

§ 1496a. Clearance restrictions of individuals returning from abroad; special circumstances; “baggage and effects” defined

Except as otherwise provided by law, no individual returning to the United States from abroad shall be—

- (1) entitled to the admission of his or her baggage and effects free of duty without entry; or
- (2) entitled to expedited customs examination and clearance of his or her baggage and effects.

Paragraph (2) shall not apply to individuals in special circumstances (including being seriously ill or infirm, having been summoned by news of affliction or disaster, and accompanying the body of a deceased relative). For purposes of this section, the term “baggage and effects” means any article which was in the possession of the individual while abroad and is being imported in connection with his or her arrival and is intended for his or her bona fide personal or household use. Such term does not include any article imported as an accommodation to others or for sale or other commercial use.

(Pub. L. 95-410, title II, §215, Oct. 3, 1978, 92 Stat. 904.)

Editorial Notes

CODIFICATION

Section was enacted as part of Customs Procedural Reform and Simplification Act of 1978, and not as part of Tariff Act of 1930 which comprises this chapter.

Statutory Notes and Related Subsidiaries

CLEARANCE PROCEDURES STUDY; REPORT TO CONGRESSIONAL COMMITTEES

Pub. L. 95-410, title II, §216, Oct. 3, 1978, 92 Stat. 904, provided that the Comptroller General, in cooperation with the Customs Service of the Department of the Treasury and the Immigration and Naturalization Service of the Department of Justice, study clearance procedures for individuals entering or reentering the United States, and to report the results of his study and any recommendations for expediting the clearance process to specific committees of the United States Senate and the House of Representatives not later than Sept. 1, 1979.

§ 1497. Penalties for failure to declare

(a) In general

- (1) Any article which—
 - (A) is not included in the declaration and entry as made or transmitted; and
 - (B) is not mentioned before examination of the baggage begins—
 - (i) in writing by such person, if written declaration and entry was required, or
 - (ii) orally, if written declaration and entry was not required;

shall be subject to forfeiture and such person shall be liable for a penalty determined under paragraph (2) with respect to such article.

(2) The amount of the penalty imposed under paragraph (1) with respect to any article is equal to—

- (A) if the article is a controlled substance, either \$500 or an amount equal to 1,000 percent

of the value of the article, whichever amount is greater; and

(B) if the article is not a controlled substance, the value of the article.

(b) Value of controlled substances

(1) Notwithstanding any other provision of this chapter, the value of any controlled substance shall, for purposes of this section, be equal to the amount determined by the Secretary in consultation with the Attorney General of the United States, to be equal to the price at which such controlled substance is likely to be illegally sold to the consumer of such controlled substance.

(2) The Secretary and the Attorney General of the United States shall establish a method of determining the price at which each controlled substance is likely to be illegally sold to the consumer of such controlled substance.

(June 17, 1930, ch. 497, title IV, §497, 46 Stat. 728; Pub. L. 99-570, title III, §3116, Oct. 27, 1986, 100 Stat. 3207-83; Pub. L. 100-690, title VII, §7367(a), Nov. 18, 1988, 102 Stat. 4479; Pub. L. 103-182, title VI, §612, Dec. 8, 1993, 107 Stat. 2170.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §497, 42 Stat. 964. That section was superseded by section 497 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

A prior provision for forfeiture of any article subject to duty found in baggage, and not mentioned to the collector before whom entry was made, and for a penalty of treble the value of the article, was contained in R.S. §2802, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

AMENDMENTS

1993—Subsec. (a)(1)(A). Pub. L. 103-182, §612(1), inserted “or transmitted” after “made”.

Subsec. (a)(2)(A). Pub. L. 103-182, §612(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “if the article is a controlled substance, 1,000 percent of the value of the article; and”.

1988—Subsec. (a)(2)(A). Pub. L. 100-690 substituted “1,000 percent” for “200 percent”.

1986—Pub. L. 99-570 amended section generally. Prior to amendment, section read as follows: “Any article not included in the declaration and entry as made, and, before examination of the baggage was begun, not mentioned in writing by such person, if written declaration and entry was required, or orally if written declaration and entry was not required, shall be subject to forfeiture and such person shall be liable to a penalty equal to the value of such article.”

§ 1498. Entry under regulations

(a) Authorized for certain merchandise

The Secretary of the Treasury is authorized to prescribe rules and regulations for the declaration and entry of—

- (1) Merchandise, when—

(A) the aggregate value of the shipment does not exceed an amount specified by the Secretary by regulation, but not more than \$2,500; or

(B) different commercial facilitation and risk considerations that may vary for different classes or kinds of merchandise or different classes of transactions may dictate;

(2) Products of the United States, when the aggregate value of the shipment does not exceed such amounts as the Secretary may prescribe and the products are imported.

