of forfeiture liability for which the licensee or person operating such station shall be liable under this section for all violations of the provisions of this section, irrespective of the total number thereof, occurring within ninety days prior to the date such notice of apparent liability is issued or sent as provided in subsection (c) of this section.

"(b) The forfeiture liability provided for in this section shall attach only for a willful or repeated violation of the provisions of this section by any licensee or person operating a station.

"(c) No forfeiture liability under this section shall attach after the lapse of ninety days from the date of the violation unless within such time a written notice of apparent liability, setting forth the facts which indicate apparent liability, shall have been issued by the Commission and received by such person, or the Commission has sent him such notice by registered mail or by certified mail at his last known address. The person so notified of apparent liability shall have the opportunity to show cause in writing why he should not be held liable and, upon his request, he shall be afforded an opportunity for a personal interview with an official of the Commission at the field office of the Commission nearest to the person's place of residence."

SEC. 2. Section 504(b) of the Communications Act of 1934 (47 U.S.C. 504(b)), is amended by striking out "sections 503(b) and 507" and inserting in lieu thereof "section 503(b), section 507, and section 510".

SEC. 3. The amendments made by this Act shall take effect on the thirtieth day after the date of its enactment.

PURPOSE

The purpose of the legislation is to add a new section to the Communications Act of 1934 so as to grant authority to the Federal Communications Commission to impose monetary forfeitures for violations of the Commission's rules and regulations in the common carrier and safety and special fields.

The legislation would also provide for the remission or mitigation by the Commission of such forfeitures if warranted by the circumstances.

The committee knows of no opposition to this legislation. Its provisions have been approved by various departments and agencies of the Government as well as by the American Bar Association.

GENERAL STATEMENT

The bill, H.R. 8031, is reported with a committee amendment in the nature of a substitute. The only substantive changes in the committee substitute from the bill as passed by the Senate are changes recommended by the Federal Communications Commission in the

light of objections raised by certain groups which would be affected by the legislation.

The substitute would amend title V of the Communications Act of 1934 by adding a new section, section 510. Under this proposal the Federal Communications Commission would be given authority to impose forfeitures for certain violations of the Commission's rules and regulations by radio stations operating in the common carrier and safety and special radio fields. It would also amend section 504(b) of the Communications Act of 1934 by extending the Commission's authority to remit or mitigate forfeitures imposed under the new section 510.

It should be noted that the Federal Communications Commission already has authority to impose civil penalties on broadcasters for violation of provisions set forth in section 503(b)(1) of the Communications Act of 1934, as amended by Public Law 86-752 and that similar authority has been given to other agencies such as the provision for civil penalties for violations of the Federal Aviation Act of 1958 and certain regulations issued thereunder (49 U.S.C. 1471). And see also 8 U.S.C. 1321 et seq. (aliens and nationality); 46 U.S.C. 526 (motorboats); and 49 U.S.C. 322(h) (motor carriers).

The committee substitute would provide the Commission with a much-needed additional tool for coping with serious problems of enforcement which have arisen in the past decade in the common carrier and safety and special fields. Such problems stem principally from the tremendous expansion since World War II in the number of licensed stations operated in the nonbroadcast radio services, a growth due not only to the development of new equipment but also to the increased utilization of new portions of the radio spectrum. The Commission has authorized numerous small companies to operate radio stations as specialized common carriers. And there has been an even greater expansion in the licensing of radio for diverse safety and special purposes (e.g., for use by maritime and aviation interests, police and fire departments, utilities companies, forestry agencies, and transportation companies). As an indication of this growth, by September 30, 1958, the number of radio stations (as computed on the basis of assigned call letters) licensed in the safety and special radio field alone had risen to 457,124, which represents an increase of several hundred percent over stations in those services as of June 30, 1946. Similarly, with respect to small boats equipped for radiotelephonic communications, there has been an increase of approximately 400 percent for the period from 1949 to 1959.

