

Sections 471 and 474 of title 18, U.S.C., 1940 ed., were omitted as obviously unnecessary.

#### AMENDMENTS

2006—Pub. L. 109-177 added pars. (1) to (3) and struck out former fourth undesignated par. which read as follows: “Shall be fined under this title or imprisoned not more than one year, or both.”

1996—Pub. L. 104-294 substituted “fined under this title” for “fined not more than \$1,000” in fourth undesignated par.

### CHAPTER 109—SEARCHES AND SEIZURES

Sec.	
2231.	Assault or resistance.
2232.	Destruction or removal of property to prevent seizure.
2233.	Rescue of seized property.
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2235.	Search warrant procured maliciously.
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2237.	Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.

#### AMENDMENTS

2006—Pub. L. 109-177, title III, § 303(b), Mar. 9, 2006, 120 Stat. 234, added item 2237.

#### § 2231. Assault or resistance

(a) Whoever forcibly assaults, resists, opposes, prevents, impedes, intimidates, or interferes with any person authorized to serve or execute search warrants or to make searches and seizures while engaged in the performance of his duties with regard thereto or on account of the performance of such duties, shall be fined under this title or imprisoned not more than three years, or both; and—

(b) Whoever, in committing any act in violation of this section, uses any deadly or dangerous weapon, shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 802; Pub. L. 103-322, title XXXIII, § 330016(1)(K), (L), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§121, 253, 254, 628 (Mar. 4, 1909, ch. 321, § 65, 35 Stat. 1100; June 15, 1917, ch. 30, title XI, §18, 40 Stat. 230; May 18, 1934, ch. 299, §1, 2, 48 Stat. 780, 781; Feb. 8, 1936, ch. 40, 49 Stat. 1105; June 26, 1936, ch. 830, title I, §3, 49 Stat. 1940; Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 Fed. Reg. 2731, 53 Stat. 1433; June 13, 1940, ch. 359, 54 Stat. 391).

Section consolidates section 628 of title 18, U.S.C., 1940 ed., and the portion of section 121 of said title relating to resistance of persons authorized to make searches.

Punishment provided by section 121 of title 18, U.S.C., 1940 ed., was \$2,000 fine and imprisonment for 1 year. Section 628 of said title was part of Espionage Act of June 15, 1917, ch. 30, title XIII, §1, 40 Stat. 231, prescribing fine of not more than \$1,000 and imprisonment not exceeding 2 years for resisting service, execution of search warrant, or assaulting an officer.

Section 253 of title 18, U.S.C., 1940 ed., enumerated United States marshals, deputies, and assistants, Federal Bureau of Investigation agents, and numerous other officers, the killing of whom is denounced as a Federal offense.

Section 254 of title 18, U.S.C., 1940 ed., denounced the assaulting of such officers and prescribed punishment therefor without regard to nature of duties involved or performed.

In other words sections 253 and 254 of title 18, U.S.C., 1940 ed., were not limited to officers executing search warrants.

Officers enumerated in section 253 of title 18, U.S.C., 1940 ed., were substantially all those who serve or execute search warrants. Therefore, the language and punishment under section 254 of said title constitute basis of this revised section. No change in legislative intent is involved, as the amendments of sections 253 and 254 of said title are the latest enactments.

The provisions of section 121 of title 18, U.S.C., 1940 ed., relating to rescue of property from seizing officer or its destruction to prevent seizure, are incorporated in sections 2232 and 2233 of this title.

Minor changes were made in translation and phraseology.

#### AMENDMENTS

1994—Subsec. (a). Pub. L. 103-322, §330016(1)(K), substituted “fined under this title” for “fined not more than \$5,000”.

Subsec. (b). Pub. L. 103-322, §330016(1)(L), substituted “fined under this title” for “fined not more than \$10,000”.

