

used by any person as a common carrier in the transaction of business as such common carrier shall be so held or subject to seizure or forfeiture under the customs laws, unless it shall appear that the owner or master of such vessel or the conductor, driver, or other person in charge of such vehicle was at the time of the alleged illegal act a consenting party or privy thereto.”

§ 1595. Searches and seizures

(a) Warrant

(1) If any officer or person authorized to make searches and seizures has probable cause to believe that—

(A) any merchandise upon which the duties have not been paid, or which has been otherwise brought into the United States unlawfully;

(B) any property which is subject to forfeiture under any provision of law enforced or administered by the United States Customs Service; or

(C) any document, container, wrapping, or other article which is evidence of a violation of section 1592 of this title involving fraud or of any other law enforced or administered by the United States Customs Service,

is in any dwelling house, store, or other building or place, he may make application, under oath, to any justice of the peace, to any municipal, county, State, or Federal judge, or to any Federal magistrate judge, and shall thereupon be entitled to a warrant to enter such dwelling house in the daytime only, or such store or other place at night or by day, and to search for and seize such merchandise or other article described in the warrant.

(2) If any house, store, or other building or place, in which any merchandise or other article subject to forfeiture is found, is upon or within 10 feet of the boundary line between the United States and a foreign country, such portion thereof that is within the United States may be taken down or removed.

(b) Entry upon property of others

Any person authorized by this chapter to make searches and seizures, or any person assisting him or acting under his directions, may, if deemed necessary by him or them, enter into or upon or pass through the lands, inclosures, and buildings, other than the dwelling house, of any person whomsoever, in the discharge of his official duties.

(June 17, 1930, ch. 497, title IV, § 595, 46 Stat. 752; Pub. L. 91-271, title III, § 301(y), June 2, 1970, 84 Stat. 290; Pub. L. 99-570, title III, § 3122, Oct. 27, 1986, 100 Stat. 3207-87; Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 595, 42 Stat. 983. That section was superseded by section 595 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions somewhat similar to those in subsec. (a), but authorizing searches in the daytime only, with a further provision as to forfeitures, were contained in R.S. § 3066, as amended by act Apr. 25, 1882, ch. 89, 22 Stat. 49. Provisions for searches of buildings on or near the boundary line, and for seizure and forfeiture of merchandise, and removal of the building, were contained

in R.S. § 3107. Provisions empowering persons, authorized to make searches and seizures, to enter into or upon lands, inclosures, and buildings, were contained in R.S. § 3065. All of these sections were repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

R.S. § 3091, authorized the issuance of a warrant, upon complaint and affidavit of fraud on the revenue, directing the marshal of the district to enter any place and seize books or papers relating to merchandise in respect to which the alleged fraud was committed, and produce them before the judge.

R.S. § 3092, provided that no warrant for such seizure should be issued unless the complaint should set forth the character of the fraud alleged, its nature, the importations in respect to which it was committed, and the papers to be seized, and required the return of such warrant as other warrants are returned.

R.S. § 3093, provided that books and papers so seized should be subject to the order of the judge, who should allow the examination of the same by the collector or any officer authorized by him, and authorized the retention by the judge of such books and papers as he might deem necessary.

The provisions of act July 18, 1866, § 39, and of act Mar. 2, 1867, § 2, which were incorporated into these three sections, were repealed by the Anti-Moiety Act of June 22, 1874, ch. 391, § 1, 18 Stat. 186. These sections were repealed, therefore, by that act, it having effect as subsequent to the Revised Statutes, and as repealing any portion of the revision inconsistent therewith, by virtue of R.S. § 5601.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-570 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “If any officer or person authorized to make searches and seizures shall have cause to suspect the presence in any dwelling house, store, or other building or place of any merchandise upon which the duties have not been paid, or which has been otherwise brought into the United States contrary to law, he may make application, under oath, to any justice of the peace, to any municipal, county, State, or Federal judge, or to any United States magistrate, and shall thereupon be entitled to a warrant to enter such dwelling house in the daytime only, or such store or other place at night or by day, and to search for and seize such merchandise: *Provided*, That if any such house, store, or other building, or place in which such merchandise shall be found, is upon or within ten feet of the boundary line between the United States and a foreign country, such portion thereof as is within the United States may forthwith be taken down or removed.”

1970—Subsec. (a). Pub. L. 91-271 struck out “collector of customs or other” before “officer or person”.

CHANGE OF NAME

“Magistrate judge” substituted for “magistrate” in subsec. (a)(1) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

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.

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 Se-

curity, 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.

