

Provisions of Tariff Act of 1930 corresponding to section 262, see section 1449 of this title; section 263, see section 1450 of this title; section 264, see section 1451 of this title; section 265, see section 1452 of this title; section 266, see section 1453 of this title.

§ 267. Overtime and premium pay for customs officers

(a) Overtime pay

(1) In general

Subject to paragraph (2) and subsection (c) of this section, a customs officer who is officially assigned to perform work in excess of 40 hours in the administrative workweek of the officer or in excess of 8 hours in a day shall be compensated for that work at an hourly rate of pay that is equal to 2 times the hourly rate of the basic pay of the officer. For purposes of this paragraph, the hourly rate of basic pay for a customs officer does not include any premium pay provided for under subsection (b) of this section.

(2) Special provisions relating to overtime work on callback basis

(A) Minimum duration

Any work for which compensation is authorized under paragraph (1) and for which the customs officer is required to return to the officer's place of work shall be treated as being not less than 2 hours in duration; but only if such work begins at least 1 hour after the end of any previous regularly scheduled work assignment and ends at least 1 hour before the beginning of the following regularly scheduled work assignment.

(B) Compensation for commuting time

(i) In general

Except as provided in clause (ii), in addition to the compensation authorized under paragraph (1) for work to which subparagraph (A) applies, the customs officer is entitled to be paid, as compensation for commuting time, an amount equal to 3 times the hourly rate of basic pay of the officer.

(ii) Exception

Compensation for commuting time is not payable under clause (i) if the work for which compensation is authorized under paragraph (1)—

(I) does not commence within 16 hours of the customs officer's last regularly scheduled work assignment, or

(II) commences within 2 hours of the next regularly scheduled work assignment of the customs officer.

(b) Premium pay for customs officers

(1) Night work differential

(A) 3 p.m. to midnight shiftwork

If the majority of the hours of regularly scheduled work of a customs officer occurs during the period beginning at 3 p.m. and ending at 12 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 15 percent of that basic rate.

(B) 11 p.m. to 8 a.m. shiftwork

If the majority of the hours of regularly scheduled work of a customs officer occurs during the period beginning at 11 p.m. and ending at 8 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 20 percent of that basic rate.

(C) 7:30 p.m. to 3:30 a.m. shiftwork

If the regularly scheduled work assignment of a customs officer is 7:30 p.m. to 3:30 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 15 percent of that basic rate for the period from 7:30 p.m. to 11:30 p.m. and at the officer's hourly rate of basic pay plus premium pay amounting to 20 percent of that basic rate for the period from 11:30 p.m. to 3:30 a.m.

(2) Sunday differential

A customs officer who performs any regularly scheduled work on a Sunday that is not a holiday is entitled to pay for that work at the officer's hourly rate of basic pay plus premium pay amounting to 50 percent of that basic rate.

(3) Holiday differential

A customs officer who performs any regularly scheduled work on a holiday is entitled to pay for that work at the officer's hourly rate of basic pay plus premium pay amounting to 100 percent of that basic rate.

(4) Treatment of premium pay

Premium pay provided for under this subsection may not be treated as being overtime pay or compensation for any purpose.

(c) Limitations

(1) Fiscal year cap

The aggregate of overtime pay under subsection (a) of this section (including commuting compensation under subsection (a)(2)(B) of this section) and premium pay under subsection (b) of this section that a customs officer may be paid in any fiscal year may not exceed \$25,000; except that the Commissioner of Customs or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Customs Service.

(2) Exclusivity of pay under this section

A customs officer who receives overtime pay under subsection (a) of this section or premium pay under subsection (b) of this section for time worked may not receive pay or other compensation for that work under any other provision of law.

(d) Regulations

The Secretary of the Treasury shall promulgate regulations to prevent—

(1) abuse of callback work assignments and commuting time compensation authorized under subsection (a)(2) of this section; and

(2) the disproportionately more frequent assignment of overtime work to customs officers who are near to retirement.

(e) Definitions

As used in this section:

(1) The term “customs officer” means an individual performing those functions specified by regulation by the Secretary of the Treasury for a customs inspector or canine enforcement officer. Such functions shall be consistent with such applicable standards as may be promulgated by the Office of Personnel Management.

(2) The term “holiday” means any day designated as a holiday under a Federal statute or Executive order.

