

relief and damages equal to the amount of unpaid taxes on tobacco products mailed in violation of this section to addressees in that State, locality, or tribal land.

(2) **SOVEREIGN IMMUNITY.**—Nothing in this subsection shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government or Indian tribe against any unconsented lawsuit under paragraph (1), or otherwise to restrict, expand, or modify any sovereign immunity of a State or local government or Indian tribe.

(3) **ATTORNEY GENERAL REFERRAL.**—A State, through its attorney general, or a local government or Indian tribe that levies an excise tax on tobacco products, through its chief law enforcement officer, may provide evidence of a violation of this section for commercial purposes by any person not subject to State, local, or tribal government enforcement actions for violations of this section to the Attorney General of the United States, who shall take appropriate actions to enforce this section.

(4) **NONEXCLUSIVITY OF REMEDIES.**—The remedies available under this subsection are in addition to any other remedies available under Federal, State, local, tribal, or other law. Nothing in this subsection shall be construed to expand, restrict, or otherwise modify any right of an authorized State, local, or tribal government official to proceed in a State, tribal, or other appropriate court, or take other enforcement actions, on the basis of an alleged violation of State, local, tribal, or other law.

(5) **OTHER ENFORCEMENT ACTIONS.**—Nothing in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of the State.

(i) **DEFINITION.**—In this section, the term “State” has the meaning given that term in section 1716(k).

(Added Pub. L. 111-154, §3(a), Mar. 31, 2010, 124 Stat. 1103.)

#### REFERENCES IN TEXT

Section 1 of the Act of October 19, 1949, commonly referred to as the Jenkins Act, referred to in subsec. (a)(1), is classified to section 375 of Title 15, Commerce and Trade.

Section 2A(e) of the Jenkins Act, referred to in subsec. (a)(2)(B), is classified to section 376a of Title 15, Commerce and Trade.

The Internal Revenue Code of 1986, referred to in subsec. (b)(1), (5)(A)(i), is classified generally to Title 26, Internal Revenue Code.

The date of enactment of the Prevent All Cigarette Trafficking Act of 2009, referred to in subsec. (b)(3)(B)(i), (4)(B)(i), (5)(C)(i), is the date of enactment of Pub. L. 111-154, which was approved Mar. 31, 2010.

Section 3(d) of the Prevent All Cigarette Trafficking Act of 2009, referred to in subsec. (b)(3)(B)(ii)(V), is unidentifiable because section 3 of that Act, Pub. L. 111-154, Mar. 31, 2010, 124 Stat. 1103, does not contain a subsec. (d).

#### EFFECTIVE DATE

Section effective on the date that is 90 days after March 31, 2010, see section 6 of Pub. L. 111-154, set out as an Effective Date of 2010 Amendment note under section 375 of Title 15, Commerce and Trade.

### § 1717. Letters and writings as nonmailable

(a) Every letter, writing, circular, postal card, picture, print, engraving, photograph, newspaper, pamphlet, book, or other publication, matter or thing, in violation of sections 499, 506, 793, 794, 915, 954, 956, 957, 960, 964, 1017, 1542, 1543, 1544 or 2388 of this title or which contains any matter advocating or urging treason, insurrection, or forcible resistance to any law of the United States is nonmailable and shall not be conveyed in the mails or delivered from any post office or by any letter carrier.

(b) Whoever uses or attempts to use the mails or Postal Service for the transmission of any matter declared by this section to be nonmailable, shall be fined under this title or imprisoned not more than ten years or both.

(June 25, 1948, ch. 645, 62 Stat. 782; Pub. L. 86-682, §12(b), Sept. 2, 1960, 74 Stat. 708; Pub. L. 91-375, §6(j)(27), Aug. 12, 1970, 84 Stat. 780; Pub. L. 101-647, title XXXV, §3552(a), Nov. 29, 1990, 104 Stat. 4926; Pub. L. 103-322, title XXXIII, §330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§343, 344, 345, 346 (June 15, 1917, ch. 30, title XII, §§1-3, title XIII, §1, 40 Stat. 230, 231; Mar. 28, 1940, ch. 72, §9, 54 Stat. 80).

Section consolidates said sections 343-345 of title 18, U.S.C., 1940 ed. The provision as to opening letters was incorporated in paragraph (c).

Venue provisions in said section 345 of title 18, U.S.C., 1940 ed., were omitted as covered by section 3237 of this title.

Section 346 of title 18, U.S.C., 1940 ed., defining “United States” was omitted. It is incorporated, however, in section 5 of this title.

References in text to other sections do not include definitive sections. Only those susceptible of violation are cited.

Mandatory punishment provision was rephrased in the alternative.

Minor changes were made in arrangement, translation, and phraseology.

#### AMENDMENTS

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

1990—Pub. L. 101-647 struck out “; opening letters” after “nonmailable” in section catchline.

1970—Subsec. (b). Pub. L. 91-375 struck out “of the United States” after “Postal Service”.

