The navigation laws, referred to in text, are classified generally to Title 33, Navigation and Navigable Waters.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 614, 42 Stat. 987. That section was superseded by section 614 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

A prior provision authorizing collectors, subject to the approval of the Secretary of the Treasury, to release seized merchandise on payment of the appraised value when the appraised value did not exceed $1,000, were contained in R.S. § 3081, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

AMENDMENTS

1984—Pub. L. 98–573 and Pub. L. 98–473 inserted reference to aircraft in three places.

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

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–573 effective Oct. 15, 1984, see section 214(e) of Pub. L. 98–573, set out as a note under section 1304 of this title.

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 authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 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.

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.

Substitution in text of reference to Commandant of the Coast Guard or Commissioner of Customs for ''the Secretary of Commerce'' under the authority of Reorg. Plan No. 3 of 1946, see Transfer of Functions note set out under section 1613 of this title.

§ 1615. Burden of proof in forfeiture proceedings

In all suits or actions (other than those arising under section 1592 of this title) brought for the forfeiture of any vessel, vehicle, aircraft, merchandise, or baggage seized under the provisions of any law relating to the collection of duties on imports or tonnage, where the property is claimed by any person, the burden of proof shall lie upon such claimant; and in all suits or actions brought for the recovery of the value of any vessel, vehicle, aircraft, merchandise, or baggage, because of violation of any such law, the burden of proof shall be upon the defendant: *Provided*, That probable cause shall be first shown for the institution of such suit or action, to be judged of by the court, subject to the following rules of proof:

(1) The testimony or deposition of the officer of the customs who has boarded or required to come to a stop or seized a vessel, vehicle, or aircraft, or has arrested a person, shall be prima facie evidence of the place where the act in question occurred.

(2) Marks, labels, brands, or stamps, indicative of foreign origin, upon or accompanying mechandise[1] or containers of merchandise, shall be prima facie evidence of the foreign origin of such merchandise.

(3) The fact that a vessel of any description is found, or discovered to have been, in the vicinity of any hovering vessel and under any circumstances indicating contact or communication therewith, whether by proceeding to or from such vessel, or by coming to in the vicinity of such vessel, or by delivering to or receiving from such vessel any merchandise, person, or communication, or by any other means effecting contact or communication therewith, shall be prima facie evidence that the vessel in question has visited such hovering vessel.

(June 17, 1930, ch. 497, title IV, § 615, 46 Stat. 757; Aug. 5, 1935, ch. 438, title II, § 207, 49 Stat. 525; Pub. L. 95–410, title I, § 110(d), Oct. 3, 1978, 92 Stat. 896; Pub. L. 98–473, title II, § 321, Oct. 12, 1984, 98 Stat. 2056; Pub. L. 98–573, title II, § 213(a)(13), Oct. 30, 1984, 98 Stat. 2987.)

PRIOR PROVISIONS

Provisions somewhat similar to those in this section were contained in act Oct. 3, 1913, ch. 16, § III, T, 38 Stat. 189, the provisions of which were originally enacted in the Customs Administrative Act of June 10, 1890, ch. 407, § 21, 26 Stat. 140, and reenacted by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 101, and amended by the 1913 act. Section III of the 1913 act was superseded by act Sept. 21, 1922, ch. 356, title IV, § 615, 42 Stat. 987, and was repealed by section 643 thereof. Section 615 of the 1922 act was superseded by section 615 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1984—Pub. L. 98–573 and Pub. L. 98–473 inserted reference to aircraft in provisions preceding par. (1) and in par. (1).

1978—Pub. L. 95–410 inserted ''(other than those arising under section 1592 of this title)'' after ''In all suits or actions''.

1935—Act Aug. 5, 1935, inserted a comma in place of a period at the end, inserted ''subject to the following rules of proof'', and added subds. (1) to (3).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–573 effective Oct. 15, 1984, see section 214(e) of Pub. L. 98–573, set out as a note under section 1304 of this title.

§ 1616. Repealed. Pub. L. 99–570, title I, § 1863(b), Oct. 27, 1986, 100 Stat. 3207–54

Section, act June 17, 1930, ch. 497, title IV, § 616, as added Oct. 12, 1984, Pub. L. 98–473, title II, § 318, 98 Stat. 2055, related to disposition of forfeited property.

Another section 616 of act June 17, 1930, as added by Pub. L. 98–573, title II, § 213(a)(4), Oct. 30, 1984, 98 Stat. 2987, is classified to section 1616a of this title.

A prior section 616 of act June 17, 1930, ch. 497, title IV, 46 Stat. 757, related to prohibition against compromising Government claims and was classified to this section, prior to repeal by act June 25, 1948, ch. 645, § 24, 62 Stat. 682, eff. Sept. 1, 1948. See section 1915 of Title 18, Crimes and Criminal Procedure.

[1] So in original. Probably should be ''merchandise''.