One of the most serious enforcement problems confronting the Commission results from the chaotic conditions existing on the small boat radiotelephone frequencies between 2 and 3 megacycles. In areas where there are concentrations of these boats, the misuse of the distress frequency has prevented the transmission of emergency messages to the Coast Guard. Normal enforcement methods such as issuances of rule violation notices and suspension of operator licenses have only been partially successful. During the first quarter of the fiscal year 1959, a total of 558 small boat radio stations were inspected. There were 371 violation notices issued as the result of noncompliance with the Commission's regulations. In addition, 159, or 28 percent, were found to be operating without authority from the Commission. Since inspection of 558 vessels is a very limited sampling of 70,000 boats

licensed by the Commission, it is evident that disregard for the Commission's regulations is widespread. These statistics emphasize the inadequacy of the Commission's available enforcement tools in coping with this situation.

While the growth in the number of such stations is definitely in the public interest and consistent with the congressional mandates expressed in sections 1 and 303(g) of the Communications Act of 1934 (47 U.S.C. 151, 303(g)), respectively—which require, among other things, the promotion of safety of life and property through radio communications, and the encouragement of new uses of radio—one result of this expanded use of radio has been a marked increase in recent years in the number of violations of the Commission's technical rules and regulations. In many instances, and particularly in the newer private nonbroadcast services, radio is used only as an adjunct to the principal business of the licensee. Hence, licensees of such stations do not have the same sensitive appreciation for the necessity of adhering to the Commission's technical rules as do licensees in the broadcast services. Standing alone the violations involved are comparatively minor in nature, but collectively their number and variety represent not only a serious menace to that orderly use of the radio spectrum so necessary to efficient regulation by the Commission but they also constitute a serious menace to life and property in those services where radio serves vital safety purposes.

Experience has shown that existing enforcement sanctions in the Communications Act are inadequate for handling these problems. Those sanctions, such as criminal penalties or license revocation proceedings, are normally too drastic, considering the minor nature of the violations involved. What is more, resort to them is too cumbersome and time consuming, in light of the multitude of violations that occur. And while these sanctions are available for aggravated violations, the FCC is reluctant in any event to take action which would deprive a licensee of radio when it is necessary for safety purposes, such as on aircraft or aboard ship.

The purpose of this legislation, therefore, is to provide the Commission with additional statutory authority for enforcing compliance with its rules and regulations, which authority is designed to meet the special problems of enforcement arising out of the use of radio by stations operating in the nonbroadcast services.

The committee wishes to point out that law enforcement by the Federal Government in this particular area requires an adequate information program on the part of the Federal Communications Commission to bring to the attention of licensees and operators the important responsibilities which are imposed on them under the provisions of the Communications Act of 1934 and the regulations of the Commission issued thereunder. The committee expects that the Commission will be diligent in carrying out an appropriate information program in this regard.

SECTION-BY-SECTION DESCRIPTION OF THE COMMITTEE SUBSTITUTE

Section 1

This section would amend title V of the Communications Act of 1934 by adding at the end thereof a new section 510. The following description is of this proposed new section.

Subsection (a).—This subsection of new section 510 separately lists in 12 clauses those violations of the Commission's technical rules and regulations occurring most commonly in the nonbroadcast fields. It would provide that where any radio station (other than a licensed station in the broadcast service or stations governed by part II or III of title III or section 507 of the Communications Act of 1934) commits any one of these specified violations, the licensee of the station shall, in addition to any other penalty prescribed by law, forfeit not to exceed \$100 to the United States.

In any case where such a radio station fails to identify itself at the times and in the manner prescribed in the rules and regulations of the Commission, transmits any false call contrary to regulations of the Commission, transmits unauthorized communications on any frequency designated as a distress or calling frequency in the rules and regulations of the Commission, or interferes with any distress call or distress communication contrary to regulations of the Commission, the person operating such station shall, in addition to any other penalty prescribed by law, forfeit to the United States a sum not to exceed \$100.

