Subsec. (b). Pub. L. 103–182, § 205(a)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Any person who exports, or who knowingly causes to be exported, any merchandise to Canada shall make, keep, and render for examination and inspection such records (including certifications of origin or copies thereof) which pertain to such exportations.''

Subsec. (c). Pub. L. 103–182, § 205(a)(2), amended generally subsec. (c), as amended by Pub. L. 103–182, § 614(2) (see below). Prior to amendment, subsec. (c) read as follows: ''The records required by subsections (a) and (b) of this section shall be kept for such period of time, not to exceed 5 years from the date of entry or exportation, as appropriate, as the Secretary shall prescribe; except that records for any drawback claim shall be kept until the 3rd anniversary of the date of payment of the claim.'' See Construction of 1993 Amendment note below.

Pub. L. 103–182, § 614(2), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''The records required by subsection (a) and (b) of this section shall be kept for such periods of time, not to exceed 5 years from the date of entry, as the Secretary shall prescribe.'' See Construction of 1993 Amendment note below.

Subsec. (e). Pub. L. 103–182, § 205(a)(3), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''Any person who fails to retain records required by subsection (b) of this section or the regulations issued to implement that subsection shall be liable to a civil penalty not to exceed $10,000.''

1988—Subsecs. (b) to (e). Pub. L. 100–449 added subsec. (b), redesignated former subsec. (b) as (c) and inserted ''and (b)'' after ''subsection (a)'', redesignated former subsec. (c) as (d), and added subsec. (e).

EFFECTIVE AND TERMINATION DATES OF 2007 AMENDMENT

Amendment by Pub. L. 110–138 effective on the date the United States-Peru Trade Promotion Agreement enters into force (Feb. 1, 2009) and to cease to be effective on the date the Agreement ceases to be in force, see section 107(a), (c) of Pub. L. 110–138, set out in a note under section 3805 of this title.

EFFECTIVE AND TERMINATION DATES OF 2005 AMENDMENT

Amendment by Pub. L. 109–53 effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on date Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as an Effective and Termination Dates note under section 4001 of this title.

EFFECTIVE AND TERMINATION DATES OF 2003 AMENDMENT

Amendment by Pub. L. 108–77 effective on the date the United States-Chile Free Trade Agreement enters into force (Jan. 1, 2004), and to cease to be effective on the date the Agreement ceases to be in force, see section 107(a), (c) of Pub. L. 108–77, set out in a note under section 3805 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–295 applicable as of Dec. 8, 1993, see section 3(b) of Pub. L. 104–295, set out as a note under section 1321 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 205(a) of Pub. L. 103–182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 213(b) of Pub. L. 103–182, set out as an Effective Date note under section 3331 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100–449 effective on date United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100–449, set out in a note under section 2112 of this title.

CONSTRUCTION OF 1993 AMENDMENT

Amendment by section 205(a) of Pub. L. 103–182 to be made after amendment by section 614 of Pub. L. 103–182 is executed, see section 212 of Pub. L. 103–182, set out as a note under section 58c 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.

§ 1509. Examination of books and witnesses

(a) Authority

In any investigation or inquiry conducted for the purpose of ascertaining the correctness of any entry, for determining the liability of any person for duty, fees and taxes due or duties, fees and taxes which may be due the United States, for determining liability for fines and penalties, or for insuring compliance with the laws of the United States administered by the United States Customs Service, the Secretary (but no delegate of the Secretary below the rank of district director or special agent in charge) may—

(1) examine, or cause to be examined, upon reasonable notice, any record (which for purposes of this section, includes, but is not limited to, any statement, declaration, document, or electronically generated or machine readable data) described in the notice with reasonable specificity, which may be relevant to such investigation or inquiry, except that—

(A) if such record is required by law or regulation for the entry of the merchandise (whether or not the Customs Service required its presentation at the time of entry) it shall be provided to the Customs Service within a reasonable time after demand for its production is made, taking into consideration the number, type, and age of the item demanded; and

