

or to any Indian who is a ward of the Government under charge of any Indian superintendent, or to any Indian, including mixed bloods, over whom the Government, through its departments, exercises guardianship, and whoever introduces or attempts to introduce any malt, spirituous, or vinous liquor, including beer, ale, and wine, or any ardent or intoxicating liquor of any kind whatsoever into the Indian country, shall, for the first offense, be fined under this title or imprisoned not more than one year, or both; and, for each subsequent offense, be fined under this title or imprisoned not more than five years, or both.

(b) It shall be a sufficient defense to any charge of introducing or attempting to introduce ardent spirits, ale, beer, wine, or intoxicating liquors into the Indian country that the acts charged were done under authority, in writing, from the Department of the Army or any officer duly authorized thereunto by the Department of the Army, but this subsection shall not bar the prosecution of any officer, soldier, sutler or storekeeper, attaché, or employee of the Army of the United States who barter, donates, or furnishes in any manner whatsoever liquors, beer, or any intoxicating beverage whatsoever to any Indian.

(c) The term "Indian country" as used in this section does not include fee-patented lands in non-Indian communities or rights-of-way through Indian reservations, and this section does not apply to such lands or rights-of-way in the absence of a treaty or statute extending the Indian liquor laws thereto.

(June 25, 1948, ch. 645, 62 Stat. 758; May 24, 1949, ch. 139, §27, 63 Stat. 94; Pub. L. 103-322, title XXXIII, §330016(1)(G), (I), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on sections 241, 242, 244a, 249, 254 of title 25, U.S.C., 1940 ed., Indians (R.S. §2139; Feb. 27, 1877, ch. 69, §1, 19 Stat. 244; July 4, 1884, ch. 180, §1, 23 Stat. 94; July 23, 1892, ch. 234, 27 Stat. 260; Mar. 2, 1917, ch. 146, §17, 39 Stat. 983; June 13, 1932, ch. 245, 47 Stat. 302; Mar. 5, 1934, ch. 43, 48 Stat. 396; June 27, 1934, ch. 846, 48 Stat. 1245; June 15, 1938, ch. 435, §1, 52 Stat. 696).

Section consolidates sections 241, 242, 244a, and 249 of title 25, U.S.C., 1940 ed., Indians. The portion of section 241 of said title which defined the substantive offense became subsection (a); the portion relating to the scope of the term "Indian country" was omitted as unnecessary in view of definition of "Indian country" in section 1151 of this title; the portion of section 241 of said title excepting liquors introduced by the War Department became subsection (c), as limited by section 249 of said title; the portion respecting making complaint in county of offense, and with reference to arraignment, was omitted as covered by rule 5 of the Federal Rules of Criminal Procedure; and the remainder of section 241 of said title was incorporated in section 1156 of this title.

Section 254 of title 25, U.S.C., 1940 ed., Indians, was omitted as covered by this section and section 1156 of this title. That section was enacted in 1934 and excluded from the Indian liquor laws lands outside reservations where the land was no longer held by Indians under a trust patent or a deed or patent containing restrictions against alienation. Such enactment was prior to the June 15, 1938, amendment of section 241 of title 25, U.S.C., 1940 ed., Indians, in which the term "Indian country" was defined as including allotments

where the title was held in trust by the Government or where it was inalienable without the consent of the United States. This provision, by implication, excluded cases where there was no trust or restriction on alienation and thereby achieved the same result as section 254 of title 25, U.S.C., 1940 ed., Indians. That amendment also repealed the act of Jan. 30, 1897, referred to in section 254 of title 25, U.S.C., 1940 ed., Indians. Insofar as the reference in section 254 of said title to "special Indian liquor laws" included section 244 of title 25, U.S.C., 1940 ed., Indians, the definition of Indian country in section 1151 of this title covers section 254 of title 25, U.S.C., 1940 ed., Indians.

