

§ 1304. Marking of imported articles and containers

(a) Marking of articles

Except as hereinafter provided, every article of foreign origin (or its container, as provided in subsection (b) hereof) imported into the United States shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container) will permit in such manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of the article. The Secretary of the Treasury may by regulations—

(1) Determine the character of words and phrases or abbreviations thereof which shall be acceptable as indicating the country of origin and prescribe any reasonable method of marking, whether by printing, stenciling, stamping, branding, labeling, or by any other reasonable method, and a conspicuous place on the article (or container) where the marking shall appear;

(2) Require the addition of any other words or symbols which may be appropriate to prevent deception or mistake as to the origin of the article or as to the origin of any other article with which such imported article is usually combined subsequent to importation but before delivery to an ultimate purchaser; and

(3) Authorize the exception of any article from the requirements of marking if—

(A) Such article is incapable of being marked;

(B) Such article cannot be marked prior to shipment to the United States without injury;

(C) Such article cannot be marked prior to shipment to the United States, except at an expense economically prohibitive of its importation;

(D) The marking of a container of such article will reasonably indicate the origin of such article;

(E) Such article is a crude substance;

(F) Such article is imported for use by the importer and not intended for sale in its imported or any other form;

(G) Such article is to be processed in the United States by the importer or for his account otherwise than for the purpose of concealing the origin of such article and in such manner that any mark contemplated by this section would necessarily be obliterated, destroyed, or permanently concealed;

(H) An ultimate purchaser, by reason of the character of such article or by reason of the circumstances of its importation, must necessarily know the country of origin of such article even though it is not marked to indicate its origin;

(I) Such article was produced more than twenty years prior to its importation into the United States;

(J) Such article is of a class or kind with respect to which the Secretary of the Treasury has given notice by publication in the weekly Treasury Decisions within two years after July 1, 1937, that articles of such class or kind were imported in substantial quantities during the five-year period imme-

diately preceding January 1, 1937, and were not required during such period to be marked to indicate their origin: *Provided*, That this subdivision shall not apply after September 1, 1938, to sawed lumber and timbers, telephone, trolley, electric-light, and telegraph poles of wood, and bundles of shingles; but the President is authorized to suspend the effectiveness of this proviso if he finds such action required to carry out any trade agreement entered into under the authority of sections 1351, 1352, 1353, 1354 of this title, as extended; or

(K) Such article cannot be marked after importation except at any expense which is economically prohibitive, and the failure to mark the article before importation was not due to any purpose of the importer, producer, seller, or shipper to avoid compliance with this section.

(b) Marking of containers

Whenever an article is excepted under subdivision (3) of subsection (a) of this section from the requirements of marking, the immediate container, if any, of such article, or such other container or containers of such article as may be prescribed by the Secretary of the Treasury, shall be marked in such manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of such article, subject to all provisions of this section, including the same exceptions as are applicable to articles under subdivision (3) of subsection (a) of this section. If articles are excepted from marking requirements under clause (F), (G), or (H) of subdivision (3) of subsection (a) of this section, their usual containers shall not be subject to the marking requirements of this section. Usual containers in use as such at the time of importation shall in no case be required to be marked to show the country of their own origin.

(c) Marking of certain pipe and fittings

(1) Except as provided in paragraph (2), no exception may be made under subsection (a)(3) of this section with respect to pipes of iron, steel, or stainless steel, to pipe fittings of steel, stainless steel, chrome-moly steel, or cast and malleable iron each of which shall be marked with the English name of the country of origin by means of die stamping, cast-in-mold lettering, etching, engraving, or continuous paint stenciling.

(2) If, because of the nature of an article, it is technically or commercially infeasible to mark it by one of the five methods specified in paragraph (1), the article may be marked by an equally permanent method of marking or, in the case of small diameter pipe, tube, and fittings, by tagging the containers or bundles.

(d) Marking of compressed gas cylinders

No exception may be made under subsection (a)(3) of this section with respect to compressed gas cylinders designed to be used for the transport and storage of compressed gases whether or not certified prior to exportation to have been made in accordance with the safety requirements of sections 178.36 through 178.68 of title 49, Code of Federal Regulations, each of which shall be marked with the English name of the country

of origin by means of die stamping, molding, etching, raised lettering, or an equally permanent method of marking.