(B) if a person of whom demand is made under subparagraph (A) fails to comply with the demand, the person may be subject to penalty under subsection (g) of this section;

(2) summon, upon reasonable notice—

(A) the person who—

(i) imported, or knowingly caused to be imported, merchandise into the customs territory of the United States,

(ii) exported merchandise, or knowingly caused merchandise to be exported, to a NAFTA country (as defined in section 3301(4) of this title) or to Canada during such time as the United States-Canada

Free-Trade Agreement is in force with respect to, and the United States applies that Agreement to, Canada,

(iii) transported or stored merchandise that was or is carried or held under customs bond, or knowingly caused such transportation or storage, or

(iv) filed a declaration, entry, or drawback claim with the Customs Service;

(B) any officer, employee, or agent of any person described in subparagraph (A);

(C) any person having possession, custody or care of records relating to the importation or other activity described in subparagraph (A); or

(D) any other person he may deem proper;

to appear before the appropriate customs officer at the time and place within the customs territory of the United States specified in the summons (except that no witness may be required to appear at any place more than one hundred miles distant from the place where he was served with the summons), to produce records, as defined in subsection (d)(1)(A) of this section, and to give such testimony, under oath, as may be relevant to such investigation or inquiry; and

(3) take, or cause to be taken, such testimony of the person concerned, under oath, as may be relevant to such investigation or inquiry.

(b) Regulatory audit procedures

(1) In conducting a regulatory audit under this section (which does not include a quantity verification for a customs bonded warehouse or general purpose foreign trade zone), the Customs Service auditor shall provide the person being audited, in advance of the audit, with a reasonable estimate of the time to be required for the audit. If in the course of an audit it becomes apparent that additional time will be required, the Customs Service auditor shall immediately provide a further estimate of such additional time.

(2) Before commencing an audit, the Customs Service auditor shall inform the party to be audited of his right to an entry conference at which time the purpose will be explained and an estimated termination date set. Upon completion of on-site audit activities, the Customs Service auditor shall schedule a closing conference to explain the preliminary results of the audit.

(3) Except as provided in paragraph (5), if the estimated or actual termination date for an audit passes without the Customs Service auditor providing a closing conference to explain the results of the audit, the person being audited may petition in writing for such a conference to the officer designated pursuant to regulations, who, upon receipt of such a request, shall provide for such a conference to be held within 15 days after the date of receipt.

(4) Except as provided in paragraph (5), the Customs Service auditor shall complete the formal written audit report within 90 days following the closing conference unless the officer designated pursuant to regulations provides written notice to the person being audited of the reason for any delay and the anticipated completion date. After application of any exemption contained in section 552 of title 5, a copy of the formal written audit report shall be sent to the person audited no later than 30 days following completion of the report.

(5) Paragraphs (3) and (4) shall not apply after the Customs Service commences a formal investigation with respect to the issue involved.

(6)(A) If during the course of any audit concluded under this subsection, the Customs Service identifies overpayments of duties or fees or over-declarations of quantities or values that are within the time period and scope of the audit that the Customs Service has defined, then in calculating the loss of revenue or monetary penalties under section 1592 of this title, the Customs Service shall treat the overpayments or over-declarations on finally liquidated entries as an offset to any underpayments or underdeclarations also identified on finally liquidated entries, if such overpayments or overdeclarations were not made by the person being audited for the purpose of violating any provision of law.

(B) Nothing in this paragraph shall be construed to authorize a refund not otherwise authorized under section 1520 of this title.

(c) Service of summons

A summons issued pursuant to this section may be served by any person designated in the summons to serve it. Service upon a natural person may be made by personal delivery of the summons to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the summons to an officer, or managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The certificate of service signed by the person serving the summons is prima facie evidence of the facts it states on the hearing of an application for the enforcement of the summons. When the summons requires the production of records, such records shall be described in the summons with reasonable specificity.

(d) Special procedures for third-party summonses

(1) For purposes of this subsection—

(A) The term ''records'' includes those—

(i) required to be kept under section 1508 of this title; or

(ii) regarding which there is probable cause to believe that they pertain to merchandise the importation of which into the United States is prohibited.

