

main on the bonded premises of any distilled spirits plant, under the penalty of forfeiture of all spirits so found.

**(b) Exceptions**

Subsection (a) shall not apply in the case of—

(1) distilled spirits in the process of prompt removal from bonded premises on payment or determination of the tax; or

(2) distilled spirits returned to bonded premises in accordance with the provisions of section 5215.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1404; amended Pub. L. 96-39, title VIII, §807(a)(55), July 26, 1979, 93 Stat. 289.)

**PRIOR PROVISIONS**

A prior section 5612, act Aug. 16, 1954, ch. 736, 68A Stat. 685, related to penalty for using material or removing spirits without supervision, prior to the general revision of this chapter by Pub. L. 85-859. See section 5687 of this title.

Provisions similar to those comprising subsec. (a) of this section were contained in prior section 5625, act Aug. 16, 1954, ch. 736, 68A Stat. 688, prior to the general revision of this chapter by Pub. L. 85-859.

**AMENDMENTS**

1979—Subsec. (b). Pub. L. 96-39 redesignated subpars. (2) and (3) as (1) and (2), respectively, and struck out former subpars. (1) and (4) which excepted distilled spirits which were bottled in bond under section 5233 of this title and which were returned to bonded premises for rebottling, relabeling, or restamping in accordance with subsec. (d) of section 5233, and excepted such spirits, held on bonded premises, on which the tax had become payable by operation of law, but on which the tax had not been paid.

**EFFECTIVE DATE OF 1979 AMENDMENT**

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

**SUSPENSION OF SUBSECTION (a) DURING 1980**

Pub. L. 96-39, title VIII, §808(c)(1), July 26, 1979, 93 Stat. 291, set out as a note under section 5061 of this title, provided that subsec. (a) of this section was not to apply during 1980.

**§ 5613. Forfeiture of distilled spirits not closed, marked, or branded as required by law**

**(a) Unmarked or unbranded casks or packages**

All distilled spirits found in any cask or package required by this chapter or any regulation issued pursuant thereto to bear a mark, brand, or identification, which cask or package is not marked, branded, or identified in compliance with this chapter and regulations issued pursuant thereto, shall be forfeited to the United States.

**(b) Containers without closures**

All distilled spirits found in any container which is required by this chapter to bear a closure or other device and which does not bear a closure or other device in compliance with this chapter shall be forfeited to the United States.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1404; amended Pub. L. 98-369, div. A, title IV, §454(c)(12)(A), (B), July 18, 1984, 98 Stat. 822.)

**PRIOR PROVISIONS**

A prior section 5613, act Aug. 16, 1954, ch. 736, 68A Stat. 685, related to penalty for distilling during pro-

hibited hours, prior to the general revision of this chapter by Pub. L. 85-859. See section 5687 of this title.

Provisions similar to those comprising this section were contained in prior sections 5639 and 5640, act Aug. 16, 1954, ch. 736, 68A Stat. 691, prior to the general revision of this chapter by Pub. L. 85-859.

**AMENDMENTS**

1984—Pub. L. 98-369, §454(c)(12)(B), substituted “closed” for “stamped” in section catchline.

Subsec. (b). Pub. L. 98-369, §454(c)(12)(A), amended subsec. (b) generally, substituting provisions relating to forfeitures of containers without closures for provisions relating to forfeitures of unstamped containers.

**EFFECTIVE DATE OF 1984 AMENDMENT**

Amendment by Pub. L. 98-369 effective July 1, 1985, see section 456(b) of Pub. L. 98-369, set out as an Effective Date note under section 5101 of this title.

**§ 5614. Burden of proof in cases of seizure of spirits**

Whenever seizure is made of any distilled spirits found elsewhere than on the premises of a distilled spirits plant, or than in any warehouse authorized by law, or than in the store or place of business of a wholesale liquor dealer, or than in transit from any one of said places; or of any distilled spirits found in any one of the places aforesaid, or in transit therefrom, which have not been received into or sent out therefrom in conformity to law, or in regard to which any of the entries required by law, or regulations issued pursuant thereto, to be made in respect of such spirits, have not been made at the time or in the manner required, or in respect to which any owner or person having possession, control, or charge of said spirits, has omitted to do any act required to be done, or has done or committed any act prohibited in regard to said spirits, the burden of proof shall be upon the claimant of said spirits to show that no fraud has been committed, and that all the requirements of the law in relation to the payment of the tax have been complied with.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1405.)