#### § 2232. Destruction or removal of property to prevent seizure

(a) DESTRUCTION OR REMOVAL OF PROPERTY TO PREVENT SEIZURE.—Whoever, before, during, or after any search for or seizure of property by any person authorized to make such search or seizure, knowingly destroys, damages, wastes, disposes of, transfers, or otherwise takes any action, or knowingly attempts to destroy, damage, waste, dispose of, transfer, or otherwise take any action, for the purpose of preventing or impairing the Government’s lawful authority to take such property into its custody or control or to continue holding such property under its lawful custody and control, shall be fined under this title or imprisoned not more than 5 years, or both.

(b) IMPAIRMENT OF IN REM JURISDICTION.—Whoever, knowing that property is subject to the in rem jurisdiction of a United States court for purposes of civil forfeiture under Federal law, knowingly and without authority from that court, destroys, damages, wastes, disposes of, transfers, or otherwise takes any action, or knowingly attempts to destroy, damage, waste, dispose of, transfer, or otherwise take any action, for the purpose of impairing or defeating the court’s continuing in rem jurisdiction over the property, shall be fined under this title or imprisoned not more than 5 years, or both.

(c) NOTICE OF SEARCH OR EXECUTION OF SEIZURE WARRANT OR WARRANT OF ARREST IN REM.—Whoever, having knowledge that any person authorized to make searches and seizures, or to execute a seizure warrant or warrant of arrest in rem, in order to prevent the authorized seizing or securing of any person or property, gives notice or attempts to give notice in advance of the search, seizure, or execution of a seizure warrant or warrant of arrest in rem, to any person shall be fined under this title or imprisoned not more than 5 years, or both.

(d) NOTICE OF CERTAIN ELECTRONIC SURVEILLANCE.—Whoever, having knowledge that a Federal investigative or law enforcement officer has been authorized or has applied for authorization under chapter 119 to intercept a wire, oral, or electronic communication, in order to obstruct,

impede, or prevent such interception, gives notice or attempts to give notice of the possible interception to any person shall be fined under this title or imprisoned not more than five years, or both.

(e) FOREIGN INTELLIGENCE SURVEILLANCE.—Whoever, having knowledge that a Federal officer has been authorized or has applied for authorization to conduct electronic surveillance under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801, et seq.), in order to obstruct, impede, or prevent such activity, gives notice or attempts to give notice of the possible activity to any person shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 802; Pub. L. 98-473, title II, §1103, Oct. 12, 1984, 98 Stat. 2143; Pub. L. 99-508, title I, §109, Oct. 21, 1986, 100 Stat. 1858; Pub. L. 99-646, §33, Nov. 10, 1986, 100 Stat. 3598; Pub. L. 100-690, title VII, §7066, Nov. 18, 1988, 102 Stat. 4404; Pub. L. 103-322, title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 106-185, §12, Apr. 25, 2000, 114 Stat. 218.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §121 (Mar. 4, 1909, ch. 321, §65, 35 Stat. 1100).

Section was formed from the words following the first semicolon and ending with the second semicolon, in section 121 of title 18, U.S.C., 1940 ed.

The remaining provisions of section 121 of title 18, U.S.C., 1940 ed., relating to assaulting, resisting, or interfering with customs officers, revenue officers, or other persons, and to the rescue of seized property, constitute, along with provisions from other sections, sections 2231 and 2233 of this title.

Minor changes were made in phraseology.

#### REFERENCES IN TEXT

The Foreign Intelligence Surveillance Act of 1978, referred to in subsec. (e), is Pub. L. 95-511, Oct. 25, 1978, 92 Stat. 1783, as amended, which is classified principally to chapter 36 (§1801 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 1801 of Title 50 and Tables.

#### AMENDMENTS

2000—Pub. L. 106-185 added subsecs. (a) to (c), redesignated first and second pars. of former subsec. (c) as subsecs. (d) and (e), respectively, inserted subsec. (e) heading, and struck out former subsecs. (a) and (b) which related to physical interference with search and notice of search, respectively.

1994—Subsecs. (a), (b). Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$10,000”.

1988—Subsec. (c). Pub. L. 100-690 inserted “of 1978” after “Surveillance Act”.

