

or an immigration regulation prescribed under paragraph (1)(E) is liable to the Government for a civil penalty of \$5,000 for each violation. The Secretary of the Treasury or the Attorney General may remit or mitigate a penalty under this paragraph.

(4) In addition to any other penalty, when a controlled substance described in section 1584 of this title is found on, or to have been unloaded from, an aircraft to which this subsection applies, the owner of, or individual commanding, the aircraft is liable to the Government for the penalties provided in section 1584 of this title for each violation unless the owner or individual, by a preponderance of the evidence, demonstrates that the owner or individual did not know, and by exercising the highest degree of care and diligence, could not have known, that a controlled substance was on the aircraft.

(5) If a violation under this subsection is by the owner or operator of, or individual commanding, the aircraft, the aircraft is subject to a lien for the penalty.

(c) Secretary of Agriculture

(1) The Secretary of Agriculture by regulation may apply laws and regulations on animal and plant quarantine (including laws and regulations on importing, exporting, transporting, and quarantining animals, plants, animal and plant products, insects, bacterial and fungus cultures, viruses, and serums) to civil air navigation to the extent and under conditions the Secretary considers necessary.

(2) A person violating a law or regulation made applicable under paragraph (1) of this subsection is liable for the penalties provided under that law or regulation.

(d) Remission and mitigation of penalties

A decision to remit or mitigate a civil penalty under this section is final. When libel proceedings are pending during a proceeding to remit or mitigate a penalty, the appropriate Secretary shall notify the Attorney General of the remission or mitigation proceeding.

(e) Summary seizure of aircraft

(1) An aircraft subject to a lien under this section may be seized summarily by and placed in the custody of a person authorized by regulations of the appropriate Secretary or the Attorney General. A report of the case shall be sent to the Attorney General. The Attorney General shall bring promptly a civil action in rem to enforce the lien or notify the appropriate Secretary that the action will not be brought.

(2) An aircraft seized under this section shall be released from custody when—

(A) the civil penalty or amount not remitted or mitigated is paid;

(B) the aircraft is seized under process of a court in a civil action in rem to enforce the lien;

(C) the Attorney General gives notice that a civil action will not be brought under paragraph (1) of this subsection; or

(D) a bond is deposited with the appropriate Secretary or the Attorney General in an amount and with a surety the appropriate Secretary or the Attorney General prescribes, conditioned on payment of the penalty or amount not remitted or mitigated.

(f) Collection of civil penalties

A civil penalty under this section may be collected by bringing a civil action against the person subject to the penalty, a civil action in rem against an aircraft subject to a lien for a penalty, or both. The action shall conform as nearly as practicable to a civil action in admiralty, regardless of the place an aircraft in a civil action in rem is seized. However, a party may demand a trial by jury of an issue of fact if the value of the matter in controversy is more than \$20. An issue of fact tried by jury may be reexamined only under common law rules.

(g) Authorization of appropriations

Necessary amounts may be appropriated to allow the head of a department, agency, or instrumentality of the Government to acquire space at a public airport (as defined in section 47102 of title 49) when the head decides the space is necessary to carry out inspections, clearance, collection of taxes or duties, or a similar responsibility of the head, related to transporting passengers or property in air commerce. The head must consult with the Secretary of Transportation before making a decision on space.

(Pub. L. 103-272, §2, July 5, 1994, 108 Stat. 1358.)

CODIFICATION

Section was not enacted as part of the Tariff Act of 1930 which comprises this chapter.

Section is based on sections 1474 and 1509(b)-(e) of former Title 49, Transportation, which were repealed and restated as this section by Pub. L. 103-272, §§2, 7(b), July 5, 1994, 108 Stat. 1358, 1379.

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, set out as a note under section 542 of Title 6.

§ 1645. Transportation and interment of remains of deceased employees in foreign countries; travel or shipping expenses incurred on foreign ships

(a) Transfers in foreign countries

The expense of transporting the remains of customs officers and employees who die while in or in transit to foreign countries in the discharge of their official duties, to their former homes in this country for interment, and the ordinary and necessary expenses for such interment, at their posts of duty or at home, are authorized to be paid upon the written order of the Secretary of the Treasury. The expenses authorized by this subdivision shall be paid from the appropriation for the collection of the revenue from customs.

(b) Transportation on foreign ships

Notwithstanding the provisions of section 601 of the Merchant Marine Act, 1928, or of any other law, any allowance, within the limitations prescribed by law, for travel or shipping expenses incurred on a foreign ship by any officer

or employee of the Bureau of Customs or the Customs Service, shall be credited if the Secretary of the Treasury certifies to the Comptroller General that transportation on such foreign ship was necessary to protect the revenue.