§ 1616a. Disposition of forfeited property

(a) State proceedings

The Secretary of the Treasury may discontinue forfeiture proceedings under this chapter in favor of forfeiture under State law. If a complaint for forfeiture is filed under this chapter, the Attorney General may seek dismissal of the complaint in favor of forfeiture under State law.

(b) Transfer of seized property; notice

If forfeiture proceedings are discontinued or dismissed under this section—

(1) the United States may transfer the seized property to the appropriate State or local official; and

(2) notice of the discontinuance or dismissal shall be provided to all known interested parties.

(c) Retention or transfer of forfeited property

(1) The Secretary of the Treasury may apply property forfeited under this chapter in accordance with subparagraph (A) or (B), or both:

(A) Retain any of the property for official use.

(B) Transfer any of the property to—

(i) any other Federal agency;

(ii) any State or local law enforcement agency that participated directly or indirectly in the seizure or forfeiture of the property; or

(iii) the Civil Air Patrol.

(2) The Secretary may transfer any forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

(A) has been agreed to by the Secretary of State;

(B) is authorized in an international agreement between the United States and the foreign country; and

(C) is made to a country which, if applicable, has been certified under section 2291j(b) of title 22.

(3) Aircraft may be transferred to the Civil Air Patrol under paragraph (1)(B)(iii) in support of air search and rescue and other emergency services and, pursuant to a memorandum of understanding entered into with a Federal agency, illegal drug traffic surveillance. Jet-powered aircraft may not be transferred to the Civil Air Patrol under the authority of paragraph (1)(B)(iii).

(d) Liability of United States after transfer

The United States shall not be liable in any action relating to property transferred under this section if such action is based on an act or omission occurring after the transfer.

(June 17, 1930, ch. 497, title IV, § 616, as added Pub. L. 98–573, title II, § 213(a)(14), Oct. 30, 1984, 98 Stat. 2987; amended Pub. L. 99–570, title I, § 1863(a), Oct. 27, 1986, 100 Stat. 3207–54; Pub. L. 100–690, title VII, § 7366(a), Nov. 18, 1988, 102 Stat. 4478; Pub. L. 101–207, § 3(e), Dec. 7, 1989, 103 Stat. 1834; Pub. L. 103–447, title I, § 102(c), Nov. 2, 1994, 108 Stat. 4693.)

CODIFICATION

Another section 616 of act June 17, 1930, as added by Pub. L. 98–473, title II, § 318, Oct. 12, 1984, 98 Stat. 2055, was classified to section 1616 of this title and subsequently repealed.

AMENDMENTS

1994—Subsec. (c)(2)(C). Pub. L. 103–447 substituted ''section 2291j(b) of title 22'' for ''section 2291(h) of title 22''.

1989—Subsec. (c)(1)(B). Pub. L. 101–207, § 3(e)(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''Transfer any of the property to any—

''(i) other Federal agency; or

''(ii) State or local law enforcement agency that participated directly or indirectly in the seizure or forfeiture of the property.''

Subsec. (c)(3). Pub. L. 101–207, § 3(e)(2), added par. (3).

1988—Subsec. (c). Pub. L. 100–690 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''The Secretary of the Treasury may transfer any property forfeited under this chapter to any other Federal agency or to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property.''

1986—Subsec. (c). Pub. L. 99–570 inserted ''any other Federal agency or to'' after ''property forfeited under this chapter to''.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 7366(b) of Pub. L. 100–690 provided that: ''The amendment made by subsection (a) [amending this section] applies with respect to property forfeited under the Tariff Act of 1930 [this chapter] on or after the date of the enactment of this Act [Nov. 18, 1988].''

EFFECTIVE DATE

Section effective Oct. 15, 1984, see section 214(e) of Pub. L. 98–573, set out as an Effective Date of 1984 Amendment note under section 1304 of this title.

§ 1617. Compromise of Government claims by Secretary of the Treasury

Upon a report by a customs officer, United States attorney, or any special attorney, having charge of any claim arising under the customs laws, showing the facts upon which such claim is based, the probabilities of a recovery and the terms upon which the same may be compromised, the Secretary of the Treasury is authorized to compromise such claim, if such action shall be recommended by the General Counsel for the Department of the Treasury.

(June 17, 1930, ch. 497, title IV, § 617, 46 Stat. 757; May 10, 1934, ch. 277, § 512(b), 48 Stat. 759; June 25, 1948, ch. 646, § 1, 62 Stat. 869; Pub. L. 91–271, title III, § 301(gg), June 2, 1970, 84 Stat. 291.)

REFERENCES IN TEXT

The customs laws, referred to in text, are classified generally to this title.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 617, 42 Stat. 987. That section was superseded by section 617 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1970—Pub. L. 91–271 substituted reference to customs officer for reference to collector and struck out reference to customs agents.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted ''United States attorney'' for ''district attorney''. See