While subsection (a) would provide that the violation of each clause shall constitute a separate offense, it places limitations in two respects on the maximum forfeiture liability which could be imposed under section 510, when such violations occur within a specified period of time. First, where there is more than one violation of the same clause, subsection (a) contains a proviso placing a maximum forfeiture liability of \$100 for which any person shall be liable, irrespective of the number of violations of such single clause, when such violations thereof occur within 90 days prior to the date the notice of apparent liability provided for in subsection 510(c) is issued or sent to the violator. As to persons committing more than one offense (i.e., those violating the terms of more than one paragraph), a further proviso in section 510(a) sets a \$500 maximum forfeiture liability for which any person shall be liable for all violations, irrespective of their total number, when such multiple violations occur within 90 days of the date the notice of apparent liability provided for in subsection (c) is issued or sent to the violator.

It was felt that once total forfeitures exceeded these limits, it would be more appropriate for the Commission to resort to the formal procedures required by the administrative sanctions contained elsewhere in the Communications Act of 1934.

Finally, with respect to subsection (a), your committee wishes to point out that the forfeitures provided for herein are "in addition to any other penalty prescribed by law." Hence, the fact that the Commission might have assessed a forfeiture for one or more of the violations specified in section 510(a) would not preclude the Commission from taking appropriate action when the circumstances so warranted, such as license revocation or recommending criminal prosecution.

Subsection (b).—Subsection (b) of proposed section 510 would provide that the forfeiture liability provided for in subsection (a) shall attach only for a willful or repeated violation by any person of the provisions of subsection (a).

Subsection (c).—This final subsection of proposed section 510 has a twofold purpose. First, it sets forth a condition under which forfei-

ture liability shall not attach. Secondly, it sets forth the rights of persons against whom liability might be imposed, and the procedures to be followed by such persons on receiving a notice of apparent liability.

Subsection (c) would first provide that no forfeiture liability shall attach under section 510 after a lapse of 90 days from the date of the violation, unless within such 90-day period a written notice of apparent liability, which must set forth the facts on which alleged liability is based, shall have been issued by the Commission and received by such person, or unless the Commission has within such period sent such person a notice of apparent liability by registered or certified mail at his last known address. The purpose of this first part of subsection (c) is to require the Commission to act within 90 days of an alleged violation (thus in effect imposing for purposes of forfeiture liability a 90-day statute of limitations for such violations) by the issuance of an appropriate written notice of apparent liability. This provision incorporates those concepts of due notice, in prescribed form, which your committee considers a fundamental and indispensable part of procedural due process.

The final portion of subsection (c) would then provide that after a person has been notified of his apparent liability, he shall have an opportunity to show cause, in writing, why he should not be held liable. And upon request he shall also be afforded an opportunity for a personal interview with an official of the Commission at the field office of the Commission nearest to the person's place of residence. This final portion of subsection (c) is concerned with the rights of any person receiving a notice of apparent liability from the Commission. The procedural safeguards afforded such a person permit him to show cause, in writing, as to why he should not be held liable to a forfeiture. Further, this final portion contemplates that such person shall, if he desires, also have the opportunity to discuss his case with a representative of the Commission, at the field office of the Commission nearest that person's place of residence, to show further why he should not be held liable. Thus, the hearing contemplated by subsection (c) is an informal one. The informal proceedings called for are necessary to permit expeditious handling of violations, the prevention of which your committee considers vital to efficient use of the radio spectrum by the stations which would be covered by this legislation. Thus, what is required is for the Commission to afford a fair opportunity to a person against whom a notice of apparent liability has been issued to demonstrate in writing, or orally through informal discussion, all those facts and circumstances which he believes justified his conduct.

Section 2

Section 2 would amend section 504(b) of the Communications Act of 1934, which relates to the Commission's authority to remit or mitigate forfeitures. As amended, section 504(b) would provide [amended language italicized]:

(b) The forfeitures imposed by parts II and III of title III and section 503(b), section 507, *and section 510* of this Act shall be subject to remission or mitigation by the Commission, upon application therefor, under such regulations and methods of ascertaining the facts as may seem to it advisable, and, if suit has been instituted, the Attorney General, upon

request of the Commission, shall direct the discontinuance of any prosecution to recover such forfeitures: *Provided, however,* That no forfeiture shall be remitted or mitigated after determination by a court of competent jurisdiction.

