

## TRANSFER OF FUNCTIONS

Effective Aug. 1, 2000, all functions of Director of Bureau of Justice Assistance, other than those enumerated in section 10142(3) through (6) of Title 34, Crime Control and Law Enforcement, transferred to Assistant Attorney General for Office of Justice Programs, see section 1000(a)(1) [title I, §108(b)] of Pub. L. 106-113, set out as a note under section 10141 of Title 34.

## REPORTS BY SECRETARY OF LABOR

Pub. L. 101-647, title XXIX, §2908, Nov. 29, 1990, 104 Stat. 4915, which required the Secretary of Labor to submit an annual report to Congress on compliance by State Prison Industry Enhancement Certification programs with requirements set forth in section 1761(c) of this title, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 123 of House Document No. 103-7.

## EXEMPTIONS TO FEDERAL RESTRICTIONS ON MARKETABILITY OF PRISON-MADE GOODS

Pub. L. 90-351, title I, §819(c), formerly §827(c), as added Pub. L. 96-157, §2, Dec. 27, 1979, 93 Stat. 1215, renumbered and amended Pub. L. 98-473, title II, §609B(f), (o), Oct. 12, 1984, 98 Stat. 2093, 2096, provided that: "The provisions of section 1761 of title 18, United States Code, and of the first section of the Act of June 30, 1936 (49 Stat. 2036; [former] 41 U.S.C. 35 [see 41 U.S.C. 6502]), commonly known as the Walsh-Healey Act, creating exemptions to Federal restrictions on marketability of prison-made goods, as amended from time to time, shall not apply unless—

"(1) representatives of local union central bodies or similar labor union organizations have been consulted prior to the initiation of any project qualifying of any exemption created by this section; and

"(2) such paid inmate employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services."

## § 1762. Marking packages

(a) All packages containing any goods, wares, or merchandise manufactured, produced, or mined wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, when shipped or transported in interstate or foreign commerce shall be plainly and clearly marked, so that the name and address of the shipper, the name and address of the consignee, the nature of the contents, and the name and location of the penal or reformatory institution where produced wholly or in part may be readily ascertained on an inspection of the outside of such package.

(b) Whoever violates this section shall be fined under this title, and any goods, wares, or merchandise transported in violation of this section or section 1761 of this title shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the seizure and forfeiture of property imported into the United States contrary to law.

(June 25, 1948, ch. 645, 62 Stat. 786; Pub. L. 102-393, title V, §535(b), Oct. 6, 1992, 106 Stat. 1764; Pub. L. 103-322, title XXXIII, §330016(1)(H), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104-294, title VI, §601(a)(7), Oct. 11, 1996, 110 Stat. 3498.)

## HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§396c, 396d, 396e (July 24, 1935, ch. 412, §§2, 3, 4, 49 Stat. 494, 495).

Section consolidates sections 396c, 396d, and 396e of title 18, U.S.C., 1940 ed.

Words "upon conviction thereof" were deleted as unnecessary, since punishment cannot be imposed until after conviction.

Words "transported in violation of this section or section 1761" were added after the word "merchandise" to continue existing law.

The provisions of said section 396e of title 18, U.S.C., 1940 ed., relating to venue, were omitted as covered by section 3237 of this title.

Minor changes were made in translations and phraseology.

## Editorial Notes

## AMENDMENTS

1996—Subsec. (b). Pub. L. 104-294 substituted "fined under this title" for "fined not more than \$50,000".

1994—Pub. L. 103-322, which directed the amendment of this section by substituting "under this title" for "not more than \$1,000", could not be executed because the phrase "not more than \$1,000" did not appear in text subsequent to amendment of subsec. (b) by Pub. L. 102-393. See 1992 Amendment note below.

1992—Subsec. (b). Pub. L. 102-393 substituted "\$50,000" for "\$1,000".

## CHAPTER 87—PRISONS

Sec.

1791.

1792.

1793.

Providing or possessing contraband in prison.

Mutiny and riot prohibited.

Trespass on Bureau of Prisons reservations and land.

