

be liable to the United States for a civil penalty of not to exceed \$5,000 for each violation. The Secretary shall notify the individual in writing of the amount of the civil penalty.

(2) DETERMINATION OF AMOUNT.—In determining the amount of the penalty, the Secretary shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(3) TREATMENT OF CIVIL PENALTY ASSESSMENT.—Assessment of a civil penalty under this subsection shall not be considered a conviction for purposes of State or Federal law but may be considered proof of possession if such a determination is relevant.

(Pub. L. 109-304, §10(2), Oct. 6, 2006, 120 Stat. 1688; Pub. L. 111-281, title III, §302, Oct. 15, 2010, 124 Stat. 2923.)

#### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
70506(a) .....	46 App.:1903(g).	Pub. L. 96-350, §3(g), (j), Sept. 15, 1980, 94 Stat. 1160; Pub. L. 99-570, title III, §3202, Oct. 27, 1986, 100 Stat. 3207-97; Pub. L. 99-640, §17, Nov. 10, 1986, 100 Stat. 3554; Pub. L. 101-647, title XII, §1203, Nov. 29, 1990, 104 Stat. 4830.
70506(b) .....	46 App.:1903(j).	

In subsection (b), the words “the commission of which was the object of the attempt or conspiracy” are omitted as unnecessary.

#### REFERENCES IN TEXT

The Controlled Substances Act, referred to in subsec. (c)(1), is title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, which is classified principally to subchapter I (§801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

#### AMENDMENTS

2010—Subsec. (c). Pub. L. 111-281 added subsec. (c).

### § 70507. Forfeitures

(a) IN GENERAL.—Property described in section 511(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)) that is used or intended for use to commit, or to facilitate the commission of, an offense under section 70503 of this title may be seized and forfeited in the same manner that similar property may be seized and forfeited under section 511 of that Act (21 U.S.C. 881).

(b) PRIMA FACIE EVIDENCE OF VIOLATION.—Practices commonly recognized as smuggling tactics may provide prima facie evidence of intent to use a vessel to commit, or to facilitate the commission of, an offense under section 70503 of this title, and may support seizure and forfeiture of the vessel, even in the absence of controlled substances aboard the vessel. The following indicia, among others, may be considered, in the totality of the circumstances, to be prima facie evidence that a vessel is intended to be used to commit, or to facilitate the commission of, such an offense:

(1) The construction or adaptation of the vessel in a manner that facilitates smuggling, including—

(A) the configuration of the vessel to ride low in the water or present a low hull profile to avoid being detected visually or by radar;

(B) the presence of any compartment or equipment that is built or fitted out for smuggling, not including items such as a safe or lock-box reasonably used for the storage of personal valuables;

(C) the presence of an auxiliary tank not installed in accordance with applicable law or installed in such a manner as to enhance the vessel's smuggling capability;

(D) the presence of engines that are excessively over-powered in relation to the design and size of the vessel;

(E) the presence of materials used to reduce or alter the heat or radar signature of the vessel and avoid detection;

(F) the presence of a camouflaging paint scheme, or of materials used to camouflage the vessel, to avoid detection; or

(G) the display of false vessel registration numbers, false indicia of vessel nationality, false vessel name, or false vessel homeport.

(2) The presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel.

(3) The presence of excessive fuel, lube oil, food, water, or spare parts, inconsistent with legitimate vessel operation, inconsistent with the construction or equipment of the vessel, or inconsistent with the character of the vessel's stated purpose.

(4) The operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation and in a manner of navigation consistent with smuggling tactics used to avoid detection by law enforcement authorities.

(5) The failure of the vessel to stop or respond or heave to when hailed by government authority, especially where the vessel conducts evasive maneuvering when hailed.

(6) The declaration to government authority of apparently false information about the vessel, crew, or voyage or the failure to identify the vessel by name or country of registration when requested to do so by government authority.

(7) The presence of controlled substance residue on the vessel, on an item aboard the vessel, or on an individual aboard the vessel, of a quantity or other nature that reasonably indicates manufacturing or distribution activity.

(8) The use of petroleum products or other substances on the vessel to foil the detection of controlled substance residue.

(9) The presence of a controlled substance in the water in the vicinity of the vessel, where given the currents, weather conditions, and course and speed of the vessel, the quantity or other nature is such that it reasonably indicates manufacturing or distribution activity.

(Pub. L. 109-304, §10(2), Oct. 6, 2006, 120 Stat. 1688.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
70507 .....	46 App.:1904.	Pub. L. 96-350, §4, Sept. 15, 1980, 94 Stat. 1160; Pub. L. 99-570, title III, §3202, Oct. 27, 1986, 100 Stat. 3207-97; Pub. L. 99-640, §17, Nov. 10, 1986, 100 Stat. 3554; Pub. L. 107-295, title IV, §418(b), Nov. 25, 2002, 116 Stat. 2123.