1986—Pub. L. 99-646 directed the designation of first and second pars. as subsecs. (a) and (b), respectively, which had been previously so designated by Pub. L. 99-508, and substituted “imprisoned not” for “imprisoned” in subsec. (a).

Pub. L. 99-508 designated first and second pars. as subsecs. (a) and (b), respectively, and inserted headings, and added subsec. (c).

1984—Pub. L. 98-473, §1103(a), substituted provisions raising the maximum fine from \$2,000 to \$10,000 and raising the maximum term of imprisonment from two years to five years.

Pub. L. 98-473, §1103(b), inserted paragraph relating to the penalties for warning the subject of a search.

#### EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-185 applicable to any forfeiture proceeding commenced on or after the date that

is 120 days after Apr. 25, 2000, see section 21 of Pub. L. 106-185, set out as a note under section 1324 of Title 8, Aliens and Nationality.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-508 effective 90 days after Oct. 21, 1986, and, in case of conduct pursuant to court order or extension, applicable only with respect to court orders and extensions made after such date, with special rule for State authorizations of interceptions, see section 111 of Pub. L. 99-508, set out as a note under section 2510 of this title.

### § 2233. Rescue of seized property

Whoever forcibly rescues, dispossesses, or attempts to rescue or dispossess any property, articles, or objects after the same shall have been taken, detained, or seized by any officer or other person under the authority of any revenue law of the United States, or by any person authorized to make searches and seizures, shall be fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 802; Pub. L. 103-322, title XXXIII, §330016(1)(I), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§121, 128 (Mar. 4, 1909, ch. 321, §§65, 71, 35 Stat. 1100, 1101).

Section consolidates that portion of section 121 of title 18, U.S.C., 1940 ed., relating to rescue of seized property, with section 128 of title 18, U.S.C., 1940 ed.

The remaining provisions of section 121 of present title 18, U.S.C., 1940 ed., relating to assaulting, resisting, or interfering with customs officers, revenue officers, or other persons, and to the destruction or removal of property to prevent seizure, constitute sections 2231 and 2232 of this title, the former provisions being consolidated with certain provisions of other sections.

Said section 121 of present title 18, U.S.C., 1940 ed., provided for punishment by fine of not more than \$2,000 or imprisonment of not more than 1 year, or both, of persons rescuing, attempting to rescue, or causing to be rescued, “any property” which has been seized by “any person” authorized to make searches and seizures.

Said section 128 of present title 18, U.S.C., 1940 ed., provided for punishment by fine of not more than \$300 and imprisonment for not more than 1 year of persons dispossessing, rescuing, or attempting to dispossess or rescue, or aiding or assisting in dispossessing or rescuing, “any property taken or detained by any officer or other person under the authority of any revenue law of the United States.”

This revised section adopts the maximum fine provisions of section 121 of title 18, U.S.C., 1940 ed., and extends the maximum term of imprisonment to 2 years. This was deemed advisable so that uniformity of punishment would be established and the provisions would be sufficiently broad to impose punishment commensurate with the gravity of the offense. (See section 3601(c)(2) of title 26, U.S.C., 1940 ed., Internal Revenue Code.)

Reference to persons causing, procuring, aiding or assisting was omitted as unnecessary in view of definition of “principal” in section 2 of this title.

Changes were made in phraseology.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$2,000”.

### § 2234. Authority exceeded in executing warrant

Whoever, in executing a search warrant, willfully exceeds his authority or exercises it with

unnecessary severity, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 803; Pub. L. 104-294, title VI, § 601(a)(8), Oct. 11, 1996, 110 Stat. 3498; Pub. L. 107-273, div. B, title III, § 3002(a)(3), Nov. 2, 2002, 116 Stat. 1805.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 631 (June 15, 1917, ch. 30, title XI, § 21, 40 Stat. 230).

Minor changes were made in phraseology.

#### AMENDMENTS

2002—Pub. L. 107-273 inserted “, or both” after “year”.

1996—Pub. L. 104-294 substituted “fined under this title” for “fined not more than \$1,000”.

