

(d) BURDEN OF PROOF.—The United States Government is not required to negative a defense provided by subsection (c) in a complaint, information, indictment, or other pleading or in a trial or other proceeding. The burden of going forward with the evidence supporting the defense is on the person claiming its benefit.

(e) COVERED VESSEL DEFINED.—In this section the term “covered vessel” means—

(1) a vessel of the United States or a vessel subject to the jurisdiction of the United States; or

(2) any other vessel if the individual is a citizen of the United States or a resident alien of the United States.

(Pub. L. 109–304, §10(2), Oct. 6, 2006, 120 Stat. 1687; Pub. L. 114–120, title III, §314(a), (b), (e)(1), Feb. 8, 2016, 130 Stat. 59.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Rows include 70503(a), 70503(b), 70503(c), and 70503(d).

In subsection (a), before paragraph (1), the words “may not” are substituted for “It is unlawful for” for consistency in the revised title and to eliminate unnecessary words.

In subsection (b), the words “applies to” are substituted for “is intended to reach” for clarity and to eliminate unnecessary words.

Editorial Notes

AMENDMENTS

2016—Pub. L. 114–120, §314(e)(1), substituted “Prohibited acts” for “Manufacture, distribution, or possession of controlled substances on vessels” in section catchline.

Subsec. (a). Pub. L. 114–120, §314(a), amended subsec. (a) generally. Prior to amendment, text read as follows: “An individual may not knowingly or intentionally manufacture or distribute, or possess with intent to manufacture or distribute, a controlled substance on board—

“(1) a vessel of the United States or a vessel subject to the jurisdiction of the United States; or

“(2) any vessel if the individual is a citizen of the United States or a resident alien of the United States.”

Subsec. (e). Pub. L. 114–120, §314(b), added subsec. (e).

§ 70504. Jurisdiction and venue

(a) JURISDICTION.—Jurisdiction of the United States with respect to a vessel subject to this chapter is not an element of an offense. Jurisdictional issues arising under this chapter are preliminary questions of law to be determined solely by the trial judge.

(b) VENUE.—A person violating section 70503 or 70508—

(1) shall be tried in the district in which such offense was committed; or

(2) if the offense was begun or committed upon the high seas, or elsewhere outside the jurisdiction of any particular State or district, may be tried in any district.

(Pub. L. 109–304, §10(2), Oct. 6, 2006, 120 Stat. 1688; Pub. L. 110–407, title II, §202(b)(2), Oct. 13, 2008, 122 Stat. 4300; Pub. L. 115–91, div. A, title X, §1012(a), Dec. 12, 2017, 131 Stat. 1546.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row includes 70504.

Editorial Notes

AMENDMENTS

2017—Subsec. (b). Pub. L. 115–91 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

“(b) VENUE.—A person violating section 70503 or 70508 of this title shall be tried in the district court of the United States for—

“(1) the district at which the person enters the United States; or

“(2) the District of Columbia.”

2008—Subsec. (b). Pub. L. 110–407 inserted “or 70508” after “70503” in introductory provisions.

§ 70505. Failure to comply with international law as a defense

A person charged with violating section 70503 of this title, or against whom a civil enforcement proceeding is brought under section 70508, does not have standing to raise a claim of failure to comply with international law as a basis for a defense. A claim of failure to comply with international law in the enforcement of this chapter may be made only by a foreign nation. A failure to comply with international law does not divest a court of jurisdiction and is not a defense to a proceeding under this chapter.

(Pub. L. 109–304, §10(2), Oct. 6, 2006, 120 Stat. 1688; Pub. L. 110–407, title II, §202(b)(3), Oct. 13, 2008, 122 Stat. 4300.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row includes 70505.

Editorial Notes

AMENDMENTS

2008—Pub. L. 110–407 substituted “this title, or against whom a civil enforcement proceeding is brought under section 70508,” for “this title”.

§ 70506. Penalties

(a) VIOLATIONS.—A person violating paragraph (1) of section 70503(a) of this title shall be pun-

ished as provided in section 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 960). However, if the offense is a second or subsequent offense as provided in section 1012(b) of that Act (21 U.S.C. 962(b)), the person shall be punished as provided in section 1012 of that Act (21 U.S.C. 962).

(b) ATTEMPTS AND CONSPIRACIES.—A person attempting or conspiring to violate section 70503 of this title is subject to the same penalties as provided for violating section 70503.