(e) Marking of certain manhole rings or frames, covers, and assemblies thereof

No exception may be made under subsection (a)(3) of this section with respect to manhole rings or frames, covers, and assemblies thereof each of which shall be marked on the top surface with the English name of the country of origin by means of die stamping, cast-in-mold lettering, etching, engraving, or an equally permanent method of marking.

(f) Marking of certain coffee and tea products

The marking requirements of subsections (a) and (b) of this section shall not apply to articles described in subheadings 0901.21, 0901.22, 0902.10, 0902.20, 0902.30, 0902.40, 2101.10, and 2101.20 of the Harmonized Tariff Schedule of the United States, as in effect on January 1, 1995.

(g) Marking of spices

The marking requirements of subsections (a) and (b) of this section shall not apply to articles provided for under subheadings 0904.11, 0904.12, 0904.20, 0905.00, 0906.10, 0906.20, 0907.00, 0908.10, 0908.20, 0908.30, 0909.10, 0909.20, 0909.30, 0909.40, 0909.50, 0910.10, 0910.20, 0910.30, 0910.40, 0910.50, 0910.91, 0910.99, 1106.20, 1207.40, 1207.50, 1207.91, 1404.90, and 3302.10, and items classifiable in categories 0712.90.60, 0712.90.8080, 1209.91.2000, 1211.90.2000, 1211.90.8040, 1211.90.8050, 1211.90.8090, 2006.00.3000, 2918.13.2000, 3203.00.8000, 3301.90.1010, 3301.90.1020, and 3301.90.1050 of the Harmonized Tariff Schedule of the United States, as in effect on January 1, 1995.

(h) Marking of certain silk products

The marking requirements of subsections (a) and (b) of this section shall not apply either to—

(1) articles provided for in subheading 6214.10.10 of the Harmonized Tariff Schedule of the United States, as in effect on January 1, 1997; or

(2) articles provided for in heading 5007 of the Harmonized Tariff Schedule of the United States as in effect on January 1, 1997.

(i) Additional duties for failure to mark

If at the time of importation any article (or its container, as provided in subsection (b) of this section) is not marked in accordance with the requirements of this section, and if such article is not exported or destroyed or the article (or its container, as provided in subsection (b) of this section) marked after importation in accordance with the requirements of this section (such exportation, destruction, or marking to be accomplished under customs supervision prior to the liquidation of the entry covering the article, and to be allowed whether or not the article has remained in continuous customs custody), there shall be levied, collected, and paid upon such article a duty of 10 per centum ad valorem, which shall be deemed to have accrued at the time of importation, shall not be construed to be penal, and shall not be remitted wholly or in part nor shall payment thereof be avoidable for any cause. Such duty shall be levied, collected, and paid in addition to any other duty imposed by law and whether or not the article is exempt

from the payment of ordinary customs duties. The compensation and expenses of customs officers and employees assigned to supervise the exportation, destruction, or marking to exempt articles from the application of the duty provided for in this subsection shall be reimbursed to the Government by the importer.

(j) Delivery withheld until marked

No imported article held in customs custody for inspection, examination, or appraisalment shall be delivered until such article and every other article of the importation (or their containers), whether or not released from customs custody, shall have been marked in accordance with the requirements of this section or until the amount of duty estimated to be payable under subsection (i) of this section has been deposited. Nothing in this section shall be construed as excepting any article (or its container) from the particular requirements of marking provided for in any other provision of law.

(k) Treatment of goods of NAFTA country

(1) Application of section

In applying this section to an article that qualifies as a good of a NAFTA country (as defined in section 3301(4) of this title) under the regulations issued by the Secretary to implement Annex 311 of the North American Free Trade Agreement—

(A) the exemption under subsection (a)(3)(H) of this section shall be applied by substituting “reasonably know” for “necessarily know”;

(B) the Secretary shall exempt the good from the requirements for marking under subsection (a) of this section if the good—

(i) is an original work of art, or

(ii) is provided for under subheading 6904.10, heading 8541, or heading 8542 of the Harmonized Tariff Schedule of the United States; and

(C) subsection (b) of this section does not apply to the usual container of any good described in subsection (a)(3)(E) or (I) of this section or subparagraph (B)(i) or (ii) of this paragraph.

