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879, 880, 901–906	Rep.
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908	1791
909	751
910	752, 1072
911, 912	Rep.
921	5031
922	5032, 5033
923	5033
924	5034
925	5035
926	5036
927	5037
928	Elim.
929	Rep.

POSITIVE LAW; CITATION

Section 1 of act June 25, 1948, ch. 645, 62 Stat. 683, provided in part that: ''Title 18 of the United States Code, entitled 'Crimes and Criminal Procedure', is hereby revised, codified and enacted into positive law, and may be cited as 'Title 18, U.S.C., §—.' ''

LEGISLATIVE CONSTRUCTION

Section 19 of act June 25, 1948, ch. 645, 62 Stat. 862, provided that: ''No inference of a legislative construction is to be drawn by reason of the chapter in Title 18, Crimes and Criminal Procedure, as set out in section 1 of this Act, in which any particular section is placed, nor by reason of the catchlines used in such title.''

SEPARABILITY

Section 18 of act June 25, 1948, ch. 645, 62 Stat. 862, provided that: ''If any part of Title 18, Crimes and Criminal Procedure, as set out in section 1 of this Act, shall be held invalid the remainder shall not be affected thereby.''

EFFECTIVE DATE

Section 20 of act June 25, 1948, ch. 645, 62 Stat. 862, provided that the revision of this title shall be effective Sept. 1, 1948.

EXISTING RIGHTS OR LIABILITIES

Section 21 of act June 25, 1948, ch. 645, 62 Stat. 862, provided in part that any right or liabilities now existing under repealed sections or parts thereof shall not be affected by the repeal.

REPEALED, TRANSFERRED, AND OMITTED SECTIONS

All former sections of Title 18 were repealed, transferred to other titles, or omitted by said act June 25, 1948, except for sections 595, 644, 726–1, 726a, 729, 730, and 732 which were repealed by act June 25, 1948, ch. 646, 62 Stat. 687, the act revising and codifying Title 28, Judiciary and Judicial Procedure, into positive law.

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[1] So in original. First word only of item should be capitalized.

[2] Chapter heading amended by Pub. L. 86–710 without corresponding amendment of part analysis.

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AMENDMENTS

2004—Pub. L. 108–495, §2(b), Dec. 23, 2004, 118 Stat. 4000, added item for chapter 88.

Pub. L. 108–212, §2(b), Apr. 1, 2004, 118 Stat. 569, added item for chapter 90A.

2003—Pub. L. 108–193, §5(c)(2), Dec. 19, 2003, 117 Stat. 2880, substituted ''Peonage, slavery, and trafficking in persons'' for ''Peonage and slavery'' in item for chapter 77.

Pub. L. 108–105, §3(b), Nov. 5, 2003, 117 Stat. 1208, added item for chapter 74.

2002—Pub. L. 107–273, div. B, title IV, §4002(c)(1), (e)(5), Nov. 2, 2002, 116 Stat. 1808, 1810, substituted ''2721'' for ''2271'' in item for chapter 123 and repealed amendment by Pub. L. 104–294, §601(j)(2)(A). See 1996 Amendment note below.

1998—Pub. L. 105–277, div. I, title II, §201(b)(2), Oct. 21, 1998, 112 Stat. 2681–871, added item for chapter 11B.

1996—Pub. L. 104–294, title I, §101(b), title VI, §§601(j)(2)(B), 605(c), (p)(3), Oct. 11, 1996, 110 Stat. 3491, 3501, 3509, 3510, substituted ''1461'' for ''1460'' in item for chapter 71, added item for chapter 90, and substituted ''2340'' for ''2340.'' in item for chapter 113C and ''2441'' for ''2401'' in item for chapter 118.

Pub. L. 104–201, div. A, title X, §1069(b)(4), Sept. 23, 1996, 110 Stat. 2656, inserted ''and stalking'' after ''violence'' in item for chapter 110A.

Pub. L. 104–192, §2(b), Aug. 21, 1996, 110 Stat. 2104, added item for chapter 118.

Pub. L. 104–132, title III, §303(c)(2), Apr. 24, 1996, 110 Stat. 1253, redesignated item 113B, relating to torture, as 113C. Pub. L. 104–294, title VI, §601(j)(2)(A), Oct. 11, 1996, 110 Stat. 3501, which amended analysis identically, was repealed by Pub. L. 107–273, div. B., title IV, §4002(c)(1), Nov. 2, 2002, 116 Stat. 1808, effective Oct. 11, 1996.

1994—Pub. L. 103–322, title XXXIII, §330021(1), Sept. 13, 1994, 108 Stat. 2150, which directed the amendment of this title by striking ''kidnaping'' each place it appears and inserting ''kidnapping'', was executed by substituting ''Kidnapping'' for ''Kidnaping'' in item for chapter 55, to reflect the probable intent of Congress.

Pub. L. 103–322, title IV, §40221(b), title XII, §120003(b)(2), title XV, §150001(b), title XXV, §250002(b)(1), title XXX, §300002(b), title XXXIII, §§330002(g), 330011(c)(2), 330021(1), Sept. 13, 1994, 108 Stat. 1931, 2022, 2035, 2085, 2102, 2140, 2144, 2150, substituted ''weapons'' for ''Weapons'' in item for chapter 10, ''kidnapping'' for ''kidnaping'' in item for chapter 18, ''470'' for ''471'' in item for chapter 25, added item for chapter 26, substituted ''700'' for ''701'' in item for chapter 33, ''kidnapping'' for ''kidnaping'' in item for chapter 84, added items for chapters 110A and 113A and redesignated item for former chapter 113A as 113B, and added item for chapter 123.

Pub. L. 103–236, title V, §506(b), Apr. 30, 1994, 108 Stat. 464, added item for chapter 113B, Torture.

1992—Pub. L. 102–572, title X, §1003(b), Oct. 29, 1992, 106 Stat. 4524, made amendment identical to Pub. L. 101–519 in item for chapter 113A. See 1990 Amendment note below.

Pub. L. 102–521, §2(b), Oct. 25, 1992, 106 Stat. 3403, added item for chapter 11A.

1990—Pub. L. 101–647, title II, §226(g)(3), Nov. 29, 1990, 104 Stat. 4808, inserted ''and other abuse'' after ''exploitation'' in item for chapter 110.

Pub. L. 101–519, §132(c), Nov. 5, 1990, 104 Stat. 2252, substituted ''Terrorism'' for ''Extraterritorial jurisdiction over terrorist acts abroad against United States nationals'' in item for chapter 113A.

Pub. L. 101–298, §3(c), May 22, 1990, 104 Stat. 203, added item for chapter 10.

1988—Pub. L. 100–690, title VII, §7063, Nov. 18, 1988, 102 Stat. 4404, substituted ''Bribery, graft, and conflicts of interest'' for ''Bribery and graft'' in item for chapter 11, substituted ''carrier operation under the influence of alcohol or drugs....341'' for ''Carrier Operation Under the Influence of Alcohol or Drugs'' in item for chapter 17A, substituted ''abuse'' for ''Abuse'', in item for chapter 109A, struck out final period and inserted ''....2331'' in item for chapter 113A, and substituted ''wire and electronic communications and transactional records access'' for ''Wire and Electronic Communications and Transactional Records Access'' in item for chapter 121.

Pub. L. 100–606, §2(b), Nov. 4, 1988, 102 Stat. 3047, added item for chapter 50A.

1986—Pub. L. 99–646, §87(c)(7), Nov. 10, 1986, 100 Stat. 3623, and Pub. L. 99–654, §3(a)(7), Nov. 14, 1986, 100 Stat. 3663, amended analysis identically, striking out item for chapter 99 ''Rape'' and adding item for chapter 109A.

Pub. L. 99–628, §5(a)(2), Nov. 7, 1986, 100 Stat. 3511, substituted ''Transportation for illegal sexual activity and related crimes'' for ''White slave traffic'' as item for chapter 117.

Pub. L. 99–570, title I, §§1366(b), 1971(b), Oct. 27, 1986, 100 Stat. 3207–39, 3207–59, added items for chapters 17A and 46.

Pub. L. 99–508, title I, §101(c)(3), title II, §201(b), Oct. 21, 1986, 100 Stat. 1851, 1868, inserted ''and electronic communications'' in item for chapter 119 and added item for chapter 121.

Pub. L. 99–399, title XII, §1202(b), Aug. 27, 1986, 100 Stat. 897, added item for chapter 113A.

1982—Pub. L. 97–285, §§2(d), 4(d), Oct. 6, 1982, 96 Stat. 1219, 1220, substituted ''Congressional, Cabinet, and Supreme Court assassination, kidnaping, and assault'' for ''Congressional assassination, kidnaping, and assault'' as item for chapter 18, and inserted ''and Presidential staff'' after ''Presidential'' in item for chapter 84.

1978—Pub. L. 95–575, §2, Nov. 2, 1978, 92 Stat. 2465, added item for chapter 114.

Pub. L. 95–225, §2(b), Feb. 6, 1978, 92 Stat. 8, added item for chapter 110.

1971—Pub. L. 91–644, title IV, §17, Jan. 2, 1971, 84 Stat. 1891, added item for chapter 18.

1970—Pub. L. 91–513, title III, §1101(b)(1)(B), Oct. 27, 1970, 84 Stat. 1292, struck out item for chapter 68 ''Narcotics''.

[3] So in original. First word only of item should be capitalized.

[4] Editorially supplied. Chapter 119 added by Pub. L. 90–351 without corresponding amendment of part analysis.

Pub. L. 91–452, title IX, §901(b), title XI, §1102(b), Oct. 15, 1970, 84 Stat. 947, 959, added items for chapters 40 and 96.

1968—Pub. L. 90–351, title IV, §905, June 19, 1968, 82 Stat. 234, added item for chapter 44.

Pub. L. 90–321, title II, §202(b), May 29, 1968, 82 Stat. 162, added item for chapter 42.

Pub. L. 90–284, title I, §104(b), title X, §1002(b), Apr. 11, 1968, 82 Stat. 77, 92, added items for chapters 12 and 102.

1965—Pub. L. 89–141, §3, Aug. 28, 1965, 79 Stat. 581, added item for chapter 84.

1956—Act Aug. 1, 1956, ch. 825, §2(a), 70 Stat. 798, substituted ''Animals, Birds, Fish, and Plants'' for ''Animals, Birds, and Fish'' in item for chapter 3.

Act July 18, 1956, ch. 629, §202, 70 Stat. 575, added item for chapter 68.

Act July 14, 1956, ch. 595, §2, 70 Stat. 540, added item for chapter 2.

1949—Act May 24, 1949, ch. 139, §1, 63 Stat. 89, struck out ''constituting crimes'' in item for chapter 21, and added item for chapter 50.

CHAPTER 1—GENERAL PROVISIONS

Sec.
1. Repealed.
2. Principals.
3. Accessory after the fact.
4. Misprision of felony.
5. United States defined.
6. Department and agency defined.
7. Special maritime and territorial jurisdiction of the United States defined.
8. Obligation or other security of the United States defined.
9. Vessel of the United States defined.
10. Interstate commerce and foreign commerce defined.
11. Foreign government defined.
12. United States Postal Service defined.
13. Laws of States adopted for areas within Federal jurisdiction.
[14. Repealed.]
15. Obligation or other security of foreign government defined.
16. Crime of violence defined.
17. Insanity defense.
18. Organization defined.
19. Petty offense defined.
20. Financial institution defined.
21. Stolen or counterfeit nature of property for certain crimes defined.
23. Court of the United States defined.
24. Definitions relating to Federal health care offense.
25. Use of minors in crimes of violence.

Senate Revision Amendment

In the analysis of sections under this chapter heading, a new item, ''14. Applicability to Canal Zone.'', was inserted by Senate amendment, to follow underneath item 13, inasmuch as a new section 14, with such a catchline, was inserted, by Senate amendment, in this chapter. See Senate Report No. 1620, amendments Nos. 1 and 3, 80th Cong.

Amendments

2003—Pub. L. 108–21, title VI, §601(b), Apr. 30, 2003, 117 Stat. 687, added item 25.

2002—Pub. L. 107–273, div. B, title IV, §4004(a), Nov. 2, 2002, 116 Stat. 1812, struck out item 14 ''Applicability to Canal Zone; definition''.

1996—Pub. L. 104–191, title II, §241(b), Aug. 21, 1996, 110 Stat. 2016, which directed the amendment of the table of sections at the beginning of chapter 2 of this title by inserting item 24, was executed by inserting item 24 in the table of sections at the beginning of this chapter, to reflect the probable intent of Congress.

1994—Pub. L. 103–332, title XXXII, §§320910(b), 320914(b), Sept. 13, 1994, 108 Stat. 2127, 2128, added items 21 and 23.

1990—Pub. L. 101–647, title XXXV, §3504, Nov. 29, 1990, 104 Stat. 4921, substituted ''defense'' for ''Defense'' in item 17.

1989—Pub. L. 101–73, title IX, §962(e)(3), Aug. 9, 1989, 103 Stat. 504, added item 20.

1987—Pub. L. 100–185, §4(b), Dec. 11, 1987, 101 Stat. 1279, added item 19.

1986—Pub. L. 99–646, §§34(b), 38(b), Nov. 10, 1986, 100 Stat. 3599, renumbered item 20 as 17 and added item 18.

1984—Pub. L. 98–473, title II, §§218(b), 402(b), 1001(b), Oct. 12, 1984, 98 Stat. 2027, 2057, 2136, substituted ''Repealed'' for ''Offenses classified'' in item 1 and added items 16 and 20.

1970—Pub. L. 91–375, §6(j)(1), Aug. 12, 1970, 84 Stat. 777, inserted ''United States'' before ''Postal Service'' in item 12.

1962—Pub. L. 87–845, §3(b), Oct. 18, 1962, 76A Stat. 698, inserted ''; definition'' in item 14.

1958—Pub. L. 85–921, §4, Sept. 2, 1958, 72 Stat. 1771, added item 15.

Commission on the Advancement of Federal Law Enforcement

Pub. L. 104–132, title VIII, §806, Apr. 24, 1996, 110 Stat. 1305, established Commission on the Advancement of Federal Law Enforcement, directed Commission to review and recommend action to Congress on Federal law enforcement priorities for 21st century, including Federal law enforcement capability to investigate and deter adequately threat of terrorism facing United States, standards and procedures, degree of coordination with international, State, and local law enforcement agencies, and other matters, provided for membership and administration of Commission, staffing and support functions, and powers to hold hearings and obtain official data for purposes of carrying out its duties, required report to Congress and public of findings, conclusions, and recommendations not later than 2 years after quorum of Commission had been appointed, and provided for termination of Commission 30 days after submitting report.

National Commission on Reform of Federal Criminal Laws

Pub. L. 89–801, Nov. 8, 1966, 80 Stat. 1516, as amended by Pub. L. 91–39, July 8, 1969, 83 Stat. 44, provided for the establishment of the National Commission on Reform of Federal Criminal Laws, its membership, duties, compensation of the members, the Director, and the staff of the Commission, established the Advisory Committee on Reform of Federal Criminal Laws, required the Commission to submit interim reports to the President and the Congress and to submit a final report within four years from Nov. 8, 1966, and further provided that the Commission shall cease to exist sixty days after the submission of the final report.

Ex. Ord. No. 11396. Coordination By Attorney General of Federal Law Enforcement and Crime Prevention Programs

Ex. Ord. No. 11396, Feb. 7, 1968, 33 F.R. 2689, provided:

WHEREAS the problem of crime in America today presents the Nation with a major challenge calling for maximum law enforcement efforts at every level of Government;

WHEREAS coordination of all Federal Criminal law enforcement activities and crime prevention programs is desirable in order to achieve more effective results;

WHEREAS the Federal Government has acknowledged the need to provide assistance to State and local law enforcement agencies in the development and administration of programs directed to the prevention and control of crime:

WHEREAS to provide such assistance the Congress has authorized various departments and agencies of the Federal Government to develop programs which may benefit State and local efforts directed at the prevention and control of crime, and the coordination of such programs is desirable to develop and administer them most effectively; and

WHEREAS the Attorney General, as the chief law officer of the Federal Government, is charged with the responsibility for all prosecutions for violations of the Federal criminal statutes and is authorized under the Law Enforcement Assistance Act of 1965 (79 Stat. 828) [formerly set out as a note preceding section 3001 of this title] to cooperate with and assist State, local, or other public or private agencies in matters relating to law enforcement organization, techniques and practices, and the prevention and control of crime.

NOW, THEREFORE, by virtue of the authority vested in the President by the Constitution and laws of the United States, it is ordered as follows:

SECTION 1. The Attorney General is hereby designated to facilitate and coordinate (1) the criminal law enforcement activities and crime prevention programs of all Federal departments and agencies, and (2) the activities of such departments, and agencies relating to the development and implementation of Federal programs which are designed, in whole or in substantial part, to assist State and local law enforcement agencies and crime prevention activities. The Attorney General may promulgate such rules and regulations and take such actions as he shall deem necessary or appropriate to carry out his functions under this Order.

SEC. 2. Each Federal department and agency is directed to cooperate with the Attorney General in the performance of his functions under this Order and shall, to the extent permitted by law and within the limits of available funds, furnish him such reports, information, and assistance as he may request.

LYNDON B. JOHNSON.

EXECUTIVE ORDER NO. 11534

Ex. Ord. No. 11534, June 4, 1970, 35 F.R. 8865, which related to the National Council on Organized Crime, was revoked by Ex. Ord. No. 12110, Dec. 28, 1978, 44 F.R. 1069, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

[§ 1. Repealed. Pub. L. 98–473, title II, § 218(a)(1), Oct. 12, 1984, 98 Stat. 2027]

Section, acts June 25, 1948, ch. 645, 62 Stat. 684; Oct. 30, 1984, Pub. L. 98–596, § 8, 98 Stat. 3138, classified offenses as a felony, misdemeanor, or petty offense.

EFFECTIVE DATE OF REPEAL

Repeal of section effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such repeal, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of this title.

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–458, title VI, § 6701, Dec. 17, 2004, 118 Stat. 3764, provided that: ''This subtitle [subtitle H (§§ 6701–6704) of title VI of Pub. L. 108–458, enacting section 1038 of this title, amending sections 1001, 1505, and 1958 of this title, and enacting provisions listed in a table relating to sentencing guidelines set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Stop Terrorist and Military Hoaxes Act of 2004'.''

Pub. L. 108–458, title VI, § 6801, Dec. 17, 2004, 118 Stat. 3766, provided that: ''This subtitle [subtitle I (§§ 6801–6803) of title VI of Pub. L. 108–458, enacting section 832 of this title, amending sections 175b, 1961, 2332a, and 2332b of this title and sections 2077 and 2122 of Title 42, The Public Health and Welfare, and enacting provisions set out as a note under section 175b of this title] may be cited as the 'Weapons of Mass Destruction Prohibition Improvement Act of 2004'.''

Pub. L. 108–458, title VI, § 6901, Dec. 17, 2004, 118 Stat. 3769, provided that: ''This subtitle [subtitle J (§§ 6901–6911) of title VI of Pub. L. 108–458, enacting sections 175c, 2332g, and 2332h of this title, amending sections 1956, 2332b, and 2516 of this title, section 2778 of Title 22, Foreign Relations and Intercourse, and sections 2122 and 2272 of Title 42, The Public Health and Welfare, and enacting provisions set out as a note under section 175c of this title] may be cited as the 'Prevention of Terrorist Access to Destructive Weapons Act of 2004'.''

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–21, § 1(a), Apr. 30, 2003, 117 Stat. 650, provided that: ''This Act [see Tables for classification] may be cited as the 'Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003' or 'PROTECT Act'.''

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–273, div. B, title IV, § 4001, Nov. 2, 2002, 116 Stat. 1806, provided that: ''This title [see Tables for classification] may be cited as the 'Criminal Law Technical Amendments Act of 2002'.''

SHORT TITLE OF 2001 AMENDMENT

Pub. L. 107–56, § 1(a), Oct. 26, 2001, 115 Stat. 272, provided that: ''This Act [see Tables for classification] may be cited as the 'Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001'.''

SHORT TITLE OF 1998 AMENDMENTS

Pub. L. 105–314, § 1(a), Oct. 30, 1998, 112 Stat. 2974, provided that: ''This Act [see Tables for classification] may be cited as the 'Protection of Children From Sexual Predators Act of 1998'.''

Pub. L. 105–184, § 1, June 23, 1998, 112 Stat. 520, provided that: ''This Act [amending sections 709, 982, 2326, 2327, and 2703 of this title and enacting provisions listed in a table relating to sentencing guidelines set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Telemarketing Fraud Prevention Act of 1998'.''

SHORT TITLE OF 1996 AMENDMENTS

Pub. L. 104–294, § 1, Oct. 11, 1996, 110 Stat. 3488, provided that: ''This Act [see Tables for classification] may be cited as the 'Economic Espionage Act of 1996'.''

Pub. L. 104–132, § 1, Apr. 24, 1996, 110 Stat. 1214, provided that: ''This Act [see Tables for classification] may be cited as the 'Antiterrorism and Effective Death Penalty Act of 1996'.''

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–322, title X, § 100001, Sept. 13, 1994, 108 Stat. 1996, provided that: ''This title [amending section 13 of this title and section 3751 of Title 42, The Public Health and Welfare] may be cited as the 'Drunk Driving Child Protection Act of 1994'.''

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–647, § 1, Nov. 29, 1990, 104 Stat. 4789, provided that: ''This Act [see Tables for classification] may be cited as the 'Crime Control Act of 1990'.''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–690, title VII, § 7011, Nov. 18, 1988, 102 Stat. 4395, provided that: ''This subtitle [subtitle B (§§ 7011–7096) of title VII of Pub. L. 100–690, see Tables for classification] may be cited as the 'Minor and Technical Criminal Law Amendments Act of 1988'.''

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–185, § 1, Dec. 11, 1987, 101 Stat. 1279, provided that: ''This Act [enacting section 19 of this title, amending sections 18, 3013, 3559, 3571, 3572, 3573, 3611, 3612, and 3663 of this title and section 604 of Title 28, Judiciary and Judicial Procedure, and enacting provisions set out as notes under section 3611 of this title] may be cited as the 'Criminal Fine Improvements Act of 1987'.''

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–646, § 1, Nov. 10, 1986, 100 Stat. 3592, provided that: ''This Act [see Tables for classification]

may be cited as the 'Criminal Law and Procedure Technical Amendments Act of 1986'.''

SHORT TITLE OF 1984 AMENDMENT

Section 200 of title II (§§ 200–2304) of Pub. L. 98–473 provided that: ''This title [see Tables for classification] may be cited as the 'Comprehensive Crime Control Act of 1984'.''

SEVERABILITY

Pub. L. 108–21, § 2, Apr. 30, 2003, 117 Stat. 651, provided that: ''If any provision of this Act [see Tables for classification], or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons not similarly situated or to other circumstances, shall not be affected by such invalidation.''

Pub. L. 107–56, § 2, Oct. 26, 2001, 115 Stat. 275, provided that: ''Any provision of this Act [see Short Title of 2001 Amendment note above] held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable from this Act and shall not affect the remainder thereof or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.''

Pub. L. 104–132, title IX, § 904, Apr. 24, 1996, 110 Stat. 1319, provided that: ''If any provision of this Act [see Short Title of 1996 Amendments note above], an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.''

§ 2. Principals

(a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.

(b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

(June 25, 1948, ch. 645, 62 Stat. 684; Oct. 31, 1951, ch. 655, § 17b, 65 Stat. 717.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 550 (Mar. 4, 1909, ch. 321, § 332, 35 Stat. 1152).

Section 2(a) comprises section 550 of title 18, U.S.C., 1940 ed., without change except in minor matters of phraseology.

Section 2(b) is added to permit the deletion from many sections throughout the revision of such phrases as ''causes or procures''.

The section as revised makes clear the legislative intent to punish as a principal not only one who directly commits an offense and one who ''aids, abets, counsels, commands, induces or procures'' another to commit an offense, but also anyone who causes the doing of an act which if done by him directly would render him guilty of an offense against the United States.

It removes all doubt that one who puts in motion or assists in the illegal enterprise but causes the commission of an indispensable element of the offense by an innocent agent or instrumentality, is guilty as a principal even though he intentionally refrained from the direct act constituting the completed offense.

This accords with the following decisions: *Rothenburg v. United States*, 1918, 38 S. Ct. 18, 245 U.S. 480, 62 L. Ed. 414, and *United States v. Hodorowicz*, C. C. A. Ill. 1939, 105 F. 2d 218, certiorari denied, 60 S. Ct. 108, 308 U.S. 584, 84 L. Ed. 489. *United States v. Giles*, 1937, 57 S. Ct. 340, 300 U.S. 41, 81 L. Ed. 493, rehearing denied, 57 S. Ct. 505, 300 U.S. 687, 81 L. Ed. 888.

AMENDMENTS

1951—Subsec. (a). Act Oct. 31, 1951, inserted ''punishable as''.

Subsec. (b). Act Oct. 31, 1951, inserted ''willfully'' before ''causes'', and ''or another'' after ''him'', and substituted ''is punishable as a principal'' for ''is also a principal and punishable as such''.

§ 3. Accessory after the fact

Whoever, knowing that an offense against the United States has been committed, receives, relieves, comforts or assists the offender in order to hinder or prevent his apprehension, trial or punishment, is an accessory after the fact.

Except as otherwise expressly provided by any Act of Congress, an accessory after the fact shall be imprisoned not more than one-half the maximum term of imprisonment or (notwithstanding section 3571) fined not more than one-half the maximum fine prescribed for the punishment of the principal, or both; or if the principal is punishable by life imprisonment or death, the accessory shall be imprisoned not more than 15 years.

(June 25, 1948, ch. 645, 62 Stat. 684; Pub. L. 99–646, § 43, Nov. 10, 1986, 100 Stat. 3601; Pub. L. 101–647, title XXXV, § 3502, Nov. 29, 1990, 104 Stat. 4921; Pub. L. 103–322, title XXXIII, §§ 330011(h), 330016(2)(A), Sept. 13, 1994, 108 Stat. 2145, 2148.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 551 (Mar. 4, 1909, ch. 321, § 333, 35 Stat. 1152).

The first paragraph is new. It is based upon authority of *Skelly v. United States* (C. C. A. Okl. 1935, 76 F. 2d 483, certiorari denied, 1935, 55 S. Ct. 914, 295 U.S. 757, 79 L. Ed. 1699), where the court defined an accessory after the fact as—

one who knowing a felony to have been committed by another, receives, relieves, comforts, or assists the felon in order to hinder the felon's apprehension, trial, or punishment—

and cited Jones' Blackstone, books 3 and 4, page 2204; *U.S. v. Hartwell* (Fed. Cas. No. 15,318); *Albritton v. State* (32 Fla. 358, 13 So. 955); *State v. Davis* (14 R. I. 281); *Schleeter v. Commonwealth* (218 Ky. 72, 290 S. W. 1075). (See also *State v. Potter*, 1942, 221 N. C. 153, 19 S. E. 2d 257; *Hunter v. State*, 1935, 128 Tex. Cr. R. 191, 79 S. W. 2d 855; *State v. Wells*, 1940, 195 La. 754, 197 So. 419.)

The second paragraph is from section 551 of title 18, U.S.C., 1940 ed. Here only slight changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322, § 330016(2)(A), inserted ''(notwithstanding section 3571)'' before ''fined not more than one-half'' in second par.

Pub. L. 103–322, § 330011(h), amended directory language of Pub. L. 101–647, § 3502. See 1990 Amendment note below.

1990—Pub. L. 101–647, as amended by Pub. L. 103–322, § 330011(h), substituted ''15 years'' for ''ten years'' in second par.

1986—Pub. L. 99–646 inserted ''life imprisonment or'' in second par.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 330011(h) of Pub. L. 103–322 provided that the amendment made by that section is effective as of Nov. 29, 1990.

§ 4. Misprision of felony

Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 684; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C. 1940 ed., § 251 (Mar. 4, 1909, ch. 321, § 146, 35 Stat. 1114).

Changes in phraseology only.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

§ 5. United States defined

The term ''United States'', as used in this title in a territorial sense, includes all places and waters, continental or insular, subject to the jurisdiction of the United States, except the Canal Zone.

(June 25, 1948, ch. 645, 62 Stat. 685.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 39, 133, 346, 381, 502, and 632, and section 40 of title 50, U.S.C., 1940 ed., War and National Defense (June 15, 1917, ch. 30, title XIII, § 1, 40 Stat. 231).

Section consolidates the first sentence of section 39, all of sections 133, 346, and 632, and the second sentences, respectively, of sections 381 and 502, all of title 18, U.S.C., 1940 ed., and section 40 of title 50, U.S.C., 1940 ed., War and National Defense, with minor changes in phraseology.

All of these sections and parts of sections were derived from section 1 of title XIII of said act of June 15, 1917. Said section 40 of title 50, U.S.C., War and National Defense, has also been retained in that title, as it still relates to some sections therein which were not transferred to this title.

The remainder of said section 39 of title 18, U.S.C., 1940 ed., which was derived from sections 2, 3, and 4 of title XIII of the act of June 15, 1917, relating to jurisdiction and other matters, is almost entirely obsolete. The provisions still in force are incorporated in section 3241 of this title.

The remaining provisions of said sections 381 and 502 of title 18, U.S.C., 1940 ed., which were derived from sources other than said section 1 of title XIII of the act of June 15, 1917, are incorporated in sections 1364 and 2275 of this title.

SENATE REVISION AMENDMENT

Words '', except the Canal Zone.'' were substituted for the period in this section by Senate amendment. See Senate Report No. 1620, amendment No. 2, 80th Cong.

REFERENCES IN TEXT

For definition of Canal Zone, referred to in text, see section 3602(b) of Title 22, Foreign Relations and Intercourse.

§ 6. Department and agency defined

As used in this title:

The term ''department'' means one of the executive departments enumerated in section 1 of Title 5, unless the context shows that such term was intended to describe the executive, legislative, or judicial branches of the government.

The term ''agency'' includes any department, independent establishment, commission, administration, authority, board or bureau of the United States or any corporation in which the United States has a proprietary interest, unless the context shows that such term was intended to be used in a more limited sense.

(June 25, 1948, ch. 645, 62 Stat. 685.)

HISTORICAL AND REVISION NOTES

This section defines the terms ''department'' and ''agency'' of the United States. The word ''department'' appears 57 times in title 18, U.S.C., 1940 ed., and the word ''agency'' 14 times. It was considered necessary to define clearly these words in order to avoid possible litigation as to the scope or coverage of a given section containing such words. (See *United States v. Germaine*, 1878, 99 U.S. 508, 25 L. Ed. 482, for definition of words ''department'' or ''head of department.'')

The phrase ''corporation in which the United States has a proprietary interest'' is intended to include those governmental corporations in which stock is not actually issued, as well as those in which stock is owned by the United States. It excludes those corporations in which the interest of the Government is custodial or incidental.

REFERENCES IN TEXT

Section 1 of Title 5, referred to in text, was repealed by Pub. L. 89–554, § 8, Sept. 6, 1966, 80 Stat. 632, and reenacted by the first section thereof as section 101 of Title 5, Government Organization and Employees.

§ 7. Special maritime and territorial jurisdiction of the United States defined

The term ''special maritime and territorial jurisdiction of the United States'', as used in this title, includes:

(1) The high seas, any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State, and any vessel belonging in whole or in part to the United States or any citizen thereof, or to any corporation created by or under the laws of the United States, or of any State, Territory, District, or possession thereof, when such vessel is within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

(2) Any vessel registered, licensed, or enrolled under the laws of the United States, and being on a voyage upon the waters of any of the Great Lakes, or any of the waters connecting them, or upon the Saint Lawrence River where the same constitutes the International Boundary Line.

(3) Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building.

(4) Any island, rock, or key containing deposits of guano, which may, at the discretion of the President, be considered as appertaining to the United States.

(5) Any aircraft belonging in whole or in part to the United States, or any citizen thereof, or to any corporation created by or under the laws of the United States, or any State, Territory, district, or possession thereof, while such aircraft is in flight over the high seas, or over any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

(6) Any vehicle used or designed for flight or navigation in space and on the registry of the United States pursuant to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies and the Convention on Registration of Objects Launched into Outer Space, while that vehicle is in flight, which is from the moment when all external doors are closed on Earth following embarkation until the moment when one such door is opened on Earth for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the vehicle and for persons and property aboard.

(7) Any place outside the jurisdiction of any nation with respect to an offense by or against a national of the United States.

(8) To the extent permitted by international law, any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.

(9) With respect to offenses committed by or against a national of the United States as that term is used in section 101 of the Immigration and Nationality Act—

(A) the premises of United States diplomatic, consular, military or other United States Government missions or entities in foreign States, including the buildings, parts of buildings, and land appurtenant or ancillary thereto or used for purposes of those missions or entities, irrespective of ownership; and

(B) residences in foreign States and the land appurtenant or ancillary thereto, irrespective of ownership, used for purposes of those missions or entities or used by United States personnel assigned to those missions or entities.

Nothing in this paragraph shall be deemed to supersede any treaty or international agreement with which this paragraph conflicts. This paragraph does not apply with respect to an offense committed by a person described in section 3261(a) of this title.

(June 25, 1948, ch. 645, 62 Stat. 685; July 12, 1952, ch. 695, 66 Stat. 589; Pub. L. 97–96, §6, Dec. 21, 1981, 95 Stat. 1210; Pub. L. 98–473, title II, §1210, Oct. 12, 1984, 98 Stat. 2164; Pub. L. 103–322, title XII, §120002, Sept. 13, 1994, 108 Stat. 2021; Pub. L. 107–56, title VIII, §804, Oct. 26, 2001, 115 Stat. 377.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §451 (Mar. 4, 1909, ch. 321, §272, 35 Stat. 1142; June 11, 1940, ch. 323, 54 Stat. 304).

The words ''The term 'special maritime and territorial jurisdiction of the United States' as used in this title includes:'' were substituted for the words ''The crimes and offenses defined in sections 451–468 of this title shall be punished as herein prescribed.''

This section first appeared in the 1909 Criminal Code. It made it possible to combine in one chapter all the penal provisions covering acts within the admiralty and maritime jurisdiction without the necessity of repeating in each section the places covered.

The present section has made possible the allocation of the diverse provisions of chapter 11 of Title 18, U.S.C., 1940 ed., to particular chapters restricted to particular offenses, as contemplated by the alphabetical chapter arrangement.

In several revised sections of said chapter 11 the words ''within the special maritime and territorial jurisdiction of the United States'' have been added. Thus the jurisdictional limitation will be preserved in all sections of said chapter 11 describing an offense.

Enumeration of names of Great Lakes was omitted as unnecessary.

Other minor changes were necessary now that the section defines a term rather than the place of commission of crime or offense; however, the extent of the special jurisdiction as originally enacted has been carefully followed.

REFERENCES IN TEXT

Section 101 of the Immigration and Nationality Act, referred to in par. (9), is classified to section 1101 of Title 8, Aliens and Nationality.

AMENDMENTS

2001—Par. (9). Pub. L. 107–56 added par. (9).
1994—Par. (8). Pub. L. 103–322 added par. (8).
1984—Par. (7). Pub. L. 98–473 added par. (7).
1981—Par. (6). Pub. L. 97–96 added par. (6).
1952—Par. (5). Act July 12, 1952, added par. (5).

TERRITORIAL SEA EXTENDING TO TWELVE MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION

Pub. L. 104–132, title IX, §901(a), Apr. 24, 1996, 110 Stat. 1317, provided that: ''The Congress declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988 [set out as a note under section 1331 of Title 43, Public Lands], for purposes of Federal criminal jurisdiction is part of the United States, subject to its sovereignty, and is within the special maritime and territorial jurisdiction of the United States for the purposes of title 18, United States Code.''

§8. Obligation or other security of the United States defined

The term ''obligation or other security of the United States'' includes all bonds, certificates of indebtedness, national bank currency, Federal Reserve notes, Federal Reserve bank notes, coupons, United States notes, Treasury notes, gold certificates, silver certificates, fractional notes, certificates of deposit, bills, checks, or drafts for money, drawn by or upon authorized officers of the United States, stamps and other representatives of value, of whatever denomination, issued under any Act of Congress, and canceled United States stamps.

(June 25, 1948, ch. 645, 62 Stat. 685.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §261 (Mar. 4, 1909, ch. 321, §147, 35 Stat. 1115; Jan. 27, 1938, ch. 10, §3, 52 Stat. 7).

The terms of this section were general enough to justify its inclusion in this chapter rather than retaining it in the chapter on ''Counterfeiting'' where the terms which it specifically defines are set out in sections 471–476, 478, 481, 483, 492, and 504 of this title.

Words ''Federal Reserve notes, Federal Reserve bank notes'' were inserted before ''coupons'' because such notes have almost supplanted national bank currency.

Minor changes were made in phraseology.

§ 9. Vessel of the United States defined

The term ''vessel of the United States'', as used in this title, means a vessel belonging in whole or in part to the United States, or any citizen thereof, or any corporation created by or under the laws of the United States, or of any State, Territory, District, or possession thereof.

(June 25, 1948, ch. 645, 62 Stat. 685.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 501 (Mar. 4, 1909, ch. 321, § 310, 35 Stat. 1148).

Section is made applicable to the entire title rather than to sections 481 et seq. of title 18, U.S.C., 1940 ed.

Minor changes in phraseology were made.

§ 10. Interstate commerce and foreign commerce defined

The term ''interstate commerce'', as used in this title, includes commerce between one State, Territory, Possession, or the District of Columbia and another State, Territory, Possession, or the District of Columbia.

The term ''foreign commerce'', as used in this title, includes commerce with a foreign country.

(June 25, 1948, ch. 645, 62 Stat. 686.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 408, 408b, 414(a), and 419a(b) (Oct. 29, 1919, ch. 89, § 2(b), 41 Stat. 325; June 22, 1932, ch. 271, § 2, 47 Stat. 326; May 18, 1934, ch. 301, 48 Stat. 782; May 22, 1934, ch. 333, § 2(a), 48 Stat. 794; Aug. 18, 1941, ch. 366, § 2(b), 55 Stat. 631).

This section consolidates into one section identical definitions contained in sections 408, 408b, 414(a), and 419a(b) of title 18, U.S.C., 1940 ed.

In addition to slight improvements in style, the word ''commerce'' was substituted for ''transportation'' in order to avoid the narrower connotation of the word ''transportation'' since ''commerce'' obviously includes more than ''transportation.'' The word ''Possession'' was inserted in two places to make the definition more accurate and comprehensive since the places included in the word ''Possession'' would normally be within the term defined and a narrower construction should be handled by express statutory exclusion in those crimes which Congress intends to restrict to commerce within the continental United States.

§ 11. Foreign government defined

The term ''foreign government'', as used in this title except in sections 112, 878, 970, 1116, and 1201, includes any government, faction, or body of insurgents within a country with which the United States is at peace, irrespective of recognition by the United States.

(June 25, 1948, ch. 645, 62 Stat. 686; Pub. L. 94–467, § 11, Oct. 8, 1976, 90 Stat. 2001.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 98, 288, 349; section 235 of title 22 U.S.C., 1940 ed., Foreign Relations and Intercourse; section 41 of title 50, U.S.C., 1940 ed., War and National Defense (June 15, 1917, ch. 30, title VIII, § 4, 40 Stat. 226).

The definition of ''foreign government'' contained in this section, with minor changes in phraseology, is from section 4 of title VIII of act June 15, 1917 (Ch. 30, 40 Stat. 217, 226), known as the Espionage Act of 1917. This definition was incorporated in sections 98, 288, and 349 of title 18 and in section 235 of title 22, Foreign Relations and Intercourse, and in section 41 of Title 50, War and National Defense, U.S.C., all in 1940 ed., since the definition was specifically enacted with reference to said sections and others not material here.

The remaining provisions of said sections 98 and 349 of title 18, U.S.C., 1940 ed., which were derived from sources other than said section 4 of title VIII of the act of June 15, 1917, are incorporated in sections 502 and 957 of this title.

AMENDMENTS

1976—Pub. L. 94–467 inserted ''except in sections 112, 878, 970, 1116, and 1201'' after ''title''.

§ 12. United States Postal Service defined

As used in this title, the term ''Postal Service'' means the United States Postal Service established under title 39, and every officer and employee of that Service, whether or not such officer or employee has taken the oath of office.

(June 25, 1948, ch. 645, 62 Stat. 686; Pub. L. 91–375, § 6(j)(2), Aug. 12, 1970, 84 Stat. 777; Pub. L. 101–647, title XXXV, § 3505, Nov. 29, 1990, 104 Stat. 4921.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 301, 360 (Mar. 4, 1909, ch. 321, §§ 230, 231, 35 Stat. 1134).

This section consolidates sections 301 and 360 of title 18, U.S.C., 1940 ed., with necessary changes in phraseology.

AMENDMENTS

1990—Pub. L. 101–647 substituted ''whether or not such officer or employee has taken the oath of office'' for ''whether he has taken the oath of office''.

1970—Pub. L. 91–375 inserted ''United States'' before ''Postal Service'' in section catchline and substituted in text as definition of ''Postal Service'' the United States Postal Service established under title 39, and every officer and employee of that Service, whether he has taken the oath of office, for prior definition which included the Post Office Department and every employee, thereof, whether or not he has taken the oath of office.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 13. Laws of States adopted for areas within Federal jurisdiction

(a) Whoever within or upon any of the places now existing or hereafter reserved or acquired as provided in section 7 of this title, or on, above, or below any portion of the territorial sea of the United States not within the jurisdiction of any State, Commonwealth, territory, possession, or district is guilty of any act or omission which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State, Territory, Possession, or District in which such place is situated, by the laws thereof in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.

(b)(1) Subject to paragraph (2) and for purposes of subsection (a) of this section, that which may

or shall be imposed through judicial or administrative action under the law of a State, territory, possession, or district, for a conviction for operating a motor vehicle under the influence of a drug or alcohol, shall be considered to be a punishment provided by that law. Any limitation on the right or privilege to operate a motor vehicle imposed under this subsection shall apply only to the special maritime and territorial jurisdiction of the United States.

(2)(A) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, not more than 5 years, or if death of a minor is caused, not more than 10 years, and an additional fine under this title, or both, if—

(i) a minor (other than the offender) was present in the motor vehicle when the offense was committed; and

(ii) the law of the State, territory, possession, or district in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in clause (i).

(B) For the purposes of subparagraph (A), the term ''minor'' means a person less than 18 years of age.

(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Commonwealth, territory, possession, or district, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed, for purposes of subsection (a), to lie within the area of the State, Commonwealth, territory, possession, or district that it would lie within if the boundaries of such State, Commonwealth, territory, possession, or district were extended seaward to the outer limit of the territorial sea of the United States.

(June 25, 1948, ch. 645, 62 Stat. 686; Pub. L. 100–690, title VI, § 6477(a), Nov. 18, 1988, 102 Stat. 4381; Pub. L. 103–322, title X, § 100002, Sept. 13, 1994, 108 Stat. 1996; Pub. L. 104–132, title IX, § 901(b), Apr. 24, 1996, 110 Stat. 1317; Pub. L. 104–294, title VI, § 604(b)(32), Oct. 11, 1996, 110 Stat. 3508.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 468 (Mar. 4, 1909, ch. 321, § 289, 35 Stat. 1145; June 15, 1933, ch. 85, 48 Stat. 152; June 20, 1935, ch. 284, 49 Stat. 394; June 6, 1940, ch. 241, 54 Stat. 234).

Act March 4, 1909, § 289 used the words ''now in force'' when referring to the laws of any State, organized Territory or district, to be considered in force.

As amended on June 15, 1933, the words ''by the laws thereof in force on June 1, 1933, and remaining in force at the time of the doing or omitting the doing of such act or thing, would be penal,'' were used.

The amendment of June 20, 1935, extended the date to ''April 1, 1935,'' and the amendment of June 6, 1940, extended the date to ''February 1, 1940''.

The revised section omits the specification of any date as unnecessary in a revision, which speaks from the date of its enactment. Such omission will not only make effective within Federal reservations, the local State laws in force on the date of the enactment of the revision, but will authorize the Federal courts to apply the same measuring stick to such offenses as is applied in the adjoining State under future changes of the State law and will make unnecessary periodic pro forma amendments of this section to keep abreast of changes of local laws. In other words, the revised section makes applicable to offenses committed on such reservations, the law of the place that would govern if the reservation had not been ceded to the United States.

The word ''Possession'' was inserted to clarify scope of section.

Minor changes were made in phraseology.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–132, § 901(b)(1), inserted ''or on, above, or below any portion of the territorial sea of the United States not within the jurisdiction of any State, Commonwealth, territory, possession, or district'' after ''section 7 of this title,''.

Subsec. (b)(2)(A). Pub. L. 104–294 substituted ''under this title'' for ''of not more than $1,000''.

Subsec. (c). Pub. L. 104–132, § 901(b)(2), added subsec. (c).

1994—Subsec. (b). Pub. L. 103–322 designated existing provisions as par. (1), substituted ''Subject to paragraph (2) and for purposes'' for ''For purposes'', and added par. (2).

1988—Pub. L. 100–690 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 604(d) of Pub. L. 104–294 provided that: ''The amendments made by this section [amending this section, sections 36, 112, 113, 241, 242, 245, 351, 511, 542, 544, 545, 668, 704, 709, 794, 1014, 1030, 1112, 1169, 1512, 1515, 1516, 1751, 1956, 1961, 2114, 2311, 2339A, 2423, 2511, 2512, 2721, 3059A, 3561, 3582, 3592, and 5037 of this title, section 802 of Title 21, Food and Drugs, sections 540A and 991 of Title 28, Judiciary and Judicial Procedure, and sections 3631, 5633, 10604, and 14011 of Title 42, The Public Health and Welfare, and amending provisions set out as notes under sections 1001, 1169, and 2325 of this title and section 994 of Title 28] shall take effect on the date of enactment of Public Law 103–322 [Sept. 13, 1994].''

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.

[§ 14. Repealed. Pub. L. 107–273, div. B, title IV, § 4004(a), Nov. 2, 2002, 116 Stat. 1812]

Section, act June 25, 1948, ch. 645, 62 Stat. 686; Aug. 5, 1953, ch. 325, 67 Stat. 366; Pub. L. 87–845, § 3(a), Oct. 18, 1962, 76A Stat. 698; Pub. L. 90–357, § 59, June 22, 1968, 82 Stat. 248; Pub. L. 101–647, title XXXV, § 3519(c), Nov. 29, 1990, 104 Stat. 4923; Pub. L. 103–322, title XXXIII, § 330010(9), Sept. 13, 1994, 108 Stat. 2143, listed Title 18 sections applicable to and within Canal Zone.

§ 15. Obligation or other security of foreign government defined

The term ''obligation or other security of any foreign government'' includes, but is not limited to, uncanceled stamps, whether or not demonetized.

(Added Pub. L. 85–921, § 3, Sept. 2, 1958, 72 Stat. 1771.)

§ 16. Crime of violence defined

The term ''crime of violence'' means—

(a) an offense that has as an element the use, attempted use, or threatened use of physical

force against the person or property of another, or

(b) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(Added Pub. L. 98–473, title II, § 1001(a), Oct. 12, 1984, 98 Stat. 2136.)

§ 17. Insanity defense

(a) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution under any Federal statute that, at the time of the commission of the acts constituting the offense, the defendant, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of his acts. Mental disease or defect does not otherwise constitute a defense.

(b) BURDEN OF PROOF.—The defendant has the burden of proving the defense of insanity by clear and convincing evidence.

(Added Pub. L. 98–473, title II, § 402(a), Oct. 12, 1984, 98 Stat. 2057, § 20; renumbered § 17, Pub. L. 99–646, § 34(a), Nov. 10, 1986, 100 Stat. 3599.)

§ 18. Organization defined

As used in this title, the term ''organization'' means a person other than an individual.

(Added Pub. L. 99–646, § 38(a), Nov. 10, 1986, 100 Stat. 3599; amended Pub. L. 100–185, § 4(c), Dec. 11, 1987, 101 Stat. 1279; Pub. L. 100–690, title VII, § 7012, Nov. 18, 1988, 102 Stat. 4395.)

AMENDMENTS

1988—Pub. L. 100–690 made technical correction of directory language of Pub. L. 99–646, § 38(a), similar to that made by Pub. L. 100–185.

1987—Pub. L. 100–185 made technical correction in directory language of Pub. L. 99–646, § 38(a).

§ 19. Petty offense defined

As used in this title, the term ''petty offense'' means a Class B misdemeanor, a Class C misdemeanor, or an infraction, for which the maximum fine is no greater than the amount set forth for such an offense in section 3571(b)(6) or (7) in the case of an individual or section 3571(c)(6) or (7) in the case of an organization.

(Added Pub. L. 100–185, § 4(a), Dec. 11, 1987, 101 Stat. 1279; amended Pub. L. 100–690, title VII, § 7089(a), Nov. 18, 1988, 102 Stat. 4409.)

AMENDMENTS

1988—Pub. L. 100–690 inserted '', for which the maximum fine is no greater than the amount set forth for such an offense in section 3571(b)(6) or (7) in the case of an individual or section 3571(c)(6) or (7) in the case of an organization'' after ''infraction''.

§ 20. Financial institution defined

As used in this title, the term ''financial institution'' means—

(1) an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act);

(2) a credit union with accounts insured by the National Credit Union Share Insurance Fund;

(3) a Federal home loan bank or a member, as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422), of the Federal home loan bank system;

(4) a System institution of the Farm Credit System, as defined in section 5.35(3) of the Farm Credit Act of 1971;

(5) a small business investment company, as defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662);

(6) a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act;

(7) a Federal Reserve bank or a member bank of the Federal Reserve System;

(8) an organization operating under section 25 or section 25(a)[1] of the Federal Reserve Act; or

(9) a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978).

(Added Pub. L. 98–473, title II, § 1107(a), Oct. 12, 1984, 98 Stat. 2145, § 215(b); amended Pub. L. 99–370, § 2, Aug. 4, 1986, 100 Stat. 779; renumbered § 20 and amended Pub. L. 101–73, title IX, § 962(e)(1), (2), Aug. 9, 1989, 103 Stat. 503; Pub. L. 101–647, title XXV, § 2597(a), Nov. 29, 1990, 104 Stat. 4908.)

REFERENCES IN TEXT

Section 3 of the Federal Deposit Insurance Act, referred to in pars. (1) and (6), is classified to section 1813 of Title 12, Banks and Banking.

Section 5.35(3) of the Farm Credit Act of 1971, referred to in par. (4), is classified to section 2271(3) of Title 12.

Section 25 of the Federal Reserve Act, referred to in par. (8), is classified to subchapter I (§ 601 et seq.) of chapter 6 of Title 12. Section 25(a) of the Federal Reserve Act, which is classified to subchapter II (§ 611 et seq.) of chapter 6 of Title 12, was renumbered section 25A of that act by Pub. L. 102–242, title I, § 142(e)(2), Dec. 19, 1991, 105 Stat. 2281.

Section 1(b) of the International Banking Act of 1978, referred to in par. (9), is classified to section 3101 of Title 12.

PRIOR PROVISIONS

A prior section 20 was renumbered section 17 of this title.

AMENDMENTS

1990—Pars. (7) to (9). Pub. L. 101–647 added pars. (7) to (9).

1989—Pub. L. 101–73, § 962(e)(1), (2)(A)–(C), redesignated subsec. (b) of section 215 of this title as this section, inserted section catchline, struck out subsec. (b) designation before ''As used'', and substituted ''used in this title'' for ''used in this section''.

Par. (1). Pub. L. 101–73, § 962(e)(2)(D), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''a bank with deposits insured by the Federal Deposit Insurance Corporation;''.

Par. (2). Pub. L. 101–73, § 962(e)(2)(E), (H), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: ''an institution with accounts insured by the Federal Savings and Loan Insurance Corporation;''.

Par. (3). Pub. L. 101–73, § 962(e)(2)(H), redesignated par. (4) as (3). Former par. (3) redesignated (2).

Par. (4). Pub. L. 101–73, § 962(e)(2)(F), (H), redesignated par. (5) as (4) and amended it generally. Prior to amendment, par. (4) read as follows: ''a Federal land bank, Federal intermediate credit bank, bank for coopera-

[1] See References in Text note below.

tives, production credit association, and Federal land bank association;''. Former par. (4) redesignated (3).

Par. (5). Pub. L. 101–73, § 962(e)(2)(H), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Pars. (6), (7). Pub. L. 101–73, § 962(e)(2)(G), (H), redesignated par. (7) as (6) and amended it generally. Prior to amendment, par. (6) read as follows: ''a bank holding company as defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841); or''. Former par. (6) redesignated (5).

Par. (8). Pub. L. 101–73, § 962(e)(2)(E), struck out par. (8) which read as follows: ''a savings and loan holding company as defined in section 408 of the National Housing Act (12 U.S.C. 1730a).''

1986—Pub. L. 99–370 amended subsec. (b) [formerly § 215(b)] generally expanding provisions formerly contained in subsec. (c) [former § 215(c)] defining ''financial institution''.

§ 21. Stolen or counterfeit nature of property for certain crimes defined

(a) Wherever in this title it is an element of an offense that—

(1) any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated; and

(2) the defendant knew that the property was of such character;

such element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated.

(b) For purposes of this section, the term ''official representation'' means any representation made by a Federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.

(Added Pub. L. 103–322, title XXXII, § 320910(a), Sept. 13, 1994, 108 Stat. 2127.)

§ 23.[1] Court of the United States defined

As used in this title, except where otherwise expressly provided[2] the term ''court of the United States'' includes the District Court of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands.

(Added Pub. L. 103–322, title XXXII, § 320914(a), Sept. 13, 1994, 108 Stat. 2128.)

§ 24. Definitions relating to Federal health care offense

(a) As used in this title, the term ''Federal health care offense'' means a violation of, or a criminal conspiracy to violate—

(1) section 669, 1035, 1347, or 1518 of this title;

(2) section 287, 371, 664, 666, 1001, 1027, 1341, 1343, or 1954 of this title, if the violation or conspiracy relates to a health care benefit program.

(b) As used in this title, the term ''health care benefit program'' means any public or private plan or contract, affecting commerce, under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity who is providing a medical benefit, item, or service for which payment may be made under the plan or contract.

(Added Pub. L. 104–191, title II, § 241(a), Aug. 21, 1996, 110 Stat. 2016.)

§ 25. Use of minors in crimes of violence

(a) DEFINITIONS.—In this section, the following definitions shall apply:

(1) CRIME OF VIOLENCE.—The term ''crime of violence'' has the meaning set forth in section 16.

(2) MINOR.—The term ''minor'' means a person who has not reached 18 years of age.

(3) USES.—The term ''uses'' means employs, hires, persuades, induces, entices, or coerces.

(b) PENALTIES.—Any person who is 18 years of age or older, who intentionally uses a minor to commit a crime of violence for which such person may be prosecuted in a court of the United States, or to assist in avoiding detection or apprehension for such an offense, shall—

(1) for the first conviction, be subject to twice the maximum term of imprisonment and twice the maximum fine that would otherwise be authorized for the offense; and

(2) for each subsequent conviction, be subject to 3 times the maximum term of imprisonment and 3 times the maximum fine that would otherwise be authorized for the offense.

(Added Pub. L. 108–21, title VI, § 601[(a)], Apr. 30, 2003, 117 Stat. 686.)

CHAPTER 2—AIRCRAFT AND MOTOR VEHICLES

Sec.

31. Definitions.
32. Destruction of aircraft or aircraft facilities.
33. Destruction of motor vehicles or motor vehicle facilities.
34. Penalty when death results.
35. Imparting or conveying false information.
36. Drive-by shooting.
37. Violence at international airports.
38. Fraud involving aircraft or space vehicle parts in interstate or foreign commerce.
39.[1] Commercial motor vehicles required to stop for inspections.
39.[1] Traffic signal preemption transmitters.

AMENDMENTS

2005—Pub. L. 109–59, title II, § 2018(b), title IV, § 4143(c)(1), Aug. 10, 2005, 119 Stat. 1543, 1748, added item 39 ''Commercial motor vehicles required to stop for inspections'' and item 39 ''Traffic signal preemption transmitters''.

2000—Pub. L. 106–181, title V, § 506(c)(2)(A), Apr. 5, 2000, 114 Stat. 139, added item 38.

1994—Pub. L. 103–322, title VI, §§ 60008(c), 60021(b), Sept. 13, 1994, 108 Stat. 1972, 1980, added items 36 and 37.

§ 31. Definitions

(a) DEFINITIONS.—In this chapter, the following definitions apply:

(1) AIRCRAFT.—The term ''aircraft'' means a civil, military, or public contrivance invented,

[1] So in original. No section 22 has been enacted.

[2] So in original. Probably should be followed by a comma.

[1] So in original. Two sections 39 have been enacted and the order of the two items 39 does not correspond to the order of the sections in text.

used, or designed to navigate, fly, or travel in the air.

(2) AVIATION QUALITY.—The term ''aviation quality'', with respect to a part of an aircraft or space vehicle, means the quality of having been manufactured, constructed, produced, maintained, repaired, overhauled, rebuilt, reconditioned, or restored in conformity with applicable standards specified by law (including applicable regulations).

(3) DESTRUCTIVE SUBSTANCE.—The term ''destructive substance'' means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or matter of a combustible, contaminative, corrosive, or explosive nature.

(4) IN FLIGHT.—The term ''in flight'' means—

(A) any time from the moment at which all the external doors of an aircraft are closed following embarkation until the moment when any such door is opened for disembarkation; and

(B) in the case of a forced landing, until competent authorities take over the responsibility for the aircraft and the persons and property on board.

(5) IN SERVICE.—The term ''in service'' means—

(A) any time from the beginning of preflight preparation of an aircraft by ground personnel or by the crew for a specific flight until 24 hours after any landing; and

(B) in any event includes the entire period during which the aircraft is in flight.

(6) MOTOR VEHICLE.—The term ''motor vehicle'' means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo.

(7) PART.—The term ''part'' means a frame, assembly, component, appliance, engine, propeller, material, part, spare part, piece, section, or related integral or auxiliary equipment.

(8) SPACE VEHICLE.—The term ''space vehicle'' means a man-made device, either manned or unmanned, designed for operation beyond the Earth's atmosphere.

(9) STATE.—The term ''State'' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(10) USED FOR COMMERCIAL PURPOSES.—The term ''used for commercial purposes'' means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit.

(b) TERMS DEFINED IN OTHER LAW.—In this chapter, the terms ''aircraft engine'', ''air navigation facility'', ''appliance'', ''civil aircraft'', ''foreign air commerce'', ''interstate air commerce'', ''landing area'', ''overseas air commerce'', ''propeller'', ''spare part'', and ''special aircraft jurisdiction of the United States'' have the meanings given those terms in sections 40102(a) and 46501 of title 49.

(Added July 14, 1956, ch. 595, § 1, 70 Stat. 538; amended Pub. L. 98–473, title II, §§ 1010, 2013(a), Oct. 12, 1984, 98 Stat. 2141, 2187; Pub. L. 100–690, title VII, § 7015, Nov. 18, 1988, 102 Stat. 4395; Pub. L. 103–272, § 5(e)(1), July 5, 1994, 108 Stat. 1373; Pub. L. 106–181, title V, § 506(b), Apr. 5, 2000, 114 Stat. 136.)

AMENDMENTS

2000—Pub. L. 106–181 added subsecs. (a) and (b) and struck out former text which read as follows: ''When used in this chapter the term—

''''Aircraft engine', 'air navigation facility', 'appliance', 'civil aircraft', 'foreign air commerce', 'interstate air commerce', 'landing area', 'overseas air commerce', 'propeller', 'spare part' and 'special aircraft jurisdiction of the United States' shall have the meaning ascribed to those terms in sections 40102(a) and 46501 of title 49.

''''Motor vehicle' means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo;

''''Destructive substance' means any explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or matter of a combustible, contaminative, corrosive, or explosive nature;

''''Used for commercial purposes' means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit;

''''In flight' means any time from the moment all the external doors of an aircraft are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing the flight shall be deemed to continue until competent authorities take over the responsibility for the aircraft and the persons and property on board; and

''''In service' means any time from the beginning of preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight.''

1994—Pub. L. 103–272 substituted ''sections 40102(a) and 46501 of title 49'' for ''the Federal Aviation Act of 1958, as amended'' in par. beginning with definition of ''Aircraft engine''.

1988—Pub. L. 100–690 substituted ''door is opened'' for ''door in opened'' in definition of ''in flight''.

1984—Pub. L. 98–473, § 2013(a)(1), in first par. struck out ''and'' before ''spare part'', inserted ''and 'special aircraft jurisdiction of the United States' '', and substituted ''Federal Aviation Act of 1958'' for ''Civil Aeronautics Act of 1938''.

Pub. L. 98–473, § 1010, substituted ''passengers and property, or property or cargo'' for ''or passengers and property'' in definition of motor vehicle.

Pub. L. 98–473, § 2013(a)(2)–(4), inserted definitions of ''in flight'' and ''in service''.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of Title 49, Transportation.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 2015 of part B (§§ 2011–2015) of chapter XX of title II of Pub. L. 98–473 provided that: ''This part [see Short Title of 1984 Amendment note below] shall become effective on the date of the enactment of this joint resolution [Oct. 12, 1984].''

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–181, title V, § 506(a), Apr. 5, 2000, 114 Stat. 136, provided that: ''This section [enacting section 38 of

this title and amending this section and section 2516 of this title] may be cited as the 'Aircraft Safety Act of 2000'.''

SHORT TITLE OF 1984 AMENDMENT

Section 2011 of part B (§§ 2011–2015) of chapter XX of title II of Pub. L. 98–473 provided that: ''This part [amending this section, section 32 of this title, and sections 1301, 1471, and 1472 of former Title 49, Transportation, and enacting provisions set out as notes under this section] may be cited as the 'Aircraft Sabotage Act'.''

STATEMENT OF FINDINGS AND PURPOSE FOR 1984 AMENDMENT

Section 2012 of part B (§§ 2011–2015) of chapter XX of title II of Pub. L. 98–473 provided that: ''The Congress hereby finds that—

''(1) the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (ratified by the United States on November 1, 1972) requires each contracting State to establish its jurisdiction over certain offenses affecting the safety of civil aviation;

''(2) such offenses place innocent lives in jeopardy, endanger national security, affect domestic tranquility, gravely affect interstate and foreign commerce, and are offenses against the law of nations; and

''(3) the purpose of this subtitle [part, see Short Title of 1984 Amendment note above] is to implement fully the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation and to expand the protection accorded to aircraft and related facilities.''

§ 32. Destruction of aircraft or aircraft facilities

(a) Whoever willfully—

(1) sets fire to, damages, destroys, disables, or wrecks any aircraft in the special aircraft jurisdiction of the United States or any civil aircraft used, operated, or employed in interstate, overseas, or foreign air commerce;

(2) places or causes to be placed a destructive device or substance in, upon, or in proximity to, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any such aircraft, or any part or other materials used or intended to be used in connection with the operation of such aircraft, if such placing or causing to be placed or such making or causing to be made is likely to endanger the safety of any such aircraft;

(3) sets fire to, damages, destroys, or disables any air navigation facility, or interferes by force or violence with the operation of such facility, if such fire, damaging, destroying, disabling, or interfering is likely to endanger the safety of any such aircraft in flight;

(4) with the intent to damage, destroy, or disable any such aircraft, sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any appliance or structure, ramp, landing area, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading or storage of any such aircraft or any cargo carried or intended to be carried on any such aircraft;

(5) performs an act of violence against or incapacitates any individual on any such aircraft, if such act of violence or incapacitation is likely to endanger the safety of such aircraft;

(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any such aircraft in flight; or

(7) attempts or conspires to do anything prohibited under paragraphs (1) through (6) of this subsection;

shall be fined under this title or imprisoned not more than twenty years or both.

(b) Whoever willfully—

(1) performs an act of violence against any individual on board any civil aircraft registered in a country other than the United States while such aircraft is in flight, if such act is likely to endanger the safety of that aircraft;

(2) destroys a civil aircraft registered in a country other than the United States while such aircraft is in service or causes damage to such an aircraft which renders that aircraft incapable of flight or which is likely to endanger that aircraft's safety in flight;

(3) places or causes to be placed on a civil aircraft registered in a country other than the United States while such aircraft is in service, a device or substance which is likely to destroy that aircraft, or to cause damage to that aircraft which renders that aircraft incapable of flight or which is likely to endanger that aircraft's safety in flight; or

(4) attempts or conspires to commit an offense described in paragraphs (1) through (3) of this subsection;

shall be fined under this title or imprisoned not more than twenty years, or both. There is jurisdiction over an offense under this subsection if a national of the United States was on board, or would have been on board, the aircraft; an offender is a national of the United States; or an offender is afterwards found in the United States. For purposes of this subsection, the term ''national of the United States'' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act.

(c) Whoever willfully imparts or conveys any threat to do an act which would violate any of paragraphs (1) through (5) of subsection (a) or any of paragraphs (1) through (3) of subsection (b) of this section, with an apparent determination and will to carry the threat into execution shall be fined under this title or imprisoned not more than five years, or both.

(Added July 14, 1956, ch. 595, § 1, 70 Stat. 539; amended Pub. L. 98–473, title II, § 2013(b), Oct. 12, 1984, 98 Stat. 2187; Pub. L. 100–690, title VII, § 7016, Nov. 18, 1988, 102 Stat. 4395; Pub. L. 103–322, title XXXIII, § 330016(1)(O), (S), Sept. 13, 1994, 108 Stat. 2148; Pub. L. 104–132, title VII, §§ 721(b), 723(a)(1), Apr. 24, 1996, 110 Stat. 1298, 1300.)

REFERENCES IN TEXT

Section 101(a)(22) of the Immigration and Nationality Act, referred to in subsec. (b), is classified to section 1101(a)(22) of Title 8, Aliens and Nationality.

AMENDMENTS

1996—Subsec. (a)(7). Pub. L. 104–132, § 723(a)(1), inserted ''or conspires'' after ''attempts''.

Subsec. (b). Pub. L. 104–132, § 721(b), in closing provisions, struck out '', if the offender is later found in the

United States,'' before ''be fined under this title'' and inserted at end ''There is jurisdiction over an offense under this subsection if a national of the United States was on board, or would have been on board, the aircraft; an offender is a national of the United States; or an offender is afterwards found in the United States. For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act.''

Subsec. (b)(4). Pub. L. 104–132, § 723(a)(1), inserted ''or conspires'' after ''attempts''.

1994—Subsecs. (a), (b). Pub. L. 103–322, § 330016(1)(S), substituted ''fined under this title'' for ''fined not more than $100,000'' in concluding provisions.

Subsec. (c). Pub. L. 103–322, § 330016(1)(O), substituted ''fined under this title'' for ''fined not more than $25,000''.

1988—Subsec. (a)(3). Pub. L. 100–690 substituted ''interfering'' for ''intefering''.

1984—Pub. L. 98–473 amended section generally. Prior to amendment section read as follows:

''Whoever willfully sets fire to, damages, destroys, disables, or wrecks any civil aircraft used, operated, or employed in interstate, overseas, or foreign air commerce; or

''Whoever willfully sets fire to, damages, destroys, disables, or wrecks any aircraft engine, propeller, appliance, or spare part with intent to damage, destroy, disable, or wreck any such aircraft; or

''Whoever, with like intent, willfully places or causes to be placed any destructive substance in, upon, or in proximity to any such aircraft, or any aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, or other material used or intended to be used in connection with the operation of any such aircraft, or any cargo carried or intended to be carried on any such aircraft, or otherwise makes or causes to be made any such aircraft, aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, or other material unworkable or unusable or hazardous to work or use; or

''Whoever, with like intent, willfully sets fire to, damages, destroys, disables, or wrecks, or places or causes to be placed any destructive substance in, upon, or in proximity to any shop, supply, structure, station, depot, terminal, hangar, ramp, landing area, air-navigation facility or other facility, warehouse, property, machine, or apparatus used or intended to be used in connection with the operation, loading, or unloading of any such aircraft or making any such aircraft ready for flight, or otherwise makes or causes to be made any such shop, supply, structure, station, depot, terminal, hangar, ramp, landing area, air-navigation facility or other facility, warehouse, property, machine, or apparatus unworkable or unusable or hazardous to work or use; or

''Whoever, with like intent, willfully incapacitates any member of the crew of any such aircraft; or

''Whoever willfully attempts to do any of the aforesaid acts or things—

''shall be fined not more than $10,000 or imprisoned not more than twenty years, or both.''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–473 effective Oct. 12, 1984, see section 2015 of Pub. L. 98–473, set out as a note under section 31 of this title.

§ 33. Destruction of motor vehicles or motor vehicle facilities

(a) Whoever willfully, with intent to endanger the safety of any person on board or anyone who he believes will board the same, or with a reckless disregard for the safety of human life, damages, disables, destroys, tampers with, or places or causes to be placed any explosive or other destructive substance in, upon, or in proximity to, any motor vehicle which is used, operated, or employed in interstate or foreign commerce, or its cargo or material used or intended to be used in connection with its operation; or

Whoever willfully, with like intent, damages, disables, destroys, sets fire to, tampers with, or places or causes to be placed any explosive or other destructive substance in, upon, or in proximity to any garage, terminal, structure, supply, or facility used in the operation of, or in support of the operation of, motor vehicles engaged in interstate or foreign commerce or otherwise makes or causes such property to be made unworkable, unusable, or hazardous to work or use; or

Whoever, with like intent, willfully disables or incapacitates any driver or person employed in connection with the operation or maintenance of the motor vehicle, or in any way lessens the ability of such person to perform his duties as such; or

Whoever willfully attempts to do any of the aforesaid acts—

shall be fined under this title or imprisoned not more than twenty years, or both.

(b) Whoever is convicted of a violation of subsection (a) involving a motor vehicle that, at the time the violation occurred, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12))) or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23))), shall be fined under this title and imprisoned for any term of years not less than 30, or for life.

(Added July 14, 1956, ch. 595, § 1, 70 Stat. 540; amended Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–88, title IV, § 402(a), Dec. 29, 1995, 109 Stat. 955.)

AMENDMENTS

1995—Pub. L. 104–88 designated existing provisions as subsec. (a) and added subsec. (b).

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of Title 49, Transportation.

§ 34. Penalty when death results

Whoever is convicted of any crime prohibited by this chapter, which has resulted in the death of any person, shall be subject also to the death penalty or to imprisonment for life.

(Added July 14, 1956, ch. 595, § 1, 70 Stat. 540; amended Pub. L. 103–322, title VI, § 60003(a)(1), Sept. 13, 1994, 108 Stat. 1968.)

AMENDMENTS

1994—Pub. L. 103–322 substituted ''imprisonment for life.'' for ''imprisonment for life, if the jury shall in its discretion so direct, or, in the case of a plea of guilty, or a plea of not guilty where the defendant has waived a trial by jury, if the court in its discretion shall so order.''

§ 35. Imparting or conveying false information

(a) Whoever imparts or conveys or causes to be imparted or conveyed false information, know-

ing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this chapter or chapter 97 or chapter 111 of this title shall be subject to a civil penalty of not more than $1,000 which shall be recoverable in a civil action brought in the name of the United States.

(b) Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this chapter or chapter 97 or chapter 111 of this title—shall be fined under this title, or imprisoned not more than five years, or both.

(Added July 14, 1956, ch. 595, § 1, 70 Stat. 540; amended Pub. L. 87–338, Oct. 3, 1961, 75 Stat. 751; Pub. L. 89–64, July 7, 1965, 79 Stat. 210; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

1965—Subsec. (a). Pub. L. 89–64 substituted ''subject to a civil penalty of not more than $1,000 which shall be recoverable in a civil action brought in the name of the United States'' for ''fined not more than $1,000, or imprisoned not more than one year, or both''.

1961—Pub. L. 87–338 designated existing provisions as subsec. (a), struck out ''willfully'' before ''imparts or conveys'', and added subsec. (b).

§ 36. Drive-by shooting

(a) DEFINITION.—In this section, ''major drug offense'' means—

(1) a continuing criminal enterprise punishable under section 408(c) of the Controlled Substances Act (21 U.S.C. 848(c));

(2) a conspiracy to distribute controlled substances punishable under section 406 of the Controlled Substances Act (21 U.S.C. 846) section[1] 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 963); or

(3) an offense involving major quantities of drugs and punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) or section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)).

(b) OFFENSE AND PENALTIES.—(1) A person who, in furtherance or to escape detection of a major drug offense and with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of two or more persons and who, in the course of such conduct, causes grave risk to any human life shall be punished by a term of no more than 25 years, by fine under this title, or both.

(2) A person who, in furtherance or to escape detection of a major drug offense and with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of 2 or more persons and who, in the course of such conduct, kills any person shall, if the killing—

(A) is a first degree murder (as defined in section 1111(a)), be punished by death or imprisonment for any term of years or for life, fined under this title, or both; or

(B) is a murder other than a first degree murder (as defined in section 1111(a)), be fined under this title, imprisoned for any term of years or for life, or both.

(Added Pub. L. 103–322, title VI, § 60008(b), Sept. 13, 1994, 108 Stat. 1971; amended Pub. L. 104–294, title VI, § 604(b)(30), Oct. 11, 1996, 110 Stat. 3508.)

AMENDMENTS

1996—Subsec. (a)(1), (2). Pub. L. 104–294 substituted ''408(c)'' for ''403(c)'' in par. (1) and ''Export'' for ''Export Control'' in par. (2).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

SHORT TITLE

Section 60008(a) of Pub. L. 103–322 provided that: ''This section [enacting this section] may be cited as the 'Drive-By Shooting Prevention Act of 1994'.''

§ 37. Violence at international airports

(a) OFFENSE.—A person who unlawfully and intentionally, using any device, substance, or weapon—

(1) performs an act of violence against a person at an airport serving international civil aviation that causes or is likely to cause serious bodily injury (as defined in section 1365 of this title) or death; or

(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at that airport, or attempts or conspires to do such an act, shall be fined under this title, imprisoned not more than 20 years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

(b) JURISDICTION.—There is jurisdiction over the prohibited activity in subsection (a) if—

(1) the prohibited activity takes place in the United States; or

(2) the prohibited activity takes place outside the United States and (A) the offender is later found in the United States; or (B) an offender or a victim is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))).

(c) BAR TO PROSECUTION.—It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term ''labor dispute'' has the meaning set forth in section 2(c)[1] of the Norris-LaGuardia Act, as amended (29 U.S.C. 113(c)), and the term ''State''

[1] So in original. Probably should be preceded by ''or''.

[1] So in original. Probably should be section ''13(c)''.

means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(Added Pub. L. 103–322, title VI, § 60021(a), Sept. 13, 1994, 108 Stat. 1979; amended Pub. L. 104–132, title VII, §§ 721(g), 723(a)(1), Apr. 24, 1996, 110 Stat. 1299, 1300; Pub. L. 104–294, title VI, §§ 601(q), 607(*o*), Oct. 11, 1996, 110 Stat. 3502, 3512.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–132, § 723(a)(1), inserted ''or conspires'' after ''attempts'' in concluding provisions.

Subsec. (b)(2). Pub. L. 104–132, § 721(g), inserted subpar. (A) designation and added subpar. (B).

Subsec. (c). Pub. L. 104–294 inserted heading and inserted '', and the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States'' before period at end.

EFFECTIVE DATE

Section 60021(c) of Pub. L. 103–322 provided that: ''The amendment made by subsection (a) [enacting this section] shall take effect on the later of—

''(1) the date of enactment of this Act [Sept. 13, 1994]; or

''(2) the date on which the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.'' [Protocol came into force and United States became a party to the Protocol Nov. 18, 1994, Treaty Doc. 100–19.]

§ 38. Fraud involving aircraft or space vehicle parts in interstate or foreign commerce

(a) OFFENSES.—Whoever, in or affecting interstate or foreign commerce, knowingly and with the intent to defraud—

(1)(A) falsifies or conceals a material fact concerning any aircraft or space vehicle part;

(B) makes any materially fraudulent representation concerning any aircraft or space vehicle part; or

(C) makes or uses any materially false writing, entry, certification, document, record, data plate, label, or electronic communication concerning any aircraft or space vehicle part;

(2) exports from or imports or introduces into the United States, sells, trades, installs on or in any aircraft or space vehicle any aircraft or space vehicle part using or by means of a fraudulent representation, document, record, certification, depiction, data plate, label, or electronic communication; or

(3) attempts or conspires to commit an offense described in paragraph (1) or (2),

shall be punished as provided in subsection (b).

(b) PENALTIES.—The punishment for an offense under subsection (a) is as follows:

(1) AVIATION QUALITY.—If the offense relates to the aviation quality of a part and the part is installed in an aircraft or space vehicle, a fine of not more than $500,000, imprisonment for not more than 15 years, or both.

(2) FAILURE TO OPERATE AS REPRESENTED.—If, by reason of the failure of the part to operate as represented, the part to which the offense is related is the proximate cause of a malfunction or failure that results in serious bodily injury (as defined in section 1365), a fine of not more than $1,000,000, imprisonment for not more than 20 years, or both.

(3) FAILURE RESULTING IN DEATH.—If, by reason of the failure of the part to operate as represented, the part to which the offense is related is the proximate cause of a malfunction or failure that results in the death of any person, a fine of not more than $1,000,000, imprisonment for any term of years or life, or both.

(4) OTHER CIRCUMSTANCES.—In the case of an offense under subsection (a) not described in paragraph (1), (2), or (3) of this subsection, a fine under this title, imprisonment for not more than 10 years, or both.

(5) ORGANIZATIONS.—If the offense is committed by an organization, a fine of not more than—

(A) $10,000,000 in the case of an offense described in paragraph (1) or (4); and

(B) $20,000,000 in the case of an offense described in paragraph (2) or (3).

(c) CIVIL REMEDIES.—

(1) IN GENERAL.—The district courts of the United States shall have jurisdiction to prevent and restrain violations of this section by issuing appropriate orders, including—

(A) ordering a person (convicted of an offense under this section) to divest any interest, direct or indirect, in any enterprise used to commit or facilitate the commission of the offense, or to destroy, or to mutilate and sell as scrap, aircraft material or part inventories or stocks;

(B) imposing reasonable restrictions on the future activities or investments of any such person, including prohibiting engagement in the same type of endeavor as used to commit the offense; and

(C) ordering the dissolution or reorganization of any enterprise knowingly used to commit or facilitate the commission of an offense under this section making due provisions for the rights and interests of innocent persons.

(2) RESTRAINING ORDERS AND PROHIBITION.—Pending final determination of a proceeding brought under this section, the court may enter such restraining orders or prohibitions, or take such other actions (including the acceptance of satisfactory performance bonds) as the court deems proper.

(3) ESTOPPEL.—A final judgment rendered in favor of the United States in any criminal proceeding brought under this section shall stop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the United States.

(d) CRIMINAL FORFEITURE.—

(1) IN GENERAL.—The court, in imposing sentence on any person convicted of an offense under this section, shall order, in addition to any other sentence and irrespective of any provision of State law, that the person forfeit to the United States—

(A) any property constituting, or derived from, any proceeds that the person obtained, directly or indirectly, as a result of the offense; and

(B) any property used, or intended to be used in any manner, to commit or facilitate the commission of the offense, if the court in its discretion so determines, taking into consideration the nature, scope, and proportionality of the use of the property on the offense.

(2) APPLICATION OF OTHER LAW.—The forfeiture of property under this section, including any seizure and disposition of the property, and any proceedings relating to the property, shall be governed by section 413 of the Comprehensive Drug Abuse and Prevention Act of 1970 (21 U.S.C. 853) (not including subsection (d) of that section).

(e) CONSTRUCTION WITH OTHER LAW.—This section does not preempt or displace any other remedy, civil or criminal, provided by Federal or State law for the fraudulent importation, sale, trade, installation, or introduction into commerce of an aircraft or space vehicle part.

(f) TERRITORIAL SCOPE.—This section also applies to conduct occurring outside the United States if—

(1) the offender is a natural person who is a citizen or permanent resident alien of the United States, or an organization organized under the laws of the United States or political subdivision thereof;

(2) the aircraft or spacecraft part as to which the violation relates was installed in an aircraft or space vehicle owned or operated at the time of the offense by a citizen or permanent resident alien of the United States, or by an organization thereof; or

(3) an act in furtherance of the offense was committed in the United States.

(Added Pub. L. 106–181, title V, § 506(c)(1), Apr. 5, 2000, 114 Stat. 137.)

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of Title 49, Transportation.

§ 39.[1] Traffic signal preemption transmitters

(a) OFFENSES.—

(1) SALE.—Whoever, in or affecting interstate or foreign commerce, knowingly sells a traffic signal preemption transmitter to a nonqualifying user shall be fined under this title, or imprisoned not more than 1 year, or both.

(2) USE.—Whoever, in or affecting interstate or foreign commerce, being a nonqualifying user makes unauthorized use of a traffic signal preemption transmitter shall be fined under this title, or imprisoned not more than 6 months, or both.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) TRAFFIC SIGNAL PREEMPTION TRANSMITTER.—The term ''traffic signal preemption transmitter'' means any mechanism that can change or alter a traffic signal's phase time or sequence.

(2) NONQUALIFYING USER.—The term ''nonqualifying user'' means a person who uses a traffic signal preemption transmitter and is not acting on behalf of a public agency or private corporation authorized by law to provide fire protection, law enforcement, emergency medical services, transit services, maintenance, or other services for a Federal, State, or local government entity, but does not include a person using a traffic signal preemption transmitter for classroom or instructional purposes.

(Added Pub. L. 109–59, title II, § 2018(a), Aug. 10, 2005, 119 Stat. 1542.)

§ 39.[1] Commercial motor vehicles required to stop for inspections

(a) A driver of a commercial motor vehicle (as defined in section 31132 of title 49) shall stop and submit to inspection of the vehicle, driver, cargo, and required records when directed to do so by an authorized employee of the Federal Motor Carrier Safety Administration of the Department of Transportation, at or in the vicinity of an inspection site. The driver shall not leave the inspection site until authorized to do so by an authorized employee.

(b) A driver of a commercial motor vehicle, as defined in subsection (a), who knowingly fails to stop for inspection when directed to do so by an authorized employee of the Administration at or in the vicinity of an inspection site, or leaves the inspection site without authorization, shall be fined under this title or imprisoned not more than 1 year, or both.

(Added Pub. L. 109–59, title IV, § 4143(a), Aug. 10, 2005, 119 Stat. 1747.)

CHAPTER 3—ANIMALS, BIRDS, FISH, AND PLANTS

Sec.
41. Hunting, fishing, trapping; disturbance or injury on wildlife refuges.
42. Importation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles; permits, specimens for museums; regulations.
43. Animal enterprise terrorism.
[44, 45. Repealed.]
46. Transportation of water hyacinths.
47. Use of aircraft or motor vehicles to hunt certain wild horses or burros; pollution of watering holes.
48. Depiction of animal cruelty.

HISTORICAL AND REVISION NOTES

The criminal provisions of the Migratory Bird Treaty Act, sections 703–711 of title 16, U.S.C., 1940 ed., Conservation, and the Migratory Bird Conservation Act, sections 715–715r of title 16, U.S.C., 1940 ed., Conservation, were considered for inclusion in this chapter. Since these provisions, except parts of sections 704–707 of said title 16, are so inextricably interwoven with the Migratory Bird Acts, it was found advisable to exclude them.

AMENDMENTS

1999—Pub. L. 106–152, § 1(b), Dec. 9, 1999, 113 Stat. 1732, added item 48.

1992—Pub. L. 102–346, § 2(b), Aug. 26, 1992, 106 Stat. 929, which directed the general amendment of item 43, was

[1] Another section 39 is set out after this section.

[1] Another section 39 is set out preceding this section.

executed by adding item 43 to reflect the probable intent of Congress, because item 43 had been previously struck out by Pub. L. 101–647. See 1990 Amendment note below.

1990—Pub. L. 101–647, title XII, § 1206(b), title XXXV, § 3506, Nov. 29, 1990, 104 Stat. 4832, 4922, substituted ''Importation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles; permits, specimens for museums; regulations'' for ''Importation of injurious animals and birds; permits; specimens for museums'' in item 42, struck out item 43 ''Transportation or importation in violation of state, national, or foreign laws'', item 44 ''Marking packages or containers'', and item 45 ''Capturing or killing carrier pigeons'', and inserted ''; pollution of watering holes'' after ''burros'' in item 47.

1959—Pub. L. 86–234, § 1(b), Sept. 8, 1959, 73 Stat. 470, added item 47.

1956—Act Aug. 1, 1956, ch. 825, § 2(b), 70 Stat. 798, amended chapter heading to include reference to ''Plants'' and added item 46.

§ 41. Hunting, fishing, trapping; disturbance or injury on wildlife refuges

Whoever, except in compliance with rules and regulations promulgated by authority of law, hunts, traps, captures, willfully disturbs or kills any bird, fish, or wild animal of any kind whatever, or takes or destroys the eggs or nest of any such bird or fish, on any lands or waters which are set apart or reserved as sanctuaries, refuges or breeding grounds for such birds, fish, or animals under any law of the United States or willfully injures, molests, or destroys any property of the United States on any such lands or waters, shall be fined under this title or imprisoned not more than six months, or both.

(June 25, 1948, ch. 645, 62 Stat. 686; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 145 and §§ 676, 682, 683, 685, 688, 689b, 692a, and 694a of title 16, U.S.C., 1940 ed., Conservation (Jan. 24, 1905, ch. 137, § 2, 33 Stat. 614; June 29, 1906, ch. 3593, § 2, 34 Stat. 607; Mar. 4, 1909, ch. 321, § 84, 35 Stat. 1104; Aug. 11, 1916, ch. 313, 39 Stat. 476; June 5, 1920, ch. 247, § 2, 41 Stat. 986; Apr. 15, 1924, ch. 108, 43 Stat. 98; Feb. 28, 1925, ch. 376, 43 Stat. 1091; July 3, 1926, ch. 744, § 6, 44 Stat. 821; July 3, 1926, ch. 776, § 3, 44 Stat. 889; June 28, 1930, ch. 709, § 2, 46 Stat. 828; Mar. 10, 1934, ch. 54, § 2, 48 Stat. 400; Reorg. Plan No. II, § 4(f), 4 F.R. 2731, 53 Stat. 1433).

This revised section condenses, consolidates, and simplifies similar provisions of sections 676, 682, 683, 685, 688, 689b, 692a, and 694a of title 16, U.S.C., 1940 ed., with section 145 of title 18, U.S.C., 1940 ed., with such changes of phraseology as make clear the intent of Congress to protect all wildlife within Federal sanctuaries, refuges, fish hatcheries, and breeding grounds. Irrelevant provisions of such sections in title 16 are to be retained in that title.

Because of the general nature of this consolidated section, no specific reference is made to rules and regulations issued by the Secretary of the Interior or any other personage, but only to rules and regulations ''promulgated by authority of law''.

The punishment provided by the sections consolidated varied from a fine not exceeding $100 or imprisonment not exceeding 6 months, or both, in section 694a of title 16, U.S.C., 1940 ed., to a fine not exceeding $1,000 or imprisonment not exceeding 1 year, or both, in sections 676, 685, and 688 of such title 16. The revised section adopts the punishment provisions of the other five sections.

The references to ''misdemeanor'' in sections 676, 685, 688, 689b, 692a, and 694a of title 16, U.S.C., 1940 ed., were omitted as unnecessary in view of definition of ''misdemeanor'' in section 1 of this title, and also to conform with policy followed by codifiers of the 1909 Criminal Code, as stated in Senate Report 10, part 1, pages 12, 13, 14, Sixtieth Congress, first session, to accompany S. 2982.

Words ''upon conviction'', contained in sections 676, 685, 688, 689b, 692a, and 694a of title 16, U.S.C., 1940 ed., were omitted as surplusage, because punishment can be imposed only after conviction.

Words ''in any United States court of competent jurisdiction'', in sections 676, 685, and 688 of title 16, U.S.C., 1940 ed., words ''in any United States court'', in sections 689b, 692a, and 694a of such title 16, and words ''in the discretion of the court'', in said sections 676, 685, 688, and 689b, were likewise omitted as surplusage.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

§ 42. Importation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles; permits, specimens for museums; regulations

(a)(1) The importation into the United States, any territory of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States, or any shipment between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any possession of the United States, of the mongoose of the species Herpestes auropunctatus; of the species of so-called ''flying foxes'' or fruit bats of the genus Pteropus; of the zebra mussel of the species Dreissena polymorpha; and such other species of wild mammals, wild birds, fish (including mollusks and crustacea), amphibians, reptiles, brown tree snakes, or the offspring or eggs of any of the foregoing which the Secretary of the Interior may prescribe by regulation to be injurious to human beings, to the interests of agriculture, horticulture, forestry, or to wildlife or the wildlife resources of the United States, is hereby prohibited. All such prohibited mammals, birds, fish (including mollusks and crustacea), amphibians, and reptiles, and the eggs or offspring therefrom, shall be promptly exported or destroyed at the expense of the importer or consignee. Nothing in this section shall be construed to repeal or modify any provision of the Public Health Service Act or Federal Food, Drug, and Cosmetic Act. Also, this section shall not authorize any action with respect to the importation of any plant pest as defined in the Federal Plant Pest Act,[1] insofar as such importation is subject to regulation under that Act.

(2) As used in this subsection, the term ''wild'' relates to any creatures that, whether or not raised in captivity, normally are found in a wild state; and the terms ''wildlife'' and ''wildlife resources'' include those resources that comprise wild mammals, wild birds, fish (including mollusks and crustacea), and all other classes of wild creatures whatsoever, and all types of aquatic and land vegetation upon which such wildlife resources are dependent.

(3) Notwithstanding the foregoing, the Secretary of the Interior, when he finds that there

[1] See References in Text note below.

has been a proper showing of responsibility and continued protection of the public interest and health, shall permit the importation for zoological, educational, medical, and scientific purposes of any mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles, or the offspring or eggs thereof, where such importation would be prohibited otherwise by or pursuant to this Act, and this Act shall not restrict importations by Federal agencies for their own use.

(4) Nothing in this subsection shall restrict the importation of dead natural-history specimens for museums or for scientific collections, or the importation of domesticated canaries, parrots (including all other species of psittacine birds), or such other cage birds as the Secretary of the Interior may designate.

(5) The Secretary of the Treasury and the Secretary of the Interior shall enforce the provisions of this subsection, including any regulations issued hereunder, and, if requested by the Secretary of the Interior, the Secretary of the Treasury may require the furnishing of an appropriate bond when desirable to insure compliance with such provisions.

(b) Whoever violates this section, or any regulation issued pursuant thereto, shall be fined under this title or imprisoned not more than six months, or both.

(c) The Secretary of the Interior within one hundred and eighty days of the enactment of the Lacey Act Amendments of 1981 shall prescribe such requirements and issue such permits as he may deem necessary for the transportation of wild animals and birds under humane and healthful conditions, and it shall be unlawful for any person, including any importer, knowingly to cause or permit any wild animal or bird to be transported to the United States, or any Territory or district thereof, under inhumane or unhealthful conditions or in violation of such requirements. In any criminal prosecution for violation of this subsection and in any administrative proceeding for the suspension of the issuance of further permits—

(1) the condition of any vessel or conveyance, or the enclosures in which wild animals or birds are confined therein, upon its arrival in the United States, or any Territory or district thereof, shall constitute relevant evidence in determining whether the provisions of this subsection have been violated; and

(2) the presence in such vessel or conveyance at such time of a substantial ratio of dead, crippled, diseased, or starving wild animals or birds shall be deemed prima facie evidence of the violation of the provisions of this subsection.

(June 25, 1948, ch. 645, 62 Stat. 687; May 24, 1949, ch. 139, § 2, 63 Stat. 89; Pub. L. 86–702, § 1, Sept. 2, 1960, 74 Stat. 753; Pub. L. 97–79, § 9(d), Nov. 16, 1981, 95 Stat. 1079; Pub. L. 101–646, title I, § 1208, Nov. 29, 1990, 104 Stat. 4772; Pub. L. 102–237, title X, § 1013(e), Dec. 13, 1991, 105 Stat. 1901; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–332, § 2(h)(1), Oct. 26, 1996, 110 Stat. 4091.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., §§ 391, 394 (Mar. 4, 1909, ch. 321, §§ 241, 244, 35 Stat. 1137, 1138; June 15, 1935, ch. 261, title II, § 201, 49 Stat. 381; Reorg. Plan No. II, § 4(f), 4 F.R. 2731, 53 Stat. 1433).

This section consolidates the provisions of sections 391 and 394 of title 18, U.S.C., 1940 ed., as subsections (a) and (b), respectively.

In subsection (a) the words "Territory or District thereof" were omitted as unnecessary in view of the definition of the United States in section 5 of this title.

In subsection (b) the words "upon conviction thereof", were omitted as surplusage because punishment can only be imposed after conviction.

The amount of the fine was reduced from $1,000 to $500, thus making the violation a petty offense as defined in section 1 of this title. (See also section 41 of this title which provides a similar punishment.)

Minor verbal changes were also made.

1949 ACT

This section [section 2] incorporates in section 42 of title 18, U.S.C., with slight changes in phraseology, the provisions of act of June 29, 1948 (ch. 716, 62 Stat. 1096), which became law subsequent to the enactment of the revision of title 18.

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (a)(1), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended, which is classified generally to chapter 6A (§ 201 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (a)(1), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of Title 21, Foods and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

The Federal Plant Pest Act, referred to in subsec. (a)(1), is Pub. L. 85–36, title I, May 23, 1957, 71 Stat. 31, as amended, which was classified generally to chapter 7B (§ 150aa et seq.) of Title 7, Agriculture, prior to repeal by Pub. L. 106–224, title IV, § 438(a)(2), June 20, 2000, 114 Stat. 454. For complete classification of this Act to the Code, see Tables.

This Act, referred to in subsec. (a)(3), probably refers to Pub. L. 86–702, which amended this section and section 43 of this title.

The enactment of the Lacey Act Amendments of 1981, referred to in subsec. (c), means the date of enactment of Pub. L. 97–79, which was approved Nov. 16, 1981.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–332 made technical amendment to Pub. L. 101–646, § 1208. See 1990 Amendment note below.

1994—Subsec. (b). Pub. L. 103–322 substituted "fined under this title" for "fined not more than $500".

1991—Subsec. (a)(1). Pub. L. 102–237 inserted "brown tree snakes," after "reptiles," in first sentence.

1990—Subsec. (a)(1). Pub. L. 101–646, as amended by Pub. L. 104–332, inserted "of the zebra mussel of the species Dreissena polymorpha;" after "Pteropus;".

1981—Subsec. (c). Pub. L. 97–79 substituted "Secretary of the Interior within one hundred and eighty days of the enactment of the Lacey Act Amendments of 1981" for "Secretary of the Treasury".

1960—Pub. L. 86–702 substituted "Importation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia and reptiles; permits; specimens for museums; regulations" for "Importation of injurious animals and birds; permits; specimens for museums" in section catchline.

Subsec. (a)(1). Pub. L. 86–702 designated first sentence of subsec. (a) as par. (1), prohibited importation into

the Commonwealth of Puerto Rico or any possession of the United States and shipments between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any possession of the United States, described the mongoose and flying foxes by their scientific names, extended the provisions prohibiting importation or shipment to include wild mammals, wild birds, fish (including mollusks and crustacea), amphibians, reptiles, or their eggs or offspring, empowered the Secretary to prohibit importation or shipment if injurious to human beings, forestry, or to wildlife or wildlife resources, required prompt exportation or destruction at the expense of the importer or consignee, provided that this section shall not be construed to repeal or modify any provision of the Public Health Service Act or Federal Food, Drug, and Cosmetic Act and that it shall not authorize any action with respect to the importation of plant pests, and deleted provisions which required destruction of prohibited birds and animals or their return at the expense of the owner, and which prohibited the importation of the English sparrow and the starling.

Subsec. (a)(2), (3). Pub. L. 86–702 added pars. (2) and (3).

Subsec. (a)(4). Pub. L. 86–702 designated second sentence of subsec. (a) as par. (4), limited importation of natural-history specimens to dead ones, and included all species of psittacine birds.

Subsec. (a)(5). Pub. L. 86–702 designated third sentence of subsec. (a) as par. (5), authorized enforcement by the Secretary of the Interior, and permitted the Secretary of the Treasury, if requested by the Secretary of the Interior, to require the furnishing of a bond.

Subsec. (b). Pub. L. 86–702 included violations of regulations.

1949—Subsec. (a). Act May 24, 1949, made section applicable to any Territory or district thereof as well as to the United States, and changed phraseology.

Subsec. (b). Act May 24, 1949, reenacted subsec. (b) without change.

Subsec. (c). Act May 24, 1949, added subsec. (c).

INVASIVE SPECIES

For provisions relating to restrictions on the introduction of invasive species into natural ecosystems of the United States, see Ex. Ord. No. 13112, Feb. 3, 1999, 64 F.R. 6183, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

§ 43. Animal enterprise terrorism

(a) OFFENSE.—Whoever—

(1) travels in interstate or foreign commerce, or uses or causes to be used the mail or any facility in interstate or foreign commerce for the purpose of causing physical disruption to the functioning of an animal enterprise; and

(2) intentionally damages or causes the loss of any property (including animals or records) used by the animal enterprise, or conspires to do so,

shall be punished as provided for in subsection (b).

(b) PENALTIES.—

(1) ECONOMIC DAMAGE.—Any person who, in the course of a violation of subsection (a), causes economic damage not exceeding $10,000 to an animal enterprise shall be fined under this title or imprisoned not more than 6 months, or both.

(2) MAJOR ECONOMIC DAMAGE.—Any person who, in the course of a violation of subsection (a), causes economic damage exceeding $10,000 to an animal enterprise shall be fined under this title or imprisoned not more than 3 years, or both.

(3) SERIOUS BODILY INJURY.—Any person who, in the course of a violation of subsection (a), causes serious bodily injury to another individual shall be fined under this title or imprisoned not more than 20 years, or both.

(4) DEATH.—Any person who, in the course of a violation of subsection (a), causes the death of an individual shall be fined under this title and imprisoned for life or for any term of years.

(c) RESTITUTION.—An order of restitution under section 3663 or 3663A of this title with respect to a violation of this section may also include restitution—

(1) for the reasonable cost of repeating any experimentation that was interrupted or invalidated as a result of the offense;

(2) the loss of food production or farm income reasonably attributable to the offense; and

(3) for any other economic damage resulting from the offense.

(d) DEFINITIONS.—As used in this section—

(1) the term ''animal enterprise'' means—

(A) a commercial or academic enterprise that uses animals for food or fiber production, agriculture, research, or testing;

(B) a zoo, aquarium, circus, rodeo, or lawful competitive animal event; or

(C) any fair or similar event intended to advance agricultural arts and sciences;

(2) the term ''physical disruption'' does not include any lawful disruption that results from lawful public, governmental, or animal enterprise employee reaction to the disclosure of information about an animal enterprise;

(3) the term ''economic damage'' means the replacement costs of lost or damaged property or records, the costs of repeating an interrupted or invalidated experiment, or the loss of profits; and

(4) the term ''serious bodily injury'' has the meaning given that term in section 1365 of this title.

(e) NON-PREEMPTION.—Nothing in this section preempts any State law.

(Added Pub. L. 102–346, § 2(a), Aug. 26, 1992, 106 Stat. 928; amended Pub. L. 104–294, title VI, § 601(r)(3), Oct. 11, 1996, 110 Stat. 3502; Pub. L. 107–188, title III, § 336, June 12, 2002, 116 Stat. 681.)

PRIOR PROVISIONS

A prior section 43, acts June 25, 1948, ch. 645, 62 Stat. 687; Sept. 2, 1960, Pub. L. 86–702, § 2, 74 Stat. 754; Dec. 5, 1969, Pub. L. 91–135, § 7(a), 83 Stat. 279, related to transportation of wildlife taken in violation of State, national, or foreign law, the receipt of such wildlife, and the making of false records in relation thereto, prior to repeal by Pub. L. 97–79, § 9(b)(2), Nov. 16, 1981, 95 Stat. 1079. See section 3372(a) of Title 16, Conservation.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–188, § 336(a), amended heading and text of subsec. (a) generally, deleting par. (2) reference to intentionally stealing and to requirement that economic damage exceed $10,000, and in concluding provisions substituting reference to punishment under subsec. (b) for reference to fine or imprisonment of not more than one year.

Subsec. (b). Pub. L. 107–188, § 336(b), amended subsec. (b) generally, substituting ''Penalties'' for ''Aggravated Offense'' in heading and list of penalties for property damage, personal injury and death for reference to serious bodily injury and death in text.

Subsec. (c)(3). Pub. L. 107–188, § 336(c), added par. (3).

1996—Subsec. (c). Pub. L. 104–294 inserted ''or 3663A'' after ''section 3663'' in introductory provisions.

SHORT TITLE

Section 1 of Pub. L. 102–346 provided that: ''This Act [enacting this section and provisions set out below] may be cited as the 'Animal Enterprise Protection Act of 1992'.''

STUDY OF EFFECT OF TERRORISM ON CERTAIN ANIMAL ENTERPRISES

Section 3 of Pub. L. 102–346 directed Attorney General and Secretary of Agriculture to jointly conduct a study on extent and effects of domestic and international terrorism on enterprises using animals for food or fiber production, agriculture, research, or testing, and, not later than 1 year after Aug. 26, 1992, submit a report that describes the results of the study together with any appropriate recommendations and legislation to Congress.

[§ 44. Repealed. Pub. L. 97–79, § 9(b)(2), Nov. 16, 1981, 95 Stat. 1079]

Section, acts June 25, 1948, ch. 645, 62 Stat. 687; Dec. 5, 1969, Pub. L. 91–135, § 8, 83 Stat. 281, related to marking of packages or containers used in the shipment of fish and wildlife. See section 3372(b) of Title 16, Conservation.

[§ 45. Repealed. Pub. L. 101–647, title XII, § 1206(a), Nov. 29, 1990, 104 Stat. 4832]

Section, act June 25, 1948, ch. 645, 62 Stat. 688, related to penalties for capturing or killing carrier pigeons.

§ 46. Transportation of water hyacinths

(a) Whoever knowingly delivers or receives for transportation, or transports, in interstate commerce, alligator grass (alternanthera philoxeroides), or water chestnut plants (trapa natans) or water hyacinth plants (eichhornia crassipes) or the seeds of such grass or plants; or

(b) Whoever knowingly sells, purchases, barters, exchanges, gives, or receives any grass, plant, or seed which has been transported in violation of subsection (a); or

(c) Whoever knowingly delivers or receives for transportation, or transports, in interstate commerce, an advertisement, to sell, purchase, barter, exchange, give, or receive alligator grass or water chestnut plants or water hyacinth plants or the seeds of such grass or plants—

Shall be fined under this title, or imprisoned not more than six months, or both.

(Added Aug. 1, 1956, ch. 825, § 1, 70 Stat. 797; amended Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

§ 47. Use of aircraft or motor vehicles to hunt certain wild horses or burros; pollution of watering holes

(a) Whoever uses an aircraft or a motor vehicle to hunt, for the purpose of capturing or killing, any wild unbranded horse, mare, colt, or burro running at large on any of the public land or ranges shall be fined under this title, or imprisoned not more than six months, or both.

(b) Whoever pollutes or causes the pollution of any watering hole on any of the public land or ranges for the purpose of trapping, killing, wounding, or maiming any of the animals referred to in subsection (a) of this section shall be fined under this title, or imprisoned not more than six months, or both.

(c) As used in subsection (a) of this section—

(1) The term ''aircraft'' means any contrivance used for flight in the air; and

(2) The term ''motor vehicle'' includes an automobile, automobile truck, automobile wagon, motorcycle, or any other self-propelled vehicle designed for running on land.

(Added Pub. L. 86–234, § 1(a), Sept. 8, 1959, 73 Stat. 470; amended Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Subsecs. (a), (b). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

§ 48. Depiction of animal cruelty

(a) CREATION, SALE, OR POSSESSION.—Whoever knowingly creates, sells, or possesses a depiction of animal cruelty with the intention of placing that depiction in interstate or foreign commerce for commercial gain, shall be fined under this title or imprisoned not more than 5 years, or both.

(b) EXCEPTION.—Subsection (a) does not apply to any depiction that has serious religious, political, scientific, educational, journalistic, historical, or artistic value.

(c) DEFINITIONS.—In this section—

(1) the term ''depiction of animal cruelty'' means any visual or auditory depiction, including any photograph, motion-picture film, video recording, electronic image, or sound recording of conduct in which a living animal is intentionally maimed, mutilated, tortured, wounded, or killed, if such conduct is illegal under Federal law or the law of the State in which the creation, sale, or possession takes place, regardless of whether the maiming, mutilation, torture, wounding, or killing took place in the State; and

(2) the term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States.

(Added Pub. L. 106–152, § 1(a), Dec. 9, 1999, 113 Stat. 1732.)

CHAPTER 5—ARSON

Sec.
81. Arson within special maritime and territorial jurisdiction.

§ 81. Arson within special maritime and territorial jurisdiction

Whoever, within the special maritime and territorial jurisdiction of the United States, will-

fully and maliciously sets fire to or burns any building, structure or vessel, any machinery or building materials or supplies, military or naval stores, munitions of war, or any structural aids or appliances for navigation or shipping, or attempts or conspires to do such an act, shall be imprisoned for not more than 25 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed, or both.

If the building be a dwelling or if the life of any person be placed in jeopardy, he shall be fined under this title or imprisoned for any term of years or for life, or both.

(June 25, 1948, ch. 645, 62 Stat. 688; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–132, title VII, § 708(b), Apr. 24, 1996, 110 Stat. 1296; Pub. L. 107–56, title VIII, §§ 810(a), 811(a), Oct. 26, 2001, 115 Stat. 380, 381.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 464, 465 (Mar. 4, 1909, ch. 321, §§ 285, 286, 35 Stat. 1144).

Sections were consolidated and rewritten both as to form and substance and that part of each section relating to destruction of property by means other than burning constitutes section 1363 of this title.

The words ''within the maritime and territorial jurisdiction of the United States'' were added to preserve existing limitations of territorial applicability. (See section 7 of this title and note thereunder.)

The phrase ''any building, structure, or vessel, any machinery or building materials and supplies, military or naval stores, munitions of war or any structural aids or appliances for navigation or shipping'' was substituted for ''any dwelling house, or any store, barn, stable, or other building, parcel of a dwelling house'', in section 464 of title 18, U.S.C., 1940 ed., and ''any arsenal, armory, magazine, rope walk, ship house, warehouse, blockhouse, or barrack, or any storehouse, barn or stable, not parcel of a dwelling house, or any other building not mentioned in the section last preceding, or any vessel, built, building, or undergoing repair, or any lighthouse, or beacon, or any machinery, timber, cables, rigging, or other materials or appliances for building, repairing or fitting out vessels, or any pile of wood, boards, or other lumber, or any military, naval or victualing stores, arms, or other munitions of war'', in section 465 of title 18, U.S.C., 1940 ed. The substituted phrase is a concise and comprehensive description of the things enumerated in both sections.

The punishment provisions are new and are graduated with some regard to the gravity of the offense. It was felt that a possible punishment of 20 years for burning a wood pile or injuring or destroying an outbuilding was disproportionate and not in harmony with recent legislation.

AMENDMENTS

2001—Pub. L. 107–56, in first par., struck out '', or attempts to set fire to or burn'' after ''maliciously sets fire to or burns'' and inserted ''or attempts or conspires to do such an act,'' before ''shall be imprisoned'' and, in second par., substituted ''for any term of years or for life'' for ''not more than twenty years''.

1996—Pub. L. 104–132, in first par., substituted ''imprisoned for not more than 25 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed, or both'' for ''fined under this title or imprisoned not more than five years, or both''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000'' in first par. and for ''fined not more than $5,000'' in second par.

CHAPTER 7—ASSAULT

Sec.
111. Assaulting, resisting, or impeding certain officers or employees.
112. Protection of foreign officials, official guests, and internationally protected persons.
113. Assaults within maritime and territorial jurisdiction.
114. Maiming within maritime and territorial jurisdiction.
115. Influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member.
116. Female genital mutilation.
117. Domestic assault by an habitual offender.[1]

AMENDMENTS

1996—Pub. L. 104–208, div. C, title VI, § 645(b)(2), Sept. 30, 1996, 110 Stat. 3009–709, added item 116.

1984—Pub. L. 98–473, title II, § 1008(b), Oct. 12, 1984, 98 Stat. 2140, added item 115.

1976—Pub. L. 94–467, § 6, Oct. 8, 1976, 90 Stat. 2000, substituted ''official guests, and internationally protected persons'' for ''and official guests'' in item 112.

1972—Pub. L. 92–539, title III, § 302, Oct. 24, 1972, 86 Stat. 1073, substituted ''Protection of foreign officials and official guests'' for ''Assaulting certain foreign diplomatic and other official personnel'' in item 112.

1964—Pub. L. 88–493, § 2, Aug. 27, 1964, 78 Stat. 610, substituted ''certain foreign diplomatic and other official personnel'' for ''public minister'' in item 112.

§ 111. Assaulting, resisting, or impeding certain officers or employees

(a) IN GENERAL.—Whoever—

(1) forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 of this title while engaged in or on account of the performance of official duties; or

(2) forcibly assaults or intimidates any person who formerly served as a person designated in section 1114 on account of the performance of official duties during such person's term of service,

shall, where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than one year, or both, and in all other cases, be fined under this title or imprisoned not more than 8 years, or both.

(b) ENHANCED PENALTY.—Whoever, in the commission of any acts described in subsection (a), uses a deadly or dangerous weapon (including a weapon intended to cause death or danger but that fails to do so by reason of a defective component) or inflicts bodily injury, shall be fined under this title or imprisoned not more than 20 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 688; Pub. L. 100–690, title VI, § 6487(a), Nov. 18, 1988, 102 Stat. 4386; Pub. L. 103–322, title XXXII, § 320101(a), Sept. 13, 1994, 108 Stat. 2108; Pub. L. 104–132, title VII, § 727(c), Apr. 24, 1996, 110 Stat. 1302; Pub. L. 107–273, div. C, title I, § 11008(b), Nov. 2, 2002, 116 Stat. 1818.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 118, 254 (Mar. 4, 1909, ch. 321, § 62, 35 Stat. 1100; May 18, 1934, ch. 299, § 2, 48 Stat. 781).

[1] Editorially supplied. Section 117 added by Pub. L. 109–162 without corresponding amendment of chapter analysis.

This section consolidates sections 118 and 254 with changes in phraseology and substance necessary to effect the consolidation.

Also the words ''Bureau of Animal Industry of the Department of Agriculture'' appearing in section 118 of title 18, U.S.C., 1940 ed., were inserted in enumeration of Federal officers and employees in section 1114 of this title.

The punishment provision of section 254 of title 18, U.S.C., 1940 ed., was adopted as the latest expression of Congressional intent. This consolidation eliminates a serious incongruity in punishment and application.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–273, §11008(b)(1), substituted ''8'' for ''three'' in concluding provisions.

Subsec. (b). Pub. L. 107–273, §11008(b)(2), substituted ''20'' for ''ten''.

1996—Subsec. (b). Pub. L. 104–132 inserted ''(including a weapon intended to cause death or danger but that fails to do so by reason of a defective component)'' after ''deadly or dangerous weapon''.

1994—Subsec. (a). Pub. L. 103–322, §320101(a)(1), inserted '', where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than one year, or both, and in all other cases,'' after ''shall'' in concluding provisions.

Subsec. (b). Pub. L. 103–322, §320101(a)(2), inserted ''or inflicts bodily injury'' after ''weapon''.

1988—Pub. L. 100–690 amended text generally. Prior to amendment, text read as follows:

''Whoever forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 of this title while engaged in or on account of the performance of his official duties, shall be fined not more than $5,000 or imprisoned not more than three years, or both.

''Whoever, in the commission of any such acts uses a deadly or dangerous weapon, shall be fined not more than $10,000 or imprisoned not more than ten years, or both.''

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–273, div. C, title I, §11008(a), Nov. 2, 2002, 116 Stat. 1818, provided that: ''This section [amending this section, sections 115 and 876 of this title, and provisions set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Federal Judiciary Protection Act of 2002'.''

§112. Protection of foreign officials, official guests, and internationally protected persons

(a) Whoever assaults, strikes, wounds, imprisons, or offers violence to a foreign official, official guest, or internationally protected person or makes any other violent attack upon the person or liberty of such person, or, if likely to endanger his person or liberty, makes a violent attack upon his official premises, private accommodation, or means of transport or attempts to commit any of the foregoing shall be fined under this title or imprisoned not more than three years, or both. Whoever in the commission of any such act uses a deadly or dangerous weapon, or inflicts bodily injury, shall be fined under this title or imprisoned not more than ten years, or both.

(b) Whoever willfully—

(1) intimidates, coerces, threatens, or harasses a foreign official or an official guest or obstructs a foreign official in the performance of his duties;

(2) attempts to intimidate, coerce, threaten, or harass a foreign official or an official guest or obstruct a foreign official in the performance of his duties; or

(3) within the United States and within one hundred feet of any building or premises in whole or in part owned, used, or occupied for official business or for diplomatic, consular, or residential purposes by—

(A) a foreign government, including such use as a mission to an international organization;

(B) an international organization;

(C) a foreign official; or

(D) an official guest;

congregates with two or more other persons with intent to violate any other provision of this section;

shall be fined under this title or imprisoned not more than six months, or both.

(c) For the purpose of this section ''foreign government'', ''foreign official'', ''internationally protected person'', ''international organization'', ''national of the United States'', and ''official guest'' shall have the same meanings as those provided in section 1116(b) of this title.

(d) Nothing contained in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the first amendment to the Constitution of the United States.

(e) If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 46501(2) of title 49.

(f) In the course of enforcement of subsection (a) and any other sections prohibiting a conspiracy or attempt to violate subsection (a), the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary, notwithstanding.

(June 25, 1948, ch. 645, 62 Stat. 688; Pub. L. 88–493, §1, Aug. 27, 1964, 78 Stat. 610; Pub. L. 92–539, title III, §301, Oct. 24, 1972, 86 Stat. 1072; Pub. L. 94–467, §5, Oct. 8, 1976, 90 Stat. 1999; Pub. L. 95–163, §17(b)(1), Nov. 9, 1977, 91 Stat. 1286; Pub. L. 95–504, §2(b), Oct. 24, 1978, 92 Stat. 1705; Pub. L. 100–690, title VI, §6478, Nov. 18, 1988, 102 Stat. 4381; Pub. L. 103–272, §5(e)(2), July 5, 1994, 108 Stat. 1373; Pub. L. 103–322, title XXXII, §320101(b), title XXXIII, §330016(1)(G), (K), Sept. 13, 1994, 108 Stat. 2108, 2147; Pub. L. 104–132, title VII, §721(d), Apr. 24, 1996, 110 Stat. 1298; Pub. L. 104–294, title VI, §604(b)(12)(A), Oct. 11, 1996, 110 Stat. 3507.)

HISTORICAL AND REVISION NOTES

Based on section 255 of title 22, U.S.C., 1940 ed., Foreign Relations and Intercourse (R.S. §4062).

Punishment provision was rewritten to make it more definite by substituting a maximum of $5,000 in lieu of the words ''fined at the discretion of the court.'' As thus revised this provision conforms with the first punishment provision of section 111 of this title. So, also,

the greater punishment provided by the second paragraph of section 111 was added to this section for offenses involving the use of dangerous weapons.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–294 repealed Pub. L. 103–322, § 320101(b)(1). See 1994 Amendment note below.

Subsec. (c). Pub. L. 104–132, § 721(d)(1), inserted ''‘national of the United States’,'' before ''and ‘official guest’''.

Subsec. (e). Pub. L. 104–132, § 721(d)(2), inserted first sentence and struck out former first sentence which read as follows: ''If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender.''

1994—Subsec. (a). Pub. L. 103–322, § 330016(1)(K), substituted ''under this title'' for ''not more than $5,000'' before ''or imprisoned not more than three years''.

Pub. L. 103–322, § 320101(b)(2), (3), inserted '', or inflicts bodily injury,'' after ''weapon'' and substituted ''under this title'' for ''not more than $10,000'' before ''or imprisoned not more than ten years''.

Pub. L. 103–322, § 320101(b)(1), which provided for amendment identical to Pub. L. 103–322, § 330016(1)(K), above, was repealed by Pub. L. 104–294, § 604(b)(12)(A).

Subsec. (b). Pub. L. 103–322, § 330016(1)(G), in concluding provisions, substituted ''under this title'' for ''not more than $500''.

Subsec. (e). Pub. L. 103–272 substituted ''section 46501(2) of title 49'' for ''section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(38))''.

1988—Subsec. (b)(3). Pub. L. 100–690 struck out ''but outside the District of Columbia'' after ''United States''.

1978—Subsec. (e). Pub. L. 95–504 substituted reference to section 101(38) of the Federal Aviation Act of 1958 for reference to section 101(35) of such Act.

1977—Subsec. (e). Pub. L. 95–163 substituted reference to section 101(35) of the Federal Aviation Act of 1958 for reference to section 101(34) of such Act.

1976—Pub. L. 94–467 substituted ''official guests, and internationally protected persons'' for ''and official guests'' in section catchline.

Subsec. (a). Pub. L. 94–467 substituted ''official guest, or internationally protected person'' for ''or official guest'' and inserted provision including any other violent attack on the person or the liberty of such official, guest, or protected person, his official premises, private accommodation, or means of transport, or any attempt thereof, as acts subject to fine or imprisonment.

Subsec. (b). Pub. L. 94–467 restructured subsec. (b) and added pars. (2) and (3).

Subsec. (c). Pub. L. 94–467 redesignated subsec. (d) as (c), inserted ''internationally protected persons'', and struck out reference to section 1116(c) of this title. Former subsec. (c), which related to punishment for intimidating or harassing demonstrations against foreign officials or any combination of two or more persons for such purposes, within one hundred feet of any buildings or premises owned by a foreign government located within the United States but outside the District of Columbia, was struck out.

Subsecs. (d) to (f). Pub. L. 94–467 added subsecs. (e) and (f) and redesignated former subsecs. (d) and (e) as (c) and (d), respectively.

1972—Subsec. (a). Pub. L. 92–539 substituted ''Protection of foreign officials and official guests'' for ''Assaulting certain foreign diplomatic and other official personnel'' in section catchline, designated existing provisions as subsec. (a), and substituted ''a foreign official or official guest'' for ''the person of a head of foreign state or foreign government, foreign minister, ambassador or other public minister'' and ''act'' for ''acts''.

Subsecs. (b) to (e). Pub. L. 92–539 added subsecs. (b) to (e).

1964—Pub. L. 88–493 included heads of foreign states or governments and foreign ministers.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

SHORT TITLE OF 1976 AMENDMENT

Section 1 of Pub. L. 94–467 provided: ''That this Act [enacting section 878 of this title, amending this section and sections 11, 970, 1116, and 1201 of this title, and enacting provisions set out as notes under this section] may be cited as the ‘Act for the Prevention and Punishment of Crimes Against Internationally Protected Persons’.''

SHORT TITLE OF 1972 AMENDMENT

Section 1 of Pub. L. 92–539 provided: ''That this Act [enacting sections 970, 1116, and 1117 of this title, amending this section and section 1201 of this title, and enacting provisions set out as notes under this section] may be cited as the ‘Act for the Protection of Foreign Officials and Official Guests of the United States’.''

STATE AND LOCAL LAWS NOT SUPERSEDED

Section 10 of Pub. L. 94–467 provided that: ''Nothing contained in this Act [see Short Title of 1976 Amendment note above] shall be construed to indicate an intent on the part of Congress to occupy the field in which its provisions operate to the exclusion of the laws of any State, Commonwealth, territory, possession, or the District of Columbia, on the same subject matter, nor to relieve any person of any obligation imposed by any law of any State, Commonwealth, territory, possession, or the District of Columbia, including the obligation of all persons having official law enforcement powers to take appropriate action, such as effecting arrests, for Federal as well as non-Federal violations.''

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

Section 2 of Pub. L. 92–539 provided that:

''The Congress recognizes that from the beginning of our history as a nation, the police power to investigate, prosecute, and punish common crimes such as murder, kidnaping, and assault has resided in the several States, and that such power should remain with the States.

''The Congress finds, however, that harassment, intimidation, obstruction, coercion, and acts of violence committed against foreign officials or their family members in the United States or against official guests of the United States adversely affect the foreign relations of the United States.

''Accordingly, this legislation is intended to afford the United States jurisdiction concurrent with that of the several States to proceed against those who by such acts interfere with its conduct of foreign affairs.''

FEDERAL PREEMPTION

Section 3 of Pub. L. 92–539 provided that: ''Nothing contained in this Act [see Short Title of 1972 Amendment note above] shall be construed to indicate an intent on the part of Congress to occupy the field in which its provisions operate to the exclusion of the laws of any State, Commonwealth, territory, possession, or the District of Columbia on the same subject matter, nor to relieve any person of any obligation imposed by any law of any State, Commonwealth, territory, possession, or the District of Columbia.''

IMMUNITY FROM CRIMINAL PROSECUTION

Section 5 of Pub. L. 88–493 provided that: ''Nothing contained in this Act [amending this section and section 1114 of this title, and enacting section 170e–1 of former Title 5, Executive Departments and Government Officers and Employees] shall create immunity

from criminal prosecution under any laws in any State, Commonwealth of Puerto Rico, territory, possession, or the District of Columbia.''

§113. Assaults within maritime and territorial jurisdiction

(a) Whoever, within the special maritime and territorial jurisdiction of the United States, is guilty of an assault shall be punished as follows:

(1) Assault with intent to commit murder, by imprisonment for not more than twenty years.

(2) Assault with intent to commit any felony, except murder or a felony under chapter 109A, by a fine under this title or imprisonment for not more than ten years, or both.

(3) Assault with a dangerous weapon, with intent to do bodily harm, and without just cause or excuse, by a fine under this title or imprisonment for not more than ten years, or both.

(4) Assault by striking, beating, or wounding, by a fine under this title or imprisonment for not more than six months, or both.

(5) Simple assault, by a fine under this title or imprisonment for not more than six months, or both, or if the victim of the assault is an individual who has not attained the age of 16 years, by fine under this title or imprisonment for not more than 1 year, or both.

(6) Assault resulting in serious bodily injury, by a fine under this title or imprisonment for not more than ten years, or both.

(7) Assault resulting in substantial bodily injury to an individual who has not attained the age of 16 years, by fine under this title or imprisonment for not more than 5 years, or both.

(b) As used in this subsection—

(1) the term ''substantial bodily injury'' means bodily injury which involves—

(A) a temporary but substantial disfigurement; or

(B) a temporary but substantial loss or impairment of the function of any bodily member, organ, or mental faculty; and

(2) the term ''serious bodily injury'' has the meaning given that term in section 1365 of this title.

(June 25, 1948, ch. 645, 62 Stat. 689; Pub. L. 94–297, §3, May 29, 1976, 90 Stat. 585; Pub. L. 99–646, §87(c)(2), (3), Nov. 10, 1986, 100 Stat. 3623; Pub. L. 99–654, §3(a)(2), (3), Nov. 14, 1986, 100 Stat. 3663; Pub. L. 103–322, title XVII, §170201(a)–(d), title XXXII, §320101(c), title XXXIII, §330016(2)(B), Sept. 13, 1994, 108 Stat. 2042, 2043, 2108, 2148; Pub. L. 104–294, title VI, §604(b)(7), (12)(B), Oct. 11, 1996, 110 Stat. 3507.)

Historical and Revision Notes

Based on title 18, U.S.C., 1940 ed., §455 (Mar. 4, 1909, ch. 321, §276, 35 Stat. 1143).

Opening paragraph was added to preserve the jurisdictional limitation provided for by section 451 of title 18, U.S.C., 1940 ed., now section 7 of this title. (See reviser's note thereunder.)

Phraseology was simplified.

Amendments

1996—Pub. L. 104–294, §604(b)(12)(B), repealed Pub. L. 103–322, §320101(c)(1)(A), (2)(A). See 1994 Amendment note below.

Pub. L. 104–294, §604(b)(7), repealed Pub. L. 103–322, §170201(c)(1)–(3). See 1994 Amendment note below.

1994—Pub. L. 103–322, §330016(2)(B), substituted ''a fine under this title'' for ''fine of not more than'' through the immediately following dollar amount wherever appearing.

Pub. L. 103–322, §320101(c), as amended by Pub. L. 104–294, §604(b)(12)(B), which directed the amendment of subsec. (c) by substituting ''ten years'' for ''five years'' and the amendment of subsec. (e) by substituting ''six months'' for ''three months'', were executed by making the substitutions in subsecs. (a)(3) and (a)(5), respectively, to reflect the probable intent of Congress and the redesignation of subsecs. (c) and (e) as subsecs. (a)(3) and (a)(5), respectively. See below.

Pub. L. 103–322, §170201(a)–(d), as amended by Pub. L. 104–294, §604(b)(7), designated existing provisions as subsec. (a), redesignated former subsecs. (a) to (f) as pars. (1) to (6), respectively of subsec. (a) and realigned margins, inserted before period at end of par. (5) '', or if the victim of the assault is an individual who has not attained the age of 16 years, by fine under this title or imprisonment for not more than 1 year, or both'', and added subsecs. (a)(7) and (b).

1986—Subsec. (a). Pub. L. 99–646, §87(c)(2), and Pub. L. 99–654, §3(a)(2), amended subsec. (a) identically, striking out ''or rape'' after ''murder''.

Subsec. (b). Pub. L. 99–646, §87(c)(3), and Pub. L. 99–654, §3(a)(3), amended subsec. (b) identically, substituting ''a felony under chapter 109A'' for ''rape''.

1976—Subsec. (f). Pub. L. 94–297 added subsec. (f).

Effective Date of 1996 Amendment

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

Effective Date of 1986 Amendments

Amendments by Pub. L. 99–646 and Pub. L. 99–654 effective respectively 30 days after Nov. 10, 1986, and 30 days after Nov. 14, 1986, see section 87(e) of Pub. L. 99–646 and section 4 of Pub. L. 99–654, set out as an Effective Date note under section 2241 of this title.

§114. Maiming within maritime and territorial jurisdiction

Whoever, within the special maritime and territorial jurisdiction of the United States, and with intent to torture (as defined in section 2340), maim, or disfigure, cuts, bites, or slits the nose, ear, or lip, or cuts out or disables the tongue, or puts out or destroys an eye, or cuts off or disables a limb or any member of another person; or

Whoever, within the special maritime and territorial jurisdiction of the United States, and with like intent, throws or pours upon another person, any scalding water, corrosive acid, or caustic substance—

Shall be fined under this title or imprisoned not more than twenty years, or both.

(June 25, 1948, ch. 645, 62 Stat. 689; May 24, 1949, ch. 139, §3, 63 Stat. 90; Pub. L. 98–473, title II, §1009A, Oct. 12, 1984, 98 Stat. 2141; Pub. L. 101–647, title XXXV, §3507, Nov. 29, 1990, 104 Stat. 4922; Pub. L. 103–322, title XXXIII, §330016(1)(O), Sept. 13, 1994, 108 Stat. 2148; Pub. L. 104–132, title VII, §705(a)(1), Apr. 24, 1996, 110 Stat. 1295.)

Historical and Revision Notes

1948 Act

Based on title 18, U.S.C., 1940 ed., §462 (Mar. 4, 1909, ch. 321, §283, 35 Stat. 1144).

The words ''within the special maritime and territorial jurisdiction of the United States, and'' were

added to preserve jurisdictional limitation provided for by section 451 of title 18, U.S.C., 1940 ed., now section 7 of this title. (See reviser's note thereunder.)

Changes in phraseology were made.

1949 ACT

This section [section 3] corrects a typographical error in section 114 of title 18, U.S.C.

AMENDMENTS

1996—Pub. L. 104–132 substituted ''torture (as defined in section 2340), maim, or disfigure'' for ''maim or disfigure''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $25,000''.

1990—Pub. L. 101–647 substituted ''or imprisoned'' for ''and imprisoned''.

1984—Pub. L. 98–473 substituted ''and imprisoned'' for ''or imprisoned'' and provisions raising maximum fine from $1,000 to $25,000 and raising maximum term of imprisonment from seven years to twenty years.

1949—Act May 24, 1949, corrected spelling of ''maim''.

§ 115. Influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member

(a)(1) Whoever—

(A) assaults, kidnaps, or murders, or attempts or conspires to kidnap or murder, or threatens to assault, kidnap or murder a member of the immediate family of a United States official, a United States judge, a Federal law enforcement officer, or an official whose killing would be a crime under section 1114 of this title; or

(B) threatens to assault, kidnap, or murder, a United States official, a United States judge, a Federal law enforcement officer, or an official whose killing would be a crime under such section,

with intent to impede, intimidate, or interfere with such official, judge, or law enforcement officer while engaged in the performance of official duties, or with intent to retaliate against such official, judge, or law enforcement officer on account of the performance of official duties, shall be punished as provided in subsection (b).

(2) Whoever assaults, kidnaps, or murders, or attempts or conspires to kidnap or murder, or threatens to assault, kidnap, or murder, any person who formerly served as a person designated in paragraph (1), or a member of the immediate family of any person who formerly served as a person designated in paragraph (1), with intent to retaliate against such person on account of the performance of official duties during the term of service of such person, shall be punished as provided in subsection (b).

(b)(1) An assault in violation of this section shall be punished as provided in section 111 of this title.

(2) A kidnapping, attempted kidnapping, or conspiracy to kidnap in violation of this section shall be punished as provided in section 1201 of this title for the kidnapping or attempted kidnapping of, or a conspiracy to kidnap, a person described in section 1201(a)(5) of this title.

(3) A murder, attempted murder, or conspiracy to murder in violation of this section shall be punished as provided in sections 1111, 1113, and 1117 of this title.

(4) A threat made in violation of this section shall be punished by a fine under this title or imprisonment for a term of not more than 10 years, or both, except that imprisonment for a threatened assault shall not exceed 6 years.

(c) As used in this section, the term—

(1) ''Federal law enforcement officer'' means any officer, agent, or employee of the United States authorized by law or by a Government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of Federal criminal law;

(2) ''immediate family member'' of an individual means—

(A) his spouse, parent, brother or sister, child or person to whom he stands in loco parentis; or

(B) any other person living in his household and related to him by blood or marriage;

(3) ''United States judge'' means any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate judge; and

(4) ''United States official'' means the President, President-elect, Vice President, Vice President-elect, a Member of Congress, a member-elect of Congress, a member of the executive branch who is the head of a department listed in 5 U.S.C. 101, or the Director of the Central Intelligence Agency.

(d) This section shall not interfere with the investigative authority of the United States Secret Service, as provided under sections 3056, 871, and 879 of this title.

(Added Pub. L. 98–473, title II, § 1008(a), Oct. 12, 1984, 98 Stat. 2140; amended Pub. L. 99–646, §§ 37(a), 60, Nov. 10, 1986, 100 Stat. 3599, 3613; Pub. L. 100–690, title VI, § 6487(f)[b], Nov. 18, 1988, 102 Stat. 4386; Pub. L. 101–647, title XXXV, § 3508, Nov. 29, 1990, 104 Stat. 4922; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 103–322, title XXXIII, §§ 330016(2)(C), 330021(1), Sept. 13, 1994, 108 Stat. 2148, 2150; Pub. L. 104–132, title VII, §§ 723(a), 727(b), Apr. 24, 1996, 110 Stat. 1300, 1302; Pub. L. 107–273, div. B, title IV, § 4002(b)(9), div. C, title I, § 11008(c), Nov. 2, 2002, 116 Stat. 1808, 1818.)

AMENDMENTS

2002—Subsec. (b)(2). Pub. L. 107–273, § 4002(b)(9), substituted ''or attempted kidnapping of, or a conspiracy to kidnap, a person'' for '', attempted kidnapping, or conspiracy to kidnap of a person''.

Subsec. (b)(4). Pub. L. 107–273, § 11008(c), substituted ''10'' for ''five'' and ''6'' for ''three''.

1996—Subsec. (a)(1)(A). Pub. L. 104–132, § 723(a)(1), inserted ''or conspires'' after ''attempts''.

Subsec. (a)(2). Pub. L. 104–132, § 727(b)(1), which directed insertion of '', or threatens to assault, kidnap, or murder, any person who formerly served as a person designated in paragraph (1), or'' after ''assaults, kidnaps, or murders, or attempts to kidnap or murder'', was executed by making the substitution after ''assaults, kidnaps, or murders, or attempts or conspires to kidnap or murder'' to reflect the probable intent of Congress and the amendment by Pub. L. 104–132, § 723(a)(1). See below.

Pub. L. 104–132, § 723(a)(1), inserted ''or conspires'' after ''attempts''.

Subsec. (b)(2). Pub. L. 104–132, § 723(a)(2), substituted '', attempted kidnapping, or conspiracy to kidnap'' for ''or attempted kidnapping'' in two places.

Subsec. (b)(3). Pub. L. 104–132, § 723(a)(3), substituted '', attempted murder, or conspiracy to murder'' and

'', 1113, and 1117'' for ''or attempted murder'' and ''and 1113'', respectively.

Subsec. (d). Pub. L. 104–132, §727(b)(2), added subsec. (d).

1994—Subsec. (b)(2). Pub. L. 103–322, §330021(1), substituted ''kidnapping'' for ''kidnaping'' in two places.

Subsec. (b)(4). Pub. L. 103–322, §330016(2)(C), substituted ''fine under this title'' for ''fine of not more than $5,000''.

1990—Subsec. (c)(4). Pub. L. 101–647 substituted ''the Central'' for ''The Central''.

1988—Subsec. (a). Pub. L. 100–690 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Whoever assaults, kidnaps, or murders, or attempts to kidnap or murder, or threatens to assault, kidnap or murder a member of the immediate family of a United States official, a United States judge, a Federal law enforcement officer, or an official whose killing would be a crime under section 1114 of this title, or threatens to assault, kidnap, or murder, a United States official, a United States judge, a Federal law enforcement officer, or an official whose killing would be a crime under such section with intent to impede, intimidate, interfere with, or retaliate against such official, judge or law enforcement officer while engaged in or on account of the performance of official duties, shall be punished as provided in subsection (b).''

1986—Subsec. (a). Pub. L. 99–646, §60, substituted ''section 1114 of this title, or threatens to assault, kidnap, or murder, a United States official, a United States judge, a Federal law enforcement officer, or an official whose killing would be a crime under such section'' for ''18 U.S.C. 1114, as amended,'', ''while engaged'' for ''while he is engaged'', and ''official duties'' for ''his official duties''.

Subsec. (b)(2). Pub. L. 99–646, §37(a), inserted ''for the kidnapping or attempted kidnapping of a person described in section 1201(a)(5) of this title''.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of Title 50, War and National Defense.

''United States magistrate judge'' substituted for ''United States magistrate'' in subsec. (c)(3) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 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.

§116. Female genital mutilation

(a) Except as provided in subsection (b), whoever knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not attained the age of 18 years shall be fined under this title or imprisoned not more than 5 years, or both.

(b) A surgical operation is not a violation of this section if the operation is—

(1) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or

(2) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.

(c) In applying subsection (b)(1), no account shall be taken of the effect on the person on whom the operation is to be performed of any belief on the part of that person, or any other person, that the operation is required as a matter of custom or ritual.

(Added Pub. L. 104–208, div. C, title VI, §645(b)(1), Sept. 30, 1996, 110 Stat. 3009–709.)

EFFECTIVE DATE

Section 645(c) of div. C of Pub. L. 104–208 provided that: ''The amendments made by subsection (b) [enacting this section] shall take effect on the date that is 180 days after the date of the enactment of this Act [Sept. 30, 1996].''

CONGRESSIONAL FINDINGS

Section 645(a) of div. C of Pub. L. 104–208 provided that: ''The Congress finds that—

''(1) the practice of female genital mutilation is carried out by members of certain cultural and religious groups within the United States;

''(2) the practice of female genital mutilation often results in the occurrence of physical and psychological health effects that harm the women involved;

''(3) such mutilation infringes upon the guarantees of rights secured by Federal and State law, both statutory and constitutional;

''(4) the unique circumstances surrounding the practice of female genital mutilation place it beyond the ability of any single State or local jurisdiction to control;

''(5) the practice of female genital mutilation can be prohibited without abridging the exercise of any rights guaranteed under the first amendment to the Constitution or under any other law; and

''(6) Congress has the affirmative power under section 8 of article I, the necessary and proper clause, section 5 of the fourteenth Amendment, as well as under the treaty clause, to the Constitution to enact such legislation.''

§117. Domestic assault by an habitual offender

(a) IN GENERAL.—Any person who commits a domestic assault within the special maritime and territorial jurisdiction of the United States or Indian country and who has a final conviction on at least 2 separate prior occasions in Federal, State, or Indian tribal court proceedings for offenses that would be, if subject to Federal jurisdiction—

(1) any assault, sexual abuse, or serious violent felony against a spouse or intimate partner; or

(2) an offense under chapter 110A,

shall be fined under this title, imprisoned for a term of not more than 5 years, or both, except that if substantial bodily injury results from violation under this section, the offender shall be imprisoned for a term of not more than 10 years.

(b) DOMESTIC ASSAULT DEFINED.—In this section, the term ''domestic assault'' means an as-

sault committed by a current or former spouse, parent, child, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, parent, child, or guardian, or by a person similarly situated to a spouse, parent, child, or guardian of the victim.

(Added Pub. L. 109–162, title IX, § 909, Jan. 5, 2006, 119 Stat. 3084.)

CHAPTER 9—BANKRUPTCY

Sec.
151. Definition.
152. Concealment of assets; false oaths and claims; bribery.
153. Embezzlement against estate.
154. Adverse interest and conduct of officers.
155. Fee agreements in cases under title 11 and receiverships.
156. Knowing disregard of bankruptcy law or rule.
157. Bankruptcy fraud.
158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules.

AMENDMENTS

2005—Pub. L. 109–8, title II, § 203(b)(2), Apr. 20, 2005, 119 Stat. 49, added item 158.

1994—Pub. L. 103–394, title III, § 312(a)(2), Oct. 22, 1994, 108 Stat. 4140, substituted ''against estate'' for ''by trustee or officer'' in item 153 and added items 156 and 157.

1978—Pub. L. 95–598, title III, § 314(b)(2), (d)(3), (e)(3), (f)(3), Nov. 6, 1978, 92 Stat. 2677, substituted in item 151 ''Definition'' for ''Definitions''; struck from item 153 '', receiver'' after ''trustee'' and from item 154 ''referees and other'' before ''officers''; and substituted in item 155 ''cases under title 11 and receiverships'' for ''bankruptcy proceedings''.

§ 151. Definition

As used in this chapter, the term ''debtor'' means a debtor concerning whom a petition has been filed under title 11.

(June 25, 1948, ch. 645, 62 Stat. 689; Pub. L. 95–598, title III, § 314(b)(1), Nov. 6, 1978, 92 Stat. 2676; Pub. L. 103–322, title XXXIII, § 330008(5), Sept. 13, 1994, 108 Stat. 2143.)

HISTORICAL AND REVISION NOTES

Based on section 52(f) of title 11, U.S.C., 1940 ed., Bankruptcy (July 1, 1898, ch. 541, § 29f as added June 22, 1938, ch. 575, § 1, 52 Stat. 857).

Definition of ''bankruptcy'' was added to avoid repetitious references to said title 11.

Minor changes in phraseology was made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''means'' for ''mean''.

1978—Pub. L. 95–598 substituted ''Definition'' for ''Definitions'' in section catchline, substituted definition of ''debtor'' as a debtor concerning whom a petition has been filed under title 11 for definition of ''bankrupt'' as a debtor by or against whom a petition has been filed under title 11, and struck out definition of ''bankruptcy'' as including any proceeding, arrangement, or plan pursuant to title 11.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

SAVINGS PROVISION

Amendment by section 314 of Pub. L. 95–598 not to affect the application of chapter 9 (§ 151 et seq.), chapter 96 (§ 1961 et seq.), or section 2516, 3057, or 3284 of this title to any act of any person (1) committed before Oct. 1, 1979, or (2) committed after Oct. 1, 1979, in connection with a case commenced before such date, see section 403(d) of Pub. L. 95–598, set out as a note preceding section 101 of Title 11, Bankruptcy.

§ 152. Concealment of assets; false oaths and claims; bribery

A person who—

(1) knowingly and fraudulently conceals from a custodian, trustee, marshal, or other officer of the court charged with the control or custody of property, or, in connection with a case under title 11, from creditors or the United States Trustee, any property belonging to the estate of a debtor;

(2) knowingly and fraudulently makes a false oath or account in or in relation to any case under title 11;

(3) knowingly and fraudulently makes a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, in or in relation to any case under title 11;

(4) knowingly and fraudulently presents any false claim for proof against the estate of a debtor, or uses any such claim in any case under title 11, in a personal capacity or as or through an agent, proxy, or attorney;

(5) knowingly and fraudulently receives any material amount of property from a debtor after the filing of a case under title 11, with intent to defeat the provisions of title 11;

(6) knowingly and fraudulently gives, offers, receives, or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or promise thereof for acting or forbearing to act in any case under title 11;

(7) in a personal capacity or as an agent or officer of any person or corporation, in contemplation of a case under title 11 by or against the person or any other person or corporation, or with intent to defeat the provisions of title 11, knowingly and fraudulently transfers or conceals any of his property or the property of such other person or corporation;

(8) after the filing of a case under title 11 or in contemplation thereof, knowingly and fraudulently conceals, destroys, mutilates, falsifies, or makes a false entry in any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor; or

(9) after the filing of a case under title 11, knowingly and fraudulently withholds from a custodian, trustee, marshal, or other officer of the court or a United States Trustee entitled to its possession, any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor,

shall be fined under this title, imprisoned not more than 5 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 689; Pub. L. 86–519, §2, June 12, 1960, 74 Stat. 217; Pub. L. 86–701, Sept. 2, 1960, 74 Stat. 753; Pub. L. 94–550, §4, Oct. 18, 1976, 90 Stat. 2535; Pub. L. 95–598, title III, §314(a), (c), Nov. 6, 1978, 92 Stat. 2676, 2677; Pub. L. 100–690, title VII, §7017, Nov. 18, 1988, 102 Stat. 4395; Pub. L. 103–322, title XXXIII, §330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 103–394, title III, §312(a)(1)(A), Oct. 22, 1994, 108 Stat. 4138; Pub. L. 104–294, title VI, §601(a)(1), Oct. 11, 1996, 110 Stat. 3497.)

HISTORICAL AND REVISION NOTES

Based on section 52(b) of title 11, U.S.C., 1940 ed., Bankruptcy (July 1, 1898, ch. 541, §29b, 30 Stat. 554; May 27, 1926, ch. 406, §11 (part), 44 Stat. 665; June 22, 1938, ch. 575, §1 (part), 52 Stat. 855).

Section was broadened to apply to one who gives or offers a bribe.

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''fined under this title'' for ''fined not more than $5,000'' in closing provisions.

1994—Pub. L. 103–394 amended section generally, designating undesignated pars. as opening provisions, pars. (1) to (9), and closing provisions, and in pars. (1) and (9) inserting reference to United States Trustee.

Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in last par.

1988—Pub. L. 100–690 substituted ''penalty of perjury'' for ''penalty or perjury'' in third par.

1978—Pub. L. 95–598 substituted, wherever appearing, ''debtor'' for ''bankrupt'', ''case under title 11'' for ''bankruptcy proceeding'', and ''provisions of title 11'' for ''bankruptcy law''; and substituted ''a custodian'' for ''the receiver, custodian'', wherever appearing, and ''recorded information, including books, documents, records, and papers, relating to the property or financial affairs'' for ''document affecting or relating to the property or affairs'', in two places.

1976—Pub. L. 94–550 inserted paragraph covering the knowing and fraudulent making of a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28 or in relation to any bankruptcy proceeding.

1960—Pub. L. 86–701 included fraudulent transfers and concealment of property by persons in their individual capacity in sixth par.

Pub. L. 86–519 struck out ''under oath'' after ''knowingly and fraudulently presents'' in third par.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–394 effective Oct. 22, 1994, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before Oct. 22, 1994, see section 702 of Pub. L. 103–394, set out as a note under section 101 of Title 11.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

SAVINGS PROVISION

Amendment by section 314 of Pub. L. 95–598 not to affect the application of chapter 9 (§151 et seq.), chapter 96 (§1961 et seq.), or section 2516, 3057, or 3284 of this title to any act of any person (1) committed before Oct. 1, 1979, or (2) committed after Oct. 1, 1979, in connection with a case commenced before such date, see section 403(d) of Pub. L. 95–598, set out as a note preceding section 101 of Title 11, Bankruptcy.

§153. Embezzlement against estate

(a) OFFENSE.—A person described in subsection (b) who knowingly and fraudulently appropriates to the person's own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor shall be fined under this title, imprisoned not more than 5 years, or both.

(b) PERSON TO WHOM SECTION APPLIES.—A person described in this subsection is one who has access to property or documents belonging to an estate by virtue of the person's participation in the administration of the estate as a trustee, custodian, marshal, attorney, or other officer of the court or as an agent, employee, or other person engaged by such an officer to perform a service with respect to the estate.

(June 25, 1948, ch. 645, 62 Stat. 690; Pub. L. 95–598, title III, §314(a)(1), (d)(1), (2), Nov. 6, 1978, 92 Stat. 2676, 2677; Pub. L. 103–322, title XXXIII, §330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 103–394, title III, §312(a)(1)(A), Oct. 22, 1994, 108 Stat. 4139; Pub. L. 104–294, title VI, §601(a)(1), Oct. 11, 1996, 110 Stat. 3497.)

HISTORICAL AND REVISION NOTES

Based on section 52(a) of title 11, U.S.C., 1940 ed., Bankruptcy (July 1, 1898, ch. 541, §29a, 30 Stat. 554; May 27, 1926, ch. 406, §11 (part), 44 Stat. 665; June 22, 1938, ch. 575, §1 (part), 52 Stat. 855).

Minor changes were made in phraseology.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–294 substituted ''fined under this title'' for ''fined not more than $5,000''.

1994—Pub. L. 103–394 amended section generally. Prior to amendment, section read as follows: ''Whoever knowingly and fraudulently appropriates to his own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor which came into his charge as trustee, custodian, marshal, or other officer of the court, shall be fined under this title or imprisoned not more than five years, or both.''

Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

1978—Pub. L. 95–598 struck out '', receiver'' after ''trustee'' in section catchline and in text struck out ''receiver,'' before ''custodian'' and substituted ''debtor'' for ''bankrupt''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–394 effective Oct. 22, 1994, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before Oct. 22, 1994, see section 702 of Pub. L. 103–394, set out as a note under section 101 of Title 11.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

SAVINGS PROVISION

Amendment by section 314 of Pub. L. 95–598 not to affect the application of chapter 9 (§151 et seq.), chapter 96 (§1961 et seq.), or section 2516, 3057, or 3284 of this title to any act of any person (1) committed before Oct. 1, 1979, or (2) committed after Oct. 1, 1979, in connection with a case commenced before such date, see section 403(d) of Pub. L. 95–598, set out as a note preceding section 101 of Title 11, Bankruptcy.

§154. Adverse interest and conduct of officers

A person who, being a custodian, trustee, marshal, or other officer of the court—

(1) knowingly purchases, directly or indirectly, any property of the estate of which the

person is such an officer in a case under title 11;

(2) knowingly refuses to permit a reasonable opportunity for the inspection by parties in interest of the documents and accounts relating to the affairs of estates in the person's charge by parties when directed by the court to do so; or

(3) knowingly refuses to permit a reasonable opportunity for the inspection by the United States Trustee of the documents and accounts relating to the affairs of an estate in the person's charge,

shall be fined under this title and shall forfeit the person's office, which shall thereupon become vacant.

(June 25, 1948, ch. 645, 62 Stat. 690; Pub. L. 95–598, title III, § 314(a)(2), (e)(1), (2), Nov. 6, 1978, 92 Stat. 2676, 2677; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 103–394, title III, § 312(a)(1)(A), Oct. 22, 1994, 108 Stat. 4139; Pub. L. 104–294, title VI, § 601(a)(1), Oct. 11, 1996, 110 Stat. 3497.)

HISTORICAL AND REVISION NOTES

Based on section 52(c) of title 11, U.S.C., 1940 ed., Bankruptcy (July 1, 1898, ch. 541, § 29c, 30 Stat. 554; June 22, 1938, ch. 575, § 1 (part), 52 Stat. 856).

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''fined under this title'' for ''fined not more than $5,000'' in closing provisions.

1994—Pub. L. 103–394 amended section generally. Prior to amendment, section read as follows:

''Whoever, being a custodian, trustee, marshal, or other officer of the court, knowingly purchases, directly or indirectly, any property of the estate of which he is such officer in a case under title 11; or

''Whoever being such officer, knowingly refuses to permit a reasonable opportunity for the inspection of the documents and accounts relating to the affairs of estates in his charge by parties in interest when directed by the court to do so—

''Shall be fined under this title, and shall forfeit his office, which shall thereupon become vacant.''

Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500'' in third par.

1978—Pub. L. 95–598 struck out ''referees and other'' before ''officers'' in section catchline, and in text struck out ''Whoever knowingly acts as a referee in a case in which he is directly or indirectly interested; or'' before ''Whoever, being a'' and ''referee, receiver,'' before ''custodian'' and substituted ''case under title 11'' for ''bankruptcy proceeding''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–394 effective Oct. 22, 1994, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before Oct. 22, 1994, see section 702 of Pub. L. 103–394, set out as a note under section 101 of Title 11.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

SAVINGS PROVISION

Amendment by section 314 of Pub. L. 95–598 not to affect the application of chapter 9 (§ 151 et seq.), chapter 96 (§ 1961 et seq.), or section 2516, 3057, or 3284 of this title to any act of any person (1) committed before Oct. 1, 1979, or (2) committed after Oct. 1, 1979, in connection with a case commenced before such date, see section 403(d) of Pub. L. 95–598, set out as a note preceding section 101 of Title 11, Bankruptcy.

§ 155. Fee agreements in cases under title 11 and receiverships

Whoever, being a party in interest, whether as a debtor, creditor, receiver, trustee or representative of any of them, or attorney for any such party in interest, in any receivership or case under title 11 in any United States court or under its supervision, knowingly and fraudulently enters into any agreement, express or implied, with another such party in interest or attorney for another such party in interest, for the purpose of fixing the fees or other compensation to be paid to any party in interest or to any attorney for any party in interest for services rendered in connection therewith, from the assets of the estate, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 690; May 24, 1949, ch. 139, § 4, 63 Stat. 90; Pub. L. 95–598, title III, § 314(f)(1), (2), Nov. 6, 1978, 92 Stat. 2677; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on section 572a of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary (Aug. 25, 1937, ch. 777, 50 Stat. 810.)

Words ''upon conviction'' were deleted as surplusage since punishment can be imposed only after a conviction.

A fine of ''$5,000'' was substituted for ''$10,000'' and ''one year'' for ''five years'', to reduce the offense to the grade of a misdemeanor and the punishment to an amount and term proportionate to the gravity of the offense.

Minor changes were made in phraseology.

1949 ACT

This amendment [see section 4] clarifies section 155 of title 18, U.S.C., by restating the first paragraph thereof in closer conformity with the original law, as it existed at the time of the enactment of the revision of title 18.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

1978—Pub. L. 95–598 substituted ''cases under title 11 and receiverships'' for ''bankruptcy proceedings'' in section catchline and in text ''or case under title 11'' for '', bankruptcy or reorganization proceeding'', inserted ''knowingly and fraudulently'' after ''supervision,'', and struck out penalty provision for a judge of a United States court to knowingly approve the payment of any fees or compensation that were fixed.

1949—Act May 24, 1949, inserted references to attorneys for any party in interest in three places, and substituted ''in any United States court or under its supervision'' for ''in or under the supervision of any court of the United States''.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

SAVINGS PROVISION

Amendment by section 314 of Pub. L. 95–598 not to affect the application of chapter 9 (§ 151 et seq.), chapter

96 (§ 1961 et seq.), or section 2516, 3057, or 3284 of this title to any act of any person (1) committed before Oct. 1, 1979, or (2) committed after Oct. 1, 1979, in connection with a case commenced before such date, see section 403(d) of Pub. L. 95–598, set out as a note preceding section 101 of Title 11, Bankruptcy.

§ 156. Knowing disregard of bankruptcy law or rule

(a) DEFINITIONS.—In this section—

(1) the term ''bankruptcy petition preparer'' means a person, other than the debtor's attorney or an employee of such an attorney, who prepares for compensation a document for filing; and

(2) the term ''document for filing'' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under title 11.

(b) OFFENSE.—If a bankruptcy case or related proceeding is dismissed because of a knowing attempt by a bankruptcy petition preparer in any manner to disregard the requirements of title 11, United States Code, or the Federal Rules of Bankruptcy Procedure, the bankruptcy petition preparer shall be fined under this title, imprisoned not more than 1 year, or both.

(Added Pub. L. 103–394, title III, § 312(a)(1)(B), Oct. 22, 1994, 108 Stat. 4140; amended Pub. L. 109–8, title XII, § 1220, Apr. 20, 2005, 119 Stat. 195.)

REFERENCES IN TEXT

The Federal Rules of Bankruptcy Procedure, referred to in subsec. (b), are set out in the Appendix to Title 11, Bankruptcy.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–8, in first par., inserted ''(1) the term'' before '' 'bankruptcy petition preparer' '' and substituted ''; and'' for period at end and, in second par., inserted ''(2) the term'' before '' 'document for filing' '' and substituted ''title 11'' for ''this title''.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–8 effective 180 days after Apr. 20, 2005, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before such effective date, except as otherwise provided, see section 1501 of Pub. L. 109–8, set out as a note under section 101 of Title 11.

EFFECTIVE DATE

Section effective Oct. 22, 1994, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before Oct. 22, 1994, see section 702 of Pub. L. 103–394, set out as an Effective Date of 1994 Amendment note under section 101 of Title 11.

§ 157. Bankruptcy fraud

A person who, having devised or intending to devise a scheme or artifice to defraud and for the purpose of executing or concealing such a scheme or artifice or attempting to do so—

(1) files a petition under title 11, including a fraudulent involuntary bankruptcy petition under section 303 of such title;

(2) files a document in a proceeding under title 11, including a fraudulent involuntary bankruptcy petition under section 303 of such title; or

(3) makes a false or fraudulent representation, claim, or promise concerning or in relation to a proceeding under title 11, including a fraudulent involuntary bankruptcy petition under section 303 of such title, at any time before or after the filing of the petition, or in relation to a proceeding falsely asserted to be pending under such title,

shall be fined under this title, imprisoned not more than 5 years, or both.

(Added Pub. L. 103–394, title III, § 312(a)(1)(B), Oct. 22, 1994, 108 Stat. 4140; amended Pub. L. 109–8, title III, § 332(c), Apr. 20, 2005, 119 Stat. 103.)

AMENDMENTS

2005—Pars. (1) to (3). Pub. L. 109–8, which directed insertion of '', including a fraudulent involuntary bankruptcy petition under section 303 of such title'' after ''title 11'', was executed by making the insertion after ''title 11'' wherever appearing, to reflect the probable intent of Congress.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–8 effective 180 days after Apr. 20, 2005, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before such effective date, except as otherwise provided, see section 1501 of Pub. L. 109–8, set out as a note under section 101 of Title 11.

EFFECTIVE DATE

Section effective Oct. 22, 1994, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before Oct. 22, 1994, see section 702 of Pub. L. 103–394, set out as an Effective Date of 1994 Amendment note under section 101 of Title 11.

§ 158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules

(a) IN GENERAL.—The Attorney General of the United States shall designate the individuals described in subsection (b) to have primary responsibility in carrying out enforcement activities in addressing violations of section 152 or 157 relating to abusive reaffirmations of debt. In addition to addressing the violations referred to in the preceding sentence, the individuals described under subsection (b) shall address violations of section 152 or 157 relating to materially fraudulent statements in bankruptcy schedules that are intentionally false or intentionally misleading.

(b) UNITED STATES ATTORNEYS AND AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION.—The individuals referred to in subsection (a) are—

(1) the United States attorney for each judicial district of the United States; and

(2) an agent of the Federal Bureau of Investigation for each field office of the Federal Bureau of Investigation.

(c) BANKRUPTCY INVESTIGATIONS.—Each United States attorney designated under this section shall, in addition to any other responsibilities, have primary responsibility for carrying out the duties of a United States attorney under section 3057.

(d) BANKRUPTCY PROCEDURES.—The bankruptcy courts shall establish procedures for referring any case that may contain a materially

fraudulent statement in a bankruptcy schedule to the individuals designated under this section.

(Added Pub. L. 109–8, title II, § 203(b)(1), Apr. 20, 2005, 119 Stat. 49.)

EFFECTIVE DATE

Section effective 180 days after Apr. 20, 2005, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before such effective date, except as otherwise provided, see section 1501 of Pub. L. 109–8, set out as an Effective Date of 2005 Amendment note under section 101 of Title 11.

CHAPTER 10—BIOLOGICAL WEAPONS

Sec.
175. Prohibitions with respect to biological weapons.
175a. Requests for military assistance to enforce prohibition in certain emergencies.
175b. Select agents; certain other agents.[1]
175c. Variola virus.
176. Seizure, forfeiture, and destruction.
177. Injunctions.
178. Definitions.

AMENDMENTS

2004—Pub. L. 108–458, title VI, § 6911(b), Dec. 17, 2004, 118 Stat. 3775, added item 175c.

2002—Pub. L. 107–188, title II, § 231(b)(2), June 12, 2002, 116 Stat. 661, substituted ''Select agents; certain other agents'' for ''Possession by restricted persons'' in item 175b.

2001—Pub. L. 107–56, title VIII, § 817(3), Oct. 26, 2001, 115 Stat. 386, added item 175b.

1996—Pub. L. 104–201, div. A, title XIV, § 1416(c)(1)(B), Sept. 23, 1996, 110 Stat. 2723, added item 175a.

§ 175. Prohibitions with respect to biological weapons

(a) IN GENERAL.—Whoever knowingly develops, produces, stockpiles, transfers, acquires, retains, or possesses any biological agent, toxin, or delivery system for use as a weapon, or knowingly assists a foreign state or any organization to do so, or attempts, threatens, or conspires to do the same, shall be fined under this title or imprisoned for life or any term of years, or both. There is extraterritorial Federal jurisdiction over an offense under this section committed by or against a national of the United States.

(b) ADDITIONAL OFFENSE.—Whoever knowingly possesses any biological agent, toxin, or delivery system of a type or in a quantity that, under the circumstances, is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose, shall be fined under this title, imprisoned not more than 10 years, or both. In this subsection, the terms ''biological agent'' and ''toxin'' do not encompass any biological agent or toxin that is in its naturally occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.

(c) DEFINITION.—For purposes of this section, the term ''for use as a weapon'' includes the development, production, transfer, acquisition, retention, or possession of any biological agent, toxin, or delivery system for other than prophylactic, protective, bona fide research, or other peaceful purposes.

(Added Pub. L. 101–298, § 3(a), May 22, 1990, 104 Stat. 201; amended Pub. L. 104–132, title V, § 511(b)(1), Apr. 24, 1996, 110 Stat. 1284; Pub. L. 107–56, title VIII, § 817(1), Oct. 26, 2001, 115 Stat. 385; Pub. L. 107–188, title II, § 231(c)(1), June 12, 2002, 116 Stat. 661.)

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–188 substituted ''protective, bona fide research, or other peaceful purposes'' for ''protective bona fide research, or other peaceful purposes''.

2001—Subsec. (b). Pub. L. 107–56, § 817(1)(C), added subsec. (b). Former subsec. (b) redesignated (c).

Pub. L. 107–56, § 817(1)(A), substituted ''includes'' for ''does not include'' and inserted ''other than'' after ''delivery system for'' and ''bona fide research'' after ''protective''.

Subsec. (c). Pub. L. 107–56, § 817(1)(B), redesignated subsec. (b) as (c).

1996—Subsec. (a). Pub. L. 104–132 inserted ''or attempts, threatens, or conspires to do the same,'' before ''shall be fined under this title''.

SHORT TITLE

Section 1 of Pub. L. 101–298 provided that: ''This Act [enacting this chapter and amending section 2516 of this title] may be cited as the 'Biological Weapons Anti-Terrorism Act of 1989'.''

PURPOSE AND INTENT

Section 2 of Pub. L. 101–298 provided that:

''(a) PURPOSE.—The purpose of this Act [see Short Title note above] is to—

''(1) implement the Biological Weapons Convention, an international agreement unanimously ratified by the United States Senate in 1974 and signed by more than 100 other nations, including the Soviet Union; and

''(2) protect the United States against the threat of biological terrorism.

''(b) INTENT OF ACT.—Nothing in this Act is intended to restrain or restrict peaceful scientific research or development.''

§ 175a. Requests for military assistance to enforce prohibition in certain emergencies

The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 175 of this title in an emergency situation involving a biological weapon of mass destruction. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.

(Added Pub. L. 104–201, div. A, title XIV, § 1416(c)(1)(A), Sept. 23, 1996, 110 Stat. 2723.)

§ 175b. Possession by restricted persons

(a)(1) No restricted person shall ship or transport in or affecting interstate or foreign commerce, or possess in or affecting interstate or foreign commerce, any biological agent or toxin, or receive any biological agent or toxin that has been shipped or transported in interstate or foreign commerce, if the biological agent or toxin is listed as a non-overlap or overlap select biological agent or toxin in sections 73.4 and 73.5 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not excluded under sections 73.4 and 73.5 or exempted under section 73.6 of title 42, Code of Federal Regulations.

[1] So in original. Does not conform to section catchline.

(2) Whoever knowingly violates this section shall be fined as provided in this title, imprisoned not more than 10 years, or both, but the prohibition contained in this section shall not apply with respect to any duly authorized United States governmental activity.

(b) TRANSFER TO UNREGISTERED PERSON.—

(1) SELECT AGENTS.—Whoever transfers a select agent to a person who the transferor knows or has reasonable cause to believe is not registered as required by regulations under subsection (b) or (c) of section 351A of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

(2) CERTAIN OTHER BIOLOGICAL AGENTS AND TOXINS.—Whoever transfers a biological agent or toxin listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002 to a person who the transferor knows or has reasonable cause to believe is not registered as required by regulations under subsection (b) or (c) of section 212 of such Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

(c) UNREGISTERED FOR POSSESSION.—

(1) SELECT AGENTS.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a select agent for which such person has not obtained a registration required by regulations under section 351A(c) of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

(2) CERTAIN OTHER BIOLOGICAL AGENTS AND TOXINS.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a biological agent or toxin listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002 for which such person has not obtained a registration required by regulations under section 212(c) of such Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

(d) In this section:

(1) The term ''select agent'' means a biological agent or toxin to which subsection (a) applies. Such term (including for purposes of subsection (a)) does not include any such biological agent or toxin that is in its naturally-occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.

(2) The term ''restricted person'' means an individual who—

(A) is under indictment for a crime punishable by imprisonment for a term exceeding 1 year;

(B) has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year;

(C) is a fugitive from justice;

(D) is an unlawful user of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(E) is an alien illegally or unlawfully in the United States;

(F) has been adjudicated as a mental defective or has been committed to any mental institution;

(G)(i) is an alien (other than an alien lawfully admitted for permanent residence) who is a national of a country as to which the Secretary of State, pursuant to section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), section 620A of chapter 1 of part M of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or section 40(d) of chapter 3 of the Arms Export Control Act (22 U.S.C. 2780(d)), has made a determination (that remains in effect) that such country has repeatedly provided support for acts of international terrorism, or (ii) acts for or on behalf of, or operates subject to the direction or control of, a government or official of a country described in this subparagraph;

(H) has been discharged from the Armed Services of the United States under dishonorable conditions; or

(I) is a member of, acts for or on behalf of, or operates subject to the direction or control of, a terrorist organization as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)).

(3) The term ''alien'' has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).

(4) The term ''lawfully admitted for permanent residence'' has the same meaning as in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

(Added Pub. L. 107–56, title VIII, § 817(2), Oct. 26, 2001, 115 Stat. 385; amended Pub. L. 107–188, title II, § 231(a), (b)(1), (c)(2), June 12, 2002, 116 Stat. 660, 661; Pub. L. 107–273, div. B, title IV, § 4005(g), Nov. 2, 2002, 116 Stat. 1813; Pub. L. 108–458, title VI, § 6802(c), (d)(1), Dec. 17, 2004, 118 Stat. 3767.)

REFERENCES IN TEXT

Section 351A of the Public Health Service Act, referred to in subsecs. (a)(1), (b)(1), and (c)(1), is classified to section 262a of Title 42, The Public Health and Welfare.

Section 212 of the Agricultural Bioterrorism Protection Act of 2002, referred to in subsecs. (b)(2) and (c)(2), is classified to section 8401 of Title 7, Agriculture.

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108–458, § 6802(d)(1), substituted ''as a non-overlap or overlap select biological agent or toxin in sections 73.4 and 73.5 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not excluded under sections 73.4 and 73.5 or exempted under section 73.6 of title 42, Code of Federal Regulations'' for ''as a select agent in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not exempted under subsection (h) of section 72.6, or Appendix A of part 72, of title 42, Code of Federal Regulations''.

Subsec. (d)(2)(G). Pub. L. 108–458, § 6802(c)(1), designated existing provisions as cl. (i), added cl. (ii), and struck out ''or'' at end.

Subsec. (d)(2)(H). Pub. L. 108–458, § 6802(c)(2), substituted ''; or'' for period at end.

Subsec. (d)(2)(I). Pub. L. 108–458, § 6802(c)(3), added subpar. (I).

2002—Pub. L. 107–273 substituted ''Possession by restricted persons'' for ''Select agents; certain other agents'' in section catchline.

Pub. L. 107–188, § 231(b)(1)(B), substituted ''Select agents; certain other agents'' for ''Possession by restricted persons'' in section catchline.

Subsec. (a)(1). Pub. L. 107–188, § 231(a)(1), (c)(2)(A), designated existing provisions of subsec. (a) as par. (1) and substituted ''shall ship or transport in or affecting interstate or foreign commerce, or possess in or affecting interstate or foreign commerce, any biological agent or toxin, or receive any biological agent or toxin that has been shipped or transported in interstate or foreign commerce, if the biological agent or toxin is listed as a select agent in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not exempted under subsection (h) of section 72.6, or Appendix A of part 72, of title 42, Code of Federal Regulations'' for ''described in subsection (b) shall ship or transport interstate or foreign commerce, or possess in or affecting commerce, any biological agent or toxin, or receive any biological agent or toxin that has been shipped or transported in interstate or foreign commerce, if the biological agent or toxin is listed as a select agent in subsection (j) of section 72.6 of title 42, Code of Federal Regulations, pursuant to section 511(d)(1) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132), and is not exempted under subsection (h) of such section 72.6, or appendix A of part 72 of the Code of Regulations''.

Subsec. (a)(2). Pub. L. 107–188, § 231(a)(2), (3), redesignated and transferred subsec. (c) as par. (2) of subsec. (a).

Subsec. (b). Pub. L. 107–188, § 231(a)(5), added subsec. (b). Former subsec. (b) redesignated (d).

Subsec. (c). Pub. L. 107–188, § 231(a)(5), added subsec. (c). Former subsec. (c) redesignated (a)(2).

Subsec. (d). Pub. L. 107–188, § 231(a)(4), redesignated subsec. (b) as (d).

Subsec. (d)(1). Pub. L. 107–188, § 231(b)(1)(A), substituted ''The term 'select agent' means a biological agent or toxin to which subsection (a) applies. Such term (including for purposes of subsection (a)) does not include'' for ''The term 'select agent' does not include''.

Subsec. (d)(3). Pub. L. 107–188, § 231(c)(2)(B), substituted ''section 101(a)(3)'' for ''section 1010(a)(3)''.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–458, title VI, § 6802(d)(2), Dec. 17, 2004, 118 Stat. 3767, provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect at the same time that sections 73.4, 73.5, and 73.6 of title 42, Code of Federal Regulations, become effective [probably means the effective date of the final rule revising sections 73.4, 73.5, and 73.6 of title 42, C.F.R., which was Apr. 18, 2005, see 70 F.R. 13294].''

§ 175c. Variola virus

(a) UNLAWFUL CONDUCT.—

(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly produce, engineer, synthesize, acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use, variola virus.

(2) EXCEPTION.—This subsection does not apply to conduct by, or under the authority of, the Secretary of Health and Human Services.

(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

(1) the offense occurs in or affects interstate or foreign commerce;

(2) the offense occurs outside of the United States and is committed by a national of the United States;

(3) the offense is committed against a national of the United States while the national is outside the United States;

(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

(c) CRIMINAL PENALTIES.—

(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than $2,000,000 and shall be sentenced to a term of imprisonment not less than 25 years or to imprisonment for life.

(2) OTHER CIRCUMSTANCES.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than $2,000,000 and imprisoned for not less than 30 years or imprisoned for life.

(3) SPECIAL CIRCUMSTANCES.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than $2,000,000 and punished by imprisonment for life.

(d) DEFINITION.—As used in this section, the term ''variola virus'' means a virus that can cause human smallpox or any derivative of the variola major virus that contains more than 85 percent of the gene sequence of the variola major virus or the variola minor virus.

(Added Pub. L. 108–458, title VI, § 6906, Dec. 17, 2004, 118 Stat. 3773.)

FINDINGS AND PURPOSE

Pub. L. 108–458, title VI, § 6902, Dec. 17, 2004, 118 Stat. 3769, provided that:

''(a) FINDINGS.—Congress makes the following findings:

''(1) The criminal use of man-portable air defense systems (referred to in this section as 'MANPADS') presents a serious threat to civil aviation worldwide, especially in the hands of terrorists or foreign states that harbor them.

''(2) Atomic weapons or weapons designed to release radiation (commonly known as 'dirty bombs') could be used by terrorists to inflict enormous loss of life and damage to property and the environment.

''(3) Variola virus is the causative agent of smallpox, an extremely serious, contagious, and sometimes fatal disease. Variola virus is classified as a Category A agent by the Centers for Disease Control and Prevention, meaning that it is believed to pose the greatest potential threat for adverse public health impact and has a moderate to high potential for large-scale dissemination. The last case of smallpox in the United States was in 1949. The last naturally occurring case in the world was in Somalia in 1977. Although smallpox has been officially eradicated after a successful worldwide vaccination program, there remain two official repositories of the variola virus for research purposes. Because it is so dangerous, the variola virus may appeal to terrorists.

''(4) The use, or even the threatened use, of MANPADS, atomic or radiological weapons, or the variola virus, against the United States, its allies, or its people, poses a grave risk to the security, foreign policy, economy, and environment of the United States. Accordingly, the United States has a compelling national security interest in preventing unlawful activities that lead to the proliferation or spread of

such items, including their unauthorized production, construction, acquisition, transfer, possession, import, or export. All of these activities markedly increase the chances that such items will be obtained by terrorist organizations or rogue states, which could use them to attack the United States, its allies, or United States nationals or corporations.

''(5) There is no legitimate reason for a private individual or company, absent explicit government authorization, to produce, construct, otherwise acquire, transfer, receive, possess, import, export, or use MANPADS, atomic or radiological weapons, or the variola virus.

''(b) PURPOSE.—The purpose of this subtitle [subtitle J (§§ 6901–6911) of title VI of Pub. L. 108–458, see Short Title of 2004 Amendment note set out under section 1 of this title] is to combat the potential use of weapons that have the ability to cause widespread harm to United States persons and the United States economy (and that have no legitimate private use) and to threaten or harm the national security or foreign relations of the United States.''

§ 176. Seizure, forfeiture, and destruction

(a) IN GENERAL.—(1) Except as provided in paragraph (2), the Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the seizure of any biological agent, toxin, or delivery system that—

(A) pertains to conduct prohibited under section 175 of this title; or

(B) is of a type or in a quantity that under the circumstances has no apparent justification for prophylactic, protective, or other peaceful purposes.

(2) In exigent circumstances, seizure and destruction of any biological agent, toxin, or delivery system described in subparagraphs (A) and (B) of paragraph (1) may be made upon probable cause without the necessity for a warrant.

(b) PROCEDURE.—Property seized pursuant to subsection (a) shall be forfeited to the United States after notice to potential claimants and an opportunity for a hearing. At such hearing, the Government shall bear the burden of persuasion by a preponderance of the evidence. Except as inconsistent herewith, the same procedures and provisions of law relating to a forfeiture under the customs laws shall extend to a seizure or forfeiture under this section. The Attorney General may provide for the destruction or other appropriate disposition of any biological agent, toxin, or delivery system seized and forfeited pursuant to this section.

(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense against a forfeiture under subsection (a)(1)(B) of this section that—

(1) such biological agent, toxin, or delivery system is for a prophylactic, protective, or other peaceful purpose; and

(2) such biological agent, toxin, or delivery system, is of a type and quantity reasonable for that purpose.

(Added Pub. L. 101–298, § 3(a), May 22, 1990, 104 Stat. 202; amended Pub. L. 103–322, title XXXIII, § 330010(16), Sept. 13, 1994, 108 Stat. 2144; Pub. L. 107–188, title II, § 231(c)(3), June 12, 2002, 116 Stat. 661.)

REFERENCES IN TEXT

The customs laws, referred to in subsec. (b), are classified generally to Title 19, Customs Duties.

AMENDMENTS

2002—Subsec. (a)(1)(A). Pub. L. 107–188 substituted ''pertains to'' for ''exists by reason of''.

1994—Subsec. (b). Pub. L. 103–322 substituted ''the Government'' for ''the government''.

§ 177. Injunctions

(a) IN GENERAL.—The United States may obtain in a civil action an injunction against—

(1) the conduct prohibited under section 175 of this title;

(2) the preparation, solicitation, attempt, threat, or conspiracy to engage in conduct prohibited under section 175 of this title; or

(3) the development, production, stockpiling, transferring, acquisition, retention, or possession, or the attempted development, production, stockpiling, transferring, acquisition, retention, or possession of any biological agent, toxin, or delivery system of a type or in a quantity that under the circumstances has no apparent justification for prophylactic, protective, or other peaceful purposes.

(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense against an injunction under subsection (a)(3) of this section that—

(1) the conduct sought to be enjoined is for a prophylactic, protective, or other peaceful purpose; and

(2) such biological agent, toxin, or delivery system is of a type and quantity reasonable for that purpose.

(Added Pub. L. 101–298, § 3(a), May 22, 1990, 104 Stat. 202; amended Pub. L. 104–132, title V, § 511(b)(2), Apr. 24, 1996, 110 Stat. 1284.)

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–132 inserted ''threat,'' after ''attempt,''.

§ 178. Definitions

As used in this chapter—

(1) the term ''biological agent'' means any microorganism (including, but not limited to, bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substance, or any naturally occurring, bioengineered or synthesized component of any such microorganism or infectious substance, capable of causing—

(A) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(B) deterioration of food, water, equipment, supplies, or material of any kind; or

(C) deleterious alteration of the environment;

(2) the term ''toxin'' means the toxic material or product of plants, animals, microorganisms (including, but not limited to, bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substances, or a recombinant or synthesized molecule, whatever their origin and method of production, and includes—

(A) any poisonous substance or biological product that may be engineered as a result of biotechnology produced by a living organism; or

(B) any poisonous isomer or biological product, homolog, or derivative of such a substance;

(3) the term ''delivery system'' means—

(A) any apparatus, equipment, device, or means of delivery specifically designed to deliver or disseminate a biological agent, toxin, or vector; or

(B) any vector;

(4) the term ''vector'' means a living organism, or molecule, including a recombinant or synthesized molecule, capable of carrying a biological agent or toxin to a host; and

(5) the term ''national of the United States'' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(Added Pub. L. 101–298, § 3(a), May 22, 1990, 104 Stat. 202; amended Pub. L. 104–132, title V, § 511(b)(3), title VII, § 721(h), Apr. 24, 1996, 110 Stat. 1284, 1299; Pub. L. 107–188, title II, § 231(c)(4), June 12, 2002, 116 Stat. 661.)

AMENDMENTS

2002—Par. (1). Pub. L. 107–188, § 231(c)(4)(A), in introductory provisions substituted ''means any microorganism (including, but not limited to, bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substance, or any naturally occurring, bioengineered or synthesized component of any such microorganism or infectious substance, capable of'' for ''means any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, capable of''.

Par. (2). Pub. L. 107–188, § 231(c)(4)(B), in introductory provisions substituted ''means the toxic material or product of plants, animals, microorganisms (including, but not limited to, bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substances, or a recombinant or synthesized molecule, whatever their origin and method of production, and includes—'' for ''means the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule, whatever its origin or method of production, including—''.

Par. (4). Pub. L. 107–188, § 231(c)(4)(C), substituted ''recombinant or synthesized molecule,'' for ''recombinant molecule, or biological product that may be engineered as a result of biotechnology,''.

1996—Par. (1). Pub. L. 104–132, § 511(b)(3)(A), substituted ''infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product'' for ''or infectious substance'' in introductory provisions.

Par. (2). Pub. L. 104–132, § 511(b)(3)(B)(i), (ii), in introductory provisions, inserted ''the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule'' after ''means'' and substituted ''production, including—'' for ''production—''.

Par. (2)(A). Pub. L. 104–132, § 511(b)(3)(B)(iii), inserted ''or biological product that may be engineered as a result of biotechnology'' after ''poisonous substance''.

Par. (2)(B). Pub. L. 104–132, § 511(b)(3)(B)(iv), inserted ''or biological product'' after ''isomer''.

Par. (4). Pub. L. 104–132, § 511(b)(3)(C), inserted '', or molecule, including a recombinant molecule, or biological product that may be engineered as a result of biotechnology,'' after ''organism''.

Par. (5). Pub. L. 104–132, § 721(h), added par. (5).

CHAPTER 11—BRIBERY, GRAFT, AND CONFLICTS OF INTEREST

Sec.
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AMENDMENTS

2003—Pub. L. 108–198, § 2(b), Dec. 19, 2003, 117 Stat. 2900, added items 212 and 213 and struck out former items 212 ''Offer of loan or gratuity to bank examiner'' and 213 ''Acceptance of loan or gratuity by bank examiner''.

1994—Pub. L. 103–322, title XXXIII, § 330010(12), Sept. 13, 1994, 108 Stat. 2144, substituted ''officers, and others in'' for ''officers and others, in'' in item 203 and inserted ''the'' after ''Federal Claims or'' in item 204.

1992—Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516, substituted ''United States Court of Federal Claims'' for ''United States Claims Court'' in item 204.

1990—Pub. L. 101–647, title XXV, § 2510(b), title XXXV, § 3509, Nov. 29, 1990, 104 Stat. 4863, 4922, substituted ''to Members'' for ''of Members'' in item 203, substituted ''United States Claims Court or United States Court of Appeals for the Federal Circuit'' for ''Court of Claims'' in item 204, and added item 225.

1989—Pub. L. 101–194, title I, § 101(b), title IV, § 407(b), Nov. 30, 1989, 103 Stat. 1724, 1753, substituted ''Restrictions on former officers, employees, and elected officials of the executive and legislative branches'' for ''Disqualification of former officers and employees; disqualification of partners of current officers and employees'' in item 207 and added item 216.

1984—Pub. L. 98–473, title II, § 1107(b), Oct. 12, 1984, 98 Stat. 2146, substituted ''Repealed'' for ''Receipt or charge of commissions or gifts for farm loan, land bank, or small business transactions'' in item 216.

1978—Pub. L. 95–521, title V, § 501(b), Oct. 26, 1978, 92 Stat. 1867, struck out ''in matters connected with former duties or official responsibilities'' after ''officers and employees'' and inserted ''of current officers and employees'' after ''partners of'' in item 207.

1966—Pub. L. 89–486, §8(c)(2), July 4, 1966, 80 Stat. 249, added item 219.

1964—Pub. L. 88–316, §1(b), June 6, 1964, 78 Stat. 204, added item 224.

1962—Pub. L. 87–849, §1(a), Oct. 23, 1962, 76 Stat. 1119, included conflicts of interests in chapter heading, and amended analysis generally to contain items 201 to 218. Prior to amendment, the analysis contained items 201 to 223.

1958—Pub. L. 85–699, title VII, §702(d), Aug. 21 1958, 72 Stat. 698, included small business transactions in item 221.

§201. Bribery of public officials and witnesses

(a) For the purpose of this section—

(1) the term ''public official'' means Member of Congress, Delegate, or Resident Commissioner, either before or after such official has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government, or a juror;

(2) the term ''person who has been selected to be a public official'' means any person who has been nominated or appointed to be a public official, or has been officially informed that such person will be so nominated or appointed; and

(3) the term ''official act'' means any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in such official's official capacity, or in such official's place of trust or profit.

(b) Whoever—

(1) directly or indirectly, corruptly gives, offers or promises anything of value to any public official or person who has been selected to be a public official, or offers or promises any public official or any person who has been selected to be a public official to give anything of value to any other person or entity, with intent—

(A) to influence any official act; or

(B) to influence such public official or person who has been selected to be a public official to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

(C) to induce such public official or such person who has been selected to be a public official to do or omit to do any act in violation of the lawful duty of such official or person;

(2) being a public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for:

(A) being influenced in the performance of any official act;

(B) being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

(C) being induced to do or omit to do any act in violation of the official duty of such official or person;

(3) directly or indirectly, corruptly gives, offers, or promises anything of value to any person, or offers or promises such person to give anything of value to any other person or entity, with intent to influence the testimony under oath or affirmation of such first-mentioned person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or with intent to influence such person to absent himself therefrom;

(4) directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for being influenced in testimony under oath or affirmation as a witness upon any such trial, hearing, or other proceeding, or in return for absenting himself therefrom;

shall be fined under this title or not more than three times the monetary equivalent of the thing of value, whichever is greater, or imprisoned for not more than fifteen years, or both, and may be disqualified from holding any office of honor, trust, or profit under the United States.

(c) Whoever—

(1) otherwise than as provided by law for the proper discharge of official duty—

(A) directly or indirectly gives, offers, or promises anything of value to any public official, former public official, or person selected to be a public official, for or because of any official act performed or to be performed by such public official, former public official, or person selected to be a public official; or

(B) being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of any official act performed or to be performed by such official or person;

(2) directly or indirectly, gives, offers, or promises anything of value to any person, for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or for or because of such person's absence therefrom;

(3) directly or indirectly, demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon any such trial, hearing, or other proceeding, or for or because of such person's absence therefrom;

shall be fined under this title or imprisoned for not more than two years, or both.

(d) Paragraphs (3) and (4) of subsection (b) and paragraphs (2) and (3) of subsection (c) shall not be construed to prohibit the payment or receipt of witness fees provided by law, or the payment, by the party upon whose behalf a witness is called and receipt by a witness, of the reasonable cost of travel and subsistence incurred and the reasonable value of time lost in attendance at any such trial, hearing, or proceeding, or in the case of expert witnesses, a reasonable fee for time spent in the preparation of such opinion, and in appearing and testifying.

(e) The offenses and penalties prescribed in this section are separate from and in addition to those prescribed in sections 1503, 1504, and 1505 of this title.

(Added Pub. L. 87–849, § 1(a), Oct. 23, 1962, 76 Stat. 1119; amended Pub. L. 91–405, title II, § 204(d)(1), Sept. 22, 1970, 84 Stat. 853; Pub. L. 99–646, § 46(a)–(*l*), Nov. 10, 1986, 100 Stat. 3601–3604; Pub. L. 103–322, title XXXIII, §§ 330011(b), 330016(2)(D), Sept. 13, 1994, 108 Stat. 2144, 2148.)

PRIOR PROVISIONS

A prior section 201, act June 25, 1948, ch. 645, 62 Stat. 691, prescribed penalties for anyone who offered or gave anything of value to an officer or other person to influence his decisions, prior to the general amendment of this chapter by Pub. L. 87–849, and is substantially covered by revised section 201.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–322, § 330016(2)(D), which directed the amendment of ''section 201'' by inserting ''under this title or'' after ''be fined'' and ''whichever is greater,'' before ''or imprisoned'', was executed by making the insertions in text of last par. of subsec. (b), and not in last par. of subsec. (c), to reflect the probable intent of Congress.

Pub. L. 103–322, § 330011(b)(A), amended Pub. L. 99–646, § 46(b)(1). See 1986 Amendment note below.

Subsec. (b)(1). Pub. L. 103–322, § 330011(b), amended Pub. L. 99–646, § 46(b). See 1986 Amendment note below.

1986—Pub. L. 99–646, § 46(*l*), provided for alignment of margins of each subsection, paragraph, and subparagraph of this section.

Subsec. (a). Pub. L. 99–646, § 46(a), substituted ''section—'' for ''section:'', designated provision defining ''public official'' as par. (1), inserted ''the term'' after ''(1)'', and substituted ''Delegate'' for ''Delegate from the District of Columbia'', ''after such official has qualified'' for ''after he has qualified'', and ''juror;'' for ''juror; and''; designated provision defining ''person who has been selected to be a public official'' as par. (2), inserted ''the term'' after ''(2)'', and substituted ''such person'' for ''he''; and designated provision defining ''official act'' as par. (3), inserted ''the term'' after ''(3)'', and substituted ''in such official's official capacity, or in such official's'' for ''in his official capacity, or in his''.

Subsec. (b). Pub. L. 99–646, § 46(b)(1), as amended by Pub. L. 103–322, § 330011(b)(A), substituted ''Whoever—'' for ''Whoever,'' and inserted ''(1)'' before ''directly''.

Pub. L. 99–646, § 46(e)(5), redesignated the undesignated par. which followed former subsec. (e) as concluding par. of subsec. (b) and substituted ''shall be fined not more than'' for ''Shall be fined not more than $20,000 or'' and ''thing of value,'' for ''thing of value, whichever is greater,''.

Subsec. (b)(1). Pub. L. 99–646, § 46(b), as amended by Pub. L. 103–322, § 330011(b), redesignated former subsec. (b) as par. (1), redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, and realigned their margins, and in subpar. (C) substituted ''the lawful duty of such official or person;'' for ''his lawful duty, or''.

Subsec. (b)(2). Pub. L. 99–646, § 46(c), redesignated former subsec. (c) as par. (2), struck out ''Whoever,'' before ''being'', substituted ''corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally'' for ''corruptly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself'', redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, and realigned their margins, in subpar. (A) substituted ''the performance'' for ''his performance'' and struck out ''or'' after ''act;'', and in subpar. (C) substituted ''the official duty of such official or person;'' for ''his official duty; or''.

Subsec. (b)(3). Pub. L. 99–646, § 46(d), redesignated former subsec. (d) as par. (3) and substituted ''directly'' for ''Whoever, directly'' and ''therefrom;'' for ''therefrom; or''.

Subsec. (b)(4). Pub. L. 99–646, § 46(e), redesignated former subsec. (e) as par. (4), substituted ''directly'' for ''Whoever, directly'', ''demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally'' for ''asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself'', ''in testimony'' for ''in his testimony'', and ''therefrom;'' for ''therefrom—''.

Subsec. (c). Pub. L. 99–646, § 46(f), (g)(1), (h)(1), (i)(1), redesignated former subsecs. (f) to (i) as subsec. (c)(1)(A), (B), (2), and (3), respectively. Former subsec. (c) redesignated (b)(2).

Pub. L. 99–646, § 46(i)(6), redesignated the undesignated par. which followed former subsec. (i) as concluding par. of subsec. (c) and substituted ''shall be fined under this title'' for ''Shall be fined not more than $10,000''.

Subsec. (c)(1). Pub. L. 99–646, § 46(f), (g), redesignated former subsec. (f) as par. (1) and substituted ''(1) otherwise'' for '', otherwise'' and ''(A) directly'' for '', directly'', redesignated former subsec. (g) as subpar. (B) and substituted ''being'' for ''Whoever, being'', ''indirectly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally'' for ''indirectly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself'', and ''by such official or person;'' for ''by him; or''.

Subsec. (c)(2). Pub. L. 99–646, § 46(h), redesignated former subsec. (h) as par. (2) and substituted ''directly'' for ''Whoever, directly'' and ''such person's absence therefrom;'' for ''his absence therefrom; or''.

Subsec. (c)(3). Pub. L. 99–646, § 46(i), redesignated former subsec. (i) as par. (3) and substituted ''directly'' for ''Whoever, directly'', ''demands, seeks, receives, accepts, or agrees to receive or accept'' for ''asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive'', ''personally'' for ''for himself'', ''by such person'' for ''by him'', and ''such person's absence therefrom;'' for ''his absence therefrom—''.

Subsec. (d). Pub. L. 99–646, § 46(j), redesignated former subsec. (j) as (d), substituted ''Paragraphs (3) and (4) of subsection (b) and paragraphs (2) and (3) of subsection (c)'' for ''Subsections (d), (e), (h), and (i)'' and struck out ''involving a technical or professional opinion,'' after ''expert witnesses,''. Former subsec. (d) redesignated (b)(3).

Subsecs. (e) to (k). Pub. L. 99–646, § 46(f)–(k), redesignated former subsecs. (e) to (k) as (b)(4), (c)(1)(A), (B), (2), (3), (d), and (e), respectively.

1970—Subsec. (a). Pub. L. 91–405 included Delegate from District of Columbia in definition of ''public official''.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 330011(b) of Pub. L. 103–322 provided that the amendment made by that section is effective as of the date on which section 46(b) of Pub. L. 99–646 took effect.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 46(m) of Pub. L. 99–646 provided that: ''The amendments made by this section [amending this sec-

tion] shall take effect 30 days after the date of enactment of this Act [Nov. 10, 1986].''

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–405 effective Sept. 22, 1970, see section 206(b) of Pub. L. 91–405, set out as an Effective Date note under section 25a of Title 2, The Congress.

EFFECTIVE DATE

Section 4 of Pub. L. 87–849 provided that: ''This Act [enacting this section and sections 202 to 209 and 218 of this title, redesignating sections 214, 215, 217 to 222 as 210, 211, 212 to 217 of this title respectively, repealing sections 223, 282, 284, 434, and 1914 of this title, and section 99 of former Title 5, Executive Departments and Government Officers and Employees, and enacting provisions set out as notes under section 281 and 282 of this title] shall take effect ninety days after the date of its enactment [Oct. 23, 1962]''.

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–198, §1, Dec. 19, 2003, 117 Stat. 2899, provided that: ''This Act [enacting sections 212 and 213 of this title and repealing former sections 212 and 213 of this title] may be cited as the 'Preserving Independence of Financial Institution Examinations Act of 2003'.''

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–177, §1, Aug. 6, 1996, 110 Stat. 1563, provided that: ''This Act [amending section 205 of this title] may be cited as the 'Federal Employee Representation Improvement Act of 1996'.''

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–370, §1, Aug. 4, 1986, 100 Stat. 779, provided that: ''This Act [amending section 215 of this title and enacting provisions set out as a note under section 215 of this title] may be cited as the 'Bank Bribery Amendments Act of 1985'.''

EXECUTIVE ORDER NO. 11222

Ex. Ord. No. 11222, May 8, 1965, 30 F.R. 6469, as amended by Ex. Ord. No. 11590, Apr. 23, 1971, 36 F.R. 7831; Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12565, Sept. 25, 1986, 51 F.R. 34437, which established standards of ethical conduct for government officers and employees, was revoked by Ex. Ord. No. 12674, Apr. 12, 1989, 54 F.R. 15159, as amended, set out as a note under section 7301 of Title 5, Government Organization and Employees.

EXECUTIVE ORDER NO. 12565

Ex. Ord. No. 12565, Sept. 25, 1986, 51 F.R. 34437, which amended Ex. Ord. No. 11222, formerly set out above, and provided confidentiality for financial reports filed pursuant to Ex. Ord. No. 11222, was revoked by Ex. Ord. No. 12674, Apr. 12, 1989, 54 F.R. 15159, as amended, set out as a note under section 7301 of Title 5, Government Organization and Employees.

MEMORANDUM OF ATTORNEY GENERAL REGARDING CONFLICT OF INTEREST PROVISIONS OF PUBLIC LAW 87–849, FEB. 1, 1963, 28 F.R. 985

JANUARY 28, 1963.

Public Law 87–849, ''To strengthen the criminal laws relating to bribery, graft, and conflicts of interest, and for other purposes,'' came into force January 21, 1963. A number of departments and agencies of the Government have suggested that the Department of Justice prepare and distribute a memorandum analyzing the conflict of interest provisions contained in the new act. I am therefore distributing the attached memorandum.

One of the main purposes of the new legislation merits specific mention. That purpose is to help the Government obtain the temporary or intermittent services of persons with special knowledge and skills whose principal employment is outside the Government. For the most part the conflict of interest statutes superseded by Public Law 87–849 imposed the same restraints on a person serving the Government temporarily or intermittently as on a full-time employee, and those statutes often had an unnecessarily severe impact on the former. As a result, they impeded the departments and agencies in the recruitment of experts for important work. Public Law 87–849 meets this difficulty by imposing a lesser array of prohibitions on temporary and intermittent employees than on regular employees. I believe that a widespread appreciation of this aspect of the new law will lead to a significant expansion of the pool of talent on which the departments and agencies can draw for their special needs.

ROBERT F. KENNEDY,
Attorney General.

MEMORANDUM RE THE CONFLICT OF INTEREST PROVISIONS OF PUBLIC LAW 87–849, 76 STAT. 1119, APPROVED OCTOBER 23, 1962

INTRODUCTION

Public Law 87–849, which came into force January 21, 1963, affected seven statutes which applied to officers and employees of the Government and were generally spoken of as the ''conflict of interest'' laws. These included six sections of the criminal code, 18 U.S.C. 216, 281, 283, 284, 434 and 1914, and a statute containing no penalties, section 190 of the Revised Statutes (5 U.S.C. 99). Public Law 87–849 (sometimes referred to hereinafter as ''the Act'') repealed section 190 and one of the criminal statutes, 18 U.S.C. 216, without replacing them.[1] In addition it repealed and supplanted the other five criminal statutes. It is the purpose of this memorandum to summarize the new law and to describe the principal differences between it and the legislation it has replaced.

The Act accomplished its revisions by enacting new sections 203, 205, 207, 208 and 209 of title 18 of the United States Code and providing that they supplant the above-mentioned sections 281, 283, 284, 434 and 1914 of title 18 respectively.[2] It will be convenient, therefore, after summarizing the principal provisions of the new sections, to examine each section separately, comparing it with its precursor before passing to the next. First of all, however, it is necessary to describe the background and provisions of the new 18 U.S.C. 202(a), which has no counterpart among the statutes formerly in effect.

SPECIAL GOVERNMENT EMPLOYEES [NEW 18 U.S.C. 202(a)]

In the main the prior conflict of interest laws imposed the same restrictions on individuals who serve the Government intermittently or for a short period of time as on those who serve full-time. The consequences of this generalized treatment were pointed out in the following paragraph of the Senate Judiciary Committee report on the bill which became Public Law 87–849:[3]

In considering the application of present law in relation to the Government's utilization of temporary or intermittent consultants and advisers, it must be emphasized that most of the existing conflict-of-interest statutes were enacted in the 19th century—that is, at a time when persons outside the Government rarely served it in this way. The laws were therefore directed at activities of regular Government employees, and their present impact on the occasionally needed experts—those whose main work is performed outside the Government—is unduly severe. This harsh impact constitutes an appreciable deterrent to the Government's obtaining needed part-time services.

The recruiting problem noted by the Committee generated a major part of the impetus for the enactment of Public Law 87–849. The Act dealt with the problem by creating a category of Government employees termed ''special Government employees'' and by excepting persons in this category from certain of the

prohibitions imposed on ordinary employees. The new 18 U.S.C. 202(a) defines the term ''special Government employee'' to include, among others, officers and employees of the departments and agencies who are appointed or employed to serve, with or without compensation, for not more than 130 days during any period of 365 consecutive days either on a full-time or intermittent basis.

SUMMARY OF THE MAIN CONFLICT OF INTEREST PROVISIONS OF PUBLIC LAW 87–849

A regular officer or employee of the Government—that is, one appointed or employed to serve more than 130 days in any period of 365 days—is in general subject to the following major prohibitions (the citations are to the new sections of Title 18):

1. He may not, except in the discharge of his official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest. This prohibition applies both to paid and unpaid representation of another (18 U.S.C. 203 and 205).

2. He may not participate in his governmental capacity in any matter in which he, his spouse, minor child, outside business associate or person with whom he is negotiating for employment has a financial interest (18 U.S.C. 208).

3. He may not, after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207(a)).

4. He may not, for 1 year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibilities[4] during the last year of his Government service (18 U.S.C. 207(b)). This temporary restraint of course gives way to the permanent restraint described in paragraph 3 if the matter is one in which he participated personally and substantially.

5. He may not receive any salary, or supplementation of his Government salary, from a private source as compensation for his services to the Government (18 U.S.C. 209).

A special Government employee is in general subject only to the following major prohibitions:

1. (a) He may not, except in the discharge of his official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has in interest and in which he has at any time participated personally and substantially for the Government (18 U.S.C. 203 and 205).

(b) He may not, except in the discharge of his official duties, represent anyone else in a matter pending before the agency he serves unless he has served there no more than 60 days during the past 365 (18 U.S.C. 203 and 205). He is bound by this restraint despite the fact that the matter is not one in which he has ever participated personally and substantially.

The restrictions described in subparagraphs (a) and (b) apply to both paid and unpaid representation of another. These restrictions in combination are, of course, less extensive than the one described in the corresponding paragraph 1 in the list set forth above with regard to regular employees.

2. He may not participate in his governmental capacity in any matter in which he, his spouse, minor child, outside business associate or person with whom he is negotiating for employment has a financial interest (18 U.S.C. 208).

3. He may not, after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207(a)).

4. He may not, for 1 year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibility during the last year of his Government service (18 U.S.C. 207(b)). This temporary restraint of course gives way to the permanent restriction described in paragraph 3 if the matter is one in which he participated personally and substantially.

It will be seen that paragraphs 2, 3, and 4 for special Government employees are the same as the corresponding paragraphs for regular employees. Paragraph 5 for the latter, describing the bar against the receipt of salary for Government work from a private source, does not apply to special Government employees.

As appears below, there are a number of exceptions to the prohibitions summarized in the two lists.

COMPARISON OF OLD AND NEW CONFLICT OF INTEREST SECTIONS OF TITLE 18, UNITED STATES CODE

New 18 U.S.C. 203. Subsection (a) of this section in general prohibits a Member of Congress and an officer or employee of the United States in any branch or agency of the Government from soliciting or receiving compensation for services rendered on behalf of another person before a Government department or agency in relation to any particular matter in which the United States is a party or has a direct and substantial interest. The subsection does not preclude compensation for services rendered on behalf of another in court.

Subsection (a) is essentially a rewrite of the repealed portion of 18 U.S.C. 281. However, subsections (b) and (c) have no counterparts in the previous statutes.

Subsection (b) makes it unlawful for anyone to offer or pay compensation the solicitation or receipt of which is barred by subsection (a).

Subsection (c) narrows the application of subsection (a) in the case of a person serving as a special Government employee to two, and only two, situations. First, subsection (c) bars him from rendering services before the Government on behalf of others, for compensation, in relation to a matter involving a specific party or parties in which he has participated personally and substantially in the course of his Government duties. And second, it bars him from such activities in relation to a matter involving a specific party or parties, even though he has not participated in the matter personally and substantially, if it is pending in his department or agency and he has served therein more than 60 days in the immediately preceding period of a year.

New 18 U.S.C. 205. This section contains two major prohibitions. The first prevents an officer or employee of the United States in any branch or agency of the Government from acting as agent or attorney for prosecuting any claim against the United States, including a claim in court, whether for compensation or not. It also prevents him from receiving a gratuity, or a share or interest in any such claim, for assistance in the prosecution thereof. This portion of section 205 is similar to the repealed portion of 18 U.S.C. 283, which dealt only with claims against the United States, but it omits a bar contained in the latter—i.e., a bar against rendering uncompensated aid or assistance in the prosecution or support of a claim against the United States.

The second main prohibition of section 205 is concerned with more than claims. It precludes an officer or employee of the Government from acting as agent or attorney for anyone else before a department, agency or court in connection with any particular matter in which the United States is a party or has a direct and substantial interest.

Section 205 provides for the same limited application to a special Government employee as section 203. In short, it precludes him from acting as agent or attorney only (1) in a matter involving a specific party or parties in which he has participated personally and substantially in his governmental capacity, and (2) in a matter involving a specific party or parties which is before his department or agency, if he has served therein more than 60 days in the year past.

Since new sections 203 and 205 extend to activities in the same range of matters, they overlap to a greater extent than did their predecessor sections 281 and 283. The following are the few important differences between sections 203 and 205:

1. Section 203 applies to Members of Congress as well as officers and employees of the Government; section 205 applies only to the latter.

2. Section 203 bars services rendered for compensation solicited or received, but not those rendered without such compensation; section 205 bars both kinds of services.

3. Section 203 bars services rendered before the departments and agencies but not services rendered in court; section 205 bars both.

It will be seen that while section 203 is controlling as to Members of Congress, for all practical purposes section 205 completely overshadows section 203 in respect of officers and employees of the Government.

Section 205 permits a Government officer or employee to represent another person, without compensation, in a disciplinary, loyalty or other personnel matter. Another provision declares that the section does not prevent an officer or employee from giving testimony under oath or making statements required to be made under penalty for perjury or contempt.[5]

Section 205 also authorizes a limited waiver of its restrictions and those of section 203 for the benefit of an officer or employee, including a special Government employee, who represents his own parents, spouse or child, or a person or estate he serves as a fiduciary. The waiver is available to the officer or employee, whether acting for any such person with or without compensation, but only if approved by the official making appointments to his position. And in no event does the waiver extend to his representation of any such person in matters in which he has participated personally and substantially or which, even in the absence of such participation, are the subject of his official responsibility.

Finally, section 205 gives the head of a department or agency the power, notwithstanding any applicable restrictions in its provisions or those of section 203, to allow a special Government employee to represent his regular employer or other outside organization in the performance of work under a Government grant or contract. However, this action is open to the department or agency head only upon his certification, published in the Federal Register, that the national interest requires it.

New 18 U.S.C. 207. Subsections (a) and (b) of this section contain post-employment prohibitions applicable to persons who have ended service as officers or employees of the executive branch, the independent agencies or the District of Columbia.[6] The prohibitions for persons who have served as special Government employees are the same as for persons who have performed regular duties.

The restraint of subsection (a) is against a former officer or employee's acting as agent or attorney for anyone other than the United States in connection with certain matters, whether pending in the courts or elsewhere. The matters are those involving a specific party or parties in which the United States is one of the parties or has a direct and substantial interest and in which the former officer or employee participated personally and substantially while holding a Government position.

Subsection (b) sets forth a 1-year postemployment prohibition in respect of those matters which were within the area of official responsibility of a former officer or employee at any time during the last year of his service but which do not come within subsection (a) because he did not participate in them personally and substantially. More particularly, the prohibition of subsection (b) prevents his personal appearance in such matters before a court or a department or agency of the Government as agent or attorney for anyone other than the United States.[7] Where, in the year prior to the end of his service, a former officer or employee has changed areas of responsibility by transferring from one agency to another, the period of his postemployment ineligibility as to matters in a particular area ends 1 year after his responsibility for that area ends. For example, if an individual transfers from a supervisory position in the Internal Revenue Service to a supervisory position in the Post Office Department and leaves that department for private employment 9 months later, he will be free of the restriction of subsection (b) in 3 months insofar as Internal Revenue matters are concerned. He will of course be bound by it for a year in respect of Post Office Department matters.

The proviso following subsections (a) and (b) authorizes an agency head, notwithstanding anything to the contrary in their provisions, to permit a former officer or employee with outstanding scientific qualifications to act as attorney or agent or appear personally before the agency for another in a matter in a scientific field. This authority may be exercised by the agency head upon a ''national interest'' certification published in the FEDERAL REGISTER.

Subsections (a) and (b) describe the activities they forbid as being in connection with ''particular matter[s] involving a specific party or parties'' in which the former officer or employee had participated. The quoted language does not include general rulemaking, the formulation of general policy or standards, or other similar matters. Thus, past participation in or official responsibility for a matter of this kind on behalf of the Government does not disqualify a former employee from representing another person in a proceeding which is governed by the rule or other result of such matter.

Subsection (a) bars permanently a greater variety of actions than subsection (b) bars temporarily. The conduct made unlawful by the former is *any action as agent or attorney*, while that made unlawful by the latter is a *personal appearance as agent or attorney*. However, neither subsection precludes postemployment activities which may fairly be characterized as no more than aiding or assisting another.[8] An individual who has left an agency to accept private employment may, for example, immediately perform technical work in his company's plant in relation to a contract for which he had official responsibility—or, for that matter, in relation to one he helped the agency negotiate. On the other hand, he is forbidden for a year, in the first case, to appear personally before the agency as the agent or attorney of his company in connection with a dispute over the terms of the contract. And he may at no time appear personally before the agency or otherwise act as agent or attorney for his company in such dispute if he helped negotiate the contract.

Comparing subsection (a) with the antecedent 18 U.S.C. 284 discloses that it follows the latter in limiting disqualification to cases where a former officer or employee actually participated in a matter for the Government. However, subsection (a) covers all matters in which the United States is a party or has a direct and substantial interest and not merely the ''claims against the United States'' covered by 18 U.S.C. 284. Subsection (a) also goes further than the latter in imposing a lifetime instead of a 2-year bar. Subsection (b) has no parallel in 18 U.S.C. 284 or any other provision of the former conflict of interest statutes.

It will be seen that subsections (a) and (b) in combination are less restrictive in some respects, and more restrictive in others, than the combination of the prior 18 U.S.C. 284 and 5 U.S.C. 99. Thus, former officers or employees who were outside the Government when the Act came into force on January 21, 1963, will in certain situations be enabled to carry on activities before the Government which were previously barred. For example, the repeal of 5 U.S.C. 99 permits an attorney who left an executive department for private practice a year before to take certain cases against the Government immediately which would be subject to the bar of 5 U.S.C. 99 for another year. On the other hand, former officers or employees became precluded on and after January 21, 1963 from engaging or continuing to engage

in certain activities which were permissible until that date. This result follows from the replacement of the 2-year bar of 18 U.S.C. 284 with a lifetime bar of subsection (a) in comparable situations, from the increase in the variety of matters covered by subsection (a) as compared with 18 U.S.C. 284 and from the introduction of the 1-year bar of subsection (b).

Subsection (c) of section 207 pertains to an individual outside the Government who is in a business or professional partnership with someone serving in the executive branch, an independent agency or the District of Columbia. The subsection prevents such individual from acting as attorney or agent for anyone other than the United States in any matter, including those in court, in which his partner in the Government is participating or has participated or which are the subject of his partner's official responsibility. Although included in a section dealing largely with post-employment activities, this provision is not directed to the postemployment situation.

The paragraph at the end of section 207 also pertains to individuals in a partnership but sets forth no prohibition. This paragraph, which is of importance mainly to lawyers in private practice, rules out the possibility that an individual will be deemed subject to section 203, 205, 207(a) or 207(b) solely because he has a partner who serves or has served in the Government either as a regular or a special Government employee.

New 18 U.S.C. 208. This section forbids certain actions by an officer or employee of the Government in his role as a servant or representative of the Government. Its thrust is therefore to be distinguished from that of sections 203 and 205 which forbid certain actions in his capacity as a representative of persons outside the Government.

Subsection (a) in substance requires an officer or employee of the executive branch, an independent agency or the District of Columbia, including a special Government employee, to refrain from participating as such in any matter in which, to his knowledge, he, his spouse, minor child or partner has a financial interest. He must also remove himself from a matter in which a business or nonprofit organization with which he is connected or is seeking employment has a financial interest.

Subsection (b) permits the agency of an officer or employee to grant him an *ad hoc* exemption from subsection (a) if the outside financial interest in a matter is deemed not substantial enough to have an effect on the integrity of his services. Financial interests of this kind may also be made nondisqualifying by a general regulation published in the FEDERAL REGISTER.

Section 208 is similar in purpose to the former 18 U.S.C. 434 but prohibits a greater variety of conduct than the ''transaction of business with * * * [a] business entity'' to which the prohibition of section 434 was limited. In addition, the provision in section 208 including the interests of a spouse and others is new, as is the provision authorizing exemptions for insignificant interest.

New 18 U.S.C. 209. Subsection (a) prevents an officer or employee of the executive branch, an independent agency or the District of Columbia from receiving, and anyone from paying him, any salary or supplementation of salary from a private source as compensation for his services to the Government. This provision uses much of the language of the former 18 U.S.C. 1914 and does not vary from that statute in substance. The remainder of section 209 is new.

Subsection (b) specifically authorizes an officer or employee covered by subsection (a) to continue his participation in a bona fide pension plan or other employee welfare or benefit plan maintained by a former employer.

Subsection (c) provides that section 209 does not apply to a special Government employee or to anyone serving the Government without compensation whether or not he is a special Government employee.

Subsection (d) provides that the section does not prohibit the payment or acceptance of contributions, awards or other expenses under the terms of the Government Employees Training Act. (72 Stat. 327, 5 U.S.C. 2301–2319).

STATUTORY EXEMPTIONS FROM CONFLICT OF INTEREST LAWS

Congress has in the past enacted statutes exempting persons in certain positions—usually advisory in nature—from the provisions of some or all of the former conflict of interest laws. Section 2 of the Act grants corresponding exemptions from the new laws with respect to legislative and judicial positions carrying such past exemptions. However, section 2 excludes positions in the executive branch, an independent agency and the District of Columbia from this grant. As a consequence, all statutory exemptions for persons serving in these sectors of the Government ended on January 21, 1963.

RETIRED OFFICERS OF THE ARMED FORCES

Public Law 87–849 enacted a new 18 U.S.C. 206 which provides in general that the new sections 203 and 205, replacing 18 U.S.C. 281 and 283, do not apply to retired officers of the armed forces and other uniformed services. However, 18 U.S.C. 281 and 283 contain special restrictions applicable to retired officers of the armed forces which are left in force by the partial repealer of those statutes set forth in section 2 of the Act.

The former 18 U.S.C. 284, which contained a 2-year disqualification against postemployment activities in connection with claims against the United States, applied by its terms to persons who had served as commissioned officers and whose active service had ceased either by reason of retirement or complete separation. Its replacement, the broader 18 U.S.C. 207, also applies to persons in those circumstances. Section 207, therefore applies to retired officers of the armed forces and overlaps the continuing provisions of 18 U.S.C. 281 and 283 applicable to such officers although to a different extent than did 18 U.S.C. 284.

VOIDING TRANSACTIONS IN VIOLATION OF THE CONFLICT OF INTEREST OR BRIBERY LAWS

Public Law 87–849 enacted a new section, 18 U.S.C. 218, which did not supplant a pre-existing section of the criminal code. However, it was modeled on the last sentence of the former 18 U.S.C. 216 authorizing the President to declare a Government contract void which was entered into in violation of that section. It will be recalled that section 216 was one of the two statutes repealed without replacement.

The new 18 U.S.C. 218 grants the President and, under Presidential regulations, an agency head the power to void and rescind any transaction or matter in relation to which there has been a ''final conviction'' for a violation of the conflict of interest or bribery laws. The section also authorizes the Government's recovery, in addition to any penalty prescribed by law or in a contract, of the amount expended or thing transferred on behalf of the Government.

Section 218 specifically provides that the powers it grants are ''in addition to any other remedies provided by law.'' Accordingly, it would not seem to override the decision in *United States v. Mississippi Valley Generating Co.*, 364 U.S. 520 (1961), a case in which there was no ''final conviction.''

BIBLIOGRAPHY

Set forth below are the citations to the legislative history of Public Law 87–849 and a list of recent material which is pertinent to a study of the act. The listed 1960 report of the Association of the Bar of the City of New York is particularly valuable. For a comprehensive bibliography of earlier material relating to the conflict of interest laws, see 13 Record of the Association of the Bar of the City of New York 323 (May 1958).

LEGISLATIVE HISTORY OF PUBLIC LAW 87–849 (H.R. 8140, 87TH CONG.)

1. Hearings of June 1 and 2, 1961, before the Antitrust Subcommittee (Subcommittee No. 5) of the House Judi-

ciary Committee, 87th Cong., 1st sess., ser. 3, on *Federal Conflict of Interest Legislation*.

2. H. Rept. 748, 87th Cong., 1st sess.

3. 107 Cong., Rec. 14774.

4. Hearing of June 21, 1962, before the Senate Judiciary Committee, 87th Cong., 2d sess., on *Conflicts of Interest*.

5. S. Rept. 2213, 87th Cong., 2d sess.

6. 108 Cong. Rec. 20805 and 21130 (daily ed., October 3 and 4, 1962).

OTHER MATERIAL

1. President's special message to Congress, April 27, 1961, and attached draft bill, 107 Cong. Rec. 6835.

2. President's Memorandum of February 9, 1962, to the heads of executive departments and agencies entitled *Preventing Conflicts of Interest on the Part of Advisers and Consultants to the Government*, 27 F.R. 1341.

3. 42 Op. A.G. No. 6, January 31, 1962.

4. Memorandum of December 10, 1956, for the Attorney General from the Office of Legal Counsel re conflict of interest statutes, Hearings before the Antitrust Subcommittee (Subcommittee No. 5) of House Judiciary Committee, 86th Cong., 2d sess., ser. 17, pt. 2, p. 619.

5. Staff report of Antitrust Subcommittee (Subcommittee No. 5) of House Judiciary Committee, 85th Cong., 2d sess., *Federal Conflict of Interest Legislation* (Comm. Print 1958).

6. Report of the Association of the Bar of the City of New York, *Conflict of Interest and Federal Service* (Harvard Univ. Press 1960).

FOOTNOTES

[1] Section 190 of the Revised Statutes (5 U.S.C. 99), which was repealed by section 3 of Public Law 87–849, applied to a former officer or employee of the Government who had served in a department of the executive branch. It prohibited him, for a period of two years after his employment had ceased, from representing anyone in the prosecution of a claim against the United States which was pending in that or any other executive department during his period of employment. The subject of post-employment activities of former Government officers and employees was also dealt with in another statute which was repealed, 18 U.S.C. 284. Public Law 87–849 covers the subject in a single section enacted as the new 18 U.S.C. 207.

18 U.S.C. 216, which was repealed by section 1(c) of Public Law 87–849, prohibited the payment to or acceptance by a Member of Congress or officer or employee of the Government of any money or thing of value for giving or procuring a Government contract. Since this offense is within the scope of the newly enacted 18 U.S.C. 201 and 18 U.S.C. 203, relating to bribery and conflicts of interest, respectively, section 216 is no longer necessary.

[2] See section 2 of Public Law 87–849. 18 U.S.C. 281 and 18 U.S.C. 283 were not completely set aside by section 2 but remain in effect to the extent that they apply to retired officers of the Armed Forces (see "Retired Officers of the Armed Forces," *infra*).

[3] S. Rept. 2213, 87th Cong., 2d sess., p. 6.

[4] The term "official responsibility" is defined by the new 18 U.S.C. 202(b) to mean "the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action."

[5] These two provisions of section 205 refer to an "officer or employee" and not, as do certain of the other provisions of the Act, to an "officer or employee, including a special Government employee." However, it is plain from the definition in section 202(a) that a special Government employee is embraced within the comprehensive term "officer or employee." There would seem to be little doubt, therefore, that the instant provisions of section 205 apply to special Government employees even in the absence of an explicit reference to them.

[6] The prohibitions of the two subsections apply to persons ending service in these areas whether they leave the Government entirely or move to the legislative or judicial branch. As a practical matter, however, the prohibitions would rarely be significant in the latter situation because officers and employees of the legislative and judicial branches are covered by sections 203 and 205.

[7] Neither section 203 nor section 205 prevents a special Government employee, during his period of affiliation with the Government, from representing another person before the Government in a particular matter only because it is within his official responsibility. Therefore the inclusion of a *former* special Government employee within the 1-year postemployment ban of subsection (b) may subject him to a temporary restraint from which he was free prior to the end of his Government service. However, since special Government employees usually do not have "official responsibility," as that term is defined in section 202(b), their inclusion within the 1-year ban will not have a widespread effect.

[8] Subsection (a), as it first appeared in H.R. 8140, the bill which became Public Law 87–849, made it unlawful for a former officer or employee to act as agent or attorney for, *or aid or assist*, anyone in a matter in which he had participated. The House Judiciary Committee struck the underlined words, and the bill became law without them. It should be noted also that the repealed provisions of 18 U.S.C. 283 made the distinction between one's acting as agent or attorney for another and his aiding or assisting another.

§ 202. Definitions

(a) For the purpose of sections 203, 205, 207, 208, and 209 of this title the term "special Government employee" shall mean an officer or employee of the executive or legislative branch of the United States Government, of any independent agency of the United States or of the District of Columbia, who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis, a part-time United States commissioner, a part-time United States magistrate judge, or, regardless of the number of days of appointment, an independent counsel appointed under chapter 40 of title 28 and any person appointed by that independent counsel under section 594(c) of title 28. Notwithstanding the next preceding sentence, every person serving as a part-time local representative of a Member of Congress in the Member's home district or State shall be classified as a special Government employee. Notwithstanding section 29(c) and (d)[1] of the Act of August 10, 1956 (70A Stat. 632; 5 U.S.C. 30r(c) and (d)), a Reserve officer of the Armed Forces, or an officer of the National Guard of the United States, unless otherwise an officer or employee of the United States, shall be classified as a special Government employee while on active duty solely for training. A Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is voluntarily serving a period of extended active duty in excess of one hundred and thirty days shall be classified as an officer of the United States within the meaning of section 203 and sections 205 through 209 and 218. A Reserve officer of the Armed Forces or an officer of the

[1] See References in Text note below.

National Guard of the United States who is serving involuntarily shall be classified as a special Government employee. The terms ''officer or employee'' and ''special Government employee'' as used in sections 203, 205, 207 through 209, and 218, shall not include enlisted members of the Armed Forces.

(b) For the purposes of sections 205 and 207 of this title, the term ''official responsibility'' means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action.

(c) Except as otherwise provided in such sections, the terms ''officer'' and ''employee'' in sections 203, 205, 207 through 209, and 218 of this title shall not include the President, the Vice President, a Member of Congress, or a Federal judge.

(d) The term ''Member of Congress'' in sections 204 and 207 means—

(1) a United States Senator; and

(2) a Representative in, or a Delegate or Resident Commissioner to, the House of Representatives.

(e) As used in this chapter, the term—

(1) ''executive branch'' includes each executive agency as defined in title 5, and any other entity or administrative unit in the executive branch;

(2) ''judicial branch'' means the Supreme Court of the United States; the United States courts of appeals; the United States district courts; the Court of International Trade; the United States bankruptcy courts; any court created pursuant to article I of the United States Constitution, including the Court of Appeals for the Armed Forces, the United States Court of Federal Claims, and the United States Tax Court, but not including a court of a territory or possession of the United States; the Federal Judicial Center; and any other agency, office, or entity in the judicial branch; and

(3) ''legislative branch'' means—

(A) the Congress; and

(B) the Office of the Architect of the Capitol, the United States Botanic Garden, the Government Accountability Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Congressional Budget Office, the United States Capitol Police, and any other agency, entity, office, or commission established in the legislative branch.

(Added Pub. L. 87–849, §1(a), Oct. 23, 1962, 76 Stat. 1121; amended Pub. L. 90–578, title III, §301(b), Oct. 17, 1968, 82 Stat. 1115; Pub. L. 100–191, §3(a), Dec. 15, 1987, 101 Stat. 1306; Pub. L. 101–194, title IV, §401, Nov. 30, 1989, 103 Stat. 1747; Pub. L. 101–280, §5(a), May 4, 1990, 104 Stat. 158; Pub. L. 101–650, title III, §321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 102–572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 103–337, div. A, title IX, §924(d)(1)(B), Oct. 5, 1994, 108 Stat. 2832; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

REFERENCES IN TEXT

Section 29(c) and (d) of the Act of August 10, 1956 (70A Stat. 632; 5 U.S.C. 30r(c) and (d)), referred to in subsec. (a), was repealed and the provisions thereof were reenacted as sections 502, 2105(d), and 5534, of Title 5, Government Organization and Employees, by Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 278.

PRIOR PROVISIONS

A prior section 202, act June 25, 1948, ch. 645, 62 Stat. 691, prescribed penalties for any officer or other person who accepted or solicited anything of value to influence his decision, prior to the general amendment of this chapter by Pub. L. 87–849, and is substantially covered by revised section 201.

AMENDMENTS

2004—Subsec. (e)(3)(B). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

1994—Subsec. (e)(2). Pub. L. 103–337 substituted ''Court of Appeals for the Armed Forces'' for ''Court of Military Appeals''.

1992—Subsec. (e)(2). Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court''.

1990—Subsec. (c). Pub. L. 101–280, §5(a)(1), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''Except as otherwise provided in such sections, the terms 'officer' and 'employee' in sections 203, 205, 207, 208, and 209 of this title, mean those individuals defined in sections 2104 and 2105 of title 5. The terms 'officer' and 'employee' shall not include the President, the Vice President, a Member of Congress, or a Federal judge.''

Subsec. (d). Pub. L. 101–280, §5(a)(2), substituted ''means'' for ''shall include''.

Subsec. (e)(1). Pub. L. 101–280, §5(a)(3)(1), substituted ''includes each'' for ''means any''.

Subsec. (e)(3)(A). Pub. L. 101–280, §5(a)(3)(2)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''a Member of Congress, or any officer or employee of the United States Senate or United States House of Representatives; and''.

Subsec. (e)(3)(B). Pub. L. 101–280, §5(a)(3)(2)(B), substituted ''the Office'' for ''an officer or employee''.

1989—Subsecs. (c) to (e). Pub. L. 101–194 added subsecs. (c) to (e).

1987—Subsec. (a). Pub. L. 100–191 expanded definition of ''special Government employee'' to include an independent counsel appointed under chapter 40 of title 28 and any person appointed by that independent counsel under section 594(c) of title 28, regardless of the number of days of appointment.

1968—Subsec. (a). Pub. L. 90–578 substituted ''a part-time United States commissioner, or a part-time United States magistrate'' for ''or a part-time United States Commissioner''.

CHANGE OF NAME

''United States magistrate judge'' substituted for ''United States magistrate'' in subsec. (a) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–191 effective Dec. 15, 1987, and applicable to independent counsel proceedings under 28 U.S.C. 591 et seq. pending on that date as well as to proceedings on and after that date, see section 6 of Pub. L. 100–191, set out as a note under section 591 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–578 effective Oct. 17, 1968, except when a later effective date is applicable, which

is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90–578, see section 403 of Pub. L. 90–578, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87–849, set out as a note under section 201 of this title.

§203. Compensation to Members of Congress, officers, and others in matters affecting the Government

(a) Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly—

(1) demands, seeks, receives, accepts, or agrees to receive or accept any compensation for any representational services, as agent or attorney or otherwise, rendered or to be rendered either personally or by another—

(A) at a time when such person is a Member of Congress, Member of Congress Elect, Delegate, Delegate Elect, Resident Commissioner, or Resident Commissioner Elect; or

(B) at a time when such person is an officer or employee or Federal judge of the United States in the executive, legislative, or judicial branch of the Government, or in any agency of the United States,

in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest, before any department, agency, court, court-martial, officer, or any civil, military, or naval commission; or

(2) knowingly gives, promises, or offers any compensation for any such representational services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was such a Member, Member Elect, Delegate, Delegate Elect, Commissioner, Commissioner Elect, Federal judge, officer, or employee;

shall be subject to the penalties set forth in section 216 of this title.

(b) Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly—

(1) demands, seeks, receives, accepts, or agrees to receive or accept any compensation for any representational services, as agent or attorney or otherwise, rendered or to be rendered either personally or by another, at a time when such person is an officer or employee of the District of Columbia, in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the District of Columbia is a party or has a direct and substantial interest, before any department, agency, court, officer, or commission; or

(2) knowingly gives, promises, or offers any compensation for any such representational services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was an officer or employee of the District of Columbia;

shall be subject to the penalties set forth in section 216 of this title.

(c) A special Government employee shall be subject to subsections (a) and (b) only in relation to a particular matter involving a specific party or parties—

(1) in which such employee has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise; or

(2) which is pending in the department or agency of the Government in which such employee is serving except that paragraph (2) of this subsection shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

(d) Nothing in this section prevents an officer or employee, including a special Government employee, from acting, with or without compensation, as agent or attorney for or otherwise representing his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except—

(1) in those matters in which he has participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise; or

(2) in those matters that are the subject of his official responsibility,

subject to approval by the Government official responsible for appointment to his position.

(e) Nothing in this section prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States if the head of the department or agency concerned with the grant or contract certifies in writing that the national interest so requires and publishes such certification in the Federal Register.

(f) Nothing in this section prevents an individual from giving testimony under oath or from making statements required to be made under penalty of perjury.

(Added Pub. L. 87–849, §1(a), Oct. 23, 1962, 76 Stat. 1121; amended Pub. L. 91–405, title II, §204(d)(2), (3), Sept. 22, 1970, 84 Stat. 853; Pub. L. 99–646, §47(a), Nov. 10, 1986, 100 Stat. 3604; Pub. L. 101–194, title IV, §402, Nov. 30, 1989, 103 Stat. 1748; Pub. L. 101–280, §5(b), May 4, 1990, 104 Stat. 159.)

PRIOR PROVISIONS

A prior section 203, act June 25, 1948, ch. 645, 62 Stat. 692, related to the acceptance or demand by district attorneys, or marshals and their assistants of any fee other than provided by law, prior to the general amendment of this chapter by Pub. L. 87–849 and is substantially covered by revised section 201.

Provisions similar to those comprising this section were contained in section 281 of this title prior to the

repeal of such section and the general amendment of this chapter by Pub. L. 87–849.

AMENDMENTS

1990—Subsec. (a)(1)(B). Pub. L. 101–280, § 5(b)(1), inserted ''or Federal judge'' after ''employee''.

Subsec. (a)(2). Pub. L. 101–280, § 5(b)(2), inserted ''Commissioner Elect, Federal judge,'' after ''Commissioner,''.

Subsec. (b)(2). Pub. L. 101–280, § 5(b)(3), inserted ''representational'' before ''services''.

Subsec. (d)(1). Pub. L. 101–280, § 5(b)(4), substituted ''Government employee or as a special Government employee'' for ''Government employee,''.

Subsec. (f). Pub. L. 101–280, § 5(b)(5), added subsec. (f).

1989—Subsec. (a). Pub. L. 101–194, § 402(3), in concluding provisions, substituted ''shall be subject to the penalties set forth in section 216 of this title'' for ''shall be fined under this title or imprisoned for not more than two years, or both; and shall be incapable of holding any office of honor, trust, or profit under the United States''.

Subsec. (a)(1). Pub. L. 101–194, § 402(1), (2), (7), in introductory provisions, substituted ''representational services, as agent or attorney or otherwise,'' for ''services'', in concluding provisions, inserted ''court,'' after ''department, agency,'' and in subpar. (B), struck out ''including the District of Columbia,'' after ''agency of the United States''.

Subsec. (a)(2). Pub. L. 101–194, § 402(4)–(6), inserted ''representational'' before ''services'', ''Member Elect,'' after ''Member,'' and ''Delegate Elect,'' after ''Delegate,''.

Subsec. (b). Pub. L. 101–194, § 402(9), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 101–194, § 402(8), redesignated subsec. (b) as (c) and substituted ''subsections (a) and (b)'' for ''subsection (a)''.

Subsecs. (d), (e). Pub. L. 101–194, § 402(10), added subsecs. (d) and (e).

1986—Pub. L. 99–646, § 47(a)(3)(D), provided for alignment of margins of each subsection, paragraph, and subparagraph of this section.

Subsec. (a). Pub. L. 99–646, § 47(a)(1), (2), substituted ''indirectly—'' for ''indirectly'' in introductory provisions, redesignated the undesignated par. which followed former subsec. (b) as concluding par. of subsec. (a), and substituted ''shall be fined under this title'' for ''Shall be fined not more than $10,000''.

Subsec. (a)(1). Pub. L. 99–646, § 47(a)(1), substituted ''(1) demands, seeks, receives, accepts, or agrees to receive or accept any'' for ''receives or agrees to receive, or asks, demands, solicits, or seeks, any'' and ''personally or by'' for ''by himself or'', redesignated former par. (1) as subpar. (A) and substituted ''such person'' for ''he'' and ''Delegate, Delegate Elect'' for ''Delegate from the District of Columbia, Delegate Elect from the District of Columbia'', redesignated former par. (2) as subpar. (B) and substituted ''such person'' for ''he'', and in closing provisions substituted ''commission; or'' for ''commission, or''.

Subsec. (a)(2). Pub. L. 99–646, § 47(a)(2), redesignated former subsec. (b) as par. (2) and substituted ''knowingly gives'' for ''Whoever, knowingly, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly gives'' and ''employee;'' for ''employee—''.

Subsecs. (b), (c). Pub. L. 99–646, § 47(a)(3), (4), redesignated former subsec. (c) as (b) and substituted ''parties—'' for ''parties'', ''such employee'' for ''he'', ''otherwise; or'' for ''otherwise, or'', and ''in which such employee is serving except that paragraph (2) of this subsection'' for ''in which he is serving: *Provided*, That clause (2)''. Former subsec. (b) redesignated (a)(2).

1970—Subsec. (a)(1). Pub. L. 91–405, § 204(d)(2), included references to Delegate from District of Columbia and Delegate Elect from District of Columbia.

Subsec. (b). Pub. L. 91–405, § 204(d)(3), included reference to Delegate.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 47(b) of Pub. L. 99–646 provided that: ''The amendments made by this section [amending this section] shall take effect 30 days after the date of enactment of this Act [Nov. 10, 1986].''

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–405 effective Sept. 22, 1970, see section 206(b) of Pub. L. 91–405, set out as an Effective Date note under section 25a of Title 2, The Congress.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87–849, set out as a note under section 201 of this title.

DELEGATION OF AUTHORITY

Authority of President under subsec. (d) of this section to grant exemptions or approvals to individuals delegated to agency heads, see section 401 of Ex. Ord. No. 12674, Apr. 12, 1989, 54 F.R. 15159, as amended, set out as a note under section 7301 of Title 5, Government Organization and Employees.

Authority of President under subsec. (d) of this section to grant exemptions or approvals for Presidential appointees to committees, commissions, boards, or similar groups established by the President, and for individuals appointed pursuant to sections 105 and 107(a) of Title 3, The President, delegated to Counsel to President, see section 402 of Ex Ord. No. 12674, Apr. 12, 1989, 54 F.R. 15159, as amended, set out as a note under section 7301 of Title 5.

EXEMPTIONS

Section 2 of Pub. L. 87–849 provided in part that: ''All exemptions from the provisions of sections 281, 282, 283, 284, 434, or 1914 of title 18 of the United States Code heretofore created or authorized by statute which are in force on the effective date of this Act [see Effective Date note under section 201 of this title] shall, on and after that date, be deemed to be exemptions from sections 203, 204, 205, 207, 208, or 209, respectively, of title 18 of the United States Code except to the extent that they affect officers or employees of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, as to whom they are no longer applicable.''

PRIVATE SECTOR REPRESENTATIVES ON UNITED STATES DELEGATIONS TO INTERNATIONAL TELECOMMUNICATIONS MEETINGS AND CONFERENCES

Pub. L. 97–241, title I, § 120, Aug. 24, 1982, 96 Stat. 280, provided that:

''(a) Sections 203, 205, 207, and 208 of title 18, United States Code, shall not apply to a private sector representative on the United States delegation to an international telecommunications meeting or conference who is specifically designated to speak on behalf of or otherwise represent the interests of the United States at such meeting or conference with respect to a particular matter, if the Secretary of State (or the Secretary's designee) certifies that no Government employee on the delegation is as well qualified to represent United States interests with respect to such matter and that such designation serves the national interest. All such representatives shall have on file with the Department of State the financial disclosure report required for special Government employees.

''(b) As used in this section, the term 'international telecommunications meeting or conference' means the conferences of the International Telecommunications Union, meetings of its International Consultative Committees for Radio and for Telephone and Telegraph, and such other international telecommunications meetings or conferences as the Secretary of State may designate.''

§204. Practice in United States Court of Federal Claims or the United States Court of Appeals for the Federal Circuit by Members of Congress

Whoever, being a Member of Congress or Member of Congress Elect, practices in the United States Court of Federal Claims or the United States Court of Appeals for the Federal Circuit shall be subject to the penalties set forth in section 216 of this title.

(Added Pub. L. 87–849, §1(a), Oct. 23, 1962, 76 Stat. 1122; amended Pub. L. 91–405, title II, §204(d)(2), Sept. 22, 1970, 84 Stat. 853; Pub. L. 97–164, title I, §147, Apr. 2, 1982, 96 Stat. 45; Pub. L. 101–194, title IV, §403, Nov. 30, 1989, 103 Stat. 1749; Pub. L. 102–572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

PRIOR PROVISIONS

A prior section 204, act June 25, 1948, ch. 645, 62 Stat. 692, related to an offer to influence a Member of Congress, prior to the general amendment of this chapter by Pub. L. 87–849 and is substantially covered by revised section 201.

Provisions similar to this section were contained in former section 282 of this title prior to the repeal of such section and the general amendment of this chapter by Pub. L. 87–849.

AMENDMENTS

1992—Pub. L. 102–572 substituted "United States Court of Federal Claims" for "United States Claims Court" in section catchline and in text.

1989—Pub. L. 101–194 amended section generally. Prior to amendment, section read as follows: "Whoever, being a Member of Congress, Member of Congress Elect, Delegate from the District of Columbia, Delegate Elect from the District of Columbia, Resident Commissioner, or Resident Commissioner Elect, practices in the United States Claims Court or the United States Court of Appeals for the Federal Circuit, shall be fined not more than $10,000 or imprisoned for not more than two years, or both, and shall be incapable of holding any office of honor, trust, or profit under the United States."

1982—Pub. L. 97–164 substituted "United States Claims Court or the United States Court of Appeals for the Federal Circuit" for "Court of Claims".

1970—Pub. L. 91–405 included references to Delegate from District of Columbia and Delegate Elect from District of Columbia.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–164 effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–405 effective Sept. 22, 1970, see section 206(b) of Pub. L. 91–405, set out as an Effective Date note under section 25a of Title 2, The Congress.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87–849, set out as a note under section 201 of this title.