Words "or agent" were deleted as there have been no Indian agents since 1908. See section 64 of title 25, U.S.C., 1940 ed., Indians, and note thereunder.

Mandatory punishment provisions were rephrased in the alternative and provision for commitment for non-payment of fine was deleted. This change was also recommended by United States District Judge T. Blake Kennedy on the ground that, otherwise, section would be practically meaningless since, in most cases, offenders cannot pay a fine.

The exception of intoxicating liquor for scientific, sacramental, medicinal or mechanical purposes was inserted for the same reason that makes this exception appropriate to section 1262 of this title.

Minor changes were made in phraseology.

1949 ACT

Subsection (a) of this section [section 27(a)] substitutes "Department of the Army" for "War Department", in subsection (b) of section 1154 of title 18, U.S.C., to conform to such redesignation by act July 26, 1947 (ch. 343, title 11, §205(a), 61 Stat. 501 (5 U.S.C., 1946 ed., §181-1)). Subsection (b) of this section [section 27(b)] adds subsection (c) to such section 1154 in order to conform it and section 1156 more closely to the laws relating to intoxicating liquor in the Indian country as they have heretofore been construed.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$500" after "first offense, be" and for "fined not more than \$2,000" after "subsequent offense, be".

1949—Subsec. (b). Act May 24, 1949, §27(a), substituted "Department of the Army" for "War Department".

Subsec. (c). Act May 24, 1949, §27(b), added subsec. (c).

TRANSFER OF FUNCTIONS

Functions of all other officers of Department of the Interior and functions of all agencies and employees of such Department, with two exceptions, transferred to Secretary of the Interior, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1155. Intoxicants dispensed on school site

Whoever, on any tract of land in the former Indian country upon which is located any Indian school maintained by or under the supervision of the United States, manufactures, sells, gives away, or in any manner, or by any means furnishes to anyone, either for himself or another, any vinous, malt, or fermented liquors, or any other intoxicating drinks of any kind whatsoever, except for scientific, sacramental, medicinal or mechanical purposes, whether medicated or not, or who carries, or in any manner has carried, into such area any such liquors or drinks, or who shall be interested in such manufacture, sale, giving away, furnishing to anyone, or carrying into such area any of such liquors or

drinks, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 758; Pub. L. 103-322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on sections 241a, 244a, of title 25, U.S.C., 1940 ed., Indians (Mar. 1, 1895, ch. 145, § 8, 28 Stat. 697; Mar. 5, 1934, ch. 43, 48 Stat. 396.)

Section consolidates sections 241a and 244a of title 25, U.S.C., 1940 ed., Indians. The effect of section 244a of said title in repealing section 241a of said title, except as to lands upon which Indian schools are maintained, was to continue prohibiting the dispensing of liquor in such areas.

The words "upon conviction thereof" were omitted as unnecessary, since punishment cannot be imposed until a conviction is secured.

The minimum punishment provision was omitted to conform to the policy adopted in revision of the 1909 Criminal Code.

Mandatory punishment provision was rephrased in the alternative.

The exception of intoxicating liquor for scientific, sacramental, medicinal or mechanical purposes was inserted for the same reason that makes this exception appropriate to section 1262 of this title.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$500".

§ 1156. Intoxicants possessed unlawfully

Whoever, except for scientific, sacramental, medicinal or mechanical purposes, possesses intoxicating liquors in the Indian country or where the introduction is prohibited by treaty or an Act of Congress, shall, for the first offense, be fined under this title or imprisoned not more than one year, or both; and, for each subsequent offense, be fined under this title or imprisoned not more than five years, or both.

The term "Indian country" as used in this section does not include fee-patented lands in non-Indian communities or rights-of-way through Indian reservations, and this section does not apply to such lands or rights-of-way in the absence of a treaty or statute extending the Indian liquor laws thereto.

