

§ 1462. Importation or transportation of obscene matters

Whoever brings into the United States, or any place subject to the jurisdiction thereof, or knowingly uses any express company or other common carrier or interactive computer service (as defined in section 230(e)(2)¹ of the Communications Act of 1934), for carriage in interstate or foreign commerce—

(a) any obscene, lewd, lascivious, or filthy book, pamphlet, picture, motion-picture film, paper, letter, writing, print, or other matter of indecent character; or

(b) any obscene, lewd, lascivious, or filthy phonograph recording, electrical transcription, or other article or thing capable of producing sound; or

(c) any drug, medicine, article, or thing designed, adapted, or intended for producing abortion, or for any indecent or immoral use; or any written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, how, or of whom, or by what means any of such mentioned articles, matters, or things may be obtained or made; or

Whoever knowingly takes or receives, from such express company or other common carrier or interactive computer service (as defined in section 230(e)(2)¹ of the Communications Act of 1934) any matter or thing the carriage or importation of which is herein made unlawful—

Shall be fined under this title or imprisoned not more than five years, or both, for the first such offense and shall be fined under this title or imprisoned not more than ten years, or both, for each such offense thereafter.

(June 25, 1948, ch. 645, 62 Stat. 768; May 27, 1950, ch. 214, §1, 64 Stat. 194; Pub. L. 85-796, §2, Aug. 28, 1958, 72 Stat. 962; Pub. L. 91-662, §4, Jan. 8, 1971, 84 Stat. 1973; Pub. L. 103-322, title XXXIII, §330016(1)(K), (L), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104-104, title V, §507(a), Feb. 8, 1996, 110 Stat. 137.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §396 (Mar. 4, 1909, ch. 321, §245, 35 Stat. 1138; June 5, 1920, ch. 268, 41 Stat. 1060).

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

Words "in interstate or foreign commerce" were substituted for ten lines of text without loss of meaning. (See definitive section 10 of this title.)

(See reviser's note under section 1461 of this title.)

Minor changes in phraseology were made.

REFERENCES IN TEXT

Section 230(e)(2) of the Communications Act of 1934, referred to in text, was redesignated section 230(f)(2) of the Communications Act of 1934 by Pub. L. 105-277, div. C, title XIV, §1404(a)(2), Oct. 21, 1998, 112 Stat. 2681-739, and is classified to section 230(f)(2) of Title 47, Telecommunications.

AMENDMENTS

1996—Pub. L. 104-104, §507(a)(1), inserted "or interactive computer service (as defined in section 230(e)(2) of the Communications Act of 1934)" after "carrier" in first par.

Pub. L. 104-104, §507(a)(2), in second par., inserted "or receives," after "takes", "or interactive computer service (as defined in section 230(e)(2) of the Communications Act of 1934)" after "common carrier", and "or importation" after "carriage".

1994—Pub. L. 103-322, in last par., substituted "fined under this title" for "fined not more than \$5,000" after "Shall be" and for "fined not more than \$10,000" after "and shall be".

1971—Pub. L. 91-662 struck out "preventing conception, or" before "producing abortion".

1958—Pub. L. 85-796 substituted "uses" for "deposits with" in opening par., "carriage of which" for "depositing of which for carriage" in penultimate par., and inserted penalty provisions for subsequent offenses in last par.

1950—Act May 27, 1950, brought within scope of section the importation or transportation of any obscene, lewd, lascivious, or filthy phonograph recording, electrical transcription, or other article or thing capable of producing sound.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-662 effective Jan. 9, 1971, see section 7 of Pub. L. 91-662, set out as a note under section 552 of this title.

CONSTRUCTION OF 1996 AMENDMENT

Pub. L. 104-104, title V, §507(c), Feb. 8, 1996, 110 Stat. 137, provided that: "The amendments made by this section [amending this section and section 1465 of this title] are clarifying and shall not be interpreted to limit or repeal any prohibition contained in sections 1462 and 1465 of title 18, United States Code, before such amendment, under the rule established in *United States v. Alpers*, 338 U.S. 680 (1950)."

§ 1463. Mailing indecent matter on wrappers or envelopes

All matter otherwise mailable by law, upon the envelope or outside cover or wrapper of which, and all postal cards upon which, any delineations, epithets, terms, or language of an indecent, lewd, lascivious, or obscene character are written or printed or otherwise impressed or apparent, are nonmailable matter, and shall not be conveyed in the mails nor delivered from any post office nor by any letter carrier, and shall be withdrawn from the mails under such regulations as the Postal Service shall prescribe.

Whoever knowingly deposits for mailing or delivery, anything declared by this section to be nonmailable matter, or knowingly takes the same from the mails for the purpose of circulating or disposing of or aiding in the circulation or disposition of the same, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 769; Pub. L. 91-375, §6(j)(13), Aug. 12, 1970, 84 Stat. 778; 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. §335 (Mar. 4, 1909, ch. 321, §212, 35 Stat. 1129).

Said section 335 of title 18, U.S.C., 1940 ed., was incorporated in this section and section 1718 of this title.

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

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$5,000" in last par.

¹ See References in Text note below.