

“(2) Of the amount authorized to be appropriated under paragraph (1), not to exceed the following shall be available to carry out the purposes set forth in subsection (a)(3) of this section:

“(A) \$14,855,000 for fiscal year 1991.

“(B) \$15,598,000 for fiscal year 1992.”

was repealed by Pub. L. 101-508, §10012(a)(1). See Construction of 1990 Amendment note below.

Subsec. (f)(2). Pub. L. 101-508, §10012(a)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “There are authorized to be appropriated from the Fund not to exceed \$20,000,000 for each fiscal year to carry out the purposes set forth in subsections (a)(3) and (b) of this section for such fiscal year.”

1988—Pub. L. 100-690 amended section generally.

Subsec. (a)(iii). Pub. L. 100-418, §1912(2), substituted “private persons” for “private citizens”.

Subsec. (c). Pub. L. 100-418, §1912(1), substituted “described in subsection (a) of this section for which the fund is available to the United States Customs Service,” for “beginning on October 30, 1984, and ending on September 30, 1987.”

1987—Pub. L. 100-71 repealed Pub. L. 99-570, §1152(b)(2). See 1986 Amendment note below.

Subsec. (a)(5)(v), (vi). Pub. L. 100-202 added cls. (v) and (vi).

1986—Pub. L. 99-570, §1152(b)(2), which directed the repeal of this section, was itself repealed by Pub. L. 100-71. See Repeal and Revival of Section note below.

Subsec. (a). Pub. L. 99-570, §3142(a)(1)(A), (F), substituted “1991” for “1987” in introductory provisions and amended generally concluding provisions which had read as follows: “In addition to the purposes described in paragraphs (1) through (6), the fund shall be available for purchases by the United States Customs Service of evidence of (A) smuggling of controlled substances, and (B) violations of the currency and foreign transaction reporting requirements of chapter 53 of title 31 if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances.”

Subsec. (a)(1). Pub. L. 99-570, §3142(a)(1)(B), inserted “(including investigative costs leading to seizures)” after “of the seizure”.

Subsec. (a)(5), (6). Pub. L. 99-570, §3142(a)(1)(C)–(E), re-designated par. (6) as (5) and struck out former par. (5) which provided that the fund would be available with respect to seizures and forfeitures by the United States Customs Service for equipping for law enforcement functions of forfeited vessels, vehicles and aircraft retained as provided by law for official use by the Customs Service.

Subsec. (f). Pub. L. 99-570, §3142(a)(2), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows:

“(1) There are authorized to be appropriated from the fund for each of the four fiscal years beginning with fiscal year 1984, not more than \$10,000,000.

“(2) At the end of each of the first three of such four fiscal years, any amount in the fund in excess of \$10,000,000 shall be deposited in the general fund of the Treasury. At the end of the last of such four fiscal years, any amount in the fund shall be deposited in the general fund of the Treasury, and the fund shall cease to exist.”

#### EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title X, §10012(c), Nov. 5, 1990, 104 Stat. 1388-390, provided that: “The provisions of this section [amending this section] take effect August 21, 1990.”

#### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-570, title III, §3142(b), Oct. 27, 1986, 100 Stat. 3207-94, provided that: “The amendments made by subsection (a) [amending this section] shall take effect October 1, 1986.”

#### EFFECTIVE DATE

Section effective Oct. 15, 1984, see section 214(e) of Pub. L. 98-573, set out as an Effective Date of 1984 Amendment note under section 1304 of this title.

#### CONSTRUCTION OF 1990 AMENDMENT

Pub. L. 101-508, title X, §10012(a)(1), Nov. 5, 1990, 104 Stat. 1388-390, provided that: “Paragraph (5) of section 121 of the Customs and Trade Act of 1990 [Pub. L. 101-382] is repealed and subsection (f) of section 613A of the Tariff Act of 1930 [subsec. (f) of this section] shall be applied as if the amendment made by such paragraph (5) had not been enacted.”

#### REPEAL AND REVIVAL OF SECTION

Pub. L. 99-570, title I, §1152(b)(2), Oct. 27, 1986, 100 Stat. 3207-12, which had directed the repeal of this section, was repealed by section 101 of Pub. L. 100-71, which also provided in part that section 1152(b) of Pub. L. 99-570 be treated as though it had never been enacted.

#### 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.

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 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.

#### § 1614. Release of seized property

If any person claiming an interest in any vessel, vehicle, aircraft, merchandise, or baggage seized under the provisions of this chapter offers to pay the value of such vessel, vehicle, aircraft, merchandise, or baggage, as determined under section 1606 of this title, and it appears that such person has in fact a substantial interest therein, the appropriate customs officer may, subject to the approval of the Secretary of the Treasury if under the customs laws, or the Commandant of the Coast Guard or the Commissioner of Customs, as the case may be, if under the navigation laws, accept such offer and release the vessel, vehicle, aircraft, merchandise, or baggage seized upon the payment of such value thereof, which shall be distributed in the order provided in section 1613 of this title.