(2) Petition rights of NAFTA exporters and producers regarding marking determinations

(A) Definitions

For purposes of this paragraph:

(i) The term “adverse marking decision” means a determination by the Customs Service which an exporter or producer of merchandise believes to be contrary to Annex 311 of the North American Free Trade Agreement.

(ii) A person may not be treated as the exporter or producer of merchandise regarding which an adverse marking decision was made unless such person—

(I) if claiming to be the exporter, is located in a NAFTA country and is required to maintain records in that country regarding exportations to NAFTA countries; or

(II) if claiming to be the producer, grows, mines, harvests, fishes, traps,

hunts, manufactures, processes, or assembles such merchandise in a NAFTA country.

(B) Intervention or petition regarding adverse marking decisions

If the Customs Service makes an adverse marking decision regarding any merchandise, the Customs Service shall, upon written request by the exporter or producer of the merchandise, provide to the exporter or producer a statement of the basis for the decision. If the exporter or producer believes that the decision is not correct, it may intervene in any protest proceeding initiated by the importer of the merchandise. If the importer does not file a protest with regard to the decision, the exporter or producer may file a petition with the Customs Service setting forth—

- (i) a description of the merchandise; and
- (ii) the basis for its claim that the merchandise should be marked as a good of a NAFTA country.

(C) Effect of determination regarding decision

If, after receipt and consideration of a petition filed by an exporter or producer under subparagraph (B), the Customs Service determines that the adverse marking decision—

- (i) is not correct, the Customs Service shall notify the petitioner of the determination and all merchandise entered, or withdrawn from warehouse for consumption, more than 30 days after the date that notice of the determination under this clause is published in the weekly Custom Bulletin shall be marked in conformity with the determination; or
- (ii) is correct, the Customs Service shall notify the petitioner that the petition is denied.

(D) Judicial review

For purposes of judicial review, the denial of a petition under subparagraph (C)(ii) shall be treated as if it were a denial of a petition of an interested party under section 1516 of this title regarding an issue arising under any of the preceding provisions of this section.

(I) Penalties

Any person who, with intent to conceal the information given thereby or contained therein, defaces, destroys, removes, alters, covers, obscures, or obliterates any mark required under the provisions of this chapter shall—

- (1) upon conviction for the first violation of this subsection, be fined not more than \$100,000, or imprisoned for not more than 1 year, or both; and
- (2) upon conviction for the second or any subsequent violation of this subsection, be fined not more than \$250,000, or imprisoned for not more than 1 year, or both.

(June 17, 1930, ch. 497, title III, § 304, 46 Stat. 687; June 25, 1938, ch. 679, § 3, 52 Stat. 1077; Aug. 8, 1953, ch. 397, § 4(c), 67 Stat. 509; Pub. L. 98-573, title II, § 207, Oct. 30, 1984, 98 Stat. 2976; Pub. L.

99-514, title XVIII, § 1888(1), Oct. 22, 1986, 100 Stat. 2924; Pub. L. 100-418, title I, § 1907(a)(1), Aug. 23, 1988, 102 Stat. 1314; Pub. L. 103-182, title II, § 207(a), Dec. 8, 1993, 107 Stat. 2096; Pub. L. 104-295, § 14(a), (b), Oct. 11, 1996, 110 Stat. 3521, 3522; Pub. L. 106-36, title II, § 2423(a), (b), June 25, 1999, 113 Stat. 180.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsecs. (f) to (h) and (k)(1)(B)(ii), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

PRIOR PROVISIONS

Provisions dealing with the subject matter of this section and former section 133 of this title were contained in act Oct. 3, 1913, ch. 16, § IV, F, subsecs. 1 and 2, 38 Stat. 194, superseding similar provisions of previous tariff acts. Those subsections were superseded by act Sept. 21, 1922, ch. 356, title III, § 304(a), 42 Stat. 947, and repealed by § 321 of that act. Section 304(a) of the act of 1922 was superseded by section 304 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1999—Subsecs. (h), (i). Pub. L. 106-36, § 2423(a), added subsec. (h) and redesignated former subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 106-36, § 2423(a)(1), (b), redesignated subsec. (i) as (j) and substituted “subsection (i)” for “subsection (h)”. Former subsec. (j) redesignated (k).