(c) SIMPLE POSSESSION.—

(1) IN GENERAL.—Any individual on a vessel subject to the jurisdiction of the United States who is found by the Secretary, after notice and an opportunity for a hearing, to have knowingly or intentionally possessed a controlled substance within the meaning of the Controlled Substances Act (21 U.S.C. 812) shall be liable to the United States for a civil penalty of not to exceed \$5,000 for each violation. The Secretary shall notify the individual in writing of the amount of the civil penalty.

(2) DETERMINATION OF AMOUNT.—In determining the amount of the penalty, the Secretary shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(3) TREATMENT OF CIVIL PENALTY ASSESSMENT.—Assessment of a civil penalty under this subsection shall not be considered a conviction for purposes of State or Federal law but may be considered proof of possession if such a determination is relevant.

(d) PENALTY.—A person violating paragraph (2) or (3) of section 70503(a) shall be fined in accordance with section 3571 of title 18, imprisoned not more than 15 years, or both.

(Pub. L. 109–304, §10(2), Oct. 6, 2006, 120 Stat. 1688; Pub. L. 111–281, title III, §302, Oct. 15, 2010, 124 Stat. 2923; Pub. L. 114–120, title III, §314(c), Feb. 8, 2016, 130 Stat. 59.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
70506(a)	46 App.:1903(g).	Pub. L. 96–350, §3(g), (j), Sept. 15, 1980, 94 Stat. 1160; Pub. L. 99–570, title III, §3202, Oct. 27, 1986, 100 Stat. 3207–97; Pub. L. 99–640, §17, Nov. 10, 1986, 100 Stat. 3554; Pub. L. 101–647, title XII, §1203, Nov. 29, 1990, 104 Stat. 4830.
70506(b)	46 App.:1903(j).	

In subsection (b), the words “the commission of which was the object of the attempt or conspiracy” are omitted as unnecessary.

Editorial Notes

REFERENCES IN TEXT

The Controlled Substances Act, referred to in subsec. (c)(1), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, which is classified principally to subchapter I (§801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

AMENDMENTS

2016—Subsec. (a). Pub. L. 114–120, §314(c)(1), substituted “A person violating paragraph (1) of section 70503(a)” for “A person violating section 70503”.

Subsec. (d). Pub. L. 114–120, §314(c)(2), added subsec. (d).

2010—Subsec. (c). Pub. L. 111–281 added subsec. (c).

§ 70507. Forfeitures

(a) IN GENERAL.—Property described in section 511(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)) that is used or intended for use to commit, or to facilitate the commission of, an offense under section 70503 or 70508 of this title may be seized and forfeited in the same manner that similar property may be seized and forfeited under section 511 of that Act (21 U.S.C. 881).

(b) PRIMA FACIE EVIDENCE OF VIOLATION.—Practices commonly recognized as smuggling tactics may provide prima facie evidence of intent to use a vessel to commit, or to facilitate the commission of, an offense under section 70503 of this title, and may support seizure and forfeiture of the vessel, even in the absence of controlled substances aboard the vessel. The following indicia, among others, may be considered, in the totality of the circumstances, to be prima facie evidence that a vessel is intended to be used to commit, or to facilitate the commission of, such an offense:

(1) The construction or adaptation of the vessel in a manner that facilitates smuggling, including—

(A) the configuration of the vessel to ride low in the water or present a low hull profile to avoid being detected visually or by radar;

(B) the presence of any compartment or equipment that is built or fitted out for smuggling, not including items such as a safe or lock-box reasonably used for the storage of personal valuables;

(C) the presence of an auxiliary tank not installed in accordance with applicable law or installed in such a manner as to enhance the vessel’s smuggling capability;

(D) the presence of engines that are excessively over-powered in relation to the design and size of the vessel;

(E) the presence of materials used to reduce or alter the heat or radar signature of the vessel and avoid detection;

(F) the presence of a camouflaging paint scheme, or of materials used to camouflage the vessel, to avoid detection; or

(G) the display of false vessel registration numbers, false indicia of vessel nationality, false vessel name, or false vessel homeport.

(2) The presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel.

(3) The presence of excessive fuel, lube oil, food, water, or spare parts, inconsistent with legitimate vessel operation, inconsistent with the construction or equipment of the vessel, or inconsistent with the character of the vessel’s stated purpose.

(4) The operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation and in a manner of navigation consistent with