1960—Subsec. (c). Pub. L. 86-682 repealed subsec. (c) which related to the opening of letters, effective Sept. 1, 1960.

#### EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

### [§ 1718. Repealed. Pub. L. 101-647, title XII, § 1210(c), Nov. 29, 1990, 104 Stat. 4832]

Section, acts June 25, 1948, ch. 645, 62 Stat. 782; Aug. 12, 1970, Pub. L. 91-375, §6(j)(28), 84 Stat. 780, provided that libelous matter on wrappers or envelopes was nonmailable.

### § 1719. Franking privilege

Whoever makes use of any official envelope, label, or indorsement authorized by law, to

avoid the payment of postage or registry fee on his private letter, packet, package, or other matter in the mail, shall be fined under this title.

(June 25, 1948, ch. 645, 62 Stat. 783; Pub. L. 103-322, title XXXIII, § 330016(1)(F), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 357 (Mar. 4, 1909, ch. 321, § 227, 35 Stat. 1134).

Minor verbal change was made. Section 746(f) of title 8, U.S.C., 1940 ed., Aliens and Nationality, providing same penalty for misuse of franking privilege in naturalization service, should be repealed as covered by this section. The proviso in section 337 of title 39, U.S.C., 1940 ed., The Postal Service, should also be repealed for the same reason.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$300”.

### § 1720. Canceled stamps and envelopes

Whoever uses or attempts to use in payment of postage, any canceled postage stamp, whether the same has been used or not, or removes, attempts to remove, or assists in removing, the canceling or defacing marks from any postage stamp, or the superscription from any stamped envelope, or postal card, that has once been used in payment of postage, with the intent to use the same for a like purpose, or to sell or offer to sell the same, or knowingly possesses any such postage stamp, stamped envelope, or postal card, with intent to use the same or knowingly sells or offers to sell any such postage stamp, stamped envelope, or postal card, or uses or attempts to use the same in payment of postage; or

Whoever unlawfully and willfully removes from any mail matter any stamp attached thereto in payment of postage; or

Whoever knowingly uses in payment of postage, any postage stamp, postal card, or stamped envelope, issued in pursuance of law, which has already been used for a like purpose—

Shall be fined under this title or imprisoned not more than one year, or both; but if he is a person employed in the Postal Service, he shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 783; Pub. L. 103-322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 328 (Mar. 4, 1909, ch. 321, § 205, 35 Stat. 1127).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of “principal” in section 2 of this title.

Minor verbal changes were made.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$500” in two places in last par.

### § 1721. Sale or pledge of stamps

Whoever, being a Postal Service officer or employee, knowingly and willfully: uses or disposes

of postage stamps, stamped envelopes, or postal cards entrusted to his care or custody in the payment of debts, or in the purchase of merchandise or other salable articles, or pledges or hypothecates the same or sells or disposes of them except for cash; or sells or disposes of postage stamps or postal cards for any larger or less sum than the values indicated on their faces; or sells or disposes of stamped envelopes for a larger or less sum than is charged therefor by the Postal Service for like quantities; or sells or disposes of postage stamps, stamped envelopes, or postal cards at any point or place outside of the delivery of the office where such officer or employee is employed; or for the purpose of increasing the emoluments, or compensation of any such officer or employee, inflates or induces the inflation of the receipts of any post office or any station or branch thereof; or sells or disposes of postage stamps, stamped envelopes, or postal cards, otherwise than as provided by law or the regulations of the Postal Service; shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 783; Aug. 1, 1956, ch. 818, 70 Stat. 784; Pub. L. 91-375, § 6(j)(29), Aug. 12, 1970, 84 Stat. 780; Pub. L. 103-322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on section 331 of title 18 and section 364 of title 39, The Postal Service, both U.S.C., 1940 ed. (R.S. § 3920; Mar. 4, 1909, ch. 321, § 208, 35 Stat. 1128).

Said sections were consolidated with only minor changes in phraseology.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of “principal” in section 2 of this title.

#### AMENDMENTS

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

1970—Pub. L. 91-375 substituted “Postal Service officer or employee” for “postmaster or postal service employee”, “Postal Service” for “Post Office Department” in two places, “officer or employee” for “postmaster or other person”, and “any such officer or employee” for “the postmaster or any employee of a post office or station or branch thereof”, respectively.

1956—Act Aug. 1, 1956, broadened the class of postal employees subject to penalties prescribed by this section and broadened the prohibition to include the inflation of receipts by means other than the disposing of stamps, stamped envelopes, or postal cards.

#### EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

### § 1722. False evidence to secure second-class rate

Whoever knowingly submits to the Postal Service or to any officer or employee of the Postal Service, any false evidence relative to any publication for the purpose of securing the admission thereof at the second-class rate, for transportation in the mails, shall be fined under this title.

(June 25, 1948, ch. 645, 62 Stat. 783; Pub. L. 91-375, § 6(j)(30), Aug. 12, 1970, 84 Stat. 780; Pub. L.