Subsecs. (k), (l). Pub. L. 106-36, § 2423(a)(1), redesignated subsecs. (j) and (k) as (k) and (l), respectively.

1996—Subsecs. (f) to (h). Pub. L. 104-295, § 14(a), added subsecs. (f) and (g) and redesignated former subsec. (f) as (h). Former subsecs. (g) and (h) redesignated (i) and (j), respectively.

Subsec. (i). Pub. L. 104-295, § 14(a)(1), (b), redesignated subsec. (g) as (i) and substituted “subsection (h) of this section” for “subsection (f) of this section”.

Subsecs. (j), (k). Pub. L. 104-295, § 14(a)(1), redesignated subsecs. (h) and (i) as (j) and (k), respectively.

1993—Subsec. (c)(1). Pub. L. 103-182, § 207(a)(1), substituted “engraving, or continuous paint stenciling” for “or engraving”.

Subsec. (c)(2). Pub. L. 103-182, § 207(a)(2), substituted “five methods” for “four methods” and struck out “such as paint stenciling” after “method of marking”.

Subsec. (e). Pub. L. 103-182, § 207(a)(3), substituted “engraving, or an equally permanent method of marking” for “or engraving”.

Subsecs. (h), (i). Pub. L. 103-182, § 207(a)(4), (5), added subsec. (h) and redesignated former subsec. (h) as (i).

1988—Subsec. (h). Pub. L. 100-418 amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: “If any person shall, with intent to conceal the information given thereby or contained therein, deface, destroy, remove, alter, cover, obscure, or obliterate any mark required under the provisions of this chapter, he shall, upon conviction, be fined not more than \$5,000 or imprisoned not more than one year, or both.”

1986—Subsec. (c). Pub. L. 99-514 substituted “(1) Except as provided in paragraph (2), no” for “No” and added par. (2).

1984—Subsecs. (c) to (h). Pub. L. 98-573 added subsecs. (c) to (e), redesignated former subsecs. (c) to (e) as (f) to (h), respectively, and in subsec. (g), as redesignated, substituted “subsection (f) of this section” for “subsection (c) of this section”.

1953—Subsec. (a)(3)(K). Act Aug. 8, 1953, added cl. (K).

1938—Act June 25, 1938, amended section generally.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-36, title II, § 2423(c), June 25, 1999, 113 Stat. 180, provided that: “The amendments made by this sec-

tion [amending this section] apply to goods entered, or withdrawn from warehouse for consumption, on or after the date of the enactment of this Act [June 25, 1999].”

EFFECTIVE DATE OF 1996 AMENDMENT

Section 14(c) of Pub. L. 104-295 provided that: “The amendments made by this section [amending this section] apply to goods entered, or withdrawn from warehouse for consumption, on or after the date of the enactment of this Act [Oct. 11, 1996].”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 213(b) of Pub. L. 103-182, set out as an Effective Date note under section 3331 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1907(a)(2) of Pub. L. 100-418 provided that: “(A) The amendment made by paragraph (1) [amending this section] applies with respect to acts committed on or after the date of the enactment of this Act [Aug. 23, 1988].

“(B) The conviction of a person under section 304(h) of the Tariff Act of 1930 [19 U.S.C. 1304(h)] for an act committed before the date of the enactment of this Act shall be disregarded for purposes of applying paragraph (2) of such subsection (as added by the amendment made by paragraph (1) of this subsection[.]).”

EFFECTIVE DATE OF 1984 AMENDMENT

Section 214 of title II of Pub. L. 98-573 provided that: “(a) For purposes of this section, the term ‘15th day’ means the 15th day after the date of the enactment of this Act [Oct. 30, 1984].