(June 17, 1930, ch. 497, title IV, §614, 46 Stat. 757; 1946 Reorg. Plan No. 3, §§101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Pub. L. 91-271, title III, §301(b), June 2, 1970, 84 Stat. 287; Pub. L. 98-473, title II, §321, Oct. 12, 1984, 98 Stat. 2056; Pub. L. 98-573, title II, §213(a)(12), Oct. 30, 1984, 98 Stat. 2987.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §614, 42 Stat. 987. That section was superseded by section 614 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

A prior provision authorizing collectors, subject to the approval of the Secretary of the Treasury, to release seized merchandise on payment of the appraised value when the appraised value did not exceed \$1,000,

were contained in R.S. §3081, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

#### AMENDMENTS

1984—Pub. L. 98-573 and Pub. L. 98-473 inserted reference to aircraft in three places.

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

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 effective Oct. 15, 1984, see section 214(e) of Pub. L. 98-573, set out as a note under section 1304 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 authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, set out as a note under section 542 of Title 6.

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, set out as a note under section 542 of Title 6.

Substitution in text of reference to Commandant of the Coast Guard or Commissioner of Customs for “the Secretary of Commerce” under the authority of Reorg. Plan No. 3 of 1946, see Transfer of Functions note set out under section 1613 of this title.

### § 1615. Burden of proof in forfeiture proceedings

In all suits or actions (other than those arising under section 1592 of this title) brought for the forfeiture of any vessel, vehicle, aircraft, merchandise, or baggage seized under the provisions of any law relating to the collection of duties on imports or tonnage, where the property is claimed by any person, the burden of proof shall lie upon such claimant; and in all suits or actions brought for the recovery of the value of any vessel, vehicle, aircraft, merchandise, or baggage, because of violation of any such law, the burden of proof shall be upon the defendant: *Provided*, That probable cause shall be first shown for the institution of such suit or action, to be judged of by the court, subject to the following rules of proof:

(1) The testimony or deposition of the officer of the customs who has boarded or required to come to a stop or seized a vessel, vehicle, or aircraft, or has arrested a person, shall be prima facie evidence of the place where the act in question occurred.

(2) Marks, labels, brands, or stamps, indicative of foreign origin, upon or accompanying merchandise<sup>1</sup> or containers of merchandise, shall be prima facie evidence of the foreign origin of such merchandise.

(3) The fact that a vessel of any description is found, or discovered to have been, in the vi-

cinity of any hovering vessel and under any circumstances indicating contact or communication therewith, whether by proceeding to or from such vessel, or by coming to in the vicinity of such vessel, or by delivering to or receiving from such vessel any merchandise, person, or communication, or by any other means effecting contact or communication therewith, shall be prima facie evidence that the vessel in question has visited such hovering vessel.

(June 17, 1930, ch. 497, title IV, §615, 46 Stat. 757; Aug. 5, 1935, ch. 438, title II, §207, 49 Stat. 525; Pub. L. 95-410, title I, §110(d), Oct. 3, 1978, 92 Stat. 896; Pub. L. 98-473, title II, §321, Oct. 12, 1984, 98 Stat. 2056; Pub. L. 98-573, title II, §213(a)(13), Oct. 30, 1984, 98 Stat. 2987.)

#### PRIOR PROVISIONS

Provisions somewhat similar to those in this section were contained in act Oct. 3, 1913, ch. 16, §III, T, 38 Stat. 189, the provisions of which were originally enacted in the Customs Administrative Act of June 10, 1890, ch. 407, §21, 26 Stat. 140, and reenacted by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, §28, 36 Stat. 101, and amended by the 1913 act. Section III of the 1913 act was superseded by act Sept. 21, 1922, ch. 356, title IV, §615, 42 Stat. 987, and was repealed by section 643 thereof. Section 615 of the 1922 act was superseded by section 615 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

#### AMENDMENTS

1984—Pub. L. 98-573 and Pub. L. 98-473 inserted reference to aircraft in provisions preceding par. (1) and in par. (1).

1978—Pub. L. 95-410 inserted “(other than those arising under section 1592 of this title)” after “In all suits or actions”.

1935—Act Aug. 5, 1935, inserted a comma in place of a period at the end, inserted “subject to the following rules of proof”, and added subs. (1) to (3).

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 effective Oct. 15, 1984, see section 214(e) of Pub. L. 98-573, set out as a note under section 1304 of this title.

### § 1616. Repealed. Pub. L. 99-570, title I, § 1863(b), Oct. 27, 1986, 100 Stat. 3207-54

Section, act June 17, 1930, ch. 497, title IV, §616, as added Oct. 12, 1984, Pub. L. 98-473, title II, §318, 98 Stat. 2055, related to disposition of forfeited property.

Another section 616 of act June 17, 1930, as added by Pub. L. 98-573, title II, §213(a)(4), Oct. 30, 1984, 98 Stat. 2987, is classified to section 1616a of this title.

A prior section 616 of act June 17, 1930, ch. 497, title IV, 46 Stat. 757, related to prohibition against compromising Government claims and was classified to this section, prior to repeal by act June 25, 1948, ch. 645, §24, 62 Stat. 682, eff. Sept. 1, 1948. See section 1915 of Title 18, Crimes and Criminal Procedure.

### § 1616a. Disposition of forfeited property

#### (a) State proceedings

The Secretary of the Treasury may discontinue forfeiture proceedings under this chapter in favor of forfeiture under State law. If a complaint for forfeiture is filed under this chapter, the Attorney General may seek dismissal of the complaint in favor of forfeiture under State law.

#### (b) Transfer of seized property; notice

If forfeiture proceedings are discontinued or dismissed under this section—

<sup>1</sup> So in original. Probably should be “merchandise”.