

(Pub. L. 97-446, title III, §309, Jan. 12, 1983, 96 Stat. 2360.)

EFFECTIVE DATE

Section effective on the 90th day after Jan. 12, 1983, or on any date which the President shall prescribe and publish in the Federal Register, with exceptions, see section 315 of Pub. L. 97-446, set out as a note under section 2601 of this title.

§ 2609. Seizure and forfeiture

(a) In general

Any designated archaeological or ethnological material or article of cultural property, as the case may be, which is imported into the United States in violation of section 2606 of this title or section 2607 of this title shall be subject to seizure and forfeiture. All provisions of law relating to seizure, forfeiture, and condemnation for violation of the customs laws shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this chapter, insofar as such provisions of law are applicable to, and not inconsistent with, the provisions of this chapter.

(b) Archaeological and ethnological material

Any designated archaeological or ethnological material which is imported into the United States in violation of section 2606 of this title and which is forfeited to the United States under this chapter shall—

(1) first be offered for return to the State Party;

(2) if not returned to the State Party, be returned to a claimant with respect to whom the material was forfeited if that claimant establishes—

(A) valid title to the material,

(B) that the claimant is a bona fide purchaser for value of the material; or

(3) if not returned to the State Party under paragraph (1) or to a claimant under paragraph (2), be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

No return of material may be made under paragraph (1) or (2) unless the State Party or claimant, as the case may be, bears the expenses incurred incident to the return and delivery, and complies with such other requirements relating to the return as the Secretary shall prescribe.

(c) Articles of cultural property

(1) In any action for forfeiture under this section regarding an article of cultural property imported into the United States in violation of section 2607 of this title, if the claimant establishes valid title to the article, under applicable law, as against the institution from which the article was stolen, forfeiture shall not be decreed unless the State Party to which the article is to be returned pays the claimant just compensation for the article. In any action for forfeiture under this section where the claimant does not establish such title but establishes that it purchased the article for value without knowledge or reason to believe it was stolen, forfeiture shall not be decreed unless—

(A) the State Party to which the article is to be returned pays the claimant an amount equal to the amount which the claimant paid for the article, or

(B) the United States establishes that such State Party, as a matter of law or reciprocity, would in similar circumstances recover and return an article stolen from an institution in the United States without requiring the payment of compensation.

(2) Any article of cultural property which is imported into the United States in violation of section 2607 of this title and which is forfeited to the United States under this chapter shall—

(A) first be offered for return to the State Party in whose territory is situated the institution referred to in section 2607 of this title and shall be returned if that State Party bears the expenses incident to such return and delivery and complies with such other requirements relating to the return as the Secretary prescribes; or

(B) if not returned to such State Party, be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

(Pub. L. 97-446, title III, §310, Jan. 12, 1983, 96 Stat. 2360.)

CODIFICATION

Section 2607 of this title, referred to in subsec. (c)(1), was in the original "section 208", and was translated as section 2607 of this title, which is section 308 of Pub. L. 97-446, as the probable intent of Congress.

EFFECTIVE DATE

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§ 2610. Evidentiary requirements

Notwithstanding the provisions of section 1615 of this title, in any forfeiture proceeding brought under this chapter in which the material or article, as the case may be, is claimed by any person, the United States shall establish—

(1) in the case of any material subject to the provisions of section 2606 of this title, that the material has been listed by the Secretary in accordance with section 2604 of this title; and

(2) in the case of any article subject to section 2607 of this title, that the article—

(A) is documented as appertaining to the inventory of a museum or religious or secular public monument or similar institution in a State Party, and

(B) was stolen from such institution after the effective date of this chapter, or after the date of entry into force of the Convention for the State Party concerned, whichever date is later.

(Pub. L. 97-446, title III, §311, Jan. 12, 1983, 96 Stat. 2361.)

REFERENCES IN TEXT

For the effective date of this chapter, referred to in par. (2)(B), see section 315 of Pub. L. 97-446, set out as an Effective Date note under section 2601 of this title.

EFFECTIVE DATE

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