PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §§586, 587, 42 Stat. 980, 981. These sections were superseded by section 586 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions somewhat similar to those in this section, but applicable only to vessels ''bound to the United States'' were contained in R.S. §2867, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

Provisions substantially the same in effect as those contained in the act of 1922, §587, except that the penalty was treble the value of the merchandise, and the provision for forfeiture applied only to the vessel was contained in R.S. §2868, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

AMENDMENTS

1993—Subsecs. (a) to (c). Pub. L. 103–182, §620(1), inserted '', or of a hovering vessel which has received or delivered merchandise while outside the territorial sea,'' after ''from a foreign port or place''.

Subsec. (f). Pub. L. 103–182, §620(2), substituted ''the Customs Service at the district'' for ''the appropriate customs officer of the district'' and ''the appropriate customs officer within the district'' and ''the Customs Service is satisfied'' for ''the appropriate customs officer is satisfied''.

1986—Subsecs. (a) to (d). Pub. L. 99–570, §3119(1), substituted ''$10,000'' for ''$1,000'' wherever appearing.

Subsec. (e). Pub. L. 99–570, §3119(2)(A), substituted ''customs waters'' for ''one league of the coast of the United States''.

Pub. L. 99–570, §3119(2)(B), which directed that ''15 years'' be substituted for ''2 years'' was executed by making the substitution for ''two years'' as the probable intent of Congress.

1970—Subsec. (f). Pub. L. 91–271 substituted references to appropriate customs officer for references to collector wherever appearing.

1935—Act Aug. 5, 1935, redesignated existing provisions as subsecs. (a) and (f) and added subsecs. (b) to (e).

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91–271, see section 203 of Pub. L. 91–271, set out as a note under section 1500 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 1587. Examination of hovering vessels

(a) Boarding and examination

Any hovering vessel, or any vessel which fails (except for unavoidable cause), at any place within the customs waters or within a customs-enforcement area established under the Anti-Smuggling Act [19 U.S.C. 1701 et seq.], to display lights as required by law, or which has become subject to pursuit as provided in section 1581 of this title, or which, being a foreign vessel to which subsection (h) of section 1581 of this title applies, is permitted by special arrangement with a foreign government to be so examined without the customs waters of the United States, may at any time be boarded and examined by any officer of the customs, and the provisions of said section 1581 shall apply thereto, as well without as within his district, and in examining the same, any such officer may also examine the master upon oath respecting the cargo and voyage of the vessel, and may also bring the vessel into the most convenient port of the United States to examine the cargo, and if the master of said vessel refuses to comply with the lawful directions of such officer or does not truly answer such questions as are put to him respecting the vessel, its cargo, or voyage, he shall be liable to a penalty of not more than $5,000 nor less than $500. If, upon the examination of any such vessel or its cargo by any officer of the customs, any dutiable merchandise destined to the United States is found, or discovered to have been, on board thereof, the vessel and its cargo shall be seized and forfeited. It shall be presumed that any merchandise (sea stores excepted), the importation of which into the United States is prohibited, or which consists of any spirits, wines, or other alcoholic liquors, so found, or discovered to have been, on board thereof, is destined to the United States.

(b) Unexplained lightness of vessel or discharge of cargo

If any vessel laden with cargo be found at any place in the United States or within the customs waters or within a customs-enforcement area established under the Anti-Smuggling Act [19 U.S.C. 1701 et seq.] and such vessel afterwards is found light or in ballast or having discharged its cargo or any part thereof, and the master is unable to give a due account of the port or place at which the cargo, or any part thereof, consisting of any merchandise the importation of which into the United States is prohibited or any spirits, wines, or other alcoholic liquors, was lawfully discharged, the vessel shall be seized and forfeited.

(c) Vessel bona fide bound from one foreign port to another foreign port

Nothing contained in this section shall be construed to render any vessel liable to forfeiture which is bona fide bound from one foreign port to another foreign port, and which is pursuing her course, wind and weather permitting.

(June 17, 1930, ch. 497, title IV, §587, 46 Stat. 749; Aug. 5, 1935, ch. 438, title II, §206, 49 Stat. 525.)

REFERENCES IN TEXT

The Anti-Smuggling Act, referred to in subsecs. (a) and (b), 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.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §588, 42 Stat. 981. That section was superseded by section 588 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions substantially the same as those in this section, except that they applied only to ports on the northern, northeastern and northwestern frontiers, were contained in R.S. §3110, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

AMENDMENTS

1937—Act Aug. 5, 1935, amended section generally.

