

the requirements of this section is liable for a civil penalty of \$5,000 for the first violation, and \$10,000 for each subsequent violation. Any aircraft used in connection with any such violation is subject to seizure and forfeiture.

(2) *Criminal penalty.* In addition to the civil penalty prescribed for violation of this section, the pilot of any aircraft who intentionally fails to comply with the requirements of this section is liable, upon conviction, for a fine of not more than \$2,000 or imprisonment for 1 year, or both. If the aircraft is found to have, or to have had, on board any merchandise the importation of which is prohibited, such individual is liable for an additional fine of not more than \$10,000 or imprisonment for not more than 5 years, or both.

(3) *Additional civil penalty.* If any merchandise, other than the equivalent of vessel sea stores, is imported or brought into the U.S. aboard an aircraft which has failed to comply with the requirements prescribed by this section, the pilot of the aircraft shall be liable for a civil penalty equal to the value of the merchandise, and the merchandise may be seized and forfeited, unless properly entered by the importer or consignee.

§ 122.167 Aviation smuggling.

(a) *Civil penalties.* Any aircraft pilot who transports, or any person on board any aircraft who possesses prohibited or restricted merchandise knowing, or intending, that the merchandise will be introduced into the U.S. contrary to law shall be subject to a civil penalty of twice the value of the merchandise involved, but not less than \$10,000, as prescribed in section 590, Tariff Act of 1930, as amended (19 U.S.C. 1590). Any aircraft used in connection with, or in aiding or facilitating, any violation of 19 U.S.C. 1590, whether or not any person is charged in connection with such violation, may be seized and forfeited in accordance with Customs laws.

(b) *Criminal penalties.* Any aircraft pilot or person who intentionally violates 19 U.S.C. 1590 is, upon conviction, subject to the criminal penalties of a fine of not more than \$10,000 or imprisonment for not more than 5 years, or both, if none of the merchandise involved is a controlled substance. More

severe penalties are provided in 19 U.S.C. 1590 if the smuggled merchandise is a controlled substance. In such case, a violator is liable for a fine of not more than \$250,000 or imprisonment for not more than 20 years, or both.

(c) For purposes of imposing civil penalties under this section, any of the following acts, when performed within 250 miles of the territorial sea of the United States, shall be evidence that the transportation or possession of merchandise was unlawful and shall indicate that the purpose of the transfer was to make it possible for such merchandise, or any part of it, to be introduced into the U.S. unlawfully. For purposes of seizure and forfeiture, the following acts shall be evidence that an aircraft was used in connection with, or to aid or facilitate, a violation of this section:

(1) The operation of an aircraft 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 correctly identify 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 or false country of registration.

(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.

Subpart R—Air Carrier Smuggling Prevention Program

SOURCE: T.D. 91-25, 56 FR 12347, Mar. 25, 1991, unless otherwise noted.