§ 1595a. Aiding unlawful importation

(a) Importation, removal, etc. contrary to laws of United States

Except as specified in subsection (b) or (c) of section 1594 of this title, every vessel, vehicle, animal, aircraft, or other thing used in, to aid in, or to facilitate, by obtaining information or in any other way, the importation, bringing in, unloading, landing, removal, concealing, harboring, or subsequent transportation of any article which is being or has been introduced, or attempted to be introduced, into the United States contrary to law, whether upon such vessel, vehicle, animal, aircraft, or other thing or otherwise, may be seized and forfeited together with its tackle, apparel, furniture, harness, or equipment.

(b) Penalty for aiding unlawful importation

Every person who directs, assists financially or otherwise, or is in any way concerned in any unlawful activity mentioned in the preceding subsection shall be liable to a penalty equal to the value of the article or articles introduced or attempted to be introduced.

(c) Merchandise introduced contrary to law

Merchandise which is introduced or attempted to be introduced into the United States contrary to law shall be treated as follows:

(1) The merchandise shall be seized and forfeited if it—

(A) is stolen, smuggled, or clandestinely imported or introduced;

(B) is a controlled substance, as defined in the Controlled Substances Act (21 U.S.C. 801 et seq.), and is not imported in accordance with applicable law;

(C) is a contraband article, as defined in section 80302 of title 49; or

(D) is a plastic explosive, as defined in section 841(q) of title 18, which does not contain a detection agent, as defined in section 841(p) of such title.

(2) The merchandise may be seized and forfeited if—

(A) its importation or entry is subject to any restriction or prohibition which is imposed by law relating to health, safety, or conservation and the merchandise is not in compliance with the applicable rule, regulation, or statute;

(B) its importation or entry requires a license, permit or other authorization of an agency of the United States Government and the merchandise is not accompanied by such license, permit, or authorization;

(C) it is merchandise or packaging in which copyright, trademark, or trade name protection violations are involved (including, but not limited to, violations of section 1124, 1125, or 1127 of title 15, section 506 of title 17, or section 2318 or 2320 of title 18);

(D) it is trade dress merchandise involved in the violation of a court order citing section 1125 of title 15;

(E) it is merchandise which is marked intentionally in violation of section 1304 of this title;

(F) it is merchandise for which the importer has received written notices that previous importations of identical merchandise from the same supplier were found to have been marked in violation of section 1304 of this title; or

(G) U.S. Customs and Border Protection determines it is a technology, product, service, device, component, or part thereof the importation of which is prohibited under subsection (a)(2) or (b)(1) of section 1201 of title 17.

(3) If the importation or entry of the merchandise is subject to quantitative restrictions requiring a visa, permit, license, or other similar document, or stamp from the United States Government or from a foreign government or issuing authority pursuant to a bilateral or multilateral agreement, the merchandise shall be subject to detention in accordance with section 1499 of this title unless the appropriate visa, license, permit, or similar document or stamp is presented to the Customs Service; but if the visa, permit, license, or similar document or stamp which is presented in connection with the importation or entry of the merchandise is counterfeit, the merchandise may be seized and forfeited.

(4) If the merchandise is imported or introduced contrary to a provision of law which governs the classification or value of merchandise and there are no issues as to the admissibility of the merchandise into the United States, it shall not be seized except in accordance with section 1592 of this title.

(5) In any case where the seizure and forfeiture of merchandise are required or authorized by this section, the Secretary may—

(A) remit the forfeiture under section 1618 of this title, or

(B) permit the exportation of the merchandise, unless its release would adversely affect health, safety, or conservation or be in contravention of a bilateral or multilateral agreement or treaty.

(d) Merchandise exported contrary to law

Merchandise exported or sent from the United States or attempted to be exported or sent from the United States contrary to law, or the proceeds or value thereof, and property used to facilitate the exporting or sending of such merchandise, the attempted exporting or sending of such merchandise, or the receipt, purchase, transportation, concealment, or sale of such merchandise prior to exportation shall be seized and forfeited to the United States.

(June 17, 1930, ch. 497, title IV, §596, as added Sept. 1, 1954, ch. 1213, title V, §502, 68 Stat. 1140; amended Pub. L. 99-570, title III, §3123, Oct. 27, 1986, 100 Stat. 3207-87; Pub. L. 103-182, title VI, §624, Dec. 8, 1993, 107 Stat. 2187; Pub. L. 104-132, title VI, §606, Apr. 24, 1996, 110 Stat. 1290; Pub. L. 109-177, title III, §311(d), Mar. 9, 2006, 120 Stat. 242; Pub. L. 110-403, title II, §209(b), Oct. 13, 2008, 122 Stat. 4264; Pub. L. 114-125, title III, §303(a), Feb. 24, 2016, 130 Stat. 150.)