

L. 91-271, title III, §301(ee), June 2, 1970, 84 Stat. 291; Pub. L. 95-410, title I, §111(a), Oct. 3, 1978, 92 Stat. 897; Pub. L. 98-473, title II, §311, Oct. 12, 1984, 98 Stat. 2053; Pub. L. 98-573, title II, §213(a)(4), Oct. 30, 1984, 98 Stat. 2984; Pub. L. 101-382, title I, §122, Aug. 20, 1990, 104 Stat. 642; Pub. L. 104-237, title II, §201(c), Oct. 3, 1996, 110 Stat. 3101; Pub. L. 114-125, title VIII, §802(d)(2), Feb. 24, 2016, 130 Stat. 210.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §607, 42 Stat. 985. That section was superseded by section 607 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Prior provisions for publication or posting of notice of seizure, requiring claimants to appear and file their claim, when the appraised value did not exceed \$500, were contained in R.S. §3075, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

AMENDMENTS

1996—Subsec. (a)(3). Pub. L. 104-237, §201(c)(1), inserted “or listed chemical” after “controlled substance”.

Subsec. (b). Pub. L. 104-237, §201(c)(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “As used in this section, the term ‘controlled substance’ has the meaning given that term in section 802 of title 21.”

1990—Pub. L. 101-382, §122(6), substituted “\$500,000” for “\$100,000” in section catchline.

Subsec. (a)(1). Pub. L. 101-382, §122(1), substituted “\$500,000” for “\$100,000”.

Subsec. (a)(4). Pub. L. 101-382, §122(2)-(4), added par. (4).

Subsec. (c). Pub. L. 101-382, §122(5), added subsec. (c). 1984—Pub. L. 98-573 amended section generally. See explanation below for amendment by Pub. L. 98-473.

Pub. L. 98-473 amended section generally in manner substantially identical to amendment by Pub. L. 98-573. Prior to amendment, section read as follows: “If such value of such vessel, vehicle, merchandise, or baggage does not exceed \$10,000, the appropriate customs officer shall cause a notice of the seizure of such articles and the intention to forfeit and sell or otherwise dispose of the same according to law to be published for at least three successive weeks in such manner as the Secretary of the Treasury may direct. For the purposes of this section and sections 1610 and 1612 of this title merchandise the importation of which is prohibited shall be held not to exceed \$10,000 in value.”

1978—Pub. L. 95-410 substituted “\$10,000” for “\$2,500” wherever appearing.

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector, and struck out reference to appraiser’s return of value.

1954—Act Sept. 1, 1954, substituted “\$2,500” for “\$1,000” wherever appearing.

1938—Act June 25, 1938, substituted “forfeit and sell or otherwise dispose of the same according to law” for “forfeit and sell the same”.

CHANGE OF NAME

“Commissioner of U.S. Customs and Border Protection” substituted for “Commissioner of Customs” in subsec. (c) on authority of section 802(d)(2) of Pub. L. 114-125, set out as a note under section 211 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 effective Oct. 15, 1984, see section 214(e) of Pub. L. 98-573, set out as a note under section 1304 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

EFFECTIVE DATE OF 1938 AMENDMENT

Amendment by act June 25, 1938, effective on thirtieth day following June 25, 1938, except as otherwise specifically provided, see section 37 of act June 25, 1938, set out as a note under section 1401 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

§ 1608. Seizure; claims; judicial condemnation

Any person claiming such vessel, vehicle, aircraft, merchandise, or baggage may at any time within twenty days from the date of the first publication of the notice of seizure file with the appropriate customs officer a claim stating his interest therein. Upon the filing of such claim, and the giving of a bond to the United States in the penal sum of \$5,000 or 10 percent of the value of the claimed property, whichever is lower, but not less than \$250, with sureties to be approved by such customs officer, conditioned that in case of condemnation of the articles so claimed the obligor shall pay all the costs and expenses of the proceedings to obtain such condemnation, such customs officer shall transmit such claim and bond, with a duplicate list and description of the articles seized, to the United States attorney for the district in which seizure was made, who shall proceed to a condemnation of the merchandise or other property in the manner prescribed by law.

(June 17, 1930, ch. 497, title IV, §608, 46 Stat. 755; Pub. L. 91-271, title III, §301(e), June 2, 1970, 84 Stat. 288; Pub. L. 98-473, title II, §§312, 321, Oct. 12, 1984, 98 Stat. 2054, 2056; Pub. L. 98-573, title II, §213(a)(5), Oct. 30, 1984, 98 Stat. 2985; Pub. L. 99-570, title I, §1862, Oct. 27, 1986, 100 Stat. 3207-54; Pub. L. 100-690, title VII, §7367(c)(2), Nov. 18, 1988, 102 Stat. 4479.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in R.S. §3076, which was superseded by act Sept. 21, 1922, ch. 356, title IV, §608, 42 Stat. 985, and was repealed by section 642 thereof. Section 608 of the 1922 act was superseded by section 608 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1988—Pub. L. 100-690 reenacted section without change. See 1984 and 1986 Amendment notes below.

1986—Pub. L. 99-570, §1862(a), substituted “\$5,000” for “\$2,500”. See 1984 Amendment notes below.

Pub. L. 99-570, §1862(b), which provided that “Section 608 of such Act [this section], as enacted by Public Law 98-473, is repealed”, was not executed to text because such section was amended (rather than enacted) by Pub. L. 98-473, and to reflect the probable intent of Congress to repeal the amendment made by Pub. L.

98-473 in view of later amendment by Pub. L. 98-573. See 1984 Amendment notes below.