(B) The term ''summons'' means any summons issued under subsection (a) of this section which requires the production of records or the giving of testimony relating to records. Such term does not mean any summons issued to aid in the collection of the liability of any person against whom an assessment has been made or judgment rendered.

(C) The term ''third-party recordkeeper'' means—

(i) any customhouse broker, unless such customhouse broker is the importer of record on an entry;

(ii) any attorney; and
(iii) any accountant.

(2) If—
(A) any summons is served on any person who is a third-party recordkeeper; and
(B) the summons requires the production of, or the giving of testimony relating to, any portion of records made or kept of the transactions described in section 1508 of this title of any person (other than the person summoned) who is identified in the description of the records contained in such summons;

then notice of such summons shall be given to any persons so identified within a reasonable time before the day fixed in the summons as the day upon which such records are to be examined or testimony given. Such notice shall be accompanied by a copy of the summons which has been served and shall contain directions for staying compliance with the summons under paragraph (5)(B) of this subsection.

(3) Any notice required under paragraph (2) of this subsection shall be sufficient if such notice is served in the manner provided in subsection (b) of this section upon the person entitled to notice, or is mailed by certified or registered mail to the last known address of such person.

(4) Paragraph (2) of this subsection shall not apply to any summons—
(A) served on the person with respect to whose liability for duties, fees, or taxes the summons is issued, or any officer or employee of such person; or
(B) to determine whether or not records of the transactions described in section 1508 of this title of an identified person have been made or kept.

(5) Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under paragraph (2) of this subsection shall have the right—
(A) to intervene in any proceeding with respect to the enforcement of such summons under section 1510 of this title; and
(B) to stay compliance with the summons if, not later than the day before the day fixed in the summons as the day upon which the records are to be examined or testimony given—
(i) notice in writing is given to the person summoned not to comply with the summons; and
(ii) a copy of such notice not to comply with the summons is mailed by registered or certified mail to such person and to such office as the Secretary may direct in the notice referred to in paragraph (2) of this subsection.

(6) No examination of any records required to be produced under a summons as to which notice is required under paragraph (2) of this subsection may be made—
(A) before the expiration of the period allowed for the notice not to comply under paragraph (5)(B) of this subsection, or
(B) if the requirements of such paragraph (5)(B) have been met, except in accordance with an order issued by a court of competent jurisdiction authorizing examination of such records or with the consent of the person staying compliance.

(7) The provisions of paragraphs (2) and (5) of this subsection shall not apply with respect to any summons if, upon petition by the Secretary, the court determines, on the basis of the facts and circumstances alleged, that there is reasonable cause to believe the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.

(e) List of records and information

The Customs Service shall identify and publish a list of the records or entry information that is required to be maintained and produced under subsection (a)(1)(A) of this section.

(f) Recordkeeping compliance program

(1) In general

After consultation with the importing community, the Customs Service shall by regulation establish a recordkeeping compliance program which the parties listed in section 1508(a) of this title may participate in after being certified by the Customs Service under paragraph (2). Participation in the recordkeeping compliance program by recordkeepers is voluntary.

(2) Certification

A recordkeeper may be certified as a participant in the recordkeeping compliance program after meeting the general recordkeeping requirements established under the program or after negotiating an alternative program suited to the needs of the recordkeeper and the Customs Service. Certification requirements shall take into account the size and nature of the importing business and the volume of imports. In order to be certified, the recordkeeper must be able to demonstrate that it—
(A) understands the legal requirements for recordkeeping, including the nature of the records required to be maintained and produced and the time periods involved;
(B) has in place procedures to explain the recordkeeping requirements to those employees who are involved in the preparation, maintenance, and production of required records;
(C) has in place procedures regarding the preparation and maintenance of required records, and the production of such records to the Customs Service;
(D) has designated a dependable individual or individuals to be responsible for recordkeeping compliance under the program and whose duties include maintaining familiarity with the recordkeeping requirements of the Customs Service;
(E) has a record maintenance procedure approved by the Customs Service for original records, or, if approved by the Customs Service, for alternative records or recordkeeping formats other than the original records; and
(F) has procedures for notifying the Customs Service of occurrences of variances to, and violations of, the requirements of the recordkeeping compliance program or the negotiated alternative programs, and for

taking corrective action when notified by the Customs Service of violations or problems regarding such program.