EXEMPTIONS

Exemptions from former section 282 of this title deemed to be exemptions from this section, see section 2 of Pub. L. 87–849, set out as a note under section 203 of this title.

§205. Activities of officers and employees in claims against and other matters affecting the Government

(a) Whoever, being an officer or employee of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, other than in the proper discharge of his official duties—

(1) acts as agent or attorney for prosecuting any claim against the United States, or receives any gratuity, or any share of or interest in any such claim, in consideration of assistance in the prosecution of such claim; or

(2) acts as agent or attorney for anyone before any department, agency, court, court-martial, officer, or civil, military, or naval commission in connection with any covered matter in which the United States is a party or has a direct and substantial interest;

shall be subject to the penalties set forth in section 216 of this title.

(b) Whoever, being an officer or employee of the District of Columbia or an officer or employee of the Office of the United States Attorney for the District of Columbia, otherwise than in the proper discharge of official duties—

(1) acts as agent or attorney for prosecuting any claim against the District of Columbia, or receives any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claim; or

(2) acts as agent or attorney for anyone before any department, agency, court, officer, or commission in connection with any covered matter in which the District of Columbia is a party or has a direct and substantial interest;

shall be subject to the penalties set forth in section 216 of this title.

(c) A special Government employee shall be subject to subsections (a) and (b) only in relation to a covered matter involving a specific party or parties—

(1) in which he has at any time participated personally and substantially as a Government employee or special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise; or

(2) which is pending in the department or agency of the Government in which he is serving.

Paragraph (2) shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

(d)(1) Nothing in subsection (a) or (b) prevents an officer or employee, if not inconsistent with the faithful performance of that officer's or employee's duties, from acting without compensation as agent or attorney for, or otherwise representing—

(A) any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings; or

(B) except as provided in paragraph (2), any cooperative, voluntary, professional, rec-

reational, or similar organization or group not established or operated for profit, if a majority of the organization's or group's members are current officers or employees of the United States or of the District of Columbia, or their spouses or dependent children.

(2) Paragraph (1)(B) does not apply with respect to a covered matter that—

(A) is a claim under subsection (a)(1) or (b)(1);

(B) is a judicial or administrative proceeding where the organization or group is a party; or

(C) involves a grant, contract, or other agreement (including a request for any such grant, contract, or agreement) providing for the disbursement of Federal funds to the organization or group.

(e) Nothing in subsection (a) or (b) prevents an officer or employee, including a special Government employee, from acting, with or without compensation, as agent or attorney for, or otherwise representing, his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except—

(1) in those matters in which he has participated personally and substantially as a Government employee or special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or

(2) in those matters which are the subject of his official responsibility,

subject to approval by the Government official responsible for appointment to his position.

(f) Nothing in subsection (a) or (b) prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States if the head of the department or agency concerned with the grant or contract certifies in writing that the national interest so requires and publishes such certification in the Federal Register.

(g) Nothing in this section prevents an officer or employee from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.

(h) For the purpose of this section, the term ''covered matter'' means any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter.

(i) Nothing in this section prevents an employee from acting pursuant to—

(1) chapter 71 of title 5;

(2) section 1004 or chapter 12 of title 39;

(3) section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b);

(4) chapter 10 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4104 et seq.); or

(5) any provision of any other Federal or District of Columbia law that authorizes labor-management relations between an agency or instrumentality of the United States or the District of Columbia and any labor organization that represents its employees.

(Added Pub. L. 87–849, § 1(a), Oct. 23, 1962, 76 Stat. 1122; amended Pub. L. 101–194, title IV, § 404, Nov. 30, 1989, 103 Stat. 1750; Pub. L. 101–280, § 5(c), May 4, 1990, 104 Stat. 159; Pub. L. 104–177, § 2, Aug. 6, 1996, 110 Stat. 1563; Pub. L. 107–273, div. B, title IV, § 4002(a)(9), Nov. 2, 2002, 116 Stat. 1807.)

References in Text

The Foreign Service Act of 1980, referred to in subsec. (i)(4), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended. Chapter 10 of title I of the Act is classified generally to subchapter X (§ 4101 et seq.) of chapter 52 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of Title 22 and Tables.

Prior Provisions

A prior section 205, act June 25, 1948, ch. 645, 62 Stat. 692, related to the acceptance by a Member of Congress of anything of value to influence him, prior to the general amendment of this chapter by Pub. L. 87–849 and is substantially covered by revised section 201.

Provisions similar to those comprising this section were contained in section 283 of this title prior to the repeal of such section and the general amendment of this chapter by Pub. L. 87–849.

Amendments

2002—Subsec. (d)(1)(B). Pub. L. 107–273 substituted ''group's'' for ''groups's''.

1996—Subsec. (d). Pub. L. 104–177, § 2(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''Nothing in subsection (a) or (b) prevents an officer or employee, if not inconsistent with the faithful performance of his duties, from acting without compensation as agent or attorney for, or otherwise representing, any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings.''

Subsec. (i). Pub. L. 104–177, § 2(b), added subsec. (i).

1990—Subsec. (a)(2). Pub. L. 101–280, § 5(c)(1), substituted ''civil'' for ''any civil''.

Subsec. (b)(2). Pub. L. 101–280, § 5(c)(2), substituted ''commission'' for ''any commission''.

1989—Pub. L. 101–194 amended section generally, revising and restating as subsecs. (a) to (h) provisions formerly consisting of eight undesignated pars.

Effective Date

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87–849, set out as a note under section 201 of this title.

Delegation of Authority

Authority of President under subsec. (e) of this section to grant exemptions or approvals to individuals delegated to agency heads, see section 401 of Ex. Ord. No. 12674, Apr. 12, 1989, 54 F.R. 15159, as amended, set out as a note under section 7301 of Title 5, Government Organization and Employees.

Authority of President under subsec. (e) of this section to grant exemptions or approvals for Presidential appointees to committees, commissions, boards, or similar groups established by the President, and for individuals appointed pursuant to sections 105 and 107(a) of Title 3, The President, delegated to Counsel to President, see section 402 of Ex Ord. No. 12674, Apr. 12, 1989, 54 F.R. 15159, as amended, set out as a note under section 7301 of Title 5.

Exemptions

Exemptions from former section 283 of this title deemed to be exemptions from this section, see section 2 of Pub. L. 87–849, set out as a note under section 203 of this title.

§206. Exemption of retired officers of the uniformed services

Sections 203 and 205 of this title shall not apply to a retired officer of the uniformed services of the United States while not on active duty and not otherwise an officer or employee of the United States, or to any person specially excepted by Act of Congress.

(Added Pub. L. 87–849, §1(a), Oct. 23, 1962, 76 Stat. 1123.)

PRIOR PROVISIONS

A prior section 206, act June 25, 1948, ch. 645, 62 Stat. 692, related to an offer to a judge or judicial officer to influence him, prior to the general amendment of this chapter by Pub. L. 87–849 and is substantially covered by revised section 201.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87–849, set out as a note under section 201 of this title.

§207. Restrictions on former officers, employees, and elected officials of the executive and legislative branches

(a) RESTRICTIONS ON ALL OFFICERS AND EMPLOYEES OF THE EXECUTIVE BRANCH AND CERTAIN OTHER AGENCIES.—

(1) PERMANENT RESTRICTIONS ON REPRESENTATION ON PARTICULAR MATTERS.—Any person who is an officer or employee (including any special Government employee) of the executive branch of the United States (including any independent agency of the United States), or of the District of Columbia, and who, after the termination of his or her service or employment with the United States or the District of Columbia, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, on behalf of any other person (except the United States or the District of Columbia) in connection with a particular matter—

(A) in which the United States or the District of Columbia is a party or has a direct and substantial interest,

(B) in which the person participated personally and substantially as such officer or employee, and

(C) which involved a specific party or specific parties at the time of such participation,

shall be punished as provided in section 216 of this title.

(2) TWO-YEAR RESTRICTIONS CONCERNING PARTICULAR MATTERS UNDER OFFICIAL RESPONSIBILITY.—Any person subject to the restrictions contained in paragraph (1) who, within 2 years after the termination of his or her service or employment with the United States or the District of Columbia, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, on behalf of any other person (except the United States or the District of Columbia), in connection with a particular matter—

(A) in which the United States or the District of Columbia is a party or has a direct and substantial interest,

(B) which such person knows or reasonably should know was actually pending under his or her official responsibility as such officer or employee within a period of 1 year before the termination of his or her service or employment with the United States or the District of Columbia, and

(C) which involved a specific party or specific parties at the time it was so pending,

shall be punished as provided in section 216 of this title.

(3) CLARIFICATION OF RESTRICTIONS.—The restrictions contained in paragraphs (1) and (2) shall apply—

(A) in the case of an officer or employee of the executive branch of the United States (including any independent agency), only with respect to communications to or appearances before any officer or employee of any department, agency, court, or court-martial of the United States on behalf of any other person (except the United States), and only with respect to a matter in which the United States is a party or has a direct and substantial interest; and

(B) in the case of an officer or employee of the District of Columbia, only with respect to communications to or appearances before any officer or employee of any department, agency, or court of the District of Columbia on behalf of any other person (except the District of Columbia), and only with respect to a matter in which the District of Columbia is a party or has a direct and substantial interest.

(b) ONE-YEAR RESTRICTIONS ON AIDING OR ADVISING.—

(1) IN GENERAL.—Any person who is a former officer or employee of the executive branch of the United States (including any independent agency) and is subject to the restrictions contained in subsection (a)(1), or any person who is a former officer or employee of the legislative branch or a former Member of Congress, who personally and substantially participated in any ongoing trade or treaty negotiation on behalf of the United States within the 1-year period preceding the date on which his or her service or employment with the United States terminated, and who had access to information concerning such trade or treaty negotiation which is exempt from disclosure under section 552 of title 5, which is so designated by the appropriate department or agency, and which the person knew or should have known was so designated, shall not, on the basis of that information, knowingly represent, aid, or advise any other person (except the United States) concerning such ongoing trade or treaty negotiation for a period of 1 year after his or her service or employment with the United States terminates. Any person who violates this subsection shall be punished as provided in section 216 of this title.

(2) DEFINITION.—For purposes of this paragraph—

(A) the term ''trade negotiation'' means negotiations which the President determines to undertake to enter into a trade agreement pursuant to section 1102 of the Omnibus Trade and Competitiveness Act of 1988, and does not include any action taken before that determination is made; and

(B) the term ''treaty'' means an international agreement made by the President that requires the advice and consent of the Senate.

(c) ONE-YEAR RESTRICTIONS ON CERTAIN SENIOR PERSONNEL OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES.—

(1) RESTRICTIONS.—In addition to the restrictions set forth in subsections (a) and (b), any person who is an officer or employee (including any special Government employee) of the executive branch of the United States (including an independent agency), who is referred to in paragraph (2), and who, within 1 year after the termination of his or her service or employment as such officer or employee, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of the department or agency in which such person served within 1 year before such termination, on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of such department or agency, shall be punished as provided in section 216 of this title.

(2) PERSONS TO WHOM RESTRICTIONS APPLY.—(A) Paragraph (1) shall apply to a person (other than a person subject to the restrictions of subsection (d))—

(i) employed at a rate of pay specified in or fixed according to subchapter II of chapter 53 of title 5,

(ii) employed in a position which is not referred to in clause (i) and for which that person is paid at a rate of basic pay which is equal to or greater than 86.5 percent of the rate of basic pay for level II of the Executive Schedule, or, for a period of 2 years following the enactment of the National Defense Authorization Act for Fiscal Year 2004, a person who, on the day prior to the enactment of that Act, was employed in a position which is not referred to in clause (i) and for which the rate of basic pay, exclusive of any locality-based pay adjustment under section 5304 or section 5304a of title 5, was equal to or greater than the rate of basic pay payable for level 5 of the Senior Executive Service on the day prior to the enactment of that Act,

(iii) appointed by the President to a position under section 105(a)(2)(B) of title 3 or by the Vice President to a position under section 106(a)(1)(B) of title 3,

(iv) employed in a position which is held by an active duty commissioned officer of the uniformed services who is serving in a grade or rank for which the pay grade (as specified in section 201 of title 37) is pay grade O–7 or above; or

(v) assigned from a private sector organization to an agency under chapter 37 of title 5.

(B) Paragraph (1) shall not apply to a special Government employee who serves less than 60 days in the 1-year period before his or her service or employment as such employee terminates.

(C) At the request of a department or agency, the Director of the Office of Government Ethics may waive the restrictions contained in paragraph (1) with respect to any position, or category of positions, referred to in clause (ii) or (iv) of subparagraph (A), in such department or agency if the Director determines that—

(i) the imposition of the restrictions with respect to such position or positions would create an undue hardship on the department or agency in obtaining qualified personnel to fill such position or positions, and

(ii) granting the waiver would not create the potential for use of undue influence or unfair advantage.

(d) RESTRICTIONS ON VERY SENIOR PERSONNEL OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES.—

(1) RESTRICTIONS.—In addition to the restrictions set forth in subsections (a) and (b), any person who—

(A) serves in the position of Vice President of the United States,

(B) is employed in a position in the executive branch of the United States (including any independent agency) at a rate of pay payable for level I of the Executive Schedule or employed in a position in the Executive Office of the President at a rate of pay payable for level II of the Executive Schedule, or

(C) is appointed by the President to a position under section 105(a)(2)(A) of title 3 or by the Vice President to a position under section 106(a)(1)(A) of title 3,

and who, within 1 year after the termination of that person's service in that position, knowingly makes, with the intent to influence, any communication to or appearance before any person described in paragraph (2), on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of the executive branch of the United States, shall be punished as provided in section 216 of this title.

(2) PERSONS WHO MAY NOT BE CONTACTED.—The persons referred to in paragraph (1) with respect to appearances or communications by a person in a position described in subparagraph (A), (B), or (C) of paragraph (1) are—

(A) any officer or employee of any department or agency in which such person served in such position within a period of 1 year before such person's service or employment with the United States Government terminated, and

(B) any person appointed to a position in the executive branch which is listed in section 5312, 5313, 5314, 5315, or 5316 of title 5.

(e) RESTRICTIONS ON MEMBERS OF CONGRESS AND OFFICERS AND EMPLOYEES OF THE LEGISLATIVE BRANCH.—

(1) MEMBERS OF CONGRESS AND ELECTED OFFICERS.—(A) Any person who is a Member of

Congress or an elected officer of either House of Congress and who, within 1 year after that person leaves office, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B) or (C), on behalf of any other person (except the United States) in connection with any matter on which such former Member of Congress or elected officer seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former Member of Congress are any Member, officer, or employee of either House of Congress, and any employee of any other legislative office of the Congress.

(C) The persons referred to in subparagraph (A) with respect to appearances or communications by a former elected officer are any Member, officer, or employee of the House of Congress in which the elected officer served.

(2) PERSONAL STAFF.—(A) Any person who is an employee of a Senator or an employee of a Member of the House of Representatives and who, within 1 year after the termination of that employment, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a person who is a former employee are the following:

(i) the Senator or Member of the House of Representatives for whom that person was an employee; and

(ii) any employee of that Senator or Member of the House of Representatives.

(3) COMMITTEE STAFF.—Any person who is an employee of a committee of Congress and who, within 1 year after the termination of that person's employment on such committee, knowingly makes, with the intent to influence, any communication to or appearance before any person who is a Member or an employee of that committee or who was a Member of the committee in the year immediately prior to the termination of such person's employment by the committee, on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

(4) LEADERSHIP STAFF.—(A) Any person who is an employee on the leadership staff of the House of Representatives or an employee on the leadership staff of the Senate and who, within 1 year after the termination of that person's employment on such staff, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former employee are the following:

(i) in the case of a former employee on the leadership staff of the House of Representatives, those persons are any Member of the leadership of the House of Representatives and any employee on the leadership staff of the House of Representatives; and

(ii) in the case of a former employee on the leadership staff of the Senate, those persons are any Member of the leadership of the Senate and any employee on the leadership staff of the Senate.

(5) OTHER LEGISLATIVE OFFICES.—(A) Any person who is an employee of any other legislative office of the Congress and who, within 1 year after the termination of that person's employment in such office, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by any officer or employee of such office, in his or her official capacity, shall be punished as provided in section 216 of this title.

(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former employee are the employees and officers of the former legislative office of the Congress of the former employee.

(6) LIMITATION ON RESTRICTIONS.—(A) The restrictions contained in paragraphs (2), (3), and (4) apply only to acts by a former employee who, for at least 60 days, in the aggregate, during the 1-year period before that former employee's service as such employee terminated, was paid a rate of basic pay equal to or greater than an amount which is 75 percent of the basic rate of pay payable for a Member of the House of Congress in which such employee was employed.

(B) The restrictions contained in paragraph (5) apply only to acts by a former employee who, for at least 60 days, in the aggregate, during the 1-year period before that former employee's service as such employee terminated, was employed in a position for which the rate of basic pay, exclusive of any locality-based pay adjustment under section 5302 of title 5 (or any comparable adjustment pursuant to interim authority of the President), is equal to or greater than the basic rate of pay payable for level 5 of the Senior Executive Service.

(7) DEFINITIONS.—As used in this subsection—

(A) the term ''committee of Congress'' includes standing committees, joint committees, and select committees;

(B) a person is an employee of a House of Congress if that person is an employee of the Senate or an employee of the House of Representatives;

(C) the term ''employee of the House of Representatives'' means an employee of a Member of the House of Representatives, an employee of a committee of the House of Representatives, an employee of a joint committee of the Congress whose pay is disbursed by the Clerk of the House of Representatives, and an employee on the leadership staff of the House of Representatives;

(D) the term ''employee of the Senate'' means an employee of a Senator, an employee of a committee of the Senate, an employee of a joint committee of the Congress whose pay is disbursed by the Secretary of the Senate, and an employee on the leadership staff of the Senate;

(E) a person is an employee of a Member of the House of Representatives if that person is an employee of a Member of the House of Representatives under the clerk hire allowance;

(F) a person is an employee of a Senator if that person is an employee in a position in the office of a Senator;

(G) the term ''employee of any other legislative office of the Congress'' means an officer or employee of the Architect of the Capitol, the United States Botanic Garden, the Government Accountability Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Congressional Budget Office, the Copyright Royalty Tribunal, the United States Capitol Police, and any other agency, entity, or office in the legislative branch not covered by paragraph (1), (2), (3), or (4) of this subsection;

(H) the term ''employee on the leadership staff of the House of Representatives'' means an employee of the office of a Member of the leadership of the House of Representatives described in subparagraph (L), and any elected minority employee of the House of Representatives;

(I) the term ''employee on the leadership staff of the Senate'' means an employee of the office of a Member of the leadership of the Senate described in subparagraph (M);

(J) the term ''Member of Congress'' means a Senator or a Member of the House of Representatives;

(K) the term ''Member of the House of Representatives'' means a Representative in, or a Delegate or Resident Commissioner to, the Congress;

(L) the term ''Member of the leadership of the House of Representatives'' means the Speaker, majority leader, minority leader, majority whip, minority whip, chief deputy majority whip, chief deputy minority whip, chairman of the Democratic Steering Committee, chairman and vice chairman of the Democratic Caucus, chairman, vice chairman, and secretary of the Republican Conference, chairman of the Republican Research Committee, and chairman of the Republican Policy Committee, of the House of Representatives (or any similar position created on or after the effective date set forth in section 102(a) of the Ethics Reform Act of 1989);

(M) the term ''Member of the leadership of the Senate'' means the Vice President, and the President pro tempore, Deputy President pro tempore, majority leader, minority leader, majority whip, minority whip, chairman and secretary of the Conference of the Majority, chairman and secretary of the Conference of the Minority, chairman and co-chairman of the Majority Policy Committee, and chairman of the Minority Policy Committee, of the Senate (or any similar position created on or after the effective date set forth in section 102(a) of the Ethics Reform Act of 1989).

(f) RESTRICTIONS RELATING TO FOREIGN ENTITIES.—

(1) RESTRICTIONS.—Any person who is subject to the restrictions contained in subsection (c), (d), or (e) and who knowingly, within 1 year after leaving the position, office, or employment referred to in such subsection—

(A) represents a foreign entity before any officer or employee of any department or agency of the United States with the intent to influence a decision of such officer or employee in carrying out his or her official duties, or

(B) aids or advises a foreign entity with the intent to influence a decision of any officer or employee of any department or agency of the United States, in carrying out his or her official duties,

shall be punished as provided in section 216 of this title.

(2) SPECIAL RULE FOR TRADE REPRESENTATIVE.—With respect to a person who is the United States Trade Representative or Deputy United States Trade Representative, the restrictions described in paragraph (1) shall apply to representing, aiding, or advising foreign entities at any time after the termination of that person's service as the United States Trade Representative.

(3) DEFINITION.—For purposes of this subsection, the term ''foreign entity'' means the government of a foreign country as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended, or a foreign political party as defined in section 1(f) of that Act.

(g) SPECIAL RULES FOR DETAILEES.—For purposes of this section, a person who is detailed from one department, agency, or other entity to another department, agency, or other entity shall, during the period such person is detailed, be deemed to be an officer or employee of both departments, agencies, or such entities.

(h) DESIGNATIONS OF SEPARATE STATUTORY AGENCIES AND BUREAUS.—

(1) DESIGNATIONS.—For purposes of subsection (c) and except as provided in paragraph (2), whenever the Director of the Office of Government Ethics determines that an agency or bureau within a department or agency in the executive branch exercises functions which are distinct and separate from the remaining functions of the department or agency and that

there exists no potential for use of undue influence or unfair advantage based on past Government service, the Director shall by rule designate such agency or bureau as a separate department or agency. On an annual basis the Director of the Office of Government Ethics shall review the designations and determinations made under this subparagraph and, in consultation with the department or agency concerned, make such additions and deletions as are necessary. Departments and agencies shall cooperate to the fullest extent with the Director of the Office of Government Ethics in the exercise of his or her responsibilities under this paragraph.

(2) INAPPLICABILITY OF DESIGNATIONS.—No agency or bureau within the Executive Office of the President may be designated under paragraph (1) as a separate department or agency. No designation under paragraph (1) shall apply to persons referred to in subsection (c)(2)(A)(i) or (iii).

(i) DEFINITIONS.—For purposes of this section—

(1) the term ''officer or employee'', when used to describe the person to whom a communication is made or before whom an appearance is made, with the intent to influence, shall include—

(A) in subsections (a), (c), and (d), the President and the Vice President; and

(B) in subsection (f), the President, the Vice President, and Members of Congress;

(2) the term ''participated'' means an action taken as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other such action; and

(3) the term ''particular matter'' includes any investigation, application, request for a ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, or judicial or other proceeding.

(j) EXCEPTIONS.—

(1) OFFICIAL GOVERNMENT DUTIES.—The restrictions contained in this section shall not apply to acts done in carrying out official duties on behalf of the United States or the District of Columbia or as an elected official of a State or local government.

(2) STATE AND LOCAL GOVERNMENTS AND INSTITUTIONS, HOSPITALS, AND ORGANIZATIONS.—The restrictions contained in subsections (c), (d), and (e) shall not apply to acts done in carrying out official duties as an employee of—

(A) an agency or instrumentality of a State or local government if the appearance, communication, or representation is on behalf of such government, or

(B) an accredited, degree-granting institution of higher education, as defined in section 101 of the Higher Education Act of 1965, or a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1986, if the appearance, communication, or representation is on behalf of such institution, hospital, or organization.

(3) INTERNATIONAL ORGANIZATIONS.—The restrictions contained in this section shall not apply to an appearance or communication on behalf of, or advice or aid to, an international organization in which the United States participates, if the Secretary of State certifies in advance that such activity is in the interests of the United States.

(4) SPECIAL KNOWLEDGE.—The restrictions contained in subsections (c), (d), and (e) shall not prevent an individual from making or providing a statement, which is based on the individual's own special knowledge in the particular area that is the subject of the statement, if no compensation is thereby received.

(5) EXCEPTION FOR SCIENTIFIC OR TECHNOLOGICAL INFORMATION.—The restrictions contained in subsections (a), (c), and (d) shall not apply with respect to the making of communications solely for the purpose of furnishing scientific or technological information, if such communications are made under procedures acceptable to the department or agency concerned or if the head of the department or agency concerned with the particular matter, in consultation with the Director of the Office of Government Ethics, makes a certification, published in the Federal Register, that the former officer or employee has outstanding qualifications in a scientific, technological, or other technical discipline, and is acting with respect to a particular matter which requires such qualifications, and that the national interest would be served by the participation of the former officer or employee. For purposes of this paragraph, the term ''officer or employee'' includes the Vice President.

(6) EXCEPTION FOR TESTIMONY.—Nothing in this section shall prevent an individual from giving testimony under oath, or from making statements required to be made under penalty of perjury. Notwithstanding the preceding sentence—

(A) a former officer or employee of the executive branch of the United States (including any independent agency) who is subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except pursuant to court order, serve as an expert witness for any other person (except the United States) in that matter; and

(B) a former officer or employee of the District of Columbia who is subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except pursuant to court order, serve as an expert witness for any other person (except the District of Columbia) in that matter.

(7) POLITICAL PARTIES AND CAMPAIGN COMMITTEES.—(A) Except as provided in subparagraph (B), the restrictions contained in subsections (c), (d), and (e) shall not apply to a communication or appearance made solely on behalf of a candidate in his or her capacity as a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party.

(B) Subparagraph (A) shall not apply to—

(i) any communication to, or appearance before, the Federal Election Commission by a former officer or employee of the Federal Election Commission; or

(ii) a communication or appearance made by a person who is subject to the restrictions contained in subsections[1] (c), (d), or (e) if, at the time of the communication or appearance, the person is employed by a person or entity other than—

(I) a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party; or

(II) a person or entity who represents, aids, or advises only persons or entities described in subclause (I).

(C) For purposes of this paragraph—

(i) the term ''candidate'' means any person who seeks nomination for election, or election, to Federal or State office or who has authorized others to explore on his or her behalf the possibility of seeking nomination for election, or election, to Federal or State office;

(ii) the term ''authorized committee'' means any political committee designated in writing by a candidate as authorized to receive contributions or make expenditures to promote the nomination for election, or the election, of such candidate, or to explore the possibility of seeking nomination for election, or the election, of such candidate, except that a political committee that receives contributions or makes expenditures to promote more than 1 candidate may not be designated as an authorized committee for purposes of subparagraph (A);

(iii) the term ''national committee'' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level;

(iv) the term ''national Federal campaign committee'' means an organization that, by virtue of the bylaws of a political party, is established primarily for the purpose of providing assistance, at the national level, to candidates nominated by that party for election to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(v) the term ''State committee'' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level;

(vi) the term ''political party'' means an association, committee, or organization that nominates a candidate for election to any Federal or State elected office whose name appears on the election ballot as the candidate of such association, committee, or organization; and

(vii) the term ''State'' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(k)(1)(A) The President may grant a waiver of a restriction imposed by this section to any officer or employee described in paragraph (2) if the President determines and certifies in writing that it is in the public interest to grant the waiver and that the services of the officer or employee are critically needed for the benefit of the Federal Government. Not more than 25 officers and employees currently employed by the Federal Government at any one time may have been granted waivers under this paragraph.

(B)(i) A waiver granted under this paragraph to any person shall apply only with respect to activities engaged in by that person after that person's Federal Government employment is terminated and only to that person's employment at a Government-owned, contractor operated entity with which the person served as an officer or employee immediately before the person's Federal Government employment began.

(ii) Notwithstanding clause (i), a waiver granted under this paragraph to any person who was an officer or employee of Lawrence Livermore National Laboratory, Los Alamos National Laboratory, or Sandia National Laboratory immediately before the person's Federal Government employment began shall apply to that person's employment by any such national laboratory after the person's employment by the Federal Government is terminated.

(2) Waivers under paragraph (1) may be granted only to civilian officers and employees of the executive branch, other than officers and employees in the Executive Office of the President.

(3) A certification under paragraph (1) shall take effect upon its publication in the Federal Register and shall identify—

(A) the officer or employee covered by the waiver by name and by position, and

(B) the reasons for granting the waiver.

A copy of the certification shall also be provided to the Director of the Office of Government Ethics.

(4) The President may not delegate the authority provided by this subsection.

(5)(A) Each person granted a waiver under this subsection shall prepare reports, in accordance with subparagraph (B), stating whether the person has engaged in activities otherwise prohibited by this section for each six-month period described in subparagraph (B), and if so, what those activities were.

(B) A report under subparagraph (A) shall cover each six-month period beginning on the date of the termination of the person's Federal Government employment (with respect to which the waiver under this subsection was granted) and ending two years after that date. Such report shall be filed with the President and the Director of the Office of Government Ethics not later than 60 days after the end of the six-month period covered by the report. All reports filed with the Director under this paragraph shall be made available for public inspection and copying.

(C) If a person fails to file any report in accordance with subparagraphs (A) and (B), the President shall revoke the waiver and shall notify the person of the revocation. The revocation shall take effect upon the person's receipt of the notification and shall remain in effect until the report is filed.

(D) Any person who is granted a waiver under this subsection shall be ineligible for appointment in the civil service unless all reports re-

[1] So in original. Probably should be ''subsection''.

quired of such person by subparagraphs (A) and (B) have been filed.

(E) As used in this subsection, the term ''civil service'' has the meaning given that term in section 2101 of title 5.

(*l*) CONTRACT ADVICE BY FORMER DETAILS.—Whoever, being an employee of a private sector organization assigned to an agency under chapter 37 of title 5, within one year after the end of that assignment, knowingly represents or aids, counsels, or assists in representing any other person (except the United States) in connection with any contract with that agency shall be punished as provided in section 216 of this title.

(Added Pub. L. 87–849, §1(a), Oct. 23, 1962, 76 Stat. 1123; amended Pub. L. 95–521, title V, §501(a), Oct. 26, 1978, 92 Stat. 1864; Pub. L. 96–28, June 22, 1979, 93 Stat. 76; Pub. L. 101–189, div. A, title VIII, §814(d)(2), Nov. 29, 1989, 103 Stat. 1499; Pub. L. 101–194, title I, §101(a), Nov. 30, 1989, 103 Stat. 1716; Pub. L. 101–280, §§2(a), 5(d), May 4, 1990, 104 Stat. 149, 159; Pub. L. 101–509, title V, §529 [title I, §101(b)(8)(A)], Nov. 5, 1990, 104 Stat. 1427, 1440; Pub. L. 102–25, title VII, §705(a), Apr. 6, 1991, 105 Stat. 120; Pub. L. 102–190, div. C, title XXXI, §3138(a), Dec. 5, 1991, 105 Stat. 1579; Pub. L. 102–395, title VI, §609(a), Oct. 6, 1992, 106 Stat. 1873; Pub. L. 103–322, title XXXIII, §§330002(i), 330010(15), Sept. 13, 1994, 108 Stat. 2140, 2144; Pub. L. 104–65, §21(a), Dec. 19, 1995, 109 Stat. 704; Pub. L. 104–179, §§5, 6, Aug. 6, 1996, 110 Stat. 1567, 1568; Pub. L. 104–208, div. A, title I, §101(f) [title VI, §635], Sept. 30, 1996, 110 Stat. 3009–314, 3009–363; Pub. L. 105–244, title I, §102(a)(5), Oct. 7, 1998, 112 Stat. 1618; Pub. L. 107–347, title II, §209(d)(1), (3), Dec. 17, 2002, 116 Stat. 2930; Pub. L. 108–136, div. A, title XI, §1125(b)(1), Nov. 24, 2003, 117 Stat. 1639; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

REFERENCES IN TEXT

Section 1102 of the Omnibus Trade and Competitiveness Act of 1988, referred to in subsec. (b)(2)(A), is classified to section 2902 of Title 19, Customs Duties.

Levels I and II of the Executive Schedule, referred to in subsecs. (c)(2)(A)(ii) and (d)(1)(B), are set out in sections 5312 and 5313, respectively, of Title 5, Government Organization and Employees.

The National Defense Authorization Act for Fiscal Year 2004, referred to in subsec. (c)(2)(A)(ii), is Pub. L. 108–136, Nov. 24, 2003, 117 Stat. 1392. For complete classification of this Act to the Code, see Tables.

Senior Executive Service, referred to in subsecs. (c)(2)(A)(ii) and (e)(6)(B), see section 5382 of Title 5, Government Organization and Employees.

Section 102(a) of the Ethics Reform Act of 1989, referred to in subsec. (e)(7)(L), (M), is section 102(a) of Pub. L. 101–194, which is set out below.

Section 1(e) and (f) of the Foreign Agents Registration Act of 1938, referred to in subsec. (f)(3), is classified to section 611(e) and (f) of Title 22, Foreign Relations and Intercourse.

Section 101 of the Higher Education Act of 1965, referred to in subsec. (j)(2)(B), is classified to section 1001 of Title 20, Education.

Section 501(c)(3) of the Internal Revenue Code of 1986, referred to in subsec. (j)(2)(B), is classified to section 501(c)(3) of Title 26, Internal Revenue Code.

CODIFICATION

Another section 501(a) of Pub. L. 95–521, as added by Pub. L. 101–194, title VI, §601(a), Nov. 30, 1989, 103 Stat. 1760, is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 207, act June 25, 1948, ch. 645, 62 Stat. 692, related to the acceptance of a bribe by a judge, prior to the general amendment of this chapter by Pub. L. 87–849 and is substantially covered by revised section 201.

Provisions similar to those comprising this section were contained in section 284 of this title prior to the repeal of such section and the general amendment of this chapter by Pub. L. 87–849.

AMENDMENTS

2004—Subsec. (e)(7)(G). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

2003—Subsec. (c)(2)(A)(ii). Pub. L. 108–136 amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''employed in a position which is not referred to in clause (i) and for which the basic rate of pay, exclusive of any locality-based pay adjustment under section 5302 of title 5 (or any comparable adjustment pursuant to interim authority of the President), is equal to or greater than the rate of basic pay payable for level 5 of the Senior Executive Service,''.

2002—Subsec. (c)(2)(A)(v). Pub. L. 107–347, §209(d)(1), added cl. (v).

Subsec. (*l*). Pub. L. 107–347, §209(d)(3), added subsec. (*l*).

1998—Subsec. (j)(2)(B). Pub. L. 105–244 substituted ''section 101'' for ''section 1201(a)''.

1996—Subsec. (c)(2)(A)(ii). Pub. L. 104–179, §6, substituted ''level 5 of the Senior Executive Service,'' for ''level V of the Executive Schedule,''.

Subsec. (e)(6)(B). Pub. L. 104–208 substituted ''level 5 of the Senior Executive Service'' for ''level V of the Executive Schedule''.

Subsec. (j). Pub. L. 104–179, §5, added par. (7).

1995—Subsec. (f)(2). Pub. L. 104–65 inserted ''or Deputy United States Trade Representative'' after ''is the United States Trade Representative'' and substituted ''at any time'' for ''within 3 years''.

1994—Subsec. (a)(3). Pub. L. 103–322, §330010(15), substituted ''restrictions'' for ''Restrictions'' in heading.

Subsec. (c)(2)(A)(ii). Pub. L. 103–322, §330002(i), substituted a comma for semicolon at end.

1992—Subsec. (f)(2), (3). Pub. L. 102–395 added par. (2) and redesignated former par. (2) as (3).

1991—Subsec. (k). Pub. L. 102–25 reinstated subsec. (k) as originally enacted by Pub. L. 101–189. See 1989 Amendment note and Effective Date of 1991 Amendments note below.

Subsec. (k)(1)(B). Pub. L. 102–190 designated existing provisions as cl. (i) and added cl. (ii).

1990—Subsec. (a)(1). Pub. L. 101–280, §2(a)(1), amended subsec. (a)(1), as amended by Pub. L. 101–194, by inserting ''(including any special Government employee)'' after ''who is an officer or employee'', striking out ''Government'' after ''executive branch of the United States'', ''and any special Government employee'' after ''independent agency of the United States'', ''Government'' after ''employment with the United States'', ''as the case may be,'' before ''knowingly makes'' and before ''on behalf of'', inserting ''or the District of Columbia'' after ''(except the United States'', and in subpar. (A) inserting ''or the District of Columbia'' after ''United States''.

Subsec. (a)(2). Pub. L. 101–280, §2(a), amended subsec. (a)(2), as amended by Pub. L. 101–194, by substituting ''or the District of Columbia, knowingly'' for ''Government, knowingly'' and ''(except the United States or the District of Columbia)'' for ''(except the United States)'', in subpar. (A) inserting ''or the District of Columbia'' after ''United States)'', and in subpar. (B) striking out ''Government'' after ''United States''.

Subsec. (a)(3). Pub. L. 101–280, §2(a)(3), amended subsec. (a), as amended by Pub. L. 101–194, by adding par. (3).

Subsec. (b)(1). Pub. L. 101–280, §2(a)(4), amended subsec. (b)(1), as amended by Pub. L. 101–194, by sub-

stituting ''a former officer or employee of the executive branch of the United States (including any independent agency) and is'' for ''a former officer or employee'', substituting ''or any person who is a former officer or employee of the legislative branch or a former Member of Congress'' for ''and any person described in subsection (e)(7)'', substituting ''which is so designated by the appropriate department or agency, and which the person knew or should have known was so designated, shall not, on the basis of that information, knowingly represent'' for ''and which is so designated by the appropriate department or agency, shall not, on the basis of that information, which the person knew or should have known was so designated, knowingly represent'', inserting ''a period of'' before ''1 year'', and striking out ''Government'' before ''terminates''.

Subsec. (c). Pub. L. 101–280, § 5(d), substituted ''shall be subject to the penalties set forth in section 216 of this title'' for ''shall be fined not more than $10,000 or imprisoned for not more than two years, or both'' in concluding provisions of subsec. (c) as in effect on May 4, 1990.

Subsec. (c)(1). Pub. L. 101–280, § 2(a)(5)(A), amended subsec. (c)(1), as amended by Pub. L. 101–194, by substituting ''(including any special Government employee) of the executive branch of the United States'' for ''of the executive branch''.

Subsec. (c)(2)(A)(i). Pub. L. 101–280, § 2(a)(5)(B)(i), amended subsec. (c)(2)(A)(i), as amended by Pub. L. 101–194, by inserting ''specified in or'' after ''employed at a rate of pay'' and striking out ''or a comparable or greater rate of pay under other authority,'' after ''chapter 53 of title 5,''.

Subsec. (c)(2)(A)(ii). Pub. L. 101–509, § 529 [title I, § 101(b)(8)(A)(i)], added cl. (ii) and struck out former cl. (ii) which read as follows: ''employed in a position which is not referred to in clause (i) and for which the rate of basic pay is equal to or greater than the rate of basic pay payable for GS–17 of the General Schedule,''.

Pub. L. 101–280, § 2(a)(5)(B)(ii), amended subsec. (a)(2)(A)(ii), as amended by Pub. L. 101–194, by substituting ''rate of basic'' for ''basic rate of'' wherever appearing.

Subsec. (c)(2)(C), (D). Pub. L. 101–280, § 2(a)(5)(B)(iii), amended subsec. (c)(2)(C), (D), as amended by Pub. L. 101–194, by redesignating subpar. (D) as (C) and striking out former subpar. (C) which read as follows: ''Subparagraph (A)(ii) includes persons employed in the Senior Executive Service at the basic rate of pay specified in that subparagraph.''

Subsec. (d)(1)(B). Pub. L. 101–280, § 2(a)(6)(A), amended subsec. (d)(1)(B), as amended by Pub. L. 101–194, by substituting ''in the executive branch of the United States (including any independent agency)'' for ''paid''.

Subsec. (d)(2). Pub. L. 101–280, § 2(a)(6)(B), amended subsec. (d)(2), as amended by Pub. L. 101–194, by substituting ''Persons who may not be contacted'' for ''Entities to which restrictions apply'' in heading, and striking out ''other'' after ''any'' in subpar. (B).

Subsec. (e)(6). Pub. L. 101–509, § 529 [title I, § 101(b)(8)(A)(ii)], added par. (6) and struck out former par. (6) which read as follows: ''The restrictions contained in paragraphs (2), (3), (4), and (5) apply only to acts by a former employee who, for at least 60 days, in the aggregate, during the 1-year period before that former employee's service as such employee terminated, was paid for such service at a rate of basic pay equal to or greater than the rate of basic pay payable for GS–17 of the General Schedule under section 5332 of title 5.''

Pub. L. 101–280, § 2(a)(7)(A), amended subsec. (e)(6), as amended by Pub. L. 101–194, by substituting ''rate of basic'' for ''basic rate of'' wherever appearing.

Subsec. (e)(7)(L), (M). Pub. L. 101–280, § 2(a)(7)(B), amended subsec. (e)(7)(L), (M), as amended by Pub. L. 101–194, by inserting ''on or'' before ''after the effective date''.

Subsec. (f)(1). Pub. L. 101–280, § 2(a)(8)(A), amended subsec. (f)(1), as amended by Pub. L. 101–194, by substituting ''such subsection'' for ''subsection (c), (d), or (e), as the case may be''.

Subsec. (f)(1)(A). Pub. L. 101–280, § 2(a)(8)(B), amended subsec. (f)(1)(A), as amended by Pub. L. 101–194, by striking out ''the interests of'' after ''represents'' and ''of the Government'' after ''department or agency''.

Subsec. (f)(1)(B). Pub. L. 101–280, § 2(a)(8)(C), amended subsec. (f)(1)(B), as amended by Pub. L. 101–194, by striking out ''of the Government'' after ''department or agency''.

Subsec. (i)(1). Pub. L. 101–280, § 2(a)(9), amended subsec. (i)(1), as amended by Pub. L. 101–194, by adding par. (1) and striking out former par. (1) which read as follows: ''the term 'intent to influence' means the intent to affect any official action by a Government entity of the United States through any officer or employee of the United States, including Members of Congress;''.

Subsec. (j)(1). Pub. L. 101–280, § 2(a)(10)(A), amended subsec. (j)(1), as amended by Pub. L. 101–194, by substituting ''this section'' for ''subsections (a), (c), (d), and (e)'', ''on behalf of'' for ''as an officer or employee of'', and ''or the District of Columbia'' for ''Government''.

Subsec. (j)(3). Pub. L. 101–280, § 2(a)(10)(B), amended subsec. (j)(3), as amended by Pub. L. 101–194, by substituting ''this section'' for ''subsections (c), (d), and (e)'' and ''in which the United States participates, if the Secretary of State certifies in advance that such activity is in the interests of the United States'' for ''of which the United States is a member''.

Subsec. (j)(4). Pub. L. 101–280, § 2(a)(10)(C), amended subsec. (j)(4), as amended by Pub. L. 101–194, by substituting ''Special'' for ''Personal matters and special'' in heading, substituting ''prevent an individual'' for ''apply to appearances or communications by a former officer or employee concerning matters of a personal and individual nature, such as personal income taxes or pension benefits; nor shall the prohibitions of those subsections prevent a former officer or employee'', substituting ''individual's'' for ''former officer's or employee's'', and striking out '', other than that regularly provided for by law or regulation for witnesses'' after ''if no compensation is thereby received''.

Subsec. (j)(5). Pub. L. 101–280, § 2(a)(10)(D), amended subsec. (j)(5), as amended by Pub. L. 101–194, by substituting ''and (d)'' for ''(d), and (e)'' and inserting ''For purposes of this paragraph, the term 'officer or employee' includes the Vice President.''

Subsec. (j)(6). Pub. L. 101–280, § 2(a)(10)(E)(ii), amended subsec. (j)(6), as amended by Pub. L. 101–194, by substituting ''sentence—'' for ''sentence, a former officer or employee subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except pursuant to court order, serve as an expert witness for any other person (except the United States) in that matter.'' and adding subpars. (A) and (B).

Pub. L. 101–280, § 2(a)(10)(E)(i), amended subsec. (j)(6), as amended by Pub. L. 101–194, by substituting ''an individual'' for ''a former Member of Congress or officer or employee of the executive or legislative branch or an independent agency (including the Vice President and any special Government employee)''.

1989—Pub. L. 101–194 amended section generally, substituting ''Restrictions on former officers, employees, and elected officials of the executive and legislative branches'' for ''Disqualification of former officers and employees; disqualification of partners of current officers and employees'' as section catchline and making extensive changes in content and structure of text. For text of section as it existed prior to the general amendment by Pub. L. 101–194, see Effective Date of 1989 Amendment; Effect on Employment note set out below.

Subsec. (k). Pub. L. 101–189 added subsec. (k).

1979—Subsec. (b). Pub. L. 96–28, § 1, substituted ''by personal presence at any formal or informal appearance'' for ''concerning any formal or informal appearance'' in cl. (ii) of provisions before par. (1), and, in par. (3), inserted ''as to (i),'' before ''which was actually pending'' and '', as to (ii),'' before ''in which he participated''.

Subsec. (d). Pub. L. 96–28, § 2, designated existing provisions as par. (1), designated existing pars. (1) and (3)

as subpars. (A) and (B) of par. (1) as so designated, and added subpar. (C) of par. (1) and par. (2), incorporating into the new par. and subpar. portions of former provisions relating to positions for which the basic rate of pay was equal to or greater than the basic rate of pay for GS–17 of the General Schedule prescribed by section 5332 of Title 5 and who had significant decision-making or supervisory responsibility, as designated by the Director of the Office of Government Ethics, in consultation with the head of the department or agency concerned, and provisions relating to the designation of positions by the Director of the Office of Government Ethics.

1978—Pub. L. 95–521 expanded section to include provisions designed to more effectively deal with the problem of the disproportionate influence former officers and employees might have upon the government processes and decision-making in their previous departments or agencies when they return in the role of representatives or advocates of nongovernmental groups or interests before those same departments or agencies.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–136 effective on first day of first pay period beginning on or after Jan. 1, 2004, see section 1125(c)(1) of Pub. L. 108–136, set out as a note under section 5304 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–347 effective 120 days after Dec. 17, 2002, see section 402(a) of Pub. L. 107–347, set out as an Effective Date note under section 3601 of Title 44, Public Printing and Documents.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

EFFECTIVE DATE OF 1995 AMENDMENT

Section 21(c) of Pub. L. 104–65 provided that: ''The amendments made by this section [amending this section and section 2171 of Title 19, Customs Duties] shall apply with respect to an individual appointed as United States Trade Representative or as a Deputy United States Trade Representative on or after the date of enactment of this Act [Dec. 19, 1995].''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 609(b) of Pub. L. 102–395 provided that: ''This section [amending this section] shall not apply to the person serving as the United States Trade Representative at the date of enactment of this Act [Oct. 6, 1992].''

EFFECTIVE DATE OF 1991 AMENDMENTS

Section 3138(b) of Pub. L. 102–190 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 5, 1991] and shall apply to persons granted waivers under section 207(k)(1) of title 18, United States Code, on or after that date.''

Section 705(a) of Pub. L. 102–25 provided that subsec. (k), added by Pub. L. 101–189 and omitted in the general amendment of this section by Pub. L. 101–194, is reinstated as originally enacted, effective as of Jan. 1, 1991.

EFFECTIVE DATE OF 1990 AMENDMENTS

Section 529 [title I, §101(b)(8)(B)] of Pub. L. 101–509 provided that: ''The amendments made by subparagraph (A) [amending this section] take effect on January 1, 1991.''

Amendment by Pub. L. 101–280 effective May 4, 1990, see section 11 of Pub. L. 101–280, set out as a note under section 101 of Pub. L. 95–521 in the Appendix to Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1989 AMENDMENT; EFFECT ON EMPLOYMENT

Section 102 of Pub. L. 101–194, as amended by Pub. L. 101–280, §2(b), May 4, 1990, 104 Stat. 152, provided that:

''(a) IN GENERAL.—(1) Subject to paragraph (2) and to subsection (b), the amendments made by section 101 [amending this section] take effect on January 1, 1991.

''(2) Subject to subsection (b), the amendments made by section 101 take effect at noon on January 3, 1991, with respect to Members of Congress (within the meaning of section 207 of title 18, United States Code).

''(b) EFFECT ON EMPLOYMENT.—(1) The amendments made by section 101 apply only to persons whose service as a Member of Congress, the Vice President, or an officer or employee to which such amendments apply terminates on or after the effective date of such amendments.

''(2) With respect to service as an officer or employee which terminates before the effective date set forth in subsection (a), section 207 of title 18, United States Code, as in effect at the time of the termination of such service, shall continue to apply, on and after such effective date, with respect to such service.''

Prior to the effective date of the amendment by Pub. L. 101–194, section 207 read as follows:

''§207. Disqualification of former officers and employees; disqualification of partners of current officers and employees

''(a) Whoever, having been an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, after his employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to—

''(1) any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, and

''(2) in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

''(3) in which he participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, while so employed; or

''(b) Whoever, (i) having been so employed, within two years after his employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to, or (ii) having been so employed and as specified in subsection (d) of this section, within two years after his employment has ceased, knowingly represents or aids, counsels, advises, consults, or assists in representing any other person (except the United States) by personal presence at any formal or informal appearance before—

''(1) any department, agency, court, court-martial, or any civil, military or naval commission of the United States or the District of Columbia, or any officer or employee thereof, and

''(2) in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

''(3) as to (i), which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility, or, as to (ii), in which he participated personally and substantially as an officer or employee; or

''(c) Whoever, other than a special Government employee who serves for less than sixty days in a given calendar year, having been so employed as specified in subsection (d) of this section, within one year after such employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, anyone other than the United States in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of anyone other than the United States, to—

''(1) the department or agency in which he served as an officer or employee, or any officer or employee thereof, and

''(2) in connection with any judicial, rulemaking, or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter, and

''(3) which is pending before such department or agency or in which such department or agency has a direct and substantial interest—

shall be subject to the penalties set forth in section 216 of this title.

''(d)(1) Subsection (c) of this section shall apply to a person employed—

''(A) at a rate of pay specified in or fixed according to subchapter II of chapter 53 of title 5, United States Code, or a comparable or greater rate of pay under other authority;

''(B) on active duty as a commissioned officer of a uniformed service assigned to pay grade of O–9 or above as described in section 201 of title 37, United States Code; or

''(C) in a position which involves significant decision-making or supervisory responsibility, as designated under this subparagraph by the Director of the Office of Government Ethics, in consultation with the department or agency concerned. Only positions which are not covered by subparagraphs (A) and (B) above, and for which the basic rate of pay is equal to or greater than the basic rate of pay for GS–17 of the General Schedule prescribed by section 5332 of title 5, United States Code, or positions which are established within the Senior Executive Service pursuant to the Civil Service Reform Act of 1978, or positions of active duty commissioned officers of the uniformed services assigned to pay O–7 or O–8, as described in section 201 of title 37, United States Code, may be designated. As to persons in positions designated under this subparagraph, the Director may limit the restrictions of subsection (c) to permit a former officer or employee, who served in a separate agency or bureau within a department or agency, to make appearances before or communications to persons in an unrelated agency or bureau, within the same department or agency, having separate and distinct subject matter jurisdiction, upon a determination by the Director that there exists no potential for use of undue influence or unfair advantage based on past government service. On an annual basis, the Director of the Office of Government Ethics shall review the designations and determinations made under this subparagraph and, in consultation with the department or agency concerned, make such additions and deletions as are necessary. Departments and agencies shall cooperate to the fullest extent with the Director of the Office of Government Ethics in the exercise of his responsibilities under this paragraph.

''(2) The prohibition of subsection (c) shall not apply to appearances, communications, or representation by a former officer or employee, who is—

''(A) an elected official of a State or local government, or

''(B) whose principal occupation or employment is with (i) an agency or instrumentality of a State or local government, (ii) an accredited, degree-granting institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965, or (iii) a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1986, and the appearance, communication, or representation is on behalf of such government, institution, hospital, or organization.

''(e) For the purposes of subsection (c), whenever the Director of the Office of Government Ethics determines that a separate statutory agency or bureau within a department or agency exercises functions which are distinct and separate from the remaining functions of the department or agency, the Director shall by rule designate such agency or bureau as a separate department or agency; except that such designation shall not apply to former heads of designated bureaus or agencies, or former officers and employees of the department or agency whose official responsibilities included supervision of said agency or bureau.

''(f) The prohibitions of subsections (a), (b), and (c) shall not apply with respect to the making of communications solely for the purpose of furnishing scientific or technological information under procedures acceptable to the department or agency concerned, or if the head of the department or agency concerned with the particular matter, in consultation with the Director of the Office of Government Ethics, makes a certification, published in the Federal Register, that the former officer or employee has outstanding qualifications in a scientific, technological, or other technical discipline, and is acting with respect to a particular matter which requires such qualifications, and that the national interest would be served by the participation of the former officer or employee.

''(g) Whoever, being a partner of an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, acts as agent or attorney for anyone other than the United States before any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which such officer or employee or special Government employee participates or has participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of his official responsibility, shall be fined not more than $5,000, or imprisoned for not more than one year, or both.

''(h) Nothing in this section shall prevent a former officer or employee from giving testimony under oath, or from making statements required to be made under penalty of perjury.

''(i) The prohibition contained in subsection (c) shall not apply to appearances or communications by a former officer or employee concerning matters of a personal and individual nature, such as personal income taxes or pension benefits; nor shall the prohibition of that subsection prevent a former officer or employee from making or providing a statement, which is based on the former officer's or employee's own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received, other than that regularly provided for by law or regulation for witnesses.

''(j) If the head of the department or agency in which the former officer or employee served finds, after notice and opportunity for a hearing, that such former officer or employee violated subsection (a), (b), or (c) of this section, such department or agency head may prohibit that person from making, on behalf of any other

person (except the United States), any informal or formal appearance before, or, with the intent to influence, any oral or written communication to, such department or agency on a pending matter of business for a period not to exceed five years, or may take other appropriate disciplinary action. Such disciplinary action shall be subject to review in an appropriate United States district court. No later than six months after the effective date of this Act, departments and agencies shall, in consultation with the Director of the Office of Government Ethics, establish procedures to carry out this subsection.

''(k)(1)(A) The President may grant a waiver of a restriction imposed by this section to any officer or employee described in paragraph (2) if the President determines and certifies in writing that it is in the public interest to grant the waiver and that the services of the officer or employee are critically needed for the benefit of the Federal Government. Not more than 25 officers and employees currently employed by the Federal Government at any one time may have been granted waivers under this paragraph.

''(B) A waiver granted under this paragraph to any person shall apply only with respect to activities engaged in by that person after that person's Federal Government employment is terminated and only to that person's employment at a Government-owned, contractor operated entity with which the person served as an officer or employee immediately before the person's Federal Government employment began.

''(2) Waivers under paragraph (1) may be granted only to civilian officers and employees of the executive branch, other than officers and employees in the Executive Office of the President.

''(3) A certification under paragraph (1) shall take effect upon its publication in the Federal Register and shall identify—

''(A) the officer or employee covered by the waiver by name and by position, and

''(B) the reasons for granting the waiver.

A copy of the certification shall also be provided to the Director of the Office of Government Ethics.

''(4) The President may not delegate the authority provided by this subsection.

''(5)(A) Each person granted a waiver under this subsection shall prepare reports, in accordance with subparagraph (B), stating whether the person has engaged in activities otherwise prohibited by this section for each six-month period described in subparagraph (B), and if so, what those activities were.

''(B) A report under subparagraph (A) shall cover each six-month period beginning on the date of the termination of the person's Federal Government employment (with respect to which the waiver under this subsection was granted) and ending two years after that date. Such report shall be filed with the President and the Director of the Office of Government Ethics not later than 60 days after the end of the six-month period covered by the report. All reports filed with the Director under this paragraph shall be made available for public inspection and copying.

''(C) If a person fails to file any report in accordance with subparagraphs (A) and (B), the President shall revoke the waiver and shall notify the person of the revocation. The revocation shall take effect upon the person's receipt of the notification and shall remain in effect until the report is filed.

''(D) Any person who is granted a waiver under this subsection shall be ineligible for appointment in the civil service unless all reports required of such person by subparagraphs (A) and (B) have been filed.

''(E) As used in this subsection, the term 'civil service' has the meaning given that term in section 2101 of title 5.''

EFFECTIVE DATE OF 1978 AMENDMENT

Section 503 of Pub. L. 95–521, which provided that the amendments made by section 501 (amending this section) shall become effective on July 1, 1979, was amended generally by Pub. L. 101–194, title VI, § 601(a), Nov. 30, 1989, 103 Stat. 1761, and is now set out in the Appendix to Title 5, Government Organization and Employees.

Section 502 of Pub. L. 95–521, which provided that the amendments made by section 501 (amending this section) shall not apply to those individuals who left Government service prior to the effective date of such amendments (July 1, 1979) or, in the case of individuals who occupied positions designated pursuant to section 207(d) of title 18, United States Code, prior to the effective date of such designation; except that any such individual who returns to Government service on or after the effective date of such amendments or designation shall be thereafter covered by such amendments or designation, was amended generally by Pub. L. 101–194, title VI, § 601(a), Nov. 30, 1989, 103 Stat. 1761, and is now set out in the Appendix to Title 5.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87–849, set out as a note under section 201 of this title.

REGULATIONS

Responsibility of Office of Government Ethics for promulgating regulations and interpreting this section, see section 201(c) of Ex. Ord. No. 12674, Apr. 12, 1989, 54 F.R. 15159, as amended, set out as a note under section 7301 of Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

Certain functions of Clerk of House of Representatives transferred to Director of Non-legislative and Financial Services by section 7 of House Resolution No. 423, One Hundred Second Congress, Apr. 9, 1992. Director of Non-legislative and Financial Services replaced by Chief Administrative Officer of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

AGENCIES WITHIN EXECUTIVE OFFICE OF PRESIDENT

For provisions relating to treatment of agencies within the Executive Office of the President as one agency under subsec. (c) of this section, see Ex. Ord. No. 12674, § 202, Apr. 12, 1989, 54 F.R. 15160, as amended, set out as a note under section 7301 of Title 5, Government Organization and Employees.

EXEMPTIONS

Exemptions from former section 284 of this title deemed to be exemptions from this section, see section 2 of Pub. L. 87–849, set out as a note under section 203 of this title.

§ 208. Acts affecting a personal financial interest

(a) Except as permitted by subsection (b) hereof, whoever, being an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States, a Federal Reserve bank director, officer, or employee, or an officer or employee of the District of Columbia, including a special Government employee, participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is ne-

gotiating or has any arrangement concerning prospective employment, has a financial interest—

Shall be subject to the penalties set forth in section 216 of this title.

(b) Subsection (a) shall not apply—

(1) if the officer or employee first advises the Government official responsible for appointment to his or her position of the nature and circumstances of the judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee;

(2) if, by regulation issued by the Director of the Office of Government Ethics, applicable to all or a portion of all officers and employees covered by this section, and published in the Federal Register, the financial interest has been exempted from the requirements of subsection (a) as being too remote or too inconsequential to affect the integrity of the services of the Government officers or employees to which such regulation applies;

(3) in the case of a special Government employee serving on an advisory committee within the meaning of the Federal Advisory Committee Act (including an individual being considered for an appointment to such a position), the official responsible for the employee's appointment, after review of the financial disclosure report filed by the individual pursuant to the Ethics in Government Act of 1978, certifies in writing that the need for the individual's services outweighs the potential for a conflict of interest created by the financial interest involved; or

(4) if the financial interest that would be affected by the particular matter involved is that resulting solely from the interest of the officer or employee, or his or her spouse or minor child, in birthrights—

(A) in an Indian tribe, band, nation, or other organized group or community, including any Alaska Native village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians,

(B) in an Indian allotment the title to which is held in trust by the United States or which is inalienable by the allottee without the consent of the United States, or

(C) in an Indian claims fund held in trust or administered by the United States,

if the particular matter does not involve the Indian allotment or claims fund or the Indian tribe, band, nation, organized group or community, or Alaska Native village corporation as a specific party or parties.

(c)(1) For the purpose of paragraph (1) of subsection (b), in the case of class A and B directors of Federal Reserve banks, the Board of Governors of the Federal Reserve System shall be deemed to be the Government official responsible for appointment.

(2) The potential availability of an exemption under any particular paragraph of subsection (b) does not preclude an exemption being granted pursuant to another paragraph of subsection (b).

(d)(1) Upon request, a copy of any determination granting an exemption under subsection (b)(1) or (b)(3) shall be made available to the public by the agency granting the exemption pursuant to the procedures set forth in section 105 of the Ethics in Government Act of 1978. In making such determination available, the agency may withhold from disclosure any information contained in the determination that would be exempt from disclosure under section 552 of title 5. For purposes of determinations under subsection (b)(3), the information describing each financial interest shall be no more extensive than that required of the individual in his or her financial disclosure report under the Ethics in Government Act of 1978.

(2) The Office of Government Ethics, after consultation with the Attorney General, shall issue uniform regulations for the issuance of waivers and exemptions under subsection (b) which shall—

(A) list and describe exemptions; and

(B) provide guidance with respect to the types of interests that are not so substantial as to be deemed likely to affect the integrity of the services the Government may expect from the employee.

(Added Pub. L. 87–849, § 1(a), Oct. 23, 1962, 76 Stat. 1124; amended Pub. L. 95–188, title II, § 205, Nov. 16, 1977, 91 Stat. 1388; Pub. L. 101–194, title IV, § 405, Nov. 30, 1989, 103 Stat. 1751; Pub. L. 101–280, § 5(e), May 4, 1990, 104 Stat. 159; Pub. L. 103–322, title XXXIII, §§ 330002(b), 330008(6), Sept. 13, 1994, 108 Stat. 2140, 2143.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b)(3), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Ethics in Government Act of 1978, referred to in subsecs. (b)(3) and (d)(1), is Pub. L. 95–521, Oct. 26, 1978, 92 Stat. 1824, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Pub. L. 95–521 in the Appendix to Title 5 and Tables.

The Alaska Native Claims Settlement Act, referred to in subsec. (b)(4)(A), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

PRIOR PROVISIONS

A prior section 208, act June 25, 1948, ch. 645, 62 Stat. 693, related to the acceptance of solicitation of a bribe by a judicial officer, prior to the general amendment of this chapter by Pub. L. 87–849 and is substantially covered by revised section 201.

Provisions similar to those comprising this section were contained in section 434 of this title prior to the repeal of such section and the general amendment of this chapter by Pub. L. 87–849.

AMENDMENTS

1994—Subsec. (b)(4). Pub. L. 103–322, § 330008(6), inserted "if" after "(4)".

Subsec. (c)(1). Pub. L. 103–322, §330002(b), substituted ''banks'' for ''Banks''.

1990—Subsec. (a). Pub. L. 101–280, §5(e)(2), made technical correction to directory language of Pub. L. 101–194, §405(1)(C). See 1989 Amendment note below.

Subsec. (b)(2). Pub. L. 101–280, §5(e)(1)(A), substituted ''subsection (a)'' for ''paragraph (1)''.

Subsec. (b)(3). Pub. L. 101–280, §5(e)(1)(B), struck out ''section 107 of'' after ''individual pursuant to''.

Subsec. (d)(1). Pub. L. 101–280, §5(e)(1)(C), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''A copy of any determination by other than the Director of the Office of Government Ethics granting an exemption pursuant to subsection (b)(1) or (b)(3) shall be submitted to the Director, who shall make all determinations available to the public pursuant to section 105 of the Ethics in Government Act of 1978. For determinations pursuant to subsection (b)(3), the information from the financial disclosure report of the officer or employee involved describing the asset or assets that necessitated the waiver shall also be made available to the public. This subsection shall not apply, however, if the head of the agency or his or her designee determines that the determination under subsection (b)(1) or (b)(3), as the case may be, involves classified information.''

1989—Subsec. (a). Pub. L. 101–194, §405(1), as amended by Pub. L. 101–280, §5(e)(2), inserted ''or'' after ''United States Government,'' and ''an officer or employee'' before ''of the District of Columbia'', substituted ''general partner'' for ''partner'' in two places, and substituted ''Shall be subject to the penalties set forth in section 216 of this title'' for ''Shall be fined not more than $10,000, or imprisoned not more than two years, or both''.

Subsec. (b). Pub. L. 101–194, §405(2), added subsec. (b) and struck out former subsec. (b), which read as follows: ''Subsection (a) hereof shall not apply (1) if the officer or employee first advises the Government official responsible for appointment to his position of the nature and circumstances of the judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee, or (2) if, by general rule or regulation published in the Federal Register, the financial interest has been exempted from the requirements of clause (1) hereof as being too remote or too inconsequential to affect the integrity of Government officers' or employees' services. In the case of class A and B directors of Federal Reserve banks, the Board of Governors of the Federal Reserve System shall be the Government official responsible for appointment.''

Subsecs. (c), (d). Pub. L. 101–194, §405(2), added subsecs. (c) and (d).

1977—Subsec. (a). Pub. L. 95–188, §205(a), extended conflicts of interest prohibition to a Federal Reserve bank director, officer, or employee.

Subsec. (b). Pub. L. 95–188, §205(b), inserted at end ''In the case of class A and B directors of Federal Reserve banks, the Board of Governors of the Federal Reserve System shall be the Government official responsible for appointment.''

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87–849, set out as a note under section 201 of this title.

EXEMPTIONS

Exemptions from former section 434 of this title deemed to be exemptions from this section, see section 2 of Pub. L. 87–849, set out as a note under section 203 of this title.

REGULATIONS

Responsibility of Office of Government Ethics for promulgating regulations and interpreting this section, see section 201(c) of Ex. Ord. No. 12674, Apr. 12, 1989, 54 F.R. 15159, as amended, set out as a note under section 7301 of Title 5, Government Organization and Employees.

DELEGATION OF AUTHORITY

Authority of the President under subsec. (b) of this section to grant exemptions or approvals to individuals delegated to agency heads, see section 401 of Ex. Ord. No. 12674, Apr. 12, 1989, 54 F.R. 15159, as amended, set out as a note under section 7301 of Title 5, Government Organization and Employees.

Authority of the President under subsec. (b) of this section to grant exemptions or approvals for Presidential appointees to committees, commissions, boards, or similar groups established by the President, and for individuals appointed pursuant to sections 105 and 107(a) of Title 3, The President, delegated to Counsel to the President, see section 402 of Ex. Ord. No. 12674, Apr. 12, 1989, 54 F.R. 15159, as amended, set out as a note under section 7301 of Title 5.

''PARTICULAR MATTER'' DEFINED

Pub. L. 100–446, title III, §319, Sept. 27, 1988, 102 Stat. 1826, which provided that notwithstanding any other provision of law, for the purposes of this section ''particular matter'', as applied to employees of the Department of the Interior and the Indian Health Service, means ''particular matter involving specific parties'', was repealed by Pub. L. 101–194, title V, §505(b), Nov. 30, 1989, 103 Stat. 1756, as amended by Pub. L. 101–280, §6(c), May 4, 1990, 104 Stat. 160.

Similar provisions were contained in Pub. L. 100–202, §101(g) [title III, §318], Dec. 22, 1987, 101 Stat. 1329–213, 1329–255.

§209. Salary of Government officials and employees payable only by United States

(a) Whoever receives any salary, or any contribution to or supplementation of salary, as compensation for his services as an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality; or

Whoever, whether an individual, partnership, association, corporation, or other organization pays, makes any contribution to, or in any way supplements, the salary of any such officer or employee under circumstances which would make its receipt a violation of this subsection—

Shall be subject to the penalties set forth in section 216 of this title.

(b) Nothing herein prevents an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States, or of the District of Columbia, from continuing to participate in a bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer.

(c) This section does not apply to a special Government employee or to an officer or employee of the Government serving without compensation, whether or not he is a special Government employee, or to any person paying, contributing to, or supplementing his salary as such.

(d) This section does not prohibit payment or acceptance of contributions, awards, or other expenses under the terms of chapter 41 of title 5.

(e) This section does not prohibit the payment of actual relocation expenses incident to participation, or the acceptance of same by a participant in an executive exchange or fellowship program in an executive agency: *Provided*, That such program has been established by statute or Executive order of the President, offers appointments not to exceed three hundred and sixty-five days, and permits no extensions in excess of ninety additional days or, in the case of participants in overseas assignments, in excess of three hundred and sixty-five days.

(f) This section does not prohibit acceptance or receipt, by any officer or employee injured during the commission of an offense described in section 351 or 1751 of this title, of contributions or payments from an organization which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and which is exempt from taxation under section 501(a) of such Code.

(g)(1) This section does not prohibit an employee of a private sector organization, while assigned to an agency under chapter 37 of title 5, from continuing to receive pay and benefits from such organization in accordance with such chapter.

(2) For purposes of this subsection, the term ''agency'' means an agency (as defined by section 3701 of title 5) and the Office of the Chief Technology Officer of the District of Columbia.

(h) This section does not prohibit a member of the reserve components of the armed forces on active duty pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13) of title 10 from receiving from any person that employed such member before the call or order to active duty any payment of any part of the salary or wages that such person would have paid the member if the member's employment had not been interrupted by such call or order to active duty.

(Added Pub. L. 87–849, § 1(a), Oct. 23, 1962, 76 Stat. 1125; amended Pub. L. 96–174, Dec. 29, 1979, 93 Stat. 1288; Pub. L. 97–171, Apr. 13, 1982, 96 Stat. 67; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99–646, § 70, Nov. 10, 1986, 100 Stat. 3617; Pub. L. 101–194, title IV, § 406, Nov. 30, 1989, 103 Stat. 1753; Pub. L. 101–647, title XXXV, § 3510, Nov. 29, 1990, 104 Stat. 4922; Pub. L. 103–322, title XXXIII, § 330008(7), Sept. 13, 1994, 108 Stat. 2143; Pub. L. 107–273, div. A, title III, § 302(3), Nov. 2, 2002, 116 Stat. 1781; Pub. L. 107–347, title II, § 209(g)(2), Dec. 17, 2002, 116 Stat. 2932; Pub. L. 108–375, div. A, title VI, § 663, Oct. 28, 2004, 118 Stat. 1974.)

REFERENCES IN TEXT

Section 501 of the Internal Revenue Code of 1986, referred to in subsec. (f), is classified to section 501 of Title 26, Internal Revenue Code.

PRIOR PROVISIONS

A prior section 209, act June 25, 1948, ch. 645, 62 Stat. 693, related to an offer of a bribe to a witness, prior to the general amendment of this chapter by Pub. L. 87–849 and is substantially covered by section 201.

Provisions similar to those comprising this section were contained in section 1914 of this title prior to the repeal of such section and the general amendment of this chapter by Pub. L. 87–849.

AMENDMENTS

2004—Subsec. (h). Pub. L. 108–375 added subsec. (h).

2002—Subsec. (a). Pub. L. 107–273, in second par., substituted ''makes'' for ''or makes'' and ''supplements, the salary of any'' for ''supplements the salary of, any''.

Subsec. (g). Pub. L. 107–347 added subsec. (g).

1994—Subsec. (d). Pub. L. 103–322 struck out ''the'' before ''chapter 41''.

1990—Subsec. (d). Pub. L. 101–647 substituted ''chapter 41 of title 5'' for ''Government Employees Training Act (Public Law 85–507, 72 Stat. 327; 5 U.S.C. 2301–2319, July 7, 1958)''.

1989—Subsec. (a). Pub. L. 101–194 substituted at end ''Shall be subject to the penalties set forth in section 216 of this title.'' for ''Shall be fined not more than $5,000 or imprisoned not more than one year, or both.''

1986—Subsec. (e). Pub. L. 99–646 inserted ''or, in the case of participants in overseas assignments, in excess of three hundred and sixty-five days''.

Subsec. (f). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

1982—Subsec. (f). Pub. L. 97–171 added subsec. (f).

1979—Subsec. (e). Pub. L. 96–174 added subsec. (e).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–347 effective 120 days after Dec. 17, 2002, see section 402(a) of Pub. L. 107–347, set out as an Effective Date note under section 3601 of Title 44, Public Printing and Documents.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87–849, set out as a note under section 201 of this title.

EXEMPTIONS

Exemptions from former section 1914 of this title deemed to be exemptions from this section, see section 2 of Pub. L. 87–849, set out as a note under section 203 of this title.

PROMULGATION OF REGULATIONS

Responsibility of Office of Government Ethics for promulgating regulations and interpreting this section, see section 201(c) of Ex. Ord. No. 12674, Apr. 12, 1989, 54 F.R. 15159, as amended, set out as a note under section 7301 of Title 5, Government Organization and Employees.

§ 210. Offer to procure appointive public office

Whoever pays or offers or promises any money or thing of value, to any person, firm, or corporation in consideration of the use or promise to use any influence to procure any appointive office or place under the United States for any person, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 694, § 210, formerly § 214; renumbered § 210, Pub. L. 87–849, § 1(b), Oct. 23, 1962, 76 Stat. 1125; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on Title 18, U. S.C., 1940 ed., §§ 149 and 151 (Dec. 11, 1926, c. 3, §§ 1, 3, 44 Stat. 918).

Changes of style and substance were made in this section.

Term ''or place'' was inserted after words ''appointive office'' in order to give broader scope to the section and also to follow the phraseology used in similar provisions of section 202 of Title 18, U.S.C., 1940 ed., now section 216 [repealed] of this title. (See 46 Corpus Juris 924, where it is explained that the work ''places'' is used in a less technical sense than the word ''offices''.)

The punishment provision, added at the end of this section and section 215 [now section 211] of this title to secure uniformity of style throughout this chapter, was originally enacted as a separate section, incorporating the other two by reference. 80th Congress House Report No. 304.

PRIOR PROVISIONS

A prior section 210, act June 25, 1948, ch. 645, 62 Stat. 693, related to acceptance of a bribe by a witness, prior to the general amendment of this chapter by Pub. L. 87–849 and is substantially covered in revised section 201.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§211. Acceptance or solicitation to obtain appointive public office

Whoever solicits or receives, either as a political contribution, or for personal emolument, any money or thing of value, in consideration of the promise of support or use of influence in obtaining for any person any appointive office or place under the United States, shall be fined under this title or imprisoned not more than one year, or both.

Whoever solicits or receives any thing of value in consideration of aiding a person to obtain employment under the United States either by referring his name to an executive department or agency of the United States or by requiring the payment of a fee because such person has secured such employment shall be fined under this title, or imprisoned not more than one year, or both. This section shall not apply to such services rendered by an employment agency pursuant to the written request of an executive department or agency of the United States.

(June 25, 1948, ch. 645, 62 Stat. 694, §211, formerly §215; Sept. 13, 1951, ch. 380, 65 Stat. 320; renumbered §211, Pub. L. 87–849, §1(b), Oct. 23, 1962, 76 Stat. 1125; Pub. L. 103–322, title XXXIII, §330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§150 and 151 (Dec. 11, 1926, ch. 3, §§2, 3, 44 Stat. 918).

Same changes of style and substance were made in this section as in section 214 of this title.

PRIOR PROVISIONS

A prior section 211, act June 25, 1948, ch. 645, 62 Stat. 693, related to an offer of a gratuity to a revenue officer, prior to the general amendment of this chapter by Pub. L. 87–849 and is substantially covered in revised section 201.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000'' in two places.

1951—Act Sept. 13, 1951, inserted second paragraph.

§212. Offer of loan or gratuity to financial institution examiner

(a) IN GENERAL.—Except as provided in subsection (b), whoever, being an officer, director, or employee of a financial institution, makes or grants any loan or gratuity, to any examiner or assistant examiner who examines or has authority to examine such bank, branch, agency, organization, corporation, association, or institution—

(1) shall be fined under this title, imprisoned not more than 1 year, or both; and

(2) may be fined a further sum equal to the money so loaned or gratuity given.

(b) REGULATIONS.—A Federal financial institution regulatory agency may prescribe regulations establishing additional limitations on the application for and receipt of credit under this section and on the application and receipt of residential mortgage loans under this section, after consulting with each other Federal financial institution regulatory agency.

(c) DEFINITIONS.—In this section:

(1) EXAMINER.—The term ''examiner'' means any person—

(A) appointed by a Federal financial institution regulatory agency or pursuant to the laws of any State to examine a financial institution; or

(B) elected under the law of any State to conduct examinations of any financial institutions.

(2) FEDERAL FINANCIAL INSTITUTION REGULATORY AGENCY.—The term ''Federal financial institution regulatory agency'' means—

(A) the Office of the Comptroller of the Currency;

(B) the Board of Governors of the Federal Reserve System;

(C) the Office of Thrift Supervision;

(D) the Federal Deposit Insurance Corporation;

(E) the Federal Housing Finance Board;

(F) the Farm Credit Administration;

(G) the Farm Credit System Insurance Corporation; and

(H) the Small Business Administration.

(3) FINANCIAL INSTITUTION.—The term ''financial institution'' does not include a credit union, a Federal Reserve Bank, a Federal home loan bank, or a depository institution holding company.

(4) LOAN.—The term ''loan'' does not include any credit card account established under an open end consumer credit plan or a loan secured by residential real property that is the principal residence of the examiner, if—

(A) the applicant satisfies any financial requirements for the credit card account or residential real property loan that are generally applicable to all applicants for the same type of credit card account or residential real property loan;

(B) the terms and conditions applicable with respect to such account or residential real property loan, and any credit extended to the examiner under such account or residential real property loan, are no more favorable generally to the examiner than the terms and conditions that are generally applicable to credit card accounts or residential real property loans offered by the same financial institution to other borrowers cardholders[1] in comparable circumstances under open end consumer credit plans or for residential real property loans; and

(C) with respect to residential real property loans, the loan is with respect to the primary residence of the applicant.

[1] So in original.

(Added Pub. L. 108–198, § 2(a), Dec. 19, 2003, 117 Stat. 2899.)

PRIOR PROVISIONS

A prior section 212, acts June 25, 1948, ch. 645, 62 Stat. 694, § 212, formerly § 217; Pub. L. 85–699, title VII, § 701(a), Aug. 21, 1958, 72 Stat. 698; Pub. L. 86–168, title I, § 104(h), Aug. 18, 1959, 73 Stat. 387; renumbered § 212, Pub. L. 87–849, § 1(d), Oct. 23, 1962, 76 Stat. 1125; Pub. L. 101–73, title IX, § 962(a)(1), Aug. 9, 1989, 103 Stat. 501; Pub. L. 101–647, title XXV, § 2597(b), Nov. 29, 1990, 104 Stat. 4908; Pub. L. 103–322, title XXXIII, §§ 330004(1), 330010(1), 330016(1)(K), Sept. 13, 1994, 108 Stat. 2141, 2143, 2147, related to offer of loan or gratuity to bank examiner, prior to repeal by Pub. L. 108–198, § 2(a), Dec. 19, 2003, 117 Stat. 2899.

Another prior section 212, act June 25, 1948, ch. 645, 62 Stat. 693, related to an offer or threat to a customs officer or employee, prior to the general amendment to this chapter by Pub. L. 87–849 and is substantially covered by revised section 201.

§ 213. Acceptance of loan or gratuity by financial institution examiner

(a) IN GENERAL.—Whoever, being an examiner or assistant examiner, accepts a loan or gratuity from any bank, branch, agency, organization, corporation, association, or institution examined by the examiner or from any person connected with it, shall—

(1) be fined under this title, imprisoned not more than 1 year, or both;

(2) may be fined a further sum equal to the money so loaned or gratuity given; and

(3) shall be disqualified from holding office as an examiner.

(b) DEFINITIONS.—In this section, the terms ''examiner'', ''Federal financial institution regulatory agency'', ''financial institution'', and ''loan'' have the same meanings as in section 212.

(Added Pub. L. 108–198, § 2(a), Dec. 19, 2003, 117 Stat. 2900.)

PRIOR PROVISIONS

A prior section 213, acts June 25, 1948, ch. 645, 62 Stat. 695, § 213, formerly § 218; Pub. L. 85–699, title VII, § 701(b), Aug. 21, 1958, 72 Stat. 698; renumbered § 213, Pub. L. 87–849, § 1(d), Oct. 23, 1962, 76 Stat. 1125; Pub. L. 101–73, title IX, § 962(a)(2), Aug. 9, 1989, 103 Stat. 502; Pub. L. 101–647, title XXV, § 2597(c), Nov. 29, 1990, 104 Stat. 4909; Pub. L. 103–322, title XXXIII, §§ 330004(2), 330016(1)(K), Sept. 13, 1994, 108 Stat. 2141, 2147, related to acceptance of loan or gratuity by bank examiner, prior to repeal by Pub. L. 108–198, § 2(a), Dec. 19, 2003, 117 Stat. 2899.

Another prior section 213, act June 25, 1948, ch. 645, 62 Stat. 693, related to the acceptance or demand of a bribe by a customs officer or employee, prior to the general amendment to this chapter by Pub. L. 87–849 and is substantially covered by revised section 201.

§ 214. Offer for procurement of Federal Reserve bank loan and discount of commercial paper

Whoever stipulates for or gives or receives, or consents or agrees to give or receive, any fee, commission, bonus, or thing of value for procuring or endeavoring to procure from any Federal Reserve bank any advance, loan, or extension of credit or discount or purchase of any obligation or commitment with respect thereto, either directly from such Federal Reserve bank or indirectly through any financing institution, unless such fee, commission, bonus, or thing of value and all material facts with respect to the arrangement or understanding therefor shall be disclosed in writing in the application or request for such advance, loan, extension of credit, discount, purchase, or commitment, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 695, § 214, formerly § 219; renumbered § 214, Pub. L. 87–849, § 1(d), Oct. 23, 1962, 76 Stat. 1125; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 599 of title 12, U.S.C., 1940 ed., Banks and Banking (Dec. 23, 1913, ch. 6, § 22(k), as added by act June 19, 1934, ch. 653, § 3, 48 Stat. 1108).

Final sentence of said section 599, imposing civil liability on violators, was omitted as unnecessary, being merely a declaration of that rule of common law which in the absence of statute fixes civil liability on the wrongdoer.

Minor changes were made in phraseology.

PRIOR PROVISIONS

A prior section 214 of this title was renumbered section 210.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 215. Receipt of commissions or gifts for procuring loans

(a) Whoever—

(1) corruptly gives, offers, or promises anything of value to any person, with intent to influence or reward an officer, director, employee, agent, or attorney of a financial institution in connection with any business or transaction of such institution; or

(2) as an officer, director, employee, agent, or attorney of a financial institution, corruptly solicits or demands for the benefit of any person, or corruptly accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business or transaction of such institution;

shall be fined not more than $1,000,000 or three times the value of the thing given, offered, promised, solicited, demanded, accepted, or agreed to be accepted, whichever is greater, or imprisoned not more than 30 years, or both, but if the value of the thing given, offered, promised, solicited, demanded, accepted, or agreed to be accepted does not exceed $1,000, shall be fined under this title or imprisoned not more than one year, or both.

[(b) Transferred]

(c) This section shall not apply to bona fide salary, wages, fees, or other compensation paid, or expenses paid or reimbursed, in the usual course of business.

(d) Federal agencies with responsibility for regulating a financial institution shall jointly establish such guidelines as are appropriate to assist an officer, director, employee, agent, or attorney of a financial institution to comply with this section. Such agencies shall make such guidelines available to the public.

(June 25, 1948, ch. 645, 62 Stat. 695, §215, formerly §220; Sept. 21, 1950, ch. 967, §4, 64 Stat. 894; renumbered §215, Pub. L. 87–849, §1(d), Oct. 23, 1962, 76 Stat. 1125; Pub. L. 98–473, title II, §1107(a), Oct. 12, 1984, 98 Stat. 2145; Pub. L. 99–370, §2, Aug. 4, 1986, 100 Stat. 779; Pub. L. 101–73, title IX, §§961(a), 962(e)(1), Aug. 9, 1989, 103 Stat. 499, 503; Pub. L. 101–647, title XXV, §2504(a), Nov. 29, 1990, 104 Stat. 4861; Pub. L. 103–322, title XXXIII, §330016(1)(H), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–294, title VI, §606(a), Oct. 11, 1996, 110 Stat. 3511.)

HISTORICAL AND REVISION NOTES

Based on sections 595, 1125, and 1315 of title 12, U.S.C., 1940 ed., Banks and Banking (Dec. 23, 1913, ch. 6, §22, first sentence of second paragraph, 38 Stat. 272; July 17, 1916, ch. 245, §211(e), as added Mar. 4, 1923, ch. 252, §2, 42 Stat. 1460; June 21, 1917, ch. 32, §11, 40 Stat. 240; Sept. 26, 1918, ch. 177, §5, part 22(c), 40 Stat. 970; Mar. 4, 1923, ch. 252, title II, §216(e), 42 Stat. 1472).

The punishment provisions of the three sections were identical, and all other provisions thereof were similar, except that section 595 of title 12, U.S.C., 1940 ed., Banks and Banking, relating to officers, directors, employees, or attorneys of member banks of the Federal Reserve System, did not include the terms ''agent'' and ''acceptance'' and did not include the phrase ''or extension or renewal of loan or substitution of security''.

Words ''shall be deemed guilty of a misdemeanor'' were omitted because of definition of misdemeanor in section 1 of this title.

Words ''and upon conviction'' and ''and shall upon conviction thereof'' were omitted as surplusage because punishment cannot be imposed until after conviction.

Verbal changes were made for style purposes.

PRIOR PROVISIONS

A prior section 215 of this title was renumbered section 211.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–294 substituted ''$1,000'' for ''$100'' in concluding provisions.

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000'' in concluding provisions.

1990—Subsec. (a). Pub. L. 101–647 substituted ''30'' for ''20'' before ''years'' in concluding provisions.

1989—Subsec. (a). Pub. L. 101–73, §961(a), in closing provisions, substituted ''$1,000,000'' for ''$5,000'' and ''20 years'' for ''five years''.

Subsec. (b). Pub. L. 101–73, §962(e)(1), transferred subsec. (b) to section 20 of this title.

1986—Pub. L. 99–370 amended section generally, combining in subsec. (a) the statement of prohibited activities formerly set out in subsecs. (a) and (b), transferring to subsec. (b) and expanding provisions formerly set out in subsec. (c) which defined ''financial institution'', transferring to subsec. (c) and amending provisions formerly set out in subsec. (d) relating to applicability of section, and adding new subsec. (d) relating to establishment of guidelines to assist financial institutions in complying with this section.

1984—Pub. L. 98–473 amended section generally. Prior to amendment section read as follows: ''Whoever, being an officer, director, employee, agent, or attorney of any bank, the deposits of which are insured by the Federal Deposit Insurance Corporation, of a Federal intermediate credit bank, or of a National Agricultural Credit Corporation, except as provided by law, stipulates for or receives or consents or agrees to receive any fee, commission, gift, or thing of value, from any person, firm, or corporation, for procuring or endeavoring to procure for such person, firm, or corporation, or for any other person, firm, or corporation, from any such bank or corporation, any loan or extension or renewal of loan or substitution of security, or the purchase or discount or acceptance of any paper, note, draft, check, or bill of exchange by any such bank or corporation, shall be fined not more than $5,000 or imprisoned not more than one year or both.''

1950—Act Sept. 21, 1950, substituted ''any bank, the deposits of which are insured by the Federal Deposit Insurance Corporation'' for ''a member bank of the Federal Reserve System''.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 3 of Pub. L. 99–370 provided that: ''This Act and the amendments made by this Act [amending this section and enacting a provision set out as a note under section 201 of this title] shall take effect 30 days after the date of the enactment of this Act [Aug. 4, 1986].''

§216. Penalties and injunctions

(a) The punishment for an offense under section 203, 204, 205, 207, 208, or 209 of this title is the following:

(1) Whoever engages in the conduct constituting the offense shall be imprisoned for not more than one year or fined in the amount set forth in this title, or both.

(2) Whoever willfully engages in the conduct constituting the offense shall be imprisoned for not more than five years or fined in the amount set forth in this title, or both.

(b) The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 203, 204, 205, 207, 208, or 209 of this title and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

(c) If the Attorney General has reason to believe that a person is engaging in conduct constituting an offense under section 203, 204, 205, 207, 208, or 209 of this title, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.

(Added Pub. L. 101–194, title IV, §407(a), Nov. 30, 1989, 103 Stat. 1753; amended Pub. L. 101–280, §5(f), May 4, 1990, 104 Stat. 159.)

PRIOR PROVISIONS

A prior section 216, acts June 25, 1948, ch. 645, 62 Stat. 695, §216, formerly §221, amended Aug. 21, 1958, Pub. L. 85–699, title VII, §702(a)–(c), 72 Stat. 698; Aug. 18, 1959, Pub. L. 86–168, title I, §104(h), 73 Stat. 387, and renumbered Oct. 23, 1962, Pub. L. 87–849, §1(d), 76 Stat. 1125, related to receipt or charge of commissions or gifts for farm loan, land bank, or small business transactions, prior to repeal by Pub. L. 98–473, title II, §1107(b), Oct. 12, 1984, 98 Stat. 2146.

Another prior section 216, act June 25, 1948, ch. 645, 62 Stat. 694, which related to procurement of a contract

by an officer or Member of Congress, was repealed by section 1(c) of Pub. L. 87–849.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–280, § 5(f)(1), substituted ''section 203, 204, 205, 207, 208, or 209'' for ''sections 203, 204, 205, 207, 208, and 209''.

Subsec. (b). Pub. L. 101–280, § 5(f)(2), substituted ''section 203, 204, 205, 207, 208, or 209'' for ''sections 203, 204, 205, 207, 208, and 209''.

§ 217. Acceptance of consideration for adjustment of farm indebtedness

Whoever, being an officer or employee of, or person acting for the United States or any agency thereof, accepts any fee, commission, gift, or other consideration in connection with the compromise, adjustment, or cancellation of any farm indebtedness as provided by sections 1150, 1150a, and 1150b of Title 12, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 696, § 217, formerly § 222; renumbered § 217, Pub. L. 87–849, § 1(d), Oct. 23, 1962, 76 Stat. 1125; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 1150c(b) of title 12, U.S.C., 1940 ed., Banks and Banking (Dec. 20, 1944, ch. 623, § 4(b), 58 Stat. 837).

Words ''upon conviction thereof'' were omitted as surplusage, since punishment cannot be imposed until after conviction.

Other changes were made in phraseology without change of substance.

PRIOR PROVISIONS

A prior section 217 was renumbered section 212 of this title and subsequently repealed.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 218. Voiding transactions in violation of chapter; recovery by the United States

In addition to any other remedies provided by law the President or, under regulations prescribed by him, the head of any department or agency involved, may declare void and rescind any contract, loan, grant, subsidy, license, right, permit, franchise, use, authority, privilege, benefit, certificate, ruling, decision, opinion, or rate schedule awarded, granted, paid, furnished, or published, or the performance of any service or transfer or delivery of any thing to, by or for any agency of the United States or officer or employee of the United States or person acting on behalf thereof, in relation to which there has been a final conviction for any violation of this chapter, and the United States shall be entitled to recover in addition to any penalty prescribed by law or in a contract the amount expended or the thing transferred or delivered on its behalf, or the reasonable value thereof.

(Added Pub. L. 87–849, § 1(e), Oct. 23, 1962, 76 Stat. 1125.)

PRIOR PROVISIONS

A prior section 218 was renumbered section 213 of this title and subsequently repealed.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87–849, set out as a note under section 201 of this title.

EX. ORD. NO. 12448. EXERCISE OF AUTHORITY

Ex. Ord. No. 12448, Nov. 4, 1983, 48 F.R. 51281, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of America, including section 218 of title 18 of the United States Code, and in order to provide federal agencies with the authority to promulgate regulations for voiding or rescinding contracts or other benefits obtained through bribery, graft or conflict of interest, it is hereby ordered as follows:

SECTION 1. The head of each Executive department, Military department and Executive agency is hereby delegated the authority vested in the President to declare void and rescind the transactions set forth in section 218 of title 18 of the United States Code in relation to which there has been a final conviction for any violation of chapter 11 of title 18.

SEC. 2. The head of each Executive department and agency described in section 1 may exercise the authority hereby delegated by promulgating implementing regulations; provided that the Secretary of Defense, the Administrator of General Services and the Administrator of the National Aeronautics and Space Administration jointly shall issue government-wide implementing regulations related to voiding or rescission of contracts.

SEC. 3. Implementing regulations adopted pursuant to this Order shall, at a minimum, provide the following procedural protections:

(a) Written notice of the proposed action shall be given in each case to the person or entity affected;

(b) The person or entity affected shall be afforded an opportunity to submit pertinent information on its behalf before a final decision is made;

(c) Upon the request of the person or entity affected, a hearing shall be held at which it shall have the opportunity to call witnesses on its behalf and confront any witness the agency may present; and

(d) The head of the agency or his designee shall issue a final written decision specifying the amount of restitution or any other remedy authorized by section 218, provided that such remedy shall take into consideration the fair value of any tangible benefits received and retained by the agency.

RONALD REAGAN.

§ 219. Officers and employees acting as agents of foreign principals

(a) Whoever, being a public official, is or acts as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938 or a lobbyist required to register under the Lobbying Disclosure Act of 1995 in connection with the representation of a foreign entity, as defined in section 3(6) of that Act shall be fined under this title or imprisoned for not more than two years, or both.

(b) Nothing in this section shall apply to the employment of any agent of a foreign principal as a special Government employee in any case in which the head of the employing agency certifies that such employment is required in the national interest. A copy of any certification under this paragraph shall be forwarded by the head of such agency to the Attorney General who shall cause the same to be filed with the registration statement and other documents filed by such agent, and made available for public inspection in accordance with section 6 of the Foreign Agents Registration Act of 1938, as amended.

(c) For the purpose of this section ''public official'' means Member of Congress, Delegate, or Resident Commissioner, either before or after he has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government.

(Added Pub. L. 89–486, §8(b), July 4, 1966, 80 Stat. 249; amended Pub. L. 98–473, title II, §1116, Oct. 12, 1984, 98 Stat. 2149; Pub. L. 99–646, §30, Nov. 10, 1986, 100 Stat. 3598; Pub. L. 101–647, title XXXV, §3511, Nov. 29, 1990, 104 Stat. 4922; Pub. L. 104–65, §12(b), Dec. 19, 1995, 109 Stat. 701.)

REFERENCES IN TEXT

The Foreign Agents Registration Act of 1938, as amended, referred to in subsec. (a), is act June 8, 1938, ch. 327, 52 Stat. 631, as amended, which is classified generally to subchapter II (§611 et seq.) of chapter 11 of Title 22, Foreign Relations and Intercourse. Section 6 of the Foreign Agents Registration Act of 1938 is classified to section 616 of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 611 of Title 22 and Tables.

The Lobbying Disclosure Act of 1995, referred to in subsec. (a), is Pub. L. 104–65, Dec. 19, 1995, 109 Stat. 691, which is classified principally to chapter 26 (§1601 et seq.) of Title 2, The Congress. Section 3(6) of the Act is classified to section 1602(6) of Title 2. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 2 and Tables.

PRIOR PROVISIONS

A prior section 219 was renumbered section 214.

AMENDMENTS

1995—Subsec. (a). Pub. L. 104–65 substituted ''or a lobbyist required to register under the Lobbying Disclosure Act of 1995 in connection with the representation of a foreign entity, as defined in section 3(6) of that Act'' for '', as amended,''.

1990—Subsec. (c). Pub. L. 101–647 substituted ''Government'' for ''Governments'' before ''thereof''.

1986—Subsec. (a). Pub. L. 99–646, §30(1), designated first par. as subsec. (a) and amended it generally, which prior to amendment read as follows: ''Whoever, being a public official of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, including the District of Columbia, is or acts as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938, as amended, shall be fined not more than $10,000 or imprisoned for not more than two years, or both.''

Subsec. (b). Pub. L. 99–646, §30(2), designated second par. as subsec. (b).

Subsec. (c). Pub. L. 99–646, §30(2), (3), designated third par. as subsec. (c) and substituted ''Delegate'' for ''Delegate from the District of Columbia'' and ''branch of Government'' for ''branch of Government, or a juror''.

1984—Pub. L. 98–473 substituted ''a public official'' for ''an officer or employee'' in first par., and inserted par. defining ''public official''.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–65 effective Jan. 1, 1996, except as otherwise provided, see section 24 of Pub. L. 104–65, set out as an Effective Date note under section 1601 of Title 2, The Congress.

EFFECTIVE DATE

Section effective ninety days after July 4, 1966, see section 9 of Pub. L. 89–486, set out as an Effective Date of 1966 Amendment note under section 611 of Title 22, Foreign Relations and Intercourse.

[§§ 220 to 222. Renumbered §§ 215 to 217]

[§ 223. Repealed. Pub. L. 87–849, § 1(c), Oct. 23, 1962, 76 Stat. 1125]

Section, act June 25, 1948, ch. 645, 62 Stat. 696, related to transactions of the Home Owners' Loan Corporation.

EFFECTIVE DATE OF REPEAL

Repeal effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87–849, set out as an Effective Date note under section 201 of this title.

§224. Bribery in sporting contests

(a) Whoever carries into effect, attempts to carry into effect, or conspires with any other person to carry into effect any scheme in commerce to influence, in any way, by bribery any sporting contest, with knowledge that the purpose of such scheme is to influence by bribery that contest, shall be fined under this title, or imprisoned not more than 5 years, or both.

(b) This section shall not be construed as indicating an intent on the part of Congress to occupy the field in which this section operates to the exclusion of a law of any State, territory, Commonwealth, or possession of the United States, and no law of any State, territory, Commonwealth, or possession of the United States, which would be valid in the absence of the section shall be declared invalid, and no local authorities shall be deprived of any jurisdiction over any offense over which they would have jurisdiction in the absence of this section.

(c) As used in this section—

(1) The term ''scheme in commerce'' means any scheme effectuated in whole or in part through the use in interstate or foreign commerce of any facility for transportation or communication;

(2) The term ''sporting contest'' means any contest in any sport, between individual contestants or teams of contestants (without regard to the amateur or professional status of the contestants therein), the occurrence of which is publicly announced before its occurrence;

(3) The term ''person'' means any individual and any partnership, corporation, association, or other entity.

(Added Pub. L. 88–316, §1(a), June 6, 1964, 78 Stat. 203; amended Pub. L. 103–322, title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

§225. Continuing financial crimes enterprise

(a) Whoever—

(1) organizes, manages, or supervises a continuing financial crimes enterprise; and

(2) receives $5,000,000 or more in gross receipts from such enterprise during any 24-month period,

shall be fined not more than $10,000,000 if an individual, or $20,000,000 if an organization, and imprisoned for a term of not less than 10 years and which may be life.

(b) For purposes of subsection (a), the term ''continuing financial crimes enterprise'' means a series of violations under section 215, 656, 657, 1005, 1006, 1007, 1014, 1032, or 1344 of this title, or section 1341 or 1343 affecting a financial institution, committed by at least 4 persons acting in concert.

(Added Pub. L. 101–647, title XXV, § 2510(a), Nov. 29, 1990, 104 Stat. 4863.)

CHAPTER 11A—CHILD SUPPORT

Sec.
228. Failure to pay legal child support obligations.

§ 228. Failure to pay legal child support obligations

(a) OFFENSE.—Any person who—

(1) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than 1 year, or is greater than $5,000;

(2) travels in interstate or foreign commerce with the intent to evade a support obligation, if such obligation has remained unpaid for a period longer than 1 year, or is greater than $5,000; or

(3) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than 2 years, or is greater than $10,000;

shall be punished as provided in subsection (c).

(b) PRESUMPTION.—The existence of a support obligation that was in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support obligation for that time period.

(c) PUNISHMENT.—The punishment for an offense under this section is—

(1) in the case of a first offense under subsection (a)(1), a fine under this title, imprisonment for not more than 6 months, or both; and

(2) in the case of an offense under paragraph (2) or (3) of subsection (a), or a second or subsequent offense under subsection (a)(1), a fine under this title, imprisonment for not more than 2 years, or both.

(d) MANDATORY RESTITUTION.—Upon a conviction under this section, the court shall order restitution under section 3663A in an amount equal to the total unpaid support obligation as it exists at the time of sentencing.

(e) VENUE.—With respect to an offense under this section, an action may be inquired of and prosecuted in a district court of the United States for—

(1) the district in which the child who is the subject of the support obligation involved resided during a period during which a person described in subsection (a) (referred to in this subsection as an ''obliger'') failed to meet that support obligation;

(2) the district in which the obliger resided during a period described in paragraph (1); or

(3) any other district with jurisdiction otherwise provided for by law.

(f) DEFINITIONS.—As used in this section—

(1) the term ''Indian tribe'' has the meaning given that term in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a);

(2) the term ''State'' includes any State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

(3) the term ''support obligation'' means any amount determined under a court order or an order of an administrative process pursuant to the law of a State or of an Indian tribe to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living.

(Added Pub. L. 102–521, § 2(a), Oct. 25, 1992, 106 Stat. 3403; amended Pub. L. 104–294, title VI, § 607(*l*), Oct. 11, 1996, 110 Stat. 3512; Pub. L. 105–187, § 2, June 24, 1998, 112 Stat. 618.)

AMENDMENTS

1998—Pub. L. 105–187 reenacted section catchline without change and amended text generally. Prior to amendment, section consisted of subsecs. (a) to (d) relating to a description of the offense, punishment for an offense, restitution upon conviction of an offense, and definitions of terms used in this section.

1996—Subsec. (d)(2). Pub. L. 104–294 inserted ''commonwealth,'' before ''possession or territory of the United States''.

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–187, § 1, June 24, 1998, 112 Stat. 618, provided that: ''This Act [amending this section] may be cited as the 'Deadbeat Parents Punishment Act of 1998'.''

SHORT TITLE

Section 1 of Pub. L. 102–521 provided that: ''This Act [enacting this section and sections 3796cc to 3796cc–6 of Title 42, The Public Health and Welfare, amending section 3563 of this title and section 3797 of Title 42, and enacting provisions set out as a note under section 12301 of Title 42] may be cited as the 'Child Support Recovery Act of 1992'.''

CHAPTER 11B—CHEMICAL WEAPONS

Sec.
229. Prohibited activities.
229A. Penalties.
229B. Criminal forfeitures; destruction of weapons.
229C. Individual self-defense devices.
229D. Injunctions.
229E. Requests for military assistance to enforce prohibition in certain emergencies.
229F. Definitions.

§ 229. Prohibited activities

(a) UNLAWFUL CONDUCT.—Except as provided in subsection (b), it shall be unlawful for any person knowingly—

(1) to develop, produce, otherwise acquire, transfer directly or indirectly, receive, stockpile, retain, own, possess, or use, or threaten to use, any chemical weapon; or

(2) to assist or induce, in any way, any person to violate paragraph (1), or to attempt or conspire to violate paragraph (1).

(b) EXEMPTED AGENCIES AND PERSONS.—

(1) IN GENERAL.—Subsection (a) does not apply to the retention, ownership, possession, transfer, or receipt of a chemical weapon by a department, agency, or other entity of the

United States, or by a person described in paragraph (2), pending destruction of the weapon.

(2) EXEMPTED PERSONS.—A person referred to in paragraph (1) is—

(A) any person, including a member of the Armed Forces of the United States, who is authorized by law or by an appropriate officer of the United States to retain, own, possess, transfer, or receive the chemical weapon; or

(B) in an emergency situation, any otherwise nonculpable person if the person is attempting to destroy or seize the weapon.

(c) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if the prohibited conduct—

(1) takes place in the United States;

(2) takes place outside of the United States and is committed by a national of the United States;

(3) is committed against a national of the United States while the national is outside the United States; or

(4) is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States.

(Added Pub. L. 105–277, div. I, title II, § 201(a), Oct. 21, 1998, 112 Stat. 2681–866.)

REGULATIONS

For authority to issue regulations under this chapter, see section 3 of Ex. Ord. No. 13128, June 25, 1999, 64 F.R. 34703, set out as a note under section 6711 of Title 22, Foreign Relations and Intercourse.

REVOCATIONS OF EXPORT PRIVILEGES

Pub. L. 105–277, div. I, title II, § 211, Oct. 21, 1998, 112 Stat. 2681–872, provided that: ''If the President determines, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, that any person within the United States, or any national of the United States located outside the United States, has committed any violation of section 229 of title 18, United States Code, the President may issue an order for the suspension or revocation of the authority of the person to export from the United States any goods or technology (as such terms are defined in section 16 of the Export Administration Act of 1979 (50 U.S.C. App. 2415)).''

[For authority of Secretary of Commerce to suspend or revoke export privileges pursuant to section 211 of Pub. L. 105–277, set out above, see section 4 of Ex. Ord. No. 13128, June 25, 1999, 64 F.R. 34703, set out as a note under section 6711 of Title 22, Foreign Relations and Intercourse.]

§ 229A. Penalties

(a) CRIMINAL PENALTIES.—

(1) IN GENERAL.—Any person who violates section 229 of this title shall be fined under this title, or imprisoned for any term of years, or both.

(2) DEATH PENALTY.—Any person who violates section 229 of this title and by whose action the death of another person is the result shall be punished by death or imprisoned for life.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—The Attorney General may bring a civil action in the appropriate United States district court against any person who violates section 229 of this title and, upon proof of such violation by a preponderance of the evidence, such person shall be subject to pay a civil penalty in an amount not to exceed $100,000 for each such violation.

(2) RELATION TO OTHER PROCEEDINGS.—The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

(c) REIMBURSEMENT OF COSTS.—The court shall order any person convicted of an offense under subsection (a) to reimburse the United States for any expenses incurred by the United States incident to the seizure, storage, handling, transportation, and destruction or other disposition of any property that was seized in connection with an investigation of the commission of the offense by that person. A person ordered to reimburse the United States for expenses under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered under this subsection to reimburse the United States for the same expenses.

(Added Pub. L. 105–277, div. I, title II, § 201(a), Oct. 21, 1998, 112 Stat. 2681–867.)

§ 229B. Criminal forfeitures; destruction of weapons

(a) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.—Any person convicted under section 229A(a) shall forfeit to the United States irrespective of any provision of State law—

(1) any property, real or personal, owned, possessed, or used by a person involved in the offense;

(2) any property constituting, or derived from, and proceeds the person obtained, directly or indirectly, as the result of such violation; and

(3) any of the property used in any manner or part, to commit, or to facilitate the commission of, such violation.

The court, in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to section 229A(a), that the person forfeit to the United States all property described in this subsection. In lieu of a fine otherwise authorized by section 229A(a), a defendant who derived profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

(b) PROCEDURES.—

(1) GENERAL.—Property subject to forfeiture under this section, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed by subsections (b) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), except that any reference under those subsections to—

(A) ''this subchapter or subchapter II'' shall be deemed to be a reference to section 229A(a); and

(B) ''subsection (a)'' shall be deemed to be a reference to subsection (a) of this section.

(2) TEMPORARY RESTRAINING ORDERS.—

(A) IN GENERAL.—For the purposes of forfeiture proceedings under this section, a temporary restraining order may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if, in addition to the circumstances described in section 413(e)(2) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853(e)(2)), the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and exigent circumstances exist that place the life or health of any person in danger.

(B) WARRANT OF SEIZURE.—If the court enters a temporary restraining order under this paragraph, it shall also issue a warrant authorizing the seizure of such property.

(C) APPLICABLE PROCEDURES.—The procedures and time limits applicable to temporary restraining orders under section 413(e)(2) and (3) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853(e)(2) and (3)) shall apply to temporary restraining orders under this paragraph.

(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense against a forfeiture under subsection (b) that the property—

(1) is for a purpose not prohibited under the Chemical Weapons Convention; and

(2) is of a type and quantity that under the circumstances is consistent with that purpose.

(d) DESTRUCTION OR OTHER DISPOSITION.—The Attorney General shall provide for the destruction or other appropriate disposition of any chemical weapon seized and forfeited pursuant to this section.

(e) ASSISTANCE.—The Attorney General may request the head of any agency of the United States to assist in the handling, storage, transportation, or destruction of property seized under this section.

(f) OWNER LIABILITY.—The owner or possessor of any property seized under this section shall be liable to the United States for any expenses incurred incident to the seizure, including any expenses relating to the handling, storage, transportation, and destruction or other disposition of the seized property.

(Added Pub. L. 105–277, div. I, title II, § 201(a), Oct. 21, 1998, 112 Stat. 2681–868.)

§ 229C. Individual self-defense devices

Nothing in this chapter shall be construed to prohibit any individual self-defense device, including those using a pepper spray or chemical mace.

(Added Pub. L. 105–277, div. I, title II, § 201(a), Oct. 21, 1998, 112 Stat. 2681–869.)

§ 229D. Injunctions

The United States may obtain in a civil action an injunction against—

(1) the conduct prohibited under section 229 or 229C of this title; or

(2) the preparation or solicitation to engage in conduct prohibited under section 229 or 229D[1] of this title.

(Added Pub. L. 105–277, div. I, title II, § 201(a), Oct. 21, 1998, 112 Stat. 2681–869.)

§ 229E. Requests for military assistance to enforce prohibition in certain emergencies

The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 229 of this title in an emergency situation involving a chemical weapon. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.

(Added Pub. L. 105–277, div. I, title II, § 201(a), Oct. 21, 1998, 112 Stat. 2681–869.)

§ 229F. Definitions

In this chapter:

(1) CHEMICAL WEAPON.—The term ''chemical weapon'' means the following, together or separately:

(A) A toxic chemical and its precursors, except where intended for a purpose not prohibited under this chapter as long as the type and quantity is consistent with such a purpose.

(B) A munition or device, specifically designed to cause death or other harm through toxic properties of those toxic chemicals specified in subparagraph (A), which would be released as a result of the employment of such munition or device.

(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B).

(2) CHEMICAL WEAPONS CONVENTION; CONVENTION.—The terms ''Chemical Weapons Convention'' and ''Convention'' mean the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993.

(3) KEY COMPONENT OF A BINARY OR MULTICOMPONENT CHEMICAL SYSTEM.—The term ''key component of a binary or multicomponent chemical system'' means the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system.

(4) NATIONAL OF THE UNITED STATES.—The term ''national of the United States'' has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(5) PERSON.—The term ''person'', except as otherwise provided, means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any po-

[1] So in original.

litical entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, or other entity located in the United States.

(6) PRECURSOR.—

(A) IN GENERAL.—The term ''precursor'' means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. The term includes any key component of a binary or multicomponent chemical system.

(B) LIST OF PRECURSORS.—Precursors which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

(7) PURPOSES NOT PROHIBITED BY THIS CHAPTER.—The term ''purposes not prohibited by this chapter'' means the following:

(A) PEACEFUL PURPOSES.—Any peaceful purpose related to an industrial, agricultural, research, medical, or pharmaceutical activity or other activity.

(B) PROTECTIVE PURPOSES.—Any purpose directly related to protection against toxic chemicals and to protection against chemical weapons.

(C) UNRELATED MILITARY PURPOSES.—Any military purpose of the United States that is not connected with the use of a chemical weapon or that is not dependent on the use of the toxic or poisonous properties of the chemical weapon to cause death or other harm.

(D) LAW ENFORCEMENT PURPOSES.—Any law enforcement purpose, including any domestic riot control purpose and including imposition of capital punishment.

(8) TOXIC CHEMICAL.—

(A) IN GENERAL.—The term ''toxic chemical'' means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. The term includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.

(B) LIST OF TOXIC CHEMICALS.—Toxic chemicals which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

(9) UNITED STATES.—The term ''United States'' means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—

(A) any of the places within the provisions of paragraph (41)[1] of section 40102 of title 49, United States Code;

(B) any civil aircraft of the United States or public aircraft, as such terms are defined in paragraphs (17) and (37),[1] respectively, of section 40102 of title 49, United States Code; and

(C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C., App. sec. 1903(b)).

(Added Pub. L. 105–277, div. I, title II, §201(a), Oct. 21, 1998, 112 Stat. 2681–869.)

REFERENCES IN TEXT

Paragraphs (17), (37), and (41) of section 40102 of title 49, referred to in par. (9)(A), (B), probably means paragraphs (17), (37), and (41) of subsection (a) of section 40102 of title 49. Paragraphs (37) and (41) were subsequently redesignated as (41) and (46), respectively, by Pub. L. 108–176, title II, §225(a)(1), (3), Dec. 12, 2003, 117 Stat. 2528.

[1] See References in Text note below.

CHAPTER 12—CIVIL DISORDERS

Sec.
231. Civil disorders.
232. Definitions.
233. Preemption.

AMENDMENTS

1968—Pub. L. 90–284, title X, §1002(a), Apr. 11, 1968, 82 Stat. 90, added chapter 12 and items 231 to 233.

§231. Civil disorders

(a)(1) Whoever teaches or demonstrates to any other person the use, application, or making of any firearm or explosive or incendiary device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that the same will be unlawfully employed for use in, or in furtherance of, a civil disorder which may in any way or degree obstruct, delay, or adversely affect commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function; or

(2) Whoever transports or manufactures for transportation in commerce any firearm, or explosive or incendiary device, knowing or having reason to know or intending that the same will be used unlawfully in furtherance of a civil disorder; or

(3) Whoever commits or attempts to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function—

Shall be fined under this title or imprisoned not more than five years, or both.

(b) Nothing contained in this section shall make unlawful any act of any law enforcement officer which is performed in the lawful performance of his official duties.

(Added Pub. L. 90–284, title X, §1002(a), Apr. 11, 1968, 82 Stat. 90; amended Pub. L. 103–322, title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' in concluding par.

SHORT TITLE

Section 1001 of title X of Pub. L. 90–284 provided that: ''This title [enacting this chapter] may be cited as the 'Civil Obedience Act of 1968'.''

§ 232. Definitions

For purposes of this chapter:

(1) The term ''civil disorder'' means any public disturbance involving acts of violence by assemblages of three or more persons, which causes an immediate danger of or results in damage or injury to the property or person of any other individual.

(2) The term ''commerce'' means commerce (A) between any State or the District of Columbia and any place outside thereof; (B) between points within any State or the District of Columbia, but through any place outside thereof; or (C) wholly within the District of Columbia.

(3) The term ''federally protected function'' means any function, operation, or action carried out, under the laws of the United States, by any department, agency, or instrumentality of the United States or by an officer or employee thereof; and such term shall specifically include, but not be limited to, the collection and distribution of the United States mails.

(4) The term ''firearm'' means any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive; or the frame or receiver of any such weapon.

(5) The term ''explosive or incendiary device'' means (A) dynamite and all other forms of high explosives, (B) any explosive bomb, grenade, missile, or similar device, and (C) any incendiary bomb or grenade, fire bomb, or similar device, including any device which (i) consists of or includes a breakable container including a flammable liquid or compound, and a wick composed of any material which, when ignited, is capable of igniting such flammable liquid or compound, and (ii) can be carried or thrown by one individual acting alone.

(6) The term ''fireman'' means any member of a fire department (including a volunteer fire department) of any State, any political subdivision of a State, or the District of Columbia.

(7) The term ''law enforcement officer'' means any officer or employee of the United States, any State, any political subdivision of a State, or the District of Columbia, while engaged in the enforcement or prosecution of any of the criminal laws of the United States, a State, any political subdivision of a State, or the District of Columbia; and such term shall specifically include members of the National Guard (as defined in section 101 of title 10), members of the organized militia of any State, or territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia not included within the National Guard (as defined in section 101 of title 10), and members of the Armed Forces of the United States, while engaged in suppressing acts of violence or restoring law and order during a civil disorder.

(8) The term ''State'' includes a State of the United States, and any commonwealth, territory, or possession of the United States.

(Added Pub. L. 90–284, title X, § 1002(a), Apr. 11, 1968, 82 Stat. 91; amended Pub. L. 101–647, title XII, § 1205(a), Nov. 29, 1990, 104 Stat. 4830; Pub. L. 102–484, div. A, title X, § 1051(b)(1), Oct. 23, 1992, 106 Stat. 2498.)

AMENDMENTS

1992—Par. (7). Pub. L. 102–484 substituted ''members of the National Guard (as defined in section 101 of title 10),'' for '', but shall not be limited to, members of the National Guard, as defined in section 101(9) of title 10, United States Code,'' and ''not included within the National Guard (as defined in section 101 of title 10),'' for '', not included within the definition of National Guard as defined by such section 101(9),''.

1990—Par. (8). Pub. L. 101–647 added par. (8).

§ 233. Preemption

Nothing contained in this chapter shall be construed as indicating an intent on the part of Congress to occupy the field in which any provisions of the chapter operate to the exclusion of State or local laws on the same subject matter, nor shall any provision of this chapter be construed to invalidate any provision of State law unless such provision is inconsistent with any of the purposes of this chapter or any provision thereof.

(Added Pub. L. 90–284, title X, § 1002(a), Apr. 11, 1968, 82 Stat. 91.)

CHAPTER 13—CIVIL RIGHTS

Sec.
241. Conspiracy against rights.
242. Deprivation of rights under color of law.
243. Exclusion of jurors on account of race or color.
244. Discrimination against person wearing uniform of armed forces.
245. Federally protected activities.
246. Deprivation of relief benefits.
247. Damage to religious property; obstruction of persons in the free exercise of religious beliefs.
248. Freedom of access to clinic entrances.

AMENDMENTS

1994—Pub. L. 103–322, title XXXIII, § 330023(a)(1), Sept. 13, 1994, 108 Stat. 2150, substituted ''Freedom of access to clinic entrances'' for ''Blocking access to reproductive health services'' in item 248.

Pub. L. 103–259, § 4, May 26, 1994, 108 Stat. 697, added item 248.

1988—Pub. L. 100–690, title VII, § 7018(b)(2), Nov. 18, 1988, 102 Stat. 4396, struck out ''of citizens'' after ''rights'' in item 241.

Pub. L. 100–346, § 3, June 24, 1988, 102 Stat. 645, added item 247.

1976—Pub. L. 94–453, § 4(b), Oct. 2, 1976, 90 Stat. 1517, added item 246.

1968—Pub. L. 90–284, title I, § 102, Apr. 11, 1968, 82 Stat. 75, added item 245.

§ 241. Conspiracy against rights

If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—

They shall be fined under this title or imprisoned not more than ten years, or both; and if

death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

(June 25, 1948, ch. 645, 62 Stat. 696; Pub. L. 90–284, title I, §103(a), Apr. 11, 1968, 82 Stat. 75; Pub. L. 100–690, title VII, §7018(a), (b)(1), Nov. 18, 1988, 102 Stat. 4396; Pub. L. 103–322, title VI, §60006(a), title XXXII, §§320103(a), 320201(a), title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 1970, 2109, 2113, 2147; Pub. L. 104–294, title VI, §§604(b)(14)(A), 607(a), Oct. 11, 1996, 110 Stat. 3507, 3511.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §51 (Mar. 4, 1909, ch. 321, §19, 35 Stat. 1092).

Clause making conspirator ineligible to hold office was omitted as incongruous because it attaches ineligibility to hold office to a person who may be a private citizen and who was convicted of conspiracy to violate a specific statute. There seems to be no reason for imposing such a penalty in the case of one individual crime, in view of the fact that other crimes do not carry such a severe consequence. The experience of the Department of Justice is that this unusual penalty has been an obstacle to successful prosecutions for violations of the act.

Mandatory punishment provision was rephrased in the alternative.

Minor changes in phraseology were made.

AMENDMENTS

1996—Pub. L. 104–294, §607(a), substituted ''any State, Territory, Commonwealth, Possession, or District'' for ''any State, Territory, or District'' in first par.

Pub. L. 104–294, §604(b)(14)(A), repealed Pub. L. 103–322, §320103(a)(1). See 1994 Amendment note below.

1994—Pub. L. 103–322, §330016(1)(L), substituted ''They shall be fined under this title'' for ''They shall be fined not more than $10,000'' in third par.

Pub. L. 103–322, §320201(a), substituted ''person in any State'' for ''inhabitant of any State'' in first par.

Pub. L. 103–322, §320103(a)(2)–(4), in third par., substituted ''results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both'' for ''results, they shall be subject to imprisonment for any term of years or for life''.

Pub. L. 103–322, §320103(a)(1), which provided for amendment identical to Pub. L. 103–322, §330016(1)(L), above, was repealed by Pub. L. 104–294, §604(b)(14)(A).

Pub. L. 103–322, §60006(a), substituted '', or may be sentenced to death.'' for period at end of third par.

1988—Pub. L. 100–690 struck out ''of citizens'' after ''rights'' in section catchline and substituted ''inhabitant of any State, Territory, or District'' for ''citizen'' in text.

1968—Pub. L. 90–284 increased limitation on fines from $5,000 to $10,000 and provided for imprisonment for any term of years or for life when death results.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 604(b)(14)(A) of Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–155, §1, July 3, 1996, 110 Stat. 1392, provided that: ''This Act [amending section 247 of this title and section 10602 of Title 42, The Public Health and Welfare, enacting provisions set out as a note under section 247 of this title, and amending provisions set out as a note under section 534 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Church Arson Prevention Act of 1996'.''

§242. Deprivation of rights under color of law

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

(June 25, 1948, ch. 645, 62 Stat. 696; Pub. L. 90–284, title I, §103(b), Apr. 11, 1968, 82 Stat. 75; Pub. L. 100–690, title VII, §7019, Nov. 18, 1988, 102 Stat. 4396; Pub. L. 103–322, title VI, §60006(b), title XXXII, §§320103(b), 320201(b), title XXXIII, §330016(1)(H), Sept. 13, 1994, 108 Stat. 1970, 2109, 2113, 2147; Pub. L. 104–294, title VI, §§604(b)(14)(B), 607(a), Oct. 11, 1996, 110 Stat. 3507, 3511.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §52 (Mar. 4, 1909, ch. 321, §20, 35 Stat. 1092).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

A minor change was made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294, §607(a), substituted ''any State, Territory, Commonwealth, Possession, or District'' for ''any State, Territory, or District''.

Pub. L. 104–294, §604(b)(14)(B), repealed Pub. L. 103–322, §320103(b)(1). See 1994 Amendment note below.

1994—Pub. L. 103–322, §330016(1)(H), substituted ''shall be fined under this title'' for ''shall be fined not more than $1,000'' after ''citizens,''.

Pub. L. 103–322, §320201(b), substituted ''any person in any State'' for ''any inhabitant of any State'' and ''on account of such person'' for ''on account of such inhabitant''.

Pub. L. 103–322, §320103(b)(2)–(5), substituted ''bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill,

shall be fined under this title, or imprisoned for any term of years or for life, or both'' for ''bodily injury results shall be fined under this title or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life''.

Pub. L. 103–322, § 320103(b)(1), which provided for amendment identical to Pub. L. 103–322, § 330016(1)(H), above, was repealed by Pub. L. 104–294, § 604(b)(14)(B).

Pub. L. 103–322, § 60006(b), inserted before period at end '', or may be sentenced to death''.

1988—Pub. L. 100–690 inserted ''and if bodily injury results shall be fined under this title or imprisoned not more than ten years, or both;'' after ''or both;''.

1968—Pub. L. 90–284 provided for imprisonment for any term of years or for life when death results.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 604(b)(14)(B) of Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

§ 243. Exclusion of jurors on account of race or color

No citizen possessing all other qualifications which are or may be prescribed by law shall be disqualified for service as grand or petit juror in any court of the United States, or of any State on account of race, color, or previous condition of servitude; and whoever, being an officer or other person charged with any duty in the selection or summoning of jurors, excludes or fails to summon any citizen for such cause, shall be fined not more than $5,000.

(June 25, 1948, ch. 645, 62 Stat. 696.)

HISTORICAL AND REVISION NOTES

Based on section 44 of title 8, U.S.C., 1940 ed., Aliens and Nationality (Mar. 1, 1875, ch. 114, § 4, 18 Stat. 336).

Words ''be deemed guilty of a misdemeanor, and'' were deleted as unnecessary in view of definition of misdemeanor in section 1 of this title.

Words ''on conviction thereof'' were omitted as unnecessary, since punishment follows only after conviction.

Minimum punishment provisions were omitted. (See reviser's note under section 203 of this title.)

Minor changes in phraseology were made.

§ 244. Discrimination against person wearing uniform of armed forces

Whoever, being a proprietor, manager, or employee of a theater or other public place of entertainment or amusement in the District of Columbia, or in any Territory, or Possession of the United States, causes any person wearing the uniform of any of the armed forces of the United States to be discriminated against because of that uniform, shall be fined under this title.

(June 25, 1948, ch. 645, 62 Stat. 697; May 24, 1949, ch. 139, § 5, 63 Stat. 90; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., § 523 (Mar. 1, 1911, ch. 187, 36 Stat. 963; Aug. 24, 1912, ch. 387, § 1, 37 Stat. 512; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800).

Words ''guilty of a misdemeanor'', following ''shall be'', were omitted as unnecessary in view of definition of ''misdemeanor'' in section 1 of this title. (See reviser's note under section 212 of this title.)

Changes were made in phraseology.

1949 ACT

This section [section 5] substitutes, in section 244 of title 18, U.S.C., ''any of the armed forces of the United States'' for the enumeration of specific branches and thereby includes the Air Force, formerly part of the Army. This clarification is necessary because of the establishment of the Air Force as a separate branch of the Armed Forces by the act of July 26, 1947.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

1949—Act May 24, 1949, substituted ''any of the armed forces of the United States'' for enumeration of the specific branches.

§ 245. Federally protected activities

(a)(1) Nothing in this section shall be construed as indicating an intent on the part of Congress to prevent any State, any possession or Commonwealth of the United States, or the District of Columbia, from exercising jurisdiction over any offense over which it would have jurisdiction in the absence of this section, nor shall anything in this section be construed as depriving State and local law enforcement authorities of responsibility for prosecuting acts that may be violations of this section and that are violations of State and local law. No prosecution of any offense described in this section shall be undertaken by the United States except upon the certification in writing of the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General that in his judgment a prosecution by the United States is in the public interest and necessary to secure substantial justice, which function of certification may not be delegated.

(2) Nothing in this subsection shall be construed to limit the authority of Federal officers, or a Federal grand jury, to investigate possible violations of this section.

(b) Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with—

(1) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from—

(A) voting or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a poll watcher, or any legally authorized election official, in any primary, special, or general election;

(B) participating in or enjoying any benefit, service, privilege, program, facility, or activity provided or administered by the United States;

(C) applying for or enjoying employment, or any perquisite thereof, by any agency of the United States;

(D) serving, or attending upon any court in connection with possible service, as a grand or petit juror in any court of the United States;

(E) participating in or enjoying the benefits of any program or activity receiving Federal financial assistance; or

(2) any person because of his race, color, religion or national origin and because he is or has been—

(A) enrolling in or attending any public school or public college;

(B) participating in or enjoying any benefit, service, privilege, program, facility or activity provided or administered by any State or subdivision thereof;

(C) applying for or enjoying employment, or any perquisite thereof, by any private employer or any agency of any State or subdivision thereof, or joining or using the services or advantages of any labor organization, hiring hall, or employment agency;

(D) serving, or attending upon any court of any State in connection with possible service, as a grand or petit juror;

(E) traveling in or using any facility of interstate commerce, or using any vehicle, terminal, or facility of any common carrier by motor, rail, water, or air;

(F) enjoying the goods, services, facilities, privileges, advantages, or accommodations of any inn, hotel, motel, or other establishment which provides lodging to transient guests, or of any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility which serves the public and which is principally engaged in selling food or beverages for consumption on the premises, or of any gasoline station, or of any motion picture house, theater, concert hall, sports arena, stadium, or any other place of exhibition or entertainment which serves the public, or of any other establishment which serves the public and (i) which is located within the premises of any of the aforesaid establishments or within the premises of which is physically located any of the aforesaid establishments, and (ii) which holds itself out as serving patrons of such establishments; or

(3) during or incident to a riot or civil disorder, any person engaged in a business in commerce or affecting commerce, including, but not limited to, any person engaged in a business which sells or offers for sale to interstate travelers a substantial portion of the articles, commodities, or services which it sells or where a substantial portion of the articles or commodities which it sells or offers for sale have moved in commerce; or

(4) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from—

(A) participating, without discrimination on account of race, color, religion or national origin, in any of the benefits or activities described in subparagraphs (1)(A) through (1)(E) or subparagraphs (2)(A) through (2)(F); or

(B) affording another person or class of persons opportunity or protection to so participate; or

(5) any citizen because he is or has been, or in order to intimidate such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion or national origin, in any of the benefits or activities described in subparagraphs (1)(A) through (1)(E) or subparagraphs (2)(A) through (2)(F), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate—

shall be fined under this title, or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire shall be fined under this title, or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death. As used in this section, the term ''participating lawfully in speech or peaceful assembly'' shall not mean the aiding, abetting, or inciting of other persons to riot or to commit any act of physical violence upon any individual or against any real or personal property in furtherance of a riot. Nothing in subparagraph (2)(F) or (4)(A) of this subsection shall apply to the proprietor of any establishment which provides lodging to transient guests, or to any employee acting on behalf of such proprietor, with respect to the enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of such establishment if such establishment is located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor as his residence.

(c) Nothing in this section shall be construed so as to deter any law enforcement officer from lawfully carrying out the duties of his office; and no law enforcement officer shall be considered to be in violation of this section for lawfully carrying out the duties of his office or lawfully enforcing ordinances and laws of the United States, the District of Columbia, any of the several States, or any political subdivision of a State. For purposes of the preceding sentence, the term ''law enforcement officer'' means any officer of the United States, the District of Columbia, a State, or political subdivision of a State, who is empowered by law to conduct investigations of, or make arrests because of, offenses against the United States, the District of Columbia, a State, or a political subdivision of a State.

(d) For purposes of this section, the term ''State'' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(Added Pub. L. 90–284, title I, §101(a), Apr. 11, 1968, 82 Stat. 73; amended Pub. L. 100–690, title VII, §7020(a), Nov. 18, 1988, 102 Stat. 4396; Pub. L. 101–647, title XII, §1205(b), Nov. 29, 1990, 104 Stat. 4830; Pub. L. 103–322, title VI, §60006(c), title XXXII, §320103(c), title XXXIII, §330016(1)(H), (L), Sept. 13, 1994, 108 Stat. 1971, 2109, 2147; Pub. L. 104–294, title VI, §604(b)(14)(C), (37), Oct. 11, 1996, 110 Stat. 3507, 3509.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–294 amended Pub. L. 103–322, § 320103(c). See 1994 Amendment notes below.

1994—Subsec. (b). Pub. L. 103–322, § 330016(1)(L), substituted ''shall be fined under this title'' for ''shall be fined not more than $10,000'' before '', or imprisoned not more than ten years'' in concluding provisions.

Pub. L. 103–322, § 330016(1)(H), substituted ''shall be fined under this title'' for ''shall be fined not more than $1,000'' before '', or imprisoned not more than one year'' in concluding provisions.

Pub. L. 103–322, § 320103(c)(4)–(6), in concluding provisions, inserted ''from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill,'' after ''death results'' and substituted ''shall be fined under this title or imprisoned for any term of years or for life, or both'' for ''shall be subject to imprisonment for any term of years or for life''.

Pub. L. 103–322, § 320103(c)(3), which provided for amendment identical to Pub. L. 103–322, § 330016(1)(L), above, was repealed by Pub. L. 104–294, § 604(b)(14)(C).

Pub. L. 103–322, § 320103(c)(2), as amended by Pub. L. 104–294, § 604(b)(37), inserted ''from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire'' after ''bodily injury results'' in concluding provisions.

Pub. L. 103–322, § 320103(c)(1), which provided for amendment identical to Pub. L. 103–322, § 330016(1)(H), above, was repealed by Pub. L. 104–294, § 604(b)(14)(C).

Pub. L. 103–322, § 60006(c), in concluding provisions, inserted '', or may be sentenced to death'' before ''. As used in this section''.

1990—Subsec. (d). Pub. L. 101–647 added subsec. (d).

1988—Subsec. (a)(1). Pub. L. 100–690 substituted '', the Deputy'' for ''or the Deputy'' and inserted '', the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General'' after ''Deputy Attorney General''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

FAIR HOUSING

Section 101(b) of Pub. L. 90–284 provided that: ''Nothing contained in this section [enacting this section] shall apply to or affect activities under title VIII of this Act [sections 3601 to 3619 of Title 42, The Public Health and Welfare].''

RIOTS OR CIVIL DISTURBANCES, SUPPRESSION AND RESTORATION OF LAW AND ORDER; ACTS OR OMISSIONS OF ENFORCEMENT OFFICERS AND MEMBERS OF MILITARY SERVICE NOT SUBJECT TO THIS SECTION

Section 101(c) of Pub. L. 90–284 provided that: ''The provisions of this section [enacting this section] shall not apply to acts or omissions on the part of law enforcement officers, members of the National Guard, as defined in section 101(9) of title 10, United States Code, members of the organized militia of any State or the District of Columbia, not covered by such section 101(9), or members of the Armed Forces of the United States, who are engaged in suppressing a riot or civil disturbance or restoring law and order during a riot or civil disturbance.''

§ 246. Deprivation of relief benefits

Whoever directly or indirectly deprives, attempts to deprive, or threatens to deprive any person of any employment, position, work, compensation, or other benefit provided for or made possible in whole or in part by any Act of Congress appropriating funds for work relief or relief purposes, on account of political affiliation, race, color, sex, religion, or national origin, shall be fined under this title, or imprisoned not more than one year, or both.

(Added Pub. L. 94–453, § 4(a), Oct. 2, 1976, 90 Stat. 1517; amended Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

§ 247. Damage to religious property; obstruction of persons in the free exercise of religious beliefs

(a) Whoever, in any of the circumstances referred to in subsection (b) of this section—

(1) intentionally defaces, damages, or destroys any religious real property, because of the religious character of that property, or attempts to do so; or

(2) intentionally obstructs, by force or threat of force, any person in the enjoyment of that person's free exercise of religious beliefs, or attempts to do so;

shall be punished as provided in subsection (d).

(b) The circumstances referred to in subsection (a) are that the offense is in or affects interstate or foreign commerce.

(c) Whoever intentionally defaces, damages, or destroys any religious real property because of the race, color, or ethnic characteristics of any individual associated with that religious property, or attempts to do so, shall be punished as provided in subsection (d).

(d) The punishment for a violation of subsection (a) of this section shall be—

(1) if death results from acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, a fine in accordance with this title and imprisonment for any term of years or for life, or both, or may be sentenced to death;

(2) if bodily injury results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this section, and the violation is by means of fire or an explosive, a fine under this title or imprisonment for not more that 40 years, or both;

(3) if bodily injury to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this section, results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, a fine in accordance with this title and imprisonment for not more than 20 years, or both; and

(4) in any other case, a fine in accordance with this title and imprisonment for not more than one year, or both.

(e) No prosecution of any offense described in this section shall be undertaken by the United States except upon the certification in writing of the Attorney General or his designee that in his judgment a prosecution by the United States

is in the public interest and necessary to secure substantial justice.

(f) As used in this section, the term ''religious real property'' means any church, synagogue, mosque, religious cemetery, or other religious real property, including fixtures or religious objects contained within a place of religious worship.

(g) No person shall be prosecuted, tried, or punished for any noncapital offense under this section unless the indictment is found or the information is instituted not later than 7 years after the date on which the offense was committed.

(Added Pub. L. 100–346, §1, June 24, 1988, 102 Stat. 644; amended Pub. L. 103–322, title VI, §60006(d), title XXXII, §320103(d), Sept. 13, 1994, 108 Stat. 1971, 2110; Pub. L. 104–155, §3, July 3, 1996, 110 Stat. 1392; Pub. L. 104–294, title VI, §§601(c)(3), 605(r), Oct. 11, 1996, 110 Stat. 3499, 3511; Pub. L. 107–273, div. B, title IV, §4002(c)(1), (e)(4), Nov. 2, 2002, 116 Stat. 1808, 1810.)

AMENDMENTS

2002—Subsec. (d). Pub. L. 107–273, §4002(c)(1), repealed amendment by Pub. L. 107–273, §605(r). See 1996 Amendment note below.

Subsec. (e). Pub. L. 107–273, §4002(e)(4), made technical correction to directory language of Pub. L. 104–294, §601(c)(3). See 1996 Amendment note below.

1996—Subsec. (a). Pub. L. 104–155, §3(1), substituted ''subsection (d)'' for ''subsection (c) of this section'' in concluding provisions.

Subsec. (b). Pub. L. 104–155, §3(3), added subsec. (b) and struck out former subsec. (b) which read as follows: ''The circumstances referred to in subsection (a) are that—

''(1) in committing the offense, the defendant travels in interstate or foreign commerce, or uses a facility or instrumentality of interstate or foreign commerce in interstate or foreign commerce; and

''(2) in the case of an offense under subsection (a)(1), the loss resulting from the defacement, damage, or destruction is more than $10,000.''

Subsec. (c). Pub. L. 104–155, §3(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 104–294, §605(r), which directed the substitution of ''certification'' for ''notification'' in subsec. (d), was repealed by Pub. L. 107–273, §4002(c)(1).

Subsec. (d). Pub. L. 104–155, §3(2), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(2). Pub. L. 104–155, §3(4)(C), added par. (2). Former par. (2) redesignated (3).

Subsec. (d)(3). Pub. L. 104–155, §3(4)(A), (B), redesignated par. (2) as (3), inserted ''to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this section,'' after ''bodily injury'' and substituted ''20 years'' for ''ten years''. Former par. (3) redesignated (4).

Subsec. (d)(4). Pub. L. 104–155, §3(4)(B), redesignated par. (3) as (4).

Subsec. (e). Pub. L. 104–294, §601(c)(3), as amended by Pub. L. 107–273, §4002(e)(4), substituted ''certification'' for ''notification''.

Pub. L. 104–155, §3(2), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 104–155, §3(2), (5), redesignated subsec. (e) as (f), inserted '', including fixtures or religious objects contained within a place of religious worship'' before the period, and substituted ''religious real property'' for ''religious property'' in two places.

Subsec. (g). Pub. L. 104–155, §3(6), added subsec. (g).

1994—Subsec. (c)(1). Pub. L. 103–322, §320103(d)(1), inserted ''from acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill'' after ''death results''.

Pub. L. 103–322, §60006(d), inserted '', or may be sentenced to death'' after ''or both''.

Subsec. (c)(2). Pub. L. 103–322, §320103(d)(2), struck out ''serious'' before ''bodily'' and inserted ''from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire'' after ''injury results''.

Subsec. (e). Pub. L. 103–322, §320103(d)(3), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''As used in this section—

''(1) the term 'religious real property' means any church, synagogue, mosque, religious cemetery, or other religious real property; and

''(2) the term 'serious bodily injury' means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.''

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–273, div. B, title IV, §4002(c)(1), Nov. 2, 2002, 116 Stat. 1808, provided that the amendment made by section 4002(c)(1) is effective Oct. 11, 1996.

Pub. L. 107–273, div. B, title IV, §4002(e)(4), Nov. 2, 2002, 116 Stat. 1810, provided that the amendment made by section 4002(e)(4) is effective Oct. 11, 1996.

CONGRESSIONAL FINDINGS

Section 2 of Pub. L. 104–155 provided that: ''The Congress finds the following:

''(1) The incidence of arson or other destruction or vandalism of places of religious worship, and the incidence of violent interference with an individual's lawful exercise or attempted exercise of the right of religious freedom at a place of religious worship pose a serious national problem.

''(2) The incidence of arson of places of religious worship has recently increased, especially in the context of places of religious worship that serve predominantly African-American congregations.

''(3) Changes in Federal law are necessary to deal properly with this problem.

''(4) Although local jurisdictions have attempted to respond to the challenges posed by such acts of destruction or damage to religious property, the problem is sufficiently serious, widespread, and interstate in scope to warrant Federal intervention to assist State and local jurisdictions.

''(5) Congress has authority, pursuant to the Commerce Clause of the Constitution, to make acts of destruction or damage to religious property a violation of Federal law.

''(6) Congress has authority, pursuant to section 2 of the 13th amendment to the Constitution, to make actions of private citizens motivated by race, color, or ethnicity that interfere with the ability of citizens to hold or use religious property without fear of attack, violations of Federal criminal law.''

§248. Freedom of access to clinic entrances

(a) PROHIBITED ACTIVITIES.—Whoever—

(1) by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with or attempts to injure, intimidate or interfere with any person because that person is or has been, or in order to intimidate such person or any other person or any class of persons from, obtaining or providing reproductive health services;

(2) by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with or attempts to injure, intimidate or interfere with any person lawfully

exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship; or

(3) intentionally damages or destroys the property of a facility, or attempts to do so, because such facility provides reproductive health services, or intentionally damages or destroys the property of a place of religious worship,

shall be subject to the penalties provided in subsection (b) and the civil remedies provided in subsection (c), except that a parent or legal guardian of a minor shall not be subject to any penalties or civil remedies under this section for such activities insofar as they are directed exclusively at that minor.

(b) PENALTIES.—Whoever violates this section shall—

(1) in the case of a first offense, be fined in accordance with this title, or imprisoned not more than one year, or both; and

(2) in the case of a second or subsequent offense after a prior conviction under this section, be fined in accordance with this title, or imprisoned not more than 3 years, or both;

except that for an offense involving exclusively a nonviolent physical obstruction, the fine shall be not more than $10,000 and the length of imprisonment shall be not more than six months, or both, for the first offense; and the fine shall, notwithstanding section 3571, be not more than $25,000 and the length of imprisonment shall be not more than 18 months, or both, for a subsequent offense; and except that if bodily injury results, the length of imprisonment shall be not more than 10 years, and if death results, it shall be for any term of years or for life.

(c) CIVIL REMEDIES.—

(1) RIGHT OF ACTION.—

(A) IN GENERAL.—Any person aggrieved by reason of the conduct prohibited by subsection (a) may commence a civil action for the relief set forth in subparagraph (B), except that such an action may be brought under subsection (a)(1) only by a person involved in providing or seeking to provide, or obtaining or seeking to obtain, services in a facility that provides reproductive health services, and such an action may be brought under subsection (a)(2) only by a person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship or by the entity that owns or operates such place of religious worship.

(B) RELIEF.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief and compensatory and punitive damages, as well as the costs of suit and reasonable fees for attorneys and expert witnesses. With respect to compensatory damages, the plaintiff may elect, at any time prior to the rendering of final judgment, to recover, in lieu of actual damages, an award of statutory damages in the amount of $5,000 per violation.

(2) ACTION BY ATTORNEY GENERAL OF THE UNITED STATES.—

(A) IN GENERAL.—If the Attorney General of the United States has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, the Attorney General may commence a civil action in any appropriate United States District Court.

(B) RELIEF.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief, and compensatory damages to persons aggrieved as described in paragraph (1)(B). The court, to vindicate the public interest, may also assess a civil penalty against each respondent—

(i) in an amount not exceeding $10,000 for a nonviolent physical obstruction and $15,000 for other first violations; and

(ii) in an amount not exceeding $15,000 for a nonviolent physical obstruction and $25,000 for any other subsequent violation.

(3) ACTIONS BY STATE ATTORNEYS GENERAL.—

(A) IN GENERAL.—If the Attorney General of a State has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, such Attorney General may commence a civil action in the name of such State, as parens patriae on behalf of natural persons residing in such State, in any appropriate United States District Court.

(B) RELIEF.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief, compensatory damages, and civil penalties as described in paragraph (2)(B).

(d) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the First Amendment to the Constitution;

(2) to create new remedies for interference with activities protected by the free speech or free exercise clauses of the First Amendment to the Constitution, occurring outside a facility, regardless of the point of view expressed, or to limit any existing legal remedies for such interference;

(3) to provide exclusive criminal penalties or civil remedies with respect to the conduct prohibited by this section, or to preempt State or local laws that may provide such penalties or remedies; or

(4) to interfere with the enforcement of State or local laws regulating the performance of abortions or other reproductive health services.

(e) DEFINITIONS.—As used in this section:

(1) FACILITY.—The term ''facility'' includes a hospital, clinic, physician's office, or other facility that provides reproductive health services, and includes the building or structure in which the facility is located.

(2) INTERFERE WITH.—The term ''interfere with'' means to restrict a person's freedom of movement.

(3) INTIMIDATE.—The term ''intimidate'' means to place a person in reasonable apprehension of bodily harm to him- or herself or to another.

(4) PHYSICAL OBSTRUCTION.—The term ''physical obstruction'' means rendering impassable ingress to or egress from a facility that provides reproductive health services or to or from a place of religious worship, or rendering passage to or from such a facility or place of religious worship unreasonably difficult or hazardous.

(5) REPRODUCTIVE HEALTH SERVICES.—The term ''reproductive health services'' means reproductive health services provided in a hospital, clinic, physician's office, or other facility, and includes medical, surgical, counselling or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.

(6) STATE.—The term ''State'' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(Added Pub. L. 103–259, § 3, May 26, 1994, 108 Stat. 694; amended Pub. L. 103–322, title XXXIII, § 330023(a)(2), (3), Sept. 13, 1994, 108 Stat. 2150.)

AMENDMENTS

1994—Pub. L. 103–322, § 330023(a)(2), amended section catchline generally. Prior to amendment, catchline read as follows: ''§ 248 Freedom of Access to Clinic Entrances.''

Subsec. (b). Pub. L. 103–322, § 330023(a)(3), in concluding provisions, inserted '', notwithstanding section 3571,'' before ''be not more than $25,000''.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 330023(b) of Pub. L. 103–322 provided that: ''The amendments made by this subsection (a) [amending this section] shall take effect on the date of enactment of the Freedom of Access to Clinic Entrances Act of 1994 [May 26, 1994].''

EFFECTIVE DATE

Section 6 of Pub. L. 103–259 provided that: ''This Act [see Short Title note below] takes effect on the date of the enactment of this Act [May 26, 1994], and shall apply only with respect to conduct occurring on or after such date.''

SHORT TITLE

Section 1 of Pub. L. 103–259 provided that: ''This Act [enacting this section and provisions set out as notes under this section] may be cited as the 'Freedom of Access to Clinic Entrances Act of 1994'.''

SEVERABILITY OF PROVISIONS

Section 5 of Pub. L. 103–259 provided that: ''If any provision of this Act [see Short Title note above], an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any other person or circumstance shall not be affected thereby.''

CONGRESSIONAL STATEMENT OF PURPOSE

Section 2 of Pub. L. 103–259 provided that: ''Pursuant to the affirmative power of Congress to enact this legislation under section 8 of article I of the Constitution, as well as under section 5 of the fourteenth amendment to the Constitution, it is the purpose of this Act [see Short Title note above] to protect and promote the public safety and health and activities affecting interstate commerce by establishing Federal criminal penalties and civil remedies for certain violent, threatening, obstructive and destructive conduct that is intended to injure, intimidate or interfere with persons seeking to obtain or provide reproductive health services.''

CHAPTER 15—CLAIMS AND SERVICES IN MATTERS AFFECTING GOVERNMENT

Sec.
[281 to 284. Repealed.]
285. Taking or using papers relating to claims.
286. Conspiracy to defraud the Government with respect to claims.
287. False, fictitious or fraudulent claims.
288. False claims for postal losses.
289. False claims for pensions.
290. Discharge papers withheld by claim agent.
291. Purchase of claims for fees by court officials.
292. Solicitation of employment and receipt of unapproved fees concerning Federal employees' compensation.
[293. Repealed.]

AMENDMENTS

2002—Pub. L. 107–273, div. B, title IV, § 4002(c)(1), Nov. 2, 2002, 116 Stat. 1808, repealed amendment by Pub. L. 104–294, § 602(d). See 1996 Amendment note below.

1996—Pub. L. 104–106, div. D, title XLIII, § 4304(c)(2), Feb. 10, 1996, 110 Stat. 664, struck out item 281 ''Restrictions on retired military officers regarding certain matters affecting the Government''. Pub. L. 104–294, title VI, § 602(d), Oct. 11, 1996, 110 Stat. 3503, which amended analysis identically, was repealed by Pub. L. 107–273, div. B, title IV, § 4002(c)(1), Nov. 2, 2002, 116 Stat. 1808, effective Oct. 11, 1996.

1989—Pub. L. 101–123, § 3(a), Oct. 23, 1989, 103 Stat. 760, struck out item 293 ''Limitation on Government contract costs''.

1988—Pub. L. 100–700, § 3(b), Nov. 19, 1988, 102 Stat. 4633, added item 293.

1987—Pub. L. 100–180, div. A, title VIII, § 822(b)(2), Dec. 4, 1987, 101 Stat. 1133, added item 281, struck out former item 281 ''Compensation to Members of Congress, officers, and others in matters affecting Government'', item 282 ''Practice in Court of Claims by Members of Congress'', item 283 ''Officers or employees interested in claims against the Government'', and item 284 ''Disqualification of former officers and employees in matters connected with former duties''.

1966—Pub. L. 89–554, § 3(a), Sept. 6, 1966, 80 Stat. 608, added item 292.

[§ 281. Repealed. Pub. L. 104–106, div. D, title XLIII, § 4304(b)(3), Feb. 10, 1996, 110 Stat. 664; Pub. L. 104–294, title VI, § 602(d), Oct. 11, 1996, 110 Stat. 3503]

Section, added Pub. L. 100–180, div. A, title VIII, § 822(b)(1), Dec. 4, 1987, 101 Stat. 1132, related to restrictions on retired military officers regarding certain matters affecting the Government.

Pub. L. 104–294, title VI, § 602(d), Oct. 11, 1996, 110 Stat. 3503, which repealed this section, was repealed by Pub. L. 107–273, div. B, title IV, § 4002(c)(1), Nov. 2, 2002, 116 Stat. 1808, effective Oct. 11, 1996.

A prior section 281, acts June 25, 1948, ch. 645, 62 Stat. 697; May 24, 1949, ch. 139, § 6, 63 Stat. 90, which related to compensation to Members of Congress, officers and others in matters affecting the Government, was repealed by Pub. L. 87–849, §§ 2, 4, Oct. 23, 1962, 76 Stat. 1126, eff. 90 days after Oct. 23, 1962, which repeal continued limited applicability to retired officers of the Armed Forces of the United States. Pub. L. 100–180, div. A, title VIII, § 822(a), Dec. 4, 1987, 101 Stat. 1132, repealed such prior section 281 to the extent that it had not been repealed by section 2 of Pub. L. 87–849. See section 203 of this title.

EFFECTIVE DATE OF REPEAL

For effective date and applicability of repeal by Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as an Effective Date of 1996 Amendment note under section 251 of Title 41, Public Contracts.

[§ 282. Repealed. Pub. L. 87–849, § 2, Oct. 23, 1962, 76 Stat. 1126]

Section, act June 25, 1948, ch. 645, 62 Stat. 697, related to practice in Court of Claims by Members of Congress. Section was supplanted by section 204 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87–849, set out as an Effective Date note under section 201 of this title.

[§ 283. Repealed. Pub. L. 87–849, § 2, Oct. 23, 1962, 76 Stat. 1126; Pub. L. 100–180, div. A, title VIII, § 822(a), Dec. 4, 1987, 101 Stat. 1132]

Section, acts June 25, 1948, ch. 645, 62 Stat. 697; June 28, 1949, ch. 268, § 2(b), 63 Stat. 280, related to officers or employees interested in claims against the government. Pub. L. 87–849 continued limited applicability to retired officers of the Armed Forces of the United States. Pub. L. 100–180 repealed section to the extent that it had not been repealed by section 2 of Pub. L. 87–849. Section was supplanted by section 205 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87–849, set out as an Effective Date note under section 201 of this title.

[§ 284. Repealed. Pub. L. 87–849, § 2, Oct. 23, 1962, 76 Stat. 1126]

Section, acts June 25, 1948, ch. 645, 62 Stat. 698; May 24, 1949, ch. 139, § 7, 63 Stat. 90, related to disqualifications of former officers and employees in matters connected with former duties. Section was supplanted by section 207 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87–849, set out as an Effective Date note under section 201 of this title.

§ 285. Taking or using papers relating to claims

Whoever, without authority, takes and carries away from the place where it was filed, deposited, or kept by authority of the United States, any certificate, affidavit, deposition, statement of facts, power of attorney, receipt, voucher, assignment, or other document, record, file, or paper prepared, fitted, or intended to be used or presented to procure the payment of money from or by the United States or any officer, employee, or agent thereof, or the allowance or payment of the whole or any part of any claim, account, or demand against the United States, whether the same has or has not already been so used or presented, and whether such claim, account, or demand, or any part thereof has or has not already been allowed or paid; or

Whoever presents, uses, or attempts to use any such document, record, file, or paper so taken and carried away, to procure the payment of any money from or by the United States, or any officer, employee, or agent thereof, or the allowance or payment of the whole or any part of any claim, account, or demand against the United States—

Shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 698; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 92 (Mar. 4, 1909, ch. 321, § 40, 35 Stat. 1096).

Word ''employee'' was inserted after ''officer'' in two places to clarify scope of section.

The words ''five years'' were substituted for ''ten years'' in the punishment provision to conform to like provisions in similar offenses. (See section 1001 of this title.)

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 286. Conspiracy to defraud the Government with respect to claims

Whoever enters into any agreement, combination, or conspiracy to defraud the United States, or any department or agency thereof, by obtaining or aiding to obtain the payment or allowance of any false, fictitious or fraudulent claim, shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 698; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 83 (Mar. 4, 1909, ch. 321, § 35, 35 Stat. 1095; Oct. 23, 1918, ch. 194, 40 Stat. 1015; June 18, 1934, ch. 587, 48 Stat. 996; Apr. 4, 1938, ch. 69, 52 Stat. 197).

To clarify meaning of ''department'' the word ''agency'' was inserted after it. (See definitions of ''department'' and ''agency'' in section 6 of this title.)

Words ''or any corporation in which the United States of America is a stockholder'' were omitted as unnecessary in view of definition of ''agency'' in section 6 of this title.

Minor changes in phraseology were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

§ 287. False, fictitious or fraudulent claims

Whoever makes or presents to any person or officer in the civil, military, or naval service of the United States, or to any department or agency thereof, any claim upon or against the United States, or any department or agency thereof, knowing such claim to be false, fictitious, or fraudulent, shall be imprisoned not more than five years and shall be subject to a fine in the amount provided in this title.

(June 25, 1948, ch. 645, 62 Stat. 698; Pub. L. 99–562, § 7, Oct. 27, 1986, 100 Stat. 3169.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 80 (Mar. 4, 1909, ch. 321, § 35, 35 Stat. 1095; Oct. 23, 1918, ch. 194, 40 Stat. 1015; June 18, 1934, ch. 587, 48 Stat. 996; Apr. 4, 1938, ch. 69, 52 Stat. 197).

Section 80 of title 18, U.S.C., 1940 ed., was divided into two parts. That portion making it a crime to present

false claims was retained as this section. The part relating to false statements is now section 1001 of this title.

To clarify meaning of ''department'' words ''agency'' and ''or agency'' were inserted after it. (See definitions of ''department'' and ''agency'' in section 6 of this title.)

Words ''or any corporation in which the United States of America is a stockholder'' which appeared in two places were omitted as unnecessary in view of definition of ''agency'' in section 6 of this title.

The words ''five years'' were substituted for ''ten years'' to harmonize the punishment provisions of comparable sections involving offenses of the gravity of felonies, but not of such heinous character as to warrant a 10-year punishment. (See sections 914, 1001, 1002, 1005, 1006 of this title.)

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Minor changes in phraseology were made.

AMENDMENTS

1986—Pub. L. 99–562 substituted ''imprisoned not more than five years and shall be subject to a fine in the amount provided in this title'' for ''fined not more than $10,000 or imprisoned not more than five years, or both''.

INCREASED PENALTIES FOR FALSE CLAIMS IN DEFENSE PROCUREMENT

Pub. L. 99–145, title IX, § 931(a), Nov. 8, 1985, 99 Stat. 699, provided that: ''Notwithstanding sections 287 and 3623 of title 18, United States Code, the maximum fine that may be imposed under such section for making or presenting any claim upon or against the United States related to a contract with the Department of Defense, knowing such claim to be false, fictitious, or fraudulent, is $1,000,000.''

[Section 931(c) of Pub. L. 99–145 provided that section 931(a) is applicable to claims made or presented on or after Nov. 8, 1985.]

§ 288. False claims for postal losses

Whoever makes, alleges, or presents any claim or application for indemnity for the loss of any registered or insured letter, parcel, package, or other article or matter, or the contents thereof, knowing such claim or application to be false, fictitious, or fraudulent; or

Whoever for the purpose of obtaining or aiding to obtain the payment or approval of any such claim or application, makes or uses any false statement, certificate, affidavit, or deposition; or

Whoever knowingly and willfully misrepresents, or misstates, or, for the purpose aforesaid, knowingly and willfully conceals any material fact or circumstance in respect of any such claim or application for indemnity—

Shall be fined under this title or imprisoned not more than one year, or both.

Where the amount of such claim or application for indemnity is less than $1,000 only a fine shall be imposed.

(June 25, 1948, ch. 645, 62 Stat. 698; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 354 (Mar. 4, 1909, ch. 321, § 224, 35 Stat. 1133; Aug. 5, 1939, ch. 429, 53 Stat. 1203).

Reference to persons causing, assisting, aiding, or abetting, was omitted as such persons are made principals by section 2 of this title.

Changes in phraseology were made.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''$1,000'' for ''$100'' in fifth par.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500'' in fourth par.

§ 289. False claims for pensions

Whoever knowingly and willfully makes, or presents any false, fictitious or fraudulent affidavit, declaration, certificate, voucher, endorsement, or paper or writing purporting to be such, concerning any claim for pension or payment thereof, or pertaining to any other matter within the jurisdiction of the Secretary of Veterans Affairs, or knowingly or willfully makes or presents any paper required as a voucher in drawing a pension, which paper bears a date subsequent to that upon which it was actually signed or acknowledged by the pensioner; or

Whoever knowingly and falsely certifies that the declarant, affiant, or witness named in such declaration, affidavit, voucher, endorsement, or other paper or writing personally appeared before him and was sworn thereto, or acknowledged the execution thereof—

Shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 699; Pub. L. 102–54, § 13(f)(1), June 13, 1991, 105 Stat. 275; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 81 of title 18, section 126 of title 38, Pensions, Bonuses, and Veterans' Relief, and section 787 of title 43, Public Lands, all of U.S.C., 1940 ed. (R.S. § 4746; July 7, 1898, ch. 578, 30 Stat. 718; Aug. 17, 1912, ch. 301, § 1, 37 Stat. 312; July 3, 1930, ch. 863, § 2, 46 Stat. 1016).

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

Words ''or bounty land'', before ''prosecution of any claim for pension'', were omitted as obsolete. (See reviser's note under section 290 of this title.)

Upon authority of 1930 enactment words ''Administrator of Veterans' Affairs'' were substituted for ''Commissioner of Pensions or of the Secretary of the Interior'', which appeared in 1898 enactment.

The fine was changed from ''$500'' for ''$10,000'' to conform with punishment provision of section 287 of this title.

Minor changes in phraseology were also made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

1991—Pub. L. 102–54 substituted ''Secretary of Veterans Affairs'' for ''Administrator of Veterans' Affairs''.

§ 290. Discharge papers withheld by claim agent

Whoever, being a claim agent, attorney, or other person engaged in the collection of claims for pay, pension, or other allowances for any soldier, sailor, or marine, or for any commissioned officer of the military or naval forces, or for any person who may have been a soldier, sailor, marine, or officer of the regular or volunteer forces of the United States, or for his dependents or beneficiaries, retains, without the consent of the

owner or owners thereof, or refuses to deliver or account for the same upon demand duly made by the owner or owners thereof, or by their agent or attorney, the discharge papers of any such soldier, sailor, or marine, or commissioned officer, which may have been placed in his hands for the purpose of collecting said claims, shall be fined under this title or imprisoned not more than six months, or both; and shall be debarred from prosecuting any such claim in any department or agency of the United States.

(June 25, 1948, ch. 645, 62 Stat. 699; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 100 of title 31, Money and Finance, section 130 of title 38, Pensions, Bonuses, and Veterans' Relief, and section 841 of title 43, Public Lands, all U.S.C., 1940 ed. (May 21, 1872, ch. 178, 17 Stat. 137).

Words ''deemed guilty of a misdemeanor'' were deleted as unnecessary. (See definition of ''misdemeanor'' in section 1 of this title.)

Words ''and shall upon conviction, be'' were omitted as surplusage since punishment can follow only after conviction.

To clarify meaning of ''executive department'' word ''executive'' before ''department'' was deleted and words ''or agency'' were inserted after it. (See definitions of ''department'' and ''agency'' in section 6 of this title.)

Words ''bounty'', before ''pension'', and ''or land warrant'', before ''of any such soldier'', were deleted as obsolete. According to regulations, Circular 1151, January 8, 1929, issued by the Secretary of the Interior and the General Land Office (see 43 CFR 131.1–131.2) ''warrants for bounty lands were and are issued by the Commissioner of Pensions (Administrator of Veterans' Affairs) for services in wars or battles prior to March 3, 1855 only.'' Further, it is stated that ''Warrants can not now be 'located' upon the public lands. The locating privilege was denied except in the state of Missouri after the passage of the act of March 2, 1889 (25 Stat. 854; 43 U.S.C. § 700), and there are no lands known to the General Land Office to be subject to warrant location in Missouri.''

Words ''and honorably discharged'' were omitted as unnecessary and words ''or for his dependents or beneficiaries'' were inserted after ''United States'' so as to embrace an important class of persons who employ attorneys or agents in the collection of claims permitted by statute.

Minor changes of phraseology were also made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

§ 291. Purchase of claims for fees by court officials

Whoever, being a judge, clerk, or deputy clerk of any court of the United States or a Territory or Possession thereof, or a United States district attorney, assistant attorney, marshal, deputy marshal, magistrate judge, or other person holding any office or employment, or position of trust or profit under the United States, directly or indirectly purchases at less than the full face value thereof, any claim against the United States for the fee, mileage, or expenses of any witness, juror, deputy marshal, or any other officer of such court, shall be fined under this title.

(June 25, 1948, ch. 645, 62 Stat. 699; Pub. L. 90–578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 193 (Mar. 4, 1909, ch. 321, § 104, 35 Stat. 1107).

Word ''Possession'' was inserted to clarify scope of section.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

CHANGE OF NAME

Words ''magistrate judge'' substituted for ''magistrate'' in text pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, ''magistrate'' substituted for ''commissioner'' pursuant to Pub. L. 90–578. See chapter 43 (§ 631 et seq.) of Title 28.

§ 292. Solicitation of employment and receipt of unapproved fees concerning Federal employees' compensation

Whoever solicits employment for himself or another in respect to a case, claim, or award for compensation under, or to be brought under, subchapter I of chapter 81 of title 5; or

Whoever receives a fee, other consideration, or gratuity on account of legal or other services furnished in respect to a case, claim, or award for compensation under subchapter I of chapter 81 of title 5, unless the fee, consideration, or gratuity is approved by the Secretary of Labor—

Shall, for each offense, be fined under this title or imprisoned not more than one year, or both.

(Added Pub. L. 89–554, § 3(b), Sept. 6, 1966, 80 Stat. 608; amended Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 773(b) (last sentence).	Oct. 14, 1949, ch. 691, § 208 ''Sec. 23(b) (last sentence)'', 63 Stat. 865.

The words ''under subchapter I of chapter 81 of title 5'' are substituted for ''under this Act'' (Federal Employees' Compensation Act) to reflect the codification of the Act in title 5, United States Code.

The words ''is approved by the Secretary of Labor'' are substituted for ''is so approved''. The words ''Secretary of Labor'' are substituted for ''Administrator'' (Federal Security Administrator) on authority of 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 64 Stat. 1271.

The words ''shall be guilty of a misdemeanor'' are omitted as unnecessary in view of the definitive section 1 of this title. (See reviser's note under 18 U.S.C. 212, 1964 ed.)

The words ''and upon conviction thereof'' are omitted as unnecessary because punishment can be imposed only after conviction.

The words ''or both'' are substituted for ''or by both such fine and imprisonment''.

Minor changes in phraseology are made to conform to the style of title 18.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

[§ 293. Repealed. Pub. L. 101–123, § 3(a), Oct. 23, 1989, 103 Stat. 760]

Section, added Pub. L. 100–700, § 3(a), Nov. 19, 1988, 102 Stat. 4632, related to limitation on Government contract costs.

EFFECTIVE DATE OF REPEAL

Section 3(b) of Pub. L. 101–123 provided that: ''The repeal made by this section [repealing this section and provisions formerly set out as a note below] shall be deemed to be effective on the date of enactment of Public Law 100–700 [Nov. 19, 1988].''

EFFECTIVE DATE

Pub. L. 100–700, § 3(c), Nov. 19, 1988, 102 Stat. 4633, which provided that this section was to apply to contracts entered into after Nov. 19, 1988, was repealed by Pub. L. 101–123, § 3(a), Oct. 23, 1989, 103 Stat. 760.

CHAPTER 17—COINS AND CURRENCY

Sec.
331. Mutilation, diminution, and falsification of coins.
332. Debasement of coins; alteration of official scales, or embezzlement of metals.
333. Mutilation of national bank obligations.
334. Issuance of Federal Reserve or national bank notes.
335. Circulation of obligations of expired corporations.
336. Issuance of circulating obligations of less than $1.
337. Coins as security for loans.

AMENDMENTS

1965—Pub. L. 89–81, title II, § 212(b), July 23, 1965, 79 Stat. 257, added item 337.

§ 331. Mutilation, diminution, and falsification of coins

Whoever fraudulently alters, defaces, mutilates, impairs, diminishes, falsifies, scales, or lightens any of the coins coined at the mints of the United States, or any foreign coins which are by law made current or are in actual use or circulation as money within the United States; or

Whoever fraudulently possesses, passes, utters, publishes, or sells, or attempts to pass, utter, publish, or sell, or brings into the United States, any such coin, knowing the same to be altered, defaced, mutilated, impaired, diminished, falsified, scaled, or lightened—

Shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 700; July 16, 1951, ch. 226, § 1, 65 Stat. 121; 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., § 279 (Mar. 4, 1909, ch. 321, § 165, 35 Stat. 1119).

Mandatory punishment provision was rephrased in the alternative.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Changes were also made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $2,000''.

1951—Act July 16, 1951, made section applicable to minor coins (5-cent and 1-cent pieces), and to fraudulent alteration of coins.

§ 332. Debasement of coins; alteration of official scales, or embezzlement of metals

If any of the gold or silver coins struck or coined at any of the mints of the United States shall be debased, or made worse as to the proportion of fine gold or fine silver therein contained, or shall be of less weight or value than the same ought to be, pursuant to law, or if any of the scales or weights used at any of the mints or assay offices of the United States shall be defaced, altered, increased, or diminished through the fault or connivance of any officer or person employed at the said mints or assay offices, with a fraudulent intent; or if any such officer or person shall embezzle any of the metals at any time committed to his charge for the purpose of being coined, or any of the coins struck or coined at the said mints, or any medals, coins, or other moneys of said mints or assay offices at any time committed to his charge, or of which he may have assumed the charge, every such officer or person who commits any of the said offenses shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 700; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 280 (Mar. 4, 1909, ch. 321, § 166, 35 Stat. 1120).

Mandatory punishment provision was rephrased in the alternative.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

§ 333. Mutilation of national bank obligations

Whoever mutilates, cuts, defaces, disfigures, or perforates, or unites or cements together, or does any other thing to any bank bill, draft, note, or other evidence of debt issued by any national banking association, or Federal Reserve bank, or the Federal Reserve System, with intent to render such bank bill, draft, note, or other evidence of debt unfit to be reissued, shall be fined under this title or imprisoned not more than six months, or both.

(June 25, 1948, ch. 645, 62 Stat. 700; Pub. L. 103–322, title XXXIII, § 330016(1)(B), Sept. 13, 1994, 108 Stat. 2146.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 291 (Mar. 4, 1909, ch. 321, § 176, 35 Stat. 1122).

Words ''or Federal Reserve bank, or the Federal Reserve System'' were inserted because the paper of such banks has almost supplanted national bank currency.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Minor changes in phraseology were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $100''.

§ 334. Issuance of Federal Reserve or national bank notes

Whoever, being a Federal Reserve Agent, or an agent or employee of such Federal Reserve Agent, or of the Board of Governors of the Federal Reserve System, issues or puts in circulation any Federal Reserve notes, without complying with or in violation of the provisions of law regulating the issuance and circulation of such Federal Reserve notes; or

Whoever, being an officer acting under the provisions of chapter 2 of Title 12, countersigns or delivers to any national banking association, or to any other company or person, any circulating notes contemplated by that chapter except in strict accordance with its provisions—

Shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 700; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on sections 581 and 592 of title 12, U.S.C., 1940 ed., Banks and Banking (R.S. §§ 5187, 5209; Sept. 26, 1918, ch. 177, § 7, 40 Stat. 972; Aug. 23, 1935, ch. 614, § 316, 49 Stat. 712).

This section consolidates section 581 and part of section 592 of title 12, U.S.C., 1940 ed., Banks and Banking.

The punishment provision was drawn from said section 592 as being the latest expression of congressional intent, in preference to the provision of said section 581 which authorized a fine ''not more than double the amount so countersigned and delivered and imprisonment not more than 15 years''.

The words ''shall be guilty of a misdemeanor'' were omitted as unnecessary in view of definition of misdemeanor in section 1 of this title.

Likewise the words ''upon conviction in any district court of the United States'' were omitted as unnecessary since punishment can follow only after conviction.

(See reviser's note under section 656 of this title for statement of reasons for dividing said section 592 into three revised sections, with consequent changes in phraseology, style, and arrangement.)

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 335. Circulation of obligations of expired corporations

Whoever, being a director, officer, or agent of a corporation created by Act of Congress, the charter of which has expired, or trustee thereof, or an agent of such trustee, or a person having in his possession or under his control the property of such corporation for the purpose of paying or redeeming its notes and obligations, knowingly issues, reissues, or utters as money, or in any other way knowingly puts in circulation any bill, note, check, draft, or other security purporting to have been made by any such corporation, or by any officer thereof, or purporting to have been made under authority derived therefrom, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 700; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 289 (Mar. 4, 1909, ch. 321, § 174, 35 Stat. 1122).

The reference to persons aiding was omitted as unnecessary, since such persons are made principals by section 2 of this title.

The last sentence excepting bona fide holders in due course was omitted as surplusage.

Other changes in phraseology also were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

§ 336. Issuance of circulating obligations of less than $1

Whoever makes, issues, circulates, or pays out any note, check, memorandum, token, or other obligation for a less sum than $1, intended to circulate as money or to be received or used in lieu of lawful money of the United States, shall be fined under this title or imprisoned not more than six months, or both.

(June 25, 1948, ch. 645, 62 Stat. 701; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 293 (Mar. 4, 1909, ch. 321, § 178, 35 Stat. 1122).

Numerous suggestions, of which that of Mr. E. M. Million, of Arlington, Va., is typical, recommend that this section be omitted as obsolete or revised to except commercial obligations. However, since the decisions make it plain that only obligations intended to circulate as money are within the provisions of this section and that commercial checks of less than $1 are not affected, there seems no reason so to rewrite the section. (See *U.S. v. Monongahela Bridge Co.*, Fed. Cas. No. 15,796; *Stettinius v. U.S.*, Fed. Cas. No. 13,387.)

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

§ 337. Coins as security for loans

Whoever lends or borrows money or credit upon the security of such coins of the United States as the Secretary of the Treasury may from time to time designate by proclamation published in the Federal Register, during any period designated in such a proclamation, shall be fined under this title or imprisoned not more than one year, or both.

(Added Pub. L. 89–81, title II, § 212(a), July 23, 1965, 79 Stat. 257; amended Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

EFFECTIVE DATE

Section 212(c) of Pub. L. 89–81 provided that: ''The amendments made by this section [enacting this section] shall apply only with respect to loans made, renewed, or increased on or after the 31st day after the date of enactment of this Act [July 23, 1965].''

CHAPTER 17A—COMMON CARRIER OPERATION UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

Sec.
341. Definitions.

Sec.
342. Operation of a common carrier under the influence of alcohol or drugs.
343. Presumptions.

§341. Definitions

As used in this chapter, the term ''common carrier'' means a locomotive, a rail carrier, a sleeping car carrier, a bus transporting passengers in interstate commerce, a water common carrier, and an air common carrier.

(Added Pub. L. 99–570, title I, §1971(a), Oct. 27, 1986, 100 Stat. 3207–59; amended Pub. L. 100–690, title VI, §6482(a), Nov. 18, 1988, 102 Stat. 4382.)

AMENDMENTS

1988—Pub. L. 100–690 inserted ''locomotive, a'' after ''means a''.

§342. Operation of a common carrier under the influence of alcohol or drugs

Whoever operates or directs the operation of a common carrier while under the influence of alcohol or any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), shall be imprisoned not more than fifteen years or fined under this title, or both.

(Added Pub. L. 99–570, title I, §1971(a), Oct. 27, 1986, 100 Stat. 3207–59; amended Pub. L. 100–690, title VI, §§6473(a), (b), 6482(b), Nov. 18, 1988, 102 Stat. 4379, 4382.)

AMENDMENTS

1988—Pub. L. 100–690 substituted ''any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))'' for ''drugs'', ''fifteen'' for ''five'', and ''fined under this title'' for ''fined not more than $10,000''.

§343. Presumptions

For purposes of this chapter—

(1) an individual with a blood alcohol content of .10 percent or more shall be presumed to be under the influence of alcohol; and

(2) an individual shall be presumed to be under the influence of drugs if the quantity of the drug in the system of the individual would be sufficient to impair the perception, mental processes, or motor functions of the average individual.

(Added Pub. L. 99–570, title I, §1971(a), Oct. 27, 1986, 100 Stat. 3207–59; amended Pub. L. 100–690, title VI, §6473(c), Nov. 18, 1988, 102 Stat. 4379.)

AMENDMENTS

1988—Par. (1). Pub. L. 100–690, §6473(c)(1), substituted ''.10 percent'' for ''.10'' and struck out ''conclusively'' after ''shall be''.

Par. (2). Pub. L. 100–690, §6473(c)(2), struck out ''conclusively'' after ''shall be''.

CHAPTER 18—CONGRESSIONAL, CABINET, AND SUPREME COURT ASSASSINATION, KIDNAPPING, AND ASSAULT

Sec.
351. Congressional, Cabinet, and Supreme Court assassination, kidnapping, and assault; penalties.

AMENDMENTS

1994—Pub. L. 103–322, title XXXIII, §330021(1), Sept. 13, 1994, 108 Stat. 2150, which directed the amendment of this title ''by striking 'kidnaping' each place it appears and inserting 'kidnapping' '', was executed by substituting ''KIDNAPPING'' for ''KIDNAPING'' in chapter heading, to reflect the probable intent of Congress.

Pub. L. 103–322, title XXXIII, §330021(1), Sept. 13, 1994, 108 Stat. 2150, substituted ''kidnapping'' for ''kidnaping'' in item 351.

1982—Pub. L. 97–285, §2(b), (c), Oct. 6, 1982, 96 Stat. 1219, substituted ''CONGRESSIONAL, CABINET, AND SUPREME COURT ASSASSINATION, KIDNAPING, AND ASSAULT'' for ''CONGRESSIONAL ASSASSINATION, KIDNAPING, AND ASSAULT'' as chapter heading and substituted ''Congressional, Cabinet, and Supreme Court assassination, kidnaping, and assault: penalties'' for ''Congressional assassination, kidnaping, and assault; penalties'' in item 351.

1971—Pub. L. 91–644, title IV, §15, Jan. 2, 1971, 84 Stat. 1891, added chapter 18 and item 351.

§351. Congressional, Cabinet, and Supreme Court assassination, kidnapping, and assault; penalties

(a) Whoever kills any individual who is a Member of Congress or a Member-of-Congress-elect, a member of the executive branch of the Government who is the head, or a person nominated to be head during the pendency of such nomination, of a department listed in section 101 of title 5 or the second ranking official in such department, the Director (or a person nominated to be Director during the pendency of such nomination) or Deputy Director of Central Intelligence, a major Presidential or Vice Presidential candidate (as defined in section 3056 of this title), or a Justice of the United States, as defined in section 451 of title 28, or a person nominated to be a Justice of the United States, during the pendency of such nomination, shall be punished as provided by sections 1111 and 1112 of this title.

(b) Whoever kidnaps any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished by imprisonment for any term of years or for life.

(d) If two or more persons conspire to kill or kidnap any individual designated in subsection (a) of this section and one or more of such persons do any act to effect the object of the conspiracy, each shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

(e) Whoever assaults any person designated in subsection (a) of this section shall be fined under this title, or imprisoned not more than one year, or both; and if the assault involved the use of a dangerous weapon, or personal injury results, shall be fined under this title, or imprisoned not more than ten years, or both.

(f) If Federal investigative or prosecutive jurisdiction is asserted for a violation of this section, such assertion shall suspend the exercise of jurisdiction by a State or local authority, under any applicable State or local law, until Federal action is terminated.

(g) Violations of this section shall be investigated by the Federal Bureau of Investigation.

Assistance may be requested from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

(h) In a prosecution for an offense under this section the Government need not prove that the defendant knew that the victim of the offense was an individual protected by this section.

(i) There is extraterritorial jurisdiction over the conduct prohibited by this section.

(Added Pub. L. 91–644, title IV, § 15, Jan. 2, 1971, 84 Stat. 1891; amended Pub. L. 97–285, §§ 1, 2(a), Oct. 6, 1982, 96 Stat. 1219; Pub. L. 99–646, § 62, Nov. 10, 1986, 100 Stat. 3614; Pub. L. 100–690, title VII, § 7074, Nov. 18, 1988, 102 Stat. 4405; Pub. L. 103–322, title XXXII, § 320101(d), title XXXIII, §§ 330016(1)(K), (L), 330021(1), Sept. 13, 1994, 108 Stat. 2108, 2147, 2150; Pub. L. 104–294, title VI, § 604(b)(12)(C), (c)(2), Oct. 11, 1996, 110 Stat. 3507, 3509.)

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–294, § 604(c)(2), substituted ''involved the use'' for ''involved in the use''.

Pub. L. 104–294, § 604(b)(12)(C), repealed Pub. L. 103–322, § 320101(d)(3). See 1994 Amendment note below.

1994—Pub. L. 103–322, § 330021(1), substituted ''kidnapping'' for ''kidnaping'' in section catchline.

Subsec. (e). Pub. L. 103–322, § 330016(1)(L), substituted ''shall be fined under this title'' for ''shall be fined not more than $10,000'' after ''personal injury results,''.

Pub. L. 103–322, § 320101(d)(4), substituted ''imprisoned not more than ten years'' for ''imprisoned for not more than ten years''.

Pub. L. 103–322, § 320101(d)(3), which provided for amendment identical to Pub. L. 103–322, § 330016(1)(L), above, was repealed by Pub. L. 104–294, § 604(b)(12)(C).

Pub. L. 103–322, § 320101(d)(2), inserted ''the assault involved in the use of a dangerous weapon, or'' after ''and if''.

Pub. L. 103–322, §§ 320101(d)(1), 330016(1)(K), amended subsec. (e) identically, substituting ''shall be fined under this title'' for ''shall be fined not more than $5,000'' after ''subsection (a) of this section''.

1988—Subsec. (a). Pub. L. 100–690 inserted a comma after ''section 3056 of this title)''.

1986—Subsec. (a). Pub. L. 99–646, § 62(1), inserted ''a major Presidential or Vice Presidential candidate (as defined in section 3056 of this title)''.

Subsec. (h). Pub. L. 99–646, § 62(2), substituted ''individual'' for ''official''.

1982—Pub. L. 97–285, § 2(a), substituted ''Congressional, Cabinet, and Supreme Court assassination, kidnaping, and assault; penalties'' for ''Congressional assassination, kidnaping, and assault'' in section catchline.

Subsec. (a). Pub. L. 97–285, § 1(a), expanded coverage of subsec. (a) to cover the killing of any individual who is a member of the executive branch of the Government and the head, or a person nominated to be head during the pendency of such nomination, of a department listed in section 101 of title 5 or the second ranking official in such department, the Director (or a person nominated to be Director during the pendency of such nomination) or Deputy Director of Central Intelligence, or a Justice of the United States, as defined in section 451 of title 28, or a person nominated to be a Justice of the United States, during the pendency of such nomination.

Subsecs. (h), (i). Pub. L. 97–285, § 1(b), added subsecs. (h) and (i).

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

REPORT TO MEMBER OF CONGRESS ON INVESTIGATION CONDUCTED SUBSEQUENT TO THREAT ON MEMBER'S LIFE

Pub. L. 95–624, § 19, Nov. 9, 1978, 92 Stat. 3466, provided that: ''The Federal Bureau of Investigation shall provide a written report to a Member of Congress on any investigation conducted based on a threat on the Member's life under section 351 of title 18 of the United States Code.''

CHAPTER 19—CONSPIRACY

Sec.
371. Conspiracy to commit offense or to defraud United States.
372. Conspiracy to impede or injure officer.
373. Solicitation to commit a crime of violence.

AMENDMENTS

1984—Pub. L. 98–473, title II, § 1003(b), Oct. 12, 1984, 98 Stat. 2138, added item 373.

§ 371. Conspiracy to commit offense or to defraud United States

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.

If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor.

(June 25, 1948, ch. 645, 62 Stat. 701; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 88, 294 (Mar. 4, 1909, ch. 321, § 37, 35 Stat. 1096; Mar. 4, 1909, ch. 321, § 178a, as added Sept. 27, 1944, ch. 425, 58 Stat. 752).

This section consolidates said sections 88 and 294 of title 18, U.S.C., 1940 ed.

To reflect the construction placed upon said section 88 by the courts the words ''or any agency thereof'' were inserted. (See *Haas v. Henkel*, 1909, 30 S. Ct. 249, 216 U. S. 462, 54 L. Ed. 569, 17 Ann. Cas. 1112, where court said: ''The statute is broad enough in its terms to include any conspiracy for the purpose of impairing, obstructing, or defeating the lawful functions of any department of government.'' Also, see *United States v. Walter*, 1923, 44 S. Ct. 10, 263 U. S. 15, 68 L. Ed. 137, and definitions of department and agency in section 6 of this title.)

The punishment provision is completely rewritten to increase the penalty from 2 years to 5 years except where the object of the conspiracy is a misdemeanor. If the object is a misdemeanor, the maximum imprison-

ment for a conspiracy to commit that offense, under the revised section, cannot exceed 1 year.

The injustice of permitting a felony punishment on conviction for conspiracy to commit a misdemeanor is described by the late Hon. Grover M. Moscowitz, United States district judge for the eastern district of New York, in an address delivered March 14, 1944, before the section on Federal Practice of the New York Bar Association, reported in 3 Federal Rules Decisions, pages 380–392.

Hon. John Paul, United States district judge for the western district of Virginia, in a letter addressed to Congressman Eugene J. Keogh dated January 27, 1944, stresses the inadequacy of the 2-year sentence prescribed by existing law in cases where the object of the conspiracy is the commission of a very serious offense.

The punishment provision of said section 294 of title 18 was considered for inclusion in this revised section. It provided the same penalties for conspiracy to violate the provisions of certain counterfeiting laws, as are applicable in the case of conviction for the specific violations. Such a punishment would seem as desirable for all conspiracies as for such offenses as counterfeiting and transporting stolen property in interstate commerce.

A multiplicity of unnecessary enactments inevitably leads to confusion and disregard of law. (See reviser's note under section 493 of this title.)

Since consolidation was highly desirable and because of the strong objections of prosecutors to the general application of the punishment provision of said section 294, the revised section represents the best compromise that could be devised between sharply conflicting views.

A number of special conspiracy provisions, relating to specific offenses, which were contained in various sections incorporated in this title, were omitted because adequately covered by this section. A few exceptions were made, (1) where the conspiracy would constitute the only offense, or (2) where the punishment provided in this section would not be commensurate with the gravity of the offense. Special conspiracy provisions were retained in sections 241, 286, 372, 757, 794, 956, 1201, 2271, 2384 and 2388 of this title. Special conspiracy provisions were added to sections 2153 and 2154 of this title.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

§ 372. Conspiracy to impede or injure officer

If two or more persons in any State, Territory, Possession, or District conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof, or to induce by like means any officer of the United States to leave the place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties, each of such persons shall be fined under this title or imprisoned not more than six years, or both.

(June 25, 1948, ch. 645, 62 Stat. 701; Pub. L. 107–273, div. B, title IV, § 4002(d)(1)(D), Nov. 2, 2002, 116 Stat. 1809.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 54 (Mar. 4, 1909, ch. 321, § 21, 35 Stat. 1092).

Scope of section was enlarged to cover all possessions of the United States. When the section was first enacted in 1861 there were no possessions, and hence the use of the words ''State or Territory'' was sufficient to describe the area then subject to the jurisdiction of the United States. The word ''District'' was inserted by the codifiers of the 1909 Criminal Code.

AMENDMENTS

2002—Pub. L. 107–273 substituted ''under this title'' for ''not more than $5,000''.

§ 373. Solicitation to commit a crime of violence

(a) Whoever, with intent that another person engage in conduct constituting a felony that has as an element the use, attempted use, or threatened use of physical force against property or against the person of another in violation of the laws of the United States, and under circumstances strongly corroborative of that intent, solicits, commands, induces, or otherwise endeavors to persuade such other person to engage in such conduct, shall be imprisoned not more than one-half the maximum term of imprisonment or (notwithstanding section 3571) fined not more than one-half of the maximum fine prescribed for the punishment of the crime solicited, or both; or if the crime solicited is punishable by life imprisonment or death, shall be imprisoned for not more than twenty years.

(b) It is an affirmative defense to a prosecution under this section that, under circumstances manifesting a voluntary and complete renunciation of his criminal intent, the defendant prevented the commission of the crime solicited. A renunciation is not ''voluntary and complete'' if it is motivated in whole or in part by a decision to postpone the commission of the crime until another time or to substitute another victim or another but similar objective. If the defendant raises the affirmative defense at trial, the defendant has the burden of proving the defense by a preponderance of the evidence.

(c) It is not a defense to a prosecution under this section that the person solicited could not be convicted of the crime because he lacked the state of mind required for its commission, because he was incompetent or irresponsible, or because he is immune from prosecution or is not subject to prosecution.

(Added Pub. L. 98–473, title II, § 1003(a), Oct. 12, 1984, 98 Stat. 2138; amended Pub. L. 99–646, § 26, Nov. 10, 1986, 100 Stat. 3597; Pub. L. 103–322, title XXXIII, § 330016(2)(A), Sept. 13, 1994, 108 Stat. 2148.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 inserted ''(notwithstanding section 3571)'' before ''fined not more than one-half''.

1986—Subsec. (a). Pub. L. 99–646 substituted ''property or against the person of another'' for ''the person or property of another'' and inserted ''life imprisonment or'' before ''death''.

CHAPTER 21—CONTEMPTS

Sec.
401. Power of court.
402. Contempts constituting crimes.
403. Protection of the privacy of child victims and child witnesses.

AMENDMENTS

1990—Pub. L. 101–647, title II, § 225(b)(2), Nov. 29, 1990, 104 Stat. 4806, added item 403.

1949—Act May 24, 1949, ch. 139, § 8(a), (b), 63 Stat. 90, struck out ''CONSTITUTING CRIMES'' in chapter heading and substituted ''Contempts constituting crimes'' for ''Criminal contempts'' in item 402.

§ 401. Power of court

A court of the United States shall have power to punish by fine or imprisonment, or both, at its discretion, such contempt of its authority, and none other, as—

(1) Misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

(2) Misbehavior of any of its officers in their official transactions;

(3) Disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

(June 25, 1948, ch. 645, 62 Stat. 701; Pub. L. 107–273, div. B, title III, § 3002(a)(1), Nov. 2, 2002, 116 Stat. 1805.)

HISTORICAL AND REVISION NOTES

Based on section 385 of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary (Mar. 3, 1911, ch. 231, § 268, 36 Stat. 1163).

Said section 385 conferred two powers. The first part authorizing courts of the United States to impose and administer oaths will remain in title 28, U.S.C., 1940 ed., Judicial Code and Judiciary. The second part relating to contempt of court constitutes this section.

Changes in phraseology and arrangement were made.

AMENDMENTS

2002—Pub. L. 107–273 inserted ''or both,'' after ''fine or imprisonment,'' in introductory provisions.

§ 402. Contempts constituting crimes

Any person, corporation or association willfully disobeying any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia, by doing any act or thing therein, or thereby forbidden, if the act or thing so done be of such character as to constitute also a criminal offense under any statute of the United States or under the laws of any State in which the act was committed, shall be prosecuted for such contempt as provided in section 3691 of this title and shall be punished by a fine under this title or imprisonment, or both.

Such fine shall be paid to the United States or to the complainant or other party injured by the act constituting the contempt, or may, where more than one is so damaged, be divided or apportioned among them as the court may direct, but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of $1,000, nor shall such imprisonment exceed the term of six months.

This section shall not be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States, but the same, and all other cases of contempt not specifically embraced in this section may be punished in conformity to the prevailing usages at law.

For purposes of this section, the term ''State'' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(June 25, 1948, ch. 645, 62 Stat. 701; May 24, 1949, ch. 139, § 8(c), 63 Stat. 90; Pub. L. 101–647, title XII, § 1205(c), Nov. 29, 1990, 104 Stat. 4830; Pub. L. 103–322, title XXXIII, §§ 330011(f), 330016(2)(E), Sept. 13, 1994, 108 Stat. 2145, 2148.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on sections 386, 387, 389, and 390a of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary (Oct. 15, 1914, ch. 323, §§ 1, 21, 22, 24, 38 Stat. 730, 738, 739).

Section 21 of the Clayton Act, section 386 of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary, is here consolidated with parts of sections 1, 22, and 24 of the same act. Section 1 of said act, section 390a of title 28 U.S.C., 1940 ed., Judicial Code and Judiciary, defined person or persons. Section 22 of said act, section 387 of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary, regulated the procedure and provided for the punishment of contempts. Section 24 of said act, section 389 of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary, limited the application of these sections to certain kinds of contempt.

In transferring these sections to this title and in consolidating them numerous changes of phraseology were necessary which do not, however, change their meaning or substance. Words ''corporation or association'' were inserted after ''any person'' in substitution for the definition provisions of section 390a of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary, which read as follows: ''The word 'person' or 'persons' wherever used in sections 381–383, 386–390a of this title, sections 12, 13, 14–19, 20, 21, 22–27 and 44 of title 15, and section 412 of title 18 shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.''

The words ''any person, corporation, or association,'' unqualified except by the context of the section mean all that the more lengthy definition included. Only those persons, corporations, and associations who were parties to the order or had actual notice of it may be punished for contempt. (See *McCauly v. First Trust & Savings Bank*, C.C.A. Ill. 1921, 276 F. 117. See, also *National Labor Relations Board v. Blackstone Mfg. Co.*, C.C.A. 1941, 123 F. 2d 633.) The fact that the contemnor was incorporated or organized under a foreign law or under the laws of a particular State or Territory would hardly be relevant to the issue of criminal contempt.

As noted above these sections were part of the Clayton Act, entitled ''An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes.'' Whatever doubt might have existed as to whether the contempt provisions were variously limited to antitrust cases seems to be dispelled by the case of *Sandefur v. Canoe Creek Coal Co.* (C.C.A. Ky. 1923, 293 F. 379, certified question answered 45 S. Ct. 18, 266 U.S. 42, 69 L. Ed. 162, 35 A.L.R. 451), where the court says: ''The act, considered as a whole, covers several more or less distinct subjects. * * * The first eight sections pertain directly to the subject of trust and monopolies; section 9 concerns interstate commerce; section 10, combinations among common carriers; section 11, proceedings to enforce certain provisions of the act; sections 12–16, antitrust procedure and remedies; sections 17–19, regulations of injunction and restraining orders in all cases; section 20 limits the power of an equity court to issue any injunction in a certain class of cases, viz., between employer and the employee; and sections

21–24 pertain to procedure in any district court, punishing contemptuous disregard of any order of such court, providing the act constituting contempt is also a criminal offense. Observing this relation of the various parts of the act to each other, we think 'within the purview of this act' must refer to that portion of the act which most broadly covers the subject-matter to which section 22 is devoted, and this portion is section 21, which reaches all cases where the act of contempt is also a criminal offense. We know of nothing in the legislative history of the act, or within the common knowledge as to the then existing situation, which justifies us in thinking that 'within the purview of this act,' in section 22, meant to limit its effect to the employer-employee provisions of section 20, or even to the antitrust scope of some of the earlier sections.'' (See also *Michaelson v. United States*, 1924, 45 S. Ct. 18, 166 U.S. 42, 69 L. Ed. 162, 35 A.L.R. 451, and H. Rept. No. 613, 62d Cong., 2d sess., to accompany H.R. 15657.)

1949 ACT

This amendment [see section 8] corrects the catchline of section 402 of title 18, U.S.C., to better represent the section content.

AMENDMENTS

1994—Pub. L. 103–322, § 330016(2)(E), substituted ''punished by a fine under this title'' for ''punished by fine'' in first par.

Pub. L. 103–322, § 330011(f), amended directory language of Pub. L. 101–647, § 1205(c). See 1990 Amendment note below.

1990—Pub. L. 101–647, § 1205(c), as amended by Pub. L. 103–322, § 330011(f), added par. defining ''State''.

1949—Act May 24, 1949, substituted ''Contempts constituting crimes'' for ''Criminal contempts'' in section catchline.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 330011(f) of Pub. L. 103–322 provided that the amendment made by that section is effective as of the date on which section 1205(c) of Pub. L. 101–647, which amended this section, took effect.

§ 403. Protection of the privacy of child victims and child witnesses

A knowing or intentional violation of the privacy protection accorded by section 3509 of this title is a criminal contempt punishable by not more than one year's imprisonment, or a fine under this title, or both.

(Added Pub. L. 101–647, title II, § 225(b)(1), Nov. 29, 1990, 104 Stat. 4805.)

CHAPTER 23—CONTRACTS

Sec.
431. Contracts by Member of Congress.
432. Officer or employee contracting with Member of Congress.
433. Exemptions with respect to certain contracts.
[434. Repealed.]
435. Contracts in excess of specific appropriation.
436. Convict labor contracts.
[437. Repealed.]
438. Indian contracts for services generally.[1]
439. Indian enrollment contracts.[1]
440. Mail contracts.
441. Postal supply contracts.
442. Printing contracts.
443. War contracts.

AMENDMENTS

1996—Pub. L. 104–178, § 1(b), Aug. 6, 1996, 110 Stat. 1565, struck out item 437 ''Federal employees contracting or trading with Indians''.

1994—Pub. L. 103–322, title XXXIII, § 330010(13), Sept. 13, 1994, 108 Stat. 2144, struck out extraneous period after ''Indians'' in item 437.

1990—Pub. L. 101–647, title XXXV, § 3512, Nov. 29, 1990, 104 Stat. 4922, struck out item 434 ''Interested persons acting as Government agents'' and substituted ''Federal employees contracting or trading with Indians.'' for ''Indian contracts for goods and supplies'' in item 437.

1951—Act Oct. 31, 1951, ch. 655, § 18, 65 Stat. 717, struck out ''; exceptions'' from item 431.

§ 431. Contracts by Member of Congress

Whoever, being a Member of or Delegate to Congress, or a Resident Commissioner, either before or after he has qualified, directly or indirectly, himself, or by any other person in trust for him, or for his use or benefit, or on his account, undertakes, executes, holds, or enjoys, in whole or in part, any contract or agreement, made or entered into in behalf of the United States or any agency thereof, by any officer or person authorized to make contracts on its behalf, shall be fined under this title.

All contracts or agreements made in violation of this section shall be void; and whenever any sum of money is advanced by the United States or any agency thereof, in consideration of any such contract or agreement, it shall forthwith be repaid; and in case of failure or refusal to repay the same when demanded by the proper officer of the department or agency under whose authority such contract or agreement shall have been made or entered into, suit shall at once be brought against the person so failing or refusing and his sureties for the recovery of the money so advanced.

(June 25, 1948, ch. 645, 62 Stat. 702; Oct. 31, 1951, ch. 655, § 19, 65 Stat. 717; Pub. L. 103–322, title XXXIII, § 330016(1)(J), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 204 (Mar. 4, 1909, ch. 321, § 114, 35 Stat. 1109).

Word ''agency'' was inserted in three places to eliminate any ambiguity as to scope of section. (See definition of department or agency under section 6 of this title.)

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $3,000'' in first par.

1951—Act Oct. 31, 1951, struck out ''; exceptions'', after ''Congress'' in section catchline.

§ 432. Officer or employee contracting with Member of Congress

Whoever, being an officer or employee of the United States, on behalf of the United States or any agency thereof, directly or indirectly makes or enters into any contract, bargain, or agreement, with any Member of or Delegate to Congress, or any Resident Commissioner, either before or after he has qualified, shall be fined under this title.

(June 25, 1948, ch. 645, 62 Stat. 702; Pub. L. 103–322, title XXXIII, § 330016(1)(J), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 205 (Mar. 4, 1909, ch. 321, § 115, 35 Stat. 1109).

[1] Section repealed by Pub. L. 106–568 without corresponding amendment of chapter analysis.

Words ''agency'' and ''employee'' were inserted to eliminate any ambiguity as to scope of section. (See definition of agency under section 6 of this title.)

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $3,000''.

§ 433. Exemptions with respect to certain contracts

Sections 431 and 432 of this title shall not extend to any contract or agreement made or entered into, or accepted by any incorporated company for the general benefit of such corporation; nor to the purchase or sale of bills of exchange or other property where the same are ready for delivery and payment therefor is made at the time of making or entering into the contract or agreement. Nor shall the provisions of such sections apply to advances, loans, discounts, purchase or repurchase agreements, extensions, or renewals thereof, or acceptances, releases or substitutions of security therefor or other contracts or agreements made or entered into under the Reconstruction Finance Corporation Act, the Agricultural Adjustment Act, the Federal Farm Loan Act, the Emergency Farm Mortgage Act of 1933, the Farm Credit Act of 1933, or the Home Owners Loan Act of 1933, the Farmers' Home Administration Act of 1946, the Bankhead-Jones Farm Tenant Act, or to crop insurance agreements or contracts or agreements of a kind which the Secretary of Agriculture may enter into with farmers.

Any exemption permitted by this section shall be made a matter of public record.

(June 25, 1948, ch. 645, 62 Stat. 703; Pub. L. 87–353, § 3(*o*), Oct. 4, 1961, 75 Stat. 774.)

HISTORICAL AND REVISION NOTES

Based on section 1514(f) of title 7, U.S.C., 1940 ed., Agriculture; sections 264w, 598, 1138d(e), 1441(e), 1467(d) of title 12, U.S.C., 1940 ed., Banks and Banking; section 616(e) of title 15, U.S.C., 1940 ed., Commerce and Trade; title 18, U.S.C., 1940 ed., § 206 (Mar. 4, 1909, ch. 321, § 116, 35 Stat. 1109; Dec. 23, 1913, ch. 6, § 22(j), as added June 19, 1934, ch. 653, § 3, 48 Stat. 1107; Jan. 22, 1932, ch. 8, § 16(e), 47 Stat. 12; July 22, 1932, ch. 522, § 21, 47 Stat. 738; June 13, 1933, ch. 64, § 8, 48 Stat. 135; June 16, 1933, ch. 98, § 64, 48 Stat. 268, 269; Jan. 25, 1934, ch. 5, 48 Stat. 337; Jan. 31, 1934, ch. 7, § 13, 48 Stat. 347; June 27, 1934, ch. 847, title V, § 510, 58 Stat. 1264; May 28, 1935, ch. 150, §§ 20, 21, 49 Stat. 298; Aug. 23, 1935, ch. 614, § 101, 49 Stat. 703; Aug. 26, 1937, ch. 821, 50 Stat. 838; Feb. 16, 1938, ch. 30, title V, § 514, 52 Stat. 77).

These sections were consolidated with such changes of phraseology as were necessary to effect consolidation. Said section 206 of title 18, U.S.C., 1940 ed., was the principal source of this section, but the enumeration of the kinds of commitments exempted was drawn from the various sections of said title 12 set forth above. The reference to crop insurance agreements is drawn from section 1514(f) of Title 7, Agriculture.

The applicability provisions of the sections here consolidated were unclear and of doubtful value. As revised the section preserves everything of value without change of substance.

References to the Bankhead-Jones Farm Tenant Act and the Farmers' Home Administrative Act of 1946 were included in this revised section notwithstanding the omission (and consequent repeal) of former subsection (d) of section 52 of the said Bankhead-Jones Act (1937) (Title 7, U.S.C., 1940 ed., § 1026) in the amendment of said section 52 of such Act by section 3 of the said Farmers' Home Administration Act of 1946 (August 14, 1946, ch. 964, 60 Stat. 1062). The essential nature of the transactions under the several acts would render inconsistent any attempt to include some and exclude others.

REFERENCES IN TEXT

The Reconstruction Finance Corporation Act, referred to in text, is act Jan. 22, 1932, ch. 8, 47 Stat. 5, as amended, which was classified to chapter 14 (§ 601 et seq.) of Title 15, Commerce and Trade, and has been eliminated from the Code. For complete classification of this Act prior to its elimination from the Code, see Tables.

The Agricultural Adjustment Act, referred to in text, is title I of act May 12, 1933, ch. 25, 48 Stat. 31, as amended, which is classified generally to chapter 26 (§ 601 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 7 and Tables.

The Federal Farm Loan Act, referred to in text, is act July 17, 1916, ch. 245, 39 Stat. 360, as amended, which was classified principally to sections 641 et seq. of Title 12, Banks and Banking. The Federal Farm Loan Act, as amended, was repealed by section 5.26(a) of the Farm Credit Act of 1971, Pub. L. 92–181, Dec. 10, 1971, 85 Stat. 624. Section 5.26(a) of the Farm Credit Act of 1971 also provided that all references in other legislation to the Acts repealed thereby ''shall be deemed to refer to comparable provisions of this Act''. For further details, see notes under section 2001 of Title 12. For complete classification of the Federal Farm Loan Act to the Code prior to such repeal, see Tables.

The Emergency Farm Mortgage Act of 1933, referred to in text, is title II of act May 12, 1933, ch. 25, 48 Stat. 31, as amended. Such title II was substantially repealed by act June 30, 1947, ch. 166, title II, § 206(c), 61 Stat. 208; act Aug. 6, 1953, ch. 335, § 19, 67 Stat. 400; act Oct. 4, 1961, Pub. L. 87–353, § 3(a), (b), (w), 75 Stat. 773, 774; act Dec. 10, 1971, Pub. L. 92–181, title V, § 5.26(a), 85 Stat. 624. For complete classification of this Act to the Code, see Tables.

The Farm Credit Act of 1933, referred to in text, is act June 16, 1933, ch. 98, 48 Stat. 2, as amended, which was classified principally to subchapter IV (§ 1131 et seq.) of chapter 7 of Title 12, Banks and Banking. The Farm Credit Act of 1933, as amended, was repealed by section 5.26(a) of the Farm Credit Act of 1971, Pub. L. 92–181, Dec. 10, 1971, 85 Stat. 624. Section 5.26(a) of the Farm Credit Act of 1971 also provided that all references in other legislation to the Acts repealed thereby ''shall be deemed to refer to comparable provisions of this Act''. For further details, see notes under section 2001 of Title 12. For complete classification of the Farm Credit Act of 1933 to the Code prior to such repeal, see Tables.

The Home Owners Loan Act of 1933, referred to in text, is act June 13, 1933, ch. 64, 48 Stat. 128, as amended, now known as the Home Owners' Loan Act, which is classified generally to chapter 12 (§ 1461 et seq.) of Title 12. For complete classification of this Act to the Code, see section 1461 of Title 12 and Tables.

The Farmers' Home Administration Act of 1946, referred to in text, is act Aug. 14, 1946, ch. 964, 60 Stat. 1062, as amended. Such Act was substantially repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, and act Aug. 8, 1961, Pub. L. 87–128, title III, § 341(a), 75 Stat. 318. For complete classification of this Act to the Code, see Tables.

The Bankhead-Jones Farm Tenant Act, referred to in text, is act July 22, 1937, ch. 517, 50 Stat. 522, as amended, which is classified generally to chapter 33 (§ 1000 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1000 of Title 7 and Tables.

AMENDMENTS

1961—Pub. L. 87–353 struck out ''the Federal Farm Mortgage Corporation Act,'' after ''the Emergency Farm Mortgage Act of 1933,''.

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

The Reconstruction Finance Corporation, which was created by the Reconstruction Finance Corporation Act, referred to in this section, was abolished by section 6(a) of Reorg. Plan No. 1 of 1957, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees.

ABOLITION OF HOME OWNERS' LOAN CORPORATION

The Home Owners' Loan Corporation, which was created by the Home Owners' Loan Act of 1933, referred to in this section, was dissolved and abolished by act June 30, 1953, ch. 170, § 21, 67 Stat. 126, set out in note under section 1463 of Title 12, Banks and Banking.

[§ 434. Repealed. Pub. L. 87–849, § 2, Oct. 23, 1962, 76 Stat. 1126]

Section, act June 25, 1948, ch. 645, 62 Stat. 703, related to interested persons acting as Government agents. Section was supplanted by section 208 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87–849, set out as an Effective Date note under section 201 of this title.

§ 435. Contracts in excess of specific appropriation

Whoever, being an officer or employee of the United States, knowingly contracts for the erection, repair, or furnishing of any public building, or for any public improvement, to pay a larger amount than the specific sum appropriated for such purpose, shall be fined under this title[1] or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 703; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 184 (Mar. 4, 1909, ch. 321, § 98, 35 Stat. 1106).

Words "or employee" were inserted to remove any ambiguity as to scope of section.

The offense described in this section involves no moral turpitude, and therefore the punishment provisions were reduced from $2,000 to $1,000 and from 2 years to 1 year, so that the stigma of a felony would not attach to an offender. (See classification of felony and misdemeanor in section 1 of this title and note thereunder.)

Mandatory punishment provisions were rephrased in the alternative.

Changes were also made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322, which directed the amendment of this section by substituting "fined under this title" for "fined not more than $5,000", was executed by making the substitution for "fined not more than $1,000", to reflect the probable intent of Congress.

§ 436. Convict labor contracts

Whoever, being an officer, employee, or agent of the United States or any department or agency thereof, contracts with any person or corporation, or permits any warden, agent, or official of any penal or correctional institution, to hire out the labor of any prisoners confined for violation of any laws of the United States, shall be fined under this title[1] or imprisoned not more than three years, or both.

[1] See 1994 Amendment note below.

[1] See 1994 Amendment note below.

(June 25, 1948, ch. 645, 62 Stat. 703; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 708, 709 (Feb. 23, 1887, ch. 213, §§ 1, 2, 24 Stat. 411).

This section consolidates sections 708 and 709 of title 18, U.S.C., 1940 ed., as the offense and penalty provisions, respectively.

Words "department or agency thereof" were inserted to clarify scope of section. See definition of department and agency in section 6 of this title.

To retain uniformity words "shall be deemed guilty of a misdemeanor, and," were omitted. The reference to misdemeanor is now covered by the definition in section 1 of this title.

Words "on conviction thereof" were omitted as unnecessary since punishment can follow only upon conviction.

The minimum punishment provisions "less than one year nor" and "less than $500 nor" were deleted to conform to the policy followed by codifiers of 1909 Criminal Code. (See reviser's note under section 203 of this title.)

Changes were also made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322, which directed the amendment of this section by substituting "fined under this title" for "fined not more than $5,000", was executed by making the substitution for "fined not more than $1,000", to reflect the probable intent of Congress.

[§ 437. Repealed. Pub. L. 104–178, § 1(a), Aug. 6, 1996, 110 Stat. 1565]

Section, acts June 25, 1948, ch. 645, 62 Stat. 703; June 17, 1980, Pub. L. 96–277, § 1, 94 Stat. 544; Sept. 13, 1994, Pub. L. 103–322, title XXXIII, § 330016(1)(L), 108 Stat. 2147, related to Federal employees contracting or trading with Indians.

EFFECTIVE DATE OF REPEAL

Section 1(c) of Pub. L. 104–178 provided that: "The repeal made by subsection (a) [repealing this section] shall—

"(1) take effect on the date of enactment of this Act [Aug. 6, 1996]; and

"(2) apply with respect to any contract obtained, and any purchase or sale occurring, on or after the date of enactment of this Act."

[§§ 438, 439. Repealed. Pub. L. 106–568, title VIII, § 812(c)(2), Dec. 27, 2000, 114 Stat. 2917]

Section 438, acts June 25, 1948, ch. 645, 62 Stat. 703; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147, related to Indian contracts for services generally.

Section 439, acts June 25, 1948, ch. 645, 62 Stat. 704; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147, related to Indian enrollment contracts.

§ 440. Mail contracts

Whoever, being a person employed in the Postal Service, becomes interested in any contract for carrying the mail, or acts as agent, with or without compensation, for any contractor or person offering to become a contractor in any business before the Postal Service, shall be fined under this title[1] or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 704; Pub. L. 91–375, § 6(j)(3), Aug. 12, 1970, 84 Stat. 777; Pub. L. 103–322,

[1] See 1994 Amendment note below.

title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 356 (Mar. 4, 1909, ch. 321, § 226, 35 Stat. 1134).

Provision for dismissal from office was omitted since this might be handled better administratively.

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322, which directed the amendment of this section by substituting ''fined under this title'' for ''fined not more than $10,000'', was executed by making the substitution for ''fined not more than $5,000'', to reflect the probable intent of Congress.

1970—Pub. L. 91–375 substituted ''Postal Service'' for ''Post Office Department'' before '', shall be fined''.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 441. Postal supply contracts

No contract for furnishing supplies to the Postal Service shall be made with any person who has entered, or proposed to enter, into any combination to prevent the making of any bid for furnishing such supplies, or to fix a price or prices therefor, or who has made any agreement, or given or performed, or promised to give or perform, any consideration whatever to induce any other person not to bid for any such contract, or to bid at a specified price or prices thereon.

Whoever violates this section shall be fined under this title[1] or imprisoned not more than one year, or both; and if the offender is a contractor for furnishing such supplies his contract may be annulled.

(June 25, 1948, ch. 645, 62 Stat. 704; Pub. L. 91–375, § 6(j)(4), Aug. 12, 1970, 84 Stat. 777; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 808 of title 39, U.S.C., 1940 ed., The Postal Service (Aug. 24, 1912, ch. 389, § 2, 37 Stat. 553).

Minimum punishment provisions ''less than $100 nor'' and ''less than three months nor'' were omitted to conform to policy followed by codifiers of 1909 Criminal Code.

Changes in phraseology were also made.

AMENDMENTS

1994—Pub. L. 103–322, which directed the amendment of this section by substituting ''fined under this title'' for ''fined not more than $10,000'', was executed by making the substitution for ''fined not more than $5,000'' in second par., to reflect the probable intent of Congress.

1970—Pub. L. 91–375 struck out ''Post Office Department or the'' before ''Postal Service''.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

[1] See 1994 Amendment note below.

§ 442. Printing contracts

Neither the Public Printer, superintendent of printing, superintendent of binding, nor any of their assistants shall, during their continuance in office, have any interest, direct or indirect, in the publication of any newspaper or periodical, or in any printing, binding, engraving, or lithographing of any kind, or in any contract for furnishing paper or other material connected with the public printing, binding, lithographing, or engraving.

Whoever violates this section shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 704; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 53 of title 44, U.S.C., 1940 ed., Public Printing and Documents (Jan. 12, 1895, ch. 23, § 34, 28 Stat. 605).

Words ''on conviction before any court of competent jurisdiction'' were omitted as unnecessary, since punishment cannot be imposed until there has been a conviction before a competent tribunal.

Words ''in the penitentiary'' were omitted as surplusage as section 4082 of this title commits all prisoners to the custody of the Attorney General. (See reviser's note under section 1 of this title.)

The minimum punishment provision ''for a term of not less than one nor'' was omitted in keeping with policy of codifiers of 1909 Criminal Code.

Mandatory punishment provision was rephrased in the alternative.

The offense described in this section involves no moral turpitude, and therefore the punishment provisions were reduced from 5 years to 1 year, so that the stigma of a felony would not attach to an offender. The fine was increased from $500 to $1,000 as more proportionate to the 1-year term of imprisonment. (See classification of felony and misdemeanor in section 1 of this title and note thereunder.)

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000'' in second par.

§ 443. War contracts

Whoever willfully secretes, mutilates, obliterates, or destroys—

(a) any records of a war contractor relating to the negotiation, award, performance, payment, interim financing, cancellation or other termination, or settlement of a war contract of $25,000 or more; or

(b) any records of a war contractor or purchaser relating to any disposition of termination inventory in which the consideration received by any war contractor or any government agency is $5,000 or more,

before the lapse of (1) five years after such disposition of termination inventory by such war contractor or government agency, or (2) five years after the final settlement of such war contract, whichever applicable period is longer, shall be fined under this title or imprisoned not more than five years, or both.

The Administrator of General Services, by regulation, may authorize the destruction of

such records upon such terms and conditions as he deems appropriate, including the requirement for the making and retaining of photographs or microphotographs, which shall have the same force and effect as the originals thereof.

The definitions of terms in section 103 of Title 41 shall apply to similar terms used in this section.

(June 25, 1948, ch. 645, 62 Stat. 704; Oct. 31, 1951, ch. 655, §20(a), 65 Stat. 717; Pub. L. 103–322, title XXXIII, §§330004(17), 330016(2)(F), Sept. 13, 1994, 108 Stat. 2142, 2148.)

HISTORICAL AND REVISION NOTES

Based on section 119, first and second paragraphs, of title 41 U.S.C., 1940 ed., Public Contracts (July 1, 1944, ch. 358, §19(a), 58 Stat. 667).

Section was rewritten with changes of phraseology to conform to the style adopted in the revision.

The definition of ''records'' was omitted as surplusage in order to avoid any inference that ''records'' as used in other sections was intended to have a different or more limited connotation than the broad and commonly understood meaning popularly assigned to the term.

The last paragraph was added to obviate any possibility of doubt as to meaning of terms defined in section 103 of Title 41, Public Contracts.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

AMENDMENTS

1994—Pub. L. 103–322, in concluding provisions of first par., struck out ''or (3) five years after 12 o'clock noon of December 31, 1946,'' after ''of such war contract,'' and substituted ''shall be fined under this title'' for ''shall, if a corporation, be fined not more than $50,000, and, if a natural person, be fined not more than $10,000''.

1951—Act Oct. 31, 1951, substituted ''12 o'clock noon of December 31, 1946'' for ''the termination of hostilities in the present war as proclaimed by the President or by a concurrent resolution of the two Houses of Congress'', and, in penultimate paragraph, substituted ''Administrator of General Services'' for ''Director of Contract Settlement''.

CHAPTER 25—COUNTERFEITING AND FORGERY

Sec.
470. Counterfeit acts committed outside the United States.
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513. Securities of the States and private entities.
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AMENDMENTS

2001—Pub. L. 107–56, title III, §§374(e)(4), 375(d)(4), Oct. 26, 2001, 115 Stat. 340, 341, substituted '', stones, or analog, digital, or electronic images'' for ''or stones'' in items 474 and 481.

1996—Pub. L. 104–208, div. A, title I, §101(f) [title VI, §648(b)(2)], title II, §2603(b)(2), Sept. 30, 1996, 110 Stat. 3009–314, 3009–368, 3009–470, amended analysis identically, adding item 514.

1994—Pub. L. 103–322, title XII, §120003(b)(1), title XXII, §220003(d)(2), title XXXIII, §330010(14), Sept. 13, 1994, 108 Stat. 2022, 2077, 2144, added item 470, struck out extraneous period after ''money'' in item 491, and added item 511A.

1992—Pub. L. 102–550, title XV, §1553(b), Oct. 28, 1992, 106 Stat. 4071, added item 474A.

1990—Pub. L. 101–647, title XXXV, §3513, Nov. 29, 1990, 104 Stat. 4922, substituted ''or paper used as money.'' for ''used as money or similar to coins'' in item 491, ''matters'' for ''entry certificates'' in item 496, and ''stamps, postage meter stamps,'' for ''stamps'' in item 501.

1986—Pub. L. 99–646, §31(b), Nov. 10, 1986, 100 Stat. 3598, redesignated second item 510, relating to securities of the State and private entities, as item 513 and substituted ''States'' for ''State''.

1984—Pub. L. 98–547, title II, §201(b), Oct. 25, 1984, 98 Stat. 2770, added items 511 and 512.

Pub. L. 98–473, title II, §1105(b), Oct. 12, 1984, 98 Stat. 2145, added second item 510 ''Securities of the State and private entities''.

1983—Pub. L. 98–151, §115(c), Nov. 14, 1983, 97 Stat. 977, added item 510, relating to forging endorsements.

1965—Pub. L. 89–81, title II, § 211(b), July 23, 1965, 79 Stat. 257, struck out ''Gold or silver'' before ''Coins or bars'' in item 485.

1958—Pub. L. 85–921, § 2, Sept. 2, 1958, 72 Stat. 1771, substituted ''Printing and filming of United States and foreign obligations and securities'' for ''Printing stamps for philatelic purposes'' in item 504.

1951—Act July 16, 1951, ch. 226, § 5(c), 65 Stat. 122, struck out ''; publisher's illustrations excepted'' in item 489.

§ 470. Counterfeit acts committed outside the United States

A person who, outside the United States, engages in the act of—

(1) making, dealing, or possessing any counterfeit obligation or other security of the United States; or

(2) making, dealing, or possessing any plate, stone, analog, digital, or electronic image, or other thing, or any part thereof, used to counterfeit such obligation or security,

if such act would constitute a violation of section 471, 473, or 474 if committed within the United States, shall be punished as is provided for the like offense within the United States.

(Added Pub. L. 103–322, title XII, § 120003(a), Sept. 13, 1994, 108 Stat. 2021; amended Pub. L. 107–56, title III, § 374(a), Oct. 26, 2001, 115 Stat. 340.)

AMENDMENTS

2001—Pub. L. 107–56, § 374(a)(2), in concluding provisions, substituted ''shall be punished as is provided for the like offense within the United States'' for ''shall be fined under this title, imprisoned not more than 20 years, or both''.

Par. (2). Pub. L. 107–56, § 374(a)(1), inserted ''analog, digital, or electronic image,'' after ''plate, stone,''.

COMBATTING INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY

Pub. L. 104–132, title VIII, § 807, Apr. 24, 1996, 110 Stat. 1308, provided that:

''(a) IN GENERAL.—The Secretary of the Treasury (hereafter in this section referred to as the 'Secretary'), in consultation with the advanced counterfeit deterrence steering committee, shall—

''(1) study the use and holding of United States currency in foreign countries; and

''(2) develop useful estimates of the amount of counterfeit United States currency that circulates outside the United States each year.

''(b) EVALUATION AUDIT PLAN.—

''(1) IN GENERAL.—The Secretary shall develop an effective international evaluation audit plan that is designed to enable the Secretary to carry out the duties described in subsection (a) on a regular and thorough basis.

''(2) SUBMISSION OF DETAILED WRITTEN SUMMARY.—The Secretary shall submit a detailed written summary of the evaluation audit plan developed pursuant to paragraph (1) to the Congress before the end of the 6-month period beginning on the date of the enactment of this Act [Apr. 24, 1996].

''(3) FIRST EVALUATION AUDIT UNDER PLAN.—The Secretary shall begin the first evaluation audit pursuant to the evaluation audit plan no later than the end of the 1-year period beginning on the date of the enactment of this Act.

''(4) SUBSEQUENT EVALUATION AUDITS.—At least 1 evaluation audit shall be performed pursuant to the evaluation audit plan during each 3-year period beginning after the date of the commencement of the evaluation audit referred to in paragraph (3).

''(c) REPORTS.—

''(1) IN GENERAL.—The Secretary shall submit a written report to the Committee on Banking and Financial Services [now Committee on Financial Services] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of each evaluation audit conducted pursuant to subsection (b) within 90 days after the completion of the evaluation audit.

''(2) CONTENTS.—In addition to such other information as the Secretary may determine to be appropriate, each report submitted to the Congress pursuant to paragraph (1) shall include the following information:

''(A) A detailed description of the evaluation audit process and the methods used to develop estimates of the amount of counterfeit United States currency in circulation outside the United States.

''(B) The method used to determine the currency sample examined in connection with the evaluation audit and a statistical analysis of the sample examined.

''(C) A list of the regions of the world, types of financial institutions, and other entities included.

''(D) An estimate of the total amount of United States currency found in each region of the world.

''(E) The total amount of counterfeit United States currency and the total quantity of each counterfeit denomination found in each region of the world.

''(3) CLASSIFICATION OF INFORMATION.—

''(A) IN GENERAL.—To the greatest extent possible, each report submitted to the Congress under this subsection shall be submitted in an unclassified form.

''(B) CLASSIFIED AND UNCLASSIFIED FORMS.—If, in the interest of submitting a complete report under this subsection, the Secretary determines that it is necessary to include classified information in the report, the report shall be submitted in a classified and an unclassified form.

''(d) SUNSET PROVISION.—This section shall cease to be effective as of the end of the 10-year period beginning on the date of the enactment of this Act [Apr. 24, 1996].

''(e) RULE OF CONSTRUCTION.—No provision of this section shall be construed as authorizing any entity to conduct investigations of counterfeit United States currency.

''(f) FINDINGS.—The Congress hereby finds the following:

''(1) United States currency is being counterfeited outside the United States.

''(2) The One Hundred Third Congress enacted, with the approval of the President on September 13, 1994, section 470 of title 18, United States Code, making such activity a crime under the laws of the United States.

''(3) The expeditious posting of agents of the United States Secret Service to overseas posts, which is necessary for the effective enforcement of section 470 and related criminal provisions, has been delayed.

''(4) While section 470 of title 18, United States Code, provides for a maximum term of imprisonment of 20 years as opposed to a maximum term of 15 years for domestic counterfeiting, the United States Sentencing Commission has failed to provide, in its sentencing guidelines, for an appropriate enhancement of punishment for defendants convicted of counterfeiting United States currency outside the United States.

''(g) TIMELY CONSIDERATION OF REQUESTS FOR CONCURRENCE IN CREATION OF OVERSEAS POSTS.—

''(1) IN GENERAL.—The Secretary of State shall—

''(A) consider in a timely manner the request by the Secretary of the Treasury for the placement of such number of agents of the United States Secret Service as the Secretary of the Treasury considers appropriate in posts in overseas embassies; and

''(B) reach an agreement with the Secretary of the Treasury on such posts as soon as possible and, in any event, not later than December 31, 1996.

''(2) COOPERATION OF TREASURY REQUIRED.—The Secretary of the Treasury shall promptly provide any in-

formation requested by the Secretary of State in connection with such requests.

''(3) REPORTS REQUIRED.—The Secretary of the Treasury and the Secretary of State shall each submit, by February 1, 1997, a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate explaining the reasons for the rejection, if any, of any proposed post and the reasons for the failure, if any, to fill any approved post by such date.

''(h) ENHANCED PENALTIES FOR INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.—Pursuant to the authority of the United States Sentencing Commission under section 994 of title 28, United States Code, the Commission shall amend the sentencing guidelines prescribed by the Commission to provide an appropriate enhancement of the punishment for a defendant convicted under section 470 of title 18 of such Code.''

[For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 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.]

§471. Obligations or securities of United States

Whoever, with intent to defraud, falsely makes, forges, counterfeits, or alters any obligation or other security of the United States, shall be fined under this title or imprisoned not more than 20 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 705; Pub. L. 103–322, title XXXIII, §330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 107–56, title III, §374(b), Oct. 26, 2001, 115 Stat. 340.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §262 (Mar. 4, 1909, ch. 321, §148, 35 Stat. 1115).

Mandatory punishment provision was rephrased in the alternative.

Changes in phraseology were made.

AMENDMENTS

2001—Pub. L. 107–56 substituted ''20 years'' for ''fifteen years''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–550, title XV, §1551, Oct. 28, 1992, 106 Stat. 4070, provided that: ''This subtitle [subtitle E (§§1551–1554) of title XV of Pub. L. 102–550, enacting section 474A of this title and amending sections 474 and 504 of this title] may be cited as the 'Counterfeit Deterrence Act of 1992'.''

§472. Uttering counterfeit obligations or securities

Whoever, with intent to defraud, passes, utters, publishes, or sells, or attempts to pass, utter, publish, or sell, or with like intent brings into the United States or keeps in possession or conceals any falsely made, forged, counterfeited, or altered obligation or other security of the United States, shall be fined under this title or imprisoned not more than 20 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 705; Pub. L. 103–322, title XXXIII, §330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 107–56, title III, §374(c), Oct. 26, 2001, 115 Stat. 340.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §265 (Mar. 4, 1909, ch. 321, §151, 35 Stat. 1116).

Mandatory punishment provision was rephrased in the alternative.

Changes in phraseology were made.

AMENDMENTS

2001—Pub. L. 107–56 substituted ''20 years'' for ''fifteen years''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§473. Dealing in counterfeit obligations or securities

Whoever buys, sells, exchanges, transfers, receives, or delivers any false, forged, counterfeited, or altered obligation or other security of the United States, with the intent that the same be passed, published, or used as true and genuine, shall be fined under this title or imprisoned not more than 20 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 705; Pub. L. 103–322, title XXXIII, §330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 107–56, title III, §374(d), Oct. 26, 2001, 115 Stat. 340.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §268 (Mar. 4, 1909, ch. 321, §154, 35 Stat. 1117).

Reference to circulating notes of banking associations was omitted as covered by definition of obligation or other security in section 8 of this title.

Changes in phraseology were made.

AMENDMENTS

2001—Pub. L. 107–56 substituted ''20 years'' for ''ten years''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§474. Plates, stones, or analog, digital, or electronic images for counterfeiting obligations or securities

(a) Whoever, having control, custody, or possession of any plate, stone, or other thing, or any part thereof, from which has been printed, or which may be prepared by direction of the Secretary of the Treasury for the purpose of printing, any obligation or other security of the United States, uses such plate, stone, or other thing, or any part thereof, or knowingly suffers the same to be used for the purpose of printing any such or similar obligation or other security, or any part thereof, except as may be printed for the use of the United States by order of the proper officer thereof; or

Whoever makes or executes any plate, stone, or other thing in the likeness of any plate designated for the printing of such obligation or other security; or

Whoever, with intent to defraud, makes, executes, acquires, scans, captures, records, receives, transmits, reproduces, sells, or has in such person's control, custody, or possession, an analog, digital, or electronic image of any obligation or other security of the United States; or

Whoever sells any such plate, stone, or other thing, or brings into the United States any such plate, stone, or other thing, except under the direction of the Secretary of the Treasury or other proper officer, or with any other intent, in ei-

ther case, than that such plate, stone, or other thing be used for the printing of the obligations or other securities of the United States; or

Whoever has in his control, custody, or possession any plate, stone, or other thing in any manner made after or in the similitude of any plate, stone, or other thing, from which any such obligation or other security has been printed, with intent to use such plate, stone, or other thing, or to suffer the same to be used in forging or counterfeiting any such obligation or other security, or any part thereof; or

Whoever has in his possession or custody, except under authority from the Secretary of the Treasury or other proper officer, any obligation or other security made or executed, in whole or in part, after the similitude of any obligation or other security issued under the authority of the United States, with intent to sell or otherwise use the same; or

Whoever prints, photographs, or in any other manner makes or executes any engraving, photograph, print, or impression in the likeness of any such obligation or other security, or any part thereof, or sells any such engraving, photograph, print, or impression, except to the United States, or brings into the United States, any such engraving, photograph, print, or impression, except by direction of some proper officer of the United States—

Is guilty of a class B felony.

(b) For purposes of this section, the term ''analog, digital, or electronic image'' includes any analog, digital, or electronic method used for the making, execution, acquisition, scanning, capturing, recording, retrieval, transmission, or reproduction of any obligation or security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system (pursuant to section 504) to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press and others shall not be unduly restricted.

(June 25, 1948, ch. 645, 62 Stat. 706; Pub. L. 102–550, title XV, § 1552, Oct. 28, 1992, 106 Stat. 4070; Pub. L. 104–208, div. A, title I, § 101(f) [title VI, § 648(a)], title II, § 2603(a), Sept. 30, 1996, 110 Stat. 3009–314, 3009–367, 3009–470; Pub. L. 107–56, title III, § 374(e)(1)–(3), Oct. 26, 2001, 115 Stat. 340.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 264 (Mar. 4, 1909, ch. 321, § 150, 35 Stat. 1116).

References to persons causing, procuring, assisting or aiding were omitted as unnecessary as such persons are made principals by section 2 of this title.

Changes in phraseology were made.

AMENDMENTS

2001—Pub. L. 107–56, § 374(e)(3), substituted '', stones, or analog, digital, or electronic images'' for ''or stones'' in section catchline.

Subsec. (a). Pub. L. 107–56, § 374(e)(1), inserted after second par. ''Whoever, with intent to defraud, makes, executes, acquires, scans, captures, records, receives, transmits, reproduces, sells, or has in such person's control, custody, or possession, an analog, digital, or electronic image of any obligation or other security of the United States; or''.

Subsec. (b). Pub. L. 107–56, § 374(e)(2), inserted first sentence and struck out former first sentence which read as follows: ''For purposes of this section, the terms 'plate', 'stone', 'thing', or 'other thing' includes any electronic method used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury.''

1996—Subsec. (a). Pub. L. 104–208, §§ 101(f) [title VI, § 648(a)] and 2603(a), amended subsec. (a) identically, substituting ''class B felony'' for ''class C felony'' in last par.

1992—Subsec. (a). Pub. L. 102–550, § 1552(1)–(4), designated existing provisions as subsec. (a), in sixth undesignated par., substituted ''United States—'' for ''United States; or'' at end, struck out seventh undesignated par. which read as follows: ''Whoever has or retains in his control or possession, after a distinctive paper has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States, any similar paper adapted to the making of any such obligation or other security, except under the authority of the Secretary of the Treasury or some other proper officer of the United States—'', and amended last undesignated par. generally. Prior to amendment, last par. read as follows: ''Shall be fined not more than $5,000 or imprisoned not more than fifteen years, or both.''

Subsec. (b). Pub. L. 102–550, § 1552(5), added subsec. (b).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(f) [title VI, § 648(c)] of div. A of Pub. L. 104–208 provided that: ''This section [enacting section 514 of this title and amending this section and section 474A of this title] and the amendments made by this section shall become effective on the date of enactment of this Act [Sept. 30, 1996] and shall remain in effect during each fiscal year following that date of enactment.''

§ 474A. Deterrents to counterfeiting of obligations and securities

(a) Whoever has in his control or possession, after a distinctive paper has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States, any similar paper adapted to the making of any such obligation or other security, except under the authority of the Secretary of the Treasury, is guilty of a class B felony.

(b) Whoever has in his control or possession, after a distinctive counterfeit deterrent has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States by publication in the Federal Register, any essentially identical feature or device adapted to the making of any such obligation or security, except under the authority of the Secretary of the Treasury, is guilty of a class B felony.

(c) As used in this section—

(1) the term ''distinctive paper'' includes any distinctive medium of which currency is made, whether of wood pulp, rag, plastic substrate, or other natural or artificial fibers or materials; and

(2) the term ''distinctive counterfeit deterrent'' includes any ink, watermark, seal, security thread, optically variable device, or other feature or device;

(A) in which the United States has an exclusive property interest; or

(B) which is not otherwise in commercial use or in the public domain and which the Secretary designates as being necessary in preventing the counterfeiting of obligations or other securities of the United States.

(Added Pub. L. 102–550, title XV, § 1553(a), Oct. 28, 1992, 106 Stat. 4070; amended Pub. L. 104–208, div. A, title I, § 101(f) [title VI, § 648(a)], title II, § 2603(a), Sept. 30, 1996, 110 Stat. 3009–314, 3009–367, 3009–470.)

AMENDMENTS

1996—Subsecs. (a), (b). Pub. L. 104–208, §§ 101(f) [title VI, § 648(a)] and 2603(a), amended section identically, substituting ''class B felony'' for ''class C felony''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective Sept. 30, 1996, and to remain in effect for each fiscal year following Sept. 30, 1996, see section 101(f) [title VI, § 648(c)] of Pub. L. 104–208, set out as a note under section 474 of this title.

§ 475. Imitating obligations or securities; advertisements

Whoever designs, engraves, prints, makes, or executes, or utters, issues, distributes, circulates, or uses any business or professional card, notice, placard, circular, handbill, or advertisement in the likeness or similitude of any obligation or security of the United States issued under or authorized by any Act of Congress or writes, prints, or otherwise impresses upon or attaches to any such instrument, obligation, or security, or any coin of the United States, any business or professional card, notice, or advertisement, or any notice or advertisement whatever, shall be fined under this title. Nothing in this section applies to evidence of postage payment approved by the United States Postal Service.

(June 25, 1948, ch. 645, 62 Stat. 706; July 16, 1951, ch. 226, § 2, 65 Stat. 122; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 109–162, title XI, § 1192, Jan. 5, 2006, 119 Stat. 3129.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 292 (Mar. 4, 1909, ch. 321, § 177, 35 Stat. 1122).

Enumeration of obligations of the United States was omitted in view of definition in section 8 of this title.

Changes in phraseology were also made.

AMENDMENTS

2006—Pub. L. 109–162 inserted at end ''Nothing in this section applies to evidence of postage payment approved by the United States Postal Service.''

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

1951—Act July 16, 1951, prohibited use of notices or advertising prints or labels on United States coins.

§ 476. Taking impressions of tools used for obligations or securities

Whoever, without authority from the United States, takes, procures, or makes an impression, stamp, analog, digital, or electronic image, or imprint of, from or by the use of any tool, implement, instrument, or thing used or fitted or intended to be used in printing, stamping, or impressing, or in making other tools, implements, instruments, or things to be used or fitted or intended to be used in printing, stamping, or impressing any obligation or other security of the United States, shall be fined under this title or imprisoned not more than 25 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 707; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 107–56, title III, § 374(f), Oct. 26, 2001, 115 Stat. 341.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 266 (Mar. 4, 1909, ch. 321, § 152, 35 Stat. 1117).

Enumeration of substances on which impressions could be made and enumeration of various kinds of tools to be used were omitted as unnecessary.

Reference to circulating note or evidence of debt was omitted in view of definition of obligations and securities in section 8 of this title.

Changes in phraseology were also made.

AMENDMENTS

2001—Pub. L. 107–56 inserted ''analog, digital, or electronic image,'' after ''impression, stamp,'' and substituted ''25 years'' for ''ten years''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 477. Possessing or selling impressions of tools used for obligations or securities

Whoever, with intent to defraud, possesses, keeps, safeguards, or controls, without authority from the United States, any imprint, stamp, analog, digital, or electronic image, or impression, taken or made upon any substance or material whatsoever, of any tool, implement, instrument or thing, used, fitted or intended to be used, for any of the purposes mentioned in section 476 of this title; or

Whoever, with intent to defraud, sells, gives, or delivers any such imprint, stamp, analog, digital, or electronic image, or impression to any other person—

Shall be fined under this title or imprisoned not more than 25 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 707; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 107–56, title III, § 374(g), Oct. 26, 2001, 115 Stat. 341.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 267 (Mar. 4, 1909, ch. 321, § 153, 35 Stat. 1117).