§ 1588. Transportation between American ports via foreign ports

If any merchandise is laden at any port or place in the United States upon any vessel belonging wholly or in part to a subject of a foreign country, and is taken thence to a foreign port or place to be reladen and reshipped to any other port in the United States, either by the same or by another vessel, foreign or American, with intent to evade the provisions relating to the transportation of merchandise from one port or place of the United States to another port or place of the United States in a vessel belonging wholly or in part to a subject of any foreign power, the merchandise shall, on its arrival at such last-named port or place, be seized and forfeited to the United States, and the vessel shall pay a tonnage duty of 50 cents per net ton.

(June 17, 1930, ch. 497, title IV, § 588, 46 Stat. 749.)

§ 1589. Repealed. Pub. L. 100–690, title VII, § 7367(c)(5), Nov. 18, 1988, 102 Stat. 4480

Section, act June 17, 1930, ch. 497, title IV, § 589, as added Oct. 12, 1984, Pub. L. 98–473, title II, § 320, 98 Stat. 2056, set forth arrest authority of customs officers.

CODIFICATION

Another section 589 of act June 17, 1930, was added by Pub. L. 98–573, title II, § 213(a)(17), Oct. 30, 1984, 98 Stat. 2988, and is classified to section 1589a of this title.

A prior section 589 of act June 17, 1930, ch. 497, title IV, 46 Stat. 750, related to unlawful relanding and was classified to this section, prior to repeal by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948. See section 544 of Title 18, Crimes and Criminal Procedure.

§ 1589a. Enforcement authority of customs officers

Subject to the direction of the Secretary of the Treasury, an officer of the customs may—

(1) carry a firearm;

(2) execute and serve any order, warrant, subpena, summons, or other process issued under the authority of the United States;

(3) make an arrest without a warrant for any offense against the United States committed in the officer's presence or for a felony, cognizable under the laws of the United States committed outside the officer's presence if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; and

(4) perform any other law enforcement duty that the Secretary of the Treasury may designate.

(June 17, 1930, ch. 497, title IV, § 589, as added Pub. L. 98–573, title II, § 213(a)(17), Oct. 30, 1984, 98 Stat. 2988.)

CODIFICATION

Another section 589 of act June 17, 1930, as added by Pub. L. 98–473, title II, § 320, Oct. 12, 1984, 98 Stat. 2056, was classified to section 1589 of this title, prior to repeal by Pub. L. 100–690.

PRIOR PROVISIONS

A prior section 589 of act June 17, 1930, ch. 497, title IV, 46 Stat. 750, related to unlawful relanding and was classified to this section, prior to repeal by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948. See section 544 of Title 18, Crimes and Criminal Procedure.

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.

§ 1590. Aviation smuggling

(a) In general

It is unlawful for the pilot of any aircraft to transport, or for any individual on board any aircraft to possess, merchandise knowing, or intending, that the merchandise will be introduced into the United States contrary to law.

(b) Sea transfers

It is unlawful for any person to transfer merchandise between an aircraft and a vessel on the high seas or in the customs waters of the United States if such person has not been authorized by the Secretary to make such transfer and—

(1) either—

(A) the aircraft is owned by a citizen of the United States or is registered in the United States, or

(B) the vessel is a vessel of the United States (within the meaning of section 1703(b) of this title), or

(2) regardless of the nationality of the vessel or aircraft, such transfer is made under circumstances indicating the intent to make it possible for such merchandise, or any part thereof, to be introduced into the United States unlawfully.

(c) Civil penalties

Any person who violates any provision of this section is liable for a civil penalty equal to twice the value of the merchandise involved in the violation, but not less than $10,000. The value of any controlled substance included in the merchandise shall be determined in accordance with section 1497(b) of this title.

(d) Criminal penalties

In addition to being liable for a civil penalty under subsection (c) of this section, any person who intentionally commits a violation of any provision of this section is, upon conviction—

(1) liable for a fine of not more than $10,000 or imprisonment for not more than 5 years, or both, if none of the merchandise involved was a controlled substance; or

(2) liable for a fine of not more than $250,000 or imprisonment for not more than 20 years, or both, if any of the merchandise involved was a controlled substance.

(e) Seizure and forfeiture

(1) Except as provided in paragraph (2), a vessel or aircraft used in connection with, or in aiding or facilitating, any violation of this section, whether or not any person is charged in connection with such violation, may be seized and forfeited in accordance with the customs laws.

(2) Paragraph (1) does not apply to a vessel or aircraft operated as a common carrier.

(f) "Merchandise" defined

As used in this section, the term ''merchandise'' means only merchandise the importation of which into the United States is prohibited or restricted.

(g) Intent of transfer of merchandise

For purposes of imposing civil penalties under this section, any of the following acts, when per-