Your committee recognizes that even though a forfeiture may have been imposed under section 510, subsequent facts and circumstances may justify either total or partial relief from the terms of any order of forfeiture. It is for this reason that your committee considers it only fair that the remission and mitigation procedures presently contained in section 504(b) of the Communications Act of 1934 should be extended to section 510. Thus, under the amended language of section 504(b), a person against whom a forfeiture had been imposed under section 510 could apply to the Commission for relief from the terms of such forfeiture. Under such procedural regulations and factfinding procedures which the Commission deemed advisable, he could then demonstrate to the Commission why his forfeiture should be remitted or mitigated. Thus, he would be free to present evidence of those facts and circumstances which he believes justify rescission or modification of the terms of an order of forfeiture, subject only to the condition specified in section 504(b); i.e., that the Commission could not remit or mitigate any forfeiture which had already been determined by a court of competent jurisdiction.

Section 3

This final section would provide that the amendments made by the Act shall take effect on the 30th day after its enactment.

AGENCY REPORTS

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., July 14, 1961.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

MY DEAR MR. CHAIRMAN: This is in reply to your letter of April 27, 1961, requesting the views of this office with respect to H.R. 6581, a bill to authorize the imposition of forfeitures for certain violations of the rules and regulations of the Federal Communications Commission in the common carrier and safety and special fields.

This legislation was proposed by the Federal Communications Commission to facilitate enforcement of its regulations in cases involving minor violations for which existing sanctions are too drastic.

The Bureau of the Budget agrees with the objectives of this measure and recommends that it be enacted.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., May 10, 1961.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
 House of Representatives, Washington, D.C.*

DEAR CHAIRMAN HARRIS: This will acknowledge receipt of your letter of April 27, 1961, enclosing for the Commission's comments H.R. 6581, a bill to authorize the imposition of forfeitures for certain violations of the rules and regulations of the Federal Communications Commission in the common carrier and safety and special fields.

This bill is part of the Commission's legislative program for the 87th Congress, and was transmitted to you on April 10, 1961. We have no further comment to make other than that contained in our memorandum of explanation which accompanied our proposal.

Sincerely yours,

NEWTON N. MINOW, *Chairman.*

U.S. DEPARTMENT OF JUSTICE,
 OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., July 25, 1961.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
 House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 6581, a bill to authorize the imposition of forfeitures for certain violations of the rules and regulations of the Federal Communications Commission in the common carrier and safety and special fields.

The bill would add a new section to the Communications Act of 1934 to provide for the imposition of civil penalties for certain specified actions by nonbroadcast radio stations (such as those operated by taxicab companies, small boats, electric and gas companies, etc.) in violation of rules and regulations of the Federal Communications Commission.

Forfeitures ranging from \$100 to a maximum of \$500 for violations of these rules and regulations would be imposed. If the bill should be enacted the proceedings to collect such penalties would be brought by the Department of Justice (see 47 U.S.C. 504). Since the Federal Communications Commission considers that this bill is necessary to meet the situation with which it deals, and the bill seems to be appropriately drafted to attain the Commission's objective, the Department of Justice has no objection to its enactment.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

BYRON R. WHITE,
Deputy Attorney General

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

**TITLE V OF THE COMMUNICATIONS ACT OF 1934,
AS AMENDED**

TITLE V—PENAL PROVISIONS—FORFEITURES

GENERAL PENALTY

SEC. 501. Any person who willfully and knowingly does or causes or suffers to be done any act, matter, or thing, in this Act prohibited or declared to be unlawful, or who willfully or knowingly omits or fails to do any act, matter, or thing in this Act required to be done, or willfully and knowingly causes or suffers such omission or failure, shall, upon conviction thereof, be punished for such offense, for which no penalty (other than a forfeiture) is provided in this Act, by a fine of not more than \$10,000 or by imprisonment for a term not exceeding one year, or both; except that any person, having been once convicted of an offense punishable under this section, who is subsequently convicted of violating any provision of this Act punishable under this section, shall be punished by a fine of not more than \$10,000 or by imprisonment for a term not exceeding two years, or both.