**PRIOR PROVISIONS**

A prior section 5614, act Aug. 16, 1954, ch. 736, 68A Stat. 685, related to penalty and forfeiture for removal of spirits during prohibited hours, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5687 and 7301 of this title.

Provisions similar to those comprising this section were contained in prior section 5649, act Aug. 16, 1954, ch. 736, 68A Stat. 694, prior to the general revision of this chapter by Pub. L. 85-859.

**§ 5615. Property subject to forfeiture**

The following property shall be forfeited to the United States:

**(1) Unregistered still or distilling apparatus**

Every still or distilling apparatus not registered as required by section 5179, together with all personal property in the possession or custody or under the control of the person required by section 5179 to register the still or distilling apparatus, and found in the building or in any yard or inclosure connected with the building in which such still or distilling apparatus is set up; and

**(2) Distilling apparatus removed without notice or set up without notice**

Any still, boiler, or other vessel to be used for the purpose of distilling—

(A) which is removed without notice having been given when required by section 5101(a)(1), or

(B) which is set up without notice having been given when required by section 5101(a)(2); and

**(3) Distilling without giving bond or with intent to defraud**

Whenever any person carries on the business of a distiller without having given bond as required by law or gives any false, forged, or fraudulent bond; or engages in or carries on the business of a distiller with intent to defraud the United States of the tax on the distilled spirits distilled by him, or any part thereof; or after the time fixed in the notice declaring his intention to suspend work, filed under section 5221(a), carries on the business of a distiller on the premises covered by such notice, or has mash, wort, or beer on such premises, or on any premises connected therewith, or has in his possession or under his control any mash, wort, or beer, with intent to distill the same on such premises—

(A) all distilled spirits or wines, and all stills or other apparatus fit or intended to be used for the distillation or rectification of spirits, or for the compounding of liquors, owned by such person, wherever found; and

(B) all distilled spirits, wines, raw materials for the production of distilled spirits, and personal property found in the distillery or in any building, room, yard, or inclosure connected therewith and used with or constituting a part of the premises; and

(C) all the right, title, and interest of such person in the lot or tract of land on which the distillery is situated; and

(D) all the right, title, and interest in the lot or tract of land on which the distillery is located of every person who knowingly has suffered or permitted the business of a distiller to be there carried on, or has connived at the same; and

(E) all personal property owned by or in possession of any person who has permitted or suffered any building, yard, or inclosure, or any part thereof, to be used for purposes of ingress or egress to or from the distillery, which shall be found in any such building, yard, or inclosure; and

(F) all the right, title, and interest of every person in any premises used for ingress or egress to or from the distillery who knowingly has suffered or permitted such premises to be used for such ingress or egress; and

**(4) Unlawful production and removals from vinegar plants**

(A) all distilled spirits in excess of 15 percent of alcohol by volume produced on the premises of a vinegar plant; and

(B) all vinegar or other fluid or other material containing a greater proportion than 2 percent of proof spirits removed from any vinegar plant; and

**(5) False or omitted entries in records, returns, and reports**

Whenever any person required by section 5207 to keep or file any record, return, report, summary, transcript, or other document, shall, with intent to defraud the United States—

(A) fail to keep any such document or to make required entries therein; or

(B) make any false entry in such document; or

(C) cancel, alter, or obliterate any part of such document, or any entry therein, or destroy any part of such document, or entry therein; or

(D) hinder or obstruct any internal revenue officer from inspecting any such document or taking any abstracts therefrom; or

(E) fail or refuse to preserve or produce any such document, as required by this chapter or regulations issued pursuant thereto; or

(F) permit any of the acts described in the preceding subparagraphs to be performed;

all interest of such person in the distilled spirits plant where such acts or omissions occur, and in the equipment thereon, and in the lot or tract of land on which such distilled spirits plant stands, and in all personal property on the premises of the distilled spirits plant where such acts or omissions occur, used in the business there carried on; and

**(6) Unlawful removal of distilled spirits**

All distilled spirits on which the tax has not been paid or determined which have been removed, other than as authorized by law, from the place of manufacture, storage, or instrument of transportation; and

**(7) Creation of fictitious proof**

All distilled spirits on which the tax has not been paid or determined as provided by law to which any ingredient or substance has been added for the purpose of creating fictitious proof.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1405; amended Pub. L. 96-39, title VIII, §807(a)(56), July 26, 1979, 93 Stat. 289; Pub. L. 98-369, div. A, title IV, §451(b)(2), July 18, 1984, 98 Stat. 819.)

