(f) Duty of customs officers to seize vessel

It shall be the duty of the several officers of the customs to seize and secure any vessel, vehicle, or merchandise which shall become liable to seizure, and to arrest any person who shall become liable to arrest, by virtue of any law respecting the revenue, as well without as within their respective districts, and to use all necessary force to seize or arrest the same.

(g) Vessels deemed employed within United States

Any vessel, within or without the customs waters, from which any merchandise is being, or has been, unlawfully introduced into the United States by means of any boat belonging to, or owned, controlled, or managed in common with, said vessel, shall be deemed to be employed within the United States and, as such, subject to the provisions of this section.

(h) Application of section to treaties of United States

The provisions of this section shall not be construed to authorize or require any officer of the United States to enforce any law of the United States upon the high seas upon a foreign vessel in contravention of any treaty with a foreign government enabling or permitting the authorities of the United States to board, examine, search, seize, or otherwise to enforce upon said vessel upon the high seas the laws of the United States except as such authorities are or may otherwise be enabled or permitted under special arrangement with such foreign government.

(June 17, 1930, ch. 497, title IV, § 581, 46 Stat. 747; Aug. 5, 1935, ch. 438, title II, § 203, 49 Stat. 521; 1946 Reorg. Plan No. 3, §§ 101–104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Sept. 1, 1954, ch. 1213, title V, § 504, 68 Stat. 1141.)

REFERENCES IN TEXT

The Anti-Smuggling Act, referred to in subsec. (a), is act Aug. 5, 1935, ch. 438, 49 Stat. 517, as amended, which is classified principally to chapter 5 (§ 1701 et seq.) of this title. For complete classification of this Act to the Code, see section 1711 of this title and Tables.

The navigation laws, referred to in subsec. (b), are classified generally to Title 33, Navigation and Navigable Waters.

For definition of officer of the customs used in text, see section 1401 of this title.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 581, 42 Stat. 979. That section was superseded by section 581 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Prior provisions dealing with the subject matter of this section were contained in R.S. § 3059, conferring powers similar in most respects to those conferred by this section, so far as it relates to vessels, on any officer of the customs, including inspectors and occasional inspectors, or of a revenue cutter, or authorized agent of the Treasury Department, or other persons specially appointed in writing; section 3060, requiring appointments under the preceding section to be filed in the custom house; section 3067, authorizing collectors, etc., and officers of revenue cutters to go on board vessels in port or within four leagues of the coast, for the purpose of demanding manifests, and examining and searching vessels; and section 3069, relative to noting and sealing, if necessary, packages found separate from the residue of the cargo. All of these sections were repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

AMENDMENTS

1954—Subsec. (d). Act Sept. 1, 1954, provided a penalty against the owner, operator or person in charge, as well as the master, of a vessel failing to come to a required stop and struck out provisions relating to the duty of the customs officers to pursue such vessels.

1935—Act Aug. 5, 1935, amended section generally among which changes it subdivided the section into subsecs. (a) to (h), inclusive.

TRANSFER OF FUNCTIONS

Word ''Treasury'' was substituted for ''Commerce'' in subsection (b) upon authority of Reorg. Plan No. 3 of 1946. See note set out under section 1613 of this title.

§ 1582. Search of persons and baggage; regulations

The Secretary of the Treasury may prescribe regulations for the search of persons and baggage and he is authorized to employ female inspectors for the examination and search of persons of their own sex; and all persons coming into the United States from foreign countries shall be liable to detention and search by authorized officers or agents of the Government under such regulations.

(June 17, 1930, ch. 497, title IV, § 582, 46 Stat. 748.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in R.S. § 3064, which was superseded by act Sept. 21, 1922, ch. 356, title IV, § 582, 42 Stat. 979, and was repealed by section 642 thereof. Section 582 of the 1922 act was superseded by section 582 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

§ 1583. Examination of outbound mail

(a) Examination

(1) In general

For purposes of ensuring compliance with the Customs laws of the United States and other laws enforced by the Customs Service, including the provisions of law described in paragraph (2), a Customs officer may, subject to the provisions of this section, stop and search at the border, without a search warrant, mail of domestic origin transmitted for export by the United States Postal Service and foreign mail transiting the United States that is being imported or exported by the United States Postal Service.

(2) Provisions of law described

The provisions of law described in this paragraph are the following:

(A) Section 5316 of title 31 (relating to reports on exporting and importing monetary instruments).

(B) Sections 1461, 1463, 1465, and 1466, and chapter 110 of title 18 (relating to obscenity and child pornography).

(C) Section 953 of title 21 (relating to exportation of controlled substances).

(D) The Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.).

(E) Section 2778 of title 22.

(F) The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

(b) Search of mail not sealed against inspection and other mail

Mail not sealed against inspection under the postal laws and regulations of the United States, mail which bears a Customs declaration, and mail with respect to which the sender or addressee has consented in writing to search, may be searched by a Customs officer.