## Editorial Notes

## AMENDMENTS

1986—Pub. L. 99-646, §64(b), Nov. 10, 1986, 100 Stat. 3614, added item 1793.

1984—Pub. L. 98-473, title II, §1109(c), Oct. 12, 1984, 98 Stat. 2148, amended analysis generally by revising items 1791 and 1792, and by inserting a second chapter heading which was not executed to text as redundant.

## § 1791. Providing or possessing contraband in prison

(a) OFFENSE.—Whoever—

(1) in violation of a statute or a rule or order issued under a statute, provides to an inmate of a prison a prohibited object, or attempts to do so; or

(2) being an inmate of a prison, makes, possesses, or obtains, or attempts to make or obtain, a prohibited object;

shall be punished as provided in subsection (b) of this section.

(b) PUNISHMENT.—The punishment for an offense under this section is a fine under this title or—

(1) imprisonment for not more than 20 years, or both, if the object is specified in subsection (d)(1)(C) of this section;

(2) imprisonment for not more than 10 years, or both, if the object is specified in subsection (d)(1)(A) of this section;

(3) imprisonment for not more than 5 years, or both, if the object is specified in subsection (d)(1)(B) of this section;

(4) imprisonment for not more than one year, or both, if the object is specified in subsection (d)(1)(D), (d)(1)(E), or (d)(1)(F) of this section; and

(5) imprisonment for not more than 6 months, or both, if the object is specified in subsection (d)(1)(G) of this section.

(c) CONSECUTIVE PUNISHMENT REQUIRED IN CERTAIN CASES.—Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance. Any punishment imposed under subsection (b) for a violation of this section by an inmate of a prison shall be consecutive to the sentence being served by such inmate at the time the inmate commits such violation.

(d) DEFINITIONS.—As used in this section—

(1) the term “prohibited object” means—

(A) a firearm or destructive device or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection;

(B) marijuana or a controlled substance in schedule III, other than a controlled substance referred to in subparagraph (C) of this subsection, ammunition, a weapon (other than a firearm or destructive device), or an object that is designed or intended to be used as a weapon or to facilitate escape from a prison;

(C) a narcotic drug, methamphetamine, its salts, isomers, and salts of its isomers, lysergic acid diethylamide, or phencyclidine;

(D) a controlled substance (other than a controlled substance referred to in subparagraph (A), (B), or (C) of this subsection) or an alcoholic beverage;

(E) any United States or foreign currency;

(F) a phone or other device used by a user of commercial mobile service (as defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d))) in connection with such service; and

(G) any other object that threatens the order, discipline, or security of a prison, or the life, health, or safety of an individual;

(2) the terms “ammunition”, “firearm”, and “destructive device” have, respectively, the meanings given those terms in section 921 of this title;

(3) the terms “controlled substance” and “narcotic drug” have, respectively, the meanings given those terms in section 102 of the Controlled Substances Act (21 U.S.C. 802); and

(4) the term “prison” means a Federal correctional, detention, or penal facility or any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General.

(June 25, 1948, ch. 645, 62 Stat. 786; Pub. L. 98-473, title II, § 1109(a), Oct. 12, 1984, 98 Stat. 2147; Pub. L. 99-646, § 52(a), Nov. 10, 1986, 100 Stat. 3606; Pub. L. 100-690, title VI, § 6468(a), (b), Nov. 18, 1988, 102 Stat. 4376; Pub. L. 103-322, title IX, § 90101, title XXXIII, § 330003(a), Sept. 13, 1994, 108 Stat. 1986, 2140; Pub. L. 104-294, title VI, § 601(m), Oct. 11, 1996, 110 Stat. 3502; Pub. L. 109-162, title XI, § 1178, Jan. 5, 2006, 119 Stat. 3126; Pub. L. 111-225, § 2, Aug. 10, 2010, 124 Stat. 2387.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 753j, 908 (May 14, 1930, ch. 274, § 11, 46 Stat. 327; May 27, 1930, ch. 339, § 8, 46 Stat. 390).