(Feb. 13, 1911, ch. 46, § 5, 36 Stat. 901; Feb. 7, 1920, ch. 61, 41 Stat. 402; Pub. L. 91-271, title III, § 316, June 2, 1970, 84 Stat. 293; Pub. L. 103-66, title XIII, § 13811(a), Aug. 10, 1993, 107 Stat. 668.)

CODIFICATION

Section derived from R.S. § 2872, as amended by act June 26, 1884, ch. 121, § 25, 23 Stat. 59.

Prior to the general revision of section 5 of act Feb. 13, 1911, by section 13811(a) of Pub. L. 103-66, provisions of section 5 of act Feb. 13, 1911, relating to extra compensation for boarding officers performing services at night or on Sundays and holidays, were classified to section 261 of this title.

AMENDMENTS

1993—Pub. L. 103-66 amended section generally, substituting provisions relating to overtime and premium pay for customs officers for provisions relating to fixing of working hours and overtime compensation by Secretary of the Treasury.

1970—Pub. L. 91-271 substituted references to the appropriate customs officer for references to the collector of customs wherever appearing, and struck out reference to inspectors, storekeepers, weighers, and other customs officers and employees.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13811(c) of Pub. L. 103-66 provided that: “The amendments made by subsections (a) and (b) [amending this section and section 1450 of this title, repealing section 1451a of this title, and omitting provisions formerly set out as section 261 of this title] apply to customs inspectional services provided on or after January 1, 1994.”

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.

Functions of all officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of those officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July

31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Customs officers, referred to in this section, were under Department of the Treasury.

§ 267a. Foreign language proficiency awards

Cash awards for foreign language proficiency may, under regulations prescribed by the Secretary of the Treasury, be paid to customs officers (as referred to in section 267(e)(1) of this title) to the same extent and in the same manner as would be allowable under subchapter III of chapter 45 of title 5 with respect to law enforcement officers (as defined by section 4521 of such title).

(Pub. L. 103-66, title XIII, § 13812(b), Aug. 10, 1993, 107 Stat. 671.)

EFFECTIVE DATE

Section 13812(c)(2) of Pub. L. 103-66 provided that: “Subsection (b) [enacting this section] takes effect on January 1, 1994.”

§§ 268 to 272. Repealed. June 17, 1930, ch. 497, title IV, § 651(a)(1), 46 Stat. 762, eff. June 18, 1930

Sections, act Sept. 21, 1922, ch. 356, title IV, §§ 454-458, 42 Stat. 955, 956, related to duties and compensation of boarding and discharging inspectors, custody of cargo not unladen promptly, unloading at risk of consignee and time for unloading bulk cargo.

Provisions of Tariff Act of 1930 corresponding to section 268, see section 1455 of this title; section 269, see section 1456 of this title; section 270, see section 1457 of this title; section 271, none; section 272, see section 1458 of this title.

§§ 273, 274. Repealed. Aug. 8, 1953, ch. 397, § 4(b), 67 Stat. 509

Sections, R.S. §§ 2885, 2886, required the containers of imported liquors or distilled spirits to be marked or scored at the port of landing with the capacity, wine gallons, proof, proof gallons, and other detailed information, such marks to be obliterated upon sale.

EFFECTIVE DATE OF REPEAL

Section 1 of act Aug. 8, 1953, provided that such act is effective, except as otherwise specifically provided for, on and after the thirtieth day following the date of its enactment (Aug. 8, 1953).

The exception “except as otherwise specifically provided for” apparently refers to the amendments made to the provisions preceding subd. (1) of section 1308 of this title and to section 1557(b) of this title, for which separate effective dates were provided as explained in notes under those sections.

SAVINGS PROVISION

Section 23 of act Aug. 8, 1953, provided: “Except as may be otherwise provided for in this Act, the repeal of existing law or modifications thereof embraced in this Act shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil or criminal case prior to such repeal or modification, but all liabilities under such laws shall continue, except as otherwise specifically provided in this Act, and may be enforced in the same manner as if such repeal, or modification had not been made.”

§§ 275 to 281. Repealed. June 17, 1930, ch. 497, title IV, § 651(a)(1), 46 Stat. 762, eff. June 18, 1930

Sections, act Sept. 21, 1922, ch. 356, title IV, §§ 459-465, 42 Stat. 956, 957, related to documentary reports, mani-