

**§ 4313. Statements by masters of vessels and owners of cargoes before granting clearances**

During the present war, in addition to the facts required by section 60105 of title 46, and sections forty-one hundred and ninety-eight,<sup>1</sup> and forty-two hundred<sup>1</sup> of the Revised Statutes, as amended by the Act of June fifteenth, nineteen hundred and seventeen, to be set out in the master's and shipper's manifests before clearance will be issued to vessels bound to foreign ports, the master or person in charge of any vessel, before departure of such vessel from port, shall deliver to the collector of customs of the district wherein such vessel is located a statement duly verified by oath that the cargo is not shipped or to be delivered in violation of this chapter, and the owners, shippers, or consignors of the cargo of such vessels shall in like manner deliver to the collector like statement under oath as to the cargo or the parts thereof laden or shipped by them, respectively, which statement shall contain also the names and addresses of the actual consignees of the cargo, or if the shipment is made to a bank or other broker, factor, or agent, the names and addresses of the persons who are the actual consignees on whose account the shipment is made. The master or person in control of the vessel shall, on reaching port of destination of any of the cargo, deliver a copy of the manifest and of the said master's, owner's shipper's, or consignor's statement to the American consular officer of the district in which the cargo is unladen.

(Oct. 6, 1917, ch. 106, § 13, 40 Stat. 424.)

REFERENCES IN TEXT

Section 4198 of the Revised Statutes, referred to in text, was classified to section 94 of former Title 46, Shipping, prior to repeal by Pub. L. 103-182, title VI, § 690(a)(8), Dec. 8, 1993, 107 Stat. 2223.

Section 4200 of the Revised Statutes, referred to in text, was classified to section 92 of former Title 46, Shipping, prior to repeal by Pub. L. 87-826, § 3, Oct. 15, 1962, 76 Stat. 953.

The amendment by act June 15, 1917, referred to in text, probably means the amendment made by section 4 of title V of act June 15, 1917, ch. 30, 40 Stat. 222.

This chapter, referred to in text, was in the original "this Act", meaning act Oct. 6, 1917, ch. 106, 40 Stat. 411, known as the Trading with the enemy Act, also known as the Trading with the Enemy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 4301 of this title and Tables.

CODIFICATION

Section was formerly classified to section 13 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

In text, "section 60105 of title 46, and sections" substituted for "sections forty-one hundred and ninety-seven," on authority of Pub. L. 109-304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 60105 of Title 46, Shipping.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise in Bureau of Customs of Department of the Treasury to which appointments were required to be made by President with advice and consent of Senate ordered

abolished with such offices to be terminated not later than Dec. 31, 1966, and functions vested by statute in officers, agencies, or employees of the Bureau of Customs of the Department of the Treasury transferred to the Secretary of the Treasury by Reorg. Plan No. 1 of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees.

**§ 4314. False manifest; refusal of clearance; reports of gold or silver coin in cargoes for export**

During the present war, whenever there is reasonable cause to believe that the manifest or the additional statements under oath required by section 4313 of this title are false or that any vessel, domestic or foreign, is about to carry out of the United States any property to or for the account or benefit of an enemy, or ally of enemy, or any property or person whose export, taking out, or transport will be in violation of law, the collector of customs for the district in which such vessel is located is authorized and empowered subject to review by the President to refuse clearance to any such vessel, domestic or foreign, for which clearance is required by law, and by formal notice served upon the owners, master, or person or persons in command or charge of any domestic vessel for which clearance is not required by law, to forbid the departure of such vessel from the port, and it shall thereupon be unlawful for such vessel to depart.

The collector of customs shall, during the present war, in each case report to the President the amount of gold or silver coin or bullion or other moneys of the United States contained in any cargo intended for export. Such report shall include the names and addresses of the consignors and consignees, together with any facts known to the collector with reference to such shipment and particularly those which may indicate that such gold or silver coin or bullion or moneys of the United States may be intended for delivery or may be delivered, directly or indirectly, to an enemy or an ally of enemy.

(Oct. 6, 1917, ch. 106, § 14, 40 Stat. 424.)

CODIFICATION

Section was formerly classified to section 14 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise in Bureau of Customs of Department of the Treasury to which appointments were required to be made by President with advice and consent of Senate ordered abolished with such offices to be terminated not later than Dec. 31, 1966, and functions vested by statute in officers, agencies, or employees of the Bureau of Customs of the Department of the Treasury transferred to the Secretary of the Treasury by Reorg. Plan No. 1 of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees.

**§ 4315. Offenses; punishment; forfeitures of property**

**(a) Criminal liability**

Whoever shall willfully violate any of the provisions of this chapter or of any license, rule, or

<sup>1</sup> See References in Text note below.

regulation issued thereunder, and whoever shall willfully violate, neglect, or refuse to comply with any order of the President issued in compliance with the provisions of the chapter shall, upon conviction, be fined not more than \$1,000,000, or if a natural person, be imprisoned for not more than 20 years, or both.

