

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector.

1935—Act Aug. 5, 1935, inserted “or document in lieu thereof” after “indicated in the register”.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-476, except as otherwise provided, applicable with respect to goods entered, or withdrawn from warehouse, for consumption, on or after the 15th day after Nov. 9, 2000, see section 1471 of Pub. L. 106-476, set out as a note under section 58c of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 1435. Repealed. Pub. L. 103-182, title VI, § 690(b)(2), Dec. 8, 1993, 107 Stat. 2223

Section, act June 17, 1930, ch. 497, title IV, § 435, 46 Stat. 711, set forth entry requirements for foreign vessels arriving within limits of any customs collection district.

§ 1435a. Transferred

CODIFICATION

Section, act May 4, 1934, ch. 212, 48 Stat. 663, was transferred to section 91a of former Title 46, Shipping, and subsequently repealed by Pub. L. 103-182, title VI, § 690(c)(7), Dec. 8, 1993, 107 Stat. 2223.

§ 1435b. Repealed. Pub. L. 103-182, title VI, § 690(c)(6), Dec. 8, 1993, 107 Stat. 2223

Section, acts June 16, 1937, ch. 362, 50 Stat. 303; 1946 Reorg. Plan No. 3, §§101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; June 2, 1970, Pub. L. 91-271, title III, § 320, 84 Stat. 293, related to clearance of vessels arriving on Sundays, holidays, or at night.

§ 1436. Penalties for violations of arrival, reporting, entry, and clearance requirements

(a) Unlawful acts

It is unlawful—

(1) to fail to comply with section 1431, 1433, or 1434 of this title or section 60105 of title 46;

(2) to present or transmit, electronically or otherwise, any forged, altered, or false document, paper, information, data or manifest to the Customs Service under section 1431, 1433(d), or 1434 of this title or section 60105 of title 46 without revealing the facts;

(3) to fail to make entry or to obtain clearance as required by section 1434 or 1644 of this title, section 60105 of title 46, or section 1644a(b)(1) or (c)(1) of this title; or

(4) to fail to comply with, or violate, any regulation prescribed under any section referred to in any of paragraphs (1) through (3).

(b) Civil penalty

Any master, person in charge of a vehicle, or aircraft pilot who commits any violation listed

in subsection (a) of this section is liable for a civil penalty of \$5,000 for the first violation, and \$10,000 for each subsequent violation, and any conveyance used in connection with any such violation is subject to seizure and forfeiture.

(c) Criminal penalty

In addition to being liable for a civil penalty under subsection (b) of this section, any master, person in charge of a vehicle, or aircraft pilot who intentionally commits any violation listed in subsection (a) of this section is, upon conviction, liable for a fine of not more than \$2,000 or imprisonment for 1 year, or both; except that if the conveyance has, or is discovered to have had, on board any merchandise (other than sea stores or the equivalent for conveyances other than vessels) the importation of which into the United States is prohibited, such individual is liable for an additional fine of not more than \$10,000 or imprisonment for not more than 5 years, or both.

(d) Additional civil penalty

If any merchandise (other than sea stores or the equivalent for conveyances other than a vessel) is imported or brought into the United States in or aboard a conveyance which was not properly reported or entered, the master, person in charge of a vehicle, or aircraft pilot shall be liable for a civil penalty equal to the value of the merchandise and the merchandise may be seized and forfeited unless properly entered by the importer or consignee. If the merchandise consists of any controlled substance listed in section 1584 of this title, the master, individual in charge of a vehicle, or pilot shall be liable to the penalties prescribed in that section.

(June 17, 1930, ch. 497, title IV, § 436, 46 Stat. 711; Aug. 5, 1935, ch. 438, title II, § 202, 49 Stat. 521; Pub. L. 99-570, title III, § 3113(a), Oct. 27, 1986, 100 Stat. 3207-81; Pub. L. 103-182, title VI, § 611, Dec. 8, 1993, 107 Stat. 2170; Pub. L. 104-295, § 21(e)(3), Oct. 11, 1996, 110 Stat. 3530.)

CODIFICATION

In subsec. (a)(1) to (3), “section 60105 of title 46” substituted for “section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)” on authority of Pub. L. 109-304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 60105 of Title 46, Shipping.

In subsec. (a)(3), “section 1644a(b)(1) or (c)(1) of this title” substituted for “section 1109 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1509)” on authority of Pub. L. 103-272, § 6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in R.S. § 2834, as amended by act Mar. 3, 1897, ch. 389, § 15, 29 Stat. 691, which was superseded by act Sept. 21, 1922, ch. 356, title IV, § 436, 42 Stat. 951, and was repealed by section 642 thereof. Section 436 of the 1922 act was superseded by section 436 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104-295 substituted “1431” for “1431(e)” and struck out “or” after semicolon at end.

1993—Pub. L. 103-182, § 611(2), substituted “entry, and clearance” for “and entry” in section catchline.