SEC. 502. Any person who willfully and knowingly violates any rule, regulation, restriction, or condition made or imposed by the Commission under authority of this Act, or any rule, regulation, restriction, or condition made or imposed by any international radio or wire communications treaty or convention, or regulations annexed thereto, to which the United States is or may hereafter become a party, shall, in addition to any other penalties provided by law, be punished, upon conviction thereof, by a fine of not more than \$500 for each and every day during which such offense occurs.

SEC. 503. (a) Any person who shall deliver messages for interstate or foreign transmission to any carrier, or for whom, as sender or receiver, any such carrier shall transmit any interstate or foreign wire or radio communication, who shall knowingly by employee, agent, officer, or otherwise, directly or indirectly, by or through any means or device whatsoever, receive or accept from such common carrier any sum of money or any other valuable consideration as a rebate or offset against the regular charges for transmission of such messages as fixed by the schedules of charges provided for in this Act, shall in addition to any other penalty provided by this Act forfeit to the United States a sum of money three times the amount of money so received or accepted and three times the value of any other consideration so received or accepted, to be ascertained by the trial court; and in the trial of said action all such rebates or other considerations so received or accepted, for a period of six years prior to the commencement of the action, may be included therein, and the amount recovered shall be three times the total amount of money, or three times the total value of such consideration, so received or accepted, or both, as the case may be.

(b) (1) Any licensee or permittee of a broadcast station who—

(A) willfully or repeatedly fails to operate such station substantially as set forth in his license or permit,

(B) willfully or repeatedly fails to observe any of the provisions of this Act or of any rule or regulation of the Commission prescribed under authority of this Act or under authority of any treaty ratified by the United States,

(C) fails to observe any final cease and desist order issued by the Commission,

(D) violates section 317(c) or section 509(a)(4) of this Act, or

(E) violates section 1304, 1343, or 1464 of title 18 of the United States Code,

shall forfeit to the United States a sum not to exceed \$1,000. Each day during which such violation occurs shall constitute a separate offense. Such forfeiture shall be in addition to any other penalty provided by this Act.

(2) No forfeiture liability under paragraph (1) of this subsection (b) shall attach unless a written notice of apparent liability shall have been issued by the Commission and such notice has been received by the licensee or permittee or the Commission shall have sent such notice by registered or certified mail to the last known address of the licensee or permittee. A licensee or permittee so notified shall be granted an opportunity to show in writing, within such reasonable period as the Commission shall by regulations prescribe, why he should not be held liable. A notice issued under this paragraph shall not be valid unless it sets forth the date, facts, and nature of the act or omission with which the licensee or permittee is charged and specifically identifies the particular provision or provisions of the law, rule, or regulation or the license, permit, or cease and desist order involved.

(3) No forfeiture liability under paragraph (1) of this subsection (b) shall attach for any violation occurring more than one year prior to the date of issuance of the notice of apparent liability and in no event shall the forfeiture imposed for the acts or omissions set forth in any notice of apparent liability exceed \$10,000.

PROVISIONS RELATING TO FORFEITURES

SEC. 504. (a) The forfeitures provided for in this Act shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the person or carrier has its principal operating office or in any district through which the line or system of the carrier runs: *Provided*, That any suit for the recovery of a forfeiture imposed pursuant to the provisions of this Act shall be a trial de novo: *Provided further*, That in the case of forfeiture by a ship, said forfeiture may also be recoverable by way of libel in any district in which such ship shall arrive or depart. Such forfeitures shall be in addition to any other general or specific penalties herein provided. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures under this Act. The costs and expenses of such prosecutions shall be paid from the appropriation for the expenses of the courts of the United States.