(A) for the purposes of repair or alteration prior to reexportation, or

(B) after having been either rejected or returned by the foreign purchaser to the United States for credit;

(3) Merchandise damaged on the voyage of importation, by fire or through marine casualty or any other cause, without fault on the part of the shipper;

(4) Merchandise recovered from a wrecked or stranded vessel;

(5) Household effects used abroad and personal effects, not imported in pursuance of a purchase or agreement for purchase and not intended for sale;

(6) Articles sent by persons in foreign countries as gifts to persons in the United States;

(7) Articles carried on the person or contained in the baggage of a person arriving in the United States;

(8) Tools of trade of a person arriving in the United States;

(9) Personal effects of citizens of the United States who have died in a foreign country;

(10) Merchandise within the provisions of sections 1465¹ and 1466 of this title (relating to supplies, repairs, and equipment on vessels and railway cars) at the first port of arrival;

(11) Merchandise when in the opinion of the Secretary of the Treasury the value thereof cannot be declared; and

(12) Merchandise within the provisions of paragraph 1631 of section 1201 of this title.

(b) Application of general provisions

The Secretary of the Treasury is authorized to include in such rules and regulations any of the provisions of section 1484 or 1485 of this title (relating, respectively, to entry and to declaration of merchandise generally).

(June 17, 1930, ch. 497, title IV, § 498, 46 Stat. 728; Aug. 8, 1953, ch. 397, § 16(d), (e), 67 Stat. 517; Pub. L. 96-609, title II, § 202, Dec. 28, 1980, 94 Stat. 3561; Pub. L. 98-573, title II, § 206, Oct. 30, 1984, 98 Stat. 2975; Pub. L. 100-418, title I, § 1214(h)(5), Aug. 23, 1988, 102 Stat. 1157; Pub. L. 103-182, title VI, § 662, Dec. 8, 1993, 107 Stat. 2214.)

Editorial Notes

REFERENCES IN TEXT

Section 1465 of this title, referred to in subsec. (a)(10), was repealed by Pub. L. 103-182, title VI, § 690(b)(7), Dec. 8, 1993, 107 Stat. 2223.

Section 1201 of this title, referred to in subsec. (a)(12), which comprised the free list for articles imported into the United States, was repealed by Pub. L. 87-456, title I, § 101(a), May 24, 1962, 76 Stat. 72, which act also revised the Tariff Schedules of the United States. See notes under section 1202 of this title.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 498, 42 Stat. 964. That section was superseded by section 498 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

¹ See References in Text note below.

Provision for an entry, separate from that of other merchandise, of wearing apparel, personal baggage, and tools and implements of a mechanical trade, was made by R.S. § 2799, which also prescribed the contents of such entry, and of the accompanying oath. R.S. § 2800 provided for a bond when the person making entry was not the owner. R.S. § 2801 provided for a landing permit, and for an examination of baggage when deemed proper by the collector and naval officer, and for entry of articles not exempt from duty. All of these sections were repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103-182, § 662(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Merchandise, imported in the mails or otherwise, when the aggregate value of the shipment does not exceed such amount, not greater than \$1,250 as the Secretary of the Treasury shall specify in the regulations, and the specified amount may vary for different classes or kinds of merchandise or different classes of transactions, except that this paragraph does not apply to articles valued in excess of \$250 classified in—

“(A) chapters 50 through 63;

“(B) chapters 39 through 43, 61 through 65, 67 and 95; and

“(C) subchapters III and IV of chapter 99; of the Harmonized Tariff Schedule of the United States, or to any other article for which formal entry is required without regard to value.”

Subsec. (a)(2). Pub. L. 103-182, § 662(2), substituted “such amounts as the Secretary may prescribe” for “\$10,000” in introductory provisions.

1988—Subsec. (a)(1). Pub. L. 100-418, substituted “the Harmonized Tariff Schedule of the United States” for “the Tariff Schedules of the United States” in closing provisions, added subpars. (A) to (C), and struck out former subpars. (A) to (C) which read as follows:

“(A) schedule 3,

“(B) parts 1, 4A, 7B, 12A, 12D, and 13B of schedule 7, and

“(C) parts 2 and 3 of the Appendix.”

1984—Subsec. (a)(1). Pub. L. 98-573 substituted “\$1,250” for “\$250” and inserted provision that this paragraph does not apply to articles valued in excess of \$250 classified in schedule 3, parts 1, 4A, 7B, 12A, 12D, and 13B of schedule 7, and parts 2 and 3 of the Appendix, of the Tariff Schedules, or to any other article for which formal entry is required without regard to value.

1980—Subsec. (a). Pub. L. 96-609 added par. (2) and redesignated former pars. (2) to (11) as (3) to (12), respectively.

1953—Subsec. (a)(1). Act Aug. 8, 1953, § 16(d), increased valuation figure with respect to informal entries from \$100 to \$250, and inserted provisions with respect to possible variation for different classes or kinds of merchandise and different classes of transactions.

