

**§ 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 Repealed.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, subpoena, 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-

formed within 250 miles of the territorial sea of the United States, shall be prima facie evidence that the transportation or possession of merchandise was unlawful and shall be presumed to constitute circumstances indicating that the purpose of the transfer is to make it possible for such merchandise, or any part thereof, to be introduced into the United States unlawfully, and for purposes of subsection (e) of this section or section 1595a of this title, shall be prima facie evidence that an aircraft or vessel was used in connection with, or to aid or facilitate, a violation of this section:

(1) The operation of an aircraft or a vessel without lights during such times as lights are required to be displayed under applicable law.

(2) The presence on an aircraft of an auxiliary fuel tank which is not installed in accordance with applicable law.

(3) The failure to identify correctly—

(A) the vessel by name or country of registration, or

(B) the aircraft by registration number and country of registration,

when requested to do so by a customs officer or other government authority.

(4) The external display of false registration numbers, false country of registration, or, in the case of a vessel, false vessel name.

(5) The presence on board of unmanifested merchandise, the importation of which is prohibited or restricted.

(6) The presence on board of controlled substances which are not manifested or which are not accompanied by the permits or licenses required under Single Convention on Narcotic Drugs or other international treaty.

(7) The presence of any compartment or equipment which is built or fitted out for smuggling.

(8) The failure of a vessel to stop when hailed by a customs officer or other government authority.

(June 17, 1930, ch. 497, title IV, § 590, as added Pub. L. 99-570, title III, § 3120, Oct. 27, 1986, 100 Stat. 3207-84.)

#### PRIOR PROVISIONS

A prior section 1590, act June 17, 1930, ch. 497, title IV, § 590, 46 Stat. 750, related to false drawback claims, prior to repeal by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948. See section 550 of Title 18, Crimes and Criminal Procedure.

#### TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

### § 1591. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948

Section, acts June 17, 1930, ch. 497, title IV, § 591, 46 Stat. 750; Aug. 5, 1935, ch. 438, title III, § 304(a), 49 Stat. 527, related to fraud and personal penalties. See section 542 of Title 18, Crimes and Criminal Procedure.

### § 1592. Penalties for fraud, gross negligence, and negligence

#### (a) Prohibition

##### (1) General rule

Without regard to whether the United States is or may be deprived of all or a portion of any

lawful duty, tax, or fee thereby, no person, by fraud, gross negligence, or negligence—

(A) may enter, introduce, or attempt to enter or introduce any merchandise into the commerce of the United States by means of—

(i) any document or electronically transmitted data or information, written or oral statement, or act which is material and false, or

(ii) any omission which is material, or

(B) may aid or abet any other person to violate subparagraph (A).

#### (2) Exception

Clerical errors or mistakes of fact are not violations of paragraph (1) unless they are part of a pattern of negligent conduct. The mere nonintentional repetition by an electronic system of an initial clerical error does not constitute a pattern of negligent conduct.

#### (b) Procedures

##### (1) Pre-penalty notice

###### (A) In general

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

(i) describe the merchandise;

(ii) set forth the details of the entry or introduction, the attempted entry or introduction, or the aiding or procuring of the entry or introduction;

(iii) specify all laws and regulations allegedly violated;

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

(v) state whether the alleged violation occurred as a result of fraud, gross negligence, or negligence;

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

(vii) inform such person that he shall have a reasonable opportunity to make representations, both oral and written, as to why a claim for a monetary penalty should not be issued in the amount stated.

###### (B) Exceptions

The preceding subparagraph shall not apply if—

(i) the importation with respect to which the violation of subsection (a) of this section occurs is noncommercial in nature, or

(ii) the amount of the penalty in the penalty claim issued under paragraph (2) is \$1,000 or less.

#### (2) Penalty claim

After considering representations, if any, made by the person concerned pursuant to the notice issued under paragraph (1), the Customs Service shall determine whether any violation