

Effective Date note under section 951 of Title 21, Food and Drugs.

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 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 section 171 of Title 21, Food and Drugs.

#### 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(1), 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.

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 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.

#### STANDARDS OF CARE IN DISCOVERING CONTRABAND

Pub. L. 100-690, title VII, §7369, Nov. 18, 1988, 102 Stat. 4481, directed Secretary of the Treasury, no later than 120 days after Nov. 18, 1988, and after an opportunity for public comment, to prescribe regulations which set forth criteria for use by the owner, master, pilot, operator, or officer of, or other employee in charge of, any common carrier in meeting the standards under sections 1584(a)(2) and 1594(c) of this title for the exercise of the highest degree of care and diligence to know whether controlled substances imported into the United States are on board the common carrier and, within 6 months after Nov. 18, 1988, to issue controlled substances regulations for a 2-year demonstration program to establish procedures for air carrier development and Customs Service approval of foreign and domestic security and inspection practices by permitting air carriers to request the Secretary of the Treasury to permit air carriers, the Customs Service, or an approved agent of the Customs Service to inspect at United States airports of entry, and aircraft arriving from foreign locations.

#### **§ 1585. Repealed. Pub. L. 103-182, title VI, § 690(b)(10), Dec. 8, 1993, 107 Stat. 2223**

Section, acts June 17, 1930, ch. 497, title IV, §585, 46 Stat. 749; Aug. 5, 1935, ch. 438, title III, §303, 49 Stat. 527; Oct. 27, 1986, Pub. L. 99-570, title III, §3113(b), 100 Stat. 3207-82, set forth penalties assessed when vessel or vehicle from foreign port or place departed or unloaded merchandise before making report or entry.

#### **§ 1586. Unlawful unloading or transshipment**

##### **(a) Penalty for unloading prior to grant of permission**

The master of any vessel from a foreign port or place, or of a hovering vessel which has received or delivered merchandise while outside the territorial sea, who allows any merchandise (including sea stores) to be unladen from such

vessel at any time after its arrival within the customs waters and before such vessel has come to the proper place for the discharge of such merchandise, and before he has received a permit to unlade, shall be liable to a penalty equal to twice the value of the merchandise but not less than \$10,000, and such vessel and its cargo and the merchandise so unladen shall be seized and forfeited.

##### **(b) Penalty for transshipment to any vessel for purpose of unlawful entry**

The master of any vessel from a foreign port or place, or of a hovering vessel which has received or delivered merchandise while outside the territorial sea, who allows any merchandise (including sea stores), the importation of which into the United States is prohibited, or which consists of any spirits, wines, or other alcoholic liquors, to be unladen from his vessel at any place upon the high seas adjacent to the customs waters of the United States to be transshipped to or placed in or received on any vessel of any description, with knowledge, or under circumstances indicating the purpose to render it possible, that such merchandise, or any part thereof, may be introduced, or attempted to be introduced, into the United States in violation of law, shall be liable to a penalty equal to twice the value of the merchandise but not less than \$10,000, and the vessel from which the merchandise is so unladen, and its cargo and such merchandise, shall be seized and forfeited.

##### **(c) Penalty for unlawful transshipment to any vessel of United States**

The master of any vessel from a foreign port or place, or of a hovering vessel which has received or delivered merchandise while outside the territorial sea, who allows any merchandise (including sea stores) destined to the United States, the importation of which into the United States is prohibited, or which consists of any spirits, wines, or other alcoholic liquors, to be unladen, without permit to unlade, at any place upon the high seas adjacent to the customs waters of the United States, to be transshipped to or placed in or received on any vessel of the United States or any other vessel which is owned by any person a citizen of, or domiciled in, the United States, or any corporation incorporated in the United States, shall be liable to a penalty equal to twice the value of the merchandise but not less than \$10,000, and the vessel from which the merchandise is so unladen, and its cargo and such merchandise, shall be seized and forfeited.

##### **(d) Liability of master of receiving vessel in unlawful transshipment**

If any merchandise (including sea stores) unladen in violation of the provisions of this section is transshipped to or placed in or received on any other vessel, the master of the vessel on which such merchandise is placed, and any person aiding or assisting therein, shall be liable to a penalty equal to twice the value of the merchandise, but not less than \$10,000, and such vessel, and its cargo and such merchandise, shall be seized and forfeited.

**(e) Imprisonment of persons aiding in unlawful unloading or transshipment**

Whoever, at any place, if a citizen of the United States, or at any place in the United States or within customs waters, if a foreign national, shall engage or aid or assist in any unloading or transshipment of any merchandise in consequence of which any vessel becomes subject to forfeiture under the provisions of this section shall, in addition to any other penalties provided by law, be liable to imprisonment for not more than 15 years.