(g) Penalties

(1) "Information" defined

For purposes of this subsection, the term ''information'' means any record, statement, declaration, document, or electronically stored or transmitted information or data referred to in subsection (a)(1)(A) of this section.

(2) Effects of failure to comply with demand

Except as provided in paragraph (4), if a person fails to comply with a lawful demand for information under subsection (a)(1)(A) of this section the following provisions apply:

(A) If the failure to comply is a result of the willful failure of the person to maintain, store, or retrieve the demanded information, such person shall be subject to a penalty, for each release of merchandise, not to exceed $100,000, or an amount equal to 75 percent of the appraised value of the merchandise, whichever amount is less.

(B) If the failure to comply is a result of the negligence of the person in maintaining, storing, or retrieving the demanded information, such person shall be subject to a penalty, for each release of merchandise, not to exceed $10,000, or an amount equal to 40 percent of the appraised value of the merchandise, whichever amount is less.

(C) In addition to any penalty imposed under subparagraph (A) or (B) regarding demanded information, if such information related to the eligibility of merchandise for a column 1 special rate of duty under title I, the entry of such merchandise—

(i) if unliquidated, shall be liquidated at the applicable column 1 general rate of duty; or

(ii) if liquidated within the 2-year period preceding the date of the demand, shall be reliquidated, notwithstanding the time limitation in section 1514 or 1520 of this title, at the applicable column 1 general rate of duty;

except that any liquidation or reliquidation under clause (i) or (ii) shall be at the applicable column 2 rate of duty if the Customs Service demonstrates that the merchandise should be dutiable at such rate.

(3) Avoidance of penalty

No penalty may be assessed under this subsection if the person can show—

(A) that the loss of the demanded information was the result of an act of God or other natural casualty or disaster beyond the fault of such person or an agent of the person;

(B) on the basis of other evidence satisfactory to the Customs Service, that the demand was substantially complied with; or

(C) the information demanded was presented to and retained by the Customs Service at the time of entry or submitted in response to an earlier demand.

(4) Penalties not exclusive

Any penalty imposed under this subsection shall be in addition to any other penalty provided by law except for—

(A) a penalty imposed under section 1592 of this title for a material omission of the demanded information, or

(B) disciplinary action taken under section 1641 of this title.

(5) Remission or mitigation

A penalty imposed under this section may be remitted or mitigated under section 1618 of this title.

(6) Customs summons

Nothing in this subsection shall limit or preclude the Customs Service from issuing, or seeking the enforcement of, a customs summons.

(7) Alternatives to penalties

(A) In general

When a recordkeeper who—

(i) has been certified as a participant in the recordkeeping compliance program under subsection (f) of this section; and

(ii) is generally in compliance with the appropriate procedures and requirements of the program;

does not produce a demanded record or information for a specific release or provide the information by acceptable alternative means, the Customs Service, in the absence of willfulness or repeated violations, shall issue a written notice of the violation to the recordkeeper in lieu of a monetary penalty. Repeated violations by the recordkeeper may result in the issuance of penalties and removal of certification under the program until corrective action, satisfactory to the Customs Service, is taken.

(B) Contents of notice

A notice of violation issued under subparagraph (A) shall—

(i) state that the recordkeeper has violated the recordkeeping requirements;

(ii) indicate the record or information which was demanded; and

(iii) warn the recordkeeper that future failures to produce demanded records or information may result in the imposition of monetary penalties.

(C) Response to notice

Within a reasonable time after receiving written notice under subparagraph (A), the recordkeeper shall notify the Customs Service of the steps it has taken to prevent a recurrence of the violation.