Changes in phraseology were made.

AMENDMENTS

2001—Pub. L. 107–56 inserted ''analog, digital, or electronic image,'' after ''imprint, stamp,'' in first and second pars. and substituted ''25 years'' for ''ten years'' in third par.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 478. Foreign obligations or securities

Whoever, within the United States, with intent to defraud, falsely makes, alters, forges, or counterfeits any bond, certificate, obligation, or other security of any foreign government, purporting to be or in imitation of any such security issued under the authority of such foreign government, or any treasury note, bill, or promise to pay, lawfully issued by such foreign government and intended to circulate as money, shall be fined under this title or imprisoned not more than 20 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 707; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994,

108 Stat. 2147; Pub. L. 107–56, title III, § 375(a), Oct. 26, 2001, 115 Stat. 341.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 270 (Mar. 4, 1909, ch. 321, § 156, 35 Stat. 1117).

Reference to persons causing, procuring, aiding or assisting was omitted as unnecessary as such persons are made principals by section 2 of this title.

Mandatory punishment provision was rephrased in the alternative.

Changes were also made in phraseology.

AMENDMENTS

2001—Pub. L. 107–56 substituted ''20 years'' for ''five years''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 479. Uttering counterfeit foreign obligations or securities

Whoever, within the United States, knowingly and with intent to defraud, utters, passes, or puts off, in payment or negotiation, any false, forged, or counterfeited bond, certificate, obligation, security, treasury note, bill, or promise to pay, mentioned in section 478 of this title, whether or not the same was made, altered, forged, or counterfeited within the United States, shall be fined under this title or imprisoned not more than 20 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 707; Pub. L. 103–322, title XXXIII, § 330016(1)(J), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 107–56, title III, § 375(b), Oct. 26, 2001, 115 Stat. 341.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 271 (Mar. 4, 1909, ch. 321, § 157, 35 Stat. 1118).

Mandatory punishment provision was rephrased in the alternative.

Changes were made in phraseology.

AMENDMENTS

2001—Pub. L. 107–56 substituted ''20 years'' for ''three years''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $3,000''.

§ 480. Possessing counterfeit foreign obligations or securities

Whoever, within the United States, knowingly and with intent to defraud, possesses or delivers any false, forged, or counterfeit bond, certificate, obligation, security, treasury note, bill, promise to pay, bank note, or bill issued by a bank or corporation of any foreign country, shall be fined under this title or imprisoned not more than 20 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 707; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 107–56, title III, § 375(c), Oct. 26, 2001, 115 Stat. 341.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 274 (Mar. 4, 1909, ch. 321, § 160, 35 Stat. 1118).

Mandatory punishment provision was rephrased in the alternative.

Changes were also made in phraseology.

AMENDMENTS

2001—Pub. L. 107–56 substituted ''20 years'' for ''one year''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 481. Plates, stones, or analog, digital, or electronic images for counterfeiting foreign obligations or securities

Whoever, within the United States except by lawful authority, controls, holds, or possesses any plate, stone, or other thing, or any part thereof, from which has been printed or may be printed any counterfeit note, bond, obligation, or other security, in whole or in part, of any foreign government, bank, or corporation, or uses such plate, stone, or other thing, or knowingly permits or suffers the same to be used in counterfeiting such foreign obligations, or any part thereof; or

Whoever, except by lawful authority, makes or engraves any plate, stone, or other thing in the likeness or similitude of any plate, stone, or other thing designated for the printing of the genuine issues of the obligations of any foreign government, bank, or corporation; or

Whoever, with intent to defraud, makes, executes, acquires, scans, captures, records, receives, transmits, reproduces, sells, or has in such person's control, custody, or possession, an analog, digital, or electronic image of any bond, certificate, obligation, or other security of any foreign government, or of any treasury note, bill, or promise to pay, lawfully issued by such foreign government and intended to circulate as money; or

Whoever, except by lawful authority, prints, photographs, or makes, executes, or sells any engraving, photograph, print, or impression in the likeness of any genuine note, bond, obligation, or other security, or any part thereof, of any foreign government, bank, or corporation; or

Whoever brings into the United States any counterfeit plate, stone, or other thing, engraving, photograph, print, or other impressions of the notes, bonds, obligations, or other securities of any foreign government, bank, or corporation—

Shall be fined under this title or imprisoned not more than 25 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 708; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 107–56, title III, § 375(d)(1)–(3), Oct. 26, 2001, 115 Stat. 341.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 275 (Mar. 4, 1909, ch. 321, § 161, 35 Stat. 1118).

References to persons causing, procuring, assisting or aiding were omitted as unnecessary as such persons are made principals by section 2 of this title.

Changes in phraseology were made.

AMENDMENTS

2001—Pub. L. 107–56 substituted '', stones, or analog, digital, or electronic images'' for ''or stones'' in section catchline and ''25 years'' for ''five years'' in last par. and inserted after second par. ''Whoever, with intent to defraud, makes, executes, acquires, scans, captures, records, receives, transmits, reproduces, sells, or has in such person's control, custody, or possession, an analog, digital, or electronic image of any bond, certificate, obligation, or other security of any foreign government, or of any treasury note, bill, or promise to

pay, lawfully issued by such foreign government and intended to circulate as money; or''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in last par.

§ 482. Foreign bank notes

Whoever, within the United States, with intent to defraud, falsely makes, alters, forges, or counterfeits any bank note or bill issued by a bank or corporation of any foreign country, and intended by the law or usage of such foreign country to circulate as money, such bank or corporation being authorized by the laws of such country, shall be fined under this title or imprisoned not more than 20 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 708; Pub. L. 103–322, title XXXIII, § 330016(1)(I), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 107–56, title III, § 375(e), Oct. 26, 2001, 115 Stat. 342.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 272 (Mar. 4, 1909, ch. 321, § 158, 35 Stat. 1118).

Reference to persons causing, procuring, aiding and assisting was omitted as unnecessary as such persons are made principals by section 2 of this title.

Mandatory punishment provision was rephrased in the alternative.

Changes were made in phraseology.

AMENDMENTS

2001—Pub. L. 107–56 inserted ''20 years'' for ''two years''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $2,000''.

§ 483. Uttering counterfeit foreign bank notes

Whoever, within the United States, utters, passes, puts off, or tenders in payment, with intent to defraud, any such false, forged, altered, or counterfeited bank note or bill, mentioned in section 482 of this title, knowing the same to be so false, forged, altered, and counterfeited, whether or not the same was made, forged, altered, or counterfeited within the United States, shall be fined under this title or imprisoned not more than 20 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 708; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 107–56, title III, § 375(f), Oct. 26, 2001, 115 Stat. 342.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 273 (Mar. 4, 1909, ch. 321, § 159, 35 Stat. 1118).

Mandatory punishment provision was rephrased in the alternative.

Changes were made in phraseology.

AMENDMENTS

2001—Pub. L. 107–56 substituted ''20 years'' for ''one year''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 484. Connecting parts of different notes

Whoever so places or connects together different parts of two or more notes, bills, or other genuine instruments issued under the authority of the United States, or by any foreign government, or corporation, as to produce one instrument, with intent to defraud, shall be guilty of forgery in the same manner as if the parts so put together were falsely made or forged, and shall be fined under this title or imprisoned not more than 10 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 708; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 107–56, title III, § 374(h), Oct. 26, 2001, 115 Stat. 341.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 276 (Mar. 4, 1909, ch. 321, § 162, 35 Stat. 1119).

Minor changes in phraseology were made.

AMENDMENTS

2001—Pub. L. 107–56 substituted ''10 years'' for ''five years''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 485. Coins or bars

Whoever falsely makes, forges, or counterfeits any coin or bar in resemblance or similitude of any coin of a denomination higher than 5 cents or any gold or silver bar coined or stamped at any mint or assay office of the United States, or in resemblance or similitude of any foreign gold or silver coin current in the United States or in actual use and circulation as money within the United States; or

Whoever passes, utters, publishes, sells, possesses, or brings into the United States any false, forged, or counterfeit coin or bar, knowing the same to be false, forged, or counterfeit, with intent to defraud any body politic or corporate, or any person, or attempts the commission of any offense described in this paragraph—

Shall be fined under this title or imprisoned not more than fifteen years, or both.

(June 25, 1948, ch. 645, 62 Stat. 708; Pub. L. 89–81, title II, § 211(a), July 23, 1965, 79 Stat. 257; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 277 (Mar. 4, 1909, ch. 321, § 163, 35 Stat. 1119).

Reference to persons causing, procuring, aiding or assisting was omitted as unnecessary as such persons are made principals by section 2 of this title.

Mandatory punishment provision was rephrased in the alternative.

The provision for imprisonment for 10 years was changed to 15 years to conform to sections 471 and 472 of this title.

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

1965—Pub. L. 89–81 struck out ''Gold or silver'' before ''Coins or bars'' in section catchline, changed the description of the United States coins covered in first par. from gold or silver coins to any coin of a denomination higher than 5 cents, and made minor structural changes in second par.

§ 486. Uttering coins of gold, silver or other metal

Whoever, except as authorized by law, makes or utters or passes, or attempts to utter or pass, any coins of gold or silver or other metal, or alloys of metals, intended for use as current

money, whether in the resemblance of coins of the United States or of foreign countries, or of original design, shall be fined under this title[1] or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 709; 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., § 281 (Mar. 4, 1909, ch. 321, § 167, 35 Stat. 1120).

Reference to persons causing or procuring 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, which directed the amendment of this section by substituting ''fined under this title'' for ''fined not more than $2,000'', was executed by making the substitution for ''fined not more than $3,000'', to reflect the probable intent of Congress.

§ 487. Making or possessing counterfeit dies for coins

Whoever, without lawful authority, makes any die, hub, or mold, or any part thereof, either of steel or plaster, or any other substance, in likeness or similitude, as to the design or the inscription thereon, of any die, hub, or mold designated for the coining or making of any of the genuine gold, silver, nickel, bronze, copper, or other coins coined at the mints of the United States; or

Whoever, without lawful authority, possesses any such die, hub, or mold, or any part thereof, or permits the same to be used for or in aid of the counterfeiting of any such coins of the United States—

Shall be fined under this title or imprisoned not more than fifteen years, or both.

(June 25, 1948, ch. 645, 62 Stat. 709; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 283 (Mar. 4, 1909, ch. 321, § 169, 35 Stat. 1120).

Reference to persons causing, procuring, aiding or assisting was omitted as unnecessary as such persons are made principals by section 2 of this title.

Mandatory punishment provision was rephrased in the alternative.

The provision for imprisonment for 10 years was changed to 15 years to conform to section 471 of this title.

Changes in phraseology were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 488. Making or possessing counterfeit dies for foreign coins

Whoever, within the United States, without lawful authority, makes any die, hub, or mold, or any part thereof, either of steel or of plaster, or of any other substance, in the likeness or similitude, as to the design or the inscription thereon, of any die, hub, or mold designated for the coining of the genuine coin of any foreign government; or

Whoever, without lawful authority, possesses any such die, hub, or mold, or any part thereof, or conceals, or knowingly suffers the same to be used for the counterfeiting of any foreign coin—

Shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 709; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 284 (Mar. 4, 1909, ch. 321, § 170, 35 Stat. 1120).

Reference to persons causing, procuring, aiding or assisting was omitted as unnecessary as such persons are made principals by section 2 of this title.

Provision for $2,000 fine was increased to $5,000 to conform with section 481 of this title.

Changes in phraseology were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 489. Making or possessing likeness of coins

Whoever, within the United States, makes or brings therein from any foreign country, or possesses with intent to sell, give away, or in any other manner uses the same, except under authority of the Secretary of the Treasury or other proper officer of the United States, any token, disk, or device in the likeness or similitude as to design, color, or the inscription thereon of any of the coins of the United States or of any foreign country issued as money, either under the authority of the United States or under the authority of any foreign government shall be fined under this title.

(June 25, 1948, ch. 645, 62 Stat. 709; July 16, 1951, ch. 226, § 3, 65 Stat. 122; Pub. L. 103–322, title XXXIII, § 330016(1)(B), Sept. 13, 1994, 108 Stat. 2146.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 285 (Mar. 4, 1909, ch. 321, § 171, 35 Stat. 1121; Feb. 15, 1912, ch. 38, 37 Stat. 64).

Reference to persons causing or procuring 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 $100''.

1951—Act July 16, 1951, struck out ''publisher's illustrations excepted'' in section catchline, struck out from text all language which could be interpreted to prohibit or restrict the making and printing of coin illustrations in magazines and other publications, and gave the Secretary of the Treasury the authority to make exceptions to the application of this section.

§ 490. Minor coins

Whoever falsely makes, forges, or counterfeits any coin in the resemblance or similitude of any of the one-cent and 5-cent coins minted at the mints of the United States; or

Whoever passes, utters, publishes, or sells, or brings into the United States, or possesses any

[1] See 1994 Amendment note below.

such false, forged, or counterfeited coin, with intent to defraud any person, shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 709; Pub. L. 98–216, § 3(b)(1), Feb. 14, 1984, 98 Stat. 6; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 278 (Mar. 4, 1909, ch. 321, § 164, 35 Stat. 1119).

Reference to persons causing, procuring, aiding or assisting was omitted as unnecessary as such persons are made principals by section 2 of this title.

Mandatory punishment provision was rephrased in the alternative.

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

1984—Pub. L. 98–216 substituted ''one-cent and 5-cent coins minted'' for ''minor coins coined''.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 4(c) of Pub. L. 98–216 provided that: ''The amendments made by sections 1(3), (4), and (7) and 3(b)(1) of this Act [amending this section and sections 3322, 3528, and 5132 of Title 31, Money and Finance] are effective as of September 13, 1982.''

§ 491. Tokens or paper used as money

(a) Whoever, being 18 years of age or over, not lawfully authorized, makes, issues, or passes any coin, card, token, or device in metal, or its compounds, intended to be used as money, or whoever, being 18 years of age or over, with intent to defraud, makes, utters, inserts, or uses any card, token, slug, disk, device, paper, or other thing similar in size and shape to any of the lawful coins or other currency of the United States or any coin or other currency not legal tender in the United States, to procure anything of value, or the use or enjoyment of any property or service from any automatic merchandise vending machine, postage-stamp machine, turnstile, fare box, coinbox telephone, parking meter or other lawful receptacle, depository, or contrivance designed to receive or to be operated by lawful coins or other currency of the United States, shall be fined under this title, or imprisoned not more than one year, or both.

(b) Whoever manufactures, sells, offers, or advertises for sale, or exposes or keeps with intent to furnish or sell any token, slug, disk, device, paper, or other thing similar in size and shape to any of the lawful coins or other currency of the United States, or any token, disk, paper, or other device issued or authorized in connection with rationing or food and fiber distribution by any agency of the United States, with knowledge or reason to believe that such tokens, slugs, disks, devices, papers, or other things are intended to be used unlawfully or fraudulently to procure anything of value, or the use or enjoyment of any property or service from any automatic merchandise vending machine, postage-stamp machine, turnstile, fare box, coinbox telephone, parking meter, or other lawful receptacle, depository, or contrivance designed to receive or to be operated by lawful coins or other currency of the United States shall be fined under this title or imprisoned not more than one year, or both.

Nothing contained in this section shall create immunity from criminal prosecution under the laws of any State, Commonwealth of Puerto Rico, territory, possession, or the District of Columbia.

(c) ''Knowledge or reason to believe'', within the meaning of paragraph (b) of this section, may be shown by proof that any law-enforcement officer has, prior to the commission of the offense with which the defendant is charged, informed the defendant that tokens, slugs, disks, or other devices of the kind manufactured, sold, offered, or advertised for sale by him or exposed or kept with intent to furnish or sell, are being used unlawfully or fraudulently to operate certain specified automatic merchandise vending machines, postage-stamp machines, turnstiles, fare boxes, coin-box telephones, parking meters, or other receptacles, depositories, or contrivances, designed to receive or to be operated by lawful coins of the United States.

(June 25, 1948, ch. 645, 62 Stat. 710; Pub. L. 87–667, Sept. 19, 1962, 76 Stat. 555; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 282, 282a (Mar. 4, 1909, ch. 321, § 168, 35 Stat. 1120, and § 168a as added Apr. 1, 1944, ch. 151, 58 Stat. 149).

Mandatory punishment provision in subsection (a) was rephrased in the alternative.

Sections were consolidated and changes were made in phraseology.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Punishment provision in paragraph (a) of 5 years was changed to 1 year to make the offense a misdemeanor as was done in paragraph (b) of this section, which represents the latest expression of the intention of Congress. See definition of felony and misdemeanor in section 1 of this title and note thereunder.

In paragraph (b) the $3,000 fine was reduced to $1,000 to conform to paragraph (a) and as more in keeping with the gravity of offense.

AMENDMENTS

1994—Subsecs. (a), (b). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

1962—Subsec. (a). Pub. L. 87–667 inserted ''being 18 years of age or over,'' before ''not lawfully authorized'', and ''or whoever, being 18 years of age or over, with intent to defraud, makes, utters, inserts, or uses any card, token, slug, disk, device, paper, or other thing similar in size and shape to any of the lawful coins or other currency of the United States or any coin or other currency not legal tender in the United States, to procure anything of value, or the use or enjoyment of any property or service from any automatic merchandise vending machine, postage-stamp machine, turnstile, fare box, coinbox telephone, parking meter or other lawful receptacle, depository, or contrivance designed to receive or to be operated by lawful coins or other currency of the United States,'' and deleted ''for any 1-cent, 2-cent, 3-cent, or 5-cent piece, authorized by law, or for coins of equal value'' after ''intended to be used as money''.

Subsec. (b). Pub. L. 87–667 substituted ''device, paper, or other thing similar'' for ''device similar'', ''paper, or other device issued or authorized in connection with ra-

tioning or food and fiber distribution'' for ''or other device issued or authorized in connection with rationing'', and ''devices, papers, or other things are intended to be used unlawfully'' for ''or other devices may be used unlawfully'', inserted ''or other currency'' before ''of the United States'' in two places, and ''lawful'' before ''receptacle, depository'', and provided that nothing in this section shall create immunity from criminal prosecution under the laws of any State, Commonwealth of Puerto Rico, territory, possession, or the District of Columbia.

§ 492. Forfeiture of counterfeit paraphernalia

All counterfeits of any coins or obligations or other securities of the United States or of any foreign government, or any articles, devices, and other things made, possessed, or used in violation of this chapter or of sections 331–333, 335, 336, 642 or 1720, of this title, or any material or apparatus used or fitted or intended to be used, in the making of such counterfeits, articles, devices or things, found in the possession of any person without authority from the Secretary of the Treasury or other proper officer, shall be forfeited to the United States.

Whoever, having the custody or control of any such counterfeits, material, apparatus, articles, devices, or other things, fails or refuses to surrender possession thereof upon request by any authorized agent of the Treasury Department, or other proper officer, shall be fined under this title or imprisoned not more than one year, or both.

Whenever, except as hereinafter in this section provided, any person interested in any article, device, or other thing, or material or apparatus seized under this section files with the Secretary of the Treasury, before the disposition thereof, a petition for the remission or mitigation of such forfeiture, the Secretary of the Treasury, if he finds that such forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to violate the law, or finds the existence of such mitigating circumstances as to justify the remission or the mitigation of such forfeiture, may remit or mitigate the same upon such terms and conditions as he deems reasonable and just.

If the seizure involves offenses other than offenses against the coinage, currency, obligations or securities of the United States or any foreign government, the petition for the remission or mitigation of forfeiture shall be referred to the Attorney General, who may remit or mitigate the forfeiture upon such terms as he deems reasonable and just.

(June 25, 1948, ch. 645, 62 Stat. 710; Pub. L. 107–273, div. B, title IV, § 4002(d)(1)(A), Nov. 2, 2002, 116 Stat. 1809.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 286 (Mar. 4, 1909, ch. 321, § 172, 35 Stat. 1121; Jan. 27, 1938, ch. 10, § 4, 52 Stat. 7).

Section was materially shortened through merger of former third and fourth sentences with present first and second paragraphs by extending latter to include ''articles, devices, and other things''. This necessitated many insertions and deletions in the first two paragraphs, which, however, did not affect the substance of the section.

A reference in the former third sentence to violations of certain sections was broadened to read ''in violation of this chapter or of sections 331–333, 335–336, 642, 1720, of this title'' and incorporated in the first paragraph. This translation extends for the first time the provisions of this section to subject matter of sections 493–496, 498, 499, 504–509 of this title. All of the sections covered by the original reference in this section are represented in the translation except section 261, now section 8 of this title, and section 287 of title 18, U.S.C., 1940 ed., which were omitted therefrom as unnecessary, since the former is definitive and the latter related to procedure only, and is superseded by rule 41(a), (b) of the Federal Rules of Criminal Procedure.

The revised section was so written as to limit the authority of the Secretary of the Treasury to forfeitures within the enforcement powers of the Treasury Department, which advises that it does not investigate counterfeiting offenses not involving coins, currency, or Government obligations and securities. The Attorney General is the appropriate officer to remit or mitigate other forfeitures.

Changes in phraseology were also made.

AMENDMENTS

2002—Pub. L. 107–273 substituted ''under this title'' for ''not more than $100'' in second par.

§ 493. Bonds and obligations of certain lending agencies

Whoever falsely makes, forges, counterfeits or alters any note, bond, debenture, coupon, obligation, instrument, or writing in imitation or purporting to be in imitation of, a note, bond, debenture, coupon, obligation, instrument or writing, issued by the Reconstruction Finance Corporation, Federal Deposit Insurance Corporation, National Credit Union Administration, Home Owners' Loan Corporation, Farm Credit Administration, Department of Housing and Urban Development, or any land bank, intermediate credit bank, insured credit union, bank for cooperatives or any lending, mortgage, insurance, credit or savings and loan corporation or association authorized or acting under the laws of the United States, shall be fined under this title or imprisoned not more than 10 years, or both.

Whoever passes, utters, or publishes, or attempts to pass, utter or publish any note, bond, debenture, coupon, obligation, instrument or document knowing the same to have been falsely made, forged, counterfeited or altered, contrary to the provisions of this section, shall be fined under this title or imprisoned not more than 10 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 711; Pub. L. 87–353, § 3(p), Oct. 4, 1961, 75 Stat. 774; Pub. L. 90–19, § 24(a), May 25, 1967, 81 Stat. 27; Pub. L. 91–468, § 3, Oct. 19, 1970, 84 Stat. 1016; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 107–56, title III, § 374(i), Oct. 26, 2001, 115 Stat. 341.)

HISTORICAL AND REVISION NOTES

Based on sections 264(t), 982, 1126, 1138d(b), 1316, 1441(b), 1467(b), 1731(b) of title 12, U.S.C., 1940 ed., Banks and Banking, and section 616(b) of title 15, U.S.C. 1940 ed., Commerce and Trade (Dec. 23, 1913, ch. 6, § 12B(t), as added June 16, 1933, ch. 89, § 8, 48 Stat. 178, and amended Aug. 23, 1935, ch. 614, § 101, 49 Stat. 684; July 17, 1916, ch. 245, § 31 (second paragraph), 39 Stat. 383; July 17, 1916, ch. 245, § 211(f), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1460; Mar. 4, 1923, ch. 252, title II, § 216(f), 42 Stat. 1472; Jan. 22, 1932, ch. 8, § 16(b), 47 Stat. 11; July 22, 1932, ch. 522, § 21(b), 47 Stat. 738; June 13, 1933, ch. 64,

§8(b), 48 Stat. 134; June 16, 1933, ch. 98, §64(b), 48 Stat. 268; June 27, 1934, ch. 847, §512(b), 48 Stat. 1265).

Each of the nine sections from which this section was derived contained similar provisions with respect to one or more named agencies or corporations. The punishment was the same in each section except that in sections 982, 1126, and 1316 of title 12, U.S.C., 1940 ed., Banks and Banking, the maximum fine was $5,000. This section adopts the $10,000 maximum fine provided in the other six former sections.

This section condenses and simplifies the form of the former sections without change of substance, except where the maximum fine differs as noted above.

The enumeration of ''note, bond, debenture, coupon, obligation, instrument, or writing'' does not occur in any one of the original sections but is an adequate enumeration of the instruments mentioned in each.

Certain specific agencies are enumerated by name as are ''land bank, intermediate credit bank, bank for cooperatives,'' but the phrase ''or any lending, mortgage, insurance, credit, or savings and loan corporation or association'' was used to embrace the following: National Farm Loan Association, Federal Savings and Loan Insurance Corporation, Federal Savings and Loan Associations, National Agricultural Credit Corporation, Production Credit Corporations, Production Credit Associations, Home Loan Banks, National Mortgage Associations, and Central Bank for Cooperatives, Regional Agricultural Credit Corporation, or any instrumentalities created for similar purposes.

Reference to persons causing, procuring, aiding or assisting was omitted as unnecessary, such persons being principals by section 2 of this title.

The section was written in two paragraphs; the first denouncing forgery, counterfeiting, and altering; the second, passing, uttering, and publishing. This arrangement, together with the simplified style of the rewritten section, will permit the repeal of similar provisions in at least nine complicated sections now in title 12, U.S.C., 1940 ed., Banks and Banking.

Section 1138d(f) of title 12, U.S.C., 1940 ed., Banks and Banking, was omitted from this revision and recommended for repeal. It provides as follows: ''Whoever conspires with another to accomplish any of the acts made unlawful by the preceding provisions of this section shall, on conviction thereof, be subject to the same fine or imprisonment, or both, as is applicable in the case of conviction for doing such unlawful act.''

The only case construing such subsection (f) is *United States v. Halbrook*, D.C. Mo. 1941, 36 F. Supp. 345, in which the District Judge said by way of obiter dictum in a footnote that ''Under this section no overt act need be shown as is true in the case of a prosecution under section 37 of the Criminal Code'', now section 371 of this title.

Indeed the indictment upon which Halbrook was acquitted was drawn under section 88 of title 18, U.S.C., 1940 ed., now section 371 of this title, which required allegation and proof of an overt act and provided punishment by fine of not more than $10,000, or imprisonment for not more than 2 years, or both. The second indictment charged only substantive violations and involved neither conspiracy section.

It will be noted that section 1138d(f) of title 12, U.S.C., 1940 ed., Banks and Banking, applies in terms only to the Farm Credit Administration, intermediate credit banks, Federal Farm Mortgage Corporation, and by reference to the banks for cooperatives, Production Credit Associations and Production Credit Corporations, and is not applicable to land banks, loan associations, Federal Housing Administration, Home Owners' Loan Corporation, or other institutions.

It is also noted that in the only reported case involving this section, the United States attorney drew his conspiracy indictment not under section 1138d(f) of title 12, U.S.C., 1940 ed., Banks and Banking, but under section 88 of title 18, U.S.C., 1940 ed., which is now section 371 of this title, indicating considerable doubt as to the scope and effect of section 1138d(f) of said title 12, U.S.C., 1940 ed., Banks and Banking.

There is no sound reason for differentiating between types of credit, insurance, banking and lending agencies in the punishment of conspiracy or in the requirement as to proof of overt acts. Since conspiracies involving offenses equally serious such as obstruction of justice, bribery, embezzlements, counterfeiting and false statements and offenses against the Treasury of the United States as well as the Federal Deposit Insurance Corporation and the Home Owners' Loan Corporation are punishable under the general conspiracy statute, the same rule should be applied to lesser agencies.

The blanket provision for punishment of ''any person who willfully violates any other provision of this Act'' was omitted as useless, in view of the specific provisions for penalties elsewhere in the Act.

AMENDMENTS

2001—Pub. L. 107–56 substituted ''10 years'' for ''five years'' in two places.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' in two places.

1970—Pub. L. 91–468 inserted National Credit Union Administration and insured credit unions in enumeration of lending agencies.

1967—Pub. L. 90–19 substituted ''Department of Housing and Urban Development'' for ''Federal Housing Administration''.

1961—Pub. L. 87–353 struck out reference to the Federal Farm Mortgage Corporation.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by Reorg. Plan No. 2 of 1953, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of Reorg. Plan No. 1 of 1957, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees, abolished the Reconstruction Finance Corporation.

ABOLITION OF HOME OWNERS' LOAN CORPORATION

For dissolution and abolition of Home Owners' Loan Corporation, referred to in this section, by act June 30, 1953, ch. 170, §21, 67 Stat. 126, see note set out under section 1463 of Title 12, Banks and Banking.

FARM CREDIT ADMINISTRATION

Establishment of Farm Credit Administration as independent agency, and other changes in status, function, etc., see Ex. Ord. No. 6084 set out prec. section 2241 of Title 12, Banks and Banking. See also section 2001 et seq. of Title 12.

§494. Contractors' bonds, bids, and public records

Whoever falsely makes, alters, forges, or counterfeits any bond, bid, proposal, contract, guarantee, security, official bond, public record, affidavit, or other writing for the purpose of defrauding the United States; or

Whoever utters or publishes as true or possesses with intent to utter or publish as true, any such false, forged, altered, or counterfeited writing, knowing the same to be false, forged, altered, or counterfeited; or

Whoever transmits to, or presents at any office or to any officer of the United States, any such false, forged, altered, or counterfeited writ-

ing, knowing the same to be false, forged, altered, or counterfeited—

Shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 711; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 72 (Mar. 4, 1909, ch. 321, § 28, 35 Stat. 1094).

Reference to persons causing, procuring, aiding or assisting was omitted as unnecessary as such persons are made principals by section 2 of this title.

Changes were also made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 495. Contracts, deeds, and powers of attorney

Whoever falsely makes, alters, forges, or counterfeits any deed, power of attorney, order, certificate, receipt, contract, or other writing, for the purpose of obtaining or receiving, or of enabling any other person, either directly or indirectly, to obtain or receive from the United States or any officers or agents thereof, any sum of money; or

Whoever utters or publishes as true any such false, forged, altered, or counterfeited writing, with intent to defraud the United States, knowing the same to be false, altered, forged, or counterfeited; or

Whoever transmits to, or presents at any office or officer of the United States, any such writing in support of, or in relation to, any account or claim, with intent to defraud the United States, knowing the same to be false, altered, forged, or counterfeited—

Shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 711; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 73 (Mar. 4, 1909, ch. 321, § 29, 35 Stat. 1094).

Reference in first paragraph to persons causing, procuring, aiding or assisting was omitted as unnecessary as such persons are made principals by section 2 of this title.

Mandatory punishment provision was rephrased in the alternative.

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 496. Customs matters

Whoever forges, counterfeits or falsely alters any writing made or required to be made in connection with the entry or withdrawal of imports or collection of customs duties, or uses any such writing knowing the same to be forged, counterfeited or falsely altered, shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 711; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 119 (Mar. 4, 1909, ch. 321, § 63, 35 Stat. 1100).

Section was rewritten to apply to all customs documents or writings. The Treasury Department advises that certificates of entry are obsolete.

Mandatory punishment provision was rephrased in the alternative.

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

§ 497. Letters patent

Whoever falsely makes, forges, counterfeits, or alters any letters patent granted or purporting to have been granted by the President of the United States; or

Whoever passes, utters, or publishes, or attempts to pass, utter, or publish as genuine, any such letters patent, knowing the same to be forged, counterfeited or falsely altered—

Shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 712; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 71 (Mar. 4, 1909, ch. 321, § 27, 35 Stat. 1094).

Mandatory punishment provision was rephrased in the alternative.

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 498. Military or naval discharge certificates

Whoever forges, counterfeits, or falsely alters any certificate of discharge from the military or naval service of the United States, or uses, unlawfully possesses or exhibits any such certificate, knowing the same to be forged, counterfeited, or falsely altered, shall be fined under this title[1] or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 712; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940, ed., § 136 (Mar. 4, 1917, ch. 180, 39 Stat. 1182).

Reference to any person causing, procuring, aiding or assisting was omitted as unnecessary as such persons are made principals by section 2 of this title.

At the end of this section words ''in the discretion of the court'' were omitted as unnecessary, as the punishment provisions, being framed in the alternative by the use of the disjunctive ''or,'' vest in the court the power to impose a fine or prison sentence in its discretion.

Changes in phraseology were made.

AMENDMENTS

1994—Pub. L. 103–322, which directed the amendment of this section by substituting ''fined under this title'' for ''fined not more than $5,000'', was executed by mak-

[1] See 1994 Amendment note below.

ing the substitution for ''fined not more than $1,000'', to reflect the probable intent of Congress.

§ 499. Military, naval, or official passes

Whoever falsely makes, forges, counterfeits, alters, or tampers with any naval, military, or official pass or permit, issued by or under the authority of the United States, or with intent to defraud uses or possesses any such pass or permit, or personates or falsely represents himself to be or not to be a person to whom such pass or permit has been duly issued, or willfully allows any other person to have or use any such pass or permit, issued for his use alone, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 712; 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., § 132 (June 15, 1917, ch. 30, title X, § 3, 40 Stat. 228).

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $2,000''.

§ 500. Money orders

Whoever, with intent to defraud, falsely makes, forges, counterfeits, engraves, or prints any order in imitation of or purporting to be a blank money order or a money order issued by or under the direction of the Post Office Department or Postal Service; or

Whoever forges or counterfeits the signature or initials of any person authorized to issue money orders upon or to any money order, postal note, or blank therefor provided or issued by or under the direction of the Post Office Department or Postal Service, or post office department or corporation of any foreign country, and payable in the United States, or any material signature or indorsement thereon, or any material signature to any receipt or certificate of identification thereof; or

Whoever falsely alters, in any material respect, any such money order or postal note; or

Whoever, with intent to defraud, passes, utters or publishes or attempts to pass, utter or publish any such forged or altered money order or postal note, knowing any material initials, signature, stamp impression or indorsement thereon to be false, forged, or counterfeited, or any material alteration therein to have been falsely made; or

Whoever issues any money order or postal note without having previously received or paid the full amount of money payable therefor, with the purpose of fraudulently obtaining or receiving, or fraudulently enabling any other person, either directly or indirectly, to obtain or receive from the United States or Postal Service, or any officer, employee, or agent thereof, any sum of money whatever; or

Whoever embezzles, steals, or knowingly converts to his own use or to the use of another, or without authority converts or disposes of any blank money order form provided by or under the authority of the Post Office Department or Postal Service; or

Whoever receives or possesses any such money order form with the intent to convert it to his own use or gain or use or gain of another knowing it to have been embezzled, stolen or converted; or

Whoever, with intent to defraud the United States, the Postal Service, or any person, transmits, presents, or causes to be transmitted or presented, any money order or postal note knowing the same—

(1) to contain any forged or counterfeited signature, initials, or any stamped impression, or

(2) to contain any material alteration therein unlawfully made, or

(3) to have been unlawfully issued without previous payment of the amount required to be paid upon such issue, or

(4) to have been stamped without lawful authority; or

Whoever steals, or with intent to defraud or without being lawfully authorized by the Post Office Department or Postal Service, receives, possesses, disposes of or attempts to dispose of any postal money order machine or any stamp, tool, or instrument specifically designed to be used in preparing or filling out the blanks on postal money order forms—

Shall be fined under this title[1] or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 712; Pub. L. 91–375, § 6(j)(5), Aug. 12, 1970, 84 Stat. 777; Pub. L. 92–430, Sept. 23, 1972, 86 Stat. 722; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 347 (Mar. 4, 1909, ch. 321, § 218, 35 Stat. 1131).

References to persons causing, procuring, aiding or assisting were omitted as unnecessary as such persons are made principals by section 2 of this title.

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322, which directed the amendment of this section by substituting ''fined under this title'' for ''fined not more than $10,000'', was executed by making the substitution for ''fined not more than $5,000'' in last par., to reflect the probable intent of Congress.

1972—Pub. L. 92–430 substituted ''a blank money order or a money order issued by or under the direction of'' for ''a money order issued by'' and struck out '', or by any officer or employee thereof'' in first par.; substituted ''or initials of any person authorized to issue money orders'' for ''of any officer or employee of the Postal Service,'' in second par.; inserted ''or attempts to pass, utter or publish'' before ''any such forged'' and substituted ''material initials, signature, stamp impression'' for ''material signature'' in fourth par.; inserted ''or Postal Service'' after ''the United States'' in fifth par.; inserted sixth and seventh pars.; inserted '', the Postal Service'' after ''the United States'', and substituted ''presents, or causes to be transmitted or presented, any money order'' for ''or presents to any officer or employee, or at any office of the United States, any money order'' and designated material after ''knowing the same'' as cls. (1) to (3) with minor changes and added cl. (4) in eighth par.; inserted ninth par., and enacted provisions of former seventh par. as tenth par.

[1] See 1994 Amendment note below.

1970—Pub. L. 91–375 inserted reference to Postal Service and substituted ''officer or employee'' for ''postmaster or agent'' in first par. and substituted ''officer or employee of the Postal Service'' for ''postmaster, assistant postmaster, chief clerk, or clerk'' and ''Post Office Department or the Postal Service, or post office department or corporation of any foreign country'' for ''Post Office Department of the United States, or of any foreign country'' in second par.

CHANGE OF NAME

Post Office Department redesignated United States Postal Service pursuant to Pub. L. 91–375, § 6(*o*), Aug. 12, 1970, 84 Stat. 733, set out as a note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 501. Postage stamps, postage meter stamps, and postal cards

Whoever forges or counterfeits any postage stamp, postage meter stamp, or any stamp printed upon any stamped envelope, or postal card, or any die, plate, or engraving thereof; or

Whoever makes or prints, or knowingly uses or sells, or possesses with intent to use or sell, any such forged or counterfeited postage stamp, postage meter stamp, stamped envelope, postal card, die, plate, or engraving; or

Whoever makes, or knowingly uses or sells, or possesses with intent to use or sell, any paper bearing the watermark of any stamped envelope, or postal card, or any fraudulent imitation thereof; or

Whoever makes or prints, or authorizes to be made or printed, any postage stamp, postage meter stamp, stamped envelope, or postal card, of the kind authorized and provided by the Post Office Department or by the Postal Service, without the special authority and direction of the Department or Postal Service; or

Whoever after such postage stamp, postage meter stamp, stamped envelope, or postal card has been printed, with intent to defraud, delivers the same to any person not authorized by an instrument in writing, duly executed under the hand of the Postmaster General and the seal of the Post Office Department or the Postal Service, to receive it—

Shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 713; Pub. L. 91–375, § 6(j)(6), Aug. 12, 1970, 84 Stat. 777; Pub. L. 91–448, § 1(a), Oct. 14, 1970, 84 Stat. 920; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 348 (Mar. 4, 1909, ch. 321, § 219, 35 Stat. 1132).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Minor changes of phraseology were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500'' in last par.

1970—Pub. L. 91–448 inserted references to the Postal Service and to postage meter stamps. Pub. L. 91–448, § 1(b), repealed section 6(j)(6) of the Postal Reorganization Act, Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 719, by which the references to the Postal Service had been inserted earlier.

Pub. L. 91–375 inserted ''or by the Postal Service,'' after ''Post Office Department,'' and substituted ''the Department or Postal Service'' for ''said department'' in fourth par. and struck out the comma after ''stamped envelope'' and ''to defraud'' and inserted ''or the Postal Service'' after ''Post Office Department'' in fifth par.

CHANGE OF NAME

Post Office Department redesignated United States Postal Service pursuant to Pub. L. 91–375, § 6(*o*), Aug. 12, 1970, 84 Stat. 733, set out as a note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 502. Postage and revenue stamps of foreign governments

Whoever forges, or counterfeits, or knowingly utters or uses any forged or counterfeit postage stamp or revenue stamp of any foreign government, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 713; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 349 (Mar. 4, 1909, ch. 321, § 220, 35 Stat. 1132; May 26, 1926, ch. 396, 44 Stat. 653).

A paragraph defining ''foreign government'' was combined with other like provisions to form section 11 of this title. A proviso against repeal, ''Provided, however, That nothing in this section shall be held to repeal or modify section 350 of this title [now section 504 of this title]'', was deleted as unnecessary since that section by express reference to this one makes it clear that these sections are in pari materia.

Minor changes in phraseology were also made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

§ 503. Postmarking stamps

Whoever forges or counterfeits any postmarking stamp, or impression thereof with intent to make it appear that such impression is a genuine postmark, or makes or knowingly uses or sells, or possesses with intent to use or sell, any forged or counterfeited postmarking stamp, die, plate, or engraving, or such impression thereof, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 713; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 349a (Aug. 26, 1935, ch. 692, 49 Stat. 866).

Minor changes in phraseology were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 504. Printing and filming of United States and foreign obligations and securities

Notwithstanding any other provision of this chapter, the following are permitted:

(1) The printing, publishing, or importation, or the making or importation of the necessary plates for such printing or publishing, of illustrations of—

(A) postage stamps of the United States,

(B) revenue stamps of the United States,

(C) any other obligation or other security of the United States, and

(D) postage stamps, revenue stamps, notes, bonds, and any other obligation or other security of any foreign government, bank, or corporation.

Illustrations permitted by the foregoing provisions of this section shall be made in accordance with the following conditions—

(i) all illustrations shall be in black and white, except that illustrations of postage stamps issued by the United States or by any foreign government and stamps issued under the Migratory Bird Hunting Stamp Act of 1934 may be in color;

(ii) all illustrations (including illustrations of uncanceled postage stamps in color and illustrations of stamps issued under the Migratory Bird Hunting Stamp Act of 1934 in color) shall be of a size less than three-fourths or more than one and one-half, in linear dimension, of each part of any matter so illustrated which is covered by subparagraph (A), (B), (C), or (D) of this paragraph, except that black and white illustrations of postage and revenue stamps issued by the United States or by any foreign government and colored illustrations of canceled postage stamps issued by the United States may be in the exact linear dimension in which the stamps were issued; and

(iii) the negatives and plates used in making the illustrations shall be destroyed after their final use in accordance with this section.

The Secretary of the Treasury shall prescribe regulations to permit color illustrations of such currency of the United States as the Secretary determines may be appropriate for such purposes.

(2) The provisions of this section shall not permit the reproduction of illustrations of obligations or other securities, by or through electronic methods used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press or others shall not be unduly restricted.

(3) The making or importation of motion-picture films, microfilms, or slides, for projection upon a screen or for use in telecasting, of postage and revenue stamps and other obligations and securities of the United States, and postage and revenue stamps, notes, bonds, and other obligations or securities of any foreign government, bank, or corporation. No prints or other reproductions shall be made from such films or slides, except for the purposes of paragraph (1), without the permission of the Secretary of the Treasury.

For the purposes of this section the term ''postage stamp'' includes postage meter stamps.

(June 25, 1948, ch. 645, 62 Stat. 713; Pub. L. 85–921, § 1, Sept. 2, 1958, 72 Stat. 1771; Pub. L. 90–353, § 1, June 20, 1968, 82 Stat. 240; Pub. L. 91–448, § 2, Oct. 14, 1970, 84 Stat. 921; Pub. L. 98–369, div. A, title X, § 1077(b)(1), (2), July 18, 1984, 98 Stat. 1054; Pub. L. 102–550, title XV, § 1554, Oct. 28, 1992, 106 Stat. 4071; Pub. L. 104–294, title VI, § 601(e), (f)(3), Oct. 11, 1996, 110 Stat. 3499.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 350 (Mar. 3, 1923, ch. 218, 42 Stat. 1437; Jan. 27, 1938, ch. 10, § 2, 52 Stat. 6).

Minor changes in phraseology were made.

REFERENCES IN TEXT

The Migratory Bird Hunting Stamp Act, referred to in par. (1)(i), (ii), is act Mar. 16, 1934, ch. 71, 48 Stat. 451, as amended, which is classified generally to subchapter IV (§ 718 et seq.) of chapter 7 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 718 of Title 16 and Tables.

AMENDMENTS

1996—Par. (1). Pub. L. 104–294, § 601(e)(1), substituted ''The printing'' for ''the printing'' in introductory provisions.

Par. (3). Pub. L. 104–294, § 601(e)(2), (f)(3), substituted ''The making or importation of'' for ''the making or importation, of''.

1992—Par. (1). Pub. L. 102–550, § 1554(1), (2), in subpar. (D), substituted a period for the comma at end, in provisions following subpar. (D), struck out ''for philatelic, numismatic, educational, historical, or newsworthy purposes in articles, books, journals, newspapers, or albums (but not for advertising purposes, except illustrations of stamps and paper money in philatelic or numismatic advertising of legitimate numismatists and dealers in stamps or publishers of or dealers in philatelic or numismatic articles, books, journals, newspapers, or albums).'' before ''Illustrations permitted'', and inserted at end ''The Secretary of the Treasury shall prescribe regulations to permit color illustrations of such currency of the United States as the Secretary determines may be appropriate for such purposes.''

Par. (2). Pub. L. 102–550, § 1554(3), added par. (2). Former par. (2) redesignated (3).

Par. (3). Pub. L. 102–550, § 1554(3), (4), redesignated par. (2) as (3) and struck out ''but not for advertising purposes except philatelic advertising,'' after ''or importation,''.

1984—Par. (1)(i). Pub. L. 98–369, § 1077(b)(1), inserted ''and stamps issued under the Migratory Bird Hunting Stamp Act of 1934''.

Par. (1)(ii). Pub. L. 98–369, § 1077(b)(2), inserted ''and illustrations of stamps issued under the Migratory Bird Hunting Stamp Act of 1934 in color''.

1970—Pub. L. 91–448 inserted provision including postage meter stamp within the meaning of postage stamp for the purposes of this section.

1968—Par. (1). Pub. L. 90–353 inserted provisions so as to permit colored illustrations of canceled United States postage stamps in the exact size of genuine stamps and colored illustrations of uncanceled United States and foreign stamps if the size of the illustrations is less than three-fourths or more than one and

one-half times the size of the genuine stamps and permitted the use of colored illustrations of stamps in public documents relating to stamps printed by the Government Printing Office at the request of the Postmaster General.

1958—Pub. L. 85–921 permitted black and white illustrations of revenue stamps of the United States for philatelic and numismatic purposes, black and white illustrations of United States and foreign paper money and other obligations and securities for educational, historical, and newsworthy purposes, and permitted motion picture films, microfilms, and slides of United States and foreign postage and revenue stamps, paper money, and other obligations and securities, except films in connection with advertising.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective July 18, 1984, see section 1077(c) of Pub. L. 98–369, set out as a note under section 718e of Title 16, Conservation.

§ 505. Seals of courts; signatures of judges or court officers

Whoever forges the signature of any judge, register, or other officer of any court of the United States, or of any Territory thereof, or forges or counterfeits the seal of any such court, or knowingly concurs in using any such forged or counterfeit signature or seal, for the purpose of authenticating any proceeding or document, or tenders in evidence any such proceeding or document with a false or counterfeit signature of any such judge, register, or other officer, or a false or counterfeit seal of the court, subscribed or attached thereto, knowing such signature or seal to be false or counterfeit, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 714; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 236 (Mar. 4, 1909, ch. 321, § 130, 35 Stat. 1112).

Mandatory punishment provision was rephrased in the alternative.

Minor changes of phraseology were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 506. Seals of departments or agencies

(a) Whoever—

(1) falsely makes, forges, counterfeits, mutilates, or alters the seal of any department or agency of the United States, or any facsimile thereof;

(2) knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal or facsimile thereof to or upon any certificate, instrument, commission, document, or paper of any description; or

(3) with fraudulent intent, possesses, sells, offers for sale, furnishes, offers to furnish, gives away, offers to give away, transports, offers to transport, imports, or offers to import any such seal or facsimile thereof, knowing the same to have been so falsely made, forged, counterfeited, mutilated, or altered,

shall be fined under this title, or imprisoned not more than 5 years, or both.

(b) Notwithstanding subsection (a) or any other provision of law, if a forged, counterfeited, mutilated, or altered seal of a department or agency of the United States, or any facsimile thereof, is—

(1) so forged, counterfeited, mutilated, or altered;

(2) used, affixed, or impressed to or upon any certificate, instrument, commission, document, or paper of any description; or

(3) with fraudulent intent, possessed, sold, offered for sale, furnished, offered to furnish, given away, offered to give away, transported, offered to transport, imported, or offered to import,

with the intent or effect of facilitating an alien's application for, or receipt of, a Federal benefit to which the alien is not entitled, the penalties which may be imposed for each offense under subsection (a) shall be two times the maximum fine, and 3 times the maximum term of imprisonment, or both, that would otherwise be imposed for an offense under subsection (a).

(c) For purposes of this section—

(1) the term ''Federal benefit'' means—

(A) the issuance of any grant, contract, loan, professional license, or commercial license provided by any agency of the United States or by appropriated funds of the United States; and

(B) any retirement, welfare, Social Security, health (including treatment of an emergency medical condition in accordance with section 1903(v) of the Social Security Act (19[1] U.S.C. 1396b(v))), disability, veterans, public housing, education, food stamps, or unemployment benefit, or any similar benefit for which payments or assistance are provided by an agency of the United States or by appropriated funds of the United States; and

(2) each instance of forgery, counterfeiting, mutilation, or alteration shall constitute a separate offense under this section.

(June 25, 1948, ch. 645, 62 Stat. 714; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–208, div. C, title V, § 561, Sept. 30, 1996, 110 Stat. 3009–681.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 131 (June 15, 1917, ch. 30, title X, § 2, 40 Stat. 228).

Reference to persons causing, procuring, aiding or assisting was omitted as unnecessary as such persons are made principals by section 2 of this title.

In view of definitions of department and agency in section 6 of this title, words ''department or agency'' in first paragraph were substituted for ''executive department, or any bureau, commission, or office''.

Provision for 10 years' imprisonment was reduced to 5 years to conform to punishment provision in section 505 of this title, covering an offense of like gravity.

Minor changes in phraseology were also made.

AMENDMENTS

1996—Pub. L. 104–208 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows:

''Whoever falsely makes, forges, counterfeits, mutilates, or alters the seal of any department or agency of the United States; or

[1] So in original. Probably should be ''42''.

''Whoever knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal to or upon any certificate, instrument, commission, document, or paper, of any description; or

''Whoever, with fraudulent intent, possesses any such seal, knowing the same to have been so falsely made, forged, counterfeited, mutilated, or altered—

''Shall be fined under this title or imprisoned not more than five years, or both.''

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 507. Ship's papers

Whoever falsely makes, forges, counterfeits, or alters any instrument in imitation of or purporting to be, an abstract or official copy or certificate of the recording, registry, or enrollment of any vessel, in the office of any collector of the customs, or a license to any vessel for carrying on the coasting trade or fisheries of the United States, or a certificate of ownership, pass, or clearance, granted for any vessel, under the authority of the United States, or a permit, debenture, or other official document granted by any collector or other officer of the customs by virtue of his office; or

Whoever utters, publishes, or passes, or attempts to utter, publish, or pass, as true, any such false, forged, counterfeited, or falsely altered instrument, abstract, official copy, certificate, license, pass, clearance, permit, debenture, or other official document herein specified, knowing the same to be false, forged, counterfeited, or falsely altered, with an intent to defraud—

Shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 714; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 129 (Mar. 4, 1909, ch. 321, § 72, 35 Stat. 1101).

The words ''passport'' and ''sea letter'' were omitted as obsolete, in view of the Presidential proclamation of April 10, 1815, discontinuing the use of such passports and sea letters.

Mandatory punishment provisions were rephrased in the alternative.

Minor changes of phraseology were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise in Bureau of Customs of Department of the Treasury to which appointments were required to be made by President with advice and consent of Senate ordered abolished, with such offices to be terminated not later than Dec. 31, 1966, by Reorg. Plan No. 1 of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of offices eliminated were already vested in Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 508. Transportation requests of Government

Whoever falsely makes, forges, or counterfeits in whole or in part, any form or request in similitude of the form or request provided by the Government for requesting a common carrier to furnish transportation on account of the United States or any department or agency thereof, or knowingly alters any form or request provided by the Government for requesting a common carrier to furnish transportation on account of the United States or any department or agency thereof; or

Whoever knowingly passes, utters, publishes, or sells, or attempts to pass, utter, publish, or sell, any such false, forged, counterfeited, or altered form or request—

Shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 715; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 146 (Dec. 11, 1926, ch. 2, § 1, 44 Stat. 917).

References to persons causing, procuring, aiding or assisting were omitted as unnecessary as such persons are made principals by section 2 of this title.

Also, in first paragraph, word ''agency'' was substituted for ''branch'', in view of definitions of department and agency in section 6 of this title.

Words ''upon conviction'' in last paragraph were omitted as surplusage since punishment cannot be imposed until a conviction is secured.

Minor changes of phraseology were also made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 509. Possessing and making plates or stones for Government transportation requests

Whoever, except by lawful authority, controls, holds or possesses any plate, stone, or other thing, or any part thereof, from which has been printed or may be printed any form or request for Government transportation, or uses such plate, stone, or other thing, or knowingly permits or suffers the same to be used in making any such form or request or any part of such a form or request; or

Whoever makes or engraves any plate, stone, or thing, in the likeness of any plate, stone, or thing designated for the printing of the genuine issues of the form or request for Government transportation; or

Whoever prints, photographs, or in any other manner makes, executes, or sells any engraving, photograph, print, or impression in the likeness of any genuine form or request for Government transportation, or any part thereof; or

Whoever brings into the United States or any place subject to the jurisdiction thereof, any plate, stone, or other thing, or engraving, photograph, print, or other impression of the form or request for Government transportation—

Shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 715; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 147 (Dec. 11, 1926, ch. 2, § 2, 44 Stat. 918).

References to persons causing, procuring, aiding or assisting were omitted as unnecessary as such persons are made principals by section 2 of this title.

Words ''upon conviction'' in last paragraph were omitted as surplusage since punishment cannot be imposed until a conviction is secured.

Minor changes in phraseology were also made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in last par.

§ 510. Forging endorsements on Treasury checks or bonds or securities of the United States

(a) Whoever, with intent to defraud—

(1) falsely makes or forges any endorsement or signature on a Treasury check or bond or security of the United States; or

(2) passes, utters, or publishes, or attempts to pass, utter, or publish, any Treasury check or bond or security of the United States bearing a falsely made or forged endorsement or signature;

shall be fined under this title or imprisoned not more than ten years, or both.

(b) Whoever, with knowledge that such Treasury check or bond or security of the United States is stolen or bears a falsely made or forged endorsement or signature buys, sells, exchanges, receives, delivers, retains, or conceals any such Treasury check or bond or security of the United States shall be fined under this title or imprisoned not more than ten years, or both.

(c) If the face value of the Treasury check or bond or security of the United States or the aggregate face value, if more than one Treasury check or bond or security of the United States, does not exceed $1,000, in any of the above-mentioned offenses, the penalty shall be a fine under this title or imprisonment for not more than one year, or both.

(Added Pub. L. 98–151, § 115(a), Nov. 14, 1983, 97 Stat. 976; amended Pub. L. 101–647, title XXXV, § 3514, Nov. 29, 1990, 104 Stat. 4923; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (L), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–294, title VI, §§ 602(e), 606(b), Oct. 11, 1996, 110 Stat. 3503, 3511; Pub. L. 107–273, div. B, title IV, § 4002(a)(1), Nov. 2, 2002, 116 Stat. 1806.)

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–273 substituted ''fine under this title'' for ''fine of under this title''.

1996—Subsec. (b). Pub. L. 104–294, § 602(e), struck out ''that in fact is stolen or bears a forged or falsely made endorsement or signature'' after ''bond or security of the United States''.

Subsec. (c). Pub. L. 104–294, § 606(b), substituted ''$1,000'' for ''$500''.

1994—Subsecs. (a), (b). Pub. L. 103–322, § 330016(1)(L), substituted ''fined under this title'' for ''fined not more than $10,000''.

Subsec. (c). Pub. L. 103–322, § 330016(1)(H), substituted ''fined under this title'' for ''fined not more than $1,000''.

1990—Subsec. (a). Pub. L. 101–647 inserted semicolon after ''or signature'' in par. (2) and moved provisions beginning with ''shall be fined'' flush with left margin.

§ 511. Altering or removing motor vehicle identification numbers

(a) A person who—

(1) knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle or motor vehicle part; or

(2) with intent to further the theft of a motor vehicle, knowingly removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act,

shall be fined under this title, imprisoned not more than 5 years, or both.

(b)(1) Subsection (a) of this section does not apply to a removal, obliteration, tampering, or alteration by a person specified in paragraph (2) of this subsection (unless such person knows that the vehicle or part involved is stolen).

(2) The persons referred to in paragraph (1) of this subsection are—

(A) a motor vehicle scrap processor or a motor vehicle demolisher who complies with applicable State law with respect to such vehicle or part;

(B) a person who repairs such vehicle or part, if the removal, obliteration, tampering, or alteration is reasonably necessary for the repair;

(C) a person who restores or replaces an identification number for such vehicle or part in accordance with applicable State law; and

(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, if that person is the owner of the motor vehicle, or is authorized to remove, obliterate, tamper with or alter the decal or device by—

(i) the owner or his authorized agent;

(ii) applicable State or local law; or

(iii) regulations promulgated by the Attorney General to implement the Motor Vehicle Theft Prevention Act.

(c) As used in this section, the term—

(1) ''identification number'' means a number or symbol that is inscribed or affixed for purposes of identification under chapter 301 and part C of subtitle VI of title 49;

(2) ''motor vehicle'' has the meaning given that term in section 32101 of title 49;

(3) ''motor vehicle demolisher'' means a person, including any motor vehicle dismantler or motor vehicle recycler, who is engaged in the business of reducing motor vehicles or motor vehicle parts to metallic scrap that is unsuitable for use as either a motor vehicle or a motor vehicle part;

(4) ''motor vehicle scrap processor'' means a person—

(A) who is engaged in the business of purchasing motor vehicles or motor vehicle parts for reduction to metallic scrap for recycling;

(B) who, from a fixed location, uses machinery to process metallic scrap into prepared grades; and

(C) whose principal product is metallic scrap for recycling;

but such term does not include any activity of any such person relating to the recycling of a motor vehicle or a motor vehicle part as a used motor vehicle or a used motor vehicle part.

(d) For purposes of subsection (a) of this section, the term ''tampers with'' includes covering a program decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act for the purpose of obstructing its visibility.

(Added Pub. L. 98–547, title II, § 201(a), Oct. 25, 1984, 98 Stat. 2768; amended Pub. L. 103–272, § 5(e)(3), July 5, 1994, 108 Stat. 1373; Pub. L. 103–322, title XXII, § 220003(a)–(c), Sept. 13, 1994, 108 Stat. 2076, 2077; Pub. L. 104–294, title VI, § 604(b)(8), Oct. 11, 1996, 110 Stat. 3507.)

REFERENCES IN TEXT

The Motor Vehicle Theft Prevention Act, referred to in subsecs. (a)(2), (b)(2)(D), and (d), is title XXII of Pub. L. 103–322, Sept. 13, 1994, 108 Stat. 2074, which enacted section 511A of this title and section 14171 of Title 42, The Public Health and Welfare, amended this section, and enacted provisions set out as a note under section 13701 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 13701 of Title 42 and Tables.

CODIFICATION

Another section 511 was renumbered section 513 of this title.

AMENDMENTS

1996—Subsec. (b)(2)(D). Pub. L. 104–294 realigned margins.

1994—Subsec. (a). Pub. L. 103–322, § 220003(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Whoever knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle, or motor vehicle part, shall be fined not more than $10,000 or imprisoned not more than five years, or both.''

Subsec. (b)(2)(D). Pub. L. 103–322, § 220003(b), added subpar. (D).

Subsec. (c)(1). Pub. L. 103–272, § 5(e)(3)(A), substituted ''chapter 301 and part C of subtitle VI of title 49'' for ''the National Traffic and Motor Vehicle Safety Act of 1966, or the Motor Vehicle Information and Cost Savings Act''.

Subsec. (c)(2). Pub. L. 103–272, § 5(e)(3)(B), substituted ''section 32101 of title 49'' for ''section 2 of the Motor Vehicle Information and Cost Savings Act''.

Subsec. (d). Pub. L. 103–322, § 220003(c), added subsec. (d).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

§ 511A. Unauthorized application of theft prevention decal or device

(a) Whoever affixes to a motor vehicle a theft prevention decal or other device, or a replica thereof, unless authorized to do so pursuant to the Motor Vehicle Theft Prevention Act, shall be punished by a fine not to exceed $1,000.

(b) For purposes of this section, the term ''theft prevention decal or device'' means a decal or other device designed in accordance with a uniform design for such devices developed pursuant to the Motor Vehicle Theft Prevention Act.

(Added Pub. L. 103–322, title XXII, § 220003(d)(1), Sept. 13, 1994, 108 Stat. 2077.)

REFERENCES IN TEXT

The Motor Vehicle Theft Prevention Act, referred to in text, is title XXII of Pub. L. 103–322, Sept. 13, 1994, 108 Stat. 2074, which enacted this section and section 14171 of Title 42, The Public Health and Welfare, amended section 511 of this title, and enacted provisions set out as a note under section 13701 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 13701 of Title 42 and Tables.

§ 512. Forfeiture of certain motor vehicles and motor vehicle parts

(a) If an identification number for a motor vehicle or motor vehicle part is removed, obliterated, tampered with, or altered, such vehicle or part shall be subject to seizure and forfeiture to the United States unless—

(1) in the case of a motor vehicle part, such part is attached to a motor vehicle and the owner of such motor vehicle does not know that the identification number has been removed, obliterated, tampered with, or altered;

(2) such motor vehicle or part has a replacement identification number that—

(A) is authorized by the Secretary of Transportation under chapter 301 of title 49; or

(B) conforms to applicable State law;

(3) such removal, obliteration, tampering, or alteration is caused by collision or fire or is carried out as described in section 511(b) of this title; or

(4) such motor vehicle or part is in the possession or control of a motor vehicle scrap processor who does not know that such identification number was removed, obliterated, tampered with, or altered in any manner other than by collision or fire or as described in section 511(b) of this title.

(b) All provisions of law relating to—

(1) the seizure and condemnation of vessels, vehicles, merchandise, and baggage for violation of customs laws, and procedures for summary and judicial forfeiture applicable to such violations;

(2) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from such disposition;

(3) the remission or mitigation of such forfeiture; and

(4) the compromise of claims and the award of compensation to informers with respect to such forfeiture;

shall apply to seizures and forfeitures under this section, to the extent that such provisions are not inconsistent with this section. The duties of the collector of customs or any other person with respect to seizure and forfeiture under such provisions shall be performed under this section by such persons as may be designated by the Attorney General.

(c) As used in this section, the terms ''identification number'', ''motor vehicle'', and ''motor vehicle scrap processor'' have the meanings given those terms in section 511 of this title.

(Added Pub. L. 98–547, title II, § 201(a), Oct. 25, 1984, 98 Stat. 2769; amended Pub. L. 103–272, § 5(e)(4), July 5, 1994, 108 Stat. 1373.)

REFERENCES IN TEXT

The customs laws, referred to in subsec. (b)(1), are classified generally to Title 19, Customs Duties.

AMENDMENTS

1994—Subsec. (a)(2)(A). Pub. L. 103–272 substituted ''chapter 301 title 49'' for ''the National Traffic and Motor Vehicle Safety Act of 1966''.

§ 513. Securities of the States and private entities

(a) Whoever makes, utters or possesses a counterfeited security of a State or a political subdivision thereof or of an organization, or whoever makes, utters or possesses a forged security of a State or political subdivision thereof or of an organization, with intent to deceive another person, organization, or government shall be fined under this title[1] or imprisoned for not more than ten years, or both.

(b) Whoever makes, receives, possesses, sells or otherwise transfers an implement designed for or particularly suited for making a counterfeit or forged security with the intent that it be so used shall be punished by a fine under this title or by imprisonment for not more than ten years, or both.

(c) For purposes of this section—

(1) the term ''counterfeited'' means a document that purports to be genuine but is not, because it has been falsely made or manufactured in its entirety;

(2) the term ''forged'' means a document that purports to be genuine but is not because it has been falsely altered, completed, signed, or endorsed, or contains a false addition thereto or insertion therein, or is a combination of parts of two or more genuine documents;

(3) the term ''security'' means—

(A) a note, stock certificate, treasury stock certificate, bond, treasury bond, debenture, certificate of deposit, interest coupon, bill, check, draft, warrant, debit instrument as defined in section 916(c) of the Electronic Fund Transfer Act, money order, traveler's check, letter of credit, warehouse receipt, negotiable bill of lading, evidence of indebtedness, certificate of interest in or participation in any profit-sharing agreement, collateral-trust certificate, pre-reorganization certificate of subscription, transferable share, investment contract, voting trust certificate, or certificate of interest in tangible or intangible property;

(B) an instrument evidencing ownership of goods, wares, or merchandise;

(C) any other written instrument commonly known as a security;

(D) a certificate of interest in, certificate of participation in, certificate for, receipt for, or warrant or option or other right to subscribe to or purchase, any of the foregoing; or

(E) a blank form of any of the foregoing;

(4) the term ''organization'' means a legal entity, other than a government, established or organized for any purpose, and includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, society, union, or any other association of persons which operates in or the activities of which affect interstate or foreign commerce; and

(5) the term ''State'' includes a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and any other territory or possession of the United States.

(Added Pub. L. 98–473, title II, § 1105(a), Oct. 12, 1984, 98 Stat. 2144, § 511; renumbered § 513, Pub. L. 99–646, § 31(a), Nov. 10, 1986, 100 Stat. 3598; amended Pub. L. 101–647, title XXXV, § 3515, Nov. 29, 1990, 104 Stat. 4923; Pub. L. 103–322, title XXXIII, §§ 330008(1), 330016(2)(C), Sept. 13, 1994, 108 Stat. 2142, 2148.)

REFERENCES IN TEXT

Section 916(c) of the Electronic Fund Transfer Act, referred to in par. (3)(A), is classified to section 1693n(c) of Title 15, Commerce and Trade.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322, § 330016(2)(C), which directed the amendment of this section by substituting ''under this title'' for ''of not more than $250,000'', was executed by making the substitution for ''not more than $250,000'', to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 103–322, § 330016(2)(C), substituted ''fine under this title'' for ''fine of not more than $250,000''.

Subsec. (c)(4). Pub. L. 103–322, § 330008(1), substituted ''association of persons'' for ''association or persons''.

1990—Subsec. (c)(3)(A). Pub. L. 101–647 struck out ''(15 U.S.C. 1693(c))'' after ''Electronic Fund Transfer Act'' and inserted comma after ''profit-sharing agreement''.

§ 514. Fictitious obligations

(a) Whoever, with the intent to defraud—

(1) draws, prints, processes, produces, publishes, or otherwise makes, or attempts or causes the same, within the United States;

(2) passes, utters, presents, offers, brokers, issues, sells, or attempts or causes the same, or with like intent possesses, within the United States; or

(3) utilizes interstate or foreign commerce, including the use of the mails or wire, radio, or other electronic communication, to transmit, transport, ship, move, transfer, or attempts or causes the same, to, from, or through the United States,

any false or fictitious instrument, document, or other item appearing, representing, purporting, or contriving through scheme or artifice, to be an actual security or other financial instrument issued under the authority of the United States, a foreign government, a State or other political subdivision of the United States, or an organization, shall be guilty of a class B felony.

(b) For purposes of this section, any term used in this section that is defined in section 513(c) has the same meaning given such term in section 513(c).

(c) The United States Secret Service, in addition to any other agency having such authority, shall have authority to investigate offenses under this section.

(Added Pub. L. 104–208, div. A, title I, § 101(f) [title VI, § 648(b)(1)], title II, § 2603(b)(1), Sept. 30, 1996, 110 Stat. 3009–314, 3009–367, 3009–470.)

CODIFICATION

Sections 101(f) [title VI, § 648(b)(1)] and 2603(b)(1) of div. A of Pub. L. 104–208 added identical sections 514.

[1] See 1994 Amendment note below.

EFFECTIVE DATE

Section effective Sept. 30, 1996, and to remain in effect for each fiscal year following Sept. 30, 1996, see section 101(f) [title VI, § 648(c)] of Pub. L. 104–208, set out as an Effective Date of 1996 Amendment note under section 474 of this title.

TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 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.

CHAPTER 26—CRIMINAL STREET GANGS

Sec.
521. Criminal street gangs.

AMENDMENTS

1996—Pub. L. 104–294, title VI, § 604(a)(2), Oct. 11, 1996, 110 Stat. 3506, added chapter analysis.

§ 521. Criminal street gangs

(a) DEFINITIONS.—

''conviction'' includes a finding, under State or Federal law, that a person has committed an act of juvenile delinquency involving a violent or controlled substances felony.

''criminal street gang'' means an ongoing group, club, organization, or association of 5 or more persons—

(A) that has as 1 of its primary purposes the commission of 1 or more of the criminal offenses described in subsection (c);

(B) the members of which engage, or have engaged within the past 5 years, in a continuing series of offenses described in subsection (c); and

(C) the activities of which affect interstate or foreign commerce.

''State'' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(b) PENALTY.—The sentence of a person convicted of an offense described in subsection (c) shall be increased by up to 10 years if the offense is committed under the circumstances described in subsection (d).

(c) OFFENSES.—The offenses described in this section are—

(1) a Federal felony involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the maximum penalty is not less than 5 years;

(2) a Federal felony crime of violence that has as an element the use or attempted use of physical force against the person of another; and

(3) a conspiracy to commit an offense described in paragraph (1) or (2).

(d) CIRCUMSTANCES.—The circumstances described in this section are that the offense described in subsection (c) was committed by a person who—

(1) participates in a criminal street gang with knowledge that its members engage in or have engaged in a continuing series of offenses described in subsection (c);

(2) intends to promote or further the felonious activities of the criminal street gang or maintain or increase his or her position in the gang; and

(3) has been convicted within the past 5 years for—

(A) an offense described in subsection (c);

(B) a State offense—

(i) involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the maximum penalty is not less than 5 years' imprisonment; or

(ii) that is a felony crime of violence that has as an element the use or attempted use of physical force against the person of another;

(C) any Federal or State felony offense that by its nature involves a substantial risk that physical force against the person of another may be used in the course of committing the offense; or

(D) a conspiracy to commit an offense described in subparagraph (A), (B), or (C).

(Added Pub. L. 103–322, title XV, § 150001(a), Sept. 13, 1994, 108 Stat. 2034; amended Pub. L. 104–294, title VI, § 607(q), Oct. 11, 1996, 110 Stat. 3513; Pub. L. 107–273, div. B, title IV, § 4002(b)(3), Nov. 2, 2002, 116 Stat. 1807.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–273 realigned margins of par. defining ''State''.

1996—Subsec. (a). Pub. L. 104–294 inserted par. defining ''State'' at end.

CHAPTER 27—CUSTOMS

Sec.
541. Entry of goods falsely classified.
542. Entry of goods by means of false statements.
543. Entry of goods for less than legal duty.
544. Relanding of goods.
545. Smuggling goods into the United States.
546. Smuggling goods into foreign countries.
547. Depositing goods in buildings on boundaries.
548. Removing or repacking goods in warehouses.
549. Removing goods from customs custody; breaking seals.
550. False claim for refund of duties.
551. Concealing or destroying invoices or other papers.
552. Officers aiding importation of obscene or treasonous books and articles.
553. Importation or exportation of stolen motor vehicles, off-highway mobile equipment, vessels, or aircraft.

AMENDMENTS

1984—Pub. L. 98–547, title III, § 301(b), Oct. 25, 1984, 98 Stat. 2771, added item 553.

§ 541. Entry of goods falsely classified

Whoever knowingly effects any entry of goods, wares, or merchandise, at less than the true weight or measure thereof, or upon a false classification as to quality or value, or by the payment of less than the amount of duty legally due, shall be fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 715; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 126 (Mar. 4, 1909, ch. 321, § 69, 35 Stat. 1101).

Reference to persons aiding, contained in words ''or aid in effecting,'' was omitted as unnecessary as such persons are made principals by 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 $5,000''.

§ 542. Entry of goods by means of false statements

Whoever enters or introduces, or attempts to enter or introduce, into the commerce of the United States any imported merchandise by means of any fraudulent or false invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice or appliance, or makes any false statement in any declaration without reasonable cause to believe the truth of such statement, or procures the making of any such false statement as to any matter material thereto without reasonable cause to believe the truth of such statement, whether or not the United States shall or may be deprived of any lawful duties; or

Whoever is guilty of any willful act or omission whereby the United States shall or may be deprived of any lawful duties accruing upon merchandise embraced or referred to in such invoice, declaration, affidavit, letter, paper, or statement, or affected by such act or omission—

Shall be fined for each offense under this title or imprisoned not more than two years, or both.

Nothing in this section shall be construed to relieve imported merchandise from forfeiture under other provisions of law.

The term ''commerce of the United States'', as used in this section, shall not include commerce with the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or Guam.

(June 25, 1948, ch. 645, 62 Stat. 715; June 30, 1955, ch. 258, § 2(c), 69 Stat. 242; Pub. L. 103–322, title XXXIII, §§ 330004(18), 330016(1)(K), Sept. 13, 1994, 108 Stat. 2142, 2147; Pub. L. 104–294, title VI, § 604(b)(23), Oct. 11, 1996, 110 Stat. 3508.)

HISTORICAL AND REVISION NOTES

Based on section 1591 of title 19, U.S.C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 591, 46 Stat. 750; Aug. 5, 1935, ch. 438, title III, § 304(a), 49 Stat. 527).

The reference in the first paragraph to persons aiding, contained in the phrase ''or aids,'' was omitted as unnecessary as such persons are made principals by section 2 of this title.

Words ''upon conviction'' before ''be fined'' were omitted as surplusage since punishment cannot be imposed until conviction is secured.

Enumeration of persons at beginning of section and provision preserving forfeitures where authorized by law were omitted as surplusage.

The fourth paragraph was added to the revised section to make clear the intent of Congress that forfeiture is an additional consequence independent of the criminal punishment.

The final paragraph was added to conform with section 1709 of title 19, U.S.C., 1940 ed.

Changes in phraseology were also made.

AMENDMENTS

1996—Pub. L. 104–294 amended Pub. L. 103–322, § 330004(18). See 1994 Amendment note below.

1994—Pub. L. 103–322, § 330016(1)(K), substituted ''fined under this title'' for ''fined not more than $5,000'' in third par.

Pub. L. 103–322, § 330004(18), as amended by Pub. L. 104–294, § 604(b)(23), struck out ''Philippine Islands,'' before ''Virgin Islands'' in last par.

1955—Act June 30, 1955, inserted reference to Johnston Island in last par.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

EFFECTIVE DATE OF 1955 AMENDMENT

Amendment by act June 30, 1955, effective July 1, 1955, see section 2(d) of act June 30, 1955, set out as a note under section 1401 of Title 19, Customs Duties.

§ 543. Entry of goods for less than legal duty

Whoever, being an officer of the revenue, knowingly admits to entry, any goods, wares, or merchandise, upon payment of less than the amount of duty legally due, shall be fined under this title or imprisoned not more than two years, or both, and removed from office.

(June 25, 1948, ch. 645, 62 Stat. 716; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 125 (Mar. 4, 1909, ch. 321, § 68, 35 Stat. 1101).

Reference to persons aiding, contained in words ''or aid in admitting,'' was omitted as unnecessary as such persons are made principals by 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 $5,000''.

§ 544. Relanding of goods

If any merchandise entered or withdrawn for exportation without payment of the duties thereon, or with intent to obtain a drawback of the duties paid, or of any other allowances given by law on the exportation thereof, is relanded at any place in the United States without entry having been made, such merchandise shall be considered as having been imported into the United States contrary to law, and each person concerned shall be fined under this title or imprisoned not more than two years, or both; and such merchandise shall be forfeited.

The term ''any place in the United States'', as used in this section, shall not include the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or Guam.

(June 25, 1948, ch. 645, 62 Stat. 716; June 30, 1955, ch. 258, § 2(c), 69 Stat. 242; Pub. L. 103–322, title XXXIII, §§ 330004(18), 330016(1)(K), Sept. 13, 1994, 108 Stat. 2142, 2147; Pub. L. 104–294, title VI, § 604(b)(23), Oct. 11, 1996, 110 Stat. 3508.)

HISTORICAL AND REVISION NOTES

Based on section 1589 of title 19, U.S.C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 589, 46 Stat. 750).

The final paragraph was added to conform with section 1709 of title 19, U.S.C., 1940 ed.

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294 amended Pub. L. 103–322, § 330004(18). See 1994 Amendment note below.

1994—Pub. L. 103–322, § 330016(1)(K), substituted ''fined under this title'' for ''fined not more than $5,000'' in first par.

Pub. L. 103–322, § 330004(18), as amended by Pub. L. 104–294, § 604(b)(23), struck out ''Philippine Islands,'' before ''Virgin Islands'' in last par.

1955—Act June 30, 1955, inserted reference to Johnston Island in last par.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

EFFECTIVE DATE OF 1955 AMENDMENT

Amendment by act June 30, 1955, effective July 1, 1955, see section 2(d) of act June 30, 1955, set out as a note under section 1401 of Title 19, Customs Duties.

§ 545. Smuggling goods into the United States

Whoever knowingly and willfully, with intent to defraud the United States, smuggles, or clandestinely introduces or attempts to smuggle or clandestinely introduce into the United States any merchandise which should have been invoiced, or makes out or passes, or attempts to pass, through the customhouse any false, forged, or fraudulent invoice, or other document or paper; or

Whoever fraudulently or knowingly imports or brings into the United States, any merchandise contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of such merchandise after importation, knowing the same to have been imported or brought into the United States contrary to law—

Shall be fined under this title or imprisoned not more than five years, or both.

Proof of defendant's possession of such goods, unless explained to the satisfaction of the jury, shall be deemed evidence sufficient to authorize conviction for violation of this section.

Merchandise introduced into the United States in violation of this section, or the value thereof, to be recovered from any person described in the first or second paragraph of this section, shall be forfeited to the United States.

The term ''United States'', as used in this section, shall not include the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or Guam.

(June 25, 1948, ch. 645, 62 Stat. 716; Aug. 24, 1954, ch. 890, § 1, 68 Stat. 782; Sept. 1, 1954, ch. 1213, title V, § 507, 68 Stat. 1141; June 30, 1955, ch. 258, § 2(c), 69 Stat. 242; Pub. L. 103–322, title XXXII, § 320903(c), title XXXIII, §§ 330004(18), 330016(1)(L), Sept. 13, 1994, 108 Stat. 2125, 2142, 2147; Pub. L. 104–294, title VI, § 604(b)(23), Oct. 11, 1996, 110 Stat. 3508.)

HISTORICAL AND REVISION NOTES

Based on section 1593 of title 19, U.S.C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 593, 46 Stat. 751).

Reference in first paragraph to aiders, contained in words ''his, her, or their aiders and abettors'' was omitted as unnecessary since such persons are made principals by section 2 of this title. For the same reason words ''or assists in so doing'' in second paragraph were deleted.

Words ''shall be deemed guilty of a misdemeanor,'' in first paragraph were omitted in view of definition of misdemeanor in section 1 of this title.

Conviction provision in first paragraph reading ''and on conviction thereof'' was deleted as surplusage since punishment cannot be imposed until a conviction is secured.

Minimum punishment provision ''nor less than $50'' in second paragraph was deleted.

Forfeiture provision was rephrased to make it clear that forfeiture was not dependent upon conviction.

The final paragraph was added to conform with section 1709 of title 19, U.S.C., 1940 ed.

Changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294 amended Pub. L. 103–322, § 330004(18). See 1994 Amendment note below.

1994—Pub. L. 103–322, § 330016(1)(L), substituted ''fined under this title'' for ''fined not more than $10,000'' in third par.

Pub. L. 103–322, § 330004(18), as amended by Pub. L. 104–294, § 604(b)(23), struck out ''Philippine Islands,'' before ''Virgin Islands'' in last par.

Pub. L. 103–322, § 320903(c), inserted ''or attempts to smuggle or clandestinely introduce'' after ''clandestinely introduces'' in first par.

1955—Act June 30, 1955, inserted reference to Johnston Island.

1954—Act Sept. 1, 1954, permitted forfeiture of value of merchandise imported in violation of section.

Act Aug. 24, 1954, increased fine from $5,000 to $10,000 and imprisonment from two years to five years.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

EFFECTIVE DATE OF 1955 AMENDMENT

Amendment by act June 30, 1955, effective July 1, 1955, see section 2(d) of act June 30, 1955, set out as a note under section 1401 of Title 19, Customs Duties.

EFFECTIVE DATE OF 1954 AMENDMENT

Section 2 of act Aug. 24, 1954, provided that: ''The amendments made by the first section of this Act [amending this section] shall apply only with respect to offenses committed on and after the date of the enactment of this Act [Aug. 24, 1954].''

§ 546. Smuggling goods into foreign countries

Any person owning in whole or in part any vessel of the United States who employs, or participates in, or allows the employment of, such vessel for the purpose of smuggling, or attempting to smuggle, or assisting in smuggling, any merchandise into the territory of any foreign government in violation of the laws there in force, if under the laws of such foreign government any penalty or forfeiture is provided for violation of the laws of the United States respecting the customs revenue, and any citizen of, or person domiciled in, or any corporation incorporated in, the United States, controlling or substantially participating in the control of any such vessel, directly or indirectly, whether through ownership of corporate shares or otherwise, and allowing the employment of said vessel for any such purpose, and any person found, or discovered to have been, on board of any such vessel so employed and participating or assist-

ing in any such purpose, shall be fined under this title or imprisoned not more than two years, or both.

It shall constitute an offense under this section to hire out or charter a vessel if the lessor or charterer has knowledge or reasonable grounds for belief that the lessee or person chartering the vessel intends to employ such vessel for any of the purposes described in this section and if such vessel is, during the time such lease or charter is in effect, employed for any such purpose.

(June 25, 1948, ch. 645, 62 Stat. 717; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 1702 of title 19, U.S.C., 1940 ed., Customs Duties (Aug. 5, 1935, ch. 438, title I, § 2, 49 Stat. 518).

Changes were made in phraseology.

REFERENCES IN TEXT

The laws of the United States respecting the customs revenue, referred to in text, are classified generally to Title 19, Customs Duties.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in first par.

§ 547. Depositing goods in buildings on boundaries

Whoever receives or deposits any merchandise in any building upon the boundary line between the United States and any foreign country, or carries any merchandise through the same, in violation of law, shall be fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 717; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 1596 of title 19, U.S.C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 596, 46 Stat. 752).

Reference to persons aiding, contained in words ''or aids therein,'' was omitted as such persons are made principals by 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 $5,000''.

§ 548. Removing or repacking goods in warehouses

Whoever fraudulently conceals, removes, or repacks merchandise in any bonded warehouse or fraudulently alters, defaces or obliterates any marks or numbers placed upon packages deposited in such warehouse, shall be fined under this title or imprisoned not more than two years, or both.

Merchandise so concealed, removed, or repacked, or packages upon which any marks or numbers have been so altered, defaced, or obliterated, shall be forfeited to the United States.

(June 25, 1948, ch. 645, 62 Stat. 717; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 1597 of title 19, U.S.C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 597, 46 Stat. 752).

This section was rewritten to place the criminal provisions ahead of the forfeiture provisions. This did not require any substantive changes except omission of reference to persons aiding. Such persons are made principals by section 2 of this title.

The punishment prescribed by section 545 of this title was inserted to make this section complete without reference to another section. In doing so it was necessary to rephrase the punishment provision of section 545 of this title, as originally enacted, without change of substance.

Forfeiture provision was rephrased to make it clear that forfeiture was not dependent upon conviction.

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 549. Removing goods from customs custody; breaking seals

Whoever, without authority, affixes or attaches a customs seal, fastening, or mark, or any seal, fastening, or mark purporting to be a customs seal, fastening, or mark to any vessel, vehicle, warehouse, or package; or

Whoever, without authority, willfully removes, breaks, injures, or defaces any customs seal or other fastening or mark placed upon any vessel, vehicle, warehouse, or package containing merchandise or baggage in bond or in customs custody; or

Whoever maliciously enters any bonded warehouse or any vessel or vehicle laden with or containing bonded merchandise with intent unlawfully to remove therefrom any merchandise or baggage therein, or unlawfully removes any merchandise or baggage in such vessel, vehicle, or bonded warehouse or otherwise in customs custody or control; or

Whoever receives or transports any merchandise or baggage unlawfully removed from any such vessel, vehicle, or warehouse, knowing the same to have been unlawfully removed—

Shall be fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 717; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 1598 of title 19, U.S.C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 598, 46 Stat. 752; June 25, 1938, ch. 679, § 26, 52 Stat. 1089).

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

In view of definition of felony in section 1 of this title words ''guilty of a felony'' were omitted. (See reviser's note under section 550 of this title.)

The punishment prescribed by section 545 of this title was inserted to make this section complete without reference to another section. In doing so it was necessary to rephrase the punishment provision of section 545 of this title, as originally enacted, without change of substance.

Forfeiture provision was omitted to conform with current administrative practice.

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in last par.

§ 550. False claim for refund of duties

Whoever knowingly and willfully files any false or fraudulent entry or claim for the payment of drawback, allowance, or refund of duties upon the exportation of merchandise, or knowingly or willfully makes or files any false affidavit, abstract, record, certificate, or other document, with a view to securing the payment to himself or others of any drawback, allowance, or refund of duties, on the exportation of merchandise, greater than that legally due thereon, shall be fined under this title or imprisoned not more than two years, or both, and such merchandise or the value thereof shall be forfeited.

(June 25, 1948, ch. 645, 62 Stat. 718; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 1590 of title 19, U.S.C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 590, 46 Stat. 750).

Reference to felony, contained in words ''such person shall be guilty of a felony'' was omitted as unnecessary in view of definition of felony in section 1 of this title. This, too, was the policy adopted by the codifiers of the 1909 Criminal Code. (See S. Rept. 10, pt. I, pp. 12, 13, and 14, 60th Cong., 1st sess.)

Words ''and upon conviction thereof'' before ''shall be punished'' were also omitted as unnecessary, since punishment cannot be imposed until a conviction is secured.

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 551. Concealing or destroying invoices or other papers

Whoever willfully conceals or destroys any invoice, book, or paper relating to any merchandise imported into the United States, after an inspection thereof has been demanded by the collector of any collection district; or

Whoever conceals or destroys at any time any such invoice, book, or paper for the purpose of suppressing any evidence of fraud therein contained—

Shall be fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 718; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 120 (Mar. 4, 1909, ch. 321, § 64, 35 Stat. 1100).

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in last par.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise in Bureau of Customs of Department of the Treasury to which appointments were required to be made by President with advice and consent of Senate ordered abolished, with such offices to be terminated not later than Dec. 31, 1966, by Reorg. Plan No. 1 of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of offices eliminated were already vested in Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 552. Officers aiding importation of obscene or treasonous books and articles

Whoever, being an officer, agent, or employee of the United States, knowingly aids or abets any person engaged in any violation of any of the provisions of law prohibiting importing, advertising, dealing in, exhibiting, or sending or receiving by mail obscene or indecent publications or representations, or books, pamphlets, papers, writings, advertisements, circulars, prints, pictures, or drawings containing any matter advocating or urging treason or insurrection against the United States or forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States, or means for procuring abortion, or other articles of indecent or immoral use or tendency, shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 718; Pub. L. 91–662, § 2, Jan. 8, 1971, 84 Stat. 1973; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 1305(b) of title 19, U.S.C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title III, § 305(b), 46 Stat. 688).

In view of definition of misdemeanor in section 1 of this title words ''shall be deemed guilty of a misdemeanor, and'' were omitted.

Words ''at hard labor'' after ''imprisonment'' were omitted. (See reviser's note under section 1 of this title.)

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

1971—Pub. L. 91–662 struck out ''preventing conception or'' before ''procuring abortion''.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 7 of Pub. L. 91–662 provided that: ''The amendments made by this Act (other than by section 6) [amending this section, sections 1461 and 1462 of this title, and section 1305 of Title 19, Customs Duties] shall take effect on the day after the date of the enactment of this Act [Jan. 8, 1971].''

§ 553. Importation or exportation of stolen motor vehicles, off-highway mobile equipment, vessels, or aircraft

(a) Whoever knowingly imports, exports, or attempts to import or export—

(1) any motor vehicle, off-highway mobile equipment, vessel, aircraft, or part of any motor vehicle, off-highway mobile equipment, vessel, or aircraft, knowing the same to have been stolen; or

(2) any motor vehicle or off-highway mobile equipment or part of any motor vehicle or off-highway mobile equipment, knowing that the identification number of such motor vehicle, equipment, or part has been removed, obliterated, tampered with, or altered;

shall be fined under this title or imprisoned not more than 10 years, or both.

(b) Subsection (a)(2) shall not apply if the removal, obliteration, tampering, or alteration—

(1) is caused by collision or fire; or

(2)(A) in the case of a motor vehicle, is not a violation of section 511 of this title (relating to altering or removing motor vehicle identification numbers); or

(B) in the case of off-highway mobile equipment, would not be a violation of section 511 of this title if such equipment were a motor vehicle.

(c) As used in this section, the term—

(1) ''motor vehicle'' has the meaning given that term in section 32101 of title 49;

(2) ''off-highway mobile equipment'' means any self-propelled agricultural equipment, self-propelled construction equipment, and self-propelled special use equipment, used or designed for running on land but not on rail or highway;

(3) ''vessel'' has the meaning given that term in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401);

(4) ''aircraft'' has the meaning given that term in section 40102(a) of title 49; and

(5) ''identification number''—

(A) in the case of a motor vehicle, has the meaning given that term in section 511 of this title; and

(B) in the case of any other vehicle or equipment covered by this section, means a number or symbol assigned to the vehicle or equipment, or part thereof, by the manufacturer primarily for the purpose of identifying such vehicle, equipment, or part.

(Added Pub. L. 98–547, title III, § 301(a), Oct. 25, 1984, 98 Stat. 2771; amended Pub. L. 100–690, title VII, § 7021, Nov. 18, 1988, 102 Stat. 4396; Pub. L. 102–519, title I, § 102, Oct. 25, 1992, 106 Stat. 3385; Pub. L. 103–272, § 5(e)(5), July 5, 1994, 108 Stat. 1374.)

AMENDMENTS

1994—Subsec. (c)(1). Pub. L. 103–272, § 5(e)(5)(A), substituted ''section 32101 of title 49'' for ''section 2 of the Motor Vehicle Information and Cost Savings Act''.

Subsec. (c)(4). Pub. L. 103–272, § 5(e)(5)(B), substituted ''section 40102(a) of title 49'' for ''section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301)''.

1992—Subsec. (a). Pub. L. 102–519 substituted ''fined under this title or imprisoned not more than 10 years'' for ''fined not more than $15,000 or imprisoned not more than five years'' in concluding provisions.

1988—Subsec. (b)(2). Pub. L. 100–690 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''is not a violation of section 511 of this title.''

CHAPTER 29—ELECTIONS AND POLITICAL ACTIVITIES

Sec.
[591. Repealed.]
592. Troops at polls.
593. Interference by armed forces.
594. Intimidation of voters.
595. Interference by administrative employees of Federal, State, or Territorial Governments.
596. Polling armed forces.
597. Expenditures to influence voting.
598. Coercion by means of relief appropriations.
599. Promise of appointment by candidate.
600. Promise of employment or other benefit for political activity.
601. Deprivation of employment or other benefit for political contribution.
602. Solicitation of political contributions.
603. Making political contributions.
604. Solicitation from persons on relief.
605. Disclosure of names of persons on relief.
606. Intimidation to secure political contributions.
607. Place of solicitation.
608. Absent uniformed services voters and overseas voters.
609. Use of military authority to influence vote of member of Armed Forces.
610. Coercion of political activity.
611. Voting by aliens.
[612 to 617. Repealed.]

SENATE REVISION AMENDMENT

By Senate amendment, item 610 was changed to read, ''610. Contributions or expenditures by national banks, corporations, or labor organizations''. See Senate Report No. 1620, amendment Nos. 4 and 5, 80th Cong.

AMENDMENTS

1996—Pub. L. 104–208, div. C, title II, § 216(b), Sept. 30, 1996, 110 Stat. 3009–573, added item 611.

1993—Pub. L. 103–94, § 4(c)(2), Oct. 6, 1993, 107 Stat. 1005, added item 610.

1990—Pub. L. 101–647, title XXXV, § 3516, Nov. 29, 1990, 104 Stat. 4923, substituted ''Making political contributions'' for ''Place of solicitation'' in item 603 and ''Place of solicitation'' for ''Making political contributions'' in item 607.

1986—Pub. L. 99–410, title II, § 202(b), Aug. 28, 1986, 100 Stat. 929, added items 608 and 609.

1980—Pub. L. 96–187, title II, § 201(a)(2), Jan. 8, 1980, 93 Stat. 1367, struck out item 591 ''Definitions''.

1976—Pub. L. 94–453, § 2, Oct. 2, 1976, 90 Stat. 1517, substituted ''political contribution'' for ''political activity'' in item 601.

Pub. L. 94–283 title II, § 201(b), May 11, 1976, 90 Stat. 496, struck out items ''608. Limitations on contributions and expenditures'', ''610. Contributions or expenditures by national banks, corporations or labor organizations'', ''611. Contributions by Government contractors'', ''612. Publication or distribution of political statements'', ''613. Contributions by foreign nationals'', ''614. Prohibition of contributions in name of another'', ''615. Limitation on contributions of currency'', ''616. Acceptance of excessive honorariums'', and ''617. Fraudulent misrepresentation of campaign authority''.

1974—Pub. L. 93–443, title I, § 101(d)(4)(B), (f)(3), Oct. 15, 1974, 88 Stat. 1267, 1268, substituted ''Contributions by foreign nationals'' for ''Contributions by agents of foreign principals'' in item 613, and added items 614 to 617.

1972—Pub. L. 92–225, title II, § 207, Feb. 7, 1972, 86 Stat. 11, substituted ''contributions and expenditures'' for ''political contributions and purchases'' in item 608, ''Repealed'' for ''Maximum contributions and expenditures'' in item 609, and ''Government contractors'' for ''firms or individuals contracting with the United States'' in item 611.

1966—Pub. L. 89–486, § 8(c)(1), July 4, 1966, 80 Stat. 249, added item 613.

STATE LAWS AFFECTED; DEFINITIONS

Section 104 of Pub. L. 93–443 provided that:

''(a) The provisions of chapter 29 of title 18, United States Code, relating to elections and political activities, supersede and preempt any provision of State law with respect to election to Federal office.

''(b) For purposes of this section, the terms 'election', 'Federal office', and 'State' have the meanings given them by section 591 of title 18, United States Code.''

[§ 591. Repealed. Pub. L. 96–187, title II, § 201(a)(1), Jan. 8, 1980, 93 Stat. 1367]

Section, acts June 25, 1948, ch. 645, 62 Stat. 719; May 24, 1949, ch. 139, § 9, 63 Stat. 90; Sept. 22, 1970, Pub. L. 91–405, title II, § 204(d)(4), 84 Stat. 853; Feb. 7, 1972, Pub. L. 92–225, title II, § 201, 86 Stat. 8; Oct. 15, 1974, Pub. L. 93–443, title I, §§ 101(f)(2), 102, 88 Stat. 1268, 1269; May 11, 1976, Pub. L. 94–283, title I, § 115(g), title II, § 202, 90 Stat. 496, 497, defined terms applicable to prohibitions respecting elections and political activities.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 8, 1980, see section 301(a) of Pub. L. 96–187, set out as an Effective Date of 1980 Amendment note under section 431 of Title 2, The Congress.

§ 592. Troops at polls

Whoever, being an officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held, unless such force be necessary to repel armed enemies of the United States, shall be fined under this title or imprisoned not more than five years, or both; and be disqualified from holding any office of honor, profit, or trust under the United States.

This section shall not prevent any officer or member of the armed forces of the United States from exercising the right of suffrage in any election district to which he may belong, if otherwise qualified according to the laws of the State in which he offers to vote.

(June 25, 1948, ch. 645, 62 Stat. 719; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 55 and 59 (Mar. 4, 1909, ch. 321, §§ 22, 26, 35 Stat. 1092, 1093).

This section consolidates sections 55 and 59 of title 18, U.S.C., 1940 ed.

Mandatory punishment provision was rephrased in the alternative.

In second paragraph, words ''or member of the Armed Forces of the United States'' were substituted for ''soldier, sailor, or marine'' so as to cover those auxiliaries which are now component parts of the Army and Navy.

Changes in phraseology were also made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 593. Interference by armed forces

Whoever, being an officer or member of the Armed Forces of the United States, prescribes or fixes or attempts to prescribe or fix, whether by proclamation, order or otherwise, the qualifications of voters at any election in any State; or

Whoever, being such officer or member, prevents or attempts to prevent by force, threat, intimidation, advice or otherwise any qualified voter of any State from fully exercising the right of suffrage at any general or special election; or

Whoever, being such officer or member, orders or compels or attempts to compel any election officer in any State to receive a vote from a person not legally qualified to vote; or

Whoever, being such officer or member, imposes or attempts to impose any regulations for conducting any general or special election in a State, different from those prescribed by law; or

Whoever, being such officer or member, interferes in any manner with an election officer's discharge of his duties—

Shall be fined under this title or imprisoned not more than five years, or both; and disqualified from holding any office of honor, profit or trust under the United States.

This section shall not prevent any officer or member of the Armed Forces from exercising the right of suffrage in any district to which he may belong, if otherwise qualified according to the laws of the State of such district.

(June 25, 1948, ch. 645, 62 Stat. 719; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 56–59 (Mar. 4, 1909, ch. 321, §§ 23–26, 35 Stat. 1092, 1093).

Four sections were consolidated with only such changes of phraseology as were necessary to effect the consolidation.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in sixth par.

§ 594. Intimidation of voters

Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, at any election held solely or in part for the purpose of electing such candidate, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 720; Pub. L. 91–405, title II, § 204(d)(5), Sept. 22, 1970, 84 Stat. 853; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 61, 61g (Aug. 2, 1939, 11:50 a.m. E.S.T., ch. 410, §§ 1, 8, 53 Stat. 1147, 1148).

This section consolidates sections 61 and 61g of title 18, U.S.C., 1940 ed., with changes in phraseology only.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

1970—Pub. L. 91–405 substituted ''Delegate from the District of Columbia, or Resident Commissioner'' for ''Delegates or Commissioners from the Territories and possessions''.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–405 effective Sept. 22, 1970, see section 206(b) of Pub. L. 91–405, set out as an Effective Date note under section 25a of Title 2, The Congress.

§ 595. Interference by administrative employees of Federal, State, or Territorial Governments

Whoever, being a person employed in any administrative position by the United States, or

by any department or agency thereof, or by the District of Columbia or any agency or instrumentality thereof, or by any State, Territory, or Possession of the United States, or any political subdivision, municipality, or agency thereof, or agency of such political subdivision or municipality (including any corporation owned or controlled by any State, Territory, or Possession of the United States or by any such political subdivision, municipality, or agency), in connection with any activity which is financed in whole or in part by loans or grants made by the United States, or any department or agency thereof, uses his official authority for the purpose of interfering with, or affecting, the nomination or the election of any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, shall be fined under this title or imprisoned not more than one year, or both.

This section shall not prohibit or make unlawful any act by any officer or employee of any educational or research institution, establishment, agency, or system which is supported in whole or in part by any state or political subdivision thereof, or by the District of Columbia or by any Territory or Possession of the United States; or by any recognized religious, philanthropic or cultural organization.

(June 25, 1948, ch. 645, 62 Stat. 720; Pub. L. 91–405, title II, § 204(d)(6), Sept. 22, 1970, 84 Stat. 853; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 61a, 61g, 61n, 61s, 61u (Aug. 2, 1939, 11:50 a.m., E.S.T., ch. 410, §§ 2, 8, 53 Stat. 1147, 1148; July 19, 1940, ch. 640, § 1, 54 Stat. 767; Aug. 2, 1939, ch. 410, §§ 14, 19, as added July 19, 1940, ch. 640, § 4, 54 Stat. 767; Aug. 2, 1939, ch. 410, § 21, as added Oct. 24, 1942, ch. 620, 56 Stat. 986).

This section consolidates sections 61s, 61n, and 61g with 61a, all of title 18, U.S.C., 1940 ed., in first paragraph, and incorporates section 61u as second paragraph.

Words ''or agency thereof'' and words ''or any department or agency thereof'' were inserted to remove any possible ambiguity as to scope of section. (See definitions of department and agency in section 6 of this title.)

Words ''or by the District of Columbia or any agency or instrumentality thereof'' were inserted upon authority of section 61n of title 18, U.S.C., 1940 ed., which provided that for the purposes of this section, ''persons employed in the government of the District of Columbia shall be deemed to be employed in the executive branch of the Government of the United States.''

After ''State'' the words ''Territory, or Possession of the United States'' were inserted in two places upon authority of section 61s of title 18, U.S.C., 1940 ed., which defined ''State,'' as used in this section, as ''any State, Territory, or possession of the United States.''

The punishment provision was derived from section 61g of title 18, U.S.C., 1940 ed., which, by reference, made this punishment applicable to this section.

The second paragraph was derived from section 61u of title 18, U.S.C., 1940 ed., which made its provisions applicable to this section by reference.

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322, § 330016(1)(L), which directed the amendment of this section by substituting ''under this title'' for ''not more than $10,000'', could not be executed because the phrase ''not more than $10,000'' does not appear in text.

Pub. L. 103–322, § 330016(1)(H), substituted ''fined under this title'' for ''fined not more than $1,000'' in first par.

1970—Pub. L. 91–405 substituted reference to Delegate from District of Columbia or Resident Commissioner for Delegate or Resident Commissioner from any Territory or Possession.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–405 effective Sept. 22, 1970, see section 206(b) of Pub. L. 91–405, set out as an Effective Date note under section 25a of Title 2, The Congress.

§ 596. Polling armed forces

Whoever, within or without the Armed Forces of the United States, polls any member of such forces, either within or without the United States, either before or after he executes any ballot under any Federal or State law, with reference to his choice of or his vote for any candidate, or states, publishes, or releases any result of any purported poll taken from or among the members of the Armed Forces of the United States or including within it the statement of choice for such candidate or of such votes cast by any member of the Armed Forces of the United States, shall be fined under this title or imprisoned for not more than one year, or both.

The word ''poll'' means any request for information, verbal or written, which by its language or form of expression requires or implies the necessity of an answer, where the request is made with the intent of compiling the result of the answers obtained, either for the personal use of the person making the request, or for the purpose of reporting the same to any other person, persons, political party, unincorporated association or corporation, or for the purpose of publishing the same orally, by radio, or in written or printed form.

(June 25, 1948, ch. 645, 62 Stat. 720; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 344 of title 50, U.S.C., 1940 ed., War and National Defense (Sept. 16, 1942, ch. 561, title III, § 314, as added Apr. 1, 1944, ch. 150, 58 Stat. 146).

Changes in phraseology were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000'' in first par.

§ 597. Expenditures to influence voting

Whoever makes or offers to make an expenditure to any person, either to vote or withhold his vote, or to vote for or against any candidate; and

Whoever solicits, accepts, or receives any such expenditure in consideration of his vote or the withholding of his vote—

Shall be fined under this title or imprisoned not more than one year, or both; and if the violation was willful, shall be fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 721; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–294, title VI, § 601(a)(12), Oct. 11, 1996, 110 Stat. 3498.)

HISTORICAL AND REVISION NOTES

Based on sections 250, 252, of title 2, U.S.C., 1940 ed., The Congress (Feb. 28, 1925, ch. 368, title III, §§311, 314, 43 Stat. 1073, 1074).

This section consolidates the provisions of sections 250 and 252 of title 2, U.S.C., 1940 ed., The Congress.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

The punishment provisions of section 252 of title 2, U.S.C., 1940 ed., The Congress, were incorporated at end of section upon authority of reference in such section making them applicable to this section.

Words ''or both'' were added to conform to the almost universal formula of the punishment provisions of this title.

Changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''shall be fined under this title'' for ''shall be fined not more than $10,000'' in last par.

1994—Pub. L. 103–322 substituted ''shall be fined under this title'' for ''shall be fined not more than $1,000'' in last par.

§ 598. Coercion by means of relief appropriations

Whoever uses any part of any appropriation made by Congress for work relief, relief, or for increasing employment by providing loans and grants for public-works projects, or exercises or administers any authority conferred by any Appropriation Act for the purpose of interfering with, restraining, or coercing any individual in the exercise of his right to vote at any election, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 721; Pub. L. 103–322, title XXXIII, §330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§61f, 61g (Aug. 2, 1939, 11:50 a.m., E.S.T., ch. 410. §§7, 8, 53 Stat. 1148).

This section consolidates sections 61f and 61g of title 18, U.S.C., 1940 ed., with changes of phraseology necessary to effect consolidation.

The punishment provision was derived from section 61g of title 18, U.S.C., 1940 ed., which, by reference, was made applicable to this section.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 599. Promise of appointment by candidate

Whoever, being a candidate, directly or indirectly promises or pledges the appointment, or the use of his influence or support for the appointment of any person to any public or private position or employment, for the purpose of procuring support in his candidacy shall be fined under this title or imprisoned not more than one year, or both; and if the violation was willful, shall be fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 721; Pub. L. 103–322, title XXXIII, §330016(1)(H), (L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on sections 249, 252, of title 2, U.S.C., 1940 ed., The Congress (Feb. 28, 1925, ch. 368, title III, §§310, 314, 43 Stat. 1073, 1074).

This section consolidates the provisions of sections 249 and 252 of title 2, U.S.C., 1940 ed., The Congress, with changes in arrangement and phraseology necessary to effect consolidation.

Words ''or both'' were added to conform to the almost universal formula of the punishment provisions of this title.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000'' after ''candidacy shall be'' and for ''fined not more than $10,000'' after ''willful, shall be''.

§ 600. Promise of employment or other benefit for political activity

Whoever, directly or indirectly, promises any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by any Act of Congress, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 721; Pub. L. 92–225, title II, §202, Feb. 7, 1972, 86 Stat. 9; Pub. L. 94–453, §3, Oct. 2, 1976, 90 Stat. 1517; Pub. L. 103–322, title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§61b, 61g (Aug. 2, 1939, 11:50 a.m., E.S.T., ch. 410, §§3, 8, 53 Stat. 1147, 1148).

This section consolidates sections 61b and 61g of title 18, U.S.C., 1940 ed.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

1976—Pub. L. 94–453 substituted $10,000 for $1,000 maximum allowable fine.

1972—Pub. L. 92–225 struck out ''work,'' after ''position,'', inserted ''contract, appointment,'' after ''compensation,'' and ''or any special consideration in obtaining any such benefit,'' after ''Act of Congress,'', and substituted ''in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office'' for ''in any election''.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–225 effective Dec. 31, 1971, or sixty days after date of enactment [Feb. 7, 1972], whichever is later, see section 408 of Pub. L. 92–225, set out as an Effective Date note under section 431 of Title 2, The Congress.

§ 601. Deprivation of employment or other benefit for political contribution

(a) Whoever, directly or indirectly, knowingly causes or attempts to cause any person to make a contribution of a thing of value (including services) for the benefit of any candidate or any political party, by means of the denial or deprivation, or the threat of the denial or deprivation, of—

(1) any employment, position, or work in or for any agency or other entity of the Government of the United States, a State, or a political subdivision of a State, or any compensation or benefit of such employment, position, or work; or

(2) any payment or benefit of a program of the United States, a State, or a political subdivision of a State;

if such employment, position, work, compensation, payment, or benefit is provided for or made possible in whole or in part by an Act of Congress, shall be fined under this title, or imprisoned not more than one year, or both.

(b) As used in this section—

(1) the term ''candidate'' means an individual who seeks nomination for election, or election, to Federal, State, or local office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, to Federal, State, or local office, if he has (A) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, or (B) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

(2) the term ''election'' means (A) a general, special primary, or runoff election, (B) a convention or caucus of a political party held to nominate a candidate, (C) a primary election held for the selection of delegates to a nominating convention of a political party, (D) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (E) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States or of any State; and

(3) the term ''State'' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(June 25, 1948, ch. 645, 62 Stat. 721; Pub. L. 94–453, § 1, Oct. 2, 1976, 90 Stat. 1516; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 61c, 61g (Aug. 2, 1939, 11:50 a.m., E.S.T., ch. 410, §§ 4, 8, 53 Stat. 1147, 1148).

This section consolidates sections 61c and 61g of title 18, U.S.C., 1940 ed.

The words ''except as required by law'' were used as sufficient to cover the reference to the exception made to the provisions of subsection (b), section 61h of title 18, U.S.C., 1940 ed., which expressly prescribes the circumstances under which a person may be lawfully deprived of his employment and compensation therefor.

Changes were made in phraseology.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' in concluding provisions.

1976—Pub. L. 94–453 struck out provisions relating to deprivations based upon race, creed, and color which are now set out in section 246 of this title, replaced term ''political activity'' with more precise terms and definitions, and raised the amount of maximum fine from $1,000 to $10,000.

§ 602. Solicitation of political contributions

(a) It shall be unlawful for—

(1) a candidate for the Congress;

(2) an individual elected to or serving in the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(3) an officer or employee of the United States or any department or agency thereof; or

(4) a person receiving any salary or compensation for services from money derived from the Treasury of the United States; to knowingly solicit any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 from any other such officer, employee, or person. Any person who violates this section shall be fined under this title or imprisoned not more than 3 years, or both.

(b) The prohibition in subsection (a) shall not apply to any activity of an employee (as defined in section 7322(1) of title 5) or any individual employed in or under the United States Postal Service or the Postal Rate Commission, unless that activity is prohibited by section 7323 or 7324 of such title.

(June 25, 1948, ch. 645, 62 Stat. 722; Pub. L. 96–187, title II, § 201(a)(3), Jan. 8, 1980, 93 Stat. 1367; Pub. L. 103–94, § 4(a), Oct. 6, 1993, 107 Stat. 1004; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 208, 212 (Mar. 4, 1909, ch. 321, §§ 118, 122, 35 Stat. 1110; Feb. 28, 1925, ch. 368, § 312, 43 Stat. 1073).

This section consolidates sections 208 and 212 of title 18, U.S.C., 1940 ed.

This section, like section 201 of this title, was expanded to embrace all officers or persons acting on behalf of any independent agencies or Government-owned or controlled corporations by inserting words ''or any department or agency thereof.'' (See definitive section 6 of this title.)

The punishment provision was taken from section 212 of title 18, U.S.C., 1940 ed., which, by reference, made the punishment applicable to the crime described in this section.

Changes were made in phraseology.

REFERENCES IN TEXT

Section 301(8) of the Federal Election Campaign Act of 1971, referred to in subsec. (a)(4), is classified to section 431(8) of Title 2, The Congress.

AMENDMENTS

1994—Pub. L. 103–322, which directed the amendment of this section by substituting ''under this title'' for ''not more than $5,000'', could not be executed because the phrase ''not more than $5,000'' does not appear in text. See 1993 Amendment note below.

1993—Pub. L. 103–94 designated existing provisions as subsec. (a), substituted ''; to knowingly solicit any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 from any other such officer, employee, or person. Any person who violates this section shall be fined under this title or imprisoned not more than 3 years, or both'' for ''to knowingly solicit, any contribution within the meaning of

section 301(8) of the Federal Election Campaign Act of 1971 from any other such officer, employee, or person. Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than three years, or both'' in par. (4), and added subsec. (b).

1980—Pub. L. 96–187 amended section generally to conform its terms to revision of the Federal Election Campaign Act of 1971 by title I of Pub. L. 96–187.

EFFECTIVE DATE OF 1993 AMENDMENT; SAVINGS PROVISION

Amendment by Pub. L. 103–94 effective 120 days after Oct. 6, 1993, but not to release or extinguish any penalty, forfeiture, or liability incurred under amended provision, which is to be treated as remaining in force for purpose of sustaining any proper proceeding or action for enforcement of that penalty, forfeiture, or liability, and no provision of Pub. L. 103–94 to affect any proceedings with respect to which charges were filed on or before 120 days after Oct. 6, 1993, with orders to be issued in such proceedings and appeals taken therefrom as if Pub. L. 103–94 had not been enacted, see section 12 of Pub. L. 103–94, set out as an Effective Date; Savings Provision note under section 7321 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–187 effective Jan. 8, 1980, see section 301(a) of Pub. L. 96–187, set out as a note under section 431 of Title 2, The Congress.

§ 603. Making political contributions

(a) It shall be unlawful for an officer or employee of the United States or any department or agency thereof, or a person receiving any salary or compensation for services from money derived from the Treasury of the United States, to make any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 to any other such officer, employee or person or to any Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, if the person receiving such contribution is the employer or employing authority of the person making the contribution. Any person who violates this section shall be fined under this title or imprisoned not more than three years, or both.

(b) For purposes of this section, a contribution to an authorized committee as defined in section 302(e)(1) of the Federal Election Campaign Act of 1971 shall be considered a contribution to the individual who has authorized such committee.

(c) The prohibition in subsection (a) shall not apply to any activity of an employee (as defined in section 7322(1) of title 5) or any individual employed in or under the United States Postal Service or the Postal Rate Commission, unless that activity is prohibited by section 7323 or 7324 of such title.

(June 25, 1948, ch. 645, 62 Stat. 722; Oct. 31, 1951, ch. 655, § 20(b), 65 Stat. 718; Pub. L. 96–187, title II, § 201(a)(4), Jan. 8, 1980, 93 Stat. 1367; Pub. L. 103–94, § 4(b), Oct. 6, 1993, 107 Stat. 1005; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 209, 212 (Mar. 4, 1909, ch. 321, §§ 119, 122, 35 Stat. 1110).

This section consolidates sections 209 and 212 of title 18, U.S.C., 1940 ed., without change of substance.

To eliminate ambiguity resulting from use of identical words in reference ''officer or employee of the United States mentioned in section 208 of this title'' as those appearing in section 208 of title 18, U.S.C., 1940 ed., now section 602 of this title, words ''person mentioned in section 602 of this title'' were inserted.

Words ''from any such person'' were inserted after ''purpose'', so as to make it clear that the section does not embrace State employees in its provisions. Some Federal agencies are located in State buildings occupied by State employees.

The punishment provision was derived from section 212 of title 18, U.S.C., 1940 ed. (See reviser's note under section 602 of this title.)

Minor changes were made in phraseology.

REFERENCES IN TEXT

Section 301(8) of the Federal Election Campaign Act of 1971, referred to in subsec. (a), is classified to section 431(8) of Title 2, The Congress.

Section 302(e)(1) of the Federal Election Campaign Act of 1971, referred to in subsec. (b), is classified to section 432(e)(1) of Title 2.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

1993—Subsec. (c). Pub. L. 103–94 added subsec. (c).

1980—Pub. L. 96–187 substituted provisions relating to the making of political contributions for provisions relating to the place of solicitation. See section 607 of this title.

1951—Act Oct. 31, 1951, struck out ''from any such person'' after ''purpose''.

EFFECTIVE DATE OF 1993 AMENDMENT; SAVINGS PROVISION

Amendment by Pub. L. 103–94 effective 120 days after Oct. 6, 1993, but not to release or extinguish any penalty, forfeiture, or liability incurred under amended provision, which is to be treated as remaining in force for purpose of sustaining any proper proceeding or action for enforcement of that penalty, forfeiture, or liability, and no provision of Pub. L. 103–94 to affect any proceedings with respect to which charges were filed on or before 120 days after Oct. 6, 1993, with orders to be issued in such proceedings and appeals taken therefrom as if Pub. L. 103–94 had not been enacted, see section 12 of Pub. L. 103–94, set out as an Effective Date; Savings Provision note under section 7321 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1980 AMENDMENT

Amended by Pub. L. 96–187 effective Jan. 8, 1980, see section 301(a) of Pub. L. 96–187, set out as a note under section 431 of Title 2, The Congress.

§ 604. Solicitation from persons on relief

Whoever solicits or receives or is in any manner concerned in soliciting or receiving any assessment, subscription, or contribution for any political purpose from any person known by him to be entitled to, or receiving compensation, employment, or other benefit provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 722; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 61d, 61g (Aug. 2, 1939, 11:50 a.m., E.S.T., ch. 410, §§ 5, 8, 53 Stat. 1148).

This section consolidates sections 61d and 61g of title 18, U.S.C., 1940 ed.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 605. Disclosure of names of persons on relief

Whoever, for political purposes, furnishes or discloses any list or names of persons receiving compensation, employment or benefits provided for or made possible by any Act of Congress appropriating, or authorizing the appropriation of funds for work relief or relief purposes, to a political candidate, committee, campaign manager, or to any person for delivery to a political candidate, committee, or campaign manager; and

Whoever receives any such list or names for political purposes—

Shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 722; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 61e, 61g (Aug. 2, 1939, 11:50 a.m., E.S.T., ch. 410, §§ 6, 8, 53 Stat. 1148).

This section consolidates sections 61e and 61g of title 18, U.S.C., 1940 ed.

Reference to persons aiding or assisting, contained in words ''or to aid or assist in furnishing or disclosing'' was omitted as unnecessary as such persons are made principals by 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 $1,000''.

§ 606. Intimidation to secure political contributions

Whoever, being one of the officers or employees of the United States mentioned in section 602 of this title, discharges, or promotes, or degrades, or in any manner changes the official rank or compensation of any other officer or employee, or promises or threatens so to do, for giving or withholding or neglecting to make any contribution of money or other valuable thing for any political purpose, shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 722; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 210, 212 (Mar. 4, 1909, ch. 321, §§ 120, 122, 35 Stat. 1110).

This section consolidates sections 210 and 212 of title 18, U.S.C., 1940 ed.

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 607. Place of solicitation

(a) PROHIBITION.—

(1) IN GENERAL.—It shall be unlawful for any person to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election from a person who is located in a room or building occupied in the discharge of official duties by an officer or employee of the United States. It shall be unlawful for an individual who is an officer or employee of the Federal Government, including the President, Vice President, and Members of Congress, to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election, while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person.

(2) PENALTY.—A person who violates this section shall be fined not more than $5,000, imprisoned not more than 3 years, or both.

(b) The prohibition in subsection (a) shall not apply to the receipt of contributions by persons on the staff of a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress or Executive Office of the President, provided, that such contributions have not been solicited in any manner which directs the contributor to mail or deliver a contribution to any room, building, or other facility referred to in subsection (a), and provided that such contributions are transferred within seven days of receipt to a political committee within the meaning of section 302(e) of the Federal Election Campaign Act of 1971.

(June 25, 1948, ch. 645, 62 Stat. 722; Pub. L. 96–187, title II, § 201(a)(5), Jan. 8, 1980, 93 Stat. 1367; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 107–155, title III, § 302, Mar. 27, 2002, 116 Stat. 96.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 211, 212 (Mar. 4, 1909, ch. 321, §§ 121, 122, 35 Stat. 1110).

This section consolidates sections 211 and 212 of title 18, U.S.C., 1940 ed.

This section was expanded to embrace all officers or persons acting on behalf of any independent agencies or Government-owned or controlled corporations by inserting words ''or any department or agency thereof.'' (See definitive section 6, and reviser's note under section 201 of this title.)

Changes were made in phraseology.

REFERENCES IN TEXT

Section 302(e) of the Federal Election Campaign Act of 1971, referred to in subsec. (b), is classified to section 432(e) of Title 2.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–155, § 302(1), added subsec. (a) and struck out former subsec. (a) which read as follows: ''It shall be unlawful for any person to solicit or receive any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 in any room or building occupied in the discharge of official duties by any person mentioned in section 603, or in any navy yard, fort, or arsenal. Any person who violates this section shall be fined under this title or imprisoned not more than three years, or both.''

Subsec. (b). Pub. L. 107–155, § 302(2), inserted ''or Executive Office of the President'' after ''Congress''.

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

1980—Pub. L. 96–187 substituted provisions relating to the place of solicitation for provisions relating to the making of political contributions.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–155 effective Nov. 6, 2002, see section 402 of Pub. L. 107–155, set out as an Effective Date of 2002 Amendment; Regulations note under section 431 of Title 2, The Congress.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–187 effective Jan. 8, 1980, see section 301(a) of Pub. L. 96–187, set out as a note under section 431 of Title 2, The Congress.

§ 608. Absent uniformed services voters and overseas voters

(a) Whoever knowingly deprives or attempts to deprive any person of a right under the Uniformed and Overseas Citizens Absentee Voting Act shall be fined in accordance with this title or imprisoned not more than five years, or both.

(b) Whoever knowingly gives false information for the purpose of establishing the eligibility of any person to register or vote under the Uniformed and Overseas Citizens Absentee Voting Act, or pays or offers to pay, or accepts payment for registering or voting under such Act shall be fined in accordance with this title or imprisoned not more than five years, or both.

(Added Pub. L. 99–410, title II, § 202(a), Aug. 28, 1986, 100 Stat. 929.)

REFERENCES IN TEXT

The Uniformed and Overseas Citizens Absentee Voting Act, referred to in text, is Pub. L. 99–410, Aug. 28, 1986, 100 Stat. 924, as amended, which is classified principally to subchapter I–G (§ 1973ff et seq.) of chapter 20 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title of 1986 Amendment note set out under section 1971 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 608, acts June 25, 1948, ch. 645, 62 Stat. 723; Feb. 7, 1972, Pub. L. 92–225, title II, § 203, 86 Stat. 9; Oct. 15, 1974, Pub. L. 93–443, title I, § 101(a), (b), 88 Stat. 1263, 1266, set limitations on campaign contributions and expenditures, prior to repeal by Pub. L. 94–283, title II, § 201(a), May 11, 1976, 90 Stat. 496. See section 441a of Title 2, The Congress.

EFFECTIVE DATE

Section applicable with respect to elections taking place after Dec. 31, 1987, see section 204 of Pub. L. 99–410, set out as a note under section 1973ff of Title 42, The Public Health and Welfare.

§ 609. Use of military authority to influence vote of member of Armed Forces

Whoever, being a commissioned, noncommissioned, warrant, or petty officer of an Armed Force, uses military authority to influence the vote of a member of the Armed Forces or to require a member of the Armed Forces to march to a polling place, or attempts to do so, shall be fined in accordance with this title or imprisoned not more than five years, or both. Nothing in this section shall prohibit free discussion of political issues or candidates for public office.

(Added Pub. L. 99–410, title II, § 202(a), Aug. 28, 1986, 100 Stat. 929.)

PRIOR PROVISIONS

A prior section 609, act June 25, 1948, ch. 645, 62 Stat. 723, prescribed maximum contributions and expenditures limitation of $3,000,000 for any calendar year, prior to repeal by Pub. L. 92–225, title II, § 204, Feb. 7, 1972, 86 Stat. 10, effective sixty days after Feb. 7, 1972.

EFFECTIVE DATE

Section applicable with respect to elections taking place after Dec. 31, 1987, see section 204 of Pub. L. 99–410, set out as a note under section 1973ff of Title 42, The Public Health and Welfare.

§ 610. Coercion of political activity

It shall be unlawful for any person to intimidate, threaten, command, or coerce, or attempt to intimidate, threaten, command, or coerce, any employee of the Federal Government as defined in section 7322(1) of title 5, United States Code, to engage in, or not to engage in, any political activity, including, but not limited to, voting or refusing to vote for any candidate or measure in any election, making or refusing to make any political contribution, or working or refusing to work on behalf of any candidate. Any person who violates this section shall be fined under this title or imprisoned not more than three years, or both.

(Added Pub. L. 103–94, § 4(c)(1), Oct. 6, 1993, 107 Stat. 1005; amended Pub. L. 104–294, title VI, § 601(a)(1), Oct. 11, 1996, 110 Stat. 3497.)

PRIOR PROVISIONS

A prior section 610, acts June 25, 1948, ch. 645, 62 Stat. 723; May 24, 1949, ch. 139, § 10, 63 Stat. 90; Oct. 31, 1951, ch. 655, § 20(c), 65 Stat. 718; Feb. 7, 1972, Pub. L. 92–225, title II, § 205, 86 Stat. 10; Oct. 15, 1974, Pub. L. 93–443, title I, § 101(e)(1), 88 Stat. 1267, prohibited campaign contributions or expenditures by national banks, corporations, and labor organizations, prior to repeal by Pub. L. 94–283, title II, § 201(a), May 11, 1976, 90 Stat. 496. See section 441b of Title 2, The Congress.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''fined under this title'' for ''fined not more than $5,000''.

EFFECTIVE DATE; SAVINGS PROVISION

Section effective 120 days after Oct. 6, 1993, and no provision of Pub. L. 103–94 to affect any proceedings with respect to which charges were filed on or before 120 days after Oct. 6, 1993, with orders to be issued in such proceedings and appeals taken therefrom as if Pub. L. 103–94 had not been enacted, see section 12 of Pub. L. 103–94, set out as a note under section 7321 of Title 5, Government Organization and Employees.

§ 611. Voting by aliens

(a) It shall be unlawful for any alien to vote in any election held solely or in part for the purpose of electing a candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, unless—

(1) the election is held partly for some other purpose;

(2) aliens are authorized to vote for such other purpose under a State constitution or statute or a local ordinance; and

(3) voting for such other purpose is conducted independently of voting for a candidate for such Federal offices, in such a manner that an alien has the opportunity to vote for such other purpose, but not an opportunity to vote for a candidate for any one or more of such Federal offices.

(b) Any person who violates this section shall be fined under this title, imprisoned not more than one year, or both.

(c) Subsection (a) does not apply to an alien if—

(1) each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization);

(2) the alien permanently resided in the United States prior to attaining the age of 16; and

(3) the alien reasonably believed at the time of voting in violation of such subsection that he or she was a citizen of the United States.

(Added Pub. L. 104–208, div. C, title II, § 216(a), Sept. 30, 1996, 110 Stat. 3009–572; amended Pub. L. 106–395, title II, § 201(d)(1), Oct. 30, 2000, 114 Stat. 1635.)

PRIOR PROVISIONS

A prior section 611, acts June 25, 1948, ch. 645, 62 Stat. 724; Feb. 7, 1972, Pub. L. 92–225, title II, § 206, 86 Stat. 10; Oct. 15, 1974, Pub. L. 93–443, title I, §§ 101(e)(2), 103, 88 Stat. 1267, 1272, prohibited campaign contributions by government contractors, prior to repeal by Pub. L. 94–283, title II, § 201(a), May 11, 1976, 90 Stat. 496. See section 441c of Title 2, The Congress.

AMENDMENTS

2000—Subsec. (c). Pub. L. 106–395 added subsec. (c).

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–395, title II, § 201(d)(3), Oct. 30, 2000, 114 Stat. 1636, provided that: ''The amendment made by paragraph (1) [amending this section] shall be effective as if included in the enactment of section 216 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–572). The amendment made by paragraph (2) [amending section 1015 of this title] shall be effective as if included in the enactment of section 215 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–572). The amendments made by paragraphs (1) and (2) shall apply to an alien prosecuted on or after September 30, 1996, except in the case of an alien whose criminal proceeding (including judicial review thereof) has been finally concluded before the date of the enactment of this Act [Oct. 30, 2000].''

[§§ 612 to 617. Repealed. Pub. L. 94–283, title II, § 201(a), May 11, 1976, 90 Stat. 496]

Section 612, acts June 25, 1948, ch. 645, 62 Stat. 724; Aug. 25, 1950, ch. 784, § 2, 64 Stat. 475; Aug. 12, 1970, Pub. L. 91–375, § 6(j)(7), 84 Stat. 777, regulated publication and distribution of political statements. See section 441d of Title 2, The Congress.

Section 613, added Pub. L. 89–486, § 8(a), July 4, 1966, 80 Stat. 248; amended Pub. L. 93–443, title I, § 101(d)(1)–(3), (4)(A), (e)(3), Oct. 15, 1974, 88 Stat. 1267, prohibited campaign contributions by foreign nationals. See section 441e of Title 2, The Congress.

Section 614, added Pub. L. 93–443, title I, § 101(f)(1), Oct. 15, 1974, 88 Stat. 1268, prohibited making of campaign contributions in the name of another. See section 441f of Title 2, The Congress.

Section 615, added Pub. L. 93–443, title I, § 101(f)(1), Oct. 15, 1974, 88 Stat. 1268, placed limitations on contributions of currency. See section 441g of Title 2, The Congress.

Section 616, added Pub. L. 93–443, title I, § 101(f)(1), Oct. 15, 1974, 88 Stat. 1268, prohibited acceptance of excessive honorariums. See section 441i of Title 2, The Congress.

Section 617, added Pub. L. 93–443, title I, § 101(f)(1), Oct. 15, 1974, 88 Stat. 1268, prohibited fraudulent misrepresentation of campaign authority. See section 441h of Title 2, The Congress.

SAVINGS PROVISION

Repeal by Pub. L. 94–283 not to release or extinguish any penalty, forfeiture, or liability incurred under such sections, with each section to be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of any penalty, forfeiture, or liability, see section 114 of Pub. L. 94–283, set out as a note under section 441 of Title 2, The Congress.

CHAPTER 31—EMBEZZLEMENT AND THEFT

Sec.
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AMENDMENTS

1996—Pub. L. 104–294, title VI, § 601(f)(7), Oct. 11, 1996, 110 Stat. 3500, inserted comma after ''embezzlement'' in item 656.

Pub. L. 104–191, title II, § 243(b), Aug. 21, 1996, 110 Stat. 2017, added item 669.

1994—Pub. L. 103–322, title XXXII, § 320902(d)(1), Sept. 13, 1994, 108 Stat. 2124, added item 668.

1984—Pub. L. 98–473, title II, §§ 1104(b), 1112, Oct. 12, 1984, 98 Stat. 2144, 2149, added items 666 and 667.

1978—Pub. L. 95–524, § 3(b), Oct. 27, 1978, 92 Stat. 2018, substituted ''employment and training funds'' for ''manpower funds'' and inserted ''; obstruction of investigations'' after ''improper inducement'' in item 665.

[1] So in original. Does not conform to section catchline.

1973—Pub. L. 93–203, title VII, § 711(b), formerly title VI, § 611(b), Dec. 28, 1973, 87 Stat. 882, renumbered Pub. L. 93–567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845, added item 665.

1966—Pub. L. 89–654, § 1(e), Oct. 14, 1966, 80 Stat. 904, substituted ''shipments by carrier'' for ''baggage, express or freight'' in item 659.

1962—Pub. L. 87–420, § 17(b), Mar. 20, 1962, 76 Stat. 42, added item 664.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Application of general penal statutes relating to larceny, embezzlement, or conversion of public moneys or property of the United States, to moneys and property of Saint Lawrence Seaway Development Corporation, see section 990 of Title 33, Navigation and Navigable Waters.

§ 641. Public money, property or records

Whoever embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or

Whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted—

Shall be fined under this title or imprisoned not more than ten years, or both; but if the value of such property in the aggregate, combining amounts from all the counts for which the defendant is convicted in a single case, does not exceed the sum of $1,000, he shall be fined under this title or imprisoned not more than one year, or both.

The word ''value'' means face, par, or market value, or cost price, either wholesale or retail, whichever is greater.

(June 25, 1948, ch. 645, 62 Stat. 725; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (L), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511; Pub. L. 108–275, § 4, July 15, 2004, 118 Stat. 833.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 82, 87, 100, 101 (Mar. 4, 1909, ch. 321, §§ 35, 36, 47, 48, 35 Stat. 1095, 1096–1098; Oct. 23, 1918, ch. 194, 40 Stat. 1015; June 18, 1934, ch. 587, 48 Stat. 996; Apr. 4, 1938, ch. 69, 52 Stat. 197; Nov. 22, 1943, ch. 302, 57 Stat. 591.)

Section consolidates sections 82, 87, 100, and 101 of title 18, U.S.C., 1940 ed. Changes necessary to effect the consolidation were made. Words ''or shall willfully injure or commit any depredation against'' were taken from said section 82 so as to confine it to embezzlement or theft.

The quoted language, rephrased in the present tense, appears in section 1361 of this title.

Words ''in a jail'' which followed ''imprisonment'' and preceded ''for not more than one year'' in said section 82, were omitted. (See reviser's note under section 1 of this title.)

Language relating to receiving stolen property is from said section 101.

Words ''or aid in concealing'' were omitted as unnecessary in view of definitive section 2 of this title. Procedural language at end of said section 101 ''and such person may be tried either before or after the conviction of the principal offender'' was transferred to and rephrased in section 3435 of this title.

Words ''or any corporation in which the United States of America is a stockholder'' in said section 82 were omitted as unnecessary in view of definition of ''agency'' in section 6 of this title.

The provisions for fine of not more than $1,000 or imprisonment of not more than 1 year for an offense involving $100 or less and for fine of not more than $10,000 or imprisonment of not more than 10 years, or both, for an offense involving a greater amount were written into this section as more in conformity with the later congressional policy expressed in sections 82 and 87 of title 18, U.S.C., 1940 ed., than the nongraduated penalties of sections 100 and 101 of said title 18.

Since the purchasing power of the dollar is less than it was when $50 was the figure which determined whether larceny was petit larceny or grand larceny, the sum $100 was substituted as more consistent with modern values.

The meaning of ''value'' in the last paragraph of the revised section is written to conform with that provided in section 2311 of this title by inserting the words ''face, par, or''.

This section incorporates the recommendation of Paul W. Hyatt, president, board of commissioners of the Idaho State Bar Association, that sections 82 and 100 of title 18, U.S.C., 1940 ed., be combined and simplified.

Also, with respect to section 101 of title 18, U.S.C., 1940 ed., this section meets the suggestion of P. F. Herrick, United States attorney for Puerto Rico, that the punishment provision of said section be amended to make the offense a misdemeanor where the amount involved is $50 or less.

Changes were made in phraseology.

AMENDMENTS

2004—Pub. L. 108–275, in third par., inserted ''in the aggregate, combining amounts from all the counts for which the defendant is convicted in a single case,'' after ''value of such property''.

1996—Pub. L. 104–294 substituted ''$1,000'' for ''$100'' in third par.

1994—Pub. L. 103–322, in third par., substituted ''fined under this title'' for ''fined not more than $10,000'' after ''Shall be'' and for ''fined not more than $1,000'' after ''he shall be''.

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–473, title II, chapter XI, part I (§§ 1110–1115), § 1110, Oct. 12, 1984, 98 Stat. 2148, provided that: ''This Part [enacting section 667 of this title and amending sections 2316 and 2317 of this title] may be cited as the 'Livestock Fraud Protection Act'.''

§ 642. Tools and materials for counterfeiting purposes

Whoever, without authority from the United States, secretes within, or embezzles, or takes and carries away from any building, room, office, apartment, vault, safe, or other place where the same is kept, used, employed, placed, lodged, or deposited by authority of the United States, any tool, implement, or thing used or fitted to be used in stamping or printing, or in making some other tool or implement used or fitted to be used in stamping or printing any kind or description of bond, bill, note, certificate, coupon, postage stamp, revenue stamp, fractional currency note, or other paper, instrument, obligation, device, or document, authorized by law to be printed, stamped, sealed, prepared, issued, uttered, or put in circulation on behalf of the United States; or

Whoever, without such authority, so secretes, embezzles, or takes and carries away any paper, parchment, or other material prepared and intended to be used in the making of any such papers, instruments, obligations, devices, or documents; or

Whoever, without such authority, so secretes, embezzles, or takes and carries away any paper, parchment, or other material printed or stamped, in whole or part, and intended to be prepared, issued, or put in circulation on behalf of the United States as one of such papers, instruments, or obligations, or printed or stamped, in whole or part, in the similitude of any such paper, instrument, or obligation, whether intended to issue or put the same in circulation or not—

Shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 725; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 269 (Mar. 4, 1909, ch. 321, § 155, 35 Stat. 1117).

Words ''bed piece, bed-plate, roll, plate, die, seal, type, or other'' were omitted as covered by ''tool, implement, or thing.''

Minor changes in phraseology were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in last par.

§ 643. Accounting generally for public money

Whoever, being an officer, employee or agent of the United States or of any department or agency thereof, having received public money which he is not authorized to retain as salary, pay, or emolument, fails to render his accounts for the same as provided by law is guilty of embezzlement, and shall be fined under this title or in a sum equal to the amount of the money embezzled, whichever is greater, or imprisoned not more than ten years, or both; but if the amount embezzled does not exceed $1,000, he shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 726; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (2)(G), Sept. 13, 1994, 108 Stat. 2147, 2148; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 176 (Mar. 4, 1909, ch. 321, § 90, 35 Stat. 1105).

Word ''employee'' was inserted to avoid ambiguity as to scope of section.

Words ''or of any department or agency thereof'' were added after the words ''United States''. (See definitions of the terms ''department'' and ''agency'' in section 6 of this title.)

Mandatory punishment provisions phrased in alternative.

The smaller punishment for an offense involving $100 or less was added. (See reviser's notes under sections 641 and 645 of this title.)

AMENDMENTS

1996—Pub. L. 104–294 substituted ''$1,000'' for ''$100''.

1994—Pub. L. 103–322, § 330016(2)(G), substituted ''and shall be fined under this title or in a sum equal to the amount of the money embezzled, whichever is greater, or imprisoned'' for ''and shall be fined in a sum equal to the amount of the money embezzled or imprisoned''.

Pub. L. 103–322, § 330016(1)(H), substituted ''fined under this title'' for ''fined not more than $1,000'' after ''he shall be''.

§ 644. Banker receiving unauthorized deposit of public money

Whoever, not being an authorized depositary of public moneys, knowingly receives from any disbursing officer, or collector of internal revenue, or other agent of the United States, any public money on deposit, or by way of loan or accommodation, with or without interest, or otherwise than in payment of a debt against the United States, or uses, transfers, converts, appropriates, or applies any portion of the public money for any purpose not prescribed by law is guilty of embezzlement and shall be fined under this title or not more than the amount so embezzled, whichever is greater, or imprisoned not more than ten years, or both; but if the amount embezzled does not exceed $1,000, he shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 726; Pub. L. 103–322, title XXXIII, § 330016(2)(G), Sept. 13, 1994, 108 Stat. 2148; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 182 (Mar. 4, 1909, ch. 321, § 96, 35 Stat. 1106).

The smaller punishment for an offense involving $100 or less was added. (See reviser's notes under sections 641 and 645 of this title.)

Changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''does not exceed $1,000'' for ''does not exceed $100''.

1994—Pub. L. 103–322 substituted ''shall be fined under this title or not more than the amount so embezzled, whichever is greater, or imprisoned'' for ''shall be fined not more than the amount so embezzled or imprisoned''.

§ 645. Court officers generally

Whoever, being a United States marshal, clerk, receiver, referee, trustee, or other officer of a United States court, or any deputy, assistant, or employee of any such officer, retains or converts to his own use or to the use of another or after demand by the party entitled thereto, unlawfully retains any money coming into his hands by virtue of his official relation, position or employment, is guilty of embezzlement and shall, where the offense is not otherwise punishable by enactment of Congress, be fined under this title or not more than double the value of the money so embezzled, whichever is greater, or imprisoned not more than ten years, or both; but if the amount embezzled does not exceed $1,000, he shall be fined under this title or imprisoned not more than one year, or both.

It shall not be a defense that the accused person had any interest in such moneys or fund.

(June 25, 1948, ch. 645, 62 Stat. 726; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (2)(G), Sept. 13, 1994, 108 Stat. 2147, 2148; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 186 (May 29, 1920, ch. 212, 41 Stat. 630).

The smaller punishment for an offense involving $100 or less was inserted to conform to section 641 of this

title which represents a later expression of congressional intent.

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''$1,000'' for ''$100''.

1994—Pub. L. 103–322, § 330016(2)(G), substituted ''be fined under this title or not more than double the value of the money so embezzled, whichever is greater, or imprisoned'' for ''be fined not more than double the value of the money so embezzled or imprisoned''.

Pub. L. 103–322, § 330016(1)(H), substituted ''fined under this title'' for ''fined not more than $1,000'' after ''he shall be''.

§ 646. Court officers depositing registry moneys

Whoever, being a clerk or other officer of a court of the United States, fails to deposit promptly any money belonging in the registry of the court, or paid into court or received by the officers thereof, with the Treasurer or a designated depositary of the United States, in the name and to the credit of such court, or retains or converts to his own use or to the use of another any such money, is guilty of embezzlement and shall be fined under this title or not more than the amount embezzled, whichever is greater, or imprisoned not more than ten years, or both; but if the amount embezzled does not exceed $1,000, he shall be fined under this title or imprisoned not more than one year, or both.

This section shall not prevent the delivery of any such money upon security, according to agreement of parties, under the direction of the court.

(June 25, 1948, ch. 645, 62 Stat. 726; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (2)(H), Sept. 13, 1994, 108 Stat. 2147, 2148; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 185 (Mar. 4, 1909, ch. 321, § 99, 35 Stat. 1106; May 29, 1920, ch. 214, § 1, 41 Stat. 654).

The smaller punishment for an offense involving $100 or less was inserted for the reasons outlined in reviser's notes to sections 641 and 645 of this title.

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''$1,000'' for ''$100''.

1994—Pub. L. 103–322, § 330016(2)(H), substituted ''shall be fined under this title or not more than the amount embezzled, whichever is greater, or imprisoned'' for ''shall be fined not more than the amount embezzled, or imprisoned''.

Pub. L. 103–322, § 330016(1)(H), substituted ''fined under this title'' for ''fined not more than $1,000'' after ''he shall be''.

TRANSFER OF FUNCTIONS

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of such Department, transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. The Treasurer of the United States, referred to in this section, is an officer of Department of the Treasury.

§ 647. Receiving loan from court officer

Whoever knowingly receives, from a clerk or other officer of a court of the United States, as a deposit, loan, or otherwise, any money belonging in the registry of such court, is guilty of embezzlement, and shall be fined under this title or not more than the amount embezzled, whichever is greater, or imprisoned not more than ten years, or both; but if the amount embezzled does not exceed $1,000, he shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 727; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (2)(G), Sept. 13, 1994, 108 Stat. 2147, 2148; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 187 (Mar. 4, 1909, ch. 321, § 100, 35 Stat. 1107).

The punishment provision of section 185 of title 18, U.S.C., 1940 ed., now section 646 of this title, was substituted for the words ''punished as prescribed in section 185 of this title'' and the smaller punishment for an offense involving $100 or less was inserted. (See reviser's notes under sections 641 and 645 of this title.)

AMENDMENTS

1996—Pub. L. 104–294 substituted ''$1,000'' for ''$100''.

1994—Pub. L. 103–322, § 330016(2)(G), substituted ''shall be fined under this title or not more than the amount embezzled, whichever is greater, or imprisoned'' for ''shall be fined not more than the amount embezzled or imprisoned''.

Pub. L. 103–322, § 330016(1)(H), substituted ''fined under this title'' for ''fined not more than $1,000'' after ''he shall be''.

§ 648. Custodians, generally, misusing public funds

Whoever, being an officer or other person charged by any Act of Congress with the safe-keeping of the public moneys, loans, uses, or converts to his own use, or deposits in any bank, including any branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or exchanges for other funds, except as specially allowed by law, any portion of the public moneys intrusted to him for safe-keeping, is guilty of embezzlement of the money so loaned, used, converted, deposited, or exchanged, and shall be fined under this title or in a sum equal to the amount of money so embezzled, whichever is greater, or imprisoned not more than ten years, or both; but if the amount embezzled does not exceed $1,000, he shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 727; Pub. L. 101–647, title XXV, § 2597(d), Nov. 29, 1990, 104 Stat. 4909; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (2)(G), Sept. 13, 1994, 108 Stat. 2147, 2148; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 175 (Mar. 4, 1909, ch. 321, § 89, 35 Stat. 1105).

Mandatory punishment provision was rephrased in the alternative.

The smaller punishment for an offense involving $100 or less was inserted. (See reviser's notes under sections 641 and 645 of this title.)

Minor changes in phraseology were made.

REFERENCES IN TEXT

Section 1(b) of the International Banking Act of 1978, referred to in text, is classified to section 3101 of Title 12, Banks and Banking.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''$1,000'' for ''$100''.

1994—Pub. L. 103–322, § 330016(2)(G), substituted ''shall be fined under this title or in a sum equal to the amount of money so embezzled, whichever is greater, or imprisoned'' for ''shall be fined in a sum equal to the amount of money so embezzled or imprisoned''.

Pub. L. 103–322, § 330016(1)(H), substituted ''fined under this title'' for ''fined not more than $1,000'' after ''he shall be''.

1990—Pub. L. 101–647 inserted '', including any branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978),'' after ''or deposits in any bank''.

§ 649. Custodians failing to deposit moneys; persons affected

(a) Whoever, having money of the United States in his possession or under his control, fails to deposit it with the Treasurer or some public depositary of the United States, when required so to do by the Secretary of the Treasury or the head of any other proper department or agency or by the Government Accountability Office, is guilty of embezzlement, and shall be fined under this title or in a sum equal to the amount of money embezzled, whichever is greater, or imprisoned not more than ten years, or both; but if the amount embezzled is $1,000 or less, he shall be fined under this title or imprisoned not more than one year, or both.

(b) This section and sections 643, 648, 650 and 653 of this title shall apply to all persons charged with the safe-keeping, transfer, or disbursement of the public money, whether such persons be charged as receivers or depositaries of the same.

(June 25, 1948, ch. 645, 62 Stat. 727; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (2)(G), Sept. 13, 1994, 108 Stat. 2147, 2148; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 177, 178 (Mar. 4, 1909, ch. 321, §§ 91, 92, 35 Stat. 1105; May 29, 1920, ch. 214, § 1, 41 Stat. 654; June 10, 1921, ch. 18, § 304, 42 Stat. 24).

Sections were consolidated.

Words ''or agency'' were inserted after ''department''. See definition of ''agency'' in section 6 of this title.

Mandatory punishment provisions made in alternative.

The smaller punishment for an offense involving $100 or less was inserted. (See reviser's notes under sections 641, 645 of this title.)

Minor changes were made in phraseology.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

1996—Subsec. (a). Pub. L. 104–294 substituted ''$1,000'' for ''$100''.

1994—Subsec. (a). Pub. L. 103–322, § 330016(2)(G), substituted ''shall be fined under this title or in a sum equal to the amount of money embezzled, whichever is greater, or imprisoned'' for ''shall be fined in a sum equal to the amount of money embezzled or imprisoned''.

Pub. L. 103–322, § 330016(1)(H), substituted ''fined under this title'' for ''fined not more than $1,000'' after ''he shall be''.

TRANSFER OF FUNCTIONS

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of such Department, transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. The Treasurer of the United States, referred to in this section, is an officer of Department of the Treasury.

§ 650. Depositaries failing to safeguard deposits

If the Treasurer of the United States or any public depositary fails to keep safely all moneys deposited by any disbursing officer or disbursing agent, as well as all moneys deposited by any receiver, collector, or other person having money of the United States, he is guilty of embezzlement, and shall be fined under this title or in a sum equal to the amount of money so embezzled, whichever is greater, or imprisoned not more than ten years, or both; but if the amount embezzled does not exceed $1,000, he shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 727; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (2)(G), Sept. 13, 1994, 108 Stat. 2147, 2148; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 174, (Mar. 4, 1909, ch. 321, § 88, 35 Stat. 1105; May 29, 1920, ch. 214, § 1, 41 Stat. 654.)

Mandatory punishment provisions stated in alternative.

The smaller punishment for offenses involving $100 or less was added. (See reviser's note under sections 641, 645 of this title.)

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''$1,000'' for ''$100''.

1994—Pub. L. 103–322, § 330016(2)(G), substituted ''shall be fined under this title or in a sum equal to the amount of money so embezzled, whichever is greater, or imprisoned'' for ''shall be fined in a sum equal to the amount of money so embezzled or imprisoned''.

Pub. L. 103–322, § 330016(1)(H), substituted ''fined under this title'' for ''fined not more than $1,000'' after ''he shall be''.

TRANSFER OF FUNCTIONS

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of such Department, transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. The Treasurer of the United States, referred to in this section, is an officer of Department of the Treasury.

§ 651. Disbursing officer falsely certifying full payment

Whoever, being an officer charged with the disbursement of the public moneys, accepts, re-

ceives, or transmits to the Government Accountability Office to be allowed in his favor any receipt or voucher from a creditor of the United States without having paid the full amount specified therein to such creditor in such funds as the officer received for disbursement, or in such funds as he may be authorized by law to take in exchange, shall be fined under this title or in double the amount so withheld, whichever is greater, or imprisoned not more than two years, or both; but if the amount withheld does not exceed $1,000, he shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 727; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (2)(G), Sept. 13, 1994, 108 Stat. 2147, 2148; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 181 (Mar. 4, 1909, ch. 321, § 95, 35 Stat. 1106; June 10, 1921, ch. 18, § 304, 42 Stat. 24).

The penalty provided by section 652 of this title, a similar section, was incorporated in this section.

(For explanation of the smaller penalty for an offense involving $100 or less, see reviser's notes under sections 641 and 645 of this title.)

Minor changes were made in phraseology.

AMENDMENTS

2004—Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

1996—Pub. L. 104–294 substituted ''$1,000'' for ''$100''.

1994—Pub. L. 103–322, § 330016(2)(G), substituted ''shall be fined under this title or in double the amount so withheld, whichever is greater, or imprisoned'' for ''shall be fined in double the amount so withheld or imprisoned''.

Pub. L. 103–322, § 330016(1)(H), substituted ''fined under this title'' for ''fined not more than $1,000'' after ''he shall be''.

§ 652. Disbursing officer paying lesser in lieu of lawful amount

Whoever, being an officer, clerk, agent, employee, or other person charged with the payment of any appropriation made by Congress, pays to any clerk or other employee of the United States, or of any department or agency thereof, a sum less than that provided by law, and requires such employee to receipt or give a voucher for an amount greater than that actually paid to and received by him, is guilty of embezzlement, and shall be fined under this title or in double the amount so withheld, whichever is greater, or imprisoned not more than two years, or both; but if the amount embezzled is $1,000 or less, he shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 727; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (2)(G), Sept. 13, 1994, 108 Stat. 2147, 2148; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 172 (Mar. 4, 1909, ch. 321, § 86, 35 Stat. 1105).

Words ''or of any department or agency thereof,'' were inserted after ''United States'' so as to eliminate any possible ambiguity as to scope of section. (See definitive section 6 of this title.)

Mandatory punishment provision made in alternative.

The smaller punishment for an offense involving $100 or less was added. (See reviser's note under sections 641, 645 of this title.)

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''$1,000'' for ''$100''.

1994—Pub. L. 103–322, § 330016(2)(G), substituted ''shall be fined under this title or in double the amount so withheld, whichever is greater, or imprisoned'' for ''shall be fined in double the amount so withheld or imprisoned''.

Pub. L. 103–322, § 330016(1)(H), substituted ''fined under this title'' for ''fined not more than $1,000'' after ''he shall be''.

§ 653. Disbursing officer misusing public funds

Whoever, being a disbursing officer of the United States, or any department or agency thereof, or a person acting as such, in any manner converts to his own use, or loans with or without interest, or deposits in any place or in any manner, except as authorized by law, any public money intrusted to him; or, for any purpose not prescribed by law, withdraws from the Treasury or any authorized depositary, or transfers, or applies, any portion of the public money intrusted to him, is guilty of embezzlement of the money so converted, loaned, deposited, withdrawn, transferred, or applied, and shall be fined under this title or not more than the amount embezzled, whichever is greater, or imprisoned not more than ten years, or both; but if the amount embezzled is $1,000 or less, he shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 728; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (2)(G), Sept. 13, 1994, 108 Stat. 2147, 2148; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 173 (Mar. 4, 1909, ch. 321, § 87, 35 Stat. 1105; May 29, 1920, ch. 214, § 1, 41 Stat. 654).

Words ''or any department or agency thereof,'' were inserted after ''United States'' so as to eliminate any possible ambiguity as to scope of section. (See definitive section 6 of this title.)

The smaller punishment for an offense involving $100 or less was added. (See reviser's note under sections 641, 645 of this title.)

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''$1,000'' for ''$100''.

1994—Pub. L. 103–322, § 330016(2)(G), substituted ''shall be fined under this title or not more than the amount embezzled, whichever is greater, or imprisoned'' for ''shall be fined not more than the amount embezzled or imprisoned''.

Pub. L. 103–322, § 330016(1)(H), substituted ''fined under this title'' for ''fined not more than $1,000'' after ''he shall be''.

§ 654. Officer or employee of United States converting property of another

Whoever, being an officer or employee of the United States or of any department or agency thereof, embezzles or wrongfully converts to his own use the money or property of another which comes into his possession or under his control in

the execution of such office or employment, or under color or claim of authority as such officer or employee, shall be fined under this title or not more than the value of the money and property thus embezzled or converted, whichever is greater, or imprisoned not more than ten years, or both; but if the sum embezzled is $1,000 or less, he shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 728; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (2)(H), Sept. 13, 1994, 108 Stat. 2147, 2148; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 183 (Mar. 4, 1909, ch. 321, § 97, 35 Stat. 1106).

The phrase ''Whoever being an officer or agent of the United States or of any department or agency thereof,'' was substituted for the words ''Any officer connected with, or employed in the Internal Revenue Service of the United States * * * And any officer of the United States, or any assistant of such officer,'' in order to clarify scope of section. (See definitive section 6 and reviser's note thereunder.)

The embezzlement of Government money or property is adequately covered by section 641 of this title.

The smaller punishment for an offense involving $100 or less was added. (See reviser's notes under sections 641 and 645 of this title.)

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''$1,000'' for ''$100''.

1994—Pub. L. 103–322, § 330016(2)(H), substituted ''shall be fined under this title or not more than the value of the money and property thus embezzled or converted, whichever is greater, or imprisoned'' for ''shall be fined not more than the value of the money and property thus embezzled or converted, or imprisoned''.

Pub. L. 103–322, § 330016(1)(H), substituted ''fined under this title'' for ''fined not more than $1,000'' after ''he shall be''.

§ 655. Theft by bank examiner

Whoever, being a bank examiner or assistant examiner, steals, or unlawfully takes, or unlawfully conceals any money, note, draft, bond, or security or any other property of value in the possession of any bank or banking institution which is a member of the Federal Reserve System, which is insured by the Federal Deposit Insurance Corporation, which is a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or which is an organization operating under section 25 or section 25(a)[1] of the Federal Reserve Act, or from any safe deposit box in or adjacent to the premises of such bank, branch, agency, or organization, shall be fined under this title or imprisoned not more than five years, or both; but if the amount taken or concealed does not exceed $1,000, he shall be fined under this title or imprisoned not more than one year, or both; and shall be disqualified from holding office as a national bank examiner or Federal Deposit Insurance Corporation examiner.

This section shall apply to all public examiners and assistant examiners who examine member banks of the Federal Reserve System, banks the deposits of which are insured by the Federal Deposit Insurance Corporation, branches or agencies of foreign banks (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or organizations operating under section 25 or section 25(a)[1] of the Federal Reserve Act, whether appointed by the Comptroller of the Currency, by the Board of Governors of the Federal Reserve System, by a Federal Reserve Agent, by a Federal Reserve bank, or by the Federal Deposit Insurance Corporation, or appointed or elected under the laws of any State; but shall not apply to private examiners or assistant examiners employed only by a clearinghouse association or by the directors of a bank.

(June 25, 1948, ch. 645, 62 Stat. 728; Pub. L. 101–647, title XXV, § 2597(e), Nov. 29, 1990, 104 Stat. 4909; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511.)

HISTORICAL AND REVISION NOTES

Based on section 593 of title 12, U.S.C., 1940 ed., Banks and Banking (Dec. 23, 1913, ch. 6, § 22, 38 Stat. 272; Sept. 26, 1918, ch. 177, § 5, 40 Stat. 970; Feb. 25, 1927, ch. 191, § 15, 44 Stat. 1232; Aug. 23, 1935, ch. 614, § 326(a), 49 Stat. 715).

Other provisions of section 593 of title 12, U.S.C. 1940 ed., Banks and Banking, are incorporated in sections 217 and 218 of this title.

The words ''and shall upon conviction thereof'' were omitted as unnecessary, since punishment cannot be imposed until a conviction is secured.

The phrase ''bank or banking institution which is a member of the Federal Reserve System or which is insured by the Federal Deposit Insurance Corporation'' was substituted for ''member bank or insured bank'' to avoid the use of a definitive section based on sections 221a, 264(e)(8), and 588a of title 12, U.S.C., 1940 ed., Banks and Banking. Words ''banks the deposits of which are insured by the Federal Deposit Insurance Corporation'' were substituted for ''insured banks'' in second paragraph, for the same reason.

Punishment provision harmonized with that of section 656 of this title. (See also, reviser's notes under sections 641 and 645 of this title.)

Changes in phraseology were also made.

REFERENCES IN TEXT

Section 1(b) of the International Banking Act of 1978, referred to in text, is classified to section 3101 of Title 12, Banks and Banking.

Section 25 of the Federal Reserve Act, referred to in text, is classified to subchapter I (§ 601 et seq.) of chapter 6 of Title 12. Section 25(a) of the Federal Reserve Act, which is classified to subchapter II (§ 611 et seq.) of chapter 6 of Title 12, was renumbered section 25A of that act by Pub. L. 102–242, title I, § 142(e)(2), Dec. 19, 1991, 105 Stat. 2281.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''$1,000'' for ''$100'' in first par.

1994—Pub. L. 103–322, in first par., substituted ''fined under this title'' for ''fined not more than $5,000'' after ''organization, shall be'' and for ''fined not more than $1,000'' after ''he shall be''.

1990—Pub. L. 101–647, in first par., substituted ''System, which is insured'' for ''System or which is insured'', inserted ''which is a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or which is an organization operating under section 25 or section 25(a) of the Federal Reserve Act,''

[1] See References in Text note below.

after ''Federal Deposit Insurance Corporation,'' and ''branch, agency, or organization,'' after ''premises of such bank,'' and in second par. substituted ''System, banks the deposits of which'' for ''System or banks the deposits of which'', and inserted ''branches or agencies of foreign banks (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or organizations operating under section 25 or section 25(a) of the Federal Reserve Act,'' after ''Federal Deposit Insurance Corporation,''.

§ 656. Theft, embezzlement, or misapplication by bank officer or employee

Whoever, being an officer, director, agent or employee of, or connected in any capacity with any Federal Reserve bank, member bank, depository institution holding company, national bank, insured bank, branch or agency of a foreign bank, or organization operating under section 25 or section 25(a)[1] of the Federal Reserve Act, or a receiver of a national bank, insured bank, branch, agency, or organization or any agent or employee of the receiver, or a Federal Reserve Agent, or an agent or employee of a Federal Reserve Agent or of the Board of Governors of the Federal Reserve System, embezzles, abstracts, purloins or willfully misapplies any of the moneys, funds or credits of such bank, branch, agency, or organization or holding company or any moneys, funds, assets or securities intrusted to the custody or care of such bank, branch, agency, or organization, or holding company or to the custody or care of any such agent, officer, director, employee or receiver, shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both; but if the amount embezzled, abstracted, purloined or misapplied does not exceed $1,000, he shall be fined under this title or imprisoned not more than one year, or both.

As used in this section, the term ''national bank'' is synonymous with ''national banking association''; ''member bank'' means and includes any national bank, state bank, or bank and trust company which has become a member of one of the Federal Reserve banks; ''insured bank'' includes any bank, banking association, trust company, savings bank, or other banking institution, the deposits of which are insured by the Federal Deposit Insurance Corporation; and the term ''branch or agency of a foreign bank'' means a branch or agency described in section 20(9) of this title. For purposes of this section, the term ''depository institution holding company'' has the meaning given such term in section 3 of the Federal Deposit Insurance Act.

(June 25, 1948, ch. 645, 62 Stat. 729; Pub. L. 101–73, title IX, § 961(b), Aug. 9, 1989, 103 Stat. 499; Pub. L. 101–647, title XXV, §§ 2504(b), 2595(a)(1), 2597(f), Nov. 29, 1990, 104 Stat. 4861, 4906, 4909; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–294, title VI, §§ 601(f)(1), 606(a), Oct. 11, 1996, 110 Stat. 3499, 3511.)

Historical and Revision Notes

Based on sections 592, 597 of title 12, U.S.C., 1940 ed., Banks and Banking (R.S. 5209; Dec. 23, 1913, ch. 6, § 22(i), as added June 19, 1934, ch. 653, § 3, 48 Stat. 1107; Sept. 26, 1918, ch. 177, § 7, 40 Stat. 972; Aug. 23, 1935, ch. 614, § 316, 49 Stat. 712).

Section 592 of title 12, U.S.C., 1940 ed., Banks and Banking, was separated into three sections the first of which, embracing provisions relating to embezzlement, abstracting, purloining, or willfully misapplying moneys, funds, or credits, constitutes part of the basis for this section. Of the other two sections, one section, 334 of this title, relates only to the issuance and circulation of Federal Reserve notes and the other, section 1005 of this title, to false entries or the wrongful issue of bank obligations.

The original section, containing more than 500 words, was verbose, diffuse, redundant, and complicated. The enumeration of banks affected is repeated eight times. The revised section without changing in any way the meaning or substance of existing law, clarifies, condenses, and combines related provisions largely rewritten in matters of style.

The words ''national bank'' were substituted for ''national banking association,'' the terms being synonymous by definition of section 221 of title 12, U.S.C., 1940 ed., Banks and Banking, written into the last paragraph of this section. This change made possible the use of the term ''such bank'' in substitution for the words ''such Federal Reserve bank, member bank, or such national banking association, or insured bank,'' in each of seven instances.

The special and separate provisions of the original section relating to embezzlement by national bank receivers or Federal Reserve agents are readily combined in the revised section by including these officers in the initial enumeration of persons at whom the act is directed and by inserting the word ''purloins'' after ''embezzles, abstracts,'' and the phrase ''or any moneys, funds, assets, or securities intrusted to the custody or care,'' following the words ''of such bank''.

The last paragraph of the revised section includes the definitions of sections 221 and 264(c) of title 12, U.S.C., 1940 ed., Banks and Banking, made applicable by express provision of the original section. These were written in, with only such changes of phraseology as were necessary, in order to make the revised section complete and self-contained. For meaning of ''bank,'' as used in bank robbery statute, see section 2113 of this title.

Section 597 of title 12, U.S.C., 1940 ed., Banks and Banking, likewise was separated into two parts, one of which was combined with the embezzlement provisions of said section 592 to form this section. The other part was combined with the related provisions of said section 592 to form section 1005 of this title.

It will be noted that section 597 of title 12, U.S.C., 1940 ed., Banks and Banking, was limited to ''Whoever, being connected in any capacity with a Federal Reserve bank''; that it enumerated ''note, debenture, bond, or other obligation, or draft, mortgage, judgment, or decree''; and that it stipulated punishment by fine of not more than $10,000 or imprisonment of not more than 5 years, or both.

In combining these provisions, the words ''or connected in any capacity'' were written into the new section after the words ''employee of,'' thus making them applicable not only to Federal Reserve banks but to the other banks as well. The phrase of section 592 of title 12, U.S.C., 1940 ed., Banks and Banking, ''or who, without such authority, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment, or decree,'' was modified to include the enumeration of like obligations in section 597 of title 12, U.S.C., 1940 ed., Banks and Banking, and to read as follows: ''whoever without such authority makes, draws, issues, puts forth, or assigns any certificate of deposit, draft, order, bill of exchange, acceptance, note, debenture, bond, or other obligation or mortgage, judgment, or decree''. (See section 1005 of this title.)

As thus changed the new section is clear, simple, and unambiguous. The very slight changes of substance that have been noted, were unavoidable if the two sections were to be combined. Without combination any

[1] See References in Text note below.

constructive revision of these duplicitous and redundant provisions was impossible. It is believed that the revised sections adequately and correctly represent the intent of Congress as the same can be gathered from the overlapping and confusing enactments. At any rate, the severest criticism of the revised sections is that a person connected with a Federal Reserve bank who violates these sections can at most be punished by a fine of $5,000 or imprisonment of 5 years, or both, whereas under section 597 of title 12, U.S.C., 1940 ed., Banks and Banking, he might have been fined $10,000 or imprisoned 5 years, or both. Obviously an embezzler will rarely be financially able to pay even a $5,000 fine even where such fine is imposed. Certainly if it is an adequate fine for a national bank president it is not too disproportionate for a person ''connected in any capacity with a Federal Reserve bank''.

The smaller punishment for an offense involving $100 or less was added. (See reviser's notes under sections 641, 645 of this title.)

The words ''shall be deemed guilty of a misdemeanor'' were omitted as unnecessary in view of definitive section 1 of this title.

The words ''upon conviction thereof'' were omitted as unnecessary, since punishment cannot be imposed without conviction.

Words ''In any district court of the United States'' were omitted as unnecessary since section 3231 of this title gives the district courts jurisdiction of criminal prosecution.

SENATE REVISION AMENDMENT

Certain words were stricken from the section as being unnecessary and inconsistent with other sections of this revision defining embezzlement and without changing existing law. See Senate Report No. 1620, amendment No. 6, 80th Cong.

REFERENCES IN TEXT

Section 25 of the Federal Reserve Act, referred to in text, is classified to subchapter I (§ 601 et seq.) of chapter 6 of Title 12, Banks and Banking. Section 25(a) of the Federal Reserve Act, which is classified to subchapter II (§ 611 et seq.) of chapter 6 of Title 12, was renumbered section 25A of that act by Pub. L. 102–242, title I, § 142(e)(2), Dec. 19, 1991, 105 Stat. 2281.

Section 3 of the Federal Deposit Insurance Act, referred to in text, is classified to section 1813 of Title 12.

AMENDMENTS

1996—Pub. L. 104–294, in first par., substituted ''Federal Reserve Act,'' for ''Federal Reserve Act,,'' and ''$1,000'' for ''$100''.

1994—Pub. L. 103–322, in first par., substituted ''fined under this title'' for ''fined not more than $1,000'' after ''he shall be''.

1990—Pub. L. 101–647, § 2597(f)(1), in first par., directed substitution of ''national bank, insured bank, branch or agency of a foreign bank, or organization operating under section 25 or section 25(a) of the Federal Reserve Act,'' for ''national bank, or insured bank'' which was executed by making the substitution for ''national bank or insured bank'' to reflect the probable intent of Congress, and inserted ''insured bank, branch, agency, or organization'' after ''receiver of a national bank,'', '', branch, agency, or organization'' after ''misapplies any of the moneys, funds or credits of such bank'', and ''branch, agency, or organization'' after ''custody or care of such bank,''.

Pub. L. 101–647, § 2595(a)(1)(A), (B), in first par., inserted ''depository institution holding company,'' after ''Federal Reserve Bank, member bank,'' and ''or holding company'' after ''such bank'' in two places.

Pub. L. 101–647, § 2504(b), in first par., substituted ''30 years'' for ''20 years''.

Pub. L. 101–647, § 2597(f)(2), in second par., struck out ''and'' after ''one of the Federal Reserve Banks;'' and directed insertion of ''; and the term 'branch or agency of a foreign bank' means a branch or agency described in section 20(9) of this title'' before the period which was executed by making the insertion before the period at end of first sentence to reflect the probable intent of Congress.

Pub. L. 101–647, § 2595(a)(1)(C), in second par., inserted at end ''For purposes of this section, the term 'depository institution holding company' has the meaning given such term in section 3 of the Federal Deposit Insurance Act.''

1989—Pub. L. 101–73, in first par., substituted ''$1,000,000'' for ''$5,000'' and ''20 years'' for ''five years''.

§ 657. Lending, credit and insurance institutions

Whoever, being an officer, agent or employee of or connected in any capacity with the Federal Deposit Insurance Corporation, National Credit Union Administration, Office of Thrift Supervision, the Resolution Trust Corporation, any Federal home loan bank, the Federal Housing Finance Board, Farm Credit Administration, Department of Housing and Urban Development, Federal Crop Insurance Corporation, the Secretary of Agriculture acting through the Farmers Home Administration or successor agency, the Rural Development Administration or successor agency, or the Farm Credit System Insurance Corporation, a Farm Credit Bank, a bank for cooperatives or any lending, mortgage, insurance, credit or savings and loan corporation or association authorized or acting under the laws of the United States or any institution, other than an insured bank (as defined in section 656), the accounts of which are insured by the Federal Deposit Insurance Corporation, or by the National Credit Union Administration Board or any small business investment company, or any community development financial institution receiving financial assistance under the Riegle Community Development and Regulatory Improvement Act of 1994, and whoever, being a receiver of any such institution, or agent or employee of the receiver, embezzles, abstracts, purloins or willfully misapplies any moneys, funds, credits, securities or other things of value belonging to such institution, or pledged or otherwise intrusted to its care, shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both; but if the amount or value embezzled, abstracted, purloined or misapplied does not exceed $1,000, he shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 729; May 24, 1949, ch. 139, § 11, 63 Stat. 90; July 28, 1956, ch. 773, § 1, 70 Stat. 714; Pub. L. 85–699, title VII, § 703, Aug. 21, 1958, 72 Stat. 698; Pub. L. 87–353, § 3(q), Oct. 4, 1961, 75 Stat. 774; Pub. L. 90–19, § 24(a), May 25, 1967, 81 Stat. 27; Pub. L. 91–468, § 4, Oct. 19, 1970, 84 Stat. 1016; Pub. L. 101–73, title IX, §§ 961(c), 962(a)(7), (8)(A), Aug. 9, 1989, 103 Stat. 499, 502; Pub. L. 101–624, title XXIII, § 2303(e), Nov. 28, 1990, 104 Stat. 3981; Pub. L. 101–647, title XVI, § 1603, title XXV, §§ 2504(c), 2595(a)(2), Nov. 29, 1990, 104 Stat. 4843, 4861, 4907; Pub. L. 103–322, title XXXIII, §§ 330004(6), 330016(1)(H), Sept. 13, 1994, 108 Stat. 2141, 2147; Pub. L. 103–325, title I, § 119(c), Sept. 23, 1994, 108 Stat. 2188; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511; Pub. L. 106–78, title VII, § 767, Oct. 22, 1999, 113 Stat. 1174.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on sections 1026(b) and 1514(c) of title 7, U.S.C., 1940 ed., Agriculture, and sections 264(u), 984, 1121, 1138d(c), 1311, 1441(c), 1467(c), and 1731(c) of title 12, U.S.C., 1940 ed., Banks and Banking, and section 616(c) of title 15, U.S.C., 1940 ed., Commerce and Trade (Dec. 23, 1913, ch. 6, §12B(u), as added June 16, 1933, ch. 89, §8, 48 Stat. 178; July 17, 1916, ch. 245, §31, fourth paragraph, 39 Stat. 382; July 17, 1916, ch. 245, §211(a), as added Mar. 4, 1923, ch. 252, §2, 42 Stat. 1459; Mar. 4, 1923, ch. 252, title II, §216(a), 42 Stat. 1471; Jan. 22, 1932, ch. 8, §16(c), 47 Stat. 11; July 22, 1932, ch. 522, §21(c), 47 Stat. 738; Mar. 27, 1933, Ex. Ord. No. 6084; June 13, 1933, ch. 64, §8(c), 48 Stat. 135; June 16, 1933, ch. 98, §64(c), 48 Stat. 268; Jan. 31, 1934, ch. 7, §13, 48 Stat. 347; June 27, 1934, ch. 847, §512(c), 48 Stat. 1265; Aug. 23, 1935, ch. 614, §101, 49 Stat. 701; July 22, 1937, ch. 517, title IV, §52(b), 50 Stat. 532; Feb. 16, 1938, ch. 30, title V, §514(c), 52 Stat. 76; Aug. 14, 1946, ch. 964, §3, 60 Stat. 1064).

Each of the eleven sections from which this section was derived contained similar provisions relating to embezzlement, false entries, and fraudulent issuance or assignment of obligations with respect to one or more named agencies or corporations.

These were separated and the embezzlement and misapplication provisions of all form the basis of this section, and with one exception the remaining provisions of each section forming the basis for section 1006 of this title. The sole exception was that portion of said section 616(c) of title 15 as to the disclosure of information which now forms section 1904 of this title.

The revised section condenses and simplifies the constituent provisions without change of substance except as in this note indicated.

The punishment in each section was the same except that in section 1026(b) of title 7, U.S.C., 1940 ed., Agriculture, and sections 984, 1121, and 1311 of title 12, U.S.C., 1940 ed., Banks and Banking, the maximum fine was $5,000. The revised section adopts the $5,000 maximum. (For same penalty covering similar offense, see section 656 of this title.)

The smaller punishment for an offense involving $100 or less was added. (See reviser's notes to sections 641–645 of this title.)

The enumeration of ''moneys, funds, credits, securities, or other things of value'' does not occur in any one of the original sections but is an adequate, composite enumeration of the instruments mentioned in each.

References to persons aiding and abetting contained in sections 984, 1121, 1311 of title 12, U.S.C., 1940 ed., Banks and Banking, were omitted as unnecessary, such persons being made principals by section 2 of this title.

The term ''receiver'' is used in sections 1121 and 1311 of title 12, U.S.C., 1940 ed., Banks and Banking, with reference to Federal intermediate banks and agricultural credit corporations, and is undoubtedly embraced in the term ''connected in any capacity with,'' but the phrase ''and whoever, being a receiver of any such institution'' was inserted in this section to obviate all doubt as to its comprehensive scope.

The suggestion has been made that ''private examiners'' should be included. These undoubtedly are covered by the words ''connected in any capacity with.'' (See also section 655 of this title.)

The term ''or any department or agency of the United States'' was inserted in each revised section in order to clarify the sweeping provisions against fraudulent acts and to obviate any possibility of ambiguity by reason of the omission of specific agencies named in the constituent sections. (See section 6 of this title defining ''department and agency.'' For other verbal changes and deletions see reviser's note under section 656 of this title.)

SENATE REVISION AMENDMENT

Certain words were stricken from the section as being unnecessary and inconsistent with other sections of this revision defining embezzlement and without changing existing law. See Senate Report No. 1620, amendment No. 7, 80th Cong.

1949 ACT

[Section 11] conforms section 657 of title 18, U.S.C., to administrative practice which in turn was modified to comply with congressional policy ''not to use the Farmers Home Corporation to carry out the functions and duties provided for in H.R. 5991 [Farmers Home Administration Act of 1946] but to vest the authority in the Secretary of Agriculture to be administered through the Farmers Home Administration as an agency of the Department of Agriculture'' (H. Rept. No. 2683, to accompany H.R. 5991, 79th Cong., 2d sess.).

REFERENCES IN TEXT

The Riegle Community Development and Regulatory Improvement Act of 1994, referred to in text, is Pub. L. 103–325, Sept. 23, 1994, 108 Stat. 2160. For complete classification of this Act to the Code, see Short Title note set out under section 4701 of Title 12, Banks and Banking, and Tables.

AMENDMENTS

1999—Pub. L. 106–78 inserted ''or successor agency'' after ''Farmers Home Administration'' and after ''Rural Development Administration''.

1996—Pub. L. 104–294 substituted ''$1,000'' for ''$100''.

1994—Pub. L. 103–325 inserted ''or any community development financial institution receiving financial assistance under the Riegle Community Development and Regulatory Improvement Act of 1994,'' after ''small business investment company,''.

Pub. L. 103–322 struck out ''Reconstruction Finance Corporation,'' before ''Federal Deposit Insurance Corporation'' and ''Farmers' Home Corporation,'' before ''the Secretary of Agriculture'', and substituted ''under this title'' for ''not more than $1,000'' before ''or imprisoned not more than one year, or both''.

1990—Pub. L. 101–647, §2595(a)(2), substituted ''Office of Thrift Supervision, the Resolution Trust Corporation, any Federal home loan bank, the Federal Housing Finance Board,'' for ''Home Owners' Loan Corporation,'', and directed substitution of ''institution, other than an insured bank (as defined in section 656), the accounts of which are insured by the Federal Deposit Insurance Corporation'' for ''institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation'' which was executed by making the substitution for ''institution the accounts of which are insured by the Federal Deposit Insurance Corporation'' to reflect the probable intent of Congress and the intervening amendment by Pub. L. 101–647, §1603, see below.

Pub. L. 101–647, §2504(c), substituted ''30'' for ''20'' before ''years''.

Pub. L. 101–647, §1603, substituted ''the Federal Deposit Insurance Corporation'' for ''the Federal Savings and Loan Insurance Corporation''.

Pub. L. 101–624 substituted ''Farmers Home Administration, the Rural Development Administration'' for ''Farmers' Home Administration''.

1989—Pub. L. 101–73, §962(a)(8)(A), substituted ''the Farm Credit System Insurance Corporation, a Farm Credit Bank, a'' for ''any land bank, intermediate credit bank,''.

Pub. L. 101–73, §962(a)(7), substituted ''National Credit Union Administration Board'' for ''Administrator of the National Credit Union Administration''.

Pub. L. 101–73, §961(c), substituted ''$1,000,000'' for ''$5,000'' and ''20 years'' for ''five years''.

1970—Pub. L. 91–468 inserted reference to National Credit Union Administration and its Administrator.

1967—Pub. L. 90–19 substituted ''Department of Housing and Urban Development'' for ''Federal Housing Administration''.

1961—Pub. L. 87–353 struck out reference to Federal Farm Mortgage Corporation.

1958—Pub. L. 85–699 inserted reference to any small business investment company.

1956—Act July 28, 1956, inserted reference to any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

1949—Act May 24, 1949, inserted reference to Secretary of Agriculture acting through the Farmers' Home Administration.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of corporations of Department of Agriculture; boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

NATIONAL CREDIT UNION ADMINISTRATION

Establishment as independent agency, membership etc., see section 1752 et seq. of Title 12, Banks and Banking.

FARM CREDIT ADMINISTRATION

Establishment of Farm Credit Administration as independent agency, and other changes in status, functions, etc., see Ex. Ord. No. 6084 set out preceding section 2241 of Title 12, Banks and Banking. See also section 2001 et seq. of Title 12.

§ 658. Property mortgaged or pledged to farm credit agencies

Whoever, with intent to defraud, knowingly conceals, removes, disposes of, or converts to his own use or to that of another, any property mortgaged or pledged to, or held by, the Farm Credit Administration, any Federal intermediate credit bank, or the Federal Crop Insurance Corporation, the Secretary of Agriculture acting through the Farmers Home Administration or successor agency, the Rural Development Administration or successor agency, any production credit association organized under sections 1131–1134m of Title 12, any regional agricultural credit corporation, or any bank for cooperatives, shall be fined under this title or imprisoned not more than five years, or both; but if the value of such property does not exceed $1,000, he shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 729; May 24, 1949, ch. 139, § 12, 63 Stat. 91; Oct. 31, 1951, ch. 655, § 21, 65 Stat. 718; July 26, 1956, ch. 741, title I, § 109, 70 Stat. 667; Pub. L. 87–353, § 3(r), Oct. 4, 1961, 75 Stat. 774; Pub. L. 101–624, title XXIII, § 2303(e), Nov. 28, 1990, 104 Stat. 3981; Pub. L. 103–322, title XXXIII, §§ 330004(7), 330016(1)(H), (K), Sept. 13, 1994, 108 Stat. 2141, 2147; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511; Pub. L. 106–78, title VII, § 767, Oct. 22, 1999, 113 Stat. 1174.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on sections 1026(c) and 1514(d) of title 7, U.S.C., 1940 ed., Agriculture, and section 1138d(d) of title 12, U.S.C., 1940 ed., Banks and Banking (June 16, 1933, ch. 98, § 64, 48 Stat. 269; Jan. 31, 1934, ch. 7, § 13, 48 Stat. 347; July 22, 1937, ch. 517, title IV, § 52(c), 50 Stat. 532; Feb. 16, 1938, ch. 30, title V, § 514(d), 52 Stat. 76; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064).

To avoid reference to another section the words ''the Farm Credit Administration, any Federal intermediate credit bank, the Federal Farm Mortgage Corporation, Federal Crop Insurance Corporation, Farmers' Home Corporation, or any production credit corporation or corporation in which a production credit corporation holds stock, any regional agricultural credit corporation, or any bank for cooperatives'' were substituted for the words ''or any corporation referred to in subsection (a) of this section.''

The punishment provision was completely rewritten. The $2,000 fine of section 1026(c) of title 7, U.S.C., 1940 ed., and the 2-year penalty of that section, section 1514(d) of title 7, U.S.C., 1940 ed., and section 1138(d) of title 12, U.S.C., 1940 ed., were incongruous in juxtaposition with other sections of this chapter and were therefore increased to $5,000 and 5 years. (See sections 656 and 657 of this title.)

The smaller punishment for an offense involving $100 or less was added. (See reviser's notes under sections 641 and 645 of this title.)

Minor changes were made in phraseology.

1949 ACT

[Section 12] conforms section 658 of title 18 U.S.C., to administrative practice which in turn was modified to comply with congressional policy. (See note to sec. 11 [of 1949 Act, set out in Legislative History note under section 657 of title 18]).

REFERENCES IN TEXT

Section 1131 of Title 12, included within the reference to sections 1131 to 1134m of Title 12, was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 648.

Sections 1131a, 1131c to 1131g, 1131g–2 to 1131i, 1134 to 1134m of Title 12, included within the reference to sections 1131 to 1134m of Title 12, were repealed by Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624.

Sections 1131a–1 and 1131j of Title 12, included within the reference to sections 1131 to 1134m of Title 12, are omitted from the Code. Section 1131a–1 of Title 12, was from the Department of Agriculture and Farm Credit Administration Appropriation Act, 1957, and was not repeated in subsequent appropriation acts. Section 1131j was covered by former section 1131g–2 of Title 12, prior to its repeal by Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624.

Sections 1131b and 1131g–1 of Title 12, included within the reference to sections 1131 to 1134m of Title 12, were repealed by act July 26, 1956, ch. 741, title 1, § 105(c), (q), 70 Stat. 665, 666.

AMENDMENTS

1999—Pub. L. 106–78 inserted ''or successor agency'' after ''Farmers Home Administration'' and after ''Rural Development Administration''.

1996—Pub. L. 104–294 substituted ''$1,000'' for ''$100''.

1994—Pub. L. 103–322, § 330016(1)(H), (K), substituted ''fined under this title'' for ''fined not more than $5,000'' after ''cooperatives, shall be'' and for ''fined not more than $1,000'' after ''he shall be''.

Pub. L. 103–322, § 330004(7), struck out ''Farmers' Home Corporation,'' after ''Crop Insurance Corporation,''.

1990—Pub. L. 101–624 substituted ''Farmers Home Administration, the Rural Development Administration'' for ''Farmers' Home Administration''.

1961—Pub. L. 87–353 struck out reference to the Federal Farm Mortgage Corporation.

1956—Act July 26, 1956, struck out property of any production credit association in which a Production Credit Corporation holds stock.

1951—Act Oct. 31, 1951, covered all production credit associations instead of only those in which a Production Credit Corporation holds stock.

1949—Act May 24, 1949, made section applicable to the Secretary of Agriculture acting through the Farmers' Home Administration.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act July 26, 1956, effective January 1, 1957, see section 202(a) of act July 26, 1956.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture; boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

FARM CREDIT ADMINISTRATION

Establishment of Farm Credit Administration as independent agency, and other changes in status, functions, etc., see Ex. Ord. No. 6084 set out preceding section 2241 of Title 12, Banks and Banking. See also section 2001 et seq. of Title 12.

§ 659. Interstate or foreign shipments by carrier; State prosecutions

Whoever embezzles, steals, or unlawfully takes, carries away, or conceals, or by fraud or deception obtains from any pipeline system, railroad car, wagon, motortruck, or other vehicle, or from any tank or storage facility, station, station house, platform or depot or from any steamboat, vessel, or wharf, or from any aircraft, air terminal, airport, aircraft terminal or air navigation facility with intent to convert to his own use any goods or chattels moving as or which are a part of or which constitute an interstate or foreign shipment of freight, express, or other property; or

Whoever buys or receives or has in his possession any such goods or chattels, knowing the same to have been embezzled or stolen; or

Whoever embezzles, steals, or unlawfully takes, carries away, or by fraud or deception obtains with intent to convert to his own use any baggage which shall have come into the possession of any common carrier for transportation in interstate or foreign commerce or breaks into, steals, takes, carries away, or conceals any of the contents of such baggage, or buys, receives, or has in his possession any such baggage or any article therefrom of whatever nature, knowing the same to have been embezzled or stolen; or

Whoever embezzles, steals, or unlawfully takes by any fraudulent device, scheme, or game, from any railroad car, bus, vehicle, steamboat, vessel, or aircraft operated by any common carrier moving in interstate or foreign commerce or from any passenger thereon any money, baggage, goods, or chattels, or whoever buys, receives, or has in his possession any such money, baggage, goods, or chattels, knowing the same to have been embezzled or stolen—

Shall in each case be fined under this title or imprisoned not more than ten years, or both; but if the amount or value of such money, baggage, goods or chattels does not exceed $1,000, he shall be fined under this title or imprisoned not more than one year, or both.

The offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any district in which the defendant may have taken or been in possession of the said money, baggage, goods, or chattels.

The carrying or transporting of any such money, freight, express, baggage, goods, or chattels in interstate or foreign commerce, knowing the same to have been stolen, shall constitute a separate offense and subject the offender to the penalties under this section for unlawful taking, and the offense shall be deemed to have been committed in any district into which such money, freight, express, baggage, goods, or chattels shall have been removed or into which the same shall have been brought by such offender.

To establish the interstate or foreign commerce character of any shipment in any prosecution under this section the waybill or other shipping document of such shipment shall be prima facie evidence of the place from which and to which such shipment was made. The removal of property from a pipeline system which extends interstate shall be prima facie evidence of the interstate character of the shipment of the property.

A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution under this section for the same act or acts. Nothing contained in this section shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this section operate to the exclusion of State laws on the same subject matter, nor shall any provision of this section be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this section or any provision thereof.

(June 25, 1948, ch. 645, 62 Stat. 729; May 24, 1949, ch. 139, § 13, 63 Stat. 91; Pub. L. 89–654, § 1(a)–(d), Oct. 14, 1966, 80 Stat. 904; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., §§ 409, 410, 411 (Feb. 13, 1913, ch. 50, §§ 1, 2, 37 Stat. 670; Feb. 13, 1913, ch. 50, § 3, as added Jan. 28, 1925, ch. 102, 43 Stat. 794; Jan. 28, 1925, ch. 102, 43 Stat. 793, 794; Jan. 21, 1933, ch. 16, 47 Stat. 773, 774; July 24, 1946, ch. 606, 60 Stat. 656.)

This section consolidates sections 409, 410, and 411 of title 18, U.S.C., 1940 ed. First clause of said section 409 was incorporated in section 2117 of this title.

In the paragraph immediately preceding the last paragraph the words "and to which" were added to obviate an inadvertent and incongruous omission in the enactment of act July 24, 1946, ch. 606, § 3, 60 Stat. 657. This is in harmony with corrective legislation pending before the Eightieth Congress.

The definitions of "station house", "depot", "wagon", "automobile", "truck", or "other vehicle", contained in said section 409 of title 18, are omitted as unnecessary.

The smaller punishment for an offense involving $100 or less was added. (See reviser's notes under sections 641 and 645 of this title.) This improvement was suggested by United States Attorney P. F. Herrick, of Puerto Rico. (See reviser's note under section 641 of this title.)

Minor changes were made in phraseology.

1949 ACT

This section [section 13] inserts the word, "embezzled" preceding "or stolen" near the ends of the second and fourth paragraphs of section 659 of title 18, U.S.C., to restore the language of the original law from which such section was derived. Also, for clarity, substitutes, "whoever" for "who" preceding "buys" in said fourth paragraph of section 659.

SENATE REVISION AMENDMENT

The ''corrective legislation'', referred to in this paragraph, became Act April 16, 1947, ch. 39, 61 Stat. 52, and, as it amended section 411 of title 18, U.S.C., such act was an additional source of this section.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''$1,000'' for ''$100'' in fifth par.

1994—Pub. L. 103–322, in fifth par., substituted ''fined under this title'' for ''fined not more than $5,000'' after ''Shall in each case be'' and for ''fined not more than $1,000'' after ''he shall be''.

1966—Pub. L. 89–654 substituted ''shipments by carrier'' for ''baggage, express, or freight'' in section catchline, inserted ''pipeline system'' and ''tank or storage facility'' and substituted ''freight, express, or other property'' for ''freight or express'' in par. 1, provided in par. 8 that the removal of property from a pipeline system which extends interstate shall be prima facie evidence of the interstate character of the shipment of the property, and, in par. 9, prohibited any construction which indicated an intent on the part of Congress to occupy the field to the exclusion of State laws or to invalidate inconsistent State provisions.

1949—Act May 24, 1949, inserted ''embezzled or'' before ''stolen'' in second par., and substituted ''whoever'' for ''who'' before ''buys'' in fourth par.

§ 660. Carrier's funds derived from commerce; State prosecutions

Whoever, being a president, director, officer, or manager of any firm, association, or corporation engaged in commerce as a common carrier, or whoever, being an employee of such common carrier riding in or upon any railroad car, motortruck, steamboat, vessel, aircraft or other vehicle of such carrier moving in interstate commerce, embezzles, steals, abstracts, or willfully misapplies, or willfully permits to be misapplied, any of the moneys, funds, credits, securities, property, or assets of such firm, association, or corporation arising or accruing from, or used in, such commerce, in whole or in part, or willfully or knowingly converts the same to his own use or to the use of another, shall be fined under this title or imprisoned not more than ten years, or both.

The offense shall be deemed to have been committed not only in the district where the violation first occurred but also in any district in which the defendant may have taken or had possession of such moneys, funds, credits, securities, property or assets.

A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution hereunder for the same act or acts.

(June 25, 1948, ch. 645, 62 Stat. 730; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 409, 412 (Feb. 13, 1913, ch. 50, § 1, 37 Stat. 670; Oct. 15, 1914, ch. 323, § 9, 38 Stat. 733; Jan. 28, 1925, ch. 102, 43 Stat. 793; Jan. 21, 1933, ch. 16, 47 Stat. 773; July 24, 1946, ch. 606, 60 Stat. 656).

Section consolidates a portion of section 409 with section 412, both of title 18, U.S.C., 1940 ed. Other provisions of said section 409 are incorporated in sections 659 and 2117 of this title.

Definitive language in section 412 of title 18, U.S.C., 1940 ed., as to offense being a felony was deleted to conform with section 1 of this title. (See reviser's note under section 550 of this title.)

Words ''imprisoned'' was substituted for ''confined in the penitentiary'' in section 412 of title 18, U.S.C., 1940 ed., in view of power of Attorney General under section 4082 of this title.

Minimum punishment provision ''less than one year nor'' in section 412 of title 18, U.S.C., 1940 ed., was omitted for reasons in reviser's note under section 203 of this title.

Maximum fine of $5,000 was substituted for minimum fine of $500 in section 412 of title 18, U.S.C., 1940 ed., as being more consonant with the scheme of penalties and offenses provided by Congress for most sections in this chapter.

Sentence in section 412 of title 18, U.S.C., 1940 ed., ''Nothing in this section shall be held to take away or impair the jurisdiction of the several courts under the laws thereof;'', was omitted in view of section 3231 of this title.

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in first par.

§ 661. Within special maritime and territorial jurisdiction

Whoever, within the special maritime and territorial jurisdiction of the United States, takes and carries away, with intent to steal or purloin, any personal property of another shall be punished as follows:

If the property taken is of a value exceeding $1,000, or is taken from the person of another, by a fine under this title, or imprisonment for not more than five years, or both; in all other cases, by a fine under this title or by imprisonment not more than one year, or both.

If the property stolen consists of any evidence of debt, or other written instrument, the amount of money due thereon, or secured to be paid thereby and remaining unsatisfied, or which in any contingency might be collected thereon, or the value of the property the title to which is shown thereby, or the sum which might be recovered in the absence thereof, shall be the value of the property stolen.

(June 25, 1948, ch. 645, 62 Stat. 731; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–294, title VI, §§ 601(a)(3), 606(a), Oct. 11, 1996, 110 Stat. 3498, 3511.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 466 (Mar. 4, 1909, ch. 321, § 287, 35 Stat. 1144).

Words ''within the special maritime and territorial jurisdiction of the United States'' were inserted to conform with section 7 of this title. (See reviser's note under that section.)

The maximum fine and imprisonment provisions were modified and ''five years'' and ''$5,000'' substituted for ''ten years'' and ''$10,000'' and the sum of $100 was substituted for $50 as more in accord with other sections of this chapter. (See section 641 of this title.)

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294, in second par., substituted ''$1,000'' for ''$100'' and substituted ''fine under this title'' for ''fine of under this title'' in two places.

1994—Pub. L. 103–322, in second par., substituted ''under this title'' for ''not more than $5,000'' after ''another, by a fine of'' and for ''not more than $1,000'' after ''cases, by a fine of''.

§ 662. Receiving stolen property within special maritime and territorial jurisdiction

Whoever, within the special maritime and territorial jurisdiction of the United States, buys, receives, or conceals any money, goods, bank notes, or other thing which may be the subject of larceny, which has been feloniously taken, stolen, or embezzled, from any other person, knowing the same to have been so taken, stolen, or embezzled, shall be fined under this title or imprisoned not more than three years, or both; but if the amount or value of thing so taken, stolen or embezzled does not exceed $1,000, he shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 731; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 467 (Mar. 4, 1909, ch. 321, § 288, 35 Stat. 1145).

Same language was inserted as in section 661 of this title for the same reason.

Mandatory punishment provision was rephrased in the alternative.

The smaller punishment for an offense involving $100 or less was added. (See reviser's notes under sections 641 and 645 of this title.)

This accords with the recommendation of United States Attorney P. F. Herrick of Puerto Rico.

Language as to order of trial was omitted and incorporated in section 3435 of this title.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''$1,000'' for ''$100''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000'' in two places.

§ 663. Solicitation or use of gifts

Whoever solicits any gift of money or other property, and represents that such gift is being solicited for the use of the United States, with the intention of embezzling, stealing, or purloining such gift, or converting the same to any other use or purpose, or whoever, having come into possession of any money or property which has been donated by the owner thereof for the use of the United States, embezzles, steals or purloins such money or property, or converts the same to any other use or purpose, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 731; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 641e of title 50, App. U.S.C., 1940 ed., War and National Defense (Mar. 27, 1942, 3 p. m., E. W. T., c. 199, Title XI, § 1106, 56 Stat. 184).

This section was taken from the Second War Powers Act of 1942, which was temporary legislation. However, the subject matter was so independent of the war effort as to warrant its inclusion in this title as a permanent provision.

Words ''shall be guilty of a felony'' were omitted. See Reviser's Note under section 550 of this title.

Words ''and upon conviction thereof'' were omitted as unnecessary since punishment cannot be imposed until a conviction is secured.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 664. Theft or embezzlement from employee benefit plan

Any person who embezzles, steals, or unlawfully and willfully abstracts or converts to his own use or to the use of another, any of the moneys, funds, securities, premiums, credits, property, or other assets of any employee welfare benefit plan or employee pension benefit plan, or of any fund connected therewith, shall be fined under this title, or imprisoned not more than five years, or both.

As used in this section, the term ''any employee welfare benefit plan or employee pension benefit plan'' means any employee benefit plan subject to any provision of title I of the Employee Retirement Income Security Act of 1974.

(Added Pub. L. 87–420, § 17(a), Mar. 20, 1962, 76 Stat. 41; amended Pub. L. 93–406, title I, § 111(a)(2)(A), Sept. 2, 1974, 88 Stat. 851; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

REFERENCES IN TEXT

The Employee Retirement Income Security Act of 1974, referred to in text, is Pub. L. 93–406, Sept. 2, 1974, 88 Stat. 829, as amended. Title I of the Employee Retirement Income Security Act of 1974 is classified generally to subchapter I (§ 1001 et seq.) of chapter 18 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

1974—Pub. L. 93–406 substituted ''any employee benefit plan subject to any provision of title I of the Employee Retirement Income Security Act of 1974'' for ''any such plan subject to the provisions of the Welfare and Pension Plans Disclosure Act''.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 effective Jan. 1, 1975, except as provided in section 1031(b)(2) of Title 29, Labor, see section 1031(b)(1) of Title 29.

EFFECTIVE DATE

Section 19 of Pub. L. 87–420 provided that: ''The amendments made by this Act [see Short Title note below] shall take effect ninety days after the enactment of this Act [Mar. 20, 1962], except that section 13 of the Welfare and Pension Plans Disclosure Act [section 308d of Title 29, Labor] shall take effect one hundred eighty days after such date of enactment.''

SHORT TITLE

Section 1 of Pub. L. 87–420 provided: ''That this Act [enacting this section, sections 1027 and 1954 of this title, and sections 308a to 308f of Title 29, Labor, amending sections 302 to 308 and 309 of Title 29, and renumbering sections 10 to 12 of Pub. L. 85–536, classified to section 309 of Title 29 and as notes under section 301 of Title 29], may be cited as the 'Welfare and Pension Plans Disclosure Act Amendments of 1962'.''

§ 665. Theft or embezzlement from employment and training funds; improper inducement; obstruction of investigations

(a) Whoever, being an officer, director, agent, or employee of, or connected in any capacity

with any agency or organization receiving financial assistance or any funds under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 knowingly enrolls an ineligible participant, embezzles, willfully misapplies, steals, or obtains by fraud any of the moneys, funds, assets, or property which are the subject of a financial assistance agreement or contract pursuant to such Act shall be fined under this title or imprisoned for not more than 2 years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $1,000, such person shall be fined under this title or imprisoned not more than 1 year, or both.

(b) Whoever, by threat or procuring dismissal of any person from employment or of refusal to employ or refusal to renew a contract of employment in connection with a financial assistance agreement or contract under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 induces any person to give up any money or thing of any value to any person (including such organization or agency receiving funds) shall be fined under this title, or imprisoned not more than 1 year, or both.

(c) Whoever willfully obstructs or impedes or willfully endeavors to obstruct or impede, an investigation or inquiry under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998, or the regulations thereunder, shall be punished by a fine under this title, or by imprisonment for not more than 1 year, or by both such fine and imprisonment.

(Added Pub. L. 93–203, title VII, § 711(a), formerly title VI, § 611(a), Dec. 28, 1973, 87 Stat. 881; renumbered title VII, § 711(a), Pub. L. 93–567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845; amended Pub. L. 95–524, § 3(a), Oct. 27, 1978, 92 Stat. 2017; Pub. L. 97–300, title I, § 182, Oct. 13, 1982, 96 Stat. 1357; Pub. L. 101–647, title XXXV, § 3517, Nov. 29, 1990, 104 Stat. 4923; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (L), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 405(d)(13)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–421; Pub. L. 107–273, div. B, title IV, § 4002(d)(1)(B), Nov. 2, 2002, 116 Stat. 1809.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in text, is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which was classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor, prior to repeal by Pub. L. 105–220, title I, § 199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. For complete classification of this Act to the Code, see Tables.

The Workforce Investment Act of 1998, referred to in text, is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§ 2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

CODIFICATION

Section 711(a) of Pub. L. 93–203, cited as a credit to this section, was omitted in the general revision of Pub. L. 93–203 by Pub. L. 95–524.

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–273 substituted ''a fine under this title'' for ''a fine of not more than $5,000''.

1998—Subsecs. (a) to (c). Pub. L. 105–277 substituted ''the Job Training Partnership Act or title I of the Workforce Investment Act of 1998'' for ''the Comprehensive Employment and Training Act or the Job Training Partnership Act''.

1996—Subsec. (a). Pub. L. 104–294 substituted ''$1,000'' for ''$100''.

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' after ''such Act shall be'' and for ''fined not more than $1,000'' after ''person shall be''.

Subsec. (b). Pub. L. 103–322, § 330016(1)(H), substituted ''fined under this title'' for ''fined not more than $1,000''.

1990—Pub. L. 101–647 substituted semicolons for colons in section catchline and ''Whoever'' for ''Any person whoever'' in subsec. (c).

1982—Subsec. (a). Pub. L. 97–300 inserted ''or organization'' after ''any agency'', ''or any funds'' after ''financial assistance'', ''or Job Training Partnership Act'' after ''Comprehensive Employment and Training Act'', substituted ''participant'' for ''individual or individuals'', and ''financial assistance agreement or contract'' for ''grant or contract of assistance''.

Subsec. (b). Pub. L. 97–300 substituted ''financial assistance agreement or contract'' for ''grant or contract of assistance'', inserted ''or the Job Training Partnership Act'' after ''Comprehensive Employment and Training Act'', substituted ''any person'' for ''any persons'' after ''induces'', and substituted ''organization or agency receiving funds'' for ''grantee agency''.

Subsec. (c). Pub. L. 97–300 inserted ''willfully'' before ''endeavors to obstruct'', and ''or the Job Training Partnership Act'' after ''Comprehensive Employment and Training Act''.

1978—Pub. L. 95–524 substituted ''employment and training funds:'' for ''manpower funds;'' and inserted '': obstruction of investigations'' after ''improper inducement'' in section catchline.

Subsec. (a). Pub. L. 95–524 substituted ''Comprehensive Employment and Training Act knowingly hires an ineligible individual or individuals,'' for ''Comprehensive Employment and Training Act of 1973''.

Subsec. (b). Pub. L. 95–524 substituted ''Comprehensive Employment and Training Act'' for ''Comprehensive Employment and Training Act of 1973''.

Subsec. (c). Pub. L. 95–524 added subsec. (c).

§ 666. Theft or bribery concerning programs receiving Federal funds

(a) Whoever, if the circumstance described in subsection (b) of this section exists—

(1) being an agent of an organization, or of a State, local, or Indian tribal government, or any agency thereof—

(A) embezzles, steals, obtains by fraud, or otherwise without authority knowingly converts to the use of any person other than the rightful owner or intentionally misapplies, property that—

(i) is valued at $5,000 or more, and

(ii) is owned by, or is under the care, custody, or control of such organization, government, or agency; or

(B) corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions of such organization, government, or agency involving any thing of value of $5,000 or more; or

(2) corruptly gives, offers, or agrees to give anything of value to any person, with intent to influence or reward an agent of an organiza-

tion or of a State, local or Indian tribal government, or any agency thereof, in connection with any business, transaction, or series of transactions of such organization, government, or agency involving anything of value of $5,000 or more;

shall be fined under this title, imprisoned not more than 10 years, or both.

(b) The circumstance referred to in subsection (a) of this section is that the organization, government, or agency receives, in any one year period, benefits in excess of $10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of Federal assistance.

(c) This section does not apply to bona fide salary, wages, fees, or other compensation paid, or expenses paid or reimbursed, in the usual course of business.

(d) As used in this section—

(1) the term ''agent'' means a person authorized to act on behalf of another person or a government and, in the case of an organization or government, includes a servant or employee, and a partner, director, officer, manager, and representative;

(2) the term ''government agency'' means a subdivision of the executive, legislative, judicial, or other branch of government, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established, and subject to control, by a government or governments for the execution of a governmental or intergovernmental program;

(3) the term ''local'' means of or pertaining to a political subdivision within a State;

(4) the term ''State'' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

(5) the term ''in any one-year period'' means a continuous period that commences no earlier than twelve months before the commission of the offense or that ends no later than twelve months after the commission of the offense. Such period may include time both before and after the commission of the offense.

(Added Pub. L. 98–473, title II, § 1104(a), Oct. 12, 1984, 98 Stat. 2143; amended Pub. L. 99–646, § 59(a), Nov. 10, 1986, 100 Stat. 3612; Pub. L. 101–647, title XII, §§ 1205(d), 1209, Nov. 29, 1990, 104 Stat. 4831, 4832; Pub. L. 103–322, title XXXIII, § 330003(c), Sept. 13, 1994, 108 Stat. 2140.)

AMENDMENTS

1994—Subsec. (d)(3) to (5). Pub. L. 103–322 struck out ''and'' at end of par. (3), substituted ''; and'' for the period at end of par. (4), and redesignated second par. (4) defining ''in any one-year period'' as (5).

1990—Subsec. (d)(4). Pub. L. 101–647, § 1209, added par. (4) defining ''in any one-year period''.

Pub. L. 101–647, § 1205(d), added par. (4) defining ''State''.

1986—Pub. L. 99–646, in amending section generally, made specific reference to applicability of section to agent of Indian tribal government or agency thereof, inserted provision that section does not apply to bona fide salary, wages, fees, or other compensation paid, or expenses paid or reimbursed, in usual course of business, struck out definition of term ''organization'', and otherwise revised structure of section.

§ 667. Theft of livestock

Whoever obtains or uses the property of another which has a value of $10,000 or more in connection with the marketing of livestock in interstate or foreign commerce with intent to deprive the other of a right to the property or a benefit of the property or to appropriate the property to his own use or the use of another shall be fined under this title or imprisoned not more than five years, or both. The term ''livestock'' has the meaning set forth in section 2311 of this title.

(Added Pub. L. 98–473, title II, § 1111, Oct. 12, 1984, 98 Stat. 2149; amended Pub. L. 103–322, title XXXIII, §§ 330009(b), 330016(1)(L), Sept. 13, 1994, 108 Stat. 2143, 2147.)

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' and inserted at end ''The term 'livestock' has the meaning set forth in section 2311 of this title.''

§ 668. Theft of major artwork

(a) DEFINITIONS.—In this section—

(1) ''museum'' means an organized and permanent institution, the activities of which affect interstate or foreign commerce, that—

(A) is situated in the United States;

(B) is established for an essentially educational or aesthetic purpose;

(C) has a professional staff; and

(D) owns, utilizes, and cares for tangible objects that are exhibited to the public on a regular schedule.

(2) ''object of cultural heritage'' means an object that is—

(A) over 100 years old and worth in excess of $5,000; or

(B) worth at least $100,000.

(b) OFFENSES.—A person who—

(1) steals or obtains by fraud from the care, custody, or control of a museum any object of cultural heritage; or

(2) knowing that an object of cultural heritage has been stolen or obtained by fraud, if in fact the object was stolen or obtained from the care, custody, or control of a museum (whether or not that fact is known to the person), receives, conceals, exhibits, or disposes of the object,

shall be fined under this title, imprisoned not more than 10 years, or both.

(Added Pub. L. 103–322, title XXXII, § 320902(a), Sept. 13, 1994, 108 Stat. 2123; amended Pub. L. 104–294, title VI, § 604(b)(18), Oct. 11, 1996, 110 Stat. 3507.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–294 designated first and second pars. beginning with quotation mark as pars. (1) and (2), respectively, and made technical amendment to provisions appearing in original.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

§ 669. Theft or embezzlement in connection with health care

(a) Whoever knowingly and willfully embezzles, steals, or otherwise without authority converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health care benefit program, shall be fined under this title or imprisoned not more than 10 years, or both; but if the value of such property does not exceed the sum of $100 the defendant shall be fined under this title or imprisoned not more than one year, or both.

(b) As used in this section, the term ''health care benefit program'' has the meaning given such term in section 24(b) of this title.

(Added Pub. L. 104–191, title II, § 243(a), Aug. 21, 1996, 110 Stat. 2017.)

CHAPTER 33—EMBLEMS, INSIGNIA, AND NAMES

Sec.
700. Desecration of the flag of the United States; penalties.
701. Official badges, identification cards, other insignia.
702. Uniform of armed forces and Public Health Service.
703. Uniform of friendly nation.
704. Military medals or decorations.
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706. Red Cross.
707. 4–H Club emblem fraudulently used.[1]
708. Swiss Confederation coat of arms.
709. False advertising or misuse of names to indicate Federal agency.
710. Cremation urns for military use.
711. ''Smokey Bear'' character or name.
711a. ''Woodsy Owl'' character, name, or slogan.
712. Misuse of names, words, emblems, or insignia.
713. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, the seal of the United States Senate, the seal of the United States House of Representatives, and the seal of the United States Congress.
[714. Repealed.]
715. ''The Golden Eagle Insignia''.
716. Public employee insignia and uniform.

AMENDMENTS

2006—Pub. L. 109–162, title XI, § 1191(b), Jan. 5, 2006, 119 Stat. 3129, substituted ''Public employee insignia and uniform'' for ''Police badges'' in item 716.

2000—Pub. L. 106–547, § 3(b), Dec. 19, 2000, 114 Stat. 2740, added item 716.

1997—Pub. L. 105–55, title III, § 308(e), Oct. 7, 1997, 111 Stat. 1198, substituted ''Use of likenesses of the great seal of the United States, the seals of the President and Vice President, the seal of the United States Senate, the seal of the United States House of Representatives, and the seal of the United States Congress'' for ''Use of likenesses of the great seal of the United States, the seals of the President and Vice President, and the seal of the United States Senate'' in item 713.

1991—Pub. L. 102–229, title II, § 210(e), Dec. 12, 1991, 105 Stat. 1717, substituted ''Use of likenesses of the great seal of the United States, the seals of the President and Vice President, and the seal of the United States Senate.'' for ''Use of likenesses of the great seal of the United States, and of the seals of the President and Vice President.'' in item 713.

1990—Pub. L. 101–647, title XXXV, § 3518, Nov. 29, 1990, 104 Stat. 4923, inserted a comma after ''INSIGNIA'' in chapter heading.

1982—Pub. L. 97–258, § 2(d)(1)(A), Sept. 13, 1982, 96 Stat. 1058, struck out item 714 relating to ''Johnny Horizon'' character or name.

1974—Pub. L. 93–318, § 8, June 22, 1974, 88 Stat. 245, added item 711a.

1973—Pub. L. 93–147, § 1(b), Nov. 3, 1973, 87 Stat. 555, substituted ''Misuse of names, words, emblems, or insignia'' for ''Misuse of names by collecting agencies to indicate Federal agency'' in item 712.

1972—Pub. L. 92–347, § 3(c), July 11, 1972, 86 Stat. 462, added item 715.

1971—Pub. L. 91–651, § 2, Jan. 5, 1971, 84 Stat. 1941, inserted '', and of the seals of the President and Vice President'' after ''United States'' in item 713.

1970—Pub. L. 91–419, § 4, Sept. 25, 1970, 84 Stat. 871, added item 714.

1968—Pub. L. 90–381, § 2, July 5, 1968, 82 Stat. 291, added item 700.

1966—Pub. L. 89–807, § 1(b), Nov. 11, 1966, 80 Stat. 1525, added item 713.

1959—Pub. L. 86–291, § 3, Sept. 21, 1959, 73 Stat. 570, added item 712.

1952—Act May 23, 1952, ch. 327, § 2, 66 Stat. 92, added item 711.

1950—Act Sept. 28, 1950, ch. 1092, § 1(a), 64 Stat. 1077, added item 710.

1949—Act May 24, 1949, ch. 139, § 14, 63 Stat. 91, inserted ''Uniform of armed forces and Public Health Service'' in lieu of enumerating the specific branches in item 702.

§ 700. Desecration of the flag of the United States; penalties

(a)(1) Whoever knowingly mutilates, defaces, physically defiles, burns, maintains on the floor or ground, or tramples upon any flag of the United States shall be fined under this title or imprisoned for not more than one year, or both.

(2) This subsection does not prohibit any conduct consisting of the disposal of a flag when it has become worn or soiled.

(b) As used in this section, the term ''flag of the United States'' means any flag of the United States, or any part thereof, made of any substance, of any size, in a form that is commonly displayed.

(c) Nothing in this section shall be construed as indicating an intent on the part of Congress to deprive any State, territory, possession, or the Commonwealth of Puerto Rico of jurisdiction over any offense over which it would have jurisdiction in the absence of this section.

(d)(1) An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order issued by a United States district court ruling upon the constitutionality of subsection (a).

(2) The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal and advance on the docket and expedite to the greatest extent possible.

(Added Pub. L. 90–381, § 1, July 5, 1968, 82 Stat. 291; amended Pub. L. 101–131, §§ 2, 3, Oct. 28, 1989, 103 Stat. 777.)

AMENDMENTS

1989—Subsec. (a). Pub. L. 101–131, § 2(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Whoever knowingly casts contempt upon any flag of the United States by publicly mutilating, defacing, defiling, burning, or trampling upon it shall

[1] So in original. Does not conform to section catchline.

be fined not more than $1,000 or imprisoned for not more than one year, or both.''

Subsec. (b). Pub. L. 101–131, § 2(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The term 'flag of the United States' as used in this section, shall include any flag, standard colors, ensign, or any picture or representation of either, or of any part or parts of either, made of any substance or represented on any substance, of any size evidently purporting to be either of said flag, standard, color, or ensign of the United States of America, or a picture or a representation of either, upon which shall be shown the colors, the stars and the stripes, in any number of either thereof, or of any part or parts of either, by which the average person seeing the same without deliberation may believe the same to represent the flag, standards, colors, or ensign of the United States of America.''

Subsec. (d). Pub. L. 101–131, § 3, added subsec. (d).

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–547, § 1, Dec. 19, 2000, 114 Stat. 2738, provided that: ''This Act [enacting sections 716 and 1036 of this title] may be cited as the 'Enhanced Federal Security Act of 2000'.''

SHORT TITLE OF 1989 AMENDMENT

Section 1 of Pub. L. 101–131 provided that: ''This Act [amending this section] may be cited as the 'Flag Protection Act of 1989'.''

§ 701. Official badges, identification cards, other insignia

Whoever manufactures, sells, or possesses any badge, identification card, or other insignia, of the design prescribed by the head of any department or agency of the United States for use by any officer or employee thereof, or any colorable imitation thereof, or photographs, prints, or in any other manner makes or executes any engraving, photograph, print, or impression in the likeness of any such badge, identification card, or other insignia, or any colorable imitation thereof, except as authorized under regulations made pursuant to law, shall be fined under this title or imprisoned not more than six months, or both.

(June 25, 1948, ch. 645, 62 Stat. 731; Pub. L. 103–322, title XXXIII, § 330016(1)(E), Sept. 13, 1994, 108 Stat. 2146.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 76a, 76b (June 29, 1932, ch. 306, §§ 1, 2, 47 Stat. 342; May 22, 1939, ch. 141, 53 Stat. 752).

Sections were consolidated.

The term ''department or agency'' was substituted for ''department or independent office'' in two places to embrace all properly constituted agencies as defined in section 6 of this title and to eliminate any possible ambiguity as to scope of section.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $250''.

§ 702. Uniform of armed forces and Public Health Service

Whoever, in any place within the jurisdiction of the United States or in the Canal Zone, without authority, wears the uniform or a distinctive part thereof or anything similar to a distinctive part of the uniform of any of the armed forces of the United States, Public Health Service or any auxiliary of such, shall be fined under this title or imprisoned not more than six months, or both.

(June 25, 1948, ch. 645, 62 Stat. 732; May 24, 1949, ch. 139, § 15(a), 63 Stat. 91; Pub. L. 103–322, title XXXIII, § 330016(1)(E), Sept. 13, 1994, 108 Stat. 2146.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on section 1393 of title 10, U.S.C., 1940 ed., Army and Air Force, and section 228 of title 42, U.S.C., 1940 ed., The Public Health and Welfare (June 3, 1916, ch. 134, § 125, 39 Stat. 216 (2d paragraph); July 1, 1944, ch. 373, § 510, 58 Stat. 711).

''Auxiliary of such'' was inserted to extend protection to the uniforms of any auxiliary corps that may be established.

Fine of ''$250'' was substituted for ''$300'' as being more consonant with the penalties provided for similar offenses in this chapter.

Minor changes of phraseology also were made.

1949 ACT

This section [section 15] inserts ''armed forces'' in the catch line and text of section 702 of title 18, U.S.C., and thereby includes the Air Force which was formerly part of the Army. (See note to sec. 5 [of 1949 Act, set out in Legislative History note under section 244 of title 18]). Also, it incorporates in such section the provisions of act of April 15, 1948 (ch. 188, 62 Stat. 172), which relates to this section as well as to section 1393 of title 10, U.S.C. (one of the sources of such sec. 701), as it existed at the time of the enactment of the revision of title 18 and which was not incorporated in title 18 when the revision was enacted. In this connection specific reference to the Canal Zone, Guam, American Samoa, and the Virgin Islands, as contained in such act of April 15, 1948, were omitted as covered by the phrase, ''in any place within the jurisdiction of the United States,'' as used in this amendment of such section 702 of title 18, U.S.C.

REFERENCES IN TEXT

For definition of Canal Zone, referred to in text, see section 3602(b) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $250''.

1949—Act May 24, 1949, inserted ''armed forces'' in lieu of enumerating specific branches in section catchline and text, and inserted ''in any place within the jurisdiction of the United States or in the Canal Zone''.

TRANSFER OF FUNCTIONS

Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695, which is classified to section 3508(b) of Title 20, Education.

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees.

§ 703. Uniform of friendly nation

Whoever, within the jurisdiction of the United States, with intent to deceive or mislead, wears any naval, military, police, or other official uniform, decoration, or regalia of any foreign state,

nation, or government with which the United States is at peace, or anything so nearly resembling the same as to be calculated to deceive, shall be fined under this title or imprisoned not more than six months, or both.

(June 25, 1948, ch. 645, 62 Stat. 732; Pub. L. 103–322, title XXXIII, § 330016(1)(E), Sept. 13, 1994, 108 Stat. 2146.)

HISTORICAL AND REVISION NOTES

Based on section 246 of title 22, U.S.C., 1940 ed., Foreign Relations and Intercourse (July 8, 1918, ch. 138, 40 Stat. 821).

Words ''upon conviction'' were deleted as surplusage, since punishment cannot be imposed until a conviction is secured.

Reference to territories or places subject to jurisdiction of the United States was omitted in view of section 5 of this title defining the term ''United States.''

Fine of ''$250'' was substituted for ''$300'' as being more consonant with the penalties provided for similar offenses in this chapter.

Words ''unless such wearing thereof be authorized by such state, nation, or government'' were deleted as unnecessary and undesirable since it is unthinkable that a friendly power would authorize such deceit.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $250''.

§ 704. Military medals or decorations

(a) IN GENERAL.—Whoever knowingly wears, manufactures, or sells any decoration or medal authorized by Congress for the armed forces of the United States, or any of the service medals or badges awarded to the members of such forces, or the ribbon, button, or rosette of any such badge, decoration or medal, or any colorable imitation thereof, except when authorized under regulations made pursuant to law, shall be fined under this title or imprisoned not more than six months, or both.

(b) CONGRESSIONAL MEDAL OF HONOR.—

(1) IN GENERAL.—If a decoration or medal involved in an offense under subsection (a) is a Congressional Medal of Honor, in lieu of the punishment provided in that subsection, the offender shall be fined under this title, imprisoned not more than 1 year, or both.

(2) DEFINITIONS.—(A) As used in subsection (a) with respect to a Congressional Medal of Honor, ''sells'' includes trades, barters, or exchanges for anything of value.

(B) As used in this subsection, ''Congressional Medal of Honor'' means—

(i) a medal of honor awarded under section 3741, 6241, or 8741 of title 10 or section 491 of title 14;

(ii) a duplicate medal of honor issued under section 3754, 6256, or 8754 of title 10 or section 504 of title 14; or

(iii) a replacement of a medal of honor provided under section 3747, 6253, or 8747 of title 10 or section 501 of title 14.

(June 25, 1948, ch. 645, 62 Stat. 732; May 24, 1949, ch. 139, § 16, 63 Stat. 92; Pub. L. 103–322, title XXXII, § 320109, title XXXIII, § 330016(1)(E), Sept. 13, 1994, 108 Stat. 2113, 2146; Pub. L. 103–442, Nov. 2, 1994, 108 Stat. 4630; Pub. L. 104–294, title VI, § 604(b)(16), Oct. 11, 1996, 110 Stat. 3507; Pub. L. 107–107, div. A, title V, § 553(e), Dec. 28, 2001, 115 Stat. 1117.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on section 1425 of title 10, U.S.C., 1940 ed., Army and Air Force (Feb. 24, 1923, ch. 110, 42 Stat. 1286; Apr. 21, 1928, ch. 392, 45 Stat. 437).

Section was made to cover the decorations and medals of the Navy Department as well as the War Department.

Minor changes were made in phraseology.

1949 ACT

This section [section 16] clarifies the wording of section 704 of title 18, U.S.C., to embrace all service decorations awarded to members of the armed forces whether by the Army, Navy, Air Force, or other branch of such forces. (See note to sec. 5 [of 1949 Act, set out in Legislative History note under section 244 of title 18]).

AMENDMENTS

2001—Subsec. (b)(2)(B). Pub. L. 107–107 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''As used in this subsection, 'Congressional Medal of Honor' means a medal awarded under section 3741, 6241, or 8741 of title 10.''

1996—Subsec. (a). Pub. L. 104–294 amended Pub. L. 103–322, § 320109(1). See 1994 Amendment note below.

1994—Subsec. (a). Pub. L. 103–322, §§ 320109(2), 330016(1)(E), amended subsec. (a) identically, substituting ''fined under this title'' for ''fined not more than $250''.

Pub. L. 103–322, § 320109(1), as amended by Pub. L. 104–294, § 604(b)(16), designated existing provisions as subsec. (a) and inserted heading.

Subsec. (b). Pub. L. 103–322, § 320109(3), added subsec. (b).

Subsec. (b)(2)(B). Pub. L. 103–442 inserted '', 6241, or 8741'' after ''3741''.

1949—Act May 24, 1949, covered all service decorations awarded members of the armed forces by any of the armed services.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

§ 705. Badge or medal of veterans' organizations

Whoever knowingly manufactures, reproduces, sells or purchases for resale, either separately or on or appended to, any article of merchandise manufactured or sold, any badge, medal, emblem, or other insignia or any colorable imitation thereof, of any veterans' organization incorporated by enactment of Congress, or of any organization formally recognized by any such veterans' organization as an auxiliary of such veterans' organization, or knowingly prints, lithographs, engraves or otherwise reproduces on any poster, circular, periodical, magazine, newspaper, or other publication, or circulates or distributes any such printed matter bearing a reproduction of such badge, medal, emblem, or other insignia or any colorable imitation thereof, except when authorized under rules and regulations prescribed by any such organization, shall be fined under this title or imprisoned not more than six months, or both.

(June 25, 1948, ch. 645, 62 Stat. 732; Aug. 4, 1950, ch. 578, 64 Stat. 413; Pub. L. 103–322, title XXXIII, § 330016(1)(E), Sept. 13, 1994, 108 Stat. 2146.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 76e (June 25, 1940, ch. 426, 54 Stat. 571).

Words beginning the section are from the punishment provision of last sentence which was itself rewritten without surplusage.

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $250''.

1950—Act Aug. 4, 1950, brought within the protection of this section emblems, badges, or insignia of auxiliary organizations of veteran's organizations incorporated by an act of Congress.

§ 706. Red Cross

Whoever wears or displays the sign of the Red Cross or any insignia colored in imitation thereof for the fraudulent purpose of inducing the belief that he is a member of or an agent for the American National Red Cross; or

Whoever, whether a corporation, association or person, other than the American National Red Cross and its duly authorized employees and agents and the sanitary and hospital authorities of the armed forces of the United States, uses the emblem of the Greek red cross on a white ground, or any sign or insignia made or colored in imitation thereof or the words ''Red Cross'' or ''Geneva Cross'' or any combination of these words—

Shall be fined under this title or imprisoned not more than six months, or both.

This section shall not make unlawful the use of any such emblem, sign, insignia or words which was lawful on the date of enactment of this title.

(June 25, 1948, ch. 645, 62 Stat. 732; May 24, 1949, ch. 139, § 17, 63 Stat. 92; Pub. L. 103–322, title XXXIII, § 330016(1)(E), Sept. 13, 1994, 108 Stat. 2146.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on section 4 of title 36, Patriotic Societies and Observances (Jan. 5, 1905, ch. 23, § 4, 33 Stat. 600; June 23, 1910, ch. 372, § 1, 36 Stat. 604).

False personation provision in first part of section was omitted here and incorporated in section 917 of this title.

Words of punishment ''$250'' and ''six months'' were substituted for ''$500'' and ''one year'' respectively as more consonant with penalties provided for similar offenses in this chapter. (See sections 701, 704, 705 of this title.)

Punishment provisions were also changed to omit reference to ''misdemeanor'' in view of definitive section 1 of this title.

Words ''upon conviction thereof'' were omitted as surplusage, because punishment can only be imposed after conviction.

Changes were made in phraseology.

1949 ACT

This section [section 17] clarifies the wording of section 706 of title 18, U.S.C., to embrace all service sanitary units whether belonging to the Army, Navy, Air Force, or other branches of the Armed services. (See note to sec. 5 [of 1949 Act, set out in Legislative History note under section 244 of title 18]).

REFERENCES IN TEXT

The date of enactment of this title, referred to in text, means June 25, 1948.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $250'' in third par.

1949—Act May 24, 1949, included all service sanitary units.

§ 707. 4–H club emblem fraudulently used

Whoever, with intent to defraud, wears or displays the sign or emblem of the 4–H clubs, consisting of a green four-leaf clover with stem, and the letter H in white or gold on each leaflet, or any insignia in colorable imitation thereof, for the purpose of inducing the belief that he is a member of, associated with, or an agent or representative for the 4–H clubs; or

Whoever, whether an individual, partnership, corporation or association, other than the 4–H clubs and those duly authorized by them, the representatives of the United States Department of Agriculture, the land grant colleges, and persons authorized by the Secretary of Agriculture, uses, within the United States, such emblem or any sign, insignia, or symbol in colorable imitation thereof, or the words ''4–H Club'' or ''4–H Clubs'' or any combination of these or other words or characters in colorable imitation thereof—

Shall be fined under this title or imprisoned not more than six months, or both.

This section shall not make unlawful the use of any such emblem, sign, insignia or words which was lawful on the date of enactment of this title.

(June 25, 1948, ch. 645, 62 Stat. 733; Pub. L. 103–322, title XXXIII, § 330016(1)(E), Sept. 13, 1994, 108 Stat. 2146.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 76c and 76d (June 5, 1939, ch. 184, §§ 1, 2, 53 Stat. 809).

The first provision of section 76c of title 18, U.S.C., 1940 ed., relating to fraudulently pretending to be a member of a 4–H Club was incorporated in section 916 of this title.

The language describing the emblem was transposed.

Unnecessary words were omitted from punishment provision, and ''$250'' was substituted for ''$300'' to make the punishment consonant with the penalties provided for similar offenses. (See sections 701, 704, 705 of this title for similar offenses.)

The language of section 76d of title 18, U.S.C., 1940 ed., was rephrased and inserted after ''whoever,'' in the second paragraph.

Minor changes were made in phraseology.

REFERENCES IN TEXT

The date of enactment of this title, referred to in text, means June 25, 1948.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $250'' in third par.

§ 708. Swiss Confederation coat of arms

Whoever, whether a corporation, partnership, unincorporated company, association, or person within the United States, willfully uses as a trade mark, commercial label, or portion thereof, or as an advertisement or insignia for any business or organization or for any trade or commercial purpose, the coat of arms of the Swiss Confederation, consisting of an upright white cross with equal arms and lines on a red ground, or any simulation thereof, shall be fined under this title or imprisoned not more than six months, or both.

This section shall not make unlawful the use of any such design or insignia which was lawful on August 31, 1948.

(June 25, 1948, ch. 645, 62 Stat. 733; Oct. 31, 1951, ch. 655, § 21a, 65 Stat. 719; Pub. L. 103–322, title XXXIII, § 330016(1)(E), Sept. 13, 1994, 108 Stat. 2146.)

HISTORICAL AND REVISION NOTES

Based on section 248 of title 22, U.S.C., 1940 ed., Foreign Relations and Intercourse (June 20, 1936, ch. 635, §§ 1, 2, 49 Stat. 1557).

Reference to ''jurisdiction'' of the United States was omitted as unnecessary in view of definition of ''United States'' in section 5 of this title.

Words of punishment ''$250'' and ''six months'' were substituted for ''$500'' and ''one year'' respectively, as more consonant with penalties for similar offenses in this chapter. (See sections 701, 704, 705 of this title.)

Punishment provision was also changed to omit reference to ''misdemeanor'' in view of definitive section 1 of this title.

Words ''upon conviction'' were omitted as surplusage, because punishment can only be imposed after conviction.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $250'' in first par.

1951—Act Oct. 31, 1951, added second par.

§ 709. False advertising or misuse of names to indicate Federal agency

Whoever, except as permitted by the laws of the United States, uses the words ''national'', ''Federal'', ''United States'', ''reserve'', or ''Deposit Insurance'' as part of the business or firm name of a person, corporation, partnership, business trust, association or other business entity engaged in the banking, loan, building and loan, brokerage, factorage, insurance, indemnity, savings or trust business; or

Whoever falsely advertises or represents, or publishes or displays any sign, symbol or advertisement reasonably calculated to convey the impression that a nonmember bank, banking association, firm or partnership is a member of the Federal reserve system; or

Whoever, except as expressly authorized by Federal law, uses the words ''Federal Deposit'', ''Federal Deposit Insurance'', or ''Federal Deposit Insurance Corporation'' or a combination of any three of these words, as the name or a part thereof under which he or it does business, or advertises or otherwise represents falsely by any device whatsoever that his or its deposit liabilities, obligations, certificates, or shares are insured or guaranteed by the Federal Deposit Insurance Corporation, or by the United States or by any instrumentality thereof, or whoever advertises that his or its deposits, shares, or accounts are federally insured, or falsely advertises or otherwise represents by any device whatsoever the extent to which or the manner in which the deposit liabilities of an insured bank or banks are insured by the Federal Deposit Insurance Corporation; or

Whoever, other than a bona fide organization or association of Federal or State credit unions or except as permitted by the laws of the United States, uses as a firm or business name or transacts business using the words ''National Credit Union'', ''National Credit Union Administration'', ''National Credit Union Board'', ''National Credit Union Share Insurance Fund'', ''Share Insurance'', or ''Central Liquidity Facility'', or the letters ''NCUA'', ''NCUSIF'', or ''CLF'', or any other combination or variation of those words or letters alone or with other words or letters, or any device or symbol or other means, reasonably calculated to convey the false impression that such name or business has some connection with, or authorization from, the National Credit Union Administration, the Government of the United States, or any agency thereof, which does not in fact exist, or falsely advertises or otherwise represents by any device whatsoever that his or its business, product, or service has been in any way endorsed, authorized, or approved by the National Credit Union Administration, the Government of the United States, or any agency thereof, or falsely advertises or otherwise represents by any device whatsoever that his or its deposit liabilities, obligations, certificates, shares, or accounts are insured under the Federal Credit Union Act or by the United States or any instrumentality thereof, or being an insured credit union as defined in that Act falsely advertises or otherwise represents by any device whatsoever the extent to which or the manner in which share holdings in such credit union are insured under such Act; or

Whoever, not being organized under chapter 7 of Title 12, advertises or represents that it makes Federal Farm loans or advertises or offers for sale as Federal Farm loan bonds any bond not issued under chapter 7 of Title 12, or uses the word ''Federal'' or the words ''United States'' or any other words implying Government ownership, obligation or supervision in advertising or offering for sale any bond, note, mortgage or other security not issued by the Government of the United States under the provisions of said chapter 7 or some other Act of Congress; or

Whoever uses the words ''Federal Home Loan Bank'' or any combination or variation of these words alone or with other words as a business name or part of a business name, or falsely publishes, advertises or represents by any device or symbol or other means reasonably calculated to convey the impression that he or it is a Federal Home Loan Bank or member of or subscriber for the stock of a Federal Home Loan Bank; or

Whoever uses the words ''Federal intermediate credit bank'' as part of the business or firm name for any person, corporation, partnership, business trust, association or other business entity not organized as an intermediate credit bank under the laws of the United States; or

Whoever uses as a firm or business name the words ''Department of Housing and Urban Development'', ''Housing and Home Finance Agency'', ''Federal Housing Administration'', ''Government National Mortgage Association'', ''United States Housing Authority'', or ''Public Housing Administration'' or the letters ''HUD'', ''FHA'', ''PHA'', or ''USHA'', or any combination or variation of those words or the letters ''HUD'', ''FHA'', ''PHA'', or ''USHA'' alone or with other words or letters reasonably calculated to convey

the false impression that such name or business has some connection with, or authorization from, the Department of Housing and Urban Development, the Housing and Home Finance Agency, the Federal Housing Administration, the Government National Mortgage Association, the United States Housing Authority, the Public Housing Administration, the Government of the United States, or any agency thereof, which does not in fact exist, or falsely claims that any repair, improvement, or alteration of any existing structure is required or recommended by the Department of Housing and Urban Development, the Housing and Home Finance Agency, the Federal Housing Administration, the Government National Mortgage Association, the United States Housing Authority, the Public Housing Administration, the Government of the United States, or any agency thereof, for the purpose of inducing any person to enter into a contract for the making of such repairs, alterations, or improvements, or falsely advertises or falsely represents by any device whatsoever that any housing unit, project, business, or product has been in any way endorsed, authorized, inspected, appraised, or approved by the Department of Housing and Urban Development, the Housing and Home Finance Agency, the Federal Housing Administration, the Government National Mortgage Association, the United States Housing Authority, the Public Housing Administration, the Government of the United States, or any agency thereof; or

Whoever, except with the written permission of the Director of the Federal Bureau of Investigation, knowingly uses the words ''Federal Bureau of Investigation'' or the initials ''F.B.I.'', or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet or other publication, play, motion picture, broadcast, telecast, or other production, is approved, endorsed, or authorized by the Federal Bureau of Investigation; or

Whoever, except with written permission of the Director of the United States Secret Service, knowingly uses the words ''Secret Service'', ''Secret Service Uniformed Division'', the initials ''U.S.S.S.'', ''U.D.'', or any colorable imitation of such words or initials, in connection with, or as a part of any advertisement, circular, book, pamphlet or other publication, play, motion picture, broadcast, telecast, other production, product, or item, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet or other publication, product, or item, is approved, endorsed, or authorized by or associated in any manner with, the United States Secret Service, or the United States Secret Service Uniformed Division; or

Whoever, except with the written permission of the Director of the United States Mint, knowingly uses the words ''United States Mint'' or ''U.S. Mint'' or any colorable imitation of such words, in connection with any advertisement, circular, book, pamphlet, or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, or other publication, play, motion picture, broadcast, telecast, or other production, is approved, endorsed, or authorized by or associated in any manner with, the United States Mint; or

Whoever uses the words ''Overseas Private Investment'', ''Overseas Private Investment Corporation'', or ''OPIC'', as part of the business or firm name of a person, corporation, partnership, business trust, association, or business entity; or

Whoever, except with the written permission of the Administrator of the Drug Enforcement Administration, knowingly uses the words ''Drug Enforcement Administration'' or the initials ''DEA'' or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production is approved, endorsed, or authorized by the Drug Enforcement Administration; or

Whoever, except with the written permission of the Director of the United States Marshals Service, knowingly uses the words ''United States Marshals Service'', ''U.S. Marshals Service'', ''United States Marshal'', ''U.S. Marshal'', ''U.S.M.S.'', or any colorable imitation of any such words, or the likeness of a United States Marshals Service badge, logo, or insignia on any item of apparel, in connection with any advertisement, circular, book, pamphlet, software, or other publication, or any play, motion picture, broadcast, telecast, or other production, in a manner that is reasonably calculated to convey the impression that the wearer of the item of apparel is acting pursuant to the legal authority of the United States Marshals Service, or to convey the impression that such advertisement, circular, book, pamphlet, software, or other publication, or such play, motion picture, broadcast, telecast, or other production, is approved, endorsed, or authorized by the United States Marshals Service;

Shall be punished as follows: a corporation, partnership, business trust, association, or other business entity, by a fine under this title; an officer or member thereof participating or knowingly acquiescing in such violation or any individual violating this section, by a fine under this title or imprisonment for not more than one year, or both.

