

This paragraph does not authorize seizure when seizure or forfeiture is restricted by law or regulation (see, for example, §162.75), nor does it authorize a remedy other than seizure when seizure or forfeiture is required by law or regulation. A receipt for seized property shall be given at the time of seizure to the person from whom the property is seized.

(b) *Seizure by persons other than Customs officers.* The port director may adopt a seizure made by a person other than a Customs officer if such port director has reasonable cause to believe that the property is subject to forfeiture under the Customs laws.

(c) *Seizure by State official.* If a duly constituted State official has seized any merchandise, vessel, aircraft, vehicle, or other conveyance under provisions of the statutes of such State, such property shall not be seized by a Customs officer unless the property is voluntarily turned over to him to be proceeded against under the Federal statutes.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 79-160, 44 FR 31956, June 4, 1979; USCBP-2006-0122, 73 FR 9011, Feb. 19, 2008]

§ 162.22 Seizure of conveyances.

(a) *General applicability.* If it shall appear to any officer authorized to board conveyances and make seizures that there has been a violation of any law of the United States whereby a vessel, vehicle, aircraft, or other conveyance, or any merchandise on board of or imported by such vessel, vehicle, aircraft, or other conveyance is liable to forfeiture, the officer shall seize such conveyance and arrest any person engaged in such violation. Common carriers are exempted from seizure except under certain specified conditions as provided for in section 594, Tariff Act of 1930 (19 U.S.C. 1594) and section 274(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1324(b)(1)).

(b) *Facilitating importation contrary to law.* Except as provided in §171.52(b), every vessel, vehicle, animal, aircraft, or other thing, which is being or has been used in, or to aid or facilitate, the importation, bringing in, unloading, landing, removal, concealing, harboring or subsequent transportation of

any article which is being, or has been introduced or attempted to be introduced into the United States contrary to law, shall be seized and held subject to forfeiture. Any person who directs, assists financially or otherwise, or is in any way concerned in any such unlawful activity shall be liable to a penalty equal to the value of the article or articles involved.

(c) *Common carrier clearance.* Unless specifically authorized by law, clearance of vessels within the common carrier exception of section 594, Tariff Act of 1930 (19 U.S.C. 1594), shall not be refused for the purpose of collecting a fine imposed upon the master or owner, unless either of them was a party to the illegal act. The Government's remedy in such cases is limited to an action against the master or owner.

(d) *Maritime Administration vessels; exemption from penalty.* (1) When a vessel owned or chartered under bareboat charter by the Maritime Administration and operated for its account becomes liable for the payment of a penalty incurred for violation of the Customs revenue or navigation laws, clearance of the vessel shall not be withheld nor shall any proceedings be taken against the vessel itself looking to the enforcement of such liability.

(2) This exemption shall not in any way be considered to relieve the master of any such vessel or other person incurring such penalties from personal liability for payment.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 89-86, 54 FR 37602, Sept. 11, 1989; USCBP-2006-0122, 73 FR 9012, Feb. 19, 2008]

§ 162.23 Seizure under section 596(c), Tariff Act of 1930, as amended (19 U.S.C. 1595a(c)).

(a) *Mandatory seizures.* The following, if introduced or attempted to be introduced into the United States contrary to law, shall be seized pursuant to section 596(c), Tariff Act of 1930, as amended (19 U.S.C. 1595a(c)):

(1) Merchandise that is stolen, smuggled, or clandestinely imported or introduced;

(2) A controlled substance, as defined in the Controlled Substance Act (21 U.S.C. 801 *et seq.*), not imported in accordance with law;

(3) A contraband article, as defined in section 1 of the Act of August 9, 1939 (49 U.S.C. 80302); or

(4) A plastic explosive, as defined in section 841(q) of title 18, United States Code, which does not contain a detection agent, as defined in section 841(p) of that title.

(b) *Permissive seizures.* The following, if introduced or attempted to be introduced into the United States contrary to law, may be seized pursuant to section 596(c), Tariff Act of 1930, as amended (19 U.S.C. 1595a(c)):

(1) Merchandise the importation or entry of which is subject to any restriction or prohibition imposed by law relating to health, safety, or conservation, and which is not in compliance with the applicable rule, regulation or statute;

(2) Merchandise the importation or entry of which requires a license, permit or other authorization of a United States Government agency, and which is not accompanied by such license, permit or authorization;

(3) Merchandise or packaging in which copyright, trademark or trade name protection violations are involved (including, but not limited to, a violation of sections 42, 43 or 45 of the Act of July 5, 1946 (15 U.S.C. 1124, 1125 or 1127), sections 506 or 509 of title 17, United States Code, or sections 2318 or 2320 of title 18, United States Code);

(4) Trade dress merchandise involved in the violation of a court order citing section 43 of the Act of July 5, 1946 (15 U.S.C. 1125);

(5) Merchandise marked intentionally in violation of 19 U.S.C. 1304;

(6) Merchandise for which the importer has received written notices that previous importations of identical merchandise from the same supplier were found to have been in violation of 19 U.S.C. 1304; or

(7) Merchandise subject to quantitative restrictions, found to bear a counterfeit visa, permit, license, or similar document, or stamp from the United States or from a foreign government or issuing authority pursuant to a multilateral or bilateral agreement (but see paragraph (e), of this section).

(c) *Resolution of seizure under § 1595a(c).* When merchandise is either required or authorized to be seized

under this section, the forfeiture incurred may be remitted in accord with 19 U.S.C. 1618, to include as a possible option the exportation of the merchandise under such conditions as CBP shall impose, unless its release would adversely affect health, safety, or conservation, or be in contravention of a bilateral or multilateral agreement or treaty.

(d) *Seizure under 19 U.S.C. 1592.* If merchandise is imported, introduced or attempted to be introduced contrary to a provision of law governing its classification or value, and there is no issue of admissibility, such merchandise shall not be seized pursuant to 19 U.S.C. 1595a(c). Any seizure of such merchandise shall be in accordance with section 1592 (see § 162.75 of this chapter).

(e) *Detention only.* Merchandise subject to quantitative restrictions requiring a visa, permit, license, or other similar document, or stamp from the United States Government or from a foreign government or issuing authority pursuant to a bilateral or multilateral agreement, shall be subject to detention in accordance with 19 U.S.C. 1499, unless the appropriate visa, permit, license, or similar document, or stamp is presented to CBP (but see paragraph (b)(7), of this section for instances when seizure may occur).

(f) *Exportations contrary to law.* Merchandise exported or sent, or attempted to be exported or sent, from the United States contrary to law, or the proceeds or value thereof, and property used to facilitate the exporting or sending, or attempted exporting or sending, of such merchandise, will be seized and subject to forfeiture. In addition, the receipt, purchase, transportation, concealment or sale of such merchandise prior to exportation will result in its seizure and forfeiture to the United States.

[T.D. 96–2, 60 FR 67058, Dec. 28, 1995, as amended by T.D. 99–4, 64 FR 1123, Jan. 8, 1999; CBP Dec. 10–29, 75 FR 52452, Aug. 26, 2010]