PRIOR PROVISIONS

A prior section 5615, act Aug. 16, 1954, ch. 736, 68A Stat. 686, related to penalty for refusal or neglect of distillers and rectifiers to give assistance to officers, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5203(e) and 5687 of this title.

Provisions similar to those comprising this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Present subsds.:</i>	<i>Prior sections</i>
(1) .....	5601.
(2) .....	5602.
(3) .....	5604, 5606, 5626, 5650.
(4) .....	5608(b).
(5) .....	5620.
(6) .....	5631, 5632, 5643, 5647.
(7) .....	5634.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 683 to 690, 692, 693, 695.

A prior section 5616, act Aug. 16, 1954, ch. 736, 68A Stat. 686, related to penalty for obstructing or refusing to admit officer to distillery premises, prior to the general revision of this chapter by Pub. L. 85-859. See section 5687 of this title.

A prior section 5617, act Aug. 16, 1954, ch. 736, 68A Stat. 686, related to penalty for failure to keep distillery accessible, prior to the general revision of this chapter by Pub. L. 85-859. See section 5687 of this title.

A prior section 5618, act Aug. 16, 1954, ch. 736, 68A Stat. 686, related to penalty for failure of distiller to identify fixed pipes, prior to the general revision of this chapter by Pub. L. 85-859. See section 5687 of this title.

A prior section 5619, act Aug. 16, 1954, ch. 736, 68A Stat. 686, related to penalty for refusal or neglect to draw off water and clean condensers or worm tanks, prior to the general revision of this chapter by Pub. L. 85-859. See section 5687 of this title.

A prior section 5620, act Aug. 16, 1954, ch. 736, 68A Stat. 686, related to penalty and forfeiture for false or omitted entries in distiller's books and records, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5603 and 5615(5) of this title.

A prior section 5621, act Aug. 16, 1954, ch. 736, 68A Stat. 687, related to penalty concerning records and returns of distiller as wholesale dealers, rectifiers, prior to the general revision of this chapter by Pub. L. 85-859. See section 5603 of this title.

A prior section 5622, act Aug. 16, 1954, ch. 736, 68A Stat. 687, related to disposal of forfeited equipment and material for distilling, prior to the general revision of this chapter by Pub. L. 85-859. See section 5610 of this title.

A prior section 5623, act Aug. 16, 1954, ch. 736, 68A Stat. 687, related to destruction of distilling apparatus, prior to the general revision of this chapter by Pub. L. 85-859. See section 5609 of this title.

A prior section 5624, act Aug. 16, 1954, ch. 736, 68A Stat. 688, related to release of distillery before judgment, prior to the general revision of this chapter by Pub. L. 85-859. See section 5611 of this title.

A prior section 5625, act Aug. 16, 1954, ch. 736, 68A Stat. 688, related to forfeiture of tax-paid distilled spirits remaining on distillery premises, prior to the general revision of this chapter by Pub. L. 85-859. See section 5612(a) of this title.

A prior section 5626, act Aug. 16, 1954, ch. 736, 68A Stat. 688, related to penalty and forfeiture for tax fraud by distiller, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5602 and 5615(3) of this title.

A prior section 5627, act Aug. 16, 1954, ch. 736, 68A Stat. 689, related to penalty for unlawful use of rectifying premises, prior to the general revision of this chapter by Pub. L. 85-859. See section 5687 of this title.

A prior section 5628, act Aug. 16, 1954, ch. 736, 68A Stat. 689, related to penalty for rectification without payment of tax, increasing volume, etc., prior to the general revision of this chapter by Pub. L. 85-859. See section 5601(a)(10) and 5687 of this title.

A prior section 5629, act Aug. 16, 1954, ch. 736, 68A Stat. 689, related to penalty for unlawful rectifying, prior to the general revision of this chapter by Pub. L. 85-859. See section 5601(a)(10), (11) of this title.

