

Mandatory punishment provisions were rephrased in the alternative.

Changes were also made in phraseology.

AMENDMENTS

1994—Pub. L. 103-322, which directed the amendment of this section by substituting “fined under this title” for “fined not more than \$5,000”, was executed by making the substitution for “fined not more than \$1,000”, to reflect the probable intent of Congress.

§ 436. Convict labor contracts

Whoever, being an officer, employee, or agent of the United States or any department or agency thereof, contracts with any person or corporation, or permits any warden, agent, or official of any penal or correctional institution, to hire out the labor of any prisoners confined for violation of any laws of the United States, shall be fined under this title¹ or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 703; Pub. L. 103-322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 708, 709 (Feb. 23, 1887, ch. 213, §§ 1, 2, 24 Stat. 411).

This section consolidates sections 708 and 709 of title 18, U.S.C., 1940 ed., as the offense and penalty provisions, respectively.

Words “department or agency thereof” were inserted to clarify scope of section. See definition of department and agency in section 6 of this title.

To retain uniformity words “shall be deemed guilty of a misdemeanor, and,” were omitted. The reference to misdemeanor is now covered by the definition in section 11 of this title.

Words “on conviction thereof” were omitted as unnecessary since punishment can follow only upon conviction.

The minimum punishment provisions “less than one year nor” and “less than \$500 nor” were deleted to conform to the policy followed by codifiers of 1909 Criminal Code. (See reviser’s note under section 203 of this title.)

Changes were also made in phraseology.

AMENDMENTS

1994—Pub. L. 103-322, which directed the amendment of this section by substituting “fined under this title” for “fined not more than \$5,000”, was executed by making the substitution for “fined not more than \$1,000”, to reflect the probable intent of Congress.

[§ 437. Repealed. Pub. L. 104-178, § 1(a), Aug. 6, 1996, 110 Stat. 1565]

Section, acts June 25, 1948, ch. 645, 62 Stat. 703; June 17, 1980, Pub. L. 96-277, § 1, 94 Stat. 544; Sept. 13, 1994, Pub. L. 103-322, title XXXIII, § 330016(1)(L), 108 Stat. 2147, related to Federal employees contracting or trading with Indians.

EFFECTIVE DATE OF REPEAL

Pub. L. 104-178, § 1(c), Aug. 6, 1996, 110 Stat. 1565, provided that: “The repeal made by subsection (a) [repealing this section] shall—

“(1) take effect on the date of enactment of this Act [Aug. 6, 1996]; and

“(2) apply with respect to any contract obtained, and any purchase or sale occurring, on or after the date of enactment of this Act.”

¹ See 1994 Amendment note below.

[§§ 438, 439. Repealed. Pub. L. 106-568, title VIII, § 812(c)(2), Dec. 27, 2000, 114 Stat. 2917]

Section 438, acts June 25, 1948, ch. 645, 62 Stat. 703; Pub. L. 103-322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147, related to Indian contracts for services generally.

Section 439, acts June 25, 1948, ch. 645, 62 Stat. 704; Pub. L. 103-322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147, related to Indian enrollment contracts.

§ 440. Mail contracts

Whoever, being a person employed in the Postal Service, becomes interested in any contract for carrying the mail, or acts as agent, with or without compensation, for any contractor or person offering to become a contractor in any business before the Postal Service, shall be fined under this title¹ or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 704; Pub. L. 91-375, § 6(j)(3), Aug. 12, 1970, 84 Stat. 777; Pub. L. 103-322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 356 (Mar. 4, 1909, ch. 321, § 226, 35 Stat. 1134).

Provision for dismissal from office was omitted since this might be handled better administratively.

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103-322, which directed the amendment of this section by substituting “fined under this title” for “fined not more than \$10,000”, was executed by making the substitution for “fined not more than \$5,000”, to reflect the probable intent of Congress.

1970—Pub. L. 91-375 substituted “Postal Service” for “Post Office Department” before “, shall be fined”.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 441. Postal supply contracts

No contract for furnishing supplies to the Postal Service shall be made with any person who has entered, or proposed to enter, into any combination to prevent the making of any bid for furnishing such supplies, or to fix a price or prices therefor, or who has made any agreement, or given or performed, or promised to give or perform, any consideration whatever to induce any other person not to bid for any such contract, or to bid at a specified price or prices thereon.

Whoever violates this section shall be fined under this title¹ or imprisoned not more than one year, or both; and if the offender is a contractor for furnishing such supplies his contract may be annulled.

(June 25, 1948, ch. 645, 62 Stat. 704; Pub. L. 91-375, § 6(j)(4), Aug. 12, 1970, 84 Stat. 777; Pub. L. 103-322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

¹ See 1994 Amendment note below.

¹ See 1994 Amendment note below.