“(b) Except as provided in subsections (c), (d), and (e), the amendments made by this title [enacting sections 58b, 1339, and 1627a of this title, amending sections 81c, 81o, 1313, 1330, 1431, 1498, 1555, 2192, 2251, 2253, and 2703 of this title, section 925 of Title 18, Crimes and Criminal Procedure, and section 162 of Title 26, Internal Revenue Code, and enacting provisions set out as notes under sections 2, 81c, 81o, and 1339 of this title, and section 162 of Title 26] shall take effect on the 15th day.

“(c)(1) The amendment made by section 204 [amending section 1441 of this title] shall apply with respect to vessels returning from the British Virgin Islands on or after the 15th day.

“(2) The amendments made by section 207 [amending this section] shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day; except for such of those articles that, on or before the 15th day, had been taken on board for transit to the customs territory of the United States.

“(3)(A) The amendment made by section 208 [amending section 1466 of this title] shall apply with respect to entries made in connection with arrivals of vessels on or after the 15th day.

“(B) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act [Oct. 30, 1984], any entry in connection with the arrival of a vessel used primarily for transporting passengers or property—

“(i) made before the 15th day but not liquidated as of January 1, 1983, or

“(ii) made before the 15th day but which is the subject of an action in a court of competent jurisdiction on September 19, 1983, and

“(iii) with respect to which there would have been no duty if the amendment made by section 208 applied to such entry.

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, be liquidated or reliquidated as though such entry had been made on the 15th day.

“(4) The amendments made by section 209 [enacting section 1484a of this title and amending section 1202 of

this title] shall apply with respect to articles launched into space from the customs territory of the United States on or after January 1, 1985.

“(5)(A) The amendment made by section 210(a) [amending section 1505 of this title] shall take effect on the 30th day after the date of the enactment of this Act [Oct. 30, 1984].

“(B) The amendment made by section 210(b) [amending section 1520 of this title] shall apply with respect to determinations made or ordered on or after the date of the enactment of this Act [Oct. 30, 1984].

“(d)(1) The amendments made by section 212 [amending sections 1520, 1564, and 1641 of this title and sections 1581, 1582, 2631, 2636, 2640, and 2643 of Title 28, Judiciary and Judicial Procedure] shall take effect upon the close of the 180th day following the date of the enactment of this Act [Oct. 30, 1984] with the following exceptions:

“(A) Section 641(c)(1)(B) and section 641(c)(2) of the Tariff Act of 1930, as added by such section [19 U.S.C. 1641(c)(1)(B), (2)], shall take effect three years after the date of the enactment of this Act [Oct. 30, 1984].

“(B) The amendments made to the Tariff Act of 1930 by subsection (c) of section 212 [no subsec. (c) of section 212 was enacted] shall take effect on such date of enactment [Oct. 30, 1984].

“(2) A license in effect on the date of enactment of this Act [Oct. 30, 1984] under section 641 of the Tariff Act of 1930 (as in effect before such date of enactment) shall continue in force as a license to transact customs business as a customs broker, subject to all the provisions of section 212 and such licenses shall be accepted as permits for the district or districts covered by that license.

“(3) Any proceeding for revocation or suspension of a license instituted under section 641 of the Tariff Act of 1930 before the date of the enactment of this Act [Oct. 30, 1984] shall continue and be governed by the law in effect at the time the proceeding was instituted.

“(4) If any provision of section 212 or its application to any person or circumstances is held invalid, it shall not affect the validity of the remaining provisions or their application to any other person or circumstances.

“(e) The amendments made by section 213 [enacting sections 1589a, 1613b, and 1616a of this title, amending sections 1602, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613, 1614, 1615, 1618, and 1619 of this title and repealing section 7607 of Title 26, Internal Revenue Code] shall take effect October 15, 1984.”

EFFECTIVE DATE OF 1953 AMENDMENTS, ENACTMENTS, AND REPEALS

Section 1 of act Aug. 8, 1953, provided that such act [see Short Title of 1953 Amendment note set out under section 1654 of this title] is effective, except as otherwise specifically provided for, on and after the thirtieth day following the date of its enactment [Aug. 8, 1953].

The exception “except as otherwise specifically provided for” apparently refers to the amendments made to the provisions preceding subd. (1) of section 1308 of this title, and to section 1557(b) of this title, for which separate effective dates were provided as explained in notes under such sections.

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.

