

§ 2232. Destruction or removal of property to prevent seizure

(a) DESTRUCTION OR REMOVAL OF PROPERTY TO PREVENT SEIZURE.—Whoever, before, during, or after any search for or seizure of property by any person authorized to make such search or seizure, knowingly destroys, damages, wastes, disposes of, transfers, or otherwise takes any action, or knowingly attempts to destroy, damage, waste, dispose of, transfer, or otherwise take any action, for the purpose of preventing or impairing the Government's lawful authority to take such property into its custody or control or to continue holding such property under its lawful custody and control, shall be fined under this title or imprisoned not more than 5 years, or both.

(b) IMPAIRMENT OF IN REM JURISDICTION.—Whoever, knowing that property is subject to the in rem jurisdiction of a United States court for purposes of civil forfeiture under Federal law, knowingly and without authority from that court, destroys, damages, wastes, disposes of, transfers, or otherwise takes any action, or knowingly attempts to destroy, damage, waste, dispose of, transfer, or otherwise take any action, for the purpose of impairing or defeating the court's continuing in rem jurisdiction over the property, shall be fined under this title or imprisoned not more than 5 years, or both.

(c) NOTICE OF SEARCH OR EXECUTION OF SEIZURE WARRANT OR WARRANT OF ARREST IN REM.—Whoever, having knowledge that any person authorized to make searches and seizures, or to execute a seizure warrant or warrant of arrest in rem, in order to prevent the authorized seizing or securing of any person or property, gives notice or attempts to give notice in advance of the search, seizure, or execution of a seizure warrant or warrant of arrest in rem, to any person shall be fined under this title or imprisoned not more than 5 years, or both.

(d) NOTICE OF CERTAIN ELECTRONIC SURVEILLANCE.—Whoever, having knowledge that a Federal investigative or law enforcement officer has been authorized or has applied for authorization under chapter 119 to intercept a wire, oral, or electronic communication, in order to obstruct, impede, or prevent such interception, gives notice or attempts to give notice of the possible interception to any person shall be fined under this title or imprisoned not more than five years, or both.

(e) FOREIGN INTELLIGENCE SURVEILLANCE.—Whoever, having knowledge that a Federal officer has been authorized or has applied for authorization to conduct electronic surveillance under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801, et seq.), in order to obstruct, impede, or prevent such activity, gives notice or attempts to give notice of the possible activity to any person shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 802; Pub. L. 98-473, title II, §1103, Oct. 12, 1984, 98 Stat. 2143; Pub. L. 99-508, title I, §109, Oct. 21, 1986, 100 Stat. 1858; Pub. L. 99-646, §33, Nov. 10, 1986, 100 Stat. 3598; Pub. L. 100-690, title VII, §7066, Nov. 18, 1988, 102 Stat. 4404; Pub. L. 103-322, title XXXIII,

§330016(1)(L), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 106-185, §12, Apr. 25, 2000, 114 Stat. 218.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §121 (Mar. 4, 1909, ch. 321, §65, 35 Stat. 1100).

Section was formed from the words following the first semicolon and ending with the second semicolon, in section 121 of title 18, U.S.C., 1940 ed.

The remaining provisions of section 121 of title 18, U.S.C., 1940 ed., relating to assaulting, resisting, or interfering with customs officers, revenue officers, or other persons, and to the rescue of seized property, constitute, along with provisions from other sections, sections 2231 and 2233 of this title.

Minor changes were made in phraseology.

REFERENCES IN TEXT

The Foreign Intelligence Surveillance Act of 1978, referred to in subsec. (e), is Pub. L. 95-511, Oct. 25, 1978, 92 Stat. 1783, as amended, which is classified principally to chapter 36 (§1801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 50 and Tables.

AMENDMENTS

2000—Pub. L. 106-185 added subsecs. (a) to (c), redesignated first and second pars. of former subsec. (c) as subsecs. (d) and (e), respectively, inserted subsec. (e) heading, and struck out former subsecs. (a) and (b) which related to physical interference with search and notice of search, respectively.

1994—Subsecs. (a), (b). Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$10,000”.

1988—Subsec. (c). Pub. L. 100-690 inserted “of 1978” after “Surveillance Act”.

1986—Pub. L. 99-646 directed the designation of first and second pars. as subsecs. (a) and (b), respectively, which had been previously so designated by Pub. L. 99-508, and substituted “imprisoned not” for “imprisoned” in subsec. (a).

Pub. L. 99-508 designated first and second pars. as subsecs. (a) and (b), respectively, and inserted headings, and added subsec. (c).

1984—Pub. L. 98-473, §1103(a), substituted provisions raising the maximum fine from \$2,000 to \$10,000 and raising the maximum term of imprisonment from two years to five years.

Pub. L. 98-473, §1103(b), inserted paragraph relating to the penalties for warning the subject of a search.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-185 applicable to any forfeiture proceeding commenced on or after the date that is 120 days after Apr. 25, 2000, see section 21 of Pub. L. 106-185, set out as a note under section 1324 of Title 8, Aliens and Nationality.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-508 effective 90 days after Oct. 21, 1986, and, in case of conduct pursuant to court order or extension, applicable only with respect to court orders and extensions made after such date, with special rule for State authorizations of interceptions, see section 111 of Pub. L. 99-508, set out as a note under section 2510 of this title.