HISTORICAL AND REVISION NOTES

Based on section 808 of title 39, U.S.C., 1940 ed., The Postal Service (Aug. 24, 1912, ch. 389, § 2, 37 Stat. 553).

Minimum punishment provisions "less than \$100 nor" and "less than three months nor" were omitted to conform to policy followed by codifiers of 1909 Criminal Code.

Changes in phraseology were also made.

AMENDMENTS

1994—Pub. L. 103-322, which directed the amendment of this section by substituting "fined under this title" for "fined not more than \$10,000", was executed by making the substitution for "fined not more than \$5,000" in second par., to reflect the probable intent of Congress.

1970—Pub. L. 91-375 struck out "Post Office Department or the" before "Postal Service".

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 442. Printing contracts

Neither the Public Printer, superintendent of printing, superintendent of binding, nor any of their assistants shall, during their continuance in office, have any interest, direct or indirect, in the publication of any newspaper or periodical, or in any printing, binding, engraving, or lithographing of any kind, or in any contract for furnishing paper or other material connected with the public printing, binding, lithographing, or engraving.

Whoever violates this section shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 704; Pub. L. 103-322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 53 of title 44, U.S.C., 1940 ed., Public Printing and Documents (Jan. 12, 1895, ch. 23, § 34, 28 Stat. 605).

Words "on conviction before any court of competent jurisdiction" were omitted as unnecessary, since punishment cannot be imposed until there has been a conviction before a competent tribunal.

Words "in the penitentiary" were omitted as surplusage as section 4082 of this title commits all prisoners to the custody of the Attorney General. (See reviser's note under section 1 of this title.)

The minimum punishment provision "for a term of not less than one nor" was omitted in keeping with policy of codifiers of 1909 Criminal Code.

Mandatory punishment provision was rephrased in the alternative.

The offense described in this section involves no moral turpitude, and therefore the punishment provisions were reduced from 5 years to 1 year, so that the stigma of a felony would not attach to an offender. The fine was increased from \$500 to \$1,000 as more proportionate to the 1-year term of imprisonment. (See classification of felony and misdemeanor in section 1 of this title and note thereunder.)

AMENDMENTS

1994—Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$1,000" in second par.

§ 443. War contracts

Whoever willfully secretes, mutilates, obliterates, or destroys—

(a) any records of a war contractor relating to the negotiation, award, performance, payment, interim financing, cancellation or other termination, or settlement of a war contract of \$25,000 or more; or

(b) any records of a war contractor or purchaser relating to any disposition of termination inventory in which the consideration received by any war contractor or any government agency is \$5,000 or more,

before the lapse of (1) five years after such disposition of termination inventory by such war contractor or government agency, or (2) five years after the final settlement of such war contract, whichever applicable period is longer, shall be fined under this title or imprisoned not more than five years, or both.

The Administrator of General Services, by regulation, may authorize the destruction of such records upon such terms and conditions as he deems appropriate, including the requirement for the making and retaining of photographs or microphotographs, which shall have the same force and effect as the originals thereof.

The definitions of terms in section 103¹ of Title 41 shall apply to similar terms used in this section.

(June 25, 1948, ch. 645, 62 Stat. 704; Oct. 31, 1951, ch. 655, § 20(a), 65 Stat. 717; Pub. L. 103-322, title XXXIII, §§ 330004(17), 330016(2)(F), Sept. 13, 1994, 108 Stat. 2142, 2148.)

HISTORICAL AND REVISION NOTES

Based on section 119, first and second paragraphs, of title 41 U.S.C., 1940 ed., Public Contracts (July 1, 1944, ch. 358, § 19(a), 58 Stat. 667).

Section was rewritten with changes of phraseology to conform to the style adopted in the revision.

The definition of "records" was omitted as surplusage in order to avoid any inference that "records" as used in other sections was intended to have a different or more limited connotation than the broad and commonly understood meaning popularly assigned to the term.

The last paragraph was added to obviate any possibility of doubt as to meaning of terms defined in section 103 of Title 41, Public Contracts.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

REFERENCES IN TEXT

Section 103 of Title 41, referred to in text, probably means section 3 of act July 1, 1944, ch. 358, 58 Stat. 650, which was classified to section 103 of former Title 41, Public Contracts, prior to repeal by Pub. L. 111-350, § 7(b), Jan. 4, 2011, 124 Stat. 3855. For disposition of sections of former Title 41, see Disposition Table preceding section 101 of Title 41.

AMENDMENTS

1994—Pub. L. 103-322, in concluding provisions of first par., struck out "or (3) five years after 12 o'clock noon of December 31, 1946," after "of such war contract," and substituted "shall be fined under this title" for "shall, if a corporation, be fined not more than \$50,000, and, if a natural person, be fined not more than \$10,000".

1951—Act Oct. 31, 1951, substituted "12 o'clock noon of December 31, 1946" for "the termination of hostilities

¹ See References in Text note below.