

AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$5,000” in third par.

1949—Act May 24, 1949, substituted “or travels in” for “in or travels” in second par.

[§ 1232. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641]

Section, act June 25, 1948, ch. 645, 62 Stat. 761, prohibited enticement of workman from armory or arsenal.

CHAPTER 59—LIQUOR TRAFFIC

Sec.

- 1261. Enforcement, regulations, and scope.
- 1262. Transportation into State prohibiting sale.
- 1263. Marks and labels on packages.
- 1264. Delivery to consignee.
- 1265. C.O.D. shipments prohibited.

§ 1261. Enforcement, regulations, and scope

(a)¹ The Attorney General—

(1) shall enforce the provisions of this chapter; and

(2) has the authority to issue regulations to carry out the provisions of this chapter.

(June 25, 1948, ch. 645, 62 Stat. 761; May 24, 1949, ch. 139, § 31, 63 Stat. 94; Pub. L. 107-273, div. B, title IV, § 4004(b), Nov. 2, 2002, 116 Stat. 1812; Pub. L. 107-296, title XI, § 1112(g), Nov. 25, 2002, 116 Stat. 2276.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on sections 222, 223(b), 225 and 226 of title 27, U.S.C., 1940 ed., *Intoxicating Liquors* (June 25, 1936, ch. 815, §§ 5, 10, 49 Stat. 1929, 1930).

Changes were made in phraseology and arrangement.

1949 ACT

This section [section 31] corrects a typographical error in section 1261 of title 18, U.S.C.

AMENDMENTS

2002—Pub. L. 107-296, which directed amendment of subsec. (a) generally, was executed by amending text of section generally to reflect the probable intent of Congress and the amendment by Pub. L. 107-273, see below. Prior to amendment, text read as follows: “The Secretary of the Treasury shall enforce the provisions of this chapter. Regulations to carry out its provisions shall be prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury.”

Pub. L. 107-273 struck out subsec. (a) designation and subsec. (b) which read as follows: “This chapter shall not apply to the Canal Zone.”

1949—Subsec. (b). Act May 24, 1949, substituted subsection designation “(b)” for “(d)”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

§ 1262. Transportation into State prohibiting sale

Whoever imports, brings, or transports any intoxicating liquor into any State, Territory, District, or Possession in which all sales, except for scientific, sacramental, medicinal, or mechani-

cal purposes, of intoxicating liquor containing more than 4 per centum of alcohol by volume or 3.2 per centum of alcohol by weight are prohibited, otherwise than in the course of continuous interstate transportation through such State, Territory, District, or Possession or attempts so to do, or assists in so doing,

Shall (1) If such liquor is not accompanied by such permits, or licenses therefor as may be required by the laws of such State, Territory, District, or Possession or (2) if all importation, bringing, or transportation of intoxicating liquor into such State, Territory, District, or Possession is prohibited by the laws thereof, be fined under this title or imprisoned not more than one year, or both.

In the enforcement of this section, the definition of intoxicating liquor contained in the laws of the respective States, Territories, Districts, or Possessions shall be applied, but only to the extent that sales of such intoxicating liquor (except for scientific, sacramental, medicinal, and mechanical purposes) are prohibited therein.

(June 25, 1948, ch. 645, 62 Stat. 761; May 24, 1949, ch. 139, § 32, 63 Stat. 94; Pub. L. 101-647, title XXXV, § 3540, Nov. 29, 1990, 104 Stat. 4925; Pub. L. 103-322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on sections 222, 223 of title 27, U.S.C., 1940 ed., *Intoxicating Liquors* (June 25, 1936, ch. 815, §§ 2, 3, 49 Stat. 1928).

Section consolidates subsection (a) of section 222 with section 223, of title 27, U.S.C., 1940 ed.

Words “or 3.2 per centum of alcohol by weight” were inserted after “volume.” Such words conform with *Flip-pin v. U.S.* (1941, 121 F. 2d 742, 744, certiorari denied, 62 S. Ct. 184, 314 U.S. 677, 86 L. Ed. 542); *Robason v. U.S.* (1941, 122 F. 2d 991); *Dolloff v. U.S.* (1941, 121 F. 2d 157, certiorari denied, 62 S. Ct. 108, 314 U.S. 626, 86 L. Ed. 503, rehearing denied, 62 S. Ct. 178, 314 U.S. 710, 86 L. Ed. 566); and *Tucker v. U.S.* (1941, 123 F. 2d 280).

Those cases overruled *Arnold v. U.S.* (1940, 115 F. 2d 523) and *Gregg v. U.S.* (1940, 116 F. 2d 609) and established that preservation of the congressional intent which requires addition of the inserted language.

Subsection (b) of section 223 of title 27, U.S.C., 1940 ed., has been reworded to apply the definition of intoxicating liquor contained in the laws of the respective States to this section only, in accordance with administrative interpretation. Said section 223 was derived from section 3 of the Liquor Enforcement Act of 1936 (Act June 25, 1936, ch. 815, 49 Stat. 1928), which was enacted for the protection of dry States. As originally enacted, its provisions relating to such definition also embraced the interstate commerce liquor laws from which sections 1263-1265 of this title were derived. In the enforcement of the latter, however, their own definitions have been applied and not the definitions of the States into which or through which the liquor was shipped.