Subsec. (a)(1). Pub. L. 103-182, § 611(1)(A), substituted “section 1431, 1433, or 1434 of this title or section 91 of title 46, Appendix” for “section 1433 of this title”.

Subsec. (a)(2), (3). Pub. L. 103-182, § 611(1)(B), (C), amended pars. (2) and (3) generally. Prior to amendment, pars. (2) and (3) read as follows:

“(2) to present any forged, altered, or false document, paper, or manifest to a customs officer under section 1433(d) of this title without revealing the facts;

“(3) to fail to make entry as required by section 1434, 1435, or 1644 of this title or section 1509 of title 49, Appendix; or”.

1986—Pub. L. 99-570 amended section generally. Prior to amendment, section read as follows: “Every master who fails to make the report or entry provided for in sections 1433, 1434, or 1435 of this title shall, for each offense, be liable to a fine of not more than \$1,000 and, if the vessel have, or be discovered to have had, on board any merchandise (sea stores excepted), the importation of which into the United States is prohibited, or any spirits, wines, or other alcoholic liquors, such master shall be subject to an additional fine of not more than \$2,000 or to imprisonment for not more than one year, or to both such fine and imprisonment.

“Every master who presents a forged, altered, or false document or paper on making entry of a vessel as required by section 1434 or 1435 of this title, knowing the same to be forged, altered, or false and without revealing the fact, shall, in addition to any forfeiture to which in consequence the vessel may be subject, be liable to a fine of not more than \$5,000 nor less than \$50 or to imprisonment for not more than two years, or to both such fine and imprisonment.”

1935—Act Aug. 5, 1935, inserted provisions relating to additional penalty for vessel carrying nonimportable merchandise or liquor and added second par.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 1437. Repealed. Pub. L. 103-182, title VI, § 690(b)(3), Dec. 8, 1993, 107 Stat. 2223

Section, act June 17, 1930, ch. 497, title IV, § 437, 46 Stat. 711, provided for return of register or document to master or owner of vessel upon clearance.

§ 1438. Unlawful return of foreign vessel's papers

It shall not be lawful for any foreign consul to deliver to the master of any foreign vessel the register, or document in lieu thereof, deposited with him in accordance with the provisions of section 1434 of this title, or regulations issued thereunder, until such master shall produce to him a clearance in due form from the Customs Service in the port in which such vessel has entered. Any consul offending against the provisions of this section shall be liable to a fine of not more than \$5,000.

(June 17, 1930, ch. 497, title IV, § 438, 46 Stat. 712; Pub. L. 91-271, title III, § 301(b), June 2, 1970, 84 Stat. 287; Pub. L. 103-182, title VI, § 654, Dec. 8, 1993, 107 Stat. 2210.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 438, 42

Stat. 952. That section was superseded by section 438 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1993—Pub. L. 103-182 substituted “section 1434” for “section 1435”, inserted “, or regulations issued thereunder,” before “until such master”, and substituted “the Customs Service in the port in which such vessel has entered” for “the appropriate customs officer of the port where such vessel has been entered”.

1970—Pub. L. 91-271 substituted reference to appropriate customs officers for reference to collector.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§§ 1439, 1440. Repealed. Pub. L. 103-182, title VI, § 690(b)(4), (5), Dec. 8, 1993, 107 Stat. 2223

Section 1439, acts June 17, 1930, ch. 497, title IV, § 439, 46 Stat. 712; Aug. 8, 1953, ch. 397, § 2(b), 67 Stat. 507, required master of a vessel from a foreign port or place, immediately upon arrival, to mail or deliver to designated employee a copy of manifest and any corrections thereto.

Section 1440, acts June 17, 1930, ch. 497, title IV, § 440, 46 Stat. 712; Aug. 8, 1953, ch. 397, § 2(c), 67 Stat. 508, required master of a vessel to make post entry of any baggage or merchandise not included on manifest and to mail or deliver such entry to designated employee.

§ 1441. Exceptions to vessel entry and clearance requirements

The following vessels shall not be required to make entry under section 1434 of this title or to obtain clearance under section 60105 of title 46:

(1) Vessels of war and public vessels employed for the conveyance of letters and dispatches and not permitted by the laws of the nations to which they belong to be employed in the transportation of passengers or merchandise in trade.

(2) Passenger vessels making three trips or oftener a week between a port of the United States and a foreign port, or vessels used exclusively as ferryboats, carrying passengers, baggage, or merchandise: *Provided*, That the master of any such vessel shall be required to report such baggage and merchandise to the appropriate customs officer within twenty-four hours after arrival.

(3) Any vessel carrying passengers on excursion from the United States Virgin Islands to the British Virgin Islands and returning, if—

(A) the vessel does not in any way violate the customs or navigation laws of the United States;

(B) the vessel has not visited any hovering vessel; and

(C) the master of the vessel, if there is on board any article required by law to be en-