United States is prohibited, such individual is liable for an additional fine of not more than $10,000 or imprisonment for not more than 5 years, or both.

(d) Additional civil penalty

If any merchandise (other than sea stores or the equivalent for conveyances other than a vessel) is imported or brought into the United States in or aboard a conveyance which was not properly reported or entered, the master, person in charge of a vehicle, or aircraft pilot shall be liable for a civil penalty equal to the value of the merchandise and the merchandise may be seized and forfeited unless properly entered by the importer or consignee. If the merchandise consists of any controlled substance listed in section 1584 of this title, the master, individual in charge of a vehicle, or pilot shall be liable to the penalties prescribed in that section.

(June 17, 1930, ch. 497, title IV, § 436, 46 Stat. 711; Aug. 5, 1935, ch. 438, title II, § 202, 49 Stat. 521; Pub. L. 99–570, title III, § 3113(a), Oct. 27, 1986, 100 Stat. 3207–81; Pub. L. 103–182, title VI, § 611, Dec. 8, 1993, 107 Stat. 2170; Pub. L. 104–295, § 21(e)(3), Oct. 11, 1996, 110 Stat. 3530.)

CODIFICATION

In subsec. (a)(1) to (3), ''section 60105 of title 46'' substituted for ''section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)'' on authority of Pub. L. 109–304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 60105 of Title 46, Shipping.

In subsec. (a)(3), ''section 1644a(b)(1) or (c)(1) of this title'' substituted for ''section 1109 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1509)'' on authority of Pub. L. 103–272, § 6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in R.S. § 2834, as amended by act Mar. 3, 1897, ch. 389, § 15, 29 Stat. 691, which was superseded by act Sept. 21, 1922, ch. 356, title IV, § 436, 42 Stat. 951, and was repealed by section 642 thereof. Section 436 of the 1922 act was superseded by section 436 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–295 substituted ''1431'' for ''1431(e)'' and struck out ''or'' after semicolon at end.

1993—Pub. L. 103–182, § 611(2), substituted ''entry, and clearance'' for ''and entry'' in section catchline.

Subsec. (a)(1). Pub. L. 103–182, § 611(1)(A), substituted ''section 1431, 1433, or 1434 of this title or section 91 of title 46, Appendix'' for ''section 1433 of this title''.

Subsec. (a)(2), (3). Pub. L. 103–182, § 611(1)(B), (C), amended pars. (2) and (3) generally. Prior to amendment, pars. (2) and (3) read as follows:

''(2) to present any forged, altered, or false document, paper, or manifest to a customs officer under section 1433(d) of this title without revealing the facts;

''(3) to fail to make entry as required by section 1434, 1435, or 1644 of this title or section 1509 of title 49, Appendix; or''.

1986—Pub. L. 99–570 amended section generally. Prior to amendment, section read as follows: ''Every master who fails to make the report or entry provided for in sections 1433, 1434, or 1435 of this title shall, for each offense, be liable to a fine of not more than $1,000 and, if the vessel have, or be discovered to have had, on board any merchandise (sea stores excepted), the importation of which into the United States is prohibited, or any spirits, wines, or other alcoholic liquors, such master shall be subject to an additional fine of not more than $2,000 or to imprisonment for not more than one year, or to both such fine and imprisonment.

''Every master who presents a forged, altered, or false document or paper on making entry of a vessel as required by section 1434 or 1435 of this title, knowing the same to be forged, altered, or false and without revealing the fact, shall, in addition to any forfeiture to which in consequence the vessel may be subject, be liable to a fine of not more than $5,000 nor less than $50 or to imprisonment for not more than two years, or to both such fine and imprisonment.''

1935—Act Aug. 5, 1935, inserted provisions relating to additional penalty for vessel carrying nonimportable merchandise or liquor and added second par.

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.

§ 1437. Repealed. Pub. L. 103–182, title VI, § 690(b)(3), Dec. 8, 1993, 107 Stat. 2223

Section, act June 17, 1930, ch. 497, title IV, § 437, 46 Stat. 711, provided for return of register or document to master or owner of vessel upon clearance.

§ 1438. Unlawful return of foreign vessel's papers

It shall not be lawful for any foreign consul to deliver to the master of any foreign vessel the register, or document in lieu thereof, deposited with him in accordance with the provisions of section 1434 of this title, or regulations issued thereunder, until such master shall produce to him a clearance in due form from the Customs Service in the port in which such vessel has entered. Any consul offending against the provisions of this section shall be liable to a fine of not more than $5,000.

(June 17, 1930, ch. 497, title IV, § 438, 46 Stat. 712; Pub. L. 91–271, title III, § 301(b), June 2, 1970, 84 Stat. 287; Pub. L. 103–182, title VI, § 654, Dec. 8, 1993, 107 Stat. 2210.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 438, 42 Stat. 952. That section was superseded by section 438 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1993—Pub. L. 103–182 substituted ''section 1434'' for ''section 1435'', inserted '', or regulations issued thereunder,'' before ''until such master'', and substituted ''the Customs Service in the port in which such vessel has entered'' for ''the appropriate customs officer of the port where such vessel has been entered''.

1970—Pub. L. 91–271 substituted reference to appropriate customs officers for reference to collector.

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.

