

§ 967. Smuggling of controlled substances; investigations; oaths; subpoenas; witnesses; evidence; production of records; territorial limits; fees and mileage of witnesses

For the purpose of any investigation which, in the opinion of the Secretary of the Treasury, is necessary and proper to the enforcement of section 545 of title 18 (relating to smuggling goods into the United States) with respect to any controlled substance (as defined in section 802 of this title), the Secretary of the Treasury may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of records (including books, papers, documents and tangible things which constitute or contain evidence) relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place within the customs territory of the United States, except that a witness shall not be required to appear at any hearing distant more than 100 miles from the place where he was served with subpoena. Witnesses summoned by the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Oaths and affirmations may be made at any place subject to the jurisdiction of the United States.

(Aug. 11, 1955, ch. 800, §1, 69 Stat. 684; Pub. L. 91-513, title III, §1102(t), Oct. 27, 1970, 84 Stat. 1294.)

CODIFICATION

Section was not enacted as part of the Comprehensive Drug Abuse Prevention and Control Act of 1970 which comprises this chapter.

Section was formerly classified to section 1034 of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97-258, §1, Sept. 13, 1982, 96 Stat. 877.

Section was also formerly classified to section 198a of this title.

AMENDMENTS

1970—Pub. L. 91-513 substituted “section 545 of title 18 (relating to smuggling goods into the United States) with respect to any controlled substance (as defined in section 802 of this title)” for “the laws of the United States relating to narcotic drugs and marihuana” and substituted the customs territory of the United States for any State or any territory or other place subject to the jurisdiction of the United States is the defined area from within which the attendance of witnesses and the production of records may be required, and struck out provisions making the discretion of the Secretary of the Treasury the determinative factor as to what is relevant or material to the investigation.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-513 effective on first day of seventh calendar month that begins after Oct. 26, 1970, see 1105(a) of Pub. L. 91-513, set out as an Effective Date note under section 951 of this title.

SAVINGS PROVISION

Prosecutions for any violation of law occurring, and civil seizures or forfeitures and injunctive proceedings commenced, prior to the effective date of amendment of this section by section 1102 of Pub. L. 91-513 not to be affected or abated by reason thereof, see section 1103 of Pub. L. 91-513, set out as a note under sections 171 to 174 of this title.

§ 968. Service of subpoena; proof of service

A subpoena of the Secretary of the Treasury may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

(Aug. 11, 1955, ch. 800, §2, 69 Stat. 685.)

CODIFICATION

Section was not enacted as part of the Comprehensive Drug Abuse Prevention and Control Act of 1970 which comprises this chapter.

Section was formerly classified to section 1035 of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97-258, §1, Sept. 13, 1982, 96 Stat. 877.

Section was also formerly classified to section 198b of this title.

§ 969. Contempt proceedings

In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary of the Treasury may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, carries on business or may be found, to compel compliance with the subpoena of the Secretary of the Treasury. The court may issue an order requiring the subpoenaed person to appear before the Secretary of the Treasury there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district whereof the subpoenaed person is an inhabitant or wherever he may be found.

(Aug. 11, 1955, ch. 800, §3, 69 Stat. 685.)

CODIFICATION

Section was not enacted as part of the Comprehensive Drug Abuse Prevention and Control Act of 1970 which comprises this chapter.

Section was formerly classified to section 1036 of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97-258, §1, Sept. 13, 1982, 96 Stat. 877.

Section was also formerly classified to section 198c of this title.

§ 970. Criminal forfeitures

Section 853 of this title, relating to criminal forfeitures, shall apply in every respect to a violation of this subchapter punishable by imprisonment for more than one year.

(Pub. L. 91-513, title III, §1017, as added Pub. L. 98-473, title II, §307, Oct. 12, 1984, 98 Stat. 2051.)

§ 971. Notification, suspension of shipment, and penalties with respect to importation and exportation of listed chemicals

(a) Notification prior to transaction

Each regulated person who imports or exports a listed chemical shall notify the Attorney General of the importation or exportation not later than 15 days before the transaction is to take place.

(b) Regular customers or importers

(1) The Attorney General shall provide by regulation for circumstances in which the requirement of subsection (a) of this section does not apply to a transaction between a regulated person and a regular customer or to an importation by a regular importer. At the time of any importation or exportation constituting a transaction referred to in the preceding sentence, the regulated person shall notify the Attorney General of the transaction.