(D) Regulations

The Secretary shall promulgate regulations to implement this paragraph. Such regulations may specify the time periods for compliance with a demand for information and provide guidelines which define repeated violations for purposes of this paragraph. Any penalty issued for a recordkeeping violation shall take into account the degree of compliance compared to the total number of importations, the nature of the demanded records and the recordkeeper's cooperation.

(June 17, 1930, ch. 497, title IV, § 509, 46 Stat. 733; June 25, 1948, ch. 646, § 26, 62 Stat. 990; Pub. L.

91–271, title III, § 301(n), June 2, 1970, 84 Stat. 289; Pub. L. 95–410, title I, § 105, Oct. 3, 1978, 92 Stat. 889; Pub. L. 99–570, title III, § 3117, Oct. 27, 1986, 100 Stat. 3207–84; Pub. L. 103–182, title II, § 205(b), title VI, § 615, Dec. 8, 1993, 107 Stat. 2094, 2175; Pub. L. 104–295, § 3(a)(1), (10), Oct. 11, 1996, 110 Stat. 3515, 3516; Pub. L. 107–210, div. A, title III, § 382, Aug. 6, 2002, 116 Stat. 992.)

REFERENCES IN TEXT

Title I, referred to in subsec. (g)(2)(C), means title I of act June 17, 1930, ch. 497, as amended, which contains the Harmonized Tariff Schedule of the United States and which is not set out in the Code. See notes preceding section 1202 of this title and Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

PRIOR PROVISIONS

Provisions substantially the same, in most respects, as those in this section, were contained in act Oct. 3, 1913, ch. 16, § III, O, 38 Stat. 188, which substantially reenacted the provisions of Customs Administrative Act of June 10, 1890, ch. 407, § 16, 26 Stat. 138, as renumbered and reenacted without other change by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 100. Section III of the 1913 act was superseded and more closely assimilated to this section by act Sept. 21, 1922, ch. 356, title IV, § 508, 42 Stat. 968, and repealed by section 643 thereof. Section 508 of the 1922 act was superseded by section 509 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Prior provisions similar to those in this section and section 1510 of this title were made by R.S. §§ 2922–2924, repealed by section 29 of the Customs Administrative Act of 1890, 26 Stat. 141.

AMENDMENTS

2002—Subsec. (b)(6). Pub. L. 107–210 added par. (6).

1996—Subsec. (a)(2). Pub. L. 104–295, § 3(a)(1), substituted ''(d)(1)(A)'' for ''(c)(1)(A)'' in concluding provisions.

Subsec. (b)(3), (4). Pub. L. 104–295, § 3(a)(10), substituted ''officer designated pursuant to regulations'' for ''appropriate regional commissioner''.

1993—Subsec. (a). Pub. L. 103–182, § 615(1)(A), substituted '', fees and taxes'' for ''and taxes'' in two places in introductory provisions.

Subsec. (a)(1). Pub. L. 103–182, § 615(1)(B), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''examine, or cause to be examined, upon reasonable notice, any record, statement, declaration or other document, described in the notice with reasonable specificity, which may be relevant to such investigation or inquiry;''.

Subsec. (a)(2)(A). Pub. L. 103–182, § 615(1)(C), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the person who imported, or knowingly caused to be imported, merchandise into the customs territory of the United States,''. See Construction of 1993 Amendment note below.

Subsec. (a)(2)(A)(ii). Pub. L. 103–182, § 205(b), amended generally cl. (ii), as amended by Pub. L. 103–182, § 615(1)(C). Prior to amendment, cl. (ii) read as follows: ''exported merchandise, or knowingly caused merchandise to be exported, to Canada,''. See Construction of 1993 Amendment note below.

Subsec. (a)(2)(B), (C). Pub. L. 103–182, § 615(1)(C), amended subpars. (B) and (C) generally. Prior to amendment, subpars. (B) and (C) read as follows:

''(B) any officer, employee, or agent of such person,

''(C) any person having possession, custody, or care of records relating to such importation, or''.