SAVINGS PROVISION

Section 23 of act Aug. 8, 1953, provided: “Except as may be otherwise provided for in this Act [see Short Title of 1953 Amendment note set out under section 1654 of this title], the repeal of existing law or modifications thereof embraced in this Act shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil or criminal case prior to such repeal or modification, but all liabilities under such laws shall continue, except as

otherwise specifically provided in this Act, and may be enforced in the same manner as if such repeal or modification had not been made.”

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(l), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Functions of all other 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 such 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. Customs officers and employees, referred to in text, were under Department of the Treasury.

MARKING REQUIREMENTS FOR ARTICLES QUALIFYING AS GOODS OF NAFTA COUNTRY

Section 207(b) of Pub. L. 103-182 provided that: “Articles that qualify as goods of a NAFTA country under regulations issued by the Secretary in accordance with Annex 311 of the Agreement [North American Free Trade Agreement] are exempt from the marking requirements promulgated by the Secretary of the Treasury under section 1907(c) of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418 [102 Stat. 1315]), but are subject to the requirements of section 304 of the Tariff Act of 1930 (19 U.S.C. 1304).”

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1801-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

§ 1305. Immoral articles; importation prohibited

(a) Prohibition of importation

All persons are prohibited from importing into the United States from any foreign country any book, pamphlet, paper, writing, advertisement, circular, print, picture, or drawing containing any matter advocating or urging treason or insurrection against the United States, or forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States, or any obscene book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing, or other representation, figure, or image on or of paper or other material, or any cast, instrument, or other article which is obscene or immoral, or any drug or medicine or any article whatever for causing unlawful abortion, or any lottery ticket, or any printed paper that may be used as a lottery ticket, or any advertisement of any lottery. No such articles whether imported separately or contained in packages with other goods entitled to entry,

shall be admitted to entry; and all such articles and, unless it appears to the satisfaction of the appropriate customs officer that the obscene or other prohibited articles contained in the package were inclosed therein without the knowledge or consent of the importer, owner, agent, or consignee, the entire contents of the package in which such articles are contained, shall be subject to seizure and forfeiture as hereinafter provided: *Provided*, That the drugs hereinbefore mentioned, when imported in bulk and not put up for any of the purposes hereinbefore specified, are excepted from the operation of this subdivision: *Provided further*, That the Secretary of the Treasury may, in his discretion, admit the so-called classics or books of recognized and established literary or scientific merit, but may, in his discretion, admit such classics or books only when imported for noncommercial purposes: *Provided further*, That effective January 1, 1993, this section shall not apply to any lottery ticket, printed paper that may be used as a lottery ticket, or advertisement of any lottery, that is printed in Canada for use in connection with a lottery conducted in the United States.

(b)¹ Enforcement procedures

Upon the appearance of any such book or matter at any customs office, the same shall be seized and held by the appropriate customs officer to await the judgment of the district court as hereinafter provided; and no protest shall be taken to the United States Court of International Trade from the decision of such customs officer. Upon the seizure of such book or matter, such customs officer shall transmit information thereof to the United States attorney of the district in which is situated either—

- (1) the office at which such seizure took place; or
- (2) the place to which such book or matter is addressed;

and the United States attorney shall institute proceedings in the district court for the forfeiture, confiscation, and destruction of the book or matter seized. Upon the adjudication that such book or matter thus seized is of the character the entry of which is by this section prohibited, it shall be ordered destroyed and shall be destroyed. Upon adjudication that such book or matter thus seized is not of the character the entry of which is by this section prohibited, it shall not be excluded from entry under the provisions of this section.

In any such proceeding any party in interest may upon demand have the facts at issue determined by a jury and any party may have an appeal or the right of review as in the case of ordinary actions or suits.

(c)¹ Institution of forfeiture proceedings

Notwithstanding the provisions of subsections (a) and (b) of this section, whenever a customs officer discovers any obscene material after such material has been imported or brought into the United States, or attempted to be imported or brought into the United States, he may refer the matter to the United States attorney for the in-

¹ So in original. Two subsecs. (b) and (c) have been enacted. Second subsecs. (b) and (c) probably should be designated (e) and (f), respectively.