(June 17, 1930, ch. 497, title IV, § 645(a), (c), 46 Stat. 761; Aug. 2, 1946, ch. 744, § 2, 60 Stat. 807.)

REFERENCES IN TEXT

Section 601 of the Merchant Marine Act, 1928, referred to in subsec. (b), was classified to section 891r of former Title 46, Shipping, and was repealed by the Merchant Marine Act, 1936 (approved June 29, 1936, ch. 858, § 903(c), 49 Stat. 2016), but was reenacted in substance by section 901 of that Act, which was classified to section 1241 of the former Appendix to Title 46, Shipping. Section 901 of the Merchant Marine Act, 1936 was subsequently repealed and restated in sections 55302, 55303, and 55305 of Title 46, Shipping, by Pub. L. 109-304, §§ 8(c), 19, Oct. 6, 2006, 120 Stat. 1586, 1710. For disposition of sections of the former Appendix to Title 46, see Disposition Table preceding section 101 of Title 46.

CODIFICATION

Section is comprised of subssecs. (a) and (c) of section 645 of act June 17, 1930. Subsec. (b) of section 645 repealed in part section 48 of this title.

AMENDMENTS

1946—Subsec. (a). Act Aug. 2, 1946, eff. Nov. 1, 1946, repealed first sentence relating to traveling expenses of transferred employees. See section 5729 of Title 5, Government Organization and Employees.

CHANGE OF NAME

Bureau of Customs redesignated United States Customs Service by Treasury Department Order 165-23, Apr. 4, 1973, eff. Aug. 1, 1973, 38 F.R. 13037. See, also, section 308 of Title 31, Money and Finance.

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.

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. Bureau of Customs and Customs Service, referred to in text, were under Department of the Treasury.

§ 1646. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section, act June 17, 1930, ch. 497, title IV, § 646, 46 Stat. 762, related to tenure and retirement of judges of United States Court of Customs and Patent Appeals. See sections 213, 371, and 372 of Title 28, Judiciary and Judicial Procedure.

§ 1646a. Supervision by customs officers

Wherever in this chapter any action or thing is required to be done or maintained under the

supervision of customs officers, such supervision may be directed and continuous or by occasional verification as may be required by regulations of the Secretary of the Treasury, or, in the absence of such regulations for a particular case, as the principal customs officer concerned shall direct.

(June 17, 1930, ch. 497, title IV, § 646, as added Aug. 8, 1953, ch. 397, § 22, 67 Stat. 520.)

EFFECTIVE DATE

Section effective on and after thirtieth day following Aug. 8, 1953, see Effective Date of 1953 Amendments note set out under section 1304 of this title.

§ 1646b. Random customs inspections for stolen automobiles being exported

The Commissioner of Customs shall direct customs officers to conduct at random inspections of automobiles, and of shipping containers that may contain automobiles that are being exported, for purposes of determining whether such automobiles were stolen.

(June 17, 1930, ch. 497, title IV, § 646A, as added Pub. L. 102-519, title IV, § 401, Oct. 25, 1992, 106 Stat. 3400.)

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.

PILOT STUDY AUTHORIZING UTILITY OF NONDESTRUCTIVE EXAMINATION SYSTEM

Section 402 of Pub. L. 102-519 provided that: “The Secretary of the Treasury, acting through the Commissioner of Customs, shall conduct a pilot study of the utility of a nondestructive examination system to be used for inspection of containers that may contain automobiles leaving the country for the purpose of determining whether such automobiles have been stolen.”

§ 1646c. Export reporting requirement

The Commissioner of Customs shall require all persons or entities exporting used automobiles, including automobiles exported for personal use, by air or ship to provide to the Customs Service, at least 72 hours before the export, the vehicle identification number of each such automobile and proof of ownership of such automobile. The Commissioner shall establish specific criteria for randomly selecting used automobiles scheduled to be exported, consistent with the risk of stolen automobiles being exported and shall check the vehicle identification number of each automobile selected pursuant to such criteria against the information in the National Crime Information Center to determine whether such automobile has been reported stolen. At the request of the Director of the Federal Bureau of Investigation, the Commissioner shall make available to the Director all vehicle identification numbers obtained under this section.

(June 17, 1930, ch. 497, title IV, § 646B, as added Pub. L. 102-519, title IV, § 401, Oct. 25, 1992, 106 Stat. 3400.)