

## HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., §§317, 321 (Mar. 4, 1909, ch. 321, §§194, 198, 35 Stat. 1125, 1126; May 18, 1916, ch. 126, §10, 39 Stat. 162; July 28, 1916, ch. 261, §1, 39 Stat. 418; Feb. 25, 1925, ch. 318, 43 Stat. 977; May 7, 1934, ch. 220, §1, 48 Stat. 667; Aug. 26, 1935, ch. 693, 49 Stat. 867; Aug. 7, 1939, ch. 557, 53 Stat. 1256).

Each of these two sections has been divided. Provisions relating to theft or larceny of mail were placed in this section.

Words "letter box, mail receptacle, or any mail route" are from section 321 of title 18, U.S.C., 1940 ed. Such receptacles are authorized depositories. (See *Rosen v. United States*, N.Y. 1917, 38 S.Ct. 148, 245 U.S. 467, 62 L.Ed. 406, and *Foster v. Biddle*, C.C.A. Kan. 1926, 14 F.2d 280, involving indictment under section 317 of title 18, U.S.C., 1940 ed.) No cases are reported of prosecutions for mail theft under section 321 of title 18, U.S.C., 1940 ed., which relates primarily to malicious mischief respecting letter boxes.

Language omitted from section 317 of title 18, U.S.C., 1940 ed., and all of section 321 of title 18, U.S.C., 1940 ed., except that above quoted, was incorporated in sections 1702 and 1705 of this title.

Words "or aids in buying, receiving, or concealing" were omitted as unnecessary in view of the definition of principal in section 2 of this title.

The smaller penalty for an offense involving \$100 or less was added. (See sections 641 and 645 of this title.)

Minor changes were made in phraseology.

1949 ACT

This section [section 39] corrects a typographical error in section 1708 of title 18, U.S.C.

## AMENDMENTS

1994—Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$2,000" in last par.

1952—Act July 1, 1952, made any thefts or receipt of stolen mail a felony regardless of the monetary value of the thing stolen.

1949—Act May 24, 1949, substituted "buys" for "buy" in third par.

**§ 1709. Theft of mail matter by officer or employee**

Whoever, being a Postal Service officer or employee, embezzles any letter, postal card, package, bag, or mail, or any article or thing contained therein entrusted to him or which comes into his possession intended to be conveyed by mail, or carried or delivered by any carrier, messenger, agent, or other person employed in any department of the Postal Service, or forwarded through or delivered from any post office or station thereof established by authority of the Postmaster General or of the Postal Service; or steals, abstracts, or removes from any such letter, package, bag, or mail, any article or thing contained therein, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 780; Pub. L. 91-375, §6(j)(19)(A), Aug. 12, 1970, 84 Stat. 778; Pub. L. 103-322, title XXXIII, §330016(1)(I), Sept. 13, 1994, 108 Stat. 2147.)

## HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §318 (Mar. 4, 1909, ch. 321, §195, 35 Stat. 1125).

The provisions of said section 318 of title 18, U.S.C., 1940 ed., were incorporated in this section and section 1703 of this title.

The fine of "\$500" was increased to "\$2,000" as more proportionate to the imprisonment provision and to

conform with other comparable sections. (See sections 1702 and 1708 of this title.)

Changes were made in phraseology.

## AMENDMENTS

1994—Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$2,000".

1970—Pub. L. 91-375 substituted "officer" for "postmaster" in section catchline, and in text substituted "Postal Service officer or employee" for "postmaster or Postal Service employee" and "entrusted" for "intrusted" and inserted "or of the Postal Service" after "Postmaster General".

## EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in 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.

**§ 1710. Theft of newspapers**

Whoever, being a Postal Service officer or employee, takes or steals any newspaper or package of newspapers from any post office or from any person having custody thereof, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 780; Pub. L. 91-375, §6(j)(20), Aug. 12, 1970, 84 Stat. 778; Pub. L. 103-322, title XXXIII, §330016(1)(B), Sept. 13, 1994, 108 Stat. 2146.)

## HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §319 (Mar. 4, 1909, ch. 321, §196, 35 Stat. 1126).

Theft provisions alone are retained in this section. Those relating to other offenses were incorporated in section 1703 of this title.

Words "mail or" following "steals any" were omitted as covered by section 1709 of this title.

Changes were made in phraseology.

## AMENDMENTS

1994—Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$100".

1970—Pub. L. 91-375 substituted "Postal Service officer or employee" for "postmaster or Postal Service employee".

## EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in 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.

**§ 1711. Misappropriation of postal funds**

Whoever, being a Postal Service officer or employee, loans, uses, pledges, hypothecates, or converts to his own use, or deposits in any bank, or exchanges for other funds or property, except as authorized by law, any money or property coming into his hands or under his control in any manner, in the execution or under color of his office, employment, or service, whether or not the same shall be the money or property of the United States; or fails or refuses to remit to or deposit in the Treasury of the United States or in a designated depository, or to account for or turn over to the proper officer or agent, any such money or property, when required to do so

by law or the regulations of the Postal Service, or upon demand or order of the Postal Service, either directly or through a duly authorized officer or agent, is guilty of embezzlement; and every such person, as well as every other person advising or knowingly participating therein, shall be fined under this title or in a sum equal to the amount or value of the money or property embezzled, whichever is greater, or imprisoned not more than ten years, or both; but if the amount or value thereof does not exceed \$1,000, he shall be fined under this title or imprisoned not more than one year, or both.