§§ 1439, 1440. Repealed. Pub. L. 103–182, title VI, § 690(b)(4), (5), Dec. 8, 1993, 107 Stat. 2223

Section 1439, acts June 17, 1930, ch. 497, title IV, § 439, 46 Stat. 712; Aug. 8, 1953, ch. 397, § 2(b), 67 Stat. 507, required master of a vessel from a foreign port or place, immediately upon arrival, to mail or deliver to designated employee a copy of manifest and any corrections thereto.

Section 1440, acts June 17, 1930, ch. 497, title IV, § 440, 46 Stat. 712; Aug. 8, 1953, ch. 397, § 2(c), 67 Stat. 508, required master of a vessel to make post entry of any baggage or merchandise not included on manifest and to mail or deliver such entry to designated employee.

§ 1441. Exceptions to vessel entry and clearance requirements

The following vessels shall not be required to make entry under section 1434 of this title or to obtain clearance under section 60105 of title 46:

(1) Vessels of war and public vessels employed for the conveyance of letters and dispatches and not permitted by the laws of the nations to which they belong to be employed in the transportation of passengers or merchandise in trade.

(2) Passenger vessels making three trips or oftener a week between a port of the United States and a foreign port, or vessels used exclusively as ferryboats, carrying passengers, baggage, or merchandise: *Provided*, That the master of any such vessel shall be required to report such baggage and merchandise to the appropriate customs officer within twenty-four hours after arrival.

(3) Any vessel carrying passengers on excursion from the United States Virgin Islands to the British Virgin Islands and returning, if—

(A) the vessel does not in any way violate the customs or navigation laws of the United States;

(B) the vessel has not visited any hovering vessel; and

(C) the master of the vessel, if there is on board any article required by law to be entered, reports the article to the Customs Service immediately upon arrival.

(4) Any United States documented vessel with recreational endorsement or any undocumented United States pleasure vessel not engaged in trade, if—

(A) the vessel complies with the reporting requirements of section 1433 of this title, and with the customs and navigation laws of the United States;

(B) the vessel has not visited any hovering vessel; and

(C) the master of, and any other person on board, the vessel, if the master or such person has on board any article required by law to be entered or declared, reports such article to the Customs Service immediately upon arrival.

(5) Vessels arriving in distress or for the purpose of taking on bunker coal, bunker oil, sea stores, or ship's stores and which shall depart within twenty-four hours after arrival without having landed or taken on board any passengers, or any merchandise other than bunker coal, bunker oil, sea stores, or ship's stores: *Provided*, That the master, owner, or agent of such vessel shall report under oath to the appropriate customs officer the hour and date of arrival and departure and the quantity of bunker coal, bunker oil, sea stores, or ship's stores taken on board.

(6) Any vessel required to anchor at the Belle Isle Anchorage in the waters of the Detroit River in the State of Michigan, for the purposes of awaiting the availability of cargo or berthing space or for the purpose of taking on a pilot or awaiting pilot services, or at the direction of the Coast Guard, prior to proceeding to the Port of Toledo, Ohio, where the vessel makes entry under section 1434 of this title or obtains clearance under section 60105 of title 46.

(June 17, 1930, ch. 497, title IV, § 441, 46 Stat. 712; Aug. 5, 1935, ch. 438, title III, § 302, 49 Stat. 527; Aug. 14, 1937, ch. 620, § 1, 50 Stat. 638; Sept. 1, 1954, ch. 1213, title V, § 501(b), 68 Stat. 1140; Pub. L. 91–271, title III, § 301(b), June 2, 1970, 84 Stat. 287; Pub. L. 98–573, title II, § 204, Oct. 30, 1984, 98 Stat. 2974; Pub. L. 103–182, title VI, § 655, Dec. 8, 1993, 107 Stat. 2210; Pub. L. 104–295, § 21(e)(5), Oct. 11, 1996, 110 Stat. 3530; Pub. L. 106–36, title I, § 1001(b)(10), June 25, 1999, 113 Stat. 132; Pub. L. 106–476, title I, § 1452(b), Nov. 9, 2000, 114 Stat. 2168.)

CODIFICATION

"Section 60105 of title 46" substituted in introductory provisions for "section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)" and in par. (6) for "section 4197 of the Revised Statutes of the United States" on authority of Pub. L. 109–304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 60105 of Title 46, Shipping.

PRIOR PROVISIONS

Provisions somewhat similar to those in par. (1) of this section were contained in R.S. § 2791. R.S. § 3123 provided that steam-tugs duly enrolled and licensed to engage in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, when exclusively employed in towing vessels, should not be required to report and clear at the custom-house but that when employed in towing rafts or other vessels without sale or steam motive-power, not required to be enrolled or licensed they should report and clear in the same manner as other vessels. Both sections were superseded and more closely assimilated to this section by act Sept. 21, 1922, ch. 356, title IV, § 441, 42 Stat. 952, and repealed by section 642 thereof. Section 441 of the 1922 act was superseded by section 441 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

2000—Par (6). Pub. L. 106–476 added par. (6).

1999—Par. (6). Pub. L. 106–36 struck out par. (6) which read as follows: "Tugs documented under chapter 121 of title 46 with a Great Lakes endorsement when towing vessels which are required by law to enter and clear."

1996—Pars. (1), (2), (4), (5). Pub. L. 104–295 substituted period for semicolon at end of pars. (1), (2), and (4) and substituted period for "; and" at end of par. (5).

1993—Pub. L. 103–182, § 655(1), (5), substituted catchline for one which read "Vessels not required to enter"