### § 2235. Search warrant procured maliciously

Whoever maliciously and without probable cause procures a search warrant to be issued and executed, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 803; Pub. L. 104-294, title VI, § 601(a)(8), Oct. 11, 1996, 110 Stat. 3498; Pub. L. 107-273, div. B, title III, § 3002(a)(3), Nov. 2, 2002, 116 Stat. 1805.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 630 (June 15, 1917, ch. 30, title XI, § 20, 40 Stat. 230).

Minor changes were made in phraseology.

#### AMENDMENTS

2002—Pub. L. 107-273 inserted “, or both” after “year”.

1996—Pub. L. 104-294 substituted “fined under this title” for “fined not more than \$1,000”.

### § 2236. Searches without warrant

Whoever, being an officer, agent, or employee of the United States or any department or agency thereof, engaged in the enforcement of any law of the United States, searches any private dwelling used and occupied as such dwelling without a warrant directing such search, or maliciously and without reasonable cause searches any other building or property without a search warrant, shall be fined under this title for a first offense; and, for a subsequent offense, shall be fined under this title or imprisoned not more than one year, or both.

This section shall not apply to any person—

- (a) serving a warrant of arrest; or
- (b) arresting or attempting to arrest a person committing or attempting to commit an offense in his presence, or who has committed or is suspected on reasonable grounds of having committed a felony; or

(c) making a search at the request or invitation or with the consent of the occupant of the premises.

(June 25, 1948, ch. 645, 62 Stat. 803; Pub. L. 104-294, title VI, § 601(a)(8), Oct. 11, 1996, 110 Stat. 3498; Pub. L. 107-273, div. B, title IV, § 4002(d)(1)(C)(iii), Nov. 2, 2002, 116 Stat. 1809.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 53a (Aug. 27, 1935, ch. 740, § 201, 49 Stat. 877).

Words “or any department or agency thereof” were inserted to avoid ambiguity as to scope of section. (See definitive section 6 of this title.)

The exception in the case of an invitation or the consent of the occupant, was inserted to make the section complete and remove any doubt as to the application of this section to searches which have uniformly been upheld.

Reference to misdemeanor was omitted in view of definitive section 1 of this title. (See reviser’s note under section 212 of this title.)

Words “upon conviction thereof shall be” were omitted as surplusage, since punishment cannot be imposed until conviction is secured.

Minor changes were made in phraseology.

#### AMENDMENTS

2002—Pub. L. 107-273 inserted “under this title” after “warrant, shall be fined” and struck out “not more than \$1,000” after “for a first offense”.

1996—Pub. L. 104-294 substituted “fined under this title” for “fined not more than \$1,000”.

### § 2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information

(a)(1) It shall be unlawful for the master, operator, or person in charge of a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to knowingly fail to obey an order by an authorized Federal law enforcement officer to heave to that vessel.

(2) It shall be unlawful for any person on board a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to—

(A) forcibly resist, oppose, prevent, impede, intimidate, or interfere with a boarding or other law enforcement action authorized by any Federal law or to resist a lawful arrest; or

(B) provide materially false information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel’s destination, origin, ownership, registration, nationality, cargo, or crew.

(b)(1) Except as otherwise provided in this subsection, whoever knowingly violates subsection (a) shall be fined under this title or imprisoned for not more than 5 years, or both.

(2)(A) If the offense is one under paragraph (1) or (2)(A) of subsection (a) and has an aggravating factor set forth in subparagraph (B) of this paragraph, the offender shall be fined under this title or imprisoned for any term of years or life, or both.

(B) The aggravating factor referred to in subparagraph (A) is that the offense—

- (i) results in death; or
- (ii) involves—
  - (I) an attempt to kill;
  - (II) kidnapping or an attempt to kidnap; or
  - (III) an offense under section 2241.

(3) If the offense is one under paragraph (1) or (2)(A) of subsection (a) and results in serious bodily injury (as defined in section 1365), the offender shall be fined under this title or imprisoned for not more than 15 years, or both.

