

(c) Acts constituting prima facie evidence vessel engaged in smuggling

For the purposes of this section, the fact that a vessel has become subject to pursuit as provided in section 1581 of this title, or is a hovering vessel, or that a vessel fails, at any place within the customs waters of the United States or within a customs-enforcement area, to display lights as required by law, shall be prima facie evidence that such vessel is being, or has been, or is attempted to be employed to defraud the revenue of the United States.

(Aug. 5, 1935, ch. 438, title I, § 3, 49 Stat. 518.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1590 of this title.

§ 1704. Refusal or revocation of registry, enrollment, license or number on evidence that vessel engaging in smuggling; appeal; immunity from liability

Subject to appeal to the Secretary of the Treasury and under such regulations as he may prescribe, when the Secretary of Transportation is shown upon evidence which he deems sufficient that such vessel is being, or is intended to be, employed to smuggle, transport, or otherwise assist in the unlawful introduction or importation into the United States of any merchandise or person, or to smuggle any merchandise into the territory of any foreign government in violation of the laws there in force, if under the laws of such foreign government any penalty or forfeiture is provided for violation of the laws of the United States respecting the customs revenue, or whenever, from the design or fittings of any vessel or the nature of any repairs made thereon, it is apparent to the Secretary of Transportation that such vessel has been built or adapted for the purpose of smuggling merchandise, the the¹ Secretary of Transportation shall revoke any endorsement on the vessel's certificate of documentation or number (when the Secretary is the authority issuing the number under chapter 123 of title 46) or refuse the same if application be made therefor, as the case may be. The Secretary of Transportation and all persons acting by or under his direction shall be indemnified from any penalties or actions for damages for carrying out the provisions of this section.

(Aug. 5, 1935, ch. 438, title I, § 4, 49 Stat. 519; 1946 Reorg. Plan No. 3, §§101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Pub. L. 103-182, title VI, § 689(b), Dec. 8, 1993, 107 Stat. 2222.)

AMENDMENTS

1993—Pub. L. 103-182, § 689(b)(4), substituted “The Secretary of Transportation and all persons” for “Such collector and all persons”.

Pub. L. 103-182, § 689(b)(3), which directed the substitution of “the Secretary of Transportation shall revoke any endorsement on the vessel's certificate of documentation or number (when the Secretary is the authority issuing the number under chapter 123 of title 46)” for “said collector shall revoke the registry, enrollment, license, or number of such vessel”, was executed by making the substitution in text which read “said vessel” rather than “such vessel”, to reflect the probable intent of Congress.

¹ So in original.

Pub. L. 130-182, § 689(b)(1), (2), substituted “when the Secretary of Transportation” for “whenever the collector of customs of the district in which any vessel is, or is sought to be, registered, enrolled, licensed, or numbered,” and “is apparent to the Secretary of Transportation” for “is apparent to such collector”.

TRANSFER OF FUNCTIONS

Coast Guard transferred to Department of Transportation and functions, powers, and duties, relating to Coast Guard, of Secretary of the Treasury and of other offices and officers of Department of the Treasury transferred to Secretary of Transportation by section 6(b)(1) of Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2), however, provided that notwithstanding such transfer of functions, Coast Guard shall operate as part of Navy in time of war or when President directs as provided in section 3 of Title 14, Coast Guard. See section 108 of Title 49, Transportation.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise in Bureau of Customs of Department of the Treasury to which appointments were required to be made by President with advice and consent of Senate ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out as a note under section 1 of this title.

Functions of all officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of those officers, agencies, and employees, by Reorg. Plan No. 26, of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Under the Plan, collectors of customs and Commandant of Coast Guard were officers of Department of the Treasury, but, in case of Coast Guard, and Commandant thereof, the Plan provided that, notwithstanding transfer of functions, Coast Guard should continue to operate as a part of Navy, subject to orders of Secretary of the Navy, in time of war or when President directed, as provided in sections 1 and 3 of Title 14, Coast Guard.

“Secretary of the Treasury” substituted in text for “Secretary of Commerce” and functions under this section relating to the numbering of vessels vested in Commandant of Coast Guard instead of collectors of customs on authority of Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5.

§ 1705. Destruction of forfeited vessel or vehicle

Any vessel or vehicle forfeited to the United States, whether summarily or by a decree of any court, for violation of any law respecting the revenue, may, in the discretion of the Secretary of the Treasury, if he deems it necessary to protect the revenue of the United States, be destroyed in lieu of the sale thereof under existing law.

(Aug. 5, 1935, ch. 438, title I, § 5, 49 Stat. 519.)

