

addition to any other penalty provided in this title, be liable to a penalty of 5 percent of the tax due but unpaid.

(b) Applicability of section 6665

The penalties imposed by subsection (a) shall be assessed, collected, and paid in the same manner as taxes, as provided in section 6665(a).

(c) Cross references

(1) For provisions relating to interest in the case of taxes not paid when due, see section 6601.

(2) For penalty for failure to file tax return or pay tax, see section 6651.

(3) For additional penalties for failure to pay tax, see section 6653.

(4) For penalty for failure to make deposits or for overstatement of deposits, see section 6656.

(5) For penalty for attempt to evade or defeat any tax imposed by this title, see section 7201.

(6) For penalty for willful failure to file return, supply information, or pay tax, see section 7203.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1410; amended Pub. L. 91-172, title IX, §943(c)(4), Dec. 30, 1969, 83 Stat. 728; Pub. L. 97-34, title VII, §§722(a)(3), 724(b)(4), Aug. 13, 1981, 95 Stat. 342, 345; Pub. L. 98-369, div. A, title VII, §§714(h)(1), 722(a)(5), July 18, 1984, 98 Stat. 962, 973; Pub. L. 101-239, title VII, §7721(c)(3), Dec. 19, 1989, 103 Stat. 2399.)

PRIOR PROVISIONS

A prior section 5684, act Aug. 16, 1954, ch. 736, 68A Stat. 699, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859. See section 5687 of this title and criminal and civil penalties of subtitle F of this title.

AMENDMENTS

1989—Subsec. (b). Pub. L. 101-239 substituted “6665” for “6662” in heading and “6665(a)” for “6662(a)” in text.

1984—Subsec. (b). Pub. L. 98-369, §714(h)(1), substituted in heading “6662” for “6660” and in text “6662(a)” for “6660(a)”.

Pub. L. 98-369, §722(a)(5), substituted “subsection (a)” for “subsections (a) and (b)”.

1981—Subsec. (b). Pub. L. 97-34, §724(b)(4)(A), redesignated subsec. (c) as (b). Former subsec. (b), which related to penalties for failure to make deposit of taxes, was struck out.

Subsec. (c). Pub. L. 97-34, §724(b)(4), redesignated subsec. (d) as (c), added par. (4), and redesignated pars. (5) and (6) as (4) and (5), respectively. Former subsec. (c) redesignated (b).

Pub. L. 97-34, §722(a)(3), substituted “6660” for “6659” in heading and text.

Subsec. (d). Pub. L. 97-34, §724(b)(4), redesignated subsec. (d) as (c).

1969—Subsec. (d)(2). Pub. L. 91-172 inserted “or pay tax” after “tax return”.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101-239, set out as a note under section 461 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 714(h)(1) of Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

Amendment by section 722(a)(5) of Pub. L. 98-369 effective as if included in the provisions of the Technical

Corrections Act of 1984, Pub. L. 97-448, to which such amendment relates, see section 722(a)(6) of Pub. L. 98-369, set out as a note under section 172 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-34, title VII, §722(a)(4), Aug. 13, 1981, 95 Stat. 342, provided that: “The amendments made by this subsection [enacting section 6659 of this title and amending this section and section 5761 of this title] shall apply to returns filed after December 31, 1981.”

Amendment by section 724(b)(4) of Pub. L. 97-34 applicable to returns filed after Aug. 13, 1981, see section 724(c) of Pub. L. 97-34, set out as a note under section 6656 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable with respect to tax returns the date prescribed by law for filing of which is after Dec. 31, 1969, see section 943(d) of Pub. L. 91-172, set out as a note under section 6651 of this title.

§ 5685. Penalty and forfeiture relating to possession of devices for emitting gas, smoke, etc., explosives and firearms, when violating liquor laws

(a) Penalty for possession of devices for emitting gas, smoke, etc.

Whoever, when violating any law of the United States, or of any possession of the United States, or of the District of Columbia, in regard to the manufacture, taxation, or transportation of or traffic in distilled spirits, wines, or beer, or when aiding in any such violation, has in his possession or in his control any device capable of causing emission of gas, smoke, or fumes, and which may be used for the purpose of hindering, delaying, or preventing pursuit or capture, any explosive, or any firearm (as defined in section 5845), except a machine gun, or a shotgun having a barrel or barrels less than 18 inches in length, or a rifle having a barrel or barrels less than 16 inches in length, shall be fined not more than \$5,000, or imprisoned not more than 10 years, or both, and all persons engaged in any such violation or in aiding in any such violation shall be held to be in possession or control of such device, firearm, or explosive.

(b) Penalty for possession of machine gun, etc.

Whoever, when violating any such law, has in his possession or in his control a machine gun, or any shotgun having a barrel or barrels less than 18 inches in length, or a rifle having a barrel or barrels less than 16 inches in length, shall be imprisoned not more than 20 years; and all persons engaged in any such violation or in aiding in any such violation shall be held to be in possession and control of such machine gun, shotgun, or rifle.