Section consolidates sections 753j and 908 of title 18, U.S.C., 1940 ed. The section was broadened to include the taking or sending out of contraband from the institution. This was suggested by representatives of the Federal Bureau of Prisons and the Criminal Division of the Department of Justice. In other respects the section was rewritten without change of substance.

The words “narcotic”, “drug”, “weapon” and “contraband” were omitted, since the insertion of the words “contrary to any rule or regulation promulgated by the attorney general” preserves the intent of the original statutes.

Words “guilty of a felony” were deleted as unnecessary in view of definitive section 1 of this title. (See also reviser’s note under section 550 of this title.)

Minor verbal changes also were made.

#### Editorial Notes

##### REFERENCES IN TEXT

Schedules I, II, and III, referred to in subsec. (d)(1)(A), (B), probably mean schedules I to III of the schedules of controlled substances, which are set out in section 812(c) of Title 21, Food and Drugs.

##### AMENDMENTS

2010—Subsec. (b)(4). Pub. L. 111-225, § 2(1)(A), substituted “, (d)(1)(E), or (d)(1)(F)” for “or (d)(1)(E)”.

Subsec. (b)(5). Pub. L. 111-225, § 2(1)(B), substituted “(d)(1)(G)” for “(d)(1)(F)”.

Subsec. (d)(1)(F), (G). Pub. L. 111-225, § 2(2), added subpar. (F) and redesignated former subpar. (F) as (G).

2006—Subsec. (d)(4). Pub. L. 109-162 inserted “or any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General” after “penal facility”.

1996—Subsec. (c). Pub. L. 104-294 inserted heading.

1994—Subsec. (b)(2) to (5). Pub. L. 103-322, §§ 90101(6), 330003(a), amended subsec. (b) identically, substituting “(d)” for “(c)” wherever appearing in pars. (2) to (5).

Subsec. (c). Pub. L. 103-322, § 90101(1), inserted at beginning “Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance.”

Subsec. (d)(1)(A). Pub. L. 103-322, § 90101(2), inserted before semicolon at end “or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection”.

Subsec. (d)(1)(B). Pub. L. 103-322, § 90101(3), inserted “marijuana or a controlled substance in schedule III, other than a controlled substance referred to in subparagraph (C) of this subsection,” before “ammunition.”

Subsec. (d)(1)(C). Pub. L. 103-322, § 90101(4), inserted “methamphetamine, its salts, isomers, and salts of its isomers,” after “narcotic drug.”

Subsec. (d)(1)(D). Pub. L. 103-322, § 90101(5), inserted “(A), (B), or” before “(C)”.

1988—Subsec. (b). Pub. L. 100-690, § 6468(a), added par. (1), redesignated former pars. (1) to (4) as (2) to (5), respectively, and struck out “or (c)(1)(C)” after “subsection (c)(1)(B)” in par. (3) as redesignated.

Subsecs. (c), (d). Pub. L. 100-690, § 6468(b), added subsec. (c) and redesignated former subsec. (c) as (d).

1986—Pub. L. 99-646 amended section generally. Prior to amendment, section read as follows:

“(a) OFFENSE.—A person commits an offense if, in violation of a statute, or a regulation, rule, or order issued pursuant thereto—

“(1) he provides, or attempts to provide, to an inmate of a Federal penal or correctional facility—

“(A) a firearm or destructive device;

“(B) any other weapon or object that may be used as a weapon or as a means of facilitating escape;

“(C) a narcotic drug as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);

“(D) a controlled substance, other than a narcotic drug, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), or an alcoholic beverage;

“(E) United States currency; or

“(F) any other object; or

“(2) being an inmate of a Federal penal or correctional facility, he makes, possesses, procures, or otherwise provides himself with, or attempts to make, possess, procure, or otherwise provide himself with, anything described in paragraph (1).

“(b) GRADING.—An offense described in this section is punishable by—

“(1) imprisonment for not more than ten years, a fine of not more than \$25,000, or both, if the object is anything set forth in paragraph (1)(A);

“(2) imprisonment for not more than five years, a fine of not more than \$10,000, or both, if the object is anything set forth in paragraph (1)(B) or (1)(C);

“(3) imprisonment for not more than one year, a fine of not more than \$5,000, or both, if the object is anything set forth in paragraph (1)(D) or (1)(E); and

“(4) imprisonment for not more than six months, a fine of not more than \$1,000, or both, if the object is any other object.