This section shall not make unlawful the use of any name or title which was lawful on the date of enactment of this title.

This section shall not make unlawful the use of the word ''national'' as part of the name of any business or firm engaged in the insurance or indemnity business, whether such firm was engaged in the insurance or indemnity business prior or subsequent to the date of enactment of this paragraph.

A violation of this section may be enjoined at the suit of the United States Attorney, upon

complaint by any duly authorized representative of any department or agency of the United States.

(June 25, 1948, ch. 645, 62 Stat. 733; Sept. 21, 1950, ch. 967, § 3(a), 64 Stat. 894; Oct. 31, 1951, ch. 655, § 22, 65 Stat. 719; July 3, 1952, ch. 547, 66 Stat. 321; Aug. 2, 1954, ch. 649, title I, § 131, 68 Stat. 609; Aug. 27, 1954, ch. 1008, 68 Stat. 867; Pub. L. 90–19, § 24(b), May 25, 1967, 81 Stat. 27; Pub. L. 90–448, title VIII, § 807(i), Aug. 1, 1968, 82 Stat. 545; Pub. L. 91–468, § 5, Oct. 19, 1970, 84 Stat. 1016; Pub. L. 95–630, title XVIII, § 1804, Nov. 10, 1978, 92 Stat. 3723; Pub. L. 99–204, § 16, Dec. 23, 1985, 99 Stat. 1676; Pub. L. 100–690, title VII, § 7079(a), Nov. 18, 1988, 102 Stat. 4406; Pub. L. 102–390, title II, § 223, Oct. 6, 1992, 106 Stat. 1629; Pub. L. 103–322, title XXXII, § 320911(a), title XXXIII, §§ 330004(3), 330016(2)(C), Sept. 13, 1994, 108 Stat. 2127, 2141, 2148; Pub. L. 104–294, title VI, §§ 602(a), 604(b)(19), (41), Oct. 11, 1996, 110 Stat. 3503, 3507, 3509; Pub. L. 105–184, § 7, June 23, 1998, 112 Stat. 522; Pub. L. 107–273, div. B, title IV, § 4002(a)(10), Nov. 2, 2002, 116 Stat. 1807.)

HISTORICAL AND REVISION NOTES

Based on sections 264(v)(1), 583, 584, 585, 586, 587, 1128, 1318, 1441(d), 1731(d) of title 12, U.S.C., 1940 ed., Banks and Banking, section 616(d) of title 15, U.S.C., 1940 ed., Commerce and Trade, and section 1426 of title 42, U.S.C., 1940 ed., The Public Health and Welfare (R.S. § 5243; Dec. 23, 1913, ch. 6, § 12B(v), as added June 16, 1933, ch. 89, § 8, 48 Stat. 178; July 17, 1916, ch. 245, § 211h, as added Mar. 4, 1923, ch. 252, § 2, 42 Stat. 1461; Mar. 4, 1923, ch. 252, title II, § 216, 42 Stat. 1471; May 24, 1926, ch. 377, §§ 1–4, 44 Stat. 628; Jan. 22, 1932, ch. 8, § 16(d), 47 Stat. 12; July 22, 1932, ch. 522, § 21, 47 Stat. 738; June 27, 1934, ch. 847, § 512, 48 Stat. 1265; Aug. 23, 1935, ch. 614, §§ 101, 203a, 318, 332, 49 Stat. 684, 704, 712, 719; Apr. 21, 1936, ch. 244, 49 Stat. 1237; Sept. 1, 1937, ch. 896, § 26, 50 Stat. 899; Feb. 3, 1938, ch. 13, §§ 9, 10, 52 Stat. 24, 25; June 28, 1941, ch. 261, § 10, 55 Stat. 365).

Numerous sections were consolidated with changes both of phraseology and substance necessary to effect consolidation.

The proviso of section 585 of said title 12 was omitted, since the consolidated section obviously cannot be construed as forbidding Federal agencies, boards, and corporations from using their legal names. The right to continue the use of a name, lawful on the effective date of this section, is preserved.

Last paragraph is based upon section 587 of said title 12. Words ''At the suit of'' were substituted for ''at the instance of''. United States Attorneys are the chief law officers of the districts. *United States* v. *Smith*, 1895, 15 S. Ct. 846, 158 U.S. 346, 39 L. Ed. 1011; *McKay* v. *Rogers*, C. C. A. Okl. 1936, 82 F. 2d 795. Federal courts will not recognize suits on behalf of the United States unless the Government is represented by a United States Attorney. Confiscation cases, La. 1868, 7 Wall. 454, 19 L. Ed. 196.

The words ''any duly authorized representative of any department or agency of the United States'' were substituted for the enumeration of agencies which may make complaint thus making the provision more flexible and less cumbersome.

This consolidated section reconciles the disparities and inconsistencies of 12 sections; thus providing a harmonious scheme for the punishment of similar offenses.

The punishment provision was drawn from section 587 of title 12, U.S.C., 1940 ed., Banks and Banking, but is in substance and effect the same as in sections 264v(1), 1441(d) and 1731(d) of said title 12, but the civil penalty of $50 per day which was in sections 583, 1128, and 1318 of said title 12, was omitted as inconsistent with later acts dealing with similar offenses. Too often actions to recover civil penalties result in judgments which cannot be collected, and yet as long as they remain uncollected they clog the administration of justice.

It was necessary to substitute a fine in place of a $50 per diem penalty for business entities embraced in sections 583, 1128, and 1318 of said title 12, and fine and imprisonment for individuals responsible for such violations. Similarly the penalty of $1,000 fine in section 1426 of title 42, The Public Health and Welfare, was changed to permit alternative fine or imprisonment for individuals responsible for violation.

REFERENCES IN TEXT

The Federal Credit Union Act, referred to in text, is act June 26, 1934, ch. 750, 48 Stat. 1216, as amended, which is classified generally to chapter 14 (§ 1751 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1751 of Title 12 and Tables.

Chapter 7 of Title 12, referred to in text, which contained the Federal Farm Loan Act (act July 17, 1916, ch. 245, 39 Stat. 360) as amended, was classified principally to section 641 et seq. of Title 12. The Federal Farm Loan Act, as amended, was repealed by section 5.26(a) of the Farm Credit Act of 1971, Pub. L. 92–181, Dec. 10, 1971, 85 Stat. 624. Section 5.26(a) of the Farm Credit Act of 1971 also provided that all references in other legislation to the Acts repealed thereby ''shall be deemed to refer to comparable provisions of this Act''. For further details, see notes under section 2001 of Title 12. For complete classification of the Federal Farm Loan Act to the Code prior to such repeal, see Tables.

The date of enactment of this title, referred to in fifteenth par., means June 25, 1948.

The date of enactment of this paragraph, referred to in penultimate par., means July 3, 1952.

AMENDMENTS

2002—Pub. L. 107–273, in thirteenth par., substituted ''Whoever'' for ''A person who'' and inserted ''or'' at end.

1998—Pub. L. 105–184 inserted fourteenth par. that extended prohibitions of section to unauthorized use of term ''United States Marshals Service'' or any colorable imitation, or likeness of a United States Marshals Service badge, logo, or insignia on any item of apparel.

1996—Pub. L. 104–294, § 604(b)(41), amended directory language of Pub. L. 103–322, § 330004(3). See 1994 Amendment note below.

Pub. L. 104–294, § 604(b)(19), amended directory language of Pub. L. 103–322, § 320911(a). See 1994 Amendment notes below.

Pub. L. 104–294, § 602(a), which directed amendment of this section by striking out ''Whoever uses as a firm or business name the words 'Reconstruction Finance Corporation' or any combination or variation of these words—'', could not be executed because that language did not appear in text subsequent to amendment by Pub. L. 103–322, § 330004(3), as amended. See 1994 Amendment note below.

1994—Pub. L. 103–322, § 330016(2)(C), substituted ''fine under this title'' for ''fine of not more than $1,000'' in two places in par. relating to punishment.

Pub. L. 103–322, § 330004(3), struck out seventh par. which read as follows: ''Whoever uses the words 'National Agricultural Credit Corporation' as part of the business or firm name of a person, corporation, partnership, business trust, association or other business entity not organized under the laws of the United States as a National Agricultural Credit Corporation; or''.

Pub. L. 103–322, § 330004(3), as amended by Pub. L. 104–294, § 604(b)(41), struck out fourteenth par. which read as follows: ''Whoever uses as a firm or business name the words 'Reconstruction Finance Corporation' or any combination or variation of these words—''.

Pub. L. 103–322, § 320911(a)(2), as amended by Pub. L. 104–294, § 604(b)(19), which directed the insertion of a new par. relating to use of the words ''Drug Enforce-

ment Administration'' or the initials ''DEA'' after the fourteenth unnumbered par. was executed by inserting such par. after the twelfth par. relating to the Overseas Private Investment Corporation, to reflect the probable intent of Congress and amendments by Pub. L. 103–322, § 330004(3). See above.

Pub. L. 103–322, § 320911(a)(1), as amended by Pub. L. 104–294, § 604(b)(19), which directed the substitution of ''words; or'' for ''words—'' in the fourteenth unnumbered par., could not be executed because that par. was struck out by Pub. L. 103–322, § 330004(3). See above.

1992—Pub. L. 102–390 inserted par. prohibiting unauthorized use of the terms ''United States Mint'' or ''U.S. Mint''.

1988—Pub. L. 100–690 inserted provision prohibiting unauthorized use of words ''Secret Service'' or ''Secret Service Uniformed Division'', the initials ''U.S.S.S.'' or ''U.D.'', or other colorable imitation of such words or initials.

1985—Pub. L. 99–204 extended prohibitions of this section to use of ''Overseas Private Investment'', ''Overseas Private Investment Corporation'' and ''OPIC''.

1978—Pub. L. 95–630 in fourth par., inserted provisions expanding the scope of the prohibition to include anyone, other than a bona fide organization or association of Federal or State credit unions or except as permitted by the laws of the United States, who misuses a firm or business name or transacts business using ''National Credit Union'', ''National Credit Union Administration'', ''National Credit Union Board'', ''National Credit Union Share Insurance Fund'', ''Share Insurance'', or ''Central Liquidity Facility'', or ''NCUA'', ''NCUSIF'', or ''CLF'', or any other combination or variation of those words or letters reasonably calculated to convey the false impression that such name or business has some connection with or authorization from the National Credit Union Administration, the Government of the United States, or any agency thereof or represents by any device whatsoever that his business, product, or service is in any way endorsed, authorized, or approved or that he is in any way insured by the National Credit Union Administration, the Government of the United States, or any agency thereof.

1970—Pub. L. 91–468 extended prohibition of this section to include practices which would falsely represent that assets are insured by the Federal Credit Union Act.

1968—Pub. L. 90–448, in ninth par., substituted ''Government National Mortgage Association'' for ''Federal National Mortgage Association'' wherever appearing.

1967—Pub. L. 90–19 extended prohibition of ninth par. to misuse of names ''Department of Housing and Urban Development'' and ''United States Housing Authority'' and symbols ''HUD'', ''PHA'', and ''USHA''.

1954—Act Aug. 27, 1954, brought the use of the name or initials of the Federal Bureau of Investigation within the ban of the section.

Act Aug. 2, 1954, in ninth par., inserted references to the Housing and Home Finance Agency, the Federal National Mortgage Association, and FHA, and inserted provisions relating to false claims made with respect to repairs, alterations, or improvements.

1952—Act July 3, 1952, permitted use of ''national'' as a part of the name of an insurance or indemnity company in penultimate par.

1951—Act Oct. 31, 1951, in ninth par., inserted ''Public Housing Administration'' in lieu of ''United States Housing Authority'', and inserted ''Public Housing Administration,'' after ''Federal Housing Administration''.

1950—Act Sept. 21, 1950, in third par., made subject to provisions of this section whoever advertises that his or its deposit liabilities, obligations, certificates, or shares are federally insured.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 604(b)(19), (41) of Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 320911(b) of Pub. L. 103–322 provided that: ''The amendment made by subsection (a) [amending this section] shall become effective on the date that is 90 days after the date of enactment of this Act [Sept. 13, 1994].''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 7079(b) of Pub. L. 100–690 provided that: ''This section [amending this section] shall take effect 90 days after the date of enactment of this Act [Nov. 18, 1988].''

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–630 effective Oct. 1, 1979, see section 1806 of Pub. L. 95–630, set out as an Effective Date note under section 1795 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–448 effective from and after a date, no more than 120 days following Aug. 1, 1968, as established by the Secretary of Housing and Urban Development, see section 808 of Pub. L. 90–448, set out as an Effective Date note under section 1716b of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 3(b) of act Sept. 21, 1950, provided that: ''The amendment made by subsection (a) of this section [amending this section] shall become effective on January 1, 1951.''

TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 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.

Functions, powers, and duties of Housing and Home Finance Agency, Federal Housing Administration, and Public Housing Authority transferred to Secretary of Housing and Urban Development who was authorized to delegate such functions, powers, and duties to such officers and employees of Department of Housing and Urban Development as the Secretary may designate, see sections 3534 and 3535 of Title 42, The Public Health and Welfare.

United States Housing Authority consolidated with other agencies into Housing and Home Finance Agency and name of Authority changed to Public Housing Administration by Reorg. Plan No. 3 of 1947, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

For creation, succession, and principal office, see section 1717 of Title 12, Banks and Banking.

§ 710. Cremation urns for military use

Whoever knowingly uses, manufactures, or sells any cremation urn of a design approved by the Secretary of Defense for use to retain the cremated remains of deceased members of the armed forces or an urn which is a colorable imitation of the approved design, except when authorized under regulation made pursuant to law, shall be fined under this title or imprisoned for not more than six months, or both.

(Added Sept. 28, 1950, ch. 1092, § 1(b), 64 Stat. 1077; amended Pub. L. 103–322, title XXXIII, § 330016(1)(E), Sept. 13, 1994, 108 Stat. 2146.)

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $250''.

§ 711. "Smokey Bear" character or name

Whoever, except as authorized under rules and regulations issued by the Secretary of Agriculture after consultation with the Association of State Foresters and the Advertising Council, knowingly and for profit manufactures, reproduces, or uses the character ''Smokey Bear'', originated by the Forest Service, United States Department of Agriculture, in cooperation with the Association of State Foresters and the Advertising Council for use in public information concerning the prevention of forest fires, or any facsimile thereof, or the name ''Smokey Bear'' shall be fined under this title or imprisoned not more than six months, or both.

(Added May 23, 1952, ch. 327, § 1, 66 Stat. 92; amended Pub. L. 93–318, § 5, June 22, 1974, 88 Stat. 245; Pub. L. 103–322, title XXXIII, §§ 330004(4), 330016(1)(E), Sept. 13, 1994, 108 Stat. 2141, 2146.)

AMENDMENTS

1994—Pub. L. 103–322, § 330016(1)(E), substituted ''fined under this title'' for ''fined not more than $250''.

Pub. L. 103–322, § 330004(4), struck out last par. which read as follows: ''The Secretary of Agriculture may specially authorize the manufacture, reproduction, or use of the character 'Smokey Bear' for a period not to exceed one hundred and eighty days, expiring no later than one year after the enactment hereof, by any person who, because of plans or commitments made prior to the enactment of this Act, would suffer substantial loss if denied such authorization.''

1974—Pub. L. 93–318 inserted ''and for profit'' after ''knowingly'' and struck out ''as a trade name or in such manner as suggests the character 'Smokey Bear' '' after ''facsimile thereof, or the name 'Smokey Bear' ''.

DEPOSIT OF FEES; AVAILABILITY

Deposit of fees collected under regulations governing ''Smokey Bear'' and availability for use, see section 580p–2 of Title 16, Conservation.

§ 711a. "Woodsy Owl" character, name, or slogan

Whoever, except as authorized under rules and regulations issued by the Secretary, knowingly and for profit manufactures, reproduces, or uses the character ''Woodsy Owl'', the name ''Woodsy Owl'', or the associated slogan, ''Give a Hoot, Don't Pollute'' shall be fined under this title or imprisoned not more than six months, or both.

(Added Pub. L. 93–318, § 6, June 22, 1974, 88 Stat. 245; amended Pub. L. 103–322, title XXXIII, § 330016(1)(E), Sept. 13, 1994, 108 Stat. 2146.)

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $250''.

DESCRIPTION OF ''WOODSY OWL'' CHARACTER

For description of character of ''Woodsy Owl'' as referred to in this section, see section 580p of Title 16, Conservation.

§ 712. Misuse of names, words, emblems, or insignia

Whoever, in the course of collecting or aiding in the collection of private debts or obligations, or being engaged in furnishing private police, investigation, or other private detective services, uses or employs in any communication, correspondence, notice, advertisement, or circular the words ''national'', ''Federal'', or ''United States'', the initials ''U.S.'', or any emblem, insignia, or name, for the purpose of conveying and in a manner reasonably calculated to convey the false impression that such communication is from a department, agency, bureau, or instrumentality of the United States or in any manner represents the United States, shall be fined under this title or imprisoned not more than one year, or both.

(Added Pub. L. 86–291, § 1, Sept. 21, 1959, 73 Stat. 570; amended Pub. L. 93–147, § 1(a), Nov. 3, 1973, 87 Stat. 554; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

1973—Pub. L. 93–147 substituted ''Misuse of names, words, emblems, or insignia'' for ''Misuse of names by collecting agencies or private detective agencies to indicate Federal agency'' in section catchline and substituted ''in the course'' and ''such communication is from a department'' for ''being engaged in the business'' and ''such business is a department'' respectively, and struck out ''as part of the firm name of such business,'' after ''detective services, uses''.

EFFECTIVE DATE

Section 2 of Pub. L. 86–291 provided that: ''The provisions of this section [enacting this section] shall become effective sixty days from the enactment thereof [Sept. 21, 1959].''

§ 713. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, the seal of the United States Senate, the seal of the United States House of Representatives, and the seal of the United States Congress

(a) Whoever knowingly displays any printed or other likeness of the great seal of the United States, or of the seals of the President or the Vice President of the United States, or the seal of the United States Senate, or the seal of the United States House of Representatives, or the seal of the United States Congress, or any facsimile thereof, in, or in connection with, any advertisement, poster, circular, book, pamphlet, or other publication, public meeting, play, motion picture, telecast, or other production, or on any building, monument, or stationery, for the purpose of conveying, or in a manner reasonably calculated to convey, a false impression of sponsorship or approval by the Government of the United States or by any department, agency, or instrumentality thereof, shall be fined under this title or imprisoned not more than six months, or both.

(b) Whoever, except as authorized under regulations promulgated by the President and published in the Federal Register, knowingly manufactures, reproduces, sells, or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seals of the President or Vice President, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined

under this title or imprisoned not more than six months, or both.

(c) Whoever, except as directed by the United States Senate, or the Secretary of the Senate on its behalf, knowingly uses, manufactures, reproduces, sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States Senate, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined under this title or imprisoned not more than six months, or both.

(d) Whoever, except as directed by the United States House of Representatives, or the Clerk of the House of Representatives on its behalf, knowingly uses, manufactures, reproduces, sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States House of Representatives, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined under this title or imprisoned not more than six months, or both.

(e) Whoever, except as directed by the United States Congress, or the Secretary of the Senate and the Clerk of the House of Representatives, acting jointly on its behalf, knowingly uses, manufactures, reproduces, sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States Congress, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined under this title or imprisoned not more than six months, or both.

(f) A violation of the provisions of this section may be enjoined at the suit of the Attorney General,

(1) in the case of the great seal of the United States and the seals of the President and Vice President, upon complaint by any authorized representative of any department or agency of the United States;

(2) in the case of the seal of the United States Senate, upon complaint by the Secretary of the Senate;

(3) in the case of the seal of the United States House of Representatives, upon complaint by the Clerk of the House of Representatives; and

(4) in the case of the seal of the United States Congress, upon complaint by the Secretary of the Senate and the Clerk of the House of Representatives, acting jointly.

(Added Pub. L. 89–807, § 1(a), Nov. 11, 1966, 80 Stat. 1525; amended Pub. L. 91–651, § 1, Jan. 5, 1971, 84 Stat. 1940; Pub. L. 102–229, title II, § 210(a)–(d), Dec. 12, 1991, 105 Stat. 1717; Pub. L. 103–322, title XXXIII, § 330016(1)(E), Sept. 13, 1994, 108 Stat. 2146; Pub. L. 105–55, title III, § 308(a)–(d), Oct. 7, 1997, 111 Stat. 1198.)

AMENDMENTS

1997—Pub. L. 105–55, § 308(d), substituted ''the seal of the United States Senate, the seal of the United States House of Representatives, and the seal of the United States Congress'' for ''and the seal of the United States Senate'' in section catchline.

Subsec. (a). Pub. L. 105–55, § 308(a), inserted ''or the seal of the United States House of Representatives, or the seal of the United States Congress,'' after ''Senate,''.

Subsecs. (d), (e). Pub. L. 105–55, § 308(b), added subsecs. (d) and (e). Former subsec. (d) redesignated (f).

Subsec. (f). Pub. L. 105–55, § 308(b)(1), redesignated subsec. (d) as (f).

Subsec. (f)(3), (4). Pub. L. 105–55, § 308(c), added pars. (3) and (4).

1994—Subsecs. (a) to (c). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $250''.

1991—Pub. L. 102–229, § 210(a), substituted ''the seals of the President and Vice President, and the seal of the United States Senate'' for ''and of the seals of the President and Vice President'' in section catchline.

Subsec. (a). Pub. L. 102–229, § 210(b), inserted ''or the seal of the United States Senate,'' after ''Vice President of the United States,''.

Subsecs. (c), (d). Pub. L. 102–229, § 210(c), (d), added subsec. (c), amended former subsec. (c) generally, and redesignated former subsec. (c) as (d). Prior to amendment and redesignation, former subsec. (c) read as follows: ''A violation of subsection (a) or (b) of this section may be enjoined at the suit of the Attorney General upon complaint by any authorized representative of any department or agency of the United States.''

1971—Pub. L. 91–651 substituted ''Use of likenesses of the great seal of the United States, and of the seals of the President and Vice President'' for ''Use of the great seal of the United States'' in section catchline.

Subsec. (a). Pub. L. 91–651 redesignated existing provisions as subsec. (a), expanded prohibition to include likenesses of the seals of the President and Vice President, and added to the enumerated list of prohibited uses for likenesses of the great seal of the United States and for the seals of the President and Vice President, use in posters, public meetings, or on any building, monument, or stationery.

Subsecs. (b), (c). Pub. L. 91–651 added subsecs. (b) and (c).

EFFECTIVE DATE OF 1971 AMENDMENT

Section 3 of Pub. L. 91–651 provided that: The amendments made by this Act [amending this section] shall not make unlawful any preexisting use of the design of the great seal of the United States or of the seals of the President or Vice President of the United States that was lawful on the date of enactment of this Act [Jan. 5, 1971], until one year after the date of such enactment.''

EX. ORD. NO. 11649. REGULATIONS GOVERNING SEALS OF PRESIDENT AND VICE PRESIDENT OF UNITED STATES

Ex. Ord. No. 11649, Feb. 16, 1972, 37 F.R. 3625, as amended by Ex. Ord. No. 11916, May 28, 1976, 41 F.R. 22031, provided:

By virtue to the authority vested in me by section 713(b) of title 18, United States Code, I hereby prescribe the following regulations governing the use of the Seals of the President and the Vice President of the United States:

SECTION 1. Except as otherwise provided by law, the knowing manufacture, reproduction, sale, or purchase for resale of the Seals or Coats of Arms of the President or the Vice President of the United States, or any likeness or substantial part thereof, shall be permitted only for the following uses:

(a) Use by the President or Vice President of the United States;

(b) Use in encyclopedias, dictionaries, books, journals, pamphlets, periodicals, or magazines incident to a description or history of seals, coats of arms, heraldry, or the Presidency or Vice Presidency;

(c) Use in libraries, museums, or educational facilities incident to descriptions or exhibits relating to seals, coats of arms, heraldry, or the Presidency or Vice Presidency;

(d) Use as an architectural embellishment in libraries, museums, or archives established to house the papers or effects of former Presidents or Vice Presidents;

(e) Use on a monument to a former President or Vice President;

(f) Use by way of photographic or electronic visual reproduction in pictures, moving pictures, or telecasts of bona fide news content;

(g) Such other uses for exceptional historical, educational, or newsworthy purposes as may be authorized in writing by the Counsel to the President.

SEC. 2. The manufacture, reproduction, sale, or purchase for resale, either separately or appended to any article manufactured or sold, of the Seals of the President or Vice President, or any likeness or substantial part thereof, except as provided in this Order or as otherwise provided by law, is prohibited.

RICHARD NIXON.

[§ 714. Repealed. Pub. L. 97–258, § 2(d)(1)(B), Sept. 13, 1982, 96 Stat. 1058]

Section, added Pub. L. 91–419, § 3, Sept. 25, 1970, 84 Stat. 870, defined ''Johnny Horizon'' for purposes of Pub. L. 91–419.

§ 715. "The Golden Eagle Insignia"

As used in this section, ''The Golden Eagle Insignia'' means the words ''The Golden Eagle'' and the representation of an American Golden Eagle (colored gold) and a family group (colored midnight blue) enclosed within a circle (colored white with a midnight blue border) framed by a rounded triangle (colored gold with a midnight blue border) which was originated by the Department of the Interior as the official symbol for Federal recreation fee areas.

Whoever, except as authorized under rules and regulations issued by the Secretary of the Interior, knowingly manufactures, reproduces, or uses ''The Golden Eagle Insignia'', or any facsimile thereof, in such a manner as is likely to cause confusion, or to cause mistake, or to deceive, shall be fined under this title or imprisoned not more than six months, or both.

The use of any such emblem, sign, insignia, or words which was lawful on the date of enactment of this Act shall not be a violation of this section.

A violation of this section may be enjoined at the suit of the Attorney General, upon complaint by the Secretary of the Interior.

(Added Pub. L. 92–347, § 3(b), July 11, 1972, 86 Stat. 461; amended Pub. L. 103–322, title XXXIII, § 330016(1)(E), Sept. 13, 1994, 108 Stat. 2146.)

REFERENCES IN TEXT

The date of enactment of this Act, referred to in text, means the date of enactment of Pub. L. 92–347, which was approved July 11, 1972.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $250'' in second par.

§ 716. Public employee insignia and uniform

(a) Whoever—

(1) knowingly transfers, transports, or receives, in interstate or foreign commerce, a counterfeit official insignia or uniform;

(2) knowingly transfers, in interstate or foreign commerce, a genuine official insignia or uniform to an individual, knowing that such individual is not authorized to possess it under the law of the place in which the badge is the official official[1] insignia or uniform;

(3) knowingly receives a genuine official insignia or uniform in a transfer prohibited by paragraph (2); or

(4) being a person not authorized to possess a genuine official insignia or uniform under the law of the place in which the badge is the official official[1] insignia or uniform, knowingly transports that badge in interstate or foreign commerce,

shall be fined under this title or imprisoned not more than 6 months, or both.

(b) It is a defense to a prosecution under this section that the insignia or uniform is other than a counterfeit insignia or uniform and is not used to mislead or deceive, or is used or is intended to be used exclusively—

(1) as a memento, or in a collection or exhibit;

(2) for decorative purposes;

(3) for a dramatic presentation, such as a theatrical, film, or television production; or

(4) for any other recreational purpose.

(c) As used in this section—

(1) the term ''genuine police badge'' means an official badge issued by public authority to identify an individual as a law enforcement officer having police powers;

(2) the term ''counterfeit police badge'' means an item that so resembles a police badge that it would deceive an ordinary individual into believing it was a genuine police badge; and[2]

(3) the term ''official insignia or uniform'' means an article of distinctive clothing or insignia, including a badge, emblem or identification card, that is an indicium of the authority of a public employee;

(4) the term ''public employee'' means any officer or employee of the Federal Government or of a State or local government; and

(5) the term ''uniform'' means distinctive clothing or other items of dress, whether real or counterfeit, worn during the performance of official duties and which identifies the wearer as a public agency employee.

(d) It is a defense to a prosecution under this section that the official insignia or uniform is not used or intended to be used to mislead or deceive, or is a counterfeit insignia or uniform and is used or is intended to be used exclusively—

(1) for a dramatic presentation, such as a theatrical, film, or television production; or

(2) for legitimate law enforcement purposes.

(Added Pub. L. 106–547, § 3(a), Dec. 19, 2000, 114 Stat. 2739; amended Pub. L. 109–162, title XI, § 1191(a), Jan. 5, 2006, 119 Stat. 3128.)

AMENDMENTS

2006—Pub. L. 109–162, § 1191(a)(6), substituted ''Public employee insignia and uniform'' for ''Police badges'' in section catchline.

Subsec. (a)(1). Pub. L. 109–162, § 1191(a)(1), substituted ''official insignia or uniform'' for ''police badge''.

Subsec. (a)(2). Pub. L. 109–162, § 1191(a)(1), (2), substituted ''official insignia or uniform to'' for ''police badge to'' and ''official insignia or uniform;'' for ''badge of the police;''.

Subsec. (a)(3). Pub. L. 109–162, § 1191(a)(1), substituted ''official insignia or uniform'' for ''police badge''.

[1] So in original.

[2] So in original. The word ''and'' probably should not appear.

Subsec. (a)(4). Pub. L. 109–162, § 1191(a)(1), (2), substituted ''official insignia or uniform under'' for ''police badge under'' and ''official insignia or uniform,'' for ''badge of the police,''.

Subsec. (b). Pub. L. 109–162, § 1191(a)(3)(C), which directed the insertion of ''is not used to mislead or deceive, or'' before ''is used or intended'' was executed by making the insertion before ''is used or is intended'', to reflect the probable intent of Congress.

Pub. L. 109–162, § 1191(a)(3)(A), (B), substituted ''the insignia or uniform'' for ''the badge'' and inserted ''is other than a counterfeit insignia or uniform and'' before ''is used or is intended to be used''.

Pub. L. 109–162, § 1191(a)(1), which directed substitution of ''official insignia or uniform'' for ''police badge'' could not be executed because the term ''police badge'' did not appear.

Subsec. (c)(3) to (5). Pub. L. 109–162, § 1191(a)(4), added pars. (3) to (5).

Subsec. (d). Pub. L. 109–162, § 1191(a)(5), added subsec. (d).

CHAPTER 35—ESCAPE AND RESCUE

Sec.
751. Prisoners in custody of institution or officer.
752. Instigating or assisting escape.
753. Rescue to prevent execution.
[754. Repealed.]
755. Officer permitting escape.
756. Internee of belligerent nation.
757. Prisoners of war or enemy aliens.
758. High speed flight from immigration checkpoint.

AMENDMENTS

1996—Pub. L. 104–208, div. C, title I, § 108(b)(2), Sept. 30, 1996, 110 Stat. 3009–558, added item 758.

1994—Pub. L. 103–322, title XXXIII, § 330004(5), Sept. 13, 1994, 108 Stat. 2141, struck out item 754 ''Rescue of body of executed offender''.

§ 751. Prisoners in custody of institution or officer

(a) Whoever escapes or attempts to escape from the custody of the Attorney General or his authorized representative, or from any institution or facility in which he is confined by direction of the Attorney General, or from any custody under or by virtue of any process issued under the laws of the United States by any court, judge, or magistrate judge, or from the custody of an officer or employee of the United States pursuant to lawful arrest, shall, if the custody or confinement is by virtue of an arrest on a charge of felony, or conviction of any offense, be fined under this title or imprisoned not more than five years, or both; or if the custody or confinement is for extradition, or for exclusion or expulsion proceedings under the immigration laws, or by virtue of an arrest or charge of or for a misdemeanor, and prior to conviction, be fined under this title or imprisoned not more than one year, or both.

(b) Whoever escapes or attempts to escape from the custody of the Attorney General or his authorized representative, or from any institution or facility in which he is confined by direction of the Attorney General, or from any custody under or by virtue of any process issued under the laws of the United States by any court, judge, or magistrate judge, or from the custody of an officer or employee of the United States pursuant to lawful arrest, shall, if the custody or confinement is by virtue of a lawful arrest for a violation of any law of the United States not punishable by death or life imprisonment and committed before such person's eighteenth birthday, and as to whom the Attorney General has not specifically directed the institution of criminal proceedings, or by virtue of a commitment as a juvenile delinquent under section 5034 of this title, be fined under this title or imprisoned not more than one year, or both. Nothing herein contained shall be construed to affect the discretionary authority vested in the Attorney General pursuant to section 5032 of this title.

(June 25, 1948, ch. 645, 62 Stat. 734; Pub. L. 88–251, § 1, Dec. 30, 1963, 77 Stat. 834; Pub. L. 89–176, § 3, Sept. 10, 1965, 79 Stat. 675; Pub. L. 90–578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 100–690, title VII, § 7055, Nov. 18, 1988, 102 Stat. 4402; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 753h, 909 (May 14, 1930, ch. 274, § 9, 46 Stat. 327; May 27, 1930, ch. 339, § 9, 46 Stat. 390; Aug. 3, 1935, ch. 432, 49 Stat. 513).

Sections 753h and 909 of title 18, U.S.C., 1940 ed., were consolidated. Section 753h is later and more comprehensive. The substance of its provisions was adopted.

References to offenses as felonies or misdemeanors were omitted in view of definitive section 1 of this title. (See also reviser's notes under section 550 of this title.)

Mandatory provision as to separate sentences and order of service was omitted in order to permit court to exercise discretion as to whether sentences should be concurrent or consecutive and to obviate administration problems in enforcement of section.

Words ''or employee'' were inserted to remove ambiguity as to scope of section.

Reference to ''custody or confinement is for extradition'' was inserted to avoid possible ambiguity.

Changes were made in phraseology and arrangement.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' after ''any offense, be'' and for ''fined not more than $1,000'' after ''conviction, be'' in subsec. (a) and substituted ''fined under this title'' for ''fined not more than $1,000'' in subsec. (b).

1988—Subsec. (a). Pub. L. 100–690 inserted '', or for exclusion or expulsion proceedings under the immigration laws,'' after ''extradition''.

1965—Pub. L. 89–176 inserted ''or facility'' after ''institution''.

1963—Pub. L. 88–251 designated existing provisions as subsec. (a) and added subsec. (b).

CHANGE OF NAME

Words ''magistrate judge'' substituted for ''magistrate'' in subsecs. (a) and (b) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, ''magistrate'' substituted for ''commissioner'' pursuant to Pub. L. 90–578. See chapter 43 (§ 631 et seq.) of Title 28.

§ 752. Instigating or assisting escape

(a) Whoever rescues or attempts to rescue or instigates, aids or assists the escape, or attempt to escape, of any person arrested upon a warrant or other process issued under any law of the United States, or committed to the custody of

the Attorney General or to any institution or facility by his direction, shall, if the custody or confinement is by virtue of an arrest on a charge of felony, or conviction of any offense, be fined under this title or imprisoned not more than five years, or both; or, if the custody or confinement is for extradition, or for exclusion or expulsion proceedings under the immigration laws, or by virtue of an arrest or charge of or for a misdemeanor, and prior to conviction, be fined under this title or imprisoned not more than one year, or both.

(b) Whoever rescues or attempts to rescue or instigates, aids, or assists the escape or attempted escape of any person in the custody of the Attorney General or his authorized representative, or of any person arrested upon a warrant or other process issued under any law of the United States or from any institution or facility in which he is confined by direction of the Attorney General, shall, if the custody or confinement is by virtue of a lawful arrest for a violation of any law of the United States not punishable by death or life imprisonment and committed before such person's eighteenth birthday, and as to whom the Attorney General has not specifically directed the institution of criminal proceedings, or by virtue of a commitment as a juvenile delinquent under section 5034 of this title, be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 735; May 28, 1956, ch. 331, 70 Stat. 216; Pub. L. 88–251, § 2, Dec. 30, 1963, 77 Stat. 834; Pub. L. 89–176, § 3, Sept. 10, 1965, 79 Stat. 675; Pub. L. 100–690, title VII, § 7055, Nov. 18, 1988, 102 Stat. 4402; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 107–273, div. B, title IV, § 4002(d)(1)(D), Nov. 2, 2002, 116 Stat. 1809.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 246, 247, 252, 661, 662c, 753i, 910 (R.S. § 5277; Mar. 4, 1909, ch. 321, §§ 141, 143, 35 Stat. 1114; May 14, 1930, ch. 274, § 10, 46 Stat. 327; May 27, 1930, ch. 339, § 10, 46 Stat. 390; Mar. 22, 1934, ch. 73, § 2, 48 Stat. 455; May 18, 1934, ch. 303, § 1, 48 Stat. 782).

Section consolidated escape and rescue provisions of sections 246, 247, 252, 661, 662c, 753i, and 910 of title 18, U.S.C., 1940 ed. Remaining provisions of those sections are in sections 1071, 1072, 1502, 1792, 3183, and 3195 of this title.

No two sections provided the same punishment. Every section except said section 252 made the offense a misdemeanor by providing for fines varying from $500 to $1,000 and terms of imprisonment varying from 6 months to 1 year. Said section 252, representing the latest expression by Congress, provided for 10 years' imprisonment.

The punishment provision was adopted from section 751 of this title, which makes it unlawful for a prisoner to escape from his place of confinement. Thus the same punishment would apply to the person aiding in an escape as to the person escaping.

The language of this section reconciles the conflict by adopting a penalty which is a compromise between the varying provisions.

Reference to ''extradition'' was inserted to avoid ambiguity and to harmonize section with section 751 of this title.

References to ''force'' were omitted as well as those to ''officer'' or ''custody.'' See definition of ''Rescue,'' Black's Law Dictionary, citing 4 Bl. Comm. 131.

Changes were made in phraseology.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–273 substituted ''or conviction of any offense, be fined under this title'' for ''or conviction of any offense, be fined not more than $5,000''.

1994—Subsecs. (a), (b). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

1988—Subsec. (a). Pub. L. 100–690 inserted '', or for exclusion or expulsion proceedings under the immigration laws,'' after ''extradition''.

1965—Pub. L. 89–176 inserted ''or facility'' after ''institution''.

1963—Pub. L. 88–251 designated existing provisions as subsec. (a) and added subsec. (b).

1956—Act May 28, 1956, inserted '', or attempt to escape,'' after ''escape''.

§ 753. Rescue to prevent execution

Whoever, by force, sets at liberty or rescues any person found guilty in any court of the United States of any capital crime, while going to execution or during execution, shall be fined under this title or imprisoned not more than twenty-five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 735; Pub. L. 103–322, title XXXIII, § 330016(1)(O), Sept. 13, 1994, 108 Stat. 2148.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 248 (Mar. 4, 1909, ch. 321, § 142, 35 Stat. 1114).

Mandatory punishment provision was rephrased in the alternative.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $25,000''.

[§ 754. Repealed. Pub. L. 103–322, title XXXIII, § 330004(5), Sept. 13, 1994, 108 Stat. 2141]

Section, acts June 25, 1948, ch. 645, 62 Stat. 735; Sept. 13, 1994, Pub. L. 103–322, title XXXIII, § 330016(1)(B), 108 Stat. 2146, related to rescue of bodies of executed offenders.

§ 755. Officer permitting escape

Whoever, having in his custody any prisoner by virtue of process issued under the laws of the United States by any court, judge, or magistrate judge, voluntarily suffers such prisoner to escape, shall be fined under this title or imprisoned not more than 5 years, or both; or if he negligently suffers such person to escape, he shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 735; Pub. L. 90–578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 103–322, title XXXIII, § 330016(1)(G), (I), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–132, title VII, § 705(a)(2), Apr. 24, 1996, 110 Stat. 1295.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 244, 662e, 665 (Feb. 6, 1905, ch. 454, § 2, 33 Stat. 698; Mar. 4, 1909, ch. 321, §§ 138, 139, 35 Stat. 1113; Mar. 22, 1934, ch. 73, § 4, 48 Stat. 456).

Sections 244, 662e and 665 of title 18, U.S.C., 1940 ed., were consolidated. The two latter sections merely ex-

tended application of the former. This section has been greatly condensed by changes in phraseology which do not affect the substance.

Enumeration of ''marshal, deputy marshal, ministerial officer, or other person,'' was omitted as surplusage.

Provision making section applicable to cases of prisoners in custody pending extradition or removal proceedings as well as prisoners convicted of offenses against the United States was likewise omitted as unnecessary.

Changes in phraseology were made.

SENATE REVISION AMENDMENT

The text of this section was changed by Senate amendment in view of the act of June 21, 1947, ch. 111, 61 Stat. 134, which, by amending section 244 of Title 18, U.S.C., became an additional source of this section. The amendment constitutes the last clause of this section. See Senate Report No. 1620, amendment No. 8, 80th Cong.

AMENDMENTS

1996—Pub. L. 104–132 substituted ''5 years'' for ''two years''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $2,000'' after ''escape, shall be'' and for ''fined not more than $500'' after ''he shall be''.

CHANGE OF NAME

Words ''magistrate judge'' substituted for ''magistrate'' in text pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, ''magistrate'' substituted for ''commissioner'' pursuant to Pub. L. 90–578. See chapter 43 (§ 631 et seq.) of Title 28.

§ 756. Internee of belligerent nation

Whoever, within the jurisdiction of the United States, aids or entices any person belonging to the armed forces of a belligerent nation or faction who is interned in the United States in accordance with the law of nations, to escape or attempt to escape from the jurisdiction of the United States or from the limits of internment prescribed, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 735; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–132, title VII, § 705(a)(3), Apr. 24, 1996, 110 Stat. 1295.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 37 (June 15, 1917, ch. 30, title V, § 7, 40 Stat. 223).

Section was divided. Remaining provisions relating to arrest appear in section 3058 of this title.

Minor changes in phraseology were made.

AMENDMENTS

1996—Pub. L. 104–132 substituted ''five years'' for ''one year''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 757. Prisoners of war or enemy aliens

Whoever procures the escape of any prisoner of war held by the United States or any of its allies, or the escape of any person apprehended or interned as an enemy alien by the United States or any of its allies, or advises, connives at, aids, or assists in such escape, or aids, relieves, transports, harbors, conceals, shelters, protects, holds correspondence with, gives intelligence to, or otherwise assists any such prisoner of war or enemy alien, after his escape from custody, knowing him to be such prisoner of war or enemy alien, or attempts to commit or conspires to commit any of the above acts, shall be fined under this title or imprisoned not more than ten years, or both.

The provisions of this section shall be in addition to and not in substitution for any other provision of law.

(June 25, 1948, ch. 645, 62 Stat. 735; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 97b (Apr. 30, 1945, ch. 103, 59 Stat. 101).

The second sentence of section 97b of title 18, U.S.C., 1940 ed., was made a separate paragraph.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' in first par.

§ 758. High speed flight from immigration checkpoint

Whoever flees or evades a checkpoint operated by the Immigration and Naturalization Service, or any other Federal law enforcement agency, in a motor vehicle and flees Federal, State, or local law enforcement agents in excess of the legal speed limit shall be fined under this title, imprisoned not more than five years, or both.

(Added Pub. L. 104–208, div. C, title I, § 108(b)(1), Sept. 30, 1996, 110 Stat. 3009–557.)

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

CONGRESSIONAL FINDINGS

Section 108(a) of div. C of Pub. L. 104–208 provided that: ''The Congress finds as follows:

''(1) Immigration checkpoints are an important component of the national strategy to prevent illegal immigration.

''(2) Individuals fleeing immigration checkpoints and leading law enforcement officials on high speed vehicle chases endanger law enforcement officers, innocent bystanders, and the fleeing individuals themselves.

''(3) The pursuit of suspects fleeing immigration checkpoints is complicated by overlapping jurisdiction among Federal, State, and local law enforcement officers.''

CHAPTER 37—ESPIONAGE AND CENSORSHIP

Sec.
[791. Repealed.]
792. Harboring or concealing persons.
793. Gathering, transmitting or losing defense information.
794. Gathering or delivering defense information to aid foreign government.
795. Photographing and sketching defense installations.
796. Use of aircraft for photographing defense installations.
797. Publication and sale of photographs of defense installations.

Sec.
798. Disclosure of classified information.
798A. Temporary extension of section 794.
799. Violation of regulations of National Aeronautics and Space Administration.

AMENDMENTS

1990—Pub. L. 101–647, title XXXV, §3519(b), Nov. 29, 1990, 104 Stat. 4923, redesignated item 798, ''Temporary extension of section 794'', as 798A.

1961—Pub. L. 87–369, §2, Oct. 4, 1961, 75 Stat. 795, struck out item 791 ''Scope of chapter''.

1958—Pub. L. 85–568, title III, §304(c)(2), July 29, 1958, 72 Stat. 434, added item 799.

1953—Act June 30, 1953, ch. 175, §3, 67 Stat. 133, added second item 798.

1951—Act Oct. 31, 1951, ch. 655, §23, 65 Stat. 719, added item 798.

[§ 791. Repealed. Pub. L. 87–369, § 1, Oct. 4, 1961, 75 Stat. 795]

Section, act June 25, 1948, ch. 645, 62 Stat. 736, related to application of this chapter within the admiralty and maritime jurisdiction of the United States, on the high seas, and within the United States.

§ 792. Harboring or concealing persons

Whoever harbors or conceals any person who he knows, or has reasonable grounds to believe or suspect, has committed, or is about to commit, an offense under sections 793 or 794 of this title, shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 736; Pub. L. 103–322, title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 35 of title 50, U.S.C., 1940 ed., War and National Defense (June 15, 1917, ch. 30, title I, §5, 40 Stat. 219; Mar. 28, 1940, ch. 72, §2, 54 Stat. 79).

Similar harboring and concealing language was added to section 2388 of this title.

Mandatory punishment provision was rephrased in the alternative.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

INDICTMENT FOR VIOLATING THIS SECTION AND SECTIONS 793, 794; LIMITATION PERIOD

Act Sept. 23, 1950, ch. 1024, §19, 64 Stat. 1005, provided that an indictment for any violation of this section and sections 793 and 794 of this title, other than a violation constituting a capital offense, may be found at any time within ten years next after such violation shall have been committed, but that such section 19 shall not authorize prosecution, trial, or punishment for any offense ''now'' barred by the provisions of existing law.

§ 793. Gathering, transmitting or losing defense information

(a) Whoever, for the purpose of obtaining information respecting the national defense with intent or reason to believe that the information is to be used to the injury of the United States, or to the advantage of any foreign nation, goes upon, enters, flies over, or otherwise obtains information concerning any vessel, aircraft, work of defense, navy yard, naval station, submarine base, fueling station, fort, battery, torpedo station, dockyard, canal, railroad, arsenal, camp, factory, mine, telegraph, telephone, wireless, or signal station, building, office, research laboratory or station or other place connected with the national defense owned or constructed, or in progress of construction by the United States or under the control of the United States, or of any of its officers, departments, or agencies, or within the exclusive jurisdiction of the United States, or any place in which any vessel, aircraft, arms, munitions, or other materials or instruments for use in time of war are being made, prepared, repaired, stored, or are the subject of research or development, under any contract or agreement with the United States, or any department or agency thereof, or with any person on behalf of the United States, or otherwise on behalf of the United States, or any prohibited place so designated by the President by proclamation in time of war or in case of national emergency in which anything for the use of the Army, Navy, or Air Force is being prepared or constructed or stored, information as to which prohibited place the President has determined would be prejudicial to the national defense; or

(b) Whoever, for the purpose aforesaid, and with like intent or reason to believe, copies, takes, makes, or obtains, or attempts to copy, take, make, or obtain, any sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, document, writing, or note of anything connected with the national defense; or

(c) Whoever, for the purpose aforesaid, receives or obtains or agrees or attempts to receive or obtain from any person, or from any source whatever, any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note, of anything connected with the national defense, knowing or having reason to believe, at the time he receives or obtains, or agrees or attempts to receive or obtain it, that it has been or will be obtained, taken, made, or disposed of by any person contrary to the provisions of this chapter; or

(d) Whoever, lawfully having possession of, access to, control over, or being entrusted with any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note relating to the national defense, or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicates, delivers, transmits or causes to be communicated, delivered, or transmitted or attempts to communicate, deliver, transmit or cause to be communicated, delivered or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it on demand to the officer or employee of the United States entitled to receive it; or

(e) Whoever having unauthorized possession of, access to, or control over any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note relating to the national defense, or information relating to the national defense which information the possessor has reason to believe could be

used to the injury of the United States or to the advantage of any foreign nation, willfully communicates, delivers, transmits or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it; or

(f) Whoever, being entrusted with or having lawful possession or control of any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, note, or information, relating to the national defense, (1) through gross negligence permits the same to be removed from its proper place of custody or delivered to anyone in violation of his trust, or to be lost, stolen, abstracted, or destroyed, or (2) having knowledge that the same has been illegally removed from its proper place of custody or delivered to anyone in violation of its trust, or lost, or stolen, abstracted, or destroyed, and fails to make prompt report of such loss, theft, abstraction, or destruction to his superior officer—

Shall be fined under this title or imprisoned not more than ten years, or both.

(g) If two or more persons conspire to violate any of the foregoing provisions of this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be subject to the punishment provided for the offense which is the object of such conspiracy.

(h)(1) Any person convicted of a violation of this section shall forfeit to the United States, irrespective of any provision of State law, any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, from any foreign government, or any faction or party or military or naval force within a foreign country, whether recognized or unrecognized by the United States, as the result of such violation. For the purposes of this subsection, the term ''State'' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(2) The court, in imposing sentence on a defendant for a conviction of a violation of this section, shall order that the defendant forfeit to the United States all property described in paragraph (1) of this subsection.

(3) The provisions of subsections (b), (c), and (e) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853(b), (c), and (e)–(p)) shall apply to—

(A) property subject to forfeiture under this subsection;

(B) any seizure or disposition of such property; and

(C) any administrative or judicial proceeding in relation to such property,

if not inconsistent with this subsection.

(4) Notwithstanding section 524(c) of title 28, there shall be deposited in the Crime Victims Fund in the Treasury all amounts from the forfeiture of property under this subsection remaining after the payment of expenses for forfeiture and sale authorized by law.

(June 25, 1948, ch. 645, 62 Stat. 736; Sept. 23, 1950, ch. 1024, title I, § 18, 64 Stat. 1003; Pub. L. 99–399, title XIII, § 1306(a), Aug. 27, 1986, 100 Stat. 898; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 103–359, title VIII, § 804(b)(1), Oct. 14, 1994, 108 Stat. 3440; Pub. L. 104–294, title VI, § 607(b), Oct. 11, 1996, 110 Stat. 3511.)

HISTORICAL AND REVISION NOTES

Based on sections 31 and 36 of title 50, U.S.C., 1940 ed., War and National Defense (June 15, 1917, ch. 30, title I, §§ 1, 6, 40 Stat. 217, 219; Mar. 28, 1940, ch. 72, § 1, 54 Stat. 79).

Section consolidated sections 31 and 36 of title 50, U.S.C., 1940 ed., War and National Defense.

Words ''departments or agencies'' were inserted twice in conformity with definitive section 6 of this title to eliminate any possible ambiguity as to scope of section.

The words ''or induces or aids another'' were omitted wherever occurring as unnecessary in view of definition of ''principal'' in section 2 of this title.

Mandatory punishment provision was rephrased in the alternative.

Minor changes were made in phraseology.

AMENDMENTS

1996—Subsec. (h)(1). Pub. L. 104–294 inserted at end ''For the purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' in undesignated par. after subsec. (f).

Subsec. (h)(3). Pub. L. 103–359 substituted ''(p)'' for ''(*o*)'' in two places.

1986—Subsec. (h). Pub. L. 99–399 added subsec. (h).

1950—Act Sept. 23, 1950, divided section into subdivisions, inserted laboratories and stations, and places where material or instruments for use in time of war are the subject of research or development to the list of facilities and places to which subsection (a) applies, made subsection (d) applicable only in cases in which possession, access, or control is lawful, added subsection (e) to take care of cases in which possession, access, or control, is unlawful, made subsection (f) applicable to instruments and appliances, as well as to documents, records, etc., and provided by subsection (g) a separate penalty for conspiracy to violate any provisions of this section.

INDICTMENT FOR VIOLATING THIS SECTION; LIMITATION PERIOD

Limitation period in connection with indictments for violating this section, see note set out under section 792 of this title.

§ 794. Gathering or delivering defense information to aid foreign government

(a) Whoever, with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation, communicates, delivers, or transmits, or attempts to communicate, deliver, or transmit, to any foreign government, or to any faction or party or military or naval force within a foreign country, whether recognized or unrecognized by the United States, or to any representative, officer, agent, employee, subject, or citizen thereof, either directly or indirectly, any document, writing, code book, signal book, sketch, photo-

graph, photographic negative, blueprint, plan, map, model, note, instrument, appliance, or information relating to the national defense, shall be punished by death or by imprisonment for any term of years or for life, except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense resulted in the identification by a foreign power (as defined in section 101(a) of the Foreign Intelligence Surveillance Act of 1978) of an individual acting as an agent of the United States and consequently in the death of that individual, or directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.

(b) Whoever, in time of war, with intent that the same shall be communicated to the enemy, collects, records, publishes, or communicates, or attempts to elicit any information with respect to the movement, numbers, description, condition, or disposition of any of the Armed Forces, ships, aircraft, or war materials of the United States, or with respect to the plans or conduct, or supposed plans or conduct of any naval or military operations, or with respect to any works or measures undertaken for or connected with, or intended for the fortification or defense of any place, or any other information relating to the public defense, which might be useful to the enemy, shall be punished by death or by imprisonment for any term of years or for life.

(c) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be subject to the punishment provided for the offense which is the object of such conspiracy.

(d)(1) Any person convicted of a violation of this section shall forfeit to the United States irrespective of any provision of State law—

(A) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation, and

(B) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

For the purposes of this subsection, the term ''State'' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(2) The court, in imposing sentence on a defendant for a conviction of a violation of this section, shall order that the defendant forfeit to the United States all property described in paragraph (1) of this subsection.

(3) The provisions of subsections (b), (c) and (e) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853(b), (c), and (e)–(p)) shall apply to—

(A) property subject to forfeiture under this subsection;

(B) any seizure or disposition of such property; and

(C) any administrative or judicial proceeding in relation to such property,

if not inconsistent with this subsection.

(4) Notwithstanding section 524(c) of title 28, there shall be deposited in the Crime Victims Fund in the Treasury all amounts from the forfeiture of property under this subsection remaining after the payment of expenses for forfeiture and sale authorized by law.

(June 25, 1948, ch. 645, 62 Stat. 737; Sept. 3, 1954, ch. 1261, title II, § 201, 68 Stat. 1219; Pub. L. 99–399, title XIII, § 1306(b), Aug. 27, 1986, 100 Stat. 898; Pub. L. 100–690, title VII, § 7064, Nov. 18, 1988, 102 Stat. 4404; Pub. L. 103–322, title VI, § 60003(a)(2), Sept. 13, 1994, 108 Stat. 1968; Pub. L. 103–359, title VIII, § 804(b)(2), Oct. 14, 1994, 108 Stat. 3440; Pub. L. 104–294, title VI, §§ 604(b)(2), 607(b), Oct. 11, 1996, 110 Stat. 3506, 3511.)

HISTORICAL AND REVISION NOTES

Based on sections 32 and 34 of title 50, U.S.C., 1940 ed., War and National Defense (June 15, 1917, ch. 30, title I, §§ 2, 4, 40 Stat. 218, 219).

Section consolidates sections 32 and 34 of title 50, U.S.C., 1940 ed., War and National Defense.

The words ''or induces or aids another'' were omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

The conspiracy provision of said section 34 was also incorporated in section 2388 of this title.

Minor changes were made in phraseology.

REFERENCES IN TEXT

Section 101(a) of the Foreign Intelligence Surveillance Act of 1978, referred to in subsec. (a), is classified to section 1801(a) of Title 50, War and National Defense.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–294, § 604(b)(2), amended directory language of Pub. L. 103–322, § 60003(a)(2). See 1994 Amendment note below.

Subsec. (d)(1). Pub. L. 104–294, § 607(b), inserted at end ''For the purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''

1994—Subsec. (a). Pub. L. 103–322, as amended by Pub. L. 104–294, § 604(b)(2), substituted for period at end '', except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense resulted in the identification by a foreign power (as defined in section 101(a) of the Foreign Intelligence Surveillance Act of 1978) of an individual acting as an agent of the United States and consequently in the death of that individual, or directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.''

Subsec. (d)(3). Pub. L. 103–359 substituted ''(p)'' for ''(*o*)'' in two places.

1988—Subsec. (d)(4). Pub. L. 100–690 substituted ''amounts'' for ''amount''.

1986—Subsec. (d). Pub. L. 99–399 added subsec. (d).

1954—Act Sept. 3, 1954, increased the penalty for peacetime espionage and corrected a deficiency on the sentencing authority by increasing penalty to death or imprisonment for any term of years.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 604(b)(2) of Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

TEMPORARY EXTENSION OF SECTION

Temporary extension of section, see section 798 of this title.

Section 7 of act June 30, 1953, ch. 175, 67 Stat. 133, repealed Joint Res. July 3, 1952, ch. 570, § 1(a)(29), 66 Stat. 333; Joint Res. Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, which had provided that this section should continue in force until six months after the termination of the National emergency proclaimed by 1950 Proc. No. 2914 which is set out as a note preceding section 1 of Appendix to Title 50, War and National Defense.

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54, as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96. Intermediate extensions by Joint Res. June 14, 1952, ch. 437, 66 Stat. 137, and Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952, expired by their own terms.

INDICTMENT FOR VIOLATING THIS SECTION; LIMITATION PERIOD

Limitation period in connection with indictments for violating this section, see note set out under section 792 of this title.

§ 795. Photographing and sketching defense installations

(a) Whenever, in the interests of national defense, the President defines certain vital military and naval installations or equipment as requiring protection against the general dissemination of information relative thereto, it shall be unlawful to make any photograph, sketch, picture, drawing, map, or graphical representation of such vital military and naval installations or equipment without first obtaining permission of the commanding officer of the military or naval post, camp, or station, or naval vessels, military and naval aircraft, and any separate military or naval command concerned, or higher authority, and promptly submitting the product obtained to such commanding officer or higher authority for censorship or such other action as he may deem necessary.

(b) Whoever violates this section shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 737; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on sections 45 and 45c of title 50, U.S.C., 1940 ed., War and National Defense (Jan. 12, 1938, ch. 2, §§ 1, 4, 52 Stat. 3, 4).

Section consolidated sections 45 and 45c of title 50, U.S.C., 1940 ed., War and National Defense.

Minor changes were made in phraseology.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

EX. ORD. NO. 10104. DEFINITIONS OF VITAL MILITARY AND NAVAL INSTALLATIONS AND EQUIPMENT

Ex. Ord. No. 10104, Feb. 1, 1950, 15 F.R. 597, provided:

Now, therefore, by virtue of the authority vested in me by the foregoing statutory provisions, and in the interests of national defense, I hereby define the following as vital military and naval installations or equipment requiring protection against the general dissemination of information relative thereto:

1. All military, naval, or air-force installations and equipment which are now classified, designated, or marked under the authority or at the direction of the President, the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force as ''top secret'', ''secret'', ''confidential'', or ''restricted'', and all military, naval, or air-force installations and equipment which may hereafter be so classified, designated, or marked with the approval or at the direction of the President, and located within:

(a) Any military, naval, or air-force reservation, post, arsenal, proving ground, range, mine field, camp, base, airfield, fort, yard, station, district, or area.

(b) Any defensive sea area heretofore established by Executive order and not subsequently discontinued by Executive order, and any defensive sea area hereafter established under authority of section 2152 of title 18 of the United States Code.

(c) Any airspace reservation heretofore or hereafter established under authority of section 4 of the Air Commerce Act of 1926 (44 Stat. 570; 49 U.S.C. 174) except the airspace reservation established by Executive Order No. 10092 of December 17, 1949.

(d) Any naval harbor closed to foreign vessels.

(e) Any area required for fleet purposes.

(f) Any commercial establishment engaged in the development or manufacture of classified military or naval arms, munitions, equipment, designs, ships, aircraft, or vessels for the United States Army, Navy, or Air Force.

2. All military, naval, or air-force aircraft, weapons, ammunition, vehicles, ships, vessels, instruments, engines, manufacturing machinery, tools, devices, or any other equipment whatsoever, in the possession of the Army, Navy, or Air Force or in the course of experimentation, development, manufacture, or delivery for the Army, Navy, or Air Force which are now classified, designated, or marked under the authority or at the direction of the President, the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force as ''top secret'', ''secret'', ''confidential'', or ''restricted'', and all such articles, materials, or equipment which may hereafter be so classified, designated, or marked with the approval or at the direction of the President.

3. All official military, naval, or air-force books, pamphlets, documents, reports, maps, charts, plans, designs, models, drawings, photographs, contracts, or specifications which are now marked under the authority or at the direction of the President, the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force as ''top secret'', ''secret'', ''confidential'', or ''restricted'', and all such articles or equipment which may hereafter be so marked with the approval or at the direction of the President.

This order supersedes Executive Order No. 8381 of March 22, 1940, entitled ''Defining Certain Vital Military and Naval Installations and Equipment.''

§ 796. Use of aircraft for photographing defense installations

Whoever uses or permits the use of an aircraft or any contrivance used, or designed for navigation or flight in the air, for the purpose of making a photograph, sketch, picture, drawing, map, or graphical representation of vital military or naval installations or equipment, in violation of section 795 of this title, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 738; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on sections 45, 45a, and 45c of title 50, U.S.C., 1940 ed., War and National Defense (Jan. 12, 1938, ch. 2, §§ 1, 2, 4, 52 Stat. 3, 4).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Punishment provided by section 795 of this title is repeated, and is from said section 45 of title 50, U.S.C., 1940 ed.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 797. Publication and sale of photographs of defense installations

On and after thirty days from the date upon which the President defines any vital military or naval installation or equipment as being within the category contemplated under section 795 of this title, whoever reproduces, publishes, sells, or gives away any photograph, sketch, picture, drawing, map, or graphical representation of the vital military or naval installations or equipment so defined, without first obtaining permission of the commanding officer of the military or naval post, camp, or station concerned, or higher authority, unless such photograph, sketch, picture, drawing, map, or graphical representation has clearly indicated thereon that it has been censored by the proper military or naval authority, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 738; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on sections 45 and 45b, of title 50, U.S.C., 1940 ed., War and National Defense (Jan. 12, 1938, ch. 2, §§ 1, 3, 52 Stat. 3).

Punishment provision of section 45 of title 50, U.S.C., 1940 ed., War and National Defense, is repeated. Words ''upon conviction'' were deleted as surplusage since punishment cannot be imposed until a conviction is secured.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 798. Disclosure of classified information

(a) Whoever knowingly and willfully communicates, furnishes, transmits, or otherwise makes available to an unauthorized person, or publishes, or uses in any manner prejudicial to the safety or interest of the United States or for the benefit of any foreign government to the detriment of the United States any classified information—

(1) concerning the nature, preparation, or use of any code, cipher, or cryptographic system of the United States or any foreign government; or

(2) concerning the design, construction, use, maintenance, or repair of any device, apparatus, or appliance used or prepared or planned for use by the United States or any foreign government for cryptographic or communication intelligence purposes; or

(3) concerning the communication intelligence activities of the United States or any foreign government; or

(4) obtained by the processes of communication intelligence from the communications of any foreign government, knowing the same to have been obtained by such processes—

Shall be fined under this title or imprisoned not more than ten years, or both.

(b) As used in subsection (a) of this section—

The term ''classified information'' means information which, at the time of a violation of this section, is, for reasons of national security, specifically designated by a United States Government Agency for limited or restricted dissemination or distribution;

The terms ''code,'' ''cipher,'' and ''cryptographic system'' include in their meanings, in addition to their usual meanings, any method of secret writing and any mechanical or electrical device or method used for the purpose of disguising or concealing the contents, significance, or meanings of communications;

The term ''foreign government'' includes in its meaning any person or persons acting or purporting to act for or on behalf of any faction, party, department, agency, bureau, or military force of or within a foreign country, or for or on behalf of any government or any person or persons purporting to act as a government within a foreign country, whether or not such government is recognized by the United States;

The term ''communication intelligence'' means all procedures and methods used in the interception of communications and the obtaining of information from such communications by other than the intended recipients;

The term ''unauthorized person'' means any person who, or agency which, is not authorized to receive information of the categories set forth in subsection (a) of this section, by the President, or by the head of a department or agency of the United States Government which is expressly designated by the President to engage in communication intelligence activities for the United States.

(c) Nothing in this section shall prohibit the furnishing, upon lawful demand, of information to any regularly constituted committee of the Senate or House of Representatives of the United States of America, or joint committee thereof.

(d)(1) Any person convicted of a violation of this section shall forfeit to the United States irrespective of any provision of State law—

(A) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation; and

(B) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

(2) The court, in imposing sentence on a defendant for a conviction of a violation of this section, shall order that the defendant forfeit to the United States all property described in paragraph (1).

(3) Except as provided in paragraph (4), the provisions of subsections (b), (c), and (e) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853(b), (c), and (e)–(p)), shall apply to—

(A) property subject to forfeiture under this subsection;

(B) any seizure or disposition of such property; and

(C) any administrative or judicial proceeding in relation to such property,

if not inconsistent with this subsection.

(4) Notwithstanding section 524(c) of title 28, there shall be deposited in the Crime Victims Fund established under section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) all amounts from the forfeiture of property under this subsection remaining after the payment of expenses for forfeiture and sale authorized by law.

(5) As used in this subsection, the term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(Added Oct. 31, 1951, ch. 655, § 24(a), 65 Stat. 719; amended Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 103–359, title VIII, § 804(a), Oct. 14, 1994, 108 Stat. 3439; Pub. L. 104–294, title VI, § 602(c), Oct. 11, 1996, 110 Stat. 3503.)

CODIFICATION

Another section 798 was renumbered section 798A of this title.

AMENDMENTS

1996—Subsec. (d)(5). Pub. L. 104–294 struck out ''the Trust Territory of the Pacific Islands,'' after ''Puerto Rico,''.

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' in concluding provisions.

Subsec. (d). Pub. L. 103–359 added subsec. (d).

§ 798A. Temporary extension of section 794

The provisions of section 794 of this title, as amended and extended by section 1(a)(29) of the Emergency Powers Continuation Act (66 Stat. 333), as further amended by Public Law 12, Eighty-third Congress, in addition to coming into full force and effect in time of war shall remain in full force and effect until six months after the termination of the national emergency proclaimed by the President on December 16, 1950 (Proc. 2912, 3 C.F.R., 1950 Supp., p. 71), or such earlier date as may be prescribed by concurrent resolution of the Congress, and acts which would give rise to legal consequences and penalties under section 794 when performed during a state of war shall give rise to the same legal consequences and penalties when they are performed during the period above provided for.

(Added June 30, 1953, ch. 175, § 4, 67 Stat. 133, § 798; renumbered § 798A, Pub. L. 101–647, title XXXV, § 3519(a), Nov. 29, 1990, 104 Stat. 4923.)

REFERENCES IN TEXT

Section 1(a)(29) of the Emergency Powers Continuation Act (66 Stat. 333) as further amended by Public Law 12, Eighty-third Congress, referred to in text, was formerly set out as a note under section 791 of this title and was repealed by section 7 of act June 30, 1953.

Proc. 2912, 3 C.F.R., 1950 Supp., p. 71, referred to in text, is an erroneous citation. It should refer to Proc. 2914 which is set out as a note preceding section 1 of Title 50, Appendix, War and National Defense.

AMENDMENTS

1990—Pub. L. 101–647 renumbered the second section 798 of this title as this section.

TERMINATION OF NATIONAL EMERGENCY

Declaration of national emergency in effect on Sept. 14, 1976, was terminated two years from that date by section 1601 of Title 50, War and National Defense.

§ 799. Violation of regulations of National Aeronautics and Space Administration

Whoever willfully shall violate, attempt to violate, or conspire to violate any regulation or order promulgated by the Administrator of the National Aeronautics and Space Administration for the protection or security of any laboratory, station, base or other facility, or part thereof, or any aircraft, missile, spacecraft, or similar vehicle, or part thereof, or other property or equipment in the custody of the Administration, or any real or personal property or equipment in the custody of any contractor under any contract with the Administration or any subcontractor of any such contractor, shall be fined under this title, or imprisoned not more than one year, or both.

(Added Pub. L. 85–568, title III, § 304(c)(1), July 29, 1958, 72 Stat. 434; amended Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

CODIFICATION

Section was added by subsec. (c)(1) of section 304 of Pub. L. 85–568. Subsecs. (a) and (b) of section 304 are classified to section 2455 of Title 42, The Public Health and Welfare. Subsec. (d) of section 304 is classified to section 1114 of this title. Subsec. (e) of section 304 is classified to section 2456 of Title 42.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

CHAPTER 39—EXPLOSIVES AND OTHER DANGEROUS ARTICLES

Sec.
831. Prohibited transactions involving nuclear materials.
832. Participation in nuclear and weapons of mass destruction threats to the United States.
[833 to 835. Repealed.]
836. Transportation of fireworks into State prohibiting sale or use.
[837. Repealed.]

AMENDMENTS

2004—Pub. L. 108–458, title VI, § 6803(c)(1), Dec. 17, 2004, 118 Stat. 3768, added item 832.

1982—Pub. L. 97–351, § 2(b), Oct. 18, 1982, 96 Stat. 1666, substituted ''Prohibited transactions involving nuclear materials'' for ''Definitions'' in item 831 and struck out items 832 ''Transportation of explosives, radioactive materials, etiologic agents, and other dangerous articles'', 833 ''Marking packages containing explosives and other dangerous articles'', 834 ''Regulation by Interstate Commerce Commission'', and 835 ''Administration''.

1970—Pub. L. 91–452, title XI, § 1106(b)(2), Oct. 15, 1970, 84 Stat. 960, struck out item 837.

1960—Pub. L. 86–710, Sept. 6, 1960, 74 Stat. 808, substituted ''OTHER DANGEROUS ARTICLES'' for ''COMBUSTIBLES'' in chapter heading, ''explosives, radioactive materials, etiologic agents, and other dangerous articles'' for ''dynamite, powder and fuses'' in item 832,

''Marking packages containing explosives and other dangerous articles'' for ''Transportation of nitroglycerin'' in item 833, ''Regulation by Interstate Commerce Commission'' for ''Marking packages containing explosives'' in item 834, and ''Administration'' for ''Regulations by Interstate Commerce Commission'' in item 835.

Pub. L. 86–449, title II, § 204, May 6, 1960, 74 Stat. 88, added item 837.

1954—Act June 4, 1954, ch. 261, § 2, 68 Stat. 171, added item 836.

HAZARDOUS SUBSTANCES

Federal Hazardous Substances Act as not modifying this chapter or regulations promulgated thereunder, see Pub. L. 86–613, § 18, formerly 17, July 12, 1960, 74 Stat. 380, as amended Pub. L. 89–756, § 4(a), Nov. 3, 1966, 80 Stat. 1305; renumbered and amended Pub. L. 91–113, § 4(a), (b)(1), Nov. 6, 1969, 83 Stat. 189, 190, set out as a note under section 1261 of Title 15, Commerce and Trade.

§ 831. Prohibited transactions involving nuclear materials

(a) Whoever, if one of the circumstances described in subsection (c) of this section occurs—

(1) without lawful authority, intentionally receives, possesses, uses, transfers, alters, disposes of, or disperses any nuclear material or nuclear byproduct material and—

(A) thereby knowingly causes the death of or serious bodily injury to any person or substantial damage to property or to the environment; or

(B) circumstances exist, or have been represented to the defendant to exist, that are likely to cause the death or serious bodily injury to any person, or substantial damage to property or to the environment;

(2) with intent to deprive another of nuclear material or nuclear byproduct material, knowingly—

(A) takes and carries away nuclear material or nuclear byproduct material of another without authority;

(B) makes an unauthorized use, disposition, or transfer, of nuclear material or nuclear byproduct material belonging to another; or

(C) uses fraud and thereby obtains nuclear material or nuclear byproduct material belonging to another;

(3) knowingly—

(A) uses force; or

(B) threatens or places another in fear that any person other than the actor will imminently be subject to bodily injury;

and thereby takes nuclear material or nuclear byproduct material belonging to another from the person or presence of any other;

(4) intentionally intimidates any person and thereby obtains nuclear material or nuclear byproduct material belonging to another;

(5) with intent to compel any person, international organization, or governmental entity to do or refrain from doing any act, knowingly threatens to engage in conduct described in paragraph (2)(A) or (3) of this subsection;

(6) knowingly threatens to use nuclear material or nuclear byproduct material to cause death or serious bodily injury to any person or substantial damage to property or to the environment under circumstances in which the threat may reasonably be understood as an expression of serious purposes;

(7) attempts to commit an offense under paragraph (1), (2), (3), or (4) of this subsection; or

(8) is a party to a conspiracy of two or more persons to commit an offense under paragraph (1), (2), (3), or (4) of this subsection, if any of the parties intentionally engages in any conduct in furtherance of such offense;

shall be punished as provided in subsection (b) of this section.

(b) The punishment for an offense under—

(1) paragraphs (1) through (7) of subsection (a) of this section is—

(A) a fine under this title; and

(B) imprisonment—

(i) for any term of years or for life (I) if, while committing the offense, the offender knowingly causes the death of any person; or (II) if, while committing an offense under paragraph (1) or (3) of subsection (a) of this section, the offender, under circumstances manifesting extreme indifference to the life of an individual, knowingly engages in any conduct and thereby recklessly causes the death of or serious bodily injury to any person; and

(ii) for not more than 20 years in any other case; and

(2) paragraph (8) of subsection (a) of this section is—

(A) a fine under this title; and

(B) imprisonment—

(i) for not more than 20 years if the offense which is the object of the conspiracy is punishable under paragraph (1)(B)(i); and

(ii) for not more than 10 years in any other case.

(c) The circumstances referred to in subsection (a) of this section are that—

(1) the offense is committed in the United States or the special maritime and territorial jurisdiction of the United States, or the special aircraft jurisdiction of the United States (as defined in section 46501 of title 49);

(2) an offender or a victim is—

(A) a national of the United States; or

(B) a United States corporation or other legal entity;

(3) after the conduct required for the offense occurs the defendant is found in the United States, even if the conduct required for the offense occurs outside the United States;

(4) the conduct required for the offense occurs with respect to the carriage of a consignment of nuclear material or nuclear byproduct material by any means of transportation intended to go beyond the territory of the state where the shipment originates beginning with the departure from a facility of the shipper in that state and ending with the arrival at a facility of the receiver within the state of ultimate destination and either of such states is the United States; or

(5) either—

(A) the governmental entity under subsection (a)(5) is the United States; or

(B) the threat under subsection (a)(6) is directed at the United States.

(d) The Attorney General may request assistance from the Secretary of Defense under chapter 18 of title 10 in the enforcement of this section and the Secretary of Defense may provide such assistance in accordance with chapter 18 of title 10, except that the Secretary of Defense may provide such assistance through any Department of Defense personnel.

(e)(1) The Attorney General may also request assistance from the Secretary of Defense under this subsection in the enforcement of this section. Notwithstanding section 1385 of this title, the Secretary of Defense may, in accordance with other applicable law, provide such assistance to the Attorney General if—

(A) an emergency situation exists (as jointly determined by the Attorney General and the Secretary of Defense in their discretion); and

(B) the provision of such assistance will not adversely affect the military preparedness of the United States (as determined by the Secretary of Defense in such Secretary's discretion).

(2) As used in this subsection, the term ''emergency situation'' means a circumstance—

(A) that poses a serious threat to the interests of the United States; and

(B) in which—

(i) enforcement of the law would be seriously impaired if the assistance were not provided; and

(ii) civilian law enforcement personnel are not capable of enforcing the law.

(3) Assistance under this section may include—

(A) use of personnel of the Department of Defense to arrest persons and conduct searches and seizures with respect to violations of this section; and

(B) such other activity as is incidental to the enforcement of this section, or to the protection of persons or property from conduct that violates this section.

(4) The Secretary of Defense may require reimbursement as a condition of assistance under this section.

(5) The Attorney General may delegate the Attorney General's function under this subsection only to a Deputy, Associate, or Assistant Attorney General.

(f) As used in this section—

(1) the term ''nuclear material'' means material containing any—

(A) plutonium;

(B) uranium not in the form of ore or ore residue that contains the mixture of isotopes as occurring in nature;

(C) enriched uranium, defined as uranium that contains the isotope 233 or 235 or both in such amount that the abundance ratio of the sum of those isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature; or

(D) uranium 233;

(2) the term ''nuclear byproduct material'' means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator;

(3) the term ''international organization'' means a public international organization designated as such pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288) or a public organization created pursuant to treaty or other agreement under international law as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs;

(4) the term ''serious bodily injury'' means bodily injury which involves—

(A) a substantial risk of death;

(B) extreme physical pain;

(C) protracted and obvious disfigurement; or

(D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty;

(5) the term ''bodily injury'' means—

(A) a cut, abrasion, bruise, burn, or disfigurement;

(B) physical pain;

(C) illness;

(D) impairment of a function of a bodily member, organ, or mental faculty; or

(E) any other injury to the body, no matter how temporary;

(6) the term ''national of the United States'' has the same meaning as in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

(7) the term ''United States corporation or other legal entity'' means any corporation or other entity organized under the laws of the United States or any State, Commonwealth, territory, possession, or district of the United States.

(Added Pub. L. 97–351, § 2(a), Oct. 18, 1982, 96 Stat. 1663; amended Pub. L. 100–690, title VII, § 7022, Nov. 18, 1988, 102 Stat. 4397; Pub. L. 103–272, § 5(e)(6), July 5, 1994, 108 Stat. 1374; Pub. L. 103–322, title XXXIII, § 330016(2)(C), Sept. 13, 1994, 108 Stat. 2148; Pub. L. 104–132, title V, § 502, Apr. 24, 1996, 110 Stat. 1282.)

PRIOR PROVISIONS

A prior section 831, acts June 25, 1948, ch. 645, 62 Stat. 738; Sept. 6, 1960, Pub. L. 86–710, 74 Stat. 808; July 27, 1965, Pub. L. 89–95, 79 Stat. 285; Oct. 17, 1978, Pub. L. 95–473; § 2(a)(1)(A), 92 Stat. 1464, defined terms used in this chapter, prior to repeal by Pub. L. 96–129, title II, § 216(b), Nov. 30, 1979, 93 Stat. 1015. For savings provisions regarding former section 831, see section 218 of Pub. L. 96–129, set out as a note under former sections 832 to 835 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–132, § 502(1)(A), substituted ''nuclear material or nuclear byproduct material'' for ''nuclear material'' wherever appearing.

Subsec. (a)(1)(A). Pub. L. 104–132, § 502(1)(B)(i), inserted ''or to the environment'' after ''damage to property''.

Subsec. (a)(1)(B). Pub. L. 104–132, § 502(1)(B)(ii), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''knows that circumstances exist which are likely to cause the death of or serious bodily injury to any person or substantial damage to property;''.

Subsec. (a)(6). Pub. L. 104–132, § 502(1)(C), inserted ''or to the environment'' after ''damage to property''.

Subsec. (c)(2). Pub. L. 104–132, § 502(2)(A), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''the defendant is a national of the United States, as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101);''.

Subsec. (c)(3). Pub. L. 104–132, § 502(2)(B), struck out ''at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and'' before ''after the conduct'' and struck out ''or'' at end.

Subsec. (c)(4). Pub. L. 104–132, § 502(2)(C), substituted ''nuclear material or nuclear byproduct material'' for ''nuclear material for peaceful purposes'' and ''; or'' for period at end.

Subsec. (c)(5). Pub. L. 104–132, § 502(2)(D), added par. (5).

Subsec. (f)(1)(A). Pub. L. 104–132, § 502(3)(A)(i), struck out ''with an isotopic concentration not in excess of 80 percent plutonium 238'' after ''plutonium''.

Subsec. (f)(1)(C). Pub. L. 104–132, § 502(3)(A)(ii), substituted ''enriched uranium, defined as uranium'' for ''uranium''.

Subsec. (f)(2) to (7). Pub. L. 104–132, § 502(3)(B)–(F), added par. (2), redesignated former pars. (2) to (4) as (3) to (5), respectively, and added pars. (6) and (7).

1994—Subsec. (b)(1)(A), (2)(A). Pub. L. 103–322 substituted ''fined under this title'' for ''fine of not more than $250,000''.

Subsec. (c)(1). Pub. L. 103–272 substituted ''section 46501 of title 49'' for ''section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301)''.

1988—Subsec. (e)(2) to (6). Pub. L. 100–690 redesignated pars. (3) to (6) as (2) to (5), respectively.

SHORT TITLE OF 1982 AMENDMENT

Section 1 of Pub. L. 97–351 provided that: ''This Act [enacting this section and amending section 1116 of this title] may be cited as the 'Convention on the Physical Protection of Nuclear Material Implementation Act of 1982'.''

FINDINGS AND PURPOSE OF TITLE V OF PUB. L. 104–132 RELATING TO NUCLEAR MATERIALS

Section 501 of title V of Pub. L. 104–132 provided that: ''(a) FINDINGS.—The Congress finds that—

''(1) nuclear materials, including byproduct materials, can be used to create radioactive dispersal devices that are capable of causing serious bodily injury as well as substantial damage to property and to the environment;

''(2) the potential use of nuclear materials, including byproduct materials, enhances the threat posed by terrorist activities and thereby has a greater effect on the security interests of the United States;

''(3) due to the widespread hazards presented by the threat of nuclear contamination, as well as nuclear bombs, the United States has a strong interest in ensuring that persons who are engaged in the illegal acquisition and use of nuclear materials, including byproduct materials, are prosecuted for their offenses;

''(4) the threat that nuclear materials will be obtained and used by terrorist and other criminal organizations has increased substantially since the enactment in 1982 of the legislation that implemented the Convention on the Physical Protection of Nuclear Material, codified at section 831 of title 18, United States Code;

''(5) the successful efforts to obtain agreements from other countries to dismantle nuclear weapons have resulted in increased packaging and transportation of nuclear materials, thereby decreasing the security of such materials by increasing the opportunity for unlawful diversion and theft;

''(6) the trafficking in the relatively more common, commercially available, and usable nuclear and byproduct materials creates the potential for significant loss of life and environmental damage;

''(7) report trafficking incidents in the early 1990's suggest that the individuals involved in trafficking in these materials from Eurasia and Eastern Europe frequently conducted their black market sales of these materials within the Federal Republic of Germany, the Baltic States, the former Soviet Union, Central Europe, and to a lesser extent in the Middle European countries;

''(8) the international community has become increasingly concerned over the illegal possession of nuclear and nuclear byproduct materials;

''(9) the potentially disastrous ramifications of increased access to nuclear and nuclear byproduct materials pose such a significant threat that the United States must use all lawful methods available to combat the illegal use of such materials;

''(10) the United States has an interest in encouraging United States corporations to do business in the countries that comprised the former Soviet Union, and in other developing democracies;

''(11) protection of such United States corporations from threats created by the unlawful use of nuclear materials is important to the success of the effort to encourage business ventures in these countries, and to further the foreign relations and commerce of the United States;

''(12) the nature of nuclear contamination is such that it may affect the health, environment, and property of United States nationals even if the acts that constitute the illegal activity occur outside the territory of the United States, and are primarily directed toward foreign nationals; and

''(13) there is presently no Federal criminal statute that provides adequate protection to United States interests from nonweapons grade, yet hazardous radioactive material, and from the illegal diversion of nuclear materials that are held for other than peaceful purposes.

''(b) PURPOSE.—The purpose of this title [enacting section 2332c of this title, amending this section and sections 175, 177, 178, and 2332a of this title, and enacting provisions set out as notes under section 262 of Title 42, The Public Health and Welfare, and section 1522 of Title 50, War and National Defense] is to provide Federal law enforcement agencies with the necessary means and the maximum authority permissible under the Constitution to combat the threat of nuclear contamination and proliferation that may result from the illegal possession and use of radioactive materials.''

§ 832. Participation in nuclear and weapons of mass destruction threats to the United States

(a) Whoever, within the United States or subject to the jurisdiction of the United States, willfully participates in or knowingly provides material support or resources (as defined in section 2339A) to a nuclear weapons program or other weapons of mass destruction program of a foreign terrorist power, or attempts or conspires to do so, shall be imprisoned for not more than 20 years.

(b) There is extraterritorial Federal jurisdiction over an offense under this section.

(c) Whoever without lawful authority develops, possesses, or attempts or conspires to develop or possess a radiological weapon, or threatens to use or uses a radiological weapon against any person within the United States, or a national of the United States while such national is outside of the United States or against any property that is owned, leased, funded, or used by the United States, whether that property is within or outside of the United States, shall be imprisoned for any term of years or for life.

(d) As used in this section—

(1) ''nuclear weapons program'' means a program or plan for the development, acquisition,

or production of any nuclear weapon or weapons;

(2) ''weapons of mass destruction program'' means a program or plan for the development, acquisition, or production of any weapon or weapons of mass destruction (as defined in section 2332a(c));

(3) ''foreign terrorist power'' means a terrorist organization designated under section 219 of the Immigration and Nationality Act, or a state sponsor of terrorism designated under section 6(j) of the Export Administration Act of 1979 or section 620A of the Foreign Assistance Act of 1961; and

(4) ''nuclear weapon'' means any weapon that contains or uses nuclear material as defined in section 831(f)(1).

(Added Pub. L. 108–458, title VI, § 6803(c)(2), Dec. 17, 2004, 118 Stat. 3768.)

REFERENCES IN TEXT

Section 219 of the Immigration and Nationality Act, referred to in subsec. (d)(3), is classified to section 1189 of Title 8, Aliens and Nationality.

Section 6(j) of the Export Administration Act of 1979, referred to in subsec. (d)(3), is classified to section 2405(j) of Title 50, Appendix, War and National Defense.

Section 620A of the Foreign Assistance Act of 1961, referred to in subsec. (d)(3), is classified to section 2371 of Title 22, Foreign Relations and Intercourse.

PRIOR PROVISIONS

A prior section 832, acts June 25, 1948, ch. 645, 62 Stat. 738; Sept. 6, 1960, Pub. L. 86–710, 74 Stat. 809, related to transportation of explosives, radioactive materials, etiologic agents, and other dangerous articles, prior to repeal by Pub. L. 96–129, title II, § 216(b), Nov. 30, 1979, 93 Stat. 1015.

[§§ 833 to 835. Repealed. Pub. L. 96–129, title II, § 216(b), Nov. 30, 1979, 93 Stat. 1015]

Section 833, acts June 25, 1948, ch. 645, 62 Stat. 739; Sept. 6, 1960, Pub. L. 86–710, 74 Stat. 810, related to marking of packages containing explosives and other dangerous articles.

Section 834, acts June 25, 1948, ch. 645, 62 Stat. 739; Sept. 6, 1960, Pub. L. 86–710, 74 Stat. 810, related to formulation of regulations by Interstate Commerce Commission regarding transportation of explosives and other dangerous articles within United States.

Section 835, acts June 25, 1948, ch. 645, 62 Stat. 739; Sept. 6, 1960, Pub. L. 86–710, 74 Stat. 811; Oct. 15, 1970, Pub. L. 91–452, title II, § 222, 84 Stat. 929; Oct. 17, 1978, Pub. L. 95–473, § 2(a)(1)(B), 92 Stat. 1464, authorized Interstate Commerce Commission to administer, execute and enforce all provisions of sections 831 to 835 of this title.

SAVINGS PROVISION

Pub. L. 96–129, title II, § 218, Nov. 30, 1979, 93 Stat. 1015, provided a savings provision for orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges issued, made, granted, or allowed to become effective under former sections 831 to 835 of this title, prior to repeal by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379.

§ 836. Transportation of fireworks into State prohibiting sale or use

Whoever, otherwise than in the course of continuous interstate transportation through any State, transports fireworks into any State, or delivers them for transportation into any State, or attempts so to do, knowing that such fireworks are to be delivered, possessed, stored, transshipped, distributed, sold, or otherwise dealt with in a manner or for a use prohibited by the laws of such State specifically prohibiting or regulating the use of fireworks, shall be fined under this title or imprisoned not more than one year, or both.

This section shall not apply to a common or contract carrier or to international or domestic water carriers engaged in interstate commerce or to the transportation of fireworks into a State for the use of Federal agencies in the carrying out or the furtherance of their operations.

In the enforcement of this section, the definitions of fireworks contained in the laws of the respective States shall be applied.

As used in this section, the term ''State'' includes the several States, Territories, and possessions of the United States, and the District of Columbia.

This section shall be effective from and after July 1, 1954.

(Added June 4, 1954, ch. 261, § 1, 68 Stat. 170; amended Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000'' in first par.

FIREWORKS FOR AGRICULTURAL PURPOSES

Section 3 of act June 4, 1954, provided that: ''This Act [enacting this section] shall not be effective with respect to—

''(1) the transportation of fireworks into any State or Territory for use solely for agricultural purposes,

''(2) the delivery of fireworks for transportation into any State or Territory for use solely for agricultural purposes, or

''(3) any attempt to engage in any such transportation or delivery for use solely for agricultural purposes, until sixty days have elapsed after the commencement of the next regular session of the legislature of such State or Territory which begins after the date of enactment of this Act [June 4, 1954].''

[§ 837. Repealed. Pub. L. 91–452, title XI, § 1106(b)(1), Oct. 15, 1970, 84 Stat. 960]

Section, Pub. L. 86–449, title II, § 203, May 6, 1960, 74 Stat. 87, related to illegal use or possession of explosives and threats or false information concerning attempts to damage or destroy real or personal property by fire or explosives. See section 844 of this title.

CHAPTER 40—IMPORTATION, MANUFACTURE, DISTRIBUTION AND STORAGE OF EXPLOSIVE MATERIALS

Sec.
841. Definitions.
842. Unlawful acts.
843. Licenses and user permits.
844. Penalties.
845. Exceptions; relief from disabilities.
846. Additional powers of the Attorney General.
847. Rules and regulations.
848. Effect on State law.

AMENDMENTS

2002—Pub. L. 107–296, title XI, § 1112(e)(3), Nov. 25, 2002, 116 Stat. 2276, substituted ''Attorney General'' for ''Secretary'' in item 846.

1990—Pub. L. 101–647, title XXXV, § 3520, Nov. 29, 1990, 104 Stat. 4923, substituted ''Licenses'' for ''Licensing'' in item 843.

1970—Pub. L. 91–452, title XI, § 1102(a), Oct. 15, 1970, 84 Stat. 952, added chapter 40 and items 841 to 848.

§ 841. Definitions

As used in this chapter—

(a) ''Person'' means any individual, corporation, company, association, firm, partnership, society, or joint stock company.

(b) ''Interstate'' or foreign commerce means commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, and commerce between places within the same State but through any place outside of that State. ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

(c) ''Explosive materials'' means explosives, blasting agents, and detonators.

(d) Except for the purposes of subsections (d), (e), (f), (g), (h), (i), and (j) of section 844 of this title, ''explosives'' means any chemical compound mixture, or device, the primary or common purpose of which is to function by explosion; the term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters. The Attorney General shall publish and revise at least annually in the Federal Register a list of these and any additional explosives which he determines to be within the coverage of this chapter. For the purposes of subsections (d), (e), (f), (g), (h), and (i) of section 844 of this title, the term ''explosive'' is defined in subsection (j) of such section 844.

(e) ''Blasting agent'' means any material or mixture, consisting of fuel and oxidizer, intended for blasting, not otherwise defined as an explosive: *Provided*, That the finished product, as mixed for use or shipment, cannot be detonated by means of a numbered 8 test blasting cap when unconfined.

(f) ''Detonator'' means any device containing a detonating charge that is used for initiating detonation in an explosive; the term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses and detonating-cord delay connectors.

(g) ''Importer'' means any person engaged in the business of importing or bringing explosive materials into the United States for purposes of sale or distribution.

(h) ''Manufacturer'' means any person engaged in the business of manufacturing explosive materials for purposes of sale or distribution or for his own use.

(i) ''Dealer'' means any person engaged in the business of distributing explosive materials at wholesale or retail.

(j) ''Permittee'' means any user of explosives for a lawful purpose, who has obtained either a user permit or a limited permit under the provisions of this chapter.

(k) ''Attorney General'' means the Attorney General of the United States.

(*l*) ''Crime punishable by imprisonment for a term exceeding one year'' shall not mean (1) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices as the Attorney General may by regulation designate, or (2) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

(m) ''Licensee'' means any importer, manufacturer, or dealer licensed under the provisions of this chapter.

(n) ''Distribute'' means sell, issue, give, transfer, or otherwise dispose of.

(*o*) ''Convention on the Marking of Plastic Explosives'' means the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

(p) ''Detection agent'' means any one of the substances specified in this subsection when introduced into a plastic explosive or formulated in such explosive as a part of the manufacturing process in such a manner as to achieve homogeneous distribution in the finished explosive, including—

(1) Ethylene glycol dinitrate (EGDN), $C_2H_4(NO_3)_2$, molecular weight 152, when the minimum concentration in the finished explosive is 0.2 percent by mass;

(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB), $C_6H_{12}(NO_2)_2$, molecular weight 176, when the minimum concentration in the finished explosive is 0.1 percent by mass;

(3) Para-Mononitrotoluene (p-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass;

(4) Ortho-Mononitrotoluene (o-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass; and

(5) any other substance in the concentration specified by the Attorney General, after consultation with the Secretary of State and the Secretary of Defense, that has been added to the table in part 2 of the Technical Annex to the Convention on the Marking of Plastic Explosives.

(q) ''Plastic explosive'' means an explosive material in flexible or elastic sheet form formulated with one or more high explosives which in their pure form has a vapor pressure less than 10^{-4} Pa at a temperature of 25°C., is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature.

(r) ''Alien'' means any person who is not a citizen or national of the United States.

(s) ''Responsible person'' means an individual who has the power to direct the management and policies of the applicant pertaining to explosive materials.

(Added Pub. L. 91–452, title XI, § 1102(a), Oct. 15, 1970, 84 Stat. 952; amended Pub. L. 104–132, title VI, § 602, Apr. 24, 1996, 110 Stat. 1288; Pub. L. 107–296, title XI, §§ 1112(e)(1), (3), 1122(a), Nov. 25, 2002, 116 Stat. 2276, 2280.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (a), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

2002—Subsec. (d). Pub. L. 107–296, §1112(e)(3), substituted ''Attorney General'' for ''Secretary''.

Subsec. (j). Pub. L. 107–296, §1122(a)(1), added subsec. (j) and struck out former subsec. (j) which read as follows: '' 'Permittee' means any user of explosives for a lawful purpose, who has obtained a user permit under the provisions of this chapter.''

Subsec. (k). Pub. L. 107–296, §1112(e)(1), added subsec. (k) and struck out former subsec. (k) which read as follows: '' 'Secretary' means the Secretary of the Treasury or his delegate.''

Subsec. (*l*). Pub. L. 107–296, §1112(e)(3), substituted ''Attorney General'' for ''Secretary''.

Subsec. (p)(5). Pub. L. 107–296, §1112(e)(3), which directed amendment of par. (5) by substituting ''Attorney General'' for ''Secretary'' wherever appearing, was executed by making the substitution the first place appearing to reflect the probable intent of Congress.

Subsecs. (r), (s). Pub. L. 107–296, §1122(a)(2), added subsecs. (r) and (s).

1996—Subsecs. (*o*) to (q). Pub. L. 104–132 added subsecs. (*o*) to (q).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by section 1112(e)(1), (3) of Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

Amendment by section 1122(a) of Pub. L. 107–296 effective 180 days after Nov. 25, 2002, see section 1122(i) of Pub. L. 107–296, set out as a note under section 843 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 607 of title VI of Pub. L. 104–132 provided that: ''Except as otherwise provided in this title [amending this section, sections 842, 844, and 845 of this title, and section 1595a of Title 19, Customs Duties, and enacting provisions set out as a note below], this title and the amendments made by this title shall take effect 1 year after the date of enactment of this Act [Apr. 24, 1996].''

EFFECTIVE DATE

Section 1105(a), (b) of Pub. L. 91–452 provided that:

''(a) Except as provided in subsection (b), the provisions of chapter 40 of title 18, United States Code, as enacted by section 1102 of this title shall take effect one hundred and twenty days after the date of enactment of this Act [Oct. 15, 1970].

''(b) The following sections of chapter 40 of title 18, United States Code, as enacted by section 1102 of this title shall take effect on the date of the enactment of this Act [Oct. 15, 1970]: sections 841, 844(d), (e), (f), (g), (h), (i), and (j), 845, 846, 847, 848 and 849 [no section 849 was enacted].''

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–296, title XI, §1121, Nov. 25, 2002, 116 Stat. 2280, provided that: ''This subtitle [subtitle C (§§1121–1128) of title XI of Pub. L. 107–296, amending this section and sections 842 to 845 of this title and enacting provisions set out as a note under section 843 of this title] may be referred to as the 'Safe Explosives Act'.''

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–298, §1, Oct. 12, 1982, 96 Stat. 1319, provided: ''That this Act [amending section 844 of this title] may be cited as the 'Anti-Arson Act of 1982'.''

SHORT TITLE OF 1975 AMENDMENT

Pub. L. 93–639, §1, Jan. 4, 1975, 88 Stat. 2217, provided: ''That this Act [amending sections 845 and 921 of this title] may be cited as 'Amendments of 1973 to Federal Law Relating to Explosives'.''

FINDINGS AND PURPOSES OF TITLE VI OF PUB. L. 104–132

Section 601 of title VI of Pub. L. 104–132 provided that:

''(a) FINDINGS.—The Congress finds that—

''(1) plastic explosives were used by terrorists in the bombings of Pan American Airlines flight number 103 in December 1988 and UTA flight number 722 in September 1989;

''(2) plastic explosives can be used with little likelihood of detection for acts of unlawful interference with civil aviation, maritime navigation, and other modes of transportation;

''(3) the criminal use of plastic explosives places innocent lives in jeopardy, endangers national security, affects domestic tranquility, and gravely affects interstate and foreign commerce;

''(4) the marking of plastic explosives for the purpose of detection would contribute significantly to the prevention and punishment of such unlawful acts; and

''(5) for the purpose of deterring and detecting such unlawful acts, the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991, requires each contracting State to adopt appropriate measures to ensure that plastic explosives are duly marked and controlled.

''(b) PURPOSE.—The purpose of this title [amending this section, sections 842, 844, and 845 of this title, and section 1595a of Title 19, Customs Duties, and enacting provisions set out as a note above] is to fully implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.''

MARKING, RENDERING INERT, AND LICENSING OF EXPLOSIVE MATERIALS

Section 732 of Pub. L. 104–132, as amended by Pub. L. 104–208, div. A, title I, §101(a) [title I, §113], Sept. 30, 1996, 110 Stat. 3009, 3009–21; Pub. L. 105–61, title I, Oct. 10, 1997, 111 Stat. 1272, required study by the Secretary of the Treasury of the marking, rendering inert, and licensing of explosive materials not later than 12 months after Apr. 24, 1996, report to Congress on results and recommendations, hearings by Congress to review study results, promulgation of regulations, and special study on the tagging of smokeless and black powder and report two years after Sept. 30, 1996.

CONGRESSIONAL DECLARATION OF PURPOSE

Section 1101 of title XI of Pub. L. 91–452 provided that: ''The Congress hereby declares that the purpose of this title [enacting this chapter amending section 2516 of this title, repealing section 837 of this title and sections 121 to 144 of Title 50, War and National Defense, and enacting provisions set out as notes under this section] is to protect interstate and foreign commerce against interference and interruption by reducing the hazard to persons and property arising from misuse and unsafe or insecure storage of explosive materials. It is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, storage, or use of explosive materials for industrial, mining, agricultural, or other lawful purposes, or to provide for the imposition by Federal regulations of any procedures or requirements other than those reasonably necessary to implement and effectuate the provisions of this title.''

MODIFICATION OF OTHER PROVISIONS

Section 1104 of title XI of Pub. L. 91–452, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''Nothing in this title [enacting this chapter, amending section 2516 of this title, repealing sec-

tion 837 of this title and sections 121 to 144 of Title 50, War and National Defense, and enacting provisions set out as notes under this section] shall be construed as modifying or affecting any provision of—

''(a) The National Firearms Act (chapter 53 of the Internal Revenue Code of 1986);

''(b) Section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934), as amended, relating to munitions control;

''(c) Section 1716 of title 18, United States Code, relating to nonmailable materials;

''(d) Sections 831 through 836 of title 18, United States Code; or

''(e) Chapter 44 of title 18, United States Code.''

CONTINUATION IN BUSINESS OR OPERATION OF ANY PERSON ENGAGED IN BUSINESS OR OPERATION ON OCTOBER 15, 1970

Section 1105(c) of Pub. L. 91–452 provided that: ''Any person (as defined in section 841(a) of title 18, United States Code) engaging in a business or operation requiring a license or permit under the provisions of chapter 40 of such title 18, who was engaged in such business or operation on the date of enactment of this Act [Oct. 15, 1970] and who has filed an application for a license or permit under the provisions of section 843 of such chapter 40 prior to the effective date of such section 843 [see Effective Date note set out above] may continue such business or operation pending final action on his application. All provisions of such chapter 40 shall apply to such applicant in the same manner and to the same extent as if he were a holder of a license or permit under such chapter 40.''

AUTHORIZATION OF APPROPRIATIONS

Section 1107 of title XI of Pub. L. 91–452 provided that: ''There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this title [enacting this chapter, amending section 2516 of this title, repealing section 837 of this title and sections 121 to 144 of Title 50, War and National Defense, and enacting provisions set as notes under this section].''

§ 842. Unlawful acts

(a) It shall be unlawful for any person—

(1) to engage in the business of importing, manufacturing, or dealing in explosive materials without a license issued under this chapter;

(2) knowingly to withhold information or to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive for the purpose of obtaining explosive materials, or a license, permit, exemption, or relief from disability under the provisions of this chapter;

(3) other than a licensee or permittee knowingly—

(A) to transport, ship, cause to be transported, or receive any explosive materials; or

(B) to distribute explosive materials to any person other than a licensee or permittee; or

(4) who is a holder of a limited permit—

(A) to transport, ship, cause to be transported, or receive in interstate or foreign commerce any explosive materials; or

(B) to receive explosive materials from a licensee or permittee, whose premises are located outside the State of residence of the limited permit holder, or on more than 6 separate occasions, during the period of the permit, to receive explosive materials from 1 or more licensees or permittees whose premises are located within the State of residence of the limited permit holder.

(b) It shall be unlawful for any licensee or permittee to knowingly distribute any explosive materials to any person other than—

(1) a licensee;

(2) a holder of a user permit; or

(3) a holder of a limited permit who is a resident of the State where distribution is made and in which the premises of the transferor are located.

(c) It shall be unlawful for any licensee to distribute explosive materials to any person who the licensee has reason to believe intends to transport such explosive materials into a State where the purchase, possession, or use of explosive materials is prohibited or which does not permit its residents to transport or ship explosive materials into it or to receive explosive materials in it.

(d) It shall be unlawful for any person knowingly to distribute explosive materials to any individual who:

(1) is under twenty-one years of age;

(2) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(3) is under indictment for a crime punishable by imprisonment for a term exceeding one year;

(4) is a fugitive from justice;

(5) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(6) has been adjudicated a mental defective or who has been committed to a mental institution;

(7) is an alien, other than an alien who—

(A) is lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act);

(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

(i) is a foreign law enforcement officer of a friendly foreign government, as determined by the Secretary[1] in consultation with the Secretary of State, entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement business; or

(ii) is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;

(C) is a member of a North Atlantic Treaty Organization (NATO) or other friendly for-

[1] So in original. Probably should be ''Attorney General''.

eign military force, as determined by the Attorney General in consultation with the Secretary of Defense, who is present in the United States under military orders for training or other military purpose authorized by the United States and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the authorized military purpose; or

(D) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;

(8) has been discharged from the armed forces under dishonorable conditions;[2]

(9) having been a citizen of the United States, has renounced the citizenship of that person.

(e) It shall be unlawful for any licensee knowingly to distribute any explosive materials to any person in any State where the purchase, possession, or use by such person of such explosive materials would be in violation of any State law or any published ordinance applicable at the place of distribution.

(f) It shall be unlawful for any licensee or permittee willfully to manufacture, import, purchase, distribute, or receive explosive materials without making such records as the Attorney General may by regulation require, including, but not limited to, a statement of intended use, the name, date, place of birth, social security number or taxpayer identification number, and place of residence of any natural person to whom explosive materials are distributed. If explosive materials are distributed to a corporation or other business entity, such records shall include the identity and principal and local places of business and the name, date, place of birth, and place of residence of the natural person acting as agent of the corporation or other business entity in arranging the distribution.

(g) It shall be unlawful for any licensee or permittee knowingly to make any false entry in any record which he is required to keep pursuant to this section or regulations promulgated under section 847 of this title.

(h) It shall be unlawful for any person to receive, possess, transport, ship, conceal, store, barter, sell, dispose of, or pledge or accept as security for a loan, any stolen explosive materials which are moving as, which are part of, which constitute, or which have been shipped or transported in, interstate or foreign commerce, either before or after such materials were stolen, knowing or having reasonable cause to believe that the explosive materials were stolen.

(i) It shall be unlawful for any person—

(1) who is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who is an alien, other than an alien who—

(A) is lawfully admitted for permanent residence (as that term is defined in section 101(a)(20) of the Immigration and Nationality Act);

(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

(i) is a foreign law enforcement officer of a friendly foreign government, as determined by the Secretary[1] in consultation with the Secretary of State, entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement business; or

(ii) is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;

(C) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Attorney General in consultation with the Secretary of Defense, who is present in the United States under military orders for training or other military purpose authorized by the United States and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the authorized military purpose; or

(D) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;

(6) who has been discharged from the armed forces under dishonorable conditions;[2]

(7) who, having been a citizen of the United States, has renounced the citizenship of that person[3]

to ship or transport any explosive in or affecting interstate or foreign commerce or to receive or possess any explosive which has been shipped or transported in or affecting interstate or foreign commerce.

(j) It shall be unlawful for any person to store any explosive material in a manner not in conformity with regulations promulgated by the Attorney General. In promulgating such regulations, the Attorney General shall take into consideration the class, type, and quantity of explosive materials to be stored, as well as the standards of safety and security recognized in the explosives industry.

(k) It shall be unlawful for any person who has knowledge of the theft or loss of any explosive

[2] So in original. Probably should be followed by ''or''.

[3] So in original. Probably should be followed by a semicolon.

materials from his stock, to fail to report such theft or loss within twenty-four hours of discovery thereof, to the Attorney General and to appropriate local authorities.

(*l*) It shall be unlawful for any person to manufacture any plastic explosive that does not contain a detection agent.

(m)(1) It shall be unlawful for any person to import or bring into the United States, or export from the United States, any plastic explosive that does not contain a detection agent.

(2) This subsection does not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection by or on behalf of any agency of the United States performing military or police functions (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

(n)(1) It shall be unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive that does not contain a detection agent.

(2) This subsection does not apply to—

(A) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection by any person during the period beginning on that date and ending 3 years after that date of enactment; or

(B) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection by or on behalf of any agency of the United States performing a military or police function (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

(*o*) It shall be unlawful for any person, other than an agency of the United States (including any military reserve component) or the National Guard of any State, possessing any plastic explosive on the date of enactment of this subsection, to fail to report to the Attorney General within 120 days after such date of enactment the quantity of such explosives possessed, the manufacturer or importer, any marks of identification on such explosives, and such other information as the Attorney General may prescribe by regulation.

(p) DISTRIBUTION OF INFORMATION RELATING TO EXPLOSIVES, DESTRUCTIVE DEVICES, AND WEAPONS OF MASS DESTRUCTION.—

(1) DEFINITIONS.—In this subsection—

(A) the term ''destructive device'' has the same meaning as in section 921(a)(4);

(B) the term ''explosive'' has the same meaning as in section 844(j); and

(C) the term ''weapon of mass destruction'' has the same meaning as in section 2332a(c)(2).

(2) PROHIBITION.—It shall be unlawful for any person—

(A) to teach or demonstrate the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute by any means information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, with the intent that the teaching, demonstration, or information be used for, or in furtherance of, an activity that constitutes a Federal crime of violence; or

(B) to teach or demonstrate to any person the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute to any person, by any means, information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, knowing that such person intends to use the teaching, demonstration, or information for, or in furtherance of, an activity that constitutes a Federal crime of violence.

(Added Pub. L. 91–452, title XI, § 1102(a), Oct. 15, 1970, 84 Stat. 953; amended Pub. L. 100–690, title VI, § 6474(c), (d), Nov. 18, 1988, 102 Stat. 4380; Pub. L. 101–647, title XXXV, § 3521, Nov. 29, 1990, 104 Stat. 4923; Pub. L. 103–322, title XI, §§ 110508, 110516, Sept. 13, 1994, 108 Stat. 2018, 2020; Pub. L. 104–132, title VI, § 603, title VII, § 707, Apr. 24, 1996, 110 Stat. 1289, 1296; Pub. L. 106–54, § 2(a), Aug. 17, 1999, 113 Stat. 398; Pub. L. 107–296, title XI, §§ 1112(e)(3), 1122(b), 1123, Nov. 25, 2002, 116 Stat. 2276, 2280, 2283; Pub. L. 108–177, title III, § 372, Dec. 13, 2003, 117 Stat. 2627.)

REFERENCES IN TEXT

Section 101(a)(20) of the Immigration and Nationality Act, referred to in subsecs. (d)(7)(A) and (i)(5)(A), is classified to section 1101(a)(20) of Title 8, Aliens and Nationality.

The date of enactment of this subsection, referred to in subsecs. (m)(2), (n)(2), and (*o*), is the date of enactment of Pub. L. 104–132, which was approved Apr. 24, 1996.

AMENDMENTS

2003—Subsec. (d)(7)(A). Pub. L. 108–177, § 372(a)(1), struck out ''or'' at end.

Subsec. (d)(7)(B). Pub. L. 108–177, § 372(a)(2), inserted ''or'' at end of cl. (i) and struck out cls. (iii) and (iv) which read as follows:

''(iii) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Secretary in consultation with the Secretary of Defense, (whether or not admitted in a nonimmigrant status) who is present in the United States under military orders for training or other military purpose authorized by the United States, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the military purpose; or

''(iv) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;''.

Subsec. (d)(7)(C), (D). Pub. L. 108–177, § 372(a)(3), added subpars. (C) and (D).

Subsec. (i)(5)(A). Pub. L. 108–177, §372(b)(1), struck out ''or'' at end.

Subsec. (i)(5)(B). Pub. L. 108–177, §372(b)(2), inserted ''or'' at end of cl. (i) and struck out cls. (iii) and (iv) which read as follows:

''(iii) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Secretary in consultation with the Secretary of Defense, (whether or not admitted in a nonimmigrant status) who is present in the United States under military orders for training or other military purpose authorized by the United States, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the military purpose; or

''(iv) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;''.

Subsec. (i)(5)(C), (D). Pub. L. 108–177, §372(b)(3), added subpars. (C) and (D).

2002—Subsec. (a)(3), (4). Pub. L. 107–296, §1122(b)(1), (2), added pars. (3) and (4) and struck out former par. (3) which read as follows: ''other than a licensee or permittee knowingly—

''(A) to transport, ship, cause to be transported, or receive in interstate or foreign commerce any explosive materials, except that a person who lawfully purchases explosive materials from a licensee in a State contiguous to the State in which the purchaser resides may ship, transport, or cause to be transported such explosive materials to the State in which he resides and may receive such explosive materials in the State in which he resides, if such transportation, shipment, or receipt is permitted by the law of the State in which he resides; or

''(B) to distribute explosive materials to any person (other than a licensee or permittee) who the distributor knows or has reasonable cause to believe does not reside in the State in which the distributor resides.''

Subsec. (b). Pub. L. 107–296, §1122(b)(3), added subsec. (b) and struck out former subsec. (b) which read as follows: ''It shall be unlawful for any licensee knowingly to distribute any explosive materials to any person except—

''(1) a licensee;

''(2) a permittee; or

''(3) a resident of the State where distribution is made and in which the licensee is licensed to do business or a State contiguous thereto if permitted by the law of the State of the purchaser's residence.''

Subsec. (d)(6). Pub. L. 107–296, §1123(a)(2), substituted ''or who has been committed to a mental institution;'' for period at end.

Subsec. (d)(7) to (9). Pub. L. 107–296, §1123(a)(1), (3), added pars. (7) to (9).

Subsec. (f). Pub. L. 107–296, §1112(e)(3), substituted ''Attorney General'' for ''Secretary''.

Subsec. (i). Pub. L. 107–296, §1123(b)(3), inserted ''or affecting'' before ''interstate'' in two places in concluding provisions.

Subsec. (i)(5) to (7). Pub. L. 107–296, §1123(b)(1), (2), added pars. (5) to (7).

Subsecs. (j), (k), (*o*). Pub. L. 107–296, §1112(e)(3), substituted ''Attorney General'' for ''Secretary'' wherever appearing.

1999—Subsec. (p). Pub. L. 106–54 added subsec. (p).

1996—Subsec. (h). Pub. L. 104–132, §707, amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: ''It shall be unlawful for any person to receive, conceal, transport, ship, store, barter, sell, or dispose of any explosive materials knowing or having reasonable cause to believe that such explosive materials were stolen.''

Subsecs. (*l*) to (*o*). Pub. L. 104–132, §603, added subsecs. (*l*) to (*o*).

1994—Subsec. (d). Pub. L. 103–322, §110516, substituted ''any person'' for ''any licensee'' in introductory provisions.

Subsec. (i). Pub. L. 103–322, §110508, inserted ''or possess'' after ''receive'' in concluding provisions.

1990—Subsec. (d)(5). Pub. L. 101–647, §3521(1), substituted ''; or'' for a period.

Subsec. (i)(3). Pub. L. 101–647, §3521(2), substituted ''; or'' for a period.

1988—Subsec. (d)(5). Pub. L. 100–690, §6474(c), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''is an unlawful user of marihuana (as defined in section 4761 of the Internal Revenue Code of 1954) or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4721(a) of the Internal Revenue Code of 1954); or''.

Subsec. (i)(3). Pub. L. 100–690, §6474(d), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''who is an unlawful user of or addicted to marihuana (as defined in section 4761 of the Internal Revenue Code of 1954) or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954); or''.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of Title 50, War and National Defense.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by sections 1112(e)(3) and 1123 of Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

Amendment by section 1122(b) of Pub. L. 107–296 effective 180 days after Nov. 25, 2002, see section 1122(i) of Pub. L. 107–296, set out as a note under section 843 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 603 of Pub. L. 104–132 effective 1 year after Apr. 24, 1996, see section 607 of Pub. L. 104–132, set out as a note under section 841 of this title.

§843. Licenses and user permits

(a) An application for a user permit or limited permit or a license to import, manufacture, or deal in explosive materials shall be in such form and contain such information as the Attorney General shall by regulation prescribe, including the names of and appropriate identifying information regarding all employees who will be authorized by the applicant to possess explosive materials, as well as fingerprints and a photograph of each responsible person. Each applicant for a license or permit shall pay a fee to be charged as set by the Attorney General, said fee not to exceed $50 for a limited permit and $200 for any other license or permit. Each license or user permit shall be valid for not longer than 3 years from the date of issuance and each limited permit shall be valid for not longer than 1 year from the date of issuance. Each license or permit shall be renewable upon the same conditions and subject to the same restrictions as the original license or permit, and upon payment of a renewal fee not to exceed one-half of the original fee.

(b) Upon the filing of a proper application and payment of the prescribed fee, and subject to the provisions of this chapter and other applicable laws, the Attorney General shall issue to such applicant the appropriate license or permit if—

(1) the applicant (or, if the applicant is a corporation, partnership, or association, each responsible person with respect to the applicant) is not a person described in section 842(i);

(2) the applicant has not willfully violated any of the provisions of this chapter or regulations issued hereunder;

(3) the applicant has in a State premises from which he conducts or intends to conduct business;

(4)(A) the Secretary[1] verifies by inspection or, if the application is for an original limited permit or the first or second renewal of such a permit, by such other means as the Secretary[1] determines appropriate, that the applicant has a place of storage for explosive materials which meets such standards of public safety and security against theft as the Attorney General by regulations shall prescribe; and

(B) subparagraph (A) shall not apply to an applicant for the renewal of a limited permit if the Secretary[1] has verified, by inspection within the preceding 3 years, the matters described in subparagraph (A) with respect to the applicant; and

(5) the applicant has demonstrated and certified in writing that he is familiar with all published State laws and local ordinances relating to explosive materials for the location in which he intends to do business;

(6) none of the employees of the applicant who will be authorized by the applicant to possess explosive materials is any person described in section 842(i); and

(7) in the case of a limited permit, the applicant has certified in writing that the applicant will not receive explosive materials on more than 6 separate occasions during the 12-month period for which the limited permit is valid.

(c) The Attorney General shall approve or deny an application within a period of 90 days for licenses and permits, beginning on the date such application is received by the Attorney General.

(d) The Attorney General may revoke any license or permit issued under this section if in the opinion of the Attorney General the holder thereof has violated any provision of this chapter or any rule or regulation prescribed by the Attorney General under this chapter, or has become ineligible to acquire explosive materials under section 842(d). The Secretary's[2] action under this subsection may be reviewed only as provided in subsection (e)(2) of this section.

(e)(1) Any person whose application is denied or whose license or permit is revoked shall receive a written notice from the Attorney General stating the specific grounds upon which such denial or revocation is based. Any notice of a revocation of a license or permit shall be given to the holder of such license or permit prior to or concurrently with the effective date of the revocation.

(2) If the Attorney General denies an application for, or revokes a license, or permit, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial or revocation. In the case of a revocation, the Attorney General may upon a request of the holder stay the effective date of the revocation. A hearing under this section shall be at a location convenient to the aggrieved party. The Attorney General shall give written notice of his decision to the aggrieved party within a reasonable time after the hearing. The aggrieved party may, within sixty days after receipt of the Secretary's[2] written decision, file a petition with the United States court of appeals for the district in which he resides or has his principal place of business for a judicial review of such denial or revocation, pursuant to sections 701–706 of title 5, United States Code.

(f) Licensees and holders of user permits shall make available for inspection at all reasonable times their records kept pursuant to this chapter or the regulations issued hereunder, and licensees and permittees shall submit to the Attorney General such reports and information with respect to such records and the contents thereof as he shall by regulations prescribe. The Attorney General may enter during business hours the premises (including places of storage) of any licensee or holder of a user permit, for the purpose of inspecting or examining (1) any records or documents required to be kept by such licensee or permittee, under the provisions of this chapter or regulations issued hereunder, and (2) any explosive materials kept or stored by such licensee or permittee at such premises. Upon the request of any State or any political subdivision thereof, the Attorney General may make available to such State or any political subdivision thereof, any information which he may obtain by reason of the provisions of this chapter with respect to the identification of persons within such State or political subdivision thereof, who have purchased or received explosive materials, together with a description of such explosive materials. The Secretary[1] may inspect the places of storage for explosive materials of an applicant for a limited permit or, at the time of renewal of such permit, a holder of a limited permit, only as provided in subsection (b)(4).

(g) Licenses and user permits issued under the provisions of subsection (b) of this section shall be kept posted and kept available for inspection on the premises covered by the license and permit.

(h)(1) If the Secretary[1] receives, from an employer, the name and other identifying information of a responsible person or an employee who will be authorized by the employer to possess explosive materials in the course of employment with the employer, the Secretary[1] shall determine whether the responsible person or employee is one of the persons described in any paragraph of section 842(i). In making the determination, the Secretary[1] may take into account a letter or document issued under paragraph (2).

(2)(A) If the Secretary[1] determines that the responsible person or the employee is not one of

[1] So in original. Probably should be ''Attorney General''.

[2] So in original. Probably should be ''Attorney General's''.

the persons described in any paragraph of section 842(i), the Secretary[1] shall notify the employer in writing or electronically of the determination and issue, to the responsible person or employee, a letter of clearance, which confirms the determination.

(B) If the Secretary[1] determines that the responsible person or employee is one of the persons described in any paragraph of section 842(i), the Secretary[1] shall notify the employer in writing or electronically of the determination and issue to the responsible person or the employee, as the case may be, a document that—

(i) confirms the determination;

(ii) explains the grounds for the determination;

(iii) provides information on how the disability may be relieved; and

(iv) explains how the determination may be appealed.

(i) FURNISHING OF SAMPLES.—

(1) IN GENERAL.—Licensed manufacturers and licensed importers and persons who manufacture or import explosive materials or ammonium nitrate shall, when required by letter issued by the Secretary,[1] furnish—

(A) samples of such explosive materials or ammonium nitrate;

(B) information on chemical composition of those products; and

(C) any other information that the Secretary[1] determines is relevant to the identification of the explosive materials or to identification of the ammonium nitrate.

(2) REIMBURSEMENT.—The Secretary[1] shall, by regulation, authorize reimbursement of the fair market value of samples furnished pursuant to this subsection, as well as the reasonable costs of shipment.

(Added Pub. L. 91–452, title XI, § 1102(a), Oct. 15, 1970, 84 Stat. 955; amended Pub. L. 107–296, title XI, §§ 1112(e)(3), 1122(c)–(h), 1124, Nov. 25, 2002, 116 Stat. 2276, 2281, 2282, 2285.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–296, § 1122(c), in first sentence, inserted ''or limited permit'' after ''user permit'' and inserted before period at end '', including the names of and appropriate identifying information regarding all employees who will be authorized by the applicant to possess explosive materials, as well as fingerprints and a photograph of each responsible person'', in second sentence, substituted ''$50 for a limited permit and $200 for any other'' for ''$200 for each'', inserted third and fourth sentences, and struck out former third sentence which read as follows: ''Each license or permit shall be valid for no longer than three years from date of issuance and shall be renewable upon the same conditions and subject to the same restrictions as the original license or permit and upon payment of a renewal fee not to exceed one-half of the original fee.''

Pub. L. 107–296, § 1112(e)(3), substituted ''Attorney General'' for ''Secretary'' in two places.

Subsec. (b). Pub. L. 107–296, § 1112(e)(3), substituted ''Attorney General'' for ''Secretary'' in introductory provisions.

Subsec. (b)(1). Pub. L. 107–296, § 1122(d)(1), added par. (1) and struck out former par. (1) which read as follows: ''the applicant (including in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is not a person to whom the distribution of explosive materials would be unlawful under section 842(d) of this chapter;''.

Subsec. (b)(4). Pub. L. 107–296, § 1122(d)(2), designated existing provisions as subpar. (A), inserted ''the Secretary verifies by inspection or, if the application is for an original limited permit or the first or second renewal of such a permit, by such other means as the Secretary determines appropriate, that'' before ''the applicant'', and added subpar. (B).

Pub. L. 107–296, § 1112(e)(3), substituted ''the Attorney General by regulations'' for ''the Secretary by regulations''.

Subsec. (b)(6), (7). Pub. L. 107–296, § 1122(d)(3), (4), added pars. (6) and (7).

Subsec. (c). Pub. L. 107–296, § 1122(e), substituted ''90 days for licenses and permits,'' for ''forty-five days''.

Pub. L. 107–296, § 1112(e)(3), substituted ''Attorney General'' for ''Secretary'' in two places.

Subsecs. (d), (e). Pub. L. 107–296, § 1112(e)(3), substituted ''Attorney General'' for ''Secretary'' wherever appearing.

Subsec. (f). Pub. L. 107–296, § 1122(f), in first sentence, substituted ''Licensees and holders of user permits'' for ''Licensees and permittees'' and inserted ''licensees and permittees'' before ''shall submit'', in second sentence, substituted ''holder of a user permit'' for ''permittee'', and inserted at end ''The Secretary may inspect the places of storage for explosive materials of an applicant for a limited permit or, at the time of renewal of such permit, a holder of a limited permit, only as provided in subsection (b)(4).''

Pub. L. 107–296, § 1112(e)(3), substituted ''Attorney General'' for ''Secretary'' wherever appearing.

Subsec. (g). Pub. L. 107–296, § 1122(g), inserted ''user'' before ''permits''.

Subsec. (h). Pub. L. 107–296, § 1122(h), added subsec. (h).

Subsec. (i). Pub. L. 107–296, § 1124, added subsec. (i).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by sections 1112(e)(3) and 1124 of Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

Pub. L. 107–296, title XI, § 1122(i), Nov. 25, 2002, 116 Stat. 2283, provided that:

''(1) IN GENERAL.—The amendments made by this section [amending this section and sections 841 and 842 of this title] shall take effect 180 days after the date of enactment of this Act [Nov. 25, 2002].

''(2) EXCEPTION.—Notwithstanding any provision of this Act [see Tables for classification], a license or permit issued under section 843 of title 18, United States Code, before the date of enactment of this Act [Nov. 25, 2002], shall remain valid until that license or permit is revoked under section 843(d) or expires, or until a timely application for renewal is acted upon.''

CONTINUATION IN BUSINESS OR OPERATION OF ANY PERSON ENGAGED IN BUSINESS OR OPERATION ON OCTOBER 15, 1970

Filing of application for a license or permit prior to the effective date of this section as authorizing any person engaged in a business or operation requiring a license or a permit on Oct. 15, 1970 to continue such business or operation pending final action on such application, see section 1105(c) of Pub. L. 91–452, set out as a note under section 841 of this title.

§ 844. Penalties

(a) Any person who—

(1) violates any of subsections (a) through (i) or (*l*) through (*o*) of section 842 shall be fined under this title, imprisoned for not more than 10 years, or both; and

(2) violates subsection (p)(2) of section 842, shall be fined under this title, imprisoned not more than 20 years, or both.

(b) Any person who violates any other provision of section 842 of this chapter shall be fined under this title or imprisoned not more than one year, or both.

(c)(1) Any explosive materials involved or used or intended to be used in any violation of the provisions of this chapter or any other rule or regulation promulgated thereunder or any violation of any criminal law of the United States shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1986 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.

(2) Notwithstanding paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture in which it would be impracticable or unsafe to remove the materials to a place of storage or would be unsafe to store them, the seizing officer may destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least 1 credible witness. The seizing officer shall make a report of the seizure and take samples as the Attorney General may by regulation prescribe.

(3) Within 60 days after any destruction made pursuant to paragraph (2), the owner of (including any person having an interest in) the property so destroyed may make application to the Attorney General for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Attorney General that—

(A) the property has not been used or involved in a violation of law; or

(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Attorney General shall make an allowance to the claimant not exceeding the value of the property destroyed.

(d) Whoever transports or receives, or attempts to transport or receive, in interstate or foreign commerce any explosive with the knowledge or intent that it will be used to kill, injure, or intimidate any individual or unlawfully to damage or destroy any building, vehicle, or other real or personal property, shall be imprisoned for not more than ten years, or fined under this title, or both; and if personal injury results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall be imprisoned for not more than twenty years or fined under this title, or both; and if death results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment.

(e) Whoever, through the use of the mail, telephone, telegraph, or other instrument of interstate or foreign commerce, or in or affecting interstate or foreign commerce, willfully makes any threat, or maliciously conveys false information knowing the same to be false, concerning an attempt or alleged attempt being made, or to be made, to kill, injure, or intimidate any individual or unlawfully to damage or destroy any building, vehicle, or other real or personal property by means of fire or an explosive shall be imprisoned for not more than 10 years or fined under this title, or both.

(f)(1) Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other personal or real property in whole or in part owned or possessed by, or leased to, the United States, or any department or agency thereof, or any institution or organization receiving Federal financial assistance, shall be imprisoned for not less than 5 years and not more than 20 years, fined under this title, or both.

(2) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct, directly or proximately causes personal injury or creates a substantial risk of injury to any person, including any public safety officer performing duties, shall be imprisoned for not less than 7 years and not more than 40 years, fined under this title, or both.

(3) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct directly or proximately causes the death of any person, including any public safety officer performing duties, shall be subject to the death penalty, or imprisoned for not less than 20 years or for life, fined under this title, or both.

(g)(1) Except as provided in paragraph (2), whoever possesses an explosive in an airport that is subject to the regulatory authority of the Federal Aviation Administration, or in any building in whole or in part owned, possessed, or used by, or leased to, the United States or any department or agency thereof, except with the written consent of the agency, department, or other person responsible for the management of such building or airport, shall be imprisoned for not more than five years, or fined under this title, or both.

(2) The provisions of this subsection shall not be applicable to—

(A) the possession of ammunition (as that term is defined in regulations issued pursuant to this chapter) in an airport that is subject to the regulatory authority of the Federal Aviation Administration if such ammunition is either in checked baggage or in a closed container; or

(B) the possession of an explosive in an airport if the packaging and transportation of such explosive is exempt from, or subject to and in accordance with, regulations of the Pipeline and Hazardous Materials Safety Administration for the handling of hazardous materials pursuant to chapter 51 of title 49.

(h) Whoever—

(1) uses fire or an explosive to commit any felony which may be prosecuted in a court of the United States, or

(2) carries an explosive during the commission of any felony which may be prosecuted in a court of the United States,

including a felony which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device shall, in addition to the punishment provided for such

felony, be sentenced to imprisonment for 10 years. In the case of a second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for 20 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the felony in which the explosive was used or carried.

(i) Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other real or personal property used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce shall be imprisoned for not less than 5 years and not more than 20 years, fined under this title, or both; and if personal injury results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall be imprisoned for not less than 7 years and not more than 40 years, fined under this title, or both; and if death results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall also be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment.

(j) For the purposes of subsections (d), (e), (f), (g), (h), and (i) of this section and section 842(p), the term ''explosive'' means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuzes (other than electric circuit breakers), detonators, and other detonating agents, smokeless powders, other explosive or incendiary devices within the meaning of paragraph (5) of section 232 of this title, and any chemical compounds, mechanical mixture, or device that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, mixture, or device or any part thereof may cause an explosion.

(k) A person who steals any explosives materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not more than 10 years, fined under this title, or both.

(*l*) A person who steals any explosive material from a licensed importer, licensed manufacturer, or licensed dealer, or from any permittee shall be fined under this title, imprisoned not more than 10 years, or both.

(m) A person who conspires to commit an offense under subsection (h) shall be imprisoned for any term of years not exceeding 20, fined under this title, or both.

(n) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as the penalties prescribed for the offense the commission of which was the object of the conspiracy.

(*o*) Whoever knowingly transfers any explosive materials, knowing or having reasonable cause to believe that such explosive materials will be used to commit a crime of violence (as defined in section 924(c)(3)) or drug trafficking crime (as defined in section 924(c)(2)) shall be subject to the same penalties as may be imposed under subsection (h) for a first conviction for the use or carrying of an explosive material.

(p) THEFT REPORTING REQUIREMENT.—

(1) IN GENERAL.—A holder of a license or permit who knows that explosive materials have been stolen from that licensee or permittee, shall report the theft to the Secretary[1] not later than 24 hours after the discovery of the theft.

(2) PENALTY.—A holder of a license or permit who does not report a theft in accordance with paragraph (1), shall be fined not more than $10,000, imprisoned not more than 5 years, or both.

(Added Pub. L. 91–452, title XI, §1102(a), Oct. 15, 1970, 84 Stat. 956; amended Pub. L. 97–298, §2, Oct. 12, 1982, 96 Stat. 1319; Pub. L. 98–473, title II, §1014, Oct. 12, 1984, 98 Stat. 2142; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–690, title VI, §6474(a), (b), Nov. 18, 1988, 102 Stat. 4379; Pub. L. 101–647, title XXXV, §3522, Nov. 29, 1990, 104 Stat. 4924; Pub. L. 103–272, §5(e)(7), July 5, 1994, 108 Stat. 1374; Pub. L. 103–322, title VI, §60003(a)(3), title XI, §§110504(b), 110509, 110515(b), 110518(b), title XXXII, §§320106, 320917(a), title XXXIII, §330016(1)(H), (K), (L), (N), Sept. 13, 1994, 108 Stat. 1969, 2016, 2018, 2020, 2111, 2129, 2147, 2148; Pub. L. 104–132, title VI, §604, title VII, §§701, 706, 708(a), (c)(3), 724, Apr. 24, 1996, 110 Stat. 1289, 1291, 1295–1297, 1300; Pub. L. 104–294, title VI, §603(a), Oct. 11, 1996, 110 Stat. 3503; Pub. L. 106–54, §2(b), Aug. 17, 1999, 113 Stat. 399; Pub. L. 107–296, title XI, §§1112(e)(3), 1125, 1127, Nov. 25, 2002, 116 Stat. 2276, 2285; Pub. L. 108–426, §2(c)(6), Nov. 30, 2004, 118 Stat. 2424.)

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (c)(1), is set out as Title 26, Internal Revenue Code.

Section 5845(a) of that Code, referred to in subsec. (c)(1), is section 5845(a) of Title 26.

AMENDMENTS

2004—Subsec. (g)(2)(B). Pub. L. 108–426 substituted ''Pipeline and Hazardous Materials Safety Administration'' for ''Research and Special Projects Administration''.

2002—Subsec. (c)(2), (3). Pub. L. 107–296, §1112(e)(3), substituted ''Attorney General'' for ''Secretary'' wherever appearing.

Subsec. (f)(1). Pub. L. 107–296, §1125, inserted ''or any institution or organization receiving Federal financial assistance,'' before ''shall''.

Subsec. (p). Pub. L. 107–296, §1127, added subsec. (p).

1999—Subsec. (a). Pub. L. 106–54, §2(b)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (j). Pub. L. 106–54, §2(b)(2), inserted ''and section 842(p)'' after ''this section''.

1996—Subsec. (a). Pub. L. 104–132, §604, amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Any person who violates subsections (a) through (i) of section 842 of this chapter shall be fined under this title or imprisoned not more than ten years, or both.''

Subsec. (e). Pub. L. 104–132, §§708(a)(1), 724, substituted ''interstate or foreign commerce, or in or af-

[1] So in original. Probably should be ''Attorney General''.

fecting interstate or foreign commerce,'' for ''commerce'' and ''10'' for ''five''.

Subsec. (f). Pub. L. 104–132, § 708(a)(2), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: ''Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other personal or real property in whole or in part owned, possessed, or used by, or leased to, the United States, any department or agency thereof, or any institution or organization receiving Federal financial assistance shall be imprisoned for not more than 20 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,, or both; and if personal injury results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall be imprisoned for not more than 40 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,, or both; and if death results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment.''

Subsec. (h). Pub. L. 104–132, § 708(a)(3), in concluding provisions, substituted ''10 years'' and ''20 years'' for ''5 years but not more than 15 years'' and ''10 years but not more than 25 years'', respectively.

Subsec. (i). Pub. L. 104–294, which directed substitution of comma for '',,'' each place appearing, could not be executed because '',,'' did not appear in text subsequent to amendment by Pub. L. 104–132, § 708(a)(4). See below.

Pub. L. 104–132, § 708(c)(3), struck out at end ''No person shall be prosecuted, tried, or punished for any noncapital offense under this subsection unless the indictment is found or the information is instituted within 7 years after the date on which the offense was committed.''

Pub. L. 104–132, § 708(a)(4)(B), which directed substitution of ''not less than 7 years and not more than 40 years, fined under this title'' for ''not more than 40 years, fined the greater of a fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,'', was executed by making the substitution in text which read ''not more than 40 years, fined the greater of the fine under this title'' to reflect the probable intent of Congress.

Pub. L. 104–132, § 708(a)(4)(A), substituted ''not less than 5 years and not more than 20 years, fined under this title'' for ''not more than 20 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,''.

Subsec. (n). Pub. L. 104–132, § 701, added subsec. (n).

Subsec. (*o*). Pub. L. 104–132, § 706, added subsec. (*o*).

1994—Subsec. (a). Pub. L. 103–322, § 330016(1)(L), substituted ''fined under this title'' for ''fined not more than $10,000''.

Subsec. (b). Pub. L. 103–322, § 330016(1)(H), substituted ''fined under this title'' for ''fined not more than $1,000''.

Subsec. (c). Pub. L. 103–322, § 110509, designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (d). Pub. L. 103–322, § 330016(1)(L), (N), substituted ''fined under this title'' for ''fined not more than $10,000'' after ''ten years, or'' and for ''fined not more than $20,000'' after ''twenty years or''.

Pub. L. 103–322, § 60003(a)(3)(A), struck out before period at end ''as provided in section 34 of this title''.

Subsec. (e). Pub. L. 103–322, § 330016(1)(K), substituted ''fined under this title'' for ''fined not more than $5,000''.

Subsec. (f). Pub. L. 103–322, § 320106(1)(B), which directed the substitution of ''not more than 40 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,'' for ''not more than twenty years, or fined not more than $10,000'', was executed by making the substitution for ''not more than twenty years, or fined not more than $20,000'', to reflect the probable intent of Congress.

Pub. L. 103–322, § 320106(1)(A), substituted ''not more than 20 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,'' for ''not more than ten years, or fined not more than $10,000''.

Pub. L. 103–322, § 60003(a)(3)(B), struck out before period at end ''as provided in section 34 of this title''.

Subsec. (g)(2)(B). Pub. L. 103–272 substituted ''chapter 51 of title 49'' for ''the Hazardous Materials Transportation Act (49 App. U.S.C. 1801, et seq.)''.

Subsec. (h). Pub. L. 103–322, § 320106(2), in concluding provisions, substituted ''5 years but not more than 15 years'' for ''five years'' and ''10 years but not more than 25 years'' for ''ten years''.

Subsec. (i). Pub. L. 103–322, § 320917(a), inserted at end ''No person shall be prosecuted, tried, or punished for any noncapital offense under this subsection unless the indictment is found or the information is instituted within 7 years after the date on which the offense was committed.''

Pub. L. 103–322, § 320106(3), substituted ''not more than 20 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,'' for ''not more than ten years or fined not more than $10,000'' and ''not more than 40 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,'' for ''not more than twenty years or fined not more than $20,000''.

Pub. L. 103–322, § 60003(a)(3)(C), struck out ''as provided in section 34 of this title'' after ''death penalty or to life imprisonment''.

Subsec. (k). Pub. L. 103–322, § 110504(b), added subsec. (k).

Subsec. (*l*). Pub. L. 103–322, § 110515(b), added subsec. (*l*).

Subsec. (m). Pub. L. 103–322, § 110518(b), added subsec. (m).

1990—Subsec. (d). Pub. L. 101–647 substituted ''subsection,'' for ''subsection,,'' before ''shall be subject to imprisonment''.

1988—Subsec. (g). Pub. L. 100–690, § 6474(a), designated existing provisions as par. (1), substituted ''Except as provided in paragraph (2), whoever'' for ''Whoever'', inserted ''in an airport that is subject to the regulatory authority of the Federal Aviation Administration, or'' after ''possess an explosive'', inserted ''or airport'' after ''such building'', substituted ''not more than five years, or fined under this title, or both'' for ''not more than one year, or fined not more than $1,000, or both'', and added par. (2).

Subsec. (h). Pub. L. 100–690, § 6474(b)(2), which directed the amendment of subsec. (h) by striking ''shall be sentenced'' through the end and inserting new provisions was executed by striking ''shall be sentenced'' the first time it appeared through the end of the subsection which resulted in inserting concluding provisions and striking out former concluding provisions which read as follows: ''shall be sentenced to a term of imprisonment for not less than one year nor more than ten years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to a term of imprisonment for not less than five years nor more than twenty-five years, and, notwithstanding any other provision of law, the court shall not suspend the sentence of such person or give him a probationary sentence.''

Subsec. (h)(2). Pub. L. 100–690, § 6474(b)(1), in par. (2), struck out ''unlawfully'' after ''explosive''.

1986—Subsec. (c). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

1984—Subsecs. (d), (f), (i). Pub. L. 98–473 substituted ''personal injury results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this sub-

section,'' for ''personal injury results'' and ''death results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection,'' for ''death results''.

1982—Subsecs. (e), (f). Pub. L. 97–298, § 2(a), inserted ''fire or'' after ''by means of'' wherever appearing.

Subsec. (h)(1). Pub. L. 97–298, § 2(b), inserted ''fire or'' after ''uses''.

Subsec. (i). Pub. L. 97–298, § 2(c), inserted ''fire or'' after ''by means of''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 604 of Pub. L. 104–132 effective 1 year after Apr. 24, 1996, see section 607 of Pub. L. 104–132, set out as a note under section 841 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 320917(b) of Pub. L. 103–322 provided that: ''The amendment made by subsection (a) [amending this section] shall not apply to any offense described in the amendment that was committed more than 5 years prior to the date of enactment of this Act [Sept. 13, 1994].''

EFFECTIVE DATE

Subsecs. (a) to (c) of this section effective 120 days after Oct. 15, 1970, and subsecs. (d) to (j) of this section effective on Oct. 15, 1970, see section 1105(a), (b), set out as a note under section 841 of this title.

§ 845. Exceptions; relief from disabilities

(a) Except in the case of subsections[1] (*l*), (m), (n), or (*o*) of section 842 and subsections (d), (e), (f), (g), (h), and (i) of section 844 of this title, this chapter shall not apply to:

(1) aspects of the transportation of explosive materials via railroad, water, highway, or air that pertain to safety, including security, and are regulated by the Department of Transportation or the Department of Homeland Security;

(2) the use of explosive materials in medicines and medicinal agents in the forms prescribed by the official United States Pharmacopeia, or the National Formulary;

(3) the transportation, shipment, receipt, or importation of explosive materials for delivery to any agency of the United States or to any State or political subdivision thereof;

(4) small arms ammunition and components thereof;

(5) commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in section 921(a)(16) of title 18 of the United States Code, or in antique devices as exempted from the term ''destructive device'' in section 921(a)(4) of title 18 of the United States Code; and

(6) the manufacture under the regulation of the military department of the United States of explosive materials for, or their distribution to or storage or possession by the military or naval services or other agencies of the United States; or to arsenals, navy yards, depots, or other establishments owned by, or operated by or on behalf of, the United States.

(b)(1) A person who is prohibited from shipping, transporting, receiving, or possessing any explosive under section 842(i) may apply to the Secretary[2] for relief from such prohibition.

(2) The Secretary[2] may grant the relief requested under paragraph (1) if the Secretary[2] determines that the circumstances regarding the applicability of section 842(i), and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of such relief is not contrary to the public interest.

(3) A licensee or permittee who applies for relief, under this subsection, from the disabilities incurred under this chapter as a result of an indictment for or conviction of a crime punishable by imprisonment for a term exceeding 1 year shall not be barred by such disability from further operations under the license or permit pending final action on an application for relief filed pursuant to this section.

(c) It is an affirmative defense against any proceeding involving subsections (*l*) through (*o*) of section 842 if the proponent proves by a preponderance of the evidence that the plastic explosive—

(1) consisted of a small amount of plastic explosive intended for and utilized solely in lawful—

(A) research, development, or testing of new or modified explosive materials;

(B) training in explosives detection or development or testing of explosives detection equipment; or

(C) forensic science purposes; or

(2) was plastic explosive that, within 3 years after the date of enactment of the Antiterrorism and Effective Death Penalty Act of 1996, will be or is incorporated in a military device within the territory of the United States and remains an integral part of such military device, or is intended to be, or is incorporated in, and remains an integral part of a military device that is intended to become, or has become, the property of any agency of the United States performing military or police functions (including any military reserve component) or the National Guard of any State, wherever such device is located.

(3) For purposes of this subsection, the term ''military device'' includes, but is not restricted to, shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades, perforators, and similar devices lawfully manufactured exclusively for military or police purposes.

(Added Pub. L. 91–452, title XI, § 1102(a), Oct. 15, 1970, 84 Stat. 958; amended Pub. L. 93–639, § 101, Jan. 4, 1975, 88 Stat. 2217; Pub. L. 104–132, title VI, § 605, Apr. 24, 1996, 110 Stat. 1289; Pub. L. 107–296, title XI, §§ 1112(e)(3), 1126, Nov. 25, 2002, 116 Stat. 2276, 2285; Pub. L. 109–59, title VII, § 7127, Aug. 10, 2005, 119 Stat. 1909.)

[1] So in original. Probably should be ''subsection''.

[2] So in original. Probably should be ''Attorney General''.

REFERENCES IN TEXT

The date of enactment of the Antiterrorism and Effective Death Penalty Act of 1996, referred to in subsec. (c)(2), is the date of enactment of Pub. L. 104–132, which was approved Apr. 24, 1996.

AMENDMENTS

2005—Subsec. (a)(1). Pub. L. 109–59 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''any aspect of the transportation of explosive materials via railroad, water, highway, or air which are regulated by the United States Department of Transportation and agencies thereof, and which pertain to safety;''.

2002—Subsec. (b). Pub. L. 107–296, § 1126, amended subsec. (b) generally. Prior to amendment, text read as follows: ''A person who had been indicted for or convicted of a crime punishable by imprisonment for a term exceeding one year may make application to the Attorney General for relief from the disabilities imposed by this chapter with respect to engaging in the business of importing, manufacturing, or dealing in explosive materials, or the purchase of explosive materials, and incurred by reason of such indictment or conviction, and the Attorney General may grant such relief if it is established to his satisfaction that the circumstances regarding the indictment or conviction, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief will not be contrary to the public interest. A licensee or permittee who makes application for relief from the disabilities incurred under this chapter by reason of indictment or conviction, shall not be barred by such indictment or conviction from further operations under his license or permit pending final action on an application for relief filed pursuant to this section.''

Pub. L. 107–296, § 1112(e)(3), substituted ''Attorney General'' for ''Secretary'' in two places.

1996—Subsec. (a). Pub. L. 104–132, § 605(1), inserted ''(*l*), (m), (n), or (*o*) of section 842 and subsections'' after ''subsections'' in introductory provisions and '', and which pertain to safety'' before semicolon at end of par. (1).

Subsec. (c). Pub. L. 104–132, § 605(2), added subsec. (c).

1975—Subsec. (a)(5). Pub. L. 93–639 substituted provisions exempting commercially manufactured black powder in quantities not exceeding fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or in antique devices for such exemption of black powder in quantities not exceeding five pounds.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–132 effective 1 year after Apr. 24, 1996, see section 607 of Pub. L. 104–132, set out as a note under section 841 of this title.

§ 846. Additional powers of the Attorney General

(a) The Attorney General is authorized to inspect the site of any accident, or fire, in which there is reason to believe that explosive materials were involved, in order that if any such incident has been brought about by accidental means, precautions may be taken to prevent similar accidents from occurring. In order to carry out the purpose of this subsection, the Attorney General is authorized to enter into or upon any property where explosive materials have been used, are suspected of having been used, or have been found in an otherwise unauthorized location. Nothing in this chapter shall be construed as modifying or otherwise affecting in any way the investigative authority of any other Federal agency. In addition to any other investigatory authority they have with respect to violations of provisions of this chapter, the Federal Bureau of Investigation, together with the Bureau of Alcohol, Tobacco, Firearms, and Explosives, shall have authority to conduct investigations with respect to violations of subsection (d), (e), (f), (g), (h), or (i) of section 844 of this title.

(b) The Attorney General is authorized to establish a national repository of information on incidents involving arson and the suspected criminal misuse of explosives. All Federal agencies having information concerning such incidents shall report the information to the Attorney General pursuant to such regulations as deemed necessary to carry out the provisions of this subsection. The repository shall also contain information on incidents voluntarily reported to the Attorney General by State and local authorities.

(Added Pub. L. 91–452, title XI, § 1102(a), Oct. 15, 1970, 84 Stat. 959; amended Pub. L. 104–208, div. A, title I, § 101(f) [title VI, § 654(a)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–369; Pub. L. 107–296, title XI, § 1112(e)(2), (3), Nov. 25, 2002, 116 Stat. 2276.)

AMENDMENTS

2002—Pub. L. 107–296, § 1112(e)(3), substituted ''Attorney General'' for ''Secretary'' in section catchline.

Subsec. (a). Pub. L. 107–296, § 1112(e)(3), substituted ''Attorney General'' for ''Secretary'' in two places.

Pub. L. 107–296, § 1112(e)(2), substituted ''the Federal Bureau of Investigation, together with the Bureau of Alcohol, Tobacco, Firearms, and Explosives'' for ''the Attorney General and the Federal Bureau of Investigation, together with the Secretary''.

Subsec. (b). Pub. L. 107–296, § 1112(e)(3), substituted ''Attorney General'' for ''Secretary'' wherever appearing.

1996—Pub. L. 104–208 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

AUTHORIZATION OF APPROPRIATIONS

Section 101(f) [title VI, § 654(b)] of div. A of Pub. L. 104–208 provided that: ''There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection [probably means ''this section'' which amended this section].''

CERTIFICATION OF EXPLOSIVES DETECTION CANINES

Pub. L. 106–554, § 1(a)(3) [title VI, § 626], Dec. 21, 2000, 114 Stat. 2763, 2763A–162, provided that: ''Hereafter, the Secretary of the Treasury is authorized to establish scientific certification standards for explosives detection canines, and shall provide, on a reimbursable basis, for the certification of explosives detection canines employed by Federal agencies, or other agencies providing explosives detection services at airports in the United States.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 106–58, title VI, § 630, Sept. 29, 1999, 113 Stat. 473.

Pub. L. 105–277, div. A, §101(h) [title VI, §640], Oct. 21, 1998, 112 Stat. 2681–480, 2681–526.

Pub. L. 105–61, title VI, §627, Oct. 10, 1997, 111 Stat. 1315.

Pub. L. 104–208, div. A, title I, §101(f) [title VI, §653(a)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–369.

§847. Rules and regulations

The administration of this chapter shall be vested in the Attorney General. The Attorney General may prescribe such rules and regulations as he deems reasonably necessary to carry out the provisions of this chapter. The Attorney General shall give reasonable public notice, and afford to interested parties opportunity for hearing, prior to prescribing such rules and regulations.

(Added Pub. L. 91–452, title XI, §1102(a), Oct. 15, 1970, 84 Stat. 959; amended Pub. L. 107–296, title XI, §1112(e)(3), Nov. 25, 2002, 116 Stat. 2276.)

AMENDMENTS

2002—Pub. L. 107–296 substituted ''Attorney General'' for ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

§848. Effect on State law

No provision of this chapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, unless there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together.

(Added Pub. L. 91–452, title XI, §1102(a), Oct. 15, 1970, 84 Stat. 959.)

CHAPTER 41—EXTORTION AND THREATS

Sec.
871. Threats against President and successors to the Presidency.
872. Extortion by officers or employees of the United States.
873. Blackmail.
874. Kickbacks from public works employees.
875. Interstate communications.
876. Mailing threatening communications.
877. Mailing threatening communications from foreign country.
878. Threats and extortion against foreign officials, official guests, or internationally protected persons.
879. Threats against former Presidents and certain other persons.
880. Receiving the proceeds of extortion.

AMENDMENTS

2000—Pub. L. 106–544, §2(b)(2), Dec. 19, 2000, 114 Stat. 2715, struck out ''protected by the Secret Service'' after ''other persons'' in item 879.

1994—Pub. L. 103–322, title XXXII, §320601(a)(2), Sept. 13, 1994, 108 Stat. 2115, added item 880.

1982—Pub. L. 97–297, §1(b), Oct. 12, 1982, 96 Stat. 1317, added item 879.

1976—Pub. L. 94–467, §9, Oct. 8, 1976, 90 Stat. 2001, added item 878.

1962—Pub. L. 87–829, §2, Oct. 15, 1962, 76 Stat. 956, substituted ''and successors to the Presidency'' for '', President-elect, and Vice President'' in item 871.

1955—Act June 1, 1955, ch. 115, §2, 69 Stat. 80, inserted ''President-elect, and Vice President'' in item 871.

§871. Threats against President and successors to the Presidency

(a) Whoever knowingly and willfully deposits for conveyance in the mail or for a delivery from any post office or by any letter carrier any letter, paper, writing, print, missive, or document containing any threat to take the life of, to kidnap, or to inflict bodily harm upon the President of the United States, the President-elect, the Vice President or other officer next in the order of succession to the office of President of the United States, or the Vice President-elect, or knowingly and willfully otherwise makes any such threat against the President, President-elect, Vice President or other officer next in the order of succession to the office of President, or Vice President-elect, shall be fined under this title or imprisoned not more than five years, or both.

(b) The terms ''President-elect'' and ''Vice President-elect'' as used in this section shall mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with title 3, United States Code, sections 1 and 2. The phrase ''other officer next in the order of succession to the office of President'' as used in this section shall mean the person next in the order of succession to act as President in accordance with title 3, United States Code, sections 19 and 20.

(June 25, 1948, ch. 645, 62 Stat. 740; June 1, 1955, ch. 115, §1, 69 Stat. 80; Pub. L. 87–829, §1, Oct. 15, 1962, 76 Stat. 956; Pub. L. 97–297, §2, Oct. 12, 1982, 96 Stat. 1318; Pub. L. 103–322, title XXXIII, §330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §89 (Feb. 14, 1917, ch. 64, 39 Stat. 919).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Minor changes were made in phraseology.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

1982—Subsec. (a). Pub. L. 97–297 inserted '', to kidnap,'' after ''containing any threat to take the life of''.

1962—Pub. L. 87–829 designated existing provisions as subsec. (a), extended the provisions of such subsection to include any other officer next on the order of succession to the office of President and the Vice-President-elect, added subsec. (b), and substituted ''and successors to the Presidency'' for '', President-elect, and Vice President'' in section catchline.

1955—Act June 1, 1955, included in section catchline and in text, provision for penalties for threats against the President-elect and the Vice President.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–544, §1, Dec. 19, 2000, 114 Stat. 2715, provided that: ''This Act [amending sections 879, 3056 and 3486 of this title, repealing section 3486A of this title,

and enacting provisions set out as notes under section 3056 of this title, section 551 of Title 5, Government Organization and Employees, and section 566 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Presidential Threat Protection Act of 2000'.''

§ 872. Extortion by officers or employees of the United States

Whoever, being an officer, or employee of the United States or any department or agency thereof, or representing himself to be or assuming to act as such, under color or pretense of office or employment commits or attempts an act of extortion, shall be fined under this title or imprisoned not more than three years, or both; but if the amount so extorted or demanded does not exceed $1,000, he shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 740; Oct. 31, 1951, ch. 655, § 24(b), 65 Stat. 720; Pub. L. 103–322, title XXXIII, § 330016(1)(G), (K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 171 (Mar. 4, 1909, ch. 321, § 85, 35 Stat. 1104).

Words ''or any department or agency'' were inserted to eliminate any possible ambiguity as to scope of section. (See definitive section 6 of this title.)

The punishment provided by section 171 of title 18, U.S.C., 1940 ed., of fine of not more than $500 or imprisonment of not more than 1 year, or both, was increased for offenses involving more than $100 to conform to Congressional policy reflected in later Acts. See section 4047(e)(1) of title 26, U.S.C., 1940 ed., Internal Revenue Code, and the punishment provision following paragraph (10) of said subsection.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''$1,000'' for ''$100''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' after ''extortion, shall be'' and for ''fined not more than $500'' after ''he shall be''.

1951—Act Oct. 31, 1951, changed punctuation to make section applicable not only to persons falsely representing themselves as Federal officers or employees at the time of extortion or the attempt thereof, but also to Federal officers and employees who attempt or commit extortion under color of office or employment.

§ 873. Blackmail

Whoever, under a threat of informing, or as a consideration for not informing, against any violation of any law of the United States, demands or receives any money or other valuable thing, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 740; Pub. L. 103–322, title XXXIII, § 330016(1)(I), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based upon title 18, U.S.C., 1940 ed., § 250 (Mar. 4, 1909, ch. 321, § 145, 35 Stat. 1114).

Only minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $2,000''.

§ 874. Kickbacks from public works employees

Whoever, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 740; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 276b of title 40, U.S.C., 1940 ed., Public Buildings, Property, and Works (June 13, 1934, ch. 482, § 1, 48 Stat. 948).

Slight changes of phraseology were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 875. Interstate communications

(a) Whoever transmits in interstate or foreign commerce any communication containing any demand or request for a ransom or reward for the release of any kidnapped person, shall be fined under this title or imprisoned not more than twenty years, or both.

(b) Whoever, with intent to extort from any person, firm, association, or corporation, any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined under this title or imprisoned not more than twenty years, or both.

(c) Whoever transmits in interstate or foreign commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined under this title or imprisoned not more than five years, or both.

(d) Whoever, with intent to extort from any person, firm, association, or corporation, any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to injure the property or reputation of the addressee or of another or the reputation of a deceased person or any threat to accuse the addressee or any other person of a crime, shall be fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 741; Pub. L. 99–646, § 63, Nov. 10, 1986, 100 Stat. 3614; Pub. L. 103–322, title XXXIII, § 330016(1)(G), (H), (K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 408d (May 18, 1934, ch. 300, 48 Stat. 781; May 15, 1939, ch. 133, § 2, 53 Stat. 743).

Provisions as to district of trial were omitted as covered by sections 3237 and 3239 of this title.

Definition of ''interstate commerce'' was omitted in conformity with definitive section 10 of this title.

Changes were made in phraseology and arrangement.

AMENDMENTS

1994—Subsecs. (a), (b). Pub. L. 103–322, § 330016(1)(K), substituted ''fined under this title'' for ''fined not more than $5,000''.

Subsec. (c). Pub. L. 103–322, § 330016(1)(H), substituted ''fined under this title'' for ''fined not more than $1,000''.

Subsec. (d). Pub. L. 103–322, § 330016(1)(G), substituted ''fined under this title'' for ''fined not more than $500''.

1986—Pub. L. 99–646 inserted ''or foreign'' after ''interstate'' wherever appearing.

§ 876. Mailing threatening communications

(a) Whoever knowingly deposits in any post office or authorized depository for mail matter, to be sent or delivered by the Postal Service or knowingly causes to be delivered by the Postal Service according to the direction thereon, any communication, with or without a name or designating mark subscribed thereto, addressed to any other person, and containing any demand or request for ransom or reward for the release of any kidnapped person, shall be fined under this title or imprisoned not more than twenty years, or both.

(b) Whoever, with intent to extort from any person any money or other thing of value, so deposits, or causes to be delivered, as aforesaid, any communication containing any threat to kidnap any person or any threat to injure the person of the addressee or of another, shall be fined under this title or imprisoned not more than twenty years, or both.

(c) Whoever knowingly so deposits or causes to be delivered as aforesaid, any communication with or without a name or designating mark subscribed thereto, addressed to any other person and containing any threat to kidnap any person or any threat to injure the person of the addressee or of another, shall be fined under this title or imprisoned not more than five years, or both. If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both.

(d) Whoever, with intent to extort from any person any money or other thing of value, knowingly so deposits or causes to be delivered, as aforesaid, any communication, with or without a name or designating mark subscribed thereto, addressed to any other person and containing any threat to injure the property or reputation of the addressee or of another, or the reputation of a deceased person, or any threat to accuse the addressee or any other person of a crime, shall be fined under this title or imprisoned not more than two years, or both. If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 741; Pub. L. 91–375, § 6(j)(7), Aug. 12, 1970, 84 Stat. 777; Pub. L. 103–322, title XXXIII, §§ 330016(1)(G), (H), (K), 330021(2), Sept. 13, 1994, 108 Stat. 2147, 2150; Pub. L. 107–273, div. C, title I, § 11008(d), Nov. 2, 2002, 116 Stat. 1818.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 338a (July 8, 1932, ch. 464, § 1, 47 Stat. 649; June 28, 1935, ch. 326, 49 Stat. 427; May 15, 1939, ch. 133, § 1, 53 Stat. 742).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Provisions as to district of trial were omitted as covered by sections 3237 and 3239 of this title.

Changes in phraseology and arrangement were made.

AMENDMENTS

2002—Pub. L. 107–273 designated first to fourth pars. as subsecs. (a) to (d), respectively, and, in subsecs. (c) and (d), inserted at end ''If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both.''

1994—Pub. L. 103–322, § 330021(2), substituted ''kidnapped'' for ''kidnaped'' in first par.

Pub. L. 103–322, § 330016(1)(K), substituted ''fined under this title'' for ''fined not more than $5,000'' in first and second pars.

Pub. L. 103–322, § 330016(1)(H), substituted ''fined under this title'' for ''fined not more than $1,000'' in third par.

Pub. L. 103–322, § 330016(1)(G), substituted ''fined under this title'' for ''fined not more than $500'' in fourth par.

1970—Pub. L. 91–375 substituted ''Postal Service'' for ''Post Office Department'' in two places in first par.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 877. Mailing threatening communications from foreign country

Whoever knowingly deposits in any post office or authorized depository for mail matter of any foreign country any communication addressed to any person within the United States, for the purpose of having such communication delivered by the post office establishment of such foreign country to the Postal Service and by it delivered to such addressee in the United States, and as a result thereof such communication is delivered by the post office establishment of such foreign country to the Postal Service and by it delivered to the address to which it is directed in the United States, and containing any demand or request for ransom or reward for the release of any kidnapped person, shall be fined under this title or imprisoned not more than twenty years, or both.

Whoever, with intent to extort from any person any money or other thing of value, so deposits as aforesaid, any communication for the purpose aforesaid, containing any threat to kidnap any person or any threat to injure the person of the addressee or of another, shall be fined under this title or imprisoned not more than twenty years, or both.

Whoever knowingly so deposits as aforesaid, any communication, for the purpose aforesaid, containing any threat to kidnap any person or any threat to injure the person of the addressee or of another, shall be fined under this title or imprisoned not more than five years, or both.

Whoever, with intent to extort from any person any money or other thing of value, know-

ingly so deposits as aforesaid, any communication, for the purpose aforesaid, containing any threat to injure the property or reputation of the addressee or of another, or the reputation of a deceased person, or any threat to accuse the addressee or any other person of a crime, shall be fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 741; Pub. L. 91–375, § 6(j)(8), Aug. 12, 1970, 84 Stat. 777; Pub. L. 103–322, title XXXIII, §§ 330016(1)(G), (H), (K), 330021(2), Sept. 13, 1994, 108 Stat. 2147, 2150.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 338b (July 8, 1932, ch. 464, § 2, 47 Stat. 649; May 15, 1939, ch. 133, § 1, 53 Stat. 742).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Provisions as to district of trial were omitted as covered by sections 3237 and 3239 of this title.

AMENDMENTS

1994—Pub. L. 103–322, § 330021(2), substituted ''kidnapped'' for ''kidnaped'' in first par.

Pub. L. 103–322, § 330016(1)(K), substituted ''fined under this title'' for ''fined not more than $5,000'' in first and second pars.

Pub. L. 103–322, § 330016(1)(H), substituted ''fined under this title'' for ''fined not more than $1,000'' in third par.

Pub. L. 103–322, § 330016(1)(G), substituted ''fined under this title'' for ''fined not more than $500'' in fourth par.

1970—Pub. L. 91–375 substituted ''Postal Service'' for ''Post Office Department of the United States'' in two places in first par.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 878. Threats and extortion against foreign officials, official guests, or internationally protected persons

(a) Whoever knowingly and willfully threatens to violate section 112, 1116, or 1201 shall be fined under this title or imprisoned not more than five years, or both, except that imprisonment for a threatened assault shall not exceed three years.

(b) Whoever in connection with any violation of subsection (a) or actual violation of section 112, 1116, or 1201 makes any extortionate demand shall be fined under this title or imprisoned not more than twenty years, or both.

(c) For the purpose of this section ''foreign official'', ''internationally protected person'', ''national of the United States'', and ''official guest'' shall have the same meanings as those provided in section 1116(a) of this title.

(d) If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 46501(2) of title 49.

(Added Pub. L. 94–467, § 8, Oct. 8, 1976, 90 Stat. 2000; amended Pub. L. 95–163, § 17(b)(1), Nov. 9, 1977, 91 Stat. 1286; Pub. L. 95–504, § 2(b), Oct. 24, 1978, 92 Stat. 1705; Pub. L. 103–272, § 5(e)(2), July 5, 1994, 108 Stat. 1373; Pub. L. 103–322, title XXXIII, § 330016(1)(K), (N), Sept. 13, 1994, 108 Stat. 2147, 2148; Pub. L. 104–132, title VII, §§ 705(a)(4), 721(e), Apr. 24, 1996, 110 Stat. 1295, 1299.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–132, § 705(a)(4), struck out ''by killing, kidnapping, or assaulting a foreign official, official guest, or internationally protected person'' before ''shall be fined''.

Subsec. (c). Pub. L. 104–132, § 721(e)(1), inserted '' 'national of the United States','' before ''and 'official guest' ''.

Subsec. (d). Pub. L. 104–132, § 721(e)(2), inserted first sentence and struck out former first sentence which read as follows: ''If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender.''

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)(N), substituted ''fined under this title'' for ''fined not more than $20,000''.

Subsec. (d). Pub. L. 103–272 substituted ''section 46501(2) of title 49'' for ''section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(38))''.

1978—Subsec. (d). Pub. L. 95–504 substituted reference to section 101(38) of the Federal Aviation Act of 1958 for reference to section 101(35) of such Act.

1977—Subsec. (d). Pub. L. 95–163 substituted reference to section 101(35) of the Federal Aviation Act of 1958 for reference to section 101(34) of such Act.

§ 879. Threats against former Presidents and certain other persons

(a) Whoever knowingly and willfully threatens to kill, kidnap, or inflict bodily harm upon—

(1) a former President or a member of the immediate family of a former President;

(2) a member of the immediate family of the President, the President-elect, the Vice President, or the Vice President-elect;

(3) a major candidate for the office of President or Vice President, or a member of the immediate family of such candidate; or

(4) a person protected by the Secret Service under section 3056(a)(6);

shall be fined under this title or imprisoned not more than 5 years, or both.

(b) As used in this section—

(1) the term ''immediate family'' means—

(A) with respect to subsection (a)(1) of this section, the wife of a former President during his lifetime, the widow of a former President until her death or remarriage, and minor children of a former President until they reach sixteen years of age; and

(B) with respect to subsection (a)(2) and (a)(3) of this section, a person to whom the

President, President-elect, Vice President, Vice President-elect, or major candidate for the office of President or Vice President—

(i) is related by blood, marriage, or adoption; or

(ii) stands in loco parentis;

(2) the term ''major candidate for the office of President or Vice President'' means a candidate referred to in subsection (a)(7) of section 3056 of this title; and

(3) the terms ''President-elect'' and ''Vice President-elect'' have the meanings given those terms in section 871(b) of this title.

(Added Pub. L. 97–297, § 1(a), Oct. 12, 1982, 96 Stat. 1317; amended Pub. L. 98–587, § 3(a), Oct. 30, 1984, 98 Stat. 3111; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 106–544, § 2(a), (b)(1), Dec. 19, 2000, 114 Stat. 2715.)

AMENDMENTS

2000—Pub. L. 106–544, § 2(b)(1), struck out ''protected by the Secret Service'' after ''other persons'' in section catchline.

Subsec. (a). Pub. L. 106–544, § 2(a)(1)–(4), in par. (3), substituted ''a member of the immediate family'' for ''the spouse'', added par. (4), and, in concluding provisions, struck out ''who is protected by the Secret Service as provided by law,'' before ''shall be fined'' and substituted ''5 years'' for ''three years''.

Subsec. (b)(1)(B). Pub. L. 106–544, § 2(a)(5), in introductory provisions, inserted ''and (a)(3)'' after ''subsection (a)(2)'' and substituted ''Vice President-elect, or major candidate for the office of President or Vice President'' for ''or Vice President-elect''.

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000'' in concluding provisions.

1984—Subsec. (b)(2). Pub. L. 98–587 substituted ''subsection (a)(7) of section 3056 of this title'' for ''the first section of the joint resolution entitled 'Joint resolution to authorize the United States Secret Service to furnish protection to major Presidential or Vice Presidential candidates', approved June 6, 1968 (18 U.S.C. 3056 note)''.

TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 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.

§ 880. Receiving the proceeds of extortion

A person who receives, possesses, conceals, or disposes of any money or other property which was obtained from the commission of any offense under this chapter that is punishable by imprisonment for more than 1 year, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 3 years, fined under this title, or both.

(Added Pub. L. 103–322, title XXXII, § 320601(a)(1), Sept. 13, 1994, 108 Stat. 2115.)

CHAPTER 42—EXTORTIONATE CREDIT TRANSACTIONS

Sec.
891. Definitions and rules of construction.
892. Making extortionate extensions of credit.
893. Financing extortionate extensions of credit.
894. Collection of extensions of credit by extortionate means.
[895. Repealed.]
896. Effect on State laws.

AMENDMENTS

1970—Pub. L. 91–452, title II, § 223(b), Oct. 15, 1970, 84 Stat. 929, struck out item 895 ''Immunity of witnesses''.

1968—Pub. L. 90–321, title II, § 202(a), May 29, 1968, 82 Stat. 159, added chapter 42 and items 891 to 896.

§ 891. Definitions and rules of construction

For the purposes of this chapter:

(1) To extend credit means to make or renew any loan, or to enter into any agreement, tacit or express, whereby the repayment or satisfaction of any debt or claim, whether acknowledged or disputed, valid or invalid, and however arising, may or will be deferred.

(2) The term ''creditor'', with reference to any given extension of credit, refers to any person making that extension of credit, or to any person claiming by, under, or through any person making that extension of credit.

(3) The term ''debtor'', with reference to any given extension of credit, refers to any person to whom that extension of credit is made, or to any person who guarantees the repayment of that extension of credit, or in any manner undertakes to indemnify the creditor against loss resulting from the failure of any person to whom that extension of credit is made to repay the same.

(4) The repayment of any extension of credit includes the repayment, satisfaction, or discharge in whole or in part of any debt or claim, acknowledged or disputed, valid or invalid, resulting from or in connection with that extension of credit.

(5) To collect an extension of credit means to induce in any way any person to make repayment thereof.

(6) An extortionate extension of credit is any extension of credit with respect to which it is the understanding of the creditor and the debtor at the time it is made that delay in making repayment or failure to make repayment could result in the use of violence or other criminal means to cause harm to the person, reputation, or property of any person.

(7) An extortionate means is any means which involves the use, or an express or implicit threat of use, of violence or other criminal means to cause harm to the person, reputation, or property of any person.

(8) The term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, and territories and possessions of the United States.

(9) State law, including conflict of laws rules, governing the enforceability through civil judicial processes of repayment of any extension of credit or the performance of any promise given in consideration thereof shall be judicially noticed. This paragraph does not impair any authority which any court would otherwise have to take judicial notice of any matter of State law.

(Added Pub. L. 90–321, title II, § 202(a), May 29, 1968, 82 Stat. 160.)

EFFECTIVE DATE

Chapter effective May 29, 1968, see section 504(a) of Pub. L. 90–321.

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Section 201 of Pub. L. 90–321 provided that:

''(a) The Congress makes the following findings:

''(1) Organized crime is interstate and international in character. Its activities involve many billions of dollars each year. It is directly responsible for murders, willful injuries to person and property, corruption of officials, and terrorization of countless citizens. A substantial part of the income of organized crime is generated by extortionate credit transactions.

''(2) Extortionate credit transactions are characterized by the use, or the express or implicit threat of the use, of violence or other criminal means to cause harm to person, reputation, or property as a means of enforcing repayment. Among the factors which have rendered past efforts at prosecution almost wholly ineffective has been the existence of exclusionary rules of evidence stricter than necessary for the protection of constitutional rights.

''(3) Extortionate credit transactions are carried on to a substantial extent in interstate and foreign commerce and through the means and instrumentalities of such commerce. Even where extortionate credit transactions are purely intrastate in character, they nevertheless directly affect interstate and foreign commerce.

''(4) Extortionate credit transactions directly impair the effectiveness and frustrate the purposes of the laws enacted by the Congress on the subject of bankruptcies.

''(b) On the basis of the findings stated in subsection (a) of this section, the Congress determines that the provisions of chapter 42 of title 18 of the United States Code are necessary and proper for the purpose of carrying into execution the powers of Congress to regulate commerce and to establish uniform and effective laws on the subject of bankruptcy.''

ANNUAL REPORT TO CONGRESS BY ATTORNEY GENERAL

Section 203 of Pub. L. 90–321 directed Attorney General to make an annual report to Congress of activities of Department of Justice in enforcement of this chapter, prior to repeal by Pub. L. 97–375, title I, § 109(b), Dec. 21, 1982, 96 Stat. 1820.

§ 892. Making extortionate extensions of credit

(a) Whoever makes any extortionate extension of credit, or conspires to do so, shall be fined under this title or imprisoned not more than 20 years, or both.

(b) In any prosecution under this section, if it is shown that all of the following factors were present in connection with the extension of credit in question, there is prima facie evidence that the extension of credit was extortionate, but this subsection is nonexclusive and in no way limits the effect or applicability of subsection (a):

(1) The repayment of the extension of credit, or the performance of any promise given in consideration thereof, would be unenforceable, through civil judicial processes against the debtor

(A) in the jurisdiction within which the debtor, if a natural person, resided or

(B) in every jurisdiction within which the debtor, if other than a natural person, was incorporated or qualified to do business

at the time the extension of credit was made.

(2) The extension of credit was made at a rate of interest in excess of an annual rate of 45 per centum calculated according to the actuarial method of allocating payments made on a debt between principal and interest, pursuant to which a payment is applied first to the accumulated interest and the balance is applied to the unpaid principal.

(3) At the time the extension of credit was made, the debtor reasonably believed that either

(A) one or more extensions of credit by the creditor had been collected or attempted to be collected by extortionate means, or the nonrepayment thereof had been punished by extortionate means; or

(B) the creditor had a reputation for the use of extortionate means to collect extensions of credit or to punish the nonrepayment thereof.

(4) Upon the making of the extension of credit, the total of the extensions of credit by the creditor to the debtor then outstanding, including any unpaid interest or similar charges, exceeded $100.

(c) In any prosecution under this section, if evidence has been introduced tending to show the existence of any of the circumstances described in subsection (b)(1) or (b)(2), and direct evidence of the actual belief of the debtor as to the creditor's collection practices is not available, then for the purpose of showing the understanding of the debtor and the creditor at the time the extension of credit was made, the court may in its discretion allow evidence to be introduced tending to show the reputation as to collection practices of the creditor in any community of which the debtor was a member at the time of the extension.

(Added Pub. L. 90–321, title II, § 202(a), May 29, 1968, 82 Stat. 160; amended Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

§ 893. Financing extortionate extensions of credit

Whoever willfully advances money or property, whether as a gift, as a loan, as an investment, pursuant to a partnership or profit-sharing agreement, or otherwise, to any person, with reasonable grounds to believe that it is the intention of that person to use the money or property so advanced directly or indirectly for the purpose of making extortionate extensions of credit, shall be fined under this title or an amount not exceeding twice the value of the money or property so advanced, whichever is greater, or shall be imprisoned not more than 20 years, or both.

(Added Pub. L. 90–321, title II, § 202(a), May 29, 1968, 82 Stat. 161; amended Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

§894. Collection of extensions of credit by extortionate means

(a) Whoever knowingly participates in any way, or conspires to do so, in the use of any extortionate means

(1) to collect or attempt to collect any extension of credit, or

(2) to punish any person for the nonrepayment thereof,

shall be fined under this title or imprisoned not more than 20 years, or both.

(b) In any prosecution under this section, for the purpose of showing an implicit threat as a means of collection, evidence may be introduced tending to show that one or more extensions of credit by the creditor were, to the knowledge of the person against whom the implicit threat was alleged to have been made, collected or attempted to be collected by extortionate means or that the nonrepayment thereof was punished by extortionate means.

(c) In any prosecution under this section, if evidence has been introduced tending to show the existence, at the time the extension of credit in question was made, of the circumstances described in section 892(b)(1) or the circumstances described in section 892(b)(2), and direct evidence of the actual belief of the debtor as to the creditor's collection practices is not available, then for the purpose of showing that words or other means of communication, shown to have been employed as a means of collection, in fact carried an express or implicit threat, the court may in its discretion allow evidence to be introduced tending to show the reputation of the defendant in any community of which the person against whom the alleged threat was made was a member at the time of the collection or attempt at collection.

(Added Pub. L. 90–321, title II, §202(a), May 29, 1968, 82 Stat. 161; amended Pub. L. 103–322, title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' in concluding provisions.

[§895. Repealed. Pub. L. 91–452, title II, §223(a), Oct. 15, 1970, 84 Stat. 929]

Section, Pub. L. 90–321, title II, §202(a), May 29, 1968, 82 Stat. 162, related to immunity from prosecution of any witness compelled to testify or produce evidence after claiming his privilege against self-incrimination. See section 6001 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to which any individual was entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as an Effective Date; Savings Provision note under section 6001 of this title.

§896. Effect on State laws

This chapter does not preempt any field of law with respect to which State legislation would be permissible in the absence of this chapter. No law of any State which would be valid in the absence of this chapter may be held invalid or inapplicable by virtue of the existence of this chapter, and no officer, agency, or instrumentality of any State may be deprived by virtue of this chapter of any jurisdiction over any offense over which it would have jurisdiction in the absence of this chapter.

(Added Pub. L. 90–321, title II, §202(a), May 29, 1968, 82 Stat. 162.)

CHAPTER 43—FALSE PERSONATION

Sec.
911. Citizen of the United States.
912. Officer or employee of the United States.
913. Impersonator making arrest or search.
914. Creditors of the United States.
915. Foreign diplomats, consuls or officers.
916. 4–H Club members or agents.
917. Red Cross members or agents.

§911. Citizen of the United States

Whoever falsely and willfully represents himself to be a citizen of the United States shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 742; Pub. L. 103–322, title XXXIII, §330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on subsection (a), paragraph (18) and subsection (d), of section 746, title 8, U.S.C., 1940 ed., Aliens and Nationality (Oct. 14, 1940, ch. 876, §346(a), par. (18), and (d), 54 Stat. 1165, 1167).

Section consolidates said provisions of section 746, title 8, U.S.C., 1940 ed., Aliens and Nationality. The word ''willfully'' was substituted for ''knowingly'', ''$1,000'' for ''$5,000'', and ''three years'' for ''five years'', to harmonize with congressional intent evidenced by the other sections of this chapter.

Minor changes were made in phraseology and unnecessary words were omitted.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§912. Officer or employee of the United States

Whoever falsely assumes or pretends to be an officer or employee acting under the authority of the United States or any department, agency or officer thereof, and acts as such, or in such pretended character demands or obtains any money, paper, document, or thing of value, shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 742; Pub. L. 103–322, title XXXIII, §330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§76 and 123 (Mar. 4, 1909, ch. 321, §§32 and 66, 35 Stat. 1095, 1100; Feb. 28, 1938, ch. 37, 52 Stat. 82).

Section consolidates sections 76 and 123 of title 18, U.S.C., 1940 ed. The effect of this consolidation was to increase the punishment for revenue officers from $500 to $1,000 and from 2 years to 3 years, and to rephrase in the alternative the mandatory punishment provision.

This section now applies the same punishment to all officers and agents of the United States found guilty of false personation.

Words ''agency or'' were inserted to eliminate any possible ambiguity as to scope of section. (See definitive section 6 of this title.) Other words referring to ''authority of any corporation owned or controlled by the United States'' were omitted for the same reason. (See *Pierce v. U.S.*, 1941, 62 S. Ct. 237, 314 U.S. 306, 86 L. Ed. 226.)

The words ''with the intent to defraud the United States or any person'', contained in said section 76 of title 18, U.S.C., 1940 ed., were omitted as meaningless in view of *United States v. Lapowich*, 63 S. Ct. 914.

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 913. Impersonator making arrest or search

Whoever falsely represents himself to be an officer, agent, or employee of the United States, and in such assumed character arrests or detains any person or in any manner searches the person, buildings, or other property of any person, shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 742; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 77a (Aug. 27, 1935, ch. 740, § 201, 49 Stat. 877).

Words ''shall be deemed guilty of a misdemeanor'' were omitted. (See definitive section 1 of this title.) Words ''and upon conviction thereof'' preceding ''shall be'' were omitted as surplusage since punishment cannot be imposed until conviction is secured.

Maximum imprisonment provision was changed from 1 year to 3 years so as to be consistent with sections 911 and 912 of this title, the latter having also been changed to 3 years. There is no sound reason why a uniform punishment should not be prescribed for the offenses defined in these three sections.

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 914. Creditors of the United States

Whoever falsely personates any true and lawful holder of any share or sum in the public stocks or debt of the United States, or any person entitled to any annuity, dividend, pension, wages, or other debt due from the United States, and, under color of such false personation, transfers or endeavors to transfer such public stock or any part thereof, or receives or endeavors to receive the money of such true and lawful holder thereof, or the money of any person really entitled to receive such annuity, dividend, pension, wages, or other debt, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 742; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 78 (Mar. 4, 1909, ch. 321, § 33, 35 Stat. 1095).

Words ''prize money'' after ''pension'' were deleted as repealed by act Mar. 3, 1899, ch. 413, 30 Stat. 1007, repealing all laws authorizing prize money distribution.

Mandatory punishment was rephrased in the alternative.

In the punishment provision the words ''five years'' were substituted for ''ten years'' to harmonize it with the punishment provisions in sections 287 and 1001 of this title, covering similar offenses. (See reviser's note under section 287 of this title.)

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 915. Foreign diplomats, consuls or officers

Whoever, with intent to defraud within the United States, falsely assumes or pretends to be a diplomatic, consular or other official of a foreign government duly accredited as such to the United States and acts as such, or in such pretended character, demands or obtains or attempts to obtain any money, paper, document, or other thing of value, shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 743; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 232 of title 22, U.S.C., 1940 ed., Foreign Relations and Intercourse (June 15, 1917, ch. 30, title VIII, § 2, 40 Stat. 226; Mar. 28, 1940, ch. 72, § 6, 54 Stat. 80).

Reference to ''jurisdiction'' of the United States was omitted as unnecessary in view of definition of ''United States'' in section 5 of this title.

Mandatory punishment provision was rephrased in the alternative.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 916. 4–H Club members or agents

Whoever, falsely and with intent to defraud, holds himself out as or represents or pretends himself to be a member of, associated with, or an agent or representative for the 4–H clubs, an organization established by the Extension Service of the United States Department of Agriculture and the land grant colleges, shall be fined under this title or imprisoned not more than six months, or both.

(June 25, 1948, ch. 645, 62 Stat. 743; Pub. L. 103–322, title XXXIII, § 330016(1)(F), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 76c (June 5, 1939, ch. 184, § 1, 53 Stat. 809).

Section 76c of title 18, U.S.C., 1940 ed., was incorporated in this section and section 707 of this title.

Reference to offense as a misdemeanor was omitted in view of definitive section 1 of this title. Words ''upon conviction thereof'' were omitted, since criminal punishment can follow only after conviction.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $300''.

§ 917. Red Cross members or agents

Whoever, within the United States, falsely or fraudulently holds himself out as or represents

or pretends himself to be a member of or an agent for the American National Red Cross for the purpose of soliciting, collecting, or receiving money or material, shall be fined under this title or imprisoned not more than 5 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 743; Pub. L. 103–322, title XXXIII, §330016(1)(G), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 107–56, title X, §1011(c), Oct. 26, 2001, 115 Stat. 396.)

HISTORICAL AND REVISION NOTES

Based on section 4 of title 36, U.S.C., 1940 ed., Patriotic Societies and Observances (Jan. 5, 1905, ch. 23, §4, 33 Stat. 600; June 23, 1910, ch. 372, §1, 36 Stat. 604).

Section 4 of title 36, U.S.C., 1940 ed., Patriotic Societies and Observances, was divided into this section and section 706 of this title.

Reference to ''jurisdiction'' of the United States was omitted as unnecessary in view of definition of ''United States'' in section 5 of this title.

Reference to offense as a misdemeanor was omitted in view of definitive section 1 of this title.

Words ''upon conviction thereof'' were omitted as punishment cannot be imposed until conviction is secured.

Minor changes were made in phraseology.

AMENDMENTS

2001—Pub. L. 107–56 substituted ''5 years'' for ''one year''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

CHAPTER 44—FIREARMS

Sec.
921. Definitions.
922. Unlawful acts.
923. Licensing.
924. Penalties.
925. Exceptions: Relief from disabilities.
925A. Remedy for erroneous denial of firearm.
926. Rules and regulations.
926A. Interstate transportation of firearms.
926B. Carrying of concealed firearms by qualified law enforcement officers.
926C. Carrying of concealed firearms by qualified retired law enforcement officers.
927. Effect on State law.
928. Separability.
929. Use of restricted ammunition.
930. Possession of firearms and dangerous weapons in Federal facilities.
931. Prohibition on purchase, ownership, or possession of body armor by violent felons.

AMENDMENTS

2004—Pub. L. 108–277, §§2(b), 3(b), July 22, 2004, 118 Stat. 866, 867, added items 926B and 926C.

2002—Pub. L. 107–273, div. C, title I, §11009(e)(2)(B), Nov. 2, 2002, 116 Stat. 1821, added item 931.

1993—Pub. L. 103–159, title I, §104(b), Nov. 30, 1993, 107 Stat. 1543, added item 925A.

1990—Pub. L. 101–647, title XXXV, §3523, Nov. 29, 1990, 104 Stat. 4924, struck out ''clause'' after ''Separability'' in item 928.

1988—Pub. L. 100–690, title VI, §6215(b), Nov. 18, 1988, 102 Stat. 4362, added item 930.

1986—Pub. L. 99–308, §107(b), May 19, 1986, 100 Stat. 460, added item 926A.

1984—Pub. L. 98–473, title II, §1006(b), Oct. 12, 1984, 98 Stat. 2139, added item 929.

1968—Pub. L. 90–618, title I, §102, Oct. 22, 1968, 82 Stat. 1214, reenacted chapter analysis without change.

Pub. L. 90–351, title IV, §902, June 19, 1968, 82 Stat. 226, added chapter 44 and items 921 to 928.

§921. Definitions

(a) As used in this chapter—

(1) The term ''person'' and the term ''whoever'' include any individual, corporation, company, association, firm, partnership, society, or joint stock company.

(2) The term ''interstate or foreign commerce'' includes commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, but such term does not include commerce between places within the same State but through any place outside of that State. The term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

(3) The term ''firearm'' means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.

(4) The term ''destructive device'' means—

(A) any explosive, incendiary, or poison gas—

(i) bomb,

(ii) grenade,

(iii) rocket having a propellant charge of more than four ounces,

(iv) missile having an explosive or incendiary charge of more than one-quarter ounce,

(v) mine, or

(vi) device similar to any of the devices described in the preceding clauses;

(B) any type of weapon (other than a shotgun or a shotgun shell which the Attorney General finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and

(C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled.

The term ''destructive device'' shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10; or any other device which the Attorney General finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational or cultural purposes.

(5) The term ''shotgun'' means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire through a smooth bore either a number of ball shot or a

single projectile for each single pull of the trigger.

(6) The term ''short-barreled shotgun'' means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun (whether by alteration, modification or otherwise) if such a weapon as modified has an overall length of less than twenty-six inches.

(7) The term ''rifle'' means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire only a single projectile through a rifled bore for each single pull of the trigger.

(8) The term ''short-barreled rifle'' means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty-six inches.

(9) The term ''importer'' means any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution; and the term ''licensed importer'' means any such person licensed under the provisions of this chapter.

(10) The term ''manufacturer'' means any person engaged in the business of manufacturing firearms or ammunition for purposes of sale or distribution; and the term ''licensed manufacturer'' means any such person licensed under the provisions of this chapter.

(11) The term ''dealer'' means (A) any person engaged in the business of selling firearms at wholesale or retail, (B) any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms, or (C) any person who is a pawnbroker. The term ''licensed dealer'' means any dealer who is licensed under the provisions of this chapter.

(12) The term ''pawnbroker'' means any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm as security for the payment or repayment of money.

(13) The term ''collector'' means any person who acquires, holds, or disposes of firearms as curios or relics, as the Attorney General shall by regulation define, and the term ''licensed collector'' means any such person licensed under the provisions of this chapter.

(14) The term ''indictment'' includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding one year may be prosecuted.

(15) The term ''fugitive from justice'' means any person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.

(16) The term ''antique firearm'' means—

(A) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; or

(B) any replica of any firearm described in subparagraph (A) if such replica—

(i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

(ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; or

(C) any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition. For purposes of this subparagraph, the term ''antique firearm'' shall not include any weapon which incorporates a firearm frame or receiver, any firearm which is converted into a muzzle loading weapon, or any muzzle loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

(17)(A) The term ''ammunition'' means ammunition or cartridge cases, primers, bullets, or propellent powder designed for use in any firearm.

(B) The term ''armor piercing ammunition'' means—

(i) a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or

(ii) a full jacketed projectile larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile.

(C) The term ''armor piercing ammunition'' does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Attorney General finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Attorney General finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.

(18) The term ''Attorney General'' means the Attorney General of the United States[1]

(19) The term ''published ordinance'' means a published law of any political subdivision of a State which the Attorney General determines to be relevant to the enforcement of this chapter and which is contained on a list compiled by the Attorney General, which list shall be published in the Federal Register, revised annually, and furnished to each licensee under this chapter.

(20) The term ''crime punishable by imprisonment for a term exceeding one year'' does not include—

(A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or

(B) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

What constitutes a conviction of such a crime shall be determined in accordance with the law

[1] So in original. Probably should be followed by a period.

of the jurisdiction in which the proceedings were held. Any conviction which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(21) The term ''engaged in the business'' means—

(A) as applied to a manufacturer of firearms, a person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured;

(B) as applied to a manufacturer of ammunition, a person who devotes time, attention, and labor to manufacturing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition manufactured;

(C) as applied to a dealer in firearms, as defined in section 921(a)(11)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms, but such term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms;

(D) as applied to a dealer in firearms, as defined in section 921(a)(11)(B), a person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit, but such term shall not include a person who makes occasional repairs of firearms, or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms;

(E) as applied to an importer of firearms, a person who devotes time, attention, and labor to importing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported; and

(F) as applied to an importer of ammunition, a person who devotes time, attention, and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition imported.

(22) The term ''with the principal objective of livelihood and profit'' means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection: *Provided*, That proof of profit shall not be required as to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism. For purposes of this paragraph, the term ''terrorism'' means activity, directed against United States persons, which—

(A) is committed by an individual who is not a national or permanent resident alien of the United States;

(B) involves violent acts or acts dangerous to human life which would be a criminal violation if committed within the jurisdiction of the United States; and

(C) is intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by assassination or kidnapping.

(23) The term ''machinegun'' has the meaning given such term in section 5845(b) of the National Firearms Act (26 U.S.C. 5845(b)).

(24) The terms ''firearm silencer'' and ''firearm muffler'' mean any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

(25) The term ''school zone'' means—

(A) in, or on the grounds of, a public, parochial or private school; or

(B) within a distance of 1,000 feet from the grounds of a public, parochial or private school.

(26) The term ''school'' means a school which provides elementary or secondary education, as determined under State law.

(27) The term ''motor vehicle'' has the meaning given such term in section 13102 of title 49, United States Code.

(28) The term ''semiautomatic rifle'' means any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

(29) The term ''handgun'' means—

(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.

[(30), (31) Repealed. Pub. L. 103–322, title XI, §110105(2), Sept. 13, 1994, 108 Stat. 2000.]

(32) The term ''intimate partner'' means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabited with the person.

(33)(A) Except as provided in subparagraph (C),[2] the term ''misdemeanor crime of domestic violence'' means an offense that—

(i) is a misdemeanor under Federal, State, or Tribal[3] law; and

(ii) has, as an element, the use or attempted use of physical force, or the threatened use of

[2] So in original. No subparagraph (C) has been enacted.

[3] So in original. Probably should not be capitalized.

a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

(B)(i) A person shall not be considered to have been convicted of such an offense for purposes of this chapter, unless—

(I) the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and

(II) in the case of a prosecution for an offense described in this paragraph for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either

(aa) the case was tried by a jury, or

(bb) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise.

(ii) A person shall not be considered to have been convicted of such an offense for purposes of this chapter if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(34) The term ''secure gun storage or safety device'' means—

(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.

(35) The term ''body armor'' means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.

(b) For the purposes of this chapter, a member of the Armed Forces on active duty is a resident of the State in which his permanent duty station is located.

(Added Pub. L. 90–351, title IV, § 902, June 19, 1968, 82 Stat. 226; amended Pub. L. 90–618, title I, § 102, Oct. 22, 1968, 82 Stat. 1214; Pub. L. 93–639, § 102, Jan. 4, 1975, 88 Stat. 2217; Pub. L. 99–308, § 101, May 19, 1986, 100 Stat. 449; Pub. L. 99–360, § 1(b), July 8, 1986, 100 Stat. 766; Pub. L. 99–408, § 1, Aug. 28, 1986, 100 Stat. 920; Pub. L. 101–647, title XVII, § 1702(b)(2), title XXII, § 2204(a), Nov. 29, 1990, 104 Stat. 4845, 4857; Pub. L. 103–159, title I, § 102(a)(2), Nov. 30, 1993, 107 Stat. 1539; Pub. L. 103–322, title XI, §§ 110102(b), 110103(b), 110105(2), 110401(a), 110519, title XXXIII, § 330021(1), Sept. 13, 1994, 108 Stat. 1997, 1999, 2000, 2014, 2020, 2150; Pub. L. 104–88, title III, § 303(1), Dec. 29, 1995, 109 Stat. 943; Pub. L. 104–208, div. A, title I, § 101(f) [title VI, § 658(a)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–371; Pub. L. 105–277, div. A, § 101(b) [title I, § 119(a)], (h) [title I, § 115], Oct. 21, 1998, 112 Stat. 2681–50, 2681–69, 2681–480, 2681–490; Pub. L. 107–273, div. C, title I, § 11009(e)(1), Nov. 2, 2002, 116 Stat. 1821; Pub. L. 107–296, title XI, § 1112(f)(1)–(3), (6), Nov. 25, 2002, 116 Stat. 2276; Pub. L. 109–162, title IX, § 908(a), Jan. 5, 2006, 119 Stat. 3083.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (a)(2), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

2006—Subsec. (a)(33)(A)(i). Pub. L. 109–162, which directed the general amendment of ''section 921(33)(A)(i) of title 18'', was executed to par. (33)(A)(i) of subsec. (a), to reflect the probable intent of Congress. Prior to amendment, cl. (i) read as follows: ''is a misdemeanor under Federal or State law; and''.

2002—Subsec. (a)(4). Pub. L. 107–296, § 1112(f)(2), substituted ''Attorney General'' for ''Secretary of the Treasury'' in concluding provisions.

Subsec. (a)(4)(B). Pub. L. 107–296, § 1112(f)(1), substituted ''Attorney General'' for ''Secretary''.

Subsec. (a)(13), (17)(C). Pub. L. 107–296, § 1112(f)(6), substituted ''Attorney General'' for ''Secretary'' wherever appearing.

Subsec. (a)(18). Pub. L. 107–296, § 1112(f)(3), added par. (18) and struck out former par. (18) which read as follows: ''The term 'Secretary' or 'Secretary of the Treasury' means the Secretary of the Treasury or his delegate.''

Subsec. (a)(19). Pub. L. 107–296, § 1112(f)(6), substituted ''Attorney General'' for ''Secretary'' in two places.

Subsec. (a)(35). Pub. L. 107–273 added par. (35).

1998—Subsec. (a)(5). Pub. L. 105–277, § 101(h) [title I, § 115(1)], substituted ''an explosive'' for ''the explosive in a fixed shotgun shell''.

Subsec. (a)(7). Pub. L. 105–277, § 101(h) [title I, § 115(2)], substituted ''an explosive'' for ''the explosive in a fixed metallic cartridge''.

Subsec. (a)(16). Pub. L. 105–277, § 101(h) [title I, § 115(3)], added par. (16) and struck out former par. (16) which read as follows: ''The term 'antique firearm' means—

''(A) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and

''(B) any replica of any firearm described in subparagraph (A) if such replica—

''(i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

''(ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.''

Subsec. (a)(34). Pub. L. 105–277, § 101(b) [title I, § 119(a)], added par. (34).

1996—Subsec. (a)(33). Pub. L. 104–208 added par. (33).

1995—Subsec. (a)(27). Pub. L. 104–88 substituted ''section 13102'' for ''section 10102''.

1994—Subsec. (a)(17)(B). Pub. L. 103–322, § 110519, amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''The term 'armor piercing ammunition' means a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper,

or depleted uranium. Such term does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Secretary finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Secretary finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.''

Subsec. (a)(17)(C). Pub. L. 103–322, §110519, added subpar. (C).

Subsec. (a)(22)(C)(iii). Pub. L. 103–322, §330021(1), substituted ''kidnapping'' for ''kidnaping''.

Subsec. (a)(30). Pub. L. 103–322, §110102(b), which added par. (30) defining ''semiautomatic assault weapon'', was repealed by Pub. L. 103–322, §110105(2). See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (a)(31). Pub. L. 103–322, §110103(b), which added par. (31) defining ''large capacity ammunition feeding device'', was repealed by Pub. L. 103–322, §110105(2). See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (a)(32). Pub. L. 103–322, §110401(a), added par. (32).

1993—Subsec. (a)(29). Pub. L. 103–159 added par. (29).

1990—Subsec. (a)(25) to (27). Pub. L. 101–647, §1702(b)(2), added pars. (25) to (27).

Subsec. (a)(28). Pub. L. 101–647, §2204(a), added par. (28).

1986—Subsec. (a)(10). Pub. L. 99–308, §101(1), substituted ''business of manufacturing'' for ''manufacture of''.

Subsec. (a)(11)(A). Pub. L. 99–308, §101(2), struck out ''or ammunition'' after ''firearms''.

Subsec. (a)(12). Pub. L. 99–308, §101(3), struck out ''or ammunition'' after ''firearm''.

Subsec. (a)(13). Pub. L. 99–308, §101(4), struck out ''or ammunition'' after ''firearms''.

Subsec. (a)(17). Pub. L. 99–408 designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (a)(20). Pub. L. 99–308, §101(5), amended par. (20) generally. Prior to amendment, par. (20) read as follows: ''The term 'crime punishable by imprisonment for a term exceeding one year' shall not include (A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices as the Secretary may by regulation designate, or (B) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.''

Subsec. (a)(21). Pub. L. 99–308, §101(6), added par. (21).

Subsec. (a)(22). Pub. L. 99–360 inserted provision that proof of profit not be required as to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism and defined terrorism.

Pub. L. 99–308, §101(6), added par. (22).

Subsec. (a)(23), (24). Pub. L. 99–308, §101(6), added pars. (23) and (24).

1975—Subsec. (a)(4). Pub. L. 93–639 substituted ''to use solely for sporting, recreational or cultural purposes'' for ''to use solely for sporting purposes''.

1968—Subsec. (a). Pub. L. 90–618 inserted definitions of ''collector'', ''licensed collector'', and ''crime punishable by imprisonment for a term exceeding one year'', amended definitions of ''person'', ''whoever'', ''interstate or foreign commerce'', ''State'', ''firearm'', ''destructive device'', ''dealer'', ''indictment'', ''fugitive from justice'', ''antique firearm'', ''ammunition'', and ''published ordinance'', and reenacted without change definitions of ''shotgun'', ''short-barreled shotgun'', ''rifle'', ''short-barreled rifle'', ''importer'', ''licensed importer'', ''manufacturer'', ''licensed manufacturer'', ''licensed dealer'', ''pawnbroker'', and ''Secretary'' or ''Secretary of the Treasury''.

Subsec. (b). Pub. L. 90–618 substituted provisions determining that a member of the armed forces on active duty is a resident of the State in which his permanent duty station is located for provisions defining ''firearm'', ''destructive device'', and ''crime punishable by imprisonment for a term exceeding one year''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–277, div. A, §101(b) [title I, §119(e)], Oct. 21, 1998, 112 Stat. 2681–50, 2681–70, provided that: ''The amendments made by this section [amending this section and section 923 of this title] shall take effect 180 days after the date of enactment of this Act [Oct. 21, 1998].''

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of Title 49, Transportation.

EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENT

Pub. L. 103–322, title XI, §110105, Sept. 13, 1994, 108 Stat. 2000, provided that subtitle A (§§110101–110106) of title XI of Pub. L. 103–322 (amending this section and sections 922 to 924 of this title and enacting provisions set out as notes under this section) and the amendments made by that subtitle were effective Sept. 13, 1994, and were repealed effective as of the date that is 10 years after that date.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 1702(b)(4) of Pub. L. 101–647 provided that: ''The amendments made by this section [amending this section and sections 922 and 924 of this title] shall apply to conduct engaged in after the end of the 60-day period beginning on the date of the enactment of this Act [Nov. 29, 1990].''

EFFECTIVE DATE OF 1986 AMENDMENTS; PUBLICATION AND AVAILABILITY OF COMPILATION OF STATE LAWS AND PUBLISHED ORDINANCES

Section 9 of Pub. L. 99–408 provided that: ''The amendments made by this Act [amending this section and sections 922, 923, and 929 of this title and enacting provisions set out as notes under this section] shall take effect on the date of enactment of this Act [Aug. 28, 1986], except that sections 3, 4, and 5 [amending section 923 of this title] shall take effect on the first day of the first calendar month which begins more than ninety days after the date of the enactment of this Act.''

Section 2 of Pub. L. 99–360 provided that: ''This Act and the amendments made by this Act [enacting section 926A of this title, amending this section and section 923 of this title, and repealing former section 926A of this title], intended to amend the Firearms Owners' Protection Act [Pub. L. 99–308, see Short Title of 1986 Amendment note below], shall become effective on the date on which the section they are intended to amend in such Firearms Owners' Protection Act becomes effective [see section 110 of Pub. L. 99–308 set out below] and shall apply to the amendments to title 18, United States Code, made by such Act.''

Section 110 of Pub. L. 99–308 provided that:

''(a) IN GENERAL.—The amendments made by this Act [enacting section 926A of this title, amending this section, sections 922 to 926 and 929 of this title, and section 5845 of Title 26, Internal Revenue Code, repealing title VII of Pub. L. 90–351, set out in the Appendix to this title, and enacting provisions set out as notes under this section] shall become effective one hundred and eighty days after the date of the enactment of this Act [May 19, 1986]. Upon their becoming effective, the Sec-

retary shall publish and provide to all licensees a compilation of the State laws and published ordinances of which licensees are presumed to have knowledge pursuant to chapter 44 of title 18, United States Code, as amended by this Act. All amendments to such State laws and published ordinances as contained in the aforementioned compilation shall be published in the Federal Register, revised annually, and furnished to each person licensed under chapter 44 of title 18, United States Code, as amended by this Act.

''(b) PENDING ACTIONS, PETITIONS, AND APPELLATE PROCEEDINGS.—The amendments made by sections 103(6)(B), 105, and 107 of this Act [enacting section 926A of this title and amending sections 923 and 925 of this title] shall be applicable to any action, petition, or appellate proceeding pending on the date of the enactment of this Act [May 19, 1986].

''(c) MACHINEGUN PROHIBITION.—Section 102(9) [amending section 922 of this title] shall take effect on the date of the enactment of this Act [May 19, 1986].''

EFFECTIVE DATE OF 1968 AMENDMENT

Section 105 of Pub. L. 90–618 provided that:

''(a) Except as provided in subsection (b), the provisions of chapter 44 of title 18, United States Code, as amended by section 102 of this title [amending this chapter], shall take effect on December 16, 1968.

''(b) The following sections of chapter 44 of title 18, United States Code, as amended by section 102 of this title shall take effect on the date of the enactment of this title [Oct. 22, 1968]: Sections 921, 922(*l*), 925(a)(1), and 925(d).''

EFFECTIVE DATE

Section 907 of title IV of Pub. L. 90–351 provided that: ''The amendments made by this title [enacting this chapter and provisions set out as notes under this section and repealing sections 901 to 910 of Title 15, Commerce and Trade] shall become effective one hundred and eighty days after the date of its enactment [June 19, 1968]; except that repeal of the Federal Firearms Act [sections 901 to 910 of Title 15] shall not in itself terminate any valid license issued pursuant to that Act and any such license shall be deemed valid until it shall expire according to its terms unless it be sooner revoked or terminated pursuant to applicable provisions of law.''

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–92, § 5(a), Oct. 26, 2005, 119 Stat. 2099, provided that: ''This section [amending sections 922 and 924 of this title and enacting provisions set out as notes under section 922 of this title] may be cited as the 'Child Safety Lock Act of 2005'.''

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–277, § 1, July 22, 2004, 118 Stat. 865, provided that: ''This Act [enacting sections 926B and 926C of this title] may be cited as the 'Law Enforcement Officers Safety Act of 2004'.''

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–322, title XI, § 110101, Sept. 13, 1994, 108 Stat. 1996, provided that subtitle A (§§ 110101–110106) of title XI of Pub. L. 103–322 (amending this section and sections 922 to 924 of this title and enacting provisions set out as notes under this section) could be cited as the ''Public Safety and Recreational Firearms Use Protection Act'', prior to repeal by Pub. L. 103–322, title XI, § 110105(2), Sept. 13, 1994, 108 Stat. 2000, effective 10 years after Sept. 13, 1994.

SHORT TITLE OF 1993 AMENDMENT

Section 101 of title I of Pub. L. 103–159 provided that: ''This title [enacting section 925A of this title, amending this section, sections 922 and 924 of this title, and section 3759 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section and section 922 of this title] may be cited as the 'Brady Handgun Violence Prevention Act'.''

Section 301 of title III of Pub. L. 103–159 provided that: ''This title [amending sections 922 to 924 of this title] may be cited as the 'Federal Firearms License Reform Act of 1993'.''

SHORT TITLE OF 1990 AMENDMENT

Section 1702(a) of Pub. L. 101–647 provided that: ''This section [amending this section and sections 922 and 924 of this title and enacting provisions set out as notes under this section and section 922 of this title] may be cited as the 'Gun-Free School Zones Act of 1990'.''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–649, § 1, Nov. 10, 1988, 102 Stat. 3816, provided that: ''This Act [amending sections 922, 924, and 925 of this title and enacting provisions set out as notes under section 922 of this title and section 1356 of former Title 49, Transportation] may be cited as the 'Undetectable Firearms Act of 1988'.''

SHORT TITLE OF 1986 AMENDMENTS

Pub. L. 99–570, title I, subtitle I, § 1401, Oct. 27, 1986, 100 Stat. 3207–39, provided that: ''This subtitle [amending section 924 of this title] may be cited as the 'Career Criminals Amendment Act of 1986'.''

Section 1(a) of Pub. L. 99–308 provided that: ''This Act [enacting section 926A of this title, amending this section, sections 922 to 926 and 929 of this title, and section 5845 of Title 26, Internal Revenue Code, repealing title VII of Pub. L. 90–351, set out in the Appendix to this title, and enacting provisions set out as notes under this section] may be cited as the 'Firearms Owners' Protection Act'.''

SHORT TITLE

Section 1 of Pub. L. 90–618 provided: ''That this Act [enacting sections 5822, 5871 and 5872 of Title 26, Internal Revenue Code, amending this section, sections 922 to 928 of this title, and Appendix to this title, and sections 5801, 5802, 5811, 5812, 5821, 5841 to 5849, 5851 to 5854, 5861, 6806, and 7273 of Title 26, repealing sections 5692 and 6107 of Title 26, omitting sections 5803, 5813, 5814, 5831, 5855, and 5862 of Title 26, and enacting material set out as notes under this section and Appendix to this title, and section 5801 of Title 26] may be cited as the 'Gun Control Act of 1968'.''

CONSTRUCTION OF PUB. L. 103–159 WITH SECTION 552a OF TITLE 5

Section 105 of Pub. L. 103–159 provided that: ''This Act [enacting section 925A of this title, amending this section, sections 922 to 924 of this title, and section 3759 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section and section 922 of this title] and the amendments made by this Act shall not be construed to alter or impair any right or remedy under section 552a of title 5, United States Code.''

STATUTORY CONSTRUCTION; EVIDENCE

For provisions relating to statutory construction of, and admissibility of evidence regarding compliance or noncompliance with, the amendment by section 101(b) [title I, § 119(a)] of Pub. L. 105–277, see section 101(b) [title I, § 119(d)] of Pub. L. 105–277, set out as a note under section 923 of this title.

STUDY BY ATTORNEY GENERAL

Pub. L. 103–322, title XI, § 110104, Sept. 13, 1994, 108 Stat. 2000, which provided that the Attorney General was to study the effect of subtitle A (§§ 110101–110106) of title XI of Pub. L. 103–322 and to report the results of the study to Congress not later than 30 months after Sept. 13, 1994, was repealed by Pub. L. 103–322, title XI, § 110105(2), Sept. 13, 1994, 108 Stat. 2000, effective 10 years after Sept. 13, 1994.

CONGRESSIONAL FINDINGS AND DECLARATION

Section 1(b) of Pub. L. 99–308 provided that: ''The Congress finds that—

''(1) the rights of citizens—

''(A) to keep and bear arms under the second amendment to the United States Constitution;

''(B) to security against illegal and unreasonable searches and seizures under the fourth amendment;

''(C) against uncompensated taking of property, double jeopardy, and assurance of due process of law under the fifth amendment; and

''(D) against unconstitutional exercise of authority under the ninth and tenth amendments;

require additional legislation to correct existing firearms statutes and enforcement policies; and

''(2) additional legislation is required to reaffirm the intent of the Congress, as expressed in section 101 of the Gun Control Act of 1968 [section 101 of Pub. L. 90–618, set out below], that 'it is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trapshooting, target shooting, personal protection, or any other lawful activity, and that this title is not intended to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes.'.''

Section 101 of title I of Pub. L. 90–618 provided that: ''The Congress hereby declares that the purposes of this title [amending this chapter] is to provide support to Federal, State, and local law enforcement officials in their fight against crime and violence, and it is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trapshooting, target shooting, personal protection, or any other lawful activity, and that this title is not intended to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes, or provide for the imposition by Federal regulations of any procedures or requirements other than those reasonably necessary to implement and effectuate the provisions of this title.''

Section 901 of title IV of Pub. L. 90–351 provided that: ''(a) The Congress hereby finds and declares—

''(1) that there is a widespread traffic in firearms moving in or otherwise affecting interstate or foreign commerce, and that the existing Federal controls over such traffic do not adequately enable the States to control this traffic within their own borders through the exercise of their police power;

''(2) that the ease with which any person can acquire firearms other than a rifle or shotgun (including criminals, juveniles without the knowledge or consent of their parents or guardians, narcotics addicts, mental defectives, armed groups who would supplant the functions of duly constituted public authorities, and others whose possession of such weapon is similarly contrary to the public interest) is a significant factor in the prevalence of lawlessness and violent crime in the United States;

''(3) that only through adequate Federal control over interstate and foreign commerce in these weapons, and over all persons engaging in the businesses of importing, manufacturing, or dealing in them, can this grave problem be properly dealt with, and effective State and local regulation of this traffic be made possible;

''(4) that the acquisition on a mail-order basis of firearms other than a rifle or shotgun by nonlicensed individuals, from a place other than their State of residence, has materially tended to thwart the effectiveness of State laws and regulations, and local ordinances;

''(5) that the sale or other disposition of concealable weapons by importers, manufacturers, and dealers holding Federal licenses, to nonresidents of the State in which the licensees' places of business are located, has tended to make ineffective the laws, regulations, and ordinances in the several States and local jurisdictions regarding such firearms;

''(6) that there is a casual relationship between the easy availability of firearms other than a rifle or shotgun and juvenile and youthful criminal behavior, and that such firearms have been widely sold by federally licensed importers and dealers to emotionally immature, or thrill-bent juveniles and minors prone to criminal behavior;

''(7) that the United States has become the dumping ground of the castoff surplus military weapons of other nations, and that such weapons, and the large volume of relatively inexpensive pistols and revolvers (largely worthless for sporting purposes), imported into the United States in recent years, has contributed greatly to lawlessness and to the Nation's law enforcement problems;

''(8) that the lack of adequate Federal control over interstate and foreign commerce in highly destructive weapons (such as bazookas, mortars, antitank guns, and so forth, and destructive devices such as explosive or incendiary grenades, bombs, missiles, and so forth) has allowed such weapons and devices to fall into the hands of lawless persons, including armed groups who would supplant lawful authority, thus creating a problem of national concern;

''(9) that the existing licensing system under the Federal Firearms Act [former sections 901 to 910 of Title 15, Commerce and Trade] does not provide adequate license fees or proper standards for the granting or denial of licenses, and that this has led to licenses being issued to persons not reasonably entitled thereto, thus distorting the purposes of the licensing system.

''(b) The Congress further hereby declares that the purpose of this title [enacting this chapter and repealing sections 901 to 910 of Title 15, Commerce and Trade] is to cope with the conditions referred to in the foregoing subsection, and that it is not the purpose of this title [enacting this chapter and repealing sections 901 to 910 of Title 15] to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trap shooting, target shooting, personal protection, or any other lawful activity, and that this title [enacting this chapter and repealing sections 901 to 910 of Title 15] is not intended to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes, or provide for the imposition by Federal regulations of any procedures or requirements other than those reasonably necessary to implement and effectuate the provisions of this title [enacting this chapter and repealing sections 901 to 910 of Title 15].''

ADMINISTRATION AND ENFORCEMENT

Section 103 of title I of Pub. L. 90–618, as amended by Pub. L. 107–296, title XI, § 1112(s), Nov. 25, 2002, 116 Stat. 2279, provided that: ''The administration and enforcement of the amendment made by this title [amending this chapter] shall be vested in the Attorney General.''

Section 903 of title IV of Pub. L. 90–351 provided that: ''The administration and enforcement of the amendment made by this title [enacting this chapter and provisions set out as notes under this section] shall be vested in the Secretary of the Treasury [now Attorney General].''

MODIFICATION OF OTHER LAWS

Section 104 of title I of Pub. L. 90–618, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''Nothing in this title or the amendment made thereby [amending this chapter] shall be construed as modifying or affecting any provision of—

''(a) the National Firearms Act (chapter 53 of the Internal Revenue Code of 1986) [section 5801 et seq. of Title 26, Internal Revenue Code];

''(b) section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934), as amended, relating to munitions control; or

''(c) section 1715 of title 18, United States Code, relating to nonmailable firearms.''

Section 904 of title IV of Pub. L. 90–351, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''Nothing in this title or amendment made thereby [enacting this chapter and provisions set out as notes under this section] shall be construed as modifying or affecting any provision of—

''(a) the National Firearms Act (chapter 53 of the Internal Revenue Code of 1986) [section 5801 et seq. of Title 26, Internal Revenue Code]; or

''(b) section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934), as amended, relating to munitions control; or

''(c) section 1715 of title 18, United States Code, relating to nonmailable firearms.''

DEFINITION OF ''HANDGUN''

Section 10 of Pub. L. 99–408 provided that: ''For purposes of section 921(a)(17)(B) of title 18, United States Code, as added by the first section of this Act, 'handgun' means any firearm including a pistol or revolver designed to be fired by the use of a single hand. The term also includes any combination of parts from which a handgun can be assembled.''

§ 922. Unlawful acts

(a) It shall be unlawful—

(1) for any person—

(A) except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce; or

(B) except a licensed importer or licensed manufacturer, to engage in the business of importing or manufacturing ammunition, or in the course of such business, to ship, transport, or receive any ammunition in interstate or foreign commerce;

(2) for any importer, manufacturer, dealer, or collector licensed under the provisions of this chapter to ship or transport in interstate or foreign commerce any firearm to any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, except that—

(A) this paragraph and subsection (b)(3) shall not be held to preclude a licensed importer, licensed manufacturer, licensed dealer, or licensed collector from returning a firearm or replacement firearm of the same kind and type to a person from whom it was received; and this paragraph shall not be held to preclude an individual from mailing a firearm owned in compliance with Federal, State, and local law to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector;

(B) this paragraph shall not be held to preclude a licensed importer, licensed manufacturer, or licensed dealer from depositing a firearm for conveyance in the mails to any officer, employee, agent, or watchman who, pursuant to the provisions of section 1715 of this title, is eligible to receive through the mails pistols, revolvers, and other firearms capable of being concealed on the person, for use in connection with his official duty; and

(C) nothing in this paragraph shall be construed as applying in any manner in the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States differently than it would apply if the District of Columbia, the Commonwealth of Puerto Rico, or the possession were in fact a State of the United States;

(3) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to transport into or receive in the State where he resides (or if the person is a corporation or other business entity, the State where it maintains a place of business) any firearm purchased or otherwise obtained by such person outside that State, except that this paragraph (A) shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State, (B) shall not apply to the transportation or receipt of a firearm obtained in conformity with subsection (b)(3) of this section, and (C) shall not apply to the transportation of any firearm acquired in any State prior to the effective date of this chapter;

(4) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, to transport in interstate or foreign commerce any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1986), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Attorney General consistent with public safety and necessity;

(5) for any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) to transfer, sell, trade, give, transport, or deliver any firearm to any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) who the transferor knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides; except that this paragraph shall not apply to (A) the transfer, transportation, or delivery of a firearm made to carry out a bequest of a firearm to, or an acquisition by intestate succession of a firearm by, a person who is permitted to acquire or possess a firearm under the laws of the State of his residence, and (B) the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

(6) for any person in connection with the acquisition or attempted acquisition of any firearm or ammunition from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, knowingly to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive such importer, manufacturer, dealer, or collector with respect to any fact material to the lawfulness of the sale or other dis-

position of such firearm or ammunition under the provisions of this chapter;

(7) for any person to manufacture or import armor piercing ammunition, unless—

(A) the manufacture of such ammunition is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

(B) the manufacture of such ammunition is for the purpose of exportation; or

(C) the manufacture or importation of such ammunition is for the purpose of testing or experimentation and has been authorized by the Attorney General;

(8) for any manufacturer or importer to sell or deliver armor piercing ammunition, unless such sale or delivery—

(A) is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

(B) is for the purpose of exportation; or

(C) is for the purpose of testing or experimentation and has been authorized by the Attorney General;[1]

(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.

(b) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or deliver—

(1) any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age;

(2) any firearm to any person in any State where the purchase or possession by such person of such firearm would be in violation of any State law or any published ordinance applicable at the place of sale, delivery or other disposition, unless the licensee knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance;

(3) any firearm to any person who the licensee knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business is located, except that this paragraph (A) shall not apply to the sale or delivery of any rifle or shotgun to a resident of a State other than a State in which the licensee's place of business is located if the transferee meets in person with the transferor to accomplish the transfer, and the sale, delivery, and receipt fully comply with the legal conditions of sale in both such States (and any licensed manufacturer, importer or dealer shall be presumed, for purposes of this subparagraph, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both States), and (B) shall not apply to the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

(4) to any person any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1986), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Attorney General consistent with public safety and necessity; and

(5) any firearm or armor-piercing ammunition to any person unless the licensee notes in his records, required to be kept pursuant to section 923 of this chapter, the name, age, and place of residence of such person if the person is an individual, or the identity and principal and local places of business of such person if the person is a corporation or other business entity.

Paragraphs (1), (2), (3), and (4) of this subsection shall not apply to transactions between licensed importers, licensed manufacturers, licensed dealers, and licensed collectors. Paragraph (4) of this subsection shall not apply to a sale or delivery to any research organization designated by the Attorney General.

(c) In any case not otherwise prohibited by this chapter, a licensed importer, licensed manufacturer, or licensed dealer may sell a firearm to a person who does not appear in person at the licensee's business premises (other than another licensed importer, manufacturer, or dealer) only if—

(1) the transferee submits to the transferor a sworn statement in the following form:

"Subject to penalties provided by law, I swear that, in the case of any firearm other than a shotgun or a rifle, I am twenty-one years or more of age, or that, in the case of a shotgun or a rifle, I am eighteen years or more of age; that I am not prohibited by the provisions of chapter 44 of title 18, United States Code, from receiving a firearm in interstate or foreign commerce; and that my receipt of this firearm will not be in violation of any statute of the State and published ordinance applicable to the locality in which I reside. Further, the true title, name, and address of the principal law enforcement officer of the locality to which the firearm will be delivered are _____

_____

Signature _____ Date _____."

and containing blank spaces for the attachment of a true copy of any permit or other information required pursuant to such statute or published ordinance;

(2) the transferor has, prior to the shipment or delivery of the firearm, forwarded by registered or certified mail (return receipt requested) a copy of the sworn statement, together with a description of the firearm, in a form prescribed by the Attorney General, to the chief law enforcement officer of the transferee's place of residence, and has received a return receipt evidencing delivery of the state-

[1] So in original. Probably should be followed with "and".

ment or has had the statement returned due to the refusal of the named addressee to accept such letter in accordance with United States Post Office Department regulations; and

(3) the transferor has delayed shipment or delivery for a period of at least seven days following receipt of the notification of the acceptance or refusal of delivery of the statement.

A copy of the sworn statement and a copy of the notification to the local law enforcement officer, together with evidence of receipt or rejection of that notification shall be retained by the licensee as a part of the records required to be kept under section 923(g).

(d) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person—

(1) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) is a fugitive from justice;

(3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) has been adjudicated as a mental defective or has been committed to any mental institution;

(5) who, being an alien—

(A) is illegally or unlawfully in the United States; or

(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(6) who[2] has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

(8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that—

(A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and

(B)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) has been convicted in any court of a misdemeanor crime of domestic violence.

This subsection shall not apply with respect to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who pursuant to subsection (b) of section 925 of this chapter is not precluded from dealing in firearms or ammunition, or to a person who has been granted relief from disabilities pursuant to subsection (c) of section 925 of this chapter.

(e) It shall be unlawful for any person knowingly to deliver or cause to be delivered to any common or contract carrier for transportation or shipment in interstate or foreign commerce, to persons other than licensed importers, licensed manufacturers, licensed dealers, or licensed collectors, any package or other container in which there is any firearm or ammunition without written notice to the carrier that such firearm or ammunition is being transported or shipped; except that any passenger who owns or legally possesses a firearm or ammunition being transported aboard any common or contract carrier for movement with the passenger in interstate or foreign commerce may deliver said firearm or ammunition into the custody of the pilot, captain, conductor or operator of such common or contract carrier for the duration of the trip without violating any of the provisions of this chapter. No common or contract carrier shall require or cause any label, tag, or other written notice to be placed on the outside of any package, luggage, or other container that such package, luggage, or other container contains a firearm.

(f)(1) It shall be unlawful for any common or contract carrier to transport or deliver in interstate or foreign commerce any firearm or ammunition with knowledge or reasonable cause to believe that the shipment, transportation, or receipt thereof would be in violation of the provisions of this chapter.

(2) It shall be unlawful for any common or contract carrier to deliver in interstate or foreign commerce any firearm without obtaining written acknowledgement of receipt from the recipient of the package or other container in which there is a firearm.

(g) It shall be unlawful for any person—

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who, being an alien—

(A) is illegally or unlawfully in the United States; or

(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(6) who has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

(8) who is subject to a court order that—

[2] So in original. The word ''who'' probably should not appear.

(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) who has been convicted in any court of a misdemeanor crime of domestic violence,

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(h) It shall be unlawful for any individual, who to that individual's knowledge and while being employed for any person described in any paragraph of subsection (g) of this section, in the course of such employment—

(1) to receive, possess, or transport any firearm or ammunition in or affecting interstate or foreign commerce; or

(2) to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(i) It shall be unlawful for any person to transport or ship in interstate or foreign commerce, any stolen firearm or stolen ammunition, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(k) It shall be unlawful for any person knowingly to transport, ship, or receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce.

(*l*) Except as provided in section 925(d) of this chapter, it shall be unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition; and it shall be unlawful for any person knowingly to receive any firearm or ammunition which has been imported or brought into the United States or any possession thereof in violation of the provisions of this chapter.

(m) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector knowingly to make any false entry in, to fail to make appropriate entry in, or to fail to properly maintain, any record which he is required to keep pursuant to section 923 of this chapter or regulations promulgated thereunder.

(n) It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(*o*)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer or possess a machinegun.

(2) This subsection does not apply with respect to—

(A) a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof; or

(B) any lawful transfer or lawful possession of a machinegun that was lawfully possessed before the date this subsection takes effect.

(p)(1) It shall be unlawful for any person to manufacture, import, sell, ship, deliver, possess, transfer, or receive any firearm—

(A) that, after removal of grips, stocks, and magazines, is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar; or

(B) any major component of which, when subjected to inspection by the types of x-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

(2) For purposes of this subsection—

(A) the term ''firearm'' does not include the frame or receiver of any such weapon;

(B) the term ''major component'' means, with respect to a firearm, the barrel, the slide or cylinder, or the frame or receiver of the firearm; and

(C) the term ''Security Exemplar'' means an object, to be fabricated at the direction of the Attorney General, that is—

(i) constructed of, during the 12-month period beginning on the date of the enactment of this subsection, 3.7 ounces of material type 17–4 PH stainless steel in a shape resembling a handgun; and

(ii) suitable for testing and calibrating metal detectors:

Provided, however, That at the close of such 12-month period, and at appropriate times thereafter the Attorney General shall promulgate regulations to permit the manufacture, importation, sale, shipment, delivery, possession, transfer, or receipt of firearms previously prohibited under this subparagraph that are as

detectable as a ''Security Exemplar'' which contains 3.7 ounces of material type 17–4 PH stainless steel, in a shape resembling a handgun, or such lesser amount as is detectable in view of advances in state-of-the-art developments in weapons detection technology.

(3) Under such rules and regulations as the Attorney General shall prescribe, this subsection shall not apply to the manufacture, possession, transfer, receipt, shipment, or delivery of a firearm by a licensed manufacturer or any person acting pursuant to a contract with a licensed manufacturer, for the purpose of examining and testing such firearm to determine whether paragraph (1) applies to such firearm. The Attorney General shall ensure that rules and regulations adopted pursuant to this paragraph do not impair the manufacture of prototype firearms or the development of new technology.

(4) The Attorney General shall permit the conditional importation of a firearm by a licensed importer or licensed manufacturer, for examination and testing to determine whether or not the unconditional importation of such firearm would violate this subsection.

(5) This subsection shall not apply to any firearm which—

(A) has been certified by the Secretary of Defense or the Director of Central Intelligence, after consultation with the Attorney General and the Administrator of the Federal Aviation Administration, as necessary for military or intelligence applications; and

(B) is manufactured for and sold exclusively to military or intelligence agencies of the United States.

(6) This subsection shall not apply with respect to any firearm manufactured in, imported into, or possessed in the United States before the date of the enactment of the Undetectable Firearms Act of 1988.

(q)(1) The Congress finds and declares that—

(A) crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem;

(B) crime at the local level is exacerbated by the interstate movement of drugs, guns, and criminal gangs;

(C) firearms and ammunition move easily in interstate commerce and have been found in increasing numbers in and around schools, as documented in numerous hearings in both the Committee on the Judiciary[3] the House of Representatives and the Committee on the Judiciary of the Senate;

(D) in fact, even before the sale of a firearm, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce;

(E) while criminals freely move from State to State, ordinary citizens and foreign visitors may fear to travel to or through certain parts of the country due to concern about violent crime and gun violence, and parents may decline to send their children to school for the same reason;

(F) the occurrence of violent crime in school zones has resulted in a decline in the quality of education in our country;

(G) this decline in the quality of education has an adverse impact on interstate commerce and the foreign commerce of the United States;

(H) States, localities, and school systems find it almost impossible to handle gun-related crime by themselves—even States, localities, and school systems that have made strong efforts to prevent, detect, and punish gun-related crime find their efforts unavailing due in part to the failure or inability of other States or localities to take strong measures; and

(I) the Congress has the power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to ensure the integrity and safety of the Nation's schools by enactment of this subsection.

(2)(A) It shall be unlawful for any individual knowingly to possess a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the individual knows, or has reasonable cause to believe, is a school zone.

(B) Subparagraph (A) does not apply to the possession of a firearm—

(i) on private property not part of school grounds;

(ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtains such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

(iii) that is—

(I) not loaded; and

(II) in a locked container, or a locked firearms rack that is on a motor vehicle;

(iv) by an individual for use in a program approved by a school in the school zone;

(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

(vi) by a law enforcement officer acting in his or her official capacity; or

(vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

(3)(A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the person knows is a school zone.

(B) Subparagraph (A) does not apply to the discharge of a firearm—

(i) on private property not part of school grounds;

(ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program;

(iii) by an individual in accordance with a contract entered into between a school in a

[3] So in original. Probably should be followed by ''of''.

school zone and the individual or an employer of the individual; or

(iv) by a law enforcement officer acting in his or her official capacity.

(4) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gun free school zones as provided in this subsection.

(r) It shall be unlawful for any person to assemble from imported parts any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under section 925(d)(3) of this chapter as not being particularly suitable for or readily adaptable to sporting purposes except that this subsection shall not apply to—

(1) the assembly of any such rifle or shotgun for sale or distribution by a licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof; or

(2) the assembly of any such rifle or shotgun for the purposes of testing or experimentation authorized by the Attorney General.

(s)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the day before the date that is 60 months after such date of enactment, it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun (other than the return of a handgun to the person from whom it was received) to an individual who is not licensed under section 923, unless—

(A) after the most recent proposal of such transfer by the transferee—

(i) the transferor has—

(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

(II) verified the identity of the transferee by examining the identification document presented;

(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

(IV) within 1 day after the transferee furnishes the statement, transmitted a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

(ii)(I) 5 business days (meaning days on which State offices are open) have elapsed from the date the transferor furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

(C)(i) the transferee has presented to the transferor a permit that—

(I) allows the transferee to possess or acquire a handgun; and

(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of the law;

(D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

(E) the Attorney General has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

(F) on application of the transferor, the Attorney General has certified that compliance with subparagraph (A)(i)(III) is impracticable because—

(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

(ii) the business premises of the transferor at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer; and

(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether receipt or possession would be in violation of the law, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)[4]) of the transferee containing a photograph of the transferee and a description of the identification used;

(B) a statement that the transferee—

[4] See References in Text note below.

(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year, and has not been convicted in any court of a misdemeanor crime of domestic violence;

(ii) is not a fugitive from justice;

(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

(v) is not an alien who—

(I) is illegally or unlawfully in the United States; or

(II) subject to subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

(C) the date the statement is made; and

(D) notice that the transferee intends to obtain a handgun from the transferor.

(4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall, within 1 business day after receipt of such request, communicate any information related to the transfer that the transferor has about the transfer and the transferee to—

(A) the chief law enforcement officer of the place of business of the transferor; and

(B) the chief law enforcement officer of the place of residence of the transferee.

(5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

(6)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with subclauses (III) and (IV) of paragraph (1)(A)(i) with respect to the statement.

(B) Unless the chief law enforcement officer to whom a statement is transmitted under paragraph (1)(A)(i)(IV) determines that a transaction would violate Federal, State, or local law—

(i) the officer shall, within 20 business days after the date the transferee made the statement on the basis of which the notice was provided, destroy the statement, any record containing information derived from the statement, and any record created as a result of the notice required by paragraph (1)(A)(i)(III);

(ii) the information contained in the statement shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

(iii) the information contained in the statement shall not be used for any purpose other than to carry out this subsection.

(C) If a chief law enforcement officer determines that an individual is ineligible to receive a handgun and the individual requests the officer to provide the reason for such determination, the officer shall provide such reasons to the individual in writing within 20 business days after receipt of the request.

(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages—

(A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or

(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

(8) For purposes of this subsection, the term ''chief law enforcement officer'' means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

(9) The Attorney General shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers, law enforcement officials, and the public.

(t)(1) Beginning on the date that is 30 days after the Attorney General notifies licensees under section 103(d) of the Brady Handgun Violence Prevention Act that the national instant criminal background check system is established, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm to any other person who is not licensed under this chapter, unless—

(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 103 of that Act;

(B)(i) the system provides the licensee with a unique identification number; or

(ii) 3 business days (meaning a day on which State offices are open) have elapsed since the licensee contacted the system, and the system has not notified the licensee that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section; and

(C) the transferor has verified the identity of the transferee by examining a valid identification document (as defined in section 1028(d) of this title) of the transferee containing a photograph of the transferee.

(2) If receipt of a firearm would not violate subsection (g) or (n) or State law, the system shall—

(A) assign a unique identification number to the transfer;

(B) provide the licensee with the number; and

(C) destroy all records of the system with respect to the call (other than the identifying

number and the date the number was assigned) and all records of the system relating to the person or the transfer.

(3) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

(A)(i) such other person has presented to the licensee a permit that—

(I) allows such other person to possess or acquire a firearm; and

(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by such other person would be in violation of law;

(B) the Attorney General has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

(C) on application of the transferor, the Attorney General has certified that compliance with paragraph (1)(A) is impracticable because—

(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

(ii) the business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer (as defined in subsection (s)(8)); and

(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

(4) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n) or State law, and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

(5) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n) of this section or State law, the Attorney General may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under section 923, and may impose on the licensee a civil fine of not more than $5,000.

(6) Neither a local government nor an employee of the Federal Government or of any State or local government, responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages—

(A) for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section; or

(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a firearm.

(u) It shall be unlawful for a person to steal or unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms, any firearm in the licensee's business inventory that has been shipped or transported in interstate or foreign commerce.

[(v), (w) Repealed. Pub. L. 103–322, title XI, § 110105(2), Sept. 13, 1994, 108 Stat. 2000.]

(x)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile—

(A) a handgun; or

(B) ammunition that is suitable for use only in a handgun.

(2) It shall be unlawful for any person who is a juvenile to knowingly possess—

(A) a handgun; or

(B) ammunition that is suitable for use only in a handgun.

