

## TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise in Bureau of Customs of Department of the Treasury to which appointments were required to be made by President with advice and consent of Senate ordered abolished with such offices to be terminated not later than Dec. 31, 1966, and functions vested by statute in officers, agencies, or employees of the Bureau of Customs of the Department of the Treasury transferred to the Secretary of the Treasury by Reorg. Plan No. 1 of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees.

### § 4315. Offenses; punishment; forfeitures of property

#### (a) Criminal liability

Whoever shall willfully violate any of the provisions of this chapter or of any license, rule, or regulation issued thereunder, and whoever shall willfully violate, neglect, or refuse to comply with any order of the President issued in compliance with the provisions of the chapter shall, upon conviction, be fined not more than \$1,000,000, or if a natural person, be imprisoned for not more than 20 years, or both.

#### (b) Civil liability; hearing; judicial review

(1) A civil penalty of not to exceed \$50,000 may be imposed by the Secretary of the Treasury on any person who violates any license, order, rule, or regulation issued in compliance with the provisions of this chapter.

(2) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, that is the subject of a violation under paragraph (1) shall, at the direction of the Secretary of the Treasury, be forfeited to the United States Government.

(3) The penalties provided under this subsection may be imposed only on the record after opportunity for an agency hearing in accordance with sections 554 through 557 of title 5, with the right to prehearing discovery.

(4) Judicial review of any penalty imposed under this subsection may be had to the extent provided in section 702 of title 5.

#### (c) Forfeiture

Upon conviction, any property, funds, securities, papers, or other articles or documents, or any vessel, together with tackle, apparel, furniture, and equipment, concerned in any violation of subsection (a) may be forfeited to the United States.

(Oct. 6, 1917, ch. 106, §16, 40 Stat. 425; Pub. L. 95-223, title I, §103(a), Dec. 28, 1977, 91 Stat. 1626; Pub. L. 102-393, title VI, §628, Oct. 6, 1992, 106 Stat. 1772; Pub. L. 102-484, div. A, title XVII, §1710(c), Oct. 23, 1992, 106 Stat. 2580; Pub. L. 104-114, title I, §102(d), Mar. 12, 1996, 110 Stat. 792; Pub. L. 111-195, title I, §107(a)(4), July 1, 2010, 124 Stat. 1337.)

## REFERENCES IN TEXT

“This chapter” and “the chapter”, referred to in subsecs. (a) and (b)(1), were in the original “this Act” and “the Act”, respectively, meaning act Oct. 6, 1917, ch. 106, 40 Stat. 411, known as the Trading with the Enemy Act, also known as the Trading with the Enemy Act,

which is classified principally to this chapter. For complete classification of this Act to the Code, see section 4301 of this title and Tables.

## CODIFICATION

Section was formerly classified to section 16 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

## AMENDMENTS

2010—Subsec. (a). Pub. L. 111-195 substituted “if a natural person, be imprisoned for not more than 20 years, or both.” for “if a natural person, be fined not more than \$100,000, or imprisoned for not more than ten years or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall, upon conviction, be fined not more than \$100,000 or imprisoned for not more than ten years or both.”

1996—Pub. L. 104-114, §102(d)(3)(A), made technical amendment inserting section designation in original.

Subsec. (a). Pub. L. 104-114, §102(d)(3)(B), substituted “participates” for “participants”.

Subsec. (b). Pub. L. 104-114, §102(d)(1), amended subsec. (b), as added by Pub. L. 102-484, generally. Prior to amendment, subsec. (b) read as follows:

“(b)(1) The Secretary of the Treasury may impose a civil penalty of not more than \$50,000 on any person who violates any license, order, rule, or regulation issued under this chapter.

“(2) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, that is the subject of a violation under paragraph (1) shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States Government.

“(3) The penalties provided under this subsection may not be imposed for—

“(A) news gathering, research, or the export or import of, or transmission of, information or informational materials; or

“(B) clearly defined educational or religious activities, or activities of recognized human rights organizations, that are reasonably limited in frequency, duration, and number of participants.

“(4) The penalties provided under this subsection may be imposed only on the record after opportunity for an agency hearing in accordance with sections 554 through 557 of title 5, with the right to prehearing discovery.

“(5) Judicial review of any penalty imposed under this subsection may be had to the extent provided in section 702 of title 5.”

Pub. L. 104-114, §102(d)(2), struck out subsec. (b), as added by Pub. L. 102-393, which read as follows:

“(b)(1) A civil penalty of not to exceed \$50,000 may be imposed by the Secretary of the Treasury on any person who violates any license, order, rule, or regulation issued in compliance with the provisions of this chapter.

“(2) The penalties provided under this subsection may not be imposed for—

“(A) news gathering, research, or the export or import of, or transmission of, information or informational materials; or

“(B) clearly defined educational or religious activities, or activities of recognized human rights organizations, that are reasonably limited in frequency, duration, and number of participants.”

1992—Pub. L. 102-484, which directed substitution of “(a) Whoever” for “That whoever” and addition of subsec. (b) at end, was executed to reflect the probable intent of Congress in light of the intervening general amendment by Pub. L. 102-393 (see below), by adding subsec. (b) after subsec. (a).