(b) The forfeitures imposed by parts II and III of title III and [sections 503(b) and 507] *section 503(b), section 507, and section 510* of this Act shall be subject to remission or mitigation by the Commission, upon application therefor, under such regulations and methods of ascertaining the facts as may seem to it advisable, and, if suit has been instituted, the Attorney General, upon request of the Commission, shall direct the discontinuance of any prosecution to recover such forfeitures: *Provided, however,* That no forfeiture shall be remitted or mitigated after determination by a court of competent jurisdiction.

(c) In any case where the Commission issues a notice of apparent liability looking toward the imposition of a forfeiture under this Act, that fact shall not be used, in any other proceeding before the Commission, to the prejudice of the person to whom such notice was issued, unless (i) the forfeiture has been paid, or (ii) a court of competent jurisdiction has ordered payment of such forfeiture, and such order has become final.

VENUE OF OFFENSES

SEC. 505. The trial of any offense under this Act shall be in the district in which it is committed; or if the offense is committed upon the high seas, or out of the jurisdiction of any particular State or district, the trial shall be in the district where the offender may be found or into which he shall be first brought. Whenever the offense is begun in one jurisdiction and completed in another it may be dealt with, inquired of, tried, determined, and punished in either jurisdiction in the same manner as if the offense had been actually and wholly committed therein.

COERCIVE PRACTICES AFFECTING BROADCASTING

SEC. 506. (a) It shall be unlawful, by the use or express or implied threat of the use of force, violence, intimidation, or duress, or by the use or express or implied threat of the use of other means, to coerce, compel or constrain or attempt to coerce, compel, or constrain a licensee—

(1) to employ or agree to employ, in connection with the conduct of the broadcasting business of such licensee, any person or persons in excess of the number of employees needed by such licensee to perform actual services; or

(2) to pay or give or agree to pay or give any money or other thing of value in lieu of giving, or on account of failure to give, employment to any person or persons, in connection with the conduct of the broadcasting business of such licensee, in excess of the number of employees needed by such licensee to perform actual services; or

(3) to pay or agree to pay more than once for services performed in connection with the conduct of the broadcasting business of such licensee; or

(4) to pay or give or agree to pay or give any money or other thing of value for services, in connection with the conduct of the broadcasting business of such licensee, which are not to be performed; or

(5) to refrain, or agree to refrain, from broadcasting or from permitting the broadcasting of a noncommercial educational or

cultural program in connection with which the participants receive no money or other thing of value for their services, other than their actual expenses, and such licensee neither pays nor gives any money or other thing of value for the privilege of broadcasting such program nor receives any money or other thing of value on account of the broadcasting of such program ; or

(6) to refrain, or agree to refrain, from broadcasting or permitting the broadcasting of any radio communication originating outside the United States.

(b) It shall be unlawful, by the use or express or implied threat of the use of force, violence, intimidation or duress, or by the use or express or implied threat of the use of other means, to coerce, compel or constrain or attempt to coerce, compel or constrain a licensee or any other person—

(1) to pay or agree to pay any exaction for the privilege of, or on account of, producing, preparing, manufacturing, selling, buying, renting, operating, using, or maintaining recordings, transcriptions, or mechanical, chemical, or electrical reproductions, or any other articles, equipment, machines, or materials, used or intended to be used in broadcasting or in the production, preparation, performance, or presentation of a program or programs for broadcasting ; or

(2) to accede to or impose any restriction upon such production, preparation, manufacture, sale, purchase, rental, operation, use, or maintenance, if such restriction is for the purpose of preventing or limiting the use of such articles, equipment, machines, or materials in broadcasting or in the production, preparation, performance, or presentation of a program or programs for broadcasting ; or

(3) to pay or agree to pay any exaction on account of the broadcasting, by means of recordings or transcriptions, of a program previously broadcast, payment having been made, or agreed to be made, for the services actually rendered in the performance of such program.

(c) The provisions of subsection (a) or (b) of this section shall not be held to make unlawful the enforcement or attempted enforcement, by means lawfully employed, of any contract right heretofore or hereafter existing or of any legal obligation heretofore or hereafter incurred or assumed.