(3) This subsection does not apply to—

(A) a temporary transfer of a handgun or ammunition to a juvenile or to the possession or use of a handgun or ammunition by a juvenile if the handgun and ammunition are possessed and used by the juvenile—

(i) in the course of employment, in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch), target practice, hunting, or a course of instruction in the safe and lawful use of a handgun;

(ii) with the prior written consent of the juvenile's parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm, except—

(I) during transportation by the juvenile of an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in clause (i) is to take place and transportation by the juvenile of that handgun, unloaded and in a locked container, directly from the place at which such an activity took place to the transferor; or

(II) with respect to ranching or farming activities as described in clause (i), a juvenile may possess and use a handgun or ammunition with the prior written approval of the juvenile's parent or legal guardian and at the direction of an adult who is not prohibited by Federal, State or local law from possessing a firearm;

(iii) the juvenile has the prior written consent in the juvenile's possession at all times when a handgun is in the possession of the juvenile; and

(iv) in accordance with State and local law;

(B) a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun in the line of duty;

(C) a transfer by inheritance of title (but not possession) of a handgun or ammunition to a juvenile; or

(D) the possession of a handgun or ammunition by a juvenile taken in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest.

(4) A handgun or ammunition, the possession of which is transferred to a juvenile in circumstances in which the transferor is not in violation of this subsection shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the lawful owner when such handgun or ammunition is no longer required by the Government for the purposes of investigation or prosecution.

(5) For purposes of this subsection, the term ''juvenile'' means a person who is less than 18 years of age.

(6)(A) In a prosecution of a violation of this subsection, the court shall require the presence of a juvenile defendant's parent or legal guardian at all proceedings.

(B) The court may use the contempt power to enforce subparagraph (A).

(C) The court may excuse attendance of a parent or legal guardian of a juvenile defendant at a proceeding in a prosecution of a violation of this subsection for good cause shown.

(y) PROVISIONS RELATING TO ALIENS ADMITTED UNDER NONIMMIGRANT VISAS.—

(1) DEFINITIONS.—In this subsection—

(A) the term ''alien'' has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)); and

(B) the term ''nonimmigrant visa'' has the same meaning as in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)).

(2) EXCEPTIONS.—Subsections (d)(5)(B), (g)(5)(B), and (s)(3)(B)(v)(II) do not apply to any alien who has been lawfully admitted to the United States under a nonimmigrant visa, if that alien is—

(A) admitted to the United States for lawful hunting or sporting purposes or is in possession of a hunting license or permit lawfully issued in the United States;

(B) an official representative of a foreign government who is—

(i) accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; or

(ii) en route to or from another country to which that alien is accredited;

(C) an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or

(D) a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

(3) WAIVER.—

(A) CONDITIONS FOR WAIVER.—Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5), if—

(i) the individual submits to the Attorney General a petition that meets the requirements of subparagraph (C); and

(ii) the Attorney General approves the petition.

(B) PETITION.—Each petition under subparagraph (B) shall—

(i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and

(ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to acquire a firearm or ammunition and certifying that the alien would not, absent the application of subsection (g)(5)(B), otherwise be prohibited from such acquisition under subsection (g).

(C) APPROVAL OF PETITION.—The Attorney General shall approve a petition submitted in accordance with this paragraph, if the Attorney General determines that waiving the requirements of subsection (g)(5)(B) with respect to the petitioner—

(i) would be in the interests of justice; and

(ii) would not jeopardize the public safety.

(z) SECURE GUN STORAGE OR SAFETY DEVICE.—

(1) IN GENERAL.—Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under this chapter, unless the transferee is provided with a secure gun storage or safety device (as defined in section 921(a)(34)) for that handgun.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

(A)(i) the manufacture for, transfer to, or possession by, the United States, a department or agency of the United States, a State, or a department, agency, or political subdivision of a State, of a handgun; or

(ii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off duty); or

(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off duty);

(C) the transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to section 921(a)(13); or

(D) the transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in section 923(e), if the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within 10 calendar days from the date of the delivery of the handgun to the transferee a secure gun storage or safety device for the handgun.

(3) LIABILITY FOR USE.—

(A) IN GENERAL.—Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device with the handgun, shall be entitled to immunity from a qualified civil liability action.

(B) PROSPECTIVE ACTIONS.—A qualified civil liability action may not be brought in any Federal or State court.

(C) DEFINED TERM.—As used in this paragraph, the term ''qualified civil liability action''—

(i) means a civil action brought by any person against a person described in subparagraph (A) for damages resulting from the criminal or unlawful misuse of the handgun by a third party, if—

(I) the handgun was accessed by another person who did not have the permission or authorization of the person having lawful possession and control of the handgun to have access to it; and

(II) at the time access was gained by the person not so authorized, the handgun had been made inoperable by use of a secure gun storage or safety device; and

(ii) shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.

[APPENDIX A Repealed. Pub. L. 103–322, title XI, §110105(2), Sept. 13, 1994, 108 Stat. 2000]

(Added Pub. L. 90–351, title IV, §902, June 19, 1968, 82 Stat. 228; amended Pub. L. 90–618, title I, §102, Oct. 22, 1968, 82 Stat. 1216; Pub. L. 97–377, title I, §165(a), Dec. 21, 1982, 96 Stat. 1923; Pub. L. 99–308, §102, May 19, 1986, 100 Stat. 451; Pub. L. 99–408, §2, Aug. 28, 1986, 100 Stat. 920; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–649, §2(a), (f)(2)(A), Nov. 10, 1988, 102 Stat. 3816, 3818; Pub. L. 100–690, title VII, §7060(c), Nov. 18, 1988, 102 Stat. 4404; Pub. L. 101–647, title XVII, §1702(b)(1), title XXII, §§2201, 2202, 2204(b), title XXXV, §3524, Nov. 29, 1990, 104 Stat. 4844, 4856, 4857, 4924; Pub. L. 103–159, title I, §102(a)(1), (b), title III, §302(a)–(c), Nov. 30, 1993, 107 Stat. 1536, 1539, 1545; Pub. L. 103–322, title XI, §§110102(a), 110103(a), 110105(2), 110106, 110201(a), 110401(b), (c), 110511, 110514, title XXXII, §§320904, 320927, title XXXIII, §330011(i), Sept. 13, 1994, 108 Stat. 1996, 1998, 2000, 2010, 2014, 2019, 2125, 2131, 2145; Pub. L. 104–208, div. A, title I, §101(f) [title VI, §§657, 658(b)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–369, 3009–372; Pub. L. 104–294, title VI, §603(b), (c)(1), (d)–(f)(1), (g), Oct. 11, 1996, 110 Stat. 3503, 3504; Pub. L. 105–277, div. A, §101(b) [title I, §121], Oct. 21, 1998, 112 Stat. 2681–50, 2681–71; Pub. L. 107–273, div. B, title IV, §4003(a)(1), Nov. 2, 2002, 116 Stat. 1811; Pub. L. 107–296, title XI, §1112(f)(4), (6), Nov. 25, 2002, 116 Stat. 2276; Pub. L. 109–92, §§5(c)(1), 6(a), Oct. 26, 2005, 119 Stat. 2099, 2101.)

AMENDMENT OF SECTION

Pub. L. 100–649, §2(f)(2)(A), Nov. 10, 1988, 102 Stat. 3818, as amended by Pub. L. 105–277, div. A, §101(h) [title VI, §649], Oct. 21, 1998, 112 Stat. 2681–480, 2681–528; Pub. L. 108–174, §1(1), Dec. 9, 2003, 117 Stat. 2481, provided that, effective 25 years after the 30th day beginning after Nov. 10, 1988, subsection (p) of this section is repealed.

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsec. (a)(3), is December 16, 1968.

Section 5845 of the Internal Revenue Code of 1986, referred to in subsecs. (a)(4) and (b)(4), is classified to section 5845 of Title 26, Internal Revenue Code.

For date this subsection takes effect, referred to in subsec. (*o*)(2)(B), as May 19, 1986, see Effective Date of 1986 Amendment note, set out below.

The date of the enactment of this subsection and the date of the enactment of the Undetectable Firearms Act of 1988, referred to in subsec. (p)(2)(C)(i), (6), respectively, are both the date of enactment of Pub. L. 100–649, which enacted subsec. (p) of this section and which was approved Nov. 10, 1988.

The date of enactment of this subsection, referred to in subsec. (s)(1), is the date of enactment of Pub. L. 103–159, which was approved Nov. 30, 1993.

Section 5812 of the Internal Revenue Code of 1986, referred to in subsecs. (s)(1)(E) and (t)(3)(B), is classified to section 5812 of Title 26, Internal Revenue Code.

Section 1028 of this title, referred to in subsec. (s)(3)(A), was subsequently amended, and section 1028(d)(1) no longer defines the term ''identification document''. However, such term is defined elsewhere in that section.

Section 102 of the Controlled Substances Act, referred to in subsec. (s)(3)(B)(iii), is classified to section 802 of Title 21, Food and Drugs.

Section 103 of the Brady Handgun Violence Prevention Act, referred to in subsec. (t)(1), is section 103 of Pub. L. 103–159, which is set out below.

AMENDMENTS

2005—Subsec. (a)(7), (8). Pub. L. 109–92, §6(a), added pars. (7) and (8) and struck out former pars. (7) and (8) which related to prohibitions on the manufacture, importation, sale, and delivery of armor piercing ammunition.

Subsec. (z). Pub. L. 109–92, §5(c)(1), added subsec. (z).

2002—Subsecs. (a) to (c), (p)(2) to (4). Pub. L. 107–296, §1112(f)(6), substituted ''Attorney General'' for ''Secretary'' wherever appearing.

Subsec. (p)(5)(A). Pub. L. 107–296, §1112(f)(4), substituted ''after consultation with the Attorney General'' for ''after consultation with the Secretary''.

Subsecs. (r), (s). Pub. L. 107–296, §1112(f)(6), substituted ''Attorney General'' for ''Secretary'' wherever appearing.

Subsec. (t)(1)(C). Pub. L. 107–273 substituted ''1028(d)'' for ''1028(d)(1)''.

Subsecs. (t)(3), (5), (v), (w). Pub. L. 107–296, §1112(f)(6), substituted ''Attorney General'' for ''Secretary'' wherever appearing.

1998—Subsec. (d)(5). Pub. L. 105–277, §101(b) [title I, §121(1)], added par. (5) and struck out former par. (5) which read as follows: ''who, being an alien, is illegally or unlawfully in the United States;''.

Subsec. (g)(5). Pub. L. 105–277, §101(b) [title I, §121(2)], added par. (5) and struck out former par. (5) which read as follows: ''who, being an alien, is illegally or unlawfully in the United States;''.

Subsec. (s)(3)(B)(v). Pub. L. 105–277, § 101(b) [title I, § 121(3)], added cl. (v) and struck out former cl. (v) which read as follows: ''is not an alien who is illegally or unlawfully in the United States;''.

Subsec. (y). Pub. L. 105–277, § 101(b) [title I, § 121(4)], added subsec. (y).

1996—Pub. L. 104–294, § 603(g), amended Appendix A by substituting ''Uberti 1866 Sporting Rifle'' for ''Uberti 1866 Sporting Rilfe'' in category designated ''Centerfire Rifles—Lever & Slide'', ''Sako FiberClass Sporter'' for ''Sako Fiberclass Sporter'' in category designated ''Centerfire Rifles—Bolt Action'', ''Remington 870 SPS Special Purpose Magnum'' for ''Remington 879 SPS Special Purpose Magnum'' in category designated ''Shotguns—Slide Actions'', and ''E.A.A./Sabatti Falcon-Mon Over/Under'' for ''E.A.A/Sabatti Falcon-Mon Over/Under'' in category designated ''Shotguns—Over/Unders''.

Subsec. (d)(9). Pub. L. 104–208, § 101(f) [§ 658(b)(1)], added par. (9).

Subsec. (g)(7). Pub. L. 104–208, § 101(f) [§ 658(b)(2)(A)], struck out ''or'' at end.

Subsec. (g)(8)(C)(ii). Pub. L. 104–294, § 603(b), which directed the amendment of cl. (ii) by substituting a semicolon for the comma at end, could not be executed because of the prior amendment by Pub. L. 104–208, § 101(f) [§ 658(b)(2)]. See below.

Pub. L. 104–208, § 101(f) [§ 658(b)(2)(B)], substituted ''; or'' for comma at end.

Subsec. (g)(9). Pub. L. 104–208, § 101(f) [§ 658(b)(2)(C)], added par. (9).

Subsec. (q). Pub. L. 104–208, § 101(f) [title VI, § 657], amended subsec. generally, revising and restating former provisions.

Subsec. (s)(1). Pub. L. 104–294, § 603(c)(1), amended directory language of Pub. L. 103–322, § 320927. See 1994 Amendment note below.

Subsec. (s)(3)(B)(i). Pub. L. 104–208, § 101(f) [title VI, § 658(b)(3)], inserted '', and has not been convicted in any court of a misdemeanor crime of domestic violence'' before the semicolon.

Subsec. (t)(2). Pub. L. 104–294, § 603(d), substituted ''subsection (g) or (n)'' for ''section 922(g) or (n)'' in introductory provisions.

Subsec. (w)(4). Pub. L. 104–294, § 603(e), substituted ''section 923(i) of this title'' for ''section 923(i) of title 18, United States Code,''.

Subsec. (x). Pub. L. 104–294, § 603(f)(1), amended directory language of Pub. L. 103–322, § 110201(a). See 1994 Amendment note below.

1994—Pub. L. 103–322, § 110106, which added Appendix A specifying firearms that were not prohibited by subsec. (v)(1) at end of section, was repealed by Pub. L. 103–322, § 110105(2). See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (a)(9). Pub. L. 103–322, § 110514, added par. (9).

Subsec. (b)(1). Pub. L. 103–322, § 330011(i), amended directory language of Pub. L. 101–647, § 3524. See 1990 Amendment note below.

Subsec. (d)(8). Pub. L. 103–322, § 110401(b), added par. (8).

Subsec. (g)(8). Pub. L. 103–322, § 110401(c), added par. (8).

Subsec. (j). Pub. L. 103–322, § 110511, amended subsec. (j) generally. Prior to amendment, subsec. (j) read as follows: ''It shall be unlawful for any person to receive, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.''

Subsec. (q). Pub. L. 103–322, § 320904, added par. (1) and redesignated former pars. (1) to (3) as (2) to (4), respectively.

Subsec. (s)(1). Pub. L. 103–322, § 320927, as amended by Pub. L. 104–294, § 603(c)(1), inserted ''(other than the return of a handgun to the person from whom it was received)'' after ''handgun'' in introductory provisions.

Subsec. (v). Pub. L. 103–322, § 110102(a), which added subsec. (v) prohibiting the manufacture, transfer, or possession of automatic assault weapons, was repealed by Pub. L. 103–322, § 110105(2). See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (w). Pub. L. 103–322, § 110103(a), which added subsec. (w) prohibiting the transfer or possession of a large capacity ammunition feeding device, was repealed by Pub. L. 103–322, § 110105(2). See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (x). Pub. L. 103–322, § 110201(a), as amended by Pub. L. 104–294, § 603(f)(1), added subsec. (x).

1993—Subsec. (e). Pub. L. 103–159, § 302(a), inserted at end ''No common or contract carrier shall require or cause any label, tag, or other written notice to be placed on the outside of any package, luggage, or other container that such package, luggage, or other container contains a firearm.''

Subsec. (f). Pub. L. 103–159, § 302(b), designated existing provisions as par. (1) and added par. (2).

Subsec. (s). Pub. L. 103–159, § 102(a)(1), added subsec. (s).

Subsec. (t). Pub. L. 103–159, § 102(b), added subsec. (t).

Subsec. (u). Pub. L. 103–159, § 302(c), added subsec. (u).

1990—Subsec. (a)(5). Pub. L. 101–647, § 2201, substituted ''does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides;'' for ''resides in any State other than that in which the transferor resides (or other than that in which its place of business is located if the transferor is a corporation or other business entity);''.

Subsec. (b)(1). Pub. L. 101–647, § 3524, as amended by Pub. L. 103–322, § 330011(i), substituted semicolon for period at end.

Subsec. (j). Pub. L. 101–647, § 2202(a), substituted ''which constitutes, or which has been shipped or transported in'' for ''or which constitutes''.

Subsec. (k). Pub. L. 101–647, § 2202(b), inserted before period at end ''or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce''.

Subsec. (q). Pub. L. 101–647, § 1702(b)(1), added subsec. (q).

Subsec. (r). Pub. L. 101–647, § 2204(b), added subsec. (r).

1988—Subsec. (g)(3). Pub. L. 100–690 inserted ''who'' before ''is''.

Subsec. (p). Pub. L. 100–649 added subsec. (p).

1986—Subsec. (a)(1). Pub. L. 99–308, § 102(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''for any person, except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms or ammunition, or in the course of such business to ship, transport, or receive any firearm or ammunition in interstate or foreign commerce;''

Subsec. (a)(2). Pub. L. 99–308, § 102(2)(A), in provision preceding subpar. (A) struck out ''or ammunition'' after ''any firearm''.

Subsec. (a)(2)(A). Pub. L. 99–308, § 102(2)(B), substituted ''licensed dealer, or licensed collector'' for ''or licensed dealer for the sole purpose of repair or customizing''.

Subsec. (a)(3)(B). Pub. L. 99–308, § 102(3), substituted ''firearm'' for ''rifle or shotgun'' and ''with subsection (b)(3) of this section'' for ''with the provisions of subsection (b)(3) of this section''.

Subsec. (a)(4). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

Subsec. (a)(7), (8). Pub. L. 99–408 added pars. (7) and (8).

Subsec. (b)(2). Pub. L. 99–308, § 102(4)(A), struck out ''or ammunition'' after ''firearm'' in two places.

Subsec. (b)(3)(A). Pub. L. 99–308, § 102(4)(B), inserted a new cl. (A) and struck out former cl. (A) which provided that par. (3) ''shall not apply to the sale or delivery of a rifle or shotgun to a resident of a State contiguous to

the State in which the licensee's place of business is located if the purchaser's State of residence permits such sale or delivery by law, the sale fully complies with the legal conditions of sale in both such contiguous States, and the purchaser and the licensee have, prior to the sale, or delivery for sale, of the rifle or shotgun, complied with all of the requirements of section 922(c) applicable to intrastate transactions other than at the licensee's business premises,''.

Subsec. (b)(3)(B), (C). Pub. L. 99–308, §102(4)(C), (D), inserted ''and'' before ''(B)'' and struck out cl. (C), which provided that par. (3) ''shall not preclude any person who is participating in any organized rifle or shotgun match or contest, or is engaged in hunting, in a State other than his State of residence and whose rifle or shotgun has been lost or stolen or has become inoperative in such other State, from purchasing a rifle or shotgun in such other State from a licensed dealer if such person presents to such dealer a sworn statement (i) that his rifle or shotgun was lost or stolen or became inoperative while participating in such a match or contest, or while engaged in hunting, in such other State, and (ii) identifying the chief law enforcement officer of the locality in which such person resides, to whom such licensed dealer shall forward such statement by registered mail''.

Subsec. (b)(4). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

Subsec. (b)(5). Pub. L. 99–308, §102(4)(E), substituted ''or armor-piercing ammunition'' for ''or ammunition except .22 caliber rimfire ammunition''.

Subsec. (d). Pub. L. 99–308, §102(5)(A), substituted ''person'' for ''licensed importer, licensed manufacturer, licensed dealer, or licensed collector'' in provision preceding par. (1).

Subsec. (d)(3). Pub. L. 99–308, §102(5)(B), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''is an unlawful user of or addicted to marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954); or''.

Subsec. (d)(5) to (7). Pub. L. 99–308, §102(5)(C), (D), added pars. (5) to (7).

Subsec. (g). Pub. L. 99–308, §102(6)(D), in concluding provision substituted ''in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce'' for ''any firearm or ammunition in interstate or foreign commerce''.

Subsec. (g)(1). Pub. L. 99–308, §102(6)(A), struck out ''is under indictment for, or who'' after ''who''.

Subsec. (g)(3). Pub. L. 99–308, §102(6)(B), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''who is an unlawful user of or addicted to marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954); or''.

Subsec. (g)(5) to (7). Pub. L. 99–308, §102(6)(C), added pars. (5) to (7).

Subsec. (h). Pub. L. 99–308, §102(7), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: ''It shall be unlawful for any person—

''(1) who is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

''(2) who is a fugitive from justice;

''(3) who is an unlawful user of or addicted to marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954); or

''(4) who has been adjudicated as a mental defective or who has been committed to any mental institution;

to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.''

Subsec. (n). Pub. L. 99–308, §102(8), added subsec. (n).

Subsec. (*o*). Pub. L. 99–308, §102(9), added subsec. (*o*).

1982—Subsec. (b)(5). Pub. L. 97–377 inserted ''except .22 caliber rimfire ammunition'' after ''or ammunition''.

1968—Subsec. (a)(1). Pub. L. 90–618 reenacted par. (1) without change.

Subsec. (a)(2). Pub. L. 90–618 added licensed collectors to the enumerated list of licensees subject to the provisions of this chapter, struck out exemption for the shipment or transportation in interstate or foreign commerce for rifles or shotguns, and inserted exemption authorizing an individual to mail a lawfully owned firearm to the specified licensees for the sole purpose of repair or customizing.

Subsec. (a)(3). Pub. L. 90–618 added licensed collectors to the enumerated list of licensees, struck out exemption for shotguns or rifles purchased or otherwise obtained outside the state of residence of the recipient, struck out provision making it unlawful for any person to purchase or otherwise obtain outside his state of residence any firearm which it would be unlawful for him to purchase or possess in that state, and provided for exemptions when any person outside of his state of residence acquires a firearm by bequest or interstate succession and transports the firearm or otherwise receives it in his state of residence, if it is lawful for such person to purchase or possess such firearm in his state of residence, when a rifle or shotgun is obtained in conformity with the provisions of subsec. (b)(3) of this section, and when any firearm has been acquired in any state prior to the effective date of this chapter.

Subsec. (a)(4). Pub. L. 90–618 added licensed collectors to the enumerated list of licensees, and provided that the transporting of the specified articles be authorized by the Secretary when consistent with public safety and necessity.

Subsec. (a)(5). Pub. L. 90–618 added licensed collectors to the enumerated list of exempted licensees, prohibited the transfer, etc., of any firearm when the transferor has reasonable cause to believe that the transferee resides in a State other than that in which the transferor resides, and substituted provisions which exempted the transfer, transportation, or delivery of firearms incident to a bequest or intestate succession and the loan or rental of firearms to any person for temporary use for lawful sporting purposes for provisions which exempted the transfer of shotguns or rifles and prohibited the transfer, etc., of any firearm which the transferee could not lawfully purchase or possess in accord with the applicable laws, regulations or ordinances of the state or political subdivision in which the transferee resides.

Subsec. (a)(6). Pub. L. 90–618 added licensed collectors to the enumerated list of licensees, and extended the provisions to include the acquisition or attempted acquisition of ammunition.

Subsec. (b). Pub. L. 90–618, in provision preceding par. (1), added licensed collectors to the enumerated list of licensees.

Subsec. (b)(1). Pub. L. 90–618 substituted provisions making it unlawful to sell or deliver any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than 18, and to sell or deliver any firearm, other than a rifle or shotgun, or ammunition, other than ammunition for a rifle or shotgun, to any individual who the licensee knows or has reasonable cause to believe is less than 21, for provisions making it unlawful to sell or deliver any firearm to any individual who the licensee knows or has reasonable cause to believe is less than 21, if the firearm is other than a shotgun or rifle.

Subsec. (b)(2). Pub. L. 90–618 extended the prohibition to include the sale or delivery of ammunition to any person where the purchase or possession by such person of such ammunition would be unlawful, and struck out ''or in the locality in which such person resides'' after ''or other disposition,''.

Subsec. (b)(3). Pub. L. 90–618 inserted the exemptions to the prohibition against the sale or delivery of any firearm to any person who the licensee knows or has

reasonable cause to believe does not reside in the state in which the licensee's place of business is located.

Subsec. (b)(4). Pub. L. 90–618 substituted provisions making it unlawful to sell or deliver any of the specified articles, except as specifically authorized by the Secretary as consistent with public safety and necessity, for provisions making it unlawful to sell or deliver any of the specified articles, unless the transferor has obtained a sworn statement executed by the principal law enforcement officer of the locality in which the transferee resides stating that such person's receipt or possession would not be unlawful, and that the receipt or possession is intended for lawful purposes, with such sworn statement to be retained by the licensee as part of the records required to be kept under this chapter.

Subsec. (b)(5). Pub. L. 90–618 extended the prohibition to include the sale or delivery of ammunition and, in the material following subsec. (b)(5), added licensed collectors to the enumerated list of licensees, and the provision that subsec. (b)(4) shall not apply to a sale or delivery to any research organization designated by the Secretary.

Subsecs. (c), (d). Pub. L. 90–618 added subsec. (c), redesignated former subsec. (c) as (d), added licensed collectors to the enumerated list of licensees, extended the prohibition against disposal of firearms or ammunition to include the disposal by any person who is an unlawful user of or addicted to marihuana or any depressant, stimulant, or narcotic drug, or any person who has been adjudicated a mental defective or has been committed to any mental institution, and inserted ''or ammunition'' after ''the sale or disposition of a firearm''. Former subsec. (d) redesignated (f).

Subsec. (e). Pub. L. 90–618 added subsec. (e). Former subsec. (e) redesignated (g).

Subsec. (f). Pub. L. 90–618 redesignated former subsec. (d) as (f) and extended the prohibition against transportation or delivery to include ammunition. Former subsec. (f) redesignated (h).

Subsec. (g). Pub. L. 90–618 redesignated former subsec. (e) as (g) and extended the prohibition against the shipment or transportation of firearms or ammunition to include the shipment or transportation by any persons who is an unlawful user of or addicted to marihuana or any depressant, stimulant, or narcotic drug, or any person who has been adjudicated a mental defective or has been committed to a mental institution. Former subsec. (g) redesignated (i).

Subsec. (h). Pub. L. 90–618 redesignated former subsec. (f) as (h) and extended the prohibition against the receipt of any firearms or ammunition to include the receipt by any person who is an unlawful user of or addicted to marihuana or any depressant, stimulant, or narcotic drug, or any person who has been adjudicated a mental defective or has been committed to any mental institution. Former subsec. (h) redesignated (j).

Subsec. (i). Pub. L. 90–618 redesignated former subsec. (g) as (i) and substituted ''that the firearm or ammunition was'' for ''the same to have been''. Former subsec. (i) redesignated (k).

Subsec. (j). Pub. L. 90–618 redesignated former subsec. (h) as (j) and substituted ''which is moving as, which is a part of,'' for ''moving as or which is a part of'' and ''that the firearm or ammunition was'' for ''the same to have been''. Former subsec. (j) redesignated (*l*).

Subsec. (k). Pub. L. 90–618 redesignated former subsec. (i) as (k). Former subsec. (k) redesignated (m).

Subsec. (*l*). Pub. L. 90–618 redesignated former subsec. (j) as (*l*).

Subsec. (m). Pub. L. 90–618 redesignated former subsec. (k) as (m) and added licensed collectors to the enumerated list of licensees.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of Title 50, War and National Defense.

Post Office Department, referred to in subsec. (c)(2), redesignated United States Postal Service pursuant to Pub. L. 91–375, § 6(*o*), Aug. 12, 1970, 84 Stat. 733, set out as a note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–92, § 5(d), Oct. 26, 2005, 119 Stat. 2101, provided that: ''This section [amending this section and section 924 of this title and enacting provisions set out as notes under this section and section 921 of this title] and the amendments made by this section shall take effect 180 days after the date of enactment of this Act [Oct. 26, 2005].''

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 603(c)(2) of Pub. L. 104–294 provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect as if the amendment had been included in section 320927 of the Act referred to in paragraph (1) [Pub. L. 103–322] on the date of the enactment of such Act [Sept. 13, 1994].''

Section 603(f)(2) of Pub. L. 104–294 provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect as if the amendment had been included in section 110201 of the Act referred to in paragraph (1) [Pub. L. 103–322] on the date of the enactment of such Act [Sept. 13, 1994].''

Section 603(i)(2) of Pub. L. 104–294 provided that: ''The amendment made by paragraph (1) [amending section 210603(b) of Pub. L. 103–322, which amended sections 103(k) and 106(b)(2) of Pub. L. 103–159, set out as notes below] shall take effect as if the amendment had been included in section 210603(b) of the Act referred to in paragraph (1) [Pub. L. 103–322] on the date of the enactment of such Act [Sept. 13, 1994].''

EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENT

Amendment by sections 110102(a), 110103(a), and 110106 of Pub. L. 103–322 repealed 10 years after Sept. 13, 1994, see section 110105(2) of Pub. L. 103–322, formerly set out as a note under section 921 of this title.

Section 330011(i) of Pub. L. 103–322 provided that the amendment made by that section is effective as of the date on which section 3524 of Pub. L. 101–647 took effect.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1702(b)(1) of Pub. L. 101–647 applicable to conduct engaged in after the end of the 60-day period beginning on Nov. 29, 1990, see section 1702(b)(4) of Pub. L. 101–647, set out as a note under section 921 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT; SUNSET PROVISION

Pub. L. 100–649, § 2(f), Nov. 10, 1988, 102 Stat. 3818, as amended by Pub. L. 101–647, title XXXV, § 3526(b), Nov. 29, 1990, 104 Stat. 4924; Pub. L. 105–277, div. A, § 101(h) [title VI, § 649], Oct. 21, 1998, 112 Stat. 2681–480, 2681–528; Pub. L. 108–174, § 1, Dec. 9, 2003, 117 Stat. 2481, provided that:

''(1) EFFECTIVE DATE.—This Act and the amendments made by this Act [amending this section and sections 924 and 925 of this title and enacting provisions set out as notes under this section, section 921 of this title, and

section 1356 of former Title 49, Transportation] shall take effect on the 30th day beginning after the date of the enactment of this Act [Nov. 10, 1988].

''(2) Sunset.—Effective 25 years after the effective date of this Act—

''(A) subsection (p) of section 922 of title 18, United States Code, is hereby repealed;

''(B) subsection (f) of section 924 of such title is hereby repealed and subsections (g) through (*o*) of such section are hereby redesignated as subsections (f) through (n), respectively;

''(C) subsection (f) of section 925 of such title is hereby repealed;

''(D) section 924(a)(1) of such title is amended by striking 'this subsection, subsection (b), (c), or (f) of this section, or in section 929' and inserting 'this chapter'; and

''(E) section 925(a) of such title is amended—

''(i) in paragraph (1), by striking 'and provisions relating to firearms subject to the prohibitions of section 922(p)'; and

''(ii) in paragraph (2), by striking ', except for provisions relating to firearms subject to the prohibitions of section 922(p),'; and

''(iii) in each of paragraphs (3) and (4), by striking 'except for provisions relating to firearms subject to the prohibitions of section 922(p),'.''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 102(1)–(8) of Pub. L. 99–308 effective 180 days after May 19, 1986, and amendment by section 102(9) of Pub. L. 99–308 effective May 19, 1986, see section 110(a), (c) of Pub. L. 99–308, set out as a note under section 921 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–618 effective Dec. 16, 1968, except subsec. (*l*) effective Oct. 22, 1968, see section 105 of Pub. L. 90–618, set out as a note under section 921 of this title.

PURPOSES

Pub. L. 109–92, §5(b), Oct. 26, 2005, 119 Stat. 2099, provided that: ''The purposes of this section [amending this section and section 924 of this title and enacting provisions set out as notes under this section and section 921 of this title] are—

''(1) to promote the safe storage and use of handguns by consumers;

''(2) to prevent unauthorized persons from gaining access to or use of a handgun, including children who may not be in possession of a handgun; and

''(3) to avoid hindering industry from supplying firearms to law abiding citizens for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting.''

[For definition of ''person'' as used in section 5(b) of Pub. L. 109–92, set out above, see section 7903 of Title 15, Commerce and Trade.]

LIABILITY; EVIDENCE

Pub. L. 109–92, §5(c)(3), Oct. 26, 2005, 119 Stat. 2101, provided that:

''(A) LIABILITY.—Nothing in this section [amending this section and section 924 of this title and enacting provisions set out as notes under this section and section 921 of this title] shall be construed to—

''(i) create a cause of action against any Federal firearms licensee or any other person for any civil liability; or

''(ii) establish any standard of care.

''(B) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action relating to section 922(z) of title 18, United States Code, as added by this subsection.

''(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to bar a governmental action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(z) of that title.''

[For definition of ''person'' as used in section 5(c)(3) of Pub. L. 109–92, set out above, see section 7903 of Title 15, Commerce and Trade.]

CRIMINAL BACKGROUND CHECKS FOR PERSONS OFFERING FIREARM AS COLLATERAL

Pub. L. 106–58, title VI, §634, Sept. 29, 1999, 113 Stat. 473, provided that: ''None of the funds made available in this or any other Act with respect to any fiscal year may be used for any system to implement section 922(t) of title 18, United States Code, unless the system allows, in connection with a person's delivery of a firearm to a Federal firearms licensee as collateral for a loan, the background check to be performed at the time the collateral is offered for delivery to such licensee: *Provided*, That the licensee notifies local law enforcement within 48 hours of the licensee receiving a denial on the person offering the collateral: *Provided further*, That the provisions of section 922(t) shall apply at the time of the redemption of the firearm.''

Similar provisions were contained in the following prior appropriation act:

Pub. L. 105–277, div. A, §101(h) [title VI, §655], Oct. 21, 1998, 112 Stat. 2681–480, 2681–530.

AVAILABILITY OF VIOLENT CRIME REDUCTION TRUST FUND TO FUND ACTIVITIES AUTHORIZED BY BRADY HANDGUN VIOLENCE PREVENTION ACT AND NATIONAL CHILD PROTECTION ACT OF 1993

Pub. L. 103–322, title XXI, §210603(a), Sept. 13, 1994, 108 Stat. 2074, which provided that certain amounts authorized in sections 103(k) and 106(b)(2) of Pub. L. 103–159, set out below, and section 5119b(b) of Title 42, The Public Health and Welfare, may be appropriated from the Violent Crime Reduction Trust Fund, was repealed by Pub. L. 109–162, title XI, §1154(b)(4), Jan. 5, 2006, 119 Stat. 3113.

NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM

Section 103 of Pub. L. 103–159, as amended by Pub. L. 103–322, title XXI, §210603(b), Sept. 13, 1994, 103 Stat. 2074; Pub. L. 104–294, title VI, §603(h), (i)(1), Oct. 11, 1996, 110 Stat. 3504, provided that:

''(a) DETERMINATION OF TIMETABLES.—Not later than 6 months after the date of enactment of this Act [Nov. 30, 1993], the Attorney General shall—

''(1) determine the type of computer hardware and software that will be used to operate the national instant criminal background check system and the means by which State criminal records systems and the telephone or electronic device of licensees will communicate with the national system;

''(2) investigate the criminal records system of each State and determine for each State a timetable by which the State should be able to provide criminal records on an on-line capacity basis to the national system; and

''(3) notify each State of the determinations made pursuant to paragraphs (1) and (2).

''(b) ESTABLISHMENT OF SYSTEM.—Not later than 60 months after the date of the enactment of this Act [Nov. 30, 1993], the Attorney General shall establish a national instant criminal background check system that any licensee may contact, by telephone or by other electronic means in addition to the telephone, for information, to be supplied immediately, on whether receipt of a firearm by a prospective transferee would violate section 922 of title 18, United States Code, or State law.

''(c) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall expedite—

''(1) the upgrading and indexing of State criminal history records in the Federal criminal records system maintained by the Federal Bureau of Investigation;

''(2) the development of hardware and software systems to link State criminal history check systems into the national instant criminal background check system established by the Attorney General pursuant to this section; and

''(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

''(d) NOTIFICATION OF LICENSEES.—On establishment of the system under this section, the Attorney General shall notify each licensee and the chief law enforcement officer of each State of the existence and purpose of the system and the means to be used to contact the system.

''(e) ADMINISTRATIVE PROVISIONS.—

''(1) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—Notwithstanding any other law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a firearm would violate subsection (g) or (n) of section 922 of title 18, United States Code, or State law, as is necessary to enable the system to operate in accordance with this section. On request of the Attorney General, the head of such department or agency shall furnish such information to the system.

''(2) OTHER AUTHORITY.—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

''(f) WRITTEN REASONS PROVIDED ON REQUEST.—If the national instant criminal background check system determines that an individual is ineligible to receive a firearm and the individual requests the system to provide the reasons for the determination, the system shall provide such reasons to the individual, in writing, within 5 business days after the date of the request.

''(g) CORRECTION OF ERRONEOUS SYSTEM INFORMATION.—If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate subsection (g) or (n) of section 922 of title 18, United States Code, or State law, the prospective transferee may request the Attorney General to provide the prospective transferee with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The prospective transferee may submit to the Attorney General information to correct, clarify, or supplement records of the system with respect to the prospective transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to the prospective transferee and give notice of the error to any Federal department or agency or any State that was the source of such erroneous records.

''(h) REGULATIONS.—After 90 days' notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

''(i) PROHIBITION RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO FIREARMS.—No department, agency, officer, or employee of the United States may—

''(1) require that any record or portion thereof generated by the system established under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

''(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons, prohibited by section 922(g) or (n) of title 18, United States Code, or State law, from receiving a firearm.

''(j) DEFINITIONS.—As used in this section:

''(1) LICENSEE.—The term 'licensee' means a licensed importer (as defined in section 921(a)(9) of title 18, United States Code), a licensed manufacturer (as defined in section 921(a)(10) of that title), or a licensed dealer (as defined in section 921(a)(11) of that title).

''(2) OTHER TERMS.—The terms 'firearm', 'handgun', 'licensed importer', 'licensed manufacturer', and 'licensed dealer' have the meanings stated in section 921(a) of title 18, United States Code, as amended by subsection (a)(2).

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to enable the Attorney General to carry out this section.''

FUNDING FOR IMPROVEMENT OF CRIMINAL RECORDS

Section 106(b) of Pub. L. 103–159, as amended by Pub. L. 103–322, title XXI, § 210603(b), Sept. 13, 1994, 103 Stat. 2074; Pub. L. 104–294, title VI, § 603(i)(1), Oct. 11, 1996, 110 Stat. 3504, provided that:

''(1) GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.—The Attorney General, through the Bureau of Justice Statistics, shall, subject to appropriations and with preference to States that as of the date of enactment of this Act [Nov. 30, 1993] have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

''(A) for the creation of a computerized criminal history record system or improvement of an existing system;

''(B) to improve accessibility to the national instant criminal background system; and

''(C) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under paragraph (1) a total of $200,000,000 for fiscal year 1994 and all fiscal years thereafter.''

GUN-FREE ZONE SIGNS

Section 1702(b)(5) of Pub. L. 101–647 provided that: ''Federal, State, and local authorities are encouraged to cause signs to be posted around school zones giving warning of prohibition of the possession of firearms in a school zone.''

IDENTIFICATION OF FELONS AND OTHER PERSONS INELIGIBLE TO PURCHASE HANDGUNS

Section 6213 of Pub. L. 100–690 provided that:

''(a) IDENTIFICATION OF FELONS INELIGIBLE TO PURCHASE HANDGUNS.—The Attorney General shall develop a system for immediate and accurate identification of felons who attempt to purchase 1 or more firearms but are ineligible to purchase firearms by reason of section 922(g)(1) of title 18, United States Code. The system shall be accessible to dealers but only for the purpose of determining whether a potential purchaser is a convicted felon. The Attorney General shall establish a plan (including a cost analysis of the proposed system) for implementation of the system. In developing the system, the Attorney General shall consult with the Secretary of the Treasury, other Federal, State, and local law enforcement officials with expertise in the area, and other experts. The Attorney General shall begin implementation of the system 30 days after the report to the Congress as provided in subsection (b).

''(b) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act [Nov. 18, 1988], the Attorney General shall report to the Congress a description of the system referred to in subsection (a) and a plan (including a cost analysis of the proposed system) for implementation of the system. Such report may include, if appropriate, recommendations for modifications of the system and legislation necessary in order to fully implement such system.

''(c) ADDITIONAL STUDY OF OTHER PERSONS INELIGIBLE TO PURCHASE FIREARMS.—The Attorney General in con-

sultation with the Secretary of the Treasury shall conduct a study to determine if an effective method for immediate and accurate identification of other persons who attempt to purchase 1 or more firearms but are ineligible to purchase firearms by reason of section 922(g) of title 18, United States Code. In conducting the study, the Attorney General shall consult with the Secretary of the Treasury, other Federal, State, and local law enforcement officials with expertise in the area, and other experts. Such study shall be completed within 18 months after the date of the enactment of this Act [Nov. 18, 1988] and shall be submitted to the Congress and made available to the public. Such study may include, if appropriate, recommendations for legislation.

''(d) DEFINITIONS.—As used in this section, the terms 'firearm' and 'dealer' shall have the meanings given such terms in section 921(a) of title 18, United States Code.''

STUDIES TO IDENTIFY EQUIPMENT CAPABLE OF DISTINGUISHING SECURITY EXEMPLAR FROM OTHER METAL OBJECTS LIKELY TO BE CARRIED ON ONE'S PERSON

Section 2(e) of Pub. L. 100–649 provided that: ''The Attorney General, the Secretary of the Treasury, and the Secretary of Transportation shall each conduct studies to identify available state-of-the-art equipment capable of detecting the Security Exemplar (as defined in section 922(p)(2)(C) of title 18, United States Code) and distinguishing the Security Exemplar from innocuous metal objects likely to be carried on one's person. Such studies shall be completed within 6 months after the date of the enactment of this Act [Nov. 10, 1988] and shall include a schedule providing for the installation of such equipment at the earliest practicable time at security checkpoints maintained or regulated by the agency conducting the study. Such equipment shall be installed in accordance with each schedule. In addition, such studies may include recommendations, where appropriate, concerning the use of secondary security equipment and procedures to enhance detection capability at security checkpoints.''

§ 923. Licensing

(a) No person shall engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, until he has filed an application with and received a license to do so from the Attorney General. The application shall be in such form and contain only that information necessary to determine eligibility for licensing as the Attorney General shall by regulation prescribe and shall include a photograph and fingerprints of the applicant. Each applicant shall pay a fee for obtaining such a license, a separate fee being required for each place in which the applicant is to do business, as follows:

(1) If the applicant is a manufacturer—

(A) of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of $1,000 per year;

(B) of firearms other than destructive devices, a fee of $50 per year; or

(C) of ammunition for firearms, other than ammunition for destructive devices or armor piercing ammunition, a fee of $10 per year.

(2) If the applicant is an importer—

(A) of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of $1,000 per year; or

(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, or ammunition other than armor piercing ammunition, a fee of $50 per year.

(3) If the applicant is a dealer—

(A) in destructive devices or ammunition for destructive devices, a fee of $1,000 per year; or

(B) who is not a dealer in destructive devices, a fee of $200 for 3 years, except that the fee for renewal of a valid license shall be $90 for 3 years.

(b) Any person desiring to be licensed as a collector shall file an application for such license with the Attorney General. The application shall be in such form and contain only that information necessary to determine eligibility as the Attorney General shall by regulation prescribe. The fee for such license shall be $10 per year. Any license granted under this subsection shall only apply to transactions in curios and relics.

(c) Upon the filing of a proper application and payment of the prescribed fee, the Attorney General shall issue to a qualified applicant the appropriate license which, subject to the provisions of this chapter and other applicable provisions of law, shall entitle the licensee to transport, ship, and receive firearms and ammunition covered by such license in interstate or foreign commerce during the period stated in the license. Nothing in this chapter shall be construed to prohibit a licensed manufacturer, importer, or dealer from maintaining and disposing of a personal collection of firearms, subject only to such restrictions as apply in this chapter to dispositions by a person other than a licensed manufacturer, importer, or dealer. If any firearm is so disposed of by a licensee within one year after its transfer from his business inventory into such licensee's personal collection or if such disposition or any other acquisition is made for the purpose of willfully evading the restrictions placed upon licensees by this chapter, then such firearm shall be deemed part of such licensee's business inventory, except that any licensed manufacturer, importer, or dealer who has maintained a firearm as part of a personal collection for one year and who sells or otherwise disposes of such firearm shall record the description of the firearm in a bound volume, containing the name and place of residence and date of birth of the transferee if the transferee is an individual, or the identity and principal and local places of business of the transferee if the transferee is a corporation or other business entity: *Provided*, That no other recordkeeping shall be required.

(d)(1) Any application submitted under subsection (a) or (b) of this section shall be approved if—

(A) the applicant is twenty-one years of age or over;

(B) the applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is not prohibited from transporting, shipping, or receiving firearms or ammunition in interstate or foreign commerce under section 922(g) and (n) of this chapter;

(C) the applicant has not willfully violated any of the provisions of this chapter or regulations issued thereunder;

(D) the applicant has not willfully failed to disclose any material information required, or has not made any false statement as to any material fact, in connection with his application;

(E) the applicant has in a State (i) premises from which he conducts business subject to license under this chapter or from which he intends to conduct such business within a reasonable period of time, or (ii) in the case of a collector, premises from which he conducts his collecting subject to license under this chapter or from which he intends to conduct such collecting within a reasonable period of time;

(F) the applicant certifies that—

(i) the business to be conducted under the license is not prohibited by State or local law in the place where the licensed premise is located;

(ii)(I) within 30 days after the application is approved the business will comply with the requirements of State and local law applicable to the conduct of the business; and

(II) the business will not be conducted under the license until the requirements of State and local law applicable to the business have been met; and

(iii) that the applicant has sent or delivered a form to be prescribed by the Attorney General, to the chief law enforcement officer of the locality in which the premises are located, which indicates that the applicant intends to apply for a Federal firearms license; and

(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).

(2) The Attorney General must approve or deny an application for a license within the 60-day period beginning on the date it is received. If the Attorney General fails to act within such period, the applicant may file an action under section 1361 of title 28 to compel the Attorney General to act. If the Attorney General approves an applicant's application, such applicant shall be issued a license upon the payment of the prescribed fee.

(e) The Attorney General may, after notice and opportunity for hearing, revoke any license issued under this section if the holder of such license has willfully violated any provision of this chapter or any rule or regulation prescribed by the Attorney General under this chapter or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device). The Attorney General may, after notice and opportunity for hearing, revoke the license of a dealer who willfully transfers armor piercing ammunition. The Secretary's[1] action under this subsection may be reviewed only as provided in subsection (f) of this section.

(f)(1) Any person whose application for a license is denied and any holder of a license which is revoked shall receive a written notice from the Attorney General stating specifically the grounds upon which the application was denied or upon which the license was revoked. Any notice of a revocation of a license shall be given to the holder of such license before the effective date of the revocation.

(2) If the Attorney General denies an application for, or revokes, a license, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial or revocation. In the case of a revocation of a license, the Attorney General shall upon the request of the holder of the license stay the effective date of the revocation. A hearing held under this paragraph shall be held at a location convenient to the aggrieved party.

(3) If after a hearing held under paragraph (2) the Attorney General decides not to reverse his decision to deny an application or revoke a license, the Attorney General shall give notice of his decision to the aggrieved party. The aggrieved party may at any time within sixty days after the date notice was given under this paragraph file a petition with the United States district court for the district in which he resides or has his principal place of business for a de novo judicial review of such denial or revocation. In a proceeding conducted under this subsection, the court may consider any evidence submitted by the parties to the proceeding whether or not such evidence was considered at the hearing held under paragraph (2). If the court decides that the Attorney General was not authorized to deny the application or to revoke the license, the court shall order the Attorney General to take such action as may be necessary to comply with the judgment of the court.

(4) If criminal proceedings are instituted against a licensee alleging any violation of this chapter or of rules or regulations prescribed under this chapter, and the licensee is acquitted of such charges, or such proceedings are terminated, other than upon motion of the Government before trial upon such charges, the Attorney General shall be absolutely barred from denying or revoking any license granted under this chapter where such denial or revocation is based in whole or in part on the facts which form the basis of such criminal charges. No proceedings for the revocation of a license shall be instituted by the Attorney General more than one year after the filing of the indictment or information.

(g)(1)(A) Each licensed importer, licensed manufacturer, and licensed dealer shall maintain

[1] So in original. Probably should be ''Attorney General's''.

such records of importation, production, shipment, receipt, sale, or other disposition of firearms at his place of business for such period, and in such form, as the Attorney General may by regulations prescribe. Such importers, manufacturers, and dealers shall not be required to submit to the Attorney General reports and information with respect to such records and the contents thereof, except as expressly required by this section. The Attorney General, when he has reasonable cause to believe a violation of this chapter has occurred and that evidence thereof may be found on such premises, may, upon demonstrating such cause before a Federal magistrate judge and securing from such magistrate judge a warrant authorizing entry, enter during business hours the premises (including places of storage) of any licensed firearms importer, licensed manufacturer, licensed dealer, licensed collector, or any licensed importer or manufacturer of ammunition, for the purpose of inspecting or examining—

(i) any records or documents required to be kept by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector under this chapter or rules or regulations under this chapter, and

(ii) any firearms or ammunition kept or stored by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector, at such premises.

(B) The Attorney General may inspect or examine the inventory and records of a licensed importer, licensed manufacturer, or licensed dealer without such reasonable cause or warrant—

(i) in the course of a reasonable inquiry during the course of a criminal investigation of a person or persons other than the licensee;

(ii) for ensuring compliance with the record keeping requirements of this chapter—

(I) not more than once during any 12-month period; or

(II) at any time with respect to records relating to a firearm involved in a criminal investigation that is traced to the licensee; or

(iii) when such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation.

(C) The Attorney General may inspect the inventory and records of a licensed collector without such reasonable cause or warrant—

(i) for ensuring compliance with the record keeping requirements of this chapter not more than once during any twelve-month period; or

(ii) when such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation.

(D) At the election of a licensed collector, the annual inspection of records and inventory permitted under this paragraph shall be performed at the office of the Attorney General designated for such inspections which is located in closest proximity to the premises where the inventory and records of such licensed collector are maintained. The inspection and examination authorized by this paragraph shall not be construed as authorizing the Attorney General to seize any records or other documents other than those records or documents constituting material evidence of a violation of law. If the Attorney General seizes such records or documents, copies shall be provided the licensee within a reasonable time. The Attorney General may make available to any Federal, State, or local law enforcement agency any information which he may obtain by reason of this chapter with respect to the identification of persons prohibited from purchasing or receiving firearms or ammunition who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition, and he may provide information to the extent such information may be contained in the records required to be maintained by this chapter, when so requested by any Federal, State, or local law enforcement agency.

(2) Each licensed collector shall maintain in a bound volume the nature of which the Attorney General may by regulations prescribe, records of the receipt, sale, or other disposition of firearms. Such records shall include the name and address of any person to whom the collector sells or otherwise disposes of a firearm. Such collector shall not be required to submit to the Attorney General reports and information with respect to such records and the contents thereof, except as expressly required by this section.

(3)(A) Each licensee shall prepare a report of multiple sales or other dispositions whenever the licensee sells or otherwise disposes of, at one time or during any five consecutive business days, two or more pistols, or revolvers, or any combination of pistols and revolvers totalling two or more, to an unlicensed person. The report shall be prepared on a form specified by the Attorney General and forwarded to the office specified thereon and to the department of State police or State law enforcement agency of the State or local law enforcement agency of the local jurisdiction in which the sale or other disposition took place, not later than the close of business on the day that the multiple sale or other disposition occurs.

(B) Except in the case of forms and contents thereof regarding a purchaser who is prohibited by subsection (g) or (n) of section 922 of this title from receipt of a firearm, the department of State police or State law enforcement agency or local law enforcement agency of the local jurisdiction shall not disclose any such form or the contents thereof to any person or entity, and shall destroy each such form and any record of the contents thereof no more than 20 days from the date such form is received. No later than the date that is 6 months after the effective date of this subparagraph, and at the end of each 6-month period thereafter, the department of State police or State law enforcement agency or local law enforcement agency of the local jurisdiction shall certify to the Attorney General of the United States that no disclosure contrary to this subparagraph has been made and that all forms and any record of the contents thereof have been destroyed as provided in this subparagraph.

(4) Where a firearms or ammunition business is discontinued and succeeded by a new licensee,

the records required to be kept by this chapter shall appropriately reflect such facts and shall be delivered to the successor. Where discontinuance of the business is absolute, such records shall be delivered within thirty days after the business discontinuance to the Attorney General. However, where State law or local ordinance requires the delivery of records to other responsible authority, the Attorney General may arrange for the delivery of such records to such other responsible authority.

(5)(A) Each licensee shall, when required by letter issued by the Attorney General, and until notified to the contrary in writing by the Attorney General, submit on a form specified by the Attorney General, for periods and at the times specified in such letter, all record information required to be kept by this chapter or such lesser record information as the Attorney General in such letter may specify.

(B) The Attorney General may authorize such record information to be submitted in a manner other than that prescribed in subparagraph (A) of this paragraph when it is shown by a licensee that an alternate method of reporting is reasonably necessary and will not unduly hinder the effective administration of this chapter. A licensee may use an alternate method of reporting if the licensee describes the proposed alternate method of reporting and the need therefor in a letter application submitted to the Attorney General, and the Attorney General approves such alternate method of reporting.

(6) Each licensee shall report the theft or loss of a firearm from the licensee's inventory or collection, within 48 hours after the theft or loss is discovered, to the Attorney General and to the appropriate local authorities.

(7) Each licensee shall respond immediately to, and in no event later than 24 hours after the receipt of, a request by the Attorney General for information contained in the records required to be kept by this chapter as may be required for determining the disposition of 1 or more firearms in the course of a bona fide criminal investigation. The requested information shall be provided orally or in writing, as the Attorney General may require. The Attorney General shall implement a system whereby the licensee can positively identify and establish that an individual requesting information via telephone is employed by and authorized by the agency to request such information.

(h) Licenses issued under the provisions of subsection (c) of this section shall be kept posted and kept available for inspection on the premises covered by the license.

(i) Licensed importers and licensed manufacturers shall identify by means of a serial number engraved or cast on the receiver or frame of the weapon, in such manner as the Attorney General shall by regulations prescribe, each firearm imported or manufactured by such importer or manufacturer.

(j) A licensed importer, licensed manufacturer, or licensed dealer may, under rules or regulations prescribed by the Attorney General, conduct business temporarily at a location other than the location specified on the license if such temporary location is the location for a gun show or event sponsored by any national, State, or local organization, or any affiliate of any such organization devoted to the collection, competitive use, or other sporting use of firearms in the community, and such location is in the State which is specified on the license. Records of receipt and disposition of firearms transactions conducted at such temporary location shall include the location of the sale or other disposition and shall be entered in the permanent records of the licensee and retained on the location specified on the license. Nothing in this subsection shall authorize any licensee to conduct business in or from any motorized or towed vehicle. Notwithstanding the provisions of subsection (a) of this section, a separate fee shall not be required of a licensee with respect to business conducted under this subsection. Any inspection or examination of inventory or records under this chapter by the Attorney General at such temporary location shall be limited to inventory consisting of, or records relating to, firearms held or disposed at such temporary location. Nothing in this subsection shall be construed to authorize the Attorney General to inspect or examine the inventory or records of a licensed importer, licensed manufacturer, or licensed dealer at any location other than the location specified on the license. Nothing in this subsection shall be construed to diminish in any manner any right to display, sell, or otherwise dispose of firearms or ammunition, which is in effect before the date of the enactment of the Firearms Owners' Protection Act, including the right of a licensee to conduct ''curios or relics'' firearms transfers and business away from their business premises with another licensee without regard as to whether the location of where the business is conducted is located in the State specified on the license of either licensee.

(k) Licensed importers and licensed manufacturers shall mark all armor piercing projectiles and packages containing such projectiles for distribution in the manner prescribed by the Attorney General by regulation. The Attorney General shall furnish information to each dealer licensed under this chapter defining which projectiles are considered armor piercing ammunition as defined in section 921(a)(17)(B).

(*l*) The Attorney General shall notify the chief law enforcement officer in the appropriate State and local jurisdictions of the names and addresses of all persons in the State to whom a firearms license is issued.

(Added Pub. L. 90–351, title IV, § 902, June 19, 1968, 82 Stat. 231; amended Pub. L. 90–618, title I, § 102, Oct. 22, 1968, 82 Stat. 1221; Pub. L. 92–377, title I, § 165(b), Dec. 21, 1982, 96 Stat. 1923; Pub. L. 99–308, § 103, May 19, 1986, 100 Stat. 453; Pub. L. 99–360, § 1(c), July 8, 1986, 100 Stat. 766; Pub. L. 99–408, §§ 3–7, Aug. 28, 1986, 100 Stat. 921; Pub. L. 100–690, title VII, § 7060(d), Nov. 18, 1988, 102 Stat. 4404; Pub. L. 101–647, title XXII, § 2203(a), title XXXV, § 3525, Nov. 29, 1990, 104 Stat. 4857, 4924; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 103–159, title II, § 201, title III, § 303, Nov. 30, 1993, 107 Stat. 1544, 1545; Pub. L. 103–322, title XI, §§ 110102(d), 110103(d), 110105(2), 110301(a), 110302–110307, title XXXIII, § 330011(i), Sept. 13, 1994, 108 Stat. 1998–2000, 2012–2014, 2145; Pub. L. 104–208, div. A, title I, § 101(f) [title I, § 118], Sept. 30, 1996, 110 Stat. 3009–314, 3009–326;

Pub. L. 104–294, title VI, §603(j)(1), (k), (*l*), Oct. 11, 1996, 110 Stat. 3504, 3505; Pub. L. 105–277, div. A, §101(b) [title I, §119(b), (c)], Oct. 21, 1998, 112 Stat. 2681–50, 2681–69; Pub. L. 107–296, title XI, §1112(f)(5), (6), Nov. 25, 2002, 116 Stat. 2276.)

REFERENCES IN TEXT

The effective date of this subparagraph, referred to in subsec. (g)(3)(B), is the date of enactment of Pub. L. 103–159, which was approved Nov. 30, 1993.

The date of the enactment of the Firearms Owners' Protection Act, referred to in subsec. (j), is the date of enactment of Pub. L. 99–308, which was approved May 19, 1986.

AMENDMENTS

2002—Subsecs. (a) to (g), (i) to (k). Pub. L. 107–296, §1112(f)(6), substituted ''Attorney General'' for ''Secretary'' wherever appearing.

Subsec. (*l*). Pub. L. 107–296, §1112(f)(5), substituted ''Attorney General'' for ''Secretary of the Treasury''.

1998—Subsec. (d)(1)(G). Pub. L. 105–277, §101(b) [title I, §119(b)], added subpar. (G).

Subsec. (e). Pub. L. 105–277, §101(b) [title I, §119(c)], inserted before period at end of first sentence ''or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device)''.

1996—Subsec. (g)(1)(B)(ii). Pub. L. 104–294, §603(k), substituted ''; or'' for period at end of subcl. (II) and realigned margins.

Subsec. (g)(3)(A). Pub. L. 104–294, §603(j)(1), amended directory language of Pub. L. 103–159, §201(1). See 1993 Amendment note below.

Subsec. (j). Pub. L. 104–208 substituted for period at end '', including the right of a licensee to conduct 'curios or relics' firearms transfers and business away from their business premises with another licensee without regard as to whether the location of where the business is conducted is located in the State specified on the license of either licensee.''

Subsec. (*l*). Pub. L. 104–294, §603(*l*), redesignated last subsec. as subsec. (*l*) and realigned margins.

1994—Subsec. (a). Pub. L. 103–322, §110301(a), inserted ''and shall include a photograph and fingerprints of the applicant'' after ''regulation prescribe'' in introductory provisions.

Subsec. (a)(3)(B). Pub. L. 103–322, §330011(i), amended directory language of Pub. L. 101–647, §3525. See 1990 Amendment note below.

Subsec. (d)(1)(F). Pub. L. 103–322, §110302, added subpar. (F).

Subsec. (d)(2). Pub. L. 103–322, §110303, substituted ''60-day period'' for ''forty-five-day period''.

Subsec. (g)(1)(B)(ii). Pub. L. 103–322, §110304, amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''for ensuring compliance with the record keeping requirements of this chapter not more than once during any twelve-month period; or''.

Subsec. (g)(6). Pub. L. 103–322, §110305, added par. (6).

Subsec. (g)(7). Pub. L. 103–322, §110306, added par. (7).

Subsec. (i). Pub. L. 103–322, §110103(d), which inserted at end ''A large capacity ammunition feeding device manufactured after the date of the enactment of this sentence shall be identified by a serial number that clearly shows that the device was manufactured or imported after the effective date of this subsection, and such other identification as the Secretary may by regulation prescribe.'', was repealed by Pub. L. 103–322, §110105(2). See Effective and Termination Dates of 1994 Amendment note below.

Pub. L. 103–322, §110102(d), which inserted penultimate sentence which read as follows: ''The serial number of any semiautomatic assault weapon manufactured after the date of the enactment of this sentence shall clearly show the date on which the weapon was manufactured.'', was repealed by Pub. L. 103–322, §110105(2). See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (*l*). Pub. L. 103–322, §110307, which directed the amendment of this section by adding subsec. (1) at end, was executed by adding subsec. (*l*) at end to reflect the probable intent of Congress.

1993—Subsec. (a)(3)(A). Pub. L. 103–159, §303(1), inserted ''or'' at end of subpar. (A).

Subsec. (a)(3)(B). Pub. L. 103–159, §303(2), (3), substituted ''who is not a dealer in destructive devices, a fee of $200 for 3 years, except that the fee for renewal of a valid license shall be $90 for 3 years.'' for ''who is a pawnbroker dealing in firearms other than destructive devices, a fee of $25 per year; or''.

Subsec. (a)(3)(C). Pub. L. 103–159, §303(4), struck out subpar. (C) which read as follows: ''who is not a dealer in destructive devices or a pawnbroker, a fee of $10 per year.''

Subsec. (g)(3). Pub. L. 103–159, §201, as amended by Pub. L. 104–294, §603(j)(1), designated existing provisions as subpar. (A), inserted ''and to the department of State police or State law enforcement agency of the State or local law enforcement agency of the local jurisdiction in which the sale or other disposition took place,'' after ''thereon'', and added subpar. (B).

1990—Subsec. (a)(3)(B). Pub. L. 101–647, §3525, as amended by Pub. L. 103–322, §330011(i), inserted a comma after ''devices''.

Subsec. (d)(1)(B). Pub. L. 101–647, §2203(a), substituted ''(n)'' for ''(h)''.

1988—Subsec. (a). Pub. L. 100–690, §7060(d)(1), struck out period after ''licensing'' in introductory provisions.

Subsec. (f)(3). Pub. L. 100–690, §7060(d)(2), struck out the period that followed a period after ''paragraph (2)''.

1986—Subsec. (a). Pub. L. 99–308, §103(1), amended first sentence generally and substituted ''only that information necessary to determine eligibility for licensing.'' for ''such information'' in second sentence. Prior to amendment, first sentence read as follows: ''No person shall engage in business as a firearms or ammunition importer, manufacturer, or dealer until he has filed an application with, and received a license to do so from, the Secretary.''

Subsec. (a)(1)(A). Pub. L. 99–408, §3, in amending subpar. (A) generally, substituted '', ammunition for destructive devices or armor piercing ammunition'' for ''or ammunition for destructive devices''.

Subsec. (a)(1)(C). Pub. L. 99–408, §4, in amending subpar. (C) generally, substituted '', other than ammunition for destructive devices or armor piercing ammunition'' for ''other than destructive devices''.

Subsec. (a)(2). Pub. L. 99–408, §5, amended subpars. (A) and (B) generally. Prior to amendment, subpars. (A) and (B) read as follows:

''(A) of destructive devices or ammunition for destructive devices, a fee of $1,000 per year; or

''(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, a fee of $50 per year.''

Subsec. (a)(3)(B). Pub. L. 99–308, §103(2), struck out ''or ammunition for firearms other than destructive devices,'' after ''destructive devices''.

Subsec. (b). Pub. L. 99–308, §103(3), substituted ''only that information necessary to determine eligibility'' for ''such information''.

Subsec. (c). Pub. L. 99–360 inserted provision which required any licensed manufacturer, importer, or dealer who has maintained a firearm as part of a personal collection for one year and sells or otherwise disposes of such firearm to record the description of the firearm in a bound volume, specified other information to be recorded, and provided that no other recordkeeping be required.

Pub. L. 99–308, §103(4), inserted provision that nothing in this chapter be construed to prohibit a licensed manufacturer, importer, or dealer from maintaining and

disposing of a personal collection of firearms subject to such restrictions as apply in this chapter to other persons, and provision specifying circumstances under which such disposition or any other acquisition shall result in such firearms being deemed part of the licensee's business inventory.

Subsec. (e). Pub. L. 99–408, § 6, inserted provisions relating to licenses of dealers willfully transferring armor piercing ammunition.

Pub. L. 99–308, § 103(5), inserted ''willfully'' before ''violated''.

Subsec. (f)(3). Pub. L. 99–308, § 103(6)(A), inserted ''de novo'' before ''judicial review'' in second sentence and ''whether or not such evidence was considered at the hearing held under paragraph (2).'' after ''to the proceeding'' in third sentence.

Subsec. (f)(4). Pub. L. 99–308, § 103(6)(B), added par. (4).

Subsec. (g). Pub. L. 99–308, § 103(7), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: ''Each licensed importer, licensed manufacturer, licensed dealer, and licensed collector shall maintain such records of importation, production, shipment, receipt, sale, or other disposition, of firearms and ammunition except .22 caliber rimfire ammunition at such place, for such period, and in such form as the Secretary may by regulations prescribe. Such importers, manufacturers, dealers, and collectors shall make such records available for inspection at all reasonable times, and shall submit to the Secretary such reports and information with respect to such records and the contents thereof as he shall by regulations prescribe. The Secretary may enter during business hours the premises (including places of storage) of any firearms or ammunition importer, manufacturer, dealer, or collector for the purpose of inspecting or examining (1) any records or documents required to be kept by such importer, manufacturer, dealer, or collector under the provisions of this chapter or regulations issued under this chapter, and (2) any firearms or ammunition kept or stored by such importer, manufacturer, dealer, or collector at such premises. Upon the request of any State or any political subdivision thereof, the Secretary may make available to such State or any political subdivision thereof, any information which he may obtain by reason of the provisions of this chapter with respect to the identification of persons within such State or political subdivision thereof, who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition.''

Subsec. (j). Pub. L. 99–308, § 103(8), amended subsec. (j) generally. Prior to amendment, subsec. (j) read as follows: ''This section shall not apply to anyone who engages only in hand loading, reloading, or custom loading ammunition for his own firearm, and who does not hand load, reload, or custom load ammunition for others.''

Subsec. (k). Pub. L. 99–408, § 7, added subsec. (k).

1982—Subsec. (g). Pub. L. 97–377 inserted ''except .22 caliber rimfire ammunition'' after ''and ammunition''. The amendment by Pub. L. 97–377, which purported to amend subsec. (9), was executed instead to subsec. (g) as the probable intent of Congress because this section does not contain a subsec. (9).

1968—Subsec. (a). Pub. L. 90–618 struck out ''be required to'' after ''Each applicant shall''.

Subsec. (a)(1). Pub. L. 90–618 inserted ''the applicant is'' after ''If'' in text preceding subpar. (A), substituted ''or ammunition for destructive devices,'' for ''and/or ammunition'' in subpar. (A), decreased the fee from $500 per year to $50 per year in subpar. (B), and added subpar. (C).

Subsec. (a)(2). Pub. L. 90–618 inserted ''the applicant is'' after ''If'' in text preceding subpar. (A), substituted ''or ammunition for destructive devices,'' for ''and/or ammunition'' in subpar. (A), and inserted provision for ammunition for firearms other than destructive devices and decreased the fee from $500 per year to $50 per year in subpar. (B).

Subsec. (a)(3). Pub. L. 90–618 inserted ''the applicant is'' after ''If'' in text preceding subpar. (A), substituted ''in destructive devices or ammunition for destructive devices,'' for ''of destructive devices and/or ammunition'' in subpar. (A), and inserted provision for ammunition for firearms other than destructive devices and decreased the fee from $250 per year to $25 per year in subpar. (B).

Subsecs. (b), (c). Pub. L. 90–618 added subsec. (b), redesignated former subsec. (b) as (c) and made mandatory the requirement that the Secretary issue the appropriate license to a qualified applicant. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 90–618 redesignated former subsec. (c) as (d)(1), made changes in phraseology, inserted references to section 922(g) and (h) of this chapter in subsec. (d)(1)(B) and to applicants engaged in collecting in subsec. (d)(1)(E)(ii), and added subsec. (d)(2). Former subsec. (d) redesignated (g).

Subsecs. (e), (f). Pub. L. 90–618 added subsecs. (e) and (f) and redesignated former subsecs. (e) and (f) as (h) and (i), respectively.

Subsec. (g). Pub. L. 90–618 redesignated former subsec. (d) as (g) and added licensed collectors to the enumerated list of licensees subject to the provisions of this section.

Subsec. (h). Pub. L. 90–618 redesignated former subsec. (e) as (h) and substituted ''subsection (c)'' for ''subsection (b)''.

Subsec. (i). Pub. L. 90–618 redesignated former subsec. (f) as (i) and inserted '', by means of a serial number engraved or cast on the receiver or frame of the weapon,'' after ''shall identify''.

Subsec. (j). Pub. L. 90–618 added subsec. (j).

CHANGE OF NAME

Words ''magistrate judge'' substituted for ''magistrate'' wherever appearing in subsec. (g)(1)(A) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277, effective 180 days after Oct. 21, 1998, see section 101(b) [title I, § 119(e)] of Pub. L. 105–277, set out as a note under section 921 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 603(j)(2) of Pub. L. 104–294 provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect as if the amendment had been included in the Act referred to in paragraph (1) [Pub. L. 103–159] on the date of the enactment of such Act [Nov. 30, 1993].''

EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENT

Amendment by sections 110102(d) and 110103(d) of Pub. L. 103–322 repealed 10 years after Sept. 13, 1994, see section 110105(2) of Pub. L. 103–322, formerly set out as a note under section 921 of this title.

Section 330011(i) of Pub. L. 103–322 provided that the amendment made by that section is effective as of the date on which section 3525 of Pub. L. 101–647 took effect.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by sections 3 to 5 of Pub. L. 99–408 effective first day of first calendar month beginning more than ninety days after Aug. 28, 1986, and amendment by sections 6 and 7 of Pub. L. 99–408 effective Aug. 28, 1986, see section 9 of Pub. L. 99–408, set out as a note under section 921 of this title.

Amendment by Pub. L. 99–360 effective on date on which amendment of this section by Firearms Owners'

Protection Act, Pub. L. 99–308, became effective, see section 2 of Pub. L. 99–360, set out as a note under section 921 of this title.

Amendment by section 103(1)–(6)(A), (7), (8) of Pub. L. 99–308 effective 180 days after May 19, 1986, and amendment by section 103(6)(B) of Pub. L. 99–308 applicable to any action, petition, or appellate proceeding pending on May 19, 1986, see section 110(a), (b) of Pub. L. 99–308, set out as a note under section 921 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–618 effective Dec. 16, 1968, see section 105 of Pub. L. 90–618, set out as a note under section 921 of this title.

STATUTORY CONSTRUCTION; EVIDENCE

Pub. L. 105–277, div. A, § 101(b) [title I, § 119(d)], Oct. 21, 1998, 112 Stat. 2681–50, 2681–70, provided that:

''(1) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section [amending this section and section 921 of this title] shall be construed—

''(A) as creating a cause of action against any firearms dealer or any other person for any civil liability; or

''(B) as establishing any standard of care.

''(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.''

FUNDING FOR BUREAU NOT AUTHORIZED FOR DISCLOSURE OF DATA

Pub. L. 109–108, title I, Nov. 22, 2005, 119 Stat. 2295, provided in part: ''That no funds appropriated under this or any other Act with respect to any fiscal year may be used to disclose part or all of the contents of the Firearms Trace System database maintained by the National Trace Center of the Bureau of Alcohol, Tobacco, Firearms and Explosives or any information required to be kept by licensees pursuant to section 923(g) of title 18, United States Code, or required to be reported pursuant to paragraphs (3) and (7) of such section 923(g), to anyone other than a Federal, State, or local law enforcement agency or a prosecutor solely in connection with and for use in a bona fide criminal investigation or prosecution and then only such information as pertains to the geographic jurisdiction of the law enforcement agency requesting the disclosure and not for use in any civil action or proceeding other than an action or proceeding commenced by the Bureau of Alcohol, Tobacco, Firearms and Explosives, or a review of such an action or proceeding, to enforce the provisions of chapter 44 of such title, and all such data shall be immune from legal process and shall not be subject to subpoena or other discovery, shall be inadmissible in evidence, and shall not be used, relied on, or disclosed in any manner, nor shall testimony or other evidence be permitted based upon such data, in any civil action pending on or filed after the effective date of this Act [Pub. L. 109–108, approved Nov. 22, 2005] in any State (including the District of Columbia) or Federal court or in any administrative proceeding other than a proceeding commenced by the Bureau of Alcohol, Tobacco, Firearms and Explosives to enforce the provisions of that chapter, or a review of such an action or proceeding; except that this proviso shall not be construed to prevent the disclosure of statistical information concerning total production, importation, and exportation by each licensed importer (as defined in section 921(a)(9) of such title) and licensed manufacturer (as defined in section 921(a)(10) of such title)''.

Similar provisions were contained in the following prior appropriation act:

Pub. L. 108–447, div. B, title I, Dec. 8, 2004, 118 Stat. 2859.

§ 924. Penalties

(a)(1) Except as otherwise provided in this subsection, subsection (b), (c), (f), or (p) of this section, or in section 929, whoever—

(A) knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter or in applying for any license or exemption or relief from disability under the provisions of this chapter;

(B) knowingly violates subsection (a)(4), (f), (k), or (q) of section 922;

(C) knowingly imports or brings into the United States or any possession thereof any firearm or ammunition in violation of section 922(*l*); or

(D) willfully violates any other provision of this chapter,

shall be fined under this title, imprisoned not more than five years, or both.

(2) Whoever knowingly violates subsection (a)(6), (d), (g), (h), (i), (j), or (*o*) of section 922 shall be fined as provided in this title, imprisoned not more than 10 years, or both.

(3) Any licensed dealer, licensed importer, licensed manufacturer, or licensed collector who knowingly—

(A) makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or

(B) violates subsection (m) of section 922,

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

(4) Whoever violates section 922(q) shall be fined under this title, imprisoned for not more than 5 years, or both. Notwithstanding any other provision of law, the term of imprisonment imposed under this paragraph shall not run concurrently with any other term of imprisonment imposed under any other provision of law. Except for the authorization of a term of imprisonment of not more than 5 years made in this paragraph, for the purpose of any other law a violation of section 922(q) shall be deemed to be a misdemeanor.

(5) Whoever knowingly violates subsection (s) or (t) of section 922 shall be fined under this title, imprisoned for not more than 1 year, or both.

(6)(A)(i) A juvenile who violates section 922(x) shall be fined under this title, imprisoned not more than 1 year, or both, except that a juvenile described in clause (ii) shall be sentenced to probation on appropriate conditions and shall not be incarcerated unless the juvenile fails to comply with a condition of probation.

(ii) A juvenile is described in this clause if—

(I) the offense of which the juvenile is charged is possession of a handgun or ammunition in violation of section 922(x)(2); and

(II) the juvenile has not been convicted in any court of an offense (including an offense under section 922(x) or a similar State law, but not including any other offense consisting of conduct that if engaged in by an adult would not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would constitute an offense.

(B) A person other than a juvenile who knowingly violates section 922(x)—

(i) shall be fined under this title, imprisoned not more than 1 year, or both; and

(ii) if the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a crime of violence, shall be fined under this title, imprisoned not more than 10 years, or both.

(7) Whoever knowingly violates section 931 shall be fined under this title, imprisoned not more than 3 years, or both.

(b) Whoever, with intent to commit therewith an offense punishable by imprisonment for a term exceeding one year, or with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is to be committed therewith, ships, transports, or receives a firearm or any ammunition in interstate or foreign commerce shall be fined under this title, or imprisoned not more than ten years, or both.

(c)(1)(A) Except to the extent that a greater minimum sentence is otherwise provided by this subsection or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries a firearm, or who, in furtherance of any such crime, possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

(i) be sentenced to a term of imprisonment of not less than 5 years;

(ii) if the firearm is brandished, be sentenced to a term of imprisonment of not less than 7 years; and

(iii) if the firearm is discharged, be sentenced to a term of imprisonment of not less than 10 years.

(B) If the firearm possessed by a person convicted of a violation of this subsection—

(i) is a short-barreled rifle, short-barreled shotgun, or semiautomatic assault weapon, the person shall be sentenced to a term of imprisonment of not less than 10 years; or

(ii) is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, the person shall be sentenced to a term of imprisonment of not less than 30 years.

(C) In the case of a second or subsequent conviction under this subsection, the person shall—

(i) be sentenced to a term of imprisonment of not less than 25 years; and

(ii) if the firearm involved is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, be sentenced to imprisonment for life.

(D) Notwithstanding any other provision of law—

(i) a court shall not place on probation any person convicted of a violation of this subsection; and

(ii) no term of imprisonment imposed on a person under this subsection shall run concurrently with any other term of imprisonment imposed on the person, including any term of imprisonment imposed for the crime of violence or drug trafficking crime during which the firearm was used, carried, or possessed.

(2) For purposes of this subsection, the term ''drug trafficking crime'' means any felony punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

(3) For purposes of this subsection the term ''crime of violence'' means an offense that is a felony and—

(A) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(B) that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(4) For purposes of this subsection, the term ''brandish'' means, with respect to a firearm, to display all or part of the firearm, or otherwise make the presence of the firearm known to another person, in order to intimidate that person, regardless of whether the firearm is directly visible to that person.

(5) Except to the extent that a greater minimum sentence is otherwise provided under this subsection, or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries armor piercing ammunition, or who, in furtherance of any such crime, possesses armor piercing ammunition, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime or conviction under this section—

(A) be sentenced to a term of imprisonment of not less than 15 years; and

(B) if death results from the use of such ammunition—

(i) if the killing is murder (as defined in section 1111), be punished by death or sentenced to a term of imprisonment for any term of years or for life; and

(ii) if the killing is manslaughter (as defined in section 1112), be punished as provided in section 1112.

(d)(1) Any firearm or ammunition involved in or used in any knowing violation of subsection (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 922, or knowing importation or bringing into the United States or any possession thereof any firearm or ammunition in violation of section 922(*l*), or knowing violation of section 924, or willful violation of any other provision of this chapter or any rule or regulation promulgated thereunder, or any violation of any other criminal law of the United States, or any firearm or ammunition intended to be used in any offense re-

ferred to in paragraph (3) of this subsection, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1986 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter: *Provided*, That upon acquittal of the owner or possessor, or dismissal of the charges against him other than upon motion of the Government prior to trial, or lapse of or court termination of the restraining order to which he is subject, the seized or relinquished firearms or ammunition shall be returned forthwith to the owner or possessor or to a person delegated by the owner or possessor unless the return of the firearms or ammunition would place the owner or possessor or his delegate in violation of law. Any action or proceeding for the forfeiture of firearms or ammunition shall be commenced within one hundred and twenty days of such seizure.

(2)(A) In any action or proceeding for the return of firearms or ammunition seized under the provisions of this chapter, the court shall allow the prevailing party, other than the United States, a reasonable attorney's fee, and the United States shall be liable therefor.

(B) In any other action or proceeding under the provisions of this chapter, the court, when it finds that such action was without foundation, or was initiated vexatiously, frivolously, or in bad faith, shall allow the prevailing party, other than the United States, a reasonable attorney's fee, and the United States shall be liable therefor.

(C) Only those firearms or quantities of ammunition particularly named and individually identified as involved in or used in any violation of the provisions of this chapter or any rule or regulation issued thereunder, or any other criminal law of the United States or as intended to be used in any offense referred to in paragraph (3) of this subsection, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure, forfeiture, and disposition.

(D) The United States shall be liable for attorneys' fees under this paragraph only to the extent provided in advance by appropriation Acts.

(3) The offenses referred to in paragraphs (1) and (2)(C) of this subsection are—

(A) any crime of violence, as that term is defined in section 924(c)(3) of this title;

(B) any offense punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.);

(C) any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of this title, where the firearm or ammunition intended to be used in any such offense is involved in a pattern of activities which includes a violation of any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of this title;

(D) any offense described in section 922(d) of this title where the firearm or ammunition is intended to be used in such offense by the transferor of such firearm or ammunition;

(E) any offense described in section 922(i), 922(j), 922(*l*), 922(n), or 924(b) of this title; and

(F) any offense which may be prosecuted in a court of the United States which involves the exportation of firearms or ammunition.

(e)(1) In the case of a person who violates section 922(g) of this title and has three previous convictions by any court referred to in section 922(g)(1) of this title for a violent felony or a serious drug offense, or both, committed on occasions different from one another, such person shall be fined under this title and imprisoned not less than fifteen years, and, notwithstanding any other provision of law, the court shall not suspend the sentence of, or grant a probationary sentence to, such person with respect to the conviction under section 922(g).

(2) As used in this subsection—

(A) the term ''serious drug offense'' means—

(i) an offense under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.) for which a maximum term of imprisonment of ten years or more is prescribed by law; or

(ii) an offense under State law, involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), for which a maximum term of imprisonment of ten years or more is prescribed by law;

(B) the term ''violent felony'' means any crime punishable by imprisonment for a term exceeding one year, or any act of juvenile delinquency involving the use or carrying of a firearm, knife, or destructive device that would be punishable by imprisonment for such term if committed by an adult, that—

(i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or

(ii) is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another; and

(C) the term ''conviction'' includes a finding that a person has committed an act of juvenile delinquency involving a violent felony.

(f) In the case of a person who knowingly violates section 922(p), such person shall be fined under this title, or imprisoned not more than 5 years, or both.

(g) Whoever, with the intent to engage in conduct which—

(1) constitutes an offense listed in section 1961(1),

(2) is punishable under the Controlled Substances Act (21 U.S.C. 802 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.),

(3) violates any State law relating to any controlled substance (as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))), or

(4) constitutes a crime of violence (as defined in subsection (c)(3)),

travels from any State or foreign country into any other State and acquires, transfers, or attempts to acquire or transfer, a firearm in such other State in furtherance of such purpose, shall be imprisoned not more than 10 years, fined in accordance with this title, or both.

(h) Whoever knowingly transfers a firearm, knowing that such firearm will be used to commit a crime of violence (as defined in subsection (c)(3)) or drug trafficking crime (as defined in subsection (c)(2)) shall be imprisoned not more than 10 years, fined in accordance with this title, or both.

(i)(1) A person who knowingly violates section 922(u) shall be fined under this title, imprisoned not more than 10 years, or both.

(2) Nothing contained in this subsection shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this subsection operate to the exclusion of State laws on the same subject matter, nor shall any provision of this subsection be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this subsection.

(j) A person who, in the course of a violation of subsection (c), causes the death of a person through the use of a firearm, shall—

(1) if the killing is a murder (as defined in section 1111), be punished by death or by imprisonment for any term of years or for life; and

(2) if the killing is manslaughter (as defined in section 1112), be punished as provided in that section.

(k) A person who, with intent to engage in or to promote conduct that—

(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

(3) constitutes a crime of violence (as defined in subsection (c)(3)),

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned not more than 10 years, fined under this title, or both.

(*l*) A person who steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not more than 10 years, fined under this title, or both.

(m) A person who steals any firearm from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall be fined under this title, imprisoned not more than 10 years, or both.

(n) A person who, with the intent to engage in conduct that constitutes a violation of section 922(a)(1)(A), travels from any State or foreign country into any other State and acquires, or attempts to acquire, a firearm in such other State in furtherance of such purpose shall be imprisoned for not more than 10 years.

(*o*) A person who conspires to commit an offense under subsection (c) shall be imprisoned for not more than 20 years, fined under this title, or both; and if the firearm is a machinegun or destructive device, or is equipped with a firearm silencer or muffler, shall be imprisoned for any term of years or life.

(p) PENALTIES RELATING TO SECURE GUN STORAGE OR SAFETY DEVICE.—

(1) IN GENERAL.—

(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(z)(1) by a licensed manufacturer, licensed importer, or licensed dealer, the Secretary may, after notice and opportunity for hearing—

(i) suspend for not more than 6 months, or revoke, the license issued to the licensee under this chapter that was used to conduct the firearms transfer; or

(ii) subject the licensee to a civil penalty in an amount equal to not more than $2,500.

(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided under section 923(f).

(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) shall not preclude any administrative remedy that is otherwise available to the Secretary.

(Added Pub. L. 90–351, title IV, § 902, June 19, 1968, 82 Stat. 233; amended Pub. L. 90–618, title I, § 102, Oct. 22, 1968, 82 Stat. 1223; Pub. L. 91–644, title II, § 13, Jan. 2, 1971, 84 Stat. 1889; Pub. L. 98–473, title II, §§ 223(a), 1005(a), Oct. 12, 1984, 98 Stat. 2028, 2138; Pub. L. 99–308, § 104(a), May 19, 1986, 100 Stat. 456; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99–570, title I, § 1402, Oct. 27, 1986, 100 Stat. 3207–39; Pub. L. 100–649, § 2(b), (f)(2)(B), (D), Nov. 10, 1988, 102 Stat. 3817, 3818; Pub. L. 100–690, title VI, §§ 6211, 6212, 6451, 6460, 6462, title VII, §§ 7056, 7060(a), Nov. 18, 1988, 102 Stat. 4359, 4360, 4371, 4373, 4374, 4402, 4403; Pub. L. 101–647, title XI, § 1101, title XVII, § 1702(b)(3), title XXII, §§ 2203(d), 2204(c), title XXXV, §§ 3526–3529, Nov. 29, 1990, 104 Stat. 4829, 4845, 4857, 4924; Pub. L. 103–159, title I, § 102(c), title III, § 302(d), Nov. 30, 1993, 107 Stat. 1541, 1545; Pub. L. 103–322, title VI, § 60013, title XI, §§ 110102(c), 110103(c), 110105(2), 110201(b), 110401(e), 110503, 110504(a), 110507, 110510, 110515(a), 110517, 110518(a), title XXXIII, §§ 330002(h), 330003(f)(2), 330011(i), (j), 330016(1)(H), (K), (L), Sept. 13, 1994, 108 Stat. 1973, 1998–2000, 2011, 2015, 2016, 2018–2020, 2140, 2141, 2145, 2147; Pub. L. 104–294, title VI, § 603(m)(1), (n)–(p)(1), (q)–(s), Oct. 11, 1996, 110 Stat. 3505; Pub. L. 105–386, § 1(a), Nov. 13, 1998, 112 Stat. 3469; Pub. L. 107–273, div. B, title IV, § 4002(d)(1)(E), div. C, title I, § 11009(e)(3), Nov. 2, 2002, 116 Stat. 1809, 1821; Pub. L. 108–174, § 1(2), (3), Dec. 9, 2003, 117 Stat. 2481; Pub. L. 109–92, §§ 5(c)(2), 6(b), Oct. 26, 2005, 119 Stat. 2100, 2102.)

AMENDMENT OF SECTION

Pub. L. 100–649, § 2(f)(2)(B), (D), Nov. 10, 1988, 102 Stat. 3818, as amended by Pub. L. 101–647, title XXXV, § 3526(b), Nov. 29, 1990, 104 Stat. 4924; Pub. L. 105–277, div. A, § 101(h) [title VI, § 649], Oct. 21, 1998, 112 Stat. 2681–480,

2681–528; Pub. L. 108–174, §1, Dec. 9, 2003, 117 Stat. 2481, provided that, effective 25 years after the 30th day beginning after Nov. 10, 1988, subsection (a)(1) of this section is amended by striking ''this subsection, subsection (b), (c), or (f) of this section, or in section 929'' and inserting ''this chapter'', subsection (f) of this section is repealed, and subsections (g) through (o) of this section are redesignated as subsections (f) through (n), respectively, of this section.

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (d)(1), is set out as Title 26, Internal Revenue Code.

Section 5845(a) of that Code, referred to in subsec. (d)(1), is classified to section 5845(a) of Title 26.

The Controlled Substances Act, referred to in subsecs. (c)(2), (d)(3)(B), (e)(2)(A)(i), (g)(2), and (k)(1), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

The Controlled Substances Import and Export Act, referred to in subsecs. (c)(2), (d)(3)(B), (e)(2)(A)(i), (g)(2), and (k)(1), is title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285, as amended, which is classified principally to subchapter II (§951 et seq.) of chapter 13 of Title 21. For complete classification of this Act to the Code, see Short Title note set out under section 951 of Title 21 and Tables.

The Maritime Drug Law Enforcement Act, referred to in subsecs. (c)(2), (e)(2)(A)(i), (g)(2), and (k)(1), is Pub. L. 96–350, Sept. 15, 1980, 94 Stat. 1159, as amended, which is classified generally to chapter 38 (§1901 et seq.) of Title 46, Appendix, Shipping. For complete classification of this Act to the Code, see section 1901 of Title 46, Appendix, and Tables.

AMENDMENTS

2005—Subsec. (a)(1). Pub. L. 109–92, §5(c)(2)(A), substituted ''(f), or (p)'' for ''or (f)'' in introductory provisions.

Subsec. (c)(5). Pub. L. 109–92, §6(b), added par. (5).

Subsec. (p). Pub. L. 109–92, §5(c)(2)(B), added subsec. (p).

2002—Subsec. (a)(7). Pub. L. 107–273, §11009(e)(3), added par. (7).

Subsec. (e)(1). Pub. L. 107–273, §4002(d)(1)(E), substituted ''under this title'' for ''not more than $25,000''.

1998—Subsec. (c)(1). Pub. L. 105–386, §1(a)(1), added par. (1) and struck out former par. (1) which read as follows: ''Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of the United States, uses or carries a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for five years, and if the firearm is a short-barreled rifle, short-barreled shotgun, or semiautomatic assault weapon, to imprisonment for ten years, and if the firearm is a machinegun, or a destructive device, or is equipped with a firearm silencer or firearm muffler, to imprisonment for thirty years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for twenty years, and if the firearm is a machinegun, or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used or carried.''

Subsec. (c)(4). Pub. L. 105–386, §1(a)(2), added par. (4).

1996—Subsec. (a)(1)(B). Pub. L. 104–294, §603(n), repealed Pub. L. 103–322, §330002(h). See 1994 Amendment note below.

Pub. L. 104–294, §603(m)(1)(A), amended directory language of Pub. L. 103–322, §110507. See 1994 Amendment note below.

Subsec. (a)(2). Pub. L. 104–294, §603(m)(1)(B), amended directory language of Pub. L. 103–322, §110507(2). See 1994 Amendment note below.

Subsec. (a)(5), (6). Pub. L. 104–294, §603(*o*), redesignated par. (5), relating to punishment for juveniles, as (6).

Subsec. (c)(1). Pub. L. 104–294, §603(p)(1), amended directory language of Pub. L. 103–322, §110102(c)(2). See 1994 Amendment note below.

Subsec. (i). Pub. L. 104–294, §603(r), redesignated subsec. (i), relating to death penalty for gun murders, as (j).

Subsec. (j). Pub. L. 104–294, §603(r), redesignated subsec. (i) as (j). Former subsec. (j) redesignated (k).

Subsec. (j)(3). Pub. L. 104–294, §603(q), inserted closing parenthesis before comma at end.

Subsec. (k). Pub. L. 104–294, §603(r), redesignated subsec. (j) as (k). Former subsec. (k) redesignated (*l*).

Subsec. (*l*). Pub. L. 104–294, §603(s), amended directory language of Pub. L. 103–322, §110504. See 1994 Amendment note below.

Pub. L. 104–294, §603(r), redesignated subsec. (k) as (*l*). Former subsec. (*l*) redesignated (m).

Subsecs. (m) to (*o*). Pub. L. 104–294, §603(r), redesignated subsecs. (*l*) to (n) as (m) to (*o*), respectively.

1994—Subsec. (a)(1). Pub. L. 103–322, §330016(1)(K), substituted ''fined under this title'' for ''fined not more than $5,000'' in concluding provisions.

Pub. L. 103–322, §330011(i), amended directory language of Pub. L. 101–647, §3528. See 1990 Amendment note below.

Pub. L. 103–322, §110201(b)(1), which directed the striking of ''paragraph (2) or (3) of'' in subsec. (a)(1), could not be executed because of prior amendment by Pub. L. 103–159. See 1993 Amendment note below.

Subsec. (a)(1)(B). Pub. L. 103–322, §330002(h), which directed amendment of subpar. (B) by substituting ''(r)'' for ''(q)'', was repealed by Pub. L. 104–294, §603(n), which provided that §330002(h) shall be considered never to have been enacted.

Pub. L. 103–322, §110507(1), as amended by Pub. L. 104–294, §603(m)(1)(A), struck out ''(a)(6),'' after ''(a)(4),''.

Pub. L. 103–322, §110103(c), which substituted ''(v), or (w)'' for ''or (v)'', was repealed by Pub. L. 103–322, §110105(2). See Effective and Termination Dates of 1994 Amendment note below.

Pub. L. 103–322, §110102(c)(1), which substituted ''(r), or (v) of section 922'' for ''or (q) of section 922'', was repealed by Pub. L. 103–322, §110105(2). See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (a)(2). Pub. L. 103–322, §110507(2), as amended by Pub. L. 104–294, §603(m)(1)(B), inserted ''(a)(6),'' after ''subsection''.

Subsec. (a)(3). Pub. L. 103–322, §330016(1)(H), substituted ''fined under this title'' for ''fined not more than $1,000''.

Subsec. (a)(4). Pub. L. 103–322, §330016(1)(K), substituted ''fined under this title'' for ''fined not more than $5,000''.

Subsec. (a)(5). Pub. L. 103–322, §330016(1)(H), substituted ''fined under this title'' for ''fined not more than $1,000'' in par. (5) relating to knowing violations of subsec. (s) or (t) of section 922.

Pub. L. 103–322, §110201(b)(2), added par. (5) relating to punishment for juveniles.

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

Subsec. (c)(1). Pub. L. 103–322, §330011(j), amended directory language of Pub. L. 101–647, §3527. See 1990 Amendment note below.

Pub. L. 103–322, § 110510(b), which directed the amendment of subsec. (c)(1) by striking ''No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed under this subsection.'', was executed by striking the last sentence, which read ''No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.'', to reflect the probable intent of Congress.

Pub. L. 103–322, §§ 110102(c)(2), 110105(2), as amended by Pub. L. 104–294, § 603(p)(1), temporarily amended subsec. (c)(1) by inserting '', or semiautomatic assault weapon,'' after ''short-barreled shotgun''. See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (d)(1). Pub. L. 103–322, § 110401(e), substituted ''or lapse of or court termination of the restraining order to which he is subject, the seized or relinquished firearms'' for ''the seized firearms''.

Subsec. (e)(1). Pub. L. 103–322, § 110510(a), struck out before period at end '', and such person shall not be eligible for parole with respect to the sentence imposed under this subsection''.

Subsec. (e)(2)(A)(i). Pub. L. 103–322, § 330003(f)(2), substituted ''the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)'' for ''the first section or section 3 of Public Law 96–350 (21 U.S.C. 955a et seq.)''.

Subsec. (i). Pub. L. 103–322, § 60013, added subsec. (i) relating to death penalty for gun murders.

Subsec. (i)(1). Pub. L. 103–322, § 330016(1)(L), substituted ''fined under this title'' for ''fined not more than $10,000'' in par. (1) of subsec. (i) relating to knowing violations of section 922(u).

Subsec. (j). Pub. L. 103–322, § 110503, added subsec. (j).

Subsec. (k). Pub. L. 103–322, § 110504(a), as amended by Pub. L. 104–294, § 603(s), added subsec. (k).

Subsec. (*l*). Pub. L. 103–322, § 110515(a), added subsec. (*l*).

Subsec. (m). Pub. L. 103–322, § 110517, added subsec. (m).

Subsec. (n). Pub. L. 103–322, § 110518(a), added subsec. (n).

1993—Subsec. (a)(1). Pub. L. 103–159, § 102(c)(1), struck out ''paragraph (2) or (3) of'' before ''this subsection'' in introductory provisions.

Subsec. (a)(5). Pub. L. 103–159, § 102(c)(2), added par. (5).

Subsec. (i). Pub. L. 103–159, § 302(d), added subsec. (i).

1990—Subsec. (a)(1). Pub. L. 101–647, § 3528, as amended by Pub. L. 103–322, § 330011(i), substituted ''(3) of this subsection'' for ''3 of this subsection'' in introductory provisions.

Pub. L. 101–647, § 2203(d), struck out '', and shall become eligible for parole as the Parole Commission shall determine'' before period at end.

Subsec. (a)(1)(B). Pub. L. 101–647, § 2204(c), substituted ''(k), or (q)'' for ''or (k)''.

Subsec. (a)(2). Pub. L. 101–647, § 3529(1), substituted ''subsection'' for ''subsections'' and inserted a comma after ''10 years''.

Subsec. (a)(3). Pub. L. 101–647, § 2203(d), struck out '', and shall become eligible for parole as the Parole Commission shall determine'' before period at end.

Subsec. (a)(4). Pub. L. 101–647, § 1702(b)(3), added par. (4).

Subsec. (c)(1). Pub. L. 101–647, § 3527, as amended by Pub. L. 103–322, § 330011(j), struck out ''imprisonment for'' before ''life imprisonment without release''.

Pub. L. 101–647, § 1101(2), which directed amendment of first sentence by ''inserting 'or a destructive device,' after 'a machinegun,' wherever the term 'machine gun' appears, in section 924(c)(1)'', was executed by inserting the new language after ''a machinegun,'' once in the first sentence and once in the second sentence to reflect the probable intent of Congress.

Pub. L. 101–647, § 1101(1), inserted ''and if the firearm is a short-barreled rifle, short-barreled shotgun to imprisonment for ten years,'' after ''sentenced to imprisonment for five years,''.

Subsec. (e)(2). Pub. L. 101–647, § 3529(2), (3), struck out ''and'' at end of subpar. (A)(ii) and substituted ''; and'' for period at end of subpar. (B)(ii).

Subsecs. (f) to (h). Pub. L. 101–647, § 3526(a), redesignated subsec. (f) relating to punishment for traveling from any State or foreign country into another State to obtain firearms for drug trafficking purposes as subsec. (g) and redesignated former subsec. (g) as (h).

1988—Subsec. (a). Pub. L. 100–690, § 6462, in par. (1), inserted ''or 3'' and substituted '', (c), or (f)'' for ''or (c)'' in introductory provisions and struck out ''(g), (i), (j),'' after ''(f),'' in subpar. (B), added par. (2), and redesignated former par. (2) as (3).

Subsec. (c)(1). Pub. L. 100–690, § 7060(a), substituted ''crime (including a crime of violence or drug trafficking crime which'' for ''crime,, including a crime of violence or drug trafficking crime, which'', ''device) for'' for ''device, for'', ''crime, be sentenced'' for ''crime,, be sentenced'', and ''crime in which'' for ''crime, or drug trafficking crime in which''.

Pub. L. 100–690, § 6460(1), (2)(A), substituted ''thirty years. In'' for ''ten years. In'' and ''twenty years, and if'' for ''ten years, and if''.

Pub. L. 100–690, § 6460(2)(B), which directed amendment of subsec. (c)(1) by striking ''20 years'' and inserting ''life imprisonment without release'' was executed by substituting ''life imprisonment without release'' for ''twenty years'' to reflect the probable intent of Congress because ''20 years'' did not appear.

Subsec. (c)(2). Pub. L. 100–690, § 6212, amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''For purposes of this subsection, the term 'drug trafficking crime' means any felony violation of Federal law involving the distribution, manufacture, or importation of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).''

Subsec. (e)(1). Pub. L. 100–690, § 7056, inserted ''committed on occasions different from one another,'' after ''or both,''.

Subsec. (e)(2)(B). Pub. L. 100–690, § 6451(1), inserted '', or any act of juvenile delinquency involving the use or carrying of a firearm, knife, or destructive device that would be punishable by imprisonment for such term if committed by an adult,'' after ''one year''.

Subsec. (e)(2)(C). Pub. L. 100–690, § 6451(2), added subpar. (C).

Subsec. (f). Pub. L. 100–690, § 6211, added subsec. (f) relating to punishment for traveling from any State or foreign country into another State to obtain firearms for drug trafficking purposes.

Pub. L. 100–649, § 2(b)(2), added subsec. (f) relating to penalty for violating section 922(p).

Subsec. (g). Pub. L. 100–690, § 6211, added subsec. (g).

1986—Subsec. (a). Pub. L. 99–308, § 104(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Whoever violates any provision of this chapter or knowingly makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or in applying for any license or exemption or relief from disability under the provisions of this chapter, shall be fined not more than $5,000, or imprisoned not more than five years, or both, and shall become eligible for parole as the Board of Parole shall determine.''

Subsec. (c)(1). Pub. L. 99–308, § 104(a)(2)(C)–(E), designated existing provision as par. (1), and substituted ''violence or drug trafficking crime,'' for ''violence'' in four places and inserted '', and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to imprisonment for ten years'' after ''five years'', '', and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to imprisonment for twenty years'' after ''ten years'', and ''or drug trafficking crime'' before ''in which the firearm was used or carried''.

Subsec. (c)(2), (3). Pub. L. 99–308, § 104(a)(2)(F), added pars. (2) and (3).

Subsec. (d). Pub. L. 99–308, § 104(a)(3), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''Any firearm or ammunition involved in or used or intended to be used in, any violation of the pro-

visions of this chapter or any rule or regulation promulgated thereunder, or any violation of any other criminal law of the United States, shall be subject to seizure and forfeiture and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.''

Subsec. (d)(1). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

Subsec. (e). Pub. L. 99–308, §104(a)(4), added subsec. (e).

Subsec. (e)(1). Pub. L. 99–570, §1402(a), substituted ''for a violent felony or a serious drug offense, or both'' for ''for robbery or burglary, or both''.

Subsec. (e)(2). Pub. L. 99–570, §1402(b), amended par. (2) generally, substituting provisions defining terms ''serious drug offense'' and ''violent felony'' for provisions defining ''robbery'' and ''burglary''.

1984—Subsec. (a). Pub. L. 98–473, §223(a), which directed amendment of subsec. (a) by striking out '', and shall become eligible for parole as the Board of Parole shall determine'' effective Nov. 1, 1987, pursuant to section 235 of Pub. L. 98–473, as amended, could not be executed because quoted language no longer appears due to general amendment of subsec. (a) by Pub. L. 99–308, §104(a)(1). See 1986 Amendment note above.

Subsec. (c). Pub. L. 98–473, §1005(a), amended subsec. (c) generally, substituting provisions setting forth mandatory, determinate sentence for persons who use or carry firearms during and in relation to any Federal crime of violence for provisions setting out a minimum sentencing scheme for the use or carrying, unlawfully, of a firearm during a Federal felony.

1971—Subsec. (c). Pub. L. 91–644, in first sentence, substituted ''felony for which he'' for ''felony which'' in items (1) and (2) and inserted '', in addition to the punishment provided for the commission of such felony,'' before ''be sentenced'', and in second sentence substituted ''for not less than two nor more than twenty-five years'' for ''for not less than five years nor more than 25 years'', inserted ''in the case of a second or subsequent conviction'' after ''suspend the sentence'', and prohibited term of imprisonment imposed under this subsec. to run concurrently with any term for commission of the felony.

1968—Subsec. (a). Pub. L. 90–618 inserted provision authorizing the Board of Parole to grant parole to a person convicted under this chapter.

Subsec. (b). Pub. L. 90–618 inserted ''or any ammunition'' after ''a firearm''.

Subsecs. (c), (d). Pub. L. 90–618 added subsec. (c), redesignated former subsec. (c) as (d), and as so redesignated, substituted ''section 5845(a) of that Code'' for ''section 5848(1) of said Code''.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by section 5(c)(2) of Pub. L. 109–92 effective 180 days after Oct. 26, 2005, see section 5(d) of Pub. L. 109–92, set out as a note under section 922 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 603(m)(2) of Pub. L. 104–294 provided that: ''The amendments made by paragraph (1) [amending this section] shall take effect as if the amendments had been included in section 110507 of the Act referred to in paragraph (1) [Pub. L. 103–322] on the date of the enactment of such Act [Sept. 13, 1994].''

Section 603(p)(2) of Pub. L. 104–294 provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect as if the amendment had been included in section 110102(c)(2) of the Act referred to in paragraph (1) [Pub. L. 103–322] on the date of the enactment of such Act [Sept. 13, 1994].''

EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENT

Amendment by sections 110102(c) and 110103(c) of Pub. L. 103–322 repealed 10 years after Sept. 13, 1994, see section 110105(2) of Pub. L. 103–322, formerly set out as a note under section 921 of this title.

Section 330011(i) of Pub. L. 103–322 provided that the amendment made by that section is effective as of the date on which section 3528 of Pub. L. 101–647 took effect.

Section 330011(j) of Pub. L. 103–322 provided that the amendment made by that section is effective as of the date on which section 3527 of Pub. L. 101–647 took effect.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1702(b)(3) of Pub. L. 101–647 applicable to conduct engaged in after end of 60-day period beginning on Nov. 29, 1990, see section 1702(b)(4) of Pub. L. 101–647, set out as a note under section 921 of this title.

Section 2203(d) of Pub. L. 101–647 provided that the amendment by that section is effective with respect to any offense committed after Nov. 1, 1987.

EFFECTIVE DATE OF 1988 AMENDMENT; SUNSET PROVISION

Amendment by section 2(b) of Pub. L. 100–649 effective 30th day beginning after Nov. 10, 1988, and amendment by section 2(f)(2)(B), (D) effective 25 years after such effective date, see section 2(f) of Pub. L. 100–649, as amended, set out as a note under section 922 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–308 effective 180 days after May 19, 1986, see section 110(a) of Pub. L. 99–308, set out as a note under section 921 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 223(a) of Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–618 effective Dec. 16, 1968, see section 105 of Pub. L. 90–618, set out as a note under section 921 of this title.

§925. Exceptions: Relief from disabilities

(a)(1) The provisions of this chapter, except for sections 922(d)(9) and 922(g)(9) and provisions relating to firearms subject to the prohibitions of section 922(p), shall not apply with respect to the transportation, shipment, receipt, possession, or importation of any firearm or ammunition imported for, sold or shipped to, or issued for the use of, the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof.

(2) The provisions of this chapter, except for provisions relating to firearms subject to the prohibitions of section 922(p), shall not apply with respect to (A) the shipment or receipt of firearms or ammunition when sold or issued by the Secretary of the Army pursuant to section 4308 of title 10 before the repeal of such section by section 1624(a) of the Corporation for the Promotion of Rifle Practice and Firearms Safety Act, and (B) the transportation of any such firearm or ammunition carried out to enable a person, who lawfully received such firearm or ammunition from the Secretary of the Army, to engage in military training or in competitions.

(3) Unless otherwise prohibited by this chapter, except for provisions relating to firearms subject to the prohibitions of section 922(p), or

any other Federal law, a licensed importer, licensed manufacturer, or licensed dealer may ship to a member of the United States Armed Forces on active duty outside the United States or to clubs, recognized by the Department of Defense, whose entire membership is composed of such members, and such members or clubs may receive a firearm or ammunition determined by the Attorney General to be generally recognized as particularly suitable for sporting purposes and intended for the personal use of such member or club.

(4) When established to the satisfaction of the Attorney General to be consistent with the provisions of this chapter, except for provisions relating to firearms subject to the prohibitions of section 922(p), and other applicable Federal and State laws and published ordinances, the Attorney General may authorize the transportation, shipment, receipt, or importation into the United States to the place of residence of any member of the United States Armed Forces who is on active duty outside the United States (or who has been on active duty outside the United States within the sixty day period immediately preceding the transportation, shipment, receipt, or importation), of any firearm or ammunition which is (A) determined by the Attorney General to be generally recognized as particularly suitable for sporting purposes, or determined by the Department of Defense to be a type of firearm normally classified as a war souvenir, and (B) intended for the personal use of such member.

(5) For the purpose of paragraph (3) of this subsection, the term ''United States'' means each of the several States and the District of Columbia.

(b) A licensed importer, licensed manufacturer, licensed dealer, or licensed collector who is indicted for a crime punishable by imprisonment for a term exceeding one year, may, notwithstanding any other provision of this chapter, continue operation pursuant to his existing license (if prior to the expiration of the term of the existing license timely application is made for a new license) during the term of such indictment and until any conviction pursuant to the indictment becomes final.

(c) A person who is prohibited from possessing, shipping, transporting, or receiving firearms or ammunition may make application to the Attorney General for relief from the disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, transportation, or possession of firearms, and the Attorney General may grant such relief if it is established to his satisfaction that the circumstances regarding the disability, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest. Any person whose application for relief from disabilities is denied by the Attorney General may file a petition with the United States district court for the district in which he resides for a judicial review of such denial. The court may in its discretion admit additional evidence where failure to do so would result in a miscarriage of justice. A licensed importer, licensed manufacturer, licensed dealer, or licensed collector conducting operations under this chapter, who makes application for relief from the disabilities incurred under this chapter, shall not be barred by such disability from further operations under his license pending final action on an application for relief filed pursuant to this section. Whenever the Attorney General grants relief to any person pursuant to this section he shall promptly publish in the Federal Register notice of such action, together with the reasons therefor.

(d) The Attorney General shall authorize a firearm or ammunition to be imported or brought into the United States or any possession thereof if the firearm or ammunition—

(1) is being imported or brought in for scientific or research purposes, or is for use in connection with competition or training pursuant to chapter 401 of title 10;

(2) is an unserviceable firearm, other than a machinegun as defined in section 5845(b) of the Internal Revenue Code of 1986 (not readily restorable to firing condition), imported or brought in as a curio or museum piece;

(3) is of a type that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1986 and is generally recognized as particularly suitable for or readily adaptable to sporting purposes, excluding surplus military firearms, except in any case where the Attorney General has not authorized the importation of the firearm pursuant to this paragraph, it shall be unlawful to import any frame, receiver, or barrel of such firearm which would be prohibited if assembled; or

(4) was previously taken out of the United States or a possession by the person who is bringing in the firearm or ammunition.

The Attorney General shall permit the conditional importation or bringing in of a firearm or ammunition for examination and testing in connection with the making of a determination as to whether the importation or bringing in of such firearm or ammunition will be allowed under this subsection.

(e) Notwithstanding any other provision of this title, the Attorney General shall authorize the importation of, by any licensed importer, the following:

(1) All rifles and shotguns listed as curios or relics by the Attorney General pursuant to section 921(a)(13), and

(2) All handguns, listed as curios or relics by the Attorney General pursuant to section 921(a)(13), provided that such handguns are generally recognized as particularly suitable for or readily adaptable to sporting purposes.

(f) The Attorney General shall not authorize, under subsection (d), the importation of any firearm the importation of which is prohibited by section 922(p).

(Added Pub. L. 90–351, title IV, § 902, June 19, 1968, 82 Stat. 233; amended Pub. L. 90–618, title I, § 102, Oct. 22, 1968, 82 Stat. 1224; Pub. L. 98–573, title II, § 233, Oct. 30, 1984, 98 Stat. 2991; Pub. L. 99–308, § 105, May 19, 1986, 100 Stat. 459; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–649, § 2(c), (f)(2)(C), (E), Nov. 10, 1988, 102 Stat. 3817, 3818; Pub. L. 101–647, title XXII, § 2203(b),

(c), Nov. 29, 1990, 104 Stat. 4857; Pub. L. 104–106, div. A, title XVI, §1624(b)(3), Feb. 10, 1996, 110 Stat. 522; Pub. L. 104–208, div. A, title I, §101(f) [title VI, §658(d)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–372; Pub. L. 104–294, title VI, §607(c), Oct. 11, 1996, 110 Stat. 3511; Pub. L. 107–296, title XI, §1112(f)(6), Nov. 25, 2002, 116 Stat. 2276; Pub. L. 108–174, §1(3), Dec. 9, 2003, 117 Stat. 2481.)

AMENDMENT OF SECTION

Pub. L. 100–649, §2(f)(2)(C), (E), Nov. 10, 1988, 102 Stat. 3818, as amended by Pub. L. 105–277, div. A, §101(h) [title VI, §649], Oct. 21, 1998, 112 Stat. 2681–480, 2681–528; Pub. L. 108–174, §1(1), (3), Dec. 9, 2003, 117 Stat. 2481, provided that, effective 25 years after the 30th day beginning after Nov. 10, 1988, subsection (a) of this section is amended by striking ''and provisions relating to firearms subject to the prohibitions of section 922(p)'' in par. (1), striking '', except for provisions relating to firearms subject to the prohibitions of section 922(p),'' in par. (2), and striking ''except for provisions relating to firearms subject to the prohibitions of section 922(p),'' in pars. (3) and (4) and subsection (f) of this section is repealed.

REFERENCES IN TEXT

Section 4308 of title 10 before the repeal of such section by section 1624(a) of the Corporation for the Promotion of Rifle Practice and Firearms Safety Act, referred to in subsec. (a)(2)(A), means section 4308 of Title 10, Armed Forces, prior to repeal by section 1624(a)(1) of Pub. L. 104–106, div. A, title XVI, Feb. 10, 1996, 110 Stat. 522.

Section 5845(b) of the Internal Revenue Code of 1986, referred to in subsec. (d)(2), is classified to section 5845(b) of Title 26, Internal Revenue Code.

Section 5845(a) of the Internal Revenue Code of 1986, referred to in subsec. (d)(3), is classified to section 5845(a) of Title 26.

AMENDMENTS

2002—Subsecs. (a), (c) to (f). Pub. L. 107–296, which directed amendment of this section by substituting ''Attorney General'' for ''Secretary'' wherever appearing, was executed by making the substitution wherever appearing in subsecs. (a)(4) and (c) to (f), by not making the substitution for ''Secretary of the Army'' in subsec. (a)(2), and by substituting ''Attorney General'' for ''Secretary of the Treasury'' in subsec. (a)(3), to reflect the probable intent of Congress.

1996—Subsec. (a)(1). Pub. L. 104–208 inserted ''sections 922(d)(9) and 922(g)(9) and'' after ''except for''.

Subsec. (a)(2)(A). Pub. L. 104–106 inserted ''before the repeal of such section by section 1624(a) of the Corporation for the Promotion of Rifle Practice and Firearms Safety Act'' after ''section 4308 of title 10''.

Subsec. (a)(5). Pub. L. 104–294 substituted ''For the purpose of paragraph (3)'' for ''For the purpose of paragraphs (3) and (4)''.

1990—Subsec. (a)(1). Pub. L. 101–647, §2203(b), inserted ''possession,'' before ''or importation''.

Subsec. (c). Pub. L. 101–647, §2203(c), substituted ''regarding the disability'' for ''regarding the conviction'' and ''barred by such disability'' for ''barred by such conviction'' and struck out ''by reason of such a conviction'' after ''incurred under this chapter''.

1988—Subsec. (a). Pub. L. 100–649, §2(c)(1), inserted '', except for provisions relating to firearms subject to the prohibitions of section 922(p),'' after ''chapter'' in pars. (1) to (4).

Subsec. (f). Pub. L. 100–649, §2(c)(2), added subsec. (f).

1986—Subsec. (c). Pub. L. 99–308, §105(1), substituted ''is prohibited from possessing, shipping, transporting, or receiving firearms or ammunition'' for ''has been convicted of a crime punishable by imprisonment for a term exceeding one year (other than a crime involving the use of a firearm or other weapon or a violation of this chapter or of the National Firearms Act)'' and ''shipment, transportation, or possession of firearms, and'' for ''shipment, or possession of firearms and incurred by reason of such conviction, and'' and inserted provision that any person whose application for relief has been denied may file for judicial relief of such denial and that the court may admit additional evidence to avoid a miscarriage of justice.

Subsec. (d). Pub. L. 99–308, §105(2)(A), (B), (D), in provision preceding par. (1) substituted ''shall authorize'' for ''may authorize'' and struck out ''the person importing or bringing in the firearm or ammunition establishes to the satisfaction of the Secretary that'' after ''thereof if'', and in provision following par. (4) substituted ''shall permit'' for ''may permit''.

Subsec. (d)(2). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

Subsec. (d)(3). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

Pub. L. 99–308, §105(2)(C), inserted ''except in any case where the Secretary has not authorized the importation of the firearm pursuant to this paragraph, it shall be unlawful to import any frame, receiver, or barrel of such firearm which would be prohibited if assembled''.

1984—Subsec. (e). Pub. L. 98–573 added subsec. (e).

1968—Subsec. (a). Pub. L. 90–618 redesignated existing provisions as par. (1), made minor changes in phraseology, and added pars. (2) to (5).

Subsec. (b). Pub. L. 90–618 added licensed collectors to the enumerated list of licensees.

Subsec. (c). Pub. L. 90–618 substituted ''imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and'' for ''under this chapter'', ''to act in a manner dangerous to public safety'' for ''to conduct his operations in an unlawful manner,'' and ''licensed importer, licensed manufacturer, licensed dealer, or licensed collector'' for ''licensee''.

Subsec. (d). Pub. L. 90–618 made minor changes in phraseology, subjected ammunition to the authority of the Secretary in text preceding par. (1), substituted ''section 5845(b)'' for ''section 5848(2)'' in par. (2), substituted ''section 5845(a)'' for ''section 5848(1)'' and ''excluding surplus military firearms'' for ''and in the case of surplus military firearms is a rifle or shotgun'' in par. (3), inserted ''or ammunition'' after ''the firearm'' in par. (4), and authorized the Secretary to permit the importation of ammunition for examination and testing in text following par. (4).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective on the earlier of the date on which the Secretary of the Army submits a certification in accordance with section 5523 of [former] Title 36, Patriotic Societies and Observances, or Oct. 1, 1996, see section 1624(c) of Pub. L. 104–106, set out as a note under section 4316 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1988 AMENDMENT; SUNSET PROVISION

Amendment by section 2(c) of Pub. L. 100–649 effective 30th day beginning after Nov. 10, 1988, and amendment by section 2(f)(2)(C), (E) effective 25 years after such effective date, see section 2(f) of Pub. L. 100–649, as amended, set out as a note under section 922 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–308 applicable to any action, petition, or appellate proceeding pending on May 19, 1986, see section 110(b) of Pub. L. 99–308, set out as a note under section 921 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–573 effective 15th day after Oct. 30, 1984, see section 214(a), (b) of Pub. L. 98–573, set out as a note under section 1304 of Title 19, Customs Duties.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–618 effective Dec. 16, 1968, except subsecs. (a)(1) and (d) effective Oct. 22, 1968, see section 105 of Pub. L. 90–618, set out as a note under section 921 of this title.

§ 925A. Remedy for erroneous denial of firearm

Any person denied a firearm pursuant to subsection (s) or (t) of section 922—

(1) due to the provision of erroneous information relating to the person by any State or political subdivision thereof, or by the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act; or

(2) who was not prohibited from receipt of a firearm pursuant to subsection (g) or (n) of section 922,

may bring an action against the State or political subdivision responsible for providing the erroneous information, or responsible for denying the transfer, or against the United States, as the case may be, for an order directing that the erroneous information be corrected or that the transfer be approved, as the case may be. In any action under this section, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs.

(Added Pub. L. 103–159, title I, § 104(a), Nov. 30, 1993, 107 Stat. 1543.)

REFERENCES IN TEXT

Section 103 of the Brady Handgun Violence Prevention Act, referred to in par. (1), is section 103 of Pub. L. 103–159, which is set out as a note under section 922 of this title.

§ 926. Rules and regulations

(a) The Attorney General may prescribe only such rules and regulations as are necessary to carry out the provisions of this chapter, including—

(1) regulations providing that a person licensed under this chapter, when dealing with another person so licensed, shall provide such other licensed person a certified copy of this license;

(2) regulations providing for the issuance, at a reasonable cost, to a person licensed under this chapter, of certified copies of his license for use as provided under regulations issued under paragraph (1) of this subsection; and

(3) regulations providing for effective receipt and secure storage of firearms relinquished by or seized from persons described in subsection (d)(8) or (g)(8) of section 922.

No such rule or regulation prescribed after the date of the enactment of the Firearms Owners' Protection Act may require that records required to be maintained under this chapter or any portion of the contents of such records, be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or any political subdivision thereof, nor that any system of registration of firearms, firearms owners, or firearms transactions or dispositions be established. Nothing in this section expands or restricts the Secretary's[1] authority to inquire into the disposition of any firearm in the course of a criminal investigation.

(b) The Attorney General shall give not less than ninety days public notice, and shall afford interested parties opportunity for hearing, before prescribing such rules and regulations.

(c) The Attorney General shall not prescribe rules or regulations that require purchasers of black powder under the exemption provided in section 845(a)(5) of this title to complete affidavits or forms attesting to that exemption.

(Added Pub. L. 90–351, title IV, § 902, June 19, 1968, 82 Stat. 234; amended Pub. L. 90–618, title I, § 102, Oct. 22, 1968, 82 Stat. 1226; Pub. L. 99–308, § 106, May 19, 1986, 100 Stat. 459; Pub. L. 103–322, title XI, § 110401(d), Sept. 13, 1994, 108 Stat. 2015; Pub. L. 107–296, title XI, § 1112(f)(6), Nov. 25, 2002, 116 Stat. 2276.)

REFERENCES IN TEXT

The date of the enactment of the Firearms Owners' Protection Act, referred to in subsec. (a), is the date of enactment of Pub. L. 99–308, which was approved May 19, 1986.

AMENDMENTS

2002—Subsecs. (a) to (c). Pub. L. 107–296 substituted "Attorney General" for "Secretary".

1994—Subsec. (a)(3). Pub. L. 103–322 added par. (3).

1986—Subsec. (a). Pub. L. 99–308, § 106(1)–(4), designated existing provision as subsec. (a), and in subsec. (a) as so designated, in provision preceding par. (1) substituted "may prescribe only" for "may prescribe" and "as are" for "as he deems reasonably", and in closing provision substituted provision that no rule or regulation prescribed after May 19, 1986, require that records required under this chapter be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof, nor any system of registration of firearms, firearms owners, or firearms transactions or dispositions be established and that nothing in this section expand or restrict the authority of the Secretary to inquire into the disposition of any firearm in the course of a criminal investigation for provision that the Secretary give reasonable public notice, and afford an opportunity for a hearing, prior to prescribing rules and regulations.

Subsecs. (b), (c). Pub. L. 99–308, § 106(5), added subsecs. (b) and (c).

1968—Pub. L. 90–618 inserted provisions authorizing the Secretary to prescribe regulations requiring a licensee, when dealing with another licensee, to provide such other licensee a certified copy of the license, and regulations authorizing the issuance of certified copies of the license required under this chapter.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

[1] So in original. Probably should be "Attorney General's".

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–308 effective 180 days after May 19, 1986, see section 110(a) of Pub. L. 99–308, set out as a note under section 921 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–618 effective Dec. 16, 1968, see section 105 of Pub. L. 90–618, set out as a note under section 921 of this title.

§ 926A. Interstate transportation of firearms

Notwithstanding any other provision of any law or any rule or regulation of a State or any political subdivision thereof, any person who is not otherwise prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport a firearm for any lawful purpose from any place where he may lawfully possess and carry such firearm to any other place where he may lawfully possess and carry such firearm if, during such transportation the firearm is unloaded, and neither the firearm nor any ammunition being transported is readily accessible or is directly accessible from the passenger compartment of such transporting vehicle: *Provided*, That in the case of a vehicle without a compartment separate from the driver's compartment the firearm or ammunition shall be contained in a locked container other than the glove compartment or console.

(Added Pub. L. 99–360, § 1(a), July 8, 1986, 100 Stat. 766.)

PRIOR PROVISIONS

A prior section 926A, added Pub. L. 99–308, § 107(a), May 19, 1986, 100 Stat. 460, provided that any person not prohibited by this chapter from transporting, shipping, or receiving a firearm be entitled to transport an unloaded, not readily accessible firearm in interstate commerce notwithstanding any provision of any legislation enacted, or rule or regulation prescribed by any State or political subdivision thereof, prior to repeal by Pub. L. 99–360, § 1(a).

EFFECTIVE DATE

Section effective on date on which Firearms Owners' Protection Act, Pub. L. 99–308, became effective, see section 2 of Pub. L. 99–360, set out as an Effective Date of 1986 Amendments note under section 921 of this title.

§ 926B. Carrying of concealed firearms by qualified law enforcement officers

(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

(b) This section shall not be construed to supersede or limit the laws of any State that—

(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

(c) As used in this section, the term ''qualified law enforcement officer'' means an employee of a governmental agency who—

(1) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest;

(2) is authorized by the agency to carry a firearm;

(3) is not the subject of any disciplinary action by the agency;

(4) meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm;

(5) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(6) is not prohibited by Federal law from receiving a firearm.

(d) The identification required by this subsection is the photographic identification issued by the governmental agency for which the individual is employed as a law enforcement officer.

(e) As used in this section, the term ''firearm'' does not include—

(1) any machinegun (as defined in section 5845 of the National Firearms Act);

(2) any firearm silencer (as defined in section 921 of this title); and

(3) any destructive device (as defined in section 921 of this title).

(Added Pub. L. 108–277, § 2(a), July 22, 2004, 118 Stat. 865.)

REFERENCES IN TEXT

Section 5845 of the National Firearms Act, referred to in subsec. (e)(1), is classified to section 5845 of Title 26, Internal Revenue Code.

§ 926C. Carrying of concealed firearms by qualified retired law enforcement officers

(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified retired law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

(b) This section shall not be construed to supersede or limit the laws of any State that—

(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

(c) As used in this section, the term ''qualified retired law enforcement officer'' means an individual who—

(1) retired in good standing from service with a public agency as a law enforcement officer, other than for reasons of mental instability;

(2) before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;

(3)(A) before such retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more; or

(B) retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;

(4) has a nonforfeitable right to benefits under the retirement plan of the agency;

(5) during the most recent 12-month period, has met, at the expense of the individual, the State's standards for training and qualification for active law enforcement officers to carry firearms;

(6) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(7) is not prohibited by Federal law from receiving a firearm.

(d) The identification required by this subsection is—

(1) a photographic identification issued by the agency from which the individual retired from service as a law enforcement officer that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm; or

(2)(A) a photographic identification issued by the agency from which the individual retired from service as a law enforcement officer; and

(B) a certification issued by the State in which the individual resides that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the State to meet the standards established by the State for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm.

(e) As used in this section, the term ''firearm'' does not include—

(1) any machinegun (as defined in section 5845 of the National Firearms Act);

(2) any firearm silencer (as defined in section 921 of this title); and

(3) a destructive device (as defined in section 921 of this title).

(Added Pub. L. 108–277, § 3(a), July 22, 2004, 118 Stat. 866.)

REFERENCES IN TEXT

Section 5845 of the National Firearms Act, referred to in subsec. (e)(1), is classified to section 5845 of Title 26, Internal Revenue Code.

§ 927. Effect on State law

No provision of this chapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, unless there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together.

(Added Pub. L. 90–351, title IV, § 902, June 19, 1968, 82 Stat. 234; amended Pub. L. 90–618, title I, § 102, Oct. 22, 1968, 82 Stat. 1226.)

AMENDMENTS

1968—Pub. L. 90–618 struck out ''or possession'' after ''State'' wherever appearing.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–618 effective Dec. 16, 1968, see section 105 of Pub. L. 90–618, set out as a note under section 921 of this title.

§ 928. Separability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

(Added Pub. L. 90–351, title IV, § 902, June 19, 1968, 82 Stat. 234; amended Pub. L. 90–618, title I, § 102, Oct. 22, 1968, 82 Stat. 1226.)

AMENDMENTS

1968—Pub. L. 90–618 reenacted section without change.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–618 effective Dec. 16, 1968, see section 105 of Pub. L. 90–618, set out as a note under section 921 of this title.

§ 929. Use of restricted ammunition

(a)(1) Whoever, during and in relation to the commission of a crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of the United States, uses or carries a firearm and is in possession of armor piercing ammunition capable of being fired in that firearm, shall, in addition to the punishment provided for the commission of such crime of violence or drug trafficking crime be sentenced to a term of imprisonment for not less than five years.

(2) For purposes of this subsection, the term ''drug trafficking crime'' means any felony punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

(b) Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this section, nor place the person on probation, nor shall the terms of imprisonment run concurrently with any other terms of imprisonment, including that imposed for the crime in which the armor piercing ammunition was used or possessed.

(Added Pub. L. 98–473, title II, § 1006(a), Oct. 12, 1984, 98 Stat. 2139; amended Pub. L. 99–308, § 108, May 19, 1986, 100 Stat. 460; Pub. L. 99–408, § 8, Aug. 28, 1986, 100 Stat. 921; Pub. L. 100–690, title VI, § 6212, title VII, § 7060(b), Nov. 18, 1988, 102 Stat. 4360, 4404; Pub. L. 107–273, div. B, title IV, § 4002(c)(4), Nov. 2, 2002, 116 Stat. 1809.)

REFERENCES IN TEXT

The Controlled Substances Act, referred to in subsec. (a)(2), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

The Controlled Substances Import and Export Act, referred to in subsec. (a)(2), is title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285, as amended, which is classified principally to subchapter II (§951 et seq.) of chapter 13 of Title 21. For complete classification of this Act to the Code, see Short Title note set out under section 951 of Title 21 and Tables.

The Maritime Drug Law Enforcement Act, referred to in subsec. (a)(2), is Pub. L. 96–350, Sept. 15, 1980, 94 Stat. 1159, as amended, which is classified generally to chapter 38 (§1901 et seq.) of Title 46, Appendix, Shipping. For complete classification of this Act to the Code, see section 1901 of Title 46, Appendix, and Tables.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–273 struck out at end ''No person sentenced under this section shall be eligible for parole during the term of imprisonment imposed herein.''

1988—Subsec. (a)(1). Pub. L. 100–690, §7060(b), substituted ''trafficking crime'' for ''trafficking crime,'' in three places.

Subsec. (a)(2). Pub. L. 100–690, §6212, amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''For purposes of this subsection, the term 'drug trafficking crime' means any felony violation of Federal law involving the distribution, manufacture, or importation of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).''

1986—Subsec. (a). Pub. L. 99–408, §8(1), substituted ''violence (including'' for ''violence including'', ''device) for'' for ''device for'', ''a firearm and is in possession of armor piercing ammunition capable of being fired in that firearm'' for ''any handgun loaded with armor-piercing ammunition as defined in subsection (b)'', and ''five years'' for ''five nor more than ten years'', and struck out provisions relating to suspension of sentence, probation, concurrent sentence and parole eligibility of any person convicted under this subsection.

Pub. L. 99–308 designated existing provision as par. (1), substituted ''violence or drug trafficking crime,'' for ''violence'' in three places, and added par. (2).

Subsec. (b). Pub. L. 99–408, §8(2), amended subsec. (b) generally, substituting provisions that the court may not suspend sentence of any person convicted of a violation of this section or place the person on probation, that term of imprisonment may not run concurrently with other terms of imprisonment, and that the person is not eligible for parole during term of imprisonment, for provisions defining ''armor-piercing ammunition'' and ''handgun''.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–308 effective 180 days after May 19, 1986, see section 110(a) of Pub. L. 99–308, set out as a note under section 921 of this title.

§930. Possession of firearms and dangerous weapons in Federal facilities

(a) Except as provided in subsection (d), whoever knowingly possesses or causes to be present a firearm or other dangerous weapon in a Federal facility (other than a Federal court facility), or attempts to do so, shall be fined under this title or imprisoned not more than 1 year, or both.

(b) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon in a Federal facility, or attempts to do so, shall be fined under this title or imprisoned not more than 5 years, or both.

(c) A person who kills any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, or attempts or conspires to do such an act, shall be punished as provided in sections 1111, 1112, 1113, and 1117.

(d) Subsection (a) shall not apply to—

(1) the lawful performance of official duties by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law;

(2) the possession of a firearm or other dangerous weapon by a Federal official or a member of the Armed Forces if such possession is authorized by law; or

(3) the lawful carrying of firearms or other dangerous weapons in a Federal facility incident to hunting or other lawful purposes.

(e)(1) Except as provided in paragraph (2), whoever knowingly possesses or causes to be present a firearm in a Federal court facility, or attempts to do so, shall be fined under this title, imprisoned not more than 2 years, or both.

(2) Paragraph (1) shall not apply to conduct which is described in paragraph (1) or (2) of subsection (d).

(f) Nothing in this section limits the power of a court of the United States to punish for contempt or to promulgate rules or orders regulating, restricting, or prohibiting the possession of weapons within any building housing such court or any of its proceedings, or upon any grounds appurtenant to such building.

(g) As used in this section:

(1) The term ''Federal facility'' means a building or part thereof owned or leased by the Federal Government, where Federal employees are regularly present for the purpose of performing their official duties.

(2) The term ''dangerous weapon'' means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2½ inches in length.

(3) The term ''Federal court facility'' means the courtroom, judges' chambers, witness rooms, jury deliberation rooms, attorney conference rooms, prisoner holding cells, offices of the court clerks, the United States attorney, and the United States marshal, probation and parole offices, and adjoining corridors of any court of the United States.

(h) Notice of the provisions of subsections (a) and (b) shall be posted conspicuously at each public entrance to each Federal facility, and notice of subsection (e) shall be posted conspicuously at each public entrance to each Federal court facility, and no person shall be convicted of an offense under subsection (a) or (e) with re-

spect to a Federal facility if such notice is not so posted at such facility, unless such person had actual notice of subsection (a) or (e), as the case may be.

(Added Pub. L. 100–690, title VI, § 6215(a), Nov. 18, 1988, 102 Stat. 4361; amended Pub. L. 101–647, title XXII, § 2205(a), Nov. 29, 1990, 104 Stat. 4857; Pub. L. 103–322, title VI, § 60014, Sept. 13, 1994, 108 Stat. 1973; Pub. L. 104–294, title VI, § 603(t), (u), Oct. 11, 1996, 110 Stat. 3506; Pub. L. 107–56, title VIII, § 811(b), Oct. 26, 2001, 115 Stat. 381.)

AMENDMENTS

2001—Subsec. (c). Pub. L. 107–56 struck out ''or attempts to kill'' after ''A person who kills'', inserted ''or attempts or conspires to do such an act,'' before ''shall be punished'', and substituted ''1113, and 1117'' for ''and 1113''.

1996—Subsec. (e)(2). Pub. L. 104–294, § 603(t), substituted ''subsection (d)'' for ''subsection (c)''.

Subsec. (g). Pub. L. 104–294, § 603(u)(1), redesignated subsec. (g), related to posting notice in Federal facilities, as (h).

Subsec. (h). Pub. L. 104–294, § 603(u)(2), substituted ''(e)'' for ''(d)'' wherever appearing.

Pub. L. 104–294, § 603(u)(1), redesignated subsec. (g), related to posting notice in Federal facilities, as (h).

1994—Subsec. (a). Pub. L. 103–322, § 60014(2), substituted ''(d)'' for ''(c)''.

Subsecs. (c) to (g). Pub. L. 103–322, § 60014(1), (3), added subsec. (c) and redesignated former subsecs. (c) to (f) as (d) to (g), respectively.

1990—Subsec. (a). Pub. L. 101–647, § 2205(a)(1), inserted ''(other than a Federal court facility)'' after ''Federal facility''.

Subsecs. (d), (e). Pub. L. 101–647, § 2205(a)(2), (3), added subsec. (d) and redesignated former subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 101–647, § 2205(a)(2), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (f)(3). Pub. L. 101–647, § 2205(a)(4), added par. (3).

Subsec. (g). Pub. L. 101–647, § 2205(a)(5), inserted ''and notice of subsection (d) shall be posted conspicuously at each public entrance to each Federal court facility,'' after ''each Federal facility,'', ''or (d)'' before ''with respect to'', and ''or (d), as the case may be'' before the period.

Pub. L. 101–647, § 2205(a)(2), redesignated subsec. (f) as (g).

EFFECTIVE DATE OF 1990 AMENDMENT

Section 2205(b) of Pub. L. 101–647 provided that: ''The amendments made by subsection (a) [amending this section] shall apply to conduct engaged in after the date of the enactment of this Act [Nov. 29, 1990].''

§ 931. Prohibition on purchase, ownership, or possession of body armor by violent felons

(a) IN GENERAL.—Except as provided in subsection (b), it shall be unlawful for a person to purchase, own, or possess body armor, if that person has been convicted of a felony that is—

(1) a crime of violence (as defined in section 16); or

(2) an offense under State law that would constitute a crime of violence under paragraph (1) if it occurred within the special maritime and territorial jurisdiction of the United States.

(b) AFFIRMATIVE DEFENSE.—

(1) IN GENERAL.—It shall be an affirmative defense under this section that—

(A) the defendant obtained prior written certification from his or her employer that the defendant's purchase, use, or possession of body armor was necessary for the safe performance of lawful business activity; and

(B) the use and possession by the defendant were limited to the course of such performance.

(2) EMPLOYER.—In this subsection, the term ''employer'' means any other individual employed by the defendant's business that supervises defendant's activity. If that defendant has no supervisor, prior written certification is acceptable from any other employee of the business.

(Added Pub. L. 107–273, div. C, title I, § 11009(e)(2)(A), Nov. 2, 2002, 116 Stat. 1821.)

CHAPTER 45—FOREIGN RELATIONS

Sec.
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AMENDMENTS

1996—Pub. L. 104–132, title VII, § 704(b), Apr. 24, 1996, 110 Stat. 1295, substituted ''Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country'' for ''Conspiracy to injure property of foreign government'' in item 956.

1990—Pub. L. 101–647, title XII, § 1207(a), title XXXV, § 3530, Nov. 29, 1990, 104 Stat. 4832, 4924, struck out item 968 ''Exportation of war materials to certain countries'' and item 969 ''Exportation of arms, liquors and narcotics to Pacific Islands''.

1972—Pub. L. 92–539, title IV, § 402, Oct. 24, 1972, 86 Stat. 1073, added item 970.

§ 951. Agents of foreign governments

(a) Whoever, other than a diplomatic or consular officer or attaché, acts in the United States as an agent of a foreign government without prior notification to the Attorney General if required in subsection (b), shall be fined under this title or imprisoned not more than ten years, or both.

(b) The Attorney General shall promulgate rules and regulations establishing requirements for notification.

(c) The Attorney General shall, upon receipt, promptly transmit one copy of each notification

statement filed under this section to the Secretary of State for such comment and use as the Secretary of State may determine to be appropriate from the point of view of the foreign relations of the United States. Failure of the Attorney General to do so shall not be a bar to prosecution under this section.

(d) For purposes of this section, the term ''agent of a foreign government'' means an individual who agrees to operate within the United States subject to the direction or control of a foreign government or official, except that such term does not include—

(1) a duly accredited diplomatic or consular officer of a foreign government, who is so recognized by the Department of State;

(2) any officially and publicly acknowledged and sponsored official or representative of a foreign government;

(3) any officially and publicly acknowledged and sponsored member of the staff of, or employee of, an officer, official, or representative described in paragraph (1) or (2), who is not a United States citizen; or

(4) any person engaged in a legal commercial transaction.

(e) Notwithstanding paragraph (d)(4), any person engaged in a legal commercial transaction shall be considered to be an agent of a foreign government for purposes of this section if—

(1) such person agrees to operate within the United States subject to the direction or control of a foreign government or official; and

(2) such person—

(A) is an agent of Cuba or any other country that the President determines (and so reports to the Congress) poses a threat to the national security interest of the United States for purposes of this section, unless the Attorney General, after consultation with the Secretary of State, determines and so reports to the Congress that the national security or foreign policy interests of the United States require that the provisions of this section do not apply in specific circumstances to agents of such country; or

(B) has been convicted of, or has entered a plea of nolo contendere with respect to, any offense under section 792 through 799, 831, or 2381 of this title or under section 11 of the Export Administration Act of 1979, except that the provisions of this subsection shall not apply to a person described in this clause for a period of more than five years beginning on the date of the conviction or the date of entry of the plea of nolo contendere, as the case may be.

(June 25, 1948, ch. 645, 62 Stat. 743; Pub. L. 97–462, §6, Jan. 12, 1983, 96 Stat. 2530; Pub. L. 98–473, title II, §1209, Oct. 12, 1984, 98 Stat. 2164; Pub. L. 99–569, title VII, §703, Oct. 27, 1986, 100 Stat. 3205; Pub. L. 103–199, title II, §202, Dec. 17, 1993, 107 Stat. 2321; Pub. L. 103–322, title XXXIII, §330016(1)(R), Sept. 13, 1994, 108 Stat. 2148.)

HISTORICAL AND REVISION NOTES

Based on section 601 of title 22, U.S.C., 1940 ed., Foreign Relations and Intercourse (June 15, 1917, ch. 30, title VIII, §3, 40 Stat. 226; Mar. 28, 1940, ch. 72, §6, 54 Stat. 80).

Mandatory punishment provision was rephrased in the alternative.

Minor changes in phraseology were made.

REFERENCES IN TEXT

Section 11 of the Export Administration Act of 1979, referred to in subsec. (e)(2)(B), is classified to section 2410 of Title 50, Appendix, War and National Defense.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $75,000''.

1993—Subsec. (e)(2)(A). Pub. L. 103–199 substituted ''Cuba or any other country that the President determines (and so reports to the Congress) poses a threat to the national security interest of the United States for purposes of this section'' for ''the Soviet Union, the German Democratic Republic, Hungary, Czechoslovakia, Poland, Bulgaria, Romania, or Cuba''.

1986—Subsec. (e). Pub. L. 99–569 added subsec. (e).

1984—Pub. L. 98–473 designated existing provisions as subsec. (a), substituted ''Attorney General if required in subsection (b)'' for ''Secretary of State'', and added subsecs. (b) to (d).

1983—Pub. L. 97–462 increased limitation on fines to $75,000 from $5,000.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–462 effective 45 days after Jan. 12, 1983, see section 4 of Pub. L. 97–462, set out as a note under section 2071 of Title 28, Judiciary and Judicial Procedure.

§952. Diplomatic codes and correspondence

Whoever, by virtue of his employment by the United States, obtains from another or has or has had custody of or access to, any official diplomatic code or any matter prepared in any such code, or which purports to have been prepared in any such code, and without authorization or competent authority, willfully publishes or furnishes to another any such code or matter, or any matter which was obtained while in the process of transmission between any foreign government and its diplomatic mission in the United States, shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 743; Pub. L. 103–322, title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 135 of title 22, U.S.C., 1940 ed., Foreign Relations and Intercourse (June 10, 1933, ch. 57, 48 Stat. 122).

Minor changes of phraseology were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

§953. Private correspondence with foreign governments

Any citizen of the United States, wherever he may be, who, without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States, shall be fined under this title or imprisoned not more than three years, or both.

This section shall not abridge the right of a citizen to apply, himself or his agent, to any foreign government or the agents thereof for redress of any injury which he may have sustained from such government or any of its agents or subjects.

(June 25, 1948, ch. 645, 62 Stat. 744; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 5 (Mar. 4, 1909, ch. 321, § 5, 35 Stat. 1088; Apr. 22, 1932, ch. 126, 47 Stat. 132).

The reference to any citizen or resident within the jurisdiction of the United States not duly authorized ''who counsels, advises or assists in such correspondence with such intent'' was omitted as unnecessary in view of definition of principal in section 2.

Mandatory punishment provision was rephrased in the alternative.

Minor changes of arrangement and in phraseology were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in first par.

§ 954. False statements influencing foreign government

Whoever, in relation to any dispute or controversy between a foreign government and the United States, willfully and knowingly makes any untrue statement, either orally or in writing, under oath before any person authorized and empowered to administer oaths, which the affiant has knowledge or reason to believe will, or may be used to influence the measures or conduct of any foreign government, or of any officer or agent of any foreign government, to the injury of the United States, or with a view or intent to influence any measure of or action by the United States or any department or agency thereof, to the injury of the United States, shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 744; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 231 of title 22, U.S.C., 1940 ed., Foreign Relations and Intercourse (June 15, 1917, ch. 30, title VIII, § 1, 40 Stat. 226; Mar. 28, 1940, ch. 72, § 6, 54 Stat. 80).

Mandatory punishment provision was rephrased in the alternative.

Words ''department or agency'' were added to eliminate any possible ambiguity as to scope of section. (See definitive section 6 of this title.)

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 955. Financial transactions with foreign governments

Whoever, within the United States, purchases or sells the bonds, securities, or other obligations of any foreign government or political subdivision thereof or any organization or association acting for or on behalf of a foreign government or political subdivision thereof, issued after April 13, 1934, or makes any loan to such foreign government, political subdivision, organization or association, except a renewal or adjustment of existing indebtedness, while such government, political subdivision, organization or association, is in default in the payment of its obligations, or any part thereof, to the United States, shall be fined under this title or imprisoned for not more than five years, or both.

This section is applicable to individuals, partnerships, corporations, or associations other than public corporations created by or pursuant to special authorizations of Congress, or corporations in which the United States has or exercises a controlling interest through stock ownership or otherwise. While any foreign government is a member both of the International Monetary Fund and of the International Bank for Reconstruction and Development, this section shall not apply to the sale or purchase of bonds, securities, or other obligations of such government or any political subdivision thereof or of any organization or association acting for or on behalf of such government or political subdivision, or to making of any loan to such government, political subdivision, organization, or association.

(June 25, 1948, ch. 645, 62 Stat. 744; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 804a of title 31, U.S.C., 1940 ed., Money and Finance (Apr. 13, 1934, ch. 112, §§ 1, 2, 48 Stat. 574).

Words ''within the United States'' were substituted for ''within the jurisdiction'' etc., in view of the definition of United States in section 5 of this title.

Words ''upon conviction thereof'' were omitted from first paragraph as surplusage since punishment cannot be imposed until a conviction is secured.

Minor changes were made in phraseology.

SENATE REVISION AMENDMENT

An additional paragraph was added to the text of this section by Senate amendment, which was taken from section 804b of Title 31, U.S.C., Money and Finance. Therefore, as finally enacted, such section 804b and the Acts from which it was derived (Act Apr. 13, 1934, ch. 112, § 3, as added July 31, 1945, ch. 339, § 9, 59 Stat. 516), were an additional source of this section. See Senate Report No. 1620, amendment No. 9, 80th Cong.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' in first par.

APPLICABILITY OF SECTION

Pub. L. 102–511, title IX, § 902, Oct. 24, 1992, 106 Stat. 3355, provided that: ''Section 955 of title 18, United States Code, shall not apply with respect to any obligations of the former Soviet Union, or any of the independent states of the former Soviet Union, or any political subdivision, organization, or association thereof.''

§ 956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country

(a)(1) Whoever, within the jurisdiction of the United States, conspires with one or more other persons, regardless of where such other person

or persons are located, to commit at any place outside the United States an act that would constitute the offense of murder, kidnapping, or maiming if committed in the special maritime and territorial jurisdiction of the United States shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be punished as provided in subsection (a)(2).

(2) The punishment for an offense under subsection (a)(1) of this section is—

(A) imprisonment for any term of years or for life if the offense is conspiracy to murder or kidnap; and

(B) imprisonment for not more than 35 years if the offense is conspiracy to maim.

(b) Whoever, within the jurisdiction of the United States, conspires with one or more persons, regardless of where such other person or persons are located, to damage or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, airport, airfield, or other public utility, public conveyance, or public structure, or any religious, educational, or cultural property so situated, shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be imprisoned not more than 25 years.

(June 25, 1948, ch. 645, 62 Stat. 744; Pub. L. 103–322, title XXXIII, §330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–132, title VII, §704(a), Apr. 24, 1996, 110 Stat. 1294.)

HISTORICAL AND REVISION NOTES

Based on section 234 of title 22, U.S.C., 1940 ed., Foreign Relations and Intercourse (June 15, 1917, ch. 30, title VIII, §5, 40 Stat. 226).

AMENDMENTS

1996—Pub. L. 104–132 substituted ''Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country'' for ''Conspiracy to injure property of foreign government'' as section catchline and amended text generally. Prior to amendment, text read as follows:

''(a) If two or more persons within the jurisdiction of the United States conspire to injure or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, or other public utility so situated, and if one or more such persons commits an act within the jurisdiction of the United States to effect the object of the conspiracy, each of the parties to the conspiracy shall be fined under this title or imprisoned not more than three years, or both.

''(b) Any indictment or information under this section shall describe the specific property which it was the object of the conspiracy to injure or destroy.''

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§957. Possession of property in aid of foreign government

Whoever, in aid of any foreign government, knowingly and willfully possesses or controls any property or papers used or designed or intended for use in violating any penal statute, or any of the rights or obligations of the United States under any treaty or the law of nations, shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 745; Pub. L. 103–322, title XXXIII, §330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed. §98 (June 15, 1917, ch. 30, title XI, §22, 40 Stat. 230; Mar. 28, 1940, ch. 72, §8, 54 Stat. 80).

Definition of ''foreign government'' was omitted and is incorporated in section 11 of this title.

Mandatory punishment provision was rephrased in the alternative.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§958. Commission to serve against friendly nation

Any citizen of the United States who, within the jurisdiction thereof, accepts and exercises a commission to serve a foreign prince, state, colony, district, or people, in war, against any prince, state, colony, district, or people, with whom the United States is at peace, shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 745; 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., §21 (Mar. 4, 1909, ch. 321, §9, 35 Stat. 1089).

Mandatory punishment provision was rephrased in the alternative.

Minor changes in phraseology were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $2,000''.

§959. Enlistment in foreign service

(a) Whoever, within the United States, enlists or enters himself, or hires or retains another to enlist or enter himself, or to go beyond the jurisdiction of the United States with intent to be enlisted or entered in the service of any foreign prince, state, colony, district, or people as a soldier or as a marine or seaman on board any vessel of war, letter of marque, or privateer, shall be fined under this title or imprisoned not more than three years, or both.

(b) This section shall not apply to citizens or subjects of any country engaged in war with a country with which the United States is at war, unless such citizen or subject of such foreign country shall hire or solicit a citizen of the United States to enlist or go beyond the jurisdiction of the United States with intent to enlist or enter the service of a foreign country. Enlistments under this subsection shall be under regulations prescribed by the Secretary of the Army.

(c) This section and sections 960 and 961 of this title shall not apply to any subject or citizen of any foreign prince, state, colony, district, or people who is transiently within the United

States and enlists or enters himself on board any vessel of war, letter of marque, or privateer, which at the time of its arrival within the United States was fitted and equipped as such, or hires or retains another subject or citizen of the same foreign prince, state, colony, district, or people who is transiently within the United States to enlist or enter himself to serve such foreign prince, state, colony, district, or people on board such vessel of war, letter of marque, or privateer, if the United States shall then be at peace with such foreign prince, state, colony, district, or people.

(June 25, 1948, ch. 645, 62 Stat. 745; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 22, 30 (Mar. 4, 1909, ch. 321, §§ 10, 18, 35 Stat. 1089, 1091; May 7, 1917, ch. 11, 40 Stat. 39).

Section consolidates said sections of title 18, U.S.C., 1940 ed. Last sentence of section 30 of title 18, U.S.C., 1940 ed., relating to piracy and treason, was omitted as unnecessary.

Words ''within the United States'' were substituted for ''within the jurisdiction'' etc., in view of the definition of United States in section 5 of this title.

References in subsection (c) to sections 960 and 961 of this title are to the only other sections to which the subsection can apply.

Mandatory punishment provision was rephrased in the alternative.

Minor changes were made in phraseology.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 960. Expedition against friendly nation

Whoever, within the United States, knowingly begins or sets on foot or provides or prepares a means for or furnishes the money for, or takes part in, any military or naval expedition or enterprise to be carried on from thence against the territory or dominion of any foreign prince or state, or of any colony, district, or people with whom the United States is at peace, shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 745; Pub. L. 103–322, title XXXIII, § 330016(1)(J), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 25 (Mar. 4, 1909, ch. 321, § 13, 35 Stat. 1090; June 15, 1917, ch. 30, title V, § 8, 40 Stat. 223).

Words ''within the United States'' were substituted for ''within the jurisdiction'' etc., in view of the definition of United States in section 5 of this title.

Reference to territory or possessions of the United States was omitted as covered by definitive section 5 of this title.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $3,000''.

§ 961. Strengthening armed vessel of foreign nation

Whoever, within the United States, increases or augments the force of any ship of war, cruiser, or other armed vessel which, at the time of her arrival within the United States, was a ship of war, or cruiser, or armed vessel, in the service of any foreign prince or state, or of any colony, district, or people, or belonging to the subjects or citizens of any such prince or state, colony, district, or people, the same being at war with any foreign prince or state, or of any colony, district, or people, with whom the United States is at peace, by adding to the number of the guns of such vessel, or by changing those on board of her for guns of a larger caliber, or by adding thereto any equipment solely applicable to war, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 746; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 24 (Mar. 4, 1909, ch. 321, § 12, 35 Stat. 1090).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Mandatory punishment was rephrased in the alternative.

Words ''within the United States'' were substituted for ''within the territory or jurisdiction'' etc., in view of the definition of United States in section 5 of this title.

Minor changes in phraseology were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 962. Arming vessel against friendly nation

Whoever, within the United States, furnishes, fits out, arms, or attempts to furnish, fit out or arm, any vessel, with intent that such vessel shall be employed in the service of any foreign prince, or state, or of any colony, district, or people, to cruise, or commit hostilities against the subjects, citizens, or property of any foreign prince or state, or of any colony, district, or people with whom the United States is at peace; or

Whoever issues or delivers a commission within the United States for any vessel, to the intent that she may be so employed—

Shall be fined under this title or imprisoned not more than three years, or both.

Every such vessel, her tackle, apparel, and furniture, together with all materials, arms, ammunition, and stores which may have been procured for the building and equipment thereof, shall be forfeited, one half to the use of the informer and the other half to the use of the United States.

(June 25, 1948, ch. 645, 62 Stat. 746; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 23 (Mar. 4, 1909, ch. 321, § 11, 35 Stat. 1090).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Words ''within the United States'' were substituted for ''within the jurisdiction'' etc., in view of the definition of United States in section 5 of this title.

Mandatory punishment provision was rephrased in the alternative.

Minor change was made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' in third par.

§ 963. Detention of armed vessel

(a) During a war in which the United States is a neutral nation, the President, or any person authorized by him, may detain any armed vessel owned wholly or in part by citizens of the United States, or any vessel, domestic or foreign (other than one which has entered the ports of the United States as a public vessel), which is manifestly built for warlike purposes or has been converted or adapted from a private vessel to one suitable for warlike use, until the owner or master, or person having charge of such vessel, shall furnish proof satisfactory to the President, or to the person duly authorized by him, that the vessel will not be employed to cruise against or commit or attempt to commit hostilities upon the subjects, citizens, or property of any foreign prince or state, or of any colony, district, or people with which the United States is at peace, and that the said vessel will not be sold or delivered to any belligerent nation, or to an agent, officer, or citizen of such nation, by them or any of them, within the jurisdiction of the United States, or upon the high seas.

(b) Whoever, in violation of this section takes, or attempts to take, or authorizes the taking of any such vessel, out of port or from the United States, shall be fined under this title or imprisoned not more than ten years, or both.

In addition, such vessel, her tackle, apparel, furniture, equipment, and her cargo shall be forfeited to the United States.

(June 25, 1948, ch. 645, 62 Stat. 746; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 32, 36 (June 15, 1917, ch. 30, title V, §§ 2, 6, 40 Stat. 221, 222; Mar. 28, 1940, ch. 72, § 5, 54 Stat. 79).

Section consolidates said sections of title 18, U.S.C., 1940 ed.

Words ''within the United States'' were substituted for ''within the jurisdiction'' etc., in view of the definition of United States in section 5 of this title.

Mandatory punishment provision was rephrased in the alternative.

The conspiracy provision of said section 36 was omitted as covered by section 371 of this title. See reviser's note under that section.

Changes in phraseology were also made.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

DELEGATION OF FUNCTIONS

For delegation to Secretary of Homeland Security of authority vested in President by this section, see section 1(*l*) of Ex. Ord. No. 10637, Sept. 16, 1955, 20 F.R. 7025, as amended, set out as a note under section 301 of Title 3, The President.

§ 964. Delivering armed vessel to belligerent nation

(a) During a war in which the United States is a neutral nation, it shall be unlawful to send out of the United States any vessel built, armed, or equipped as a vessel of war, or converted from a private vessel into a vessel of war, with any intent or under any agreement or contract that such vessel will be delivered to a belligerent nation, or to an agent, officer, or citizen of such nation, or with reasonable cause to believe that the said vessel will be employed in the service of any such belligerent nation after its departure from the jurisdiction of the United States.

(b) Whoever, in violation of this section, takes or attempts to take, or authorizes the taking of any such vessel, out of port or from the United States, shall be fined under this title or imprisoned not more than ten years, or both.

In addition, such vessel, her tackle, apparel, furniture, equipment, and her cargo shall be forfeited to the United States.

(June 25, 1948, ch. 645, 62 Stat. 747; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 33, 36 (June 15, 1917, ch. 30, title V, §§ 3, 6, 40 Stat. 222; Mar. 28, 1940, ch. 72, § 5, 54 Stat. 79).

Section consolidates said sections of title 18, U.S.C., 1940 ed.

Words ''within the United States'' were substituted for ''within the jurisdiction'' etc., in view of the definition of United States in section 5 of this title.

Mandatory punishment provision was rephrased in the alternative.

The conspiracy provision of said section 36 was omitted as covered by section 371 of this title. See reviser's note under that section.

Minor changes of phraseology were made.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

§ 965. Verified statements as prerequisite to vessel's departure

(a) During a war in which the United States is a neutral nation, every master or person having charge or command of any vessel, domestic or foreign, whether requiring clearance or not, before departure of such vessel from port shall, in addition to the facts required by section 431 of the Tariff Act of 1930 (19 U.S.C. 1431) and section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91), to be set out in the masters' and shippers' manifests before clearance will be issued to vessels bound to foreign ports, deliver to the Customs Service a statement, duly verified by oath, that the cargo or any part of the cargo is or is not to be delivered to other vessels in port or to be transshipped on the high seas, and, if it is to be so delivered or transshipped, stating the kind and quantities and the value of the total quantity of each kind of article so to be delivered or transshipped, and the name of the person, corporation, vessel, or government to whom the delivery or transshipment is to be made; and the owners, shippers, or consignors of the cargo of such vessel shall in the same manner and under the same conditions deliver to the Customs Service like statements under oath as to the cargo or the parts thereof laden or shipped by them, respectively.

(b) Whoever, in violation of this section, takes or attempts to take, or authorizes the taking of

any such vessel, out of port or from the United States, shall be fined under this title or imprisoned not more than ten years, or both.

In addition, such vessel, her tackle, apparel, furniture, equipment, and her cargo shall be forfeited to the United States.

The Secretary of the Treasury is authorized to promulgate regulations upon compliance with which vessels engaged in the coastwise trade or fisheries or used solely for pleasure may be relieved from complying with this section.

(June 25, 1948, ch. 645, 62 Stat. 747; Pub. L. 103–182, title VI, § 687, Dec. 8, 1993, 107 Stat. 2221; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 34, 36 (June 15, 1917, ch. 30, title V, §§ 4, 6, 40 Stat. 222; Mar. 28, 1940, ch. 72, § 5, 54 Stat. 79).

Section consolidates said sections of title 18, U.S.C., 1940 ed.

Words ''within the United States'' were substituted for ''within the jurisdiction'' etc., in view of the definition of United States in section 5 of this title.

Mandatory punishment provision was rephrased in the alternative.

Words in subsection (a), referring to title 46, sections 91, 92, and 94, ''each of which sections is hereby declared to be and is continued in full force and effect,'' were omitted as surplusage.

The conspiracy provision of said section 36 was omitted as covered by section 371 of this title. See reviser's note under that section.

The final paragraph of the revised section was added on advice of the Treasury Department, to conform with administrative practice and because of the unnecessary burden upon domestic commerce had the provisions of this section been enforced against coastwise, fishing, and pleasure vessels.

Minor changes of phraseology were made.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

1993—Subsec. (a). Pub. L. 103–182 substituted ''section 431 of the Tariff Act of 1930 (19 U.S.C. 1431) and section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91),'' for ''sections 91, 92, and 94 of Title 46'', ''deliver to the Customs Service'' for ''deliver to the collector of customs for the district wherein such vessel is then located'', and ''the Customs Service like'' for ''the collector like''.

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.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise in Bureau of Customs of Department of the Treasury to which appointments were required to be made by President with advice and consent of Senate ordered abolished, with such offices to be terminated not later than Dec. 31, 1966, by Reorg. Plan No. 1 of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of offices eliminated were already vested in Secretary of the Treasury by Reorg. Plan No. 26 of 1950. eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 966. Departure of vessel forbidden for false statements

(a) Whenever it appears that the vessel is not entitled to clearance or whenever there is reasonable cause to believe that the additional statements under oath required in section 965 of this title are false, the collector of customs for the district in which the vessel is located may, subject to review by the head of the department or agency charged with the administration of laws relating to clearance of vessels, refuse clearance to any vessel, domestic or foreign, and by formal notice served upon the owners, master, or person or persons in command or charge of any domestic vessel for which clearance is not required by law, forbid the departure of the vessel from the port or from the United States. It shall thereupon be unlawful for the vessel to depart.

(b) Whoever, in violation of this section, takes or attempts to take, or authorizes the taking of any such vessel, out of port or from the United States, shall be fined under this title or imprisoned not more than ten years, or both.

In addition, such vessel, her tackle, apparel, furniture, equipment, and her cargo shall be forfeited to the United States.

(June 25, 1948, ch. 645, 62 Stat. 747; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 35, 36 (June 15, 1917, ch. 30, title V, §§ 5, 6, 40 Stat. 222; Mar. 28, 1940, ch. 72, § 5, 54 Stat. 79).

Section consolidates said sections of title 18, U.S.C., 1940 ed.

Mandatory punishment provision was rephrased in the alternative.

The phrase ''by the head of the department or agency charged with the administration of laws relating to clearance of vessels,'' was substituted for ''by the Secretary of Commerce'' in view of Executive Order No. 9083 (F.R. 1609) transferring functions to the Commissioner of Customs.

The conspiracy provision of said section 36 was omitted as covered by section 371 of this title. See reviser's note under that section.

Minor changes of phraseology were made.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise in Bureau of Customs of Department of the Treasury to which appointments were required to be made by President with advice and consent of Senate ordered abolished, with such offices to be terminated not later than Dec. 31, 1966, by Reorg. Plan No. 1 of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of offices eliminated were already vested in Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 967. Departure of vessel forbidden in aid of neutrality

(a) During a war in which the United States is a neutral nation, the President, or any person

authorized by him, may withhold clearance from or to any vessel, domestic or foreign, or, by service of formal notice upon the owner, master, or person in command or in charge of any domestic vessel not required to secure clearances, may forbid its departure from port or from the United States, whenever there is reasonable cause to believe that such vessel is about to carry fuel, arms, ammunition, men, supplies, dispatches, or information to any warship, tender, or supply ship of a foreign belligerent nation in violation of the laws, treaties, or obligations of the United States under the law of nations. It shall thereupon be unlawful for such vessel to depart.

(b) Whoever, in violation of this section, takes or attempts to take, or authorizes the taking of any such vessel, out of port or from the United States, shall be fined under this title or imprisoned not more than ten years, or both. In addition, such vessel, her tackle, apparel, furniture, equipment, and her cargo shall be forfeited to the United States.

(June 25, 1948, ch. 645, 62 Stat. 748; Pub. L. 103–322, title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§31, 36 (June 15, 1917, ch. 30, title V, §§1, 6, 40 Stat. 221, 222; Mar. 28, 1940, ch. 72, §5, 54 Stat. 79).

Section consolidates said sections of title 18, U.S.C., 1940 ed., with minor changes in translations and phraseology.

Mandatory punishment provision was rephrased in the alternative.

The conspiracy provision of said section 36 was omitted as covered by section 371 of this title. See reviser's note under that section.

Changes in phraseology were also made.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

DELEGATION OF FUNCTIONS

For delegation to Secretary of Homeland Security of authority vested in President by this section, see section 1(m) of Ex. Ord. No. 10637, Sept. 16, 1955, 20 F.R. 7025, as amended, set out as a note under section 301 of Title 3, The President.

[§968. Repealed. Aug. 26, 1954, ch. 937, title V, §542(a)(14), 68 Stat. 861]

Section, act June 25, 1948, ch. 645, 62 Stat. 748, related to exportation of war materials to certain countries. See section 1934 of Title 22, Foreign Relations and Intercourse.

[§969. Repealed. Pub. L. 101–647, title XII, §1207(a), Nov. 29, 1990, 104 Stat. 4832]

Section, act June 25, 1948, ch. 645, 62 Stat. 748, related to penalties for exporting arms, liquor, and narcotics to Pacific Islands.

§970. Protection of property occupied by foreign governments

(a) Whoever willfully injures, damages, or destroys, or attempts to injure, damage, or destroy, any property, real or personal, located within the United States and belonging to or utilized or occupied by any foreign government or international organization, by a foreign official or official guest, shall be fined under this title, or imprisoned not more than five years, or both.

(b) Whoever, willfully with intent to intimidate, coerce, threaten, or harass—

(1) forcibly thrusts any part of himself or any object within or upon that portion of any building or premises located within the United States, which portion is used or occupied for official business or for diplomatic, consular, or residential purposes by—

(A) a foreign government, including such use as a mission to an international organization;

(B) an international organization;

(C) a foreign official; or

(D) an official guest; or

(2) refuses to depart from such portion of such building or premises after a request—

(A) by an employee of a foreign government or of an international organization, if such employee is authorized to make such request by the senior official of the unit of such government or organization which occupies such portion of such building or premises;

(B) by a foreign official or any member of the foreign official's staff who is authorized by the foreign official to make such request;

(C) by an official guest or any member of the official guest's staff who is authorized by the official guest to make such request; or

(D) by any person present having law enforcement powers;

shall be fined under this title or imprisoned not more than six months, or both.

(c) For the purpose of this section ''foreign government'', ''foreign official'', ''international organization'', and ''official guest'' shall have the same meanings as those provided in section 1116(b) of this title.

(Added Pub. L. 92–539, title IV, §401, Oct. 24, 1972, 86 Stat. 1073; amended Pub. L. 94–467, §7, Oct. 8, 1976, 90 Stat. 2000; Pub. L. 103–322, title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–294, title VI, §601(a)(2), Oct. 11, 1996, 110 Stat. 3498.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–294 substituted ''fined under this title'' for ''fined not more than $500'' in concluding provisions.

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

1976—Subsecs. (b), (c). Pub. L. 94–467 added subsec. (b), redesignated former subsec. (b) as (c), and struck out reference to section 1116(c) of this title.

CHAPTER 46—FORFEITURE

Sec.
981. Civil forfeiture.
982. Criminal forfeiture.
983. General rules for civil forfeiture proceedings.
984. Civil forfeiture of fungible property.
985. Civil forfeiture of real property.
986. Subpoenas for bank records.

AMENDMENTS

2000—Pub. L. 106–185, §§2(b), 7(b), Apr. 25, 2000, 114 Stat. 210, 215, added items 983 and 985.

1992—Pub. L. 102–550, title XV, §§ 1522(b), 1523(b), Oct. 28, 1992, 106 Stat. 4063, 4064, added items 984 and 986.

1988—Pub. L. 100–690, title VII, § 7069, Nov. 18, 1988, 102 Stat. 4405, substituted ''forfeiture'' for ''Forfeiture'' in items 981 and 982.

§ 981. Civil forfeiture

(a)(1) The following property is subject to forfeiture to the United States:

(A) Any property, real or personal, involved in a transaction or attempted transaction in violation of section 1956, 1957 or 1960 of this title, or any property traceable to such property.

(B) Any property, real or personal, within the jurisdiction of the United States, constituting, derived from, or traceable to, any proceeds obtained directly or indirectly from an offense against a foreign nation, or any property used to facilitate such an offense, if the offense—

(i) involves the manufacture, importation, sale, or distribution of a controlled substance (as that term is defined for purposes of the Controlled Substances Act), or any other conduct described in section 1956(c)(7)(B);

(ii) would be punishable within the jurisdiction of the foreign nation by death or imprisonment for a term exceeding 1 year; and

(iii) would be punishable under the laws of the United States by imprisonment for a term exceeding 1 year, if the act or activity constituting the offense had occurred within the jurisdiction of the United States.

(C) Any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of section 215, 471, 472, 473, 474, 476, 477, 478, 479, 480, 481, 485, 486, 487, 488, 501, 502, 510, 542, 545, 656, 657, 842, 844, 1005, 1006, 1007, 1014, 1028, 1029, 1030, 1032, or 1344 of this title or any offense constituting ''specified unlawful activity'' (as defined in section 1956(c)(7) of this title), or a conspiracy to commit such offense.

(D) Any property, real or personal, which represents or is traceable to the gross receipts obtained, directly or indirectly, from a violation of—

(i) section 666(a)(1) (relating to Federal program fraud);

(ii) section 1001 (relating to fraud and false statements);

(iii) section 1031 (relating to major fraud against the United States);

(iv) section 1032 (relating to concealment of assets from conservator or receiver of insured financial institution);

(v) section 1341 (relating to mail fraud); or

(vi) section 1343 (relating to wire fraud),

if such violation relates to the sale of assets acquired or held by the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, as conservator or receiver for a financial institution, or any other conservator for a financial institution appointed by the Office of the Comptroller of the Currency or the Office of Thrift Supervision or the National Credit Union Administration, as conservator or liquidating agent for a financial institution.

(E) With respect to an offense listed in subsection (a)(1)(D) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations or promises, the gross receipts of such an offense shall include all property, real or personal, tangible or intangible, which thereby is obtained, directly or indirectly.

(F) Any property, real or personal, which represents or is traceable to the gross proceeds obtained, directly or indirectly, from a violation of—

(i) section 511 (altering or removing motor vehicle identification numbers);

(ii) section 553 (importing or exporting stolen motor vehicles);

(iii) section 2119 (armed robbery of automobiles);

(iv) section 2312 (transporting stolen motor vehicles in interstate commerce); or

(v) section 2313 (possessing or selling a stolen motor vehicle that has moved in interstate commerce).

(G) All assets, foreign or domestic—

(i) of any individual, entity, or organization engaged in planning or perpetrating any act of domestic or international terrorism (as defined in section 2331) against the United States, citizens or residents of the United States, or their property, and all assets, foreign or domestic, affording any person a source of influence over any such entity or organization;

(ii) acquired or maintained by any person with the intent and for the purpose of supporting, planning, conducting, or concealing an act of domestic or international terrorism (as defined in section 2331) against the United States, citizens or residents of the United States, or their property; or

(iii) derived from, involved in, or used or intended to be used to commit any act of domestic or international terrorism (as defined in section 2331) against the United States, citizens or residents of the United States, or their property.

(H) Any property, real or personal, involved in a violation or attempted violation, or which constitutes or is derived from proceeds traceable to a violation, of section 2339C of this title.

(2) For purposes of paragraph (1), the term ''proceeds'' is defined as follows:

(A) In cases involving illegal goods, illegal services, unlawful activities, and telemarketing and health care fraud schemes, the term ''proceeds'' means property of any kind obtained directly or indirectly, as the result of the commission of the offense giving rise to forfeiture, and any property traceable thereto, and is not limited to the net gain or profit realized from the offense.

(B) In cases involving lawful goods or lawful services that are sold or provided in an illegal manner, the term ''proceeds'' means the amount of money acquired through the illegal transactions resulting in the forfeiture, less the direct costs incurred in providing the

goods or services. The claimant shall have the burden of proof with respect to the issue of direct costs. The direct costs shall not include any part of the overhead expenses of the entity providing the goods or services, or any part of the income taxes paid by the entity.

(C) In cases involving fraud in the process of obtaining a loan or extension of credit, the court shall allow the claimant a deduction from the forfeiture to the extent that the loan was repaid, or the debt was satisfied, without any financial loss to the victim.

(b)(1) Except as provided in section 985, any property subject to forfeiture to the United States under subsection (a) may be seized by the Attorney General and, in the case of property involved in a violation investigated by the Secretary of the Treasury or the United States Postal Service, the property may also be seized by the Secretary of the Treasury or the Postal Service, respectively.

(2) Seizures pursuant to this section shall be made pursuant to a warrant obtained in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure, except that a seizure may be made without a warrant if—

(A) a complaint for forfeiture has been filed in the United States district court and the court issued an arrest warrant in rem pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims;

(B) there is probable cause to believe that the property is subject to forfeiture and—

(i) the seizure is made pursuant to a lawful arrest or search; or

(ii) another exception to the Fourth Amendment warrant requirement would apply; or

(C) the property was lawfully seized by a State or local law enforcement agency and transferred to a Federal agency.

(3) Notwithstanding the provisions of rule 41(a) of the Federal Rules of Criminal Procedure, a seizure warrant may be issued pursuant to this subsection by a judicial officer in any district in which a forfeiture action against the property may be filed under section 1355(b) of title 28, and may be executed in any district in which the property is found, or transmitted to the central authority of any foreign state for service in accordance with any treaty or other international agreement. Any motion for the return of property seized under this section shall be filed in the district court in which the seizure warrant was issued or in the district court for the district in which the property was seized.

(4)(A) If any person is arrested or charged in a foreign country in connection with an offense that would give rise to the forfeiture of property in the United States under this section or under the Controlled Substances Act, the Attorney General may apply to any Federal judge or magistrate judge in the district in which the property is located for an ex parte order restraining the property subject to forfeiture for not more than 30 days, except that the time may be extended for good cause shown at a hearing conducted in the manner provided in rule 43(e) of the Federal Rules of Civil Procedure.

(B) The application for the restraining order shall set forth the nature and circumstances of the foreign charges and the basis for belief that the person arrested or charged has property in the United States that would be subject to forfeiture, and shall contain a statement that the restraining order is needed to preserve the availability of property for such time as is necessary to receive evidence from the foreign country or elsewhere in support of probable cause for the seizure of the property under this subsection.

(c) Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, the Secretary of the Treasury, or the Postal Service, as the case may be, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under this subsection, the Attorney General, the Secretary of the Treasury, or the Postal Service, as the case may be, may—

(1) place the property under seal;

(2) remove the property to a place designated by him; or

(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

(d) For purposes of this section, the provisions of the customs laws relating to the seizure, summary and judicial forfeiture, condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale of such property under this section, the remission or mitigation of such forfeitures, and the compromise of claims (19 U.S.C. 1602 et seq.), insofar as they are applicable and not inconsistent with the provisions of this section, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General, the Secretary of the Treasury, or the Postal Service, as the case may be. The Attorney General shall have sole responsibility for disposing of petitions for remission or mitigation with respect to property involved in a judicial forfeiture proceeding.

(e) Notwithstanding any other provision of the law, except section 3 of the Anti Drug Abuse Act of 1986, the Attorney General, the Secretary of the Treasury, or the Postal Service, as the case may be, is authorized to retain property forfeited pursuant to this section, or to transfer such property on such terms and conditions as he may determine—

(1) to any other Federal agency;

(2) to any State or local law enforcement agency which participated directly in any of the acts which led to the seizure or forfeiture of the property;

(3) in the case of property referred to in subsection (a)(1)(C), to any Federal financial institution regulatory agency—

(A) to reimburse the agency for payments to claimants or creditors of the institution; and

(B) to reimburse the insurance fund of the agency for losses suffered by the fund as a result of the receivership or liquidation;

(4) in the case of property referred to in subsection (a)(1)(C), upon the order of the appropriate Federal financial institution regulatory agency, to the financial institution as restitution, with the value of the property so transferred to be set off against any amount later recovered by the financial institution as compensatory damages in any State or Federal proceeding;

(5) in the case of property referred to in subsection (a)(1)(C), to any Federal financial institution regulatory agency, to the extent of the agency's contribution of resources to, or expenses involved in, the seizure and forfeiture, and the investigation leading directly to the seizure and forfeiture, of such property;

(6) as restoration to any victim of the offense giving rise to the forfeiture, including, in the case of a money laundering offense, any offense constituting the underlying specified unlawful activity; or

(7) In[1] the case of property referred to in subsection (a)(1)(D), to the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or any other Federal financial institution regulatory agency (as defined in section 8(e)(7)(D) of the Federal Deposit Insurance Act).

The Attorney General, the Secretary of the Treasury, or the Postal Service, as the case may be, shall ensure the equitable transfer pursuant to paragraph (2) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General, the Secretary of the Treasury, or the Postal Service pursuant to paragraph (2) shall not be subject to review. The United States shall not be liable in any action arising out of the use of any property the custody of which was transferred pursuant to this section to any non-Federal agency. The Attorney General, the Secretary of the Treasury, or the Postal Service may order the discontinuance of any forfeiture proceedings under this section in favor of the institution of forfeiture proceedings by State or local authorities under an appropriate State or local statute. After the filing of a complaint for forfeiture under this section, the Attorney General may seek dismissal of the complaint in favor of forfeiture proceedings under State or local law. Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, the United States may transfer custody and possession of the seized property to the appropriate State or local official immediately upon the initiation of the proper actions by such officials. Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, notice shall be sent to all known interested parties advising them of the discontinuance or dismissal. The United States shall not be liable in any action arising out of the seizure, detention, and transfer of seized property to State or local officials. The United States shall not be liable in any action arising out of a transfer under paragraph (3), (4), or (5) of this subsection.

(f) All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

(g)(1) Upon the motion of the United States, the court shall stay the civil forfeiture proceeding if the court determines that civil discovery will adversely affect the ability of the Government to conduct a related criminal investigation or the prosecution of a related criminal case.

(2) Upon the motion of a claimant, the court shall stay the civil forfeiture proceeding with respect to that claimant if the court determines that—

(A) the claimant is the subject of a related criminal investigation or case;

(B) the claimant has standing to assert a claim in the civil forfeiture proceeding; and

(C) continuation of the forfeiture proceeding will burden the right of the claimant against self-incrimination in the related investigation or case.

(3) With respect to the impact of civil discovery described in paragraphs (1) and (2), the court may determine that a stay is unnecessary if a protective order limiting discovery would protect the interest of one party without unfairly limiting the ability of the opposing party to pursue the civil case. In no case, however, shall the court impose a protective order as an alternative to a stay if the effect of such protective order would be to allow one party to pursue discovery while the other party is substantially unable to do so.

(4) In this subsection, the terms ''related criminal case'' and ''related criminal investigation'' mean an actual prosecution or investigation in progress at the time at which the request for the stay, or any subsequent motion to lift the stay is made. In determining whether a criminal case or investigation is ''related'' to a civil forfeiture proceeding, the court shall consider the degree of similarity between the parties, witnesses, facts, and circumstances involved in the two proceedings, without requiring an identity with respect to any one or more factors.

(5) In requesting a stay under paragraph (1), the Government may, in appropriate cases, submit evidence ex parte in order to avoid disclosing any matter that may adversely affect an ongoing criminal investigation or pending criminal trial.

(6) Whenever a civil forfeiture proceeding is stayed pursuant to this subsection, the court shall enter any order necessary to preserve the value of the property or to protect the rights of lienholders or other persons with an interest in the property while the stay is in effect.

(7) A determination by the court that the claimant has standing to request a stay pursu-

[1] So in original. Probably should not be capitalized.

ant to paragraph (2) shall apply only to this subsection and shall not preclude the Government from objecting to the standing of the claimant by dispositive motion or at the time of trial.

(h) In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.

(i)(1) Whenever property is civilly or criminally forfeited under this chapter, the Attorney General or the Secretary of the Treasury, as the case may be, may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

(A) has been agreed to by the Secretary of State;

(B) is authorized in an international agreement between the United States and the foreign country; and

(C) is made to a country which, if applicable, has been certified under section 481(h)[2] of the Foreign Assistance Act of 1961.

A decision by the Attorney General or the Secretary of the Treasury pursuant to this paragraph shall not be subject to review. The foreign country shall, in the event of a transfer of property or proceeds of sale of property under this subsection, bear all expenses incurred by the United States in the seizure, maintenance, inventory, storage, forfeiture, and disposition of the property, and all transfer costs. The payment of all such expenses, and the transfer of assets pursuant to this paragraph, shall be upon such terms and conditions as the Attorney General or the Secretary of the Treasury may, in his discretion, set.

(2) The provisions of this section shall not be construed as limiting or superseding any other authority of the United States to provide assistance to a foreign country in obtaining property related to a crime committed in the foreign country, including property which is sought as evidence of a crime committed in the foreign country.

(3) A certified order or judgment of forfeiture by a court of competent jurisdiction of a foreign country concerning property which is the subject of forfeiture under this section and was determined by such court to be the type of property described in subsection (a)(1)(B) of this section, and any certified recordings or transcripts of testimony taken in a foreign judicial proceeding concerning such order or judgment of forfeiture, shall be admissible in evidence in a proceeding brought pursuant to this section. Such certified order or judgment of forfeiture, when admitted into evidence, shall constitute probable cause that the property forfeited by such order or judgment of forfeiture is subject to forfeiture under this section and creates a rebuttable presumption of the forfeitability of such property under this section.

(4) A certified order or judgment of conviction by a court of competent jurisdiction of a foreign country concerning an unlawful drug activity which gives rise to forfeiture under this section and any certified recordings or transcripts of testimony taken in a foreign judicial proceeding concerning such order or judgment of conviction shall be admissible in evidence in a proceeding brought pursuant to this section. Such certified order or judgment of conviction, when admitted into evidence, creates a rebuttable presumption that the unlawful drug activity giving rise to forfeiture under this section has occurred.

(5) The provisions of paragraphs (3) and (4) of this subsection shall not be construed as limiting the admissibility of any evidence otherwise admissible, nor shall they limit the ability of the United States to establish probable cause that property is subject to forfeiture by any evidence otherwise admissible.

(j) For purposes of this section—

(1) the term ''Attorney General'' means the Attorney General or his delegate; and

(2) the term ''Secretary of the Treasury'' means the Secretary of the Treasury or his delegate.

(k) INTERBANK ACCOUNTS.—

(1) IN GENERAL.—

(A) IN GENERAL.—For the purpose of a forfeiture under this section or under the Controlled Substances Act (21 U.S.C. 801 et seq.), if funds are deposited into an account at a foreign bank, and that foreign bank has an interbank account in the United States with a covered financial institution (as defined in section 5318(j)(1) of title 31), the funds shall be deemed to have been deposited into the interbank account in the United States, and any restraining order, seizure warrant, or arrest warrant in rem regarding the funds may be served on the covered financial institution, and funds in the interbank account, up to the value of the funds deposited into the account at the foreign bank, may be restrained, seized, or arrested.

(B) AUTHORITY TO SUSPEND.—The Attorney General, in consultation with the Secretary of the Treasury, may suspend or terminate a forfeiture under this section if the Attorney General determines that a conflict of law exists between the laws of the jurisdiction in which the foreign bank is located and the laws of the United States with respect to liabilities arising from the restraint, seizure, or arrest of such funds, and that such suspension or termination would be in the interest of justice and would not harm the national interests of the United States.

(2) NO REQUIREMENT FOR GOVERNMENT TO TRACE FUNDS.—If a forfeiture action is brought against funds that are restrained, seized, or arrested under paragraph (1), it shall not be necessary for the Government to establish that the funds are directly traceable to the funds that were deposited into the foreign bank, nor shall it be necessary for the Government to rely on the application of section 984.

[2] See References in Text below.

(3) CLAIMS BROUGHT BY OWNER OF THE FUNDS.—If a forfeiture action is instituted against funds restrained, seized, or arrested under paragraph (1), the owner of the funds deposited into the account at the foreign bank may contest the forfeiture by filing a claim under section 983.

(4) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) INTERBANK ACCOUNT.—The term ''interbank account'' has the same meaning as in section 984(c)(2)(B).

(B) OWNER.—

(i) IN GENERAL.—Except as provided in clause (ii), the term ''owner''—

(I) means the person who was the owner, as that term is defined in section 983(d)(6), of the funds that were deposited into the foreign bank at the time such funds were deposited; and

(II) does not include either the foreign bank or any financial institution acting as an intermediary in the transfer of the funds into the interbank account.

(ii) EXCEPTION.—The foreign bank may be considered the ''owner'' of the funds (and no other person shall qualify as the owner of such funds) only if—

(I) the basis for the forfeiture action is wrongdoing committed by the foreign bank; or

(II) the foreign bank establishes, by a preponderance of the evidence, that prior to the restraint, seizure, or arrest of the funds, the foreign bank had discharged all or part of its obligation to the prior owner of the funds, in which case the foreign bank shall be deemed the owner of the funds to the extent of such discharged obligation.

(Added Pub. L. 99–570, title I, § 1366(a), Oct. 27, 1986, 100 Stat. 3207–35; amended Pub. L. 100–690, title VI, §§ 6463(a), (b), 6469(b), 6470(b), (e), (f), 6471(c), Nov. 18, 1988, 102 Stat. 4374, 4377, 4378; Pub. L. 101–73, title IX, § 963(a), (b), Aug. 9, 1989, 103 Stat. 504; Pub. L. 101–647, title I, § 103, title XXV, §§ 2508, 2524, 2525(a), title XXXV, § 3531, Nov. 29, 1990, 104 Stat. 4791, 4862, 4873, 4874, 4924; Pub. L. 102–393, title VI, § 638(d), Oct. 6, 1992, 106 Stat. 1788; Pub. L. 102–519, title I, § 104(a), Oct. 25, 1992, 106 Stat. 3385; Pub. L. 102–550, title XV, §§ 1525(c)(1), 1533, Oct. 28, 1992, 106 Stat. 4065, 4066; Pub. L. 103–322, title XXXIII, § 330011(s)(2), Sept. 13, 1994, 108 Stat. 2146; Pub. L. 103–447, title I, § 102(b), Nov. 2, 1994, 108 Stat. 4693; Pub. L. 106–185, §§ 2(c)(1), 5(a), 6, 8(a), 20, Apr. 25, 2000, 114 Stat. 210, 213–215, 224; Pub. L. 107–56, title III, §§ 319(a), 320, 372(b)(1), 373(b), title VIII, § 806, Oct. 26, 2001, 115 Stat. 311, 315, 339, 340, 378; Pub. L. 107–197, title III, § 301(d), June 25, 2002, 116 Stat. 728; Pub. L. 107–273, div. B, title IV, § 4002(a)(2), Nov. 2, 2002, 116 Stat. 1806.)

REFERENCES IN TEXT

The Controlled Substances Act, referred to in subsecs. (a)(1)(B)(i), (b)(4)(A), and (k)(1)(A), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§ 801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

The Federal Rules of Criminal Procedure, referred to in subsec. (b)(2), (3), are set out in the Appendix to this title.

The Supplemental Rules for Certain Admiralty and Maritime Claims, referred to in subsec. (b)(2)(A), are set out as part of the Federal Rules of Civil Procedure in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Federal Rules of Civil Procedure, referred to in subsec. (b)(4)(A), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The customs laws, referred to in subsec. (d), are classified generally to Title 19, Customs Duties. See, particularly, sections 1902 to 1919 of Title 19.

Section 3 of the Anti Drug Abuse Act of 1986, referred to in subsec. (e), is section 3 of Pub. L. 99–570, which is set out as a note under section 801 of Title 21, Food and Drugs.

Section 8(e)(7)(D) of the Federal Deposit Insurance Act, referred to in subsec. (e)(7), is classified to section 1818(e)(7)(D) of Title 12, Banks and Banking.

Section 481(h) of the Foreign Assistance Act of 1961, referred to in subsec. (i)(1)(C), was classified to section 2291(h) of Title 22, Foreign Relations and Intercourse, prior to repeal of subsec. (h) by Pub. L. 102–583, § 6(b)(2), Nov. 2, 1992, 106 Stat. 4932. Reference to section 481(h) of the Foreign Assistance Act of 1961 probably should be to section 490(a)(1) of the Act, which is classified to section 2291j(a)(1) of Title 22.

AMENDMENTS

2002—Subsec. (a)(1)(H). Pub. L. 107–197 added subpar. (H).

Subsec. (d). Pub. L. 107–273 substituted ''proceeds from the sale of such property under this section'' for ''proceeds from the sale of this section''.

2001—Subsec. (a)(1)(A). Pub. L. 107–56, §§ 372(b)(1), 373(b), struck out ''of section 5313(a) or 5324(a) of title 31, or'' after ''transaction or attempted transaction in violation'', substituted '', 1957 or 1960'' for ''or 1957'', and struck out at end ''However, no property shall be seized or forfeited in the case of a violation of section 5313(a) of title 31 by a domestic financial institution examined by a Federal bank supervisory agency or a financial institution regulated by the Securities and Exchange Commission or a partner, director, or employee thereof.''

Subsec. (a)(1)(B). Pub. L. 107–56, § 320, amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''Any property, real or personal, within the jurisdiction of the United States, constituting, derived from, or traceable to, any proceeds obtained directly or indirectly from an offense against a foreign nation involving the manufacture, importation, sale, or distribution of a controlled substance (as such term is defined for the purposes of the Controlled Substances Act), within whose jurisdiction such offense would be punishable by death or imprisonment for a term exceeding one year and which would be punishable under the laws of the United States by imprisonment for a term exceeding one year if such act or activity constituting the offense against the foreign nation had occurred within the jurisdiction of the United States.''

Subsec. (a)(1)(G). Pub. L. 107–56, § 806, added subpar. (G).

Subsec. (k). Pub. L. 107–56, § 319(a), added subsec. (k).

2000—Subsec. (a)(1). Pub. L. 106–185, § 2(c)(1)(A), substituted ''The'' for ''Except as provided in paragraph (2), the'' in introductory provisions.

Subsec. (a)(1)(C). Pub. L. 106–185, § 20(a), substituted ''or any offense constituting 'specified unlawful activity' (as defined in section 1956(c)(7) of this title), or a conspiracy to commit such offense.'' for ''or a violation of section 1341 or 1343 of such title affecting a financial institution.''

Subsec. (a)(2). Pub. L. 106–185, §§ 2(c)(1)(B), 20(b), added par. (2) and struck out former par. (2) which read as follows: ''No property shall be forfeited under this section to the extent of the interest of an owner or lienholder by reason of any act or omission established by that

owner or lienholder to have been committed without the knowledge of that owner or lienholder.''

Subsec. (b). Pub. L. 106–185, §5(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

''(b)(1) Any property—

''(A) subject to forfeiture to the United States under subparagraph (A) or (B) of subsection (a)(1) of this section—

''(i) may be seized by the Attorney General; or

''(ii) in the case of property involved in a violation of section 5313(a) or 5324 of title 31, United States Code, or section 1956 or 1957 of this title investigated by the Secretary of the Treasury or the United States Postal Service, may be seized by the Secretary of the Treasury or the Postal Service; and

''(B) subject to forfeiture to the United States under subparagraph (C) of subsection (a)(1) of this section may be seized by the Attorney General, the Secretary of the Treasury, or the Postal Service.

''(2) Property shall be seized under paragraph (1) of this subsection upon process issued pursuant to the Supplemental Rules for certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—

''(A) the seizure is pursuant to a lawful arrest or search; or

''(B) the Attorney General, the Secretary of the Treasury, or the Postal Service, as the case may be, has obtained a warrant for such seizure pursuant to the Federal Rules of Criminal Procedure, in which event proceedings under subsection (d) of this section shall be instituted promptly.''

Subsec. (e)(6). Pub. L. 106–185, §6, added par. (6) and struck out former par. (6) which read as follows: ''in the case of property referred to in subsection (a)(1)(C), restore forfeited property to any victim of an offense described in subsection (a)(1)(C); or''.

Subsec. (g). Pub. L. 106–185, §8(a), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: ''The filing of an indictment or information alleging a violation of law, Federal, State, or local, which is also related to a forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the forfeiture proceeding.''

1994—Subsec. (e)(7). Pub. L. 103–322, §330011(s)(2), amended directory language of Pub. L. 101–647, §2525(a)(2). See 1990 Amendment note below.

Subsec. (i)(1)(C). Pub. L. 103–447, which directed substitution of ''section 490(a)(1) of the Foreign Assistance Act of 1961'' for ''paragraph (1)(A) of section 481(h) of the Foreign Assistance Act of 1961'', could not be executed because the words ''paragraph (1)(A) of'' do not appear in text.

1992—Subsec. (a)(1)(A). Pub. L. 102–550, §1525(c)(1), substituted ''5324(a)'' for ''5324''.

Subsec. (a)(1)(C). Pub. L. 102–393 inserted provisions relating to sections 471, 472, 473, 474, 476, 477, 478, 479, 480, 481, 485, 486, 487, 488, 501, 502, 510, 542, 545, 842, 844, 1028, 1029, and 1030 of this title.

Subsec. (a)(1)(F). Pub. L. 102–519 added subpar. (F).

Subsec. (e). Pub. L. 102–550, §1533, struck out penultimate sentence of concluding provisions which read as follows: ''The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.''

1990—Subsec. (a)(1)(C). Pub. L. 101–647, §2524(1), inserted ''1032,'' after ''1014,'' and ''or a violation of section 1341 or 1343 of such title affecting a financial institution'' before period at end.

Subsec. (a)(1)(D), (E). Pub. L. 101–647, §2525(a)(1), added subpars. (D) and (E).

Subsec. (b). Pub. L. 101–647, §2524(2), added par. (1) and par. (2) introductory provisions, redesignated former pars. (1) and (2) as subpars. (A) and (B) of par. (2), and struck out former introductory provisions which read as follows: ''Any property subject to forfeiture to the United States under subsection (a)(1)(A) or (a)(1)(B) of this section may be seized by the Attorney General or, with respect to property involved in a violation of section 5313(a) or 5324 of title 31 or of section 1956 or 1957 of this title investigated by the Secretary of the Treasury or the Postal Service may be seized by the Secretary of the Treasury or the Postal Service, in each case upon process issued pursuant to the Supplemental Rules for certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—''.

Subsec. (d). Pub. L. 101–647, §3531, inserted a period at end.

Subsec. (e)(3), (4). Pub. L. 101–647, §2524(3), (4), struck out ''(if the affected financial institution is in receivership or liquidation)'' after ''subsection (a)(1)(C)''.

Subsec. (e)(6). Pub. L. 101–647, §2508, added par. (6).

Subsec. (e)(7). Pub. L. 101–647, §2525(a)(2), as amended by Pub. L. 103–322, §330011(s)(2), added par. (7).

Subsec. (i). Pub. L. 101–647, §103(1), struck out introductory provisions which read as follows: ''In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:''.

Subsec. (i)(1). Pub. L. 101–647, §103(3), substituted first sentence for ''Notwithstanding any other provision of law, except section 3 of the Anti Drug Abuse Act of 1986, whenever property is civilly or criminally forfeited under the Controlled Substances Act, the Attorney General may, with the concurrence of the Secretary of State, equitably transfer any conveyance, currency, and any other type of personal property which the Attorney General may designate by regulation for equitable transfer, or any amounts realized by the United States from the sale of any real or personal property forfeited under the Controlled Substances Act to an appropriate foreign country to reflect generally the contribution of any such foreign country participating directly or indirectly in any acts which led to the seizure or forfeiture of such property. Such property when forfeited pursuant to subsection (a)(1)(B) of this section may also be transferred to a foreign country pursuant to a treaty providing for the transfer of forfeited property to such foreign country.''

Pub. L. 101–647, §103(2), (4), (5), inserted ''or the Secretary of the Treasury'' after ''Attorney General'' in two places, realigned margin, and struck out at end ''Transfers may be made under this subsection during a fiscal year to a country that is subject to paragraph (1)(A) of section 481(h) of the Foreign Assistance Act of 1961 (relating to restrictions on United States assistance) only if there is a certification in effect with respect to that country for that fiscal year under paragraph (2) of that section.''

Subsec. (i)(2) to (5). Pub. L. 101–647, §103(2), realigned margins.

1989—Subsec. (a)(1)(C). Pub. L. 101–73, §963(a), added subpar. (C).

Subsec. (e). Pub. L. 101–73, §963(b), substituted ''determine—'' for ''determine to—'' in introductory provisions, inserted ''The United States shall not be liable in any action arising out of a transfer under paragraph (3), (4), or (5) of this subsection.'' in closing provisions, added pars. (1) to (5), and struck out former pars. (1) and (2) which read as follows:

''(1) any other Federal agency; or

''(2) any State or local law enforcement agency which participated directly in any of the acts which led to the seizure or forfeiture of the property.''

1988—Subsec. (a)(1)(A). Pub. L. 100–690, §6463(a)(1), added subpar. (A) and struck out former subpar. (A) which read as follows: ''Any property, real or personal, which represents the gross receipts a person obtains, directly or indirectly, as a result of a violation of section 1956 or 1957 of this title, or which is traceable to such gross receipts.''

Subsec. (a)(1)(B). Pub. L. 100–690, §6470(b), inserted '', real or personal,'' after ''property'', substituted ''constituting, derived from, or traceable to, any pro-

ceeds obtained directly or indirectly from'' for ''which represents the proceeds of'', ''such offense would'' for ''such offense or activity would'', and ''punishable under the laws of the United States by imprisonment'' for ''punishable by imprisonment'', and inserted ''constituting the offense against the foreign nation'' after ''such act or activity''.

Subsec. (a)(1)(C). Pub. L. 100–690, § 6463(a)(2), struck out subpar. (C) which read as follows: ''Any coin and currency (or other monetary instrument as the Secretary of the Treasury may prescribe) or any interest in other property, including any deposit in a financial institution, traceable to such coin or currency involved in a transaction or attempted transaction in violation of section 5313(a) or 5324 of title 31 may be seized and forfeited to the United States Government. No property or interest in property shall be seized or forfeited if the violation is by a domestic financial institution examined by a Federal bank supervisory agency or a financial institution regulated by the Securities and Exchange Commission or a partner, director, officer, or employee thereof.''

Subsec. (a)(2). Pub. L. 100–690, § 6470(e), substituted ''omission'' for ''emission''.

Subsec. (b). Pub. L. 100–690, § 6463(b), which directed amendment of subsec. (b) by substituting ''involved in a violation of section 5313(a) or 5324 of title 31 or of section 1956 or 1957 of this title investigated by the Secretary of the Treasury'' for ''involved in a violation of section 1956 or 1957 of this title investigated by the Secretary of the Treasury, and any property subject to forfeiture under subsection (a)(1)(C) of this section'' was executed by substituting the new language for ''involved in a violation of section 1956 or 1957 of this title investigated by the Secretary of the Treasury, may be seized by the Secretary of the Treasury, and any property subject to forfeiture under subsection (a)(1)(C) of this section'' in introductory provisions, to reflect the probable intent of Congress.

Pub. L. 100–690, § 6469(b)(1), inserted ''or the Postal Service'' after ''Secretary of the Treasury'' in two places in introductory provisions.

Subsec. (b)(2). Pub. L. 100–690, § 6469(b)(2), substituted ''the Attorney General, the Secretary of the Treasury, or the Postal Service'' for ''the Attorney General or the Secretary of the Treasury''.

Subsec. (c). Pub. L. 100–690, § 6469(b)(2), substituted ''the Attorney General, the Secretary of the Treasury, or the Postal Service'' for ''the Attorney General or the Secretary of the Treasury'' in two places.

Subsec. (d). Pub. L. 100–690, § 6469(b)(2), (3), substituted ''the Attorney General, the Secretary of the Treasury, or the Postal Service'' for ''the Attorney General or the Secretary of the Treasury'' and inserted provision that Attorney General have sole responsibility for disposing of petitions for remission or mitigation with respect to property involved in a judicial forfeiture proceeding.

Subsec. (e). Pub. L. 100–690, § 6469(b)(2), which directed the substitution of ''the Attorney General, the Secretary of the Treasury, or the Postal Service'' for ''the Attorney General or the Secretary of the Treasury'' was executed to reflect the probable intent of Congress by making the substitution in four places without regard as to whether or not the initial article ''the'' was capitalized.

Pub. L. 100–690, § 6469(b)(4), inserted provision that the authority granted to the Secretary of the Treasury and the Postal Service apply only to property that has been administratively forfeited.

Subsec. (g). Pub. L. 100–690, § 6471(c), inserted '', Federal, State or local,'' after ''law''.

Subsec. (i)(1). Pub. L. 100–690, § 6470(f), substituted ''subsection'' for ''subchapter'' in fourth sentence.

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 1994 AMENDMENT

Section 330011(s)(2) of Pub. L. 103–322 provided that the amendment made by that section is effective as of the date on which section 2525(a)(2) of Pub. L. 101–647 took effect.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–185, § 1(a), Apr. 25, 2000, 114 Stat. 202, provided that: ''This Act [enacting sections 983 and 985 of this title and sections 2466 and 2467 of Title 28, Judiciary and Judicial Procedure, amending this section, sections 982 to 984, 986, 2232, 2254, and 3322 of this title, section 1324 of Title 8, Aliens and Nationality, section 1621 of Title 19, Customs Duties, section 881 of Title 21, Food and Drugs, sections 524, 2461, 2465, and 2680 of Title 28, and section 2996f of Title 42, The Public Health and Welfare, repealing section 888 of Title 21, and enacting provisions set out as notes under section 1324 of Title 8, section 2466 of Title 28, and section 3724 of Title 31, Money and Finance] may be cited as the 'Civil Asset Forfeiture Reform Act of 2000'.''

SHORT TITLE OF 1988 AMENDMENT

Section 6181 of Pub. L. 100–690 provided that: ''This subtitle [subtitle E (§§ 6181–6187) of title VI of Pub. L. 100–690, enacting sections 5325 and 5326 of Title 31, Money and Finance, amending sections 1956 and 1957 of this title, sections 1730d, 1829b, 1953, 1955, 3403, 3412, 3413, 3417, and 3420 of Title 12, Banks and Banking, and sections 5312, 5318, and 5321 of Title 31] may be cited as the 'Money Laundering Prosecution Improvements Act of 1988'.''

SHORT TITLE OF 1986 AMENDMENT

Section 1351 of Pub. L. 99–570 provided that: ''This subtitle [subtitle H (§§ 1351–1367) of title I of Pub. L. 99–570, enacting this section, sections 982, 1956, and 1957 of this title and section 5324 of Title 31, Money and Finance, amending sections 1952, 1961, and 2516 of this title, sections 1464, 1730, 1786, 1817, 1818, 3403, and 3413 of Title 12, Banks and Banking, and sections 5312, 5316 to 5318, 5321, and 5322 of Title 31, and enacting provisions set out as notes under this section, sections 1464 and 1730 of Title 12, and sections 5315 to 5317, 5321, and 5324 of Title 31] may be cited as the 'Money Laundering Control Act of 1986'.''

SEVERABILITY

Section 1367 of Pub. L. 99–570 provided that: ''If any provision of this subtitle [see Short Title of 1986 Amendment note above] or any amendment made by this Act [see Short Title of 1986 Amendment note set out under section 801 of Title 21, Food and Drugs], or the application thereof to any person or circumstances is held invalid, the provisions of every other part, and their application, shall not be affected thereby.''

§ 982. Criminal forfeiture

(a)(1) The court, in imposing sentence on a person convicted of an offense in violation of section 1956, 1957, or 1960 of this title, shall order that the person forfeit to the United States any property, real or personal, involved in such offense, or any property traceable to such property.

(2) The court, in imposing sentence on a person convicted of a violation of, or a conspiracy to violate—

(A) section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of this title, affecting a financial institution, or

(B) section 471, 472, 473, 474, 476, 477, 478, 479, 480, 481, 485, 486, 487, 488, 501, 502, 510, 542, 545, 842, 844, 1028, 1029, or 1030 of this title,

shall order that the person forfeit to the United States any property constituting, or derived

from, proceeds the person obtained directly or indirectly, as the result of such violation.

(3) The court, in imposing a sentence on a person convicted of an offense under—

(A) section 666(a)(1) (relating to Federal program fraud);

(B) section 1001 (relating to fraud and false statements);

(C) section 1031 (relating to major fraud against the United States);

(D) section 1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of insured financial institution);

(E) section 1341 (relating to mail fraud); or

(F) section 1343 (relating to wire fraud),

involving the sale of assets acquired or held by the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, as conservator or receiver for a financial institution or any other conservator for a financial institution appointed by the Office of the Comptroller of the Currency or the Office of Thrift Supervision, or the National Credit Union Administration, as conservator or liquidating agent for a financial institution, shall order that the person forfeit to the United States any property, real or personal, which represents or is traceable to the gross receipts obtained, directly or indirectly, as a result of such violation.

(4) With respect to an offense listed in subsection (a)(3) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations, or promises, the gross receipts of such an offense shall include any property, real or personal, tangible or intangible, which is obtained, directly or indirectly, as a result of such offense.

(5) The court, in imposing sentence on a person convicted of a violation or conspiracy to violate—

(A) section 511 (altering or removing motor vehicle identification numbers);

(B) section 553 (importing or exporting stolen motor vehicles);

(C) section 2119 (armed robbery of automobiles);

(D) section 2312 (transporting stolen motor vehicles in interstate commerce); or

(E) section 2313 (possessing or selling a stolen motor vehicle that has moved in interstate commerce);

shall order that the person forfeit to the United States any property, real or personal, which represents or is traceable to the gross proceeds obtained, directly or indirectly, as a result of such violation.

(6)(A) The court, in imposing sentence on a person convicted of a violation of, or conspiracy to violate, section 274(a), 274A(a)(1), or 274A(a)(2) of the Immigration and Nationality Act or section 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of this title, or a violation of, or conspiracy to violate, section 1028 of this title if committed in connection with passport or visa issuance or use, shall order that the person forfeit to the United States, regardless of any provision of State law—

(i) any conveyance, including any vessel, vehicle, or aircraft used in the commission of the offense of which the person is convicted; and

(ii) any property real or personal—

(I) that constitutes, or is derived from or is traceable to the proceeds obtained directly or indirectly from the commission of the offense of which the person is convicted; or

(II) that is used to facilitate, or is intended to be used to facilitate, the commission of the offense of which the person is convicted.

(B) The court, in imposing sentence on a person described in subparagraph (A), shall order that the person forfeit to the United States all property described in that subparagraph.

(7) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.

(8) The court, in sentencing a defendant convicted of an offense under section 1028, 1029, 1341, 1342, 1343, or 1344, or of a conspiracy to commit such an offense, if the offense involves telemarketing (as that term is defined in section 2325), shall order that the defendant forfeit to the United States any real or personal property—

(A) used or intended to be used to commit, to facilitate, or to promote the commission of such offense; and

(B) constituting, derived from, or traceable to the gross proceeds that the defendant obtained directly or indirectly as a result of the offense.

(b)(1) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the provisions of section 413 (other than subsection (d) of that section) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853).

(2) The substitution of assets provisions of subsection 413(p) shall not be used to order a defendant to forfeit assets in place of the actual property laundered where such defendant acted merely as an intermediary who handled but did not retain the property in the course of the money laundering offense unless the defendant, in committing the offense or offenses giving rise to the forfeiture, conducted three or more separate transactions involving a total of $100,000 or more in any twelve month period.

(Added Pub. L. 99–570, title I, §1366(a), Oct. 27, 1986, 100 Stat. 3207–39; amended Pub. L. 100–690, title VI, §§6463(c), 6464, Nov. 18, 1988, 102 Stat. 4374, 4375; Pub. L. 101–73, title IX, §963(c), Aug. 9, 1989, 103 Stat. 504; Pub. L. 101–647, title XIV, §§1401, 1403, title XXV, §2525(b), Nov. 29, 1990, 104 Stat. 4835, 4874; Pub. L. 102–393, title VI, §638(e), Oct. 6, 1992, 106 Stat. 1788; Pub. L. 102–519, title I, §104(b), Oct. 25, 1992, 106 Stat. 3385; Pub. L. 102–550, title XV, §1512(c), Oct. 28, 1992, 106 Stat. 4058; Pub. L. 103–322, title XXXIII, §330011(s)(1), Sept. 13, 1994, 108 Stat. 2145; Pub. L. 104–191, title II, §249(a), (b), Aug. 21, 1996, 110 Stat. 2020; Pub. L. 104–208, div. C, title II, §217, Sept. 30, 1996, 110 Stat. 3009–573; Pub. L. 105–184, §2, June 23, 1998, 112 Stat. 520; Pub. L. 105–318, §6(a), Oct. 30, 1998,

112 Stat. 3010; Pub. L. 106–185, § 18(b), Apr. 25, 2000, 114 Stat. 223; Pub. L. 107–56, title III, § 372(b)(2), Oct. 26, 2001, 115 Stat. 339; Pub. L. 107–273, div. B, title IV, § 4002(b)(10), Nov. 2, 2002, 116 Stat. 1808.)

REFERENCES IN TEXT

Sections 274 and 274A of the Immigration and Nationality Act, referred to in subsec. (a)(6)(A), are classified to sections 1324 and 1324a, respectively, of Title 8, Aliens and Nationality.

AMENDMENTS

2002—Subsec. (a)(8). Pub. L. 107–273 substituted ''court'' for ''Court''.

2001—Subsec. (a)(1). Pub. L. 107–56 struck out ''of section 5313(a), 5316, or 5324 of title 31, or'' before ''of section 1956, 1957, or 1960 of this title'' and struck out at end ''However, no property shall be seized or forfeited in the case of a violation of section 5313(a) of title 31 by a domestic financial institution examined by a Federal bank supervisory agency or a financial institution regulated by the Securities and Exchange Commission or a partner, director, or employee thereof.''

2000—Subsec. (a)(6). Pub. L. 106–185, § 18(b)(2), (3), designated concluding provisions of subpar. (A) as subpar. (B), substituted ''The court, in imposing sentence on a person described in subparagraph (A)'' for ''The court, in imposing sentence on such person'' and ''that subparagraph'' for ''this subparagraph'', and struck out former subpar. (B), which read as follows: ''The criminal forfeiture of property under subparagraph (A), including any seizure and disposition of the property and any related administrative or judicial proceeding, shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsections (a) and (d) of such section 413.''

Subsec. (a)(6)(A). Pub. L. 106–185, § 18(b)(1)(A), inserted ''section 274(a), 274A(a)(1), or 274A(a)(2) of the Immigration and Nationality Act or'' after ''a person convicted of a violation of, or conspiracy to violate,'' in introductory provisions.

Subsec. (a)(6)(A)(i). Pub. L. 106–185, § 18(b)(1)(B), substituted ''the offense of which the person is convicted'' for ''a violation of, or a conspiracy to violate, subsection (a)''.

Subsec. (a)(6)(A)(ii)(I), (II). Pub. L. 106–185, § 18(b)(1)(C), substituted ''the offense of which the person is convicted'' for ''a violation of, or a conspiracy to violate, subsection (a), section 274A(a)(1) or 274A(a)(2) of the Immigration and Nationality Act, or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of this title''.

1998—Subsec. (a)(6), (7). Pub. L. 105–184, § 2(1)(A), which directed the amendment of subsec. (a) ''by redesignating the second paragraph designated as paragraph (6) as paragraph (7)'', was executed by redesignating par. (6), relating to forfeitures for Federal health care offenses, as (7), to reflect the probable intent of Congress.

Subsec. (a)(8). Pub. L. 105–184, § 2(1)(B), added par. (8).

Subsec. (b)(1). Pub. L. 105–318 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Property subject to forfeiture under this section, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed—

''(A) in the case of a forfeiture under subsection (a)(1), (a)(6), or (a)(8) of this section, by subsections (c) and (e) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853); and

''(B) in the case of a forfeiture under subsection (a)(2) of this section, by subsections (b), (c), (e), and (g) through (p) of section 413 of such Act.''

Subsec. (b)(1)(A). Pub. L. 105–184, § 2(2), substituted ''(a)(1), (a)(6), or (a)(8)'' for ''(a)(1) or (a)(6)''.

1996—Subsec. (a)(6). Pub. L. 104–208 added par. (6) relating to criminal forfeiture for passport and visa related offenses.

Pub. L. 104–191, § 249(a), added par. (6) relating to forfeitures for Federal health care offenses.

Subsec. (b)(1)(A). Pub. L. 104–191, § 249(b), inserted ''or (a)(6)'' after ''(a)(1)''.

1994—Subsec. (a)(1). Pub. L. 103–322, § 330011(s)(1), amended directory language of Pub. L. 101–647, § 1401. See 1990 Amendment note below.

1992—Subsec. (a)(1). Pub. L. 102–550 substituted '', 1957, or 1960'' for ''or 1957''.

Subsec. (a)(2). Pub. L. 102–393 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The court, in imposing sentence on a person convicted of a violation of, or a conspiracy to violate, section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of this title, affecting a financial institution, shall order that the person forfeit to the United States any property constituting, or derived from, proceeds the person obtained directly or indirectly, as the result of such violation.''

Subsec. (a)(5). Pub. L. 102–519 added par. (5).

1990—Subsec. (a)(1). Pub. L. 101–647, § 1401, as amended by Pub. L. 103–322, § 330011(s)(1), inserted '', 5316,'' after ''5313(a)'', the first place appearing.

Subsec. (a)(3), (4). Pub. L. 101–647, § 2525(b), added pars. (3) and (4).

Subsec. (b)(2). Pub. L. 101–647, § 1403, inserted before period at end ''unless the defendant, in committing the offense or offenses giving rise to the forfeiture, conducted three or more separate transactions involving a total of $100,000 or more in any twelve month period''.

1989—Subsec. (a). Pub. L. 101–73, § 963(c)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 101–73, § 963(c)(2), struck out ''The provisions of subsections 413(c) and (e) through (p) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853(c) and (e)–(p)) shall apply to property subject to forfeiture under this section, to any seizure or disposition thereof, and to any administrative or judicial proceeding in relation thereto, if not inconsistent with this section. However, the'', added par. (1), and inserted ''(2) The'' before ''substitution of assets''.

1988—Subsec. (a). Pub. L. 100–690, § 6463(c), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''The court, in imposing sentence on a person convicted of an offense under section 1956 or 1957 of this title shall order that the person forfeit to the United States any property, real or personal, which represents the gross receipts the person obtained, directly or indirectly, as a result of such offense, or which is traceable to such gross receipts.''

Subsec. (b). Pub. L. 100–690, § 6464, substituted ''(p)'' for ''(*o*)'' in two places and inserted at end ''However, the substitution of assets provisions of subsection 413(p) not be used to order a defendant to forfeit assets in place of the actual property laundered where such defendant acted merely as an intermediary who handled but did not retain the property in the course of the money laundering offense.''

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 1994 AMENDMENT

Section 330011(s)(1) of Pub. L. 103–322 provided that the amendment made by that section is effective as of the date on which section 1401 of Pub. L. 101–647 took effect.

§ 983. General rules for civil forfeiture proceedings

(a) NOTICE; CLAIM; COMPLAINT.—

(1)(A)(i) Except as provided in clauses (ii) through (v), in any nonjudicial civil forfeiture

proceeding under a civil forfeiture statute, with respect to which the Government is required to send written notice to interested parties, such notice shall be sent in a manner to achieve proper notice as soon as practicable, and in no case more than 60 days after the date of the seizure.

(ii) No notice is required if, before the 60-day period expires, the Government files a civil judicial forfeiture action against the property and provides notice of that action as required by law.

(iii) If, before the 60-day period expires, the Government does not file a civil judicial forfeiture action, but does obtain a criminal indictment containing an allegation that the property is subject to forfeiture, the Government shall either—

(I) send notice within the 60 days and continue the nonjudicial civil forfeiture proceeding under this section; or

(II) terminate the nonjudicial civil forfeiture proceeding, and take the steps necessary to preserve its right to maintain custody of the property as provided in the applicable criminal forfeiture statute.

(iv) In a case in which the property is seized by a State or local law enforcement agency and turned over to a Federal law enforcement agency for the purpose of forfeiture under Federal law, notice shall be sent not more than 90 days after the date of seizure by the State or local law enforcement agency.

(v) If the identity or interest of a party is not determined until after the seizure or turnover but is determined before a declaration of forfeiture is entered, notice shall be sent to such interested party not later than 60 days after the determination by the Government of the identity of the party or the party's interest.

(B) A supervisory official in the headquarters office of the seizing agency may extend the period for sending notice under subparagraph (A) for a period not to exceed 30 days (which period may not be further extended except by a court), if the official determines that the conditions in subparagraph (D) are present.

(C) Upon motion by the Government, a court may extend the period for sending notice under subparagraph (A) for a period not to exceed 60 days, which period may be further extended by the court for 60-day periods, as necessary, if the court determines, based on a written certification of a supervisory official in the headquarters office of the seizing agency, that the conditions in subparagraph (D) are present.

(D) The period for sending notice under this paragraph may be extended only if there is reason to believe that notice may have an adverse result, including—

(i) endangering the life or physical safety of an individual;

(ii) flight from prosecution;

(iii) destruction of or tampering with evidence;

(iv) intimidation of potential witnesses; or

(v) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

(E) Each of the Federal seizing agencies conducting nonjudicial forfeitures under this section shall report periodically to the Committees on the Judiciary of the House of Representatives and the Senate the number of occasions when an extension of time is granted under subparagraph (B).

(F) If the Government does not send notice of a seizure of property in accordance with subparagraph (A) to the person from whom the property was seized, and no extension of time is granted, the Government shall return the property to that person without prejudice to the right of the Government to commence a forfeiture proceeding at a later time. The Government shall not be required to return contraband or other property that the person from whom the property was seized may not legally possess.

(2)(A) Any person claiming property seized in a nonjudicial civil forfeiture proceeding under a civil forfeiture statute may file a claim with the appropriate official after the seizure.

(B) A claim under subparagraph (A) may be filed not later than the deadline set forth in a personal notice letter (which deadline may be not earlier than 35 days after the date the letter is mailed), except that if that letter is not received, then a claim may be filed not later than 30 days after the date of final publication of notice of seizure.

(C) A claim shall—

(i) identify the specific property being claimed;

(ii) state the claimant's interest in such property; and

(iii) be made under oath, subject to penalty of perjury.

(D) A claim need not be made in any particular form. Each Federal agency conducting nonjudicial forfeitures under this section shall make claim forms generally available on request, which forms shall be written in easily understandable language.

(E) Any person may make a claim under subparagraph (A) without posting bond with respect to the property which is the subject of the claim.

(3)(A) Not later than 90 days after a claim has been filed, the Government shall file a complaint for forfeiture in the manner set forth in the Supplemental Rules for Certain Admiralty and Maritime Claims or return the property pending the filing of a complaint, except that a court in the district in which the complaint will be filed may extend the period for filing a complaint for good cause shown or upon agreement of the parties.

(B) If the Government does not—

(i) file a complaint for forfeiture or return the property, in accordance with subparagraph (A); or

(ii) before the time for filing a complaint has expired—

(I) obtain a criminal indictment containing an allegation that the property is subject to forfeiture; and

(II) take the steps necessary to preserve its right to maintain custody of the property as provided in the applicable criminal forfeiture statute,

the Government shall promptly release the property pursuant to regulations promulgated by the Attorney General, and may not take any further action to effect the civil forfeiture of such property in connection with the underlying offense.

(C) In lieu of, or in addition to, filing a civil forfeiture complaint, the Government may include a forfeiture allegation in a criminal indictment. If criminal forfeiture is the only forfeiture proceeding commenced by the Government, the Government's right to continued possession of the property shall be governed by the applicable criminal forfeiture statute.

(D) No complaint may be dismissed on the ground that the Government did not have adequate evidence at the time the complaint was filed to establish the forfeitability of the property.

(4)(A) In any case in which the Government files in the appropriate United States district court a complaint for forfeiture of property, any person claiming an interest in the seized property may file a claim asserting such person's interest in the property in the manner set forth in the Supplemental Rules for Certain Admiralty and Maritime Claims, except that such claim may be filed not later than 30 days after the date of service of the Government's complaint or, as applicable, not later than 30 days after the date of final publication of notice of the filing of the complaint.

(B) A person asserting an interest in seized property, in accordance with subparagraph (A), shall file an answer to the Government's complaint for forfeiture not later than 20 days after the date of the filing of the claim.

(b) REPRESENTATION.—

(1)(A) If a person with standing to contest the forfeiture of property in a judicial civil forfeiture proceeding under a civil forfeiture statute is financially unable to obtain representation by counsel, and the person is represented by counsel appointed under section 3006A of this title in connection with a related criminal case, the court may authorize counsel to represent that person with respect to the claim.

(B) In determining whether to authorize counsel to represent a person under subparagraph (A), the court shall take into account such factors as—

(i) the person's standing to contest the forfeiture; and

(ii) whether the claim appears to be made in good faith.

(2)(A) If a person with standing to contest the forfeiture of property in a judicial civil forfeiture proceeding under a civil forfeiture statute is financially unable to obtain representation by counsel, and the property subject to forfeiture is real property that is being used by the person as a primary residence, the court, at the request of the person, shall insure that the person is represented by an attorney for the Legal Services Corporation with respect to the claim.

(B)(i) At appropriate times during a representation under subparagraph (A), the Legal Services Corporation shall submit a statement of reasonable attorney fees and costs to the court.

(ii) The court shall enter a judgment in favor of the Legal Services Corporation for reasonable attorney fees and costs submitted pursuant to clause (i) and treat such judgment as payable under section 2465 of title 28, United States Code, regardless of the outcome of the case.

(3) The court shall set the compensation for representation under this subsection, which shall be equivalent to that provided for court-appointed representation under section 3006A of this title.

(c) BURDEN OF PROOF.—In a suit or action brought under any civil forfeiture statute for the civil forfeiture of any property—

(1) the burden of proof is on the Government to establish, by a preponderance of the evidence, that the property is subject to forfeiture;

(2) the Government may use evidence gathered after the filing of a complaint for forfeiture to establish, by a preponderance of the evidence, that property is subject to forfeiture; and

(3) if the Government's theory of forfeiture is that the property was used to commit or facilitate the commission of a criminal offense, or was involved in the commission of a criminal offense, the Government shall establish that there was a substantial connection between the property and the offense.

(d) INNOCENT OWNER DEFENSE.—

(1) An innocent owner's interest in property shall not be forfeited under any civil forfeiture statute. The claimant shall have the burden of proving that the claimant is an innocent owner by a preponderance of the evidence.

(2)(A) With respect to a property interest in existence at the time the illegal conduct giving rise to forfeiture took place, the term ''innocent owner'' means an owner who—

(i) did not know of the conduct giving rise to forfeiture; or

(ii) upon learning of the conduct giving rise to the forfeiture, did all that reasonably could be expected under the circumstances to terminate such use of the property.

(B)(i) For the purposes of this paragraph, ways in which a person may show that such person did all that reasonably could be expected may include demonstrating that such person, to the extent permitted by law—

(I) gave timely notice to an appropriate law enforcement agency of information that led the person to know the conduct giving rise to a forfeiture would occur or has occurred; and

(II) in a timely fashion revoked or made a good faith attempt to revoke permission for those engaging in such conduct to use the property or took reasonable actions in consultation with a law enforcement agency to discourage or prevent the illegal use of the property.

(ii) A person is not required by this subparagraph to take steps that the person reasonably believes would be likely to subject any person

(other than the person whose conduct gave rise to the forfeiture) to physical danger.

(3)(A) With respect to a property interest acquired after the conduct giving rise to the forfeiture has taken place, the term ''innocent owner'' means a person who, at the time that person acquired the interest in the property—

(i) was a bona fide purchaser or seller for value (including a purchaser or seller of goods or services for value); and

(ii) did not know and was reasonably without cause to believe that the property was subject to forfeiture.

(B) An otherwise valid claim under subparagraph (A) shall not be denied on the ground that the claimant gave nothing of value in exchange for the property if—

(i) the property is the primary residence of the claimant;

(ii) depriving the claimant of the property would deprive the claimant of the means to maintain reasonable shelter in the community for the claimant and all dependents residing with the claimant;

(iii) the property is not, and is not traceable to, the proceeds of any criminal offense; and

(iv) the claimant acquired his or her interest in the property through marriage, divorce, or legal separation, or the claimant was the spouse or legal dependent of a person whose death resulted in the transfer of the property to the claimant through inheritance or probate,

except that the court shall limit the value of any real property interest for which innocent ownership is recognized under this subparagraph to the value necessary to maintain reasonable shelter in the community for such claimant and all dependents residing with the claimant.

(4) Notwithstanding any provision of this subsection, no person may assert an ownership interest under this subsection in contraband or other property that it is illegal to possess.

(5) If the court determines, in accordance with this section, that an innocent owner has a partial interest in property otherwise subject to forfeiture, or a joint tenancy or tenancy by the entirety in such property, the court may enter an appropriate order—

(A) severing the property;

(B) transferring the property to the Government with a provision that the Government compensate the innocent owner to the extent of his or her ownership interest once a final order of forfeiture has been entered and the property has been reduced to liquid assets; or

(C) permitting the innocent owner to retain the property subject to a lien in favor of the Government to the extent of the forfeitable interest in the property.

(6) In this subsection, the term ''owner''—

(A) means a person with an ownership interest in the specific property sought to be forfeited, including a leasehold, lien, mortgage, recorded security interest, or valid assignment of an ownership interest; and

(B) does not include—

(i) a person with only a general unsecured interest in, or claim against, the property or estate of another;

(ii) a bailee unless the bailor is identified and the bailee shows a colorable legitimate interest in the property seized; or

(iii) a nominee who exercises no dominion or control over the property.

(e) MOTION TO SET ASIDE FORFEITURE.—

(1) Any person entitled to written notice in any nonjudicial civil forfeiture proceeding under a civil forfeiture statute who does not receive such notice may file a motion to set aside a declaration of forfeiture with respect to that person's interest in the property, which motion shall be granted if—

(A) the Government knew, or reasonably should have known, of the moving party's interest and failed to take reasonable steps to provide such party with notice; and

(B) the moving party did not know or have reason to know of the seizure within sufficient time to file a timely claim.

(2)(A) Notwithstanding the expiration of any applicable statute of limitations, if the court grants a motion under paragraph (1), the court shall set aside the declaration of forfeiture as to the interest of the moving party without prejudice to the right of the Government to commence a subsequent forfeiture proceeding as to the interest of the moving party.

(B) Any proceeding described in subparagraph (A) shall be commenced—

(i) if nonjudicial, within 60 days of the entry of the order granting the motion; or

(ii) if judicial, within 6 months of the entry of the order granting the motion.

(3) A motion under paragraph (1) may be filed not later than 5 years after the date of final publication of notice of seizure of the property.

(4) If, at the time a motion made under paragraph (1) is granted, the forfeited property has been disposed of by the Government in accordance with law, the Government may institute proceedings against a substitute sum of money equal to the value of the moving party's interest in the property at the time the property was disposed of.

(5) A motion filed under this subsection shall be the exclusive remedy for seeking to set aside a declaration of forfeiture under a civil forfeiture statute.

(f) RELEASE OF SEIZED PROPERTY.—

(1) A claimant under subsection (a) is entitled to immediate release of seized property if—

(A) the claimant has a possessory interest in the property;

(B) the claimant has sufficient ties to the community to provide assurance that the property will be available at the time of the trial;

(C) the continued possession by the Government pending the final disposition of forfeiture proceedings will cause substantial hardship to the claimant, such as preventing the functioning of a business, preventing an individual from working, or leaving an individual homeless;

(D) the claimant's likely hardship from the continued possession by the Government of the seized property outweighs the risk that the property will be destroyed, damaged, lost, concealed, or transferred if it is returned to the claimant during the pendency of the proceeding; and

(E) none of the conditions set forth in paragraph (8) applies.

(2) A claimant seeking release of property under this subsection must request possession of the property from the appropriate official, and the request must set forth the basis on which the requirements of paragraph (1) are met.

(3)(A) If not later than 15 days after the date of a request under paragraph (2) the property has not been released, the claimant may file a petition in the district court in which the complaint has been filed or, if no complaint has been filed, in the district court in which the seizure warrant was issued or in the district court for the district in which the property was seized.

(B) The petition described in subparagraph (A) shall set forth—

(i) the basis on which the requirements of paragraph (1) are met; and

(ii) the steps the claimant has taken to secure release of the property from the appropriate official.

(4) If the Government establishes that the claimant's claim is frivolous, the court shall deny the petition. In responding to a petition under this subsection on other grounds, the Government may in appropriate cases submit evidence ex parte in order to avoid disclosing any matter that may adversely affect an ongoing criminal investigation or pending criminal trial.

(5) The court shall render a decision on a petition filed under paragraph (3) not later than 30 days after the date of the filing, unless such 30-day limitation is extended by consent of the parties or by the court for good cause shown.

(6) If—

(A) a petition is filed under paragraph (3); and

(B) the claimant demonstrates that the requirements of paragraph (1) have been met,

the district court shall order that the property be returned to the claimant, pending completion of proceedings by the Government to obtain forfeiture of the property.

(7) If the court grants a petition under paragraph (3)—

(A) the court may enter any order necessary to ensure that the value of the property is maintained while the forfeiture action is pending, including—

(i) permitting the inspection, photographing, and inventory of the property;

(ii) fixing a bond in accordance with rule E(5) of the Supplemental Rules for Certain Admiralty and Maritime Claims; and

(iii) requiring the claimant to obtain or maintain insurance on the subject property; and

(B) the Government may place a lien against the property or file a lis pendens to ensure that the property is not transferred to another person.

(8) This subsection shall not apply if the seized property—

(A) is contraband, currency, or other monetary instrument, or electronic funds unless such currency or other monetary instrument or electronic funds constitutes the assets of a legitimate business which has been seized;

(B) is to be used as evidence of a violation of the law;

(C) by reason of design or other characteristic, is particularly suited for use in illegal activities; or

(D) is likely to be used to commit additional criminal acts if returned to the claimant.

(g) PROPORTIONALITY.—

(1) The claimant under subsection (a)(4) may petition the court to determine whether the forfeiture was constitutionally excessive.

(2) In making this determination, the court shall compare the forfeiture to the gravity of the offense giving rise to the forfeiture.

(3) The claimant shall have the burden of establishing that the forfeiture is grossly disproportional by a preponderance of the evidence at a hearing conducted by the court without a jury.

(4) If the court finds that the forfeiture is grossly disproportional to the offense it shall reduce or eliminate the forfeiture as necessary to avoid a violation of the Excessive Fines Clause of the Eighth Amendment of the Constitution.

(h) CIVIL FINE.—

(1) In any civil forfeiture proceeding under a civil forfeiture statute in which the Government prevails, if the court finds that the claimant's assertion of an interest in the property was frivolous, the court may impose a civil fine on the claimant of an amount equal to 10 percent of the value of the forfeited property, but in no event shall the fine be less than $250 or greater than $5,000.

(2) Any civil fine imposed under this subsection shall not preclude the court from imposing sanctions under rule 11 of the Federal Rules of Civil Procedure.

(3) In addition to the limitations of section 1915 of title 28, United States Code, in no event shall a prisoner file a claim under a civil forfeiture statute or appeal a judgment in a civil action or proceeding based on a civil forfeiture statute if the prisoner has, on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous or malicious, unless the prisoner shows extraordinary and exceptional circumstances.

(i) CIVIL FORFEITURE STATUTE DEFINED.—In this section, the term ''civil forfeiture statute''—

(1) means any provision of Federal law providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense; and

(2) does not include—

(A) the Tariff Act of 1930 or any other provision of law codified in title 19;

(B) the Internal Revenue Code of 1986;

(C) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.);

(D) the Trading with the Enemy Act (50 U.S.C. App. 1 et seq.) or the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1701 et seq.); or

(E) section 1 of title VI of the Act of June 15, 1917 (40 Stat. 233; 22 U.S.C. 401).

(j) RESTRAINING ORDERS; PROTECTIVE ORDERS.—

(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of satisfactory performance bonds, create receiverships, appoint conservators, custodians, appraisers, accountants, or trustees, or take any other action to seize, secure, maintain, or preserve the availability of property subject to civil forfeiture—

(A) upon the filing of a civil forfeiture complaint alleging that the property with respect to which the order is sought is subject to civil forfeiture; or

(B) prior to the filing of such a complaint, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered.

(2) An order entered pursuant to paragraph (1)(B) shall be effective for not more than 90 days, unless extended by the court for good cause shown, or unless a complaint described in paragraph (1)(A) has been filed.

(3) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when a complaint has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought is subject to civil forfeiture and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than 10 days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

(4) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

(Added and amended Pub. L. 106–185, §§2(a), 9, Apr. 25, 2000, 114 Stat. 202, 216; Pub. L. 106–561, §3(a), Dec. 21, 2000, 114 Stat. 2791; Pub. L. 107–56, title III, §316(d), Oct. 26, 2001, 115 Stat. 310.)

REFERENCES IN TEXT

The Supplemental Rules for Certain Admiralty and Maritime Claims, referred to in subsecs. (a)(3)(A), (4)(A) and (f)(7)(A)(ii), are set out as part of the Federal Rules of Civil Procedure in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Federal Rules of Civil Procedure, referred to in subsec. (h)(2), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Tariff Act of 1930, referred to in subsec. (i)(2)(A), is act June 17, 1930, ch. 497, 46 Stat. 590, as amended, which is classified generally to chapter 4 (§1202 et seq.) of Title 19, Customs Duties. For complete classification of this Act to the Code, see section 1654 of Title 19 and Tables.

The Internal Revenue Code of 1986, referred to in subsec. (i)(2)(B), is classified generally to Title 26, Internal Revenue Code.

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (i)(2)(C), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

The Trading with the Enemy Act, referred to in subsec. (i)(2)(D), is act Oct. 6, 1917, ch. 106, 40 Stat. 411, as amended, which is classified to sections 1 to 6, 7 to 39 and 41 to 44 of Title 50, Appendix, War and National Defense. For complete classification of this Act to the Code, see Tables.

The International Emergency Economic Powers Act, referred to in (i)(2)(D), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, as amended, which is classified generally to chapter 35 (§1701 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 1701 of Title 50 and Tables.

The Federal Rules of Evidence, referred to in subsec. (j)(4), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

2001—Subsec. (i)(2)(D). Pub. L. 107–56 inserted ''or the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1701 et seq.)'' before semicolon.

2000—Subsec. (a)(2)(C)(ii). Pub. L. 106–561 struck out ''(and provide customary documentary evidence of such interest if available) and state that the claim is not frivolous'' after ''such property''.

Subsec. (j). Pub. L. 106–185, §9, added subsec. (j).

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–561, §3(b), Dec. 21, 2000, 114 Stat. 2791, provided that: ''The amendment made by this section [amending this section] shall take effect as if included in the amendment made by section 2(a) of Public Law 106–185.''