Pub. L. 102-393 amended section generally, substituting subsecs. (a) to (c) for former undesignated provisions which read as follows: “Whoever shall willfully violate any of the provisions of this chapter or of any license, rule, or regulation issued thereunder, and who-

ever shall willfully violate, neglect, or refuse to comply with any order of the President issued in compliance with the provisions of this chapter shall, upon conviction, be fined not more than \$50,000, or, if a natural person, imprisoned for not more than ten years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by a like fine, imprisonment, or both, and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, concerned in such violation shall be forfeited to the United States."

1977—Pub. L. 95-223 substituted "\$50,000" for "\$10,000".

#### § 4316. Rules by district courts; appeals

The district courts of the United States are given jurisdiction to make and enter all such rules as to notice and otherwise, and all such orders and decrees, and to issue such process as may be necessary and proper in the premises to enforce the provisions of this chapter, with a right of appeal from the final order or decree of such court as provided in sections one hundred and twenty-eight and two hundred and thirty-eight of the Act of March third, nineteen hundred and eleven, entitled "An Act to codify, revise, and amend the laws relating to the judiciary."

(Oct. 6, 1917, ch. 106, § 17, 40 Stat. 425.)

##### REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Oct. 6, 1917, ch. 106, 40 Stat. 411, known as the Trading with the Enemy Act, also known as the Trading with the Enemy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 4301 of this title and Tables.

Sections one hundred and twenty-eight and two hundred and thirty-eight of the Act of March third, nineteen hundred and eleven, entitled "An Act to codify, revise, and amend the laws relating to the judiciary", referred to in text, enacted sections 225 and 345 of former Title 28, Judicial Code and Judiciary, respectively. Section 225 of former Title 28 was repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 992, and reenacted as sections 1291, 1292, 1293, and 1294 of Title 28, Judiciary and Judicial Procedure. Section 1293 of Title 28 was repealed by Pub. L. 87-189, § 3, Aug. 30, 1961, 75 Stat. 417. Section 345 of former Title 28 was repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 992.

##### CODIFICATION

Section was formerly classified to section 17 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

#### § 4317. Fees of agents, attorneys, or representatives

No property or interest or proceeds shall be returned under this chapter, nor shall any payment be made or judgment awarded in respect of any property or interest vested in or transferred to any officer or agency of the United States under this chapter unless satisfactory evidence is furnished to the President or such officer or agency as he may designate, or the court, as the case may be, that the aggregate of the fees to be paid to all agents, attorneys at law or in fact, or representatives, for services rendered in connection with such return or payment or judgment does not exceed 10 per centum of the value of such property or interest or proceeds or of such

payment. Any agent, attorney at law or in fact, or representative, believing that the aggregate of the fees should be in excess of such 10 per centum may in the case of any return of, or the making of any payment in respect of, such property or interest or proceeds of the President or such officer or agency as he may designate, petition the district court of the United States for the district in which he resides for an order authorizing fees in excess of 10 per centum and shall name such officer or agency as respondent. The court hearing such petition, or a court awarding any judgment in respect of any such property or interest or proceeds, as the case may be, shall approve an aggregate of fees in excess of 10 per centum of the value of such property or interest or proceeds only upon a finding that there exist special circumstances of unusual hardship which require the payment of such excess. Any person accepting any fee in excess of an amount approved hereunder, or retaining for more than thirty days any portion of a fee, accepted prior to approval hereunder, in excess of the fee as approved, shall be guilty of a violation of this chapter.

(Oct. 6, 1917, ch. 106, § 20, as added Mar. 4, 1923, ch. 285, § 2, 42 Stat. 1515; amended Mar. 10, 1928, ch. 167, § 9(c), 45 Stat. 267; Mar. 8, 1946, ch. 83, § 2, 60 Stat. 54; June 25, 1956, ch. 436, 70 Stat. 331.)

##### REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Oct. 6, 1917, ch. 106, 40 Stat. 411, known as the Trading with the enemy Act, also known as the Trading with the Enemy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 4301 of this title and Tables.

##### CODIFICATION

Section was formerly classified to section 20 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

##### AMENDMENTS

1956—Act June 25, 1956, struck out provisions which required a schedule of fees to be furnished to, and approved by, the President or such officer or agency as he designated, and which permitted approval of such schedule of fees only upon a determination that the individual fees did not exceed fair compensation for services rendered.

1946—Act Mar. 8, 1946, raised limitation of fees from 3 per centum of amount involved to 10 per centum.

1928—Act Mar. 10, 1928, inserted "at law or in fact" after "attorney" wherever appearing.

##### TRANSFER OF FUNCTIONS

Alien Property Custodian designated officer to administer powers and authority conferred upon the President by this section, see Ex. Ord. No. 9725, set out below.

Office of World War II Alien Property Custodian terminated and powers, duties, and functions vested in or transferred or delegated to such Office or in the Alien Property Custodian transferred to Attorney General, see Ex. Ord. No. 9788, set out under section 4306 of this title.

EX. ORD. NO. 9725. ADMINISTRATION OF POWERS AND AUTHORITY OF PRESIDENT BY ALIEN PROPERTY CUSTODIAN

Ex. Ord. No. 9725, May 16, 1946, 11 F.R. 5381, provided: The Alien Property Custodian is designated as the officer to administer the powers and authority conferred