(2) The regulations under this subsection shall provide that the initial notification under subsection (a) of this section with respect to a customer of a regulated person or to an importer shall, upon the expiration of the 15-day period, qualify the customer as a regular customer or the importer as a regular importer, unless the Attorney General otherwise notifies the regulated person in writing.

(c) Suspension of importation or exportation; disqualification of regular customers or importers; hearing

(1) The Attorney General may order the suspension of any importation or exportation of a listed chemical (other than a regulated transaction to which the requirement of subsection (a) of this section does not apply by reason of subsection (b) of this section) or may disqualify any regular customer or regular importer on the ground that the chemical may be diverted to the clandestine manufacture of a controlled substance. From and after the time when the Attorney General provides written notice of the order (including a statement of the legal and factual basis for the order) to the regulated person, the regulated person may not carry out the transaction.

(2) Upon written request to the Attorney General, a regulated person to whom an order applies under paragraph (1) is entitled to an agency hearing on the record in accordance with subchapter II of chapter 5 of title 5. The hearing shall be held on an expedited basis and not later than 45 days after the request is made, except that the hearing may be held at a later time, if so requested by the regulated person.

(d) Broker or trader for international transaction in listed chemical

A person located in the United States who is a broker or trader for an international transaction in a listed chemical that is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, recordkeeping, and other requirements placed upon exporters of listed chemicals by this subchapter and subchapter I of this chapter.

(e) Application of notification requirement to exports of listed chemical; waiver

(1) The Attorney General may by regulation require that the 15-day notification requirement of subsection (a) of this section apply to all exports of a listed chemical to a specified country, regardless of the status of certain customers in such country as regular customers, if the Attorney General finds that such notification is necessary to support effective chemical diversion control programs or is required by treaty or other international agreement to which the United States is a party.

(2) The Attorney General may by regulation waive the 15-day notification requirement for exports of a listed chemical to a specified country if the Attorney General determines that such notification is not required for effective chemical diversion control. If the notification requirement is waived, exporters of the listed chemical shall be required to submit to the Attorney General reports of individual exportations or periodic reports of such exportation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.

(3) The Attorney General may by regulation waive the 15-day notification requirement for the importation of a listed chemical if the Attorney General determines that such notification is not necessary for effective chemical diversion control. If the notification requirement is waived, importers of the listed chemical shall be required to submit to the Attorney General reports of individual importations or periodic reports of the importation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.

(Pub. L. 91-513, title III, § 1018, as added Pub. L. 100-690, title VI, § 6053(a), Nov. 18, 1988, 102 Stat. 4314; amended Pub. L. 103-200, §§ 4(a), 5(a), 9(b), Dec. 17, 1993, 107 Stat. 2338-2340; Pub. L. 103-322, title XXXIII, § 330024(c), Sept. 13, 1994, 108 Stat. 2150.)

AMENDMENTS

1994—Subsecs. (b)(1), (2), (c)(1). Pub. L. 103-322, § 330024(c)(2), made technical amendment to directory language of Pub. L. 103-200, § 9(b). See 1993 Amendment notes below.

Subsec. (e). Pub. L. 103-322, § 330024(c)(1), made technical amendment to directory language of Pub. L. 103-200, § 5(a). See 1993 Amendment note below.

1993—Subsec. (b)(1). Pub. L. 103-200, § 9(b)(1)(A), as amended by Pub. L. 103-322, § 330024(c)(2), substituted “to an importation by a regular importer” for “regular supplier of the regulated person”.

Subsec. (b)(2). Pub. L. 103-200, § 9(b)(1)(B), as amended by Pub. L. 103-322, § 330024(c)(2), substituted “a customer of a regulated person or to an importer” for “a customer or supplier of a regulated person” and “the importer as a regular importer” for “regular supplier”.

Subsec. (c)(1). Pub. L. 103-200, § 9(b)(2), as amended by Pub. L. 103-322, § 330024(c)(2), substituted “regular importer” for “regular supplier”.

Subsec. (d). Pub. L. 103-200, § 4(a), added subsec. (d).
Subsec. (e). Pub. L. 103-200, § 5(a), as amended by Pub. L. 103-322, § 330024(c)(1), added subsec. (e).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-322 effective 120 days after Dec. 17, 1993, see section 330024(f) of Pub. L. 103-322, set out as a note under section 802 of this title.