A prior section 5630, act Aug. 16, 1954, ch. 736, 68A Stat. 689, related to penalty for noncompliance by rectifiers with provisions relating to rectifying, gauging, branding, and stamping, prior to the general revision of this chapter by Pub. L. 85-859. See section 5687 of this title.

A prior section 5631, act Aug. 16, 1954, ch. 736, 68A Stat. 689, related to penalty and forfeiture for failure to comply with warehousing and removal requirements, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5601(a)(12), 5615(6), and 5687 of this title.

A prior section 5632, act Aug. 16, 1954, ch. 736, 68A Stat. 690, related to penalty or forfeiture for unlawful removal or concealment of spirits, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5601 and 5615 of this title.

A prior section 5633, act Aug. 16, 1954, ch. 736, 68A Stat. 690, related to penalty of officer in charge of warehouse for unlawful removal of spirits, prior to the general revision of this chapter by Pub. L. 85-859. See section 7214 of this title.

A prior section 5634, act Aug. 16, 1954, ch. 736, 68A Stat. 690, related to penalty and forfeiture for creation of fictitious proof, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5601 and 5615 of this title.

A prior section 5635, act Aug. 16, 1954, ch. 736, 68A Stat. 690, related to penalty for buying or selling used casks bearing inspection marks, prior to the general revision of this chapter by Pub. L. 85-859. See section 5604 of this title.

A prior section 5636, act Aug. 16, 1954, ch. 736, 68A Stat. 690, related to penalty and forfeiture for failure to efface, etc., stamps and brands on emptied packages, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5604 and 7301 of this title.

A prior section 5637, act Aug. 16, 1954, ch. 736, 68A Stat. 691, related to penalty for changing stamps or shifting spirits, prior to the general revision of this chapter by Pub. L. 85-859. See section 5604 of this title.

A prior section 5638, act Aug. 16, 1954, ch. 736, 68A Stat. 691, related to penalty and forfeiture for affixing imitation stamps on packages of distilled spirits, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5604, 5613, 7301, and 7302 of this title.

A prior section 5639, act Aug. 16, 1954, ch. 736, 68A Stat. 691, related to forfeiture of distilled spirits in unstamped casks or packages, prior to the general revision of this chapter by Pub. L. 85-859. See section 5613 of this title.

A prior section 5640, act Aug. 16, 1954, ch. 736, 68A Stat. 691, related to forfeiture of spirits in unstamped containers, prior to the general revision of this chapter by Pub. L. 85-859. See section 5613 of this title.

A prior section 5641, act Aug. 16, 1954, ch. 736, 68A Stat. 692, related to penalty and forfeiture relating to containers of distilled spirits, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5606, 5613, 7301, 7302, and 7321 to 7323 of this title.

A prior section 5642, act Aug. 16, 1954, ch. 736, 68A Stat. 692, related to penalties for transporting, possessing, etc., distilled spirits in unstamped containers or counterfeiting of stamps, etc., prior to the general revision of this chapter by Pub. L. 85-859. See section 5604 of this title.

A prior section 5643, act Aug. 16, 1954, ch. 736, 68A Stat. 692, related to penalty and forfeiture for reuse of stamps or bottles, tampering and unlawful removal, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5601, 5604, 5613, 5615, 5687, 7301 and 7302 of this title.

A prior section 5644, act Aug. 16, 1954, ch. 736, 68A Stat. 693, related to penalty for counterfeiting bottled in bond stamps, prior to the general revision of this chapter by Pub. L. 85-859. See section 5604 of this title.

A prior section 5645, act Aug. 16, 1954, ch. 736, 68A Stat. 693, related to penalty for unlawful affixing, canceling, or issue of stamps by officer, prior to the general revision of this chapter by Pub. L. 85-859. See section 7214 of this title.

A prior section 5646, act Aug. 16, 1954, ch. 736, 68A Stat. 693, related to penalty for evasion of distilled spirits tax, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5647, act Aug. 16, 1954, ch. 736, 68A Stat. 693, related to penalty and forfeiture for unlawful use or concealment of denatured alcohol, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5273, 5601, 5607, and 5615 of this title.