1984—Pub. L. 98-573, §213(a)(5)(B), which directed the insertion of “\$2,500 or 10 percent of the value of the claimed property, whichever is lower, but not less than” after “penal sum of”, was executed to text as superseding the amendment made by Pub. L. 98-473 to reflect the probable intent of Congress. See 1986 Amendment note above.

Pub. L. 98-473, §312, inserted “\$5,000 or 10 per centum of the value of the claimed property, whichever is lower, but not less than,” after “penal sum of”. See 1984 and 1986 Amendment notes above.

Pub. L. 98-573, §213(a)(5)(A), and Pub. L. 98-473, §321, inserted reference to aircraft.

1970—Pub. L. 91-271 substituted references to appropriate customs officer or such customs officer for references to collector wherever appearing.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 effective Oct. 15, 1984, see section 214(e) of Pub. L. 98-573, set out as a note under section 1304 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

§ 1609. Seizure; summary forfeiture and sale

(a) In general

If no such claim is filed or bond given within the twenty days hereinbefore specified, the appropriate customs officer shall declare the vessel, vehicle, aircraft, merchandise, or baggage forfeited, and shall sell the same at public auction in the same manner as merchandise abandoned to the United States is sold or otherwise dispose of the same according to law, and shall deposit the proceeds of sale, after deducting the expenses described in section 1613 of this title, into the Customs Forfeiture Fund.

(b) Effect

A declaration of forfeiture under this section shall have the same force and effect as a final decree and order of forfeiture in a judicial forfeiture proceeding in a district court of the United States. Title shall be deemed to vest in the United States free and clear of any liens or encumbrances (except for first preferred ship mortgages pursuant to subsection O of section 30 of the Ship Mortgage Act, 1920 (46 U.S.C. App. 961) or any corresponding revision, consolidation, and enactment of such subsection in title 46) from the date of the act for which the forfeiture was incurred. Officials of the various States, insular possessions, territories, and commonwealths of the United States shall, upon application of the appropriate customs officer accompanied by a certified copy of the declaration of forfeiture, remove any recorded liens or encumbrances which apply to such property and issue or reissue the necessary certificates of title, registration certificates, or similar documents to the United States or to any transferee of the United States.

(June 17, 1930, ch. 497, title IV, §609, 46 Stat. 755; June 25, 1938, ch. 679, §28(b), 52 Stat. 1089; Pub. L. 91-271, title III, §301(b), June 2, 1970, 84 Stat. 287; Pub. L. 98-473, title II, §§313, 321, Oct. 12, 1984, 98 Stat. 2054, 2056; Pub. L. 98-573, title II, §213(a)(6), Oct. 30, 1984, 98 Stat. 2985; Pub. L. 100-690, title VII, §7367(b), Nov. 18, 1988, 102 Stat. 4479.)

REFERENCES IN TEXT

Subsection O of section 30 of the Ship Mortgage Act, 1920 (46 U.S.C. App. 961), referred to in subsec. (b), was classified to section 961 of the former Appendix to Title 46, Shipping, and was repealed and partially reenacted in sections 31326(a), 31327, 31328, and 31329 of Title 46, Shipping, by Pub. L. 100-710, title I, §§102(c), 106(b)(2), Nov. 23, 1988, 102 Stat. 4738, 4752. Section 31328 of Title 46 was subsequently repealed by Pub. L. 104-324, title XI, §1113(b)(1), Oct. 19, 1996, 110 Stat. 3970. Section 105(a) of Pub. L. 100-710, set out as a note preceding section 101 of Title 46, provides that a reference to a law replaced by section 102 of Pub. L. 100-710 is deemed to refer to the corresponding provision of Pub. L. 100-710. For disposition of sections of the former Appendix to Title 46, see Disposition Table preceding section 101 of Title 46.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §609, 42 Stat. 985. That section was superseded by section 609 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions for sale of the property by the collector if no claim should be filed or bond given, were contained in R.S. §3077, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

AMENDMENTS

1988—Pub. L. 100-690 amended section generally. Prior to amendment, section read as follows:

“(a) If no such claim is filed or bond given within the twenty days hereinbefore specified, the appropriate customs officer shall declare the vessel, vehicle, aircraft, merchandise, or baggage forfeited, and shall sell the same at public auction in the same manner as merchandise abandoned to the United States is sold or otherwise dispose of the same according to law, and (except as provided in subsection (b) of this section) shall deposit the proceeds of sale, after deducting expenses enumerated in section 1613 of this title into the Customs Forfeiture Fund.

“(b) During the period beginning on October 30, 1984, and ending on September 30, 1987, the appropriate customs officer shall deposit the proceeds of sale (after deducting such expenses) in the Customs Forfeiture Fund.”

1984—Pub. L. 98-573 designated existing provisions as subsec. (a), inserted reference to aircraft, inserted “(except as provided in subsection (b) of this section)” after “according to law, and”, and added subsec. (b).

Pub. L. 98-473, §321, inserted reference to aircraft.

Pub. L. 98-473, §313, substituted “after deducting expenses enumerated in section 1613 of this title into the Customs Forfeiture Fund” for “after deducting the actual expenses of seizure, publication, and sale in the Treasury of the United States”.

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector.

1938—Act June 25, 1938, inserted “or otherwise dispose of the same according to law” after “in the same manner as merchandise abandoned to the United States is sold”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 effective Oct. 15, 1984, see section 214(e) of Pub. L. 98-573, set out as a note under section 1304 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

EFFECTIVE DATE OF 1938 AMENDMENT

Amendment by act June 25, 1938, effective on thirtieth day following June 25, 1938, except as otherwise spe-