**(f) Unloading or transshipment because of accident, stress of weather, etc.**

Whenever any part of the cargo or stores of a vessel has been unladen or transhipped because of accident, stress of weather, or other necessity, the master of such vessel and the master of any vessel to which such cargo or stores has been transhipped shall, as soon as possible thereafter, notify the Customs Service at the district within which such unloading or transshipment has occurred, or the Customs Service at the district at which such vessel shall first arrive thereafter, and shall furnish proof that such unloading or transshipment was made necessary by accident, stress of weather, or other unavoidable cause, and if the Customs Service is satisfied that the unloading or transshipment was in fact due to accident, stress of weather, or other necessity, the penalties described in this section shall not be incurred.

(June 17, 1930, ch. 497, title IV, § 586, 46 Stat. 749; Aug. 5, 1935, ch. 438, title II, § 205, 49 Stat. 524; Pub. L. 91-271, title III, § 301(b), June 2, 1970, 84 Stat. 287; Pub. L. 99-570, title III, § 3119, Oct. 27, 1986, 100 Stat. 3207-84; Pub. L. 103-182, title VI, § 620, Dec. 8, 1993, 107 Stat. 2180.)

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §§ 586, 587, 42 Stat. 980, 981. These sections were superseded by section 586 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions somewhat similar to those in this section, but applicable only to vessels "bound to the United States" were contained in R.S. § 2867, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

Provisions substantially the same in effect as those contained in the act of 1922, § 587, except that the penalty was treble the value of the merchandise, and the provision for forfeiture applied only to the vessel was contained in R.S. § 2868, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

## AMENDMENTS

1993—Subsecs. (a) to (c). Pub. L. 103-182, § 620(1), inserted " , or of a hovering vessel which has received or delivered merchandise while outside the territorial sea," after "from a foreign port or place".

Subsec. (f). Pub. L. 103-182, § 620(2), substituted "the Customs Service at the district" for "the appropriate customs officer of the district" and "the appropriate customs officer within the district" and "the Customs Service is satisfied" for "the appropriate customs officer is satisfied".

1986—Subsecs. (a) to (d). Pub. L. 99-570, § 3119(1), substituted "\$10,000" for "\$1,000" wherever appearing.

Subsec. (e). Pub. L. 99-570, § 3119(2)(A), substituted "customs waters" for "one league of the coast of the United States".

Pub. L. 99-570, § 3119(2)(B), which directed that "15 years" be substituted for "2 years" was executed by

making the substitution for "two years" as the probable intent of Congress.

1970—Subsec. (f). Pub. L. 91-271 substituted references to appropriate customs officer for references to collector wherever appearing.

1935—Act Aug. 5, 1935, redesignated existing provisions as subsecs. (a) and (f) and added subsecs. (b) to (e).

## EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

## 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(1), 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.

**§ 1587. Examination of hovering vessels****(a) Boarding and examination**

Any hovering vessel, or any vessel which fails (except for unavoidable cause), at any place within the customs waters or within a customs-enforcement area established under the Anti-Smuggling Act [19 U.S.C. 1701 et seq.], to display lights as required by law, or which has become subject to pursuit as provided in section 1581 of this title, or which, being a foreign vessel to which subsection (h) of section 1581 of this title applies, is permitted by special arrangement with a foreign government to be so examined without the customs waters of the United States, may at any time be boarded and examined by any officer of the customs, and the provisions of said section 1581 shall apply thereto, as well without as within his district, and in examining the same, any such officer may also examine the master upon oath respecting the cargo and voyage of the vessel, and may also bring the vessel into the most convenient port of the United States to examine the cargo, and if the master of said vessel refuses to comply with the lawful directions of such officer or does not truly answer such questions as are put to him respecting the vessel, its cargo, or voyage, he shall be liable to a penalty of not more than \$5,000 nor less than \$500. If, upon the examination of any such vessel or its cargo by any officer of the customs, any dutiable merchandise destined to the United States is found, or discovered to have been, on board thereof, the vessel and its cargo shall be seized and forfeited. It shall be presumed that any merchandise (sea stores excepted), the importation of which into the United States is prohibited, or which consists of any spirits, wines, or other alcoholic liquors, so found, or discovered to have been, on board thereof, is destined to the United States.

**(b) Unexplained lightness of vessel or discharge of cargo**

If any vessel laden with cargo be found at any place in the United States or within the customs waters or within a customs-enforcement area established under the Anti-Smuggling Act [19 U.S.C. 1701 et seq.] and such vessel afterwards is