EFFECTIVE DATE

Section 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 an Effective Date of 2000 Amendment note under section 1324 of Title 8, Aliens and Nationality.

ANTI-TERRORIST FORFEITURE PROTECTION

Pub. L. 107–56, title III, §316(a)–(c), Oct. 26, 2001, 115 Stat. 309, provided that:

''(a) RIGHT TO CONTEST.—An owner of property that is confiscated under any provision of law relating to the confiscation of assets of suspected international terrorists, may contest that confiscation by filing a claim in the manner set forth in the Federal Rules of Civil Pro-

cedure (Supplemental Rules for Certain Admiralty and Maritime Claims) [28 App. U.S.C.], and asserting as an affirmative defense that—

''(1) the property is not subject to confiscation under such provision of law; or

''(2) the innocent owner provisions of section 983(d) of title 18, United States Code, apply to the case.

''(b) EVIDENCE.—In considering a claim filed under this section, a court may admit evidence that is otherwise inadmissible under the Federal Rules of Evidence [28 App. U.S.C.], if the court determines that the evidence is reliable, and that compliance with the Federal Rules of Evidence may jeopardize the national security interests of the United States.

''(c) CLARIFICATIONS.—

''(1) PROTECTION OF RIGHTS.—The exclusion of certain provisions of Federal law from the definition of the term 'civil forfeiture statute' in section 983(i) of title 18, United States Code, shall not be construed to deny an owner of property the right to contest the confiscation of assets of suspected international terrorists under—

''(A) subsection (a) of this section;

''(B) the Constitution; or

''(C) subchapter II of chapter 5 of title 5, United States Code (commonly known as the 'Administrative Procedure Act').

''(2) SAVINGS CLAUSE.—Nothing in this section shall limit or otherwise affect any other remedies that may be available to an owner of property under section 983 of title 18, United States Code, or any other provision of law.''

§ 984. Civil forfeiture of fungible property

(a)(1) In any forfeiture action in rem in which the subject property is cash, monetary instruments in bearer form, funds deposited in an account in a financial institution (as defined in section 20 of this title), or precious metals—

(A) it shall not be necessary for the Government to identify the specific property involved in the offense that is the basis for the forfeiture; and

(B) it shall not be a defense that the property involved in such an offense has been removed and replaced by identical property.

(2) Except as provided in subsection (b), any identical property found in the same place or account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture under this section.

(b) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be commenced more than 1 year from the date of the offense.

(c)(1) Subsection (a) does not apply to an action against funds held by a financial institution in an interbank account unless the account holder knowingly engaged in the offense that is the basis for the forfeiture.

(2) In this subsection—

(A) the term ''financial institution'' includes a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(b)(7)));[1] and

(B) the term ''interbank account'' means an account held by one financial institution at another financial institution primarily for the purpose of facilitating customer transactions.

(d) Nothing in this section may be construed to limit the ability of the Government to forfeit property under any provision of law if the property involved in the offense giving rise to the forfeiture or property traceable thereto is available for forfeiture.

(Added Pub. L. 102–550, title XV, § 1522(a), Oct. 28, 1992, 106 Stat. 4063; amended Pub. L. 103–325, title IV, § 411(c)(2)(E), Sept. 23, 1994, 108 Stat. 2253; Pub. L. 106–185, § 13(a), Apr. 25, 2000, 114 Stat. 218.)

REFERENCES IN TEXT

Section 1(b)(7) of the International Banking Act of 1978, referred to in subsec. (c)(2)(A), is classified to section 3101(7) of Title 12, Banks and Banking.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–185, § 13(a)(1), (2), redesignated subsec. (b) as (a), substituted ''or precious metals'' for ''or other fungible property'' in introductory provisions of par. (1) and ''subsection (b)'' for ''subsection (c)'' in par. (2), and struck out former subsec. (a) which read as follows: ''This section shall apply to any action for forfeiture brought by the Government in connection with any offense under section 1956, 1957, or 1960 of this title or section 5322 or 5324 of title 31, United States Code.''

Subsec. (b). Pub. L. 106–185, § 13(a)(1), redesignated subsec. (c) as (b). Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 106–185, § 13(a)(1), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (c)(1). Pub. L. 106–185, § 13(a)(3)(A), added par. (1) and struck out former par. (1) which read as follows: ''No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be taken against funds held by a financial institution in an interbank account, unless the financial institution holding the account knowingly engaged in the offense.''

Subsec. (c)(2). Pub. L. 106–185, § 13(a)(3)(B), substituted ''In this subsection—'' for ''As used in this section, the term'', added subpar. (A), and inserted ''(B) the term'' before '' 'interbank account' means''.

Subsec. (d). Pub. L. 106–185, § 13(a)(4), added subsec. (d). Former subsec. (d) redesignated (c).

1994—Subsec. (a). Pub. L. 103–325 substituted ''section 5322 or 5324 of title 31'' for ''section 5322 of title 31''.

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.

§ 985. Civil forfeiture of real property

(a) Notwithstanding any other provision of law, all civil forfeitures of real property and interests in real property shall proceed as judicial forfeitures.

(b)(1) Except as provided in this section—

(A) real property that is the subject of a civil forfeiture action shall not be seized before entry of an order of forfeiture; and

(B) the owners or occupants of the real property shall not be evicted from, or otherwise deprived of the use and enjoyment of, real property that is the subject of a pending forfeiture action.

(2) The filing of a lis pendens and the execution of a writ of entry for the purpose of conducting an inspection and inventory of the property shall not be considered a seizure under this subsection.

(c)(1) The Government shall initiate a civil forfeiture action against real property by—

[1] See References in Text note below.

(A) filing a complaint for forfeiture;

(B) posting a notice of the complaint on the property; and

(C) serving notice on the property owner, along with a copy of the complaint.

(2) If the property owner cannot be served with the notice under paragraph (1) because the owner—

(A) is a fugitive;

(B) resides outside the United States and efforts at service pursuant to rule 4 of the Federal Rules of Civil Procedure are unavailing; or

(C) cannot be located despite the exercise of due diligence,

constructive service may be made in accordance with the laws of the State in which the property is located.

(3) If real property has been posted in accordance with this subsection, it shall not be necessary for the court to issue an arrest warrant in rem, or to take any other action to establish in rem jurisdiction over the property.

(d)(1) Real property may be seized prior to the entry of an order of forfeiture if—

(A) the Government notifies the court that it intends to seize the property before trial; and

(B) the court—

(i) issues a notice of application for warrant, causes the notice to be served on the property owner and posted on the property, and conducts a hearing in which the property owner has a meaningful opportunity to be heard; or

(ii) makes an ex parte determination that there is probable cause for the forfeiture and that there are exigent circumstances that permit the Government to seize the property without prior notice and an opportunity for the property owner to be heard.

(2) For purposes of paragraph (1)(B)(ii), to establish exigent circumstances, the Government shall show that less restrictive measures such as a lis pendens, restraining order, or bond would not suffice to protect the Government's interests in preventing the sale, destruction, or continued unlawful use of the real property.

(e) If the court authorizes a seizure of real property under subsection (d)(1)(B)(ii), it shall conduct a prompt post-seizure hearing during which the property owner shall have an opportunity to contest the basis for the seizure.

(f) This section—

(1) applies only to civil forfeitures of real property and interests in real property;

(2) does not apply to forfeitures of the proceeds of the sale of such property or interests, or of money or other assets intended to be used to acquire such property or interests; and

(3) shall not affect the authority of the court to enter a restraining order relating to real property.

(Added Pub. L. 106–185, § 7(a), Apr. 25, 2000, 114 Stat. 214.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (c)(2)(B), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section 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 an Effective Date of 2000 Amendment note under section 1324 of Title 8, Aliens and Nationality.

§ 986. Subpoenas for bank records

(a) At any time after the commencement of any action for forfeiture in rem brought by the United States under section 1956, 1957, or 1960 of this title, section 5322 or 5324 of title 31, United States Code, or the Controlled Substances Act, any party may request the Clerk of the Court in the district in which the proceeding is pending to issue a subpoena duces tecum to any financial institution, as defined in section 5312(a) of title 31, United States Code, to produce books, records and any other documents at any place designated by the requesting party. All parties to the proceeding shall be notified of the issuance of any such subpoena. The procedures and limitations set forth in section 985[1] of this title shall apply to subpoenas issued under this section.

(b) Service of a subpoena issued pursuant to this section shall be by certified mail. Records produced in response to such a subpoena may be produced in person or by mail, common carrier, or such other method as may be agreed upon by the party requesting the subpoena and the custodian of records. The party requesting the subpoena may require the custodian of records to submit an affidavit certifying the authenticity and completeness of the records and explaining the omission of any record called for in the subpoena.

(c) Nothing in this section shall preclude any party from pursuing any form of discovery pursuant to the Federal Rules of Civil Procedure.

(d) ACCESS TO RECORDS IN BANK SECRECY JURISDICTIONS.—

(1) IN GENERAL.—In any civil forfeiture case, or in any ancillary proceeding in any criminal forfeiture case governed by section 413(n) of the Controlled Substances Act (21 U.S.C. 853(n)), in which—

(A) financial records located in a foreign country may be material—

(i) to any claim or to the ability of the Government to respond to such claim; or

(ii) in a civil forfeiture case, to the ability of the Government to establish the forfeitability of the property; and

(B) it is within the capacity of the claimant to waive the claimant's rights under applicable financial secrecy laws, or to obtain the records so that such records can be made available notwithstanding such secrecy laws,

the refusal of the claimant to provide the records in response to a discovery request or to take the action necessary otherwise to make the records available shall be grounds for judicial sanctions, up to and including dismissal of the claim with prejudice.

(2) PRIVILEGE.—This subsection shall not affect the right of the claimant to refuse produc-

[1] See References in Text note below.

tion on the basis of any privilege guaranteed by the Constitution of the United States or any other provision of Federal law.

(Added Pub. L. 102–550, title XV, § 1523(a), Oct. 28, 1992, 106 Stat. 4063; amended Pub. L. 103–325, title IV, § 411(c)(2)(E), Sept. 23, 1994, 108 Stat. 2253; Pub. L. 106–185, § 17, Apr. 25, 2000, 114 Stat. 221.)

REFERENCES IN TEXT

The Controlled Substances Act, referred to in subsec. (a), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§ 801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

Section 985 of this title, referred to in subsec. (a), was enacted by Pub. L. 106–185, and relates to civil forfeitures of real property and not to procedures and limitations for subpoenas. The reference to section 985 was included in this section when it was enacted by Pub. L. 102–550, but at that time there was no section 985 of this title.

The Federal Rules of Civil Procedure, referred to in subsec. (c), are set out in Title 28, Appendix, Judiciary and Judicial Procedure.

AMENDMENTS

2000—Subsec. (d). Pub. L. 106–185 added subsec. (d).

1994—Subsec. (a). Pub. L. 103–325 substituted ''section 5322 or 5324 of title 31'' for ''section 5322 of title 31''.

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.

CHAPTER 47—FRAUD AND FALSE STATEMENTS

Sec.
1001. Statements or entries generally.
1002. Possession of false papers to defraud United States.
1003. Demands against the United States.
1004. Certification of checks.
1005. Bank entries, reports and transactions.
1006. Federal credit institution entries, reports and transactions.
1007. Federal Deposit Insurance Corporation transactions.
[1008, 1009. Repealed.]
1010. Department of Housing and Urban Development and Federal Housing Administration transactions.
1011. Federal land bank mortgage transactions.
1012. Department of Housing and Urban Development transactions.
1013. Farm loan bonds and credit bank debentures.
1014. Loan and credit applications generally; renewals and discounts; crop insurance.
1015. Naturalization, citizenship or alien registry.
1016. Acknowledgment of appearance or oath.
1017. Government seals wrongfully used and instruments wrongfully sealed.
1018. Official certificates or writings.
1019. Certificates by consular officers.
1020. Highway projects.
1021. Title records.
1022. Delivery of certificate, voucher, receipt for military or naval property.
1023. Insufficient delivery of money or property for military or naval service.
1024. Purchase or receipt of military, naval, or veteran's facilities property.
1025. False pretenses on high seas and other waters.
Sec.
1026. Compromise, adjustment, or cancellation of farm indebtedness.
1027. False statements and concealment of facts in relation to documents required by the Employee Retirement Income Security Act of 1974.
1028. Fraud and related activity in connection with identification documents and information.[1]
1028A. Aggravated identity theft.
1029. Fraud and related activity in connection with access devices.
1030. Fraud and related activity in connection with computers.
1031. Major fraud against the United States.
1032. Concealment of assets from conservator, receiver, or liquidating agent of financial institution.
1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.
1034. Civil penalties and injunctions for violations of section 1033.
1035. False statements relating to health care matters.
1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport.
1037. Fraud and related activity in connection with electronic mail.
1038. False information and hoaxes.

AMENDMENTS

2004—Pub. L. 108–458, title VI, § 6702(b), Dec. 17, 2004, 118 Stat. 3766, added item 1038.

Pub. L. 108–275, § 2(b), July 15, 2004, 118 Stat. 832, added item 1028A.

2003—Pub. L. 108–187, § 4(a)(2), Dec. 16, 2003, 117 Stat. 2705, added item 1037.

2000—Pub. L. 106–547, § 2(b), Dec. 19, 2000, 114 Stat. 2739, added item 1036.

1998—Pub. L. 105–318, § 3(h)(2), Oct. 30, 1998, 112 Stat. 3009, inserted ''and information'' at end of item 1028.

1996—Pub. L. 104–294, title VI, § 601(f)(8), Oct. 11, 1996, 110 Stat. 3500, substituted ''veteran's facilities'' for ''veterans' facilities'' in item 1024.

Pub. L. 104–191, title II, § 244(b), Aug. 21, 1996, 110 Stat. 2017, added item 1035.

1994—Pub. L. 103–322, title XXXII, § 320603(b), Sept. 13, 1994, 108 Stat. 2118, added items 1033 and 1034.

1990—Pub. L. 101–647, title XXV, § 2501(b), title XXXV, § 3532, Nov. 29, 1990, 104 Stat. 4860, 4925, inserted a period after ''1031'' and added item 1032.

1989—Pub. L. 101–73, title IX, §§ 961(g)(2), 962(a)(4), Aug. 9, 1989, 103 Stat. 500, 502, struck out item 1008 ''Federal Savings and Loan Insurance Corporation transactions'' and item 1009 ''Rumors regarding Federal Savings and Loan Insurance Corporation''.

1988—Pub. L. 100–700, § 2(c), Nov. 19, 1988, 102 Stat. 4632, added item 1031.

1984—Pub. L. 98–473, title II, §§ 1602(b), 2102(b), Oct. 12, 1984, 98 Stat. 2184, 2192, added items 1029 and 1030.

1982—Pub. L. 97–398, § 3, Dec. 31, 1982, 96 Stat. 2010, added item 1028.

1974—Pub. L. 93–406, title I, § 111(a)(2)(B)(iii), Sept. 2, 1974, 88 Stat. 852, substituted ''Employee Retirement Income Security Act of 1974'' for ''Welfare and Pension Plans Disclosure Act'' in item 1027.

1967—Pub. L. 90–19, § 24(e), May 25, 1967, 81 Stat. 28, included ''Department of Housing and Urban Development'' in item 1010, and substituted the same for ''Public Housing Administration'' in item 1012.

1962—Pub. L. 87–420, § 17(d), Mar. 20, 1962, 76 Stat. 42, added item 1027.

1951—Act Oct. 31, 1951, ch. 655, § 25, 65 Stat. 720, substituted ''Public Housing Administration'' for ''United States Housing Authority'' in item 1012.

[1] Section catchline amended by Pub. L. 108–21 without corresponding amendment of chapter analysis.

1949—Act May 24, 1949, ch. 139, §§18, 19, 63 Stat. 92, corrected spelling in item 1012 and substituted ''officers'' for ''offices'' in item 1019.

§ 1001. Statements or entries generally

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(2) makes any materially false, fictitious, or fraudulent statement or representation; or

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both.

(b) Subsection (a) does not apply to a party to a judicial proceeding, or that party's counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.

(c) With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to—

(1) administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch; or

(2) any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate.

(June 25, 1948, ch. 645, 62 Stat. 749; Pub. L. 103–322, title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–292, §2, Oct. 11, 1996, 110 Stat. 3459; Pub. L. 108–458, title VI, §6703(a), Dec. 17, 2004, 118 Stat. 3766.)

Historical and Revision Notes

Based on title 18, U.S.C., 1940 ed., §80 (Mar. 4, 1909, ch. 321, §35, 35 Stat. 1095; Oct. 23, 1918, ch. 194, 40 Stat. 1015; June 18, 1934, ch. 587, 48 Stat. 996; Apr. 4, 1938, ch. 69, 52 Stat. 197).

Section 80 of title 18, U.S.C., 1940 ed., was divided into two parts.

The provision relating to false claims was incorporated in section 287 of this title.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Words ''or any corporation in which the United States of America is a stockholder'' in said section 80 were omitted as unnecessary in view of definition of ''agency'' in section 6 of this title.

In addition to minor changes of phraseology, the maximum term of imprisonment was changed from 10 to 5 years to be consistent with comparable sections. (See reviser's note under section 287 of this title.)

Amendments

2004—Subsec. (a). Pub. L. 108–458 substituted ''be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both'' for ''be fined under this title or imprisoned not more than 5 years, or both'' in concluding provisions.

1996—Pub. L. 104–292 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: ''Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under this title or imprisoned not more than five years, or both.''

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

Change of Name

Reference to United States magistrate or to magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

Short Title of 2004 Amendment

Pub. L. 108–275, §1, July 15, 2004, 118 Stat. 831, provided that: ''This Act [enacting section 1028A of this title, amending sections 641 and 1028 of this title, and enacting provisions listed in a table relating to sentencing guidelines set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Identity Theft Penalty Enhancement Act'.''

Short Title of 2003 Amendment

Pub. L. 108–21, title VI, §607(a), Apr. 30, 2003, 117 Stat. 689, provided that: ''This section [amending section 1028 of this title] may be cited as the 'Secure Authentication Feature and Enhanced Identification Defense Act of 2003' or 'SAFE ID Act'.''

Short Title of 2000 Amendment

Pub. L. 106–578, §1, Dec. 28, 2000, 114 Stat. 3075, provided that: ''This Act [amending section 1028 of this title, repealing section 1738 of this title, and enacting provisions set out as notes under section 1028 of this title] may be cited as the 'Internet False Identification Prevention Act of 2000'.''

Short Title of 1998 Amendments

Pub. L. 105–318, §1, Oct. 30, 1998, 112 Stat. 3007, provided that: ''This Act [amending sections 982, 1028, and 2516 of this title and section 105 of the Ethics in Government Act of 1978, Pub. L. 95–521, set out in the Appendix to Title 5, Government Organization and Employees, and enacting provisions set out as notes under section 1028 of this title and section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Identity Theft and Assumption Deterrence Act of 1998'.''

Pub. L. 105–172, §1, Apr. 24, 1998, 112 Stat. 53, provided that: ''This Act [amending section 1029 of this title and enacting provisions set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Wireless Telephone Protection Act'.''

Short Title of 1996 Amendment

Section 1 of Pub. L. 104–292 provided that: ''This Act [amending this section, sections 1515 and 6005 of this title, and section 1365 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'False Statements Accountability Act of 1996'.''

Short Title of 1994 Amendment

Section 290001(a) of Pub. L. 103–322, as amended by Pub. L. 104–294, title VI, §604(b)(34), Oct. 11, 1996, 110

Stat. 3508, provided that: ''This section [amending section 1030 of this title] may be cited as the 'Computer Abuse Amendments Act of 1994'.''

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–647, title XXV, § 2500, Nov. 29, 1990, 104 Stat. 4859, provided that: ''This title [see Tables for classification] may be cited as the 'Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990'.''

SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101–123, § 1, Oct. 23, 1989, 103 Stat. 759, provided that: ''This Act [amending section 1031 of this title, repealing section 293 of this title, enacting provisions set out as notes under sections 293 and 1031 of this title, and repealing provisions set out as a note under section 293 of this title] may be cited as the 'Major Fraud Act Amendments of 1989'.''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–700, § 1, Nov. 19, 1988, 102 Stat. 4631, provided that: ''This Act [enacting sections 293 and 1031 of this title and section 256 of Title 41, Public Contracts, amending section 2324 of Title 10, Armed Forces, and section 3730 of Title 31, Money and Finance, enacting provisions set out as notes under sections 293 and 1031 of this title, section 2324 of Title 10, and section 522 of Title 28, Judiciary and Judicial Procedure, and repealing provisions set out as a note under section 2324 of Title 10] may be cited as the 'Major Fraud Act of 1988'.''

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–474, § 1, Oct. 16, 1986, 100 Stat. 1213, provided that: ''This Act [amending section 1030 of this title] may be cited as the 'Computer Fraud and Abuse Act of 1986'.''

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–473, title II, § 1601, Oct. 12, 1984, 98 Stat. 2183, provided that: ''This chapter [chapter XVI (§§ 1601–1603) of title II of Pub. L. 98–473, enacting section 1029 of this title and provisions set out as a note under section 1029 of this title] may be cited as the 'Credit Card Fraud Act of 1984'.''

Pub. L. 98–473, title II, § 2101, Oct. 12, 1984, 98 Stat. 2190, provided that: ''This chapter [chapter XXI (§§ 2101–2103) of title II of Pub. L. 98–473, enacting section 1030 of this title and provisions set out as a note under section 1030 of this title] may be cited as the 'Counterfeit Access Device and Computer Fraud and Abuse Act of 1984'.''

SHORT TITLE OF 1982 AMENDMENT

Section 1 of Pub. L. 97–398 provided: ''That this Act [enacting sections 1028 and 1738 of this title and amending section 3001 of Title 39, Postal Service] may be cited as the 'False Identification Crime Control Act of 1982'.''

§ 1002. Possession of false papers to defraud United States

Whoever, knowingly and with intent to defraud the United States, or any agency thereof, possesses any false, altered, forged, or counterfeited writing or document for the purpose of enabling another to obtain from the United States, or from any agency, officer or agent thereof, any sum of money, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 749; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 74 (Mar. 4, 1909, ch. 321, § 30, 35 Stat. 1094).

Words ''or any agency thereof'' after ''United States'' and word ''agency'' after ''any'' and before ''officer,'' were inserted to eliminate any possible ambiguity as to scope of section. (See definition of ''agency'' in section 6 of this title.)

The maximum fine of ''$10,000'' was substituted for ''$500'' in order to conform punishment provisions to those of comparable sections. (See section 1001 of this title.)

Minor verbal change was made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

§ 1003. Demands against the United States

Whoever knowingly and fraudulently demands or endeavors to obtain any share or sum in the public stocks of the United States, or to have any part thereof transferred, assigned, sold, or conveyed, or to have any annuity, dividend, pension, wages, gratuity, or other debt due from the United States, or any part thereof, received, or paid by virtue of any false, forged, or counterfeited power of attorney, authority, or instrument, shall be fined under this title or imprisoned not more than five years, or both; but if the sum or value so obtained or attempted to be obtained does not exceed $1,000, he shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 749; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (L), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 79 (Mar. 4, 1909, ch. 321, § 34, 35 Stat. 1095).

Words ''prize money'' were deleted on the ground that they are an anachronism and were so before 1909. (See reviser's note under section 915 of this title.)

Mandatory punishment provision was rephrased in the alternative.

The smaller punishment for an offense involving $100 or less was added. (See reviser's note to sections 641 and 645 of this title.)

The maximum term of ''five years'' was substituted for ''ten years'' and ''$10,000'' was substituted for ''$5,000'' as being more in harmony with punishment provision of similar sections. (See reviser's note under section 1001 of this title.)

Minor changes in phraseology were made.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''$1,000'' for ''$100''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' after ''instrument, shall be'' and for ''fined not more than $1,000'' after ''he shall be''.

§ 1004. Certification of checks

Whoever, being an officer, director, agent, or employee of any Federal Reserve bank, member bank of the Federal Reserve System, insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act), branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or organization operating under section 25 or section 25(a)[1] of the Federal Reserve Act, certifies a check before

[1] See References in Text note below.

the amount thereof has been regularly deposited in the bank, branch, agency, or organization, by the drawer thereof, or resorts to any device, or receives any fictitious obligation, directly or collaterally, in order to evade any of the provisions of law relating to certification of checks, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 749; Pub. L. 101–647, title XXV, §2597(g), Nov. 29, 1990, 104 Stat. 4910; Pub. L. 103–322, title XXXIII, §330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 591 of title 12, U.S.C., 1940 ed., Banks and Banking (R.S. §5208; July 12, 1882, ch. 290, §13, 22 Stat. 166; Sept. 26, 1918, ch. 177, §7, 40 Stat. 972; Feb. 25, 1927, ch. 191, §12, 44 Stat. 1231).

Words ''be deemed guilty of a misdemeanor and shall'' were omitted as unnecessary in view of definition of misdemeanor in section 1 of this title.

Words ''on conviction thereof'' were omitted as surplusage, because punishment cannot be imposed until after conviction.

Words ''in any district court of the United States'' were omitted as unnecessary, because section 3231 of this title confers jurisdiction on Federal district courts of all crimes and offenses defined in this title.

Changes were made in phraseology.

REFERENCES IN TEXT

Section 3(h) of the Federal Deposit Insurance Act, referred to in text, is classified to section 1813(h) of Title 12, Banks and Banking.

Section 1(b) of the International Banking Act of 1978, referred to in text, is classified to section 3101 of Title 12.

Section 25 of the Federal Reserve Act, referred to in text, is classified to subchapter I (§601 et seq.) of chapter 6 of Title 12. Section 25(a) of the Federal Reserve Act, which is classified to subchapter II (§611 et seq.) of chapter 6 of Title 12, was renumbered section 25A of that act by Pub. L. 102–242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

1990—Pub. L. 101–647 substituted a comma for ''or'' after ''Federal Reserve bank'' and inserted ''insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act), branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or organization operating under section 25 or section 25(a) of the Federal Reserve Act,'' after ''Federal Reserve System,'' and '', branch, agency, or organization,'' after ''has been regularly deposited in the bank''.

§1005. Bank entries, reports and transactions

Whoever, being an officer, director, agent or employee of any Federal Reserve bank, member bank, depository institution holding company, national bank, insured bank, branch or agency of a foreign bank, or organization operating under section 25 or section 25(a)[1] of the Federal Reserve Act, without authority from the directors of such bank, branch, agency, or organization or company, issues or puts in circulation any notes of such bank, branch, agency, or organization or company; or

Whoever, without such authority, makes, draws, issues, puts forth, or assigns any certificate of deposit, draft, order, bill of exchange, acceptance, note, debenture, bond, or other obligation, or mortgage, judgment or decree; or

Whoever makes any false entry in any book, report, or statement of such bank, company, branch, agency, or organization with intent to injure or defraud such bank, company, branch, agency, or organization, or any other company, body politic or corporate, or any individual person, or to deceive any officer of such bank, company, branch, agency, or organization, or the Comptroller of the Currency, or the Federal Deposit Insurance Corporation, or any agent or examiner appointed to examine the affairs of such bank, company, branch, agency, or organization, or the Board of Governors of the Federal Reserve System; or

Whoever with intent to defraud the United States or any agency thereof, or any financial institution referred to in this section, participates or shares in or receives (directly or indirectly) any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of any such financial institution—

Shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

As used in this section, the term ''national bank'' is synonymous with ''national banking association''; ''member bank'' means and includes any national bank, state bank, or bank or trust company, which has become a member of one of the Federal Reserve banks; ''insured bank'' includes any state bank, banking association, trust company, savings bank, or other banking institution, the deposits of which are insured by the Federal Deposit Insurance Corporation; and the term ''branch or agency of a foreign bank'' means a branch or agency described in section 20(9) of this title. For purposes of this section, the term ''depository institution holding company'' has the meaning given such term in section 3(w)(1) of the Federal Deposit Insurance Act.

(June 25, 1948, ch. 645, 62 Stat. 750; Pub. L. 101–73, title IX, §961(d), Aug. 9, 1989, 103 Stat. 499; Pub. L. 101–647, title XXV, §§2504(d), 2595(a)(3), 2597(h), Nov. 29, 1990, 104 Stat. 4861, 4907, 4910; Pub. L. 107–273, div. B, title IV, §4003(a)(2), Nov. 2, 2002, 116 Stat. 1811.)

HISTORICAL AND REVISION NOTES

Based on sections 592, 597 of title 12, U.S.C., 1940 ed., Banks and Banking (R.S. §5209; Dec. 23, 1913, ch. 6, §22(i) as added June 19, 1934, ch. 653, §3, 48 Stat. 1107; Sept. 26, 1918, ch. 177, §7, 40 Stat. 972; Aug. 23, 1935, ch. 614, §316, 49 Stat. 712).

(See reviser's note under section 656 of this title for comprehensive statement of reasons for separating section 592 of title 12, U.S.C., 1940 ed., Banks and Banking, into three revised sections, and section 597 thereof into two revised sections, with the consequent extensive changes in phraseology, style, and arrangement.)

In this section, national bank receivers and Federal reserve agents were not included in the initial enumeration of persons at whom the act is directed, since the provisions of this section, unlike section 656 of this title, are not directed at such receivers and agents.

No changes of meaning or substance were made, except that, like said section 656 of this title, the different punishment provisions were reconciled, and one uniform punishment provision was adopted.

The words ''shall be deemed guilty of a misdemeanor'' were omitted as unnecessary in view of the definition of a misdemeanor in section 1 of this title.

[1] See References in Text note below.

The words ''and upon conviction thereof'' were omitted as unnecessary, since punishment cannot be imposed until a conviction is secured.

Since section 3231 of this title gives the district court jurisdiction of criminal prosecutions, the words ''in any district court of the United States'' were omitted as unnecessary.

REFERENCES IN TEXT

Section 25 of the Federal Reserve Act, referred to in text, is classified to subchapter I (§ 601 et seq.) of chapter 6 of Title 12, Banks and Banking. Section 25(a) of the Federal Reserve Act, which is classified to subchapter II (§ 611 et seq.) of chapter 6 of Title 12, was renumbered section 25A of that act by Pub. L. 102–242, title I, § 142(e)(2), Dec. 19, 1991, 105 Stat. 2281.

Section 3(w)(1) of the Federal Deposit Insurance Act, referred to in text, is classified to section 1813(w)(1) of Title 12.

AMENDMENTS

2002—Pub. L. 107–273, in first par. substituted ''Act,'' for ''Act,,'' and in third par. inserted ''or'' at end.

1990—Pub. L. 101–647, §§ 2504(d), 2595(a)(3)(A), (B), 2597(h), in first par. substituted ''depository institution'' for ''bank or savings and loan'', ''national bank, insured bank, branch or agency of a foreign bank, or organization operating under section 25 or section 25(a) of the Federal Reserve Act,'' for ''national bank or insured bank'', and ''of such bank, branch, agency, or organization or company'' for ''of such bank'' in two places, in third par. substituted ''bank, company, branch, agency, or organization'' for ''bank or company'' in four places, and in fifth par. substituted ''30'' for ''20'' before ''years''.

Pub. L. 101–647, § 2597(h)(3)(A), in sixth par. struck out ''and'' after ''one of the Federal Reserve Banks;''.

Pub. L. 101–647, § 2597(h)(3)(B), which, in sixth par., directed insertion of ''; and the term 'branch or agency of a foreign bank' means a branch or agency described in section 20(9) of this title'' before the period, was inserted before period at end of first sentence to reflect the probable intent of Congress and intervening amendment by Pub. L. 101–647, § 2595(a)(3)(C). See below.

Pub. L. 101–647, § 2595(a)(3)(C), inserted ''For purposes of this section, the term 'depository institution holding company' has the meaning given such term in section 3(w)(1) of the Federal Deposit Insurance Act.'' at end of sixth par.

1989—Pub. L. 101–73 in first par. inserted ''bank or savings and loan holding company,'' after ''member bank,'', in third par. inserted ''or company'' after ''bank'' wherever appearing and substituted a semicolon for the dash after ''Federal Reserve System'', added fourth par. reading: ''Whoever with intent to defraud the United States or any agency thereof, or any financial institution referred to in this section, participates or shares in or receives (directly or indirectly) any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of any such financial institution—'', and, in fifth par. substituted ''$1,000,000'' for ''$5,000'' and ''20 years'' for ''five years''.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, were not included in transfer of functions of officers, agencies and employees of Department of the Treasury to Secretary of the Treasury, made by Reorg. Plan No. 26 of 1950, § 1, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1006. Federal credit institution entries, reports and transactions

Whoever, being an officer, agent or employee of or connected in any capacity with the Federal Deposit Insurance Corporation, National Credit Union Administration, Office of Thrift Supervision, any Federal home loan bank, the Federal Housing Finance Board, the Resolution Trust Corporation, Farm Credit Administration, Department of Housing and Urban Development, Federal Crop Insurance Corporation, the Secretary of Agriculture acting through the Farmers Home Administration or successor agency, the Rural Development Administration or successor agency, or the Farm Credit System Insurance Corporation, a Farm Credit Bank, a bank for cooperatives or any lending, mortgage, insurance, credit or savings and loan corporation or association authorized or acting under the laws of the United States or any institution, other than an insured bank (as defined in section 656), the accounts of which are insured by the Federal Deposit Insurance Corporation, or by the National Credit Union Administration Board or any small business investment company, with intent to defraud any such institution or any other company, body politic or corporate, or any individual, or to deceive any officer, auditor, examiner or agent of any such institution or of department or agency of the United States, makes any false entry in any book, report or statement of or to any such institution, or without being duly authorized, draws any order or bill of exchange, makes any acceptance, or issues, puts forth or assigns any note, debenture, bond or other obligation, or draft, bill of exchange, mortgage, judgment, or decree, or, with intent to defraud the United States or any agency thereof, or any corporation, institution, or association referred to in this section, participates or shares in or receives directly or indirectly any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of any such corporation, institution, or association, shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 750; May 24, 1949, ch. 139, § 20, 63 Stat. 92; July 28, 1956, ch. 773, § 2, 70 Stat. 714; Pub. L. 85–699, title VII, § 704, Aug. 21, 1958, 72 Stat. 698; Pub. L. 87–353, § 3(s), Oct. 4, 1961, 75 Stat. 774; Pub. L. 90–19, § 24(a), May 25, 1967, 81 Stat. 27; Pub. L. 91–468, § 6, Oct. 19, 1970, 84 Stat. 1016; Pub. L. 101–73, title IX, §§ 961(e), 962(a)(7), (8)(A), Aug. 9, 1989, 103 Stat. 500, 502; Pub. L. 101–624, title XXIII, § 2303(e), Nov. 28, 1990, 104 Stat. 3981; Pub. L. 101–647, title XVI, § 1603, title XXV, §§ 2504(e), 2595(a)(4), Nov. 29, 1990, 104 Stat. 4843, 4861, 4907; Pub. L. 103–322, title XXXIII, § 330004(6), Sept. 13, 1994, 108 Stat. 2141; Pub. L. 106–78, title VII, § 767, Oct. 22, 1999, 113 Stat. 1174.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on sections 1026(b) and 1514(c) of title 7, U.S.C., 1940 ed., Agriculture, sections 264(u), 984, 1121, 1138d(c), 1311, 1441(c), 1467(c) and 1731(c) of title 12, U.S.C., 1940 ed., Banks and Banking, and section 616(c) of title 15, U.S.C., 1940 ed., Commerce and Trade (Dec. 23, 1913, ch. 6, § 12B(u), as added June 16, 1933, ch. 89, § 8, 48 Stat. 178; July 17, 1916, ch. 245, § 31, fourth par., 39 Stat. 383; July 17, 1916, ch. 245, § 211(a), as added Mar. 4, 1923, ch. 252, § 2, 42 Stat. 1459; Mar. 4, 1923, ch. 252, title II, § 216(a), 42 Stat. 1471; Jan. 22, 1932, ch. 8, § 16(c), 47 Stat. 11; July 22,

1932, ch. 522, §21(c), 47 Stat. 738; Ex. Ord. No. 6084, Mar. 27, 1933; June 13, 1933, ch. 64, §8(c), 48 Stat. 135; June 16, 1933, ch. 98, §64(c), 48 Stat. 268; Jan. 31, 1934, ch. 7, §13, 48 Stat. 347; June 27, 1934, ch. 847, §512(c), 48 Stat. 1265; Aug. 23, 1935, ch. 614, §101, 49 Stat. 701; July 22, 1937, ch. 517, title IV, §52(b), 50 Stat. 532; Feb. 16, 1938, ch. 30, title V, §514(c), 52 Stat. 76; Aug. 14, 1946, ch. 964, §3, 60 Stat. 1064).

Each of the eleven sections from which this section was derived contained similar provisions relating to embezzlement, false entries, and fraudulent issuance or assignment of obligations with respect to one or more named agencies or corporations.

These were divided and the false entry and fraudulent issuance or assignment of obligation provisions of all, form the basis of this section. The remaining provisions of each section, relating to embezzlement and misapplication, form the basis for section 657 of this title. That portion of said section 616(c) of title 15, relating to disclosure of information, forms the basis for section 1904 of this title.

Each revised section condenses and simplifies the constituent provisions without change of substance except as herein indicated.

The punishment provisions in each section were the same except that in section 1026(b) of title 7, U.S.C., 1940 ed., and sections 984, 1121, and 1311 of title 12, U.S.C., 1940 ed., the maximum fine was $5,000. This consolidated section adopts the $10,000 maximum fine provided by the seven other sections.

References to persons aiding or abetting contained in sections 984, 1121, and 1311 of title 12, U.S.C., 1940 ed., were omitted as unnecessary, as such persons are made principals by section 2 of this title.

The term ''receiver,'' used in sections 1121 and 1311 of title 12, U.S.C., 1940 ed., with reference to Federal intermediate credit banks and agricultural credit corporations, was omitted as this term is undoubtedly embraced in the phrase ''or connected in any capacity with.''

The term ''or of any department or agency of the United States'' was inserted in order to clarify the sweeping provisions against fraudulent acts and to eliminate any possible ambiguity as to scope of section. (See definitions of ''department'' and ''agency'' in section 6 of this title.)

Words ''shall be deemed guilty of a misdemeanor'', contained in section 1311 of title 12, U.S.C., 1940 ed., were omitted as unnecessary, in view of definition of misdemeanor in section 1 of this title.

Words ''and upon conviction'', contained in section 1311 of title 12, U.S.C., 1940 ed., were omitted as surplusage, because punishment cannot be imposed until after conviction.

Words ''in any district court of the United States'', contained in section 1311 of title 12, U.S.C., 1940 ed., were omitted as unnecessary, because section 3231 of this title confers jurisdiction on the Federal district courts of all crimes and offenses defined in this title.

The conspiracy provisions of section 1138d(f) of title 12, U.S.C., 1940 ed., Banks and Banking, were not added to this consolidated section for reasons stated in reviser's note under section 493 of this title. (See also reviser's note under section 371 of this title.)

1949 ACT

[Section 20] conforms section 1006 of title 18, U.S.C., to administrative practice which in turn was modified to comply with congressional policy. (See note to sec. 11 [of 1949 Act, set out in Historical and Revision Notes under section 657 of this title]).

AMENDMENTS

1999—Pub. L. 106–78 inserted ''or successor agency'' after ''Farmers Home Administration'' and after ''Rural Development Administration''.

1994—Pub. L. 103–322 struck out ''Reconstruction Finance Corporation,'' after ''in any capacity with the'' and ''Farmers' Home Corporation,'' after ''Federal Crop Insurance Corporation,''.

1990—Pub. L. 101–647, §2595(a)(4), substituted ''Office of Thrift Supervision, any Federal home loan bank, the Federal Housing Finance Board, the Resolution Trust Corporation,'' for ''Home Owners' Loan Corporation,'', and directed substitution of ''institution, other than an insured bank (as defined in section 656), the accounts of which are insured by the Federal Deposit Insurance Corporation'', for ''institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation'' which was executed by making the substitution for ''institution the accounts of which are insured by the Federal Deposit Insurance Corporation'' to reflect the probable intent of Congress and intervening amendment by Pub. L. 101–647, §1603, see below.

Pub. L. 101–647, §2504(e), substituted ''30'' for ''20'' before ''years''.

Pub. L. 101–647, §1603, substituted ''Federal Deposit Insurance Corporation'' for ''Federal Savings and Loan Insurance Corporation''.

Pub. L. 101–624 substituted ''Farmers Home Administration, the Rural Development Administration'' for ''Farmers' Home Administration''.

1989—Pub. L. 101–73, §962(a)(8)(A), substituted ''the Farm Credit System Insurance Corporation, a Farm Credit Bank, a'' for ''any land bank, intermediate credit bank,''.

Pub. L. 101–73, §962(a)(7), substituted ''National Credit Union Administration Board'' for ''Administrator of the National Credit Union Administration''.

Pub. L. 101–73, §961(e), substituted ''$1,000,000'' for ''$10,000'' and ''20 years'' for ''five years''.

1970—Pub. L. 91–468 added National Credit Union Administration and its Administrator to the enumeration of Federal Credit institutions and personnel.

1967—Pub. L. 90–19 substituted ''Department of Housing and Urban Development'' for ''Federal Housing Administration''.

1961—Pub. L. 87–353 struck out reference to Federal Farm Mortgage Corporation.

1958—Pub. L. 85–699 included officers, agents or employees of or connected in any capacity with small business investment companies.

1956—Act July 28, 1956, included officers, agents or employees of or connected in any capacity with any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

1949—Act May 24, 1949, inserted reference Secretary of Agriculture acting through the Farmers' Home Administration.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations, Advisory Board of Commodity Credit Corporation, and Farm Credit Administration or any agency, officer or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by Reorg. Plan No. 2 of 1953, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

NATIONAL CREDIT UNION ADMINISTRATION

Establishment as independent agency, membership etc., see section 1752 et seq. of Title 12, Banks and Banking.

FARM CREDIT ADMINISTRATION

Establishment of Farm Credit Administration as independent agency, and other changes in status, function, etc., see Ex. Ord. No. 6084, set out prec. section 2241 of Title 12, Banks and Banking. See also section 2001 et seq. of Title 12.

§1007. Federal Deposit Insurance Corporation transactions

Whoever, for the purpose of influencing in any way the action of the Federal Deposit Insurance

Corporation, knowingly makes or invites reliance on a false, forged, or counterfeit statement, document, or thing shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 750; Pub. L. 101–73, title IX, § 961(f), Aug. 9, 1989, 103 Stat. 500; Pub. L. 101–647, title XXV, § 2504(f), Nov. 29, 1990, 104 Stat. 4861; Pub. L. 103–322, title XXXIII, § 330002(c), Sept. 13, 1994, 108 Stat. 2140.)

HISTORICAL AND REVISION NOTES

Based on section 264(s) of title 12, U.S.C., 1940 ed., Banks and Banking (Dec. 23, 1913, ch. 6, § 12B(s), as added June 16, 1933, ch. 89, § 8, 48 Stat. 177; Aug. 23, 1935, ch. 614, § 101, 49 Stat. 700).

Words ''Federal Deposit Insurance'' were inserted before ''Corporation'' in three places, so as to identify said Corporation, and phrase ''under this section'' was omitted as no longer applicable, considering transfer of this section to this title.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''transactions'' for ''Transactions'' in section catchline.

1990—Pub. L. 101–647 substituted ''30'' for ''20'' before ''years''.

1989—Pub. L. 101–73 substituted ''Transactions'' for ''transactions'' in section catchline and amended text generally. Prior to amendment, text read as follows: ''Whoever, for the purpose of obtaining any loan from the Federal Deposit Insurance Corporation, or any extension or renewals thereof, or the acceptance, release, or substitution of security therefor, or for the purpose of inducing the Federal Deposit Insurance Corporation to purchase any assets, or for the purpose of obtaining the payment of any insured deposit or transferred deposit or the allowance, approval, or payment of any claim, or for the purpose of influencing in any way the action of the Federal Deposit Insurance Corporation, makes any statement, knowing it to be false, or willfully overvalues any security, shall be fined not more than $5,000 or imprisoned not more than two years, or both.''

[§§ 1008, 1009. Repealed. Pub. L. 101–73, title IX, §§ 961(g)(1), 962(a)(3), Aug. 9, 1989, 103 Stat. 500, 502]

Section 1008, act June 25, 1948, ch. 645, 62 Stat. 751, provided for fine or imprisonment for certain prohibited actions taken to obtain insurance from, or to influence in any way, the Federal Savings and Loan Insurance Corporation.

Section 1009, act June 25, 1948, ch. 645, 62 Stat. 751, provided for fine or imprisonment for making certain statements or rumors, untrue in fact, which were derogatory or affected solvency or financial condition of the Federal Savings and Loan Insurance Corporation.

§ 1010. Department of Housing and Urban Development and Federal Housing Administration transactions

Whoever, for the purpose of obtaining any loan or advance of credit from any person, partnership, association, or corporation with the intent that such loan or advance of credit shall be offered to or accepted by the Department of Housing and Urban Development for insurance, or for the purpose of obtaining any extension or renewal of any loan, advance of credit, or mortgage insured by such Department, or the acceptance, release, or substitution of any security on such a loan, advance of credit, or for the purpose of influencing in any way the action of such Department, makes, passes, utters, or publishes any statement, knowing the same to be false, or alters, forges, or counterfeits any instrument, paper, or document, or utters, publishes, or passes as true any instrument, paper, or document, knowing it to have been altered, forged, or counterfeited, or willfully overvalues any security, asset, or income, shall be fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 751; Pub. L. 90–19, § 24(c), May 25, 1967, 81 Stat. 28; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 1731(a) of title 12, U.S.C., 1940 ed., Banks and Banking (June 27, 1934, ch. 847, § 512(a), 48 Stat. 1265; Feb. 3, 1938, ch. 13, § 9, 52 Stat. 24).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

''$5,000'' was substituted for ''$3,000'' to make this section more consistent in its punishment provisions with comparable sections. (See section 1008 of this title.)

Minor changes in phraseology were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

1967—Pub. L. 90–19 included reference to Department of Housing and Urban Development in section catchline and substituted in text ''Department of Housing and Urban Development'' for ''Federal Housing Administration'' and ''Department'' for ''Administration'' in two places, respectively.

§ 1011. Federal land bank mortgage transactions

Whoever, being a mortgagee, knowingly makes any false statement in any paper, proposal, or letter, relating to the sale of any mortgage, to any Federal land bank; or

Whoever, being an appraiser, willfully overvalues any land securing such mortgage—

Shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 751; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 987 of title 12, U.S.C., 1940 ed., Banks and Banking (July 17, 1916, ch. 245, § 31, seventh paragraph, as added June 16, 1933, ch. 98, § 78, 48 Stat. 272).

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in last par.

§ 1012. Department of Housing and Urban Development transactions

Whoever, with intent to defraud, makes any false entry in any book of the Department of Housing and Urban Development or makes any false report or statement to or for such Department; or

Whoever receives any compensation, rebate, or reward, with intent to defraud such Department or with intent unlawfully to defeat its purposes; or

Whoever induces or influences such Department to purchase or acquire any property or to enter into any contract and willfully fails to disclose any interest which he has in such property or in the property to which such contract relates, or any special benefit which he expects to receive as a result of such contract—

Shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 752; Oct. 31, 1951, ch. 655, § 26, 65 Stat. 720; Pub. L. 90–19, § 24(d), May 25, 1967, 81 Stat. 28; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on sections 1423–1425 of title 42, U.S.C., 1940 ed., The Public Health and Welfare (Sept. 1, 1937, ch. 896, §§ 23–25, 50 Stat. 899).

Three sections were consolidated with changes of phraseology and arrangement necessary to effect consolidation.

Words ''upon conviction thereof'', in each section were omitted as surplusage since punishment cannot be imposed until after conviction.

The provisions of section 1424 of title 42, U.S.C., 1940 ed., The Public Health and Welfare, relating to conspiracy were omitted as inconsistent with the general conspiracy statute, section 371 of this title, both as to punishment and allegation and proof of an overt act. (See reviser's note under section 493 of this title.)

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000'' in last par.

1967—Pub. L. 90–19 substituted ''Department of Housing and Urban Development'' for ''Public Housing Administration'' in section catchline and text, and ''Department'' for ''Administration'' wherever appearing in text.

1951—Act Oct. 31, 1951, substituted ''Public Housing Administration'' for ''United States Housing Authority'' in section catchline and text, and ''Administration'' for ''Authority'', wherever appearing in text.

§ 1013. Farm loan bonds and credit bank debentures

Whoever deceives, defrauds, or imposes upon, or attempts to deceive, defraud, or impose upon any person, partnership, corporation, or association by making any false pretense or representation concerning the character, issue, security, contents, conditions, or terms of any farm loan bond, or coupon, issued by any Federal land bank or banks; or of any debenture, coupon, or other obligation, issued by any Federal intermediate credit bank or banks; or by falsely pretending or representing that any farm loan bond, or coupon, is anything other than, or different from, what it purports to be on the face of said bond or coupon, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 752; Pub. L. 97–297, § 4(a), Oct. 12, 1982, 96 Stat. 1318; Pub. L. 103–322, title XXXIII, §§ 330004(8), 330016(1)(G), Sept. 13, 1994, 108 Stat. 2141, 2147.)

HISTORICAL AND REVISION NOTES

Based on sections 985, 1127, and 1317 of title 12, U.S.C., 1940 ed., Banks and Banking (July 17, 1916, ch. 245, § 31, fifth paragraph, 39 Stat. 384; July 17, 1916, ch. 245, § 211(g), as added Mar. 4, 1923, ch. 252, § 2, 42 Stat. 1461; Mar. 4, 1923, ch. 252, title II, § 216(g), 42 Stat. 1473).

This section condenses and simplifies sections 985, 1127, and 1317 of title 12, U.S.C., 1940 ed., Banks and Banking, each of which contained similar provisions and similar language. The punishment provisions of all three sections were the same.

References to ''chapter'' and ''subchapter'' were omitted and words describing the various types of banks or organizations to which said sections 985, 1127, and 1317 of title 12, U.S.C., 1940 ed., Banks and Banking, related, were inserted in lieu. This necessitated some rephrasing and transposition of phrases, but without change of meaning or substance.

Words ''upon conviction'' which were contained in sections 1127 and 1317 of title 12, U.S.C., 1940 ed., Banks and Banking, were omitted as surplusage, because punishment cannot be imposed until after conviction.

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322, § 330016(1)(G), substituted ''fined under this title'' for ''fined not more than $500''.

Pub. L. 103–322, § 330004(8), struck out '', or by any National Agricultural Credit Corporation'' after ''credit bank or banks''.

1982—Pub. L. 97–297 struck out '', or by any joint-stock land bank or banks'' after ''issued by any Federal land bank or banks''.

§ 1014. Loan and credit applications generally; renewals and discounts; crop insurance

Whoever knowingly makes any false statement or report, or willfully overvalues any land, property or security, for the purpose of influencing in any way the action of the Farm Credit Administration, Federal Crop Insurance Corporation or a company the Corporation reinsures, the Secretary of Agriculture acting through the Farmers Home Administration or successor agency, the Rural Development Administration or successor agency, any Farm Credit Bank, production credit association, agricultural credit association, bank for cooperatives, or any division, officer, or employee thereof, or of any regional agricultural credit corporation established pursuant to law, or a Federal land bank, a Federal land bank association, a Federal Reserve bank, a small business investment company, as defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662), or the Small Business Administration in connection with any provision of that Act, a Federal credit union, an insured State-chartered credit union, any institution the accounts of which are insured by the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, any Federal home loan bank, the Federal Housing Finance Board, the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Farm Credit System Insurance Corporation, or the National Credit Union Administration Board, a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or an organization operating under section 25 or section 25(a)[1] of the Federal Reserve Act, upon any application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment, or loan, or any change or extension of any of the same, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution

[1] See References in Text note below.

of security therefor, shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both. The term ''State-chartered credit union'' includes a credit union chartered under the laws of a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(June 25, 1948, ch. 645, 62 Stat. 752; May 24, 1949, ch. 139, § 21, 63 Stat. 92; July 26, 1956, ch. 741, title I, § 109, 70 Stat. 667; Pub. L. 85–699, title VII, § 705, Aug. 21, 1958, 72 Stat. 699; Pub. L. 86–168, title I, § 104(h), Aug. 18, 1959, 73 Stat. 387; Pub. L. 87–353, § 3(t), Oct. 4, 1961, 75 Stat. 774; Pub. L. 88–353, § 5, July 2, 1964, 78 Stat. 269; Pub. L. 91–468, § 7, Oct. 19, 1970, 84 Stat. 1017; Pub. L. 91–609, title IX, § 915, Dec. 31, 1970, 84 Stat. 1815; Pub. L. 97–297, § 4(b), Oct. 12, 1982, 96 Stat. 1318; Pub. L. 101–73, title IX, §§ 961(h), 962(a)(7), (8)(B), Aug. 9, 1989, 103 Stat. 500, 502; Pub. L. 101–624, title XXIII, § 2303(e), Nov. 28, 1990, 104 Stat. 3981; Pub. L. 101–647, title XXV, §§ 2504(g), 2595(a)(5), 2597(i), Nov. 29, 1990, 104 Stat. 4861, 4907, 4910; Pub. L. 103–322, title XXXIII, §§ 330002(d), 330008(8), Sept. 13, 1994, 108 Stat. 2140, 2143; Pub. L. 103–354, title I, § 119(e), Oct. 13, 1994, 108 Stat. 3208; Pub. L. 104–294, title VI, §§ 602(b), 604(b)(22), 605(b), 607(d), Oct. 11, 1996, 110 Stat. 3503, 3508, 3509, 3511; Pub. L. 106–78, title VII, § 767, Oct. 22, 1999, 113 Stat. 1174; Pub. L. 107–100, § 4(a), Dec. 21, 2001, 115 Stat. 966.)

Historical and Revision Notes

1948 Act

Based on sections 1026(a) and 1514(a) of title 7, U.S.C., 1940 ed., Agriculture, sections 596, 981, 1122, 1123, 1138d(a), 1248, 1312, 1313, 1441(a), and 1467(a), of title 12, U.S.C., 1940 ed., Banks and Banking, and section 616(a) of title 15, U.S.C., 1940 ed., Commerce and Trade (Dec. 23, 1913, ch. 6, § 22(h), as added June 19, 1934, ch. 653, § 3, 48 Stat. 1107; July 17, 1916, ch. 245, § 31, first paragraph, 39 Stat. 382; July 17, 1916, ch. 245, § 211(b), (c), as added Mar. 4, 1923, ch. 252, § 2, 42 Stat. 1460; Mar. 4, 1923, ch. 252, title II, §§ 209(h), 216(b), (c), 42 Stat. 1468, 1472; Jan. 22, 1932, ch. 8, § 16 (a), 47 Stat. 11; July 22, 1932, ch. 522, § 21(a), 47 Stat. 738; June 13, 1933, ch. 64, § 8(a), 48 Stat. 134; June 16, 1933, ch. 98, § 64(a), 48 Stat. 267; Jan. 31, 1934, ch. 7, § 13, 48 Stat. 347; June 3, 1935, ch. 164, § 21, 49 Stat. 319; July 22, 1937, ch. 517, title IV, § 52(a); 50 Stat. 531; Feb. 16, 1938, ch. 30, title V, § 514(a), 52 Stat. 76; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064).

Each of the 13 sections from which this section was derived contained similar provisions either relating to false representations and statements, or overvaluation of security, with respect to one or more of the named banks, agencies, or corporations.

These were consolidated and the false statement and security overvaluation provisions of all, form the basis of this section. The provisions of section 981 of title 12, U.S.C., 1940 ed., Banks and Banking, relating to acceptance of loans or gratuities by examiners, were consolidated with similar provisions from other sections to form section 218 [now section 213] of this title. The provisions of said section 981 of title 12, U.S.C., 1940 ed., Banks and Banking, prohibiting land bank and national farm loan association examiners from performing ''any other service for compensation for any bank or banking or loan association, or for any person connected therewith in any capacity'' were consolidated with similar provisions from other sections to form section 1909 of this title.

Eight of the consolidated sections contained identical punishment, each providing for a maximum fine of $5,000 and maximum imprisonment of 2 years. Two sections provided for a maximum fine of $10,000 and maximum imprisonment of 5 years. One section provided for maximum fine of $5,000 and maximum imprisonment of 5 years, one section provided for maximum fine of $2,000 and maximum imprisonment of 2 years, and one section provided for maximum fine of $5,000 and maximum imprisonment of 1 year.

The punishment by maximum fine of $5,000 or maximum imprisonment of 2 years, or both, provided in this consolidated section was adopted as most consistent with the greater number of comparable sections. (See sections 1008 and 1010 of this title.) This is a reasonable reconciliation of the conflicting punishment provisions and adequate for the offenses described.

The enumeration of ''application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment, or loan'' and the wording ''or any change or extension of any of the same, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefor'' does not occur in any one of the original sections, but such enumeration and such wording are adequate, and they represent a composite of terms and transactions mentioned in each.

In addition, changes were made in phraseology to secure uniformity of style, and some rephrasing was necessary, but the consolidation was without change of substance except as above indicated.

Section 1138d(f) of Title 12, U.S.C., 1940 ed., Banks and Banking, relating to conspiracy, was not added to this consolidated section for reasons given in reviser's note under section 493 of this title.

1949 Act

[Section 21] conforms section 1014 of Title 18 U.S.C., to administrative practice which in turn was modified to comply with congressional policy. (See note to sec. 11 [of 1949 Act, set out in Historical and Revision note under section 657 of this title]).

References in Text

The Small Business Investment Act of 1958, referred to in text, is Pub. L. 85–699, Aug. 21, 1958, 72 Stat. 689, as amended, which is classified principally to chapter 14B (§ 661 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 15 and Tables.

Section 1(b) of the International Banking Act of 1978, referred to in text, is classified to section 3101 of Title 12, Banks and Banking.

Section 25 of the Federal Reserve Act, referred to in text, is classified to subchapter I (§ 601 et seq.) of chapter 6 of Title 12. Section 25(a) of the Federal Reserve Act, which is classified to subchapter II (§ 611 et seq.) of chapter 6 of Title 12, was renumbered section 25A of that act by Pub. L. 102–242, title I, § 142(e)(2), Dec. 19, 1991, 105 Stat. 2281.

Amendments

2001—Pub. L. 107–100 inserted '', as defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662), or the Small Business Administration in connection with any provision of that Act'' after ''small business investment company''.

1999—Pub. L. 106–78 inserted ''or successor agency'' after ''Farmers Home Administration'' and after ''Rural Development Administration''.

1996—Pub. L. 104–294, §§ 602(b), 607(d), struck out ''Reconstruction Finance Corporation,'' before ''Farm Credit Administration'', ''Farmers' Home Corporation,'' before ''the Secretary of Agriculture'', and ''of the National Agricultural Credit Corporation,'' before ''a Federal land bank'' and inserted at end ''The term 'State-chartered credit union' includes a credit union chartered under the laws of a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.''

Pub. L. 104–294, § 605(b), amended directory language of Pub. L. 101–73, § 961(h)(1). See 1989 Amendment note below.

Pub. L. 104–294, §604(b)(22), amended directory language of Pub. L. 103–322, §330002(d). See 1994 Amendment note below.

1994—Pub. L. 103–354 inserted ''or a company the Corporation reinsures'' after ''Federal Crop Insurance Corporation''.

Pub. L. 103–322, §330008(8), inserted comma after ''National Credit Union Administration Board''.

Pub. L. 103–322, §330002(d), as amended by Pub. L. 104–294, §604(b)(22), struck out a comma after ''National Agricultural Credit Corporation,'' and after ''section 25(a) of the Federal Reserve Act,''.

1990—Pub. L. 101–647, §2597(i), inserted ''a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or an organization operating under section 25 or section 25(a) of the Federal Reserve Act,'' after ''or the National Credit Union Administration Board''.

Pub. L. 101–647, §2595(a)(5), substituted ''the Office of Thrift Supervision, any Federal home loan bank, the Federal Housing Finance Board,'' for ''the Federal Home Loan Bank System,'' and inserted a comma after ''Resolution Trust Corporation''.

Pub. L. 101–647, §2504(g), substituted ''30'' for ''20'' before ''years''.

Pub. L. 101–624 substituted ''Farmers Home Administration, the Rural Development Administration'' for ''Farmers' Home Administration''.

1989—Pub. L. 101–73, §962(a)(8)(B)(i), substituted ''any Farm Credit Bank, production credit association, agricultural credit association, bank for cooperatives, or any division, officer, or employee thereof'' for ''any Federal intermediate credit bank, or any division, officer, or employee thereof, or of any corporation organized under sections 1131–1134m of Title 12''.

Pub. L. 101–73, §962(a)(8)(B)(ii), substituted ''Farm Credit System Insurance Corporation'' for ''Federal Savings and Loan Insurance Corporation''.

Pub. L. 101–73, §962(a)(7), substituted ''National Credit Union Administration Board'' for ''Administrator of the National Credit Union Administration''.

Pub. L. 101–73, §961(h)(2), (3), (5), (6), struck out ''the Federal Savings and Loan Insurance Corporation, any bank the deposits of which are insured by'' after ''the accounts of which are insured by'', struck out ''any member of'' before ''the Federal Home Loan Bank System'', and substituted ''$1,000,000'' for ''$5,000'' and ''20 years'' for ''two years''.

Pub. L. 101–73, §961(h)(1), as amended by Pub. L. 104–294, §605(b), struck out ''a Federal Home Loan Bank, the Federal Home Loan Bank Board, the Home Owners' Loan Corporation, a Federal Savings and Loan Association'' after ''National Agricultural Credit Corporation,''.

Pub. L. 101–73, §961(h)(4), which directed the insertion of ''the Resolution Trust Corporation'' after ''Federal Deposit Insurance Corporation,'' was executed by making the insertion after the second appearance of ''Federal Deposit Insurance Corporation,'' as the probable intent of Congress.

1982—Pub. L. 97–297 struck out ''a joint-stock land bank,'' after ''a Federal land bank,''.

1970—Pub. L. 91–609 extended criminal penalty for fraud or false statements to influence any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, any bank the deposits of which are insured by the Federal Deposit Insurance Corporation, any member of the Federal Home Loan Bank System, the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the Administrator of the National Credit Union Administration.

Pub. L. 91–468 substituted ''a Federal credit union, or an insured State-chartered credit union'' for ''or a Federal credit union''.

1964—Pub. L. 88–353 inserted reference to Federal credit unions.

1961—Pub. L. 87–353 struck out reference to Federal Farm Mortgage Corporation.

1959—Pub. L. 86–168 substituted ''Federal land bank association'' for ''National farm loan association''.

1958—Pub. L. 85–699 inserted reference to small business investment companies.

1956—Act July 26, 1956, struck out reference to corporations in which a Production Credit Corporation holds stock.

1949—Act May 24, 1949, inserted reference to Secretary of Agriculture acting through the Farmers' Home Administration.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 604(b)(22) of Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

Section 605(b) of Pub. L. 104–294 provided that the amendment by that section to section 961(h) of Pub. L. 101–73 was effective on the date of enactment of Pub. L. 101–73, which was approved Aug. 9, 1989.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103–354, set out as a note under section 1502 of Title 7, Agriculture.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86–168 effective Dec. 31, 1959, see section 104(k) of Pub. L. 86–168.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act July 26, 1956, effective Jan. 1, 1957, see section 202(a) of that act, set out as an Effective Date note under section 1027 of Title 12, Banks and Banking.

FARM CREDIT ADMINISTRATION

Establishment of Farm Credit Administration as independent agency, and other changes in status, function, etc., see Ex. Ord. No. 6084 set out prec. section 2241 of Title 12, Banks and Banking. See also section 2001 et seq. of Title 12.

NATIONAL CREDIT UNION ADMINISTRATION

Establishment as independent agency, membership, etc., see section 1752 et seq. of Title 12, Banks and Banking.

§1015. Naturalization, citizenship or alien registry

(a) Whoever knowingly makes any false statement under oath, in any case, proceeding, or matter relating to, or under, or by virtue of any law of the United States relating to naturalization, citizenship, or registry of aliens; or

(b) Whoever knowingly, with intent to avoid any duty or liability imposed or required by law, denies that he has been naturalized or admitted to be a citizen, after having been so naturalized or admitted; or

(c) Whoever uses or attempts to use any certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship or other documentary evidence of naturalization or of citizenship, or any duplicate or copy thereof, knowing the same to have been procured by fraud or false evidence or without required appearance or hearing of the applicant in court or otherwise unlawfully obtained; or

(d) Whoever knowingly makes any false certificate, acknowledgment or statement con-

cerning the appearance before him or the taking of an oath or affirmation or the signature, attestation or execution by any person with respect to any application, declaration, petition, affidavit, deposition, certificate of naturalization, certificate of citizenship or other paper or writing required or authorized by the laws relating to immigration, naturalization, citizenship, or registry of aliens; or

(e) Whoever knowingly makes any false statement or claim that he is, or at any time has been, a citizen or national of the United States, with the intent to obtain on behalf of himself, or any other person, any Federal or State benefit or service, or to engage unlawfully in employment in the United States; or

(f) Whoever knowingly makes any false statement or claim that he is a citizen of the United States in order to register to vote or to vote in any Federal, State, or local election (including an initiative, recall, or referendum)—

Shall be fined under this title or imprisoned not more than five years, or both. Subsection (f) does not apply to an alien if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of making the false statement or claim that he or she was a citizen of the United States.

(June 25, 1948, ch. 645, 62 Stat. 752; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–208, div. C, title II, § 215, Sept. 30, 1996, 110 Stat. 3009–572; Pub. L. 106–395, title II, § 201(d)(2), Oct. 30, 2000, 114 Stat. 1635.)

HISTORICAL AND REVISION NOTES

Based on subsections (a), paragraphs (1), (16), (17), (19), (32), (b), (d), and (*l*) of section 746 of title 8, U.S.C., 1940 ed., Aliens and Nationality (Oct. 14, 1940, ch. 876, § 346(a), pars. (1), (16), (17), (19), (32), (b), (d), and (*l*), 45 Stat. 1163, 1165, 1167).

Section consolidates, with minor changes, subsection (a), paragraphs (1), (16), (17), (19), (32), and subsections (b), (d), and (*l*), of section 746 of title 8, U.S.C., 1940 ed., Aliens and Nationality.

Such changes of arrangement and phraseology were made as were appropriate and necessary.

AMENDMENTS

2000—Pub. L. 106–395 inserted at end of concluding provisions ''Subsection (f) does not apply to an alien if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of making the false statement or claim that he or she was a citizen of the United States.''

1996—Subsecs. (e), (f). Pub. L. 104–208 added subsecs. (e) and (f).

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in concluding par.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–395 effective as if included in the enactment of section 215 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, div. C of Pub. L. 104–208, and applicable to an alien prosecuted on or after Sept. 30, 1996, except in the case of an alien whose criminal proceeding (including judicial review thereof) has been finally concluded before Oct. 30, 2000, see section 201(d)(3) of Pub. L. 106–395, set out as a note under section 611 of this title.

§ 1016. Acknowledgment of appearance or oath

Whoever, being an officer authorized to administer oaths or to take and certify acknowledgments, knowingly makes any false acknowledgment, certificate, or statement concerning the appearance before him or the taking of an oath or affirmation by any person with respect to any proposal, contract, bond, undertaking, or other matter submitted to, made with, or taken on behalf of the United States or any department or agency thereof, concerning which an oath or affirmation is required by law or lawful regulation, or with respect to the financial standing of any principal, surety, or other party to any such proposal, contract, bond, undertaking, or other instrument, shall be fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 753; 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., § 75 (Mar. 4, 1909, ch. 321, § 31, 35 Stat. 1094).

Words ''or of any department or agency thereof'' were inserted after ''United States'' so as to remove any ambiguity as to scope of section. (See definitions of ''department'' and ''agency'' in section 6 of this title.)

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $2,000''.

§ 1017. Government seals wrongfully used and instruments wrongfully sealed

Whoever fraudulently or wrongfully affixes or impresses the seal of any department or agency of the United States, to or upon any certificate, instrument, commission, document, or paper or with knowledge of its fraudulent character, with wrongful or fraudulent intent, uses, buys, procures, sells, or transfers to another any such certificate, instrument, commission, document, or paper, to which or upon which said seal has been so fraudulently affixed or impressed, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 753; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 130 (June 15, 1917, ch. 30, title X, § 1, 40 Stat. 227).

To clarify scope of section and in view of definition of department or agency in section 6 of this title, words ''department or agency'' were substituted for ''executive department, or of any bureau, commission, or office''.

Slight verbal changes were also made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 1018. Official certificates or writings

Whoever, being a public officer or other person authorized by any law of the United States to

make or give a certificate or other writing, knowingly makes and delivers as true such a certificate or writing, containing any statement which he knows to be false, in a case where the punishment thereof is not elsewhere expressly provided by law, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 753; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 195 (Mar. 4, 1909, ch. 321, § 106, 35 Stat. 1107).

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

§ 1019. Certificates by consular officers

Whoever, being a consul, or vice consul, or other person employed in the consular service of the United States, knowingly certifies falsely to any invoice, or other paper, to which his certificate is authorized or required by law, shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 753; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 127 (Mar. 4, 1909, ch. 321, § 70, 35 Stat. 1101).

Mandatory punishment provision was rephrased in the alternative.

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

§ 1020. Highway projects

Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the costs thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction of any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report, or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to a material fact in any statement, certificate, or report submitted pursuant to the provisions of the Federal-Aid Road Act approved July 11, 1916 (39 Stat. 355), as amended and supplemented,

Shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 753; Oct. 31, 1951, ch. 655, § 27, 65 Stat. 721; May 6, 1954, ch. 181, § 18, 68 Stat. 76; Pub. L. 89–670, § 10(f), Oct. 15, 1966, 80 Stat. 948; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 46 of title 23, U.S.C., 1940 ed., Highways (June 19, 1922, ch. 227, § 4, par. 6, 42 Stat. 661).

Words ''highway, or related,'' were inserted before ''project'' in two places for the purpose of description, in view of transfer from title 23.

Words ''upon conviction thereof'' were omitted as surplusage, because punishment cannot be imposed until a conviction is secured.

Changes in phraseology were made.

REFERENCES IN TEXT

The Federal-Aid Road Act approved July 11, 1916 (39 Stat. 355), referred to in text, is act July 11, 1916, ch. 241, 39 Stat. 355, as amended, which was repealed by Pub. L. 85–767, § 2(1), Aug. 27, 1958, 72 Stat. 919. See section 101 et seq. of Title 23, Highways.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' in last par.

1966—Pub. L. 89–670 substituted ''Secretary of Transportation'' for ''Secretary of Commerce'' wherever appearing.

1954—Act May 6, 1954, substituted in second par. ''with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction'' for ''for work or materials for the construction''; and in third par. substituted ''as to a material fact in any statement, certificate, or report submitted pursuant to the provisions of the Federal-Aid Road Act approved July 11, 1916 (39 Stat. 355), as amended and supplemented'' for ''in any report required under Title 23, with intent to defraud the United States''.

1951—Act Oct. 31, 1951, substituted ''Secretary of Commerce'' for ''Secretary of Agriculture'' in first and second pars.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–670 effective Apr. 1, 1967, as prescribed by President and published in Federal Register, see section 16(a), formerly § 15(a), of Pub. L. 89–670 and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453.

TRANSFER OF FUNCTIONS

The Bureau of Public Roads, which is the principal road building agency of the Federal Government, and which was formerly under the Department of Agriculture, was redesignated the Public Roads Administration and, with its functions, transferred to the Federal Works Agency, and the functions of the Secretary of Agriculture, with respect thereto, were transferred to the Federal Works Administrator, by Reorg. Plan No. 1 of 1939, §§ 301, 302, eff. July 1, 1939, 4 F.R. 2727, 53 Stat. 1426, set out in the Appendix to Title 5, Government Organization and Employees. Act June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380, (see text of, and Historical and Revision Notes under, section 303(b) of Title 40, Public Buildings, Property, and Works), abolished the Federal Works Agency, transferred its functions, the functions of all agencies thereof, the functions of the Federal Works Administrator, and the functions of the Commissioner of Public Roads, to the Administrator of General Services, and transferred the Public Roads Administration, which it redesignated the Bureau of Public Roads, to the General Services Administration. Reorg. Plan No. 7 of 1949, eff. Aug. 19, 1949, 14 F.R. 5228,

63 Stat. 1070, set out in the Appendix to Title 5, Government Organization and Employees, transferred such bureau and its functions and personnel to the Department of Commerce, and transferred the functions of the Administrator of General Services, with respect thereto, to the Secretary of Commerce, to be performed by him or, subject to his direction and control, by such officers, employees and agencies of the Department of Commerce as he should designate. Reorg. Plan No. 5 of 1950, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5, Government Organization and Employees, transferred, with certain exceptions not applicable to this section, all functions of all other officers of the Department of Commerce, and all functions of all agencies and employees of such Department, to the Secretary of Commerce, with power vested in him to authorize their performance, or the performance of any of his functions, by any of such other officers, or by any agency or employee of the Department of Commerce.

§ 1021. Title records

Whoever, being an officer or other person authorized by any law of the United States to record a conveyance of real property or any other instrument which by such law may be recorded, knowingly certifies falsely that such conveyance or instrument has or has not been recorded, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 754; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 194 (Mar. 4, 1909, ch. 321, § 105, 35 Stat. 1107).

Words ''five years'' were substituted for ''seven years'' as more in conformity with comparable sections of this chapter.

Minor change was made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 1022. Delivery of certificate, voucher, receipt for military or naval property

Whoever, being authorized to make or deliver any certificate, voucher, receipt, or other paper certifying the receipt of arms, ammunition, provisions, clothing, or other property used or to be used in the military or naval service, makes or delivers the same to any other person without a full knowledge of the truth of the facts stated therein and with intent to defraud the United States, or any agency thereof, shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 754; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 84 (Mar. 4, 1909, ch. 321, § 35, 35 Stat. 1095; Oct. 23, 1918, ch. 194, 40 Stat. 1015; June 18, 1934, ch. 587, 48 Stat. 996; Apr. 4, 1938, ch. 69, 52 Stat. 197).

Word ''agency'' was substituted for ''department'' so as to eliminate any possible ambiguity as to scope of section. (See definitions of ''department'' and ''agency'' in section 6 of this title.)

Words ''or any corporation in which the United States of America is a stockholder'' were omitted as unnecessary in view of definition of ''agency'' in section 6 of this title.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

§ 1023. Insufficient delivery of money or property for military or naval service

Whoever, having charge, possession, custody, or control of any money or other public property used or to be used in the military or naval service, with intent to defraud the United States, or any agency thereof, or any corporation in which the United States has a proprietary interest, or intending to conceal such money or other property, delivers to any person having authority to receive the same any amount of such money or other property less than that for which he received a certificate or took a receipt, shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 754; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 85 (Mar. 4, 1909, ch. 321, § 35, 35 Stat. 1095; Oct. 23, 1918, ch. 194, 40 Stat. 1015; June 18, 1934, ch. 587, 48 Stat. 996; Apr. 4, 1938, ch. 69, 52 Stat. 197).

Word ''agency'' was substituted for ''department'' so as to eliminate any possible ambiguity as to scope of section. (See definitions of ''department'' and ''agency'' in section 6 of this title.)

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

§ 1024. Purchase or receipt of military, naval, or veteran's facilities property

Whoever purchases, or receives in pledge from any person any arms, equipment, ammunition, clothing, military stores, or other property furnished by the United States under a clothing allowance or otherwise, to any member of the Armed Forces of the United States or of the National Guard or Naval Militia, or to any person accompanying, serving, or retained with the land or naval forces and subject to military or naval law, or to any former member of such Armed Forces at or by any hospital, home, or facility maintained by the United States, having knowledge or reason to believe that the property has been taken from the possession of or furnished by the United States under such allowance, or otherwise, shall be fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 754; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 86 (Mar. 4, 1909, ch. 321, § 35, 35 Stat. 1095; Oct. 23, 1918, ch. 194, 40 Stat. 1015;

June 18, 1934, ch. 587, 48 Stat. 996; Apr. 4, 1938, ch. 69, 52 Stat. 197; Apr. 30, 1940, ch. 164, 54 Stat. 171).

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

§ 1025. False pretenses on high seas and other waters

Whoever, upon any waters or vessel within the special maritime and territorial jurisdiction of the United States, by any fraud, or false pretense, obtains from any person anything of value, or procures the execution and delivery of any instrument of writing or conveyance of real or personal property, or the signature of any person, as maker, endorser, or guarantor, to or upon any bond, bill, receipt, promissory note, draft, or check, or any other evidence of indebtedness, or fraudulently sells, barters, or disposes of any bond, bill, receipt, promissory note, draft, or check, or other evidence of indebtedness, for value, knowing the same to be worthless, or knowing the signature of the maker, endorser, or guarantor thereof to have been obtained by any false pretenses, shall be fined under this title or imprisoned not more than five years, or both; but if the amount, value or the face value of anything so obtained does not exceed $1,000, he shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 755; May 24, 1949, ch. 139, § 22, 63 Stat. 92; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., § 467a (Mar. 4, 1909, ch. 321, § 288A, as added Aug. 5, 1939, ch. 434, 53 Stat. 1205).

Words ''upon any waters or vessel within the special maritime and territorial jurisdiction of the United States'' were substituted for ''upon the high seas or on any waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State, or within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State on board any vessel belonging in whole or in part to the United States or any citizen thereof or to any corporation created by or under the laws of the United States, or of any State, Territory, or District thereof'', near beginning of section. The deleted words are not necessary in view of definitive section 7 of this title.

Words ''whatsoever with intent to defraud'' were omitted as being included in the preceding term ''false pretenses''.

The punishment provision was revised to include a misdemeanor punishment (not more than $1,000 or one year, or both) where the offense involves $100 or less. (See reviser's notes under sections 641 and 645 of this title.)

1949 ACT

This section [section 22] corrects a typographical error in section 1025 of title 18, U.S.C.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''$1,000'' for ''$100''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' after ''pretenses, shall be'' and for ''fined not more than $1,000'' after ''he shall be''.

1949—Act May 24, 1949, corrected spelling of ''pretense''.

§ 1026. Compromise, adjustment, or cancellation of farm indebtedness

Whoever knowingly makes any false statement for the purpose of influencing in any way the action of the Secretary of Agriculture, or of any person acting under his authority, in connection with any compromise, adjustment, or cancellation of any farm indebtedness as provided by sections 1150, 1150a, and 1150b of Title 12, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 755; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 1150c(a) of title 12, U.S.C., 1940 ed., Banks and Banking (Dec. 20, 1944, ch. 623, § 4(a), 58 Stat. 837).

Words ''of Agriculture'' were inserted after ''Secretary'' for reasons of identification.

Words ''upon conviction thereof'' were omitted as surplusage, since punishment can not be imposed until after conviction.

Other changes were made in phraseology without change of substance.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 1027. False statements and concealment of facts in relation to documents required by the Employee Retirement Income Security Act of 1974

Whoever, in any document required by title I of the Employee Retirement Income Security Act of 1974 (as amended from time to time) to be published, or kept as part of the records of any employee welfare benefit plan or employee pension benefit plan, or certified to the administrator of any such plan, makes any false statement or representation of fact, knowing it to be false, or knowingly conceals, covers up, or fails to disclose any fact the disclosure of which is required by such title or is necessary to verify, explain, clarify or check for accuracy and completeness any report required by such title to be published or any information required by such title to be certified, shall be fined under this title, or imprisoned not more than five years, or both.

(Added Pub. L. 87–420, § 17(c), Mar. 20, 1962, 76 Stat. 42; amended Pub. L. 93–406, title I, § 111(a)(2)(B)(i), (ii), Sept. 2, 1974, 88 Stat. 851; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

REFERENCES IN TEXT

The Employee Retirement Income Security Act of 1974, referred to in text, is Pub. L. 93–406, Sept. 2, 1974, 88 Stat. 829, as amended. Title I of the Employee Retirement Income Security Act of 1974 is classified generally to subchapter I (§ 1001 et seq.) of chapter 18 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

1974—Pub. L. 93–406 substituted ''Employee Retirement Income Security Act of 1974'' for ''Welfare and Pension Plans Disclosure Act'' in section catchline, and ''title I of the Employee Retirement Income Security Act of 1974'' and ''title'' for ''the Welfare and Pension Plans Disclosure Act'' and ''Act'', respectively, in text.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 effective Jan. 1, 1975, except as provided in section 1031(b)(2) of Title 29, Labor, see section 1031(b)(1) of Title 29.

EFFECTIVE DATE

Section effective 90 days after Mar. 20, 1962, see section 19 of Pub. L. 87–420, set out as a note under section 664 of this title.

§ 1028. Fraud and related activity in connection with identification documents, authentication features, and information

(a) Whoever, in a circumstance described in subsection (c) of this section—

(1) knowingly and without lawful authority produces an identification document, authentication feature, or a false identification document;

(2) knowingly transfers an identification document, authentication feature, or a false identification document knowing that such document or feature was stolen or produced without lawful authority;

(3) knowingly possesses with intent to use unlawfully or transfer unlawfully five or more identification documents (other than those issued lawfully for the use of the possessor), authentication features, or false identification documents;

(4) knowingly possesses an identification document (other than one issued lawfully for the use of the possessor), authentication feature, or a false identification document, with the intent such document or feature be used to defraud the United States;

(5) knowingly produces, transfers, or possesses a document-making implement or authentication feature with the intent such document-making implement or authentication feature will be used in the production of a false identification document or another document-making implement or authentication feature which will be so used;

(6) knowingly possesses an identification document or authentication feature that is or appears to be an identification document or authentication feature of the United States which is stolen or produced without lawful authority knowing that such document or feature was stolen or produced without such authority;

(7) knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person with the intent to commit, or to aid or abet, or in connection with, any unlawful activity that constitutes a violation of Federal law, or that constitutes a felony under any applicable State or local law; or

(8) knowingly traffics in false or actual authentication features for use in false identification documents, document-making implements, or means of identification;

shall be punished as provided in subsection (b) of this section.

(b) The punishment for an offense under subsection (a) of this section is—

(1) except as provided in paragraphs (3) and (4), a fine under this title or imprisonment for not more than 15 years, or both, if the offense is—

(A) the production or transfer of an identification document, authentication feature, or false identification document that is or appears to be—

(i) an identification document or authentication feature issued by or under the authority of the United States; or

(ii) a birth certificate, or a driver's license or personal identification card;

(B) the production or transfer of more than five identification documents, authentication features, or false identification documents;

(C) an offense under paragraph (5) of such subsection; or

(D) an offense under paragraph (7) of such subsection that involves the transfer, possession, or use of 1 or more means of identification if, as a result of the offense, any individual committing the offense obtains anything of value aggregating $1,000 or more during any 1-year period;

(2) except as provided in paragraphs (3) and (4), a fine under this title or imprisonment for not more than 5 years, or both, if the offense is—

(A) any other production, transfer, or use of a means of identification, an identification document,,[1] authentication feature, or a false identification document; or

(B) an offense under paragraph (3) or (7) of such subsection;

(3) a fine under this title or imprisonment for not more than 20 years, or both, if the offense is committed—

(A) to facilitate a drug trafficking crime (as defined in section 929(a)(2));

(B) in connection with a crime of violence (as defined in section 924(c)(3)); or

(C) after a prior conviction under this section becomes final;

(4) a fine under this title or imprisonment for not more than 30 years, or both, if the offense is committed to facilitate an act of domestic terrorism (as defined under section 2331(5) of this title) or an act of international terrorism (as defined in section 2331(1) of this title);

(5) in the case of any offense under subsection (a), forfeiture to the United States of any personal property used or intended to be used to commit the offense; and

(6) a fine under this title or imprisonment for not more than one year, or both, in any other case.

(c) The circumstance referred to in subsection (a) of this section is that—

[1] So in original.

(1) the identification document, authentication feature, or false identification document is or appears to be issued by or under the authority of the United States or the document-making implement is designed or suited for making such an identification document, authentication feature, or false identification document;

(2) the offense is an offense under subsection (a)(4) of this section; or

(3) either—

(A) the production, transfer, possession, or use prohibited by this section is in or affects interstate or foreign commerce, including the transfer of a document by electronic means; or

(B) the means of identification, identification document, false identification document, or document-making implement is transported in the mail in the course of the production, transfer, possession, or use prohibited by this section.

(d) In this section and section 1028A—

(1) the term ''authentication feature'' means any hologram, watermark, certification, symbol, code, image, sequence of numbers or letters, or other feature that either individually or in combination with another feature is used by the issuing authority on an identification document, document-making implement, or means of identification to determine if the document is counterfeit, altered, or otherwise falsified;

(2) the term ''document-making implement'' means any implement, impression, template, computer file, computer disc, electronic device, or computer hardware or software, that is specifically configured or primarily used for making an identification document, a false identification document, or another document-making implement;

(3) the term ''identification document'' means a document made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals;

(4) the term ''false identification document'' means a document of a type intended or commonly accepted for the purposes of identification of individuals that—

(A) is not issued by or under the authority of a governmental entity or was issued under the authority of a governmental entity but was subsequently altered for purposes of deceit; and

(B) appears to be issued by or under the authority of the United States Government, a State, a political subdivision of a State, a foreign government, a political subdivision of a foreign government, or an international governmental or quasi-governmental organization;

(5) the term ''false authentication feature'' means an authentication feature that—

(A) is genuine in origin, but, without the authorization of the issuing authority, has been tampered with or altered for purposes of deceit;

(B) is genuine, but has been distributed, or is intended for distribution, without the authorization of the issuing authority and not in connection with a lawfully made identification document, document-making implement, or means of identification to which such authentication feature is intended to be affixed or embedded by the respective issuing authority; or

(C) appears to be genuine, but is not;

(6) the term ''issuing authority''—

(A) means any governmental entity or agency that is authorized to issue identification documents, means of identification, or authentication features; and

(B) includes the United States Government, a State, a political subdivision of a State, a foreign government, a political subdivision of a foreign government, or an international government or quasi-governmental organization;

(7) the term ''means of identification'' means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including any—

(A) name, social security number, date of birth, official State or government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number;

(B) unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;

(C) unique electronic identification number, address, or routing code; or

(D) telecommunication identifying information or access device (as defined in section 1029(e));

(8) the term ''personal identification card'' means an identification document issued by a State or local government solely for the purpose of identification;

(9) the term ''produce'' includes alter, authenticate, or assemble;

(10) the term ''transfer'' includes selecting an identification document, false identification document, or document-making implement and placing or directing the placement of such identification document, false identification document, or document-making implement on an online location where it is available to others;

(11) the term ''State'' includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the United States; and

(12) the term ''traffic'' means—

(A) to transport, transfer, or otherwise dispose of, to another, as consideration for anything of value; or

(B) to make or obtain control of with intent to so transport, transfer, or otherwise dispose of.

(e) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under chapter 224 of this title.

(f) ATTEMPT AND CONSPIRACY.—Any person who attempts or conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(g) FORFEITURE PROCEDURES.—The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the provisions of section 413 (other than subsection (d) of that section) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853).

(h) FORFEITURE; DISPOSITION.—In the circumstance in which any person is convicted of a violation of subsection (a), the court shall order, in addition to the penalty prescribed, the forfeiture and destruction or other disposition of all illicit authentication features, identification documents, document-making implements, or means of identification.

(i) RULE OF CONSTRUCTION.—For purpose of subsection (a)(7), a single identification document or false identification document that contains 1 or more means of identification shall be construed to be 1 means of identification.

(Added Pub. L. 97–398, § 2, Dec. 31, 1982, 96 Stat. 2009; amended Pub. L. 99–646, § 44(a), Nov. 10, 1986, 100 Stat. 3601; Pub. L. 100–690, title VII, § 7023, Nov. 18, 1988, 102 Stat. 4397; Pub. L. 101–647, title XII, § 1205(e), Nov. 29, 1990, 104 Stat. 4831; Pub. L. 103–322, title XXXIII, § 330016(1)(K), (M), (O), Sept. 13, 1994, 108 Stat. 2147, 2148; Pub. L. 104–208, div. C, title II, § 211(a)(1), Sept. 30, 1996, 110 Stat. 3009–569; Pub. L. 104–294, title VI, § 601(a)(3), (p), Oct. 11, 1996, 110 Stat. 3498, 3502; Pub. L. 105–318, § 3(a)–(h)(1), Oct. 30, 1998, 112 Stat. 3007–3009; Pub. L. 106–578, § 3, Dec. 28, 2000, 114 Stat. 3076; Pub. L. 108–21, title VI, § 607(b), Apr. 30, 2003, 117 Stat. 689; Pub. L. 108–275, §§ 2(c), 3, July 15, 2004, 118 Stat. 832; Pub. L. 108–458, title VII, § 7216, Dec. 17, 2004, 118 Stat. 3833; Pub. L. 109–13, div. B, title II, § 203(a), May 11, 2005, 119 Stat. 315.)

AMENDMENTS

2005—Subsec. (a)(8). Pub. L. 109–13 substituted ''false or actual authentication features'' for ''false authentication features''.

2004—Subsec. (a)(7). Pub. L. 108–275, § 3(1), substituted ''transfers, possesses,'' for ''transfers'' and ''abet, or in connection with,'' for ''abet,''.

Subsec. (b)(1)(D). Pub. L. 108–275, § 3(2), substituted ''transfer, possession,'' for ''transfer''.

Subsec. (b)(2). Pub. L. 108–275, § 3(3), substituted ''5 years'' for ''three years'' in introductory provisions.

Subsec. (b)(4). Pub. L. 108–458 substituted ''30 years'' for ''25 years''.

Pub. L. 108–275, § 3(4), inserted ''an act of domestic terrorism (as defined under section 2331(5) of this title) or'' after ''facilitate''.

Subsec. (d). Pub. L. 108–275, § 2(c), inserted ''and section 1028A'' after ''In this section'' in introductory provisions.

2003—Pub. L. 108–21, § 607(b)(6), inserted '', authentication features,'' after ''documents'' in section catchline.

Subsec. (a)(1). Pub. L. 108–21, § 607(b)(1)(A), inserted '', authentication feature,'' after ''an identification document''.

Subsec. (a)(2). Pub. L. 108–21, § 607(b)(1)(B), inserted '', authentication feature,'' after ''an identification document'' and ''or feature'' after ''such document''.

Subsec. (a)(3). Pub. L. 108–21, § 607(b)(1)(C), inserted '', authentication features,'' after ''possessor)''.

Subsec. (a)(4). Pub. L. 108–21, § 607(b)(1)(D), inserted '', authentication feature,'' after ''possessor)'' and ''or feature'' after ''such document''.

Subsec. (a)(5). Pub. L. 108–21, § 607(b)(1)(E), inserted ''or authentication feature'' after ''implement'' wherever appearing.

Subsec. (a)(6). Pub. L. 108–21, § 607(b)(1)(F), inserted ''or authentication feature'' before ''that is or appears'', ''or authentication feature'' before ''of the United States'' and ''or feature'' after ''such document'' and struck out ''or'' at end.

Subsec. (a)(7). Pub. L. 108–21, § 607(b)(1)(G), inserted ''or'' after semicolon at end.

Subsec. (a)(8). Pub. L. 108–21, § 607(b)(1)(H), added par. (8).

Subsec. (b)(1)(A). Pub. L. 108–21, § 607(b)(2)(A)(i)(I), inserted '', authentication feature,'' before ''or false'' in introductory provisions.

Subsec. (b)(1)(A)(i). Pub. L. 108–21, § 607(b)(2)(A)(i)(II), inserted ''or authentication feature'' after ''document''.

Subsec. (b)(1)(B). Pub. L. 108–21, § 607(b)(2)(A)(ii), inserted '', authentication features,'' before ''or false''.

Subsec. (b)(2)(A). Pub. L. 108–21, § 607(b)(2)(B), inserted '', authentication feature,'' before ''or a false''.

Subsec. (c)(1). Pub. L. 108–21, § 607(b)(3), inserted '', authentication feature,'' before ''or false'' in two places.

Subsec. (d). Pub. L. 108–21, § 607(b)(4), added pars. (1), (5), (6) and (12), redesignated former pars. (1), (2), (3), (4), (5), (6), (7), and (8) as pars. (2), (3), (4), (7), (8), (9), (10), and (11), respectively, and in par. (4)(A) inserted ''or was issued under the authority of a governmental entity but was subsequently altered for purposes of deceit'' after ''entity''.

Subsecs. (h), (i). Pub. L. 108–21, § 607(b)(5), added subsec. (h) and redesignated former subsec. (h) as (i).

2000—Subsec. (c)(3)(A). Pub. L. 106–578, § 3(1), inserted '', including the transfer of a document by electronic means'' after ''commerce''.

Subsec. (d)(1). Pub. L. 106–578, § 3(2)(A), inserted ''template, computer file, computer disc,'' after ''impression,''.

Subsec. (d)(3) to (8). Pub. L. 106–578, § 3(2)(B)–(F), added pars. (3) and (7) and redesignated former pars. (3), (4), (5), and (6) as (4), (5), (6), and (8), respectively.

1998—Pub. L. 105–318, § 3(h)(1), inserted ''and information'' at end of section catchline.

Subsec. (a). Pub. L. 105–318, § 3(a)(3), struck out ''or attempts to do so,'' before ''shall be punished'' in concluding provisions.

Subsec. (a)(7). Pub. L. 105–318, § 3(a)(1), (2), (4), added par. (7).

Subsec. (b)(1)(D). Pub. L. 105–318, § 3(b)(1), added subpar. (D).

Subsec. (b)(2)(A). Pub. L. 105–318, § 3(b)(2)(A), substituted '', transfer, or use of a means of identification, an identification document, or a'' for ''or transfer of an identification document or''.

Subsec. (b)(2)(B). Pub. L. 105–318, § 3(b)(2)(B), inserted ''or (7)'' after ''(3)''.

Subsec. (b)(3). Pub. L. 105–318, § 3(b)(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''a fine under this title or imprisonment for not more than 20 years, or both, if the offense is committed to facilitate a drug trafficking crime (as defined in section 929(a)(2) of this title);''.

Subsec. (b)(5), (6). Pub. L. 105–318, § 3(b)(4)–(6), added par. (5) and redesignated former par. (5) as (6).

Subsec. (c)(3). Pub. L. 105–318, § 3(c), added par. (3) and struck out former par. (3) which read as follows: ''the production, transfer, or possession prohibited by this section is in or affects interstate or foreign commerce,

or the identification document, false identification document, or document-making implement is transported in the mail in the course of the production, transfer, or possession prohibited by this section.''

Subsec. (d). Pub. L. 105–318, §3(d), amended subsec. (d) generally. Prior to amendment, subsec. (d) consisted of pars. (1) to (5) defining ''identification document'', ''produce'', ''document-making implement'', ''personal identification card'', and ''State'' as used in this section.

Subsec. (f). Pub. L. 105–318, §3(e), added subsec. (f).

Subsec. (g). Pub. L. 105–318, §3(f), added subsec. (g).

Subsec. (h). Pub. L. 105–318, §3(g), added subsec. (h).

1996—Subsec. (a)(4), (5). Pub. L. 104–294, §601(p), struck out ''or'' after semicolon in par. (4) and inserted ''or'' after semicolon in par. (5).

Subsec. (b). Pub. L. 104–294, §601(a)(3), substituted ''fine under this title'' for ''fine of under this title'' wherever appearing.

Subsec. (b)(1). Pub. L. 104–208, §211(a)(1)(A), in introductory provisions inserted ''except as provided in paragraphs (3) and (4),'' after ''(1)'' and substituted ''15 years'' for ''five years''.

Subsec. (b)(2). Pub. L. 104–208, §211(a)(1)(B), inserted ''except as provided in paragraphs (3) and (4),'' after ''(2)'' in introductory provisions and struck out ''and'' at end.

Subsec. (b)(3) to (5). Pub. L. 104–208, §211(a)(1)(C), (D), added pars. (3) and (4) and redesignated former par. (3) as (5).

1994—Subsec. (b)(1). Pub. L. 103–322, §330016(1)(O), substituted ''under this title'' for ''not more than $25,000''.

Subsec. (b)(2). Pub. L. 103–322, §330016(1)(M), substituted ''under this title'' for ''not more than $15,000''.

Subsec. (b)(3). Pub. L. 103–322, §330016(1)(K), substituted ''under this title'' for ''not more than $5,000''.

1990—Subsec. (d)(5). Pub. L. 101–647 inserted ''commonwealth,'' before ''possession or territory of the United States''.

1988—Subsec. (a)(6). Pub. L. 100–690 inserted ''knowingly'' before ''possesses'', ''lawful'' before first reference to ''authority'', and ''such'' before second reference to ''authority''.

1986—Subsec. (e). Pub. L. 99–646 substituted ''chapter 224 of this title'' for ''title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481)''.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–578, §5, Dec. 28, 2000, 114 Stat. 3077, provided that: ''This Act [amending this section, repealing section 1738 of this title, and enacting provisions set out as a note below] and the amendments made by this Act shall take effect 90 days after the date of enactment of this Act [Dec. 28, 2000].''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 211(c) of div. C of Pub. L. 104–208 provided that: ''This section [amending this section and sections 1425 to 1427, 1541 to 1544, and 1546 of this title and enacting provisions set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure] and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act [Sept. 30, 1996].''

COORDINATING COMMITTEE ON FALSE IDENTIFICATION

Pub. L. 106–578, §2, Dec. 28, 2000, 114 Stat. 3075, provided that:

''(a) IN GENERAL.—The Attorney General and the Secretary of the Treasury shall establish a coordinating committee to ensure, through existing interagency task forces or other means, that the creation and distribution of false identification documents (as defined in section 1028(d)(3) [now 1028(d)(4)] of title 18, United States Code, as added by section 3(2) of this Act) is vigorously investigated and prosecuted.

''(b) MEMBERSHIP.—The coordinating committee shall consist of the Director of the United States Secret Service, the Director of the Federal Bureau of Investigation, the Attorney General, the Commissioner of Social Security, and the Commissioner of Immigration and Naturalization, or their respective designees.

''(c) TERM.—The coordinating committee shall terminate 2 years after the effective date of this Act [see Effective Date of 2000 Amendment note above].

''(d) REPORT.—

''(1) IN GENERAL.—The Attorney General and the Secretary of the Treasury, at the end of each year of the existence of the committee, shall report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on the activities of the committee.

''(2) CONTENTS.—The report referred to in paragraph (1) shall include—

''(A) the total number of indictments and informations, guilty pleas, convictions, and acquittals resulting from the investigation and prosecution of the creation and distribution of false identification documents during the preceding year;

''(B) identification of the Federal judicial districts in which the indictments and informations were filed, and in which the subsequent guilty pleas, convictions, and acquittals occurred;

''(C) specification of the Federal statutes utilized for prosecution;

''(D) a brief factual description of significant investigations and prosecutions;

''(E) specification of the sentence imposed as a result of each guilty plea and conviction; and

''(F) recommendations, if any, for legislative changes that could facilitate more effective investigation and prosecution of the creation and distribution of false identification documents.''

[For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 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.]

[For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.]

CONSTITUTIONAL AUTHORITY

Pub. L. 105–318, §2, Oct. 30, 1998, 112 Stat. 3007, provided that: ''The constitutional authority upon which this Act [see Short Title of 1998 Amendments note set out under section 1001 of this title] rests is the power of Congress to regulate commerce with foreign nations and among the several States, and the authority to make all laws which shall be necessary and proper for carrying into execution the powers vested by the Constitution in the Government of the United States or in any department or officer thereof, as set forth in article I, section 8 of the United States Constitution.''

CENTRALIZED COMPLAINT AND CONSUMER EDUCATION SERVICE FOR VICTIMS OF IDENTITY THEFT

Pub. L. 105–318, §5, Oct. 30, 1998, 112 Stat. 3010, provided that:

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Oct. 30, 1998], the Federal Trade Commission shall establish procedures to—

''(1) log and acknowledge the receipt of complaints by individuals who certify that they have a reasonable belief that 1 or more of their means of identification (as defined in section 1028 of title 18, United States Code, as amended by this Act) have been assumed, stolen, or otherwise unlawfully acquired in violation of section 1028 of title 18, United States Code, as amended by this Act;

''(2) provide informational materials to individuals described in paragraph (1); and

''(3) refer complaints described in paragraph (1) to appropriate entities, which may include referral to—

''(A) the 3 major national consumer reporting agencies; and

''(B) appropriate law enforcement agencies for potential law enforcement action.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.''

FRAUD AND RELATED ACTIVITY IN CONNECTION WITH IDENTIFICATION DOCUMENTS

Pub. L. 98–473, title II, § 609L, Oct. 12, 1984, 98 Stat. 2103, provided that:

''(a) For purposes of section 1028 of title 18, United States Code, to the maximum extent feasible, personal descriptors or identifiers utilized in identification documents, as defined in such section, shall utilize common descriptive terms and formats designed to—

''(1) reduce the redundancy and duplication of identification systems by providing information which can be utilized by the maximum number of authorities, and

''(2) facilitate positive identification of bona fide holders of identification documents.

''(b) The President shall, no later than 3 years after the date of enactment of this Act [Oct. 12, 1984], and after consultation with Federal, State, local, and international issuing authorities, and concerned groups make recommnedations [recommendations] to the Congress for the enactment of comprehensive legislation on Federal identification systems. Such legislation shall—

''(1) give due consideration to protecting the privacy of persons who are the subject of any identification system,

''(2) recommend appropriate civil and criminal sanctions for the misuse or unauthorized disclosure of personal identification information, and

''(3) make recommendations providing for the exchange of personal identification information as authorized by Federal or State law or Executive order of the President or the chief executive officer of any of the several States.''

§ 1028A. Aggravated identity theft

(a) OFFENSES.—

(1) IN GENERAL.—Whoever, during and in relation to any felony violation enumerated in subsection (c), knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person shall, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of 2 years.

(2) TERRORISM OFFENSE.—Whoever, during and in relation to any felony violation enumerated in section 2332b(g)(5)(B), knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person or a false identification document shall, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of 5 years.

(b) CONSECUTIVE SENTENCE.—Notwithstanding any other provision of law—

(1) a court shall not place on probation any person convicted of a violation of this section;

(2) except as provided in paragraph (4), no term of imprisonment imposed on a person under this section shall run concurrently with any other term of imprisonment imposed on the person under any other provision of law, including any term of imprisonment imposed for the felony during which the means of identification was transferred, possessed, or used;

(3) in determining any term of imprisonment to be imposed for the felony during which the means of identification was transferred, possessed, or used, a court shall not in any way reduce the term to be imposed for such crime so as to compensate for, or otherwise take into account, any separate term of imprisonment imposed or to be imposed for a violation of this section; and

(4) a term of imprisonment imposed on a person for a violation of this section may, in the discretion of the court, run concurrently, in whole or in part, only with another term of imprisonment that is imposed by the court at the same time on that person for an additional violation of this section, provided that such discretion shall be exercised in accordance with any applicable guidelines and policy statements issued by the Sentencing Commission pursuant to section 994 of title 28.

(c) DEFINITION.—For purposes of this section, the term ''felony violation enumerated in subsection (c)'' means any offense that is a felony violation of—

(1) section 641 (relating to theft of public money, property, or rewards[1]), section 656 (relating to theft, embezzlement, or misapplication by bank officer or employee), or section 664 (relating to theft from employee benefit plans);

(2) section 911 (relating to false personation of citizenship);

(3) section 922(a)(6) (relating to false statements in connection with the acquisition of a firearm);

(4) any provision contained in this chapter (relating to fraud and false statements), other than this section or section 1028(a)(7);

(5) any provision contained in chapter 63 (relating to mail, bank, and wire fraud);

(6) any provision contained in chapter 69 (relating to nationality and citizenship);

(7) any provision contained in chapter 75 (relating to passports and visas);

(8) section 523 of the Gramm-Leach-Bliley Act (15 U.S.C. 6823) (relating to obtaining customer information by false pretenses);

(9) section 243 or 266 of the Immigration and Nationality Act (8 U.S.C. 1253 and 1306) (relating to willfully failing to leave the United States after deportation and creating a counterfeit alien registration card);

(10) any provision contained in chapter 8 of title II of the Immigration and Nationality Act (8 U.S.C. 1321 et seq.) (relating to various immigration offenses); or

(11) section 208, 811, 1107(b), 1128B(a), or 1632 of the Social Security Act (42 U.S.C. 408, 1011, 1307(b), 1320a–7b(a), and 1383a) (relating to false statements relating to programs under the Act).

(Added Pub. L. 108–275, § 2(a), July 15, 2004, 118 Stat. 831.)

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsec. (c)(10), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended. Chapter 8 of title II of the Act is classified generally to part VIII (§ 1321 et seq.) of subchapter II of chapter 12 of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short

[1] So in original. Probably should be ''records''.

Title note set out under section 1101 of Title 8 and Tables.

The Social Security Act, referred to in subsec. (c)(11), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

§ 1029. Fraud and related activity in connection with access devices

(a) Whoever—

(1) knowingly and with intent to defraud produces, uses, or traffics in one or more counterfeit access devices;

(2) knowingly and with intent to defraud traffics in or uses one or more unauthorized access devices during any one-year period, and by such conduct obtains anything of value aggregating $1,000 or more during that period;

(3) knowingly and with intent to defraud possesses fifteen or more devices which are counterfeit or unauthorized access devices;

(4) knowingly, and with intent to defraud, produces, traffics in, has control or custody of, or possesses device-making equipment;

(5) knowingly and with intent to defraud effects transactions, with 1 or more access devices issued to another person or persons, to receive payment or any other thing of value during any 1-year period the aggregate value of which is equal to or greater than $1,000;

(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

(A) offering an access device; or

(B) selling information regarding or an application to obtain an access device;

(7) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses a telecommunications instrument that has been modified or altered to obtain unauthorized use of telecommunications services;

(8) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses a scanning receiver;

(9) knowingly uses, produces, traffics in, has control or custody of, or possesses hardware or software, knowing it has been configured to insert or modify telecommunication identifying information associated with or contained in a telecommunications instrument so that such instrument may be used to obtain telecommunications service without authorization; or

(10) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, 1 or more evidences or records of transactions made by an access device;

shall, if the offense affects interstate or foreign commerce, be punished as provided in subsection (c) of this section.

(b)(1) Whoever attempts to commit an offense under subsection (a) of this section shall be subject to the same penalties as those prescribed for the offense attempted.

(2) Whoever is a party to a conspiracy of two or more persons to commit an offense under subsection (a) of this section, if any of the parties engages in any conduct in furtherance of such offense, shall be fined an amount not greater than the amount provided as the maximum fine for such offense under subsection (c) of this section or imprisoned not longer than one-half the period provided as the maximum imprisonment for such offense under subsection (c) of this section, or both.

(c) PENALTIES.—

(1) GENERALLY.—The punishment for an offense under subsection (a) of this section is—

(A) in the case of an offense that does not occur after a conviction for another offense under this section—

(i) if the offense is under paragraph (1), (2), (3), (6), (7), or (10) of subsection (a), a fine under this title or imprisonment for not more than 10 years, or both; and

(ii) if the offense is under paragraph (4), (5), (8), or (9) of subsection (a), a fine under this title or imprisonment for not more than 15 years, or both;

(B) in the case of an offense that occurs after a conviction for another offense under this section, a fine under this title or imprisonment for not more than 20 years, or both; and

(C) in either case, forfeiture to the United States of any personal property used or intended to be used to commit the offense.

(2) FORFEITURE PROCEDURE.—The forfeiture of property under this section, including any seizure and disposition of the property and any related administrative and judicial proceeding, shall be governed by section 413 of the Controlled Substances Act, except for subsection (d) of that section.

(d) The United States Secret Service shall, in addition to any other agency having such authority, have the authority to investigate offenses under this section. Such authority of the United States Secret Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

(e) As used in this section—

(1) the term ''access device'' means any card, plate, code, account number, electronic serial number, mobile identification number, personal identification number, or other telecommunications service, equipment, or instrument identifier, or other means of account access that can be used, alone or in conjunction with another access device, to obtain money, goods, services, or any other thing of value, or that can be used to initiate a transfer of funds (other than a transfer originated solely by paper instrument);

(2) the term ''counterfeit access device'' means any access device that is counterfeit, fictitious, altered, or forged, or an identifiable component of an access device or a counterfeit access device;

(3) the term ''unauthorized access device'' means any access device that is lost, stolen, expired, revoked, canceled, or obtained with intent to defraud;

(4) the term ''produce'' includes design, alter, authenticate, duplicate, or assemble;

(5) the term ''traffic'' means transfer, or otherwise dispose of, to another, or obtain control of with intent to transfer or dispose of;

(6) the term ''device-making equipment'' means any equipment, mechanism, or impression designed or primarily used for making an access device or a counterfeit access device;

(7) the term ''credit card system member'' means a financial institution or other entity that is a member of a credit card system, including an entity, whether affiliated with or identical to the credit card issuer, that is the sole member of a credit card system;

(8) the term ''scanning receiver'' means a device or apparatus that can be used to intercept a wire or electronic communication in violation of chapter 119 or to intercept an electronic serial number, mobile identification number, or other identifier of any telecommunications service, equipment, or instrument;

(9) the term ''telecommunications service'' has the meaning given such term in section 3 of title I of the Communications Act of 1934 (47 U.S.C. 153);

(10) the term ''facilities-based carrier'' means an entity that owns communications transmission facilities, is responsible for the operation and maintenance of those facilities, and holds an operating license issued by the Federal Communications Commission under the authority of title III of the Communications Act of 1934; and

(11) the term ''telecommunication identifying information'' means electronic serial number or any other number or signal that identifies a specific telecommunications instrument or account, or a specific communication transmitted from a telecommunications instrument.

(f) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under chapter 224 of this title. For purposes of this subsection, the term ''State'' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(g)(1) It is not a violation of subsection (a)(9) for an officer, employee, or agent of, or a person engaged in business with, a facilities-based carrier, to engage in conduct (other than trafficking) otherwise prohibited by that subsection for the purpose of protecting the property or legal rights of that carrier, unless such conduct is for the purpose of obtaining telecommunications service provided by another facilities-based carrier without the authorization of such carrier.

(2) In a prosecution for a violation of subsection (a)(9), (other than a violation consisting of producing or trafficking) it is an affirmative defense (which the defendant must establish by a preponderance of the evidence) that the conduct charged was engaged in for research or development in connection with a lawful purpose.

(h) Any person who, outside the jurisdiction of the United States, engages in any act that, if committed within the jurisdiction of the United States, would constitute an offense under subsection (a) or (b) of this section, shall be subject to the fines, penalties, imprisonment, and forfeiture provided in this title if—

(1) the offense involves an access device issued, owned, managed, or controlled by a financial institution, account issuer, credit card system member, or other entity within the jurisdiction of the United States; and

(2) the person transports, delivers, conveys, transfers to or through, or otherwise stores, secrets, or holds within the jurisdiction of the United States, any article used to assist in the commission of the offense or the proceeds of such offense or property derived therefrom.

(Added Pub. L. 98–473, title II, § 1602(a), Oct. 12, 1984, 98 Stat. 2183; amended Pub. L. 99–646, § 44(b), Nov. 10, 1986, 100 Stat. 3601; Pub. L. 101–647, title XII, § 1205(f), Nov. 29, 1990, 104 Stat. 4831; Pub. L. 103–322, title XXV, § 250007, title XXXIII, § 330016(2)(I), Sept. 13, 1994, 108 Stat. 2087, 2148; Pub. L. 103–414, title II, § 206, Oct. 25, 1994, 108 Stat. 4291; Pub. L. 104–294, title VI, § 601(*l*), Oct. 11, 1996, 110 Stat. 3501; Pub. L. 105–172, § 2(a)–(d), Apr. 24, 1998, 112 Stat. 53, 54; Pub. L. 107–56, title III, § 377, Oct. 26, 2001, 115 Stat. 342; Pub. L. 107–273, div. B, title IV, § 4002(b)(11), Nov. 2, 2002, 116 Stat. 1808.)

REFERENCES IN TEXT

Section 413 of the Controlled Substances Act, referred to in subsec. (c)(2), is classified to section 853 of Title 21, Food and Drugs.

The Communications Act of 1934, referred to in subsec. (e)(10), is act June 19, 1934, ch. 652, 48 Stat. 1964, as amended. Title III of the Act is classified generally to subchapter III (§ 301 et seq.) of chapter 5 of Title 47, Telegraphs, Telephones, and Radiotelegraphs. For complete classification of this Act to the Code, see section 609 of Title 47 and Tables.

AMENDMENTS

2002—Subsec. (c)(1)(A)(ii). Pub. L. 107–273, § 4002(b)(11)(A), substituted ''(9)'' for ''(9),''.

Subsec. (e)(8). Pub. L. 107–273, § 4002(b)(11)(B), inserted semicolon at end.

2001—Subsec. (h). Pub. L. 107–56 added subsec. (h).

1998—Subsec. (a)(8) to (10). Pub. L. 105–172, § 2(a), added pars. (8) and (9), redesignated former par. (9) as (10), and struck out former par. (8) which read as follows: ''knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses—

''(A) a scanning receiver; or

''(B) hardware or software used for altering or modifying telecommunications instruments to obtain unauthorized access to telecommunications services, or''.

Subsec. (b)(1). Pub. L. 105–172, § 2(b)(2), substituted ''subject to the same penalties as those prescribed for the offense attempted'' for ''punished as provided in subsection (c) of this section''.

Subsec. (c). Pub. L. 105–172, § 2(b)(1), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''The punishment for an offense under subsection (a) or (b)(1) of this section is—

''(1) a fine under this title or twice the value obtained by the offense, whichever is greater, or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(2), (3), (5), (6), (7), (8), or (9) of this section which does not occur after a conviction for another offense under either

such subsection, or an attempt to commit an offense punishable under this paragraph;

''(2) a fine under this title or twice the value obtained by the offense, whichever is greater, or imprisonment for not more than fifteen years, or both, in the case of an offense under subsection (a)(1), (4), (5), (6), (7), or (8) of this section which does not occur after a conviction for another offense under either such subsection, or an attempt to commit an offense punishable under this paragraph; and

''(3) a fine under this title or twice the value obtained by the offense, whichever is greater, or imprisonment for not more than twenty years, or both, in the case of an offense under subsection (a) of this section which occurs after a conviction for another offense under such subsection, or an attempt to commit an offense punishable under this paragraph.''

Subsec. (e)(8). Pub. L. 105–172, § 2(c), inserted ''or to intercept an electronic serial number, mobile identification number, or other identifier of any telecommunications service, equipment, or instrument'' before the period at end.

Subsec. (e)(9) to (11). Pub. L. 105–172, § 2(d)(2), added pars. (9) to (11).

Subsec. (g). Pub. L. 105–172, § 2(d)(1), added subsec. (g).

1996—Subsec. (a)(5). Pub. L. 104–294, § 601(*l*)(1)(A), redesignated par. (5), relating to instruments that have been modified or altered to obtain unauthorized access to telecommunications services, as (7).

Subsec. (a)(6). Pub. L. 104–294, § 601(*l*)(1)(C), in par. (6) relating to solicitations, struck out ''or'' at end.

Pub. L. 104–294, § 601(*l*)(1)(A), redesignated par. (6), relating to scanning receivers or other hardware or software used to obtain unauthorized access to telecommunications services, as (8).

Subsec. (a)(7). Pub. L. 104–294, § 601(*l*)(1)(A), (C), redesignated par. (5), relating to instruments that have been modified or altered to obtain unauthorized access to telecommunications services, as (7), and struck out ''or'' at end. Par. transferred to appear in numerical order to reflect probable intent of Congress. Former par. (7) redesignated (9).

Pub. L. 104–294, § 601(*l*)(1)(B), redesignated par. (7) as (9).

Subsec. (a)(8). Pub. L. 104–294, § 601(*l*)(1)(A), (D), redesignated par. (6), relating to scanning receivers or other hardware or software used to obtain unauthorized access to telecommunications services, as (8) and inserted ''or'' at end. Par. transferred to appear in numerical order to reflect probable intent of Congress.

Subsec. (a)(9). Pub. L. 104–294, § 601(*l*)(1)(B), redesignated par. (7) as (9).

Subsec. (c)(1). Pub. L. 104–294, § 601(*l*)(3)(A), substituted ''(7), (8), or (9)'' for ''or (7)''.

Subsec. (c)(2). Pub. L. 104–294, § 601(*l*)(3)(B), substituted ''(6), (7), or (8)'' for ''or (6)''.

Subsec. (e)(7), (8). Pub. L. 104–294, § 601(*l*)(2), redesignated par. (7), defining ''scanning receiver'', as (8).

1994—Subsec. (a)(3). Pub. L. 103–322, § 250007(1)(A), and Pub. L. 103–414, § 206(a)(1), amended par. (3) identically, striking ''or'' at end.

Subsec. (a)(5). Pub. L. 103–414, § 206(a)(2), added par. (5) relating to instruments that have been modified or altered to obtain unauthorized use of telecommunications services.

Pub. L. 103–322, § 250007(1)(B), added par. (5) relating to transactions involving use of access devices issued to persons other than user.

Subsec. (a)(6). Pub. L. 103–414, § 206(a)(2), added par. (6) relating to scanning receivers or other hardware or software used to obtain unauthorized access to telecommunications services.

Pub. L. 103–322, § 250007(1)(B), added par. (6) relating to solicitations which offer access devices or information regarding access devices.

Subsec. (a)(7). Pub. L. 103–322, § 250007(1)(B), added par. (7).

Subsec. (c)(1). Pub. L. 103–322, § 330016(2)(I), substituted ''fine under this title or twice the value obtained by the offense, whichever is greater, or imprisonment'' for ''fine of not more than the greater of $10,000 or twice the value obtained by the offense or imprisonment''.

Pub. L. 103–322, § 250007(2), substituted ''(a)(2), (3), (5), (6), or (7)'' for ''(a)(2) or (a)(3)''.

Subsec. (c)(2). Pub. L. 103–414, § 206(b), substituted ''(a)(1), (4), (5), or (6)'' for ''(a)(1) or (a)(4)''.

Pub. L. 103–322, § 330016(2)(I), substituted ''fine under this title or twice the value obtained by the offense, whichever is greater, or imprisonment'' for ''fine of not more than the greater of $50,000 or twice the value obtained by the offense or imprisonment''.

Subsec. (c)(3). Pub. L. 103–322, § 330016(2)(I), substituted ''fine under this title or twice the value obtained by the offense, whichever is greater, or imprisonment'' for ''fine of not more than the greater of $100,000 or twice the value obtained by the offense or imprisonment''.

Subsec. (e)(1). Pub. L. 103–414, § 206(c)(1), inserted ''electronic serial number, mobile identification number, personal identification number, or other telecommunications service, equipment, or instrument identifier,'' after ''account number,''.

Subsec. (e)(5), (6). Pub. L. 103–322, § 250007(3)(A), (B), and Pub. L. 103–414, § 206(c)(2), (3), amended subsec. (e) identically, striking ''and'' at end of par. (5) and substituting ''; and'' for period at end of par. (6).

Subsec. (e)(7). Pub. L. 103–414, § 206(c)(4), added par. (7) defining ''scanning receiver''.

Pub. L. 103–322, § 250007(3)(C), added par. (7) defining ''credit card system member''.

1990—Subsec. (f). Pub. L. 101–647 inserted at end ''For purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''

1986—Subsec. (f). Pub. L. 99–646 which directed that subsec. (f) be amended by substituting ''chapter 224 of this title'' for ''title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481)'' was executed by making the substitution for ''title V of the Organized Crime Control Act of 1970) 18 U.S.C. note prec. 3481)'' to reflect the probable intent of Congress.

TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 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.

REPORT TO CONGRESS

Section 1603 of Pub. L. 98–473 directed Attorney General to report to Congress annually, during first three years following Oct. 12, 1984, concerning prosecutions under this section.

§ 1030. Fraud and related activity in connection with computers

(a) Whoever—

(1) having knowingly accessed a computer without authorization or exceeding authorized access, and by means of such conduct having obtained information that has been determined by the United States Government pursuant to an Executive order or statute to require protection against unauthorized disclosure for reasons of national defense or foreign relations, or any restricted data, as defined in paragraph y. of section 11 of the Atomic Energy Act of 1954, with reason to believe that such information so obtained could be used to the injury of the United States, or to the ad-

vantage of any foreign nation willfully communicates, delivers, transmits, or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it;

(2) intentionally accesses a computer without authorization or exceeds authorized access, and thereby obtains—

(A) information contained in a financial record of a financial institution, or of a card issuer as defined in section 1602(n) of title 15, or contained in a file of a consumer reporting agency on a consumer, as such terms are defined in the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.);

(B) information from any department or agency of the United States; or

(C) information from any protected computer if the conduct involved an interstate or foreign communication;

(3) intentionally, without authorization to access any nonpublic computer of a department or agency of the United States, accesses such a computer of that department or agency that is exclusively for the use of the Government of the United States or, in the case of a computer not exclusively for such use, is used by or for the Government of the United States and such conduct affects that use by or for the Government of the United States;

(4) knowingly and with intent to defraud, accesses a protected computer without authorization, or exceeds authorized access, and by means of such conduct furthers the intended fraud and obtains anything of value, unless the object of the fraud and the thing obtained consists only of the use of the computer and the value of such use is not more than $5,000 in any 1-year period;

(5)(A)(i) knowingly causes the transmission of a program, information, code, or command, and as a result of such conduct, intentionally causes damage without authorization, to a protected computer;

(ii) intentionally accesses a protected computer without authorization, and as a result of such conduct, recklessly causes damage; or

(iii) intentionally accesses a protected computer without authorization, and as a result of such conduct, causes damage; and

(B) by conduct described in clause (i), (ii), or (iii) of subparagraph (A), caused (or, in the case of an attempted offense, would, if completed, have caused)—

(i) loss to 1 or more persons during any 1-year period (and, for purposes of an investigation, prosecution, or other proceeding brought by the United States only, loss resulting from a related course of conduct affecting 1 or more other protected computers) aggregating at least $5,000 in value;

(ii) the modification or impairment, or potential modification or impairment, of the medical examination, diagnosis, treatment, or care of 1 or more individuals;

(iii) physical injury to any person;

(iv) a threat to public health or safety; or

(v) damage affecting a computer system used by or for a government entity in furtherance of the administration of justice, national defense, or national security;

(6) knowingly and with intent to defraud traffics (as defined in section 1029) in any password or similar information through which a computer may be accessed without authorization, if—

(A) such trafficking affects interstate or foreign commerce; or

(B) such computer is used by or for the Government of the United States;[1]

(7) with intent to extort from any person any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to cause damage to a protected computer;

shall be punished as provided in subsection (c) of this section.

(b) Whoever attempts to commit an offense under subsection (a) of this section shall be punished as provided in subsection (c) of this section.

(c) The punishment for an offense under subsection (a) or (b) of this section is—

(1)(A) a fine under this title or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(1) of this section which does not occur after a conviction for another offense under this section, or an attempt to commit an offense punishable under this subparagraph; and

(B) a fine under this title or imprisonment for not more than twenty years, or both, in the case of an offense under subsection (a)(1) of this section which occurs after a conviction for another offense under this section, or an attempt to commit an offense punishable under this subparagraph;

(2)(A) except as provided in subparagraph (B), a fine under this title or imprisonment for not more than one year, or both, in the case of an offense under subsection (a)(2), (a)(3), (a)(5)(A)(iii), or (a)(6) of this section which does not occur after a conviction for another offense under this section, or an attempt to commit an offense punishable under this subparagraph;

(B) a fine under this title or imprisonment for not more than 5 years, or both, in the case of an offense under subsection (a)(2), or an attempt to commit an offense punishable under this subparagraph, if—

(i) the offense was committed for purposes of commercial advantage or private financial gain;

(ii) the offense was committed in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or of any State; or

(iii) the value of the information obtained exceeds $5,000; and

(C) a fine under this title or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(2), (a)(3) or (a)(6) of this section which occurs after a

[1] So in original. Probably should be followed by ''or''.

conviction for another offense under this section, or an attempt to commit an offense punishable under this subparagraph;

(3)(A) a fine under this title or imprisonment for not more than five years, or both, in the case of an offense under subsection (a)(4) or (a)(7) of this section which does not occur after a conviction for another offense under this section, or an attempt to commit an offense punishable under this subparagraph; and

(B) a fine under this title or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(4), (a)(5)(A)(iii), or (a)(7) of this section which occurs after a conviction for another offense under this section, or an attempt to commit an offense punishable under this subparagraph;

(4)(A) except as provided in paragraph (5), a fine under this title, imprisonment for not more than 10 years, or both, in the case of an offense under subsection (a)(5)(A)(i), or an attempt to commit an offense punishable under that subsection;

(B) a fine under this title, imprisonment for not more than 5 years, or both, in the case of an offense under subsection (a)(5)(A)(ii), or an attempt to commit an offense punishable under that subsection;

(C) except as provided in paragraph (5), a fine under this title, imprisonment for not more than 20 years, or both, in the case of an offense under subsection (a)(5)(A)(i) or (a)(5)(A)(ii), or an attempt to commit an offense punishable under either subsection, that occurs after a conviction for another offense under this section; and

(5)(A) if the offender knowingly or recklessly causes or attempts to cause serious bodily injury from conduct in violation of subsection (a)(5)(A)(i), a fine under this title or imprisonment for not more than 20 years, or both; and

(B) if the offender knowingly or recklessly causes or attempts to cause death from conduct in violation of subsection (a)(5)(A)(i), a fine under this title or imprisonment for any term of years or for life, or both.

(d)(1) The United States Secret Service shall, in addition to any other agency having such authority, have the authority to investigate offenses under this section.

(2) The Federal Bureau of Investigation shall have primary authority to investigate offenses under subsection (a)(1) for any cases involving espionage, foreign counterintelligence, information protected against unauthorized disclosure for reasons of national defense or foreign relations, or Restricted Data (as that term is defined in section 11y of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)), except for offenses affecting the duties of the United States Secret Service pursuant to section 3056(a) of this title.

(3) Such authority shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

(e) As used in this section—

(1) the term ''computer'' means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device, but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device;

(2) the term ''protected computer'' means a computer—

(A) exclusively for the use of a financial institution or the United States Government, or, in the case of a computer not exclusively for such use, used by or for a financial institution or the United States Government and the conduct constituting the offense affects that use by or for the financial institution or the Government; or

(B) which is used in interstate or foreign commerce or communication, including a computer located outside the United States that is used in a manner that affects interstate or foreign commerce or communication of the United States;

(3) the term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, and any other commonwealth, possession or territory of the United States;

(4) the term ''financial institution'' means—

(A) an institution, with deposits insured by the Federal Deposit Insurance Corporation;

(B) the Federal Reserve or a member of the Federal Reserve including any Federal Reserve Bank;

(C) a credit union with accounts insured by the National Credit Union Administration;

(D) a member of the Federal home loan bank system and any home loan bank;

(E) any institution of the Farm Credit System under the Farm Credit Act of 1971;

(F) a broker-dealer registered with the Securities and Exchange Commission pursuant to section 15 of the Securities Exchange Act of 1934;

(G) the Securities Investor Protection Corporation;

(H) a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978); and

(I) an organization operating under section 25 or section 25(a)[2] of the Federal Reserve Act;

(5) the term ''financial record'' means information derived from any record held by a financial institution pertaining to a customer's relationship with the financial institution;

(6) the term ''exceeds authorized access'' means to access a computer with authorization and to use such access to obtain or alter information in the computer that the accesser is not entitled so to obtain or alter;

(7) the term ''department of the United States'' means the legislative or judicial branch of the Government or one of the executive departments enumerated in section 101 of title 5;

(8) the term ''damage'' means any impairment to the integrity or availability of data, a program, a system, or information;

[2] See References in Text note below.

(9) the term ''government entity'' includes the Government of the United States, any State or political subdivision of the United States, any foreign country, and any state, province, municipality, or other political subdivision of a foreign country;

(10) the term ''conviction'' shall include a conviction under the law of any State for a crime punishable by imprisonment for more than 1 year, an element of which is unauthorized access, or exceeding authorized access, to a computer;

(11) the term ''loss'' means any reasonable cost to any victim, including the cost of responding to an offense, conducting a damage assessment, and restoring the data, program, system, or information to its condition prior to the offense, and any revenue lost, cost incurred, or other consequential damages incurred because of interruption of service; and

(12) the term ''person'' means any individual, firm, corporation, educational institution, financial institution, governmental entity, or legal or other entity.

(f) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.

(g) Any person who suffers damage or loss by reason of a violation of this section may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. A civil action for a violation of this section may be brought only if the conduct involves 1 of the factors set forth in clause (i), (ii), (iii), (iv), or (v) of subsection (a)(5)(B). Damages for a violation involving only conduct described in subsection (a)(5)(B)(i) are limited to economic damages. No action may be brought under this subsection unless such action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage. No action may be brought under this subsection for the negligent design or manufacture of computer hardware, computer software, or firmware.

(h) The Attorney General and the Secretary of the Treasury shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning investigations and prosecutions under subsection (a)(5).

(Added Pub. L. 98–473, title II, § 2102(a), Oct. 12, 1984, 98 Stat. 2190; amended Pub. L. 99–474, § 2, Oct. 16, 1986, 100 Stat. 1213; Pub. L. 100–690, title VII, § 7065, Nov. 18, 1988, 102 Stat. 4404; Pub. L. 101–73, title IX, § 962(a)(5), Aug. 9, 1989, 103 Stat. 502; Pub. L. 101–647, title XII, § 1205(e), title XXV, § 2597(j), title XXXV, § 3533, Nov. 29, 1990, 104 Stat. 4831, 4910, 4925; Pub. L. 103–322, title XXIX, § 290001(b)–(f), Sept. 13, 1994, 108 Stat. 2097–2099; Pub. L. 104–294, title II, § 201, title VI, § 604(b)(36), Oct. 11, 1996, 110 Stat. 3491, 3508; Pub. L. 107–56, title V, § 506(a), title VIII, § 814(a)–(e), Oct. 26, 2001, 115 Stat. 366, 382–384; Pub. L. 107–273, div. B, title IV, §§ 4002(b)(1), (12), 4005(a)(3), (d)(3), Nov. 2, 2002, 116 Stat. 1807, 1808, 1812, 1813; Pub. L. 107–296, title II, § 225(g), Nov. 25, 2002, 116 Stat. 2158.)

REFERENCES IN TEXT

Section 11 of the Atomic Energy Act of 1954, referred to in subsec. (a)(1), is classified to section 2014 of Title 42, The Public Health and Welfare.

The Fair Credit Reporting Act, referred to in subsec. (a)(2)(A), is title VI of Pub. L. 90–321, as added by Pub. L. 91–508, title VI, § 601, Oct. 26, 1970, 84 Stat. 1127, as amended, which is classified generally to subchapter III (§ 1681 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

The Farm Credit Act of 1971, referred to in subsec. (e)(4)(E), is Pub. L. 92–181, Dec. 10, 1971, 85 Stat. 583, as amended, which is classified generally to chapter 23 (§ 2001 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of Title 12 and Tables.

Section 15 of the Securities Exchange Act of 1934, referred to in subsec. (e)(4)(F), is classified to section 78*o* of Title 15, Commerce and Trade.

Section 1(b) of the International Banking Act of 1978, referred to in subsec. (e)(4)(H), is classified to section 3101 of Title 12, Banks and Banking.

Section 25 of the Federal Reserve Act, referred to in subsec. (e)(4)(I), is classified to subchapter I (§ 601 et seq.) of chapter 6 of Title 12. Section 25(a) of the Federal Reserve Act, which is classified to subchapter II (§ 611 et seq.) of chapter 6 of Title 12, was renumbered section 25A of that act by Pub. L. 102–242, title I, § 142(e)(2), Dec. 19, 1991, 105 Stat. 2281.

The date of the enactment of this subsection, referred to in subsec. (h), is the date of enactment of Pub. L. 103–322, which was approved Sept. 13, 1994.

AMENDMENTS

2002—Subsec. (a)(5)(B). Pub. L. 107–273, § 4005(a)(3), realigned margins.

Subsec. (c)(2)(B). Pub. L. 107–273, § 4002(b)(1), realigned margins.

Subsec. (c)(2)(B)(iii). Pub. L. 107–273, § 4002(b)(12)(A), inserted ''and'' at end.

Subsec. (c)(3)(B). Pub. L. 107–273, § 4005(d)(3), inserted comma after ''(a)(4)''.

Subsec. (c)(4)(A), (C). Pub. L. 107–296, § 225(g)(2), inserted ''except as provided in paragraph (5),'' before ''a fine under this title''.

Subsec. (c)(5). Pub. L. 107–296, § 225(g)(1), (3), (4), added par. (5).

Subsec. (e)(4)(I). Pub. L. 107–273, § 4002(b)(12)(B), substituted semicolon for period at end.

2001—Subsec. (a)(5)(A). Pub. L. 107–56, § 814(a)(1)–(3), designated existing provisions as cl. (i), redesignated subpars. (B) and (C) as cls. (ii) and (iii), respectively, of subpar. (A), and inserted ''and'' at end of cl. (iii).

Subsec. (a)(5)(B). Pub. L. 107–56, § 814(a)(4), added subpar. (B). Former subpar. (B) redesignated cl. (ii) of subpar. (A).

Subsec. (a)(5)(C). Pub. L. 107–56, § 814(a)(2), redesignated subpar. (C) as cl. (iii) of subpar. (A).

Subsec. (a)(7). Pub. L. 107–56, § 814(b), struck out '', firm, association, educational institution, financial institution, government entity, or other legal entity,'' before ''any money or other thing of value''.

Subsec. (c)(2)(A). Pub. L. 107–56, § 814(c)(1)(A), inserted ''except as provided in subparagraph (B),'' before ''a fine'', substituted ''(a)(5)(A)(iii)'' for ''(a)(5)(C)'', and struck out ''and'' at end.

Subsec. (c)(2)(B). Pub. L. 107–56, § 814(c)(1)(B), inserted ''or an attempt to commit an offense punishable under this subparagraph,'' after ''subsection (a)(2),'' in introductory provisions.

Subsec. (c)(2)(C). Pub. L. 107–56, § 814(c)(1)(C), struck out ''and'' at end.

Subsec. (c)(3). Pub. L. 107–56, § 814(c)(2), struck out '', (a)(5)(A), (a)(5)(B),'' after ''subsection (a)(4)'' in subpars. (A) and (B) and substituted ''(a)(5)(A)(iii)'' for ''(a)(5)(C)'' in subpar. (B).

Subsec. (c)(4). Pub. L. 107–56, §814(c)(3), added par. (4).

Subsec. (d). Pub. L. 107–56, §506(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''The United States Secret Service shall, in addition to any other agency having such authority, have the authority to investigate offenses under subsections (a)(2)(A), (a)(2)(B), (a)(3), (a)(4), (a)(5), and (a)(6) of this section. Such authority of the United States Secret Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.''

Subsec. (e)(2)(B). Pub. L. 107–56, §814(d)(1), inserted '', including a computer located outside the United States that is used in a manner that affects interstate or foreign commerce or communication of the United States'' before semicolon.

Subsec. (e)(7). Pub. L. 107–56, §814(d)(2), struck out ''and'' at end.

Subsec. (e)(8). Pub. L. 107–56, §814(d)(3), added par. (8) and struck out former par. (8) which read as follows: ''the term 'damage' means any impairment to the integrity or availability of data, a program, a system, or information, that—

''(A) causes loss aggregating at least $5,000 in value during any 1-year period to one or more individuals;

''(B) modifies or impairs, or potentially modifies or impairs, the medical examination, diagnosis, treatment, or care of one or more individuals;

''(C) causes physical injury to any person; or

''(D) threatens public health or safety; and''.

Subsec. (e)(10) to (12). Pub. L. 107–56, §814(d)(4), (5), added pars. (10) to (12).

Subsec. (g). Pub. L. 107–56, §814(e), substituted ''A civil action for a violation of this section may be brought only if the conduct involves 1 of the factors set forth in clause (i), (ii), (iii), (iv), or (v) of subsection (a)(5)(B). Damages for a violation involving only conduct described in subsection (a)(5)(B)(i) are limited to economic damages.'' for ''Damages for violations involving damage as defined in subsection (e)(8)(A) are limited to economic damages.'' and inserted at end ''No action may be brought under this subsection for the negligent design or manufacture of computer hardware, computer software, or firmware.''

1996—Subsec. (a)(1). Pub. L. 104–294, §201(1)(A), substituted ''having knowingly accessed'' for ''knowingly accesses'', ''exceeding authorized access'' for ''exceeds authorized access'', ''such conduct having obtained information'' for ''such conduct obtains information'', and ''could be used to the injury of the United States'' for ''is to be used to the injury of the United States'', struck out ''the intent or'' before ''reason to believe'', and inserted before semicolon at end ''willfully communicates, delivers, transmits, or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it''.

Subsec. (a)(2). Pub. L. 104–294, §201(1)(B), inserted dash after ''thereby obtains'', redesignated remainder of par. (2) as subpar. (A), and added subpars. (B) and (C).

Subsec. (a)(3). Pub. L. 104–294, §201(1)(C), inserted ''nonpublic'' before ''computer of a department or agency'', struck out ''adversely'' after ''and such conduct'', and substituted ''that use by or for the Government of the United States'' for ''the use of the Government's operation of such computer''.

Subsec. (a)(4). Pub. L. 104–294, §201(1)(D), substituted ''protected computer'' for ''Federal interest computer'' and inserted ''and the value of such use is not more than $5,000 in any 1-year period'' before semicolon at end.

Subsec. (a)(5). Pub. L. 104–294, §201(1)(E), inserted par. (5) and struck out former par. (5) which related to fraud in connection with computers in causing transmission of program, information, code, or command to a computer or computer system in interstate or foreign commerce which damages such system, program, information, or code, or causes a withholding or denial of use of hardware or software, or transmits viruses which causes damage in excess of $1,000 or more during any one-year period, or modifies or impairs medical examination, diagnosis, treatment or care of individuals.

Subsec. (a)(5)(B)(ii)(II)(bb). Pub. L. 104–294, §604(b)(36)(A), which directed insertion of ''or'' at end of subsec., could not be executed because no subsec. (a)(5)(B)(ii)(II)(bb) existed subsequent to amendment by Pub. L. 104–294, §201(1)(E). See above.

Subsec. (a)(7). Pub. L. 104–294, §201(1)(F), added par. (7).

Subsec. (c)(1). Pub. L. 104–294, §201(2)(A), substituted ''under this section'' for ''under such subsection'' in subpars. (A) and (B).

Subsec. (c)(1)(B). Pub. L. 104–294, §604(b)(36)(B), struck out ''and'' after semicolon at end.

Subsec. (c)(2)(A). Pub. L. 104–294, §201(2)(B)(i), inserted '', (a)(5)(C),'' after ''(a)(3)'' and substituted ''under this section'' for ''under such subsection''.

Subsec. (c)(2)(B). Pub. L. 104–294, §201(2)(B)(iii), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (c)(2)(C). Pub. L. 104–294, §201(2)(B)(iv), substituted ''under this section'' for ''under such subsection'' and inserted ''and'' at end.

Pub. L. 104–294, §201(2)(B)(ii), redesignated subpar. (B) as (C).

Subsec. (c)(3)(A). Pub. L. 104–294, §201(2)(C)(i), substituted ''(a)(4), (a)(5)(A), (a)(5)(B), or (a)(7)'' for ''(a)(4) or (a)(5)(A)'' and ''under this section'' for ''under such subsection''.

Subsec. (c)(3)(B). Pub. L. 104–294, §201(2)(C)(ii), substituted ''(a)(4), (a)(5)(A), (a)(5)(B), (a)(5)(C), or (a)(7)'' for ''(a)(4) or (a)(5)'' and ''under this section'' for ''under such subsection''.

Subsec. (c)(4). Pub. L. 104–294, §201(2)(D), struck out par. (4) which read as follows: ''a fine under this title or imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).''

Subsec. (d). Pub. L. 104–294, §201(3), inserted ''subsections (a)(2)(A), (a)(2)(B), (a)(3), (a)(4), (a)(5), and (a)(6) of'' before ''this section'' in first sentence.

Subsec. (e)(2). Pub. L. 104–294, §201(4)(A)(i), substituted ''protected'' for ''Federal interest'' in introductory provisions.

Subsec. (e)(2)(A). Pub. L. 104–294, §201(4)(A)(ii), substituted ''that use by or for the financial institution or the Government'' for ''the use of the financial institution's operation or the Government's operation of such computer''.

Subsec. (e)(2)(B). Pub. L. 104–294, §201(4)(A)(iii), added subpar. (B) and struck out former subpar. (B) which read as follows: ''which is one of two or more computers used in committing the offense, not all of which are located in the same State;''.

Subsec. (e)(8), (9). Pub. L. 104–294, §201(4)(B)–(D), added pars. (8) and (9).

Subsec. (g). Pub. L. 104–294, §604(b)(36)(C), substituted ''violation of this section'' for ''violation of the section''.

Pub. L. 104–294, §201(5), struck out '', other than a violation of subsection (a)(5)(B),'' before ''may maintain a civil action'' and substituted ''involving damage as defined in subsection (e)(8)(A)'' for ''of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb)''.

Subsec. (h). Pub. L. 104–294, §604(b)(36)(D), substituted ''subsection (a)(5)'' for ''section 1030(a)(5) of title 18, United States Code'' before period at end.

1994—Subsec. (a)(3). Pub. L. 103–322, §290001(f), inserted ''adversely'' before ''affects the use of the Government's''.

Subsec. (a)(5). Pub. L. 103–322, §290001(b), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''intentionally accesses a Federal interest computer without authorization, and by means of one or more instances of such conduct alters, damages, or destroys information in any such Federal interest computer, or prevents authorized use of any such computer or information, and thereby—

''(A) causes loss to one or more others of a value aggregating $1,000 or more during any one year period; or

''(B) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or''.

Subsec. (c)(3)(A). Pub. L. 103–322, § 290001(c)(2), inserted ''(A)'' after ''(a)(5)''.

Subsec. (c)(4). Pub. L. 103–322, § 290001(c)(1), (3), (4), added par. (4).

Subsec. (g). Pub. L. 103–322, § 290001(d), added subsec. (g).

Subsec. (h). Pub. L. 103–322, § 290001(e), added subsec. (h).

1990—Subsec. (a)(1). Pub. L. 101–647, § 3533, substituted ''paragraph y'' for ''paragraph r''.

Subsec. (e)(3). Pub. L. 101–647, § 1205(e), inserted ''commonwealth,'' before ''possession or territory of the United States''.

Subsec. (e)(4)(G). Pub. L. 101–647, § 2597(j)(2), which directed substitution of a semicolon for a period at end of subpar. (G), could not be executed because it ended with a semicolon.

Subsec. (e)(4)(H), (I). Pub. L. 101–647, § 2597(j), added subpars. (H) and (I).

1989—Subsec. (e)(4)(A). Pub. L. 101–73, § 962(a)(5)(A), substituted ''an institution,'' for ''a bank''.

Subsec. (e)(4)(C) to (H). Pub. L. 101–73, § 962(a)(5)(B), (C), redesignated subpars. (D) to (H) as (C) to (G), respectively, and struck out former subpar. (C) which read as follows: ''an institution with accounts insured by the Federal Savings and Loan Insurance Corporation;''.

1988—Subsec. (a)(2). Pub. L. 100–690 inserted a comma after ''financial institution'' and struck out the comma that followed a comma after ''title 15''.

1986—Subsec. (a). Pub. L. 99–474, § 2(b)(2), struck out last sentence which read as follows: ''It is not an offense under paragraph (2) or (3) of this subsection in the case of a person having accessed a computer with authorization and using the opportunity such access provides for purposes to which such access does not extend, if the using of such opportunity consists only of the use of the computer.''

Subsec. (a)(1). Pub. L. 99–474, § 2(c), substituted ''or exceeds authorized access'' for '', or having accessed a computer with authorization, uses the opportunity such access provides for purposes to which such authorization does not extend''.

Subsec. (a)(2). Pub. L. 99–474, § 2(a), (c), substituted ''intentionally'' for ''knowingly'', substituted ''or exceeds authorized access'' for '', or having accessed a computer with authorization, uses the opportunity such access provides for purposes to which such authorization does not extend'', struck out ''as such terms are defined in the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.),'' after ''financial institution,'', inserted ''or of a card issuer as defined in section 1602(n) of title 15,'' and struck out ''or'' appearing at end.

Subsec. (a)(3). Pub. L. 99–474, § 2(b)(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''knowingly accesses a computer without authorization, or having accessed a computer with authorization, uses the opportunity such access provides for purposes to which such authorization does not extend, and by means of such conduct knowingly uses, modifies, destroys, or discloses information in, or prevents authorized use of, such computer, if such computer is operated for or on behalf of the Government of the United States and such conduct affects such operation;''.

Subsec. (a)(4) to (6). Pub. L. 99–474, § 2(d), added pars. (4) to (6).

Subsec. (b). Pub. L. 99–474, § 2(e), struck out par. (1) designation and par. (2) which provided a penalty for persons conspiring to commit an offense under subsec. (a).

Subsec. (c). Pub. L. 99–474, § 2(f)(9), substituted ''(b)'' for ''(b)(1)'' in introductory text.

Subsec. (c)(1)(A). Pub. L. 99–474, § 2(f)(1), substituted ''under this title'' for ''of not more than the greater of $10,000 or twice the value obtained by the offense''.

Subsec. (c)(1)(B). Pub. L. 99–474, § 2(f)(2), substituted ''under this title'' for ''of not more than the greater of $100,000 or twice the value obtained by the offense''.

Subsec. (c)(2)(A). Pub. L. 99–474, § 2(f)(3), (4), substituted ''under this title'' for ''of not more than the greater of $5,000 or twice the value obtained or loss created by the offense'' and inserted reference to subsec. (a)(6).

Subsec. (c)(2)(B). Pub. L. 99–474, § 2(f)(3), (5)–(7), substituted ''under this title'' for ''of not more than the greater of $10,000 or twice the value obtained or loss created by the offense'', ''not more than'' for ''not than'', inserted reference to subsec. (a)(6), and substituted ''; and'' for the period at end of subpar. (B).

Subsec. (c)(3). Pub. L. 99–474, § 2(f)(8), added par. (3).

Subsec. (e). Pub. L. 99–474, § 2(g), substituted a dash for the comma after ''As used in this section'', realigned remaining portion of subsection, inserted ''(1)'' before ''the term'', substituted a semicolon for the period at the end, and added pars. (2) to (7).

Subsec. (f). Pub. L. 99–474, § 2(h), added subsec. (f).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 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.

REPORTS TO CONGRESS

Section 2103 of Pub. L. 98–473 directed Attorney General to report to Congress annually, during first three years following Oct. 12, 1984, concerning prosecutions under this section.

§ 1031. Major fraud against the United States

(a) Whoever knowingly executes, or attempts to execute, any scheme or artifice with the intent—

(1) to defraud the United States; or

(2) to obtain money or property by means of false or fraudulent pretenses, representations, or promises,

in any procurement of property or services as a prime contractor with the United States or as a subcontractor or supplier on a contract in which there is a prime contract with the United States, if the value of the contract, subcontract, or any constituent part thereof, for such property or services is $1,000,000 or more shall, subject to the applicability of subsection (c) of this section, be fined not more than $1,000,000, or imprisoned not more than 10 years, or both.

(b) The fine imposed for an offense under this section may exceed the maximum otherwise provided by law, if such fine does not exceed $5,000,000 and—

(1) the gross loss to the Government or the gross gain to a defendant is $500,000 or greater; or

(2) the offense involves a conscious or reckless risk of serious personal injury.

(c) The maximum fine imposed upon a defendant for a prosecution including a prosecution

with multiple counts under this section shall not exceed $10,000,000.

(d) Nothing in this section shall preclude a court from imposing any other sentences available under this title, including without limitation a fine up to twice the amount of the gross loss or gross gain involved in the offense pursuant to 18 U.S.C. section 3571(d).

(e) In determining the amount of the fine, the court shall consider the factors set forth in 18 U.S.C. sections 3553 and 3572, and the factors set forth in the guidelines and policy statements of the United States Sentencing Commission, including—

(1) the need to reflect the seriousness of the offense, including the harm or loss to the victim and the gain to the defendant;

(2) whether the defendant previously has been fined for a similar offense; and

(3) any other pertinent equitable considerations.

(f) A prosecution of an offense under this section may be commenced any time not later than 7 years after the offense is committed, plus any additional time otherwise allowed by law.

(g)(1) In special circumstances and in his or her sole discretion, the Attorney General is authorized to make payments from funds appropriated to the Department of Justice to persons who furnish information relating to a possible prosecution under this section. The amount of such payment shall not exceed $250,000. Upon application by the Attorney General, the court may order that the Department shall be reimbursed for a payment from a criminal fine imposed under this section.

(2) An individual is not eligible for such a payment if—

(A) that individual is an officer or employee of a Government agency who furnishes information or renders service in the performance of official duties;

(B) that individual failed to furnish the information to the individual's employer prior to furnishing it to law enforcement authorities, unless the court determines the individual has justifiable reasons for that failure;

(C) the furnished information is based upon public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or GAO report, hearing, audit or investigation, or from the news media unless the person is the original source of the information. For the purposes of this subsection, ''original source'' means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government; or

(D) that individual participated in the violation of this section with respect to which such payment would be made.

(3) The failure of the Attorney General to authorize a payment shall not be subject to judicial review.

(h) Any individual who—

(1) is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by an employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such prosecution), and

(2) was not a participant in the unlawful activity that is the subject of said prosecution, may, in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees.

(Added Pub. L. 100–700, § 2(a), Nov. 19, 1988, 102 Stat. 4631; amended Pub. L. 101–123, § 2(a), Oct. 23, 1989, 103 Stat. 759; Pub. L. 103–322, title XXXIII, § 330002(a), (f), Sept. 13, 1994, 108 Stat. 2140.)

AMENDMENTS

1994—Subsec. (g). Pub. L. 103–322, § 330002(f), redesignated second subsec. (g) as (h).

Subsec. (g)(2)(A). Pub. L. 103–322, § 330002(a), substituted ''a Government'' for ''a government''.

Subsec. (h). Pub. L. 103–322, § 330002(f), redesignated second subsec. (g) as (h).

1989—Subsec. (g). Pub. L. 101–123 added, after subsec. (f), subsec. (g) relating to payments by the Attorney General.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 2(b) of Pub. L. 101–123 provided that: ''The amendment made by this section [amending this section] shall apply to contracts entered into on or after the date of the enactment of this Act [Oct. 23, 1989].''

SENTENCING GUIDELINES

Section 2(b) of Pub. L. 100–700 provided that: ''Pursuant to its authority under section 994(p) of title 28, United States Code and section 21 of the Sentencing Act of 1987 [section 21 of Pub. L. 100–182, set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure], the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide for appropriate penalty enhancements, where conscious or reckless risk of serious personal injury resulting from the fraud has occurred. The Commission shall consider the appropriateness of assigning to such a defendant an offense level under Chapter Two of the sentencing guidelines that is at least two levels greater than the level that would have been assigned had conscious or reckless risk of serious personal injury not resulted from the fraud.''

§ 1032. Concealment of assets from conservator, receiver, or liquidating agent of financial institution

Whoever—

(1) knowingly conceals or endeavors to conceal an asset or property from the Federal Deposit Insurance Corporation, acting as conservator or receiver or in the Corporation's corporate capacity with respect to any asset acquired or liability assumed by the Corporation under section 11, 12, or 13 of the Federal Deposit Insurance Act, the Resolution Trust Corporation, any conservator appointed by the Comptroller of the Currency or the Director of

the Office of Thrift Supervision, or the National Credit Union Administration Board, acting as conservator or liquidating agent;

(2) corruptly impedes or endeavors to impede the functions of such Corporation, Board, or conservator; or

(3) corruptly places or endeavors to place an asset or property beyond the reach of such Corporation, Board, or conservator,

shall be fined under this title or imprisoned not more than 5 years, or both.

(Added Pub. L. 101–647, title XXV, § 2501(a), Nov. 29, 1990, 104 Stat. 4859; amended Pub. L. 107–273, div. B, title IV, § 4002(b)(13), Nov. 2, 2002, 116 Stat. 1808.)

REFERENCES IN TEXT

Sections 11, 12, and 13 of the Federal Deposit Insurance Act, referred to in par. (1), are classified to sections 1821, 1822, and 1823, respectively, of Title 12, Banks and Banking.

AMENDMENTS

2002—Par. (1). Pub. L. 107–273 substituted ''13'' for ''13,''.

§ 1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce

(a)(1) Whoever is engaged in the business of insurance whose activities affect interstate commerce and knowingly, with the intent to deceive, makes any false material statement or report or willfully and materially overvalues any land, property or security—

(A) in connection with any financial reports or documents presented to any insurance regulatory official or agency or an agent or examiner appointed by such official or agency to examine the affairs of such person, and

(B) for the purpose of influencing the actions of such official or agency or such an appointed agent or examiner,

shall be punished as provided in paragraph (2).

(2) The punishment for an offense under paragraph (1) is a fine as established under this title or imprisonment for not more than 10 years, or both, except that the term of imprisonment shall be not more than 15 years if the statement or report or overvaluing of land, property, or security jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court.

(b)(1) Whoever—

(A) acting as, or being an officer, director, agent, or employee of, any person engaged in the business of insurance whose activities affect interstate commerce, or

(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

willfully embezzles, abstracts, purloins, or misappropriates any of the moneys, funds, premiums, credits, or other property of such person so engaged shall be punished as provided in paragraph (2).

(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if such embezzlement, abstraction, purloining, or misappropriation described in paragraph (1) jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court, such imprisonment shall be not more than 15 years. If the amount or value so embezzled, abstracted, purloined, or misappropriated does not exceed $5,000, whoever violates paragraph (1) shall be fined as provided in this title or imprisoned not more than one year, or both.

(c)(1) Whoever is engaged in the business of insurance and whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, knowingly makes any false entry of material fact in any book, report, or statement of such person engaged in the business of insurance with intent to deceive any person, including any officer, employee, or agent of such person engaged in the business of insurance, any insurance regulatory official or agency, or any agent or examiner appointed by such official or agency to examine the affairs of such person, about the financial condition or solvency of such business shall be punished as provided in paragraph (2).

(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if the false entry in any book, report, or statement of such person jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court, such imprisonment shall be not more than 15 years.

(d) Whoever, by threats or force or by any threatening letter or communication, corruptly influences, obstructs, or impedes or endeavors corruptly to influence, obstruct, or impede the due and proper administration of the law under which any proceeding involving the business of insurance whose activities affect interstate commerce is pending before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of a person engaged in the business of insurance whose activities affect interstate commerce, shall be fined as provided in this title or imprisoned not more than 10 years, or both.

(e)(1)(A) Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined as provided in this title or imprisoned not more than 5 years, or both.

(B) Any individual who is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A)

shall be fined as provided in this title or imprisoned not more than 5 years, or both.

(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.

(f) As used in this section—

(1) the term ''business of insurance'' means—

(A) the writing of insurance, or

(B) the reinsuring of risks,

by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons;

(2) the term ''insurer'' means any entity the business activity of which is the writing of insurance or the reinsuring of risks, and includes any person who acts as, or is, an officer, director, agent, or employee of that business;

(3) the term ''interstate commerce'' means—

(A) commerce within the District of Columbia, or any territory or possession of the United States;

(B) all commerce between any point in the State, territory, possession, or the District of Columbia and any point outside thereof;

(C) all commerce between points within the same State through any place outside such State; or

(D) all other commerce over which the United States has jurisdiction; and

(4) the term ''State'' includes any State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(Added Pub. L. 103–322, title XXXII, § 320603(a), Sept. 13, 1994, 108 Stat. 2115.)

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 1034. Civil penalties and injunctions for violations of section 1033

(a) The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 1033 and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. If the offense has contributed to the decision of a court of appropriate jurisdiction to issue an order directing the conservation, rehabilitation, or liquidation of an insurer, such penalty shall be remitted to the appropriate regulatory official for the benefit of the policyholders, claimants, and creditors of such insurer. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

(b) If the Attorney General has reason to believe that a person is engaged in conduct constituting an offense under section 1033, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.

(Added Pub. L. 103–322, title XXXII, § 320603(a), Sept. 13, 1994, 108 Stat. 2118.)

§ 1035. False statements relating to health care matters

(a) Whoever, in any matter involving a health care benefit program, knowingly and willfully—

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; or

(2) makes any materially false, fictitious, or fraudulent statements or representations, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry,

in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 5 years, or both.

(b) As used in this section, the term ''health care benefit program'' has the meaning given such term in section 24(b) of this title.

(Added Pub. L. 104–191, title II, § 244(a), Aug. 21, 1996, 110 Stat. 2017.)

§ 1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport

(a) Whoever, by any fraud or false pretense, enters or attempts to enter—

(1) any real property belonging in whole or in part to, or leased by, the United States;

(2) any vessel or aircraft belonging in whole or in part to, or leased by, the United States; or

(3) any secure area of any airport,

shall be punished as provided in subsection (b) of this section.

(b) The punishment for an offense under subsection (a) of this section is—

(1) a fine under this title or imprisonment for not more than 5 years, or both, if the offense is committed with the intent to commit a felony; or

(2) a fine under this title or imprisonment for not more than 6 months, or both, in any other case.

(c) As used in this section—

(1) the term ''secure area'' means an area access to which is restricted by the airport authority or a public agency; and

(2) the term ''airport'' has the meaning given such term in section 47102 of title 49.

(Added Pub. L. 106–547, § 2(a), Dec. 19, 2000, 114 Stat. 2738.)

§ 1037. Fraud and related activity in connection with electronic mail

(a) IN GENERAL.—Whoever, in or affecting interstate or foreign commerce, knowingly—

(1) accesses a protected computer without authorization, and intentionally initiates the transmission of multiple commercial electronic mail messages from or through such computer,

(2) uses a protected computer to relay or retransmit multiple commercial electronic mail messages, with the intent to deceive or mislead recipients, or any Internet access service, as to the origin of such messages,

(3) materially falsifies header information in multiple commercial electronic mail messages and intentionally initiates the transmission of such messages,

(4) registers, using information that materially falsifies the identity of the actual registrant, for five or more electronic mail accounts or online user accounts or two or more domain names, and intentionally initiates the transmission of multiple commercial electronic mail messages from any combination of such accounts or domain names, or

(5) falsely represents oneself to be the registrant or the legitimate successor in interest to the registrant of 5 or more Internet Protocol addresses, and intentionally initiates the transmission of multiple commercial electronic mail messages from such addresses,

or conspires to do so, shall be punished as provided in subsection (b).

(b) PENALTIES.—The punishment for an offense under subsection (a) is—

(1) a fine under this title, imprisonment for not more than 5 years, or both, if—

(A) the offense is committed in furtherance of any felony under the laws of the United States or of any State; or

(B) the defendant has previously been convicted under this section or section 1030, or under the law of any State for conduct involving the transmission of multiple commercial electronic mail messages or unauthorized access to a computer system;

(2) a fine under this title, imprisonment for not more than 3 years, or both, if—

(A) the offense is an offense under subsection (a)(1);

(B) the offense is an offense under subsection (a)(4) and involved 20 or more falsified electronic mail or online user account registrations, or 10 or more falsified domain name registrations;

(C) the volume of electronic mail messages transmitted in furtherance of the offense exceeded 2,500 during any 24-hour period, 25,000 during any 30-day period, or 250,000 during any 1-year period;

(D) the offense caused loss to one or more persons aggregating $5,000 or more in value during any 1-year period;

(E) as a result of the offense any individual committing the offense obtained anything of value aggregating $5,000 or more during any 1-year period; or

(F) the offense was undertaken by the defendant in concert with three or more other persons with respect to whom the defendant occupied a position of organizer or leader; and

(3) a fine under this title or imprisonment for not more than 1 year, or both, in any other case.

(c) FORFEITURE.—

(1) IN GENERAL.—The court, in imposing sentence on a person who is convicted of an offense under this section, shall order that the defendant forfeit to the United States—

(A) any property, real or personal, constituting or traceable to gross proceeds obtained from such offense; and

(B) any equipment, software, or other technology used or intended to be used to commit or to facilitate the commission of such offense.

(2) PROCEDURES.—The procedures set forth in section 413 of the Controlled Substances Act (21 U.S.C. 853), other than subsection (d) of that section, and in Rule 32.2 of the Federal Rules of Criminal Procedure, shall apply to all stages of a criminal forfeiture proceeding under this section.

(d) DEFINITIONS.—In this section:

(1) LOSS.—The term ''loss'' has the meaning given that term in section 1030(e) of this title.

(2) MATERIALLY.—For purposes of paragraphs (3) and (4) of subsection (a), header information or registration information is materially falsified if it is altered or concealed in a manner that would impair the ability of a recipient of the message, an Internet access service processing the message on behalf of a recipient, a person alleging a violation of this section, or a law enforcement agency to identify, locate, or respond to a person who initiated the electronic mail message or to investigate the alleged violation.

(3) MULTIPLE.—The term ''multiple'' means more than 100 electronic mail messages during a 24-hour period, more than 1,000 electronic mail messages during a 30-day period, or more than 10,000 electronic mail messages during a 1-year period.

(4) OTHER TERMS.—Any other term has the meaning given that term by section 3 of the CAN-SPAM Act of 2003.''.

(Added Pub. L. 108–187, § 4(a)(1), Dec. 16, 2003, 117 Stat. 2703.)

REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in subsec. (c)(2), are set out in the Appendix to this title.

Section 3 of the CAN-SPAM Act of 2003, referred to in subsec. (d)(4), is classified to section 7702 of Title 15, Commerce and Trade.

EFFECTIVE DATE

Section effective Jan. 1, 2004, see section 16 of Pub. L. 108–187, set out as a note under section 7701 of Title 15, Commerce and Trade.

§ 1038. False information and hoaxes

(a) CRIMINAL VIOLATION.—

(1) IN GENERAL.—Whoever engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken, is taking, or will take place that would constitute a violation of chapter 2, 10, 11B, 39, 40, 44, 111, or 113B of this title, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), or section 46502, the second sentence of section 46504, section 46505(b)(3) or (c), section 46506 if homicide or attempted homicide is involved, or section 60123(b) of title 49, shall—

(A) be fined under this title or imprisoned not more than 5 years, or both;

(B) if serious bodily injury results, be fined under this title or imprisoned not more than 20 years, or both; and

(C) if death results, be fined under this title or imprisoned for any number of years up to life, or both.

(2) ARMED FORCES.—Any person who makes a false statement, with intent to convey false or misleading information, about the death, injury, capture, or disappearance of a member of the Armed Forces of the United States during a war or armed conflict in which the United States is engaged—

(A) shall be fined under this title, imprisoned not more than 5 years, or both;

(B) if serious bodily injury results, shall be fined under this title, imprisoned not more than 20 years, or both; and

(C) if death results, shall be fined under this title, imprisoned for any number of years or for life, or both.

(b) CIVIL ACTION.—Whoever engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken, is taking, or will take place that would constitute a violation of chapter 2, 10, 11B, 39, 40, 44, 111, or 113B of this title, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), or section 46502, the second sentence of section 46504, section 46505 (b)(3) or (c), section 46506 if homicide or attempted homicide is involved, or section 60123(b) of title 49 is liable in a civil action to any party incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

(c) REIMBURSEMENT.—

(1) IN GENERAL.—The court, in imposing a sentence on a defendant who has been convicted of an offense under subsection (a), shall order the defendant to reimburse any state or local government, or private not-for-profit organization that provides fire or rescue service incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

(2) LIABILITY.—A person ordered to make reimbursement under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered to make reimbursement under this subsection for the same expenses.

(3) CIVIL JUDGMENT.—An order of reimbursement under this subsection shall, for the purposes of enforcement, be treated as a civil judgment.

(d) ACTIVITIES OF LAW ENFORCEMENT.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or political subdivision of a State, or of an intelligence agency of the United States.

(Added Pub. L. 108–458, title VI, § 6702(a), Dec. 17, 2004, 118 Stat. 3764.)

CHAPTER 49—FUGITIVES FROM JUSTICE

Sec.
1071. Concealing person from arrest.
1072. Concealing escaped prisoner.
1073. Flight to avoid prosecution or giving testimony.
1074. Flight to avoid prosecution for damaging or destroying any building or other real or personal property.

AMENDMENTS

1960—Pub. L. 86–449, title II, § 202, May 6, 1960, 74 Stat. 87, added item 1074.

§ 1071. Concealing person from arrest

Whoever harbors or conceals any person for whose arrest a warrant or process has been issued under the provisions of any law of the United States, so as to prevent his discovery and arrest, after notice or knowledge of the fact that a warrant or process has been issued for the apprehension of such person, shall be fined under this title or imprisoned not more than one year, or both; except that if the warrant or process issued on a charge of felony, or after conviction of such person of any offense, the punishment shall be a fine under this title, or imprisonment for not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 755; Aug. 20, 1954, ch. 771, 68 Stat. 747; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 107–273, div. B, title IV, § 4003(a)(3), Nov. 2, 2002, 116 Stat. 1811.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 246 (Mar. 4, 1909, ch. 321, § 141, 35 Stat. 1114).

Section 246 of title 18, U.S.C., 1940 ed., was divided. Part is in this section and the remainder is incorporated in section 752 of this title.

Minor changes were made in phraseology.

AMENDMENTS

2002—Pub. L. 107–273 substituted ''fine under this title'' for ''fine of under this title''.

1994—Pub. L. 103–322 substituted ''under this title'' for ''not more than $1,000'' after ''person, shall be fined'' and for ''not more than $5,000'' after ''shall be a fine of''.

1954—Act Aug. 20, 1954, increased the penalty from 6 months to 1 year where the violator harbored a person for whom process has been issued on a misdemeanor charge and inserted the penalty provision where the violation occurred after a person has been convicted of any offense or where a process has been issued for a felony.

§ 1072. Concealing escaped prisoner

Whoever willfully harbors or conceals any prisoner after his escape from the custody of the

Attorney General or from a Federal penal or correctional institution, shall be imprisoned not more than three years.

(June 25, 1948, ch. 645, 62 Stat. 755.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§753i, 910 (May 14, 1930, ch. 274, §10, 46 Stat. 327; May 27, 1930, ch. 339, §10, 46 Stat. 390).

Section consolidates similar language of said sections of title 18, U.S.C., 1940 ed. Remaining provisions are in section 752 of this title.

Words ''willfully harbors'' were added in conformity with section 1071 of this title. Punishment for harboring violators of the Espionage laws is provided in section 792 of this title. Punishment for harboring deserters from the armed forces is provided in section 1381 of this title.

Minor changes were made in phraseology.

§ 1073. Flight to avoid prosecution or giving testimony

Whoever moves or travels in interstate or foreign commerce with intent either (1) to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which he flees, for a crime, or an attempt to commit a crime, punishable by death or which is a felony under the laws of the place from which the fugitive flees, or (2) to avoid giving testimony in any criminal proceedings in such place in which the commission of an offense punishable by death or which is a felony under the laws of such place, is charged, or (3) to avoid service of, or contempt proceedings for alleged disobedience of, lawful process requiring attendance and the giving of testimony or the production of documentary evidence before an agency of a State empowered by the law of such State to conduct investigations of alleged criminal activities, shall be fined under this title or imprisoned not more than five years, or both. For the purposes of clause (3) of this paragraph, the term ''State'' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

Violations of this section may be prosecuted only in the Federal judicial district in which the original crime was alleged to have been committed, or in which the person was held in custody or confinement, or in which an avoidance of service of process or a contempt referred to in clause (3) of the first paragraph of this section is alleged to have been committed, and only upon formal approval in writing by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or an Assistant Attorney General of the United States, which function of approving prosecutions may not be delegated.

(June 25, 1948, ch. 645, 62 Stat. 755; Apr. 6, 1956, ch. 177, §1, 70 Stat. 100; Pub. L. 87–368, Oct. 4, 1961, 75 Stat. 795; Pub. L. 91–452, title III, §302, Oct. 15, 1970, 84 Stat. 932; Pub. L. 100–690, title VII, §7020(b), Nov. 18, 1988, 102 Stat. 4396; Pub. L. 103–322, title XXXIII, §§330004(19), 330016(1)(K), Sept. 13, 1994, 108 Stat. 2142, 2147; Pub. L. 104–294, title VI, §607(e), Oct. 11, 1996, 110 Stat. 3511.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §408e (May 18, 1934, ch. 302, 48 Stat. 782; Aug. 2, 1946, ch. 735, 60 Stat. 789).

Said section 408e was rewritten and the phrase ''offenses as they are defined either at common law or by the laws of the place from which the fugitive flees'' were inserted to remove the ambiguity discussed in the opinion of the Circuit Court of Appeals, Third Circuit, in *Brandenburg* v. *U.S.*, decided September 6, 1944, not yet reported [144 F2d 656], reversing the conviction of the appellant. The court held that Congress intended the enumerated offenses to mean those as defined at common law. The effect of the rewritten section is to make the statute applicable whether the offense committed is one defined at common law or by the law of the state from which the fugitive flees.

The words ''offense punishable by imprisonment in a penitentiary'' were substituted for ''felony'' to make the statute uniformly applicable and to include crimes of the grade of felony even where, as in New Jersey, they are denominated as misdemeanor, high misdemeanor or otherwise.

Words ''from any State, Territory, or possession of the United States or the District of Columbia'' were omitted in view of definitive section 10 of this title.

Words ''upon conviction thereof'' were deleted as surplusage since punishment cannot be imposed until a conviction is secured.

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294 inserted at end of first par. ''For the purposes of clause (3) of this paragraph, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''

1994—Pub. L. 103–322, §330016(1)(K), substituted ''fined under this title'' for ''fined not more than $5,000''.

Pub. L. 103–322, §330004(19), struck out ''or which, in the case of New Jersey, is a high misdemeanor under the laws of said State,'' before ''or (2) to avoid'' and ''or which in the case of New Jersey, is a high misdemeanor under the laws of said State,'' before ''is charged, or (3)''.

1988—Pub. L. 100–690 inserted '', the Deputy Attorney General, the Associate Attorney General,'' after ''the Attorney General''.

1970—Pub. L. 91–452 inserted cl. (3) and '', or in which an avoidance of service of process or a contempt referred to in clause (3) of the first paragraph of this section is alleged to have been committed,'' after ''in custody or confinement''.

1961—Pub. L. 87–368 substituted ''a crime, or an attempt to commit a crime, punishable by death or which is a felony under the laws of the place from which the fugitive flees, or which, in the case of New Jersey, is a high misdemeanor under the laws of said State'' for ''murder, kidnaping, burglary, robbery, mayhem, rape, assault with a dangerous weapon, arson punishable as a felony, or extortion accompanied by threats of violence, or attempt to commit any of the foregoing offenses as they are defined either at common law or by the laws of the place from which the fugitive flees'', ''death or which is a felony under the laws of such place, or which in the case of New Jersey, is a high misdemeanor under the laws of said State,'' for ''imprisonment in a penitentiary'', and required that prosecutions must be upon the formal written approval of the Attorney General or an Assistant Attorney General, which function may not be delegated.

1956—Act Apr. 6, 1956, inserted '', arson punishable as a felony'' after ''assault with a dangerous weapon''.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 2 of act Apr. 6, 1956, provided that: ''The amendment made by the first section of this Act [amending this section] shall take effect on the thirtieth day after the date of enactment of this Act [April 6, 1956].''

PARENTAL KIDNAPING AND INTERSTATE OR INTERNATIONAL FLIGHT TO AVOID PROSECUTION UNDER APPLICABLE STATE FELONY STATUTES

Pub. L. 96–611, §10, Dec. 28, 1980, 94 Stat. 3573, provided that:

''(a) In view of the findings of the Congress and the purposes of sections 6 to 10 of this Act set forth in section 302 [probably means section 7 of Pub. L. 96–611, set out as a note under section 1738A of Title 28, Judiciary and Judicial Procedure], the Congress hereby expressly declares its intent that section 1073 of title 18, United States Code, apply to cases involving parental kidnaping and interstate or international flight to avoid prosecution under applicable State felony statutes.

''(b) The Attorney General of the United States, not later than 120 days after the date of the enactment of this section [Dec. 28, 1980] (and once every 6 months during the 3-year period following such 120-day period), shall submit a report to the Congress with respect to steps taken to comply with the intent of the Congress set forth in subsection (a). Each such report shall include—

''(1) data relating to the number of applications for complaints under section 1073 of title 18, United States Code in cases involving parental kidnaping;

''(2) data relating to the number of complaints issued in such cases; and

''(3) such other information as may assist in describing the activities of the Department of Justice in conformance with such intent.''

§ 1074. Flight to avoid prosecution for damaging or destroying any building or other real or personal property

(a) Whoever moves or travels in interstate or foreign commerce with intent either (1) to avoid prosecution, or custody, or confinement after conviction, under the laws of the place from which he flees, for willfully attempting to or damaging or destroying by fire or explosive any building, structure, facility, vehicle, dwelling house, synagogue, church, religious center or educational institution, public or private, or (2) to avoid giving testimony in any criminal proceeding relating to any such offense shall be fined under this title or imprisoned not more than five years, or both.

(b) Violations of this section may be prosecuted in the Federal judicial district in which the original crime was alleged to have been committed or in which the person was held in custody or confinement: *Provided, however*, That this section shall not be construed as indicating an intent on the part of Congress to prevent any State, Territory, Commonwealth, or possession of the United States of any jurisdiction over any offense over which they would have jurisdiction in the absence of such section.

(Added Pub. L. 86–449, title II, § 201, May 6, 1960, 74 Stat. 86; amended Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

CHAPTER 50—GAMBLING

Sec.
1081. Definitions.
1082. Gambling ships.
1083. Transportation between shore and ship; penalties.
1084. Transmission of wagering information; penalties.

HISTORICAL AND REVISION NOTES

This section [section 23 of act May 24, 1949] inserts a new chapter 50 (secs. 1081–1083) in title 18, U.S.C., incorporating, with slight changes in phraseology, most of the provisions of act of April 27, 1948 (ch. 235, 62 Stat. 200), which was not incorporated in title 18 when the revision was enacted. Subsection (e) of section 1 of such act, defining ''United States'', when used in a geographical sense, was omitted as covered by section 5 of such title 18. Section 4 of such act, which provided that nothing in such act ''shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof, or to preclude action, otherwise valid, by any State or Territory with respect to the navigable waters within the boundaries of such State or Territory'', was omitted as surplusage and unnecessary.

AMENDMENTS

1961—Pub. L. 87–216, § 3, Sept. 13, 1961, 75 Stat. 491, added item 1084.

1949—Act May 24, 1949, ch. 139, § 23, 63 Stat. 92, added chapter 50 and items 1081 to 1083.

§ 1081. Definitions

As used in this chapter:

The term ''gambling ship'' means a vessel used principally for the operation of one or more gambling establishments. Such term does not include a vessel with respect to gambling aboard such vessel beyond the territorial waters of the United States during a covered voyage (as defined in section 4472 of the Internal Revenue Code of 1986 as in effect on January 1, 1994).

The term ''gambling establishment'' means any common gaming or gambling establishment operated for the purpose of gaming or gambling, including accepting, recording, or registering bets, or carrying on a policy game or any other lottery, or playing any game of chance, for money or other thing of value.

The term ''vessel'' includes every kind of water and air craft or other contrivance used or capable of being used as a means of transportation on water, or on water and in the air, as well as any ship, boat, barge, or other water craft or any structure capable of floating on the water.

The term ''American vessel'' means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if such vessel is owned by, chartered to, or otherwise controlled by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State.

The term ''wire communication facility'' means any and all instrumentalities, personnel, and services (among other things, the receipt, forwarding, or delivery of communications) used or useful in the transmission of writings, signs, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission.

(Added May 24, 1949, ch. 139, § 23, 63 Stat. 92; amended Pub. L. 87–216, § 1, Sept. 13, 1961, 75 Stat. 491; Pub. L. 103–322, title XXXII, § 320501, Sept. 13, 1994, 108 Stat. 2114.)

REFERENCES IN TEXT

Section 4472 of the Internal Revenue Code of 1986, referred to in text, is classified to section 4472 of Title 26, Internal Revenue Code.

AMENDMENTS

1994—Pub. L. 103–322, in definition of ''gambling ship'', inserted at end ''Such term does not include a vessel with respect to gambling aboard such vessel beyond the territorial waters of the United States during a covered voyage (as defined in section 4472 of the Internal Revenue Code of 1986 as in effect on January 1, 1994).''

1961—Pub. L. 87–216 inserted definition of ''wire communication facility''.

§ 1082. Gambling ships

(a) It shall be unlawful for any citizen or resident of the United States, or any other person who is on an American vessel or is otherwise under or within the jurisdiction of the United States, directly or indirectly—

(1) to set up, operate, or own or hold any interest in any gambling ship or any gambling establishment on any gambling ship; or

(2) in pursuance of the operation of any gambling establishment on any gambling ship, to conduct or deal any gambling game, or to conduct or operate any gambling device, or to induce, entice, solicit, or permit any person to bet or play at any such establishment,

if such gambling ship is on the high seas, or is an American vessel or otherwise under or within the jurisdiction of the United States, and is not within the jurisdiction of any State.

(b) Whoever violates the provisions of subsection (a) of this section shall be fined under this title or imprisoned not more than two years, or both.

(c) Whoever, being (1) the owner of an American vessel, or (2) the owner of any vessel under or within the jurisdiction of the United States, or (3) the owner of any vessel and being an American citizen, shall use, or knowingly permit the use of, such vessel in violation of any provision of this section shall, in addition to any other penalties provided by this chapter, forfeit such vessel, together with her tackle, apparel, and furniture, to the United States.

(Added May 24, 1949, ch. 139, § 23, 63 Stat. 92; amended Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

§ 1083. Transportation between shore and ship; penalties

(a) It shall be unlawful to operate or use, or to permit the operation or use of, a vessel for the carriage or transportation, or for any part of the carriage or transportation, either directly or indirectly, of any passengers, for hire or otherwise, between a point or place within the United States and a gambling ship which is not within the jurisdiction of any State. This section does not apply to any carriage or transportation to or from a vessel in case of emergency involving the safety or protection of life or property.

(b) The Secretary of the Treasury shall prescribe necessary and reasonable rules and regulations to enforce this section and to prevent violations of its provisions.

For the operation or use of any vessel in violation of this section or of any rule or regulation issued hereunder, the owner or charterer of such vessel shall be subject to a civil penalty of $200 for each passenger carried or transported in violation of such provisions, and the master or other person in charge of such vessel shall be subject to a civil penalty of $300. Such penalty shall constitute a lien on such vessel, and proceedings to enforce such lien may be brought summarily by way of libel in any court of the United States having jurisdiction thereof. The Secretary of the Treasury may mitigate or remit any of the penalties provided by this section on such terms as he deems proper.

(Added May 24, 1949, ch. 139, § 23, 63 Stat. 92.)

§ 1084. Transmission of wagering information; penalties

(a) Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers, shall be fined under this title or imprisoned not more than two years, or both.

(b) Nothing in this section shall be construed to prevent the transmission in interstate or foreign commerce of information for use in news reporting of sporting events or contests, or for the transmission of information assisting in the placing of bets or wagers on a sporting event or contest from a State or foreign country where betting on that sporting event or contest is legal into a State or foreign country in which such betting is legal.

(c) Nothing contained in this section shall create immunity from criminal prosecution under any laws of any State.

(d) When any common carrier, subject to the jurisdiction of the Federal Communications Commission, is notified in writing by a Federal, State, or local law enforcement agency, acting within its jurisdiction, that any facility furnished by it is being used or will be used for the purpose of transmitting or receiving gambling information in interstate or foreign commerce in violation of Federal, State or local law, it shall discontinue or refuse, the leasing, furnishing, or maintaining of such facility, after reasonable notice to the subscriber, but no damages, penalty or forfeiture, civil or criminal, shall be found against any common carrier for any act done in compliance with any notice received from a law enforcement agency. Nothing in this section shall be deemed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court or in a State or local tribunal or agency, that such facility should not be discontinued or removed, or should be restored.

(e) As used in this section, the term ''State'' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a commonwealth, territory or possession of the United States.

(Added Pub. L. 87–216, § 2, Sept. 13, 1961, 75 Stat. 491; amended Pub. L. 100–690, title VII, § 7024, Nov. 18, 1988, 102 Stat. 4397; Pub. L. 101–647, title XII, § 1205(g), Nov. 29, 1990, 104 Stat. 4831; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

1990—Subsec. (e). Pub. L. 101–647 inserted ''commonwealth,'' before ''territory or possession of the United States''.

1988—Subsec. (b). Pub. L. 100–690, § 7024(a), inserted ''or foreign country'' after ''State'' in two places.

Subsec. (c). Pub. L. 100–690, § 7024(b)(2), struck out '', Commonwealth of Puerto Rico, territory, possession, or the District of Columbia'' after ''State''.

Subsec. (e). Pub. L. 100–690, § 7024(b)(1), added subsec. (e).

CHAPTER 50A—GENOCIDE

Sec.
1091. Genocide.
1092. Exclusive remedies.
1093. Definitions.

§ 1091. Genocide

(a) BASIC OFFENSE.—Whoever, whether in time of peace or in time of war, in a circumstance described in subsection (d) and with the specific intent to destroy, in whole or in substantial part, a national, ethnic, racial, or religious group as such—

(1) kills members of that group;

(2) causes serious bodily injury to members of that group;

(3) causes the permanent impairment of the mental faculties of members of the group through drugs, torture, or similar techniques;

(4) subjects the group to conditions of life that are intended to cause the physical destruction of the group in whole or in part;

(5) imposes measures intended to prevent births within the group; or

(6) transfers by force children of the group to another group;

or attempts to do so, shall be punished as provided in subsection (b).

(b) PUNISHMENT FOR BASIC OFFENSE.—The punishment for an offense under subsection (a) is—

(1) in the case of an offense under subsection (a)(1), where death results, by death or imprisonment for life and a fine of not more than $1,000,000, or both; and

(2) a fine of not more than $1,000,000 or imprisonment for not more than twenty years, or both, in any other case.

(c) INCITEMENT OFFENSE.—Whoever in a circumstance described in subsection (d) directly and publicly incites another to violate subsection (a) shall be fined not more than $500,000 or imprisoned not more than five years, or both.

(d) REQUIRED CIRCUMSTANCE FOR OFFENSES.—The circumstance referred to in subsections (a) and (c) is that—

(1) the offense is committed within the United States; or

(2) the alleged offender is a national of the United States (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)).

(e) NONAPPLICABILITY OF CERTAIN LIMITATIONS.—Notwithstanding section 3282 of this title, in the case of an offense under subsection (a)(1), an indictment may be found, or information instituted, at any time without limitation.

(Added Pub. L. 100–606, § 2(a), Nov. 4, 1988, 102 Stat. 3045; amended Pub. L. 103–322, title VI, § 60003(a)(13), Sept. 13, 1994, 108 Stat. 1970; Pub. L. 107–273, div. B, title IV, § 4002(a)(4), (b)(7), Nov. 2, 2002, 116 Stat. 1806, 1808.)

AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107–273, § 4002(b)(7), substituted ''subsection (a)(1),'' for ''subsection (a)(1),,''.

Pub. L. 107–273, § 4002(a)(4), made technical correction to directory language of Pub. L. 103–322. See 1994 Amendment note below.

1994—Subsec. (b)(1). Pub. L. 103–322, as amended by Pub. L. 107–273, § 4002(a)(4), substituted '', where death results, by death or imprisonment for life and a fine of not more than $1,000,000, or both;'' for ''a fine of not more than $1,000,000 and imprisonment for life,''.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–273, div. B, title IV, § 4002(a)(4), Nov. 2, 2002, 116 Stat. 1806, provided that the amendment made by section 4002(a)(4) is effective Sept. 13, 1994.

SHORT TITLE

Section 1 of Pub. L. 100–606 provided that: ''This Act [enacting this chapter] may be cited as the 'Genocide Convention Implementation Act of 1987 (the Proxmire Act)'.''

§ 1092. Exclusive remedies

Nothing in this chapter shall be construed as precluding the application of State or local laws to the conduct proscribed by this chapter, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any proceeding.

(Added Pub. L. 100–606, § 2(a), Nov. 4, 1988, 102 Stat. 3046.)

§ 1093. Definitions

As used in this chapter—

(1) the term ''children'' means the plural and means individuals who have not attained the age of eighteen years;

(2) the term ''ethnic group'' means a set of individuals whose identity as such is distinctive in terms of common cultural traditions or heritage;

(3) the term ''incites'' means urges another to engage imminently in conduct in circumstances under which there is a substantial likelihood of imminently causing such conduct;

(4) the term ''members'' means the plural;

(5) the term ''national group'' means a set of individuals whose identity as such is distinctive in terms of nationality or national origins;

(6) the term ''racial group'' means a set of individuals whose identity as such is distinctive in terms of physical characteristics or biological descent;

(7) the term ''religious group'' means a set of individuals whose identity as such is distinctive in terms of common religious creed, beliefs, doctrines, practices, or rituals; and

(8) the term ''substantial part'' means a part of a group of such numerical significance that the destruction or loss of that part would cause the destruction of the group as a viable entity within the nation of which such group is a part.

(Added Pub. L. 100–606, § 2(a), Nov. 4, 1988, 102 Stat. 3046.)

CHAPTER 51—HOMICIDE

Sec.
1111. Murder.
1112. Manslaughter.
1113. Attempt to commit murder or manslaughter.
1114. Protection of officers and employees of the United States.
1115. Misconduct or neglect of ship officers.
1116. Murder or manslaughter of foreign officials, official guests, or internationally protected persons.
1117. Conspiracy to murder.
1118. Murder by a Federal prisoner.
1119. Foreign murder of United States nationals.
1120. Murder by escaped prisoners.
1121. Killing persons aiding Federal investigations or State correctional officers.
1122. Protection against the human immunodeficiency virus.

AMENDMENTS

1996—Pub. L. 104–294, title VI, § 601(a)(6), Oct. 11, 1996, 110 Stat. 3498, added item 1122.

1994—Pub. L. 103–322, title VI, §§ 60005(b), 60009(b)(2), 60012(b), 60015(b), Sept. 13, 1994, 108 Stat. 1970, 1972–1974, added items 1118 to 1121.

1976—Pub. L. 94–467, § 3, Oct. 8, 1976, 90 Stat. 1998, substituted ''official guests, or internationally protected persons'' for ''or official guests'' in item 1116.

1972—Pub. L. 92–539, title I, § 102, Oct. 24, 1972, 86 Stat. 1071, added items 1116 and 1117.

§ 1111. Murder

(a) Murder is the unlawful killing of a human being with malice aforethought. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing; or committed in the perpetration of, or attempt to perpetrate, any arson, escape, murder, kidnapping, treason, espionage, sabotage, aggravated sexual abuse or sexual abuse, child abuse, burglary, or robbery; or perpetrated as part of a pattern or practice of assault or torture against a child or children; or perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than him who is killed, is murder in the first degree.

Any other murder is murder in the second degree.

(b) Within the special maritime and territorial jurisdiction of the United States,

Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;

Whoever is guilty of murder in the second degree, shall be imprisoned for any term of years or for life.

(c) For purposes of this section—

(1) the term ''assault'' has the same meaning as given that term in section 113;

(2) the term ''child'' means a person who has not attained the age of 18 years and is—

(A) under the perpetrator's care or control; or

(B) at least six years younger than the perpetrator;

(3) the term ''child abuse'' means intentionally or knowingly causing death or serious bodily injury to a child;

(4) the term ''pattern or practice of assault or torture'' means assault or torture engaged in on at least two occasions;

(5) the term ''serious bodily injury'' has the meaning set forth in section 1365; and

(6) the term ''torture'' means conduct, whether or not committed under the color of law, that otherwise satisfies the definition set forth in section 2340(1).

(June 25, 1948, ch. 645, 62 Stat. 756; Pub. L. 98–473, title II, § 1004, Oct. 12, 1984, 98 Stat. 2138; Pub. L. 99–646, § 87(c)(4), Nov. 10, 1986, 100 Stat. 3623; Pub. L. 99–654, § 3(a)(4), Nov. 14, 1986, 100 Stat. 3663; Pub. L. 100–690, title VII, § 7025, Nov. 18, 1988, 102 Stat. 4397; Pub. L. 103–322, title VI, § 60003(a)(4), Sept. 13, 1994, 108 Stat. 1969; Pub. L. 108–21, title I, § 102, Apr. 30, 2003, 117 Stat. 652.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 452, 454, 567 (Mar. 4, 1909, ch. 321, §§ 273, 275, 330, 35 Stat. 1143, 1152).

Section consolidates the punishment provision of sections 454 and 567 of title 18, U.S.C., 1940 ed., with section 452 of title 18, U.S.C., 1940 ed.

The provision of said section 454 for the death penalty for first degree murder was consolidated with section 567 of said title 18, by adding the words ''unless the jury qualifies its verdict by adding thereto 'without capital punishment' in which event he shall be sentenced to imprisonment for life''.

The punishment for second degree murder was changed and the phrase ''for any term of years or for life'' was substituted for the words ''not less than ten years and may be imprisoned for life''. This change conforms to a uniform policy of omitting the minimum punishment.

Said section 567 was not included in section 2031 of this title since the rewritten punishment provision for rape removes the necessity for a qualified verdict.

The special maritime and territorial jurisdiction provision was added in view of definitive section 7 of this title.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–21, § 102(1), inserted ''child abuse,'' after ''or sexual abuse,'' and ''or perpetrated as part of a pattern or practice of assault or torture against a child or children;'' after ''robbery;''.

Subsec. (c). Pub. L. 108–21, § 102(2), added subsec. (c).

1994—Subsec. (b). Pub. L. 103–322 amended second par. generally. Prior to amendment, second par. read as follows: ''Whoever is guilty of murder in the first degree, shall suffer death unless the jury qualifies its verdict by adding thereto 'without capital punishment', in which event he shall be sentenced to imprisonment for life;''.

1988—Subsec. (a). Pub. L. 100–690 inserted a comma after ''arson''.

1986—Subsec. (a). Pub. L. 99–646 and Pub. L. 99–654 amended subsec. (a) identically, substituting ''aggravated sexual abuse or sexual abuse'' for '', rape''.

1984—Subsec. (a). Pub. L. 98–473 inserted ''escape, murder, kidnapping, treason, espionage, sabotage,'' after ''arson''.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendments by Pub. L. 99–646 and Pub. L. 99–654 effective respectively 30 days after Nov. 10, 1986, and 30 days after Nov. 14, 1986, see section 87(e) of Pub. L. 99–646 and section 4 of Pub. L. 99–654, set out as an Effective Date note under section 2241 of this title.

§ 1112. Manslaughter

(a) Manslaughter is the unlawful killing of a human being without malice. It is of two kinds:

Voluntary—Upon a sudden quarrel or heat of passion.

Involuntary—In the commission of an unlawful act not amounting to a felony, or in the commission in an unlawful manner, or without due caution and circumspection, of a lawful act which might produce death.

(b) Within the special maritime and territorial jurisdiction of the United States,

Whoever is guilty of voluntary manslaughter, shall be fined under this title or imprisoned not more than ten years, or both;

Whoever is guilty of involuntary manslaughter, shall be fined under this title or imprisoned not more than six years, or both.

(June 25, 1948, ch. 645, 62 Stat. 756; Pub. L. 103–322, title XXXII, § 320102, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2109, 2147; Pub. L. 104–294, title VI, § 604(b)(13), Oct. 11, 1996, 110 Stat. 3507.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 453, 454 (Mar. 4, 1909, ch. 321, §§ 274, 275, 35 Stat. 1143).

Section consolidates punishment provisions of sections 453 and 454 of title 18, U.S.C., 1940 ed.

The special maritime and territorial jurisdiction provision was added in view of definitive section 7 this title.

Minor changes were made in phraseology.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–294 repealed Pub. L. 103–322, § 320102(2). See 1994 Amendment note below.

1994—Subsec. (b). Pub. L. 103–322, § 330016(1)(H), substituted ''fined under this title'' for ''fined not more than $1,000'' in last par.

Pub. L. 103–322, § 320102(3), substituted ''six years'' for ''three years'' in last par.

Pub. L. 103–322, § 320102(2), which provided for amendment identical to Pub. L. 103–322, § 330016(1)(H), above, was repealed by Pub. L. 104–294, § 604(b)(13).

Pub. L. 103–322, § 320102(1)(B), which directed the amendment of subsec. (b) by inserting '', or both'' after ''years'', was executed by inserting the material after ''years'' in second par., which was the first place the word appeared in text, to reflect the probable intent of Congress.

Pub. L. 103–322, § 320102(1)(A), inserted ''fined under this title or'' after ''shall be'' in second par.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

§ 1113. Attempt to commit murder or manslaughter

Except as provided in section 113 of this title, whoever, within the special maritime and territorial jurisdiction of the United States, attempts to commit murder or manslaughter, shall, for an attempt to commit murder be imprisoned not more than twenty years or fined under this title, or both, and for an attempt to commit manslaughter be imprisoned not more than seven years or fined under this title, or both.

(June 25, 1948, ch. 645, 62 Stat. 756; Pub. L. 100–690, title VII, § 7058(c), Nov. 18, 1988, 102 Stat. 4403; Pub. L. 101–647, title XXXV, § 3534, Nov. 29, 1990, 104 Stat. 4925; Pub. L. 104–132, title VII, § 705(a)(5), Apr. 24, 1996, 110 Stat. 1295.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 456 (Mar. 4, 1909, ch. 321, § 277, 35 Stat. 1143).

Words ''within the special maritime and territorial jurisdiction of the United States'' were added in view of definitive section 7 of this title, and section was rearranged to more clearly express intent of existing law.

Mandatory punishment provision was rephrased in the alternative.

AMENDMENTS

1996—Pub. L. 104–132 substituted ''seven years'' for ''three years''.

1990—Pub. L. 101–647 struck out final period at end.

1988—Pub. L. 100–690 substituted ''shall, for an attempt to commit murder be imprisoned not more than twenty years or fined under this title, or both, and for an attempt to commit manslaughter be imprisoned not more than three years or fined under this title, or both.'' for ''shall be fined not more than $1,000 or imprisoned not more than three years, or both''.

§ 1114. Protection of officers and employees of the United States

Whoever kills or attempts to kill any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance, shall be punished—

(1) in the case of murder, as provided under section 1111;

(2) in the case of manslaughter, as provided under section 1112; or

(3) in the case of attempted murder or manslaughter, as provided in section 1113.

(June 25, 1948, ch. 645, 62 Stat. 756; May 24, 1949, ch. 139, § 24, 63 Stat. 93; Oct. 31, 1951, ch. 655, § 28, 65 Stat. 721; June 27, 1952, ch. 477, title IV, § 402(c), 66 Stat. 276; Pub. L. 85–568, title III, § 304(d), July 29, 1958, 72 Stat. 434; Pub. L. 87–518, § 10, July 2, 1962, 76 Stat. 132; Pub. L. 88–493, § 3, Aug. 27, 1964, 78 Stat. 610; Pub. L. 89–74, § 8(b), July 15, 1965, 79 Stat. 234; Pub. L. 90–449, § 2, Aug. 2, 1968, 82 Stat. 611; Pub. L. 91–375, § 6(j)(9), Aug. 12, 1970, 84 Stat. 777; Pub. L. 91–513, title II, § 701(i)(1), Oct. 27, 1970, 84 Stat. 1282; Pub. L. 91–596, § 17(h)(1), Dec. 29, 1970, 84 Stat. 1607; Pub. L. 93–481, § 5, Oct. 26, 1974, 88 Stat. 1456; Pub. L. 94–284, § 18, May 11, 1976, 90 Stat. 514; Pub. L. 94–582, § 16, Oct. 21, 1976, 90 Stat. 2883; Pub. L. 95–87, title VII, § 704, Aug. 3, 1977, 91 Stat. 520; Pub. L. 95–616, § 3(j)(2), Nov. 8, 1978, 92 Stat. 3112; Pub. L. 95–630, title III, § 307, Nov. 10, 1978, 92 Stat. 3677; Pub. L. 96–296, § 26(c), July 1, 1980, 94 Stat. 819; Pub. L. 96–466, title VII, § 704, Oct. 17, 1980, 94 Stat. 2216; Pub. L. 97–143, § 1(b), Dec. 29, 1981, 95 Stat. 1724; Pub. L. 97–259, title I, § 128, Sept. 13, 1982, 96 Stat. 1099; Pub. L. 97–365, § 6, Oct. 25, 1982, 96 Stat. 1752; Pub. L. 97–452, § 2(b), Jan. 12, 1983, 96 Stat. 2478; Pub. L. 98–63, title I, § 101, July 30, 1983, 97 Stat. 313; Pub. L. 98–473, title II, § 1012, Oct. 12, 1984, 98 Stat. 2142; Pub. L. 98–557, § 17(c), Oct. 30, 1984, 98 Stat. 2868; Pub. L.

100–690, title VII, § 7026, Nov. 18, 1988, 102 Stat. 4397; Pub. L. 101–73, title IX, § 962(a)(6), Aug. 9, 1989, 103 Stat. 502; Pub. L. 101–647, title XII, § 1205(h), title XVI, § 1606, title XXXV, § 3535, Nov. 29, 1990, 104 Stat. 4831, 4843, 4925; Pub. L. 102–54, § 13(f)(2), June 13, 1991, 105 Stat. 275; Pub. L. 102–365, § 6, Sept. 3, 1992, 106 Stat. 975; Pub. L. 103–322, title VI, § 60007, title XXXIII, §§ 330009(c), 330011(g), Sept. 13, 1994, 108 Stat. 1971, 2143, 2145; Pub. L. 104–132, title VII, § 727(a), Apr. 24, 1996, 110 Stat. 1302; Pub. L. 104–294, title VI, § 601(f)(2), Oct. 11, 1996, 110 Stat. 3499; Pub. L. 107–273, div. B, title IV, § 4002(c)(1), Nov. 2, 2002, 116 Stat. 1808.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., § 253 (May 18, 1934, ch. 299, § 1, 48 Stat. 780; 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 F.R. 2731, 53 Stat. 1433; June 13, 1940, ch. 359, 54 Stat. 391).

The section was extended to include United States judges, attorneys and their assistants, and officers of Federal, penal and correctional institutions in view of the obvious desirability of such protective legislation.

Employees of the Bureau of Animal Industry have been included in this section to complete the revision of section 118 of title 18, U.S.C., 1940 ed., which was consolidated with the assault provisions of section 254 of said title 18 and is now section 111 of this title. There seemed no sound reason for including such officers in the protection against assaults but excluding them from the homicide sections.

For like reasons the section was broadened to include officers or employees of the Secret Service or of the Bureau of Narcotics.

Changes in phraseology were made.

1949 ACT

This section [section 24] amends section 1114 of title 18, U.S.C., to conform more closely with the original statute from which it was derived.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–273 repealed amendment by Pub. L. 104–294. See 1996 Amendment note below.

1996—Pub. L. 104–132 reenacted section catchline without change and amended text generally, restructuring provisions by inserting par. designations and substituting reference to section 1113 of this title and general reference to killing or attempting to kill any officer or employee of any agency in any branch of United States Government for more specific references to killing or attempting to kill certain enumerated officers and employees of United States.

Subsec. (b). Pub. L. 104–294, which directed substitution in text of ''1112,'' for ''1112.'' and could not be executed, was repealed by Pub. L. 107–273. See above.

1994—Pub. L. 103–322, § 330011(g), repealed Pub. L. 101–647, § 1606. See 1990 Amendment notes below.

Pub. L. 103–322, § 330009(c), substituted ''or any other officer or employee of the United States or any agency thereof'' for ''or any other officer, agency, or employee of the United States''.

Pub. L. 103–322, § 60007, substituted ''punished, in the case of murder, as provided under section 1111, or, in the case of manslaughter, as provided under section 1112.'' for ''punished as provided under sections 1111 and 1112 of this title,''.

1992—Pub. L. 102–365 inserted ''any officer or employee of the Federal Railroad Administration assigned to perform investigative, inspection, or law enforcement functions,'' after ''any employee of the Coast Guard assigned to perform investigative, inspection or law enforcement functions,''.

1991—Pub. L. 102–54 substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

1990—Pub. L. 101–647, § 3535(3), which directed amendment of section by striking out ''the Federal Savings and Loan Insurance Corporation,'' could not be executed because that language had been struck out by Pub. L. 101–73. See 1989 Amendment note below.

Pub. L. 101–647, § 1606(3), which amended this section identically to amendment by Pub. L. 101–647, § 3535(3), was repealed by Pub. L. 103–322, § 330011(g). See above.

Pub. L. 101–647, § 3535(1), (2), substituted ''Secret Service'' for ''secret service'' and ''any officer or employee of the Department of Education, the Department of Health and Human Services,'' for ''any officer or employee of the Department of Health, Education, and Welfare,''.

Pub. L. 101–647, § 1606(1), (2), which amended this section identically to amendment by Pub. L. 101–647, § 3535(1), (2), was repealed by Pub. L. 103–322, § 330011(g). See above.

Pub. L. 101–647, § 1205(h), inserted ''or any other commonwealth, territory, or possession'' after ''the Virgin Islands''.

1989—Pub. L. 101–73 struck out ''the Federal Savings and Loan Insurance Corporation,'' after ''Federal Deposit Insurance Corporation,'' and substituted ''the Office of Thrift Supervision, the Federal Housing Finance Board, the Resolution Trust Corporation'' for ''the Federal Home Loan Bank Board''.

1988—Pub. L. 100–690 struck out second comma after ''terms of this section''.

1984—Pub. L. 98–557 substituted reference to Coast Guard member, and Coast Guard employee assigned to perform investigative, inspection or law enforcement functions, for reference to any officer or enlisted man of the Coast Guard.

Pub. L. 98–473 inserted ''or attempts to kill'' after ''Whoever kills'', substituted ''or any United States probation or pretrial services officer, or any United States magistrate, or any officer or employee of any department or agency within the Intelligence Community (as defined in section 3.4(F) of Executive Order 12333, December 8, 1981, or successor orders) not already covered under the terms of this section,'' for ''while engaged in the performance of his official duties or on account of the performance of his official duties'', inserted '', or any other officer, agency, or employee of the United States designated for coverage under this section in regulations issued by the Attorney General'', and inserted '', except that any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years''.

1983—Pub. L. 98–63 inserted ''any civilian official or employee of the Army Corps of Engineers assigned to perform investigations, inspections, law or regulatory enforcement functions, or field-level real estate functions,'' after ''National Park Service,''.

1983—Pub. L. 97–452 substituted ''sections 3711 and 3716–3718 of title 31'' for ''the Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.)''.

1982—Pub. L. 97–365 struck out ''or'' before ''any attorney, liquidator, examiner, claim agent'' and inserted '', or any officer or employee of the United States or any agency thereof designated to collect or compromise a Federal claim in accordance with the Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.) or other statutory authority'' before ''shall be punished''.

Pub. L. 97–259 inserted ''or any officer or employee of the Federal Communications Commission performing investigative, inspection, or law enforcement functions,'' after ''or law enforcement functions,''.

1981—Pub. L. 97–143 inserted ''any officer or member of the United States Capitol Police,'' after ''Drug Enforcement Administration,''.

1980—Pub. L. 96–466 inserted ''or any officer or employee of the Veterans' Administration assigned to perform investigative or law enforcement functions,'' after ''of the Department of Agriculture assigned to perform investigative, inspection, or law enforcement functions,''.

Pub. L. 96–296 inserted ''Interstate Commerce Commission,'' after ''Consumer Product Safety Commission,''.

1978—Pub. L. 95–630 inserted ''or any attorney, liquidator, examiner, claim agent, or other employee of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Board of Governors of the Federal Reserve System, any Federal Reserve bank, or the National Credit Union Administration engaged in or on account of the performance of his official duties'' before ''shall be punished''.

Pub. L. 95–616 inserted ''the Department of Commerce,''.

1977—Pub. L. 95–87 inserted ''or of the Department of the Interior'' after ''or of the Department of Labor''.

1976—Pub. L. 94–582 struck out ''any employee of the Bureau of Animal Industry of the Department of Agriculture,'' after ''the field service of the Bureau of Land Management,'' and inserted ''or of the Department of Agriculture'' after ''or of the Department of Labor''.

Pub. L. 94–284 inserted '', the Consumer Product Safety Commission,'' after ''Department of Health, Education, and Welfare''.

1974—Pub. L. 93–481 substituted ''Drug Enforcement Administration'' for ''Bureau of Narcotics and Dangerous Drugs''.

1970—Pub. L. 91–596 substituted ''or of the Department of Labor assigned to perform investigative, inspection, or law enforcement functions'', for ''designated by the Secretary of Health, Education, and Welfare to conduct investigations, or inspections under the Federal Food, Drug, and Cosmetic Act''.

Pub. L. 91–513 substituted ''Bureau of Narcotics and Dangerous Drugs'' for ''Bureau of Narcotics''.

Pub. L. 91–375 substituted ''officer or employee of the Postal Service'', for ''postal inspector, any postmaster, officer, or employee in the field service of the Post Office Department'' after ''Department of Justice,''.

1968—Pub. L. 90–449 substituted ''any postal inspector, any postmaster, officer, or employee in the field service of the Post Office Department'' for ''any post-office inspector''.

1965—Pub. L. 89–74 included any officer or employee of the Department of Health, Education, and Welfare designated by the Secretary of Health, Education, and Welfare to conduct investigations or inspections under the Federal Food, Drug, and Cosmetic Act.

1964—Pub. L. 88–493 inserted ''or any security officer of the Department of State or the Foreign Service''.

1962—Pub. L. 87–518 included employees of the Department of Agriculture performing any function connected with any Federal or State program, or program of Puerto Rico, Guam, the Virgin Islands, or the District of Columbia, for control, eradication, or prevention of animal diseases.

1958—Pub. L. 85–568 included officers and employees of the National Aeronautics and Space Administration.

1952—Act June 27, 1952, substituted ''any immigration officers'' for ''any immigrant inspector or any immigration patrol inspector''.

1951—Act Oct. 31, 1951, substituted ''the field service of the Bureau of Land Management'' for ''the field service of the Division of Grazing of the Department of the Interior''.

1949—Act May 24, 1949, inserted ''any officer, employee or agent of the customs or of the internal revenue or any person assisting him in the execution of his duties''.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–273, div. B, title IV, § 4002(c)(1), Nov. 2, 2002, 116 Stat. 1808, provided that the amendment made by section 4002(c)(1) is effective Oct. 11, 1996.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 330011(g) of Pub. L. 103–322 provided that the amendment made by that section is effective as of Nov. 29, 1990.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 802(g)(3) of Pub. L. 96–466 provided in part that the amendment made by section 704 of Pub. L. 96–466 is effective Oct. 17, 1980.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–630 effective on expiration of 120 days after Nov. 10, 1978, see section 2101 of Pub. L. 95–630, set out as an Effective Date note under section 375b of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–582 effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94–582, as amended, set out as a note under section 74 of Title 7, Agriculture.

EFFECTIVE DATE OF 1970 AMENDMENTS

Amendment by Pub. L. 91–513 effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91–513, set out as an Effective Date note under section 801 of Title 21, Food and Drugs.

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–74 effective July 15, 1965, see section 11 of Pub. L. 89–74.

SAVINGS PROVISION

Amendment by Pub. L. 91–513 not to affect or abate any prosecutions for violation of law or any civil seizures or forfeitures and injunctive proceedings commenced prior to the effective date of such amendment, and all administrative proceedings pending before the Bureau of Narcotics and Dangerous Drugs on Oct. 27, 1970, to be continued and brought to final determination in accord with laws and regulations in effect prior to Oct. 27, 1970, see section 702 of Pub. L. 91–513, set out as a note under section 321 of Title 21, Food and Drugs.

LIFE IMPRISONMENT OR LESSER TERM FOR KILLING PERSON IN PERFORMANCE OF INVESTIGATIVE, INSPECTION, OR LAW ENFORCEMENT FUNCTIONS

Section 17(h)(2) of Pub. L. 91–596 provided that: ''Notwithstanding the provisions of sections 1111 and 1114 of title 18, United States Code, whoever, in violation of the provisions of section 1114 of such title, kills a person while engaged in or on account of the performance of investigative, inspection, or law enforcement functions added to such section 1114 by paragraph (1) of this subsection, and who would otherwise be subject to the penalty provisions of such section 1111 shall be punished by imprisonment for any term of years or for life.''

IMMUNITY FROM CRIMINAL PROSECUTION

Section 5 of Pub. L. 88–493 which provided that nothing in Pub. L. 88–493, which amended this section and section 112 of this title, and enacted former section 170e-1 of Title 5, Government Organization and Employees, shall create immunity from criminal prosecution under the laws of any State, territory, possession, Puerto Rico, or the District of Columbia, is set out as a note under section 112 of this title.

§ 1115. Misconduct or neglect of ship officers

Every captain, engineer, pilot, or other person employed on any steamboat or vessel, by whose misconduct, negligence, or inattention to his duties on such vessel the life of any person is destroyed, and every owner, charterer, inspector, or other public officer, through whose fraud, neglect, connivance, misconduct, or violation of law the life of any person is destroyed, shall be fined under this title or imprisoned not more than ten years, or both.

When the owner or charterer of any steamboat or vessel is a corporation, any executive officer of such corporation, for the time being actually charged with the control and management of the operation, equipment, or navigation of such steamboat or vessel, who has knowingly and willfully caused or allowed such fraud, neglect, connivance, misconduct, or violation of law, by which the life of any person is destroyed, shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 757; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 461 (Mar. 4, 1909, ch. 321, § 282, 35 Stat. 1144).

Section restores the intent of the original enactments, R.S. § 5344, and act Mar. 3, 1905, ch. 1454, § 5, 33 Stat. 1025, and makes this section one of general application. In the Criminal Code of 1909, by placing it in chapter 11, limited to places within the special maritime and territorial jurisdiction of the United States, such original intent was inadvertently lost as indicated by the entire absence of report or comment on such limitation.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' in two places.

§ 1116. Murder or manslaughter of foreign officials, official guests, or internationally protected persons

(a) Whoever kills or attempts to kill a foreign official, official guest, or internationally protected person shall be punished as provided under sections 1111, 1112, and 1113 of this title.

(b) For the purposes of this section:

(1) ''Family'' includes (a) a spouse, parent, brother or sister, child, or person to whom the foreign official or internationally protected person stands in loco parentis, or (b) any other person living in his household and related to the foreign official or internationally protected person by blood or marriage.

(2) ''Foreign government'' means the government of a foreign country, irrespective of recognition by the United States.

(3) ''Foreign official'' means—

(A) a Chief of State or the political equivalent, President, Vice President, Prime Minister, Ambassador, Foreign Minister, or other officer of Cabinet rank or above of a foreign government or the chief executive officer of an international organization, or any person who has previously served in such capacity, and any member of his family, while in the United States; and

(B) any person of a foreign nationality who is duly notified to the United States as an officer or employee of a foreign government or international organization, and who is in the United States on official business, and any member of his family whose presence in the United States is in connection with the presence of such officer or employee.

(4) ''Internationally protected person'' means—

(A) a Chief of State or the political equivalent, head of government, or Foreign Minister whenever such person is in a country other than his own and any member of his family accompanying him; or

(B) any other representative, officer, employee, or agent of the United States Government, a foreign government, or international organization who at the time and place concerned is entitled pursuant to international law to special protection against attack upon his person, freedom, or dignity, and any member of his family then forming part of his household.

(5) ''International organization'' means a public international organization designated as such pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288) or a public organization created pursuant to treaty or other agreement under international law as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs.

(6) ''Official guest'' means a citizen or national of a foreign country present in the United States as an official guest of the Government of the United States pursuant to designation as such by the Secretary of State.

(7) ''National of the United States'' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(c) If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 46501(2) of title 49.

(d) In the course of enforcement of this section and any other sections prohibiting a conspiracy or attempt to violate this section, the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

(Added Pub. L. 92–539, title I, § 101, Oct. 24, 1972, 86 Stat. 1071; amended Pub. L. 94–467, § 2, Oct. 8, 1976, 90 Stat. 1997; Pub. L. 95–163, § 17(b)(1), Nov. 9, 1977, 91 Stat. 1286; Pub. L. 95–504, § 2(b), Oct. 24, 1978, 92 Stat. 1705; Pub. L. 97–351, § 3, Oct. 18, 1982, 96 Stat. 1666; Pub. L. 103–272, § 5(e)(2), July 5, 1994, 108 Stat. 1373; Pub. L. 103–322, title VI, § 60003(a)(5), title XXXIII, § 330006, Sept. 13, 1994, 108 Stat. 1969, 2142; Pub. L. 104–132, title VII, § 721(c), Apr. 24, 1996, 110 Stat. 1298; Pub. L. 104–294, title VI, § 601(g)(2), Oct. 11, 1996, 110 Stat. 3500.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–294 struck out '', except that'' at end.

Subsec. (b)(7). Pub. L. 104–132, § 721(c)(1), added par. (7).

Subsec. (c). Pub. L. 104–132, § 721(c)(2), inserted first sentence and struck out former first sentence which

read as follows: ''If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender.''

1994—Subsec. (a). Pub. L. 103–322, § 330006, which directed the striking of '', and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years'' before period at end, was executed by striking text which did not include '', and'', to reflect the probable intent of Congress and the prior amendment by Pub. L. 103–322, § 60003(a)(5). See below.

Pub. L. 103–322, § 60003(a)(5), struck out ''any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and'' after ''title, except that''.

Subsec. (c). Pub. L. 103–272 substituted ''section 46501(2) of title 49'' for ''section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(38))''.

1982—Subsec. (b)(5). Pub. L. 97–351 inserted provision relating to a public organization created pursuant to treaty or other agreement under international law as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of foreign affairs.

1978—Subsec. (c). Pub. L. 95–504 substituted reference to section 101(38) of the Federal Aviation Act of 1958 for reference to section 101(35) of such Act.

1977—Subsec. (c). Pub. L. 95–163 substituted reference to section 101(35) of the Federal Aviation Act of 1958 for reference to section 101(34) of such Act.

1976—Catchline. Pub. L. 94–467 substituted ''official guests, or internationally protected persons'' for ''or official guests''.

Subsec. (a). Pub. L. 94–467 inserted reference to internationally protected persons, section 1113 of this title, and the punishment for a person convicted of attempted murder.

Subsec. (b). Pub. L. 94–467 designated existing provision, relating to definition of ''foreign official'' as par. (3)(A), (B), and added pars. (1), (2), (4), (5) and (6).

Subsec. (c). Pub. L. 94–467 substituted provision permitting the United States to exercise jurisdiction over an offense if the victim is an internationally protected person and the alleged offender is present within the United States for provision which defined ''foreign government'', ''international organization'', ''family'', and ''official guest''.

Subsec. (d). Pub. L. 94–467 added subsec. (d).

§ 1117. Conspiracy to murder

If two or more persons conspire to violate section 1111, 1114, 1116, or 1119 of this title, and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life.

(Added Pub. L. 92–539, title I, § 101, Oct. 24, 1972, 86 Stat. 1071; amended Pub. L. 103–322, title VI, § 60009(b)(1), Sept. 13, 1994, 108 Stat. 1972.)

AMENDMENTS

1994—Pub. L. 103–322 substituted ''1116, or 1119'' for ''or 1116''.

§ 1118. Murder by a Federal prisoner

(a) OFFENSE.—A person who, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, commits the murder of another shall be punished by death or by life imprisonment.

(b) DEFINITIONS.—In this section—

''Federal correctional institution'' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house.

''murder'' means a first degree or second degree murder (as defined in section 1111).

''term of life imprisonment'' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death.

(Added Pub. L. 103–322, title VI, § 60005(a), Sept. 13, 1994, 108 Stat. 1970.)

PRIOR PROVISIONS

Another section 1118 was renumbered section 1122 of this title.

§ 1119. Foreign murder of United States nationals

(a) DEFINITION.—In this section, ''national of the United States'' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(b) OFFENSE.—A person who, being a national of the United States, kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113.

(c) LIMITATIONS ON PROSECUTION.—(1) No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same conduct.

(2) No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the conduct took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this paragraph is not subject to judicial review.

(Added Pub. L. 103–322, title VI, § 60009(a), Sept. 13, 1994, 108 Stat. 1972.)

§ 1120. Murder by escaped prisoners

(a) DEFINITION.—In this section, ''Federal correctional institution'' and ''term of life imprisonment'' have the meanings stated in section 1118.

(b) OFFENSE AND PENALTY.—A person, having escaped from a Federal correctional institution where the person was confined under a sentence for a term of life imprisonment, kills another shall be punished as provided in sections 1111 and 1112.

(Added Pub. L. 103–322, title VI, § 60012(a), Sept. 13, 1994, 108 Stat. 1973; amended Pub. L. 104–294, title VI, § 601(c)(2), Oct. 11, 1996, 110 Stat. 3499.)

AMENDMENTS

1996—Subsecs. (a), (b). Pub. L. 104–294 substituted ''Federal correctional institution'' for ''Federal prison''.

§ 1121. Killing persons aiding Federal investigations or State correctional officers

(a) Whoever intentionally kills—

(1) a State or local official, law enforcement officer, or other officer or employee while working with Federal law enforcement officials in furtherance of a Federal criminal investigation—

(A) while the victim is engaged in the performance of official duties;

(B) because of the performance of the victim's official duties; or

(C) because of the victim's status as a public servant; or

(2) any person assisting a Federal criminal investigation, while that assistance is being rendered and because of it,

shall be sentenced according to the terms of section 1111, including by sentence of death or by imprisonment for life.

(b)(1) Whoever, in a circumstance described in paragraph (3) of this subsection, while incarcerated, intentionally kills any State correctional officer engaged in, or on account of the performance of such officer's official duties, shall be sentenced to a term of imprisonment which shall not be less than 20 years, and may be sentenced to life imprisonment or death.

(2) As used in this section, the term, ''State correctional officer'' includes any officer or employee of any prison, jail, or other detention facility, operated by, or under contract to, either a State or local governmental agency, whose job responsibilities include providing for the custody of incarcerated individuals.

(3) The circumstance referred to in paragraph (1) is that—

(A) the correctional officer is engaged in transporting the incarcerated person interstate; or

(B) the incarcerated person is incarcerated pursuant to a conviction for an offense against the United States.

(c) For the purposes of this section, the term ''State'' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(Added Pub. L. 103–322, title VI, § 60015(a), Sept. 13, 1994, 108 Stat. 1974; amended Pub. L. 104–294, title VI, § 607(k), Oct. 11, 1996, 110 Stat. 3512.)

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–294 added subsec. (c).

§ 1122. Protection against the human immunodeficiency virus

(a) IN GENERAL.—Whoever, after testing positive for the Human Immunodeficiency Virus (HIV) and receiving actual notice of that fact, knowingly donates or sells, or knowingly attempts to donate or sell, blood, semen, tissues, organs, or other bodily fluids for use by another, except as determined necessary for medical research or testing, shall be fined or imprisoned in accordance with subsection (c).

(b) TRANSMISSION NOT REQUIRED.—Transmission of the Human Immunodeficiency Virus does not have to occur for a person to be convicted of a violation of this section.

(c) PENALTY.—Any person convicted of violating the provisions of subsection (a) shall be subject to a fine under this title of not less than $10,000, imprisoned for not less than 1 year nor more than 10 years, or both.

(Added Pub. L. 103–333, title V, § 514, Sept. 30, 1994, 108 Stat. 2574, § 1118; renumbered § 1122 and amended Pub. L. 104–294, title VI, § 601(a)(5), Oct. 11, 1996, 110 Stat. 3498.)

AMENDMENTS

1996—Pub. L. 104–294, § 601(a)(5)(A), renumbered section 1118, relating to protection against human immunodeficiency virus, as this section.

Subsec. (c). Pub. L. 104–294, § 601(a)(5)(B), inserted ''under this title'' after ''fine'' and struck out ''nor more than $20,000'' after ''$10,000''.

CHAPTER 53—INDIANS

Sec.
1151. Indian country defined.
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1170. Illegal trafficking in Native American human remains and cultural items.

AMENDMENTS

1996—Pub. L. 104–294, title VI, § 604(b)(26), Oct. 11, 1996, 110 Stat. 3508, directed that item 1169 be transferred to appear after item 1168.

Pub. L. 104–294, title VI, § 604(b)(25), Oct. 11, 1996, 110 Stat. 3508, amended directory language of Pub. L. 103–322, § 330011(d), which amended Pub. L. 101–630, § 404(a)(2). See 1990 Amendment note below.

1994—Pub. L. 103–322, title XXXIII, § 330010(5), Sept. 13, 1994, 108 Stat. 2143, substituted ''Illegal trafficking in Native American human remains and cultural items'' for ''Illegal Trafficking in Native American Human Remains and Cultural Items'' in item 1170.

1990—Pub. L. 101–647, title XXXV, § 3536, Nov. 29, 1990, 104 Stat. 4925, struck out item 1157 ''Livestock sold or removed''.

Pub. L. 101–644, title I, § 104(b), Nov. 29, 1990, 104 Stat. 4663, substituted ''Misrepresentation of Indian produced goods and products'' for ''Misrepresentation in sale of products'' in item 1159.

Pub. L. 101–630, title IV, § 404(a)(2), Nov. 28, 1990, 104 Stat. 4548, as amended, effective on the date section 404(a)(2) of Pub. L. 101–630 took effect, by Pub. L. 103–322, title XXXIII, § 330011(d), Sept. 13, 1994, 108 Stat. 2144, as amended by Pub. L. 104–294, title VI, § 604(b)(25), Oct. 11, 1996, 110 Stat. 3508, added item 1169.

Pub. L. 101–601, § 4(b), Nov. 16, 1990, 104 Stat. 3052, added item 1170.

1988—Pub. L. 100–497, § 24, Oct. 17, 1988, 102 Stat. 2488, added items 1166, 1167, and 1168.

1960—Pub. L. 86–634, § 3, July 12, 1960, 74 Stat. 469, added items 1164 and 1165.

1956—Act Aug. 1, 1956, ch. 822, § 1, 70 Stat. 792, added item 1163.

1953—Act Aug. 15, 1953, ch. 502, § 1, 67 Stat. 586, added item 1161.

Act Aug. 15, 1953, ch. 505, § 1, 67 Stat. 588, added item 1162.

§ 1151. Indian country defined

Except as otherwise provided in sections 1154 and 1156 of this title, the term ''Indian country'', as used in this chapter, means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

(June 25, 1948, ch. 645, 62 Stat. 757; May 24, 1949, ch. 139, § 25, 63 Stat. 94.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on sections 548 and 549 of title 18, and sections 212, 213, 215, 217, 218 of title 25, Indians, U.S. Code, 1940 ed. (R.S. §§ 2142, 2143, 2144, 2145, 2146; Feb. 18, 1875, ch. 80, § 1, 18 Stat. 318; Mar. 4, 1909, ch. 321, §§ 328, 329, 35 Stat. 1151; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; June 28, 1932, ch. 284, 47 Stat. 337).

This section consolidates numerous conflicting and inconsistent provisions of law into a concise statement of the applicable law.

R.S. §§ 2145, 2146 (U.S.C., title 25, §§ 217, 218) extended to the Indian country with notable exceptions the criminal laws of the United States applicable to places within the exclusive jurisdiction of the United States. Crimes of Indians against Indians, and crimes punishable by tribal law were excluded.

The confusion was not lessened by the cases of *U.S. v. McBratney*, 104 U.S. 622 and *Draper v. U.S.*, 17 S.Ct. 107, holding that crimes in Indian country by persons not Indians are not cognizable by Federal courts in absence of reservation or cession of exclusive jurisdiction applicable to places within the exclusive jurisdiction of the United States. Because of numerous statutes applicable only to Indians and prescribing punishment for crimes committed by Indians against Indians, ''Indian country'' was defined but once. (See act June 30, 1834, ch. 161, § 1, 4, Stat. 729, which was later repealed.)

Definition is based on latest construction of the term by the United States Supreme Court in *U.S. v. McGowan*, 58 S.Ct. 286, 302 U.S. 535, following *U.S. v. Sandoval*, 34 S.Ct. 1, 5, 231 U.S. 28, 46. (See also *Donnelly v. U.S.*, 33 S.Ct. 449, 228 U.S. 243; and *Kills Plenty v. U.S.*, 133 F.2d 292, certiorari denied, 1943, 63 S.Ct. 1172). (See reviser's note under section 1153 of this title.)

Indian allotments were included in the definition on authority of the case of *U.S. v. Pelican*, 1913, 34 S.Ct. 396, 232 U.S. 442, 58 L.Ed. 676.

1949 ACT

This section [section 25], by adding to section 1151 of title 18, U.S.C., the phrase ''except as otherwise provided in sections 1154 and 1156 of this title'', incorporates in this section the limitations of the term ''Indian country'' which are added to sections 1154 and 1156 by sections 27 and 28 of this bill.

AMENDMENTS

1949—Act May 24, 1949, incorporated the limitations of term ''Indian country'' which are contained in sections 1154 and 1156 of this title.

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–297, § 1, May 29, 1976, 90 Stat. 585, provided: ''That this Act [amending sections 113, 1153, and 3242 of this title] may be cited as the 'Indian Crimes Act of 1976'.''

§ 1152. Laws governing

Except as otherwise expressly provided by law, the general laws of the United States as to the punishment of offenses committed in any place within the sole and exclusive jurisdiction of the United States, except the District of Columbia, shall extend to the Indian country.

This section shall not extend to offenses committed by one Indian against the person or property of another Indian, nor to any Indian committing any offense in the Indian country who has been punished by the local law of the tribe, or to any case where, by treaty stipulations, the exclusive jurisdiction over such offenses is or may be secured to the Indian tribes respectively.

(June 25, 1948, ch. 645, 62 Stat. 757.)

HISTORICAL AND REVISION NOTES

Based on sections 215, 217, 218 of title 25, U.S.C., 1940 ed., Indians (R.S. 2144, 2145, 2146; Feb. 18, 1875, ch. 80, §§ 1, 18 Stat. 318).

Section consolidates said sections 217 and 218 of title 25, U.S.C., 1940 ed., Indians, and omits section 215 of said title as covered by the consolidation.

See reviser's note under section 1153 of this title as to effect of consolidation of sections 548 and 549 of title 18, U.S.C., 1940 ed.

Minor changes were made in translations and phraseology.

§ 1153. Offenses committed within Indian country

(a) Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, kidnapping, maiming, a felony under chapter 109A, incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury (as defined in section 1365 of this title), an assault against an individual who has not attained the age of 16 years, arson, burglary, robbery, and a felony under section 661 of this title within the Indian country, shall be subject to the same law and penalties as all other persons committing any of the above offenses, within the exclusive jurisdiction of the United States.

(b) Any offense referred to in subsection (a) of this section that is not defined and punished by Federal law in force within the exclusive jurisdiction of the United States shall be defined and punished in accordance with the laws of the State in which such offense was committed as are in force at the time of such offense.

(June 25, 1948, ch. 645, 62 Stat. 758; May 24, 1949, ch. 139, § 26, 63 Stat. 94; Pub. L. 89–707, § 1, Nov. 2, 1966, 80 Stat. 1100; Pub. L. 90–284, title V, § 501, Apr. 11, 1968, 82 Stat. 80; Pub. L. 94–297, § 2, May 29, 1976, 90 Stat. 585; Pub. L. 98–473, title II, § 1009, Oct. 12, 1984, 98 Stat. 2141; Pub. L. 99–303, May 15,

1986, 100 Stat. 438; Pub. L. 99–646, § 87(c)(5), Nov. 10, 1986, 100 Stat. 3623; Pub. L. 99–654, § 3(a)(5), Nov. 14, 1986, 100 Stat. 3663; Pub. L. 100–690, title VII, § 7027, Nov. 18, 1988, 102 Stat. 4397; Pub. L. 103–322, title XVII, § 170201(e), title XXXIII, § 330021(1), Sept. 13, 1994, 108 Stat. 2043, 2150.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., §§ 548, 549 (Mar. 4, 1909, ch. 321, §§ 328, 329, 35 Stat. 1151; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; June 28, 1932, ch. 284, 47 Stat. 337).

Section consolidates said sections 548 and 549 of title 18, U.S.C., 1940 ed. Section 548 of said title covered 10 crimes. Section 549 of said title covered the same except robbery and incest.

The 1932 amendment of section 548 of title 18, U.S.C., 1940 ed., constituting the last paragraph of the section, is omitted and section 549 of said title to which it applied likewise is omitted. The revised section therefore suffices to cover prosecution of the specific offenses committed on all reservations as intended by Congress.

Words ''Indian country'' were substituted for language relating to jurisdiction extending to reservations and rights-of-way, in view of definitive section 1151 of this title.

Paul W. Hyatt, president, board of commissioners, Idaho State Bar, recommended that said section 548 be considered with other sections in title 25, Indians, U.S.C., 1940 ed., and revised to insure certainty as to questions of jurisdiction, and punishment on conviction. Insofar as the recommendation came within the scope of this revision, it was followed.

The proviso in said section 548 of title 18, U.S.C., 1940 ed., which provided that rape should be defined in accordance with the laws of the State in which the offense was committed, was changed to include burglary so as to clarify the punishment for that offense.

Venue provisions of said section 548 of title 18, U.S.C., 1940 ed., are incorporated in section 3242 of this title.

Section 549 of title 18, U.S.C., 1940 ed., conferred special jurisdiction on the United States District Court for South Dakota of all crimes of murder, manslaughter, rape, assault with intent to kill, assault with a dangerous weapon, arson, burglary, and larceny committed within the limits of any Indian reservation within the State, whether by or against Indians or non-Indians. The Act of February 2, 1903, 32 Stat. 793, from which said section 549 was derived, accepted the cession by South Dakota of such jurisdiction.

The effect of revised sections 1151, 1152, and 1153 of this title is to deprive the United States District Court for the District of South Dakota of jurisdiction of offenses on Indian reservations committed by non-Indians against non-Indians and to restore such jurisdiction to the courts of the State of South Dakota as in other States. This reflects the views of the United States attorney, George Philip, of the district of South Dakota.

Minor changes were made in translation and phraseology.

1949 ACT

This section [section 26] removes an ambiguity in section 1153 of title 18, U.S.C., by eliminating the provision that the crime of rape in the Indian country is to be punished in accordance with the law of the State where the offense was committed, leaving the definition of the offense to be determined by State law, but providing that punishment of rape of an Indian by an Indian is to be by imprisonment at the discretion of the court. The offense of rape, other than rape of an Indian by an Indian within the Indian country, is covered by section 2031 of title 18, U.S.C., and the offense of burglary by sections 1152 and 3242 of such title.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 substituted ''kidnapping'' for ''kidnaping'' and inserted ''(as defined in section 1365 of this title), an assault against an individual who has not attained the age of 16 years'' after ''serious bodily injury''.

1988—Subsec. (a). Pub. L. 100–690 substituted ''maiming, a felony under chapter 109A, incest'' for ''‘maiming’ and all that follows through ‘incest’'', thus clarifying execution of amendment by Pub. L. 99–646 and Pub. L. 99–654 but resulting in no change in text. See 1986 Amendment note below.

1986—Pub. L. 99–646 and Pub. L. 99–654 which directed that section be amended identically by substituting in first par. ''a felony under chapter 109A,'' for ''rape, involuntary sodomy, carnal knowledge of any female, not his wife, who has not attained the age of sixteen years, assault with intent to commit rape,'' and by striking out in second and third pars. '', involuntary sodomy,'' was executed by making the substitution in subsec. (a) for ''rape, involuntary sodomy, felonious sexual molestation of a minor, carnal knowledge of any female, not his wife, who has not attained the age of sixteen years, assault with intent to commit rape,'' to reflect the probable intent of Congress in view of prior amendment of this section by Pub. L. 99–303, but amendment to second and third pars. could not be executed because such pars. were struck out by Pub. L. 99–303.

Pub. L. 99–303 inserted section catchline which had been eliminated by general amendment by section 1009 of Pub. L. 98–473, designated first par. as subsec. (a) and inserted ''felonious sexual molestation of a minor,'', struck out second par. which provided that, as used in this section, the offenses of burglary, involuntary sodomy, and incest be defined and punished in accordance with the laws of the State in which such offense was committed as are in force at the time of such offense, and struck out third par. and restated the provisions thereof in a new subsec. (b), substituting ''Any offense referred to in subsection (a) of this section that is'' for ''In addition to the offenses of burglary, involuntary sodomy, and incest, any other of the above offenses which are''.

1984—Pub. L. 98–473 amended section generally, inserting offenses of maiming, involuntary sodomy and a felony committed under section 661 of this title and striking out reference to larceny in first par., and inserting '', involuntary sodomy,'' after ''burglary'' in third par.

1976—Pub. L. 94–297 made changes in phraseology, added offense of kidnapping to the enumerated list of offenses subjecting any Indian to the same laws and penalties as all other persons, struck out applicability to assault with a dangerous weapon and assault resulting in serious bodily injury from paragraph covering the offenses of burglary and incest only, and substituted paragraph, relating to offenses in addition to offenses of burglary and incest, for paragraph relating to offenses of rape and assault with intent to commit rape.

1968—Pub. L. 90–284 inserted offense of assault resulting in serious bodily injury.

1966—Pub. L. 89–707 inserted offenses of carnal knowledge and assault with intent to commit rape, defined and proscribed the punishment for assault with intent to commit rape in accordance with the laws of the State in which the offense was committed, and required assault with a dangerous weapon and incest to be defined and punished in accordance with the laws of the State in which the offense was committed.

1949—Act May 24, 1949, struck out provision that the crime of rape is to be punished in accordance with the law of the State where the offense was committed and in lieu inserted provision leaving punishment up to the discretion of the court.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendments by Pub. L. 99–646 and Pub. L. 99–654 effective, respectively, 30 days after Nov. 10, 1986, and 30 days after Nov. 14, 1986, see section 87(e) of Pub. L. 99–646 and section 4 of Pub. L. 99–654, set out as an Effective Date note under section 2241 of this title.