Subsec. (a)(2)(D). Pub. L. 103–182, § 615(1)(D), substituted a semicolon for comma at end.

Subsecs. (b), (c). Pub. L. 103–182, § 615(2), (3), added subsec. (b) and redesignated former subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 103–182, § 615(2), redesignated subsec. (c) as (d).

Subsec. (d)(1)(A). Pub. L. 103–182, § 615(4)(A), substituted ''those'' for ''statements, declarations, or documents'' in introductory provisions.

Subsec. (d)(1)(C)(i). Pub. L. 103–182, § 615(4)(B), inserted '', unless such customhouse broker is the importer of record on an entry'' after ''broker''.

Subsec. (d)(2)(B). Pub. L. 103–182, § 615(4)(C), (D), substituted ''the transactions described in section 1508 of this title'' for ''the import transactions''.

Subsec. (d)(4)(A). Pub. L. 103–182, § 615(4)(E), inserted '', fees,'' after ''duties''.

Subsec. (d)(4)(B). Pub. L. 103–182, § 615(4)(C), (D), substituted ''the transactions described in section 1508 of this title'' for ''the import transactions''.

Subsecs. (e) to (g). Pub. L. 103–182, § 615(5), added subsecs. (e) to (g).

1986—Subsec. (a)(2). Pub. L. 99–570, § 3117(1), substituted ''as defined in subsection (c)(1)(A) of this section'' for ''required to be kept under section 1508 of this title'' in concluding provisions.

Subsec. (c)(1)(A). Pub. L. 99–570, § 3117(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''The term 'records' includes statements, declarations, or documents required to be kept under section 1508 of this title.''

1978—Pub. L. 95–410 substituted subsec. (a) to (c) provisions for examination of books and witnesses for prior provisions for examination of importer and others, which authorized appropriate customs officers to issue citations for examination under oath of any owner, importer, consignee, agent, or other person upon any material matter or thing respecting any imported merchandise then under consideration or previously imported within one year, in ascertaining the classification or the value thereof or the rate or amount of duty and to require production of any letters, accounts, contracts, invoices, or other documents relating to the merchandise, and the reduction of the testimony to writing, required the testimony to be filed and preserved under Customs Court rules, and authorized consideration of the evidence in subsequent proceedings relating to the merchandise.

1970—Pub. L. 91–271 substituted ''Appropriate customs officer'' for ''Collectors and appraisers''.

1948—Act June 25, 1948, struck out ''and judges and divisions of the United States Customs Court'' after ''Collectors and appraisers'' in first sentence.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–210 applicable to petitions for certification filed under part 2 or 3 of subchapter II of chapter 12 of this title on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107–210, set out as a note preceding section 2271 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–295 applicable as of Dec. 8, 1993, see section 3(b) of Pub. L. 104–295, set out as a note under section 1321 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 205(b) of Pub. L. 103–182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 213(b) of Pub. L. 103–182, set out as an Effective Date note under section 3331 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.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 38 of act June 25, 1948, provided that the amendment made by that act is effective Sept. 1, 1948.

CONSTRUCTION OF 1993 AMENDMENT

Amendment by section 205(b) of Pub. L. 103–182 to be made after amendment by section 615 of Pub. L. 103–182 is executed, see section 212 of Pub. L. 103–182, set out as a note under section 58c 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.

§ 1510. Judicial enforcement

(a) Order of court

If any person summoned under section 1509 of this title does not comply with the summons, the district court of the United States for any district in which such person is found or resides or is doing business, upon application and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to comply with the summons. Failure to obey such order of the court may be punished by such court as a contempt thereof and such court may assess a monetary penalty.

(b) Sanctions

(1) For so long as any person, after being adjudged guilty of contempt for neglecting or refusing to obey a lawful summons issued under section 1509 of this title and for refusing to obey the order of the court, remains in contempt, the Secretary may—

(A) prohibit that person from importing merchandise into the customs territory of the United States directly or indirectly or for his account, and

(B) instruct the appropriate customs officers to withhold delivery of merchandise imported directly or indirectly by that person or for his account.