(c) Search of mail sealed against inspection weighing in excess of 16 ounces

(1) In general

Mail weighing in excess of 16 ounces sealed against inspection under the postal laws and regulations of the United States may be searched by a Customs officer, subject to paragraph (2), if there is reasonable cause to suspect that such mail contains one or more of the following:

(A) Monetary instruments, as defined in section 1956 of title 18.

(B) A weapon of mass destruction, as defined in section 2332a(b)[1] of title 18.

(C) A drug or other substance listed in schedule I, II, III, or IV in section 812 of title 21.

(D) National defense and related information transmitted in violation of any of sections 793 through 798 of title 18.

(E) Merchandise mailed in violation of section 1715 or 1716 of title 18.

(F) Merchandise mailed in violation of any provision of chapter 71 (relating to obscenity) or chapter 110 (relating to sexual exploitation and other abuse of children) of title 18.

(G) Merchandise mailed in violation of the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.).

(H) Merchandise mailed in violation of section 2778 of title 22.

(I) Merchandise mailed in violation of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

(J) Merchandise mailed in violation of the Trading with the Enemy Act (50 U.S.C. App. 1 et seq.).

(K) Merchandise subject to any other law enforced by the Customs Service.

(2) Limitation

No person acting under the authority of paragraph (1) shall read, or authorize any other person to read, any correspondence contained in mail sealed against inspection unless prior to so reading—

(A) a search warrant has been issued pursuant to rule 41 of the Federal Rules of Criminal Procedure; or

(B) the sender or addressee has given written authorization for such reading.

(d) Search of mail sealed against inspection weighing 16 ounces or less

Notwithstanding any other provision of this section, subsection (a)(1) of this section shall not apply to mail weighing 16 ounces or less sealed against inspection under the postal laws and regulations of the United States.

[1] See References in Text note below.

(June 17, 1930, ch. 497, title IV, § 583, as added Pub. L. 107–210, div. A, title III, § 344(a), Aug. 6, 2002, 116 Stat. 986; amended Pub. L. 108–429, title II, § 2004(a)(12), Dec. 3, 2004, 118 Stat. 2590.)

REFERENCES IN TEXT

The Customs laws of the United States, referred to in subsec. (a)(1), are classified generally to this title.

The Export Administration Act of 1979, referred to in subsecs. (a)(2)(D) and (c)(1)(G), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, as amended, which is classified principally to section 2401 et seq. of Title 50, Appendix, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 2401 of Title 50, Appendix, and Tables.

The International Emergency Economic Powers Act, referred to in subsecs. (a)(2)(F) and (c)(1)(I), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, as amended, which is classified generally to chapter 35 (§ 1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

Section 2332a(b) of title 18, referred to in subsec. (c)(1)(B), does not define the term ''weapon of mass destruction''. However, that term is defined elsewhere in that section.

The Trading with the Enemy Act, referred to in subsec. (c)(1)(J), is act Oct. 6, 1917, ch. 106, 40 Stat. 411, as amended, which is classified to sections 1 to 6, 7 to 39 and 41 to 44 of Title 50, Appendix, War and National Defense. For complete classification of this Act to the Code, see Tables.

Rule 41 of the Federal Rules of Criminal Procedure, referred to in subsec. (c)(2)(A), is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

PRIOR PROVISIONS

A prior section 1583, acts June 17, 1930, ch. 497, title IV, § 583, 46 Stat. 748; Aug. 2, 1956, ch. 887, § 4(c), 70 Stat. 948, related to delivery and certification of manifest, prior to repeal by Pub. L. 103–182, title VI, § 690(b)(9), Dec. 8, 1993, 107 Stat. 2223.

AMENDMENTS

2004—Subsec. (c)(1). Pub. L. 108–429 realigned margins.

EFFECTIVE DATE

Pub. L. 107–210, div. A, title III, § 344(c), Aug. 6, 2002, 116 Stat. 987, provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), this section [enacting this section and provisions set out as a note under this section] and the amendments made by this section shall take effect on the date of enactment of this Act [Aug. 6, 2002].

''(2) CERTIFICATION WITH RESPECT TO FOREIGN MAIL.—The provisions of section 583 of the Tariff Act of 1930 [this section] relating to foreign mail transiting the United States that is imported or exported by the United States Postal Service shall not take effect until the Secretary of State certifies to Congress, pursuant to subsection (b) [set out as a note below], that the application of such section 583 is consistent with international law and any international obligation of the United States.''

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.

CERTIFICATION BY SECRETARY

Pub. L. 107–210, div. A, title III, § 344(b), Aug. 6, 2002, 116 Stat. 987, provided that: ''Not later than 3 months

after the date of enactment of this section [Aug. 6, 2002], the Secretary of State shall determine whether the application of section 583 of the Tariff Act of 1930 [this section] to foreign mail transiting the United States that is imported or exported by the United States Postal Service is being handled in a manner consistent with international law and any international obligation of the United States. Section 583 of such Act shall not apply to such foreign mail unless the Secretary certifies to Congress that the application of such section 583 is consistent with international law and any international obligation of the United States.''