This section shall not prohibit any Postal Service officer or employee from depositing, under the direction of the Postal Service, in a national bank designated by the Secretary of the Treasury for that purpose, to his own credit as Postal Service officer or employee, any funds in his charge, nor prevent his negotiating drafts or other evidences of debt through such bank, or through United States disbursing officers, or otherwise, when instructed or required so to do by the Postal Service, for the purpose of remitting surplus funds from one post office to another.

(June 25, 1948, ch. 645, 62 Stat. 780; Pub. L. 91-375, §6(j)(21), Aug. 12, 1970, 84 Stat. 778; Pub. L. 103-322, title XXXIII, §330016(1)(H), (2)(G), Sept. 13, 1994, 108 Stat. 2147, 2148; Pub. L. 104-294, title VI, §606(a), Oct. 11, 1996, 110 Stat. 3511.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §355 (Mar. 4, 1909, ch. 321, §225, 35 Stat. 1133; June 10, 1921, ch. 18, §304, 42 Stat. 24).

Said section 355 was divided into two sections, this section and section 3498 of this title.

The smaller punishment for an offense involving \$100 or less was added. (See reviser's notes under sections 641 and 645 of this title.)

Changes of phraseology only were made.

#### AMENDMENTS

1996—Pub. L. 104-294 substituted “\$1,000” for “\$100” in first par.

1994—Pub. L. 103-322, §330016(2)(G), in first par., substituted “be fined under this title or in a sum equal to the amount or value of the money or property embezzled, whichever is greater, or imprisoned” for “be fined in a sum equal to the amount or value of the money or property embezzled or imprisoned”.

Pub. L. 103-322, §330016(1)(H), in first par., substituted “fined under this title” for “fined not more than \$1,000” after “he shall be”.

1970—Pub. L. 91-375 substituted “Postal Service officer or employee” and “Postal Service” for “postmaster or Postal Service employee” and “Post Office Department” in first par., “Postal Service officer or employee” for “Postmaster” in two places in second par., and “Postal Service” for “Postmaster General” once in first par. after “order of the” and twice in second par., respectively.

#### EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in 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.

### § 1712. Falsification of postal returns to increase compensation

Whoever, being a Postal Service officer or employee, makes a false return, statement, or ac-

count to any officer of the United States, or makes a false entry in any record, book, or account, required by law or the rules or regulations of the Postal Service to be kept in respect of the business or operations of any post office or other branch of the Postal Service, for the purpose of fraudulently increasing his compensation or the compensation of the postmaster or any employee in a post office; or

Whoever, being a Postal Service officer or employee in any post office or station thereof, for the purpose of increasing the emoluments or compensation of his office, induces, or attempts to induce, any person to deposit mail matter in, or forward in any manner for mailing at, the office where such officer or employee is employed, knowing such matter to be properly mailable at another post office—

Shall be fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 780; Pub. L. 91-375, §6(j)(22), Aug. 12, 1970, 84 Stat. 779; Pub. L. 103-322, title XXXIII, §330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §329 and on section 172 of title 39, U.S.C., 1940 ed., The Postal Service (Aug. 4, 1886, ch. 901, §3, 24 Stat. 221; Mar. 4, 1909, ch. 321, §206, 35 Stat. 1128; June 10, 1921, ch. 18, §304, 42 Stat. 24).

Said sections were consolidated.

The texts of the two sections were substantially identical except that said section 172 of title 39, U.S.C., 1940 ed., provided that “whenever, upon evidence deemed satisfactory to him, the Postmaster General shall determine that any such false return has been made, he may, by order, fix absolutely the compensation of the postmaster for such special delivery during any quarter or quarters which he shall deem affected by such false return, and the General Accounting Office shall adjust the postmaster's account accordingly”, the words “General Accounting Office” having been substituted for “Auditor” on the authority of the act of June 10, 1921, shown in the credits above. This particular language was omitted because such powers and duties as it prescribes would devolve upon the Postmaster General without legislation and also because said section 172 of Title 39, which was derived from the act of August 4, 1886, shown in the credits above, was impliedly repealed by the general repealing clause of section 341 of the Criminal Code of 1909. Section 208 of that Code contained the provisions which formed the basis for said section 329 of Title 18.

Reference in said section 329 of title 18, U.S.C., 1940 ed., to persons assisting, causing or procuring was omitted as unnecessary in view of definition of “principal” in section 2 of this title.

Minor verbal changes were made.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$500” in last par.

1970—Pub. L. 91-375 substituted “Postal Service officer or employee” for “postmaster or Postal Service employee” and “Postal Service” for “Post Office Department” after “rules or regulations of the” in first par. and “Postal Service officer or employee” and “officer or employee” for “postmaster or employee” and “postmaster or other person” in second par., respectively.

#### EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in 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.