

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-478 effective on first day of first month which begins more than 10 days after June 1, 1960, see section 5 of Pub. L. 86-478, June 1, 1960, 74 Stat. 150.

§ 5686. Penalty for having, possessing, or using liquor or property intended to be used in violating provisions of this chapter

(a) General

It shall be unlawful to have or possess any liquor or property intended for use in violating any provision of this chapter or regulations issued pursuant thereto, or which has been so used, and every person so having or possessing or using such liquor or property, shall be fined not more than \$5,000, or imprisoned not more than 1 year, or both.

(b) Cross reference

For seizure and forfeiture of liquor and property had, possessed, or used in violation of subsection (a), see section 7302.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1411.)

PRIOR PROVISIONS

A prior section 5686, act Aug. 16, 1954, ch. 736, 68A Stat. 700, consisted in subssecs. (b) and (c) of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

Prior section 5686(a) related to offenses as to operation of industrial alcohol or denaturing plants or unlawful withdrawal of taxable alcohol. See section 5687 of this title.

§ 5687. Penalty for offenses not specifically covered

Whoever violates any provision of this chapter or regulations issued pursuant thereto, for which a specific criminal penalty is not prescribed by this chapter, 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. 1412.)

PRIOR PROVISIONS

A prior section 5687, act Aug. 16, 1954, ch. 736, 68A Stat. 700, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

Prior section 5687 also related to forfeitures applicable to distillers, rectifiers, and wholesale liquor dealers for offenses not specifically covered. See sections 7301 and 7302 of this title.

Provisions similar to those comprising this section were contained in prior sections 5602, 5608(c), 5612 to 5619, 5627, 5628, 5630, 5631, 5643, 5684(a) and 5686(a), act Aug. 16, 1954, ch. 736, 68A Stat. 683, 685, 686, 689, 692, 693, 699, 700, prior to the general revision of this chapter by Pub. L. 85-859.

§ 5688. Disposition and release of seized property

(a) Forfeiture

(1) Delivery

All distilled spirits, wines, and beer forfeited, summarily or by order of court, under any law of the United States, shall be delivered to the Administrator of General Services to be disposed of as hereinafter provided.

(2) Disposal

The Administrator of General Services shall dispose of all distilled spirits, wines, and beer which have been delivered to him pursuant to paragraph (1)—

(A) by delivery to such Government agencies as, in his opinion, have a need for such distilled spirits, wines, or beer for medicinal, scientific, or mechanical purposes, or for any other official purpose for which appropriated funds may be expended by a Government agency; or

(B) by gifts to such eleemosynary institutions as, in his opinion, have a need for such distilled spirits, wines, or beer for medicinal purposes; or

(C) by destruction.

(3) Limitation on disposal

Except as otherwise provided by law, no distilled spirits, wines, or beer which have been seized under any law of the United States may be disposed of in any manner whatsoever except after forfeiture and as provided in this subsection.

(4) Regulations

The Administrator of General Services is authorized to make all rules and regulations necessary to carry out the provisions of this subsection.

(5) Remission or mitigation of forfeitures

Nothing in this section shall affect the authority of the Secretary, under the customs or internal revenue laws, to remit or mitigate the forfeiture, or alleged forfeiture, of such distilled spirits, wines, or beer, or the authority of the Secretary, to compromise any civil or criminal case in respect of such distilled spirits, wines, or beer prior to commencement of suit thereon, or the authority of the Secretary to compromise any claim under the customs laws in respect to such distilled spirits, wines, or beer.

(b) Distrain or judicial process

Except as provided in section 5243, all distilled spirits sold by order of court, or under process of distraint, shall be sold subject to tax; and the purchaser shall immediately, and before he takes possession of said spirits, pay the tax thereon, pursuant to the applicable provisions of this chapter and in accordance with regulations to be prescribed by the Secretary.

(c) Release of seized vessels or vehicles by courts

Notwithstanding any provisions of law relating to the return on bond of any vessel or vehicle seized for the violation of any law of the United States, the court having jurisdiction of the subject matter may, in its discretion and upon good cause shown by the United States, refuse to order such return of any such vessel or vehicle to the claimant thereof. As used in this subsection, the word "vessel" includes every description of watercraft used, or capable of being used, as a means of transportation in water or in water and air; and the word "vehicle" includes every animal and description of carriage or other contrivance used, or capable of being used, as a means of transportation on land or through the air.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1412; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5688, act Aug. 16, 1954, ch. 736, 68A Stat. 701, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Subsecs. (a)(5), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

[§ 5689. Repealed. Pub. L. 94-455, title XIX, § 1905(b)(2)(E)(i), Oct. 4, 1976, 90 Stat. 1822]

Section, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1413, provided for penalty and forfeiture for tampering with a stamp machine.

