

that violates any other customs law of the United States shall be subject to any applicable civil and criminal penalty, including seizure and forfeiture, that may be imposed under such custom law or title 18, with respect to the importation of softwood lumber and softwood lumber products described in section 1683b(a) of this title.

(d) Factors to consider in assessing penalties

In determining the amount of civil penalties to be assessed under this section, consideration shall be given to any history of prior violations of this subtitle by the person, the ability of the person to pay the penalty, the seriousness of the violation, and such other matters as fairness may require.

(e) Notice

No penalty may be assessed under this section against a person for violating a provision of this subtitle unless the person is given notice and opportunity to make statements, both oral and written, with respect to such violation.

(f) Exception

Notwithstanding any other provision of this subtitle, and without limitation, an importer shall not be found to have violated subsection¹ 1683a(c) of this title if—

- (1) the importer made an appropriate inquiry in accordance with section 1683a(c)(1) of this title with respect to the declaration;
- (2) the importer produces records maintained pursuant to section 1683e(b) of this title that substantiate the declaration; and
- (3) there is not substantial evidence indicating that the importer knew that the fact to which the importer made the declaration was false.

(June 17, 1930, ch. 497, title VIII, § 808, as added Pub. L. 110-246, title III, § 3301(a), June 18, 2008, 122 Stat. 1852.)

REFERENCES IN TEXT

Section 1683a of this title, referred to in subsec. (f), was in the original section “803”, and was translated as meaning the section 803 of act June 17, 1930, as added by section 3301(a) of Pub. L. 110-246, to reflect the probable intent of Congress.

EFFECTIVE DATE

Section effective 60 days after June 18, 2008, see section 3301(b) of Pub. L. 110-246, set out as a note under section 1683 of this title.

§ 1683g. Reports

(a) Semiannual reports

Not later than 180 days after the effective date of this subtitle, and every 180 days thereafter, the President shall submit to the appropriate congressional committees a report—

- (1) describing the reconciliations conducted under section 1683d of this title,¹ and the verifications conducted under section 1683e of this title;
- (2) identifying the manner in which the United States importers subject to reconciliations conducted under section 1683d of this

title and verifications conducted under section 1683e of this title were chosen;

- (3) identifying any penalties imposed under section 1683f of this title;
- (4) identifying any patterns of noncompliance with this subtitle; and
- (5) identifying any problems or obstacles encountered in the implementation and enforcement of this subtitle.

(b) Subsidies reports

Not later than 180 days after June 18, 2008, and every 180 days thereafter, the Secretary of Commerce shall provide to the appropriate congressional committees a report on any subsidies on softwood lumber or softwood lumber products, including stumpage subsidies, provided by countries of export.

(c) GAO reports

The Comptroller General of the United States shall submit the following reports to the appropriate congressional committees:

- (1) Not later than 18 months after June 18, 2008, a report on the effectiveness of the reconciliations conducted under section 1683d of this title,¹ and verifications conducted under section 1683e of this title.
- (2) Not later than 12 months after June 18, 2008, a report on whether countries that export softwood lumber or softwood lumber products to the United States are complying with any international agreements entered into by those countries and the United States.

(June 17, 1930, ch. 497, title VIII, § 809, as added Pub. L. 110-246, title III, § 3301(a), June 18, 2008, 122 Stat. 1852.)

REFERENCES IN TEXT

For the effective date of this subtitle, referred to in subsec. (a), see section 3301(b) of Pub. L. 110-246, set out as an Effective Date note under section 1683 of this title.

EFFECTIVE DATE

Section effective 60 days after June 18, 2008, see section 3301(b) of Pub. L. 110-246, set out as a note under section 1683 of this title.

CHAPTER 5—SMUGGLING

Sec.	
1701.	Customs-enforcement area.
1702.	Repealed.
1703.	Seizure and forfeiture of vessels.
1704.	Refusal or revocation of registry, enrollment, license or number on evidence that vessel engaging in smuggling; appeal; immunity from liability.
1705.	Destruction of forfeited vessel or vehicle.
1706.	Importation in vessels under thirty tons and aircraft; licenses; labels as prima facie evidence of foreign origin of merchandise.
1706a.	Civil penalties for trading without required certificate of documentation.
1707, 1708.	Repealed.
1709.	Definitions
1710.	Separability.
1711.	Citation of chapter.

§ 1701. Customs-enforcement area

(a) Establishment; extent and duration; enforcement of laws applicable to waters adjacent to customs waters

Whenever the President finds and declares that at any place or within any area on the high

¹ So in original. Probably should be “section”.