§ 1154. Intoxicants dispensed in Indian country

(a) Whoever sells, gives away, disposes of, exchanges, or barters any malt, spirituous, or vinous liquor, including beer, ale, and wine, or any ardent or other intoxicating liquor of any kind whatsoever, except for scientific, sacramental, medicinal or mechanical purposes, or any essence, extract, bitters, preparation, compound, composition, or any article whatsoever, under any name, label, or brand, which produces intoxication, to any Indian to whom an allotment of land has been made while the title to the same shall be held in trust by the Government, or to any Indian who is a ward of the Government under charge of any Indian superintendent, or to any Indian, including mixed bloods, over whom the Government, through its departments, exercises guardianship, and whoever introduces or attempts to introduce any malt, spirituous, or vinous liquor, including beer, ale, and wine, or any ardent or intoxicating liquor of any kind whatsoever into the Indian country, shall, for the first offense, be fined under this title or imprisoned not more than one year, or both; and, for each subsequent offense, be fined under this title or imprisoned not more than five years, or both.

(b) It shall be a sufficient defense to any charge of introducing or attempting to introduce ardent spirits, ale, beer, wine, or intoxicating liquors into the Indian country that the acts charged were done under authority, in writing, from the Department of the Army or any officer duly authorized thereunto by the Department of the Army, but this subsection shall not bar the prosecution of any officer, soldier, sutler or storekeeper, attaché, or employee of the Army of the United States who barters, donates, or furnishes in any manner whatsoever liquors, beer, or any intoxicating beverage whatsoever to any Indian.

(c) The term ''Indian country'' as used in this section does not include fee-patented lands in non-Indian communities or rights-of-way through Indian reservations, and this section does not apply to such lands or rights-of-way in the absence of a treaty or statute extending the Indian liquor laws thereto.

(June 25, 1948, ch. 645, 62 Stat. 758; May 24, 1949, ch. 139, § 27, 63 Stat. 94; Pub. L. 103–322, title XXXIII, § 330016(1)(G), (I), Sept. 13, 1994, 108 Stat. 2147.)

Historical and Revision Notes

1948 Act

Based on sections 241, 242, 244a, 249, 254 of title 25, U.S.C., 1940 ed., Indians (R.S. § 2139; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 244; July 4, 1884, ch. 180, § 1, 23 Stat. 94; July 23, 1892, ch. 234, 27 Stat. 260; Mar. 2, 1917, ch. 146, § 17, 39 Stat. 983; June 13, 1932, ch. 245, 47 Stat. 302; Mar. 5, 1934, ch. 43, 48 Stat. 396; June 27, 1934, ch. 846, 48 Stat. 1245; June 15, 1938, ch. 435, § 1, 52 Stat. 696).

Section consolidates sections 241, 242, 244a, and 249 of title 25, U.S.C., 1940 ed., Indians. The portion of section 241 of said title which defined the substantive offense became subsection (a); the portion relating to the scope of the term ''Indian country'' was omitted as unnecessary in view of definition of ''Indian country'' in section 1151 of this title; the portion of section 241 of said title excepting liquors introduced by the War Department became subsection (c), as limited by section 249 of said title; the portion respecting making complaint in county of offense, and with reference to arraignment, was omitted as covered by rule 5 of the Federal Rules of Criminal Procedure; and the remainder of section 241 of said title was incorporated in section 1156 of this title.

Section 254 of title 25, U.S.C., 1940 ed., Indians, was omitted as covered by this section and section 1156 of this title. That section was enacted in 1934 and excluded from the Indian liquor laws lands outside reservations where the land was no longer held by Indians under a trust patent or a deed or patent containing restrictions against alienation. Such enactment was prior to the June 15, 1938, amendment of section 241 of title 25, U.S.C., 1940 ed., Indians, in which the term ''Indian country'' was defined as including allotments where the title was held in trust by the Government or where it was inalienable without the consent of the United States. This provision, by implication, excluded cases where there was no trust or restriction on alienation and thereby achieved the same result as section 254 of title 25, U.S.C., 1940 ed., Indians. That amendment also repealed the act of Jan. 30, 1897, referred to in section 254 of title 25, U.S.C., 1940 ed., Indians. Insofar as the reference in section 254 of said title to ''special Indian liquor laws'' included section 244 of title 25, U.S.C., 1940 ed., Indians, the definition of Indian country in section 1151 of this title covers section 254 of title 25, U.S.C., 1940 ed., Indians.

Words ''or agent'' were deleted as there have been no Indian agents since 1908. See section 64 of title 25, U.S.C., 1940 ed., Indians, and note thereunder.

Mandatory punishment provisions were rephrased in the alternative and provision for commitment for nonpayment of fine was deleted. This change was also recommended by United States District Judge T. Blake Kennedy on the ground that, otherwise, section would be practically meaningless since, in most cases, offenders cannot pay a fine.

The exception of intoxicating liquor for scientific, sacramental, medicinal or mechanical purposes was inserted for the same reason that makes this exception appropriate to section 1262 of this title.

Minor changes were made in phraseology.

1949 Act

Subsection (a) of this section [section 27(a)] substitutes ''Department of the Army'' for ''War Department'', in subsection (b) of section 1154 of title 18, U.S.C., to conform to such redesignation by act July 26, 1947 (ch. 343, title 11, § 205(a), 61 Stat. 501 (5 U.S.C., 1946 ed., § 181–1)). Subsection (b) of this section [section 27(b)] adds subsection (c) to such section 1154 in order to conform it and section 1156 more closely to the laws relating to intoxicating liquor in the Indian country as they have heretofore been construed.

Amendments

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500'' after ''first offense, be'' and for ''fined not more than $2,000'' after ''subsequent offense, be''.

1949—Subsec. (b). Act May 24, 1949, § 27(a), substituted ''Department of the Army'' for ''War Department''.

Subsec. (c). Act May 24, 1949, § 27(b), added subsec. (c).

Transfer of Functions

Functions of all other officers of Department of the Interior and functions of all agencies and employees of such Department, with two exceptions, transferred to Secretary of the Interior, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1155. Intoxicants dispensed on school site

Whoever, on any tract of land in the former Indian country upon which is located any Indian

school maintained by or under the supervision of the United States, manufactures, sells, gives away, or in any manner, or by any means furnishes to anyone, either for himself or another, any vinous, malt, or fermented liquors, or any other intoxicating drinks of any kind whatsoever, except for scientific, sacramental, medicinal or mechanical purposes, whether medicated or not, or who carries, or in any manner has carried, into such area any such liquors or drinks, or who shall be interested in such manufacture, sale, giving away, furnishing to anyone, or carrying into such area any of such liquors or drinks, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 758; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on sections 241a, 244a, of title 25, U.S.C., 1940 ed., Indians (Mar. 1, 1895, ch. 145, § 8, 28 Stat. 697; Mar. 5, 1934, ch. 43, 48 Stat. 396.)

Section consolidates sections 241a and 244a of title 25, U.S.C., 1940 ed., Indians. The effect of section 244a of said title in repealing section 241a of said title, except as to lands upon which Indian schools are maintained, was to continue prohibiting the dispensing of liquor in such areas.

The words ''upon conviction thereof'' were omitted as unnecessary, since punishment cannot be imposed until a conviction is secured.

The minimum punishment provision was omitted to conform to the policy adopted in revision of the 1909 Criminal Code.

Mandatory punishment provision was rephrased in the alternative.

The exception of intoxicating liquor for scientific, sacramental, medicinal or mechanical purposes was inserted for the same reason that makes this exception appropriate to section 1262 of this title.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

§ 1156. Intoxicants possessed unlawfully

Whoever, except for scientific, sacramental, medicinal or mechanical purposes, possesses intoxicating liquors in the Indian country or where the introduction is prohibited by treaty or an Act of Congress, shall, for the first offense, be fined under this title or imprisoned not more than one year, or both; and, for each subsequent offense, be fined under this title or imprisoned not more than five years, or both.

The term ''Indian country'' as used in this section does not include fee-patented lands in non-Indian communities or rights-of-way through Indian reservations, and this section does not apply to such lands or rights-of-way in the absence of a treaty or statute extending the Indian liquor laws thereto.

(June 25, 1948, ch. 645, 62 Stat. 759; May 24, 1949, ch. 139, § 28, 63 Stat. 94; Pub. L. 103–322, title XXXIII, § 330016(1)(G), (I), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on sections 241, 244, 244a, 254 of title 25, U.S.C., 1940 ed., Indians (R.S. 2139; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 244; July 23, 1892, ch. 234, 27 Stat. 260; May 25, 1918, ch. 86, § 1, 40 Stat. 563; June 30, 1919, ch. 4, § 1, 41 Stat. 4; Mar. 5, 1934, ch. 43, 48 Stat. 396; June 27, 1934, ch. 846, 48 Stat. 1245; June 15, 1938, ch. 435, § 1, 52 Stat. 696).

The revision of section 244 of title 25, U.S.C., 1940 ed., Indians, conforms with the effect thereon of sections 241, 244a, and 254 of said title.

The provisions relating to scope of term ''Indian country'' were omitted as unnecessary in view of definition of ''Indian country'' in section 1151 of this title.

Mandatory punishment provisions were rephrased in the alternative and provision for commitment for nonpayment of fine was deleted. Such change was also recommended by United States District Judge T. Blake Kennedy. (See reviser's note under section 1154 of this title.)

The exception of intoxicating liquor for scientific, sacramental, medicinal or mechanical purposes was inserted for the same reason that makes this exception appropriate to section 1262 of this title.

Minor changes were made in phraseology.

1949 ACT

This section [section 28] adds to section 1156 of title 18, U.S.C., a paragraph to conform this section and section 1154 of such title more closely to the laws relating to intoxicating liquors in the Indian country as they have been heretofore construed.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500'' after ''first offense, be'' and for ''fined not more than $2,000'' after ''subsequent offense, be'' in first par.

1949—Act May 24, 1949, inserted last par.

[§ 1157. Repealed. Pub. L. 85–86, July 10, 1957, 71 Stat. 277]

Section, acts June 25, 1948, ch. 645, 62 Stat. 759; May 24, 1949, ch. 139, § 29, 63 Stat. 94; Aug. 15, 1953, ch. 506, § 2(a), 67 Stat. 590, prohibited purchase of Indian-owned livestock subject to unpaid loans from Federal revolving fund or from tribal loan funds.

§ 1158. Counterfeiting Indian Arts and Crafts Board trade mark

Whoever counterfeits or colorably imitates any Government trade mark used or devised by the Indian Arts and Crafts Board in the Department of the Interior as provided in section 305a of Title 25, or, except as authorized by the Board, affixes any such Government trade mark, or knowingly, willfully, and corruptly affixes any reproduction, counterfeit, copy, or colorable imitation thereof upon any products, or to any labels, signs, prints, packages, wrappers, or receptacles intended to be used upon or in connection with the sale of such products; or

Whoever knowingly makes any false statement for the purpose of obtaining the use of any such Government trade mark—

Shall (1) in the case of a first violation, if an individual, be fined under this title or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than $1,000,000; and (2) in the case of subsequent violations, if an individual, be fined not more than $1,000,000 or imprisoned not more than fifteen years, or both, and, if a person other than an individual, be fined not more than $5,000,000; and (3) shall be enjoined from further carrying on the act or acts complained of.

(June 25, 1948, ch. 645, 62 Stat. 759; Pub. L. 101–644, title I, § 106, Nov. 29, 1990, 104 Stat. 4665;

Pub. L. 103–322, title XXXIII, § 330016(1)(U), Sept. 13, 1994, 108 Stat. 2148.)

HISTORICAL AND REVISION NOTES

Based on section 305d of title 25, U.S.C., 1940 ed., Indians (Aug. 27, 1935, ch. 748, § 5, 49 Stat. 892).

The reference to the offense as a misdemeanor was omitted as unnecessary in view of the definition of misdemeanor in section 1 of this title.

The words ''upon conviction thereof'' were omitted as unnecessary, since punishment cannot be imposed until a conviction is secured.

Maximum fine was changed from $2,000 to $500 to bring the offense within the category of petty offenses defined by section 1 of this title. (See reviser's note under section 1157 of this title.)

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $250,000'' in third par.

1990—Pub. L. 101–644, in third par., added cls. (1) and (2), struck out ''be fined not more than $500 or imprisoned not more than six months, or both; and'' after ''Shall'', and designated remaining provision at end as cl. (3).

TRANSFER OF FUNCTIONS

Functions of all other officers of Department of the Interior and functions of all agencies and employees of such Department, with two exceptions, transferred to Secretary of the Interior, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 3 of 1950 §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1159. Misrepresentation of Indian produced goods and products

(a) It is unlawful to offer or display for sale or sell any good, with or without a Government trademark, in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or Indian arts and crafts organization, resident within the United States.

(b) Whoever knowingly violates subsection (a) shall—

(1) in the case of a first violation, if an individual, be fined not more than $250,000 or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than $1,000,000; and

(2) in the case of subsequent violations, if an individual, be fined not more than $1,000,000 or imprisoned not more than fifteen years, or both, and, if a person other than an individual, be fined not more than $5,000,000.

(c) As used in this section—

(1) the term ''Indian'' means any individual who is a member of an Indian tribe, or for the purposes of this section is certified as an Indian artisan by an Indian tribe;

(2) the terms ''Indian product'' and ''product of a particular Indian tribe or Indian arts and crafts organization'' has the meaning given such term in regulations which may be promulgated by the Secretary of the Interior;

(3) the term ''Indian tribe'' means—

(A) any Indian tribe, band, nation, Alaska Native village, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

(B) any Indian group that has been formally recognized as an Indian tribe by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority; and

(4) the term ''Indian arts and crafts organization'' means any legally established arts and crafts marketing organization composed of members of Indian tribes.

(d) In the event that any provision of this section is held invalid, it is the intent of Congress that the remaining provisions of this section shall continue in full force and effect.

(June 25, 1948, ch. 645, 62 Stat. 759; Pub. L. 101–644, title I, § 104(a), Nov. 29, 1990, 104 Stat. 4663.)

HISTORICAL AND REVISION NOTES

Based on section 305e of title 25, U.S.C., 1940 ed., Indians (Aug. 27, 1935, ch. 748, § 6, 49 Stat. 893).

The reference to the offense as a misdemeanor was omitted as unnecessary in view of the definition of misdemeanor in section 1 of this title.

The last paragraph of section 305e of title 25, U.S.C., 1940 ed., relating to duty of district attorney to prosecute violations of such section, will be incorporated in title 28, U.S. Code.

Maximum fine of $2,000 was changed to $500 to bring the offense within the category of petty offenses defined by section 1 of this title. (See reviser's note under section 1157 of this title.)

Minor changes were made in phraseology.

AMENDMENTS

1990—Pub. L. 101–644 substituted ''Misrepresentation of Indian produced goods and products'' for ''Misrepresentation in sale of products'' in section catchline and amended text generally. Prior to amendment, text read as follows: ''Whoever willfully offers or displays for sale any goods, with or without any Government trade mark, as Indian products or Indian products of a particular Indian tribe or group, resident within the United States or the Territory of Alaska, when such person knows such goods are not Indian products or are not Indian products of the particular Indian tribe or group, shall be fined not more than $500 or imprisoned not more than six months, or both.''

CERTIFICATION OF INDIAN ARTISANS

For purposes of this section, an Indian tribe may not impose fee to certify individual as Indian artisan, with ''Indian tribe'' having same meaning as in subsec. (c)(3) of this section, see section 107 of Pub. L. 101–644, set out as a note under section 305e of Title 25, Indians.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

§ 1160. Property damaged in committing offense

Whenever a non-Indian, in the commission of an offense within the Indian country takes, injures or destroys the property of any friendly Indian the judgment of conviction shall include a sentence that the defendant pay to the Indian owner a sum equal to twice the just value of the property so taken, injured, or destroyed.

If such offender shall be unable to pay a sum at least equal to the just value or amount, whatever such payment shall fall short of the same shall be paid out of the Treasury of the United States. If such offender cannot be apprehended and brought to trial, the amount of such property shall be paid out of the Treasury. But no Indian shall be entitled to any payment out of the Treasury of the United States, for any such property, if he, or any of the nation to which he belongs, have sought private revenge, or have attempted to obtain satisfaction by any force or violence.

(June 25, 1948, ch. 645, 62 Stat. 759; Pub. L. 103–322, title XXXIII, § 330004(9), Sept. 13, 1994, 108 Stat. 2141.)

HISTORICAL AND REVISION NOTES

Based on sections 227, 228 of title 25, U.S.C., 1940 ed., Indians (R.S. 2154, 2155).

Section consolidates said sections 227 and 228 of title 25, U.S.C., 1940 ed., Indians, with such changes in phraseology as were necessary to effect consolidation.

The phrase ''or whose person was injured,'' which followed the words ''friendly Indian to whom the property may belong,'' was deleted as meaningless.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''non-Indian'' for ''white person'' in first par.

§ 1161. Application of Indian liquor laws

The provisions of sections 1154, 1156, 3113, 3488, and 3669, of this title, shall not apply within any area that is not Indian country, nor to any act or transaction within any area of Indian country provided such act or transaction is in conformity both with the laws of the State in which such act or transaction occurs and with an ordinance duly adopted by the tribe having jurisdiction over such area of Indian country, certified by the Secretary of the Interior, and published in the Federal Register.

(Added Aug. 15, 1953, ch. 502, § 2, 67 Stat. 586; amended Pub. L. 98–473, title II, § 223(b), Oct. 12, 1984, 98 Stat. 2028.)

AMENDMENTS

1984—Pub. L. 98–473 substituted ''3669'' for ''3618''.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of this title.

§ 1162. State jurisdiction over offenses committed by or against Indians in the Indian country

(a) Each of the States or Territories listed in the following table shall have jurisdiction over offenses committed by or against Indians in the areas of Indian country listed opposite the name of the State or Territory to the same extent that such State or Territory has jurisdiction over offenses committed elsewhere within the State or Territory, and the criminal laws of such State or Territory shall have the same force and effect within such Indian country as they have elsewhere within the State or Territory:

State or Territory of	*Indian country affected*
Alaska	All Indian country within the State, except that on Annette Islands, the Metlakatla Indian community may exercise jurisdiction over offenses committed by Indians in the same manner in which such jurisdiction may be exercised by Indian tribes in Indian country over which State jurisdiction has not been extended.
California	All Indian country within the State.
Minnesota	All Indian country within the State, except the Red Lake Reservation.
Nebraska	All Indian country within the State.
Oregon	All Indian country within the State, except the Warm Springs Reservation.
Wisconsin	All Indian country within the State.

(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall deprive any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof.

(c) The provisions of sections 1152 and 1153 of this chapter shall not be applicable within the areas of Indian country listed in subsection (a) of this section as areas over which the several States have exclusive jurisdiction.

(Added Aug. 15, 1953, ch. 505, § 2, 67 Stat. 588; amended Aug. 24, 1954, ch. 910, § 1, 68 Stat. 795; Pub. L. 85–615, § 1, Aug. 8, 1958, 72 Stat. 545; Pub. L. 91–523, §§ 1, 2, Nov. 25, 1970, 84 Stat. 1358.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–523, § 1, substituted provisions relating to the jurisdiction of the State of Alaska over offenses by or against Indians in the Indian country, and certain excepted areas, for provisions relating to the jurisdiction of the Territory of Alaska over offenses by or against Indians in the Indian country.

Subsec. (c). Pub. L. 91–523, § 2, inserted ''as areas over which the several States have exclusive jurisdiction'' after ''subsection (a) of this section''.

1958—Subsec. (a). Pub. L. 85–615 gave Alaska jurisdiction over offenses committed by or against Indians in all Indian country within the Territory of Alaska.

1954—Subsec. (a). Act Aug. 24, 1954, brought the Menominee Tribe within the provisions of this section.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

§ 1163. Embezzlement and theft from Indian tribal organizations

Whoever embezzles, steals, knowingly converts to his use or the use of another, willfully misapplies, or willfully permits to be misapplied, any of the moneys, funds, credits, goods, assets, or other property belonging to any Indian tribal organization or intrusted to the custody or care of any officer, employee, or agent of an Indian tribal organization; or

Whoever, knowing any such moneys, funds, credits, goods, assets, or other property to have been so embezzled, stolen, converted, misapplied or permitted to be misapplied, receives, conceals, or retains the same with intent to convert it to his use or the use of another—

Shall be fined under this title, or imprisoned not more than five years, or both; but if the value of such property does not exceed the sum of $1,000, he shall be fined under this title, or imprisoned not more than one year, or both.

As used in this section, the term ''Indian tribal organization'' means any tribe, band, or community of Indians which is subject to the laws of the United States relating to Indian affairs or any corporation, association, or group which is organized under any of such laws.

(Added Aug. 1, 1956, ch. 822, § 2, 70 Stat. 792; amended Pub. L. 103–322, title XXXIII, § 330016(1)(H), (K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511.)

AMENDMENTS

1996—Pub. L. 104–294 substituted ''$1,000'' for ''$100'' in third par.

1994—Pub. L. 103–322, in third par., substituted ''fined under this title'' for ''fined not more than $5,000'' after ''Shall be'' and for ''fined not more than $1,000'' after ''he shall be''.

§ 1164. Destroying boundary and warning signs

Whoever willfully destroys, defaces, or removes any sign erected by an Indian tribe, or a Government agency (1) to indicate the boundary of an Indian reservation or of any Indian country as defined in section 1151 of this title or (2) to give notice that hunting, trapping, or fishing is not permitted thereon without lawful authority or permission, shall be fined under this title or imprisoned not more than six months, or both.

(Added Pub. L. 86–634, § 1, July 12, 1960, 74 Stat. 469; amended Pub. L. 103–322, title XXXIII, § 330016(1)(E), Sept. 13, 1994, 108 Stat. 2146.)

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $250''.

§ 1165. Hunting, trapping, or fishing on Indian land

Whoever, without lawful authority or permission, willfully and knowingly goes upon any land that belongs to any Indian or Indian tribe, band, or group and either are held by the United States in trust or are subject to a restriction against alienation imposed by the United States, or upon any lands of the United States that are reserved for Indian use, for the purpose of hunting, trapping, or fishing thereon, or for the removal of game, peltries, or fish therefrom, shall be fined under this title or imprisoned not more than ninety days, or both, and all game, fish, and peltries in his possession shall be forfeited.

(Added Pub. L. 86–634, § 2, July 12, 1960, 74 Stat. 469; amended Pub. L. 103–322, title XXXIII, § 330016(1)(D), Sept. 13, 1994, 108 Stat. 2146.)

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $200''.

§ 1166. Gambling in Indian country

(a) Subject to subsection (c), for purposes of Federal law, all State laws pertaining to the licensing, regulation, or prohibition of gambling, including but not limited to criminal sanctions applicable thereto, shall apply in Indian country in the same manner and to the same extent as such laws apply elsewhere in the State.

(b) Whoever in Indian country is guilty of any act or omission involving gambling, whether or not conducted or sanctioned by an Indian tribe, which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State in which the act or omission occurred, under the laws governing the licensing, regulation, or prohibition of gambling in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.

(c) For the purpose of this section, the term ''gambling'' does not include—

(1) class I gaming or class II gaming regulated by the Indian Gaming Regulatory Act, or

(2) class III gaming conducted under a Tribal-State compact approved by the Secretary of the Interior under section 11(d)(8) of the Indian Gaming Regulatory Act that is in effect.

(d) The United States shall have exclusive jurisdiction over criminal prosecutions of violations of State gambling laws that are made applicable under this section to Indian country, unless an Indian tribe pursuant to a Tribal-State compact approved by the Secretary of the Interior under section 11(d)(8) of the Indian Gaming Regulatory Act, or under any other provision of Federal law, has consented to the transfer to the State of criminal jurisdiction with respect to gambling on the lands of the Indian tribe.

(Added Pub. L. 100–497, § 23, Oct. 17, 1988, 102 Stat. 2487.)

REFERENCES IN TEXT

The Indian Gaming Regulatory Act, referred to in subsec. (c), is Pub. L. 100–497, Oct. 17, 1988, 102 Stat. 2467, which enacted sections 1166 to 1168 of this title and chapter 25 (§ 2701 et seq.) of Title 25, Indians. Section 11(d)(8) of such Act is classified to section 2710(d)(8) of Title 25. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of Title 25 and Tables.

§ 1167. Theft from gaming establishments on Indian lands

(a) Whoever abstracts, purloins, willfully misapplies, or takes and carries away with in-

tent to steal, any money, funds, or other property of a value of $1,000 or less belonging to an establishment operated by or for or licensed by an Indian tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission shall be fined under this title or be imprisoned for not more than one year, or both.

(b) Whoever abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any money, funds, or other property of a value in excess of $1,000 belonging to a gaming establishment operated by or for or licensed by an Indian tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission shall be fined under this title, or imprisoned for not more than ten years, or both.

(Added Pub. L. 100–497, § 23, Oct. 17, 1988, 102 Stat. 2487; amended Pub. L. 103–322, title XXXIII, § 330016(1)(S), (U), Sept. 13, 1994, 108 Stat. 2148.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322, § 330016(1)(S), substituted ''fined under this title'' for ''fined not more than $100,000''.

Subsec. (b). Pub. L. 103–322, § 330016(1)(U), substituted ''fined under this title'' for ''fined not more than $250,000''.

§ 1168. Theft by officers or employees of gaming establishments on Indian lands

(a) Whoever, being an officer, employee, or individual licensee of a gaming establishment operated by or for or licensed by an Indian tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission, embezzles, abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any moneys, funds, assets, or other property of such establishment of a value of $1,000 or less shall be fined not more than $250,000 or imprisoned not more than five years, or both;

(b) Whoever, being an officer, employee, or individual licensee of a gaming establishment operated by or for or licensed by an Indian tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission, embezzles, abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any moneys, funds, assets, or other property of such establishment of a value in excess of $1,000 shall be fined not more than $1,000,000 or imprisoned for not more than twenty years, or both.

(Added Pub. L. 100–497, § 23, Oct. 17, 1988, 102 Stat. 2487; amended Pub. L. 101–647, title XXXV, § 3537, Nov. 29, 1990, 104 Stat. 4925.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–647 substituted ''or imprisoned'' for ''and be imprisoned for''.

§ 1169. Reporting of child abuse

(a) Any person who—

(1) is a—

(A) physician, surgeon, dentist, podiatrist, chiropractor, nurse, dental hygienist, optometrist, medical examiner, emergency medical technician, paramedic, or health care provider,

(B) teacher, school counselor, instructional aide, teacher's aide, teacher's assistant, or bus driver employed by any tribal, Federal, public or private school,

(C) administrative officer, supervisor of child welfare and attendance, or truancy officer of any tribal, Federal, public or private school,

(D) child day care worker, headstart teacher, public assistance worker, worker in a group home or residential or day care facility, or social worker,

(E) psychiatrist, psychologist, or psychological assistant,

(F) licensed or unlicensed marriage, family, or child counselor,

(G) person employed in the mental health profession, or

(H) law enforcement officer, probation officer, worker in a juvenile rehabilitation or detention facility, or person employed in a public agency who is responsible for enforcing statutes and judicial orders;

(2) knows, or has reasonable suspicion, that—

(A) a child was abused in Indian country, or

(B) actions are being taken, or are going to be taken, that would reasonably be expected to result in abuse of a child in Indian country; and

(3) fails to immediately report such abuse or actions described in paragraph (2) to the local child protective services agency or local law enforcement agency,

shall be fined under this title or imprisoned for not more than 6 months or both.

(b) Any person who—

(1) supervises, or has authority over, a person described in subsection (a)(1), and

(2) inhibits or prevents that person from making the report described in subsection (a),

shall be fined under this title or imprisoned for not more than 6 months or both.

(c) For purposes of this section, the term—

(1) ''abuse'' includes—

(A) any case in which—

(i) a child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, and

(ii) such condition is not justifiably explained or may not be the product of an accidental occurrence; and

(B) any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution;

(2) ''child'' means an individual who—

(A) is not married, and

(B) has not attained 18 years of age;

(3) ''local child protective services agency'' means that agency of the Federal Government, of a State, or of an Indian tribe that has the primary responsibility for child protection on any Indian reservation or within any community in Indian country; and

(4) ''local law enforcement agency'' means that Federal, tribal, or State law enforcement

agency that has the primary responsibility for the investigation of an instance of alleged child abuse within the portion of Indian country involved.

(d) Any person making a report described in subsection (a) which is based upon their reasonable belief and which is made in good faith shall be immune from civil or criminal liability for making that report.

(Added Pub. L. 101–630, title IV, § 404(a)(1), Nov. 28, 1990, 104 Stat. 4547; amended Pub. L. 103–322, title XXXIII, §§ 330011(d), 330016(1)(K), Sept. 13, 1994, 108 Stat. 2144, 2147; Pub. L. 104–294, title VI, § 604(b)(25), Oct. 11, 1996, 110 Stat. 3508.)

AMENDMENTS

1996—Pub. L. 104–294 amended directory language of Pub. L. 103–322, § 330011(d). See 1994 Amendment note below.

1994—Pub. L. 103–322, § 330011(d), as amended by Pub. L. 104–294, amended directory language of Pub. L. 101–630, § 404(a)(1), which enacted this section.

Subsecs. (a), (b). Pub. L. 103–322, § 330016(1)(K), substituted ''fined under this title'' for ''fined not more than $5,000'' in concluding provisions.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 330011(d) of Pub. L. 103–322, as amended by Pub. L. 104–294, § 604(b)(25), provided that the amendment made by that section is effective on the date section 404(a) of Pub. L. 101–630 took effect.

§ 1170. Illegal trafficking in Native American human remains and cultural items

(a) Whoever knowingly sells, purchases, uses for profit, or transports for sale or profit, the human remains of a Native American without the right of possession to those remains as provided in the Native American Graves Protection and Repatriation Act shall be fined in accordance with this title, or imprisoned not more than 12 months, or both, and in the case of a second or subsequent violation, be fined in accordance with this title, or imprisoned not more than 5 years, or both.

(b) Whoever knowingly sells, purchases, uses for profit, or transports for sale or profit any Native American cultural items obtained in violation of the Native American Grave Protection and Repatriation Act shall be fined in accordance with this title, imprisoned not more than one year, or both, and in the case of a second or subsequent violation, be fined in accordance with this title, imprisoned not more than 5 years, or both.

(Added Pub. L. 101–601, § 4(a), Nov. 16, 1990, 104 Stat. 3052; amended Pub. L. 103–322, title XXXIII, § 330010(4), Sept. 13, 1994, 108 Stat. 2143.)

REFERENCES IN TEXT

The Native American Graves Protection and Repatriation Act, referred to in text, is Pub. L. 101–601, Nov. 16, 1990, 104 Stat. 3048, which is classified principally to chapter 32 (§ 3001 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 25 and Tables.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''Illegal trafficking in Native American human remains and cultural items'' for ''Illegal Trafficking in Native American Human Remains and Cultural Items'' in section catchline.

CHAPTER 55—KIDNAPPING

Sec.
1201. Kidnapping.
1202. Ransom money.
1203. Hostage taking.
1204. International parental kidnapping.

AMENDMENTS

1994—Pub. L. 103–322, title XXXIII, § 330021(1), Sept. 13, 1994, 108 Stat. 2150, which directed the amendment of this title by ''striking 'kidnaping' each place it appears and inserting 'kidnapping' '', was executed by substituting ''KIDNAPPING'' for ''KIDNAPING'' in chapter heading and ''Kidnapping'' for ''Kidnaping'' in item 1201, to reflect the probable intent of Congress.

1993—Pub. L. 103–173, § 2(c), Dec. 2, 1993, 107 Stat. 1999, added item 1204.

1984—Pub. L. 98–473, title II, § 2002(b), Oct. 12, 1984, 98 Stat. 2186, added item 1203.

1972—Pub. L. 92–539, title II, § 202, Oct. 24, 1972, 86 Stat. 1072, substituted ''Kidnaping'' for ''Transportation'' in item 1201.

§ 1201. Kidnapping

(a) Whoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds for ransom or reward or otherwise any person, except in the case of a minor by the parent thereof, when—

(1) the person is willfully transported in interstate or foreign commerce, regardless of whether the person was alive when transported across a State boundary if the person was alive when the transportation began;

(2) any such act against the person is done within the special maritime and territorial jurisdiction of the United States;

(3) any such act against the person is done within the special aircraft jurisdiction of the United States as defined in section 46501 of title 49;

(4) the person is a foreign official, an internationally protected person, or an official guest as those terms are defined in section 1116(b) of this title; or

(5) the person is among those officers and employees described in section 1114 of this title and any such act against the person is done while the person is engaged in, or on account of, the performance of official duties,

shall be punished by imprisonment for any term of years or for life and, if the death of any person results, shall be punished by death or life imprisonment.

(b) With respect to subsection (a)(1), above, the failure to release the victim within twenty-four hours after he shall have been unlawfully seized, confined, inveigled, decoyed, kidnapped, abducted, or carried away shall create a rebuttable presumption that such person has been transported to interstate or foreign commerce. Notwithstanding the preceding sentence, the fact that the presumption under this section has not yet taken effect does not preclude a Federal investigation of a possible violation of this section before the 24-hour period has ended.

(c) If two or more persons conspire to violate this section and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life.

(d) Whoever attempts to violate subsection (a) shall be punished by imprisonment for not more than twenty years.

(e) If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 46501(2) of title 49. For purposes of this subsection, the term ''national of the United States'' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(f) In the course of enforcement of subsection (a)(4) and any other sections prohibiting a conspiracy or attempt to violate subsection (a)(4), the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

(g) SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING CHILDREN.—

(1) TO WHOM APPLICABLE.—If—

(A) the victim of an offense under this section has not attained the age of eighteen years; and

(B) the offender—

(i) has attained such age; and

(ii) is not—

(I) a parent;

(II) a grandparent;

(III) a brother;

(IV) a sister;

(V) an aunt;

(VI) an uncle; or

(VII) an individual having legal custody of the victim;

the sentence under this section for such offense shall include imprisonment for not less than 20 years.

[(2) Repealed. Pub. L. 108–21, title I, § 104(b), Apr. 30, 2003, 117 Stat. 653.]

(h) As used in this section, the term ''parent'' does not include a person whose parental rights with respect to the victim of an offense under this section have been terminated by a final court order.

(June 25, 1948, ch. 645, 62 Stat. 760; Aug. 6, 1956, ch. 971, 70 Stat. 1043; Pub. L. 92–539, title II, § 201, Oct. 24, 1972, 86 Stat. 1072; Pub. L. 94–467, § 4, Oct. 8, 1976, 90 Stat. 1998; Pub. L. 95–163, § 17(b)(1), Nov. 9, 1977, 91 Stat. 1286; Pub. L. 95–504, § 2(b), Oct. 24, 1978, 92 Stat. 1705; Pub. L. 98–473, title II, § 1007, Oct. 12, 1984, 98 Stat. 2139; Pub. L. 99–646, §§ 36, 37(b), Nov. 10, 1986, 100 Stat. 3599; Pub. L. 101–647, title IV, § 401, title XXXV, § 3538, Nov. 29, 1990, 104 Stat. 4819, 4925; Pub. L. 103–272, § 5(e)(2), (8), July 5, 1994, 108 Stat. 1373, 1374; Pub. L. 103–322, title VI, § 60003(a)(6), title XXXII, §§ 320903(b), 320924, title XXXIII, § 330021, Sept. 13, 1994, 108 Stat. 1969, 2124, 2131, 2150; Pub. L. 104–132, title VII, § 721(f), Apr. 24, 1996, 110 Stat. 1299; Pub. L. 105–314, title VII, § 702, Oct. 30, 1998, 112 Stat. 2987; Pub. L. 108–21, title I, § 104(b), Apr. 30, 2003, 117 Stat. 653.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 408a, 408c (June 22, 1932, ch. 271, §§ 1, 3, 47 Stat. 326; May 18, 1934, ch. 301, 48 Stat. 781, 782).

Section consolidates sections 408a and 408c of title 18 U.S.C., 1940 ed.

Reference to persons aiding, abetting or causing was omitted as unnecessary because such persons are made principals by section 22 of this title.

Words ''upon conviction'' were omitted as surplusage, because punishment cannot be imposed until a conviction is secured.

Direction as to confinement ''in the penitentiary'' was omitted because of section 4082 of this title which commits all prisoners to the custody of the Attorney General. (See reviser's note under section 1 of this title.)

The phrase ''for any term of years or for life'' was substituted for the words ''for such term of years as the court in its discretion shall determine'' which appeared in said section 408a of Title 18, U.S.C., 1940 ed. This change was made in order to remove all doubt as to whether ''term of years'' includes life imprisonment.

Minor changes were made in phraseology.

AMENDMENTS

2003—Subsec. (g). Pub. L. 108–21 substituted ''shall include imprisonment for not less than 20 years.'' for ''shall be subject to paragraph (2) of this subsection.'' in concluding provisions of par. (1) and struck out par. (2) which read as follows:

''(2) GUIDELINES.—The United States Sentencing Commission is directed to amend the existing guidelines for the offense of 'kidnapping, abduction, or unlawful restraint,' by including the following additional specific offense characteristics: If the victim was intentionally maltreated (i.e., denied either food or medical care) to a life-threatening degree, increase by 4 levels; if the victim was sexually exploited (i.e., abused, used involuntarily for pornographic purposes) increase by 3 levels; if the victim was placed in the care or custody of another person who does not have a legal right to such care or custody of the child either in exchange for money or other consideration, increase by 3 levels; if the defendant allowed the child to be subjected to any of the conduct specified in this section by another person, then increase by 2 levels.''

1998—Subsec. (a)(1). Pub. L. 105–314, § 702(a), inserted '', regardless of whether the person was alive when transported across a State boundary if the person was alive when the transportation began'' before semicolon at end.

Subsec. (a)(5). Pub. L. 105–314, § 702(b), substituted ''described'' for ''designated''.

Subsec. (b). Pub. L. 105–314, § 702(c), inserted at end ''Notwithstanding the preceding sentence, the fact that the presumption under this section has not yet taken effect does not preclude a Federal investigation of a possible violation of this section before the 24-hour period has ended.''

1996—Subsec. (e). Pub. L. 104–132 substituted ''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.'' for ''If the victim of an offense under subsection (a) is an internation-

ally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender.'' and inserted at end ''For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''

1994—Pub. L. 103–322, § 330021(1), which directed the amendment of this title ''by striking 'kidnaping' each place it appears and inserting 'kidnapping' '', was executed by substituting ''Kidnapping'' for ''Kidnaping'' as section catchline, to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 103–322, § 60003(a)(6), in concluding provisions, inserted ''and, if the death of any person results, shall be punished by death or life imprisonment'' after ''or for life''.

Subsec. (a)(3). Pub. L. 103–272, § 5(e)(8), substituted ''section 46501 of title 49'' for ''section 101(38) of the Federal Aviation Act of 1958''.

Subsec. (b). Pub. L. 103–322, § 330021(2), substituted ''kidnapped'' for ''kidnaped''.

Subsec. (d). Pub. L. 103–322, § 320903(b), substituted ''(a)'' for ''(a)(4) or (a)(5)''.

Subsec. (e). Pub. L. 103–272, § 5(e)(2), substituted ''section 46501(2) of title 49'' for ''section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(38))''.

Subsec. (h). Pub. L. 103–322, § 320924, added subsec. (h).

1990—Subsec. (a)(3). Pub. L. 101–647, § 3538, substituted ''101(38)'' for ''101(36)'' and struck out '', as amended (49 U.S.C. 1301(36))'' after ''Federal Aviation Act of 1958''.

Subsec. (g). Pub. L. 101–647, § 401, added subsec. (g).

1986—Subsec. (a). Pub. L. 99–646, § 36, substituted ''when—'' for ''when:'' in introductory text, substituted ''the person'' for ''The person'' and ''official duties'' for ''his official duties'' in par. (5), and aligned the margin of par. (5) with the margins of pars. (1) to (4).

Subsec. (d). Pub. L. 99–646, § 37(b), inserted ''or (a)(5)'' after ''subsection (a)(4)''.

1984—Subsec. (a)(5). Pub. L. 98–473 added par. (5).

1978—Subsec. (a)(3). Pub. L. 95–504 substituted reference to section 101(36) of the Federal Aviation Act of 1958 for reference to section 101(33) of such Act. See References in Text note above.

Subsec. (e). Pub. L. 95–504 substituted reference to section 101(38) of the Federal Aviation Act of 1958 for section 101(35) of such Act.

1977—Subsec. (a)(3). Pub. L. 95–163 substituted reference to section 101(33) of the Federal Aviation Act of 1958 for reference to section 101(32) of such Act. See References in Text note above.

Subsec. (e). Pub. L. 95–163 substituted reference to section 101(35) of the Federal Aviation Act of 1958 for reference to section 101(34) of such Act.

1976—Subsec. (a)(4). Pub. L. 94–467, § 4(a), substituted provision which includes acts committed against an internationally protected person and an official guest as defined in section 1116(b) of this title for provision which included acts committed against an official guest as defined in section 1116(c) of this title.

Subsecs. (d) to (f). Pub. L. 94–467, § 4(b), added subsecs. (d) to (f).

1972—Subsec. (a). Pub. L. 92–539 substituted ''Kidnaping'' for ''Transportation'' in section catchline and, in subsec. (a), extended the jurisdictional base to include acts committed within the special maritime, territorial, and aircraft jurisdiction of the United States, and to include acts committed against foreign officials and official guests, and struck out provisions relating to death penalty.

Subsec. (b). Pub. L. 92–539 inserted reference to subsec. (a)(1).

Subsec. (c). Pub. L. 92–539 substituted ''by imprisonment for any term of years or for life'' for ''as provided in subsection (a)''.

1956—Subsec. (b). Act Aug. 6, 1956, substituted ''twenty-four hours'' for ''seven days''.

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–173, § 1, Dec. 2, 1993, 107 Stat. 1998, provided that: ''This Act [enacting section 1204 of this title and provisions set out as a note under section 1204 of this title] may be cited as the 'International Parental Kidnapping Crime Act of 1993'.''

SHORT TITLE OF 1984 AMENDMENT

Section 2001 of part A (§§ 2001–2003) of chapter XX of title II of Pub. L. 98–473 provided that: ''This part [enacting section 1203 of this title and provisions set out as a note under section 1203 of this title] may be cited as the 'Act for the Prevention and Punishment of the Crime of Hostage-Taking'.''

§ 1202. Ransom money

(a) Whoever receives, possesses, or disposes of any money or other property, or any portion thereof, which has at any time been delivered as ransom or reward in connection with a violation of section 1201 of this title, knowing the same to be money or property which has been at any time delivered as such ransom or reward, shall be fined under this title or imprisoned not more than ten years, or both.

(b) A person who transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than 1 year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a State or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.

(c) For purposes of this section, the term ''State'' has the meaning set forth in section 245(d) of this title.

(June 25, 1948, ch. 645, 62 Stat. 760; Pub. L. 103–322, title XXXII, § 320601(b), title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2115, 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 408c–1 (June 22, 1932, ch. 271, § 4, as added Jan. 24, 1936, ch. 29, 49 Stat. 1099).

Words ''in the penitentiary'' after ''imprisoned'' were omitted in view of section 4082 of this title committing prisoners to the custody of the Attorney General. (See reviser's note under section 1 of this title.)

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322, § 320601(b), designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

Subsec. (a). Pub. L. 103–322, § 330016(1)(L), substituted ''fined under this title'' for ''fined not more than $10,000''.

§ 1203. Hostage taking

(a) Except as provided in subsection (b) of this section, whoever, whether inside or outside the United States, seizes or detains and threatens to kill, to injure, or to continue to detain another person in order to compel a third person or a governmental organization to do or abstain from doing any act as an explicit or implicit condition for the release of the person detained, or attempts or conspires to do so, shall be punished by imprisonment for any term of years or for life and, if the death of any person results, shall be punished by death or life imprisonment.

(b)(1) It is not an offense under this section if the conduct required for the offense occurred outside the United States unless—

(A) the offender or the person seized or detained is a national of the United States;

(B) the offender is found in the United States; or

(C) the governmental organization sought to be compelled is the Government of the United States.

(2) It is not an offense under this section if the conduct required for the offense occurred inside the United States, each alleged offender and each person seized or detained are nationals of the United States, and each alleged offender is found in the United States, unless the governmental organization sought to be compelled is the Government of the United States.

(c) As used in this section, the term ''national of the United States'' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(Added Pub. L. 98–473, title II, § 2002(a), Oct. 12, 1984, 98 Stat. 2186; amended Pub. L. 100–690, title VII, § 7028, Nov. 18, 1988, 102 Stat. 4397; Pub. L. 103–322, title VI, § 60003(a)(10), Sept. 13, 1994, 108 Stat. 1969; Pub. L. 104–132, title VII, § 723(a)(1), Apr. 24, 1996, 110 Stat. 1300.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–132 inserted ''or conspires'' after ''attempts''.

1994—Subsec. (a). Pub. L. 103–322 inserted before period at end ''and, if the death of any person results, shall be punished by death or life imprisonment''.

1988—Subsec. (c). Pub. L. 100–690 substituted ''(c) As'' for ''(C) As''.

EFFECTIVE DATE

Section 2003 of part A (§§ 2001–2003) of chapter XX of title II of Pub. L. 98–473 provided that: ''This part and the amendments made by this part [enacting this section and provisions set out as a note under section 1201 of this title] shall take effect on the later of—

''(1) the date of the enactment of this joint resolution [Oct. 12, 1984]; or

''(2) the date the International Convention Against the Taking of Hostages has come into force and the United States has become a party to that convention [the convention entered into force June 6, 1983; and entered into force for the United States Jan. 6, 1985].''

§ 1204. International parental kidnapping

(a) Whoever removes a child from the United States, or attempts to do so, or retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title or imprisoned not more than 3 years, or both.

(b) As used in this section—

(1) the term ''child'' means a person who has not attained the age of 16 years; and

(2) the term ''parental rights'', with respect to a child, means the right to physical custody of the child—

(A) whether joint or sole (and includes visiting rights); and

(B) whether arising by operation of law, court order, or legally binding agreement of the parties.

(c) It shall be an affirmative defense under this section that—

(1) the defendant acted within the provisions of a valid court order granting the defendant legal custody or visitation rights and that order was obtained pursuant to the Uniform Child Custody Jurisdiction Act or the Uniform Child Custody Jurisdiction and Enforcement Act and was in effect at the time of the offense;

(2) the defendant was fleeing an incidence or pattern of domestic violence; or

(3) the defendant had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond the defendant's control, and the defendant notified or made reasonable attempts to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible.

(d) This section does not detract from The Hague Convention on the Civil Aspects of International Parental Child Abduction, done at The Hague on October 25, 1980.

(Added Pub. L. 103–173, § 2(a), Dec. 2, 1993, 107 Stat. 1998; amended Pub. L. 108–21, title I, § 107, Apr. 30, 2003, 117 Stat. 655.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–21, § 107(1), inserted '', or attempts to do so,'' before ''or retains''.

Subsec. (c)(1). Pub. L. 108–21, § 107(2)(A), inserted ''or the Uniform Child Custody Jurisdiction and Enforcement Act'' before ''and was''.

Subsec. (c)(2). Pub. L. 108–21, § 107(2)(B), inserted ''or'' after semicolon at end.

SENSE OF CONGRESS REGARDING USE OF PROCEDURES UNDER THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL PARENTAL CHILD ABDUCTION

Section 2(b) of Pub. L. 103–173 provided that: ''It is the sense of the Congress that, inasmuch as use of the procedures under the Hague Convention on the Civil Aspects of International Parental Child Abduction has resulted in the return of many children, those procedures, in circumstances in which they are applicable, should be the option of first choice for a parent who seeks the return of a child who has been removed from the parent.''

CHAPTER 57—LABOR

Sec.
1231. Transportation of strikebreakers.
[1232. Repealed.]

AMENDMENTS

1990—Pub. L. 101–647, title XXXV, § 3539, Nov. 29, 1990, 104 Stat. 4925, struck out item 1232 ''Enticement of workman from armory or arsenal''.

§ 1231. Transportation of strikebreakers

Whoever willfully transports in interstate or foreign commerce any person who is employed or is to be employed for the purpose of obstructing or interfering by force or threats with (1) peaceful picketing by employees during any labor controversy affecting wages, hours, or conditions of labor, or (2) the exercise by employees of any of the rights of self-organization or collective bargaining; or

Whoever is knowingly transported or travels in interstate or foreign commerce for any of the purposes enumerated in this section—

Shall be fined under this title or imprisoned not more than two years, or both.

This section shall not apply to common carriers.

(June 25, 1948, ch. 645, 62 Stat. 760; May 24, 1949, ch. 139, § 30, 63 Stat. 94; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., § 407a (June 24, 1936, ch. 746, 49 Stat. 1899; June 29, 1938, ch. 813, 52 Stat. 1242).

Language designating offense as felony was omitted in uniformity with definitive section 1 of this title. (See reviser's note under section 550 of this title.)

Words ''and shall, upon conviction'' were omitted as surplusage since punishment cannot be imposed until a conviction is secured.

Reference to persons aiding, abetting or causing was omitted as such persons are made principals by section 2 of this title.

Changes were made in phraseology and arrangement, but without change of substance.

1949 ACT

This section [section 30] corrects a typographical error in section 1231 of title 18, U.S.C.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in third par.

1949—Act May 24, 1949, substituted ''or travels in'' for ''in or travels'' in second par.

[§ 1232. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641]

Section, act June 25, 1948, ch. 645, 62 Stat. 761, prohibited enticement of workman from armory or arsenal.

CHAPTER 59—LIQUOR TRAFFIC

Sec.
1261. Enforcement, regulations, and scope.
1262. Transportation into State prohibiting sale.
1263. Marks and labels on packages.
1264. Delivery to consignee.
1265. C.O.D. shipments prohibited.

§ 1261. Enforcement, regulations, and scope

(a)[1] The Attorney General—

(1) shall enforce the provisions of this chapter; and

(2) has the authority to issue regulations to carry out the provisions of this chapter.

(June 25, 1948, ch. 645, 62 Stat. 761; May 24, 1949, ch. 139, § 31, 63 Stat. 94; Pub. L. 107–273, div. B, title IV, § 4004(b), Nov. 2, 2002, 116 Stat. 1812; Pub. L. 107–296, title XI, § 1112(g), Nov. 25, 2002, 116 Stat. 2276.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on sections 222, 223(b), 225 and 226 of title 27, U.S.C., 1940 ed., Intoxicating Liquors (June 25, 1936, ch. 815, §§ 5, 10, 49 Stat. 1929, 1930).

Changes were made in phraseology and arrangement.

1949 ACT

This section [section 31] corrects a typographical error in section 1261 of title 18, U.S.C.

[1] So in original. There is no subsec. (b).

AMENDMENTS

2002—Pub. L. 107–296, which directed amendment of subsec. (a) generally, was executed by amending text of section generally to reflect the probable intent of Congress and the amendment by Pub. L. 107–273, see below. Prior to amendment, text read as follows: ''The Secretary of the Treasury shall enforce the provisions of this chapter. Regulations to carry out its provisions shall be prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury.''

Pub. L. 107–273 struck out subsec. (a) designation and subsec. (b) which read as follows: ''This chapter shall not apply to the Canal Zone.''.

1949—Subsec. (b). Act May 24, 1949, substituted subsection designation ''(b)'' for ''(d)''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

§ 1262. Transportation into State prohibiting sale

Whoever imports, brings, or transports any intoxicating liquor into any State, Territory, District, or Possession in which all sales, except for scientific, sacramental, medicinal, or mechanical purposes, of intoxicating liquor containing more than 4 per centum of alcohol by volume or 3.2 per centum of alcohol by weight are prohibited, otherwise than in the course of continuous interstate transportation through such State, Territory, District, or Possession or attempts so to do, or assists in so doing,

Shall (1) If such liquor is not accompanied by such permits, or licenses therefor as may be required by the laws of such State, Territory, District, or Possession or (2) if all importation, bringing, or transportation of intoxicating liquor into such State, Territory, District, or Possession is prohibited by the laws thereof, be fined under this title or imprisoned not more than one year, or both.

In the enforcement of this section, the definition of intoxicating liquor contained in the laws of the respective States, Territories, Districts, or Possessions shall be applied, but only to the extent that sales of such intoxicating liquor (except for scientific, sacramental, medicinal, and mechanical purposes) are prohibited therein.

(June 25, 1948, ch. 645, 62 Stat. 761; May 24, 1949, ch. 139, § 32, 63 Stat. 94; Pub. L. 101–647, title XXXV, § 3540, Nov. 29, 1990, 104 Stat. 4925; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on sections 222, 223 of title 27, U.S.C., 1940 ed., Intoxicating Liquors (June 25, 1936, ch. 815, §§ 2, 3, 49 Stat. 1928).

Section consolidates subsection (a) of section 222 with section 223, of title 27, U.S.C., 1940 ed.

Words ''or 3.2 per centum of alcohol by weight'' were inserted after ''volume.'' Such words conform with *Flippin v. U.S.* (1941, 121 F. 2d 742, 744, certiorari denied, 62 S. Ct. 184, 314 U.S. 677, 86 L. Ed. 542); *Robason v. U.S.* (1941, 122 F. 2d 991); *Dolloff v. U.S.* (1941, 121 F. 2d 157, certiorari denied, 62 S. Ct. 108, 314 U.S. 626, 86 L. Ed. 503, rehearing denied, 62 S. Ct. 178, 314 U.S. 710, 86 L. Ed. 566); and *Tucker v. U.S.* (1941, 123 F. 2d 280).

Those cases overruled *Arnold v. U.S.* (1940, 115 F. 2d 523) and Gregg v. U.S. (1940, 116 F. 2d 609) and estab-

lished that preservation of the congressional intent which requires addition of the inserted language.

Subsection (b) of section 223 of title 27, U.S.C., 1940 ed., has been reworded to apply the definition of intoxicating liquor contained in the laws of the respective States to this section only, in accordance with administrative interpretation. Said section 223 was derived from section 3 of the Liquor Enforcement Act of 1936 (Act June 25, 1936, ch. 815, 49 Stat. 1928), which was enacted for the protection of dry States. As originally enacted, its provisions relating to such definition also embraced the interstate commerce liquor laws from which sections 1263–1265 of this title were derived. In the enforcement of the latter, however, their own definitions have been applied and not the definitions of the States into which or through which the liquor was shipped.

Words ''Territory, District, or Possession'' were inserted after ''State'', to conform with the definition of ''State'' given in said section 222 of title 27, U.S.C., 1940 ed. Such section, including subsection (b) thereof, is also incorporated in section 3615 of this title.

Words ''be guilty of a misdemeanor and shall'' were omitted in view of definitive section 1 of this title.

Minor changes were made throughout in arrangement and phraseology.

1949 ACT

This section [section 32] corrects a typographical error in section 1262 of title 18, U.S.C.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000'' in second par.

1990—Pub. L. 101–647 substituted ''State'' for ''state'' in section catchline.

1949—Act May 24, 1949, substituted ''Districts'' for ''District'' in last par.

§ 1263. Marks and labels on packages

Whoever knowingly ships into any place within the United States any package containing any spirituous, vinous, malted, or other fermented liquor, or any compound containing any spirituous, vinous, malted, or other fermented liquor fit for use for beverage purposes, unless such shipment is accompanied by copy of a bill of lading, or other document showing the name of the consignee, the nature of its contents, and the quantity contained therein, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 761; Pub. L. 90–518, § 1, Sept. 26, 1968, 82 Stat. 872; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 390 (Mar. 4, 1909, ch. 321, § 240, 35 Stat. 1137; June 25, 1936, ch. 815, § 8, 49 Stat. 1930.)

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

References to Territory, District, etc., were revised and same changes made as in section 1264 of this title.

The provision that ''such liquor shall be forfeited to the United States'' was omitted as covered by section 3615 of this title, which was derived from section 224 of title 27, U.S.C., 1940 ed., Intoxicating Liquors.

The provision that such liquor ''may be seized and condemned by like proceedings as those provided by law for the seizure and forfeiture of property imported into the United States contrary to law'' was likewise omitted as covered by section 3615 of this title, which provides for seizure and forfeiture under the internal revenue laws rather than under provisions of law ''for the seizure and forfeiture of property imported into the United States contrary to law'' or, in other words, rather than under the customs laws. Section 224 of title 27, U.S.C., 1940 ed., Intoxicating Liquors, on which said section 3615 of this title is based, was derived from the Liquor Enforcement Act of 1936 (Act June 25, 1936, ch. 815, 49 Stat. 1928). Said section 224 included, in its coverage, section 390 of title 18, U.S.C., 1940 ed., on which this revised section is based, even though the Liquor Enforcement Act of 1936, in another section thereof, in amending said section 390, retained the provision that seizures and forfeitures thereunder should be under the customs laws. By eliminating this conflicting provision, a uniform procedure for seizures and forfeitures, under the internal revenue laws, is established under said section 3615 of this title.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

1968—Pub. L. 90–518 struck out ''of or package'' after ''any package'' and substituted ''shipment is accompanied by copy of a bill of lading, or other document showing'' for ''package is so labeled on the outside cover as to plainly show''.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 3 of Pub. L. 90–518 provided that: ''This Act [amending this section] shall become effective ninety days after the date of its enactment [Sept. 26, 1968].''

CONGRESSIONAL DISCLAIMER OF INTENT TO PREEMPT STATE REGULATION OF SHIPMENTS OF INTOXICATING LIQUOR

Section 2 of Pub. L. 90–518 provided that: ''Nothing contained in this Act [amending this section] shall be construed as indicating an intent on the part of Congress to deprive any State of the power to enact additional prohibitions with respect to the shipment of intoxicating liquors.''

§ 1264. Delivery to consignee

Whoever, being an officer, agent, or employee of any railroad company, express company, or other common carrier, knowingly delivers to any person other than the person to whom it has been consigned, unless upon the written order in each instance of the bona fide consignee, or to any fictitious person, or to any person under a fictitious name, any spirituous, vinous, malted, or other fermented liquor or any compound containing any spirituous, vinous, malted, or other fermented liquor fit for use for beverage purposes, which has been shipped into any place within the United States, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 761; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 388 (Mar. 4, 1909, ch. 321, § 238, 35 Stat. 1136; June 25, 1936, ch. 815, § 6, 49 Stat. 1929).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Words ''Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof,'' which appeared twice, were omitted. See section 5 of this title defining the ''United States.''

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 1265. C.O.D. shipments prohibited

Any railroad or express company, or other common carrier which, or any person who, in connection with the transportation of any spirituous, vinous, malted, or other fermented liquor, or any compound containing any spirituous, vinous, malted, or other fermented liquor fit for use for beverage purposes, into any State, Territory, District or Possession of the United States, which prohibits the delivery or sale therein of such liquor, collects the purchase price or any part thereof, before, on, or after delivery, from the consignee, or from any other person, or in any manner acts as the agent of the buyer or seller of any such liquor, for the purpose of buying or selling or completing the sale thereof, saving only in the actual transportation and delivery of the same, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 762; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 389 (Mar. 4, 1909, ch. 321, § 239, 35 Stat. 1136; June 25, 1936, ch. 815, § 7, 49 Stat. 1929).

Changes similar to those made in section 1264 of this title were also made in this section.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

CHAPTER 61—LOTTERIES

Sec.
1301. Importing or transporting lottery tickets.
1302. Mailing lottery tickets or related matter.
1303. Postmaster or employee as lottery agent.
1304. Broadcasting lottery information.
1305. Fishing contests.
1306. Participation by financial institutions.
1307. Exceptions relating to certain advertisements and other information and to State-conducted lotteries.

AMENDMENTS

1988—Pub. L. 100–625, § 3(a)(2), Nov. 7, 1988, 102 Stat. 3206, substituted ''Exceptions relating to certain advertisements and other information and to State-conducted lotteries'' for ''State-conducted lotteries'' in item 1307.

1975—Pub. L. 93–583, § 2, Jan. 2, 1975, 88 Stat. 1916, added item 1307.

1967—Pub. L. 90–203, § 5(b), Dec. 15, 1967, 81 Stat. 611, added item 1306.

1950—Act Aug. 16, 1950, ch. 722, § 2, 64 Stat. 452, added item 1305.

1949—Act May 24, 1949, ch. 139, § 33, 63 Stat. 94, substituted ''as'' for ''at'' in item 1303.

§ 1301. Importing or transporting lottery tickets

Whoever brings into the United States for the purpose of disposing of the same, or knowingly deposits with any express company or other common carrier for carriage, or carries in interstate or foreign commerce any paper, certificate, or instrument purporting to be or to represent a ticket, chance, share, or interest in or dependent upon the event of a lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any advertisement of, or list of the prizes drawn or awarded by means of, any such lottery, gift enterprise, or similar scheme; or, being engaged in the business of procuring for a person in 1 State such a ticket, chance, share, or interest in a lottery, gift,[1] enterprise or similar scheme conducted by another State (unless that business is permitted under an agreement between the States in question or appropriate authorities of those States), knowingly transmits in interstate or foreign commerce information to be used for the purpose of procuring such a ticket, chance, share, or interest; or knowingly takes or receives any such paper, certificate, instrument, advertisement, or list so brought, deposited, or transported, shall be fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 762; Pub. L. 103–322, title XXXII, § 320905, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2126, 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 387 (Mar. 4, 1909, ch. 321, § 237, 35 Stat. 1136).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Words ''in interstate or foreign commerce'' were substituted for involved enumeration of places, thus permitting section to be condensed and simplified without change of meaning. See definitive section 10 of this title.

The rewritten punishment provision is in lieu of the following: ''for the first offense, be fined not more than $1,000 or imprisoned not more than two years, or both; and for any subsequent offense shall be imprisoned not more than two years''. There seems no point in fixing a punishment for a second offense less than that for the first offense.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000'' and inserted ''or, being engaged in the business of procuring for a person in 1 State such a ticket, chance, share, or interest in a lottery, gift, enterprise or similar scheme conducted by another State (unless that business is permitted under an agreement between the States in question or appropriate authorities of those States), knowingly transmits in interstate or foreign commerce information to be used for the purpose of procuring such a ticket, chance, share, or interest;'' after ''scheme;''.

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–625, § 1, Nov. 7, 1988, 102 Stat. 3205, provided that: ''This Act [amending sections 1304 and 1307 of this title and section 3005 of Title 39, Postal Service, and enacting provisions set out as notes under sections 1304 and 1307 of this title] may be cited as the 'Charity Games Advertising Clarification Act of 1988'.''

§ 1302. Mailing lottery tickets or related matter

Whoever knowingly deposits in the mail, or sends or delivers by mail:

Any letter, package, postal card, or circular concerning any lottery, gift enterprise, or similar scheme offering prizes dependent in whole or in part upon lot or chance;

Any lottery ticket or part thereof, or paper, certificate, or instrument purporting to be or to

[1] So in original. The comma probably should not appear.

represent a ticket, chance, share, or interest in or dependent upon the event of a lottery, gift enterprise, or similar scheme offering prizes dependent in whole or in part upon lot or chance;

Any check, draft, bill, money, postal note, or money order, for the purchase of any ticket or part thereof, or of any share or chance in any such lottery, gift enterprise, or scheme;

Any newspaper, circular, pamphlet, or publication of any kind containing any advertisement of any lottery, gift enterprise, or scheme of any kind offering prizes dependent in whole or in part upon lot or chance, or containing any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes;

Any article described in section 1953 of this title—

Shall be fined under this title or imprisoned not more than two years, or both; and for any subsequent offense shall be imprisoned not more than five years.

(June 25, 1948, ch. 645, 62 Stat. 762; Oct. 31, 1951, ch. 655, § 29, 65 Stat. 721; Pub. L. 87–218, § 2, Sept. 13, 1961, 75 Stat. 492; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 336 (Mar. 4, 1909, ch. 321, § 213, 35 Stat. 1129).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Venue provision was omitted as covered by sections 3231 and 3237 of this title.

Minor changes were made in arrangement and phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000'' in last par.

1961—Pub. L. 87–218 inserted sixth par., relating to articles described in section 1953 of this title.

1951—Act Oct. 31, 1951, substituted a colon for a semicolon at end of opening clause.

§ 1303. Postmaster or employee as lottery agent [1]

Whoever, being an officer or employee of the Postal Service, acts as agent for any lottery office, or under color of purchase or otherwise, vends lottery tickets, or knowingly sends by mail or delivers any letter, package, postal card, circular, or pamphlet advertising any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any ticket, certificate, or instrument representing any chance, share, or interest in or dependent upon the event of any lottery, gift enterprise, or similar scheme offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes awarded by means of any such scheme, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 763; Pub. L. 91–375, § 6(j)(10), Aug. 12, 1970, 84 Stat. 778; Pub. L. 103–322, title XXXIII, § 330016(1)(B), Sept. 13, 1994, 108 Stat. 2146.)

[1] Section catchline was not amended to conform to change made in the text by Pub. L. 91–375.

HISTORICAL AND REVISION NOTES

Based on title 18 U.S.C., 1940 ed., § 337 (Mar. 4, 1909, ch. 321, § 214, 35 Stat. 1130). Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $100''.

1970—Pub. L. 91–375 substituted ''an officer or employee of the Postal Service'' for ''a postmaster or other person employed in the Postal Service''.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established thereby by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 1304. Broadcasting lottery information

Whoever broadcasts by means of any radio or television station for which a license is required by any law of the United States, or whoever, operating any such station, knowingly permits the broadcasting of, any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes, shall be fined under this title or imprisoned not more than one year, or both.

Each day's broadcasting shall constitute a separate offense.

(June 25, 1948, ch. 645, 62 Stat. 763; Pub. L. 100–625, § 3(a)(4), Nov. 7, 1988, 102 Stat. 3206; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 316 of title 47, U.S.C., 1940 ed., Telegraphs, Telephones, and Radiotelegraphs (June 19, 1934, ch. 652, § 316, 48 Stat. 1088).

Words ''upon conviction thereof'' were deleted as surplusage since punishment can be imposed only after a conviction.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

1988—Pub. L. 100–625 inserted ''or television'' after ''radio'' in first sentence.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 5 of Pub. L. 100–625 provided that: ''The amendments made by this Act [amending this section and section 1307 of this title and section 3005 of Title 39, Postal Service] shall take effect 18 months after the date of the enactment of this Act [Nov. 7, 1988].''

§ 1305. Fishing contests

The provisions of this chapter shall not apply with respect to any fishing contest not conducted for profit wherein prizes are awarded for the specie, size, weight, or quality of fish caught by contestants in any bona fide fishing or recreational event.

(Added Aug. 16, 1950, ch. 722, § 1, 64 Stat. 451.)

§ 1306. Participation by financial institutions

Whoever knowingly violates section 5136A of the Revised Statutes of the United States, sec-

tion 9A of the Federal Reserve Act, or section 20 of the Federal Deposit Insurance Act shall be fined under this title or imprisoned not more than one year, or both.

(Added Pub. L. 90–203, § 5(a), Dec. 15, 1967, 81 Stat. 611; amended Pub. L. 101–73, title IX, § 962(b), Aug. 9, 1989, 103 Stat. 502; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

REFERENCES IN TEXT

Section 5136A of the Revised Statutes of the United States, referred to in text, is classified to section 25a of Title 12, Banks and Banking.

Section 9A of the Federal Reserve Act, referred to in text, is classified to section 339 of Title 12.

Section 20 of the Federal Deposit Insurance Act, referred to in text, is classified to section 1829a of Title 12.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

1989—Pub. L. 101–73 struck out reference to section 410 of the National Housing Act.

EFFECTIVE DATE

Section effective Apr. 1, 1968, see section 6 of Pub. L. 90–203, set out as a note under section 25a of Title 12, Banks and Banking.

§ 1307. Exceptions relating to certain advertisements and other information and to State-conducted lotteries

(a) The provisions of sections 1301, 1302, 1303, and 1304 shall not apply to—

(1) an advertisement, list of prizes, or other information concerning a lottery conducted by a State acting under the authority of State law which is—

(A) contained in a publication published in that State or in a State which conducts such a lottery; or

(B) broadcast by a radio or television station licensed to a location in that State or a State which conducts such a lottery; or

(2) an advertisement, list of prizes, or other information concerning a lottery, gift enterprise, or similar scheme, other than one described in paragraph (1), that is authorized or not otherwise prohibited by the State in which it is conducted and which is—

(A) conducted by a not-for-profit organization or a governmental organization; or

(B) conducted as a promotional activity by a commercial organization and is clearly occasional and ancillary to the primary business of that organization.

(b) The provisions of sections 1301, 1302, and 1303 shall not apply to the transportation or mailing—

(1) to addresses within a State of equipment, tickets, or material concerning a lottery which is conducted by that State acting under the authority of State law; or

(2) to an addressee within a foreign country of equipment, tickets, or material designed to be used within that foreign country in a lottery which is authorized by the law of that foreign country.

(c) For the purposes of this section (1) ''State'' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; and (2) ''foreign country'' means any empire, country, dominion, colony, or protectorate, or any subdivision thereof (other than the United States, its territories or possessions).

(d) For the purposes of subsection (b) of this section ''lottery'' means the pooling of proceeds derived from the sale of tickets or chances and allotting those proceeds or parts thereof by chance to one or more chance takers or ticket purchasers. ''Lottery'' does not include the placing or accepting of bets or wagers on sporting events or contests. For purposes of this section, the term a ''not-for-profit organization'' means any organization that would qualify as tax exempt under section 501 of the Internal Revenue Code of 1986.

(Added Pub. L. 93–583, § 1, Jan. 2, 1975, 88 Stat. 1916; amended Pub. L. 94–525, § 1, Oct. 17, 1976, 90 Stat. 2478; Pub. L. 96–90, § 1, Oct. 23, 1979, 93 Stat. 698; Pub. L. 100–625, §§ 2(a), (b), 3(a)(1), (3), Nov. 7, 1988, 102 Stat. 3205, 3206.)

REFERENCES IN TEXT

Section 501 of the Internal Revenue Code of 1986, referred to in subsec. (d), is classified to section 501 of Title 26, Internal Revenue Code.

AMENDMENTS

1988—Pub. L. 100–625, § 3(a)(1), substituted ''Exceptions relating to certain advertisements and other information and to State-conducted lotteries'' for ''State-conducted lotteries'' in section catchline.

Subsec. (a). Pub. L. 100–625, § 2(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''The provisions of sections 1301, 1302, 1303, and 1304 shall not apply to an advertisement, list of prizes, or information concerning a lottery conducted by a State acting under the authority of State law—

''(1) contained in a newspaper published in that State or in an adjacent State which conducts such a lottery, or

''(2) broadcast by a radio or television station licensed to a location in that State or an adjacent State which conducts such a lottery.''

Subsec. (d). Pub. L. 100–625, §§ 2(b), 3(a)(3), inserted ''subsection (b) of'' after ''purposes of'' and inserted at end ''For purposes of this section, the term a 'not-for-profit organization' means any organization that would qualify as tax exempt under section 501 of the Internal Revenue Code of 1986.''

1979—Subsec. (b). Pub. L. 96–90, § 1(a), incorporated existing provision in text designated cl. (1), included mailing of equipment, and added cl. (2).

Subsec. (c). Pub. L. 96–90, § 1(b), designated existing text as cl. (1) and added cl. (2).

1976—Subsec. (a)(1). Pub. L. 94–525 inserted ''or in an adjacent State which conducts such a lottery'' after ''State''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–625 effective 18 months after Nov. 7, 1988, see section 5 of Pub. L. 100–625, set out as a note under section 1304 of this title.

SEVERABILITY

Section 4 of Pub. L. 100–625 provided that: ''If any provision of this Act or the amendments made by this Act [amending sections 1304 and 1307 of this title and section 3005 of Title 39, Postal Service, and enacting provisions set out as notes under sections 1301 and 1304 of this title], or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act and the amendments made by this Act, and

the application of such provision to other persons not similarly situated or to other circumstances, shall not be affected by such invalidation.''

CHAPTER 63—MAIL FRAUD

Sec.
1341. Frauds and swindles.
1342. Fictitious name or address.
1343. Fraud by wire, radio, or television.
1344. Bank fraud.
1345. Injunctions against fraud.
1346. Definition of ''scheme or artifice to defraud''.
1347. Health care fraud.
1348. Securities fraud.
1349. Attempt and conspiracy.
1350. Failure of corporate officers to certify financial reports.

AMENDMENTS

2002—Pub. L. 107–204, title VIII, § 807(b), title IX, §§ 902(b), 906(b), July 30, 2002, 116 Stat. 804–806, added items 1348 to 1350.

1996—Pub. L. 104–191, title II, § 242(a)(2), Aug. 21, 1996, 110 Stat. 2016, added item 1347.

1990—Pub. L. 101–647, title XXXV, § 3541, Nov. 29, 1990, 104 Stat. 4925, substituted ''or'' for ''and'' in item 1342.

1988—Pub. L. 100–690, title VII, § 7603(b), Nov. 18, 1988, 102 Stat. 4508, added item 1346.

1984—Pub. L. 98–473, title II, §§ 1108(b), 1205(b), Oct. 12, 1984, 98 Stat. 2147, 2153, added items 1344 and 1345.

1952—Act July 16, 1952, ch. 879, § 18(b), 66 Stat. 722, added item 1343.

§ 1341. Frauds and swindles

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 763; May 24, 1949, ch. 139, § 34, 63 Stat. 94; Pub. L. 91–375, § (6)(j)(11), Aug. 12, 1970, 84 Stat. 778; Pub. L. 101–73, title IX, § 961(i), Aug. 9, 1989, 103 Stat. 500; Pub. L. 101–647, title XXV, § 2504(h), Nov. 29, 1990, 104 Stat. 4861; Pub. L. 103–322, title XXV, § 250006, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2087, 2147; Pub. L. 107–204, title IX, § 903(a), July 30, 2002, 116 Stat. 805.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., § 338 (Mar. 4, 1909, ch. 321, § 215, 35 Stat. 1130).

The obsolete argot of the underworld was deleted as suggested by Hon. Emerich B. Freed, United States district judge, in a paper read before the 1944 Judicial Conference for the sixth circuit in which he said:

A brief reference to § 1341, which proposes to reenact the present section covering the use of the mails to defraud. This section is almost a page in length, is involved, and contains a great deal of superfluous language, including such terms as ''sawdust swindle, green articles, green coin, green goods and green cigars.'' This section could be greatly simplified, and now-meaningless language eliminated.

The other surplusage was likewise eliminated and the section simplified without change of meaning.

A reference to causing to be placed any letter, etc. in any post office, or station thereof, etc. was omitted as unnecessary because of definition of ''principal'' in section 2 of this title.

1949 ACT

This section [section 34] corrects a typographical error in section 1341 of title 18, U.S.C.

AMENDMENTS

2002—Pub. L. 107–204 substituted ''20 years'' for ''five years''.

1994—Pub. L. 103–322, § 330016(1)(H), substituted ''fined under this title'' for ''fined not more than $1,000'' after ''thing, shall be''.

Pub. L. 103–322, § 250006, inserted ''or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier,'' after ''Postal Service,'' and ''or such carrier'' after ''causes to be delivered by mail''.

1990—Pub. L. 101–647 substituted ''30'' for ''20'' before ''years''.

1989—Pub. L. 101–73 inserted at end ''If the violation affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 20 years, or both.''

1970—Pub. L. 91–375 substituted ''Postal Service'' for ''Post Office Department''.

1949—Act May 24, 1949, substituted ''of'' for ''or'' after ''dispose''.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–204, title IX, § 901, July 30, 2002, 116 Stat. 804, provided that: ''This title [enacting sections 1349 and 1350 of this title, amending this section, section 1343 of this title, and section 1131 of Title 29, Labor, and enacting provisions set out as notes under section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'White-Collar Crime Penalty Enhancement Act of 2002'.''

§ 1342. Fictitious name or address

Whoever, for the purpose of conducting, promoting, or carrying on by means of the Postal Service, any scheme or device mentioned in section 1341 of this title or any other unlawful business, uses or assumes, or requests to be addressed by, any fictitious, false, or assumed title, name, or address or name other than his own proper name, or takes or receives from any

post office or authorized depository of mail matter, any letter, postal card, package, or other mail matter addressed to any such fictitious, false, or assumed title, name, or address, or name other than his own proper name, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 763; Pub. L. 91–375, § 6(j)(12), Aug. 12, 1970, 84 Stat. 778; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 339 (Mar. 4, 1909, ch. 321, § 216, 35 Stat. 1131).

The punishment language used in section 1341 of this title was substituted in lieu of the reference to it in this section.

Minor changes in phraseology were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

1970—Pub. L. 91–375 substituted ''Postal Service'' for ''Post Office Department of the United States''.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 1343. Fraud by wire, radio, or television

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

(Added July 16, 1952, ch. 879, § 18(a), 66 Stat. 722; amended July 11, 1956, ch. 561, 70 Stat. 523; Pub. L. 101–73, title IX, § 961(j), Aug. 9, 1989, 103 Stat. 500; Pub. L. 101–647, title XXV, § 2504(i), Nov. 29, 1990, 104 Stat. 4861; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 107–204, title IX, § 903(b), July 30, 2002, 116 Stat. 805.)

AMENDMENTS

2002—Pub. L. 107–204 substituted ''20 years'' for ''five years''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

1990—Pub. L. 101–647 substituted ''30'' for ''20'' before ''years''.

1989—Pub. L. 101–73 inserted at end ''If the violation affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 20 years, or both.''

1956—Act July 11, 1956, substituted ''transmitted by means of wire, radio, or television communication in interstate or foreign commerce'' for ''transmitted by means of interstate wire, radio, or television communication''.

§ 1344. Bank fraud

Whoever knowingly executes, or attempts to execute, a scheme or artifice—

(1) to defraud a financial institution; or

(2) to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises;

shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

(Added Pub. L. 98–473, title II, § 1108(a), Oct. 12, 1984, 98 Stat. 2147; amended Pub. L. 101–73, title IX, § 961(k), Aug. 9, 1989, 103 Stat. 500; Pub. L. 101–647, title XXV, § 2504(j), Nov. 29, 1990, 104 Stat. 4861.)

AMENDMENTS

1990—Pub. L. 101–647 substituted ''30'' for ''20'' before ''years''.

1989—Pub. L. 101–73 amended section generally, restating former subsec. (a) and striking out former subsec. (b) which defined ''federally chartered or insured financial institution''. Prior to amendment, subsec. (a) read as follows: ''Whoever knowingly executes, or attempts to execute, a scheme or artifice—

''(1) to defraud a federally chartered or insured financial institution; or

''(2) to obtain any of the moneys, funds, credits, assets, securities or other property owned by or under the custody or control of a federally chartered or insured financial institution by means of false or fraudulent pretenses, representations, or promises, shall be fined not more than $10,000, or imprisoned not more than five years, or both.''

§ 1345. Injunctions against fraud

(a)(1) If a person is—

(A) violating or about to violate this chapter or section 287, 371 (insofar as such violation involves a conspiracy to defraud the United States or any agency thereof), or 1001 of this title;

(B) committing or about to commit a banking law violation (as defined in section 3322(d) of this title); or

(C) committing or about to commit a Federal health care offense;

the Attorney General may commence a civil action in any Federal court to enjoin such violation.

(2) If a person is alienating or disposing of property, or intends to alienate or dispose of property, obtained as a result of a banking law violation (as defined in section 3322(d) of this title) or a Federal health care offense or property which is traceable to such violation, the Attorney General may commence a civil action in any Federal court—

(A) to enjoin such alienation or disposition of property; or

(B) for a restraining order to—

(i) prohibit any person from withdrawing, transferring, removing, dissipating, or disposing of any such property or property of equivalent value; and

(ii) appoint a temporary receiver to administer such restraining order.

(3) A permanent or temporary injunction or restraining order shall be granted without bond.

(b) The court shall proceed as soon as practicable to the hearing and determination of such an action, and may, at any time before final determination, enter such a restraining order or prohibition, or take such other action, as is warranted to prevent a continuing and substantial injury to the United States or to any person or class of persons for whose protection the action is brought. A proceeding under this section is governed by the Federal Rules of Civil Procedure, except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.

(Added Pub. L. 98–473, title II, § 1205(a), Oct. 12, 1984, 98 Stat. 2152; amended Pub. L. 100–690, title VII, § 7077, Nov. 18, 1988, 102 Stat. 4406; Pub. L. 101–647, title XXV, § 2521(b)(2), title XXXV, § 3542, Nov. 29, 1990, 104 Stat. 4865, 4925; Pub. L. 103–322, title XXXIII, § 330011(k), Sept. 13, 1994, 108 Stat. 2145; Pub. L. 104–191, title II, § 247, Aug. 21, 1996, 110 Stat. 2018; Pub. L. 107–273, div. B, title IV, § 4002(b)(14), Nov. 2, 2002, 116 Stat. 1808.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Federal Rules of Criminal Procedure, referred to in subsec. (b), are set out in the Appendix to this title.

AMENDMENTS

2002—Subsec. (a)(1)(B). Pub. L. 107–273, § 4002(b)(14)(A), substituted ''; or'' for '', or'' at end.

Subsec. (a)(1)(C). Pub. L. 107–273, § 4002(b)(14)(B), substituted semicolon for period at end.

1996—Subsec. (a)(1)(C). Pub. L. 104–191, § 247(a), added subpar. (C).

Subsec. (a)(2). Pub. L. 104–191, § 247(b), inserted ''or a Federal health care offense'' after ''title)''.

1994—Pub. L. 103–322, § 330011(k), repealed Pub. L. 101–647, § 3542. See 1990 Amendment note below.

1990—Pub. L. 101–647, § 2521(b)(2), added subsec. (a), inserted subsec. (b) designation, and struck out former first sentence which read as follows: ''Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes or will constitute a violation of this chapter, or of section 287, 371 (insofar as such violation involves a conspiracy to defraud the United States or any agency thereof), or 1001 of this title the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such violation.''

Pub. L. 101–647, § 3542, which directed insertion of a comma after ''of this title'', was repealed by Pub. L. 103–322, § 330011(k).

1988—Pub. L. 100–690 inserted ''or of section 287, 371 (insofar as such violation involves a conspiracy to defraud the United States or any agency thereof), or 1001 of this title'' after ''violation of this chapter,''.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 330011(k) of Pub. L. 103–322 provided that the amendment made by that section is effective Nov. 29, 1990.

§ 1346. Definition of "scheme or artifice to defraud"

For the purposes of this chapter, the term ''scheme or artifice to defraud'' includes a scheme or artifice to deprive another of the intangible right of honest services.

(Added Pub. L. 100–690, title VII, § 7603(a), Nov. 18, 1988, 102 Stat. 4508.)

§ 1347. Health care fraud

Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

(1) to defraud any health care benefit program; or

(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program,

in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365 of this title), such person shall be fined under this title or imprisoned not more than 20 years, or both; and if the violation results in death, such person shall be fined under this title, or imprisoned for any term of years or for life, or both.

(Added Pub. L. 104–191, title II, § 242(a)(1), Aug. 21, 1996, 110 Stat. 2016.)

§ 1348. Securities fraud

Whoever knowingly executes, or attempts to execute, a scheme or artifice—

(1) to defraud any person in connection with any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*(d)); or

(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property in connection with the purchase or sale of any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*(d));

shall be fined under this title, or imprisoned not more than 25 years, or both.

(Added Pub. L. 107–204, title VIII, § 807(a), July 30, 2002, 116 Stat. 804.)

§ 1349. Attempt and conspiracy

Any person who attempts or conspires to commit any offense under this chapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(Added Pub. L. 107–204, title IX, § 902(a), July 30, 2002, 116 Stat. 805.)

§ 1350. Failure of corporate officers to certify financial reports

(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78*o*(d)) shall be accompanied by a written statement by the chief executive officer and chief financial officer (or equivalent thereof) of the issuer.

(b) CONTENT.—The statement required under subsection (a) shall certify that the periodic report containing the financial statements fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act pf[1] 1934 (15 U.S.C. 78m or 78*o*(d)) and that information contained in the periodic report fairly presents, in all material respects, the financial condition and results of operations of the issuer.

(c) CRIMINAL PENALTIES.—Whoever—

(1) certifies any statement as set forth in subsections (a) and (b) of this section knowing that the periodic report accompanying the statement does not comport with all the requirements set forth in this section shall be fined not more than $1,000,000 or imprisoned not more than 10 years, or both; or

(2) willfully certifies any statement as set forth in subsections (a) and (b) of this section knowing that the periodic report accompanying the statement does not comport with all the requirements set forth in this section shall be fined not more than $5,000,000, or imprisoned not more than 20 years, or both.

(Added Pub. L. 107–204, title IX, § 906(a), July 30, 2002, 116 Stat. 806.)

CHAPTER 65—MALICIOUS MISCHIEF

Sec.
1361. Government property or contracts.
1362. Communication lines, stations or systems.
1363. Buildings or property within special maritime and territorial jurisdiction.
1364. Interference with foreign commerce by violence.
1365. Tampering with consumer products.
1366. Destruction of an energy facility.
1367. Interference with the operation of a satellite.
1368. Harming animals used in law enforcement.
1369. Destruction of veterans' memorials.

AMENDMENTS

2003—Pub. L. 108–29, § 2(b), May 29, 2003, 117 Stat. 772, added item 1369.

2000—Pub. L. 106–254, § 2(b), Aug. 2, 2000, 114 Stat. 638, added item 1368.

1990—Pub. L. 101–647, title XXXV, § 3543, Nov. 29, 1990, 104 Stat. 4926, inserted a period after ''1366''.

1986—Pub. L. 99–646, § 29(b), Nov. 10, 1986, 100 Stat. 3598, redesignated item 1365, relating to destruction of an energy facility, as item 1366.

Pub. L. 99–508, title III, § 303(b), Oct. 21, 1986, 100 Stat. 1873, added item 1367.

1984—Section 1365(d) of this title as added by Pub. L. 98–473, title II, § 1011(a), Oct. 12, 1984, 98 Stat. 2141, added item 1365, relating to destruction of an energy facility.

1983—Pub. L. 98–127, § 3, Oct. 13, 1983, 97 Stat. 832, added item 1365, relating to tampering with consumer products.

§ 1361. Government property or contracts

Whoever willfully injures or commits any depredation against any property of the United States, or of any department or agency thereof, or any property which has been or is being manufactured or constructed for the United States, or any department or agency thereof, or attempts to commit any of the foregoing offenses, shall be punished as follows:

If the damage or attempted damage to such property exceeds the sum of $1,000, by a fine under this title or imprisonment for not more than ten years, or both; if the damage or attempted damage to such property does not exceed the sum of $1,000, by a fine under this title or by imprisonment for not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 764; Pub. L. 103–322, title XXXII, § 320903(d)(1), title XXXIII, § 330016(1)(H), (L), Sept. 13, 1994, 108 Stat. 2125, 2147; Pub. L. 104–294, title VI, §§ 601(a)(3), 605(e), 606(a), Oct. 11, 1996, 110 Stat. 3498, 3510, 3511.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 82 (Mar. 4, 1909, ch. 321, § 35, 35 Stat. 1095; Oct. 23, 1918, ch. 194, 40 Stat. 1015; June 18, 1934, ch. 587, 48 Stat. 996; Apr. 4, 1938, ch. 69, 52 Stat. 197).

The embezzlement and theft provisions of section 82 of title 18, U.S.C., 1940 ed., are now incorporated in section 641 of this title.

Words ''or any corporation in which the United States of America is a stockholder'' were omitted as unnecessary in view of definition of ''agency'' in section 6 of this title.

Designation of the place of confinement as ''in a jail'' was omitted because section 4082 of this title commits all prisoners to the custody of the Attorney General or his authorized representative, who shall designate the place of confinement. (See reviser's note under section 1 of this title.)

The smaller penalty for offenses involving $50 or less was extended to offenses involving $100 or less. The use of $50 as the dividing line between felonies and misdemeanors originated at a time when that sum was of much greater value than $100 is now.

The word ''damage'' was substituted twice for the word ''value'', and the definition of ''value'' was omitted as inapplicable to this section. These words and definition, however, are retained in that part of said section 82 which is now section 641 of this title.

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294, § 605(e), inserted comma after ''foregoing offenses'' in first par.

Pub. L. 104–294, §§ 601(a)(3), 606(a), in second par., substituted ''fine under this title'' for ''fine of under this title'' in two places and ''$1,000'' for ''$100'' in two places.

1994—Pub. L. 103–322, § 320903(d)(1)(A), inserted ''or attempts to commit any of the foregoing offenses'' before ''shall be punished'' in first par.

Pub. L. 103–322, § 330016(1)(H), (L), in second par., substituted ''under this title'' for ''not more than $10,000'' before ''or imprisonment for not more than ten years'' and for ''not more than $1,000'' before ''or by imprisonment for not more than one year''.

Pub. L. 103–322, § 320903(d)(1)(B), inserted ''or attempted damage'' after ''damage'' in two places in second par.

§ 1362. Communication lines, stations or systems

Whoever willfully or maliciously injures or destroys any of the works, property, or material of any radio, telegraph, telephone or cable, line, station, or system, or other means of communication, operated or controlled by the United States, or used or intended to be used for military or civil defense functions of the United States, whether constructed or in process of construction, or willfully or maliciously interferes in any way with the working or use of any such line, or system, or willfully or maliciously obstructs, hinders, or delays the transmission of any communication over any such line, or sys-

[1] So in original. Probably should be ''of''.

tem, or attempts or conspires to do such an act, shall be fined under this title or imprisoned not more than ten years, or both.

In the case of any works, property, or material, not operated or controlled by the United States, this section shall not apply to any lawful strike activity, or other lawful concerted activities for the purposes of collective bargaining or other mutual aid and protection which do not injure or destroy any line or system used or intended to be used for the military or civil defense functions of the United States.

(June 25, 1948, ch. 645, 62 Stat. 764; Pub. L. 87–306, Sept. 26, 1961, 75 Stat. 669; Pub. L. 103–322, title XXXII, § 320903(d)(2), title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2125, 2147; Pub. L. 107–56, title VIII, § 811(c), Oct. 26, 2001, 115 Stat. 381.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 116 (Mar. 4, 1909, ch. 321, § 60, 35 Stat. 1099).

This section was extended to include radio and radio stations. Minor changes were made in phraseology.

AMENDMENTS

2001—Pub. L. 107–56, in first par., struck out ''or attempts willfully or maliciously to injure or destroy'' after ''Whoever willfully or maliciously injures or destroys'' and inserted ''or attempts or conspires to do such an act,'' before ''shall be fined''.

1994—Pub. L. 103–322, in first par., inserted ''or attempts willfully or maliciously to injure or destroy'' after ''willfully or maliciously injures or destroys'' and substituted ''fined under this title'' for ''fined not more than $10,000''.

1961—Pub. L. 87–306 extended the provisions of the section to means of communication used or intended to be used for military or civil defense functions of the United States, made the provisions inapplicable to lawful strike activities, which do not injure any line or system used for such functions, and increased the punishment by fine from $1,000 to $10,000 and by imprisonment from 3 to 10 years.

§ 1363. Buildings or property within special maritime and territorial jurisdiction

Whoever, within the special maritime and territorial jurisdiction of the United States, willfully and maliciously destroys or injures any structure, conveyance, or other real or personal property, or attempts or conspires to do such an act, shall be fined under this title or imprisoned not more than five years, or both, and if the building be a dwelling, or the life of any person be placed in jeopardy, shall be fined under this title or imprisoned not more than twenty years, or both.

(June 25, 1948, ch. 645, 62 Stat. 764; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–132, title VII, § 703, Apr. 24, 1996, 110 Stat. 1294; Pub. L. 107–56, title VIII, § 811(d), Oct. 26, 2001, 115 Stat. 381.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 464, 465 (Mar. 4, 1909, ch. 321, §§ 285, 286, 35 Stat. 1144).

Said sections were consolidated and rewritten both as to form and substance. The provisions relating to arson are incorporated in section 81 of this title. (See reviser's note under said section 81 of this title for explanation of changes.)

AMENDMENTS

2001—Pub. L. 107–56 struck out ''or attempts to destroy or injure'' after ''destroys or injures'' and inserted ''or attempts or conspires to do such an act,'' after ''personal property,''.

1996—Pub. L. 104–132 substituted ''any structure, conveyance, or other real or personal property'' for ''any building, structure or vessel, any machinery or building materials and supplies, military or naval stores, munitions of war or any structural aids or appliances for navigation or shipping''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000'' after ''shipping, shall be'' and for ''fined not more than $5,000'' after ''jeopardy, shall be''.

§ 1364. Interference with foreign commerce by violence

Whoever, with intent to prevent, interfere with, or obstruct or attempt to prevent, interfere with, or obstruct the exportation to foreign countries of articles from the United States, injures or destroys, by fire or explosives, such articles or the places where they may be while in such foreign commerce, shall be fined under this title or imprisoned not more than twenty years, or both.

(June 25, 1948, ch. 645, 62 Stat. 764; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 381 (June 15, 1917, ch. 30, titles IV, XIII, § 1, 40 Stat. 221, 231; Mar. 28, 1940, ch. 72, § 4, 54 Stat. 79).

Mandatory punishment provisions were rephrased in the alternative.

Definition of the term ''United States'' was omitted and incorporated in section 5 of this title.

Minor verbal changes were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

§ 1365. Tampering with consumer products

(a) Whoever, with reckless disregard for the risk that another person will be placed in danger of death or bodily injury and under circumstances manifesting extreme indifference to such risk, tampers with any consumer product that affects interstate or foreign commerce, or the labeling of, or container for, any such product, or attempts to do so, shall—

(1) in the case of an attempt, be fined under this title or imprisoned not more than ten years, or both;

(2) if death of an individual results, be fined under this title or imprisoned for any term of years or for life, or both;

(3) if serious bodily injury to any individual results, be fined under this title or imprisoned not more than twenty years, or both; and

(4) in any other case, be fined under this title or imprisoned not more than ten years, or both.

(b) Whoever, with intent to cause serious injury to the business of any person, taints any consumer product or renders materially false or misleading the labeling of, or container for, a consumer product, if such consumer product affects interstate or foreign commerce, shall be fined under this title or imprisoned not more than three years, or both.

(c)(1) Whoever knowingly communicates false information that a consumer product has been

tainted, if such product or the results of such communication affect interstate or foreign commerce, and if such tainting, had it occurred, would create a risk of death or bodily injury to another person, shall be fined under this title or imprisoned not more than five years, or both.

(2) As used in paragraph (1) of this subsection, the term ''communicates false information'' means communicates information that is false and that the communicator knows is false, under circumstances in which the information may reasonably be expected to be believed.

(d) Whoever knowingly threatens, under circumstances in which the threat may reasonably be expected to be believed, that conduct that, if it occurred, would violate subsection (a) of this section will occur, shall be fined under this title or imprisoned not more than five years, or both.

(e) Whoever is a party to a conspiracy of two or more persons to commit an offense under subsection (a) of this section, if any of the parties intentionally engages in any conduct in furtherance of such offense, shall be fined under this title or imprisoned not more than ten years, or both.

(f)(1) Whoever, without the consent of the manufacturer, retailer, or distributor, intentionally tampers with a consumer product that is sold in interstate or foreign commerce by knowingly placing or inserting any writing in the consumer product, or in the container for the consumer product, before the sale of the consumer product to any consumer shall be fined under this title, imprisoned not more than 1 year, or both.

(2) Notwithstanding the provisions of paragraph (1), if any person commits a violation of this subsection after a prior conviction under this section becomes final, such person shall be fined under this title, imprisoned for not more than 3 years, or both.

(3) In this subsection, the term ''writing'' means any form of representation or communication, including hand-bills, notices, or advertising, that contain letters, words, or pictorial representations.

(g) In addition to any other agency which has authority to investigate violations of this section, the Food and Drug Administration and the Department of Agriculture, respectively, have authority to investigate violations of this section involving a consumer product that is regulated by a provision of law such Administration or Department, as the case may be, administers.

(h) As used in this section—

(1) the term ''consumer product'' means—

(A) any ''food'', ''drug'', ''device'', or ''cosmetic'', as those terms are respectively defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321); or

(B) any article, product, or commodity which is customarily produced or distributed for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which is designed to be consumed or expended in the course of such consumption or use;

(2) the term ''labeling'' has the meaning given such term in section 201(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(m));

(3) the term ''serious bodily injury'' means bodily injury which involves—

(A) a substantial risk of death;

(B) extreme physical pain;

(C) protracted and obvious disfigurement; or

(D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and

(4) the term ''bodily injury'' means—

(A) a cut, abrasion, bruise, burn, or disfigurement;

(B) physical pain;

(C) illness;

(D) impairment of the function of a bodily member, organ, or mental faculty; or

(E) any other injury to the body, no matter how temporary.

(Added Pub. L. 98–127, § 2, Oct. 13, 1983, 97 Stat. 831; amended Pub. L. 101–647, title XXXV, § 3544, Nov. 29, 1990, 104 Stat. 4926; Pub. L. 103–322, title XXXIII, § 330016(1)(L), (O), (Q), (S), Sept. 13, 1994, 108 Stat. 2147, 2148; Pub. L. 107–307, § 2, Dec. 2, 2002, 116 Stat. 2445.)

CODIFICATION

Another section 1365 was renumbered section 1366 of this title.

AMENDMENTS

2002—Subsecs. (f) to (h). Pub. L. 107–307 added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

1994—Subsec. (a)(1). Pub. L. 103–322, § 330016(1)(O), substituted ''fined under this title'' for ''fined not more than $25,000''.

Subsec. (a)(2), (3). Pub. L. 103–322, § 330016(1)(S), substituted ''fined under this title'' for ''fined not more than $100,000''.

Subsec. (a)(4). Pub. L. 103–322, § 330016(1)(Q), substituted ''fined under this title'' for ''fined not more than $50,000''.

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

Subsecs. (c)(1), (d), (e). Pub. L. 103–322, § 330016(1)(O), substituted ''fined under this title'' for ''fined not more than $25,000''.

1990—Subsec. (g)(1)(A). Pub. L. 101–647 inserted opening quotation marks before ''device''.

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–307, § 1, Dec. 2, 2002, 116 Stat. 2445, provided that: ''This Act [amending this section] may be cited as the 'Product Packaging Protection Act of 2002'.''

SHORT TITLE

Section 1 of Pub. L. 98–127 provided: ''That this Act [enacting this section and section 155A of Title 35, Patents] may be cited as the 'Federal Anti-Tampering Act'.''

§ 1366. Destruction of an energy facility

(a) Whoever knowingly and willfully damages or attempts to damage the property of an energy facility in an amount that in fact exceeds or would if the attempted offense had been completed have exceeded $100,000, or damages or attempts to damage the property of an energy facility in any amount and causes or attempts to cause a significant interruption or impairment of a function of an energy facility, shall be punishable by a fine under this title or imprisonment for not more than 20 years, or both.

(b) Whoever knowingly and willfully damages or attempts to damage the property of an energy facility in an amount that in fact exceeds or would if the attempted offense had been completed have exceeded $5,000 shall be punishable by a fine under this title, or imprisonment for not more than five years, or both.

(c) For purposes of this section, the term ''energy facility'' means a facility that is involved in the production, storage, transmission, or distribution of electricity, fuel, or another form or source of energy, or research, development, or demonstration facilities relating thereto, regardless of whether such facility is still under construction or is otherwise not functioning, except a facility subject to the jurisdiction, administration, or in the custody of the Nuclear Regulatory Commission or an interstate gas pipeline facility as defined in section 60101 of title 49.

(d) Whoever is convicted of a violation of subsection (a) or (b) that has resulted in the death of any person shall be subject to imprisonment for any term of years or life.

(Added Pub. L. 98–473, title II, § 1011(a), Oct. 12, 1984, 98 Stat. 2141, § 1365; renumbered § 1366, Pub. L. 99–646, § 29(a), Nov. 10, 1986, 100 Stat. 3598; amended Pub. L. 101–647, title XXXV, §§ 3545, 3546, Nov. 29, 1990, 104 Stat. 4926; Pub. L. 103–272, § 5(e)(9), July 5, 1994, 108 Stat. 1374; Pub. L. 103–322, title XXXII, § 320903(d)(3), title XXXIII, § 330016(2)(C), Sept. 13, 1994, 108 Stat. 2125, 2148; Pub. L. 107–56, title VIII, § 810(b), Oct. 26, 2001, 115 Stat. 380.)

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–56, § 810(b)(1), substituted ''20 years'' for ''ten years''.

Subsec. (d). Pub. L. 107–56, § 810(b)(2), added subsec. (d).

1994—Subsec. (a). Pub. L. 103–322, § 330016(2)(C), substituted ''fine under this title'' for ''fine of not more than $50,000''.

Pub. L. 103–322, § 320903(d)(3), inserted ''or attempts to damage'' after ''damages'' in two places, ''or would if the attempted offense had been completed have exceeded'' after ''exceeds'', and ''or attempts to cause'' after ''causes''.

Subsec. (b). Pub. L. 103–322, § 330016(2)(C), substituted ''fine under this title'' for ''fine of not more than $25,000''.

Pub. L. 103–322, § 320903(d)(3)(A), (C), inserted ''or attempts to damage'' after ''damages'' and ''or would if the attempted offense had been completed have exceeded'' after ''exceeds''.

Subsec. (c). Pub. L. 103–272 substituted ''an interstate gas pipeline facility as defined in section 60101 of title 49'' for ''interstate transmission facilities, as defined in section 2 of the Natural Gas Pipeline Safety Act of 1968''.

1990—Subsec. (c). Pub. L. 101–647, § 3545, substituted ''section 2 of the Natural Gas Pipeline Safety Act of 1968'' for ''49 U.S.C. 1671''.

Subsec. (d). Pub. L. 101–647, § 3546, struck out subsec. (d) which read as follows: ''The table of contents for chapter 65 of title 18, United States Code, is amended by adding at the end thereof the following new item: '1365 Destruction of an energy facility.' ''

§ 1367. Interference with the operation of a satellite

(a) Whoever, without the authority of the satellite operator, intentionally or maliciously interferes with the authorized operation of a communications or weather satellite or obstructs or hinders any satellite transmission shall be fined in accordance with this title or imprisoned not more than ten years or both.

(b) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency or of an intelligence agency of the United States.

(Added Pub. L. 99–508, title III, § 303(a), Oct. 21, 1986, 100 Stat. 1872.)

EFFECTIVE DATE

Section 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 302 of Pub. L. 99–508, set out as a note under section 3121 of this title.

§ 1368. Harming animals used in law enforcement

(a) Whoever willfully and maliciously harms any police animal, or attempts or conspires to do so, shall be fined under this title and imprisoned not more than 1 year. If the offense permanently disables or disfigures the animal, or causes serious bodily injury to or the death of the animal, the maximum term of imprisonment shall be 10 years.

(b) In this section, the term ''police animal'' means a dog or horse employed by a Federal agency (whether in the executive, legislative, or judicial branch) for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of criminal offenders.

(Added Pub. L. 106–254, § 2(a), Aug. 2, 2000, 114 Stat. 638; amended Pub. L. 107–273, div. B, title IV, § 4003(a)(4), Nov. 2, 2002, 116 Stat. 1811.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–273 inserted ''to'' after ''serious bodily injury''.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–254, § 1, Aug. 2, 2000, 114 Stat. 638, provided that: ''This Act [enacting this section] may be cited as the 'Federal Law Enforcement Animal Protection Act of 2000'.''

§ 1369. Destruction of veterans' memorials

(a) Whoever, in a circumstance described in subsection (b), willfully injures or destroys, or attempts to injure or destroy, any structure, plaque, statue, or other monument on public property commemorating the service of any person or persons in the armed forces of the United States shall be fined under this title, imprisoned not more than 10 years, or both.

(b) A circumstance described in this subsection is that—

(1) in committing the offense described in subsection (a), the defendant travels or causes another to travel in interstate or foreign commerce, or uses the mail or an instrumentality of interstate or foreign commerce; or

(2) the structure, plaque, statue, or other monument described in subsection (a) is located on property owned by, or under the jurisdiction of, the Federal Government.

(Added Pub. L. 108–29, § 2(a), May 29, 2003, 117 Stat. 772.)

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–29, § 1, May 29, 2003, 117 Stat. 772, provided that: ''This Act [enacting this section and provisions set out as a note under section 109 of Title 23, Highways] may be cited as the 'Veterans' Memorial Preservation and Recognition Act of 2003'.''

CHAPTER 67—MILITARY AND NAVY

Sec.
1381. Enticing desertion and harboring deserters.
1382. Entering military, naval, or Coast Guard property.
[1383. Repealed.]
1384. Prostitution near military and naval establishments.
1385. Use of Army and Air Force as posse comitatus.
1386. Keys and keyways used in security applications by the Department of Defense.

AMENDMENTS

1991—Pub. L. 102–190, div. A, title X, § 1090(b), Dec. 5, 1991, 105 Stat. 1486, added item 1386.

1990—Pub. L. 101–647, title XXXV, § 3547, Nov. 29, 1990, 104 Stat. 4926, struck out item 1383 ''Restrictions in military areas and zones''.

1956—Act Aug. 10, 1956, ch. 1041, § 18(b), 70A Stat. 626, inserted item 1385.

§ 1381. Enticing desertion and harboring deserters

Whoever entices or procures, or attempts or endeavors to entice or procure any person in the Armed Forces of the United States, or who has been recruited for service therein, to desert therefrom, or aids any such person in deserting or in attempting to desert from such service; or

Whoever harbors, conceals, protects, or assists any such person who may have deserted from such service, knowing him to have deserted therefrom, or refuses to give up and deliver such person on the demand of any officer authorized to receive him—

Shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 764; 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., § 94 (Mar. 4, 1909, ch. 321, § 42, 35 Stat. 1097).

Mandatory punishment provisions were changed to alternative.

Words ''armed forces'' were substituted for repeated references to military service, naval service, soldier and seamen.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $2,000'' in last par.

§ 1382. Entering military, naval, or Coast Guard property

Whoever, within the jurisdiction of the United States, goes upon any military, naval, or Coast Guard reservation, post, fort, arsenal, yard, station, or installation, for any purpose prohibited by law or lawful regulation; or

Whoever reenters or is found within any such reservation, post, fort, arsenal, yard, station, or installation, after having been removed therefrom or ordered not to reenter by any officer or person in command or charge thereof—

Shall be fined under this title or imprisoned not more than six months, or both.

(June 25, 1948, ch. 645, 62 Stat. 765; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 97 (Mar. 4, 1909, ch. 321, § 45, 35 Stat. 1097; Mar. 28, 1940, ch. 73, 54 Stat. 80).

Reference to territory, Canal Zone, Puerto Rico and the Philippine Islands was omitted as covered by definition of United States in section 5 of this title.

Words ''naval or Coast Guard'' were inserted before ''reservation'' and words ''yard, station, or installation'' were inserted after ''arsenal'' in two places, so as to extend section to naval or Coast Guard property.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500'' in last par.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 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.

Coast Guard transferred to Department of Transportation and all functions, powers, and duties, relating to Coast Guard, of Secretary of the Treasury and of other offices and officers of Department of the Treasury transferred to Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 108 of Title 49, Transportation.

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Coast Guard, referred to in this section, was generally a service in Department of the Treasury, but such Plan excepted from transfer functions of Coast Guard and Commandant thereof when Coast Guard was operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

[§ 1383. Repealed. Pub. L. 94–412, title V, § 501(e), Sept. 14, 1976, 90 Stat. 1258]

Section, act June 25, 1948, ch. 645, 62 Stat. 765, dealt with criminal penalties for persons entering, remaining in, leaving, or committing any act in a military area or zone contrary to restrictions imposed by Executive Order or Secretary of the Army.

SAVINGS PROVISION

Repeal of this section by Pub. L. 94–412 not to affect any action taken or proceeding pending at the time of repeal, see section 501(h) of Pub. L. 94–412, set out as a note under section 1601 of Title 50, War and National Defense.

§ 1384. Prostitution near military and naval establishments

Within such reasonable distance of any military or naval camp, station, fort, post, yard,

base, cantonment, training or mobilization place as the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or any two or all of them shall determine to be needful to the efficiency, health, and welfare of the Army, the Navy, or the Air Force, and shall designate and publish in general orders or bulletins, whoever engages in prostitution or aids or abets prostitution or procures or solicits for purposes of prostitution, or keeps or sets up a house of ill fame, brothel, or bawdy house, or receives any person for purposes of lewdness, assignation, or prostitution into any vehicle, conveyance, place, structure, or building, or permits any person to remain for the purpose of lewdness, assignation, or prostitution in any vehicle, conveyance, place, structure, or building or leases or rents or contracts to lease or rent any vehicle, conveyance, place, structure or building, or part thereof, knowing or with good reason to know that it is intended to be used for any of the purposes herein prohibited shall be fined under this title or imprisoned not more than one year, or both.

The Secretaries of the Army, Navy, and Air Force and the Federal Security Administrator shall take such steps as they deem necessary to suppress and prevent such violations thereof, and shall accept the cooperation of the authorities of States and their counties, districts, and other political subdivisions in carrying out the purpose of this section.

This section shall not be construed as conferring on the personnel of the Departments of the Army, Navy, or Air Force or the Federal Security Agency any authority to make criminal investigations, searches, seizures, or arrests of civilians charged with violations of this section.

(June 25, 1948, ch. 645, 62 Stat. 765; May 24, 1949, ch. 139, § 35, 63 Stat. 94; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., § 518a (July 11, 1941, ch. 287, 55 Stat. 583; May 15, 1945, ch. 126, 59 Stat. 168; May 15, 1946, ch. 258, 60 Stat. 182).

The word ''whoever'' was substituted for the words ''person, corporation, partnership, or association'' in conformity with section 1 of title 1, U.S.C., 1940 ed., General Provisions, as amended and without change of substance.

The provisions with reference to punishment of persons subject to military or naval law as provided in the Articles of War and the Articles for the Government of the Navy were omitted, as was the exception of such persons from the punishment provisions of this section. The Articles of War and Articles for the Government of the Navy are sufficiently complete in themselves to authorize the adequate punishment of military or naval personnel for violations of general criminal statutes as well as for disobedience of orders. See Articles of War, Article 96, section 1568 of title 10, U.S.C., 1940 ed., Army, and Articles for the Government of the Navy, Articles 1, 4, 22, 23, section 1200, of title 34, U.S.C., 1940 ed., Navy.

The revised section, in this respect, places violations on the same basis as other misdemeanors in violation of the general statutes of the United States and authorizes punishment of persons subject to military or naval law under such law, or in case the military or naval authorities turn the violator over to the civil authorities, the trial and punishment may be under the general law.

The phrase ''and/or'' appearing twice in section 581a of title 18, U.S.C., 1940 ed., was deleted to avoid uncertainty and ambiguity.

Words ''shall be deemed guilty of a misdemeanor'' were omitted because of definition of misdemeanor in section 1 of this title.

Changes were made in phraseology.

1949 ACT

This section [section 35] makes the following changes in section 1384 of title 18, U.S.C.:

1. In the first paragraph, substitutes ''Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, and any two or all of them'' for ''Secretary of the Army or the Secretary of the Navy, or both'', and substitutes ''Army, the Navy, or the Air Force,'' for ''Army or the Navy, or both,'', in view of the establishment in 1947 of the Department of the Air Force, headed by a Secretary.

2. In the second paragraph, substitutes ''The Secretaries of the Army, Navy, and Air Force'' for ''The Secretaries of the Army, and Navy'', for the same reason given in item 1 above.

3. In the third paragraph, substitutes ''Department of the Army, Navy, or Air Force'' for ''War or Navy Department'' for the same reason given in item 1 above.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000'' in first par.

1949—Act May 24, 1949, made section applicable to the Air Force which was established as a separate department in 1947, headed by a Secretary.

TRANSFER OF FUNCTIONS

Secretary and Department of Health, Education, and Welfare redesignated Secretary and Department of Health and Human Services by section 3508(b) of Title 20, Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

§ 1385. Use of Army and Air Force as posse comitatus

Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined under this title or imprisoned not more than two years, or both.

(Added Aug. 10, 1956, ch. 1041, § 18(a), 70A Stat. 626; amended Pub. L. 86–70, § 17(d), June 25, 1959, 73 Stat. 144; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTE

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1385	10:15.	June 18, 1878, ch. 263, § 15, 20 Stat. 152; Mar. 3, 1899, ch. 429, § 363 (proviso); added June 6, 1900, ch. 786, § 29 (less last proviso), 31 Stat. 330.

This section is revised to conform to the style and terminology used in title 18. It is not enacted as a part of title 10, United States Code, since it is more properly allocated to title 18.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

1959—Pub. L. 86–70 struck out provisions which made section inapplicable in Alaska.

§ 1386. Keys and keyways used in security applications by the Department of Defense

(a)(1) Whoever steals, purloins, embezzles, or obtains by false pretense any lock or key to any lock, knowing that such lock or key has been adopted by any part of the Department of Defense, including all Department of Defense agencies, military departments, and agencies thereof, for use in protecting conventional arms, ammunition or explosives, special weapons, and classified information or classified equipment shall be punished as provided in subsection (b).

(2) Whoever—

(A) knowingly and unlawfully makes, forges, or counterfeits any key, knowing that such key has been adopted by any part of the Department of Defense, including all Department of Defense agencies, military departments, and agencies thereof, for use in protecting conventional arms, ammunition or explosives, special weapons, and classified information or classified equipment; or

(B) knowing that any lock or key has been adopted by any part of the Department of Defense, including all Department of Defense agencies, military departments, and agencies thereof, for use in protecting conventional arms, ammunition or explosives, special weapons, and classified information or classified equipment, possesses any such lock or key with the intent to unlawfully or improperly use, sell, or otherwise dispose of such lock or key or cause the same to be unlawfully or improperly used, sold, or otherwise disposed of,

shall be punished as provided in subsection (b).

(3) Whoever, being engaged as a contractor or otherwise in the manufacture of any lock or key knowing that such lock or key has been adopted by any part of the Department of Defense, including all Department of Defense agencies, military departments, and agencies thereof, for use in protecting conventional arms, ammunition or explosives, special weapons, and classified information or classified equipment, delivers any such finished or unfinished lock or any such key to any person not duly authorized by the Secretary of Defense or his designated representative to receive the same, unless the person receiving it is the contractor for furnishing the same or engaged in the manufacture thereof in the manner authorized by the contract, or the agent of such manufacturer, shall be punished as provided in subsection (b).

(b) Whoever commits an offense under subsection (a) shall be fined under this title or imprisoned not more than 10 years, or both.

(c) As used in this section, the term ''key'' means any key, keyblank, or keyway adopted by any part of the Department of Defense, including all Department of Defense agencies, military departments, and agencies thereof, for use in protecting conventional arms, ammunition or explosives, special weapons, and classified information or classified equipment.

(Added Pub. L. 102–190, div. A, title X, § 1090(a), Dec. 5, 1991, 105 Stat. 1485.)

[CHAPTER 68—REPEALED]

[§§ 1401 to 1407. Repealed. Pub. L. 91–513, title III, § 1101(b)(1)(A), Oct. 27, 1970, 84 Stat. 1292]

Section 1401, acts July 18, 1956, ch. 629, title II, § 201, 70 Stat. 572; July 12, 1960, Pub. L. 86–624, § 13(a), 74 Stat. 413, defined ''heroin'' and ''United States''.

Section 1402, act July 18, 1956, ch. 629, title II, § 201, 70 Stat. 572, provided for surrender to Secretary of the Treasury of all legally possessed heroin within 120 days of July 19, 1956.

Section 1403, act July 18, 1956, ch. 629, title II, § 201, 70 Stat. 573, set penalties for unlawful use of communications facilities in commission of offenses involving importation or exportation of narcotics.

Section 1404, act July 18, 1956, ch. 629, title II, § 201, 70 Stat. 573, granted the United States right to appeal from grant of a motion to suppress in prosecutions involving unlawful exportation or importation of narcotics.

Section 1405, acts July 18, 1956, ch. 629, title III, § 201, 70 Stat. 573; Oct. 17, 1968, Pub. L. 90–578, title III, § 301(a)(1), 82 Stat. 1115, set out procedure for issuance of search warrants.

Section 1406, act July 18, 1956, ch. 629, title II, § 201, 70 Stat. 574, provided for authority to grant immunity from prosecution of any witnesses compelled to testify or produce evidence after claiming his privilege against self-incrimination. See section 6001 et seq. of this title. Section was repealed earlier by Pub. L. 91–452, title II, § 224(a), Oct. 15, 1970, 84 Stat. 929, with such repeal to be effective on the sixtieth day following Oct. 15, 1970, but with such repeal not to affect any immunity to which any individual was entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970.

Section 1407, act July 18, 1956, ch. 629, title II, § 201, 70 Stat. 574, prohibited border crossings by any person addicted to or using drugs or any person convicted of any violation of narcotic or marihuana laws of the United States or of any State, the penalty for which is imprisonment for more than one year.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 1105(a) of Pub. L. 91–513, set out as an Effective Date note under section 951 of Title 21, Food and Drugs.

SAVINGS PROVISION

Prosecutions for any violation of law occurring, and civil seizures or forfeitures and injunctive proceedings commenced, prior to the effective date of repeal of these sections by section 1101 of Pub. L. 91–513 not to be affected or abated by reason thereof, see section 1103 of Pub. L. 91–513, set out as a note under section 171 of Title 21, Food and Drugs.

CHAPTER 69—NATIONALITY AND CITIZENSHIP

Sec.
1421. Accounts of court officers.
1422. Fees in naturalization proceedings.
1423. Misuse of evidence of citizenship or naturalization.
1424. Personation or misuse of papers in naturalization proceedings.
1425. Procurement of citizenship or naturalization unlawfully.
1426. Reproduction of naturalization or citizenship papers.
1427. Sale of naturalization or citizenship papers.
1428. Surrender of canceled naturalization certificate.

Sec.
1429. Penalties for neglect or refusal to answer subpena.

§ 1421. Accounts of court officers

Whoever, being a clerk or assistant clerk of a court, or other person charged by law with a duty to render true accounts of moneys received in any proceeding relating to citizenship, naturalization, or registration of aliens or to pay over any balance of such moneys due to the United States, willfully neglects to do so within thirty days after said payment shall become due and demand therefor has been made, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 766; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on subsections (a)(34), (d) and (*l*) of section 746 of title 8, U.S.C., 1940 ed., Aliens and Nationality (Oct. 14, 1940, ch. 876, § 346(a)(34), (d), (*l*), 54 Stat. 1167, 1168).

Minor changes in phraseology only were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 1422. Fees in naturalization proceedings

Whoever knowingly demands, charges, solicits, collects, or receives, or agrees to charge, solicit, collect, or receive any other or additional fees or moneys in proceedings relating to naturalization or citizenship or the registry of aliens beyond the fees and moneys authorized by law, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 766; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on subsections (a)(33), (d), (*l*) of section 746 of title 8, U.S.C., 1940 ed., Aliens and Nationality (Oct. 14, 1940, ch. 876, § 346(a)(33), (d), (*l*), 54 Stat. 1167, 1168).

Minor changes in phraseology were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 1423. Misuse of evidence of citizenship or naturalization

Whoever knowingly uses for any purpose any order, certificate, certificate of naturalization, certificate of citizenship, judgment, decree, or exemplification, unlawfully issued or made, or copies or duplicates thereof, showing any person to be naturalized or admitted to be a citizen, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 766; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on subsections (a)(14), (b), (d) of section 746 of title 8, U.S.C., 1940 ed., Aliens and Nationality (Oct. 14, 1940, ch. 876, § 346(a)(14), (b), (d), 54 Stat. 1165, 1167).

Section consolidates subsections (a) paragraph (14), (b), (d), and the general punishment provision of section 746 of title 8, U.S.C., 1940 ed., Aliens and Nationality.

The reference ''for the purpose of voting'' was omitted as surplusage being embraced in the all-inclusive phrase ''for any purpose.''

Changes in phraseology were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 1424. Personation or misuse of papers in naturalization proceedings

Whoever, whether as applicant, declarant, petitioner, witness or otherwise, in any naturalization or citizenship proceeding, knowingly personates another or appears falsely in the name of a deceased person or in an assumed or fictitious name; or

Whoever knowingly and unlawfully uses or attempts to use, as showing naturalization or citizenship of any person, any order, certificate, certificate of naturalization, certificate of citizenship, judgment, decree, or exemplification, or copies or duplicates thereof, issued to another person, or in a fictitious name or in the name of a deceased person—

Shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 766; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on subsection (a) pars. (6)(a), (b), (15), (b), (d) of section 746 of title 8, U.S.C., 1940 ed., Aliens and Nationality (Oct. 14, 1940, ch. 876, § 346(a), pars. (6), (15), (b), (d), 54 Stat. 1164, 1165, 1167).

Section consolidates, with minor verbal changes, subsections (a), pars. (6)(a), (b), (15), (b), (d), and the general punishment provision of section 746 of title 8, U.S.C., 1940 ed., Aliens and Nationality.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in last par.

§ 1425. Procurement of citizenship or naturalization unlawfully

(a) Whoever knowingly procures or attempts to procure, contrary to law, the naturalization of any person, or documentary or other evidence of naturalization or of citizenship; or

(b) Whoever, whether for himself or another person not entitled thereto, knowingly issues, procures or obtains or applies for or otherwise attempts to procure or obtain naturalization, or citizenship, or a declaration of intention to become a citizen, or a certificate of arrival or any certificate or evidence of nationalization or citizenship, documentary or otherwise, or duplicates or copies of any of the foregoing—

Shall be fined under this title or imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense

was not committed to facilitate such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense), or both.

(June 25, 1948, ch. 645, 62 Stat. 766; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–208, div. C, title II, § 211(a)(2), Sept. 30, 1996, 110 Stat. 3009–569; Pub. L. 107–273, div. B, title IV, § 4002(a)(3), Nov. 2, 2002, 116 Stat. 1806.)

HISTORICAL AND REVISION NOTES

Based on subsections (a) pars. (2)–(5), (7), (b), and (d) of section 746 of Title 8, U.S.C., 1940 ed., Aliens and Nationality (Oct. 14, 1940, ch. 876, § 346(a), pars. (2)–(5), (7), (b), (d), 54 Stat. 1163, 1164, 1167).

Section consolidates five similar paragraphs, and the punishment provisions of subsection (d) of said section 746 of title 8, U.S.C., 1940 ed., Aliens and Nationality, with minor necessary changes in translations and phraseology. Numerous references to aiding and assisting were omitted as unnecessary as such persons are principals under definitive section 2 of this title.

Words ''a certificate of arrival or'' were inserted before ''any certificate'' in subsection (b), so as to remove any doubt as to scope of section.

AMENDMENTS

2002—Pub. L. 107–273 substituted ''to facilitate'' for ''to facility'' in last par.

1996—Pub. L. 104–208 substituted ''imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facility such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense)'' for ''imprisoned not more than five years'' in last par.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in last par.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 applicable with respect to offenses occurring on or after Sept. 30, 1996, see section 211(c) of Pub. L. 104–208, set out as a note under section 1028 of this title.

§ 1426. Reproduction of naturalization or citizenship papers

(a) Whoever falsely makes, forges, alters or counterfeits any oath, notice, affidavit, certificate of arrival, declaration of intention, certificate or documentary evidence of naturalization or citizenship or any order, record, signature, paper or proceeding or any copy thereof, required or authorized by any law relating to naturalization or citizenship or registry of aliens; or

(b) Whoever utters, sells, disposes of or uses as true or genuine, any false, forged, altered, antedated or counterfeited oath, notice, affidavit, certificate of arrival, declaration of intention to become a citizen, certificate or documentary evidence of naturalization or citizenship, or any order, record, signature or other instrument, paper or proceeding required or authorized by any law relating to naturalization or citizenship or registry of aliens, or any copy thereof, knowing the same to be false, forged, altered, antedated or counterfeited; or

(c) Whoever, with intent unlawfully to use the same, possesses any false, forged, altered, antedated or counterfeited certificate of arrival, declaration of intention to become a citizen, certificate or documentary evidence of naturalization or citizenship purporting to have been issued under any law of the United States, or copy thereof, knowing the same to be false, forged, altered, antedated or counterfeited; or

(d) Whoever, without lawful authority, engraves or possesses, sells or brings into the United States any plate in the likeness or similitude of any plate designed, for the printing of a declaration of intention, or certificate or documentary evidence of naturalization or citizenship; or

(e) Whoever, without lawful authority, brings into the United States any document printed therefrom; or

(f) Whoever, without lawful authority, possesses any blank certificate of arrival, blank declaration of intention or blank certificate of naturalization or citizenship provided by the Immigration and Naturalization Service, with intent unlawfully to use the same; or

(g) Whoever, with intent unlawfully to use the same, possesses a distinctive paper adopted by the proper officer or agency of the United States for the printing or engraving of a declaration of intention to become a citizen, or certificate of naturalization or certificate of citizenship; or

(h) Whoever, without lawful authority, prints, photographs, makes or executes any print or impression in the likeness of a certificate of arrival, declaration of intention to become a citizen, or certificate of naturalization or citizenship, or any part thereof—

Shall be fined under this title or imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facilitate such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense), or both.

(June 25, 1948, ch. 645, 62 Stat. 767; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–208, div. C, title II, § 211(a)(2), Sept. 30, 1996, 110 Stat. 3009–569; Pub. L. 107–273, div. B, title IV, § 4002(a)(3), Nov. 2, 2002, 116 Stat. 1806.)

HISTORICAL AND REVISION NOTES

Based on subsections (a) pars. (8)–(12), (16), (17), (20)–(29), (b), (d), (*l*) of section 746 of Title 8, U.S.C., 1940 ed., Aliens and Nationality (Oct. 14, 1940, ch. 876, § 346(a) pars. (8)–(12), (16), (17), (20)–(29), (b), (d), (*l*), 54 Stat. 1164–1168).

Sections consolidates numerous similar paragraphs with necessary changes in phraseology and translations.

References to persons causing, procuring, aiding, abetting, or assisting were omitted as unnecessary, such persons being principals under definitive section 2 of this title.

AMENDMENTS

2002—Pub. L. 107–273 substituted ''to facilitate'' for ''to facility'' in last par.

1996—Pub. L. 104–208 substituted ''imprisoned not more than 25 years (if the offense was committed to fa-

cilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facility such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense)'' for ''imprisoned not more than five years'' in last par.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in last par.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 applicable with respect to offenses occurring on or after Sept. 30, 1996, see section 211(c) of Pub. L. 104–208, set out as a note under section 1028 of this title.

TRANSFER OF FUNCTIONS

Functions of all other officers of Department of Justice and functions of all agencies and employees of such Department, with a few exceptions, transferred to Attorney General, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 2 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, set out in the Appendix to Title 5, Government Organization and Employees.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

§ 1427. Sale of naturalization or citizenship papers

Whoever unlawfully sells or disposes of a declaration of intention to become a citizen, certificate of naturalization, certificate of citizenship or copies or duplicates or other documentary evidence of naturalization or citizenship, shall be fined under this title or imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facilitate such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense), or both.

(June 25, 1948, ch. 645, 62 Stat. 767; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–208, div. C, title II, § 211(a)(2), Sept. 30, 1996, 110 Stat. 3009–569; Pub. L. 107–273, div. B, title IV, § 4002(a)(3), Nov. 2, 2002, 116 Stat. 1806.)

HISTORICAL AND REVISION NOTES

Based on subsections (a) par. (13), (d) of section 746 of title 8, U.S.C., 1940 ed., Aliens and Nationality (Oct. 14, 1940, ch. 876, § 346(a)(13), (d), 54 Stat. 1165, 1167).

Minor changes were made in phraseology.

AMENDMENTS

2002—Pub. L. 107–273 substituted ''to facilitate'' for ''to facility''.

1996—Pub. L. 104–208 substituted ''imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facility such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense)'' for ''imprisoned not more than five years''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 applicable with respect to offenses occurring on or after Sept. 30, 1996, see section 211(c) of Pub. L. 104–208, set out as a note under section 1028 of this title.

§ 1428. Surrender of canceled naturalization certificate

Whoever, having in his possession or control a certificate of naturalization or citizenship or a copy thereof which has been canceled as provided by law, fails to surrender the same after at least sixty days' notice by the appropriate court or the Commissioner or Deputy Commissioner of Immigration, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 767; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on subsections (a) par. (31), (b), (d) of section 746 of title 8, U.S.C., 1940 ed., Aliens and Nationality (Oct. 14, 1940, ch. 876, § 346(a) par. (31), (b), (d), 54 Stat. 1167).

Subsection (b) of said section 746 of title 8 is the authority for inserting ''or a copy thereof'' after ''citizenship.''

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

TRANSFER OF FUNCTIONS

Functions of all other officers of Department of Justice and functions of all agencies and employees of such Department, with a few exceptions, transferred to Attorney General, with power vested, in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 2, of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, set out in the Appendix to Title 5, Government Organization and Employees.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

§ 1429. Penalties for neglect or refusal to answer subpena

Any person who has been subpenaed under the provisions of subsection (d) of section 336 of the Immigration and Nationality Act to appear at the final hearing of an application for naturalization, and who shall neglect or refuse to so appear and to testify, if in the power of such person to do so, shall be fined under this title or imprisoned not more than five years, or both.

(Added June 27, 1952, ch. 477, title IV, § 402(b), 66 Stat. 276; amended Pub. L. 97–116, § 18(u)(1), Dec.

29, 1981, 95 Stat. 1621; Pub. L. 101–649, title IV, § 407(c)(21), Nov. 29, 1990, 104 Stat. 5041; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

REFERENCES IN TEXT

Subsection (d) of section 336 of the Immigration and Nationality Act, referred to in text, is classified to section 1447(d) of Title 8, Aliens and Nationality.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

1990—Pub. L. 101–649 substituted ''an application'' for ''a petition''.

1981—Pub. L. 97–116 substituted ''subsection (d)'' for ''subsection (e)''.

EFFECTIVE DATE OF 1990 AMENDMENT; SAVINGS PROVISIONS

Amendment by Pub. L. 101–649 effective Nov. 29, 1990, with general savings provisions, see section 408(a)(3) and (d) of Pub. L. 101–649, set out as a note under section 1421 of Title 8, Aliens and Nationality.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–116 effective Dec. 29, 1981, see section 21(a) of Pub. L. 97–116, set out as a note under section 1101 of Title 8, Aliens and Nationality.

CHAPTER 71—OBSCENITY

Sec.
1460. Possession with intent to sell, and sale, of obscene matter on Federal property.
1461. Mailing obscene or crime-inciting matter.
1462. Importation or transportation of obscene matters.
1463. Mailing indecent matter on wrappers or envelopes.
1464. Broadcasting obscene language.
1465. Transportation of obscene matters for sale or distribution.
1466. Engaging in the business of selling or transferring obscene matter.
1466A. Obscene visual representations of the sexual abuse of children.
1467. Criminal forfeiture.
1468. Distributing obscene material by cable or subscription television.
1469. Presumptions.
1470. Transfer of obscene material to minors.

AMENDMENTS

2003—Pub. L. 108–21, title V, § 504(b), Apr. 30, 2003, 117 Stat. 682, added item 1466A.

1998—Pub. L. 105–314, title IV, § 401(b), Oct. 30, 1998, 112 Stat. 2979, added item 1470.

1988—Pub. L. 100–690, title VII, §§ 7521(b), (f)[(e)], 7523(b), 7526(b), Nov. 18, 1988, 102 Stat. 4489, 4490, 4502, 4503, added items 1460 and 1466 to 1469.

1955—Act June 28, 1955, ch. 190, § 4, 69 Stat. 184, added item 1465.

1950—Act May 27, 1950, ch. 214, § 2, 64 Stat. 194, substituted ''matters'' for ''literature'' in item 1462.

§ 1460. Possession with intent to sell, and sale, of obscene matter on Federal property

(a) Whoever, either—

(1) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States; or

(2) in the Indian country as defined in section 1151 of this title,

knowingly sells or possesses with intent to sell an obscene visual depiction shall be punished by a fine in accordance with the provisions of this title or imprisoned for not more than 2 years, or both.

(b) For the purposes of this section, the term ''visual depiction'' includes undeveloped film and videotape but does not include mere words.

(Added Pub. L. 100–690, title VII, § 7526(a), Nov. 18, 1988, 102 Stat. 4503; amended Pub. L. 101–647, title III, § 323(c), Nov. 29, 1990, 104 Stat. 4819.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–647, § 323(c)(1), struck out ''or a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct,'' after ''visual depiction'' in concluding provisions.

Subsec. (b). Pub. L. 101–647, § 323(c)(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''For the purposes of this section—

''(1) the term 'visual depiction' includes undeveloped film and videotape but does not include mere words; and

''(2) the terms 'minor' and 'sexually explicit conduct' have the meaning given those terms in chapter 110 of this title.''

§ 1461. Mailing obscene or crime-inciting matter

Every obscene, lewd, lascivious, indecent, filthy or vile article, matter, thing, device, or substance; and—

Every article or thing designed, adapted, or intended for producing abortion, or for any indecent or immoral use; and

Every article, instrument, substance, drug, medicine, or thing which is advertised or described in a manner calculated to lead another to use or apply it for producing abortion, or for any indecent or immoral purpose; and

Every written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, or how, or from whom, or by what means any of such mentioned matters, articles, or things may be obtained or made, or where or by whom any act or operation of any kind for the procuring or producing of abortion will be done or performed, or how or by what means abortion may be produced, whether sealed or unsealed; and

Every paper, writing, advertisement, or representation that any article, instrument, substance, drug, medicine, or thing may, or can, be used or applied for producing abortion, or for any indecent or immoral purpose; and

Every description calculated to induce or incite a person to so use or apply any such article, instrument, substance, drug, medicine, or thing—

Is declared to be nonmailable matter and shall not be conveyed in the mails or delivered from any post office or by any letter carrier.

Whoever knowingly uses the mails for the mailing, carriage in the mails, or delivery of anything declared by this section or section 3001(e) of title 39 to be nonmailable, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, or knowingly takes any such thing from the mails for the purpose of circulating or disposing thereof, or of aiding in the circulation or disposition thereof, shall be fined

under this title or imprisoned not more than five years, or both, for the first such offense, and shall be fined under this title or imprisoned not more than ten years, or both, for each such offense thereafter.

The term ''indecent'', as used in this section includes matter of a character tending to incite arson, murder, or assassination.

(June 25, 1948, ch. 645, 62 Stat. 768; June 28, 1955, ch. 190, §§1, 2, 69 Stat. 183; Pub. L. 85–796, §1, Aug. 28, 1958, 72 Stat. 962; Pub. L. 91–662, §§3, 5(b), 6(3), Jan. 8, 1971, 84 Stat. 1973, 1974; 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., §334 (Mar. 4, 1909, ch. 321, §211, 35 Stat. 1429 [1129]; Mar. 4, 1911, ch. 241, §2, 36 Stat. 1339).

The attention of Congress is invited to the following decisions of the Federal courts construing this section and section 1462 of this title.

In *Youngs Rubber Corporation, Inc. v. C. I. Lee & Co., Inc.*, C.C.A. 1930, 45 F. 2d 103, it was said that the word ''adapted'' as used in this section and in section 1462 of this title, the latter relating to importation and transportation of obscene matter, is not to be construed literally, the more reasonable interpretation being to construe the whole phrase ''designed, adapted or intended'' as requiring ''an intent on the part of the sender that the article mailed or shipped by common carrier be used for illegal contraception or abortion or for indecent or immoral purposes.'' The court pointed out that, taken literally, the language of these sections would seem to forbid the transportation by mail or common carrier of anything ''adapted,'' in the sense of being suitable or fitted, for preventing conception or for any indecent or immoral purpose, ''even though the article might also be capable of legitimate uses and the sender in good faith supposed that it would be used only legitimately. Such a construction would prevent mailing to or by a physician of any drug or mechanical device 'adapted' for contraceptive or abortifacient uses, although the physician desired to use or to prescribe it for proper medical purposes. The intention to prevent a proper medical use of drugs or other articles merely because they are capable of illegal uses is not lightly to be ascribed to Congress. Section 334 [this section] forbids also the mailing of obscene books and writings; yet it has never been thought to bar from the mails medical writings sent to or by physicians for proper purposes, though of a character which would render them highly indecent if sent broadcast to all classes of persons.'' In *United States v. Nicholas*, C.C.A. 1938, 97 F. 2d 510, ruling directly on this point, it was held that the importation or sending through the mails of contraceptive articles or publications is not forbidden absolutely, but only when such articles or publications are unlawfully employed. The same rule was followed in *Davis v. United States*, C.C.A. 1933, 62 F. 2d 473, quoting the obiter opinion from *Youngs Rubber Corporation v. C. I. Lee & Co., supra*, and holding that the intent of the person mailing a circular conveying information for preventing conception that the article described therein should be used for condemned purposes was necessary for a conviction; also that this section must be given a reasonable construction. (See also *United States v. One Package*, C.C.A. 1936, 86 F. 2d 737.)

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Minor changes in phraseology were made.

AMENDMENTS

1994—Pub. L. 103–322, in eighth par., substituted ''fined under this title'' for ''fined not more than $5,000'' after ''thereof, shall be'' and for ''fined not more than $10,000'' after ''offense, and shall be''.

1971—Pub. L. 91–662, §3(1), in second par., struck out ''preventing conception or'' before ''producing abortion''.

Pub. L. 91–662, §3(1), in third par., struck out ''preventing conception or'' after ''apply it for''.

Pub. L. 91–662, §3(2), (3), in fourth par., substituted ''means abortion may be produced'' for ''means conception may be prevented or abortion produced''.

Pub. L. 91–662, §3(1), in fifth par., struck out ''preventing conception or'' after ''applied for''.

Pub. L. 91–662, §6(3), in eighth par., inserted ''or section 3001(e) of title 39'' after ''this section''. Section 5(b) of Pub. L. 91–662 inserted reference to section 4001(d) of Title 39, The Postal Service, which reflected provisions of Title 39 prior to the effective date of Title 39, Postal Service, as enacted by the Postal Reorganization Act. Said section 4001(d) was repealed by section 6(2) of Pub. L. 91–662, effective on the date that the Board of Governors of the Postal Service establish as the effective date for section 3001 of Title 39, Postal Service.

1958—Pub. L. 85–796 provided in eighth par. for continuing offenses by use of the mails instead of by deposits for mailing and for punishment for subsequent offenses.

1955—Act June 28, 1955, §1, in first par., substituted ''indecent, filthy or vile article, matter, thing, device or substance'' for ''or filthy book, pamphlet, picture paper, letter, writing, print, or other publication of an indecent character''.

Act June 28, 1955, §2, struck out fifth par., which read as follows: ''Every letter, packet, or package, or other mail matter containing any filthy, vile, or indecent thing, device or substance; and''.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by sections 3 and 5(b) of Pub. L. 91–662 effective Jan. 9, 1971, see section 7 of Pub. L. 91–662, set out as a note under section 552 of this title.

Section 6 of Pub. L. 91–662 provided that the amendment made by that section is effective on date that Board of Governors of United States Postal Service establishes as the effective date for section 3001 of title 39 of the United States Code, as enacted by the Postal Reorganization Act.

COMMISSION ON OBSCENITY AND PORNOGRAPHY

Pub. L. 90–100, Oct. 3, 1967, 81 Stat. 253, as amended by Pub. L. 90–350, title V, §502, June 19, 1968, 82 Stat. 197; Pub. L. 91–74, title V, §503, Sept. 29, 1969, 83 Stat. 123, provided for establishment of Commission on Obscenity and Pornography, its membership, compensation of members, powers, functions, and duties of Commission, required Commission to report to President and to Congress its findings and recommendations no later than Sept. 30, 1970, and provided for its termination ten days following submission of report.

§ 1462. Importation or transportation of obscene matters

Whoever brings into the United States, or any place subject to the jurisdiction thereof, or knowingly uses any express company or other common carrier or interactive computer service (as defined in section 230(e)(2)[1] of the Communications Act of 1934), for carriage in interstate or foreign commerce—

(a) any obscene, lewd, lascivious, or filthy book, pamphlet, picture, motion-picture film, paper, letter, writing, print, or other matter of indecent character; or

(b) any obscene, lewd, lascivious, or filthy phonograph recording, electrical transcription, or other article or thing capable of producing sound; or

[1] See References in Text note below.

(c) any drug, medicine, article, or thing designed, adapted, or intended for producing abortion, or for any indecent or immoral use; or any written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, how, or of whom, or by what means any of such mentioned articles, matters, or things may be obtained or made; or

Whoever knowingly takes or receives, from such express company or other common carrier or interactive computer service (as defined in section 230(e)(2)[1] of the Communications Act of 1934) any matter or thing the carriage or importation of which is herein made unlawful—

Shall be fined under this title or imprisoned not more than five years, or both, for the first such offense and shall be fined under this title or imprisoned not more than ten years, or both, for each such offense thereafter.

(June 25, 1948, ch. 645, 62 Stat. 768; May 27, 1950, ch. 214, § 1, 64 Stat. 194; Pub. L. 85–796, § 2, Aug. 28, 1958, 72 Stat. 962; Pub. L. 91–662, § 4, Jan. 8, 1971, 84 Stat. 1973; Pub. L. 103–322, title XXXIII, § 330016(1)(K), (L), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–104, title V, § 507(a), Feb. 8, 1996, 110 Stat. 137.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 396 (Mar. 4, 1909, ch. 321, § 245, 35 Stat. 1138; June 5, 1920, ch. 268, 41 Stat. 1060).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Words ''in interstate or foreign commerce'' were substituted for ten lines of text without loss of meaning. (See definitive section 10 of this title.)

(See reviser's note under section 1461 of this title.)

Minor changes in phraseology were made.

REFERENCES IN TEXT

Section 230(e)(2) of the Communications Act of 1934, referred to in text, was redesignated section 230(f)(2) of the Communications Act of 1934 by Pub. L. 105–277, div. C, title XIV, § 1404(a)(2), Oct. 21, 1998, 112 Stat. 2681–739, and is classified to section 230(f)(2) of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

AMENDMENTS

1996—Pub. L. 104–104, § 507(a)(1), inserted ''or interactive computer service (as defined in section 230(e)(2) of the Communications Act of 1934)'' after ''carrier'' in first par.

Pub. L. 104–104, § 507(a)(2), in second par., inserted ''or receives,'' after ''takes'', ''or interactive computer service (as defined in section 230(e)(2) of the Communications Act of 1934)'' after ''common carrier'', and ''or importation'' after ''carriage''.

1994—Pub. L. 103–322, in last par., substituted ''fined under this title'' for ''fined not more than $5,000'' after ''Shall be'' and for ''fined not more than $10,000'' after ''and shall be''.

1971—Pub. L. 91–662 struck out ''preventing conception, or'' before ''producing abortion''.

1958—Pub. L. 85–796 substituted ''uses'' for ''deposits with'' in opening par., ''carriage of which'' for ''depositing of which for carriage'' in penultimate par., and inserted penalty provisions for subsequent offenses in last par.

1950—Act May 27, 1950, brought within scope of section the importation or transportation of any obscene, lewd, lascivious, or filthy phonograph recording, electrical transcription, or other article or think capable of producing sound.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91–662 effective Jan. 9, 1971, see section 7 of Pub. L. 91–662, set out as a note under section 552 of this title.

CONSTRUCTION OF 1996 AMENDMENT

Section 507(c) of Pub. L. 104–104 provided that: ''The amendments made by this section [amending this section and section 1465 of this title] are clarifying and shall not be interpreted to limit or repeal any prohibition contained in sections 1462 and 1465 of title 18, United States Code, before such amendment, under the rule established in United States v. Alpers, 338 U.S. 680 (1950).''

§ 1463. Mailing indecent matter on wrappers or envelopes

All matter otherwise mailable by law, upon the envelope or outside cover or wrapper of which, and all postal cards upon which, any delineations, epithets, terms, or language of an indecent, lewd, lascivious, or obscene character are written or printed or otherwise impressed or apparent, are nonmailable matter, and shall not be conveyed in the mails nor delivered from any post office nor by any letter carrier, and shall be withdrawn from the mails under such regulations as the Postal Service shall prescribe.

Whoever knowingly deposits for mailing or delivery, anything declared by this section to be nonmailable matter, or knowingly takes the same from the mails for the purpose of circulating or disposing of or aiding in the circulation or disposition of the same, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 769; Pub. L. 91–375, § 6(j)(13), Aug. 12, 1970, 84 Stat. 778; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed. § 335 (Mar. 4, 1909, ch. 321, § 212, 35 Stat. 1129).

Said section 335 of title 18, U.S.C., 1940 ed., was incorporated in this section and section 1718 of this title.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in last par.

1970—Pub. L. 91–375 substituted ''Postal Service'' for ''Postmaster General''.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 1464. Broadcasting obscene language

Whoever utters any obscene, indecent, or profane language by means of radio communication shall be fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 769; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on sections 326 and 501 of title 47, U.S.C., 1940 ed., Telegraphs, Telephones, and Radio-telegraphs (June 19, 1934, ch. 652, §§326, 501, 48 Stat. 1091, 1100).

Section consolidates last sentence of section 326 with penalty provision of section 501 both of title 47, U.S.C., 1940 ed., with changes in phraseology necessary to effect the consolidation.

Section 501 of title 47, U.S.C., 1940 ed., is to remain, also, in said title 47, as it relates to other sections therein.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

OBSCENE LANGUAGE; PROMULGATION OF REGULATIONS

Federal Communications Commission to promulgate regulations by Jan. 31, 1989, in accordance with this section to enforce this section on a 24 hour per day basis, see section 608 of Pub. L. 100–459, set out as a note under section 303 of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

§ 1465. Transportation of obscene matters for sale or distribution

Whoever knowingly transports or travels in, or uses a facility or means of, interstate or foreign commerce or an interactive computer service (as defined in section 230(e)(2)[1] of the Communications Act of 1934) in or affecting such commerce for the purpose of sale or distribution of any obscene, lewd, lascivious, or filthy book, pamphlet, picture, film, paper, letter, writing, print, silhouette, drawing, figure, image, cast, phonograph recording, electrical transcription or other article capable of producing sound or any other matter of indecent or immoral character, shall be fined under this title or imprisoned not more than five years, or both.

The transportation as aforesaid of two or more copies of any publication or two or more of any article of the character described above, or a combined total of five such publications and articles, shall create a presumption that such publications or articles are intended for sale or distribution, but such presumption shall be rebuttable.

(Added June 28, 1955, ch. 190, §3, 69 Stat. 183; amended Pub. L. 100–690, title VII, §§7521(c), 7522(b), Nov. 18, 1988, 102 Stat. 4489, 4494; Pub. L. 103–322, title XXXIII, §330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–104, title V, §507(b), Feb. 8, 1996, 110 Stat. 137.)

REFERENCES IN TEXT

Section 230(e)(2) of the Communications Act of 1934, referred to in text, was redesignated section 230(f)(2) of the Communications Act of 1934 by Pub. L. 105–277, div. C, title XIV, §1404(a)(2), Oct. 21, 1998, 112 Stat. 2681–739, and is classified to section 230(f)(2) of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

AMENDMENTS

1996—Pub. L. 104–104, in first par., substituted ''transports or travels in, or uses a facility or means of,'' for ''transports in'', inserted ''or an interactive computer service (as defined in section 230(e)(2) of the Communications Act of 1934) in or affecting such commerce'' before ''for the purpose of sale'', and substituted ''of'' for '', or knowingly travels in interstate commerce, or uses a facility or means of interstate commerce for the purpose of transporting obscene material in interstate or foreign commerce,'' before ''any obscene, lewd, lascivious, or filthy book''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in first par.

1988—Pub. L. 100–690, §7521(c), inserted '', or knowingly travels in interstate commerce, or uses a facility or means of interstate commerce for the purpose of transporting obscene material in interstate or foreign commerce,'' after ''distribution'' in first par.

Pub. L. 100–690, §7522(b), struck out last par. which read as follows: ''When any person is convicted of a violation of this Act, the court in its judgment of conviction may, in addition to the penalty prescribed, order the confiscation and disposal of such items described herein which were found in the possession or under the immediate control of such person at the time of his arrest.''

CONSTRUCTION OF 1996 AMENDMENT

Amendment by Pub. L. 104–104 not to be interpreted as limiting or repealing any prohibition contained in sections 1462 and 1465 of this title, before such amendment, see section 507(c) of Pub. L. 104–104, set out as a note under section 1462 of this title.

§ 1466. Engaging in the business of selling or transferring obscene matter

(a) Whoever is engaged in the business of selling or transferring obscene matter, who knowingly receives or possesses with intent to distribute any obscene book, magazine, picture, paper, film, videotape, or phonograph or other audio recording, which has been shipped or transported in interstate or foreign commerce, shall be punished by imprisonment for not more than 5 years or by a fine under this title, or both.

(b) As used in this section, the term ''engaged in the business'' means that the person who sells or transfers or offers to sell or transfer obscene matter devotes time, attention, or labor to such activities, as a regular course of trade or business, with the objective of earning a profit, although it is not necessary that the person make a profit or that the selling or transferring or offering to sell or transfer such material be the person's sole or principal business or source of income. The offering for sale of or to transfer, at one time, two or more copies of any obscene publication, or two or more of any obscene article, or a combined total of five or more such publications and articles, shall create a rebuttable presumption that the person so offering them is ''engaged in the business'' as defined in this subsection.

(Added Pub. L. 100–690, title VII, §7521(a), Nov. 18, 1988, 102 Stat. 4489; amended Pub. L. 101–647, title XXXV, §3548, Nov. 29, 1990, 104 Stat. 4926.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–647 substituted ''this section'' for ''this subsection'' and ''this subsection'' for ''subsection (b)''.

§ 1466A. Obscene visual representations of the sexual abuse of children

(a) IN GENERAL.—Any person who, in a circumstance described in subsection (d), knowingly produces, distributes, receives, or possesses with intent to distribute, a visual depiction of any kind, including a drawing, cartoon, sculpture, or painting, that—

[1] See References in Text note below.

(1)(A) depicts a minor engaging in sexually explicit conduct; and

(B) is obscene; or

(2)(A) depicts an image that is, or appears to be, of a minor engaging in graphic bestiality, sadistic or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; and

(B) lacks serious literary, artistic, political, or scientific value;

or attempts or conspires to do so, shall be subject to the penalties provided in section 2252A(b)(1), including the penalties provided for cases involving a prior conviction.

(b) ADDITIONAL OFFENSES.—Any person who, in a circumstance described in subsection (d), knowingly possesses a visual depiction of any kind, including a drawing, cartoon, sculpture, or painting, that—

(1)(A) depicts a minor engaging in sexually explicit conduct; and

(B) is obscene; or

(2)(A) depicts an image that is, or appears to be, of a minor engaging in graphic bestiality, sadistic or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; and

(B) lacks serious literary, artistic, political, or scientific value;

or attempts or conspires to do so, shall be subject to the penalties provided in section 2252A(b)(2), including the penalties provided for cases involving a prior conviction.

(c) NONREQUIRED ELEMENT OF OFFENSE.—It is not a required element of any offense under this section that the minor depicted actually exist.

(d) CIRCUMSTANCES.—The circumstance referred to in subsections (a) and (b) is that—

(1) any communication involved in or made in furtherance of the offense is communicated or transported by the mail, or in interstate or foreign commerce by any means, including by computer, or any means or instrumentality of interstate or foreign commerce is otherwise used in committing or in furtherance of the commission of the offense;

(2) any communication involved in or made in furtherance of the offense contemplates the transmission or transportation of a visual depiction by the mail, or in interstate or foreign commerce by any means, including by computer;

(3) any person travels or is transported in interstate or foreign commerce in the course of the commission or in furtherance of the commission of the offense;

(4) any visual depiction involved in the offense has been mailed, or has been shipped or transported in interstate or foreign commerce by any means, including by computer, or was produced using materials that have been mailed, or that have been shipped or transported in interstate or foreign commerce by any means, including by computer; or

(5) the offense is committed in the special maritime and territorial jurisdiction of the United States or in any territory or possession of the United States.

(e) AFFIRMATIVE DEFENSE.—It shall be an affirmative defense to a charge of violating subsection (b) that the defendant—

(1) possessed less than 3 such visual depictions; and

(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any such visual depiction—

(A) took reasonable steps to destroy each such visual depiction; or

(B) reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction.

(f) DEFINITIONS.—For purposes of this section—

(1) the term ''visual depiction'' includes undeveloped film and videotape, and data stored on a computer disk or by electronic means which is capable of conversion into a visual image, and also includes any photograph, film, video, picture, digital image or picture, computer image or picture, or computer generated image or picture, whether made or produced by electronic, mechanical, or other means;

(2) the term ''sexually explicit conduct'' has the meaning given the term in section 2256(2)(A) or 2256(2)(B); and

(3) the term ''graphic'', when used with respect to a depiction of sexually explicit conduct, means that a viewer can observe any part of the genitals or pubic area of any depicted person or animal during any part of the time that the sexually explicit conduct is being depicted.

(Added Pub. L. 108–21, title V, § 504(a), Apr. 30, 2003, 117 Stat. 680.)

SENTENCING GUIDELINES

Pub. L. 108–21, title V, § 504(c), Apr. 30, 2003, 117 Stat. 682, provided that:

''(1) CATEGORY.—Except as provided in paragraph (2), the applicable category of offense to be used in determining the sentencing range referred to in section 3553(a)(4) of title 18, United States Code, with respect to any person convicted under section 1466A of such title, shall be the category of offenses described in section 2G2.2 of the Sentencing Guidelines.

''(2) RANGES.—The Sentencing Commission may promulgate guidelines specifically governing offenses under section 1466A of title 18, United States Code, if such guidelines do not result in sentencing ranges that are lower than those that would have applied under paragraph (1).''

REPORT TO CONGRESSIONAL COMMITTEES

Pub. L. 108–21, title V, § 513(b), Apr. 30, 2003, 117 Stat. 685, provided that:

''(1) IN GENERAL.—Not later than 9 months after the date of enactment of this Act [Apr. 30, 2003], and every 2 years thereafter, the Attorney General shall report to the Chairpersons and Ranking Members of the Committees on the Judiciary of the Senate and the House of Representatives on the Federal enforcement actions under chapter 110 or section 1466A of title 18, United States Code.

''(2) CONTENTS.—The report required under paragraph (1) shall include—

''(A) an evaluation of the prosecutions brought under chapter 110 or section 1466A of title 18, United States Code;

''(B) an outcome-based measurement of performance; and

''(C) an analysis of the technology being used by the child pornography industry.''

§ 1467. Criminal forfeiture

(a) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.—A person who is convicted of an offense involving obscene material under this chapter shall forfeit to the United States such person's interest in—

(1) any obscene material produced, transported, mailed, shipped, or received in violation of this chapter;

(2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

(3) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense, if the court in its discretion so determines, taking into consideration the nature, scope, and proportionality of the use of the property in the offense.

(b) THIRD PARTY TRANSFERS.—All right, title, and interest in property described in subsection (a) of this section vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (m) of this section that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

(c) PROTECTIVE ORDERS.—(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) of this section for forfeiture under this section—

(A) upon the filing of an indictment or information charging a violation of this chapter for which criminal forfeiture may be ordered under this section and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered;

except that an order entered under subparagraph (B) shall be effective for not more than 90 days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

(2) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than 10 days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

(3) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

(d) WARRANT OF SEIZURE.—The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection (c) of this section may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property.

(e) ORDER OF FORFEITURE.—The court shall order forfeiture of property referred to in subsection (a) if—

(1) the trier of fact determines, beyond a reasonable doubt, that such property is subject to forfeiture; and

(2) with respect to property referred to in subsection (a)(3), if the court exercises the court's discretion under that subsection.

(f) EXECUTION.—Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property which are required by law, or which are necessary to protect the interests of the United States or third parties.

(g) DISPOSITION OF PROPERTY.—Following the seizure of property ordered forfeited under this section, the Attorney General shall destroy or retain for official use any property described in paragraph (1) of subsection (a) and shall direct

the disposition of any property described in paragraph (2) or (3) of subsection (a) by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with him or on his behalf be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or person acting in concert with him or on his behalf, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to him.

(h) AUTHORITY OF ATTORNEY GENERAL.—With respect to property ordered forfeited under this section, the Attorney General is authorized to—

(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this chapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this section;

(2) comprise claims arising under this section;

(3) award compensation to persons providing information resulting in a forfeiture under this section;

(4) direct the disposition by the United States, under section 616 of the Tariff Act of 1930, of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

(i) BAR ON INTERVENTION.—Except as provided in subsection (*l*) of this section, no party claiming an interest in property subject to forfeiture under this section may—

(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

(j) JURISDICTION TO ENTER ORDERS.—The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

(k) DEPOSITIONS.—In order to facilitate the identification and location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States, the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under Rule 15 of the Federal Rules of Criminal Procedure.

(*l*) THIRD PARTY INTERESTS.—(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

(2) Any person, other than the defendant, asserting a legal interest in property which has been ordered forfeited to the United States pursuant to this section may, within 30 days of the final publication of notice or his receipt of notice under paragraph (1), whichever is earlier, petition the court for a hearing to adjudicate the validity of his alleged interest in the property. The hearing shall be held before the court alone, without a jury.

(3) The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property, any additional facts supporting the petitioner's claim, and the relief sought.

(4) The hearing on the petition shall, to the extent practicable and consistent with the interests of justice, be held within 30 days of the filing of the petition. The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the defendant under this subsection.

(5) At the hearing, the petitioner may testify and present evidence and witnesses on his own behalf, and cross-examine witnesses who appear at the hearing. The United States may present evidence and witnesses in rebuttal and in defense of its claim to the property and cross-examine witnesses who appear at the hearing. In addition to testimony and evidence presented at the hearing, the court shall consider the relevant portions of the record of the criminal case which resulted in the order of forfeiture.

(6) If, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that—

(A) the petitioner has a legal right, title, or interest in the property, and such right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the petitioner rather than the defendant or was superior to any right, title, or interest of the defendant at the time of the commission of the acts which gave rise to the forfeiture of the property under this section; or

(B) the petitioner is a bona fide purchaser for value of the right, title, or interest in the

property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section;

the court shall amend the order of forfeiture in accordance with its determination.

(7) Following the court's disposition of all petitions filed under this subsection, or if no such petitions are filed following the expiration of the period provided in paragraph (2) for the filing of such petitions, the United States shall have clear title to property that is the subject of the order of forfeiture and may warrant good title to any subsequent purchaser or transferee.

(m) CONSTRUCTION.—This section shall be liberally construed to effectuate its remedial purposes.

(n) SUBSTITUTE ASSETS.—If any of the property described in subsection (a), as a result of any act or omission of the defendant—

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third party;

(3) has been placed beyond the jurisdiction of the court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).

(Added Pub. L. 100–690, title VII, § 7522(a), Nov. 18, 1988, 102 Stat. 4490; amended Pub. L. 101–647, title XXXV, § 3549, Nov. 29, 1990, 104 Stat. 4926.)

REFERENCES IN TEXT

The Federal Rules of Evidence, referred to in subsec. (c)(3), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Section 616 of the Tariff Act of 1930, referred to in subsec. (h)(4), is classified to section 1616a of Title 19, Customs Duties.

The Federal Rules of Criminal Procedure, referred to in subsec. (k), are set out in the Appendix to this title.

AMENDMENTS

1990—Subsec. (h)(4). Pub. L. 101–647 substituted ''under section 616 of the Tariff Act of 1930'' for ''in accordance with the provisions of section 1616, title 19, United States Code''.

§ 1468. Distributing obscene material by cable or subscription television

(a) Whoever knowingly utters any obscene language or distributes any obscene matter by means of cable television or subscription services on television, shall be punished by imprisonment for not more than 2 years or by a fine in accordance with this title, or both.

(b) As used in this section, the term ''distribute'' means to send, transmit, retransmit, telecast, broadcast, or cablecast, including by wire, microwave, or satellite, or to produce or provide material for such distribution.

(c) Nothing in this chapter, or the Cable Communications Policy Act of 1984, or any other provision of Federal law, is intended to interfere with or preempt the power of the States, including political subdivisions thereof, to regulate the uttering of language that is obscene or otherwise unprotected by the Constitution or the distribution of matter that is obscene or otherwise unprotected by the Constitution, of any sort, by means of cable television or subscription services on television.

(Added Pub. L. 100–690, title VII, § 7523(a), Nov. 18, 1988, 102 Stat. 4501.)

REFERENCES IN TEXT

The Cable Communications Policy Act of 1984, referred to in subsec. (c), is Pub. L. 98–549, Oct. 30, 1984, 98 Stat. 2779, which is classified principally to subchapter V–A (§ 521 et seq.) of chapter 5 of Title 47, Telegraphs, Telephones, and Radiotelegraphs. For complete classification of this Act to the Code, see Short Title of 1984 Amendment note set out under section 609 of Title 47 and Tables.

§ 1469. Presumptions

(a) In any prosecution under this chapter in which an element of the offense is that the matter in question was transported, shipped, or carried in interstate commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured in one State and is subsequently located in another State shall raise a rebuttable presumption that such matter was transported, shipped, or carried in interstate commerce.

(b) In any prosecution under this chapter in which an element of the offense is that the matter in question was transported, shipped, or carried in foreign commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured outside of the United States and is subsequently located in the United States shall raise a rebuttable presumption that such matter was transported, shipped, or carried in foreign commerce.

(Added Pub. L. 100–690, title VII, § 7521(d), Nov. 18, 1988, 102 Stat. 4489.)

§ 1470. Transfer of obscene material to minors

Whoever, using the mail or any facility or means of interstate or foreign commerce, knowingly transfers obscene matter to another individual who has not attained the age of 16 years, knowing that such other individual has not attained the age of 16 years, or attempts to do so, shall be fined under this title, imprisoned not more than 10 years, or both.

(Added Pub. L. 105–314, title IV, § 401(a), Oct. 30, 1998, 112 Stat. 2979.)

STUDY ON LIMITING AVAILABILITY OF PORNOGRAPHY ON INTERNET

Pub. L. 105–314, title IX, § 901, Oct. 30, 1998, 112 Stat. 2991, provided that:

''(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Oct. 30, 1998], the Attorney General shall request that the National Academy of Sciences, acting through its National Research Council, enter into a contract to conduct a study of computer-based technologies and other approaches to the problem of the availability of pornographic material to children on the Internet, in order to develop possible amendments to Federal criminal law and other law enforcement techniques to respond to the problem.

''(b) CONTENTS OF STUDY.—The study under this section shall address each of the following:

''(1) The capabilities of present-day computer-based control technologies for controlling electronic transmission of pornographic images.

''(2) Research needed to develop computer-based control technologies to the point of practical utility for controlling the electronic transmission of pornographic images.

''(3) Any inherent limitations of computer-based control technologies for controlling electronic transmission of pornographic images.

''(4) Operational policies or management techniques needed to ensure the effectiveness of these control technologies for controlling electronic transmission of pornographic images.

''(c) FINAL REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a final report of the study under this section, which report shall—

''(1) set forth the findings, conclusions, and recommendations of the Council; and

''(2) be submitted by the Committees on the Judiciary of the House of Representatives and the Senate to relevant Government agencies and committees of Congress.''

CHAPTER 73—OBSTRUCTION OF JUSTICE

Sec.
1501. Assault on process server.
1502. Resistance to extradition agent.
1503. Influencing or injuring officer or juror generally.
1504. Influencing juror by writing.
1505. Obstruction of proceedings before departments, agencies, and committees.
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1507. Picketing or parading.
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1512. Tampering with a witness, victim, or an informant.
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1516. Obstruction of Federal audit.
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1518. Obstruction of criminal investigations of health care offenses.
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AMENDMENTS

2002—Pub. L. 107–204, title VIII, §§ 802(b), 806(b), July 30, 2002, 116 Stat. 801, 804, added items 1514A, 1519, and 1520.

1996—Pub. L. 104–191, title II, § 245(b), Aug. 21, 1996, 110 Stat. 2018, added item 1518.

1990—Pub. L. 101–647, title XXV, § 2503(b), Nov. 29, 1990, 104 Stat. 4861, added item 1517.

1988—Pub. L. 100–690, title VII, §§ 7030, 7078(b), Nov. 18, 1988, 102 Stat. 4398, 4406, inserted ''; general provision'' in item 1515 and added item 1516.

1982—Pub. L. 97–291, § 4(b), Oct. 12, 1982, 96 Stat. 1253, substituted ''or juror'' for '', juror or witness'' after ''officer'' in item 1503, and added items 1512, 1513, 1514, and 1515.

1970—Pub. L. 91–452, title VIII, § 802(b), Oct. 15, 1970, 84 Stat. 937, added item 1511.

1967—Pub. L. 90–123, § 1(b), Nov. 3, 1967, 81 Stat. 362, added item 1510.

1962—Pub. L. 87–664, § 6(b), Sept. 19, 1962, 76 Stat. 552, substituted ''Obstruction of proceedings before departments, agencies, and committees'' for ''Influencing or injuring witness before agencies and committees'' in item 1505.

1960—Pub. L. 86–449, title I, § 102, May 6, 1960, 74 Stat. 86, added item 1509.

1956—Act Aug. 2, 1956, ch. 879, § 2, 70 Stat. 936, added item 1508.

1950—Act Sept. 23, 1950, ch. 1024, title I, § 31(b), 64 Stat. 1019, added item 1507.

§ 1501. Assault on process server

Whoever knowingly and willfully obstructs, resists, or opposes any officer of the United States, or other person duly authorized, in serving, or attempting to serve or execute, any legal or judicial writ or process of any court of the United States, or United States magistrate judge; or

Whoever assaults, beats, or wounds any officer or other person duly authorized, knowing him to be such officer, or other person so duly authorized, in serving or executing any such writ, rule, order, process, warrant, or other legal or judicial writ or process—

Shall, except as otherwise provided by law, be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 769; Pub. L. 90–578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 103–322, title XXXIII, § 330016(1)(F), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 245 (Mar. 4, 1909, ch. 321, § 140, 35 Stat. 1114).

The phrase ''Except as otherwise expressly provided by law'' was inserted because sections 2231, 2232, and 2233 of this title provide greater penalties for obstructing service of search warrants.

Mandatory provisions were rephrased in the alternative.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $300'' in last par.

CHANGE OF NAME

''United States magistrate judge'' substituted for ''United States magistrate'' in text pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, ''United States magistrate'' substituted for ''United States commissioner'' pursuant to Pub. L. 90–578. See chapter 43 (§ 631 et seq.) of Title 28.

Reference to United States magistrate or to magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28.

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–204, title VIII, § 801, July 30, 2002, 116 Stat. 800, provided that: ''This title [enacting sections 1348, 1514A, 1519, and 1520 of this title, amending section 523 of Title 11, Bankruptcy, and section 1658 of Title 28, Judiciary and Judicial Procedure, and enacting provisions set out as notes under sections 994 and 1658 of Title 28] may be cited as the 'Corporate and Criminal Fraud Accountability Act of 2002'.''

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–291, § 1, Oct. 12, 1982, 96 Stat. 1248, provided: ''That this Act [enacting sections 1512 to 1515, 3579, and

3580 of this title, amending sections 1503, 1505, 1510, and 3146 of this title and Rule 32 of the Federal Rules of Civil Procedure, and enacting provisions set out as notes under sections 1512 and 3579 of this title] may be cited as the 'Victim and Witness Protection Act of 1982'.''

§ 1502. Resistance to extradition agent

Whoever knowingly and willfully obstructs, resists, or opposes an extradition agent of the United States in the execution of his duties, shall be fined under this title or imprisoned not more than one year, or both.

(June 24, 1948, ch. 645, 62 Stat. 769; Pub. L. 103–322, title XXXIII, § 330016(1)(F), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 661 (R.S. 5277).

Said section 661 of title 18, U.S.C., 1940 ed., was incorporated in this section and section 752 of this title.

Words ''an extradition agent of the United States'' were substituted for ''such agent'' which was referred to in sections 3182 et seq. of this title.

A fine of ''$300'' was substituted for ''$1,000'' as the mandatory maximum to harmonize with similar offenses in this chapter. (See section 1501 of this title.)

Punishment provision was rephrased in the alternative.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $300''.

§ 1503. Influencing or injuring officer or juror generally

(a) Whoever corruptly, or by threats or force, or by any threatening letter or communication, endeavors to influence, intimidate, or impede any grand or petit juror, or officer in or of any court of the United States, or officer who may be serving at any examination or other proceeding before any United States magistrate judge or other committing magistrate, in the discharge of his duty, or injures any such grand or petit juror in his person or property on account of any verdict or indictment assented to by him, or on account of his being or having been such juror, or injures any such officer, magistrate judge, or other committing magistrate in his person or property on account of the performance of his official duties, or corruptly or by threats or force, or by any threatening letter or communication, influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice, shall be punished as provided in subsection (b). If the offense under this section occurs in connection with a trial of a criminal case, and the act in violation of this section involves the threat of physical force or physical force, the maximum term of imprisonment which may be imposed for the offense shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case.

(b) The punishment for an offense under this section is—

(1) in the case of a killing, the punishment provided in sections 1111 and 1112;

(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than 20 years, a fine under this title, or both; and

(3) in any other case, imprisonment for not more than 10 years, a fine under this title, or both.

(June 25, 1948, ch. 645, 62 Stat. 769; Pub. L. 97–291, § 4(c), Oct. 12, 1982, 96 Stat. 1253; Pub. L. 103–322, title VI, § 60016, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 1974, 2147; Pub. L. 104–214, § 1(3), Oct. 1, 1996, 110 Stat. 3017.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 241 (Mar. 4, 1909, ch. 321, § 135, 35 Stat. 1113; June 8, 1945, ch. 178, § 1, 59 Stat. 234).

The phrase ''other committing magistrate'' was substituted for ''officer acting as such commissioner'' in order to clarify meaning.

Minor changes were made in phraseology.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–214 inserted at end ''If the offense under this section occurs in connection with a trial of a criminal case, and the act in violation of this section involves the threat of physical force or physical force, the maximum term of imprisonment which may be imposed for the offense shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case.''

1994—Pub. L. 103–322, § 330016(1)(K), which directed the substitution of ''fined under this title'' for ''fined not more than $5,000'', could not be executed because the words ''fined not more than $5,000'' did not appear in text subsequent to amendment by Pub. L. 103–322, § 60016. See below.

Pub. L. 103–322, § 60016, designated existing provisions as subsec. (a), substituted ''magistrate judge'' for ''commissioner'' in two places and ''punished as provided in subsection (b)'' for ''fined not more than $5,000 or imprisoned not more than five years, or both'', and added subsec. (b).

1982—Pub. L. 97–291, § 4(c)(1), substituted ''or juror'' for '', juror or witness'' after ''officer'' in section catchline.

Pub. L. 97–291, § 4(c)(2), (3), substituted in text ''grand'' for ''witness, in any court of the United States or before any United States commissioner or other committing magistrate, or any grand'' after ''or impede any'', and struck out ''injures any party or witness in his person or property on account of his attending or having attended such court or examination before such officer, commissioner, or other committing magistrate, or on account of his testifying or having testified to any matter pending therein, or'' after ''discharge of his duty, or''.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–291 effective Oct. 12, 1982, see section 9(a) of Pub. L. 97–291, set out as an Effective Date note under section 1512 of this title.

§ 1504. Influencing juror by writing

Whoever attempts to influence the action or decision of any grand or petit juror of any court of the United States upon any issue or matter pending before such juror, or before the jury of which he is a member, or pertaining to his duties, by writing or sending to him any written communication, in relation to such issue or matter, shall be fined under this title or imprisoned not more than six months, or both.

Nothing in this section shall be construed to prohibit the communication of a request to appear before the grand jury.

(June 25, 1948, ch. 645, 62 Stat. 770; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 243 (Mar. 4, 1909, ch. 321, § 137, 35 Stat. 1113).

Last paragraph was added to remove the possibility that a proper request to appear before a grand jury might be construed as a technical violation of this section.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000'' in first par.

§ 1505. Obstruction of proceedings before departments, agencies, and committees

Whoever, with intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any civil investigative demand duly and properly made under the Antitrust Civil Process Act, willfully withholds, misrepresents, removes from any place, conceals, covers up, destroys, mutilates, alters, or by other means falsifies any documentary material, answers to written interrogatories, or oral testimony, which is the subject of such demand; or attempts to do so or solicits another to do so; or

Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress—

Shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 770; Pub. L. 87–664, § 6(a), Sept. 19, 1962, 76 Stat. 551; Pub. L. 91–452, title IX, § 903, Oct. 15, 1970, 84 Stat. 947; Pub. L. 94–435, title I, § 105, Sept. 30, 1976, 90 Stat. 1389; Pub. L. 97–291, § 4(d), Oct. 12, 1982, 96 Stat. 1253; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 108–458, title VI, § 6703(a), Dec. 17, 2004, 118 Stat. 3766.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 241a, (Mar. 4, 1909, ch. 321, § 135a, as added Jan. 13, 1940, ch. 1, 54 Stat. 13; June 8, 1945, ch. 178, § 2, 59 Stat. 234).

Word ''agency'' was substituted for the words ''independent establishment, board, commission'' in two instances to eliminate any possible ambiguity as to scope of section. (See definitive section 6 of this title.)

Minor changes were made in phraseology.

REFERENCES IN TEXT

The Antitrust Civil Process Act, referred to in text, is Pub. L. 87–664, Sept. 19, 1962, 76 Stat. 548, as amended, which is classified generally to chapter 34 (§ 1311 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1311 of Title 15 and Tables.

AMENDMENTS

2004—Pub. L. 108–458, which directed amendment of the third undesignated paragraph of this section by substituting ''be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both'' for ''be fined under this title or imprisoned not more than 5 years, or both'', was executed by making the substitution for ''be fined under this title or imprisoned not more than five years, or both'', to reflect the probable intent of Congress.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in last par.

1982—Pub. L. 97–291 struck out first two paragraphs which provided, respectively, that whoever corruptly, or by threats or force, or by any threatening letter or communication, endeavored to influence, intimidate, or impede any witness in any proceeding pending before any department or agency of the United States, or in connection with any inquiry or investigation being had by either House, or any committee of either House, or any joint committee of the Congress, and whoever injured any party or witness in his person or property on account of his attending or having attended such proceeding, inquiry, or investigation, or on account of his testifying or having testified to any matter pending therein, would be subject to the penalty set forth in the last paragraph, and in the fourth paragraph substituted ''any pending'' for ''such'' after ''law under which'', and substituted ''any'' for ''such'' before ''department'' and before ''inquiry''.

1976—Pub. L. 94–435 struck out ''section 1968 of this title'' after ''Antitrust Civil Process Act'', inserted ''withholds, misrepresents'' after ''willfully'', ''covers up'' after ''conceals'', ''answers to written interrogatories, or oral testimony'', after ''any documentary material'', and ''or attempts to do so or solicits another to do so;'' after ''such demand''.

1970—Pub. L. 91–452 inserted reference to section 1968 of this title.

1962—Pub. L. 87–664 substituted section catchline ''Obstruction of proceedings before departments, agencies, and committees'' for ''Influencing or injuring witness before agencies and committees'' and punished the willful removal, concealment, destruction, mutilation, alteration or falsification of documents which were the subject of a demand under the Antitrust Civil Process Act if done with the intent to prevent compliance with a civil investigative demand.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–291 effective Oct. 12, 1982, see section 9(a) of Pub. L. 97–291, set out as an Effective Date note under section 1512 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–435 effective Sept. 30, 1976, see section 106 of Pub. L. 94–435, set out as a note under section 1311 of Title 15, Commerce and Trade.

§ 1506. Theft or alteration of record or process; false bail

Whoever feloniously steals, takes away, alters, falsifies, or otherwise avoids any record, writ, process, or other proceeding, in any court of the United States, whereby any judgment is reversed, made void, or does not take effect; or

Whoever acknowledges, or procures to be acknowledged in any such court, any recognizance, bail, or judgment, in the name of any other person not privy or consenting to the same—

Shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 770; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 233 (Mar. 4, 1909, ch. 321, § 127, 35 Stat. 1111).

The term of imprisonment was reduced from 7 to 5 years, to conform the punishment with like ones for similar offenses. (See section 1503 of this title.)

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in last par.

§ 1507. Picketing or parading

Whoever, with the intent of interfering with, obstructing, or impeding the administration of justice, or with the intent of influencing any judge, juror, witness, or court officer, in the discharge of his duty, pickets or parades in or near a building housing a court of the United States, or in or near a building or residence occupied or used by such judge, juror, witness, or court officer, or with such intent uses any sound-truck or similar device or resorts to any other demonstration in or near any such building or residence, shall be fined under this title or imprisoned not more than one year, or both.

Nothing in this section shall interfere with or prevent the exercise by any court of the United States of its power to punish for contempt.

(Added Sept. 23, 1950, ch. 1024, title I, § 31(a), 64 Stat. 1018; amended Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in first par.

§ 1508. Recording, listening to, or observing proceedings of grand or petit juries while deliberating or voting

Whoever knowingly and willfully, by any means or device whatsoever—

(a) records, or attempts to record, the proceedings of any grand or petit jury in any court of the United States while such jury is deliberating or voting; or

(b) listens to or observes, or attempts to listen to or observe, the proceedings of any grand or petit jury of which he is not a member in any court of the United States while such jury is deliberating or voting—

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

Nothing in paragraph (a) of this section shall be construed to prohibit the taking of notes by a grand or petit juror in any court of the United States in connection with and solely for the purpose of assisting him in the performance of his duties as such juror.

(Added Aug. 2, 1956, ch. 879, § 1, 70 Stat. 935; amended Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–294, title VI, § 601(f)(13), Oct. 11, 1996, 110 Stat. 3500.)

AMENDMENTS

1996—Pub. L. 104–294 realigned margins for provisions beginning ''shall be fined'' and ending ''one year, or both.''

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000'' in par. following par. (b).

§ 1509. Obstruction of court orders

Whoever, by threats or force, willfully prevents, obstructs, impedes, or interferes with, or willfully attempts to prevent, obstruct, impede, or interfere with, the due exercise of rights or the performance of duties under any order, judgment, or decree of a court of the United States, shall be fined under this title or imprisoned not more than one year, or both.

No injunctive or other civil relief against the conduct made criminal by this section shall be denied on the ground that such conduct is a crime.

(Added Pub. L. 86–449, title I, § 101, May 6, 1960, 74 Stat. 86; amended Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000'' in first par.

§ 1510. Obstruction of criminal investigations

(a) Whoever willfully endeavors by means of bribery to obstruct, delay, or prevent the communication of information relating to a violation of any criminal statute of the United States by any person to a criminal investigator shall be fined under this title, or imprisoned not more than five years, or both.

(b)(1) Whoever, being an officer of a financial institution, with the intent to obstruct a judicial proceeding, directly or indirectly notifies any other person about the existence or contents of a subpoena for records of that financial institution, or information that has been furnished to the grand jury in response to that subpoena, shall be fined under this title or imprisoned not more than 5 years, or both.

(2) Whoever, being an officer of a financial institution, directly or indirectly notifies—

(A) a customer of that financial institution whose records are sought by a grand jury subpoena; or

(B) any other person named in that subpoena;

about the existence or contents of that subpoena or information that has been furnished to the grand jury in response to that subpoena, shall be fined under this title or imprisoned not more than one year, or both.

(3) As used in this subsection—

(A) the term ''an officer of a financial institution'' means an officer, director, partner, employee, agent, or attorney of or for a financial institution; and

(B) the term ''subpoena for records'' means a Federal grand jury subpoena or a Department of Justice subpoena (issued under section 3486 of title 18), for customer records that has been served relating to a violation of, or a conspiracy to violate—

(i) section 215, 656, 657, 1005, 1006, 1007, 1014, 1344, 1956, 1957, or chapter 53 of title 31; or

(ii) section 1341 or 1343 affecting a financial institution.

(c) As used in this section, the term ''criminal investigator'' means any individual duly authorized by a department, agency, or armed force of

the United States to conduct or engage in investigations of or prosecutions for violations of the criminal laws of the United States.

(d)(1) Whoever—

(A) acting as, or being, an officer, director, agent or employee of a person engaged in the business of insurance whose activities affect interstate commerce, or

(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

with intent to obstruct a judicial proceeding, directly or indirectly notifies any other person about the existence or contents of a subpoena for records of that person engaged in such business or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined as provided by this title or imprisoned not more than 5 years, or both.

(2) As used in paragraph (1), the term ''subpoena for records'' means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033 of this title.

(Added Pub. L. 90–123, § 1(a), Nov. 3, 1967, 81 Stat. 362; amended Pub. L. 97–291, § 4(e), Oct. 12, 1982, 96 Stat. 1253; Pub. L. 101–73, title IX, § 962(c), Aug. 9, 1989, 103 Stat. 502; Pub. L. 102–550, title XV, § 1528, Oct. 28, 1992, 106 Stat. 4065; Pub. L. 103–322, title XXXII, § 320604(c), title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2119, 2147; Pub. L. 104–191, title II, § 248(c), Aug. 21, 1996, 110 Stat. 2020.)

AMENDMENTS

1996—Subsec. (b)(3)(B). Pub. L. 104–191 which directed the insertion of ''or a Department of Justice subpoena (issued under section 3486 of title 18),'' after ''subpoena'', was executed by making the insertion after ''subpoena'' the second place it appeared to reflect the probable intent of Congress.

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

Subsec. (d). Pub. L. 103–322, § 320604(c), added subsec. (d).

1992—Subsec. (b)(3)(B)(i). Pub. L. 102–550 substituted ''1344, 1956, 1957, or chapter 53 of title 31'' for ''or 1344''.

1989—Subsecs. (b), (c). Pub. L. 101–73 added subsec. (b) and redesignated former subsec. (b) as (c).

1982—Subsec. (a). Pub. L. 97–291 struck out '', misrepresentation, intimidation, or force or threats thereof'' after ''bribery'', and struck out provision applying the penalties provided by this subsection to whoever injured any person in his person or property on account of the giving by such person or any other person of any information relating to a violation of any criminal statute of the United States to any criminal investigator.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–291 effective Oct. 12, 1982, see section 9(a) of Pub. L. 97–291, set out as an Effective Date note under section 1512 of this title.

§ 1511. Obstruction of State or local law enforcement

(a) It shall be unlawful for two or more persons to conspire to obstruct the enforcement of the criminal laws of a State or political subdivision thereof, with the intent to facilitate an illegal gambling business if—

(1) one or more of such persons does any act to effect the object of such a conspiracy;

(2) one or more of such persons is an official or employee, elected, appointed, or otherwise, of such State or political subdivision; and

(3) one or more of such persons conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling business.

(b) As used in this section—

(1) ''illegal gambling business'' means a gambling business which—

(i) is a violation of the law of a State or political subdivision in which it is conducted;

(ii) involves five or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and

(iii) has been or remains in substantially continuous operation for a period in excess of thirty days or has a gross revenue of $2,000 in any single day.

(2) ''gambling'' includes but is not limited to pool-selling, bookmaking, maintaining slot machines, roulette wheels, or dice tables, and conducting lotteries, policy, bolita or numbers games, or selling chances therein.

(3) ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(c) This section shall not apply to any bingo game, lottery, or similar game of chance conducted by an organization exempt from tax under paragraph (3) of subsection (c) of section 501 of the Internal Revenue Code of 1986, as amended, if no part of the gross receipts derived from such activity inures to the benefit of any private shareholder, member, or employee of such organization, except as compensation for actual expenses incurred by him in the conduct of such activity.

(d) Whoever violates this section shall be punished by a fine under this title or imprisonment for not more than five years, or both.

(Added Pub. L. 91–452, title VIII, § 802(a), Oct. 15, 1970, 84 Stat. 936; amended Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 103–322, title XXXIII, § 330016(2)(C), Sept. 13, 1994, 108 Stat. 2148.)

REFERENCES IN TEXT

Paragraph (3) of subsection (c) of section 501 of the Internal Revenue Code of 1986, referred to in subsec. (c), is classified to section 501(c)(3) of Title 26, Internal Revenue Code.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–322 substituted ''fine under this title'' for ''fine of not more than $20,000''.

1986—Subsec. (c). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

CONGRESSIONAL STATEMENT OF FINDINGS

Section 801 of title VIII of Pub. L. 91–452 provided that: ''The Congress finds that illegal gambling involves widespread use of, and has an effect upon, interstate commerce and the facilities thereof.''

PRIORITY OF STATE LAWS

Section 811 of title VIII of Pub. L. 91–452 provided that: ''No provision of this title [enacting this section and section 1955 of this title, amending section 2516 of this title, and enacting provisions set out as notes under this section and section 1955 of this title] indicates an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of a state or possession, or a political subdivision of a State or possession, on the same subject matter, or to relieve any person of any obligation imposed by any law of any State or possession, or political subdivision of a State or possession.''

§ 1512. Tampering with a witness, victim, or an informant

(a)(1) Whoever kills or attempts to kill another person, with intent to—

(A) prevent the attendance or testimony of any person in an official proceeding;

(B) prevent the production of a record, document, or other object, in an official proceeding; or

(C) prevent the communication by any person to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (3).

(2) Whoever uses physical force or the threat of physical force against any person, or attempts to do so, with intent to—

(A) influence, delay, or prevent the testimony of any person in an official proceeding;

(B) cause or induce any person to—

(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

(ii) alter, destroy, mutilate, or conceal an object with intent to impair the integrity or availability of the object for use in an official proceeding;

(iii) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

(iv) be absent from an official proceeding to which that person has been summoned by legal process; or

(C) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (3).

(3) The punishment for an offense under this subsection is—

(A) in the case of murder (as defined in section 1111), the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112;

(B) in the case of—

(i) an attempt to murder; or

(ii) the use or attempted use of physical force against any person;

imprisonment for not more than 20 years; and

(C) in the case of the threat of use of physical force against any person, imprisonment for not more than 10 years.

(b) Whoever knowingly uses intimidation, threatens, or corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to—

(1) influence, delay, or prevent the testimony of any person in an official proceeding;

(2) cause or induce any person to—

(A) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

(B) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;

(C) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

(D) be absent from an official proceeding to which such person has been summoned by legal process; or

(3) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation[1] supervised release,,[1] parole, or release pending judicial proceedings;

shall be fined under this title or imprisoned not more than ten years, or both.

(c) Whoever corruptly—

(1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or

(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so,

shall be fined under this title or imprisoned not more than 20 years, or both.

(d) Whoever intentionally harasses another person and thereby hinders, delays, prevents, or dissuades any person from—

(1) attending or testifying in an official proceeding;

(2) reporting to a law enforcement officer or judge of the United States the commission or possible commission of a Federal offense or a violation of conditions of probation[1] supervised release,,[1] parole, or release pending judicial proceedings;

(3) arresting or seeking the arrest of another person in connection with a Federal offense; or

(4) causing a criminal prosecution, or a parole or probation revocation proceeding, to be sought or instituted, or assisting in such prosecution or proceeding;

or attempts to do so, shall be fined under this title or imprisoned not more than one year, or both.

(e) In a prosecution for an offense under this section, it is an affirmative defense, as to which

[1] So in original.

the defendant has the burden of proof by a preponderance of the evidence, that the conduct consisted solely of lawful conduct and that the defendant's sole intention was to encourage, induce, or cause the other person to testify truthfully.

(f) For the purposes of this section—

(1) an official proceeding need not be pending or about to be instituted at the time of the offense; and

(2) the testimony, or the record, document, or other object need not be admissible in evidence or free of a claim of privilege.

(g) In a prosecution for an offense under this section, no state of mind need be proved with respect to the circumstance—

(1) that the official proceeding before a judge, court, magistrate judge, grand jury, or government agency is before a judge or court of the United States, a United States magistrate judge, a bankruptcy judge, a Federal grand jury, or a Federal Government agency; or

(2) that the judge is a judge of the United States or that the law enforcement officer is an officer or employee of the Federal Government or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant.

(h) There is extraterritorial Federal jurisdiction over an offense under this section.

(i) A prosecution under this section or section 1503 may be brought in the district in which the official proceeding (whether or not pending or about to be instituted) was intended to be affected or in the district in which the conduct constituting the alleged offense occurred.

(j) If the offense under this section occurs in connection with a trial of a criminal case, the maximum term of imprisonment which may be imposed for the offense shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case.

(k) Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.

(Added Pub. L. 97–291, § 4(a), Oct. 12, 1982, 96 Stat. 1249; amended Pub. L. 99–646, § 61, Nov. 10, 1986, 100 Stat. 3614; Pub. L. 100–690, title VII, § 7029(a), (c), Nov. 18, 1988, 102 Stat. 4397, 4398; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 103–322, title VI, § 60018, title XXXIII, § 330016(1)(O), (U), Sept. 13, 1994, 108 Stat. 1975, 2148; Pub. L. 104–214, § 1(2), Oct. 1, 1996, 110 Stat. 3017; Pub. L. 104–294, title VI, § 604(b)(31), Oct. 11, 1996, 110 Stat. 3508; Pub. L. 107–204, title XI, § 1102, July 30, 2002, 116 Stat. 807; Pub. L. 107–273, div. B, title III, § 3001(a), (c)(1), Nov. 2, 2002, 116 Stat. 1803, 1804.)

AMENDMENTS

2002—Subsec. (a)(1). Pub. L. 107–273, § 3001(a)(1)(A), substituted ''as provided in paragraph (3)'' for ''as provided in paragraph (2)'' in concluding provisions.

Subsec. (a)(2). Pub. L. 107–273, § 3001(a)(1)(C), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 107–273, § 3001(a)(1)(B), (D), redesignated par. (2) as (3), added subpars. (B) and (C), and struck out former subpar. (B) which read as follows: ''(B) in the case of an attempt, imprisonment for not more than twenty years.''

Subsec. (b). Pub. L. 107–273, § 3001(a)(2), struck out ''or physical force'' after ''intimidation'' in introductory provisions.

Subsec. (b)(3). Pub. L. 107–273, § 3001(c)(1), inserted ''supervised release,'' after ''probation''.

Subsec. (c). Pub. L. 107–204 added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 107–204 redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(2). Pub. L. 107–273, § 3001(c)(1), inserted ''supervised release,'' after ''probation''.

Subsecs. (e) to (j). Pub. L. 107–204 redesignated former subsecs. (d) to (i) as (e) to (j), respectively.

Subsec. (k). Pub. L. 107–273, § 3001(a)(3), added subsec. (k).

1996—Subsec. (a)(2)(A). Pub. L. 104–294 inserted ''and'' after semicolon at end.

Subsec. (i). Pub. L. 104–214 added subsec. (i).

1994—Subsec. (a)(2)(A). Pub. L. 103–322, § 60018, amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and''.

Subsec. (b). Pub. L. 103–322, § 330016(1)(U), substituted ''fined under this title'' for ''fined not more than $250,000'' in concluding provisions.

Subsec. (c). Pub. L. 103–322, § 330016(1)(O), substituted ''fined under this title'' for ''fined not more than $25,000'' in concluding provisions.

1988—Subsec. (b). Pub. L. 100–690, § 7029(c), substituted ''threatens, or corruptly persuades'' for ''or threatens''.

Subsec. (h). Pub. L. 100–690, § 7029(a), added subsec. (h).

1986—Subsec. (a). Pub. L. 99–646, § 61(2), (3), added subsec. (a) and redesignated former subsec. (a) as (b).

Subsecs. (b) to (g). Pub. L. 99–646, § 61(1), (3), redesignated former subsec. (a) as (b), inserted '', delay, or prevent'', and redesignated former subsecs. (b) to (f) as (c) to (g), respectively.

CHANGE OF NAME

Words ''magistrate judge'' and ''United States magistrate judge'' substituted for ''magistrate'' and ''United States magistrate'', respectively, in subsec. (f)(1) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

EFFECTIVE DATE

Section 9 of Pub. L. 97–291 provided that:

''(a) Except as provided in subsection (b), this Act and the amendments made by this Act [enacting this section and sections 1513 to 1515, 3579, and 3580 of this title, amending sections 1503, 1505, 1510, and 3146 of this title and Rule 32 of the Federal Rules of Criminal Procedure, and enacting provisions set out as notes under this section and sections 1501 and 3579 of this title] shall take effect on the date of the enactment of this Act [Oct. 12, 1982].

''(b)(1) The amendment made by section 2 of this Act [enacting provisions set out as a note under this section] shall apply to presentence reports ordered to be made on or after March 1, 1983.

''(2) The amendments made by section 5 of this Act [enacting sections 3579 and 3580 of this title] shall apply with respect to offenses occurring on or after January 1, 1983.''

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES

Section 2 of Pub. L. 97–291 provided that:

''(a) The Congress finds and declares that:

''(1) Without the cooperation of victims and witnesses, the criminal justice system would cease to function; yet with few exceptions these individuals are either ignored by the criminal justice system or simply used as tools to identify and punish offenders.

''(2) All too often the victim of a serious crime is forced to suffer physical, psychological, or financial hardship first as a result of the criminal act and then as a result of contact with a criminal justice system unresponsive to the real needs of such victim.

''(3) Although the majority of serious crimes falls under the jurisdiction of State and local law enforcement agencies, the Federal Government, and in particular the Attorney General, has an important leadership role to assume in ensuring that victims of crime, whether at the Federal, State, or local level, are given proper treatment by agencies administering the criminal justice system.

''(4) Under current law, law enforcement agencies must have cooperation from a victim of crime and yet neither the agencies nor the legal system can offer adequate protection or assistance when the victim, as a result of such cooperation, is threatened or intimidated.

''(5) While the defendant is provided with counsel who can explain both the criminal justice process and the rights of the defendant, the victim or witness has no counterpart and is usually not even notified when the defendant is released on bail, the case is dismissed, a plea to a lesser charge is accepted, or a court date is changed.

''(6) The victim and witness who cooperate with the prosecutor often find that the transportation, parking facilities, and child care services at the court are unsatisfactory and they must often share the pretrial waiting room with the defendant or his family and friends.

''(7) The victim may lose valuable property to a criminal only to lose it again for long periods of time to Federal law enforcement officials, until the trial and sometimes and [sic] appeals are over; many times that property is damaged or lost, which is particularly stressful for the elderly or poor.

''(b) The Congress declares that the purposes of this Act [see Short Title of 1982 Amendment note set out under section 1501 of this title] are—

''(1) to enhance and protect the necessary role of crime victims and witnesses in the criminal justice process;

''(2) to ensure that the Federal Government does all that is possible within limits of available resources to assist victims and witnesses of crime without infringing on the constitutional rights of the defendant; and

''(3) to provide a model for legislation for State and local governments.''

FEDERAL GUIDELINES FOR TREATMENT OF CRIME VICTIMS AND WITNESSES IN THE CRIMINAL JUSTICE SYSTEM

Section 6 of Pub. L. 97–291, as amended by Pub. L. 98–473, title II, § 1408(b), Oct. 12, 1984, 98 Stat. 2177, provided that:

''(a) Within two hundred and seventy days after the date of enactment of this Act [Oct. 12, 1982], the Attorney General shall develop and implement guidelines for the Department of Justice consistent with the purposes of this Act [see Short Title of 1982 Amendment note set out under section 1501 of this title]. In preparing the guidelines the Attorney General shall consider the following objectives:

''(1) SERVICES TO VICTIMS OF CRIME.—Law enforcement personnel should ensure that victims routinely receive emergency social and medical services as soon as possible and are given information on the following—

''(A) availability of crime victim compensation (where applicable);

''(B) community-based victim treatment programs;

''(C) the role of the victim in the criminal justice process, including what they can expect from the system as well as what the system expects from them; and

''(D) stages in the criminal justice process of significance to a crime victim, and the manner in which information about such stages can be obtained.

''(2) NOTIFICATION OF AVAILABILITY OF PROTECTION.—A victim or witness should routinely receive information on steps that law enforcement officers and attorneys for the Government can take to protect victims and witnesses from intimidation.

''(3) SCHEDULING CHANGES.—All victims and witnesses who have been scheduled to attend criminal justice proceedings should either be notified as soon as possible of any scheduling changes which will affect their appearances or have available a system for alerting witnesses promptly by telephone or otherwise.

''(4) PROMPT NOTIFICATION TO VICTIMS OF SERIOUS CRIMES.—Victims, witnesses, relatives of those victims and witnesses who are minors, and relatives of homicide victims should, if such persons provide the appropriate official with a current address and telephone number, receive prompt advance notification, if possible, of—

''(A) the arrest of an accused;

''(B) the initial appearance of an accused before a judicial officer;

''(C) the release of the accused pending judicial proceedings; and

''(D) proceedings in the prosecution and punishment of the accused (including entry of a plea of guilty, trial, sentencing, and, where a term of imprisonment is imposed, a hearing to determine a parole release date and the release of the accused from such imprisonment).

''(5) CONSULTATION WITH VICTIM.—The victim of a serious crime, or in the case of a minor child or a homicide, the family of the victim, should be consulted by the attorney for the Government in order to obtain the views of the victim or family about the disposition of any Federal criminal case brought as a result of such crime, including the views of the victim or family about—

''(A) dismissal;

''(B) release of the accused pending judicial proceedings;

''(C) plea negotiations; and

''(D) pretrial diversion program.

''(6) SEPARATE WAITING AREA.—Victims and other prosecution witnesses should be provided prior to court appearance a waiting area that is separate from all other witnesses.

''(7) PROPERTY RETURN.—Law enforcement agencies and prosecutor should promptly return victim's property held for evidentiary purposes unless there is a compelling law enforcement reason for retaining it.

''(8) NOTIFICATION TO EMPLOYER.—A victim or witness who so requests should be assisted by law enforcement agencies and attorneys for the Government in informing employers that the need for victim and witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work. A victim or witness who, as a direct result of a crime or of cooperation with law enforcement agencies or attorneys for the Government, is subjected to serious financial strain, should be assisted by such agencies and attorneys in explaining to creditors the reason for such serious financial strain.

''(9) TRAINING BY FEDERAL LAW ENFORCEMENT TRAINING FACILITIES.—Victim assistance education and training should be offered to persons taking courses at Federal law enforcement training facilities and attorneys for the Government so that victims may be promptly, properly, and completely assisted.

''(10) GENERAL VICTIM ASSISTANCE.—The guidelines should also ensure that any other important assist-

ance to victims and witnesses, such as the adoption of transportation, parking, and translator services for victims in court be provided.

''(b) Nothing in this title shall be construed as creating a cause of action against the United States.

''(c) The Attorney General shall assure that all Federal law enforcement agencies outside of the Department of Justice adopt guidelines consistent with subsection (a) of this section.''

[Amendment of section 6 of Pub. L. 97–291 by Pub. L. 98–473, set out above, effective 30 days after Oct. 12, 1984, see section 1409(a) of Pub. L. 98–473, set out as an Effective Date note under section 10601 of Title 42, The Public Health and Welfare.]

§ 1513. Retaliating against a witness, victim, or an informant

(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

(B) providing to a law enforcement officer any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation[1] supervised release,,[1] parole, or release pending judicial proceedings,

shall be punished as provided in paragraph (2).

(2) The punishment for an offense under this subsection is—

(A) in the case of a killing, the punishment provided in sections 1111 and 1112; and

(B) in the case of an attempt, imprisonment for not more than 20 years.

(b) Whoever knowingly engages in any conduct and thereby causes bodily injury to another person or damages the tangible property of another person, or threatens to do so, with intent to retaliate against any person for—

(1) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

(2) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation[1] supervised release,,[1] parole, or release pending judicial proceedings given by a person to a law enforcement officer;

or attempts to do so, shall be fined under this title or imprisoned not more than ten years, or both.

(c) If the retaliation occurred because of attendance at or testimony in a criminal case, the maximum term of imprisonment which may be imposed for the offense under this section shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case.

(d) There is extraterritorial Federal jurisdiction over an offense under this section.

(e)[2] Whoever knowingly, with the intent to retaliate, takes any action harmful to any person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, shall be fined under this title or imprisoned not more than 10 years, or both.

(e)[2] Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.

(Added Pub. L. 97–291, § 4(a), Oct. 12, 1982, 96 Stat. 1250; amended Pub. L. 103–322, title VI, § 60017, title XXXIII, § 330016(1)(U), Sept. 13, 1994, 108 Stat. 1975, 2148; Pub. L. 104–214, § 1(1), Oct. 1, 1996, 110 Stat. 3017; Pub. L. 107–204, title XI, § 1107(a), July 30, 2002, 116 Stat. 810; Pub. L. 107–273, div. B, title III, § 3001(b), (c)(2), title IV, § 4002(b)(4), Nov. 2, 2002, 116 Stat. 1804, 1807.)

AMENDMENTS

2002—Subsecs. (a)(1)(B), (b)(2). Pub. L. 107–273, § 3001(c)(2), inserted ''supervised release,'' after ''probation''.

Subsec. (d). Pub. L. 107–273, § 4002(b)(4), transferred subsec. (d) to appear after subsec. (c).

Subsec. (e). Pub. L. 107–273, § 3001(b), added subsec. (e) relating to conspiracy to commit any offense under this section.

Pub. L. 107–204 added subsec. (e) relating to taking of action harmful to any person for providing law enforcement officer truthful information relating to commission of offense.

1996—Subsec. (c). Pub. L. 104–214, § 1(1)(B), added subsec. (c) at end.

Pub. L. 104–214, § 1(1)(A), redesignated subsec. (c) as (d).

Subsec. (d). Pub. L. 104–214, § 1(1)(A), redesignated subsec. (c) as (d).

1994—Subsec. (a). Pub. L. 103–322, § 60017(2), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 103–322, § 330016(1)(U), substituted ''fined under this title'' for ''fined not more than $250,000'' in concluding provisions.

Pub. L. 103–322, § 60017(1), redesignated subsec. (a) as (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 103–322, § 60017(1), redesignated subsec. (b) as (c).

EFFECTIVE DATE

Section effective Oct. 12, 1982, see section 9(a) of Pub. L. 97–291, set out as a note under section 1512 of this title.

§ 1514. Civil action to restrain harassment of a victim or witness

(a)(1) A United States district court, upon application of the attorney for the Government, shall issue a temporary restraining order prohibiting harassment of a victim or witness in a Federal criminal case if the court finds, from specific facts shown by affidavit or by verified complaint, that there are reasonable grounds to believe that harassment of an identified victim or witness in a Federal criminal case exists or that such order is necessary to prevent and restrain an offense under section 1512 of this title, other than an offense consisting of misleading conduct, or under section 1513 of this title.

(2)(A) A temporary restraining order may be issued under this section without written or oral notice to the adverse party or such party's attorney in a civil action under this section if the court finds, upon written certification of facts by the attorney for the Government, that such

[1] So in original.

[2] So in original. Two subsecs. (e) have been enacted.

notice should not be required and that there is a reasonable probability that the Government will prevail on the merits.

(B) A temporary restraining order issued without notice under this section shall be endorsed with the date and hour of issuance and be filed forthwith in the office of the clerk of the court issuing the order.

(C) A temporary restraining order issued under this section shall expire at such time, not to exceed 10 days from issuance, as the court directs; the court, for good cause shown before expiration of such order, may extend the expiration date of the order for up to 10 days or for such longer period agreed to by the adverse party.

(D) When a temporary restraining order is issued without notice, the motion for a protective order shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character, and when such motion comes on for hearing, if the attorney for the Government does not proceed with the application for a protective order, the court shall dissolve the temporary restraining order.

(E) If on two days notice to the attorney for the Government or on such shorter notice as the court may prescribe, the adverse party appears and moves to dissolve or modify the temporary restraining order, the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

(F) A temporary restraining order shall set forth the reasons for the issuance of such order, be specific in terms, and describe in reasonable detail (and not by reference to the complaint or other document) the act or acts being restrained.

(b)(1) A United States district court, upon motion of the attorney for the Government, shall issue a protective order prohibiting harassment of a victim or witness in a Federal criminal case if the court, after a hearing, finds by a preponderance of the evidence that harassment of an identified victim or witness in a Federal criminal case exists or that such order is necessary to prevent and restrain an offense under section 1512 of this title, other than an offense consisting of misleading conduct, or under section 1513 of this title.

(2) At the hearing referred to in paragraph (1) of this subsection, any adverse party named in the complaint shall have the right to present evidence and cross-examine witnesses.

(3) A protective order shall set forth the reasons for the issuance of such order, be specific in terms, describe in reasonable detail (and not by reference to the complaint or other document) the act or acts being restrained.

(4) The court shall set the duration of effect of the protective order for such period as the court determines necessary to prevent harassment of the victim or witness but in no case for a period in excess of three years from the date of such order's issuance. The attorney for the Government may, at any time within ninety days before the expiration of such order, apply for a new protective order under this section.

(c) As used in this section—

(1) the term ''harassment'' means a course of conduct directed at a specific person that—

(A) causes substantial emotional distress in such person; and

(B) serves no legitimate purpose; and

(2) the term ''course of conduct'' means a series of acts over a period of time, however short, indicating a continuity of purpose.

(Added Pub. L. 97–291, § 4(a), Oct. 12, 1982, 96 Stat. 1250.)

EFFECTIVE DATE

Section effective Oct. 12, 1982, see section 9(a) of Pub. L. 97–291, set out as a note under section 1512 of this title.

§ 1514A. Civil action to protect against retaliation in fraud cases

(a) WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES.—No company with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*), or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*(d)), or any officer, employee, contractor, subcontractor, or agent of such company, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee—

(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders, when the information or assistance is provided to or the investigation is conducted by—

(A) a Federal regulatory or law enforcement agency;

(B) any Member of Congress or any committee of Congress; or

(C) a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct); or

(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed (with any knowledge of the employer) relating to an alleged violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders.

(b) ENFORCEMENT ACTION.—

(1) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c), by—

(A) filing a complaint with the Secretary of Labor; or

(B) if the Secretary has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de

novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

(2) PROCEDURE.—

(A) IN GENERAL.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

(B) EXCEPTION.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the employer.

(C) BURDENS OF PROOF.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

(D) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 90 days after the date on which the violation occurs.

(c) REMEDIES.—

(1) IN GENERAL.—An employee prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the employee whole.

(2) COMPENSATORY DAMAGES.—Relief for any action under paragraph (1) shall include—

(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

(B) the amount of back pay, with interest; and

(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

(d) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law, or under any collective bargaining agreement.

(Added Pub. L. 107–204, title VIII, § 806(a), July 30, 2002, 116 Stat. 802.)

§ 1515. Definitions for certain provisions; general provision

(a) As used in sections 1512 and 1513 of this title and in this section—

(1) the term ''official proceeding'' means—

(A) a proceeding before a judge or court of the United States, a United States magistrate judge, a bankruptcy judge, a judge of the United States Tax Court, a special trial judge of the Tax Court, a judge of the United States Court of Federal Claims, or a Federal grand jury;

(B) a proceeding before the Congress;

(C) a proceeding before a Federal Government agency which is authorized by law; or

(D) a proceeding involving the business of insurance whose activities affect interstate commerce before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of any person engaged in the business of insurance whose activities affect interstate commerce;

(2) the term ''physical force'' means physical action against another, and includes confinement;

(3) the term ''misleading conduct'' means—

(A) knowingly making a false statement;

(B) intentionally omitting information from a statement and thereby causing a portion of such statement to be misleading, or intentionally concealing a material fact, and thereby creating a false impression by such statement;

(C) with intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered, or otherwise lacking in authenticity;

(D) with intent to mislead, knowingly submitting or inviting reliance on a sample, specimen, map, photograph, boundary mark, or other object that is misleading in a material respect; or

(E) knowingly using a trick, scheme, or device with intent to mislead;

(4) the term ''law enforcement officer'' means an officer or employee of the Federal Government, or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant—

(A) authorized under law to engage in or supervise the prevention, detection, investigation, or prosecution of an offense; or

(B) serving as a probation or pretrial services officer under this title;

(5) the term ''bodily injury'' means—

(A) a cut, abrasion, bruise, burn, or disfigurement;

(B) physical pain;

(C) illness;

(D) impairment of the function of a bodily member, organ, or mental faculty; or

(E) any other injury to the body, no matter how temporary; and

(6) the term ''corruptly persuades'' does not include conduct which would be misleading conduct but for a lack of a state of mind.

(b) As used in section 1505, the term ''corruptly'' means acting with an improper purpose, personally or by influencing another, including making a false or misleading statement, or withholding, concealing, altering, or destroying a document or other information.

(c) This chapter does not prohibit or punish the providing of lawful, bona fide, legal representation services in connection with or anticipation of an official proceeding.

(Added Pub. L. 97–291, § 4(a), Oct. 12, 1982, 96 Stat. 1252; amended Pub. L. 99–646, § 50(b), Nov. 10, 1986, 100 Stat. 3605; Pub. L. 100–690, title VII, § 7029(b), (d), Nov. 18, 1988, 102 Stat. 4398; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 103–322, title XXXII, § 320604(a), Sept. 13, 1994, 108 Stat. 2118; Pub. L. 104–292, § 3, Oct. 11, 1996, 110 Stat. 3460; Pub. L. 104–294, title VI, § 604(b)(39), Oct. 11, 1996, 110 Stat. 3509.)

AMENDMENTS

1996—Subsec. (a)(1)(D). Pub. L. 104–294 struck out ''or'' after semicolon at end.

Subsecs. (b), (c). Pub. L. 104–292 added subsec. (b) and redesignated former subsec. (b) as (c).

1994—Subsec. (a)(1)(D). Pub. L. 103–322 added subpar. (D).

1992—Subsec. (a)(1)(A). Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court''.

1988—Subsec. (a)(1)(A). Pub. L. 100–690, § 7029(b), inserted ''a judge of the United States Tax Court, a special trial judge of the Tax Court, a judge of the United States Claims Court,'' after ''bankruptcy judge,''.

Subsec. (a)(6). Pub. L. 100–690, § 7029(d), added par. (6).

1986—Pub. L. 99–646 inserted ''; general provision'' in section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

CHANGE OF NAME

''United States magistrate judge'' substituted for ''United States magistrate'' in subsec. (a)(1)(A) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section effective Oct. 12, 1982, see section 9(a) of Pub. L. 97–291, set out as a note under section 1512 of this title.

§ 1516. Obstruction of Federal audit

(a) Whoever, with intent to deceive or defraud the United States, endeavors to influence, obstruct, or impede a Federal auditor in the performance of official duties relating to a person, entity, or program receiving in excess of $100,000, directly or indirectly, from the United States in any 1 year period under a contract or subcontract, grant, or cooperative agreement, or relating to any property that is security for a mortgage note that is insured, guaranteed, acquired, or held by the Secretary of Housing and Urban Development pursuant to any Act administered by the Secretary, or relating to any property that is security for a loan that is made or guaranteed under title V of the Housing Act of 1949, shall be fined under this title, or imprisoned not more than 5 years, or both.

(b) For purposes of this section—

(1) the term ''Federal auditor'' means any person employed on a full- or part-time or contractual basis to perform an audit or a quality assurance inspection for or on behalf of the United States; and

(2) the term ''in any 1 year period'' has the meaning given to the term ''in any one-year period'' in section 666.

(Added Pub. L. 100–690, title VII, § 7078(a), Nov. 18, 1988, 102 Stat. 4406; amended Pub. L. 103–322, title XXXII, § 320609, Sept. 13, 1994, 108 Stat. 2120; Pub. L. 104–294, title VI, § 604(b)(43), Oct. 11, 1996, 110 Stat. 3509; Pub. L. 105–65, title V, § 564, Oct. 27, 1997, 111 Stat. 1420; Pub. L. 106–569, title VII, § 709(b), Dec. 27, 2000, 114 Stat. 3018; Pub. L. 107–273, div. A, title II, § 205(c), Nov. 2, 2002, 116 Stat. 1778.)

REFERENCES IN TEXT

The Housing Act of 1949, referred to in subsec. (a), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended. Title V of the Act is classified generally to subchapter III (§ 1471 et seq.) of chapter 8A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of Title 42 and Tables.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–273 inserted '', entity, or program'' after ''person'' and ''grant, or cooperative agreement,'' after ''subcontract,''.

2000—Subsec. (a). Pub. L. 106–569 inserted ''or relating to any property that is security for a loan that is made or guaranteed under title V of the Housing Act of 1949,'' before ''shall be fined under this title''.

1997—Subsec. (a). Pub. L. 105–65 inserted ''or relating to any property that is security for a mortgage note that is insured, guaranteed, acquired, or held by the Secretary of Housing and Urban Development pursuant to any Act administered by the Secretary,'' after ''under a contract or subcontract,''.

1996—Subsec. (b)(1). Pub. L. 104–294 inserted ''and'' after semicolon at end.

1994—Subsec. (b). Pub. L. 103–322 substituted ''section—'' for ''section'', inserted ''(1)'' before ''the term'', substituted semicolon for the period at end, and added par. (2).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

§ 1517. Obstructing examination of financial institution

Whoever corruptly obstructs or attempts to obstruct any examination of a financial institution by an agency of the United States with jurisdiction to conduct an examination of such financial institution shall be fined under this title, imprisoned not more than 5 years, or both.

(Added Pub. L. 101–647, title XXV, § 2503(a), Nov. 29, 1990, 104 Stat. 4861.)

§ 1518. Obstruction of criminal investigations of health care offenses

(a) Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a violation of a Federal health care offense to a criminal investigator shall be fined under this title or imprisoned not more than 5 years, or both.

(b) As used in this section the term ''criminal investigator'' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.

(Added Pub. L. 104–191, title II, § 245(a), Aug. 21, 1996, 110 Stat. 2017.)

§ 1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy

Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to

or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both.

(Added Pub. L. 107–204, title VIII, § 802(a), July 30, 2002, 116 Stat. 800.)

§ 1520. Destruction of corporate audit records

(a)(1) Any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1(a)) applies, shall maintain all audit or review workpapers for a period of 5 years from the end of the fiscal period in which the audit or review was concluded.

(2) The Securities and Exchange Commission shall promulgate, within 180 days, after adequate notice and an opportunity for comment, such rules and regulations, as are reasonably necessary, relating to the retention of relevant records such as workpapers, documents that form the basis of an audit or review, memoranda, correspondence, communications, other documents, and records (including electronic records) which are created, sent, or received in connection with an audit or review and contain conclusions, opinions, analyses, or financial data relating to such an audit or review, which is conducted by any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1(a)) applies. The Commission may, from time to time, amend or supplement the rules and regulations that it is required to promulgate under this section, after adequate notice and an opportunity for comment, in order to ensure that such rules and regulations adequately comport with the purposes of this section.

(b) Whoever knowingly and willfully violates subsection (a)(1), or any rule or regulation promulgated by the Securities and Exchange Commission under subsection (a)(2), shall be fined under this title, imprisoned not more than 10 years, or both.

(c) Nothing in this section shall be deemed to diminish or relieve any person of any other duty or obligation imposed by Federal or State law or regulation to maintain, or refrain from destroying, any document.

(Added Pub. L. 107–204, title VIII, § 802(a), July 30, 2002, 116 Stat. 800.)

CHAPTER 74—PARTIAL-BIRTH ABORTIONS

Sec.
1531. Partial-birth abortions prohibited.

§ 1531. Partial-birth abortions prohibited

(a) Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than 2 years, or both. This subsection does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself. This subsection takes effect 1 day after the enactment.

(b) As used in this section—

(1) the term ''partial-birth abortion'' means an abortion in which the person performing the abortion—

(A) deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

(B) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus; and

(2) the term ''physician'' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions: *Provided, however*, That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

(2) Such relief shall include—

(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

(B) statutory damages equal to three times the cost of the partial-birth abortion.

(d)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

(e) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section.

(Added Pub. L. 108–105, § 3(a), Nov. 5, 2003, 117 Stat. 1206.)

REFERENCES IN TEXT

The enactment, referred to in subsec. (a), probably means the date of the enactment of Pub. L. 108–105, which enacted this section and was approved Nov. 5, 2003.

SHORT TITLE

Pub. L. 108–105, §1, Nov. 5, 2003, 117 Stat. 1201, provided that: ''This Act [enacting this chapter and provisions set out as a note under this section] may be cited as the 'Partial-Birth Abortion Ban Act of 2003'.''

FINDINGS

Pub. L. 108–105, §2, Nov. 5, 2003, 117 Stat. 1201, provided that: ''The Congress finds and declares the following:

''(1) A moral, medical, and ethical consensus exists that the practice of performing a partial-birth abortion—an abortion in which a physician deliberately and intentionally vaginally delivers a living, unborn child's body until either the entire baby's head is outside the body of the mother, or any part of the baby's trunk past the navel is outside the body of the mother and only the head remains inside the womb, for the purpose of performing an overt act (usually the puncturing of the back of the child's skull and removing the baby's brains) that the person knows will kill the partially delivered infant, performs this act, and then completes delivery of the dead infant—is a gruesome and inhumane procedure that is never medically necessary and should be prohibited.

''(2) Rather than being an abortion procedure that is embraced by the medical community, particularly among physicians who routinely perform other abortion procedures, partial-birth abortion remains a disfavored procedure that is not only unnecessary to preserve the health of the mother, but in fact poses serious risks to the long-term health of women and in some circumstances, their lives. As a result, at least 27 States banned the procedure as did the United States Congress which voted to ban the procedure during the 104th, 105th, and 106th Congresses.

''(3) In Stenberg v. Carhart, 530 U.S. 914, 932 (2000), the United States Supreme Court opined 'that significant medical authority supports the proposition that in some circumstances, [partial birth abortion] would be the safest procedure' for pregnant women who wish to undergo an abortion. Thus, the Court struck down the State of Nebraska's ban on partial-birth abortion procedures, concluding that it placed an 'undue burden' on women seeking abortions because it failed to include an exception for partial-birth abortions deemed necessary to preserve the 'health' of the mother.

''(4) In reaching this conclusion, the Court deferred to the Federal district court's factual findings that the partial-birth abortion procedure was statistically and medically as safe as, and in many circumstances safer than, alternative abortion procedures.

''(5) However, substantial evidence presented at the Stenberg trial and overwhelming evidence presented and compiled at extensive congressional hearings, much of which was compiled after the district court hearing in Stenberg, and thus not included in the Stenberg trial record, demonstrates that a partial-birth abortion is never necessary to preserve the health of a woman, poses significant health risks to a woman upon whom the procedure is performed and is outside the standard of medical care.

''(6) Despite the dearth of evidence in the Stenberg trial court record supporting the district court's findings, the United States Court of Appeals for the Eighth Circuit and the Supreme Court refused to set aside the district court's factual findings because, under the applicable standard of appellate review, they were not 'clearly erroneous'. A finding of fact is clearly erroneous 'when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed'. Anderson v. City of Bessemer City, North Carolina, 470 U.S. 564, 573 (1985). Under this standard, 'if the district court's account of the evidence is plausible in light of the record viewed in its entirety, the court of appeals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently'. Id. at 574.

''(7) Thus, in Stenberg, the United States Supreme Court was required to accept the very questionable findings issued by the district court judge—the effect of which was to render null and void the reasoned factual findings and policy determinations of the United States Congress and at least 27 State legislatures.

''(8) However, under well-settled Supreme Court jurisprudence, the United States Congress is not bound to accept the same factual findings that the Supreme Court was bound to accept in Stenberg under the 'clearly erroneous' standard. Rather, the United States Congress is entitled to reach its own factual findings—findings that the Supreme Court accords great deference—and to enact legislation based upon these findings so long as it seeks to pursue a legitimate interest that is within the scope of the Constitution, and draws reasonable inferences based upon substantial evidence.

''(9) In Katzenbach v. Morgan, 384 U.S. 641 (1966), the Supreme Court articulated its highly deferential review of congressional factual findings when it addressed the constitutionality of section 4(e) of the Voting Rights Act of 1965 [42 U.S.C. 1973b(e)]. Regarding Congress' factual determination that section 4(e) would assist the Puerto Rican community in 'gaining nondiscriminatory treatment in public services,' the Court stated that '[i]t was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations * * *. It is not for us to review the congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did. There plainly was such a basis to support section 4(e) in the application in question in this case.'. Id. at 653.

''(10) Katzenbach's highly deferential review of Congress' factual conclusions was relied upon by the United States District Court for the District of Columbia when it upheld the 'bail-out' provisions of the Voting Rights Act of 1965 (42 U.S.C. 1973c), stating that 'congressional fact finding, to which we are inclined to pay great deference, strengthens the inference that, in those jurisdictions covered by the Act, state actions discriminatory in effect are discriminatory in purpose'. City of Rome, Georgia v. U.S., 472 F. Supp. 221 (D.D.C. 1979) aff'd City of Rome, Georgia v. U.S., 446 U.S. 156 (1980).

''(11) The Court continued its practice of deferring to congressional factual findings in reviewing the constitutionality of the must-carry provisions of the Cable Television Consumer Protection and Competition Act of 1992 [Pub. L. 102–385, see Tables for classification]. See Turner Broadcasting System, Inc. v. Federal Communications Commission, 512 U.S. 622 (1994) (Turner I) and Turner Broadcasting System, Inc. v. Federal Communications Commission, 520 U.S. 180 (1997) (Turner II). At issue in the Turner cases was Congress' legislative finding that, absent mandatory carriage rules, the continued viability of local broadcast television would be 'seriously jeopardized'. The Turner I Court recognized that as an institution, 'Congress is far better equipped than the judiciary to ''amass and evaluate the vast amounts of data'' bearing upon an issue as complex and dynamic as that presented here', 512 U.S. at 665–66. Although the Court recognized that 'the deference afforded to legislative findings does ''not foreclose our independent judgment of the facts bearing on an issue of constitutional law,'' ' its 'obligation to exercise independent judgment when First Amendment rights are implicated is not a license to reweigh the evidence de novo, or to replace Congress' factual predictions with our own. Rather, it is to assure that, in formulating its judgments, Congress has drawn reasonable inferences based on substantial evidence.'. Id. at 666.

''(12) Three years later in Turner II, the Court upheld the 'must-carry' provisions based upon Congress' findings, stating the Court's 'sole obligation is

''to assure that, in formulating its judgments, Congress has drawn reasonable inferences based on substantial evidence.'' ' 520 U.S. at 195. Citing its ruling in Turner I, the Court reiterated that '[w]e owe Congress' findings deference in part because the institution ''is far better equipped than the judiciary to 'amass and evaluate the vast amounts of data' bearing upon'' legislative questions,' id. at 195, and added that it 'owe[d] Congress' findings an additional measure of deference out of respect for its authority to exercise the legislative power.'. Id. at 196.

''(13) There exists substantial record evidence upon which Congress has reached its conclusion that a ban on partial-birth abortion is not required to contain a 'health' exception, because the facts indicate that a partial-birth abortion is never necessary to preserve the health of a woman, poses serious risks to a woman's health, and lies outside the standard of medical care. Congress was informed by extensive hearings held during the 104th, 105th, 107th, and 108th Congresses and passed a ban on partial-birth abortion in the 104th, 105th, and 106th Congresses. These findings reflect the very informed judgment of the Congress that a partial-birth abortion is never necessary to preserve the health of a woman, poses serious risks to a woman's health, and lies outside the standard of medical care, and should, therefore, be banned.

''(14) Pursuant to the testimony received during extensive legislative hearings during the 104th, 105th, 107th, and 108th Congresses, Congress finds and declares that:

''(A) Partial-birth abortion poses serious risks to the health of a woman undergoing the procedure. Those risks include, among other things: An increase in a woman's risk of suffering from cervical incompetence, a result of cervical dilation making it difficult or impossible for a woman to successfully carry a subsequent pregnancy to term; an increased risk of uterine rupture, abruption, amniotic fluid embolus, and trauma to the uterus as a result of converting the child to a footling breech position, a procedure which, according to a leading obstetrics textbook, 'there are very few, if any, indications for * * * other than for delivery of a second twin'; and a risk of lacerations and secondary hemorrhaging due to the doctor blindly forcing a sharp instrument into the base of the unborn child's skull while he or she is lodged in the birth canal, an act which could result in severe bleeding, brings with it the threat of shock, and could ultimately result in maternal death.

''(B) There is no credible medical evidence that partial-birth abortions are safe or are safer than other abortion procedures. No controlled studies of partial-birth abortions have been conducted nor have any comparative studies been conducted to demonstrate its safety and efficacy compared to other abortion methods. Furthermore, there have been no articles published in peer-reviewed journals that establish that partial-birth abortions are superior in any way to established abortion procedures. Indeed, unlike other more commonly used abortion procedures, there are currently no medical schools that provide instruction on abortions that include the instruction in partial-birth abortions in their curriculum.

''(C) A prominent medical association has concluded that partial-birth abortion is 'not an accepted medical practice', that it has 'never been subject to even a minimal amount of the normal medical practice development,' that 'the relative advantages and disadvantages of the procedure in specific circumstances remain unknown,' and that 'there is no consensus among obstetricians about its use'. The association has further noted that partial-birth abortion is broadly disfavored by both medical experts and the public, is 'ethically wrong,' and 'is never the only appropriate procedure'.

''(D) Neither the plaintiff in Stenberg v. Carhart, nor the experts who testified on his behalf, have identified a single circumstance during which a partial-birth abortion was necessary to preserve the health of a woman.

''(E) The physician credited with developing the partial-birth abortion procedure has testified that he has never encountered a situation where a partial-birth abortion was medically necessary to achieve the desired outcome and, thus, is never medically necessary to preserve the health of a woman.

''(F) A ban on the partial-birth abortion procedure will therefore advance the health interests of pregnant women seeking to terminate a pregnancy.

''(G) In light of this overwhelming evidence, Congress and the States have a compelling interest in prohibiting partial-birth abortions. In addition to promoting maternal health, such a prohibition will draw a bright line that clearly distinguishes abortion and infanticide, that preserves the integrity of the medical profession, and promotes respect for human life.

''(H) Based upon Roe v. Wade, 410 U.S. 113 (1973) and Planned Parenthood v. Casey, 505 U.S. 833 (1992), a governmental interest in protecting the life of a child during the delivery process arises by virtue of the fact that during a partial-birth abortion, labor is induced and the birth process has begun. This distinction was recognized in Roe when the Court noted, without comment, that the Texas parturition statute, which prohibited one from killing a child 'in a state of being born and before actual birth,' was not under attack. This interest becomes compelling as the child emerges from the maternal body. A child that is completely born is a full, legal person entitled to constitutional protections afforded a 'person' under the United States Constitution. Partial-birth abortions involve the killing of a child that is in the process, in fact mere inches away from, becoming a 'person'. Thus, the government has a heightened interest in protecting the life of the partially-born child.

''(I) This, too, has not gone unnoticed in the medical community, where a prominent medical association has recognized that partial-birth abortions are 'ethically different from other destructive abortion techniques because the fetus, normally twenty weeks or longer in gestation, is killed outside of the womb'. According to this medical association, the '''partial birth'' gives the fetus an autonomy which separates it from the right of the woman to choose treatments for her own body'.

''(J) Partial-birth abortion also confuses the medical, legal, and ethical duties of physicians to preserve and promote life, as the physician acts directly against the physical life of a child, whom he or she had just delivered, all but the head, out of the womb, in order to end that life. Partial-birth abortion thus appropriates the terminology and techniques used by obstetricians in the delivery of living children—obstetricians who preserve and protect the life of the mother and the child—and instead uses those techniques to end the life of the partially-born child.

''(K) Thus, by aborting a child in the manner that purposefully seeks to kill the child after he or she has begun the process of birth, partial-birth abortion undermines the public's perception of the appropriate role of a physician during the delivery process, and perverts a process during which life is brought into the world, in order to destroy a partially-born child.

''(L) The gruesome and inhumane nature of the partial-birth abortion procedure and its disturbing similarity to the killing of a newborn infant promotes a complete disregard for infant human life that can only be countered by a prohibition of the procedure.

''(M) The vast majority of babies killed during partial-birth abortions are alive until the end of the procedure. It is a medical fact, however, that un-

born infants at this stage can feel pain when subjected to painful stimuli and that their perception of this pain is even more intense than that of newborn infants and older children when subjected to the same stimuli. Thus, during a partial-birth abortion procedure, the child will fully experience the pain associated with piercing his or her skull and sucking out his or her brain.

''(N) Implicitly approving such a brutal and inhumane procedure by choosing not to prohibit it will further coarsen society to the humanity of not only newborns, but all vulnerable and innocent human life, making it increasingly difficult to protect such life. Thus, Congress has a compelling interest in acting—indeed it must act—to prohibit this inhumane procedure.

''(O) For these reasons, Congress finds that partial-birth abortion is never medically indicated to preserve the health of the mother; is in fact unrecognized as a valid abortion procedure by the mainstream medical community; poses additional health risks to the mother; blurs the line between abortion and infanticide in the killing of a partially-born child just inches from birth; and confuses the role of the physician in childbirth and should, therefore, be banned.''

CHAPTER 75—PASSPORTS AND VISAS

Sec.
1541. Issuance without authority.
1542. False statement in application and use of passport.
1543. Forgery or false use of passport.
1544. Misuse of passport.
1545. Safe conduct violation.
1546. Fraud and misuse of visas, permits, and other documents.
1547. Alternative imprisonment maximum for certain offenses.

AMENDMENTS

1994—Pub. L. 103–322, title XIII, § 130009(b), Sept. 13, 1994, 108 Stat. 2030, added item 1547.

1986—Pub. L. 99–603, title I, § 103(b), Nov. 6, 1986, 100 Stat. 3380, amended item 1546 generally, striking out ''entry'' before ''documents''.

§ 1541. Issuance without authority

Whoever, acting or claiming to act in any office or capacity under the United States, or a State, without lawful authority grants, issues, or verifies any passport or other instrument in the nature of a passport to or for any person whomsoever; or

Whoever, being a consular officer authorized to grant, issue, or verify passports, knowingly and willfully grants, issues, or verifies any such passport to or for any person not owing allegiance, to the United States, whether a citizen or not—

Shall be fined under this title, imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facilitate such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense), or both.

For purposes of this section, the term ''State'' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(June 25, 1948, ch. 645, 62 Stat. 771; Pub. L. 103–322, title XIII, § 130009(a)(1), title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2030, 2147; Pub. L. 104–208, div. C, title II, § 211(a)(2), Sept. 30, 1996, 110 Stat. 3009–569; Pub. L. 104–294, title VI, § 607(n), Oct. 11, 1996, 110 Stat. 3512; Pub. L. 107–273, div. B, title IV, § 4002(a)(3), Nov. 2, 2002, 116 Stat. 1806.)

HISTORICAL AND REVISION NOTES

Based on section 219 of title 22, U.S.C., 1940 ed., Foreign Relations and Intercourse (R.S. 4078; June 14, 1902, ch. 1088, § 3, 32 Stat. 386).

The venue provision, which followed the punishment provisions, was omitted as covered by section 3238 of this title.

Changes were made in phraseology.

AMENDMENTS

2002—Pub. L. 107–273 substituted ''to facilitate'' for ''to facility'' in third par.

1996—Pub. L. 104–294, § 607(n)(1), struck out ''or possession'' after ''or a State'' in first par.

Pub. L. 104–294, § 607(n)(2), added last par. defining ''State'' for purposes of this section.

Pub. L. 104–208 substituted ''imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facility such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense)'' for ''imprisoned not more than 10 years'' in third par.

1994—Pub. L. 103–322, § 330016(1)(G), which directed the amendment of this section by substituting ''under this title'' for ''not more than $500'', could not be executed because the words ''not more than $500'' did not appear in text subsequent to amendment by Pub. L. 103–322, § 130009(a)(1). See below.

Pub. L. 103–322, § 130009(a)(1), substituted ''under this title, imprisoned not more than 10 years'' for ''not more than $500 or imprisoned not more than one year'' in last par.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 applicable with respect to offenses occurring on or after Sept. 30, 1996, see section 211(c) of Pub. L. 104–208, set out as a note under section 1028 of this title.

§ 1542. False statement in application and use of passport

Whoever willfully and knowingly makes any false statement in an application for passport with intent to induce or secure the issuance of a passport under the authority of the United States, either for his own use or the use of another, contrary to the laws regulating the issuance of passports or the rules prescribed pursuant to such laws; or

Whoever willfully and knowingly uses or attempts to use, or furnishes to another for use any passport the issue of which was secured in any way by reason of any false statement—

Shall be fined under this title, imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense

was not committed to facilitate such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense), or both.

(June 25, 1948, ch. 645, 62 Stat. 771; Pub. L. 103–322, title XIII, § 130009(a)(2), title XXXIII, § 330016(1)(I), Sept. 13, 1994, 108 Stat. 2030, 2147; Pub. L. 104–208, div. C, title II, § 211(a)(2), Sept. 30, 1996, 110 Stat. 3009–569; Pub. L. 107–273, div. B, title IV, § 4002(a)(3), Nov. 2, 2002, 116 Stat. 1806.)

HISTORICAL AND REVISION NOTES

Based on section 220 of title 22, U.S.C., 1940 ed., Foreign Relations and Intercourse (June 15, 1917, ch. 30, title IX, § 2, 40 Stat. 227; Mar. 28, 1940, ch. 72, § 7, 54 Stat. 80).

Mandatory-punishment provision was rephrased in the alternative.

Punishment of five years' imprisonment was substituted for ''ten years'' to conform with other sections embracing offenses of comparable gravity.

Minor changes were made in phraseology.

AMENDMENTS

2002—Pub. L. 107–273 substituted ''to facilitate'' for ''to facility'' in last par.

1996—Pub. L. 104–208 substituted ''imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facility such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense)'' for ''imprisoned not more than 10 years'' in last par.

1994—Pub. L. 103–322, § 330016(1)(I), which directed the amendment of this section by substituting ''under this title'' for ''not more than $2,000'', could not be executed because the words ''not more than $2,000'' did not appear in text subsequent to amendment by Pub. L. 103–322, § 130009(a)(2). See below.

Pub. L. 103–322, § 130009(a)(2), substituted ''under this title, imprisoned not more than 10 years'' for ''not more than $2,000 or imprisoned not more than five years'' in last par.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 applicable with respect to offenses occurring on or after Sept. 30, 1996, see section 211(c) of Pub. L. 104–208, set out as a note under section 1028 of this title.

§ 1543. Forgery or false use of passport

Whoever falsely makes, forges, counterfeits, mutilates, or alters any passport or instrument purporting to be a passport, with intent that the same may be used; or

Whoever willfully and knowingly uses, or attempts to use, or furnishes to another for use any such false, forged, counterfeited, mutilated, or altered passport or instrument purporting to be a passport, or any passport validly issued which has become void by the occurrence of any condition therein prescribed invalidating the same—

Shall be fined under this title, imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facilitate such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense), or both.

(June 25, 1948, ch. 645, 62 Stat. 771; Pub. L. 103–322, title XIII, § 130009(a)(2), title XXXIII, § 330016(1)(I), Sept. 13, 1994, 108 Stat. 2030, 2147; Pub. L. 104–208, div. C, title II, § 211(a)(2), Sept. 30, 1996, 110 Stat. 3009–569; Pub. L. 107–273, div. B, title IV, § 4002(a)(3), Nov. 2, 2002, 116 Stat. 1806.)