§ 70508. Operation of submersible vessel or semi-submersible vessel without nationality

(a) IN GENERAL.—An individual may not operate by any means or embark in any submersible vessel or semi-submersible vessel that is without nationality and that is navigating or has navigated into, through, or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country, with the intent to evade detection.

(b) EVIDENCE OF INTENT TO EVADE DETECTION.—In any civil enforcement proceeding for a violation of subsection (a), the presence of any of the indicia described in paragraph (1)(A), (E), (F), or (G), or in paragraph (4), (5), or (6), of section 70507(b) may be considered, in the totality of the circumstances, to be prima facie evidence of intent to evade detection.

(c) DEFENSES.—

(1) IN GENERAL.—It is a defense in any civil enforcement proceeding for a violation of subsection (a) that the submersible vessel or semi-submersible vessel involved was, at the time of the violation—

(A) a vessel of the United States or lawfully registered in a foreign nation as claimed by the master or individual in charge of the vessel when requested to make a claim by an officer of the United States authorized to enforce applicable provisions of United States law;

(B) classed by and designed in accordance with the rules of a classification society;

(C) lawfully operated in government-regulated or licensed activity, including commerce, research, or exploration; or

(D) equipped with and using an operable automatic identification system, vessel monitoring system, or long range identification and tracking system.

(2) PRODUCTION OF DOCUMENTS.—The defenses provided by this subsection are proved conclusively by the production of—

(A) government documents evidencing the vessel's nationality at the time of the offense, as provided in article 5 of the 1958 Convention on the High Seas;

(B) a certificate of classification issued by the vessel's classification society upon completion of relevant classification surveys and valid at the time of the offense; or

(C) government documents evidencing licensure, regulation, or registration for research or exploration.

(d) CIVIL PENALTY.—A person violating this section shall be liable to the United States for a civil penalty of not more than \$1,000,000.

(Added Pub. L. 110-407, title II, §202(a), Oct. 13, 2008, 122 Stat. 4299.)

Subtitle VIII—Miscellaneous

Chapter		Sec.
<b>801. Wrecks and Salvage .....</b>		<b>80101</b>
<b>803. Ice and Derelicts .....</b>		<b>80301</b>
<b>805. Safe Containers for International Cargo .....</b>		<b>80501</b>

CHAPTER 801—WRECKS AND SALVAGE

Sec.	
80101.	Vessel stranded on foreign coast.
[80102.	Repealed.]
80103.	Property on Florida coast to be taken to port of entry.
80104.	Salvaging operations by foreign vessels.
80105.	Canadian vessels aiding vessels in United States waters.
80106.	International agreement on derelicts.
80107.	Salvors of life to share in remuneration.

AMENDMENTS

2008—Pub. L. 110-375, §1(2), Oct. 8, 2008, 122 Stat. 4055, struck out item 80102 "License to salvage on Florida coast".

§ 80101. Vessel stranded on foreign coast

(a) DUTIES OF CONSULAR OFFICER.—When a vessel of the United States is stranded on a coast of a foreign country, the consular officer in that country shall take proper measures, to the extent the laws of that country allow, to—

(1) save and secure the vessel and property on the vessel; and

(2) prepare an inventory of the property that is saved.

(b) DELIVERY TO OWNER.—After deducting the expenses, the consular officer shall deliver the property, with an inventory, to the owner of the property.

(c) LIMITATION ON TAKING POSSESSION.—A consular officer may not take possession of property under this section when the owner, master, or consignee is present or able to take possession of the property.

(Pub. L. 109-304, §11, Oct. 6, 2006, 120 Stat. 1690.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
80101 .....	46 App.:721.	R.S. §4238.

In this section, the words "consular officer" are substituted for "Consuls and vice consuls" and "consul or vice consul" for consistency in the revised title.

Subsection (a)(1) is substituted for "as well for the purpose of saving the vessels, their cargoes and appurtenances, as for storing and securing the effects and merchandise saved" to eliminate unnecessary words.

[§ 80102. Repealed. Pub. L. 110-375, § 1(1), Oct. 8, 2008, 122 Stat. 4055]

Section, Pub. L. 109-304, §11, Oct. 6, 2006, 120 Stat. 1690, related to license to salvage on Florida coast.

§ 80103. Property on Florida coast to be taken to port of entry

(a) IN GENERAL.—Property taken from a wreck, the sea, or a key or shoal, on the coast of Florida and within the jurisdiction of the United States, shall be brought to a port of entry of the United States.