§ 1584. Falsity or lack of manifest; penalties

(a) General rule

(1) Any master of any vessel and any person in charge of any vehicle bound to the United States who does not produce the manifest to the officer (whether of the Customs Service or the Coast Guard) demanding the same shall be liable to a penalty of $1,000, and if any merchandise, including sea stores, is found on board of or after having been unladen from such vessel or vehicle which is not included or described in said manifest or does not agree therewith, the master of such vessel or the person in charge of such vehicle or the owner of such vessel or vehicle or any person directly or indirectly responsible for any discrepancy between the merchandise and said manifest shall be liable to a penalty equal to the lesser of $10,000 or the domestic value of the merchandise so found or unladen, and any such merchandise belonging or consigned to the master or other officer or to any of the crew of such vessel, or to the owner or person in charge of such vehicle, shall be subject to forfeiture, and if any merchandise described in such manifest is not found on board the vessel or vehicle the master or other person in charge or the owner of such vessel or vehicle or any person directly or indirectly responsible for any discrepancy between the merchandise and said manifest shall be subject to a penalty of $1,000: *Provided*, That if the Customs Service shall be satisfied that the manifest was lost or mislaid without intentional fraud, or was defaced by accident, or is incorrect by reason of clerical error or other mistake and that no part of the merchandise not found on board was unshipped or discharged except as specified in the report of the master, said penalties shall not be incurred. For purposes of this subsection, the term ''clerical error'' means a nonnegligent, inadvertent, or typographical mistake in the preparation, assembly, or submission (electronically or otherwise) of the manifest.

(2) If any of such merchandise so found consists of heroin, morphine, cocaine, isonipecaine, or opiate, the master of such vessel or person in charge of such vehicle or the owner of such vessel or vehicle or any person directly or indirectly responsible for heroin, morphine, cocaine, isonipecaine, or opiate being in such merchandise shall be liable to a penalty of $1,000 for each ounce thereof so found. If any of such merchandise so found consists of smoking opium, opium prepared for smoking, or marihuana, the master of such vessel or person in charge of such vehicle or the owner of such vessel or vehicle or any person directly or indirectly responsible for smoking opium, opium prepared for smoking, or marihuana being in such merchandise shall be liable to a penalty of $500 for each ounce thereof so found. If any of such merchandise so found consists of crude opium, the master of such vessel or person in charge of such vehicle or the owner of such vessel or vehicle or any person directly or indirectly responsible for crude opium being in such merchandise shall be liable to a penalty of $200 for each ounce thereof so found. Such penalties shall, notwithstanding the proviso in section 1594 of this title (relating to the immunity of vessels or vehicles used as common carriers), constitute a lien upon such vessel which may be enforced by a libel in rem; except that the master or owner of a vessel used by any person as a common carrier in the transaction of business as such common carrier shall not be liable to such penalties and the vessel shall not be held subject to the lien, if it appears to the satisfaction of the court that neither the master nor any of the officers (including licensed and unlicensed officers and petty officers) nor the owner of the vessel knew, and could not, by the exercise of the highest degree of care and diligence, have known, that such narcotic drugs were on board. Clearance of any such vessel may be withheld until such penalties are paid or until a bond, satisfactory to the Customs Service, is given for the payment thereof. The provisions of this paragraph shall not prevent the forfeiture of any such vessel or vehicle under any other provision of law. As used in this paragraph, the terms ''opiate'' and ''marihuana'' shall have the same meaning given those terms by sections 802(18) and 802(16), respectively, of title 21.

(3) If any of such merchandise (sea stores excepted), the importation of which into the United States is prohibited, be so found upon any vessel not exceeding five hundred net tons, the vessel shall, in addition to any other penalties herein or by law provided, be seized and forfeited.

(b) Procedures

(1) If the Customs Service has reasonable cause to believe that there has been a violation of subsection (a)(1) of this section and determines that further proceedings are warranted, the Customs Service shall issue or electronically transmit to the person concerned a notice of intent to issue or electronically transmit a claim for a monetary penalty. Such notice shall—

(A) describe the merchandise;

(B) set forth the details of the error in the manifest;

(C) specify all laws and regulations allegedly violated;

(D) disclose all the material facts which establish the alleged violation;

(E) state the estimated loss of lawful duties, if any, and, taking into account all of the circumstances, the amount of the proposed monetary penalty; and

(F) inform such person that he will have a reasonable opportunity to make representations, both oral and written, as to why such penalty claim should not be issued.

No notice is required under this subsection for any violation of subsection (a)(1) of this section for which the proposed penalty is $1,000 or less.

(2) After considering representations, if any, made by the person concerned pursuant to the