A prior section 5689, act Aug. 16, 1954, ch. 736, 68A Stat. 702, related to penalty and forfeiture for tampering with a stamp machine, prior to the general revision of this chapter by Pub. L. 85-859.

EFFECTIVE DATE OF REPEAL

Repeal 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 an Effective Date of 1976 Amendment note under section 5005 of this title.

§ 5690. Definition of the term “person”

The term “person”, as used in this subchapter, includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1413.)

PRIOR PROVISIONS

A prior section 5690, act Aug. 16, 1954, ch. 736, 68A Stat. 702, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

[PART V—REPEALED]

PRIOR PROVISIONS

A prior part V consisted of sections 5691 to 5693, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

[§ 5691. Repealed. Pub. L. 109-59, title XI, § 11125(b)(19)(A), Aug. 10, 2005, 119 Stat. 1956]

Section, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1413; amended Pub. L. 96-39, title VIII, §807(a)(60), July 26, 1979, 93 Stat. 290; Pub. L. 98-369, div. A, title IV, §451(b)(3), July 18, 1984, 98 Stat. 819; Pub. L. 100-203, title X, §10512(a)(1)(B)(i), (ii), Dec. 22, 1987, 101 Stat. 1330-447, 1330-448, related to penalties for nonpayment of special taxes.

PRIOR PROVISIONS

A prior section 5691, act Aug. 16, 1954, ch. 736, 68A Stat. 702, related to penalties for willful nonpayment of special taxes and forfeitures for nonpayment of special taxes relating to liquors, prior to the general revision of this chapter by Pub. L. 85-859.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 2008, but inapplicable to taxes imposed for periods before such date, see section 11125(c) of Pub. L. 109-59, set out as an Effective Date of 2005 Amendment note under section 5002 of this title.

[§ 5692. Repealed. Pub. L. 90-618, title II, § 206(a), Oct. 22, 1968, 82 Stat. 1235]

Section, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1413, set forth a cross reference to section 7273(a), relating to penalties for failure to post special tax stamps.

A prior section 5692, act Aug. 16, 1954, ch. 736, 68A Stat. 703, related to penalty relating to records of retail liquor dealers, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

A prior section 5693, act Aug. 16, 1954, ch. 736, 68A Stat. 703, consisted of provisions similar to those comprising section 5692, prior to the general revision of this chapter by Pub. L. 85-859.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 22, 1968, see section 207 of Pub. L. 90-618, set out as an Effective Date note under section 5801 of this title.

CHAPTER 52—TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Subchapter	Sec. ¹
A. Definitions; rate and payment of tax; exemption from tax; and refund and drawback of tax	5701
B. Qualification requirements for manufacturers and importers of tobacco products and cigarette papers and tubes, and export warehouse proprietors	5711
C. Operations by manufacturers and importers of tobacco products and cigarette papers and tubes and export warehouse proprietors	5721
D. Occupational tax	5731
E. Records of manufacturers and importers of tobacco products and cigarette papers and tubes, and export warehouse proprietors	5741
F. General provisions	5751
G. Penalties and forfeitures	5761

AMENDMENTS

1997—Pub. L. 105-33, title IX, §9302(g)(3)(C), (h)(2)(D), Aug. 5, 1997, 111 Stat. 673, 674, amended chapter heading generally, substituting “TOBACCO PRODUCTS” for “CIGARS, CIGARETTES, SMOKELESS TOBACCO, PIPE TOBACCO,” and inserted “and importers” after “manufacturers” in item for subchapter B.

1988—Pub. L. 100-647, title V, §5061(c)(3), Nov. 10, 1988, 102 Stat. 3680, inserted “PIPE TOBACCO,” after “SMOKELESS TOBACCO,” in chapter heading.

1987—Pub. L. 100-203, title X, §10512(f)(2), Dec. 22, 1987, 101 Stat. 1330-449, added item for subchapter D and redesignated items for former subchapters D, E, and F as E, F, and G, respectively.

1986—Pub. L. 99-272, title XIII, §13202(b)(1), Apr. 7, 1986, 100 Stat. 311, inserted “SMOKELESS TOBACCO,” after “CIGARETTES,” in chapter heading.

1976—Pub. L. 94-455, title XXI, §2128(d)(2), Oct. 4, 1976, 90 Stat. 1921, substituted “manufacturers and importers” for “manufacturers” in item for subchapter D.

1965—Pub. L. 89-44, title V, §502(b)(1), (2), June 21, 1965, 79 Stat. 150, struck out “TOBACCO,” from chapter heading, reference to dealers in tobacco materials from heading of subchapter B, heading of subchapter D and redesignated subchapters E, F and G as D, E and F respectively, and struck out in heading of subchapter D (as redesignated) a reference to dealers in tobacco materials.

1958—Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1414, substituted “manufacturers of tobacco products and cigarette papers and tubes, export warehouse

¹ Section numbers editorially supplied.