¹ So in original. Comma probably should not appear.

seas adjacent to but outside customs waters any vessel or vessels hover or are being kept off the coast of the United States and that, by virtue of the presence of any such vessel or vessels at such place or within such area, the unlawful introduction or removal into or from the United States of any merchandise or person is being or may be occasioned, promoted, or threatened, the place or area so found and declared shall constitute a customs-enforcement area for the purposes of this Act. Only such waters on the high seas shall be within a customs-enforcement area as the President finds and declares are in such proximity to such vessel or vessels that such unlawful introduction or removal of merchandise or persons may be carried on by or to or from such vessel or vessels. No customs-enforcement area shall include any waters more than one hundred nautical miles from the place or immediate area where the President declares such vessel or vessels are hovering or are being kept and, notwithstanding the foregoing provision, shall not include any waters more than fifty nautical miles outwards from the outer limit of customs waters. Whenever the President finds that, within any customs-enforcement area, the circumstances no longer exist which gave rise to the declaration of such area as a customs-enforcement area, he shall so declare, and thereafter, and until a further finding and declaration is made under this subsection with respect to waters within such area, no waters within such area shall constitute a part of such customs-enforcement area. The provisions of law applying to the high seas adjacent to customs waters of the United States shall be enforced in a customs-enforcement area upon any vessel, merchandise, or person found therein.

(b) Boarding vessels; arrest and seizure; compliance with treaty provisions; authority of Secretary of Commerce unaffected

At any place within a customs-enforcement area the several officers of the customs may go on board of any vessel and examine the vessel and any merchandise or person on board, and bring the same into port, and, subject to regulations of the Secretary of the Treasury, it shall be their duty to pursue and seize or arrest and otherwise enforce upon such vessel, merchandise, or person, the provisions of law which are made effective thereto in pursuance of subsection (a) in the same manner as such officers are or may be authorized or required to do in like case at any place in the United States by virtue of any law respecting the revenue: *Provided*, That nothing contained in this section or in any other provision of law respecting the revenue shall be construed to authorize or to require any officer of the United States to enforce any law thereof upon the high seas upon a foreign vessel in contravention of any treaty with a foreign government enabling or permitting the authorities of the United States to board, examine, search, seize, or otherwise to enforce upon such vessel upon the high seas the laws of the United States except as such authorities are or may otherwise be enabled or permitted under special arrangement with such foreign government: *Provided further*, That none of the provisions of this Act shall be construed to relieve

the Secretary of Commerce of any authority, responsibility, or jurisdiction now vested in or imposed on that officer.

(Aug. 5, 1935, ch. 438, title I, § 1, 49 Stat. 517.)

REFERENCES IN TEXT

This Act, referred to in text, means act Aug. 5, 1935, which enacted this chapter and sections 1432a and 1601a of this title and amended sections 70, 483, 1401, 1434, 1436, 1441, 1581, 1584, 1585, 1586, 1587, 1591, 1592, 1615, 1619, 1621 of this title, sections 60, 106, and 288 of former Title 46, Shipping, and sections 91, 277, 319, 325 of former Title 46, Appendix. For complete classification of this Act to the Code, see Tables.

DELEGATION OF FUNCTIONS

For delegation to Secretary of the Treasury of authority vested in President by this section, see Ex. Ord. No. 10289, §1(b), Sept. 17, 1951, 16 F.R. 9499, set out as a note under section 301 of Title 3, The President.

§ 1702. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948

Section, act Aug. 5, 1935, ch. 438, title I, § 2, 49 Stat. 518, related to smuggling into territory of a foreign government. See section 546 of Title 18, Crimes and Criminal Procedure.

§ 1703. Seizure and forfeiture of vessels

(a) Vessels subject to seizure and forfeiture

Whenever any vessel which shall have been built, purchased, fitted out in whole or in part, or held, in the United States or elsewhere, for the purpose of being employed to defraud the revenue or to smuggle any merchandise into the United States, or to smuggle any merchandise into the territory of any foreign government in violation of the laws there in force, if under the laws of such foreign government any penalty or forfeiture is provided for violation of the laws of the United States respecting the customs revenue, or whenever any vessel which shall be found, or discovered to have been employed, or attempted to be employed, within the United States for any such purpose, or in anywise in assistance thereof, or whenever any vessel of the United States which shall be found, or discovered to have been, employed, or attempted to be employed at any place, for any such purpose, or is anywise in assistance thereof, if not subsequently forfeited to the United States or to a foreign government, is found at any place at which any such vessel may be examined by an officer of the customs in the enforcement of any law respecting the revenue, the said vessel and its cargo shall be seized and forfeited.

(b) "Vessels of the United States" defined

Every vessel which is documented, owned, or controlled in the United States, and every vessel of foreign registry which is, directly or indirectly, substantially owned or controlled by any citizen of, or corporation incorporated, owned, or controlled in, the United States, shall, for the purposes of this section, be deemed a vessel of the United States.

(c) Acts constituting prima facie evidence vessel engaged in smuggling

For the purposes of this section, the fact that a vessel has become subject to pursuit as provided in section 1581 of this title, or is a hover-