§ 2233. Rescue of seized property

Whoever forcibly rescues, dispossesses, or attempts to rescue or dispossess any property, articles, or objects after the same shall have been taken, detained, or seized by any officer or other person under the authority of any revenue law of the United States, or by any person authorized to make searches and seizures, shall be

fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 802; Pub. L. 103-322, title XXXIII, §330016(1)(I), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§121, 128 (Mar. 4, 1909, ch. 321, §§65, 71, 35 Stat. 1100, 1101).

Section consolidates that portion of section 121 of title 18, U.S.C., 1940 ed., relating to rescue of seized property, with section 128 of title 18, U.S.C., 1940 ed.

The remaining provisions of section 121 of present title 18, U.S.C., 1940 ed., relating to assaulting, resisting, or interfering with customs officers, revenue officers, or other persons, and to the destruction or removal of property to prevent seizure, constitute sections 2231 and 2232 of this title, the former provisions being consolidated with certain provisions of other sections.

Said section 121 of present title 18, U.S.C., 1940 ed., provided for punishment by fine of not more than \$2,000 or imprisonment of not more than 1 year, or both, of persons rescuing, attempting to rescue, or causing to be rescued, "any property" which has been seized by "any person" authorized to make searches and seizures.

Said section 128 of present title 18, U.S.C., 1940 ed., provided for punishment by fine of not more than \$300 and imprisonment for not more than 1 year of persons dispossessing, rescuing, or attempting to dispossess or rescue, or aiding or assisting in dispossessing or rescuing, "any property taken or detained by any officer or other person under the authority of any revenue law of the United States."

This revised section adopts the maximum fine provisions of section 121 of title 18, U.S.C., 1940 ed., and extends the maximum term of imprisonment to 2 years. This was deemed advisable so that uniformity of punishment would be established and the provisions would be sufficiently broad to impose punishment commensurate with the gravity of the offense. (See section 3601(c)(2) of title 26, U.S.C., 1940 ed., Internal Revenue Code.)

Reference to persons causing, procuring, aiding or assisting was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$2,000".

§ 2234. Authority exceeded in executing warrant

Whoever, in executing a search warrant, willfully exceeds his authority or exercises it with unnecessary severity, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 803; Pub. L. 104-294, title VI, §601(a)(8), Oct. 11, 1996, 110 Stat. 3498; Pub. L. 107-273, div. B, title III, §3002(a)(3), Nov. 2, 2002, 116 Stat. 1805.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §631 (June 15, 1917, ch. 30, title XI, §21, 40 Stat. 230).

Minor changes were made in phraseology.

AMENDMENTS

2002—Pub. L. 107-273 inserted ", or both" after "year".

1996—Pub. L. 104-294 substituted "fined under this title" for "fined not more than \$1,000".

§ 2235. Search warrant procured maliciously

Whoever maliciously and without probable cause procures a search warrant to be issued and

executed, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 803; Pub. L. 104-294, title VI, §601(a)(8), Oct. 11, 1996, 110 Stat. 3498; Pub. L. 107-273, div. B, title III, §3002(a)(3), Nov. 2, 2002, 116 Stat. 1805.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §630 (June 15, 1917, ch. 30, title XI, §20, 40 Stat. 230).

Minor changes were made in phraseology.

AMENDMENTS

2002—Pub. L. 107-273 inserted ", or both" after "year".

1996—Pub. L. 104-294 substituted "fined under this title" for "fined not more than \$1,000".

§ 2236. Searches without warrant

Whoever, being an officer, agent, or employee of the United States or any department or agency thereof, engaged in the enforcement of any law of the United States, searches any private dwelling used and occupied as such dwelling without a warrant directing such search, or maliciously and without reasonable cause searches any other building or property without a search warrant, shall be fined under this title for a first offense; and, for a subsequent offense, shall be fined under this title or imprisoned not more than one year, or both.

This section shall not apply to any person—

(a) serving a warrant of arrest; or

(b) arresting or attempting to arrest a person committing or attempting to commit an offense in his presence, or who has committed or is suspected on reasonable grounds of having committed a felony; or

(c) making a search at the request or invitation or with the consent of the occupant of the premises.

(June 25, 1948, ch. 645, 62 Stat. 803; Pub. L. 104-294, title VI, §601(a)(8), Oct. 11, 1996, 110 Stat. 3498; Pub. L. 107-273, div. B, title IV, §4002(d)(1)(C)(iii), Nov. 2, 2002, 116 Stat. 1809.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §53a (Aug. 27, 1935, ch. 740, §201, 49 Stat. 877).

Words "or any department or agency thereof" were inserted to avoid ambiguity as to scope of section. (See definitive section 6 of this title.)

The exception in the case of an invitation or the consent of the occupant, was inserted to make the section complete and remove any doubt as to the application of this section to searches which have uniformly been upheld.

Reference to misdemeanor was omitted in view of definitive section 1 of this title. (See reviser's note under section 212 of this title.)

Words "upon conviction thereof shall be" were omitted as surplusage, since punishment cannot be imposed until conviction is secured.

Minor changes were made in phraseology.

AMENDMENTS

2002—Pub. L. 107-273 inserted "under this title" after "warrant, shall be fined" and struck out "not more than \$1,000" after "for a first offense".

1996—Pub. L. 104-294 substituted "fined under this title" for "fined not more than \$1,000".