(d) Whoever willfully violates any provision of subsection (a) or (b) of this section shall, upon conviction thereof, be punished by imprisonment for not more than one year or by a fine of not more than \$1,000, or both.

(e) As used in this section the term "licensee" includes the owner or owners, and the person or persons having control or management, of the radio station in respect of which a station license was granted.

VIOLATION OF GREAT LAKES AGREEMENT

SEC. 507. (a) Any vessel of the United States that is navigated in violation of the provisions of the Great Lakes Agreement or the rules and regulations of the Commission made in pursuance thereof and any vessel of a foreign country that is so navigated on waters under the jurisdiction of the United States shall forfeit to the United

States the sum of \$500 recoverable by way of suit or libel. Each day during which such navigation occurs shall constitute a separate offense.

(b) Every willful failure on the part of the master of a vessel of the United States to enforce or to comply with the provisions of the Great Lakes Agreement or the rules and regulations of the Commission made in pursuance thereof shall cause him to forfeit to the United States the sum of \$100.

DISCLOSURE OF CERTAIN PAYMENTS

SEC. 508. (a) Subject to subsection (d), any employee of a radio station who accepts or agrees to accept from any person (other than such station), or any person (other than such station) who pays or agrees to pay such employee, any money, service or other valuable consideration for the broadcast of any matter over such station shall, in advance of such broadcast, disclose the fact of such acceptance or agreement to such station.

(b) Subject to subsection (d), any person who, in connection with the production or preparation of any program or program matter which is intended for broadcasting over any radio station, accepts or agrees to accept, or pays or agrees to pay, any money, service or other valuable consideration for the inclusion of any matter as a part of such program or program matter, shall, in advance of such broadcast, disclose the fact of such acceptance or payment or agreement to the payee's employer, or to the person for whom such program or program matter is being produced, or to the licensee of such station over which such program is broadcast.

(c) Subject to subsection (d), any person who supplies to any other person any program or program matter which is intended for broadcasting over any radio station shall, in advance of such broadcast, disclose to such other person any information of which he has knowledge, or which has been disclosed to him, as to any money, service or other valuable consideration which any person has paid or accepted, or has agreed to pay or accept, for the inclusion of any matter as a part of such program or program matter.

(d) The provisions of this section requiring the disclosure of information shall not apply in any case where, because of a waiver made by the Commission under section 317(d), an announcement is not required to be made under section 317.

(e) The inclusion in the program of the announcement required by section 317 shall constitute the disclosure required by this section.

(f) The term "service or other valuable consideration" as used in this section shall not include any service or property furnished without charge or at a nominal charge for use on, or in connection with, a broadcast, or for use on a program which is intended for broadcasting over any radio station, unless it is so furnished in consideration for an identification in such broadcast or in such program of any person, product, service, trademark, or brand name beyond an identification which is reasonably related to the use of such service or property in such broadcast or such program.

(g) Any person who violates any provision of this section shall, for each such violation, be fined not more than \$10,000 or imprisoned not more than one year, or both.

PROHIBITED PRACTICES IN CASE OF CONTESTS OF INTELLECTUAL KNOWLEDGE, INTELLECTUAL SKILL, OR CHANCE

SEC. 509. (a) It shall be unlawful for any person, with intent to deceive the listening or viewing public—

(1) To supply to any contestant in a purportedly bona fide contest of intellectual knowledge or intellectual skill any special and secret assistance whereby the outcome of such contest will be in whole or in part prearranged or predetermined.

(2) By means of persuasion, bribery, intimidation, or otherwise, to induce or cause any contestant in a purportedly bona fide contest of intellectual knowledge or intellectual skill to refrain in any manner from using or displaying his knowledge or skill in such contest, whereby the outcome thereof will be in whole or in part prearranged or predetermined.

(3) To engage in any artifice or scheme for the purpose of prearranging or predetermining in whole or in part the outcome of a purportedly bona fide contest of intellectual knowledge, intellectual skill, or chance.

