

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

defined by section 1 of this title. (See reviser's note under section 1157 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 \$250,000” in third par.

1990—Pub. L. 101-644, in third par., added cls. (1) and (2), struck out “be fined not more than \$500 or imprisoned not more than six months, or both; and” after “Shall”, and designated remaining provision at end as cl. (3).

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.

§ 1159. Misrepresentation of Indian produced goods and products

(a) It is unlawful to offer or display for sale or sell any good, with or without a Government trademark, in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or Indian arts and crafts organization, resident within the United States.

(b) PENALTY.—Any person that knowingly violates subsection (a) shall—

(1) in the case of a first violation by that person—

(A) if the applicable goods are offered or displayed for sale at a total price of \$1,000 or more, or if the applicable goods are sold for a total price of \$1,000 or more—

(i) in the case of an individual, be fined not more than \$250,000, imprisoned for not more than 5 years, or both; and

(ii) in the case of a person other than an individual, be fined not more than \$1,000,000; and

(B) if the applicable goods are offered or displayed for sale at a total price of less than \$1,000, or if the applicable goods are sold for a total price of less than \$1,000—

(i) in the case of an individual, be fined not more than \$25,000, imprisoned for not more than 1 year, or both; and

(ii) in the case of a person other than an individual, be fined not more than \$100,000; and

(2) in the case of a subsequent violation by that person, regardless of the amount for which any good is offered or displayed for sale or sold—

(A) in the case of an individual, be fined under this title, imprisoned for not more than 15 years, or both; and

(B) in the case of a person other than an individual, be fined not more than \$5,000,000.

(c) As used in this section—

(1) the term “Indian” means any individual who is a member of an Indian tribe, or for the purposes of this section is certified as an Indian artisan by an Indian tribe;

(2) the terms “Indian product” and “product of a particular Indian tribe or Indian arts and crafts organization” has the meaning given such term in regulations which may be promulgated by the Secretary of the Interior;

(3) the term “Indian tribe”—

(A) has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b); and

(B) includes, for purposes of this section only, an Indian group that has been formally recognized as an Indian tribe by—

(i) a State legislature;

(ii) a State commission; or

(iii) another similar organization vested with State legislative tribal recognition authority; and

(4) the term “Indian arts and crafts organization” means any legally established arts and crafts marketing organization composed of members of Indian tribes.

(d) In the event that any provision of this section is held invalid, it is the intent of Congress that the remaining provisions of this section shall continue in full force and effect.

(June 25, 1948, ch. 645, 62 Stat. 759; Pub. L. 101-644, title I, §104(a), Nov. 29, 1990, 104 Stat. 4663; Pub. L. 111-211, title I, §103, July 29, 2010, 124 Stat. 2260.)

HISTORICAL AND REVISION NOTES

Based on section 305e of title 25, U.S.C., 1940 ed., Indians (Aug. 27, 1935, ch. 748, §6, 49 Stat. 893).

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 last paragraph of section 305e of title 25, U.S.C., 1940 ed., relating to duty of district attorney to prosecute violations of such section, will be incorporated in title 28, U.S. Code.

Maximum fine of \$2,000 was changed to \$500 to bring the offense within the category of petty offenses defined by section 1 of this title. (See reviser's note under section 1157 of this title.)

Minor changes were made in phraseology.

AMENDMENTS

2010—Subsec. (b). Pub. L. 111-211, §103(1), added subsec. (b) and struck out former subsec. (b) which read as follows: “Whoever knowingly violates subsection (a) shall—

“(1) in the case of a first violation, if an individual, be fined not more than \$250,000 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.”

Subsec. (c)(3). Pub. L. 111-211, §103(2), added par. (3) and struck out former par. (3) which read as follows: “the term ‘Indian tribe’ means—

“(A) any Indian tribe, band, nation, Alaska Native village, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

“(B) any Indian group that has been formally recognized as an Indian tribe by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority; and”.