A prior section 5648, act Aug. 16, 1954, ch. 736, 68A Stat. 694, related to penalty and forfeiture for fraudulent claims for export drawback or unlawful relanding, prior to the general revision of this chapter by Pub. L. 85-859. See section 5608 of this title.

A prior section 5649, act Aug. 16, 1954, ch. 736, 68A Stat. 694, related to burden of proof in cases of seizure

of spirits, prior to the general revision of this chapter by Pub. L. 85-859. See section 5614 of this title.

A prior section 5650, act Aug. 16, 1954, ch. 736, 68A Stat. 695, related to penalty and forfeiture for operating distillery after giving notice of suspension, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5601 and 5615 of this title.

#### AMENDMENTS

1984—Par. (2). Pub. L. 98-369 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Any still, boiler, or other vessel to be used for the purpose of distilling which is removed without notice having been given as required by section 5105(a) or which is set up without permit first having been obtained as required by such section; and”.

1979—Par. (5). Pub. L. 96-39 substituted “distilled spirits plant” for “distillery, bonded warehouse, or rectifying or bottling establishment” in three places.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective on first day of first calendar month which begins more than 90 days after July 18, 1984, see section 456(a) of Pub. L. 98-369, set out as an Effective Date note under section 5101 of this title.

#### EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

### PART II—PENALTY AND FORFEITURE PROVISIONS APPLICABLE TO WINE AND WINE PRODUCTION

Sec.

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|-------|--|
| 5661. | Penalty and forfeiture for violation of laws and regulations relating to wine. |
| 5662. | Penalty for alteration of wine labels.   |
| 5663. | Cross reference.   |

#### PRIOR PROVISIONS

A prior part II consisted of sections 5661 to 5663 of this title, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1813.

### § 5661. Penalty and forfeiture for violation of laws and regulations relating to wine

#### (a) Fraudulent offenses

Whoever, with intent to defraud the United States, fails to pay any tax imposed upon wine or violates, or fails to comply with, any provision of subchapter F or subpart C of part I of subchapter A, or regulations issued pursuant thereto, or recovers or attempts to recover any spirits from wine, shall be fined not more than \$5,000, or imprisoned not more than 5 years, or both, for each such offense, and all products and materials used in any such violation shall be forfeited to the United States.

#### (b) Other offenses

Any proprietor of premises subject to the provisions of subchapter F, or any employee or agent of such proprietor, or any other person, who otherwise than with intent to defraud the United States violates or fails to comply with any provision of subchapter F or subpart C of part I of subchapter A, or regulations issued pursuant thereto, or who aids or abets in any such violation, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both, for each such offense.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1407.)

#### PRIOR PROVISIONS

A prior section 5661, act Aug. 16, 1954, ch. 736, 68A Stat. 695, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

Prior section 5661(a) also provided for an additional penalty “of double the tax due, to be assessed, levied and collected in the same manner as taxes are collected”. See section 6651 et seq. of this title.

#### EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

### § 5662. Penalty for alteration of wine labels

Any person who, without the permission of the Secretary, so alters as to materially change the meaning of any mark, brand, or label required to appear upon any wine upon its removal from premises subject to the provisions of subchapter F, or from customs custody, or who, after such removal, represents any wine, whether in its original containers or otherwise, to be of an identity or origin other than its proper identity or origin as shown by such stamp, mark, brand, or label, or who, directly or indirectly, and whether by manner of packaging or advertising or any other form of representation, represents any still wine to be an effervescent wine or a substitute for an effervescent wine, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both, for each such offense.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1407; amended Pub. L. 94-455, title XIX, §§1905(b)(2)(D), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1822, 1834.)

#### PRIOR PROVISIONS

A prior section 5662, act Aug. 16, 1954, ch. 736, 68A Stat. 695, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

#### AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” and “stamp,” before “mark,”.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(b)(2)(D) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

### § 5663. Cross reference

**For penalties of common application pertaining to liquors, including wines, see part IV.**

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1407; amended Pub. L. 96-39, title VIII, §807(a)(57), July 26, 1979, 93 Stat. 289.)

#### PRIOR PROVISIONS

A prior section 5663, act Aug. 16, 1954, ch. 736, 68A Stat. 695, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

#### AMENDMENTS

1979—Pub. L. 96-39 struck out reference to penalties for rectified products under part I of this subchapter.