(c) Forfeiture of firearms, devices, etc.

Every such firearm or device for emitting gas, smoke, or fumes, and every such explosive, machine gun, shotgun, or rifle, in the possession or control of any person when violating any such law, shall be seized and shall be forfeited and disposed of in the manner provided by section 5872.

(d) Definition of machine gun

As used in this section the term “machine gun” means a machine gun as defined in section 5845(b).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1411; amended Pub. L. 86-478, §4, June 1, 1960, 74 Stat. 150; Pub. L. 94-455, title XIX, §1905(a)(23), (c)(6), Oct. 4, 1976, 90 Stat. 1821, 1823.)

PRIOR PROVISIONS

A prior section 5685, act Aug. 16, 1954, ch. 736, 68A Stat. 699, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-455, §1905(a)(23)(A), (c)(6), struck out “Territory or” after “United States, or of any” and substituted “section 5845” for “section 5848”.

Subsec. (c). Pub. L. 94-455, §1905(a)(23)(B), substituted “section 5872” for “section 5862”.

Subsec. (d). Pub. L. 94-455, §1905(a)(23)(C), substituted “means a machinegun as defined in section 5845(b)” for “means any weapon which shoots, or is designed to shoot, automatically or semiautomatically, more than one shot, without manual reloading, by a single function of the trigger”.

1960—Subsecs. (a), (b). Pub. L. 86-478 substituted “shotgun having a barrel or barrels less than 18 inches in length, or a rifle having a barrel or barrels less than 16 inches in length” for “shotgun or rifle having a barrel or barrels less than 18 inches in length”.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-478 effective on first day of first month which begins more than 10 days after June 1, 1960, see section 5 of Pub. L. 86-478, June 1, 1960, 74 Stat. 150.

§ 5686. Penalty for having, possessing, or using liquor or property intended to be used in violating provisions of this chapter

(a) General

It shall be unlawful to have or possess any liquor or property intended for use in violating any provision of this chapter or regulations issued pursuant thereto, or which has been so used, and every person so having or possessing or using such liquor or property, shall be fined not more than \$5,000, or imprisoned not more than 1 year, or both.

(b) Cross reference

For seizure and forfeiture of liquor and property had, possessed, or used in violation of subsection (a), see section 7302.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1411.)

PRIOR PROVISIONS

A prior section 5686, act Aug. 16, 1954, ch. 736, 68A Stat. 700, consisted in subsecs. (b) and (c) of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

Prior section 5686(a) related to offenses as to operation of industrial alcohol or denaturing plants or unlawful withdrawal of taxable alcohol. See section 5687 of this title.

§ 5687. Penalty for offenses not specifically covered

Whoever violates any provision of this chapter or regulations issued pursuant thereto, for

which a specific criminal penalty is not prescribed by this chapter, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both, for each such offense.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1412.)

PRIOR PROVISIONS

A prior section 5687, act Aug. 16, 1954, ch. 736, 68A Stat. 700, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

Prior section 5687 also related to forfeitures applicable to distillers, rectifiers, and wholesale liquor dealers for offenses not specifically covered. See sections 7301 and 7302 of this title.

Provisions similar to those comprising this section were contained in prior sections 5602, 5608(c), 5612 to 5619, 5627, 5628, 5630, 5631, 5643, 5684(a) and 5686(a), act Aug. 16, 1954, ch. 736, 68A Stat. 683, 685, 686, 689, 692, 693, 699, 700, prior to the general revision of this chapter by Pub. L. 85-859.

§ 5688. Disposition and release of seized property

(a) Forfeiture

(1) Delivery

All distilled spirits, wines, and beer forfeited, summarily or by order of court, under any law of the United States, shall be delivered to the Administrator of General Services to be disposed of as hereinafter provided.

(2) Disposal

The Administrator of General Services shall dispose of all distilled spirits, wines, and beer which have been delivered to him pursuant to paragraph (1)—

(A) by delivery to such Government agencies as, in his opinion, have a need for such distilled spirits, wines, or beer for medicinal, scientific, or mechanical purposes, or for any other official purpose for which appropriated funds may be expended by a Government agency; or

(B) by gifts to such eleemosynary institutions as, in his opinion, have a need for such distilled spirits, wines, or beer for medicinal purposes; or

(C) by destruction.

(3) Limitation on disposal

Except as otherwise provided by law, no distilled spirits, wines, or beer which have been seized under any law of the United States may be disposed of in any manner whatsoever except after forfeiture and as provided in this subsection.

(4) Regulations

The Administrator of General Services is authorized to make all rules and regulations necessary to carry out the provisions of this subsection.

(5) Remission or mitigation of forfeitures

Nothing in this section shall affect the authority of the Secretary, under the customs or internal revenue laws, to remit or mitigate the forfeiture, or alleged forfeiture, of such distilled spirits, wines, or beer, or the authority of the Secretary, to compromise any civil or criminal case in respect of such distilled