

ted, or in which the person was held in custody or confinement, or in which an avoidance of service of process or a contempt referred to in clause (3) of the first paragraph of this section is alleged to have been committed, and only upon formal approval in writing by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or an Assistant Attorney General of the United States, which function of approving prosecutions may not be delegated.

(June 25, 1948, ch. 645, 62 Stat. 755; Apr. 6, 1956, ch. 177, §1, 70 Stat. 100; Pub. L. 87-368, Oct. 4, 1961, 75 Stat. 795; Pub. L. 91-452, title III, §302, Oct. 15, 1970, 84 Stat. 932; Pub. L. 100-690, title VII, §7020(b), Nov. 18, 1988, 102 Stat. 4396; Pub. L. 103-322, title XXXIII, §§330004(19), 330016(1)(K), Sept. 13, 1994, 108 Stat. 2142, 2147; Pub. L. 104-294, title VI, §607(e), Oct. 11, 1996, 110 Stat. 3511.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §408e (May 18, 1934, ch. 302, 48 Stat. 782; Aug. 2, 1946, ch. 735, 60 Stat. 789).

Said section 408e was rewritten and the phrase "offenses as they are defined either at common law or by the laws of the place from which the fugitive flees" were inserted to remove the ambiguity discussed in the opinion of the Circuit Court of Appeals, Third Circuit, in *Brandenburg v. U.S.*, decided September 6, 1944, not yet reported [144 F2d 656], reversing the conviction of the appellant. The court held that Congress intended the enumerated offenses to mean those as defined at common law. The effect of the rewritten section is to make the statute applicable whether the offense committed is one defined at common law or by the law of the state from which the fugitive flees.

The words "offense punishable by imprisonment in a penitentiary" were substituted for "felony" to make the statute uniformly applicable and to include crimes of the grade of felony even where, as in New Jersey, they are denominated as misdemeanor, high misdemeanor or otherwise.

Words "from any State, Territory, or possession of the United States or the District of Columbia" were omitted in view of definitive section 10 of this title.

Words "upon conviction thereof" were deleted as surplusage since punishment cannot be imposed until a conviction is secured.

Minor changes were made in phraseology.

#### AMENDMENTS

1996—Pub. L. 104-294 inserted at end of first par. "For the purposes of clause (3) of this paragraph, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."

1994—Pub. L. 103-322, §330016(1)(K), substituted "fined under this title" for "fined not more than \$5,000".

Pub. L. 103-322, §330004(19), struck out "or which, in the case of New Jersey, is a high misdemeanor under the laws of said State," before "or (2) to avoid" and "or which in the case of New Jersey, is a high misdemeanor under the laws of said State," before "is charged, or (3)".

1988—Pub. L. 100-690 inserted "the Deputy Attorney General, the Associate Attorney General," after "the Attorney General".

1970—Pub. L. 91-452 inserted cl. (3) and "or in which an avoidance of service of process or a contempt referred to in clause (3) of the first paragraph of this section is alleged to have been committed," after "in custody or confinement".

1961—Pub. L. 87-368 substituted "a crime, or an attempt to commit a crime, punishable by death or which is a felony under the laws of the place from which the fugitive flees, or which, in the case of New Jersey, is a high misdemeanor under the laws of said State" for "murder, kidnaping, burglary, robbery, mayhem, rape,

assault with a dangerous weapon, arson punishable as a felony, or extortion accompanied by threats of violence, or attempt to commit any of the foregoing offenses as they are defined either at common law or by the laws of the place from which the fugitive flees", "death or which is a felony under the laws of such place, or which in the case of New Jersey, is a high misdemeanor under the laws of said State," for "imprisonment in a penitentiary", and required that prosecutions must be upon the formal written approval of the Attorney General or an Assistant Attorney General, which function may not be delegated.

1956—Act Apr. 6, 1956, inserted "arson punishable as a felony" after "assault with a dangerous weapon".

#### EFFECTIVE DATE OF 1956 AMENDMENT

Act Apr. 6, 1956, ch. 177, §2, 70 Stat. 100, provided that: "The amendment made by the first section of this Act [amending this section] shall take effect on the thirtieth day after the date of enactment of this Act [April 6, 1956]."

#### PARENTAL KIDNAPING AND INTERSTATE OR INTERNATIONAL FLIGHT TO AVOID PROSECUTION UNDER APPLICABLE STATE FELONY STATUTES

Pub. L. 96-611, §10, Dec. 28, 1980, 94 Stat. 3573, provided that:

"(a) In view of the findings of the Congress and the purposes of sections 6 to 10 of this Act set forth in section 302 [probably means section 7 of Pub. L. 96-611, set out as a note under section 1738A of Title 28, Judiciary and Judicial Procedure], the Congress hereby expressly declares its intent that section 1073 of title 18, United States Code, apply to cases involving parental kidnaping and interstate or international flight to avoid prosecution under applicable State felony statutes.

"(b) The Attorney General of the United States, not later than 120 days after the date of the enactment of this section [Dec. 28, 1980] (and once every 6 months during the 3-year period following such 120-day period), shall submit a report to the Congress with respect to steps taken to comply with the intent of the Congress set forth in subsection (a). Each such report shall include—

"(1) data relating to the number of applications for complaints under section 1073 of title 18, United States Code in cases involving parental kidnaping;

"(2) data relating to the number of complaints issued in such cases; and

"(3) such other information as may assist in describing the activities of the Department of Justice in conformance with such intent."