Subsec. (a)(11). Act Aug. 8, 1953, § 16(e), substituted “paragraph 1631 of section 1201 of this title” for “sections 472 to 574 of this title”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as an Effective Date note under section 3001 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 effective on 15th day after Oct. 30, 1984, see section 214(a), (b) of Pub. L. 98-573, set out as a note under section 1304 of this title.

EFFECTIVE DATE OF 1953 AMENDMENT; SAVINGS PROVISION

Amendment by act Aug. 8, 1953, effective on and after thirtieth day following Aug. 8, 1953, and savings provision, see notes set out under section 1304 of this title.

CUSTOMS DECLARATIONS; PROXIMITY OF LIVESTOCK

Pub. L. 108-90, title V, § 513, Oct. 1, 2003, 117 Stat. 1154, provided that: "For fiscal year 2004 and thereafter, none of the funds appropriated or otherwise made available to the Department of Homeland Security may be used for the production of customs declarations that do not inquire whether the passenger had been in the proximity of livestock."

§ 1499. Examination of merchandise**(a) Entry examination****(1) In general**

Imported merchandise that is required by law or regulation to be inspected, examined, or appraised shall not be delivered from customs custody (except under such bond or other security as may be prescribed by the Secretary to assure compliance with all applicable laws, regulations, and instructions which the Secretary or the Customs Service is authorized to enforce) until the merchandise has been inspected, appraised, or examined and is reported by the Customs Service to have been truly and correctly invoiced and found to comply with the requirements of the laws of the United States.

(2) Examination

The Customs Service—

(A) shall designate the packages or quantities of merchandise covered by any invoice or entry which are to be opened and examined for the purpose of appraisal or otherwise;

(B) shall order such packages or quantities to be sent to such place as is designated by the Secretary by regulation for such purpose;

(C) may require such additional packages or quantities as the Secretary considers necessary for such purpose; and

(D) shall inspect a sufficient number of shipments, and shall examine a sufficient number of entries, to ensure compliance with the laws enforced by the Customs Service.

(3) Unspecified articles

If any package contains any article not specified in the invoice or entry and, in the opinion of the Customs Service, the article was omitted from the invoice or entry—

(A) with fraudulent intent on the part of the seller, shipper, owner, agent, importer of record, or entry filer, the contents of the entire package in which such article is found shall be subject to seizure; or

(B) without fraudulent intent, the value of the article shall be added to the entry and the duties, fees, and taxes thereon paid accordingly.

(4) Deficiency

If a deficiency is found in quantity, weight, or measure in the examination of any package, the person finding the deficiency shall make a report thereof to the Customs Service. The Customs Service shall make allowance for the deficiency in the liquidation of duties.

(5) Information required for release

If an examination is conducted, any information required for release shall be provided,

either electronically or in paper form, to the Customs Service at the port of examination. The absence of such information does not limit the authority of the Customs Service to conduct an examination.

(b) Testing laboratories**(1) Accreditation of private testing laboratories**

The Customs Service shall establish and implement a procedure, under regulations promulgated by the Secretary, for accrediting private laboratories within the United States which may be used to perform tests (that would otherwise be performed by Customs Service laboratories) to establish the characteristics, quantities, or composition of imported merchandise. Such regulations—

(A) shall establish the conditions required for the laboratories to receive and maintain accreditation for purposes of this subsection;

(B) shall establish the conditions regarding the suspension and revocation of accreditation, which may include the imposition of a monetary penalty not to exceed \$100,000 and such penalty is in addition to the recovery, from a gauger or laboratory accredited under paragraph (1), of any loss of revenue that may have occurred, but the Customs Service—

(i) may seek to recover lost revenue only in cases where the gauger or laboratory intentionally falsified the analysis or gauging report in collusion with the importer; and

(ii) shall neither assess penalties nor seek to recover lost revenue because of a good faith difference of professional opinion; and

(C) may provide for the imposition of a reasonable charge for accreditation and periodic reaccreditation.

The collection of any charge for accreditation and reaccreditation under this section is not prohibited by section 58c(e)(6) of this title.

(2) Appeal of adverse accreditation decisions

A laboratory applying for accreditation, or that is accredited, under this section may contest any decision or order of the Customs Service denying, suspending, or revoking accreditation, or imposing a monetary penalty, by commencing an action in accordance with chapter 169 of title 28 in the Court of International Trade within 60 days after issuance of the decision or order.

(3) Testing by accredited laboratories

When requested by an importer of record of merchandise, the Customs Service shall authorize the release to the importer of a representative sample of the merchandise for testing, at the expense of the importer, by a laboratory accredited under paragraph (1). The testing results from a laboratory accredited under paragraph (1) that are submitted by an importer of record with respect to merchandise in an entry shall, in the absence of testing results obtained from a Customs Service laboratory, be accepted by the Customs Service if the importer of record certifies that the sample tested was taken from the merchandise in