Words “Territory, District, or Possession” were inserted after “State”, to conform with the definition of “State” given in said section 222 of title 27, U.S.C., 1940 ed. Such section, including subsection (b) thereof, is also incorporated in section 3615 of this title.

Words “be guilty of a misdemeanor and shall” were omitted in view of definitive section 1 of this title.

Minor changes were made throughout in arrangement and phraseology.

1949 ACT

This section [section 32] corrects a typographical error in section 1262 of title 18, U.S.C.

¹ So in original. There is no subsec. (b).

AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$1,000” in second par.

1990—Pub. L. 101-647 substituted “State” for “state” in section catchline.

1949—Act May 24, 1949, substituted “Districts” for “District” in last par.

§ 1263. Marks and labels on packages

Whoever knowingly ships into any place within the United States any package containing any spirituous, vinous, malted, or other fermented liquor, or any compound containing any spirituous, vinous, malted, or other fermented liquor fit for use for beverage purposes, unless such shipment is accompanied by copy of a bill of lading, or other document showing the name of the consignee, the nature of its contents, and the quantity contained therein, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 761; Pub. L. 90-518, §1, Sept. 26, 1968, 82 Stat. 872; Pub. L. 103-322, title XXXIII, §330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §390 (Mar. 4, 1909, ch. 321, §240, 35 Stat. 1137; June 25, 1936, ch. 815, §8, 49 Stat. 1930.)

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

References to Territory, District, etc., were revised and same changes made as in section 1264 of this title.

The provision that “such liquor shall be forfeited to the United States” was omitted as covered by section 3615 of this title, which was derived from section 224 of title 27, U.S.C., 1940 ed., Intoxicating Liquors.

The provision that such liquor “may be seized and condemned by like proceedings as those provided by law for the seizure and forfeiture of property imported into the United States contrary to law” was likewise omitted as covered by section 3615 of this title, which provides for seizure and forfeiture under the internal revenue laws rather than under provisions of law “for the seizure and forfeiture of property imported into the United States contrary to law” or, in other words, rather than under the customs laws. Section 224 of title 27, U.S.C., 1940 ed., Intoxicating Liquors, on which said section 3615 of this title is based, was derived from the Liquor Enforcement Act of 1936 (Act June 25, 1936, ch. 815, 49 Stat. 1928). Said section 224 included, in its coverage, section 390 of title 18, U.S.C., 1940 ed., on which this revised section is based, even though the Liquor Enforcement Act of 1936, in another section thereof, in amending said section 390, retained the provision that seizures and forfeitures thereunder should be under the customs laws. By eliminating this conflicting provision, a uniform procedure for seizures and forfeitures, under the internal revenue laws, is established under said section 3615 of this title.

AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$1,000”.

1968—Pub. L. 90-518 struck out “of or package” after “any package” and substituted “shipment is accompanied by copy of a bill of lading, or other document showing” for “package is so labeled on the outside cover as to plainly show”.

EFFECTIVE DATE OF 1968 AMENDMENT

Pub. L. 90-518, §3, Sept. 26, 1968, 82 Stat. 872, provided that: “This Act [amending this section] shall become

effective ninety days after the date of its enactment [Sept. 26, 1968].”

CONGRESSIONAL DISCLAIMER OF INTENT TO PREEMPT STATE REGULATION OF SHIPMENTS OF INTOXICATING LIQUOR

Pub. L. 90-518, §2, Sept. 26, 1968, 82 Stat. 872, provided that: “Nothing contained in this Act [amending this section] shall be construed as indicating an intent on the part of Congress to deprive any State of the power to enact additional prohibitions with respect to the shipment of intoxicating liquors.”

§ 1264. Delivery to consignee

Whoever, being an officer, agent, or employee of any railroad company, express company, or other common carrier, knowingly delivers to any person other than the person to whom it has been consigned, unless upon the written order in each instance of the bona fide consignee, or to any fictitious person, or to any person under a fictitious name, any spirituous, vinous, malted, or other fermented liquor or any compound containing any spirituous, vinous, malted, or other fermented liquor fit for use for beverage purposes, which has been shipped into any place within the United States, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 761; Pub. L. 103-322, title XXXIII, §330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §388 (Mar. 4, 1909, ch. 321, §238, 35 Stat. 1136; June 25, 1936, ch. 815, §6, 49 Stat. 1929).

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

Words “Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof,” which appeared twice, were omitted. See section 5 of this title defining the “United States.”

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$1,000”.

§ 1265. C.O.D. shipments prohibited

Any railroad or express company, or other common carrier which, or any person who, in connection with the transportation of any spirituous, vinous, malted, or other fermented liquor, or any compound containing any spirituous, vinous, malted, or other fermented liquor fit for use for beverage purposes, into any State, Territory, District or Possession of the United States, which prohibits the delivery or sale therein of such liquor, collects the purchase price or any part thereof, before, on, or after delivery, from the consignee, or from any other person, or in any manner acts as the agent of the buyer or seller of any such liquor, for the purpose of buying or selling or completing the sale thereof, saving only in the actual transportation and delivery of the same, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 762; Pub. L. 103-322, title XXXIII, §330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)