#### § 1074. Flight to avoid prosecution for damaging or destroying any building or other real or personal property

(a) Whoever moves or travels in interstate or foreign commerce with intent either (1) to avoid prosecution, or custody, or confinement after conviction, under the laws of the place from which he flees, for willfully attempting to or damaging or destroying by fire or explosive any building, structure, facility, vehicle, dwelling house, synagogue, church, religious center or educational institution, public or private, or (2) to avoid giving testimony in any criminal proceeding relating to any such offense shall be fined under this title or imprisoned not more than five years, or both.

(b) Violations of this section may be prosecuted in the Federal judicial district in which the original crime was alleged to have been committed or in which the person was held in custody or confinement: *Provided, however,* That this section shall not be construed as indicating an intent on the part of Congress to prevent any

State, Territory, Commonwealth, or possession of the United States of any jurisdiction over any offense over which they would have jurisdiction in the absence of such section.

(Added Pub. L. 86-449, title II, §201, May 6, 1960, 74 Stat. 86; amended Pub. L. 103-322, title XXXIII, §330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

#### AMENDMENTS

1994—Subsec. (a). Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$5,000”.

### CHAPTER 50—GAMBLING

Sec.	
1081.	Definitions.
1082.	Gambling ships.
1083.	Transportation between shore and ship; penalties.
1084.	Transmission of wagering information; penalties.

#### HISTORICAL AND REVISION NOTES

This section [section 23 of act May 24, 1949] inserts a new chapter 50 (secs. 1081-1083) in title 18, U.S.C., incorporating, with slight changes in phraseology, most of the provisions of act of April 27, 1948 (ch. 235, 62 Stat. 200), which was not incorporated in title 18 when the revision was enacted. Subsection (e) of section 1 of such act, defining “United States”, when used in a geographical sense, was omitted as covered by section 5 of such title 18. Section 4 of such act, which provided that nothing in such act “shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof, or to preclude action, otherwise valid, by any State or Territory with respect to the navigable waters within the boundaries of such State or Territory”, was omitted as surplusage and unnecessary.

#### AMENDMENTS

1961—Pub. L. 87-216, §3, Sept. 13, 1961, 75 Stat. 491, added item 1084.

1949—Act May 24, 1949, ch. 139, §23, 63 Stat. 92, added chapter 50 and items 1081 to 1083.

#### § 1081. Definitions

As used in this chapter:

The term “gambling ship” means a vessel used principally for the operation of one or more gambling establishments. Such term does not include a vessel with respect to gambling aboard such vessel beyond the territorial waters of the United States during a covered voyage (as defined in section 4472 of the Internal Revenue Code of 1986 as in effect on January 1, 1994).

The term “gambling establishment” means any common gaming or gambling establishment operated for the purpose of gaming or gambling, including accepting, recording, or registering bets, or carrying on a policy game or any other lottery, or playing any game of chance, for money or other thing of value.

The term “vessel” includes every kind of water and air craft or other contrivance used or capable of being used as a means of transportation on water, or on water and in the air, as well as any ship, boat, barge, or other water craft or any structure capable of floating on the water.

The term “American vessel” means any vessel documented or numbered under the laws of the United States; and includes any vessel which is

neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if such vessel is owned by, chartered to, or otherwise controlled by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State.

The term “wire communication facility” means any and all instrumentalities, personnel, and services (among other things, the receipt, forwarding, or delivery of communications) used or useful in the transmission of writings, signs, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission.

(Added May 24, 1949, ch. 139, §23, 63 Stat. 92; amended Pub. L. 87-216, §1, Sept. 13, 1961, 75 Stat. 491; Pub. L. 103-322, title XXXII, §320501, Sept. 13, 1994, 108 Stat. 2114.)

#### REFERENCES IN TEXT

Section 4472 of the Internal Revenue Code of 1986, referred to in text, is classified to section 4472 of Title 26, Internal Revenue Code.

#### AMENDMENTS

1994—Pub. L. 103-322, in definition of “gambling ship”, inserted at end “Such term does not include a vessel with respect to gambling aboard such vessel beyond the territorial waters of the United States during a covered voyage (as defined in section 4472 of the Internal Revenue Code of 1986 as in effect on January 1, 1994).”

1961—Pub. L. 87-216 inserted definition of “wire communication facility”.

#### § 1082. Gambling ships

(a) It shall be unlawful for any citizen or resident of the United States, or any other person who is on an American vessel or is otherwise under or within the jurisdiction of the United States, directly or indirectly—

(1) to set up, operate, or own or hold any interest in any gambling ship or any gambling establishment on any gambling ship; or

(2) in pursuance of the operation of any gambling establishment on any gambling ship, to conduct or deal any gambling game, or to conduct or operate any gambling device, or to induce, entice, solicit, or permit any person to bet or play at any such establishment,

if such gambling ship is on the high seas, or is an American vessel or otherwise under or within the jurisdiction of the United States, and is not within the jurisdiction of any State.

(b) Whoever violates the provisions of subsection (a) of this section shall be fined under this title or imprisoned not more than two years, or both.

(c) Whoever, being (1) the owner of an American vessel, or (2) the owner of any vessel under or within the jurisdiction of the United States, or (3) the owner of any vessel and being an American citizen, shall use, or knowingly permit the use of, such vessel in violation of any provision of this section shall, in addition to any other penalties provided by this chapter, forfeit such vessel, together with her tackle, apparel, and furniture, to the United States.

(Added May 24, 1949, ch. 139, §23, 63 Stat. 92; amended Pub. L. 103-322, title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)