§ 1706. Importation in vessels under thirty tons and aircraft; licenses; labels as prima facie evidence of foreign origin of merchandise

Except into the districts adjoining to the Dominion of Canada, or into the districts adjacent to Mexico, no merchandise of foreign growth or manufacture subject to the payment of duties shall be brought into the United States from any foreign port or place, or from any hovering vessel, in any vessel of less than thirty net tons burden without special license granted by the

Secretary of the Treasury under such conditions as he may prescribe, nor in any other manner than by sea, except by aircraft duly licensed in accordance with law, or landed or unladen at any other port than is directed by law, under the penalty of seizure and forfeiture of all such unlicensed vessels or aircraft and of the merchandise imported therein, landed or unladen in any manner. Marks, labels, brands, or stamps, indicative of foreign origin, upon or accompanying merchandise or containers of merchandise found upon any such vessel or aircraft, shall be prima facie evidence of the foreign origin of such merchandise.

(Aug. 5, 1935, ch. 438, title I, § 6, 49 Stat. 519.)

§ 1707. Repealed. Pub. L. 104-295, § 3(a)(2), Oct. 11, 1996, 110 Stat. 3515

Section, act Aug. 5, 1935, ch. 438, title I, § 7, 49 Stat. 520, required certificate for importation of alcoholic liquors in small vessels, provided for issuance of bond where liquor was destined for foreign port, and authorized penalties for failure to carry certificate unless lost, mislaid without fraud, defaced by accident, or incorrect by reason of clerical error or other mistake.

EFFECTIVE DATE OF REPEAL

Repeal of section applicable as of Dec. 8, 1993, see section 3(b) of Pub. L. 104-295, set out as an Effective Date of 1996 Amendment note under section 1321 of this title.

§ 1708. Repealed. Pub. L. 106-36, title I, § 1001(b)(6), June 25, 1999, 113 Stat. 132

Section, act Aug. 5, 1935, ch. 438, title I, § 8, 49 Stat. 520, related to lading vessel in foreign port with liquor for importation.

§ 1709. Definitions

When used in this Act:

(a) The term “United States”, when used in a geographical sense, includes all Territories and possessions of the United States, except the Virgin Islands, the Canal Zone, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and the island of Guam.

(b) The term “officer of the customs” means any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or agent or other person authorized by law or by the Secretary of the Treasury, or appointed in writing by a collector, to perform the duties of an officer of the Customs Service.

(c) The term “customs waters” means, in the case of a foreign vessel subject to a treaty or other arrangement between a foreign government and the United States enabling or permitting the authorities of the United States to board, examine, search, seize, or otherwise to enforce upon such vessel upon the high seas the laws of the United States, the waters within such distance of the coast of the United States as the said authorities are or may be so enabled or permitted by such treaty or arrangement and, in the case of every other vessel, the waters within four leagues of the coast of the United States.

(d) The term “hovering vessel” means any vessel which is found or kept off the coast of the United States within or without the customs waters, if, from the history, conduct, character, or location of the vessel, it is reasonable to be-

lieve that such vessel is being used or may be used to introduce or promote or facilitate the introduction or attempted introduction of merchandise into the United States in violation of the laws respecting the revenue.

(Aug. 5, 1935, ch. 438, title IV, § 401, 49 Stat. 529; June 25, 1938, ch. 679, § 2, 52 Stat. 1077; Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; June 30, 1955, ch. 258, § 2(b), 69 Stat. 242.)

REFERENCES IN TEXT

This Act, referred to in text, means act Aug. 5, 1935, which enacted this chapter and sections 1432a and 1601a of this title and amended sections 70, 483, 1401, 1434, 1436, 1441, 1581, 1584, 1585, 1586, 1587, 1591, 1592, 1615, 1619, 1621 of this title, sections 60, 106, and 288 of former Title 46, Shipping, and sections 91, 277, 319, 325 of Title 46, Appendix. For complete classification of this Act to the Code, see Tables.

For definition of Canal Zone, referred to in subsec. (a), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Words “the Philippine Islands” in subsec. (a) were omitted on authority of Proc. No. 2695, which is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse, and in which the President proclaimed the independence of the Philippines.

AMENDMENTS

1955—Subsec. (a). Act June 30, 1955, inserted “Johnston Island”.

1938—Subsec. (a). Act June 25, 1938, inserted “Wake Island, Midway Islands, Kingman Reef” before “and the island of Guam.”

EFFECTIVE DATE OF 1955 AMENDMENT

Amendment by act June 30, 1955, effective July 1, 1955, see note set out under section 1401 of this title.

EFFECTIVE DATE OF 1938 AMENDMENT

Amendment by act June 25, 1938, effective on thirtieth day following June 25, 1938, except as otherwise specifically provided, see section 37 of act June 25, 1938, set out as a note under section 1401 of this title.

TRANSFER OF FUNCTIONS

Coast Guard transferred to Department of Transportation and functions, powers, and duties, relating to Coast Guard, of Secretary of the Treasury and of other offices and officers of Department of the Treasury transferred to Secretary of Transportation by section 6(b)(1) of Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2), however, provided that notwithstanding such transfer of functions, Coast Guard shall operate as part of Navy in time of war or when President directs as provided in section 3 of Title 14, Coast Guard. See section 108 of Title 49, Transportation.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise in Bureau of Customs of Department of the Treasury to which appointments were required to be made by President with advice and consent of Senate ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out as a note under section 1, of this title.

Functions of all officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of those officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Em-