“(c) DEFINITIONS.—As used in this section, ‘firearm’ and ‘destructive device’ have the meaning given those terms, respectively, in 18 U.S.C. 921(a)(3) and (4).”

1984—Pub. L. 98-473 substituted provisions relating to providing or possessing contraband in prison, grading of offenses and definitions of “firearm” and “destructive device” for former provisions relating to traffic in contraband articles.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-646, § 52(b), Nov. 10, 1986, 100 Stat. 3607, provided that: “The amendment made by this section [amending this section] shall take effect 30 days after the date of the enactment of this Act [Nov. 10, 1986].”

#### § 1792. Mutiny and riot prohibited

Whoever instigates, connives, willfully attempts to cause, assists, or conspires to cause any mutiny or riot, at any Federal penal, detention, or correctional facility, shall be imprisoned not more than ten years or fined under this title, or both.

(June 25, 1948, ch. 645, 62 Stat. 786; Pub. L. 98-473, title II, § 1109(b), Oct. 12, 1984, 98 Stat. 2148; Pub. L. 99-646, § 53(a), Nov. 10, 1986, 100 Stat. 3607; Pub. L. 103-322, title XXXIII, § 330016(1)(O), Sept. 13, 1994, 108 Stat. 2148.)

##### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 252 (May 18, 1934, ch. 303, § 1, 48 Stat. 782).

Escape provisions of this section were incorporated in section 752 of this title.

Reference to persons causing, procuring, aiding and assisting was omitted. Such persons are principals under section 2 of this title.

Minor changes were made in translation and phraseology.

#### Editorial Notes

##### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$25,000”.

1986—Pub. L. 99-646 inserted “, detention,” after “penal”.

1984—Pub. L. 98-473 substituted provisions deleting prohibition on bringing dangerous instrumentalities into prison and inserted provision setting forth a maximum \$25,000 fine.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-646, § 53(b), Nov. 10, 1986, 100 Stat. 3607, provided that: “The amendment made by this section [amending this section] shall take effect 30 days after the enactment of this Act [Nov. 10, 1986].”

#### § 1793. Trespass on Bureau of Prisons reservations and land

Whoever, without lawful authority or permission, goes upon a reservation, land, or a facility of the Bureau of Prisons shall be fined under this title or imprisoned not more than six months, or both.

(Added Pub. L. 99-646, § 64(a), Nov. 10, 1986, 100 Stat. 3614; amended Pub. L. 103-322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

#### Editorial Notes

##### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$500”.

#### CHAPTER 88—PRIVACY

##### Sec.

1801. Video voyeurism.

#### § 1801. Video voyeurism

(a) Whoever, in the special maritime and territorial jurisdiction of the United States, has the intent to capture an image of a private area of an individual without their consent, and knowingly does so under circumstances in which the individual has a reasonable expectation of privacy, shall be fined under this title or imprisoned not more than one year, or both.

(b) In this section—

(1) the term “capture”, with respect to an image, means to videotape, photograph, film, record by any means, or broadcast;

(2) the term “broadcast” means to electronically transmit a visual image with the intent that it be viewed by a person or persons;

(3) the term “a private area of the individual” means the naked or undergarment clad genitals, pubic area, buttocks, or female breast of that individual;

(4) the term “female breast” means any portion of the female breast below the top of the areola; and

(5) the term “under circumstances in which that individual has a reasonable expectation of privacy” means—

(A) circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that an image of a private area of the individual was being captured; or

(B) circumstances in which a reasonable person would believe that a private area of the individual would not be visible to the public, regardless of whether that person is in a public or private place.

(c) This section does not prohibit any lawful law enforcement, correctional, or intelligence activity.

(Added Pub. L. 108-495, § 2(a), Dec. 23, 2004, 118 Stat. 3999.)