(June 25, 1948, ch. 645, 62 Stat. 759; May 24, 1949, ch. 139, § 28, 63 Stat. 94; Pub. L. 103-322, title XXXIII, § 330016(1)(G), (I), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on sections 241, 244, 244a, 254 of title 25, U.S.C., 1940 ed., Indians (R.S. 2139; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 244; July 23, 1892, ch. 234, 27 Stat. 260; May 25, 1918, ch. 86, § 1, 40 Stat. 563; June 30, 1919, ch. 4, § 1, 41 Stat. 4; Mar. 5, 1934, ch. 43, 48 Stat. 396; June 27, 1934, ch. 846, 48 Stat. 1245; June 15, 1938, ch. 435, § 1, 52 Stat. 696).

The revision of section 244 of title 25, U.S.C., 1940 ed., Indians, conforms with the effect thereon of sections 241, 244a, and 254 of said title.

The provisions relating to scope of term "Indian country" were omitted as unnecessary in view of definition of "Indian country" in section 1151 of this title.

Mandatory punishment provisions were rephrased in the alternative and provision for commitment for non-payment of fine was deleted. Such change was also recommended by United States District Judge T. Blake

Kennedy. (See reviser's note under section 1154 of this title.)

The exception of intoxicating liquor for scientific, sacramental, medicinal or mechanical purposes was inserted for the same reason that makes this exception appropriate to section 1262 of this title.

Minor changes were made in phraseology.

1949 ACT

This section [section 28] adds to section 1156 of title 18, U.S.C., a paragraph to conform this section and section 1154 of such title more closely to the laws relating to intoxicating liquors in the Indian country as they have been heretofore construed.

AMENDMENTS

1994—Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$500" after "first offense, be" and for "fined not more than \$2,000" after "subsequent offense, be" in first par.

1949—Act May 24, 1949, inserted last par.

§ 1157. Repealed. Pub. L. 85-86, July 10, 1957, 71 Stat. 277]

Section, acts June 25, 1948, ch. 645, 62 Stat. 759; May 24, 1949, ch. 139, § 29, 63 Stat. 94; Aug. 15, 1953, ch. 506, § 2(a), 67 Stat. 590, prohibited purchase of Indian-owned livestock subject to unpaid loans from Federal revolving fund or from tribal loan funds.

§ 1158. Counterfeiting Indian Arts and Crafts Board trade mark

Whoever counterfeits or colorably imitates any Government trade mark used or devised by the Indian Arts and Crafts Board in the Department of the Interior as provided in section 305a of Title 25, or, except as authorized by the Board, affixes any such Government trade mark, or knowingly, willfully, and corruptly affixes any reproduction, counterfeit, copy, or colorable imitation thereof upon any products, or to any labels, signs, prints, packages, wrappers, or receptacles intended to be used upon or in connection with the sale of such products; or

Whoever knowingly makes any false statement for the purpose of obtaining the use of any such Government trade mark—

Shall (1) in the case of a first violation, if an individual, be fined under this title or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than \$1,000,000; and (2) in the case of subsequent violations, if an individual, be fined not more than \$1,000,000 or imprisoned not more than fifteen years, or both, and, if a person other than an individual, be fined not more than \$5,000,000; and (3) shall be enjoined from further carrying on the act or acts complained of.

(June 25, 1948, ch. 645, 62 Stat. 759; Pub. L. 101-644, title I, § 106, Nov. 29, 1990, 104 Stat. 4665; Pub. L. 103-322, title XXXIII, § 330016(1)(U), Sept. 13, 1994, 108 Stat. 2148.)

HISTORICAL AND REVISION NOTES

Based on section 305d of title 25, U.S.C., 1940 ed., Indians (Aug. 27, 1935, ch. 748, § 5, 49 Stat. 892).

The reference to the offense as a misdemeanor was omitted as unnecessary in view of the definition of misdemeanor in section 1 of this title.

The words "upon conviction thereof" were omitted as unnecessary, since punishment cannot be imposed until a conviction is secured.

Maximum fine was changed from \$2,000 to \$500 to bring the offense within the category of petty offenses