**(b) Civil liability; hearing; judicial review**

(1) A civil penalty of not to exceed \$50,000 may be imposed by the Secretary of the Treasury on any person who violates any license, order, rule, or regulation issued in compliance with the provisions of this chapter.

(2) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, that is the subject of a violation under paragraph (1) shall, at the direction of the Secretary of the Treasury, be forfeited to the United States Government.

(3) The penalties provided under this subsection may be imposed only on the record after opportunity for an agency hearing in accordance with sections 554 through 557 of title 5, with the right to prehearing discovery.

(4) Judicial review of any penalty imposed under this subsection may be had to the extent provided in section 702 of title 5.

**(c) Forfeiture**

Upon conviction, any property, funds, securities, papers, or other articles or documents, or any vessel, together with tackle, apparel, furniture, and equipment, concerned in any violation of subsection (a) may be forfeited to the United States.

(Oct. 6, 1917, ch. 106, §16, 40 Stat. 425; Pub. L. 95-223, title I, §103(a), Dec. 28, 1977, 91 Stat. 1626; Pub. L. 102-393, title VI, §628, Oct. 6, 1992, 106 Stat. 1772; Pub. L. 102-484, div. A, title XVII, §1710(c), Oct. 23, 1992, 106 Stat. 2580; Pub. L. 104-114, title I, §102(d), Mar. 12, 1996, 110 Stat. 792; Pub. L. 111-195, title I, §107(a)(4), July 1, 2010, 124 Stat. 1337.)

REFERENCES IN TEXT

“This chapter” and “the chapter”, referred to in subsecs. (a) and (b)(1), were in the original “this Act” and “the Act”, respectively, meaning act Oct. 6, 1917, ch. 106, 40 Stat. 411, known as the Trading with the enemy Act, also known as the Trading with the Enemy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 4301 of this title and Tables.

CODIFICATION

Section was formerly classified to section 16 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-195 substituted “if a natural person, be imprisoned for not more than 20 years, or both.” for “if a natural person, be fined not more than \$100,000, or imprisoned for not more than ten years or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall, upon conviction, be fined not more than \$100,000 or imprisoned for not more than ten years or both.”

1996—Pub. L. 104-114, §102(d)(3)(A), made technical amendment inserting section designation in original.

Subsec. (a). Pub. L. 104-114, §102(d)(3)(B), substituted “participates” for “participants”.

Subsec. (b). Pub. L. 104-114, §102(d)(1), amended subsec. (b), as added by Pub. L. 102-484, generally. Prior to amendment, subsec. (b) read as follows:

“(b)(1) The Secretary of the Treasury may impose a civil penalty of not more than \$50,000 on any person who violates any license, order, rule, or regulation issued under this chapter.

“(2) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, that is the subject of a violation under paragraph (1) shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States Government.

“(3) The penalties provided under this subsection may not be imposed for—

“(A) news gathering, research, or the export or import of, or transmission of, information or informational materials; or

“(B) clearly defined educational or religious activities, or activities of recognized human rights organizations, that are reasonably limited in frequency, duration, and number of participants.

“(4) The penalties provided under this subsection may be imposed only on the record after opportunity for an agency hearing in accordance with sections 554 through 557 of title 5, with the right to prehearing discovery.

“(5) Judicial review of any penalty imposed under this subsection may be had to the extent provided in section 702 of title 5.”

Pub. L. 104-114, §102(d)(2), struck out subsec. (b), as added by Pub. L. 102-393, which read as follows:

“(b)(1) A civil penalty of not to exceed \$50,000 may be imposed by the Secretary of the Treasury on any person who violates any license, order, rule, or regulation issued in compliance with the provisions of this chapter.

“(2) The penalties provided under this subsection may not be imposed for—

“(A) news gathering, research, or the export or import of, or transmission of, information or informational materials; or

“(B) clearly defined educational or religious activities, or activities of recognized human rights organizations, that are reasonably limited in frequency, duration, and number of participants.”

1992—Pub. L. 102-484, which directed substitution of “(a) Whoever” for “That whoever” and addition of subsec. (b) at end, was executed to reflect the probable intent of Congress in light of the intervening general amendment by Pub. L. 102-393 (see below), by adding subsec. (b) after subsec. (a).

Pub. L. 102-393 amended section generally, substituting subsecs. (a) to (c) for former undesignated provisions which read as follows: “Whoever shall willfully violate any of the provisions of this chapter or of any license, rule, or regulation issued thereunder, and whoever shall willfully violate, neglect, or refuse to comply with any order of the President issued in compliance with the provisions of this chapter shall, upon conviction, be fined not more than \$50,000, or, if a natural person, imprisoned for not more than ten years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by a like fine, imprisonment, or both, and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, concerned in such violation shall be forfeited to the United States.”

1977—Pub. L. 95-223 substituted “\$50,000” for “\$10,000”.

**§ 4316. Rules by district courts; appeals**

The district courts of the United States are given jurisdiction to make and enter all such rules as to notice and otherwise, and all such orders and decrees, and to issue such process as may be necessary and proper in the premises to enforce the provisions of this chapter, with a