(2) If any person remains in contempt for more than one year after the date on which the Secretary issues instructions under paragraph (1)(B) with respect to that person, the appropriate customs officers shall cause all merchandise held in customs custody pursuant to such instructions to be sold at public auction or otherwise disposed of under the customs laws.

(3) The sanctions which may be imposed under paragraphs (1) and (2) are in addition to any punishment which may be imposed by the court for contempt.

(June 17, 1930, ch. 497, title IV, § 510, 46 Stat. 733; Pub. L. 91–271, title III, § 301(*o*), June 2, 1970, 84 Stat. 290; Pub. L. 95–410, title I, § 106, Oct. 3, 1978, 92 Stat. 891; Pub. L. 103–182, title VI, § 616, Dec. 8, 1993, 107 Stat. 2179.)

REFERENCES IN TEXT

The customs laws, referred to in subsec. (b)(2), are classified generally to this title.

PRIOR PROVISIONS

Provisions substantially the same as those in this section were contained in act Oct. 3, 1913, ch. 16, § III, P, 38 Stat. 188, which substantially reenacted the provisions of the Customs Administrative Act of June 10, 1890, ch. 407, § 17, 26 Stat. 139, as renumbered and reenacted without other change by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 23, 36 Stat. 100. Section III, P, of the 1913 act was superseded by act Sept. 21, 1922, ch. 356, title IV, § 509, 42 Stat. 968, and repealed by section 643 thereof. Section 509 of the 1922 act was superseded by section 510 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Prior provisions similar to those in this section were contained in R.S. §§ 2923, 2924, prior to repeal by section 29 of the Customs Administrative Act of June 10, 1890, 26 Stat. 141.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–182 inserted before period at end ''and such court may assess a monetary penalty''.

1978—Pub. L. 95–410 substituted judicial enforcement provisions covering court order for compliance with administrative summonses and imposition of specified sanctions for prior provisions covering imposition of penalties for refusal to give testimony, including provision for a penalty of not less than $20 nor more than $500 for refusing to appear or to produce documents or to subscribe his name to a deposition or refusing to answer interrogatories; deeming the last made appraisement of the merchandise as final where an owner, importer, or consignee failed to comply with the examination provisions; deeming the person falsely swearing on an examination guilty of perjury; and forfeiture of the merchandise where the person was an owner, importer, or consignee, or the recovery of its value from him.

1970—Pub. L. 91–271 substituted references to appropriate customs officer for references to collector or appraiser wherever appearing, and struck out references to divisions of United States Customs Court.

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.

§ 1511. Repealed. Pub. L. 95–410, title I, § 107, Oct. 3, 1978, 92 Stat. 892

Section, acts June 17, 1930, ch. 497, title IV, § 511, 46 Stat. 733; June 2, 1970, Pub. L. 91–271, title III, § 301(p), 84 Stat. 290, provided for inspection of importer's books. See sections 1508–1510 of this title.

Provisions similar to those in this section were contained in act May 27, 1921, ch. 14, § 405, 42 Stat. 18, which was superseded by act Sept. 21, 1922, ch. 356, title IV, § 511, 42 Stat. 969. Section 511 of the 1922 act was superseded by section 511 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Earlier provisions for assessment of additional duty for failure or refusal of persons importing merchandise or dealing in imported merchandise to submit their books, records, etc., to inspection, were contained in act Oct. 3, 1913, ch. 16, § III, V, 38 Stat. 190, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 643, 42 Stat. 989.

§ 1512. Deposit of duty receipts

All moneys paid to any customs officer for unascertained duties or for duties paid under protest against the rate or amount of duties charged shall be deposited to the credit of the Treasurer of the United States and shall not be held by the customs officers to await any ascertainment of duties or the result of any litigation in relation to the rate or amount of duties legally chargeable and collectible in any case where money is so paid.

(June 17, 1930, ch. 497, title IV, § 512, 46 Stat. 734; Pub. L. 91–271, title III, § 301(q), June 2, 1970, 84 Stat. 290.)