(4) To produce or participate in the production for broadcasting of, to broadcast or participate in the broadcasting of, to offer to a licensee for broadcasting, or to sponsor, any radio program, knowing or having reasonable ground for believing that, in connection with a purportedly bona fide contest of intellectual knowledge, intellectual skill, or chance constituting any part of such program, any person has done or is going to do any act or thing referred to in paragraph (1), (2), or (3) of this subsection.

(5) To conspire with any other person or persons to do any act or thing prohibited by paragraph (1), (2), (3), or (4) of this subsection, if one or more of such persons do any act to effect the object of such conspiracy.

(b) For the purposes of this section—

(1) The term "contest" means any contest broadcast by a radio station in connection with which any money or any other thing of value is offered as a prize or prizes to be paid or presented by the program sponsor or by any other person or persons, as announced in the course of the broadcast.

(2) The term "the listening or viewing public" means those members of the public who, with the aid of radio receiving sets, listen to or view programs broadcast by radio stations.

(c) Whoever violates subsection (a) shall be fined not more than \$10,000 or imprisoned not more than one year, or both.

FORFEITURE IN CASES OF VIOLATIONS OF CERTAIN RULES AND REGULATIONS

SEC. 510. (a) Where any radio station other than licensed radio stations in the broadcast service or stations governed by the provisions of parts II and III of title III and section 507 of this Act—

(1) is operated by any person not holding a valid radio operator license or permit of the class prescribed in the rules and regulations of the Commission for the operation of such station;

(2) fails to identify itself at the times and in the manner prescribed in the rules and regulations of the Commission.

(3) transmits any false call contrary to regulations of the Commission;

(4) is operated on a frequency not authorized by the Commission for use by such station;

(5) transmits unauthorized communications on any frequency designated as a distress or calling frequency in the rules and regulations of the Commission;

(6) interferes with any distress call or distress communication contrary to the regulations of the Commission;

(7) fails to attenuate spurious emissions to the extent required by the rules and regulations of the Commission;

(8) is operated with power in excess of that authorized by the Commission;

(9) renders a communication service not authorized by the Commission for the particular station;

(10) is operated with a type of emission not authorized by the Commission;

(11) is operated with transmitting equipment other than that authorized by the Commission; or

(12) fails to respond to official communications from the Commission.

the licensee of the station shall, in addition to any other penalty prescribed by law, forfeit to the United States a sum not to exceed \$100. In the case of a violation of clause (2), (3), (5), or (6) of this subsection, the person operating such station shall, in addition to any other penalty prescribed by law, forfeit to the United States a sum not to exceed \$100. The violation of the provisions of each numbered clause of this subsection shall constitute a separate offense: Provided, That \$100 shall be the maximum amount of forfeiture liability for which the licensee or person operating such station shall be liable under this section for the violation of the provisions of any one of the numbered clauses of this subsection, irrespective of the number of violations thereof, occurring within ninety days prior to the date the notice of apparent liability is issued or sent as provided in subsection (c) of this section: And provided further, That \$500 shall be the maximum amount of forfeiture liability for which the licensee or person operating such station shall be liable under this section for all violations of the provisions of this section, irrespective of the total number thereof, occurring within ninety days prior to the date such notice of apparent liability is issued or sent as provided in subsection (c) of this section.

(b) The forfeiture liability provided for in this section shall attach only for a willful or repeated violation of the provisions of this section by any licensee or person operating a station.

(c) No forfeiture liability under this section shall attach after the lapse of ninety days from the date of the violation unless within such time a written notice of apparent liability, setting forth the facts which indicate apparent liability, shall have been issued by the Commission and received by such person, or the Commission has sent him such notice by registered mail or by certified mail at his last known address. The person so notified of apparent liability shall have the opportunity to show cause in writing why he should not be held liable and, upon his request, he shall be afforded an opportunity for a personal interview with an official of the Commission at the field office of the Commission nearest to the person's place of residence.