(4) If the offense is one under paragraph (1) or (2)(A) of subsection (a), involves knowing transportation under inhumane conditions, and is committed in the course of a violation of section 274 of the Immigration and Nationality Act, or chapter 77 or section 113 (other than under sub-

section (a)(4) or (a)(5) of such section) or 117 of this title, the offender shall be fined under this title or imprisoned for not more than 15 years, or both.

(c) This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581), or any other provision of law enforced or administered by the Secretary of the Treasury or the Secretary of Homeland Security, or the authority of any Federal law enforcement officer under any law of the United States, to order a vessel to stop or heave to.

(d) A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the designee of the Secretary of State.

(e) In this section—

(1) the term “Federal law enforcement officer” has the meaning given the term in section 115(c);

(2) the term “heave to” means to cause a vessel to slow, come to a stop, or adjust its course or speed to account for the weather conditions and sea state to facilitate a law enforcement boarding;

(3) the term “vessel subject to the jurisdiction of the United States” has the meaning given the term in section 70502 of title 46;

(4) the term “vessel of the United States” has the meaning given the term in section 70502 of title 46; and

(5) the term “transportation under inhumane conditions” means—

(A) transportation—

(i) of one or more persons in an engine compartment, storage compartment, or other confined space;

(ii) at an excessive speed; or

(iii) of a number of persons in excess of the rated capacity of the vessel; or

(B) intentional grounding of a vessel in which persons are being transported.

(Added Pub. L. 109-177, title III, §303(a), Mar. 9, 2006, 120 Stat. 233; amended Pub. L. 111-281, title IX, §917, Oct. 15, 2010, 124 Stat. 3021.)

#### REFERENCES IN TEXT

Section 274 of the Immigration and Nationality Act, referred to in subsec. (b)(4), is classified to section 1324 of Title 8, Aliens and Nationality.

#### AMENDMENTS

2010—Subsec. (b). Pub. L. 111-281, §917(a), amended subsec. (b) generally. Prior to amendment subsec. (b) read as follows: “Any person who intentionally violates this section shall be fined under this title or imprisoned for not more than 5 years, or both.”

Subsec. (e)(3). Pub. L. 111-281, §917(b)(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “the term ‘vessel subject to the jurisdiction of the United States’ has the meaning given the term in section 2 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903); and”.

Subsec. (e)(4). Pub. L. 111-281, §917(b)(2), substituted “section 70502 of title 46; and” for “section 2 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903).”

Subsec. (e)(5). Pub. L. 111-281, §917(b)(3), added par. (5).

## CHAPTER 109A—SEXUAL ABUSE

Sec.	
2241.	Aggravated sexual abuse.
2242.	Sexual abuse.
2243.	Sexual abuse of a minor or ward.
2244.	Abusive sexual contact.
2245.	Sexual abuse resulting in death. <sup>1</sup>
2246.	Definitions for chapter.
2247.	Repeat offenders.
2248.	Mandatory restitution.

#### CODIFICATION

Pub. L. 99-646 and Pub. L. 99-654 added identical chapters 109A.

#### AMENDMENTS

1994—Pub. L. 103-322, title IV, §§40111(c), 40113(a)(2), title VI, §60010(b), Sept. 13, 1994, 108 Stat. 1903, 1907, 1973, redesignated item 2245 as 2246 and added items 2245, 2247, and 2248.

### § 2241. Aggravated sexual abuse

(a) BY FORCE OR THREAT.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly causes another person to engage in a sexual act—

(1) by using force against that other person;

or

(2) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

(b) BY OTHER MEANS.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly—

(1) renders another person unconscious and thereby engages in a sexual act with that other person; or

(2) administers to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby—

(A) substantially impairs the ability of that other person to appraise or control conduct; and

(B) engages in a sexual act with that other person;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

(c) WITH CHILDREN.—Whoever crosses a State line with intent to engage in a sexual act with a person who has not attained the age of 12 years, or in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direc-

<sup>1</sup> Section catchline amended by Pub. L. 109-248 without corresponding amendment of chapter analysis.