HISTORICAL AND REVISION NOTES

Based on section 222 of title 22, U.S.C., 1940 ed., Foreign Relations and Intercourse (June 15, 1917, ch. 30, title IX, § 4, 40 Stat. 227; Mar. 28, 1940, ch. 72, § 7, 54 Stat. 80).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Mandatory-punishment provision with authorization for added fine in discretion of court was rephrased in the alternative.

Punishment of five years' imprisonment was substituted for ''ten years'' to conform with other sections embracing offenses of comparable gravity.

Minor changes were made in phraseology.

AMENDMENTS

2002—Pub. L. 107–273 substituted ''to facilitate'' for ''to facility'' in last par.

1996—Pub. L. 104–208 substituted ''imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facility such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense)'' for ''imprisoned not more than 10 years'' in last par.

1994—Pub. L. 103–322, § 330016(1)(I), which directed the amendment of this section by substituting ''under this title'' for ''not more than $2,000'', could not be executed because the words ''not more than $2,000'' did not appear in text subsequent to amendment by Pub. L. 103–322, § 130009(a)(2). See below.

Pub. L. 103–322, § 130009(a)(2), substituted ''under this title, imprisoned not more than 10 years'' for ''not more than $2,000 or imprisoned not more than five years'' in last par.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 applicable with respect to offenses occurring on or after Sept. 30, 1996, see section 211(c) of Pub. L. 104–208, set out as a note under section 1028 of this title.

§ 1544. Misuse of passport

Whoever willfully and knowingly uses, or attempts to use, any passport issued or designed for the use of another; or

Whoever willfully and knowingly uses or attempts to use any passport in violation of the conditions or restrictions therein contained, or of the rules prescribed pursuant to the laws regulating the issuance of passports; or

Whoever willfully and knowingly furnishes, disposes of, or delivers a passport to any person, for use by another than the person for whose use it was originally issued and designed—

Shall be fined under this title, imprisoned not more than 25 years (if the offense was committed to facilitate an act of international ter-

rorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facilitate such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense), or both.

(June 25, 1948, ch. 645, 62 Stat. 771; Pub. L. 103–322, title XIII, § 130009(a)(2), title XXXIII, § 330016(1)(I), Sept. 13, 1994, 108 Stat. 2030, 2147; Pub. L. 104–208, div. C, title II, § 211(a)(2), Sept. 30, 1996, 110 Stat. 3009–569; Pub. L. 107–273, div. B, title IV, § 4002(a)(3), Nov. 2, 2002, 116 Stat. 1806.)

HISTORICAL AND REVISION NOTES

Based on section 221 of title 22, U.S.C., 1940 ed., Foreign Relations and Intercourse (June 15, 1917, ch. 30, title IX, § 3, 40 Stat. 227; Mar. 28, 1940, ch. 72, § 7, 54 Stat. 80).

Mandatory-punishment provision rephrased in the alternative.

Punishment of five years' imprisonment was substituted for ''ten years'' to conform with other sections embracing offenses of comparable gravity.

The phrase ''which said rules shall be printed on the passport'' was omitted as inconsistent with administrative practice and because the existing rules are too voluminous to be printed on a passport.

Minor changes were made in phraseology.

AMENDMENTS

2002—Pub. L. 107–273 substituted ''to facilitate'' for ''to facility'' in last par.

1996—Pub. L. 104–208 substituted ''imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facility such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense)'' for ''imprisoned not more than 10 years'' in last par.

1994—Pub. L. 103–322, § 330016(1)(I), which directed the amendment of this section by substituting ''under this title'' for ''not more than $2,000'', could not be executed because the words ''not more than $2,000'' did not appear in text subsequent to amendment by Pub. L. 103–322, § 130009(a)(2). See below.

Pub. L. 103–322, § 130009(a)(2), substituted ''under this title, imprisoned not more than 10 years'' for ''not more than $2,000 or imprisoned not more than five years'' in last par.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 applicable with respect to offenses occurring on or after Sept. 30, 1996, see section 211(c) of Pub. L. 104–208, set out as a note under section 1028 of this title.

§ 1545. Safe conduct violation

Whoever violates any safe conduct or passport duly obtained and issued under authority of the United States shall be fined under this title, imprisoned not more than 10 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 771; Pub. L. 103–322, title XIII, § 130009(a)(3), title XXXIII, § 330016(1)(I), Sept. 13, 1994, 108 Stat. 2030, 2147.)

HISTORICAL AND REVISION NOTES

Based on section 251 of title 22, U.S.C., 1940 ed., Foreign Relations and Intercourse (R.S. 4062).

The punishment provision was rewritten to permit the alternative of a fine of not more than $2,000 or imprisonment, or both, instead of imprisonment and fine ''at the discretion of the court'', to conform with other sections embracing offenses of comparable gravity.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322, § 330016(1)(I), which directed the amendment of this section by substituting ''under this title'' for ''not more than $2,000'', could not be executed because the words ''not more than $2,000'' did not appear in text subsequent to amendment by Pub. L. 103–322, § 130009(a)(3). See below.

Pub. L. 103–322, § 130009(a)(3), substituted ''under this title, imprisoned not more than 10 years'' for ''not more than $2,000 or imprisoned not more than three years''.

§ 1546. Fraud and misuse of visas, permits, and other documents

(a) Whoever knowingly forges, counterfeits, alters, or falsely makes any immigrant or nonimmigrant visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States, or utters, uses, attempts to use, possesses, obtains, accepts, or receives any such visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained; or

Whoever, except under direction of the Attorney General or the Commissioner of the Immigration and Naturalization Service, or other proper officer, knowingly possesses any blank permit, or engraves, sells, brings into the United States, or has in his control or possession any plate in the likeness of a plate designed for the printing of permits, or makes any print, photograph, or impression in the likeness of any immigrant or nonimmigrant visa, permit or other document required for entry into the United States, or has in his possession a distinctive paper which has been adopted by the Attorney General or the Commissioner of the Immigration and Naturalization Service for the printing of such visas, permits, or documents; or

Whoever, when applying for an immigrant or nonimmigrant visa, permit, or other document required for entry into the United States, or for admission to the United States personates another, or falsely appears in the name of a deceased individual, or evades or attempts to evade the immigration laws by appearing under an assumed or fictitious name without disclosing his true identity, or sells or otherwise disposes of, or offers to sell or otherwise dispose of, or utters, such visa, permit, or other document, to any person not authorized by law to receive such document; or

Whoever knowingly makes under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true, any false statement

with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document which contains any such false statement or which fails to contain any reasonable basis in law or fact—

Shall be fined under this title or imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facilitate such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense), or both.

(b) Whoever uses—

(1) an identification document, knowing (or having reason to know) that the document was not issued lawfully for the use of the possessor,

(2) an identification document knowing (or having reason to know) that the document is false, or

(3) a false attestation,

for the purpose of satisfying a requirement of section 274A(b) of the Immigration and Nationality Act, shall be fined under this title, imprisoned not more than 5 years, or both.

(c) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481).[1] For purposes of this section, the term ''State'' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(June 25, 1948, ch. 645, 62 Stat. 771; June 27, 1952, ch. 477, title IV, § 402(a), 66 Stat. 275; Pub. L. 94–550, § 5, Oct. 18, 1976, 90 Stat. 2535; Pub. L. 99–603, title I, § 103(a), Nov. 6, 1986, 100 Stat. 3380; Pub. L. 100–525, § 2(c), Oct. 24, 1988, 102 Stat. 2610; Pub. L. 101–647, title XXXV, § 3550, Nov. 29, 1990, 104 Stat. 4926; Pub. L. 103–322, title XIII, § 130009(a)(4), (5), title XXXIII, § 330011(p), Sept. 13, 1994, 108 Stat. 2030, 2145; Pub. L. 104–208, div. C, title II, §§ 211(a)(2), 214, Sept. 30, 1996, 110 Stat. 3009–569, 3009–572; Pub. L. 104–294, title VI, § 607(m), Oct. 11, 1996, 110 Stat. 3512; Pub. L. 107–273, div. B, title IV, § 4002(a)(3), Nov. 2, 2002, 116 Stat. 1806.)

HISTORICAL AND REVISION NOTES

Based on section 220 of title 8, U.S.C., 1940 ed., Aliens and Nationality (May 26, 1924, ch. 190, § 22, 43 Stat. 165).

Words ''upon conviction thereof'' were omitted as surplusage since punishment can be imposed only after a conviction.

Fine of $10,000 was reduced to $2,000 to conform with sections embracing offences of comparable gravity.

Minor changes were made in phraseology.

[1] See References in Text note below.

REFERENCES IN TEXT

The immigration laws, referred to in subsec. (a), are classified generally to Title 8, Aliens and Nationality. See also section 1101(a)(17) of Title 8.

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

Title V of the Organized Crime Control Act of 1970, referred to in subsec. (c), is title V of Pub. L. 91–452, Oct. 15, 1970, 84 Stat. 933, which was set out as a note preceding section 3481 of this title, and was repealed by Pub. L. 98–473, title II, § 1209(b), Oct. 12, 1984, 98 Stat. 2163. See section 3521 et seq. of this title.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–273 substituted ''to facilitate'' for ''to facility'' in concluding par.

1996—Subsec. (a). Pub. L. 104–208 substituted ''which contains any such false statement or which fails to contain any reasonable basis in law or fact'' for ''containing any such false statement'' in fourth par. and ''imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facility such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense)'' for ''imprisoned not more than 10 years'' in concluding par.

Subsec. (c). Pub. L. 104–294 inserted at end ''For purposes of this section, the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''

1994—Subsec. (a). Pub. L. 103–322, § 330011(p), amended directory language of Pub. L. 101–647, § 3550. See 1990 Amendment note below.

Pub. L. 103–322, § 130009(a)(4), substituted ''10 years'' for ''five years'' in concluding par.

Subsec. (b). Pub. L. 103–322, § 130009(a)(5), in concluding provisions, substituted ''under this title, imprisoned not more than 5 years'' for ''in accordance with this title, or imprisoned not more than two years''.

1990—Subsec. (a). Pub. L. 101–647, § 3550, as amended by Pub. L. 103–322, § 330011(p), substituted ''Shall be fined under this title'' for ''Shall be fined in accordance with this title'' in concluding par.

1988—Pub. L. 100–525 amended Pub. L. 99–603. See 1986 Amendment note below.

1986—Pub. L. 99–603, as amended by Pub. L. 100–525, substituted ''other documents'' for ''other entry documents'' in section catchline, designated existing provisions as subsec. (a), substituted ''permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States'' for ''or other document required for entry into the United States'' and for ''or document'' in first par., substituted ''in accordance with this title'' for ''not more than $2,000'' in concluding par., and added subsecs. (b) and (c).

1976—Pub. L. 94–550 inserted '', or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true,'' after ''Whoever knowingly makes under oath'' in fourth par.

1952—Act June 27, 1952, made section applicable to entry documents other than visas and permits.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 211(a)(2) of Pub. L. 104–208 applicable with respect to offenses occurring on or after Sept. 30, 1996, see section 211(c) of Pub. L. 104–208, set out as a note under section 1028 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 330011(p) of Pub. L. 103–322 provided that the amendment made by that section is effective as of the date on which section 3550 of Pub. L. 101–647 took effect.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–525 effective as if included in enactment of Immigration Reform and Control Act of 1986, Pub. L. 99–603, see section 2(s) of Pub. L. 100–525, set out as a note under section 1101 of Title 8, Aliens and Nationality.

TRANSFER OF FUNCTIONS

Functions vested by law in Attorney General, Department of Justice, or any other officer or any agency of that Department, with respect to the inspection at regular inspection locations at ports of entry of persons, and documents of persons, entering or leaving the United States, were to have been transferred to Secretary of the Treasury by 1973 Reorg. Plan No. 2, § 2, eff. July 1, 1973, 38 F.R. 15932, 87 Stat. 1091, set out in the Appendix to Title 5, Government Organization and Employees. The transfer was negated by section 1(a)(1), (b) of Pub. L. 93–253, Mar. 16, 1974, 88 Stat. 50, which repealed section 2 of 1973 Reorg. Plan No. 2, eff. July 1, 1973.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

§ 1547. Alternative imprisonment maximum for certain offenses

Notwithstanding any other provision of this title, the maximum term of imprisonment that may be imposed for an offense under this chapter (other than an offense under section 1545)—

(1) if committed to facilitate a drug trafficking crime (as defined in 929(a)) is 15 years; and

(2) if committed to facilitate an act of international terrorism (as defined in section 2331) is 20 years.

(Added Pub. L. 103–322, title XIII, § 130009(a)(6), Sept. 13, 1994, 108 Stat. 2030.)

CHAPTER 77—PEONAGE, SLAVERY, AND TRAFFICKING IN PERSONS

Sec.
1581. Peonage; obstructing enforcement.
1582. Vessels for slave trade.
1583. Enticement into slavery.
1584. Sale into involuntary servitude.
1585. Seizure, detention, transportation or sale of slaves.
1586. Service on vessels in slave trade.
1587. Possession of slaves aboard vessel.
1588. Transportation of slaves from United States.
1589. Forced labor.
1590. Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor.
1591. Sex trafficking of children or by force, fraud, or coercion.
1592. Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor.
1593. Mandatory restitution.
1594. General provisions.
1595. Civil remedy.

HISTORICAL AND REVISION NOTES

It was felt that further revision of this chapter should be considered at an opportune time for the same reasons stated with respect to chapter 81, ''Piracy and Privateering''.

AMENDMENTS

2003—Pub. L. 108–193, §§ 4(a)(4)(B), 5(c)(1), Dec. 19, 2003, 117 Stat. 2878, 2879, substituted ''PEONAGE, SLAVERY, AND TRAFFICKING IN PERSONS'' for ''PEONAGE AND SLAVERY'' as chapter heading and added item 1595.

2000—Pub. L. 106–386, div. A, § 112(a)(3), Oct. 28, 2000, 114 Stat. 1489, added items 1589 to 1594.

1949—Act May 24, 1949, ch. 139, § 36, 63 Stat. 95, substituted a semicolon for comma after ''Peonage'' in item 1581.

§ 1581. Peonage; obstructing enforcement

(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

(b) Whoever obstructs, or attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be liable to the penalties prescribed in subsection (a).

(June 25, 1948, ch. 645, 62 Stat. 772; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–208, div. C, title II, § 218(a), Sept. 30, 1996, 110 Stat. 3009–573; Pub. L. 106–386, div. A, § 112(a)(1), Oct. 28, 2000, 114 Stat. 1486.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 444, 445 (Mar. 4, 1909, ch. 321, §§ 269, 270, 35 Stat. 1142).

Section consolidates sections 444 and 445 of said title 18, U.S.C., 1940 ed., with changes in phraseology to amplify and clarify their provisions.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–386 substituted ''20 years'' for ''10 years'' and inserted at end ''If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.''

1996—Subsec. (a). Pub. L. 104–208 substituted ''10 years'' for ''five years''.

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 218(d) of div. C of Pub. L. 104–208 provided that: ''This section [amending this section and sections 1583, 1584, and 1588 of this title and enacting provisions set out as notes under section 994 of Title 28, Judiciary and Judicial Procedure] and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act [Sept. 30, 1996].''

§ 1582. Vessels for slave trade

Whoever, whether as master, factor, or owner, builds, fits out, equips, loads, or otherwise prepares or sends away any vessel, in any port or place within the United States, or causes such vessel to sail from any such port or place, for the purpose of procuring any person from any

foreign kingdom or country to be transported and held, sold, or otherwise disposed of as a slave, or held to service or labor, shall be fined under this title or imprisoned not more than seven years, or both.

(June 25, 1948, ch. 645, 62 Stat. 772; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 424 (Mar. 4, 1909, ch. 321, § 249, 35 Stat. 1139).

Words ''within the United States'' were substituted for ''within the jurisdiction of the United States''. See section 5 of this title defining ''United States''.

Provision for division of the fine and its recovery by private person was omitted. (See reviser's note under section 1585 of this title.)

Mandatory-punishment provisions were rephrased in the alternative.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 1583. Enticement into slavery

Whoever kidnaps or carries away any other person, with the intent that such other person be sold into involuntary servitude, or held as a slave; or

Whoever entices, persuades, or induces any other person to go on board any vessel or to any other place with the intent that he may be made or held as a slave, or sent out of the country to be so made or held—

Shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

(June 25, 1948, ch. 645, 62 Stat. 772; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–208, div. C, title II, § 218(a), Sept. 30, 1996, 110 Stat. 3009–573; Pub. L. 106–386, div. A, § 112(a)(1), Oct. 28, 2000, 114 Stat. 1486.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 443 (Mar. 4, 1909, ch. 321, § 268, 35 Stat. 1141).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Minor changes were made in paragraphing of section.

AMENDMENTS

2000—Pub. L. 106–386, in last par., substituted ''20 years'' for ''10 years'' and inserted at end ''If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.''

1996—Pub. L. 104–208 substituted ''10 years'' for ''five years'' in last par.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in last par.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 applicable with respect to offenses occurring on or after Sept. 30, 1996, see section 218(d) of Pub. L. 104–208, set out as a note under section 1581 of this title.

§ 1584. Sale into involuntary servitude

Whoever knowingly and willfully holds to involuntary servitude or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

(June 25, 1948, ch. 645, 62 Stat. 773; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–208, div. C, title II, § 218(a), Sept. 30, 1996, 110 Stat. 3009–573; Pub. L. 106–386, div. A, § 112(a)(1), Oct. 28, 2000, 114 Stat. 1486.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 423, 446 (Mar. 4, 1909, ch. 321, §§ 248, 271, 35 Stat. 1139, 1142).

Sections consolidated with changes of phraseology necessary to effect consolidation.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Provisions as to holding of kidnapped persons were omitted as superseded by section 1201 of this title and original text relating to sale or holding to involuntary servitude retained.

Words ''within the United States'' were substituted for ''within the jurisdiction of the United States''. (See section 5 of this title defining ''United States''.)

The punishment provisions were derived from section 446 of title 18, U.S.C., 1940 ed., as more consistent with other sections of this chapter.

The requirement of section 423 of title 18, U.S.C., 1940 ed., for payment of one-half the fine ''for the use of the person prosecuting the indictment to effect'' was omitted as meaningless. (See also reviser's note under section 1585 of this title.)

Mandatory-punishment provisions were rephrased in the alternative.

Minor changes were made in phraseology.

AMENDMENTS

2000—Pub. L. 106–386 substituted ''20 years'' for ''10 years'' and inserted at end ''If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.''

1996—Pub. L. 104–208 substituted ''10 years'' for ''five years''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 applicable with respect to offenses occurring on or after Sept. 30, 1996, see section 218(d) of Pub. L. 104–208, set out as a note under section 1581 of this title.

§ 1585. Seizure, detention, transportation or sale of slaves

Whoever, being a citizen or resident of the United States and a member of the crew or ship's company of any foreign vessel engaged in the slave trade, or whoever, being of the crew or ship's company of any vessel owned in whole or in part, or navigated for, or in behalf of, any citizen of the United States, lands from such vessel, and on any foreign shore seizes any person with intent to make that person a slave, or decoys, or forcibly brings, carries, receives, confines, detains or transports any person as a slave on board such vessel, or, on board such vessel, offers or attempts to sell any such person as a slave, or on the high seas or anywhere on tide water, transfers or delivers to any other vessel any such person with intent to make such person a slave, or lands or delivers on shore from such vessel any person with intent to sell, or having previously sold, such person as a slave, shall be fined under this title or imprisoned not more than seven years, or both.

(June 25, 1948, ch. 645, 62 Stat. 773; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 421, 422, 425 (Mar. 4, 1909, ch. 321, §§ 246, 247, 250, 35 Stat. 1138, 1139).

Section consolidates and restores three basic sections (act May 25, 1820, ch. 113, §§ 4, 5, 3 Stat. 600, 601; act Apr. 20, 1818, ch. 91, § 4, 3 Stat. 451). As reenacted in the Revised Statutes, such sections were extended and broadened beyond such basic acts. The language at the beginning, ''being a citizen or resident of the United States'', was inserted from said section 425 of title 18, U.S.C., 1940 ed., as enacted originally. While the basic provisions of said sections 421 and 422 are thus broadened, their application as enacted in the 1909 Criminal Code is narrowed.

Designation in said section 421 of title 18, U.S.C., 1940 ed., of offender as a ''pirate'' was omitted as unnecessary. The punishment provision of section 1582 of this title (incorporated by reference in said section 425) has been adopted as consistent with other slave-trade statutes rather than the life-imprisonment penalty contained in said sections 421 and 422 of title 18, U.S.C., 1940 ed. However, the requirement in section 1582 of this title that one-half the fine be for the ''use of the person prosecuting the indictment to effect'' was omitted as meaningless.

Mandatory-punishment provisions were rephrased in the alternative.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 1586. Service on vessels in slave trade

Whoever, being a citizen or resident of the United States, voluntarily serves on board of any vessel employed or made use of in the transportation of slaves from any foreign country or place to another, shall be fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 773; 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., § 427 (Mar. 4, 1909, ch. 321, § 252, 35 Stat. 1139).

Mandatory-punishment provisions were rephrased in the alternative.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $2,000''.

§ 1587. Possession of slaves aboard vessel

Whoever, being the captain, master, or commander of any vessel found in any river, port, bay, harbor, or on the high seas within the jurisdiction of the United States, or hovering off the coast thereof, and having on board any person for the purpose of selling such person as a slave, or with intent to land such person for such purpose, shall be fined under this title or imprisoned not more than four years, or both.

(June 25, 1948, ch. 645, 62 Stat. 773; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 426 (Mar. 4, 1909, ch. 321, § 251, 35 Stat. 1139).

Mandatory-punishment provisions were rephrased in the alternative.

Minor change was made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

§ 1588. Transportation of slaves from United States

Whoever, being the master or owner or person having charge of any vessel, receives on board any other person with the knowledge or intent that such person is to be carried from any place within the United States to any other place to be held or sold as a slave, or carries away from any place within the United States any such person with the intent that he may be so held or sold as a slave, shall be fined under this title or imprisoned not more than 10 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 773; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–208, div. C, title II, § 218(a), Sept. 30, 1996, 110 Stat. 3009–573.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 428 (Mar. 4, 1909, ch. 321, § 253, 35 Stat. 1139).

Words ''subject to the jurisdiction of'' which appeared twice in this section were omitted and ''within'' substituted, in view of section 5 of this title defining ''United States''.

AMENDMENTS

1996—Pub. L. 104–208 substituted ''10 years'' for ''five years''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 applicable with respect to offenses occurring on or after Sept. 30, 1996, see section 218(d) of Pub. L. 104–208, set out as a note under section 1581 of this title.

§ 1589. Forced labor

Whoever knowingly provides or obtains the labor or services of a person—

(1) by threats of serious harm to, or physical restraint against, that person or another person;

(2) by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or

(3) by means of the abuse or threatened abuse of law or the legal process,

shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

(Added Pub. L. 106–386, div. A, § 112(a)(2), Oct. 28, 2000, 114 Stat. 1486.)

§ 1590. Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor

Whoever knowingly recruits, harbors, transports, provides, or obtains by any means, any person for labor or services in violation of this chapter shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

(Added Pub. L. 106–386, div. A, § 112(a)(2), Oct. 28, 2000, 114 Stat. 1487.)

§ 1591. Sex trafficking of children or by force, fraud, or coercion

(a) Whoever knowingly—

(1) in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, recruits, entices, harbors, transports, provides, or obtains by any means a person; or

(2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1),

knowing that force, fraud, or coercion described in subsection (c)(2) will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

(b) The punishment for an offense under subsection (a) is—

(1) if the offense was effected by force, fraud, or coercion or if the person recruited, enticed, harbored, transported, provided, or obtained had not attained the age of 14 years at the time of such offense, by a fine under this title or imprisonment for any term of years or for life, or both; or

(2) if the offense was not so effected, and the person recruited, enticed, harbored, transported, provided, or obtained had attained the age of 14 years but had not attained the age of 18 years at the time of such offense, by a fine under this title or imprisonment for not more than 40 years, or both.

(c) In this section:

(1) The term ''commercial sex act'' means any sex act, on account of which anything of value is given to or received by any person.

(2) The term ''coercion'' means—

(A) threats of serious harm to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(C) the abuse or threatened abuse of law or the legal process.

(3) The term ''venture'' means any group of two or more individuals associated in fact, whether or not a legal entity.

(Added Pub. L. 106–386, div. A, § 112(a)(2), Oct. 28, 2000, 114 Stat. 1487; amended Pub. L. 108–21, title I, § 103(a)(3), Apr. 30, 2003, 117 Stat. 653; Pub. L. 108–193, § 5(a), Dec. 19, 2003, 117 Stat. 2879.)

AMENDMENTS

2003—Pub. L. 108–193, § 5(a)(1), inserted comma after ''fraud'' in section catchline.

Subsec. (a)(1). Pub. L. 108–193, § 5(a)(2), substituted ''in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States'' for ''in or affecting interstate commerce''.

Subsec. (b). Pub. L. 108–193, § 5(a)(3), substituted ''the person recruited, enticed, harbored, transported, provided, or obtained'' for ''the person transported'' in pars. (1) and (2).

Subsec. (b)(2). Pub. L. 108–21 substituted ''40'' for ''20''.

§ 1592. Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor

(a) Whoever knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person—

(1) in the course of a violation of section 1581, 1583, 1584, 1589, 1590, 1591, or 1594(a);

(2) with intent to violate section 1581, 1583, 1584, 1589, 1590, or 1591; or

(3) to prevent or restrict or to attempt to prevent or restrict, without lawful authority, the person's liberty to move or travel, in order to maintain the labor or services of that person, when the person is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000,

shall be fined under this title or imprisoned for not more than 5 years, or both.

(b) Subsection (a) does not apply to the conduct of a person who is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims

Protection Act of 2000, if that conduct is caused by, or incident to, that trafficking.

(Added Pub. L. 106–386, div. A, § 112(a)(2), Oct. 28, 2000, 114 Stat. 1488.)

REFERENCES IN TEXT

Section 103 of the Trafficking Victims Protection Act of 2000, referred to in subsecs. (a)(3) and (b), is classified to section 7102 of Title 22, Foreign Relations and Intercourse.

§ 1593. Mandatory restitution

(a) Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalties authorized by law, the court shall order restitution for any offense under this chapter.

(b)(1) The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses, as determined by the court under paragraph (3) of this subsection.

(2) An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.

(3) As used in this subsection, the term ''full amount of the victim's losses'' has the same meaning as provided in section 2259(b)(3) and shall in addition include the greater of the gross income or value to the defendant of the victim's services or labor or the value of the victim's labor as guaranteed under the minimum wage and overtime guarantees of the Fair Labor Standards Act (29 U.S.C. 201 et seq.).

(c) As used in this section, the term ''victim'' means the individual harmed as a result of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or a representative of the victim's estate, or another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named such representative or guardian.

(Added Pub. L. 106–386, div. A, § 112(a)(2), Oct. 28, 2000, 114 Stat. 1488.)

REFERENCES IN TEXT

The Fair Labor Standards Act, referred to in subsec. (b)(3), probably means the Fair Labor Standards Act of 1938, act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, which is classified generally to chapter 8 (§ 201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

§ 1594. General provisions

(a) Whoever attempts to violate section 1581, 1583, 1584, 1589, 1590, or 1591 shall be punishable in the same manner as a completed violation of that section.

(b) The court, in imposing sentence on any person convicted of a violation of this chapter, shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that such person shall forfeit to the United States—

(1) such person's interest in any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of such violation; and

(2) any property, real or personal, constituting or derived from, any proceeds that such person obtained, directly or indirectly, as a result of such violation.

(c)(1) The following shall be subject to forfeiture to the United States and no property right shall exist in them:

(A) Any property, real or personal, used or intended to be used to commit or to facilitate the commission of any violation of this chapter.

(B) Any property, real or personal, which constitutes or is derived from proceeds traceable to any violation of this chapter.

(2) The provisions of chapter 46 of this title relating to civil forfeitures shall extend to any seizure or civil forfeiture under this subsection.

(d) WITNESS PROTECTION.—Any violation of this chapter shall be considered an organized criminal activity or other serious offense for the purposes of application of chapter 224 (relating to witness protection).

(Added Pub. L. 106–386, div. A, § 112(a)(2), Oct. 28, 2000, 114 Stat. 1489.)

§ 1595. Civil remedy

(a) An individual who is a victim of a violation of section 1589, 1590, or 1591 of this chapter may bring a civil action against the perpetrator in an appropriate district court of the United States and may recover damages and reasonable attorneys fees.

(b)(1) Any civil action filed under this section shall be stayed during the pendency of any criminal action arising out of the same occurrence in which the claimant is the victim.

(2) In this subsection, a ''criminal action'' includes investigation and prosecution and is pending until final adjudication in the trial court.

(Added Pub. L. 108–193, § 4(a)(4)(A), Dec. 19, 2003, 117 Stat. 2878.)

CHAPTER 79—PERJURY

Sec.
1621. Perjury generally.
1622. Subornation of perjury.
1623. False declarations before grand jury or court.

AMENDMENTS

1970—Pub. L. 91–452, title IV, § 401(b), Oct. 15, 1970, 84 Stat. 933, added item 1623.

§ 1621. Perjury generally

Whoever—

(1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as

true any material matter which he does not believe to be true;

is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

(June 25, 1948, ch. 645, 62 Stat. 773; Pub. L. 88–619, § 1, Oct. 3, 1964, 78 Stat. 995; Pub. L. 94–550, § 2, Oct. 18, 1976, 90 Stat. 2534; 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., §§ 231, 629 (Mar. 4, 1909, ch. 321, § 125, 35 Stat. 1111; June 15, 1917, ch. 30, title XI, § 19, 40 Stat. 230).

Words ''except as otherwise expressly provided by law'' were inserted to avoid conflict with perjury provisions in other titles where the punishment and application vary.

More than 25 additional provisions are in the code. For construction and application of several such sections, see *Behrle v. United States* (App. D.C. 1938, 100 F. 2d 714), *United States v. Hammer* (D.C.N.Y., 1924, 299 F. 1011, affirmed, 6 F. 2d 786), *Rosenthal v. United States* (1918, 248 F. 684, 160 C.C.A. 584), cf. *Epstein v. United States* (1912, 196 F. 354, 116 C.C.A. 174, certiorari denied 32 S. Ct. 527, 223 U.S. 731, 56 L. ed. 634).

Mandatory punishment provisions were rephrased in the alternative.

Minor verbal changes were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $2,000'' in concluding provisions.

1976—Pub. L. 94–550 divided existing provisions into a single introductory word ''Whoever'', par. (1), and closing provisions following par. (2), and added par. (2).

1964—Pub. L. 88–619 inserted at end ''This section is applicable whether the statement or subscription is made within or without the United States.''

§ 1622. Subornation of perjury

Whoever procures another to commit any perjury is guilty of subornation of perjury, and shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 774; 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., § 232 (Mar. 4, 1909, ch. 321, § 126, 35 Stat. 1111).

The punishment prescribed in section 1621 of this title was substituted for the reference thereto.

Minor change was made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $2,000''.

§ 1623. False declarations before grand jury or court

(a) Whoever under oath (or in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code) in any proceeding before or ancillary to any court or grand jury of the United States knowingly makes any false material declaration or makes or uses any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration, shall be fined under this title or imprisoned not more than five years, or both.

(b) This section is applicable whether the conduct occurred within or without the United States.

(c) An indictment or information for violation of this section alleging that, in any proceedings before or ancillary to any court or grand jury of the United States, the defendant under oath has knowingly made two or more declarations, which are inconsistent to the degree that one of them is necessarily false, need not specify which declaration is false if—

(1) each declaration was material to the point in question, and

(2) each declaration was made within the period of the statute of limitations for the offense charged under this section.

In any prosecution under this section, the falsity of a declaration set forth in the indictment or information shall be established sufficient for conviction by proof that the defendant while under oath made irreconcilably contradictory declarations material to the point in question in any proceeding before or ancillary to any court or grand jury. It shall be a defense to an indictment or information made pursuant to the first sentence of this subsection that the defendant at the time he made each declaration believed the declaration was true.

(d) Where, in the same continuous court or grand jury proceeding in which a declaration is made, the person making the declaration admits such declaration to be false, such admission shall bar prosecution under this section if, at the time the admission is made, the declaration has not substantially affected the proceeding, or it has not become manifest that such falsity has been or will be exposed.

(e) Proof beyond a reasonable doubt under this section is sufficient for conviction. It shall not be necessary that such proof be made by any particular number of witnesses or by documentary or other type of evidence.

(Added Pub. L. 91–452, title IV, § 401(a), Oct. 15, 1970, 84 Stat. 932; amended Pub. L. 94–550, § 6, Oct. 18, 1976, 90 Stat. 2535; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

1976—Subsec. (a). Pub. L. 94–550 inserted ''(or in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code)'' after ''under oath''.

CHAPTER 81—PIRACY AND PRIVATEERING

Sec.
1651. Piracy under law of nations.
1652. Citizens as pirates.
1653. Aliens as pirates.
1654. Arming or serving on privateers.
1655. Assault on commander as piracy.
1656. Conversion or surrender of vessel.

Sec.
1657. Corruption of seamen and confederating with pirates.
1658. Plunder of distressed vessel.
1659. Attack to plunder vessel.
1660. Receipt of pirate property.
1661. Robbery ashore.

HISTORICAL AND REVISION NOTES

In the light of far-reaching developments in the field of international law and foreign relations, the law of piracy is deemed to require a fundamental reconsideration and complete restatement, perhaps resulting in drastic changes by way of modification and expansion. Such a task may be regarded as beyond the scope of this project. The present revision is, therefore, confined to the making of some obvious and patent corrections. It is recommended, however, that at some opportune time in the near future, the subject of piracy be entirely reconsidered and the law bearing on it modified and restated in accordance with the needs of the times.

§ 1651. Piracy under law of nations

Whoever, on the high seas, commits the crime of piracy as defined by the law of nations, and is afterwards brought into or found in the United States, shall be imprisoned for life.

(June 25, 1948, ch. 645, 62 Stat. 774.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 481 (Mar. 4, 1909, ch. 321, § 290, 35 Stat. 1145).

§ 1652. Citizens as pirates

Whoever, being a citizen of the United States, commits any murder or robbery, or any act of hostility against the United States, or against any citizen thereof, on the high seas, under color of any commission from any foreign prince, or state, or on pretense of authority from any person, is a pirate, and shall be imprisoned for life.

(June 25, 1948, ch. 645, 62 Stat. 774.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 495 (Mar. 4, 1909, ch. 321, § 304, 35 Stat. 1147).

Words ''Notwithstanding the pretense of such authority,'' were omitted as surplusage.

§ 1653. Aliens as pirates

Whoever, being a citizen or subject of any foreign state, is found and taken on the sea making war upon the United States, or cruising against the vessels and property thereof, or of the citizens of the same, contrary to the provisions of any treaty existing between the United States and the state of which the offender is a citizen or subject, when by such treaty such acts are declared to be piracy, is a pirate, and shall be imprisoned for life.

(June 25, 1948, ch. 645, 62 Stat. 774.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 496 (Mar. 4, 1909, ch. 321, § 305, 35 Stat. 1147.)

Minor change was made in phraseology.

§ 1654. Arming or serving on privateers

Whoever, being a citizen of the United States, without the limits thereof, fits out and arms, or attempts to fit out and arm or is concerned in furnishing, fitting out, or arming any private vessel of war or privateer, with intent that such vessel shall be employed to cruise or commit hostilities upon the citizens of the United States or their property; or

Whoever takes the command of or enters on board of any such vessel with such intent; or

Whoever purchases any interest in any such vessel with a view to share in the profits thereof—

Shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 774; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 494 (Mar. 4, 1909, ch. 321, § 303, 35 Stat. 1147).

Reference to persons procuring or aiding was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Mandatory punishment provisions were rephrased in the alternative.

The last sentence relating to venue was omitted as unnecessary in view of the general provision to the same effect in section 3238 of this title.

Minor changes were made in phraseology and arrangement.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' in last par.

§ 1655. Assault on commander as piracy

Whoever, being a seaman, lays violent hands upon his commander, to hinder and prevent his fighting in defense of his vessel or the goods intrusted to him, is a pirate, and shall be imprisoned for life.

(June 25, 1948, ch. 645, 62 Stat. 774.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 485 (Mar. 4, 1909, ch. 321, § 294, 35 Stat. 1146).

A minor verbal change was made.

§ 1656. Conversion or surrender of vessel

Whoever, being a captain or other officer or mariner of a vessel upon the high seas or on any other waters within the admiralty and maritime jurisdiction of the United States, piratically or feloniously runs away with such vessel, or with any goods or merchandise thereof, to the value of $50 or over; or

Whoever yields up such vessel voluntarily to any pirate—

Shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 774; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 497 (Mar. 4, 1909, ch. 321, § 306, 35 Stat. 1148).

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' in last par.

§ 1657. Corruption of seamen and confederating with pirates

Whoever attempts to corrupt any commander, master, officer, or mariner to yield up or to run away with any vessel, or any goods, wares, or merchandise, or to turn pirate or to go over to or confederate with pirates, or in any wise to trade with any pirate, knowing him to be such; or

Whoever furnishes such pirate with any ammunition, stores, or provisions of any kind; or

Whoever fits out any vessel knowingly and, with a design to trade with, supply, or correspond with any pirate or robber upon the seas; or

Whoever consults, combines, confederates, or corresponds with any pirate or robber upon the seas, knowing him to be guilty of any piracy or robbery; or

Whoever, being a seaman, confines the master of any vessel—

Shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 775; Pub. L. 101–647, title XXV, § 2527(b), Nov. 29, 1990, 104 Stat. 4877; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 498 (Mar. 4, 1909, ch. 321, § 307, 35 Stat. 1148).

Mandatory punishment provisions were rephrased in the alternative.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000'' in last par.

1990—Pub. L. 101–647, which directed insertion of ''section 11, 12, or 13 of the Federal Deposit Insurance Act'' after ''consideration of any action brought under'', could not be executed because the words ''consideration of any action brought under'' did not appear.

§ 1658. Plunder of distressed vessel

(a) Whoever plunders, steals, or destroys any money, goods, merchandise, or other effects from or belonging to any vessel in distress, or wrecked, lost, stranded, or cast away, upon the sea, or upon any reef, shoal, bank, or rocks of the sea, or in any other place within the admiralty and maritime jurisdiction of the United States, shall be fined under this title or imprisoned not more than ten years, or both.

(b) Whoever willfully obstructs the escape of any person endeavoring to save his life from such vessel, or the wreck thereof; or

Whoever holds out or shows any false light, or extinguishes any true light, with intent to bring any vessel sailing upon the sea into danger or distress or shipwreck—

Shall be imprisoned not less than ten years and may be imprisoned for life.

(June 25, 1948, ch. 645, 62 Stat. 775; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 488 (Mar. 4, 1909, ch. 321, § 297, 35 Stat. 1146).

Mandatory punishment provision in subsection (a) was rephrased in the alternative.

Minor changes were made in phraseology.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 1659. Attack to plunder vessel

Whoever, upon the high seas or other waters within the admiralty and maritime jurisdiction of the United States, by surprise or open force, maliciously attacks or sets upon any vessel belonging to another, with an intent unlawfully to plunder the same, or to despoil any owner thereof of any moneys, goods, or merchandise laden on board thereof, shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 775; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 489 (Mar. 4, 1909, ch. 321, § 298, 35 Stat. 1147).

Mandatory punishment provisions were rephrased in the alternative.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 1660. Receipt of pirate property

Whoever, without lawful authority, receives or takes into custody any vessel, goods, or other property, feloniously taken by any robber or pirate against the laws of the United States, knowing the same to have been feloniously taken, shall be imprisoned not more than ten years.

(June 25, 1948, ch. 645, 62 Stat. 775.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 552 (Mar. 4, 1909, ch. 321, § 334, 35 Stat. 1152).

Provision relating to concealment of pirate and words ''is an accessory after the fact to such robbery or piracy'' were omitted in view of definitive section 3 of this title.

§ 1661. Robbery ashore

Whoever, being engaged in any piratical cruise or enterprise, or being of the crew of any piratical vessel, lands from such vessel and commits robbery on shore, is a pirate, and shall be imprisoned for life.

(June 25, 1948, ch. 645, 62 Stat. 775.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 493 (Mar. 4, 1909, ch. 321, § 302, 35 Stat. 1147).

Transposition of several words was made.

CHAPTER 83—POSTAL SERVICE

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[1738. Repealed.]

AMENDMENTS

2000—Pub. L. 106–578, § 4, Dec. 28, 2000, 114 Stat. 3076, struck out item 1738 ''Mailing private identification documents without a disclaimer''.

1994—Pub. L. 103–322, title XXXII, § 320108(b)(2), Sept. 13, 1994, 108 Stat. 2113, added item 1716D.

1990—Pub. L. 101–647, title XII, § 1210(b), (c), title XXXV, § 3552(b), Nov. 29, 1990, 104 Stat. 4832, 4926, struck out item 1714 ''Foreign divorce information as nonmailable'', struck out ''; opening letters'' after ''nonmailable'' in item 1717, and struck out item 1718 ''Libelous matter on wrappers or envelopes''.

1988—Pub. L. 100–690, title VII, § 7090(d), Nov. 18, 1988, 102 Stat. 4410, inserted ''locksmithing devices and'' before ''motor'' in item 1716A.

Pub. L. 100–574, §§ 1(b)(2), 2(b), Oct. 31, 1988, 102 Stat. 2893, added items 1716B and 1716C.

1982—Pub. L. 97–398, § 4(b), Dec. 31, 1982, 96 Stat. 2011, added item 1738.

1970—Pub. L. 91–375, § 6(j)(19)(B), (36)(B), (37)(B), Aug. 12, 1970, 84 Stat. 778, 780, 781, substituted ''officer'' for ''postmaster'' in item 1709 and ''Mailing periodical publications without prepayment of postage'' for ''Affidavits relating to second class mail'' in item 1733, and added items 1735 to 1737.

1968—Pub. L. 90–560, § 2(2), Oct. 12, 1968, 82 Stat. 997, added item 1716A.

Pub. L. 90–384, § 1(b), July 5, 1968, 82 Stat. 292, struck out item 1727 ''Postage accounting''.

1960—Pub. L. 86–682, § 8, Sept. 2, 1960, 74 Stat. 706, added items 1733 and 1734.

§ 1691. Laws governing postal savings

All the safeguards provided by law for the protection of public moneys, and all statutes relating to the embezzlement, conversion, improper handling, retention, use, or disposal of postal and money-order funds, false returns of postal and money-order business, forgery, counterfeiting, alteration, improper use or handling of postal and money-order blanks, forms, vouchers, accounts, and records, and the dies, plates, and engravings therefor, with the punishments provided for such offenses are extended and made applicable to postal savings depository business and funds and related matters.

(June 25, 1948, ch. 645, 62 Stat. 776.)

HISTORICAL AND REVISION NOTES

Based on section 765 of title 39, U.S.C., 1940 ed., The Postal Service (June 25, 1910, ch. 386, § 15, 36 Stat. 818).

Changes of phraseology were made without change of substance.

§ 1692. Foreign mail as United States mail

Every foreign mail, while being transported across the territory of the United States under authority of law, is mail of the United States, and any depredation thereon, or offense in respect thereto, shall be punishable as though it were United States mail.

(June 25, 1948, ch. 645, 62 Stat. 776.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 359 (Mar. 4, 1909, ch. 321, § 229, 35 Stat. 1134).

Minor changes were made in phraseology and obvious surplusage omitted.

§ 1693. Carriage of mail generally

Whoever, being concerned in carrying the mail, collects, receives, or carries any letter or packet, contrary to law, shall be fined under this title or imprisoned not more than thirty days, or both.

(June 25, 1948, ch. 645, 62 Stat. 776; Pub. L. 103–322, title XXXIII, § 330016(1)(A), Sept. 13, 1994, 108 Stat. 2146.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 303 (Mar. 4, 1909, ch. 321, § 180, 35 Stat. 1123).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Minor verbal changes were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $50''.

§ 1694. Carriage of matter out of mail over post routes

Whoever, having charge or control of any conveyance operating by land, air, or water, which regularly performs trips at stated periods on any

post route, or from one place to another between which the mail is regularly carried, carries, otherwise than in the mail, any letters or packets, except such as relate to some part of the cargo of such conveyance, or to the current business of the carrier, or to some article carried at the same time by the same conveyance, shall, except as otherwise provided by law, be fined under this title.

(June 25, 1948, ch. 645, 62 Stat. 776; Pub. L. 103–322, title XXXIII, § 330016(1)(A), Sept. 13, 1994, 108 Stat. 2146.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 307 (Mar. 4, 1909, ch. 321, § 184, 35 Stat. 1124).

Words ''by land, air, or water'' were substituted for ''stagecoach, railway car, steamboat'' with necessary minor changes in phraseology.

Enumeration of persons having charge was omitted as unnecessary.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $50''.

STUDY OF PRIVATE CARRIAGE OF MAIL; REPORTS TO PRESIDENT AND CONGRESS

Congressional findings of need for study and reevaluation of restrictions on private carriage of letters and packets contained in this section and submission by United States Postal Service of reports to President and Congress for modernization of law, regulations, and administrative practices, see section 7 of Pub. L. 91–375, set out as a note under section 601 of Title 39, Postal Service.

§ 1695. Carriage of matter out of mail on vessels

Whoever carries any letter or packet on board any vessel which carries the mail, otherwise than in such mail, shall, except as otherwise provided by law, be fined under this title or imprisoned not more than thirty days, or both.

(June 25, 1948, ch. 645, 62 Stat. 777; Pub. L. 103–322, title XXXIII, § 330016(1)(A), Sept. 13, 1994, 108 Stat. 2146.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 308 (Mar. 4, 1909, ch. 321, § 185, 35 Stat. 1124).

The words ''thirty days'' were substituted for ''one month,'' to make the term of imprisonment more definite and to conform to other comparable sections. (See section 1693 of this title.)

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $50''.

STUDY OF PRIVATE CARRIAGE OF MAIL; REPORTS TO PRESIDENT AND CONGRESS

Congressional findings of need for study and reevaluation of restrictions on private carriage of letters and packets contained in this section and submission by United States Postal Service of reports to President and Congress for modernization of law, regulations, and administrative practices, see section 7 of Pub. L. 91–375, set out as a note under section 601 of Title 39, Postal Service.

§ 1696. Private express for letters and packets

(a) Whoever establishes any private express for the conveyance of letters or packets, or in any manner causes or provides for the conveyance of the same by regular trips or at stated periods over any post route which is or may be established by law, or from any city, town, or place to any other city, town, or place, between which the mail is regularly carried, shall be fined not more than $500 or imprisoned not more than six months, or both.

This section shall not prohibit any person from receiving and delivering to the nearest post office, postal car, or other authorized depository for mail matter any mail matter properly stamped.

(b) Whoever transmits by private express or other unlawful means, or delivers to any agent thereof, or deposits at any appointed place, for the purpose of being so transmitted any letter or packet, shall be fined under this title.

(c) This chapter shall not prohibit the conveyance or transmission of letters or packets by private hands without compensation, or by special messenger employed for the particular occasion only. Whenever more than twenty-five such letters or packets are conveyed or transmitted by such special messenger, the requirements of section 601 of title 39, shall be observed as to each piece.

(June 25, 1948, ch. 645, 62 Stat. 777; Pub. L. 91–375, § 6(j)(14), Aug. 12, 1970, 84 Stat. 778; Pub. L. 103–322, title XXXIII, § 330016(1)(A), Sept. 13, 1994, 108 Stat. 2146.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 304, 306, 309 (Mar. 4, 1909, ch. 321, §§ 181, 183, 186, 35 Stat. 1123, 1124; June 22, 1934, ch. 716, 48 Stat. 1207).

Section consolidates sections 304, 306, and 309 of title 18, U.S.C., 1940 ed. Reference to persons causing, procuring, aiding or assisting was omitted as such persons are principals under section 2 of this title.

Minor changes were made in phraseology.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $50''.

1970—Subsec. (c). Pub. L. 91–375 substituted ''section 601 of title 39'' for ''section 500 of title 39''.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

STUDY OF PRIVATE CARRIAGE OF MAIL; REPORTS TO PRESIDENT AND CONGRESS

Congressional findings of need for study and reevaluation of restrictions on private carriage of letters and packets contained in this section and submission by United States Postal Service of reports to President and Congress for modernization of law, regulations, and administrative practices, see section 7 of Pub. L. 91–375, set out as a note under section 601 of Title 39, Postal Service.

§ 1697. Transportation of persons acting as private express

Whoever, having charge or control of any conveyance operating by land, air, or water, knowingly conveys or knowingly permits the conveyance of any person acting or employed as a pri-

vate express for the conveyance of letters or packets, and actually in possession of the same for the purpose of conveying them contrary to law, shall be fined under this title.

(June 25, 1948, ch. 645, 62 Stat. 777; Pub. L. 103–322, title XXXIII, § 330016(1)(C), Sept. 13, 1994, 108 Stat. 2146.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 305 (Mar. 4, 1909, ch. 321, § 182, 35 Stat. 1124).

Same changes were made as in section 1694 of this title.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $150''.

§ 1698. Prompt delivery of mail from vessel

Whoever, having charge or control of any vessel passing between ports or places in the United States, and arriving at any such port or place where there is a post office, fails to deliver to the postmaster or at the post office, within three hours after his arrival, if in the daytime, and if at night, within two hours after the next sunrise, all letters and packages brought by him or within his power or control and not relating to the cargo, addressed to or destined for such port or place, shall be fined under this title.

(June 25, 1948, ch. 645, 62 Stat. 777; Pub. L. 103–322, title XXXIII, §§ 330004(10), 330016(1)(C), Sept. 13, 1994, 108 Stat. 2141, 2146.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed. § 323 (Mar. 4, 1909, ch. 321, § 200, 35 Stat. 1126).

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322, § 330016(1)(C), substituted ''fined under this title'' for ''fined not more than $150''.

Pub. L. 103–322, § 330004(10), struck out second par. which read as follows: ''For each letter or package so delivered he shall receive two cents unless the same is carried under contract.''

§ 1699. Certification of delivery from vessel

No vessel arriving within a port or collection district of the United States shall be allowed to make entry or break bulk until all letters on board are delivered to the nearest post office, except where waybilled for discharge at other ports in the United States at which the vessel is scheduled to call and the Postal Service does not determine that unreasonable delay in the mails will occur, and the master or other person having charge or control thereof has signed and sworn to the following declaration before the collector or other proper customs officer:

I, A. B., master _____, of the _____, arriving from _____, and now lying in the port of _____, do solemnly swear (or affirm) that I have to the best of my knowledge and belief delivered to the post office at _____ every letter and every bag, packet, or parcel of letters on board the said vessel during her last voyage, or in my possession or under my power or control, except where waybilled for discharge at other ports in the United States at which the said vessel is scheduled to call and which the Postal Service has not determined will be unreasonably delayed by remaining on board the said vessel for delivery at such ports.

Whoever, being the master or other person having charge or control of such vessel, breaks bulk before he has arranged for such delivery or onward carriage, shall be fined under this title.

(June 25, 1948, ch. 645, 62 Stat. 777; July 3, 1952, ch. 553, 66 Stat. 325; Pub. L. 91–375, § 6(j)(15), Aug. 12, 1970, 84 Stat. 778; Pub. L. 103–322, title XXXIII, § 330016(1)(B), Sept. 13, 1994, 108 Stat. 2146.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 327 (Mar. 4, 1909, ch. 321, § 204, 35 Stat. 1127).

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $100'' in last par.

1970—Pub. L. 91–375 substituted ''Postal Service'' for ''Postmaster General'' in two places.

1952—Act July 3, 1952, provided for only the unloading of mail from a vessel as can be expedited by discharge at such port.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

TRANSFER OF FUNCTIONS

Offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise in Bureau of Customs of Department of the Treasury to which appointments were required to be made by President with advice and consent of Senate were ordered abolished, with such offices to be terminated not later than Dec. 31, 1966, by Reorg. Plan No. 1 of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. Functions of offices eliminated were already vested in Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 1700. Desertion of mails

Whoever, having taken charge of any mail, voluntarily quits or deserts the same before he has delivered it into the post office at the termination of the route, or to some known mail carrier, messenger, agent, or other employee in the Postal Service authorized to receive the same, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 778; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 322 (Mar. 4, 1909, ch. 321, § 199, 35 Stat. 1126).

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

§ 1701. Obstruction of mails generally

Whoever knowingly and willfully obstructs or retards the passage of the mail, or any carrier or

conveyance carrying the mail, shall be fined under this title or imprisoned not more than six months, or both.

(June 25, 1948, ch. 645, 62 Stat. 778; Pub. L. 103–322, title XXXIII, § 330016(1)(B), Sept. 13, 1994, 108 Stat. 2146.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 324, 325 (Mar. 4, 1909, ch. 321, §§ 201, 202, 35 Stat. 1127).

Sections 324 and 325 of title 18, U.S.C., 1940 ed., were consolidated with changes of phraseology necessary to effect consolidation.

Words ''carriage, horse, driver or'', ''car, steamboat'', and ''or vessel'' were omitted as covered by ''any carrier or conveyance''.

The punishment provision is derived from said section 324 rather than from section 325 which provided only a fine of not more than $100 and related only to ferrymen.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $100''.

§ 1702. Obstruction of correspondence

Whoever takes any letter, postal card, or package out of any post office or any authorized depository for mail matter, or from any letter or mail carrier, or which has been in any post office or authorized depository, or in the custody of any letter or mail carrier, before it has been delivered to the person to whom it was directed, with design to obstruct the correspondence, or to pry into the business or secrets of another, or opens, secretes, embezzles, or destroys the same, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 778; 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., § 317 (Mar. 4, 1909, ch. 321, § 194, 35 Stat. 1125; Feb. 25, 1925, ch. 318, 43 Stat. 977; Aug. 26, 1935, ch. 693, 49 Stat. 867; Aug. 7, 1939, ch. 557, 53 Stat. 1256).

Section 317 of said title 18, U.S.C., 1940 ed., was incorporated in this and section 1708 of this title.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $2,000''.

§ 1703. Delay or destruction of mail or newspapers

(a) Whoever, being a Postal Service officer or employee, unlawfully secretes, destroys, detains, delays, or opens any letter, postal card, package, bag, or mail entrusted to him or which shall come into his possession, and which was intended to be conveyed by mail, or carried or delivered by any carrier or other employee of the Postal Service, or forwarded through or delivered from any post office or station thereof established by authority of the Postmaster General or the Postal Service, shall be fined under this title or imprisoned not more than five years, or both.

(b) Whoever, being a Postal Service officer or employee, improperly detains, delays, or destroys any newspaper, or permits any other person to detain, delay, or destroy the same, or opens, or permits any other person to open, any mail or package of newspapers not directed to the office where he is employed; or

Whoever, without authority, opens, or destroys any mail or package of newspapers not directed to him, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 778; May 24, 1949, ch. 139, § 37, 63 Stat. 95; Pub. L. 91–375, § 6(j)(16), Aug. 12, 1970, 84 Stat. 778; Pub. L. 103–322, title XXXIII, § 330016(1)(B), (G), Sept. 13, 1994, 108 Stat. 2146, 2147.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., §§ 318, 319 (Mar. 4, 1909, ch. 321, §§ 195, 196, 35 Stat. 1125, 1126).

Section consolidated sections 318 and 319 of said title 18, U.S.C., 1940 ed. The embezzlement and theft provisions of each were incorporated in sections 1709 and 1710 of this title.

Minor changes were made in phraseology.

1949 ACT

This section [section 37] corrects typographical errors in section 1703 of title 18, U.S.C.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500'' in subsec. (a) and ''fined under this title'' for ''fined not more than $100'' in last par.

1970—Subsec. (a). Pub. L. 91–375, § 6(j)(16)(A), amended subsec. (a) generally, which prior to amendment read as follows: ''Whoever, being a postmaster or Postal Service employee, unlawfully detains, delays, or opens any letter, postal card, package, bag, or mail intrusted to him or which shall come into his possession, and which was intended to be conveyed by mail, or carried or delivered by any carrier or other employee of the Postal Service, or forwarded through or delivered from any post office or station thereof established by authority of the Postmaster General; or secretes, or destroys any such letter, postal card, package, bag, or mail, shall be fined not more than $500 or imprisoned not more than five years, or both.''

Subsec. (b). Pub. L. 91–375, § 6(j)(16)(B), substituted ''Postal Service officer or employee'' for ''postmaster or Postal Service employee''.

1949—Subsec. (a). Act May 24, 1949, § 37(a), substituted ''secretes'' for ''secrets''.

Subsec. (b). Act May 24, 1949, § 37(b), substituted ''newspapers'' for ''newspaper''.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 1704. Keys or locks stolen or reproduced

Whoever steals, purloins, embezzles, or obtains by false pretense any key suited to any lock adopted by the Post Office Department or the Postal Service and in use on any of the mails or bags thereof, or any key to any lock box, lock drawer, or other authorized receptacle for the deposit or delivery of mail matter; or

Whoever knowingly and unlawfully makes, forges, or counterfeits any such key, or pos-

sesses any such mail lock or key with the intent unlawfully or improperly to use, sell, or otherwise dispose of the same, or to cause the same to be unlawfully or improperly used, sold, or otherwise disposed of; or

Whoever, being engaged as a contractor or otherwise in the manufacture of any such mail lock or key, delivers any finished or unfinished lock or the interior part thereof, or key, used or designed for use by the department, to any person not duly authorized under the hand of the Postmaster General and the seal of the Post Office Department or the Postal Service, to receive the same, unless the person receiving it is the contractor for furnishing the same or engaged in the manufacture thereof in the manner authorized by the contract, or the agent of such manufacturer—

Shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 778; Pub. L. 91–375, § 6(j)(17), Aug. 12, 1970, 84 Stat. 778; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 314 (Mar. 4, 1909, ch. 321, § 191, 35 Stat. 1125).

Reference to persons aiding, causing or assisting was omitted. Such persons are principals under section 2 of this title.

Mandatory punishment provision was rephrased in the alternative.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500'' in last par.

1970—Pub. L. 91–375 inserted ''or the Postal Service'' after ''Post Office Department'' in first and third pars.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 1705. Destruction of letter boxes or mail

Whoever willfully or maliciously injures, tears down or destroys any letter box or other receptacle intended or used for the receipt or delivery of mail on any mail route, or breaks open the same or willfully or maliciously injures, defaces or destroys any mail deposited therein, shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 779; May 24, 1949, ch. 139, § 38, 63 Stat. 95; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 107–273, div. B, title III, § 3002(a)(2), Nov. 2, 2002, 116 Stat. 1805.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., § 321 (Mar. 4, 1909, ch. 321, § 198, 35 Stat. 1126; May 18, 1916, ch. 126, § 10, 39 Stat. 162; July 28, 1916, ch. 261, § 1, 39 Stat. 418; May 7, 1934, ch. 220, § 1, 48 Stat. 667).

Words ''or shall willfully take or steal such mail from or out of such letter box or other receptacle'' were omitted as covered by section 1702 of this title. Prosecutions for theft of mail matter are invariably made under that section whereas this section is used as basis for prosecutions for malicious mischief to mail boxes or receptacles. By Postal Regulations (1928), section 700, paragraph 2, an ordinary letter box is within this section and also section 1702 of this title. *Huebner v. United States* (C.C.A. 1928, 28 F. 2d 929).

Reference to persons assisting or aiding was omitted. Such persons are principals under definitive section 2 of this title.

Minor changes were made in phraseology.

1949 ACT

As amended by this section [section 38] of the bill, section 1705 of title 18, U.S.C., is brought more closely into conformity with the original statute from which it was derived by eliminating an inadvertent reference to a ''conveyance'' which was not in the original statute. (See S. Rept. No. 133, 81st Cong.)

AMENDMENTS

2002—Pub. L. 107–273 inserted '', or both'' after ''years''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

1949—Act May 24, 1949, struck out reference to a ''conveyance'' which was not in original statute.

§ 1706. Injury to mail bags

Whoever tears, cuts, or otherwise injures any mail bag, pouch, or other thing used or designed for use in the conveyance of the mail, or draws or breaks any staple or loosens any part of any lock, chain, or strap attached thereto, with intent to rob or steal any such mail, or to render the same insecure, shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 779; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 312 (Mar. 4, 1909, ch. 321, § 189, 35 Stat. 1124).

A fine of ''$1,000'' was substituted for ''$500'' thus increasing the maximum to correspond with other comparable sections. (See section 1705 of this title.)

Minor verbal changes were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 1707. Theft of property used by Postal Service

Whoever steals, purloins, or embezzles any property used by the Postal Service, or appropriates any such property to his own or any other than its proper use, or conveys away any such property to the hindrance or detriment of the public service, shall be fined under this title or imprisoned not more than three years, or both; but if the value of such property does not exceed $1,000, he shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 779; Pub. L. 91–375, § 6(j)(18), Aug. 12, 1970, 84 Stat. 778; Pub. L. 103–322, title XXXIII, § 330016(1)(G), (H), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 313 (Mar. 4, 1909, ch. 321, § 190, 35 Stat. 1124).

The phrase ''used by'' was substituted for ''in use by or belonging to'' in order to limit the application of the section to property used by the Post Office Department. Theft of public property belonging to governmental departments is covered by section 641 of this title.

A fine of ''$1,000'' was substituted for ''$200,'' thus increasing the maximum to conform with other comparable sections. (See section 1705 of this title.)

The smaller penalty for an offense involving property valued at $100 or less was added. (See reviser's notes under sections 641 and 645 of this title.)

Minor changes in phraseology were made.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''$1,000'' for ''$100''.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000'' after ''service, shall be'' and for ''fined not more than $500'' after ''he shall be''.

1970—Pub. L. 91–375 substituted ''Postal Service'' for ''Post Office Department''.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 1708. Theft or receipt of stolen mail matter generally

Whoever steals, takes, or abstracts, or by fraud or deception obtains, or attempts so to obtain, from or out of any mail, post office, or station thereof, letter box, mail receptacle, or any mail route or other authorized depository for mail matter, or from a letter or mail carrier, any letter, postal card, package, bag, or mail, or abstracts or removes from any such letter, package, bag, or mail, any article or thing contained therein, or secretes, embezzles, or destroys any such letter, postal card, package, bag, or mail, or any article or thing contained therein; or

Whoever steals, takes, or abstracts, or by fraud or deception obtains any letter, postal card, package, bag, or mail, or any article or thing contained therein which has been left for collection upon or adjacent to a collection box or other authorized depository of mail matter; or

Whoever buys, receives, or conceals, or unlawfully has in his possession, any letter, postal card, package, bag, or mail, or any article or thing contained therein, which has been so stolen, taken, embezzled, or abstracted, as herein described, knowing the same to have been stolen, taken, embezzled, or abstracted—

Shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 779; May 24, 1949, ch. 139, § 39, 63 Stat. 95; July 1, 1952, ch. 535, 66 Stat. 314; Pub. L. 103–322, title XXXIII, § 330016(1)(I), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., §§ 317, 321 (Mar. 4, 1909, ch. 321, §§ 194, 198, 35 Stat. 1125, 1126; May 18, 1916, ch. 126, § 10, 39 Stat. 162; July 28, 1916, ch. 261, § 1, 39 Stat. 418; Feb. 25, 1925, ch. 318, 43 Stat. 977; May 7, 1934, ch. 220, § 1, 48 Stat. 667; Aug. 26, 1935, ch. 693, 49 Stat. 867; Aug. 7, 1939, ch. 557, 53 Stat. 1256).

Each of these two sections has been divided. Provisions relating to theft or larceny of mail were placed in this section.

Words ''letter box, mail receptacle, or any mail route'' are from section 321 of title 18, U.S.C., 1940 ed. Such receptacles are authorized depositaries. (See *Rosen v. United States*, N.Y. 1917, 38 S.Ct. 148, 245 U.S. 467, 62 L.Ed. 406, and *Foster v. Biddle*, C.C.A. Kan. 1926, 14 F.2d 280, involving indictment under section 317 of title 18, U.S.C., 1940 ed.) No cases are reported of prosecutions for mail theft under section 321 of title 18, U.S.C., 1940 ed., which relates primarily to malicious mischief respecting letter boxes.

Language omitted from section 317 of title 18, U.S.C., 1940 ed., and all of section 321 of title 18, U.S.C., 1940 ed., except that above quoted, was incorporated in sections 1702 and 1705 of this title.

Words ''or aids in buying, receiving, or concealing'' were omitted as unnecessary in view of the definition of principal in section 2 of this title.

The smaller penalty for an offense involving $100 or less was added. (See sections 641 and 645 of this title.)

Minor changes were made in phraseology.

1949 ACT

This section [section 39] corrects a typographical error in section 1708 of title 18, U.S.C.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $2,000'' in last par.

1952—Act July 1, 1952, made any thefts or receipt of stolen mail a felony regardless of the monetary value of the thing stolen.

1949—Act May 24, 1949, substituted ''buys'' for ''buy'' in third par.

§ 1709. Theft of mail matter by officer or employee

Whoever, being a Postal Service officer or employee, embezzles any letter, postal card, package, bag, or mail, or any article or thing contained therein entrusted to him or which comes into his possession intended to be conveyed by mail, or carried or delivered by any carrier, messenger, agent, or other person employed in any department of the Postal Service, or forwarded through or delivered from any post office or station thereof established by authority of the Postmaster General or of the Postal Service; or steals, abstracts, or removes from any such letter, package, bag, or mail, any article or thing contained therein, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 780; Pub. L. 91–375, § 6(j)(19)(A), Aug. 12, 1970, 84 Stat. 778; 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., § 318 (Mar. 4, 1909, ch. 321, § 195, 35 Stat. 1125).

The provisions of said section 318 of title 18, U.S.C., 1940 ed., were incorporated in this section and section 1703 of this title.

The fine of ''$500'' was increased to ''$2,000'' as more proportionate to the imprisonment provision and to conform with other comparable sections. (See sections 1702 and 1708 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''.

1970—Pub. L. 91–375 substituted ''officer'' for ''postmaster'' in section catchline, and in text substituted

''Postal Service officer or employee'' for ''postmaster or Postal Service employee'' and ''entrusted'' for ''intrusted'' and inserted ''or of the Postal Service'' after ''Postmaster General''.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 1710. Theft of newspapers

Whoever, being a Postal Service officer or employee, takes or steals any newspaper or package of newspapers from any post office or from any person having custody thereof, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 780; Pub. L. 91–375, § 6(j)(20), Aug. 12, 1970, 84 Stat. 778; Pub. L. 103–322, title XXXIII, § 330016(1)(B), Sept. 13, 1994, 108 Stat. 2146.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 319 (Mar. 4, 1909, ch. 321, § 196, 35 Stat. 1126).

Theft provisions alone are retained in this section. Those relating to other offenses were incorporated in section 1703 of this title.

Words ''mail or'' following ''steals any'' were omitted as covered by section 1709 of this title.

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $100''.

1970—Pub. L. 91–375 substituted ''Postal Service officer or employee'' for ''postmaster or Postal Service employee''.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 1711. Misappropriation of postal funds

Whoever, being a Postal Service officer or employee, loans, uses, pledges, hypothecates, or converts to his own use, or deposits in any bank, or exchanges for other funds or property, except as authorized by law, any money or property coming into his hands or under his control in any manner, in the execution or under color of his office, employment, or service, whether or not the same shall be the money or property of the United States; or fails or refuses to remit to or deposit in the Treasury of the United States or in a designated depository, or to account for or turn over to the proper officer or agent, any such money or property, when required to do so by law or the regulations of the Postal Service, or upon demand or order of the Postal Service, either directly or through a duly authorized officer or agent, is guilty of embezzlement; and every such person, as well as every other person advising or knowingly participating therein, shall be fined under this title or in a sum equal to the amount or value of the money or property embezzled, whichever is greater, or imprisoned not more than ten years, or both; but if the amount or value thereof does not exceed $1,000, he shall be fined under this title or imprisoned not more than one year, or both.

This section shall not prohibit any Postal Service officer or employee from depositing, under the direction of the Postal Service, in a national bank designated by the Secretary of the Treasury for that purpose, to his own credit as Postal Service officer or employee, any funds in his charge, nor prevent his negotiating drafts or other evidences of debt through such bank, or through United States disbursing officers, or otherwise, when instructed or required so to do by the Postal Service, for the purpose of remitting surplus funds from one post office to another.

(June 25, 1948, ch. 645, 62 Stat. 780; Pub. L. 91–375, § 6(j)(21), Aug. 12, 1970, 84 Stat. 778; Pub. L. 103–322, title XXXIII, § 330016(1)(H), (2)(G), Sept. 13, 1994, 108 Stat. 2147, 2148; Pub. L. 104–294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 355 (Mar. 4, 1909, ch. 321, § 225, 35 Stat. 1133; June 10, 1921, ch. 18, § 304, 42 Stat. 24).

Said section 355 was divided into two sections, this section and section 3498 of this title.

The smaller punishment for an offense involving $100 or less was added. (See reviser's notes under sections 641 and 645 of this title.)

Changes of phraseology only were made.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''$1,000'' for ''$100'' in first par.

1994—Pub. L. 103–322, § 330016(2)(G), in first par., substituted ''be fined under this title or in a sum equal to the amount or value of the money or property embezzled, whichever is greater, or imprisoned'' for ''be fined in a sum equal to the amount or value of the money or property embezzled or imprisoned''.

Pub. L. 103–322, § 330016(1)(H), in first par., substituted ''fined under this title'' for ''fined not more than $1,000'' after ''he shall be''.

1970—Pub. L. 91–375 substituted ''Postal Service officer or employee'' and ''Postal Service'' for ''postmaster or Postal Service employee'' and ''Post Office Department'' in first par., ''Postal Service officer or employee'' for ''Postmaster'' in two places in second par., and ''Postal Service'' for ''Postmaster General'' once in first par. after ''order of the'' and twice in second par., respectively.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 1712. Falsification of postal returns to increase compensation

Whoever, being a Postal Service officer or employee, makes a false return, statement, or account to any officer of the United States, or makes a false entry in any record, book, or account, required by law or the rules or regulations of the Postal Service to be kept in respect of the business or operations of any post office or other branch of the Postal Service, for the

purpose of fraudulently increasing his compensation or the compensation of the postmaster or any employee in a post office; or

Whoever, being a Postal Service officer or employee in any post office or station thereof, for the purpose of increasing the emoluments or compensation of his office, induces, or attempts to induce, any person to deposit mail matter in, or forward in any manner for mailing at, the office where such officer or employee is employed, knowing such matter to be properly mailable at another post office—

Shall be fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 780; Pub. L. 91–375, § 6(j)(22), Aug. 12, 1970, 84 Stat. 779; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 329 and on section 172 of title 39, U.S.C., 1940 ed., The Postal Service (Aug. 4, 1886, ch. 901, § 3, 24 Stat. 221; Mar. 4, 1909, ch. 321, § 206, 35 Stat. 1128; June 10, 1921, ch. 18, § 304, 42 Stat. 24).

Said sections were consolidated.

The texts of the two sections were substantially identical except that said section 172 of title 39, U.S.C., 1940 ed., provided that ''whenever, upon evidence deemed satisfactory to him, the Postmaster General shall determine that any such false return has been made, he may, by order, fix absolutely the compensation of the postmaster for such special delivery during any quarter or quarters which he shall deem affected by such false return, and the General Accounting Office shall adjust the postmaster's account accordingly'', the words ''General Accounting Office'' having been substituted for ''Auditor'' on the authority of the act of June 10, 1921, shown in the credits above. This particular language was omitted because such powers and duties as it prescribes would devolve upon the Postmaster General without legislation and also because said section 172 of Title 39, which was derived from the act of August 4, 1886, shown in the credits above, was impliedly repealed by the general repealing clause of section 341 of the Criminal Code of 1909. Section 208 of that Code contained the provisions which formed the basis for said section 329 of Title 18.

Reference in said section 329 of title 18, U.S.C., 1940 ed., to persons assisting, causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Minor verbal changes were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500'' in last par.

1970—Pub. L. 91–375 substituted ''Postal Service officer or employee'' for ''postmaster or Postal Service employee'' and ''Postal Service'' for ''Post Office Department'' after ''rules or regulations of the'' in first par. and ''Postal Service officer or employee'' and ''officer or employee'' for ''postmaster or employee'' and ''postmaster or other person'' in second par., respectively.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 1713. Issuance of money orders without payment

Whoever, being an officer or employee of the Postal Service, issues a money order without having previously received the money therefor, shall be fined under this title.

(June 25, 1948, ch. 645, 62 Stat. 781; Pub. L. 91–375, § 6(j)(23), Aug. 12, 1970, 84 Stat. 779; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 333 (Mar. 4, 1909, ch. 321, § 210, 35 Stat. 1129).

Minor change was made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

1970—Pub. L. 91–375 substituted ''an officer or employee of the Postal Service'' for ''a postmaster or other person employed in any branch of the Postal Service''.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

[§ 1714. Repealed. Pub. L. 101–647, title XII, § 1210(b), Nov. 29, 1990, 104 Stat. 4832]

Section, act June 25, 1948, ch. 645, 62 Stat. 781, provided that certain foreign divorce information was nonmailable.

§ 1715. Firearms as nonmailable; regulations

Pistols, revolvers, and other firearms capable of being concealed on the person are nonmailable and shall not be deposited in or carried by the mails or delivered by any officer or employee of the Postal Service. Such articles may be conveyed in the mails, under such regulations as the Postal Service shall prescribe, for use in connection with their official duty, to officers of the Army, Navy, Air Force, Coast Guard, Marine Corps, or Organized Reserve Corps; to officers of the National Guard or Militia of a State, Territory, Commonwealth, Possession, or District; to officers of the United States or of a State, Territory, Commonwealth, Possession, or District whose official duty is to serve warrants of arrest or commitments; to employees of the Postal Service; to officers and employees of enforcement agencies of the United States; and to watchmen engaged in guarding the property of the United States, a State, Territory, Commonwealth, Possession, or District. Such articles also may be conveyed in the mails to manufacturers of firearms or bona fide dealers therein in customary trade shipments, including such articles for repairs or replacement of parts, from one to the other, under such regulations as the Postal Service shall prescribe.

Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail according to the direction thereon, or at any place to which it is directed to be delivered by the person to whom it is addressed, any pistol, revolver, or firearm declared nonmailable by this section, shall be fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 781; May 24, 1949, ch. 139, § 40, 63 Stat. 95; Pub. L. 91–375, § 6(j)(24),

Aug. 12, 1970, 84 Stat. 779; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–294, title VI, § 607(f), Oct. 11, 1996, 110 Stat. 3511.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., § 361 (Feb. 8, 1927, ch. 75, § 1, 44 Stat. 1059; May 15, 1939, ch. 134, 53 Stat. 744; Mar. 7, 1942, ch. 160, 56 Stat. 141).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Minor changes were made in phraseology.

1949 ACT

This section [section 40] inserts ''Air Force,'' in section 1715 of title 18, U.S.C., in view of the establishment in 1947 of this separate branch of the armed forces, and substitutes, ''Organized'' for ''Officers' '', preceding ''Reserve Corps'', to conform to section 2 of title 10, U.S.C., as amended by the act of March 25, 1948 (ch. 157, § 1, 62 Stat. 87), which grouped all reserve branches into a reserve component called the Organized Reserve Corps.

AMENDMENTS

1996—Pub. L. 104–294, in first par., substituted ''State, Territory, Commonwealth, Possession, or District'' for ''State, Territory, or District'' wherever appearing.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000'' in second par.

1970—Pub. L. 91–375 substituted ''Postal Service'' for ''Postmaster General'' after ''such regulations as the'' in two places and ''officer or employee of'' for ''postmaster, letter carrier, or other person in'' in first par., respectively.

1949—Act May 24, 1949, inserted ''Air Force'' after ''Navy'' and substituted ''Organized'' for ''Officers' '' before ''Reserve Corps'' in first par., to make section applicable to the Air Force and to conform to the grouping of all reserve branches into a single reserve component.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 1716. Injurious articles as nonmailable

(a) All kinds of poison, and all articles and compositions containing poison, and all poisonous animals, insects, reptiles, and all explosives, inflammable materials, infernal machines, and mechanical, chemical, or other devices or compositions which may ignite or explode, and all disease germs or scabs, and all other natural or artificial articles, compositions, or material which may kill or injure another, or injure the mails or other property, whether or not sealed as first-class matter, are nonmailable matter and shall not be conveyed in the mails or delivered from any post office or station thereof, nor by any officer or employee of the Postal Service.

(b) The Postal Service may permit the transmission in the mails, under such rules and regulations as it shall prescribe as to preparation and packing, of any such articles which are not outwardly or of their own force dangerous or injurious to life, health, or property.

(c) The Postal Service is authorized and directed to permit the transmission in the mails, under regulations to be prescribed by it, of live scorpions which are to be used for purposes of medical research or for the manufacture of antivenom. Such regulations shall include such provisions with respect to the packaging of such live scorpions for transmission in the mails as the Postal Service deems necessary or desirable for the protection of Postal Service personnel and of the public generally and for ease of handling by such personnel and by any individual connected with such research or manufacture. Nothing contained in this paragraph shall be construed to authorize the transmission in the mails of live scorpions by means of aircraft engaged in the carriage of passengers for compensation or hire.

(d) The transmission in the mails of poisonous drugs and medicines may be limited by the Postal Service to shipments of such articles from the manufacturer thereof or dealer therein to licensed physicians, surgeons, dentists, pharmacists, druggists, cosmetologists, barbers, and veterinarians under such rules and regulations as it shall prescribe.

(e) The transmission in the mails of poisons for scientific use, and which are not outwardly dangerous or of their own force dangerous or injurious to life, health, or property, may be limited by the Postal Service to shipments of such articles between the manufacturers thereof, dealers therein, bona fide research or experimental scientific laboratories, and such other persons who are employees of the Federal, a State, or local government, whose official duties are comprised, in whole or in part, of the use of such poisons, and who are designated by the head of the agency in which they are employed to receive or send such articles, under such rules and regulations as the Postal Service shall prescribe.

(f) All spirituous, vinous, malted, fermented, or other intoxicating liquors of any kind are nonmailable and shall not be deposited in or carried through the mails.

(g) All knives having a blade which opens automatically (1) by hand pressure applied to a button or other device in the handle of the knife, or (2) by operation of inertia, gravity, or both, are nonmailable and shall not be deposited in or carried by the mails or delivered by any officer or employee of the Postal Service. Such knives may be conveyed in the mails, under such regulations as the Postal Service shall prescribe—

(1) to civilian or Armed Forces supply or procurement officers and employees of the Federal Government ordering, procuring, or purchasing such knives in connection with the activities of the Federal Government;

(2) to supply or procurement officers of the National Guard, the Air National Guard, or militia of a State ordering, procuring, or purchasing such knives in connection with the activities of such organizations;

(3) to supply or procurement officers or employees of any State, or any political subdivision of a State or Territory, ordering, procuring, or purchasing such knives in connection with the activities of such government; and

(4) to manufacturers of such knives or bona fide dealers therein in connection with any

shipment made pursuant to an order from any person designated in paragraphs (1), (2), and (3).

The Postal Service may require, as a condition of conveying any such knife in the mails, that any person proposing to mail such knife explain in writing to the satisfaction of the Postal Service that the mailing of such knife will not be in violation of this section.

(h) Any advertising, promotional, or sales matter which solicits or induces the mailing of anything declared nonmailable by this section is likewise nonmailable unless such matter contains wrapping or packaging instructions which are in accord with regulations promulgated by the Postal Service.

(i)(1) Any ballistic knife shall be subject to the same restrictions and penalties provided under subsection (g) for knives described in the first sentence of that subsection.

(2) As used in this subsection, the term ''ballistic knife'' means a knife with a detachable blade that is propelled by a spring-operated mechanism.

(j)(1) Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, according to the direction thereon, or at any place at which it is directed to be delivered by the person to whom it is addressed, anything declared nonmailable by this section, unless in accordance with the rules and regulations authorized to be prescribed by the Postal Service, shall be fined under this title or imprisoned not more than one year, or both.

(2) Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, according to the direction thereon or at any place to which it is directed to be delivered by the person to whom it is addressed, anything declared nonmailable by this section, whether or not transmitted in accordance with the rules and regulations authorized to be prescribed by the Postal Service, with intent to kill or injure another, or injure the mails or other property, shall be fined under this title or imprisoned not more than twenty years, or both.

(3) Whoever is convicted of any crime prohibited by this section, which has resulted in the death of any person, shall be subject also to the death penalty or to imprisonment for life.

(k) For purposes of this section, the term ''State'' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(June 25, 1948, ch. 645, 62 Stat. 781; May 8, 1952, ch. 246, 66 Stat. 67; June 29, 1955, ch. 224, 69 Stat. 191; Pub. L. 85–268, Sept. 2, 1957, 71 Stat. 594; Pub. L. 85–623, § 5, Aug. 12, 1958, 72 Stat. 562; Pub. L. 91–375, § 6(j)(25), Aug. 12, 1970, 84 Stat. 779; Pub. L. 92–191, § 1, Dec. 15, 1971, 85 Stat. 647; Pub. L. 99–570, title X, § 10003, Oct. 27, 1986, 100 Stat. 3207–167; Pub. L. 103–322, title VI, § 60003(a)(7), title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 1969, 2147; Pub. L. 104–294, title VI, § 607(g), Oct. 11, 1996, 110 Stat. 3511; Pub. L. 107–273, div. B, title IV, § 4002(b)(2), (6), Nov. 2, 2002, 116 Stat. 1807.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 340 (Mar. 4, 1909. ch. 321, § 217, 35 Stat. 1131; May 25, 1920, ch. 196, 41 Stat. 620; Jan. 11, 1929, ch. 53, 45 Stat. 1072; June 19, 1934, ch. 650, 48 Stat. 1063).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

The maximum of ''twenty years'' was reduced to ''ten years'' as more consistent with such comparable sections as sections 111 and 1113 of this title.

Minor changes were made in phraseology.

AMENDMENTS

2002—Subsec. (g)(3). Pub. L. 107–273, § 4002(b)(2), made technical correction to directory language of Pub. L. 104–294, § 607(g)(2). See 1996 Amendment note below.

Subsec. (j). Pub. L. 107–273, § 4002(b)(6), designated first, second, and third undesignated pars. after subsec. (i) as pars. (1) to (3), respectively, of subsec. (j) and, in par. (2), substituted ''under this title'' for ''not more than $10,000''. Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 107–273, § 4002(b)(6)(D), redesignated subsec. (j) as (k).

1996—Subsec. (g)(2). Pub. L. 104–294, § 607(g)(1), substituted ''State'' for ''State, Territory, or the District of Columbia''.

—Subsec. (g)(3). Pub. L. 104–294, § 607(g)(2), as amended by Pub. L. 107–273, § 4002(b)(2), substituted ''any State, or any political subdivision of a State'' for ''the municipal government of the District of Columbia or of the government of any State or Territory, or any county, city, or other political subdivision of a State''.

Subsec. (j). Pub. L. 104–294, § 607(g)(3), added subsec. (j) at end.

1994—Pub. L. 103–322, § 330016(1)(H), substituted ''fined under this title'' for ''fined not more than $1,000'' in first undesignated par. after subsec. (i).

Pub. L. 103–322, § 60003(a)(7), in last par., struck out before period at end '', if the jury shall in its discretion so direct, or, in the case of a plea of guilty, or a plea of not guilty where the defendant has waived a trial by jury, if the court in its discretion, shall so order''.

1986—Subsec. (i). Pub. L. 99–570 added subsec. (i).

1971—Subsecs. (a) to (g). Pub. L. 92–191 designated existing seven paragraphs preceding the penal provisions as subsecs. (a) to (g), respectively.

Subsec. (h). Pub. L. 92–191 added subsec. (h).

1970—First par. Pub. L. 91–375, § 6(j)(25)(B)(ii), substituted ''officer or employee of the Postal Service'' for ''letter carrier''.

Second par. Pub. L. 91–375, § 6(j)(25)(A), substituted ''Postal Service'' and ''it shall prescribe'' for ''Postmaster General'' and ''he shall prescribe''.

Third par. Pub. L. 91–375, § 6(j)(25)(A), substituted ''Postal Service'' for ''Postmaster General'' in two places, ''prescribed by it'' for ''prescribed by him'', ''antivenom'' for ''antivenin'', ''necessary or desirable'' for ''necessary or advisable'', and ''Postal Service personnel'' for ''Post Office Department personnel''.

Fourth par. Pub. L. 91–375, § 6(j)(25)(A), substituted ''Postal Service'' and ''it shall prescribe'' for ''Postmaster General'' and ''he shall prescribe'', respectively, and struck out the comma after ''veterinarians''.

Fifth par. Pub. L. 91–375 § 6(j)(25)(B)(i) substituted ''Postal Service'' for ''Postmaster General'' in two places.

Seventh par. Pub. L. 91–375, § 6(j)(25)(B)(i), (iii), substituted ''Postal Service'' for ''Postmaster General'' in three places, and ''officer or employee of the Postal Service'' for ''postmaster, letter carrier, or other person in the postal service'', respectively.

Eighth to tenth pars. Pub. L. 91–375, § 6(j)(25)(B)(i), substituted ''Postal Service'' for ''Postmaster General''.

1958—Pub. L. 85–623 inserted paragraph prohibiting mailing of switchblade knives except in connection with Armed Forces or other Government orders.

1957—Pub. L. 85–268 reduced penalty from two to one year for mailing nonmailable articles; increased penalty from ten to twenty years for mailing nonmailable matter with intent to kill or injure another or injure the mails or other property but where death does not

result; and provided death penalty or life imprisonment for mailing nonmailable matter resulting in death.

1955—Act June 29, 1955, inserted paragraph to permit the transportation in the mails of live scorpions for certain purposes.

1952—Act May 8, 1952, inserted fourth paragraph to extend the Postmaster General's authority as it relates to the transmission of poisonous drugs through the mails for scientific purposes.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–273, div. B, title IV, § 4002(b)(2), Nov. 2, 2002, 116 Stat. 1807, provided that the amendment made by section 4002(b)(2) is effective Oct. 11, 1996.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–570 effective 30 days after Oct. 27, 1986, see section 10004 of Pub. L. 99–570, set out as an Effective Date note under section 1245 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 3 of Pub. L. 92–191 provided that: ''The amendments made by this Act [amending this section and section 3001 of Title 39, Postal Service] shall become effective at the beginning of the third calendar month following the date of enactment of this Act [Dec. 15, 1971] or on the date section 3001 of title 39, United States Code, becomes effective [July 1, 1971] pursuant to section 15(a) of Public Law 91–375 [set out as an Effective Date note preceding section 101 of title 39], whichever is the later.''

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–623 effective on sixtieth day after Aug. 12, 1958, see Effective Date note set out under section 1241 of Title 15, Commerce and Trade.

HAZARDOUS SUBSTANCES

Federal Hazardous Substances Act as not modifying this section, see Pub. L. 86–613, § 17, July 12, 1960, 74 Stat. 380, set out as a note under section 1261 of Title 15, Commerce and Trade.

§ 1716A. Nonmailable locksmithing devices and motor vehicle master keys

(a) Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail according to the direction thereon, or at any place to which it is directed to be delivered by the person to whom it is addressed, any matter declared to be nonmailable by section 3002 of title 39, shall be fined under this title or imprisoned not more than one year, or both.

(b) Whoever knowingly deposits for mailing or delivery, causes to be delivered by mail, or causes to be delivered by any interstate mailing or delivery other than by the United States Postal Service, any matter declared to be nonmailable by section 3002a of title 39, shall be fined under this title, imprisoned not more than one year, or both.

(Added Pub. L. 90–560, § 2(1), Oct. 12, 1968, 82 Stat. 997; amended Pub. L. 91–375, Aug. 12, 1970, § 6(j)(26), 84 Stat. 780; Pub. L. 100–690, title VII, § 7090(c), Nov. 18, 1988, 102 Stat. 4410; Pub. L. 101–647, title XXXV, § 3551, Nov. 29, 1990, 104 Stat. 4926.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–647 substituted ''shall be fined under this title or'' for ''shall be under this title''.

1988—Pub. L. 100–690 inserted ''locksmithing devices and'' in section catchline, designated existing provisions as subsec. (a), substituted ''under this title'' for ''fined not more than $1,000, or'', and added subsec. (b).

1970—Pub. L. 91–375 substituted ''section 3002'' for ''section 4010'' of title 39.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE

Section 3 of Pub. L. 90–560 provided that: ''The amendments made by the first section and section 2 of this Act [enacting this section and section 4010 of former Title 39, The Postal Service] shall become effective on the sixtieth day after the date of enactment of this Act [Oct. 12, 1968].''

§ 1716B. Nonmailable plants

Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, according to the direction thereon, or at any place at which it is directed to be delivered by the person to whom it is addressed, anything declared nonmailable by section 3014(b) of title 39, unless in accordance with the rules and regulations prescribed by the Postal Service under section 3014(c) of such title, shall be fined under this title, or imprisoned not more than one year, or both.

(Added Pub. L. 100–574, § 1(b)(1), Oct. 31, 1988, 102 Stat. 2893.)

EFFECTIVE DATE

Section effective Oct. 31, 1989, see section 4 of Pub. L. 100–574, set out as a note under section 3014 of Title 39, Postal Service.

§ 1716C. Forged agricultural certifications

Whoever forges or counterfeits any certification authorized under any rules or regulations prescribed under section 3014(c) of title 39 with intent to make it appear that such is a genuine certification, or makes or knowingly uses or sells, or possesses with intent to use or sell, any forged or counterfeited certification so authorized, or device for imprinting any such certification, shall be fined under this title, or imprisoned not more than one year, or both.

(Added Pub. L. 100–574, § 2(a), Oct. 31, 1988, 102 Stat. 2893.)

EFFECTIVE DATE

Section effective Oct. 31, 1989, see section 4 of Pub. L. 100–574, set out as a note under section 3014 of Title 39, Postal Service.

§ 1716D. Nonmailable injurious animals, plant pests, plants, and illegally taken fish, wildlife, and plants

A person who knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, according to the direction thereon, or at any place at which it is directed to be deliv-

ered by the person to whom it is addressed, anything that section 3015 of title 39 declares to be nonmailable matter shall be fined under this title, imprisoned not more than 1 year, or both.

(Added Pub. L. 103–322, title XXXII, § 320108(b)(1), Sept. 13, 1994, 108 Stat. 2113.)

§ 1717. Letters and writings as nonmailable

(a) Every letter, writing, circular, postal card, picture, print, engraving, photograph, newspaper, pamphlet, book, or other publication, matter or thing, in violation of sections 499, 506, 793, 794, 915, 954, 956, 957, 960, 964, 1017, 1542, 1543, 1544 or 2388 of this title or which contains any matter advocating or urging treason, insurrection, or forcible resistance to any law of the United States is nonmailable and shall not be conveyed in the mails or delivered from any post office or by any letter carrier.

(b) Whoever uses or attempts to use the mails or Postal Service for the transmission of any matter declared by this section to be nonmailable, shall be fined under this title or imprisoned not more than ten years or both.

(June 25, 1948, ch. 645, 62 Stat. 782; Pub. L. 86–682, § 12(b), Sept. 2, 1960, 74 Stat. 708; Pub. L. 91–375, § 6(j)(27), Aug. 12, 1970, 84 Stat. 780; Pub. L. 101–647, title XXXV, § 3552(a), Nov. 29, 1990, 104 Stat. 4926; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 343, 344, 345, 346 (June 15, 1917, ch. 30, title XII, §§ 1–3, title XIII, § 1, 40 Stat. 230, 231; Mar. 28, 1940, ch. 72, § 9, 54 Stat. 80).

Section consolidates said sections 343–345 of title 18, U.S.C., 1940 ed. The provision as to opening letters was incorporated in paragraph (c).

Venue provisions in said section 345 of title 18, U.S.C., 1940 ed., were omitted as covered by section 3237 of this title.

Section 346 of title 18, U.S.C., 1940 ed., defining ''United States'' was omitted. It is incorporated, however, in section 5 of this title.

References in text to other sections do not include definitive sections. Only those susceptible of violation are cited.

Mandatory punishment provision was rephrased in the alternative.

Minor changes were made in arrangement, translation, and phraseology.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

1990—Pub. L. 101–647 struck out ''; opening letters'' after ''nonmailable'' in section catchline.

1970—Subsec. (b). Pub. L. 91–375 struck out ''of the United States'' after ''Postal Service''.

1960—Subsec. (c). Pub. L. 86–682 repealed subsec. (c) which related to the opening of letters, effective Sept. 1, 1960.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

[§ 1718. Repealed. Pub. L. 101–647, title XII, § 1210(c), Nov. 29, 1990, 104 Stat. 4832]

Section, acts June 25, 1948, ch. 645, 62 Stat. 782; Aug. 12, 1970, Pub. L. 91–375, § 6(j)(28), 84 Stat. 780, provided that libelous matter on wrappers or envelopes was nonmailable.

§ 1719. Franking privilege

Whoever makes use of any official envelope, label, or indorsement authorized by law, to avoid the payment of postage or registry fee on his private letter, packet, package, or other matter in the mail, shall be fined under this title.

(June 25, 1948, ch. 645. 62 Stat. 783; Pub. L. 103–322, title XXXIII, § 330016(1)(F), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 357 (Mar. 4, 1909, ch. 321, § 227, 35 Stat. 1134).

Minor verbal change was made. Section 746(f) of title 8, U.S.C., 1940 ed., Aliens and Nationality, providing same penalty for misuse of franking privilege in naturalization service, should be repealed as covered by this section. The proviso in section 337 of title 39, U.S.C., 1940 ed., The Postal Service, should also be repealed for the same reason.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $300''.

§ 1720. Canceled stamps and envelopes

Whoever uses or attempts to use in payment of postage, any canceled postage stamp, whether the same has been used or not, or removes, attempts to remove, or assists in removing, the canceling or defacing marks from any postage stamp, or the superscription from any stamped envelope, or postal card, that has once been used in payment of postage, with the intent to use the same for a like purpose, or to sell or offer to sell the same, or knowingly possesses any such postage stamp, stamped envelope, or postal card, with intent to use the same or knowingly sells or offers to sell any such postage stamp, stamped envelope, or postal card, or uses or attempts to use the same in payment of postage; or

Whoever unlawfully and willfully removes from any mail matter any stamp attached thereto in payment of postage; or

Whoever knowingly uses in payment of postage, any postage stamp, postal card, or stamped envelope, issued in pursuance of law, which has already been used for a like purpose—

Shall be fined under this title or imprisoned not more than one year, or both; but if he is a person employed in the Postal Service, he shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 783; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 328 (Mar. 4, 1909, ch. 321, § 205, 35 Stat. 1127).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Minor verbal changes were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500'' in two places in last par.

§ 1721. Sale or pledge of stamps

Whoever, being a Postal Service officer or employee, knowingly and willfully: uses or disposes of postage stamps, stamped envelopes, or postal cards entrusted to his care or custody in the payment of debts, or in the purchase of merchandise or other salable articles, or pledges or hypothecates the same or sells or disposes of them except for cash; or sells or disposes of postage stamps or postal cards for any larger or less sum than the values indicated on their faces; or sells or disposes of stamped envelopes for a larger or less sum than is charged therefor by the Postal Service for like quantities; or sells or disposes of postage stamps, stamped envelopes, or postal cards at any point or place outside of the delivery of the office where such officer or employee is employed; or for the purpose of increasing the emoluments, or compensation of any such officer or employee, inflates or induces the inflation of the receipts of any post office or any station or branch thereof; or sells or disposes of postage stamps, stamped envelopes, or postal cards, otherwise than as provided by law or the regulations of the Postal Service; shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 783; Aug. 1, 1956, ch. 818, 70 Stat. 784; Pub. L. 91–375, § 6(j)(29), Aug. 12, 1970, 84 Stat. 780; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 331 of title 18 and section 364 of title 39, The Postal Service, both U.S.C., 1940 ed. (R.S. § 3920; Mar. 4, 1909, ch. 321, § 208, 35 Stat. 1128).

Said sections were consolidated with only minor changes in phraseology.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

1970—Pub. L. 91–375 substituted ''Postal Service officer or employee'' for ''postmaster or postal service employee'', ''Postal Service'' for ''Post Office Department'' in two places, ''officer or employee'' for ''postmaster or other person'', and ''any such officer or employee'' for ''the postmaster or any employee of a post office or station or branch thereof'', respectively.

1956—Act Aug. 1, 1956, broadened the class of postal employees subject to penalties prescribed by this section and broadened the prohibition to include the inflation of receipts by means other than the disposing of stamps, stamped envelopes, or postal cards.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 1722. False evidence to secure second-class rate

Whoever knowingly submits to the Postal Service or to any officer or employee of the Postal Service, any false evidence relative to any publication for the purpose of securing the admission thereof at the second-class rate, for transportation in the mails, shall be fined under this title.

(June 25, 1948, ch. 645, 62 Stat. 783; Pub. L. 91–375, § 6(j)(30), Aug. 12, 1970, 84 Stat. 780; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 353 (Mar. 4, 1909, ch. 321, § 223, 35 Stat. 1133).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Minor verbal change was made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

1970—Pub. L. 91–375 substituted ''the Postal Service or to any officer or employee of the Postal Service'' for ''any postmaster or to the Post Office Department or any officer of the Postal Service''.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 1723. Avoidance of postage by using lower class matter

Matter of the second, third, or fourth class containing any writing or printing in addition to the original matter, other than as authorized by law, shall not be admitted to the mails, nor delivered, except upon payment of postage for matter of the first class, deducting therefrom any amount which may have been prepaid by stamps affixed, unless by direction of a duly authorized officer of the Postal Service such postage shall be remitted.

Whoever knowingly conceals or incloses any matter of a higher class in that of a lower class, and deposits the same for conveyance by mail, at a less rate than would be charged for such higher class matter, shall be fined under this title.

(June 25, 1948, ch. 645, 62 Stat. 784; Pub. L. 91–375, § 6(j)(31), Aug. 12, 1970, 84 Stat. 780; Pub. L. 103–322, title XXXIII, § 330016(1)(B), Sept. 13, 1994, 108 Stat. 2146.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 351 (Mar. 4, 1909, ch. 321, § 221, 35 Stat. 1132).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Minor verbal changes were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $100'' in second par.

1970—Pub. L. 91–375 substituted ''a duly authorized officer of the Postal Service'' for ''Postmaster General'' in first par.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and

published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 1724. Postage on mail delivered by foreign vessels

Except as otherwise provided by treaty or convention the Postal Service may require the transportation by any steamship of mail between the United States and any foreign port at the compensation fixed under authority of law. Upon refusal by the master or the commander of such steamship or vessel to accept the mail, when tendered by the Postal Service or its representative, the collector or other officer of the port empowered to grant clearance, on notice of the refusal aforesaid, shall withhold clearance, until the collector or other officer of the port is informed by the Postal Service or its representative that the master or commander of the steamship or vessel has accepted the mail or that conveyance by his steamship or vessel is no longer required by the Postal Service.

(June 25, 1948, ch. 645, 62 Stat. 784; Sept. 25, 1951, ch. 413, § 1(4), 65 Stat. 336; Pub. L. 91–375, § 6(j)(32), Aug. 12, 1970, 84 Stat. 780.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 326 (Mar. 4, 1909, ch. 321, § 203, 35 Stat. 1127; Feb. 6, 1929, ch. 157, 45 Stat. 1153).

AMENDMENTS

1970—Pub. L. 91–375 substituted ''Postal Service'' and ''Postal Service or its representative'' for ''Postmaster General'' and ''Postmaster General or his representative'', respectively, in two places.

1951—Act Sept. 25, 1951, repealed former first paragraph relating to penalties for failure to pay postage on or unlawful conveyance of mail to or from any part of the United States by foreign vessels.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 1725. Postage unpaid on deposited mail matter

Whoever knowingly and willfully deposits any mailable matter such as statements of accounts, circulars, sale bills, or other like matter, on which no postage has been paid, in any letter box established, approved, or accepted by the Postal Service for the receipt or delivery of mail matter on any mail route with intent to avoid payment of lawful postage thereon, shall for each such offense be fined under this title.

(June 25, 1948, ch. 645, 62 Stat. 784; Pub. L. 91–375, § 6(j)(33), Aug. 12, 1970, 84 Stat. 780; Pub. L. 103–322, title XXXIII, § 330016(1)(F), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 321a (May 7, 1934, ch. 220, § 2, 48 Stat. 667).

Reference to persons aiding or assisting was struck out as unnecessary since such persons are made principals by section 2 of this title.

Minor verbal changes were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $300''.

1970—Pub. L. 91–375 substituted ''Postal Service'' for ''Postmaster General''.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 1726. Postage collected unlawfully

Whoever, being a postmaster or other person authorized to receive the postage of mail matter, fraudulently demands or receives any rate of postage or gratuity or reward other than is provided by law for the postage of such mail matter, shall be fined under this title or imprisoned not more than six months, or both.

(June 25, 1948, ch. 645, 62 Stat. 784; Pub. L. 103–322, title XXXIII, § 330016(1)(B), Sept. 13, 1994, 108 Stat. 2146.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 330 (Mar. 4, 1909, ch. 321, § 207, 35 Stat. 1128).

Minor verbal changes were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $100''.

[§ 1727. Repealed. Pub. L. 90–384, § 1(a), July 5, 1968, 82 Stat. 292]

Section, act June 25, 1948, ch. 645, 62 Stat. 785, provided for a fine of not more than $50 for postage accounting violations.

SAVINGS PROVISION

Section 2 of Pub. L. 90–384 provided that: ''Nothing in this Act [repealing this section] shall be construed to affect in any way any prosecution for any offense occurring prior to the date of enactment of such Act [July 5, 1968].''

§ 1728. Weight of mail increased fraudulently

Whoever places any matter in the mails during the regular weighing period, for the purpose of increasing the weight of the mail, with intent to cause an increase in the compensation of the railroad mail carrier over whose route such mail may pass, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 785; Pub. L. 103–322, title XXXIII, § 330016(1)(N), Sept. 13, 1994, 108 Stat. 2148.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 358 (Mar. 4, 1909, ch. 321, § 228, 35 Stat. 1134).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Minor verbal changes were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $20,000''.

§ 1729. Post office conducted without authority

Whoever, without authority from the Postal Service, sets up or professes to keep any office

or place of business bearing the sign, name, or title of post office, shall be fined under this title.

(June 25, 1948, ch. 645, 62 Stat. 785; Pub. L. 91–375, § 6(j)(34), Aug. 12, 1970, 84 Stat. 780; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 302 (Mar. 4, 1909, ch. 321, § 179, 35 Stat. 1123).

Minor verbal changes were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

1970—Pub. L. 91–375 substituted ''Postal Service'' for ''Postmaster General''.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 1730. Uniforms of carriers

Whoever, not being connected with the letter-carrier branch of the Postal Service, wears the uniform or badge which may be prescribed by the Postal Service to be worn by letter carriers, shall be fined under this title or imprisoned not more than six months, or both.

The provisions of the preceding paragraph shall not apply to an actor or actress in a theatrical, television, or motion-picture production who wears the uniform or badge of the letter-carrier branch of the Postal Service while portraying a member of that service.

(June 25, 1948, ch. 645, 62 Stat. 785; Pub. L. 90–413, July 21, 1968, 82 Stat. 396; Pub. L. 91–375, § 6(j)(35), Aug. 12, 1970, 84 Stat. 780; Pub. L. 101–647, title XII, § 1210(a), Nov. 29, 1990, 104 Stat. 4832; Pub. L. 103–322, title XXXIII, § 330016(1)(B), Sept. 13, 1994, 108 Stat. 2146.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 310 (Mar. 4, 1909, ch. 321, § 187, 35 Stat. 1124).

Minor verbal change was made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $100'' in first par.

1990—Pub. L. 101–647 struck out '', if the portrayal does not tend to discredit that service'' before period at end of second par.

1970—Pub. L. 91–375 substituted ''Postal Service'' for ''Postmaster General'' before ''to be worn'' in first par.

1968—Pub. L. 90–413 inserted provision exempting an actor or actress in a theatrical, television, or motion-picture production who wears the uniform or badge of the letter-carrier branch of the Postal Service from the penalties imposed by this section.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 1731. Vehicles falsely labeled as carriers

It shall be unlawful to paint, print, or in any manner to place upon or attach to any steamboat or other vessel, or any car, stagecoach, vehicle, or other conveyance, not actually used in carrying the mail, the words ''United States Mail'', or any words, letters, or characters of like import; or to give notice, by publishing in any newspaper or otherwise, that any steamboat or other vessel, or any car, stagecoach, vehicle, or other conveyance, is used in carrying the mail, when the same is not actually so used.

Whoever violates, and every owner, receiver, lessee, or managing operator who suffers, or permits the violation of, any provision of this section, shall be fined under this title or imprisoned not more than six months, or both.

(June 25, 1948, ch. 645, 62 Stat. 785; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 311 (Mar. 4, 1909, ch. 321, § 188, 35 Stat. 1124).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

The punishment provision was rewritten to conform more closely with comparable offenses in other sections. (See sections 1729 and 1730 of this title.)

Minor verbal changes were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500'' in second par.

§ 1732. Approval of bond or sureties by postmaster

Whoever, being a postmaster, affixes his signature to the approval of any bond of a bidder, or to the certificate of sufficiency of sureties in any contract, before the said bond or contract is signed by the bidder or contractor and his sureties, or knowingly, or without the exercise of due diligence, approves any bond of a bidder with insufficient sureties, or knowingly makes any false or fraudulent certificate, shall be fined under this title or imprisoned not more than one year, or both; and shall be dismissed from office and disqualified from holding the office of postmaster.

(June 25, 1948, ch. 645, 62 Stat. 785; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 352 (Mar. 4, 1909, ch. 321, § 222, 35 Stat. 1133).

Minor verbal changes were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 1733. Mailing periodical publications without prepayment of postage

Whoever, except as permitted by law, knowingly mails any periodical publication without the prepayment of postage, or, being an officer or employee of the Postal Service, knowingly permits any periodical publication to be mailed

without prepayment of postage, shall be fined under this title, or imprisoned not more than one year, or both.

(Added Pub. L. 86–682, § 7, Sept. 2, 1960, 74 Stat. 705; amended Pub. L. 91–375, § 6(j)(36)(A), Aug. 12, 1970, 84 Stat. 780; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

1970—Pub. L. 91–375 substituted ''Mailing periodical publications without prepayment of postage'' for ''Affidavits relating to second class mail'' as section catchline, struck out subsec. (a) penalty provision for fine of not more than $1,000 for each refusal to make affidavits relating to second class mail when tendering for mailing such mail without any affidavits, and reenacted subsec. (b) as the section without any subsection designation, inserting '', except as permitted by law,'' and substituting ''periodical publication'' for ''second class mail'' in two places, ''prepayment of postage'' for ''payment of postage'' where first appearing, and ''officer or employee of the Postal Service'' for ''postmaster or postal official''.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE

Section effective Sept. 1, 1960, see section 11 of Pub. L. 86–682.

§ 1734. Editorials and other matter as "advertisements"

Whoever, being an editor or publisher, prints in a publication entered as second class mail, editorial or other reading matter for which he has been paid or promised a valuable consideration, without plainly marking the same ''advertisement'' shall be fined under this title.

(Added Pub. L. 86–682, § 7, Sept. 2, 1960, 74 Stat. 706; amended Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

EFFECTIVE DATE

Section effective Sept. 1, 1960, see section 11 of Pub. L. 86–682.

§ 1735. Sexually oriented advertisements

(a) Whoever—

(1) willfully uses the mails for the mailing, carriage in the mails, or delivery of any sexually oriented advertisement in violation of section 3010 of title 39, or willfully violates any regulations of the Board of Governors issued under such section; or

(2) sells, leases, rents, lends, exchanges, or licenses the use of, or, except for the purpose expressly authorized by section 3010 of title 39, uses a mailing list maintained by the Board of Governors under such section;

shall be fined under this title or imprisoned not more than five years, or both, for the first offense, and shall be fined under this title or imprisoned not more than ten years, or both, for any second or subsequent offense.

(b) For the purposes of this section, the term ''sexually oriented advertisement'' shall have the same meaning as given it in section 3010(d) of title 39.

(Added Pub. L. 91–375, § 6(j)(37)(A), Aug. 12, 1970, 84 Stat. 781; amended Pub. L. 103–322, title XXXIII, § 330016(1)(K), (L), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322, in concluding provisions, substituted ''fined under this title'' for ''fined not more than $5,000'' after ''shall be'' and for ''fined not more than $10,000'' after ''and shall be''.

EFFECTIVE DATE

Section effective on first day of sixth month which begins after Aug. 12, 1970, see section 15(b) of Pub. L. 91–375, set out as a note preceding section 101 of Title 39, Postal Service.

§ 1736. Restrictive use of information

(a) No information or evidence obtained by reason of compliance by a natural person with any provision of section 3010 of title 39, or regulations issued thereunder, shall, except as provided in subsection (c) of this section, be used, directly or indirectly, as evidence against that person in a criminal proceeding.

(b) The fact of the performance of any act by an individual in compliance with any provision of section 3010 of title 39, or regulations issued thereunder, shall not be deemed the admission of any fact, or otherwise be used, directly or indirectly, as evidence against that person in a criminal proceeding, except as provided in subsection (c) of this section.

(c) Subsections (a) and (b) of this section shall not preclude the use of any such information or evidence in a prosecution or other action under any applicable provision of law with respect to the furnishing of false information.

(Added Pub. L. 91–375, § 6(j)(37)(A), Aug. 12, 1970, 84 Stat. 781.)

EFFECTIVE DATE

Section effective on first day of sixth month which begins after Aug. 12, 1970, see section 15(b) of Pub. L. 91–375, set out as a note preceding section 101 of Title 39, Postal Service.

§ 1737. Manufacturer of sexually related mail matter

(a) Whoever shall print, reproduce, or manufacture any sexually related mail matter, intending or knowing that such matter will be deposited for mailing or delivery by mail in violation of section 3008 or 3010 of title 39, or in violation of any regulation of the Postal Service issued under such section, shall be fined under this title or imprisoned not more than five years, or both, for the first offense, and shall be fined under this title or imprisoned not more than ten years, or both, for any second or subsequent offense.

(b) As used in this section, the term ''sexually related mail matter'' means any matter which is within the scope of section 3008(a) or 3010(d) of title 39.

(Added Pub. L. 91–375, § 6(j)(37)(A), Aug. 12, 1970, 84 Stat. 781; amended Pub. L. 103–322, title XXXIII, § 330016(1)(K), (L), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' after ''section, shall be'' and for ''fined not more than $10,000'' after ''offense, and shall be''.

EFFECTIVE DATE

Section effective on first day of sixth month which begins after Aug. 12, 1970, see section 15(b) of Pub. L. 91–375, set out as a note preceding section 101 of Title 39, Postal Service.

[§ 1738. Repealed. Pub. L. 106–578, § 4, Dec. 28, 2000, 114 Stat. 3076]

Section, added Pub. L. 97–398, § 4(a), Dec. 31, 1982, 96 Stat. 2011; amended Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147, related to mailing private identification documents without a disclaimer.

EFFECTIVE DATE OF REPEAL

Repeal effective 90 days after Dec. 28, 2000, see section 5 of Pub. L. 106–578, set out as an Effective Date of 2000 Amendment note under section 1028 of this title.

CHAPTER 84—PRESIDENTIAL AND PRESIDENTIAL STAFF ASSASSINATION, KIDNAPPING, AND ASSAULT

Sec.
1751. Presidential and Presidential staff assassination, kidnapping, and assault; penalties.
1752. Temporary residences and offices of the President and others.

AMENDMENTS

1994—Pub. L. 103–322, title XXXIII, § 330021(1), Sept. 13, 1994, 108 Stat. 2150, which directed the amendment of this title ''by striking 'kidnaping' each place it appears and inserting 'kidnapping' '', was executed by substituting ''KIDNAPPING'' for ''KIDNAPING'' in chapter heading, to reflect the probable intent of Congress.

Pub. L. 103–322, title XXXIII, § 330021(1), Sept. 13, 1994, 108 Stat. 2150, substituted ''kidnapping'' for ''kidnaping'' in item 1751.

1990—Pub. L. 101–647, title XXXV, § 3553, Nov. 29, 1990, 104 Stat. 4926, added item 1752.

1982—Pub. L. 97–285, § 4(b), (c), Oct. 6, 1982, 96 Stat. 1220, inserted ''and Presidential staff'' after ''Presidential'' in chapter heading and in item 1751.

§ 1751. Presidential and Presidential staff assassination, kidnapping, and assault; penalties

(a) Whoever kills (1) any individual who is the President of the United States, the President-elect, the Vice President, or, if there is no Vice President, the officer next in the order of succession to the Office of the President of the United States, the Vice President-elect, or any person who is acting as President under the Constitution and laws of the United States, or (2) any person appointed under section 105(a)(2)(A) of title 3 employed in the Executive Office of the President or appointed under section 106(a)(1)(A) of title 3 employed in the Office of the Vice President, shall be punished as provided by sections 1111 and 1112 of this title.

(b) Whoever kidnaps any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished by imprisonment for any term of years or for life.

(d) If two or more persons conspire to kill or kidnap any individual designated in subsection (a) of this section and one or more of such persons do any act to effect the object of the conspiracy, each shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

(e) Whoever assaults any person designated in subsection (a)(1) shall be fined under this title, or imprisoned not more than ten years, or both. Whoever assaults any person designated in subsection (a)(2) shall be fined under this title, or imprisoned not more than one year, or both; and if the assault involved the use of a dangerous weapon, or personal injury results, shall be fined under this title, or imprisoned not more than ten years, or both.

(f) The terms ''President-elect'' and ''Vice-President-elect'' as used in this section shall mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with title 3, United States Code, sections 1 and 2.

(g) The Attorney General of the United States, in his discretion is authorized to pay an amount not to exceed $100,000 for information and services concerning a violation of subsection (a)(1). Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this subsection.

(h) If Federal investigative or prosecutive jurisdiction is asserted for a violation of this section, such assertion shall suspend the exercise of jurisdiction by a State or local authority, under any applicable State or local law, until Federal action is terminated.

(i) Violations of this section shall be investigated by the Federal Bureau of Investigation. Assistance may be requested from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

(j) In a prosecution for an offense under this section the Government need not prove that the defendant knew that the victim of the offense was an official protected by this section.

(k) There is extraterritorial jurisdiction over the conduct prohibited by this section.

(Added Pub. L. 89–141, § 1, Aug. 28, 1965, 79 Stat. 580; amended Pub. L. 97–285, §§ 3, 4(a), Oct. 6, 1982, 96 Stat. 1220; Pub. L. 103–322, title XXXII, § 320101(e), title XXXIII, §§ 330016(1)(K), (L), 330021(1), Sept. 13, 1994, 108 Stat. 2108, 2147, 2150; Pub. L. 104–294, title VI, § 604(b)(12)(D), Oct. 11, 1996, 110 Stat. 3507.)

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–294, § 604(b)(12)(D), repealed Pub. L. 103–322, § 320101(e)(1), (2). See 1994 Amendment notes below.

1994—Pub. L. 103–322, § 330021(1), substituted ''kidnapping'' for ''kidnaping'' in section catchline.

Subsec. (e). Pub. L. 103–322, § 330016(1)(K), substituted ''fined under this title'' for ''fined not more than $5,000'' after ''subsection (a)(2) shall be''.

Pub. L. 103–322, § 330016(1)(L), substituted ''fined under this title'' for ''fined not more than $10,000'' after ''subsection (a)(1) shall be'' and after ''results, shall be''.

Pub. L. 103–322, § 320101(e)(3), inserted ''the assault involved the use of a dangerous weapon, or'' before ''personal injury results''.

Pub. L. 103–322, § 320101(e)(2), which provided for amendment identical to Pub. L. 103–322, § 330016(1)(K), above, was repealed by Pub. L. 104–294, § 604(b)(12)(D).

Pub. L. 103–322, § 320101(e)(1), which provided for amendment identical to Pub. L. 103–322, § 330016(1)(L), above, was repealed by Pub. L. 104–294, § 604(b)(12)(D).

1982—Pub. L. 97–285, § 4(a), inserted ''and Presidential staff'' after ''Presidential'' in section catchline.

Subsec. (a). Pub. L. 97–285, § 3(a), inserted ''(1)'' after ''Whoever kills'' and ''or (2) any person appointed under section 105(a)(2)(A) of title 3 employed in the Executive Office of the President or appointed under section 106(a)(1)(A) of title 3 employed in the Office of the Vice President,'' after ''laws of the United States''.

Subsec. (e). Pub. L. 97–285, § 3(b), substituted ''(a)(1)'' for ''(a)'' and inserted provision that whoever assaults any person designated in subsec. (a)(2) of this section shall be fined not more than $5,000, or imprisoned not more than one year, or both; and if personal injury results, shall be fined not more than $10,000, or imprisoned not more than ten years, or both.

Subsec. (g). Pub. L. 97–285, § 3(c), substituted ''subsection (a)(1)'' for ''this section'' after ''a violation of''.

Subsecs. (j), (k). Pub. L. 97–285, § 3(d), added subsecs. (j) and (k).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

§ 1752. Temporary residences and offices of the President and others

(a) It shall be unlawful for any person or group of persons—

(1) willfully and knowingly to enter or remain in

(i) any building or grounds designated by the Secretary of the Treasury as temporary residences of the President or other person protected by the Secret Service or as temporary offices of the President and his staff or of any other person protected by the Secret Service, or

(ii) any posted, cordoned off, or otherwise restricted area of a building or grounds where the President or other person protected by the Secret Service is or will be temporarily visiting,

in violation of the regulations governing ingress or egress thereto:

(2) with intent to impede or disrupt the orderly conduct of Government business or official functions, to engage in disorderly or disruptive conduct in, or within such proximity to, any building or grounds designated in paragraph (1) when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions;

(3) willfully and knowingly to obstruct or impede ingress or egress to or from any building, grounds, or area designated or enumerated in paragraph (1); or

(4) willfully and knowingly to engage in any act of physical violence against any person or property in any building, grounds, or area designated or enumerated in paragraph (1).

(b) Violation of this section, and attempts or conspiracies to commit such violations, shall be punishable by a fine under this title or imprisonment not exceeding six months, or both.

(c) Violation of this section, and attempts or conspiracies to commit such violations, shall be prosecuted by the United States attorney in the Federal district court having jurisdiction of the place where the offense occurred.

(d) The Secretary of the Treasury is authorized—

(1) to designate by regulations the buildings and grounds which constitute the temporary residences of the President or other person protected by the Secret Service and the temporary offices of the President and his staff or of any other person protected by the Secret Service, and

(2) to prescribe regulations governing ingress or egress to such buildings and grounds and to posted, cordoned off, or otherwise restricted areas where the President or other person protected by the Secret Service is or will be temporarily visiting.

(e) None of the laws of the United States or of the several States and the District of Columbia shall be superseded by this section.

(f) As used in this section, the term ''other person protected by the Secret Service'' means any person whom the United States Secret Service is authorized to protect under section 3056 of this title when such person has not declined such protection.

(Added Pub. L. 91–644, title V, § 18, Jan. 2, 1971, 84 Stat. 1891; amended Pub. L. 97–308, § 1, Oct. 14, 1982, 96 Stat. 1451; Pub. L. 98–587, § 3(b), Oct. 30, 1984, 98 Stat. 3112; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–322, which directed the amendment of this section by substituting ''under this title'' for ''not more than $500'', was executed in subsec. (b) by substituting ''under this title'' for ''not exceeding $500'' to reflect the probable intent of Congress.

1984—Subsec. (f). Pub. L. 98–587 amended subsec. (f) generally, substituting ''any person whom the United States Secret Service is authorized to protect under section 3056 of this title when such person has not declined such protection'' for ''any person authorized by section 3056 of this title or by Public Law 90–331, as amended, to receive the protection of the United States Secret Service when such person has not declined such protection pursuant to section 3056 of this title or pursuant to Public Law 90–331, as amended''.

1982—Pub. L. 97–308, § 1(a), substituted ''Temporary residences and offices of the President and others'' for ''Temporary residence of the President'' in section catchline.

Subsec. (a)(1)(i). Pub. L. 97–308, § 1(b), made one's presence unlawful at designated temporary residences and temporary offices of any other person protected by the Secret Service.

Subsec. (a)(1)(ii). Pub. L. 97–308, § 1(c), inserted ''or other person protected by the Secret Service'' after ''President''.

Subsec. (d)(1). Pub. L. 97–308, § 1(d), authorized regulations for designation of the temporary residences and

the temporary offices of any other person protected by the Secret Service.

Subsec. (d)(2). Pub. L. 97–308, § 1(e), inserted ''or other person protected by the Secret Service'' after ''President''.

Subsec. (f). Pub. L. 97–308, § 1(f), added subsec. (f).

TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 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.

CHAPTER 85—PRISON-MADE GOODS

Sec.
1761. Transportation or importation.
1762. Marking packages.

§ 1761. Transportation or importation

(a) Whoever knowingly transports in interstate commerce or from any foreign country into the United States any goods, wares, or merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners, except convicts or prisoners on parole, supervised release, or probation, or in any penal or reformatory institution, shall be fined under this title or imprisoned not more than two years, or both.

(b) This chapter shall not apply to agricultural commodities or parts for the repair of farm machinery, nor to commodities manufactured in a Federal, District of Columbia, or State institution for use by the Federal Government, or by the District of Columbia, or by any State or Political subdivision of a State or not-for-profit organizations.

(c) In addition to the exceptions set forth in subsection (b) of this section, this chapter shall not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners who—

(1) are participating in—one of not more than 50 non-Federal prison work pilot projects designated by the Director of the Bureau of Justice Assistance;

(2) have, in connection with such work, received wages at a rate which is not less than that paid for work of a similar nature in the locality in which the work was performed, except that such wages may be subject to deductions which shall not, in the aggregate, exceed 80 per centum of gross wages, and shall be limited as follows:

(A) taxes (Federal, State, local);

(B) reasonable charges for room and board, as determined by regulations issued by the chief State correctional officer, in the case of a State prisoner;

(C) allocations for support of family pursuant to State statute, court order, or agreement by the offender;

(D) contributions to any fund established by law to compensate the victims of crime of not more than 20 per centum but not less than 5 per centum of gross wages;

(3) have not solely by their status as offenders, been deprived of the right to participate in benefits made available by the Federal or State Government to other individuals on the basis of their employment, such as workmen's compensation. However, such convicts or prisoners shall not be qualified to receive any payments for unemployment compensation while incarcerated, notwithstanding any other provision of the law to the contrary; and

(4) have participated in such employment voluntarily and have agreed in advance to the specific deductions made from gross wages pursuant to this section, and all other financial arrangements as a result of participation in such employment.

(d) For the purposes of this section, the term ''State'' means a State of the United States and any commonwealth, territory, or possession of the United States.

(June 25, 1948, ch. 645, 62 Stat. 785; Pub. L. 90–351, title I, § 819(a), formerly § 827(a), as added Pub. L. 96–157, § 2, Dec. 27, 1979, 93 Stat. 1215, and renumbered Pub. L. 98–473, title II, § 609B(f), Oct. 12, 1984, 98 Stat. 2093; Pub. L. 98–473, title II, §§ 223(c), 609K, Oct. 12, 1984, 98 Stat. 2028, 2102; Pub. L. 100–17, title I, § 112(b)(3), Apr. 2, 1987, 101 Stat. 149; Pub. L. 101–647, title XXIX, § 2906, Nov. 29, 1990, 104 Stat. 4914; Pub. L. 102–393, title V, § 535(a), Oct. 6, 1992, 106 Stat. 1764; Pub. L. 103–322, title XXXIII, §§ 330010(11), 330016(1)(H), Sept. 13, 1994, 108 Stat. 2144, 2147; Pub. L. 104–134, title I, § 101(b) [title I, § 136], Apr. 26, 1996, 110 Stat. 1321–77, 1321–93; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 104–294, title VI, §§ 601(a)(7), 607(h), Oct. 11, 1996, 110 Stat. 3498, 3512.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 396a, 396b (July 24, 1935, ch. 412, § 1, 49 Stat. 494; Oct. 14, 1940, ch. 872, 54 Stat. 1134; July 9, 1941, ch. 283, 55 Stat. 581).

Section consolidates sections 396a and 396b of title 18, U.S.C., 1940 ed. Each section related to the same subject matter and defined the same offense. Section 396a of title 18, U.S.C., 1940 ed., was enacted later and superseded section 396b of title 18, U.S.C., 1940 ed.

Reference to persons aiding, causing or assisting was omitted. Such persons are principals under section 2 of this title.

Reference to states, territories, specific places, etc., were omitted. This was made possible by insertion of words ''interstate commerce or from any foreign country into the United States,'' and by definitive section 10 of this title.

Subsection (b) was rewritten to eliminate ambiguity and uncertainty by expressly making the exceptive language apply to the entire chapter and by permitting State institutions to manufacture goods for the Federal Government and the District of Columbia and vice versa. In such subsections, the words ''penal and correctional'' and ''penal or correctional,'' preceding ''institutions'' and ''institution,'' respectively, were omitted as surplusage.

Minor changes in phraseology were made.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–294, § 601(a)(7), substituted ''fined under this title'' for ''fined not more than $50,000''.

Subsec. (b). Pub. L. 104–134 inserted ''or not-for-profit organizations'' after ''of a State''.

Subsec. (d). Pub. L. 104–294, § 607(h), added subsec. (d).

1994—Pub. L. 103–322, § 330016(1)(H), which directed the amendment of this section by substituting ''under this title'' for ''not more than $1,000'', could not be executed

because the phrase ''not more than $1,000'' did not appear in text subsequent to amendment of subsec. (a) by Pub. L. 102–393. See 1992 Amendment note below.

Subsec. (c). Pub. L. 103–322, § 330010(11), struck out ''and'' at end of par. (1), substituted semicolon for period at end of par. (2)(B), and inserted ''and'' at end of par. (3).

1992—Subsec. (a). Pub. L. 102–393 substituted ''$50,000'' for ''$1,000'' and ''two years'' for ''one year''.

1990—Subsec. (c). Pub. L. 101–647, § 2906(1), (2), substituted ''In addition to the exceptions set forth in subsection (b) of this section, this chapter shall not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners who'' for ''In addition to the exceptions set forth in subsection (b) of this section, this chapter shall also not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners participating in a program of not more than twenty pilot projects designated by the Director of the Bureau of Justice Assistance and who'' in introductory provisions, added par. (1), and redesignated former pars. (1) to (3) as (2) to (4), respectively.

Subsec. (c)(2)(B). Pub. L. 101–647, § 2906(3), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''reasonable charges for room and board as determined by regulations which shall be issued by the Chief State correctional officer;''.

1987—Subsec. (d). Pub. L. 100–17 struck out subsec. (d) which read as follows: ''Notwithstanding any law to the contrary, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code.''

1984—Subsec. (a). Pub. L. 98–473, § 223(c), inserted '', supervised release,'' after ''parole''.

Subsec. (c). Pub. L. 98–473, § 609K(a), substituted ''twenty'' for ''seven'' and ''Director of the Bureau of Justice Assistance'' for ''Administrator of the Law Enforcement Assistance Administration''.

Subsec. (d). Pub. L. 98–473, § 609K(b), added subsec. (d).

1979—Subsec. (c). Pub. L. 90–351 added subsec. (c).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 223(c) of Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of this title.

TRANSFER OF FUNCTIONS

Effective Aug. 1, 2000, all functions of Director of Bureau of Justice Assistance, other than those enumerated in section 3742(3) through (6) of Title 42, The Public Health and Welfare, transferred to Assistant Attorney General for Office of Justice Programs, see section 1000(a)(1) [title I, § 108(b)] of Pub. L. 106–113, set out as a note under section 3741 of Title 42.

REPORTS BY SECRETARY OF LABOR

Pub. L. 101–647, title XXIX, § 2908, Nov. 29, 1990, 104 Stat. 4915, which required the Secretary of Labor to submit an annual report to Congress on compliance by State Prison Industry Enhancement Certification programs with requirements set forth in section 1761(c) of this title, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 123 of House Document No. 103–7.

EXEMPTIONS TO FEDERAL RESTRICTIONS ON MARKETABILITY OF PRISON-MADE GOODS

Pub. L. 90–351, title I, § 819(c), formerly § 827(c), as added Pub. L. 96–157, § 2, Dec. 27, 1979, 93 Stat. 1215, renumbered and amended Pub. L. 98–473, title II, § 609B(f), (*o*), Oct. 12, 1984, 98 Stat. 2093, 2096, provided that: ''The provisions of section 1761 of title 18, United States Code, and of the first section of the Act of June 30, 1936 (49 Stat. 2036; 41 U.S.C. 35), commonly known as the Walsh-Healey Act, creating exemptions to Federal restrictions on marketability of prison-made goods, as amended from time to time, shall not apply unless—

''(1) representatives of local union central bodies or similar labor union organizations have been consulted prior to the initiation of any project qualifying of any exemption created by this section; and

''(2) such paid inmate employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services.''

§ 1762. Marking packages

(a) All packages containing any goods, wares, or merchandise manufactured, produced, or mined wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, when shipped or transported in interstate or foreign commerce shall be plainly and clearly marked, so that the name and address of the shipper, the name and address of the consignee, the nature of the contents, and the name and location of the penal or reformatory institution where produced wholly or in part may be readily ascertained on an inspection of the outside of such package.

(b) Whoever violates this section shall be fined under this title, and any goods, wares, or merchandise transported in violation of this section or section 1761 of this title shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the seizure and forfeiture of property imported into the United States contrary to law.

(June 25, 1948, ch. 645, 62 Stat. 786; Pub. L. 102–393, title V, § 535(b), Oct. 6, 1992, 106 Stat. 1764; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–294, title VI, § 601(a)(7), Oct. 11, 1996, 110 Stat. 3498.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 396c, 396d, 396e (July 24, 1935, ch. 412, §§ 2, 3, 4, 49 Stat. 494, 495).

Section consolidates sections 396c, 396d, and 396e of title 18, U.S.C., 1940 ed.

Words ''upon conviction thereof'' were deleted as unnecessary, since punishment cannot be imposed until after conviction.

Words ''transported in violation of this section or section 1761'' were added after the word ''merchandise'' to continue existing law.

The provisions of said section 396e of title 18, U.S.C., 1940 ed., relating to venue, were omitted as covered by section 3237 of this title.

Minor changes were made in translations and phraseology.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–294 substituted ''fined under this title'' for ''fined not more than $50,000''.

1994—Pub. L. 103–322, which directed the amendment of this section by substituting ''under this title'' for ''not more than $1,000'', could not be executed because the phrase ''not more than $1,000'' did not appear in text subsequent to amendment of subsec. (b) by Pub. L. 102–393. See 1992 Amendment note below.

1992—Subsec. (b). Pub. L. 102–393 substituted ''$50,000'' for ''$1,000''.

CHAPTER 87—PRISONS

Sec.
1791. Providing or possessing contraband in prison.

Sec.
1792. Mutiny and riot prohibited.
1793. Trespass on Bureau of Prisons reservations and land.

AMENDMENTS

1986—Pub. L. 99–646, § 64(b), Nov. 10, 1986, 100 Stat. 3614, added item 1793.

1984—Pub. L. 98–473, title II, § 1109(c), Oct. 12, 1984, 98 Stat. 2148, amended analysis generally by revising items 1791 and 1792, and by inserting a second chapter heading which was not executed to text as redundant.

§ 1791. Providing or possessing contraband in prison

(a) OFFENSE.—Whoever—

(1) in violation of a statute or a rule or order issued under a statute, provides to an inmate of a prison a prohibited object, or attempts to do so; or

(2) being an inmate of a prison, makes, possesses, or obtains, or attempts to make or obtain, a prohibited object;

shall be punished as provided in subsection (b) of this section.

(b) PUNISHMENT.—The punishment for an offense under this section is a fine under this title or—

(1) imprisonment for not more than 20 years, or both, if the object is specified in subsection (d)(1)(C) of this section;

(2) imprisonment for not more than 10 years, or both, if the object is specified in subsection (d)(1)(A) of this section;

(3) imprisonment for not more than 5 years, or both, if the object is specified in subsection (d)(1)(B) of this section;

(4) imprisonment for not more than one year, or both, if the object is specified in subsection (d)(1)(D) or (d)(1)(E) of this section; and

(5) imprisonment for not more than 6 months, or both, if the object is specified in subsection (d)(1)(F) of this section.

(c) CONSECUTIVE PUNISHMENT REQUIRED IN CERTAIN CASES.—Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance. Any punishment imposed under subsection (b) for a violation of this section by an inmate of a prison shall be consecutive to the sentence being served by such inmate at the time the inmate commits such violation.

(d) DEFINITIONS.—As used in this section—

(1) the term ''prohibited object'' means—

(A) a firearm or destructive device or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection;

(B) marijuana or a controlled substance in schedule III, other than a controlled substance referred to in subparagraph (C) of this subsection, ammunition, a weapon (other than a firearm or destructive device), or an object that is designed or intended to be used as a weapon or to facilitate escape from a prison;

(C) a narcotic drug, methamphetamine, its salts, isomers, and salts of its isomers, lysergic acid diethylamide, or phencyclidine;

(D) a controlled substance (other than a controlled substance referred to in subparagraph (A), (B), or (C) of this subsection) or an alcoholic beverage;

(E) any United States or foreign currency; and

(F) any other object that threatens the order, discipline, or security of a prison, or the life, health, or safety of an individual;

(2) the terms ''ammunition'', ''firearm'', and ''destructive device'' have, respectively, the meanings given those terms in section 921 of this title;

(3) the terms ''controlled substance'' and ''narcotic drug'' have, respectively, the meanings given those terms in section 102 of the Controlled Substances Act (21 U.S.C. 802); and

(4) the term ''prison'' means a Federal correctional, detention, or penal facility or any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General.

(June 25, 1948, ch. 645, 62 Stat. 786; Pub. L. 98–473, title II, § 1109(a), Oct. 12, 1984, 98 Stat. 2147; Pub. L. 99–646, § 52(a), Nov. 10, 1986, 100 Stat. 3606; Pub. L. 100–690, title VI, § 6468(a), (b), Nov. 18, 1988, 102 Stat. 4376; Pub. L. 103–322, title IX, § 90101, title XXXIII, § 330003(a), Sept. 13, 1994,108 Stat. 1986, 2140; Pub. L. 104–294, title VI, § 601(m), Oct. 11, 1996, 110 Stat. 3502; Pub. L. 109–162, title XI, § 1178, Jan. 5, 2006, 119 Stat. 3126.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 753j, 908 (May 14, 1930, ch. 274, § 11, 46 Stat. 327; May 27, 1930, ch. 339, § 8, 46 Stat. 390).

Section consolidates sections 753j and 908 of title 18, U.S.C., 1940 ed. The section was broadened to include the taking or sending out of contraband from the institution. This was suggested by representatives of the Federal Bureau of Prisons and the Criminal Division of the Department of Justice. In other respects the section was rewritten without change of substance.

The words ''narcotic'', ''drug'', ''weapon'' and ''contraband'' were omitted, since the insertion of the words ''contrary to any rule or regulation promulgated by the attorney general'' preserves the intent of the original statutes.

Words ''guilty of a felony'' were deleted as unnecessary in view of definitive section 1 of this title. (See also reviser's note under section 550 of this title.)

Minor verbal changes also were made.

REFERENCES IN TEXT

Schedules I, II, and III, referred to in subsec. (d)(1)(A), (B), probably mean schedules I to III of the schedules of controlled substances, which are set out in section 812(c) of Title 21, Food and Drugs.

AMENDMENTS

2006—Subsec. (d)(4). Pub. L. 109–162 inserted ''or any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General'' after ''penal facility''.

1996—Subsec. (c). Pub. L. 104–294 inserted heading.

1994—Subsec. (b)(2) to (5). Pub. L. 103–322, §§ 90101(6), 330003(a), amended subsec. (b) identically, substituting ''(d)'' for ''(c)'' wherever appearing in pars. (2) to (5).

Subsec. (c). Pub. L. 103–322, § 90101(1), inserted at beginning ''Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence

imposed by any court for an offense involving such a controlled substance.''

Subsec. (d)(1)(A). Pub. L. 103–322, § 90101(2), inserted before semicolon at end ''or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection''.

Subsec. (d)(1)(B). Pub. L. 103–322, § 90101(3), inserted ''marijuana or a controlled substance in schedule III, other than a controlled substance referred to in subparagraph (C) of this subsection,'' before ''ammunition,''.

Subsec. (d)(1)(C). Pub. L. 103–322, § 90101(4), inserted ''methamphetamine, its salts, isomers, and salts of its isomers,'' after ''narcotic drug,''.

Subsec. (d)(1)(D). Pub. L. 103–322, § 90101(5), inserted ''(A), (B), or'' before ''(C)''.

1988—Subsec. (b). Pub. L. 100–690, § 6468(a), added par. (1), redesignated former pars. (1) to (4) as (2) to (5), respectively, and struck out ''or (c)(1)(C)'' after ''subsection (c)(1)(B)'' in par. (3) as redesignated.

Subsecs. (c), (d). Pub. L. 100–690, § 6468(b), added subsec. (c) and redesignated former subsec. (c) as (d).

1986—Pub. L. 99–646 amended section generally. Prior to amendment, section read as follows:

''(a) OFFENSE.—A person commits an offense if, in violation of a statute, or a regulation, rule, or order issued pursuant thereto—

''(1) he provides, or attempts to provide, to an inmate of a Federal penal or correctional facility—

''(A) a firearm or destructive device;

''(B) any other weapon or object that may be used as a weapon or as a means of facilitating escape;

''(C) a narcotic drug as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);

''(D) a controlled substance, other than a narcotic drug, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), or an alcoholic beverage;

''(E) United States currency; or

''(F) any other object; or

''(2) being an inmate of a Federal penal or correctional facility, he makes, possesses, procures, or otherwise provides himself with, or attempts to make, possess, procure, or otherwise provide himself with, anything described in paragraph (1).

''(b) GRADING.—An offense described in this section is punishable by—

''(1) imprisonment for not more than ten years, a fine of not more than $25,000, or both, if the object is anything set forth in paragraph (1)(A);

''(2) imprisonment for not more than five years, a fine of not more than $10,000, or both, if the object is anything set forth in paragraph (1)(B) or (1)(C);

''(3) imprisonment for not more than one year, a fine of not more than $5,000, or both, if the object is anything set forth in paragraph (1)(D) or (1)(E); and

''(4) imprisonment for not more than six months, a fine of not more than $1,000, or both, if the object is any other object.

''(c) DEFINITIONS.—As used in this section, 'firearm' and 'destructive device' have the meaning given those terms, respectively, in 18 U.S.C. 921(a)(3) and (4).''

1984—Pub. L. 98–473 substituted provisions relating to providing or possessing contraband in prison, grading of offenses and definitions of ''firearm'' and ''destructive device'' for former provisions relating to traffic in contraband articles.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 52(b) of Pub. L. 99–646 provided that: ''The amendment made by this section [amending this section] shall take effect 30 days after the date of the enactment of this Act [Nov. 10, 1986].''

§ 1792. Mutiny and riot prohibited

Whoever instigates, connives, willfully attempts to cause, assists, or conspires to cause any mutiny or riot, at any Federal penal, detention, or correctional facility, shall be imprisoned not more than ten years or fined under this title, or both.

(June 25, 1948, ch. 645, 62 Stat. 786; Pub. L. 98–473, title II, § 1109(b), Oct. 12, 1984, 98 Stat. 2148; Pub. L. 99–646, § 53(a), Nov. 10, 1986, 100 Stat. 3607; Pub. L. 103–322, title XXXIII, § 330016(1)(O), Sept. 13, 1994, 108 Stat. 2148.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 252 (May 18, 1934, ch. 303, § 1, 48 Stat. 782).

Escape provisions of this section were incorporated in section 752 of this title.

Reference to persons causing, procuring, aiding and assisting was omitted. Such persons are principals under section 2 of this title.

Minor changes were made in translation and phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $25,000''.

1986—Pub. L. 99–646 inserted '', detention,'' after ''penal''.

1984—Pub. L. 98–473 substituted provisions deleting prohibition on bringing dangerous instrumentalities into prison and inserted provision setting forth a maximum $25,000 fine.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 53(b) of Pub. L. 99–646 provided that: ''The amendment made by this section [amending this section] shall take effect 30 days after the enactment of this Act [Nov. 10, 1986].''

§ 1793. Trespass on Bureau of Prisons reservations and land

Whoever, without lawful authority or permission, goes upon a reservation, land, or a facility of the Bureau of Prisons shall be fined under this title or imprisoned not more than six months, or both.

(Added Pub. L. 99–646, § 64(a), Nov. 10, 1986, 100 Stat. 3614; amended Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

CHAPTER 88—PRIVACY

Sec.
1801. Video voyeurism.

§ 1801. Video voyeurism

(a) Whoever, in the special maritime and territorial jurisdiction of the United States, has the intent to capture an image of a private area of an individual without their consent, and knowingly does so under circumstances in which the individual has a reasonable expectation of privacy, shall be fined under this title or imprisoned not more than one year, or both.

(b) In this section—

(1) the term ''capture'', with respect to an image, means to videotape, photograph, film, record by any means, or broadcast;

(2) the term ''broadcast'' means to electronically transmit a visual image with the intent that it be viewed by a person or persons;

(3) the term ''a private area of the individual'' means the naked or undergarment

clad genitals, pubic area, buttocks, or female breast of that individual;

(4) the term ''female breast'' means any portion of the female breast below the top of the areola; and

(5) the term ''under circumstances in which that individual has a reasonable expectation of privacy'' means—

(A) circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that an image of a private area of the individual was being captured; or

(B) circumstances in which a reasonable person would believe that a private area of the individual would not be visible to the public, regardless of whether that person is in a public or private place.

(c) This section does not prohibit any lawful law enforcement, correctional, or intelligence activity.

(Added Pub. L. 108–495, § 2(a), Dec. 23, 2004, 118 Stat. 3999.)

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–495, § 1, Dec. 23, 2004, 118 Stat. 3999, provided that: ''This Act [enacting this chapter] may be cited as the 'Video Voyeurism Prevention Act of 2004'.''

CHAPTER 89—PROFESSIONS AND OCCUPATIONS

Sec.
1821. Transportation of dentures.

§ 1821. Transportation of dentures

Whoever transports by mail or otherwise to or within the District of Columbia or any Possession of the United States or uses the mails or any instrumentality of interstate commerce for the purpose of sending or bringing into any State or Territory any set of artificial teeth or prosthetic dental appliance or other denture, constructed from any cast or impression made by any person other than, or without the authorization or prescription of, a person licensed to practice dentistry under the laws of the place into which such denture is sent or brought, where such laws prohibit;

(1) the taking of impressions or casts of the human mouth or teeth by a person not licensed under such laws to practice dentistry;

(2) the construction or supply of dentures by a person other than, or without the authorization or prescription of, a person licensed under such laws to practice dentistry; or

(3) the construction or supply of dentures from impressions or casts made by a person not licensed under such laws to practice dentistry—

Shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 786; Pub. L. 104–294, title VI, § 601(a)(8), Oct. 11, 1996, 110 Stat. 3498; Pub. L. 107–273, div. B, title IV, § 4004(c), Nov. 2, 2002, 116 Stat. 1812.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 420f, 420g, and 420h (Dec. 24, 1942, ch. 823, §§ 1, 2, 3, 56 Stat. 1087).

This section consolidates the offense, penalty, and definitive provisions of sections 420f, 420g, and 420h of title 18, U.S.C., 1940 ed., as subsections (a) and (b).

The definition of ''denture'' was omitted as unnecessary in view of the phraseology of the revised section, the context of which makes clear the meaning of dentures referred to.

The definition of ''Territory'' was omitted as unnecessary. The revised section makes clear the places included in the application of the section without the use of definitions.

The definition of ''Interstate Commerce'' was likewise omitted as unnecessary in view of definition of interstate commerce in section 10 of this title.

Changes of phraseology and arrangement were made, but without change of substance.

AMENDMENTS

2002—Pub. L. 107–273 struck out '', the Canal Zone'' after ''the District of Columbia'' in first par.

1996—Pub. L. 104–294 substituted ''fined under this title'' for ''fined not more than $1,000'' in last par.

CHAPTER 90—PROTECTION OF TRADE SECRETS

Sec.
1831. Economic espionage.
1832. Theft of trade secrets.
1833. Exceptions to prohibitions.
1834. Criminal forfeiture.
1835. Orders to preserve confidentiality.
1836. Civil proceedings to enjoin violations.
1837. Applicability to conduct outside the United States.
1838. Construction with other laws.
1839. Definitions.

AMENDMENTS

2002—Pub. L. 107–273, div. B, title IV, § 4002(f)(1), Nov. 2, 2002, 116 Stat. 1811, substituted ''Applicability to conduct'' for ''Conduct'' in item 1837.

§ 1831. Economic espionage

(a) IN GENERAL.—Whoever, intending or knowing that the offense will benefit any foreign government, foreign instrumentality, or foreign agent, knowingly—

(1) steals, or without authorization appropriates, takes, carries away, or conceals, or by fraud, artifice, or deception obtains a trade secret;

(2) without authorization copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates, or conveys a trade secret;

(3) receives, buys, or possesses a trade secret, knowing the same to have been stolen or appropriated, obtained, or converted without authorization;

(4) attempts to commit any offense described in any of paragraphs (1) through (3); or

(5) conspires with one or more other persons to commit any offense described in any of paragraphs (1) through (3), and one or more of such persons do any act to effect the object of the conspiracy,

shall, except as provided in subsection (b), be fined not more than $500,000 or imprisoned not more than 15 years, or both.

(b) ORGANIZATIONS.—Any organization that commits any offense described in subsection (a) shall be fined not more than $10,000,000.

(Added Pub. L. 104–294, title I, § 101(a), Oct. 11, 1996, 110 Stat. 3488.)

§ 1832. Theft of trade secrets

(a) Whoever, with intent to convert a trade secret, that is related to or included in a product that is produced for or placed in interstate or foreign commerce, to the economic benefit of anyone other than the owner thereof, and intending or knowing that the offense will, injure any owner of that trade secret, knowingly—

(1) steals, or without authorization appropriates, takes, carries away, or conceals, or by fraud, artifice, or deception obtains such information;

(2) without authorization copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates, or conveys such information;

(3) receives, buys, or possesses such information, knowing the same to have been stolen or appropriated, obtained, or converted without authorization;

(4) attempts to commit any offense described in paragraphs (1) through (3); or

(5) conspires with one or more other persons to commit any offense described in paragraphs (1) through (3), and one or more of such persons do any act to effect the object of the conspiracy,

shall, except as provided in subsection (b), be fined under this title or imprisoned not more than 10 years, or both.

(b) Any organization that commits any offense described in subsection (a) shall be fined not more than $5,000,000.

(Added Pub. L. 104–294, title I, § 101(a), Oct. 11, 1996, 110 Stat. 3489.)

§ 1833. Exceptions to prohibitions

This chapter does not prohibit—

(1) any otherwise lawful activity conducted by a governmental entity of the United States, a State, or a political subdivision of a State; or

(2) the reporting of a suspected violation of law to any governmental entity of the United States, a State, or a political subdivision of a State, if such entity has lawful authority with respect to that violation.

(Added Pub. L. 104–294, title I, § 101(a), Oct. 11, 1996, 110 Stat. 3489.)

§ 1834. Criminal forfeiture

(a) The court, in imposing sentence on a person for a violation of this chapter, shall order, in addition to any other sentence imposed, that the person forfeit to the United States—

(1) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation; and

(2) any of the person's property used, or intended to be used, in any manner or part, to commit or facilitate the commission of such violation, if the court in its discretion so determines, taking into consideration the nature, scope, and proportionality of the use of the property in the offense.

(b) Property subject to forfeiture under this section, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed by section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), except for subsections (d) and (j) of such section, which shall not apply to forfeitures under this section.

(Added Pub. L. 104–294, title I, § 101(a), Oct. 11, 1996, 110 Stat. 3489.)

§ 1835. Orders to preserve confidentiality

In any prosecution or other proceeding under this chapter, the court shall enter such orders and take such other action as may be necessary and appropriate to preserve the confidentiality of trade secrets, consistent with the requirements of the Federal Rules of Criminal and Civil Procedure, the Federal Rules of Evidence, and all other applicable laws. An interlocutory appeal by the United States shall lie from a decision or order of a district court authorizing or directing the disclosure of any trade secret.

(Added Pub. L. 104–294, title I, § 101(a), Oct. 11, 1996, 110 Stat. 3490.)

REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in text, are set out in the Appendix to this title.

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Federal Rules of Evidence, referred to in text, are set out in the Appendix to Title 28.

§ 1836. Civil proceedings to enjoin violations

(a) The Attorney General may, in a civil action, obtain appropriate injunctive relief against any violation of this chapter.

(b) The district courts of the United States shall have exclusive original jurisdiction of civil actions under this section.

(Added Pub. L. 104–294, title I, § 101(a), Oct. 11, 1996, 110 Stat. 3490; amended Pub. L. 107–273, div. B, title IV, § 4002(e)(9), Nov. 2, 2002, 116 Stat. 1810.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–273, § 4002(e)(9)(A), substituted ''this chapter'' for ''this section''.

Subsec. (b). Pub. L. 107–273, § 4002(e)(9)(B), substituted ''this section'' for ''this subsection''.

§ 1837. Applicability to conduct outside the United States

This chapter also applies to conduct occurring outside the United States if—

(1) the offender is a natural person who is a citizen or permanent resident alien of the United States, or an organization organized under the laws of the United States or a State or political subdivision thereof; or

(2) an act in furtherance of the offense was committed in the United States.

(Added Pub. L. 104–294, title I, § 101(a), Oct. 11, 1996, 110 Stat. 3490.)

§ 1838. Construction with other laws

This chapter shall not be construed to preempt or displace any other remedies, whether civil or criminal, provided by United States Federal,

State, commonwealth, possession, or territory law for the misappropriation of a trade secret, or to affect the otherwise lawful disclosure of information by any Government employee under section 552 of title 5 (commonly known as the Freedom of Information Act).

(Added Pub. L. 104–294, title I, § 101(a), Oct. 11, 1996, 110 Stat. 3490.)

§ 1839. Definitions

As used in this chapter—

(1) the term ''foreign instrumentality'' means any agency, bureau, ministry, component, institution, association, or any legal, commercial, or business organization, corporation, firm, or entity that is substantially owned, controlled, sponsored, commanded, managed, or dominated by a foreign government;

(2) the term ''foreign agent'' means any officer, employee, proxy, servant, delegate, or representative of a foreign government;

(3) the term ''trade secret'' means all forms and types of financial, business, scientific, technical, economic, or engineering information, including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing if—

(A) the owner thereof has taken reasonable measures to keep such information secret; and

(B) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, the public; and

(4) the term ''owner'', with respect to a trade secret, means the person or entity in whom or in which rightful legal or equitable title to, or license in, the trade secret is reposed.

(Added Pub. L. 104–294, title I, § 101(a), Oct. 11, 1996, 110 Stat. 3490.)

CHAPTER 90A—PROTECTION OF UNBORN CHILDREN

Sec.
1841. Protection of unborn children.

§ 1841. Protection of unborn children

(a)(1) Whoever engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the death of, or bodily injury (as defined in section 1365) to, a child, who is in utero at the time the conduct takes place, is guilty of a separate offense under this section.

(2)(A) Except as otherwise provided in this paragraph, the punishment for that separate offense is the same as the punishment provided under Federal law for that conduct had that injury or death occurred to the unborn child's mother.

(B) An offense under this section does not require proof that—

(i) the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

(ii) the defendant intended to cause the death of, or bodily injury to, the unborn child.

(C) If the person engaging in the conduct thereby intentionally kills or attempts to kill the unborn child, that person shall instead of being punished under subparagraph (A), be punished as provided under sections 1111, 1112, and 1113 of this title for intentionally killing or attempting to kill a human being.

(D) Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.

(b) The provisions referred to in subsection (a) are the following:

(1) Sections 36, 37, 43, 111, 112, 113, 114, 115, 229, 242, 245, 247, 248, 351, 831, 844(d), (f), (h)(1), and (i), 924(j), 930, 1111, 1112, 1113, 1114, 1116, 1118, 1119, 1120, 1121, 1153(a), 1201(a), 1203, 1365(a), 1501, 1503, 1505, 1512, 1513, 1751, 1864, 1951, 1952 (a)(1)(B), (a)(2)(B), and (a)(3)(B), 1958, 1959, 1992, 2113, 2114, 2116, 2118, 2119, 2191, 2231, 2241(a), 2245, 2261, 2261A, 2280, 2281, 2332, 2332a, 2332b, 2340A, and 2441 of this title.

(2) Section 408(e) of the Controlled Substances Act of 1970 (21 U.S.C. 848(e)).

(3) Section 202 of the Atomic Energy Act of 1954 (42 U.S.C. 2283).

(c) Nothing in this section shall be construed to permit the prosecution—

(1) of any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;

(2) of any person for any medical treatment of the pregnant woman or her unborn child; or

(3) of any woman with respect to her unborn child.

(d) As used in this section, the term ''unborn child'' means a child in utero, and the term ''child in utero'' or ''child, who is in utero'' means a member of the species homo sapiens, at any stage of development, who is carried in the womb.

(Added Pub. L. 108–212, § 2(a), Apr. 1, 2004, 118 Stat. 568.)

REFERENCES IN TEXT

Section 202 of the Atomic Energy Act of 1954 (42 U.S.C. 2283), referred to in subsec. (b)(3), probably means section 235 of the Atomic Energy Act of 1954, act Aug. 1, 1946, ch. 724, title I, as added by Pub. L. 96–295, title II, § 202(a), June 30, 1980, 94 Stat. 786, which is classified to section 2283 of Title 42, The Public Health and Welfare. Section 202 of the Atomic Energy Act of 1954, which related to the authority of the Joint Committee on Atomic Energy, was classified to section 2252 of Title 42 and was repealed by act of Aug. 1, 1946, ch. 724, title I, § 302(a), as added Aug. 30, 1954, ch. 1073, § 1, as added Sept. 20, 1977, Pub. L. 95–110, § 1, 91 Stat. 884; renumbered title I, Oct. 24, 1992, Pub. L. 102–486, title IX, § 902(a)(8), 106 Stat. 2944.

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–212, § 1, Apr. 1, 2004, 118 Stat. 568, provided that: ''This Act [enacting this chapter and section 919a of Title 10, Armed Forces] may be cited as the 'Unborn

Victims of Violence Act of 2004' or 'Laci and Conner's Law'.''

CHAPTER 91—PUBLIC LANDS

Sec.
1851. Coal depredations.
1852. Timber removed or transported.
1853. Trees cut or injured.
1854. Trees boxed for pitch or turpentine.
1855. Timber set afire.
1856. Fires left unattended and unextinguished.
1857. Fences destroyed; livestock entering.
1858. Survey marks destroyed or removed.
1859. Surveys interrupted.
1860. Bids at land sales.
1861. Deception of prospective purchasers.
[1862. Repealed.]
1863. Trespass on national forest lands.
1864. Hazardous or injurious devices on Federal lands.

AMENDMENTS

1990—Pub. L. 101–647, title XXXV, § 3554, Nov. 29, 1990, 104 Stat. 4927, struck out item 1862 ''Trespass on Bull Run National Forest''.

1988—Pub. L. 100–690, title VI, § 6254(g), Nov. 18, 1988, 102 Stat. 4367, added item 1864.

1949—Act May 24, 1949, ch. 139, § 41, 63 Stat. 95, substituted in analysis ''1859'' for ''1959'', and added item 1863.

§ 1851. Coal depredations

Whoever mines or removes coal of any character, whether anthracite, bituminous, or lignite, from beds or deposits in lands of, or reserved to the United States, with intent wrongfully to appropriate, sell, or dispose of the same, shall be fined under this title or imprisoned not more than one year, or both.

This section shall not interfere with any right or privilege conferred by existing laws of the United States.

(June 25, 1948, ch. 645, 62 Stat. 787; Pub. L. 104–294, title VI, § 601(a)(8), Oct. 11, 1996, 110 Stat. 3498.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 103a, 103b (July 3, 1926, ch. 780, §§ 1, 2, 44 Stat. 891).

Section consolidates sections 103a and 103b of title 18, U.S.C., 1940 ed.

Words ''deemed guilty of misdemeanor'' were deleted as unnecessary in view of definitive section 1 of this title. (See also reviser's note under section 212 of this title.)

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''fined under this title'' for ''fined not more than $1,000'' in first par.

§ 1852. Timber removed or transported

Whoever cuts, or wantonly destroys any timber growing on the public lands of the United States; or

Whoever removes any timber from said public lands, with intent to export or to dispose of the same; or

Whoever, being the owner, master, pilot, operator, or consignee of any vessel, motor vehicle, or aircraft or the owner, director, or agent of any railroad, knowingly transports any timber so cut or removed from said lands, or lumber manufactured therefrom—

Shall be fined under this title or imprisoned not more than one year, or both.

This section shall not prevent any miner or agriculturist from clearing his land in the ordinary working of his mining claim, or in the preparation of his farm for tillage, or from taking the timber necessary to support his improvements, or the taking of timber for the use of the United States; nor shall it interfere with or take away any right or privilege under any existing law of the United States to cut or remove timber from any public lands.

(June 25, 1948, ch. 645, 62 Stat. 787; Pub. L. 104–294, title VI, § 601(a)(8), Oct. 11, 1996, 110 Stat. 3498.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 103 (Mar. 4, 1909, ch. 321, § 49, 35 Stat. 1098).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Words ''motor vehicle or aircraft'' were inserted in third paragraph to remove any doubt as to scope of section in view of rapidly advancing methods of transportation.

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''fined under this title'' for ''fined not more than $1,000'' in fourth par.

§ 1853. Trees cut or injured

Whoever unlawfully cuts, or wantonly injures or destroys any tree growing, standing, or being upon any land of the United States which, in pursuance of law, has been reserved or purchased by the United States for any public use, or upon any Indian reservation, or lands belonging to or occupied by any tribe of Indians under the authority of the United States, or any Indian allotment while the title to the same shall be held in trust by the Government, or while the same shall remain inalienable by the allottee without the consent of the United States, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 787; Pub. L. 104–294, title VI, § 601(a)(8), Oct. 11, 1996, 110 Stat. 3498.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 104 (Mar. 4, 1909, ch. 321, § 50, 35 Stat. 1098; June 25, 1910, ch. 431, § 6, 36 Stat. 857).

Reference to persons aiding or procuring was deleted as unnecessary since such persons are made principals by section 2 of this title.

Maximum fine was increased from $500 to $1,000 to conform to other comparable sections of this chapter. (See sections 1851 and 1852 of this title.)

Minor changes were also made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 1854. Trees boxed for pitch or turpentine

Whoever cuts, chips, chops, or boxes any tree upon any lands belonging to the United States, or upon any lands covered by or embraced in any unperfected settlement, application, filing,

entry, selection, or location, made under any law of the United States, for the purpose of obtaining from such tree any pitch, turpentine, or other substance; or

Whoever buys, trades for, or in any manner acquires any pitch, turpentine, or other substance, or any article or commodity made from any such pitch, turpentine, or other substance, with knowledge that the same has been so unlawfully obtained—

Shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 788; Pub. L. 104–294, title VI, § 601(a)(8), Oct. 11, 1996, 110 Stat. 3498.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 105 (Mar. 4, 1909, ch. 321, § 51, 35 Stat. 1098).

Reference to persons aiding, encouraging, or causing was deleted as unnecessary since such persons are made principals by section 2 of this title.

Maximum fine was increased from $500 to $1,000 to conform to other comparable sections of this chapter. (See sections 1851 and 1852 of this title.)

Minor changes also were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''fined under this title'' for ''fined not more than $1,000'' in last par.

§ 1855. Timber set afire

Whoever, willfully and without authority, sets on fire any timber, underbrush, or grass or other inflammable material upon the public domain or upon any lands owned or leased by or under the partial, concurrent, or exclusive jurisdiction of the United States, or under contract for purchase or for the acquisition of which condemnation proceedings have been instituted, or upon any Indian reservation or lands belonging to or occupied by any tribe or group of Indians under authority of the United States, or upon any Indian allotment while the title to the same shall be held in trust by the Government, or while the same shall remain inalienable by the allottee without the consent of the United States, shall be fined under this title or imprisoned not more than five years, or both.

This section shall not apply in the case of a fire set by an allottee in the reasonable exercise of his proprietary rights in the allotment.

(June 25, 1948, ch. 645, 62 Stat. 788; Pub. L. 100–690, title VI, § 6254(j), Nov. 18, 1988, 102 Stat. 4368.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 106 (Mar. 4, 1909, ch. 321, § 52, 35 Stat. 1098; Nov. 15, 1941, ch. 472, § 1, 55 Stat. 763).

Surplus verbiage and unnecessary enumerations were omitted.

Words ''without authority'' were inserted near beginning of section so as to remove any doubt as to scope or meaning of section.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Minor verbal changes were made.

AMENDMENTS

1988—Pub. L. 100–690 substituted ''under this title'' for ''not more than $5,000'' in first par.

§ 1856. Fires left unattended and unextinguished

Whoever, having kindled or caused to be kindled, a fire in or near any forest, timber, or other inflammable material upon any lands owned, controlled or leased by, or under the partial, concurrent, or exclusive jurisdiction of the United States, including lands under contract for purchase or for the acquisition of which condemnation proceedings have been instituted, and including any Indian reservation or lands belonging to or occupied by any tribe or group of Indians under the authority of the United States, or any Indian allotment while the title to the same is held in trust by the United States, or while the same shall remain inalienable by the allottee without the consent of the United States, leaves said fire without totally extinguishing the same, or permits or suffers said fire to burn or spread beyond his control, or leaves or suffers said fire to burn unattended, shall be fined under this title or imprisoned not more than six months, or both.

(June 25, 1948, ch. 645, 62 Stat. 788; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 107 (Mar. 4, 1909, ch. 321, § 53, 35 Stat. 1908; June 25, 1910, ch. 431, § 6, 36 Stat. 857; Nov. 15, 1941, ch. 472, § 2, 55 Stat. 764).

Words ''without hard labor'' which followed ''six months'' and preceded ''or both'' were omitted as unnecessary. (See reviser's note under section 1 of this title.)

Enumeration of applicable condemnation statutes was deleted and section extended and made applicable to all lands in process of condemnation by the government. This does no violence to the intent of Congress and clarifies the section considerably.

Other changes in phraseology were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

§ 1857. Fences destroyed; livestock entering

Whoever knowingly and unlawfully breaks, opens, or destroys any gate, fence, hedge, or wall inclosing any lands of the United States reserved or purchased for any public use; or

Whoever drives any cattle, horses, hogs, or other livestock upon any such lands for the purposes of destroying the grass or trees on said lands, or where they may destroy the said grass or trees; or

Whoever knowingly permits his cattle, horses, hogs, or other livestock to enter through any such inclosure upon any such lands of the United States, where such cattle, horses, hogs, or other livestock may or can destroy the grass or trees or other property of the United States on the said lands—

Shall be fined under this title or imprisoned not more than one year, or both.

This section shall not apply to unreserved public lands.

(June 25, 1948, ch. 645, 62 Stat. 788; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 111 (Mar. 4, 1909, ch. 321, § 56, 35 Stat. 1099).

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500'' in fourth par.

§ 1858. Survey marks destroyed or removed

Whoever willfully destroys, defaces, changes, or removes to another place any section corner, quarter-section corner, or meander post, on any Government line of survey, or willfully cuts down any witness tree or any tree blazed to mark the line of a Government survey, or willfully defaces, changes, or removes any monument or bench mark of any Government survey, shall be fined under this title or imprisoned not more than six months, or both.

(June 25, 1948, ch. 645, 62 Stat. 789; Pub. L. 103–322, title XXXIII, § 330016(1)(E), Sept. 13, 1994, 108 Stat. 2146.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 111 (Mar. 4, 1909, ch. 321, § 57, 35 Stat. 1099).

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $250''.

§ 1859. Surveys interrupted

Whoever, by threats or force, interrupts, hinders, or prevents the surveying of the public lands, or of any private land claim which has been or may be confirmed by the United States, by the persons authorized to survey the same in conformity with the instructions of the Director of the Bureau of Land Management, shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 789; May 24, 1949, ch. 139, § 42, 63 Stat. 95; Pub. L. 103–322, title XXXIII, § 330016(1)(J), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., § 112 (Mar. 4, 1909, ch. 321, § 58, 35 Stat. 1099).

Mandatory punishment provision was rephrased in the alternative.

Minor changes were made in phraseology.

1949 ACT

This section [section 42] substitutes, in section 1859 of title 18, U.S.C., ''Director of the Bureau of Land Management'' for ''Commissioner of the General Land Office,'' in view of the abolishment of the General Land Office, and the office of Commissioner thereof, by 1946 Reorganization Plan No. 3, § 403, effective July 16, 1946 (11 F.R. 7876). Such plan consolidated the functions of the General Land Office and of the Grazing Service to form a new agency, the Bureau of Land Management, in the Department of the Interior and headed by a Director.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $3,000''.

1949—Act May 24, 1949, substituted ''Director of the Bureau of Land Management'' for ''Commissioner of the General Land Office''.

§ 1860. Bids at land sales

Whoever bargains, contracts, or agrees, or attempts to bargain, contract, or agree with another that such other shall not bid upon or purchase any parcel of lands of the United States offered at public sale; or

Whoever, by intimidation, combination, or unfair management, hinders, prevents, or attempts to hinder or prevent, any person from bidding upon or purchasing any tract of land so offered for sale—

Shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 789.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 113 (Mar. 4, 1909, ch. 321, § 59, 35 Stat. 1099).

Imprisonment provision was reduced from ''two years'' to ''one year,'' thus placing the offense in the category of misdemeanors which may be prosecuted on information. The lesser punishment seems adequate.

Minor changes were made in phraseology and arrangement.

§ 1861. Deception of prospective purchasers

Whoever, for a reward paid or promised to him in that behalf, undertakes to locate for an intending purchaser, settler, or entryman any public lands of the United States subject to disposition under the public-land laws, and who willfully and falsely represents to such intending purchaser, settler, or entryman that any tract of land shown to him is public land of the United States subject to sale, settlement, or entry, or that it is of a particular surveyed description, with intent to deceive the person to whom such representation is made, or who, in reckless disregard of the truth, falsely represents to any such person that any tract of land shown to him is public land of the United States subject to sale, settlement, or entry, or that it is of a particular surveyed description, thereby deceiving the person to whom such representation is made, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 789; Pub. L. 103–322, title XXXIII, § 330016(1)(F), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 114 (Feb. 23, 1917, ch. 115, 39 Stat. 936).

Words ''deemed guilty of a misdemeanor and'' which preceded ''punished'' were omitted as unnecessary in view of definitive section 1 of this title.

Minor changes were made in phraseology.

REFERENCES IN TEXT

The public-land laws, referred to in text, are classified generally to Title 43, Public Lands.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $300''.

[§ 1862. Repealed. Pub. L. 95–200, § 3(c), Nov. 23, 1977, 91 Stat. 1428]

Section, act June 25, 1948, ch. 645, 62 Stat. 789, imposed a fine of not more than $500 or imprisonment of

not more than six months as the penalty for knowingly trespassing upon the reserve known as the Bull Run National Forest in the Cascade Mountains. See note set out under section 482b of Title 16, Conservation, for the remainder of Pub. L. 95–200, including savings provisions therein, which in addition to repealing this section created the Bull Run Watershed Management Unit, Mount Hood National Forest.

§ 1863. Trespass on national forest lands

Whoever, without lawful authority or permission, goes upon any national-forest land while it is closed to the public pursuant to lawful regulation of the Secretary of Agriculture, shall be fined under this title or imprisoned not more than six months, or both.

(Added May 24, 1949, ch. 139, § 43, 63 Stat. 95; amended Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

This section [section 43] incorporates in revised title 18, U.S.C., as section 1863 thereof, and with changes in phraseology, the provisions of act of February 10, 1948 (ch. 51, 62 Stat. 19), which was not incorporated in title 18 when the revision was enacted. The phrase ''without hard labor'' is omitted from the punishment clause as unnecessary, in conformity with the uniform style of such title. (See reviser's note to sec. 1 of such revised title, appearing in H. Rept. No. 304, April 24, 1947, to accompany H.R. 3190, 80th Cong. (pp. A2, A4 of such report).) The concluding proviso that ''nothing herein shall be construed to limit the authority of the Secretary of Agriculture under other law to otherwise provide for regulating the occupancy and use of national-forest lands and lands administered by the Forest Service'', is omitted as surplusage.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

§ 1864. Hazardous or injurious devices on Federal lands

(a) Whoever—

(1) with the intent to violate the Controlled Substances Act,

(2) with the intent to obstruct or harass the harvesting of timber, or

(3) with reckless disregard to the risk that another person will be placed in danger of death or bodily injury and under circumstances manifesting extreme indifference to such risk,

uses a hazardous or injurious device on Federal land, on an Indian reservation, or on an Indian allotment while the title to such allotment is held in trust by the United States or while such allotment remains inalienable by the allottee without the consent of the United States shall be punished under subsection (b).

(b) An individual who violates subsection (a) shall—

(1) if death of an individual results, be fined under this title or imprisoned for any term of years or for life, or both;

(2) if serious bodily injury to any individual results, be fined under this title or imprisoned for not more than 40 years, or both;

(3) if bodily injury to any individual results, be fined under this title or imprisoned for not more than 20 years, or both;

(4) if damage to the property of any individual results or if avoidance costs have been incurred exceeding $10,000, in the aggregate, be fined under this title or imprisoned for not more than 20 years, or both; and

(5) in any other case, be fined under this title or imprisoned for not more than one year.

(c) Any individual who is punished under subsection (b)(5) after one or more prior convictions under any such subsection shall be fined under this title or imprisoned for not more than 20 years, or both.

(d) As used in this section—

(1) the term ''serious bodily injury'' means bodily injury which involves—

(A) a substantial risk of death;

(B) extreme physical pain;

(C) protracted and obvious disfigurement; and

(D) protracted loss or impairment of the function of bodily member, organ, or mental faculty;

(2) the term ''bodily injury'' means—

(A) a cut, abrasion, bruise, burn, or disfigurement;

(B) physical pain;

(C) illness;

(D) impairment of the function of a bodily member, organ, or mental faculty; or

(E) any other injury to the body, no matter how temporary;

(3) the term ''hazardous or injurious device'' means a device, which when assembled or placed, is capable of causing bodily injury, or damage to property, by the action of any person making contact with such device subsequent to the assembly or placement. Such term includes guns attached to trip wires or other triggering mechanisms, ammunition attached to trip wires or other triggering mechanisms, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, lines or wires, lines or wires with hooks attached, nails placed so that the sharpened ends are positioned in an upright manner, or tree spiking devices including spikes, nails, or other objects hammered, driven, fastened, or otherwise placed into or on any timber, whether or not severed from the stump; and

(4) the term ''avoidance costs'' means costs incurred by any individual for the purpose of—

(A) detecting a hazardous or injurious device; or

(B) preventing death, serious bodily injury, bodily injury, or property damage likely to result from the use of a hazardous or injurious device in violation of subsection (a).

(e) Any person injured as the result of a violation of subsection (a) may commence a civil action on his own behalf against any person who is alleged to be in violation of subsection (a). The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, in such civil actions. The court may award, in addition to monetary damages for any injury resulting from an alleged

violation of subsection (a), costs of litigation, including reasonable attorney and expert witness fees, to any prevailing or substantially prevailing party, whenever the court determines such award is appropriate.

(Added Pub. L. 100–690, title VI, § 6254(f), Nov. 18, 1988, 102 Stat. 4366; amended Pub. L. 101–647, title XXXV, § 3555, Nov. 29, 1990, 104 Stat. 4927; Pub. L. 103–322, title XXXIII, § 330007, Sept. 13, 1994, 108 Stat. 2142; Pub. L. 104–134, title I, § 101(c) [title III, § 330], Apr. 26, 1996, 110 Stat. 1321–156, 1321–208; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

REFERENCES IN TEXT

The Controlled Substances Act, referred to in subsec. (a)(1), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§ 801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

AMENDMENTS

1996—Subsec. (b)(2). Pub. L. 104–134, § 101(c) [title III, § 330(1)(A)], substituted ''40'' for ''twenty''.

Subsec. (b)(3). Pub. L. 104–134, § 101(c) [title III, § 330(1)(B)], substituted ''20'' for ''ten''.

Subsec. (b)(4). Pub. L. 104–134, § 101(c) [title III, § 330(1)(C), (D)], substituted ''if damage to the property of any individual results or if avoidance costs have been incurred exceeding $10,000, in the aggregate,'' for ''if damage exceeding $10,000 to the property of any individual results,'' and ''20'' for ''ten''.

Subsec. (c). Pub. L. 104–134, § 101(c) [title III, § 330(2)], substituted ''20'' for ''ten''.

Subsec. (d)(4). Pub. L. 104–134, § 101(c) [title III, § 330(3)], added par. (4).

Subsec. (e). Pub. L. 104–134, § 101(c) [title III, § 330(4)], added subsec. (e).

1994—Subsec. (c). Pub. L. 103–322 substituted ''(b)(5)'' for ''(b)(3), (4), or (5)''.

1990—Subsec. (d)(1)(D), (E). Pub. L. 101–647 struck out ''and'' at end of subpar. (D) and substituted ''; and'' for period at end of subpar. (E).

CHAPTER 93—PUBLIC OFFICERS AND EMPLOYEES

Sec.
1901. Collecting or disbursing officer trading in public property.
1902. Disclosure of crop information and speculation thereon.
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[1904. Repealed.]
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1911. Receiver mismanaging property.
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1923. Fraudulent receipt of payments of missing persons.
1924. Unauthorized removal and retention of classified documents or material.

AMENDMENTS

1996—Pub. L. 104–294, title VI, § 604(b)(44), Oct. 11, 1996, 110 Stat. 3509, substituted ''employees' '' for ''employee's'' in item 1920.

1994—Pub. L. 103–359, title VIII, § 808(b), Oct. 14, 1994, 108 Stat. 3454, added item 1924.

Pub. L. 103–333, title I, § 101(b)(2), Sept. 30, 1994, 108 Stat. 2548, substituted ''or fraud to obtain Federal employee's compensation'' for ''to obtain Federal employees' compensation'' in item 1920.

Pub. L. 103–322, title XXXIII, § 330004(11), Sept. 13, 1994, 108 Stat. 2141, struck out items 1904 ''Disclosure of information or speculation in securities affecting Reconstruction Finance Corporation'' and 1908 ''Disclosure of information by National Agricultural Credit Corporation examiner''.

1990—Pub. L. 101–647, title XXXV, § 3556, Nov. 29, 1990, 104 Stat. 4927, substituted ''from a bank examination report'' for ''by bank examiner'' in item 1906 and struck out item 1914 ''Salary of Government officials and employees payable only by United States''.

1966—Pub. L. 89–554, § 3(c), Sept. 6, 1966, 80 Stat. 608, added items 1916 to 1923.

§ 1901. Collecting or disbursing officer trading in public property

Whoever, being an officer of the United States concerned in the collection or the disbursement of the revenues thereof, carries on any trade or business in the funds or debts of the United States, or of any State, or in any public property of either, shall be fined under this title or imprisoned not more than one year, or both; and shall be removed from office, and be incapable of holding any office under the United States.

(June 25, 1948, ch. 645, 62 Stat. 790; Pub. L. 103–322, title XXXIII, § 330016(1)(J), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 192 (Mar. 4, 1909, ch. 321, § 103, 35 Stat. 1107).

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $3,000''.

§ 1902. Disclosure of crop information and speculation thereon

Whoever, being an officer, employee or person acting for or on behalf of the United States or any department or agency thereof, and having by virtue of his office, employment or position, become possessed of information which might influence or affect the market value of any product of the soil grown within the United States, which information is by law or by the rules of such department or agency required to be withheld from publication until a fixed time, will-

fully imparts, directly or indirectly, such information, or any part thereof, to any person not entitled under the law or the rules of the department or agency to receive the same; or, before such information is made public through regular official channels, directly or indirectly speculates in any such product by buying or selling the same in any quantity, shall be fined under this title or imprisoned not more than ten years, or both.

No person shall be deemed guilty of a violation of any such rules, unless prior to such alleged violation he shall have had actual knowledge thereof.

(June 25, 1948, ch. 645, 62 Stat. 790; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 214 (Mar. 4, 1909, ch. 321, § 123, 35 Stat. 1110).

Words ''agency thereof'' were inserted in lieu of ''office thereof'' at beginning of section in conformity with section 6 of this title.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' in first par.

§ 1903. Speculation in stocks or commodities affecting crop insurance

Whoever, while acting in any official capacity in the administration of any Act of Congress relating to crop insurance or to the Federal Crop Insurance Corporation speculates in any agricultural commodity or product thereof, to which such enactments apply, or in contracts relating thereto, or in the stock or membership interests of any association or corporation engaged in handling, processing, or disposing of any such commodity or product, shall be fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 790; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 1514(b) of title 7, U.S.C., 1940 ed., Agriculture (Feb. 16, 1938, ch. 30, title V, § 514(b), 52 Stat. 76).

Words ''upon conviction thereof'' were omitted as surplusage since punishment can be imposed only after a conviction.

Minor changes were made in phraseology and translations.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

[§ 1904. Repealed. Pub. L. 103–322, title XXXIII, § 330004(11), Sept. 13, 1994, 108 Stat. 2141]

Section, acts June 25, 1948, ch. 645, 62 Stat. 791; Sept. 13, 1994, Pub. L. 103–322, title XXXIII, § 330016(1)(L), 108 Stat. 2147, related to disclosure of information or speculation in securities affecting Reconstruction Finance Corporation.

§ 1905. Disclosure of confidential information generally

Whoever, being an officer or employee of the United States or of any department or agency thereof, any person acting on behalf of the Office of Federal Housing Enterprise Oversight, or agent of the Department of Justice as defined in the Antitrust Civil Process Act (15 U.S.C. 1311–1314), or being an employee of a private sector organization who is or was assigned to an agency under chapter 37 of title 5, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined under this title, or imprisoned not more than one year, or both; and shall be removed from office or employment.

(June 25, 1948, ch. 645, 62 Stat. 791; Pub. L. 96–349, § 7(b), Sept. 12, 1980, 94 Stat. 1158; Pub. L. 102–550, title XIII, § 1353, Oct. 28, 1992, 106 Stat. 3970; Pub. L. 104–294, title VI, § 601(a)(8), Oct. 11, 1996, 110 Stat. 3498; Pub. L. 107–347, title II, § 209(d)(2), Dec. 17, 2002, 116 Stat. 2930.)

HISTORICAL AND REVISION NOTES

Based on section 176b of title 15, U.S.C., 1940 ed., Commerce and Trade; section 216 of title 18, U.S.C., 1940 ed.; section 1335 of title 19, U.S.C., 1940 ed., Customs Duties (R.S. § 3167; Aug. 27, 1894, ch. 349, § 24, 28 Stat. 557; Feb. 26, 1926, ch. 27, § 1115, 44 Stat. 117; June 17, 1930, ch. 497, title III, § 335, 46 Stat. 701; Jan. 27, 1938, ch. 11, § 2, 52 Stat. 8).

Section consolidates section 176b of title 15, U.S.C., 1940 ed., Commerce and Trade; section 216 of title 18, U.S.C., 1940 ed., and section 1335 of title 19, U.S.C., 1940 ed., Customs Duties.

Words ''or of any department or agency thereof'' and words ''such department or agency'' were inserted so as to eliminate any possible ambiguity as to scope of section. (See definition of ''department'' and ''agency'' in section 6 of this title.)

References to the offenses as misdemeanors, contained in all of said sections, were omitted in view of definitive section 1 of this title.

The provisions of section 216 of title 18, U.S.C., 1940 ed., relating to publication of income tax data by ''any person'', were omitted as covered by section 55(f)(1) of title 26, U.S.C., 1940 ed., Internal Revenue Code.

Minor changes were made in translations and phraseology.

REFERENCES IN TEXT

The Antitrust Civil Process Act, referred to in text, is Pub. L. 87–664, Sept. 19, 1962, 76 Stat. 548, as amended, which is classified generally to chapter 34 (§ 1311 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1311 of Title 15 and Tables.

AMENDMENTS

2002—Pub. L. 107–347 inserted ''or being an employee of a private sector organization who is or was assigned to an agency under chapter 37 of title 5,'' after ''(15 U.S.C. 1311–1314),''.

1996—Pub. L. 104–294 substituted ''fined under this title'' for ''fined not more than $1,000''.

1992—Pub. L. 102–550 inserted ''any person acting on behalf of the Office of Federal Housing Enterprise Oversight,'' after ''or agency thereof,''.

1980—Pub. L. 96–349 provided for punishment and removal from office of an agent of the Department of Justice as defined in the Antitrust Civil Process Act for disclosure of confidential information.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–347 effective 120 days after Dec. 17, 2002, see section 402(a) of Pub. L. 107–347, set out as an Effective Date note under section 3601 of Title 44, Public Printing and Documents.

§ 1906. Disclosure of information from a bank examination report

Whoever, being an examiner, public or private, or a Government Accountability Office employee with access to bank examination report information under section 714 of title 31, discloses the names of borrowers or the collateral for loans of any member bank of the Federal Reserve System, any bank insured by the Federal Deposit Insurance Corporation, any branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or any organization operating under section 25 or section 25(a)[1] of the Federal Reserve Act, examined by him or subject to Government Accountability Office audit under section 714 of title 31 to other than the proper officers of such bank, branch, agency, or organization, without first having obtained the express permission in writing from the Comptroller of the Currency as to a national bank or a Federal branch or Federal agency (as such terms are defined in paragraphs (5) and (6) of section 1(b) of the International Banking Act of 1978), the Board of Governors of the Federal Reserve System as to a State member bank, an uninsured State branch or State agency (as such terms are defined in paragraphs (11) and (12) of section 1(b) of the International Banking Act of 1978), or an organization operating under section 25 or section 25(a)[1] of the Federal Reserve Act, or the Federal Deposit Insurance Corporation as to any other insured bank, including any insured branch (as defined in section 3(s) of the Federal Deposit Insurance Act),,[2] or from the board of directors of such bank or organization, except when ordered to do so by a court of competent jurisdiction, or by direction of the Congress of the United States, or either House thereof, or any committee of Congress or either House duly authorized or as authorized by section 714 of title 31 shall be fined under this title or imprisoned not more than one year or both.

(June 25, 1948, ch. 645, 62 Stat. 791; Pub. L. 95–320, § 3, July 21, 1978, 92 Stat. 393; Pub. L. 97–258, § 3(e)(1), Sept. 13, 1982, 96 Stat. 1064; Pub. L. 101–647, title XXV, § 2597(k), Nov. 29, 1990, 104 Stat. 4911; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

[1] See References in Text note below.

[2] So in original.

HISTORICAL AND REVISION NOTES

Based on section 594 of title 12, U.S.C., 1940 ed., Banks and Banking (Dec. 23, 1913, ch. 6, § 22 [second and third sentences of second paragraph], 38 Stat. 272, 273; Sept. 26, 1918, ch. 177, § 5 [22(b), second paragraph], 40 Stat. 970; Aug. 23, 1935, ch. 614, § 326(b), 49 Stat. 716).

Other provisions of section 594 of title 12, U.S.C., 1940 ed., Banks and Banking, were consolidated with similar provisions from other sections, to form section 1909 of this title.

Changes were made in phraseology.

REFERENCES IN TEXT

Section 1(b) of the International Banking Act of 1978, referred to in text, is classified to section 3101 of Title 12, Banks and Banking.

Section 25 of the Federal Reserve Act, referred to in text, is classified to subchapter I (§ 601 et seq.) of chapter 6 of Title 12. Section 25(a) of the Federal Reserve Act, which is classified to subchapter II (§ 611 et seq.) of chapter 6 of Title 12, was renumbered section 25A of that act by Pub. L. 102–242, title I, § 142(e)(2), Dec. 19, 1991, 105 Stat. 2281.

Section 3(s) of the Federal Deposit Insurance Act, referred to in text, is classified to section 1813(s) of Title 12.

AMENDMENTS

2004—Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office'' in two places.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

1990—Pub. L. 101–647 substituted ''System, any bank insured'' for ''System, or bank insured'' and inserted '', any branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or any organization operating under section 25 or section 25(a) of the Federal Reserve Act,'' after ''by the Federal Deposit Insurance Corporation'', ''branch, agency, or organization,'' after ''proper officers of such bank,'', ''or a Federal branch or Federal agency (as such terms are defined in paragraphs (5) and (6) of section 1(b) of the International Banking Act of 1978)'' after ''national bank'', '', an uninsured State branch or State agency (as such terms are defined in paragraphs (11) and (12) of section 1(b) of the International Banking Act of 1978), or an organization operating under section 25 or section 25(a) of the Federal Reserve Act'' after ''as to a State member bank'', '', including any insured branch (as defined in section 3(s) of the Federal Deposit Insurance Act),'' after ''any other insured bank'', and ''or organization'' after ''board of directors of such bank''.

1982—Pub. L. 97–258 substituted ''section 714 of title 31'' for ''section 117(e) of the Accounting and Auditing Act of 1950'' wherever appearing.

1978—Pub. L. 95–320 substituted ''from a bank examination report'' for ''by bank examiner'' in section catchline and, in text, substituted ''public or private, or a General Accounting Office employee with access to bank examination report information under section 117(e) of the Accounting and Auditing Act of 1950, discloses'' for ''public or private, discloses'', ''examined by him or subject to General Accounting Office audit under section 117(e) of the Accounting and Auditing Act of 1950 to other than'' for '', examined by him, to other than'', and ''either House duly authorized or as authorized by section 117(e) of the Accounting and Auditing Act of 1950 shall be fined'' for ''either House duly authorized, shall be fined''.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, were not included in transfer of functions of officers, agencies, and employees of Department of the Treasury to Secretary of the Treasury, made by Reorg. Plan No. 26, of 1950, § 1, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280,

set out in the Appendix to Title 5, Government Organization and Employees.

§ 1907. Disclosure of information by farm credit examiner

Whoever, being a farm credit examiner or any examiner, public or private, discloses the names of borrowers of any Federal land bank association or Federal land bank, or any organization examined by him under the provisions of law relating to Federal intermediate credit banks, to other than the proper officers of such institution or organization, without first having obtained express permission in writing from the Land Bank Commissioner or from the board of directors of such institution or organization, except when ordered to do so by a court of competent jurisdiction or by direction of the Congress of the United States or either House thereof, or any committee of Congress or either House duly authorized, shall be fined under this title or imprisoned not more than one year, or both; and shall be disqualified from holding office as a farm credit examiner.

(June 25, 1948, ch. 645, 62 Stat. 791; Pub. L. 86–168, title I, § 104(h), Aug. 18, 1959, 73 Stat. 387; Pub. L. 97–297, § 4(c), Oct. 12, 1982, 96 Stat. 1318; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on sections 983 and 1124 of title 12, U.S.C., 1940 ed., Banks and Banking (July 17, 1916, ch. 245, § 31 [third and fourth sentences of third paragraph], 39 Stat. 383; July 17, 1916, ch. 245, § 211(d) [part of first sentence], as added Mar. 4, 1923, ch. 252, § 2, 42 Stat. 1460; June 16, 1933, ch. 98, § 80(a), 48 Stat. 273).

Section 983 of title 12, U.S.C., 1940 ed., Banks and Banking, does not include the term ''farm credit examiner,'' as used in this section, but it relates thereto as is indicated by sections 951 and 952 of said title.

Section 1124 of title 12, U.S.C., 1940 ed., Banks and Banking, which was taken from a chapter in that title dealing with Federal intermediate credit banks, also relates to farm credit examiners as is indicated by section 1093 thereof. Even so, it was deemed advisable to retain the reference to any examiner ''public or private,'' as used in said section 1124.

For clarification, the types of associations, banks, and organizations to which section relates, were enumerated wherever referred to, and words ''examined by him under the provisions of law relating to Federal intermediate credit banks'' were inserted.

In addition, changes were made in phraseology.

The provisions relating to disqualification from holding office as an incident to violation were contained in section 1124 of title 12, U.S.C., 1940 ed., Banks and Banking.

For bribery and other provisions of section 1124 of title 12, U.S.C., 1940 ed., Banks and Banking, see sections 218 and 1909 of this title.

Other provisions of said section 983 of title 12, U.S.C., 1940 ed., were incorporated in section 221 of this title.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

1982—Pub. L. 97–297 substituted ''or Federal land bank'' for '', Federal land bank, or joint-stock land bank''.

1959—Pub. L. 86–168 substituted ''Federal land bank associations'' for ''national farm loan association''.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86–168 effective Dec. 31, 1959, see section 104(k) of Pub. L. 86–168.

ABOLITION OF OFFICE OF LAND BANK COMMISSIONER

The office of Land Bank Commissioner was abolished by section 636f of Title 12, Banks and Banking.

[§ 1908. Repealed. Pub. L. 103–322, title XXXIII, § 330004(11), Sept. 13, 1994, 108 Stat. 2141]

Section, acts June 25, 1948, ch. 645, 62 Stat. 792; Sept. 13, 1994, Pub. L. 103–322, title XXXIII, § 330016(1)(K), 108 Stat. 2147, related to disclosure of information by National Agricultural Credit Corporation examiner.

§ 1909. Examiner performing other services

Whoever, being a national-bank examiner, Federal Deposit Insurance Corporation examiner, or farm credit examiner, performs any other service, for compensation, for any bank or banking or loan association, or for any officer, director, or employee thereof, or for any person connected therewith in any capacity, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 792; Pub. L. 103–322, title XXXIII, §§ 330004(12), 330016(1)(K), Sept. 13, 1994, 108 Stat. 2142, 2147.)

HISTORICAL AND REVISION NOTES

Based on sections 594, 656a, 952, 981, 1093, 1124, 1243, and 1314 of title 12, U.S.C., 1940 ed., Banks and Banking (Dec. 23, 1913, ch. 6, § 22, fourth sentence of first paragraph, and third sentence of second paragraph, 38 Stat. 272; July 17, 1916, ch. 245, §§ 28, 31 [third sentence of first paragraph], 39 Stat. 381, 383; July 17, 1916, ch. 245, §§ 208(c), 211(d), second sentence, as added Mar. 4, 1923, ch. 252, § 2, 42 Stat. 1459, 1460; Sept. 26, 1918, ch. 177, § 5 [''22(b)''] 40 Stat. 970; Mar. 4, 1923, ch. 252, title II, §§ 209(c), 216(d) [second sentence], 42 Stat. 1468, 1472; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, § 80(a), 48 Stat. 273; Aug. 23, 1935, ch. 614, § 326(b), 49 Stat. 716; Aug. 19, 1937, ch. 704, § 20, 50 Stat. 710).

Section 594 of title 12, U.S.C., 1940 ed., Banks and Banking, first paragraph, related to national-bank examiners and Federal Deposit Insurance Corporation examiners, and provided punishment for several offenses including the offense of performing services, for compensation, other than their regular duties. Section 656a of said title 12 is authority for the designation ''farm credit examiner'' included in this section, and section 1093 of said title authorizes farm credit examiners to conduct examinations in connection with contemplated transactions of Federal intermediate credit banks, to which section 1124 of said title relates.

Sections 981 and 1124 of title 12, U.S.C., 1940 ed., Banks and Banking, which relate to farm credit examiners, and section 1314 of said title, which relates to National Agricultural Credit Corporation examiners, all prohibit the performance of services, for compensation, other than regular duties. They do not specifically provide punishment for violation of such prohibition, but the provisions of said section 594 of said title, relating to national-bank examiners and Federal Deposit Insurance Corporation examiners, which does provide punishment for the same offense, are extended to the former two types of examiners by sections 952 and 1243 thereof.

The remaining provisions of sections 594, 981, 1124, and 1314 of title 12, U.S.C., 1940 ed., Banks and Banking, relating to unlawful disclosure of the names of borrowers or the collateral for loans, false statements in applications for loans, overvaluation of securities, and acceptance of loans or gratuities, were separated and transferred according to subject matter to sections 218, 1014, 1906–1908 of this title, where, insofar as possible, they were consolidated with similar provisions from other sections.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322, § 330016(1)(K), substituted ''fined under this title'' for ''fined not more than $5,000''.

Pub. L. 103–322, § 330004(12), inserted ''or'' before ''farm credit examiner'' and struck out ''or an examiner of National Agricultural Credit Corporations,'' before ''performs any other service''.

§ 1910. Nepotism in appointment of receiver or trustee

Whoever, being a judge of any court of the United States, appoints as receiver, or trustee, any person related to such judge by consanguinity, or affinity, within the fourth degree—

Shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 792; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 531 of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary (Aug. 25, 1937, ch. 777, 50 Stat. 810).

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' in last par.

§ 1911. Receiver mismanaging property

Whoever, being a receiver, trustee, or manager in possession of any property in any cause pending in any court of the United States, willfully fails to manage and operate such property according to the requirements of the valid laws of the State in which such property shall be situated, in the same manner that the owner or possessor thereof would be bound to do if in possession thereof, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 792; Pub. L. 103–322, title XXXIII, § 330016(1)(J), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based upon section 124 of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary (Mar. 3, 1911, ch. 231, § 65, 36 Stat. 1104).

Word ''trustee'' was inserted after ''receiver'' so as to make it clear that persons holding such office are included in the enumeration of court officers who are subject to the provisions of this section.

Changes were made in phraseology and arrangement, but without change of substance or meaning.

Other provisions of section 124 of title 28, U.S.C., 1940 ed., were retained in that title.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $3,000''.

§ 1912. Unauthorized fees for inspection of vessels

Whoever, being an officer, employee, or agent of the United States or any agency thereof, engaged in inspection of vessels, upon any pretense, receives any fee or reward for his services, except what is allowed to him by law, shall be fined under this title or imprisoned not more than six months, or both; and shall forfeit his office.

(June 25, 1948, ch. 645, 62 Stat. 792; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 196 (Mar. 4, 1909, ch. 321, § 107, 35 Stat. 1107).

The phrase ''officer or employee of the United States or any agency thereof'' was substituted for the phrase ''inspector of steamboats'' in view of 1946 Reorganization Plan No. 3, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097, abolishing inspectors and transferring their functions to the Coast Guard.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

§ 1913. Lobbying with appropriated moneys

No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to any such Member or official, at his request, or to Congress or such official, through the proper official channels, requests for any legislation, law, ratification, policy, or appropriations which they deem necessary for the efficient conduct of the public business, or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the Constitution or interfere with the conduct of foreign policy, counter-intelligence, intelligence, or national security activities. Violations of this section shall constitute violations of section 1352(a) of title 31.

(June 25, 1948, ch. 645, 62 Stat. 792; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 107–273, div. A, title II, § 205(b), Nov. 2, 2002, 116 Stat. 1778.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 201 (July 11, 1919, ch. 6, § 6, 41 Stat. 68).

Reference to ''department'' and ''agency'' was added in three instances after the words ''United States'' to remove doubt as to the scope of the section. (See definitions of ''department'' and ''agency'' in section 6 of this title.)

Reference to the offense as a misdemeanor was omitted as unnecessary in view of the definitive section 1 of this title.

Words ''on conviction thereof'' were omitted as surplusage since punishment can be imposed only after conviction.

Minor changes were made in phraseology.

AMENDMENTS

2002—Pub. L. 107–273 substituted ''a jurisdiction, or an official of any government, to favor, adopt,'' for ''to

favor'', inserted '', law, ratification, policy,'' after ''legislation'' wherever appearing, struck out ''by Congress'' before '', whether before or after'', inserted '', measure,'' before ''or resolution'', substituted ''any such Member or official, at his request,'' for ''Members of Congress on the request of any Member'', inserted ''or such official'' before '', through the proper'', substituted ''for any legislation'' for ''for legislation'', substituted '', or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the Constitution or interfere with the conduct of foreign policy, counter-intelligence, intelligence, or national security activities. Violations of this section shall constitute violations of section 1352(a) of title 31.'' for period at end of first par., and struck out last par. which read as follows: ''Whoever, being an officer or employee of the United States or of any department or agency thereof, violates or attempts to violate this section, shall be fined under this title or imprisoned not more than one year, or both; and after notice and hearing by the superior officer vested with the power of removing him, shall be removed from office or employment.''

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500'' in last par.

[§ 1914. Repealed. Pub. L. 87–849, § 2, Oct. 23, 1962, 76 Stat. 1126]

Section, act June 25, 1948, ch. 645, 62 Stat. 793, related to salary of Government officials and employees payable only by United States. Section was supplanted by section 209 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87–849, set out as an Effective Date note under section 201 of this title.

§ 1915. Compromise of customs liabilities

Whoever, being an officer of the United States, without lawful authority compromises or abates or attempts to compromise or abate any claim of the United States arising under the customs laws for any fine, penalty or forfeiture, or in any manner relieves or attempts to relieve any person, vessel, vehicle, merchandise or baggage therefrom, shall be fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 793; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 1616 of title 19, U.S.C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 616, 46 Stat. 757).

Designation of the offense as a felony was omitted as unnecessary in view of definitive section 1 of this title. (See reviser's note under section 550 of this title.)

Words ''and upon conviction thereof'' were also omitted as unnecessary, since punishment could not be imposed until after conviction.

Changes were made in phraseology.

REFERENCES IN TEXT

The customs laws, referred to in text, are classified generally to Title 19, Customs Duties.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 1916. Unauthorized employment and disposition of lapsed appropriations

Whoever—

(1) violates the provision of section 3103 of title 5 that an individual may be employed in the civil service in an Executive department at the seat of Government only for services actually rendered in connection with and for the purposes of the appropriation from which he is paid; or

(2) violates the provision of section 5501 of title 5 that money accruing from lapsed salaries or from unused appropriations for salaries shall be covered into the Treasury of the United States;

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

(Added Pub. L. 89–554, § 3(d), Sept. 6, 1966, 80 Stat. 608; amended 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

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 47 (less so much as relates to removal).	Aug. 23, 1912, ch. 350, § 5 (less so much as relates to removal), 37 Stat. 414.
.....	5 U.S.C. 50 (2d sentence, less so much as relates to removal).	

The statement of the acts prohibited is supplied from section 4 of the Act of Aug. 5, 1882, ch. 389, 22 Stat. 255, as amended June 22, 1906, ch. 3514, §§ 6, 8, 34 Stat. 449, and Sept. 23, 1950, ch. 1010, § 7, 64 Stat. 986, which is codified in sections 3103 and 5501 of title 5, United States Code.

The words ''upon conviction thereof'' are omitted as unnecessary because punishment can be imposed only after conviction.

AMENDMENTS

2002—Pub. L. 107–273 inserted '', or both'' after ''year'' in concluding provisions.

1996—Pub. L. 104–294 substituted ''fined under this title'' for ''fined not more than $1,000'' in concluding provisions.

§ 1917. Interference with civil service examinations

Whoever, being a member or employee of the United States Office of Personnel Management or an individual in the public service, willfully and corruptly—

(1) defeats, deceives, or obstructs an individual in respect of his right of examination according to the rules prescribed by the President under title 5 for the administration of the competitive service and the regulations prescribed by such Office under section 1302(a) of title 5;

(2) falsely marks, grades, estimates, or reports on the examination or proper standing of an individual examined;

(3) makes a false representation concerning the mark, grade, estimate, or report on the examination or proper standing of an individual examined, or concerning the individual examined; or

(4) furnishes to an individual any special or secret information for the purpose of improving or injuring the prospects or chances of an individual examined, or to be examined, being appointed, employed, or promoted;

shall, for each offense, be fined under this title not less than $100 or imprisoned not less than ten days nor more than one year, or both.

(Added Pub. L. 89–554, § 3(d), Sept. 6, 1966, 80 Stat. 609; amended Pub. L. 103–322, title XXXIII, § 330010(2), Sept. 13, 1994, 108 Stat. 2143; Pub. L. 104–294, title VI, § 601(a)(9), Oct. 11, 1996, 110 Stat. 3498.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 637.	Jan. 16, 1883, ch. 27, § 5, 22 Stat. 405.

The section is rewritten to conform to the style of title 18. The words ''a member or employee of the United States Civil Service Commission'' are coextensive with and substituted for ''Civil Service Commissioner, examiner, copyist, or messenger''.

The references to actions in concert with others to violate this section are omitted in view of the crime of conspiracy contained in chapter 19 of title 18.

In paragraph (1), the words ''the rules prescribed by the President under title 5 for the administration of the competitive service and the regulations prescribed by the Commission under section 1302(a) of title 5'' are substituted for ''any such rules or regulations'' to provide the basis of reference.

The words ''be deemed guilty of a misdemeanor'' are omitted as unnecessary in view of the definitive section 1 of this title. (See reviser's note under 18 U.S.C. 212, 1964 ed.)

The words ''and upon conviction thereof'' are omitted as unnecessary because punishment can be imposed only after conviction.

The words ''or both'' are substituted for ''or by both such fine and imprisonment''.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''fined under this title not less than $100'' for ''fined not less than $100 nor more than $1,000'' in concluding provisions.

1994—Pub. L. 103–322 substituted ''Office of Personnel Management'' for ''Civil Service Commission'' in introductory provisions and ''such Office'' for ''the Commission'' in par. (1).

§ 1918. Disloyalty and asserting the right to strike against the Government

Whoever violates the provision of section 7311 of title 5 that an individual may not accept or hold a position in the Government of the United States or the government of the District of Columbia if he—

(1) advocates the overthrow of our constitutional form of government;

(2) is a member of an organization that he knows advocates the overthrow of our constitutional form of government;

(3) participates in a strike, or asserts the right to strike, against the Government of the United States or the government of the District of Columbia; or

(4) is a member of an organization of employees of the Government of the United States or of individuals employed by the government of the District of Columbia that he knows asserts the right to strike against the Government of the United States or the government of the District of Columbia;

shall be fined under this title or imprisoned not more than one year and a day, or both.

(Added Pub. L. 89–554, § 3(d), Sept. 6, 1966, 80 Stat. 609; amended Pub. L. 104–294, title VI, § 601(a)(8), Oct. 11, 1996, 110 Stat. 3498.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 118r. [Uncodified.]	Aug. 9, 1955, ch. 690, § 3, 69 Stat. 625. June 29, 1956, ch. 479, § 3 (as applicable to the Act of Aug. 9, 1955, ch. 690, § 3, 69 Stat. 625), 70 Stat. 453.

The section is rewritten to conform to the style of title 18. The statement of the acts prohibited is supplied from the Act of Aug. 9, 1955, ch. 690, § 1, 69 Stat. 624, which is codified in section 7311 of title 5, United States Code.

The words ''From and after July 1, 1956'', appearing in the Act of June 29, 1956, are omitted as executed.

The words ''shall be guilty of a felony'' are omitted as unnecessary in view of the definitive section 1 of this title. (See reviser's note under section 550 of this title.)

AMENDMENTS

1996—Pub. L. 104–294 substituted ''fined under this title'' for ''fined not more than $1,000'' in concluding provisions.

§ 1919. False statement to obtain unemployment compensation for Federal service

Whoever makes a false statement or representation of a material fact knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase for himself or for any other individual any payment authorized to be paid under chapter 85 of title 5 or under an agreement thereunder, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(Added Pub. L. 89–554, § 3(d), Sept. 6, 1966, 80 Stat. 609.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	42 U.S.C. 1368(a).	Sept. 1, 1954, ch. 1212, § 4(a) ''Sec. 1508(a)'', 68 Stat. 1135.

The words ''under chapter 85 of title 5'' are substituted for ''under this title'' (Title XV of the Social Security Act, as amended) to reflect the codification of the Title in title 5, United States Code.

§ 1920. False statement or fraud to obtain Federal employees' compensation

Whoever knowingly and willfully falsifies, conceals, or covers up a material fact, or makes a false, fictitious, or fraudulent statement or representation, or makes or uses a false statement or report knowing the same to contain any false, fictitious, or fraudulent statement or entry in connection with the application for or receipt of compensation or other benefit or payment under subchapter I or III of chapter 81 of title 5, shall be guilty of perjury, and on conviction thereof shall be punished by a fine under this title, or by imprisonment for not more than 5 years, or both; but if the amount of the benefits falsely obtained does not exceed $1,000, such person shall be punished by a fine under this title, or by imprisonment for not more than 1 year, or both.

(Added Pub. L. 89–554, § 3(d), Sept. 6, 1966, 80 Stat. 610; amended Pub. L. 103–322, title XXXIII, § 330016(1)(I), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 103–333, title I, § 101(b)(1), Sept. 30, 1994, 108 Stat. 2547; Pub. L. 104–294, title VI, § 601(a)(10), Oct. 11, 1996, 110 Stat. 3498; Pub. L. 107–273, div. B, title IV, § 4002(f)(2), Nov. 2, 2002, 116 Stat. 1811.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 789.	Sept. 7, 1916, ch. 458, § 39, 39 Stat. 749. Oct. 14, 1949, ch. 691, § 103(b), 63 Stat. 855.

The word ''That'' in the Act of Sept. 7, 1916, is omitted as unnecessary.

The words ''under section 8106 of title 5'' are substituted for ''under section 754 of this title'' to reflect the codification of the section in title 5, United States Code. The words ''a claim for compensation under subchapter I of chapter 81 of title 5'' are substituted for ''any claim for compensation'' for clarity.

The words ''or both'' are substituted for ''or by both such fine and imprisonment''.

Minor changes in phraseology are made to conform to the style of title 18.

AMENDMENTS

2002—Pub. L. 107–273 substituted ''employees' '' for ''employee's'' in section catchline.

1996—Pub. L. 104–294 substituted ''fine under this title'' the first place it appears for ''fine of not more than $250,000'' and ''fine under this title'' the second place it appears for ''fine of not more than $100,000''.

1994—Pub. L. 103–333 substituted ''False statement or fraud to obtain Federal employee's compensation'' for ''False statement to obtain Federal employees' compensation'' as section catchline and amended text generally. Prior to amendment, text read as follows: ''Whoever makes, in an affidavit or report required by section 8106 of title 5 or in a claim for compensation under subchapter I of chapter 81 of title 5, a statement, knowing it to be false, is guilty of perjury and shall be fined under this title or imprisoned not more than one year, or both.''

Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $2,000''.

§ 1921. Receiving Federal employees' compensation after marriage

Whoever, being entitled to compensation under sections 8107–8113 and 8133 of title 5 and whose compensation by the terms of those sections stops or is reduced on his marriage or on the marriage of his dependent, accepts after such marriage any compensation or payment to which he is not entitled shall be fined under this title or imprisoned not more than one year, or both.

(Added Pub. L. 89–554, § 3(d), Sept. 6, 1966, 80 Stat. 610; amended Pub. L. 103–322, title XXXIII, § 330016(1)(I), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 760(L).	Sept. 7, 1916, ch. 458, § 10(L) 39 Stat. 745. Oct. 14, 1949, ch. 691, § 106(e), 63 Stat. 860.

The word ''Whoever'' is substituted for ''If any person'' to conform to the style of title 18.

The words ''under sections 8107–8113 and 8133 of title 55'' are substituted for ''under this section or section 755 or 756 of this title'' to reflect the codification of the sections in title 5, United States Code.

The words ''or both'' are substituted for ''or by both such fine and imprisonment''.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $2,000''.

§ 1922. False or withheld report concerning Federal employees' compensation

Whoever, being an officer or employee of the United States charged with the responsibility for making the reports of the immediate superior specified by section 8120 of title 5, willfully fails, neglects, or refuses to make any of the reports, or knowingly files a false report, or induces, compels, or directs an injured employee to forego filing of any claim for compensation or other benefits provided under subchapter I of chapter 81 of title 5 or any extension or application thereof, or willfully retains any notice, report, claim, or paper which is required to be filed under that subchapter or any extension or application thereof, or regulations prescribed thereunder, shall be fined under this title or imprisoned not more than one year, or both.

(Added Pub. L. 89–554, § 3(d), Sept. 6, 1966, 80 Stat. 610; amended Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 774(b).	Sept. 13, 1960, Pub. L. 86–767, § 206, 74 Stat. 908.

The words ''the reports of the immediate superior specified in section 8120 of title 5'' are substituted for ''the reports specified in subsection (a) of this section'' to reflect the codification of that subsection in title 5, United States Code.

The words ''subchapter I of chapter 81 of title 5'' and ''that subchapter'' are substituted for ''sections 751–756, 757–781, 783–791, and 793 of this title'' and ''said sections'', respectively, to reflect the codification of the sections in title 5, United States Code.

The words ''shall be guilty of a misdemeanor'' are omitted as unnecessary in view of the definitive section 1 of this title. (See reviser's note under 18 U.S.C. 212, 1964 ed.)

The words ''and upon conviction thereof'' are omitted as unnecessary because punishment can be imposed only after conviction.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

§ 1923. Fraudulent receipt of payments of missing persons

Whoever obtains or receives any money, check, or allotment under—

(1) subchapter VII of chapter 55 of title 5; or

(2) chapter 10 of title 37;

without being entitled thereto, with intent to defraud, shall be fined under this title or imprisoned not more than one year, or both.

(Added Pub. L. 89–554, § 3(d), Sept. 6, 1966, 80 Stat. 610; amended Pub. L. 103–322, title XXXIII, § 330016(1)(I), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	50A U.S.C. 1008.	Mar. 7, 1942, ch. 166, § 8, 56 Stat. 145.

Clauses (1) and (2) are substituted for the words ''under this Act'' to reflect the codification of the Act. The portion of the Act which is applicable to civilian officers and employees and their dependents is codified in subchapter VII of chapter 55 of title 5, United States Code. The portion of the Act which is applicable to members of the uniformed services and their dependents is codified in chapter 10 of title 37, United States Code.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $2,000''.

§ 1924. Unauthorized removal and retention of classified documents or material

(a) Whoever, being an officer, employee, contractor, or consultant of the United States, and, by virtue of his office, employment, position, or contract, becomes possessed of documents or materials containing classified information of the United States, knowingly removes such documents or materials without authority and with the intent to retain such documents or materials at an unauthorized location shall be fined under this title or imprisoned for not more than one year, or both.

(b) For purposes of this section, the provision of documents and materials to the Congress shall not constitute an offense under subsection (a).

(c) In this section, the term ''classified information of the United States'' means information originated, owned, or possessed by the United States Government concerning the national defense or foreign relations of the United States that has been determined pursuant to law or Executive order to require protection against unauthorized disclosure in the interests of national security.

(Added Pub. L. 103–359, title VIII, § 808(a), Oct. 14, 1994, 108 Stat. 3453; amended Pub. L. 107–273, div. B, title IV, § 4002(d)(1)(C)(i), Nov. 2, 2002, 116 Stat. 1809.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–273 substituted ''under this title'' for ''not more than $1,000,''.

CHAPTER 95—RACKETEERING

Sec.
1951. Interference with commerce by threats or violence.
1952. Interstate and foreign travel or transportation in aid of racketeering enterprises.
1953. Interstate transportation of wagering paraphernalia.
1954. Offer, acceptance, or solicitation to influence operations of employee benefit plan.
1955. Prohibition of illegal gambling businesses.
1956. Laundering of monetary instruments.
1957. Engaging in monetary transactions in property derived from specified unlawful activity.
1958. Use of interstate commerce facilities in the commission of murder-for-hire.
1959. Violent crimes in aid of racketeering activity.
1960. Prohibition of unlicensed money transmitting businesses.

AMENDMENTS

2001—Pub. L. 107–56, title III, § 373(c), Oct. 26, 2001, 115 Stat. 340, substituted ''unlicensed'' for ''illegal'' in item 1960.

1992—Pub. L. 102–550, title XV, § 1512(b), Oct. 28, 1992, 106 Stat. 4058, added item 1960.

1988—Pub. L. 100–690, title VII, § 7053(c), Nov. 18, 1988, 102 Stat. 4402, redesignated items 1952A and 1952B as 1958 and 1959, respectively, and transferred them to the end of the table of sections.

1986—Pub. L. 99–570, title I, § 1352(b), Oct. 27, 1986, 100 Stat. 3207–21, added items 1956 and 1957.

1984—Pub. L. 98–473, title II, § 1002(b), Oct. 12, 1984, 98 Stat. 2137, added items 1952A and 1952B.

1970—Pub. L. 91–452, title VIII, § 803(b), Oct. 15, 1970, 84 Stat. 938, added item 1955.

1962—Pub. L. 87–420, § 17(f), Mar. 20, 1962, 76 Stat. 43, added item 1954.

1961—Pub. L. 87–228, § 1(b), Sept. 13, 1961, 75 Stat. 499, added item 1952.

Pub. L. 87–218, § 1, Sept. 13, 1961, 75 Stat. 492, added item 1953.

§ 1951. Interference with commerce by threats or violence

(a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than twenty years, or both.

(b) As used in this section—

(1) The term ''robbery'' means the unlawful taking or obtaining of personal property from the person or in the presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining.

(2) The term ''extortion'' means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right.

(3) The term ''commerce'' means commerce within the District of Columbia, or any Territory or Possession of the United States; all commerce between any point in a State, Territory, Possession, or the District of Columbia and any point outside thereof; all commerce between points within the same State through any place outside such State; and all other commerce over which the United States has jurisdiction.

(c) This section shall not be construed to repeal, modify or affect section 17 of Title 15, sections 52, 101–115, 151–166 of Title 29 or sections 151–188 of Title 45.

(June 25, 1948, ch. 645, 62 Stat. 793; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 420a–420e–1 (June 18, 1934, ch. 569, §§ 1–6, 48 Stat. 979, 980; July 3, 1946, ch. 537, 60 Stat. 420).

Section consolidates sections 420a to 420e–1 of Title 18, U.S.C., 1940 ed., with changes in phraseology and arrangement necessary to effect consolidation.

Provisions designating offense as felony were omitted as unnecessary in view of definitive section 1 of this title. (See reviser's note under section 550 of this title.)

Subsection (c) of the revised section is derived from title II of the 1946 amendment. It substitutes references to specific sections of the United States Code, 1940 ed., in place of references to numerous acts of Congress, in conformity to the style of the revision bill. Subsection (c) as rephrased will preclude any construction of implied repeal of the specified acts of Congress codified in the sections enumerated.

The words ''attempts or conspires so to do'' were substituted for sections 3 and 4 of the 1946 act, omitting as unnecessary the words ''participates in an attempt'' and the words ''or acts in concert with another or with others'', in view of section 2 of this title which makes any person who participates in an unlawful enterprise or aids or assists the principal offender, or does anything towards the accomplishment of the crime, a principal himself.

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

REFERENCES IN TEXT

Sections 101–115 of Title 29, referred to in subsec. (c), is a reference to act Mar. 23, 1932, ch. 90, 47 Stat. 70, popularly known as the Norris-LaGuardia Act. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Title 29, Labor, and Tables.

Section 11 of that act, formerly classified to section 111 of Title 29, was repealed and reenacted as section 3692 of this title by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 12 of that act, formerly classified to section 112 of Title 29, was repealed by act June 25, 1948, and is covered by rule 42(b) of the Federal Rules of Criminal Procedure, set out in Appendix to this title.

Section 164 of Title 45, included within the reference in subsec. (c) to sections 151–188 of Title 45, was repealed by act Oct. 10, 1940, ch. 851, § 4, 54 Stat. 1111. See section 5 of Title 41, Public Contracts.

Section 186 of Title 45, included within the reference in subsec. (c) to sections 151–188 of Title 45, was omitted from the Code.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

SHORT TITLE

This section is popularly known as the ''Hobbs Act''.

§ 1952. Interstate and foreign travel or transportation in aid of racketeering enterprises

(a) Whoever travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to—

(1) distribute the proceeds of any unlawful activity; or

(2) commit any crime of violence to further any unlawful activity; or

(3) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity,

and thereafter performs or attempts to perform—

(A) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 5 years, or both; or

(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life.

(b) As used in this section (i) ''unlawful activity'' means (1) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or controlled substances (as defined in section 102(6) of the Controlled Substances Act), or prostitution offenses in violation of the laws of the State in which they are committed or of the United States, (2) extortion, bribery, or arson in violation of the laws of the State in which committed or of the United States, or (3) any act which is indictable under subchapter II of chapter 53 of title 31, United States Code, or under section 1956 or 1957 of this title and (ii) the term ''State'' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(c) Investigations of violations under this section involving liquor shall be conducted under the supervision of the Attorney General.

(Added Pub. L. 87–228, § 1(a), Sept. 13, 1961, 75 Stat. 498; amended Pub. L. 89–68, July 7, 1965, 79 Stat. 212; Pub. L. 91–513, title II, § 701(i)(2), Oct. 27, 1970, 84 Stat. 1282; Pub. L. 99–570, title I, § 1365(a), Oct. 27, 1986, 100 Stat. 3207–35; Pub. L. 101–647, title XII, § 1205(i), title XVI, § 1604, Nov. 29, 1990, 104 Stat. 4831, 4843; Pub. L. 103–322, title XIV, § 140007(a), title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2033, 2147; Pub. L. 107–296, title XI, § 1112(h), Nov. 25, 2002, 116 Stat. 2277.)

REFERENCES IN TEXT

Section 102(6) of the Controlled Substances Act, referred to in subsec. (b)(i)(1), is classified to section 802(6) of Title 21, Food and Drugs.

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–296 substituted ''Attorney General'' for ''Secretary of the Treasury''.

1994—Pub. L. 103–322, § 330016(1)(L), which directed the amendment of this section by substituting ''under this title'' for ''not more than $10,000'', could not be executed because the phrase ''not more than $10,000'' did not appear in text subsequent to amendment of subsec. (a) by Pub. L. 103–322, § 140007(a). See below.

Subsec. (a). Pub. L. 103–322, § 140007(a), substituted ''and thereafter performs or attempts to perform—'' and subpars. (A) and (B) for former concluding provisions which read as follows: ''and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both.''

1990—Subsec. (a). Pub. L. 101–647, § 1604, inserted ''the mail or'' after ''uses'' and struck out ''including the mail,'' before ''with intent'' in introductory provisions.

Subsec. (b). Pub. L. 101–647, § 1205(i), inserted ''(i)'' after ''As used in this section'' and added cl. (ii).

1986—Subsec. (b)(3). Pub. L. 99–570 added cl. (3).

1970—Subsec. (b)(1). Pub. L. 91–513, § 701(i)(2)(A), inserted ''or controlled substances (as defined in section 102(6) of the Controlled Substances Act)''.

Subsec. (c). Pub. L. 91–513, § 701(i)(2)(B), struck out reference to investigations involving narcotics.

1965—Subsec. (b)(2). Pub. L. 89–68 made section applicable to travel in aid of arson.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–513 effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91–513, set out as an Effective Date note under section 801 of Title 21, Food and Drugs.

SAVINGS PROVISION

Amendment by Pub. L. 91–513 not to affect or abate any prosecutions for any violation of law or any civil seizures or forfeitures and injunctive proceedings commenced prior to the effective date of such amendment, and all administrative proceedings pending before the former Bureau of Narcotics and Dangerous Drugs on Oct. 27, 1970, were to be continued and brought to final determination in accord with laws and regulations in effect prior to Oct. 27, 1970, see section 702 of Pub. L. 91–513, set out as a Savings Provision note under section 321 of Title 21, Food and Drugs.

[§ 1952A. Renumbered § 1958]

[§ 1952B. Renumbered § 1959]

§ 1953. Interstate transportation of wagering paraphernalia

(a) Whoever, except a common carrier in the usual course of its business, knowingly carries or sends in interstate or foreign commerce any record, paraphernalia, ticket, certificate, bills, slip, token, paper, writing, or other device used, or to be used, or adapted, devised, or designed for use in (a) bookmaking; or (b) wagering pools with respect to a sporting event; or (c) in a numbers, policy, bolita, or similar game shall be fined under this title or imprisoned for not more than five years or both.

(b) This section shall not apply to (1) parimutuel betting equipment, parimutuel tickets where legally acquired, or parimutuel materials used or designed for use at racetracks or other sporting events in connection with which betting is legal under applicable State law, or (2) the transportation of betting materials to be used in the placing of bets or wagers on a sporting event into a State in which such betting is legal under the statutes of that State, or (3) the carriage or transportation in interstate or foreign commerce of any newspaper or similar publication, or (4) equipment, tickets, or materials used or designed for use within a State in a lottery conducted by that State acting under authority of State law, or (5) the transportation in foreign commerce to a destination in a foreign country of equipment, tickets, or materials designed to be used within that foreign country in a lottery which is authorized by the laws of that foreign country.

(c) Nothing contained in this section shall create immunity from criminal prosecution under any laws of any State, Commonwealth of Puerto Rico, territory, possession, or the District of Columbia.

(d) For the purposes of this section (1) ''State'' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; and (2) ''foreign country'' means any empire, country, dominion, colony, or protectorate, or any subdivision thereof (other than the United States, its territories or possessions).

(e) For the purposes of this section ''lottery'' means the pooling of proceeds derived from the sale of tickets or chances and allotting those proceeds or parts thereof by chance to one or more chance takers or ticket purchasers. ''Lottery'' does not include the placing or accepting of bets or wagers on sporting events or contests.

(Added Pub. L. 87–218, § 1, Sept. 13, 1961, 75 Stat. 492; amended Pub. L. 93–583, § 3, Jan. 2, 1975, 88 Stat. 1916; Pub. L. 96–90, § 2, Oct. 23, 1979, 93 Stat. 698; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

1979—Subsec. (b)(5). Pub. L. 96–90, § 2(1), added cl. (5).

Subsecs. (d), (e). Pub. L. 96–90, § 2(2), added subsecs. (d) and (e).

1975—Subsec. (b)(4). Pub. L. 93–583 added cl. (4).

§ 1954. Offer, acceptance, or solicitation to influence operations of employee benefit plan

Whoever being—

(1) an administrator, officer, trustee, custodian, counsel, agent, or employee of any employee welfare benefit plan or employee pension benefit plan; or

(2) an officer, counsel, agent, or employee of an employer or an employer any of whose employees are covered by such plan; or

(3) an officer, counsel, agent, or employee of an employee organization any of whose members are covered by such plan; or

(4) a person who, or an officer, counsel, agent, or employee of an organization which, provides benefit plan services to such plan

receives or agrees to receive or solicits any fee, kickback, commission, gift, loan, money, or thing of value because of or with intent to be influenced with respect to, any of the actions, decisions, or other duties relating to any question or matter concerning such plan or any person who directly or indirectly gives or offers, or promises to give or offer, any fee, kickback, commission, gift, loan, money, or thing of value prohibited by this section, shall be fined under this title or imprisoned not more than three years, or both: *Provided*, That this section shall not prohibit the payment to or acceptance by any person of bona fide salary, compensation, or other payments made for goods or facilities actually furnished or for services actually performed in the regular course of his duties as such person, administrator, officer, trustee, custodian, counsel, agent, or employee of such plan, employer, employee organization, or organization providing benefit plan services to such plan.

As used in this section, the term (a) ''any employee welfare benefit plan'' or ''employee pension benefit plan'' means any employee welfare benefit plan or employee pension benefit plan, respectively, subject to any provision of title I of the Employee Retirement Income Security Act of 1974, and (b) ''employee organization'' and ''administrator'' as defined respectively in sections 3(4) and (3)(16) of the Employee Retirement Income Security Act of 1974.

(Added Pub. L. 87–420, § 17(e), Mar. 20, 1962, 76 Stat. 42; amended Pub. L. 91–452, title II, § 225, Oct. 15, 1970, 84 Stat. 930; Pub. L. 93–406, title I, § 111(a)(2)(C), Sept. 2, 1974, 88 Stat. 852; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

REFERENCES IN TEXT

The Employee Retirement Income Security Act of 1974, referred to in text, is Pub. L. 93–406, Sept. 2, 1974, 88 Stat. 829, as amended. Title I of the Employee Retirement Income Security Act of 1974, referred to in text, is classified generally to subchapter I (§ 1001 et seq.) of chapter 18 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

Section 3(4) of the Employee Retirement Income Security Act of 1974, referred to in text, is classified to section 1002(4) of Title 29.

Section (3)(16) of the Employee Retirement Income Security Act of 1974, referred to in text, probably means section 3(16) of the Employee Retirement Income Security Act of 1974, which is classified to section 1002(16) of Title 29.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' in first par.

1974—Pub. L. 93–406 substituted ''any employee welfare benefit plan or employee pension benefit plan, respectively, subject to any provision of title I of the Employee Retirement Income Security Act of 1974'' for ''any such plan subject to the provisions of the Welfare and Pension Plans Disclosure Act, as amended'' and ''sections 3(4) and (3)(16) of the Employee Retirement Income Security Act of 1974'' for ''sections 3(3) and 5(b)(1) and (2) of the Welfare and Pension Plans Disclosure Act, as amended''.

1970—Pub. L. 91–452 struck out letter designation ''(a)'' preceding first sentence and struck out subsec. (b) which related to the immunity from prosecution of any witness compelled to testify or produce evidence after claiming his privilege against self-incrimination. See section 6001 et seq. of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 effective Jan. 1, 1975, except as provided in section 1031(b)(2) of Title 29, Labor, see section 1031 of Title 29.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–452 effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as an Effective Date; Savings Provision note under sections 6001 of this title.

EFFECTIVE DATE

Section effective 90 days after Mar. 20, 1962, see section 19 of Pub. L. 87–420, set out as a note under section 664 of this title.

§ 1955. Prohibition of illegal gambling businesses

(a) Whoever conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling business shall be fined under this title or imprisoned not more than five years, or both.

(b) As used in this section—

(1) ''illegal gambling business'' means a gambling business which—

(i) is a violation of the law of a State or political subdivision in which it is conducted;

(ii) involves five or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and

(iii) has been or remains in substantially continuous operation for a period in excess of thirty days or has a gross revenue of $2,000 in any single day.

(2) ''gambling'' includes but is not limited to pool-selling, bookmaking, maintaining slot machines, roulette wheels or dice tables, and conducting lotteries, policy, bolita or numbers games, or selling chances therein.

(3) ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(c) If five or more persons conduct, finance, manage, supervise, direct, or own all or part of a gambling business and such business operates for two or more successive days, then, for the purpose of obtaining warrants for arrests, interceptions, and other searches and seizures, probable cause that the business receives gross revenue in excess of $2,000 in any single day shall be deemed to have been established.

(d) Any property, including money, used in violation of the provisions of this section may be seized and forfeited to the United States. All provisions of law relating to the seizures, summary, and judicial forfeiture procedures, and condemnation of vessels, vehicles, merchandise, and baggage for violation of the customs laws; the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from such sale; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this section, insofar as applicable and not inconsistent with such provisions. Such duties as are imposed upon the collector of customs or any other person in respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the customs laws shall be performed with respect to seizures and forfeitures of property used or intended for use in violation of this section by such officers, agents, or other persons as may be designated for that purpose by the Attorney General.

(e) This section shall not apply to any bingo game, lottery, or similar game of chance conducted by an organization exempt from tax under paragraph (3) of subsection (c) of section 501 of the Internal Revenue Code of 1986, as amended, if no part of the gross receipts derived from such activity inures to the benefits of any private shareholder, member, or employee of such organization except as compensation for actual expenses incurred by him in the conduct of such activity.

(Added Pub. L. 91–452, title VIII, § 803(a), Oct. 15, 1970, 84 Stat. 937; amended Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 103–322, title XXXIII, § 330016(1)(N), Sept. 13, 1994, 108 Stat. 2148.)

REFERENCES IN TEXT

The customs laws, referred to in subsec. (d), are classified generally to Title 19, Customs Duties.

Paragraph (3) of subsection (c) of section 501 of the Internal Revenue Code of 1986, referred to in subsec. (e),

is classified to section 501(c)(3) of Title 26, Internal Revenue Code.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $20,000''.

1986—Subsec. (e). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

TRANSFER OF FUNCTIONS

Offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise in Bureau of Customs of Department of the Treasury to which appointments were required to be made by President with advice and consent of Senate ordered abolished, with such offices to be terminated not later than Dec. 31, 1966, by Reorg. Plan No. 1 of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. Functions of offices eliminated were already vested in Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

NATIONAL GAMBLING IMPACT STUDY COMMISSION

Pub. L. 104–169, Aug. 3, 1996, 110 Stat. 1482, as amended by Pub. L. 105–30, §1, July 25, 1997, 111 Stat. 248, established the National Gambling Impact Study Commission to conduct a comprehensive legal and factual study of the social and economic impacts of gambling in the United States on Federal, State, local, and Native American tribal governments, as well as on communities and social institutions generally, including individuals, families, and businesses within such communities and institutions, and to submit a report, not later than two years after its first meeting, to the President, the Congress, State Governors, and Native American tribal governments containing the Commission's findings and conclusions, together with any recommendations of the Commission, and further provided for membership of the Commission, meetings, powers and duties of the Commission, personnel matters, contracts for research with the Advisory Commission on Intergovernmental Relations and the National Research Council, definitions, appropriations, and termination of the Commission 60 days after submission of its final report.

PRIORITY OF STATE LAWS

Enactment of this section as not indicating an intent on the part of the Congress to occupy the field in which this section operates to the exclusion of State of local law on the same subject matter, or to relieve any person of any obligation imposed by any State or local law, see section 811 of Pub. L. 91–452, set out as a Priority of State Laws note under section 1511 of this title.

COMMISSION ON REVIEW OF NATIONAL POLICY TOWARD GAMBLING

Sections 804–809 of Pub. L. 91–452 established Commission on Review of National Policy Toward Gambling, provided for its membership and compensation of members and staff, empowered Commission to subpoena witnesses and grant immunity, required Commission to make a study of gambling in United States and existing Federal, State, and local policy and practices with respect to prohibition and taxation of gambling activities and to make a final report of its findings and recommendations to President and to Congress within four years of its establishment, and provided for its termination sixty days after submission of final report.

§ 1956. Laundering of monetary instruments

(a)(1) Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity—

(A)(i) with the intent to promote the carrying on of specified unlawful activity; or

(ii) with intent to engage in conduct constituting a violation of section 7201 or 7206 of the Internal Revenue Code of 1986; or

(B) knowing that the transaction is designed in whole or in part—

(i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

(ii) to avoid a transaction reporting requirement under State or Federal law,

shall be sentenced to a fine of not more than $500,000 or twice the value of the property involved in the transaction, whichever is greater, or imprisonment for not more than twenty years, or both.

(2) Whoever transports, transmits, or transfers, or attempts to transport, transmit, or transfer a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States—

(A) with the intent to promote the carrying on of specified unlawful activity; or

(B) knowing that the monetary instrument or funds involved in the transportation, transmission, or transfer represent the proceeds of some form of unlawful activity and knowing that such transportation, transmission, or transfer is designed in whole or in part—

(i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

(ii) to avoid a transaction reporting requirement under State or Federal law,

shall be sentenced to a fine of not more than $500,000 or twice the value of the monetary instrument or funds involved in the transportation, transmission, or transfer, whichever is greater, or imprisonment for not more than twenty years, or both. For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true.

(3) Whoever, with the intent—

(A) to promote the carrying on of specified unlawful activity;

(B) to conceal or disguise the nature, location, source, ownership, or control of property believed to be the proceeds of specified unlawful activity; or

(C) to avoid a transaction reporting requirement under State or Federal law,

conducts or attempts to conduct a financial transaction involving property represented to be the proceeds of specified unlawful activity, or property used to conduct or facilitate specified unlawful activity, shall be fined under this title or imprisoned for not more than 20 years, or both. For purposes of this paragraph and para-

graph (2), the term ''represented'' means any representation made by a law enforcement officer or by another person at the direction of, or with the approval of, a Federal official authorized to investigate or prosecute violations of this section.

(b) PENALTIES.—

(1) IN GENERAL.—Whoever conducts or attempts to conduct a transaction described in subsection (a)(1) or (a)(3), or section 1957, or a transportation, transmission, or transfer described in subsection (a)(2), is liable to the United States for a civil penalty of not more than the greater of—

(A) the value of the property, funds, or monetary instruments involved in the transaction; or

(B) $10,000.

(2) JURISDICTION OVER FOREIGN PERSONS.—For purposes of adjudicating an action filed or enforcing a penalty ordered under this section, the district courts shall have jurisdiction over any foreign person, including any financial institution authorized under the laws of a foreign country, against whom the action is brought, if service of process upon the foreign person is made under the Federal Rules of Civil Procedure or the laws of the country in which the foreign person is found, and—

(A) the foreign person commits an offense under subsection (a) involving a financial transaction that occurs in whole or in part in the United States;

(B) the foreign person converts, to his or her own use, property in which the United States has an ownership interest by virtue of the entry of an order of forfeiture by a court of the United States; or

(C) the foreign person is a financial institution that maintains a bank account at a financial institution in the United States.

(3) COURT AUTHORITY OVER ASSETS.—A court described in paragraph (2) may issue a pretrial restraining order or take any other action necessary to ensure that any bank account or other property held by the defendant in the United States is available to satisfy a judgment under this section.

(4) FEDERAL RECEIVER.—

(A) IN GENERAL.—A court described in paragraph (2) may appoint a Federal Receiver, in accordance with subparagraph (B) of this paragraph, to collect, marshal, and take custody, control, and possession of all assets of the defendant, wherever located, to satisfy a civil judgment under this subsection, a forfeiture judgment under section 981 or 982, or a criminal sentence under section 1957 or subsection (a) of this section, including an order of restitution to any victim of a specified unlawful activity.

(B) APPOINTMENT AND AUTHORITY.—A Federal Receiver described in subparagraph (A)—

(i) may be appointed upon application of a Federal prosecutor or a Federal or State regulator, by the court having jurisdiction over the defendant in the case;

(ii) shall be an officer of the court, and the powers of the Federal Receiver shall include the powers set out in section 754 of title 28, United States Code; and

(iii) shall have standing equivalent to that of a Federal prosecutor for the purpose of submitting requests to obtain information regarding the assets of the defendant—

(I) from the Financial Crimes Enforcement Network of the Department of the Treasury; or

(II) from a foreign country pursuant to a mutual legal assistance treaty, multilateral agreement, or other arrangement for international law enforcement assistance, provided that such requests are in accordance with the policies and procedures of the Attorney General.

(c) As used in this section—

(1) the term ''knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity'' means that the person knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes a felony under State, Federal, or foreign law, regardless of whether or not such activity is specified in paragraph (7);

(2) the term ''conducts'' includes initiating, concluding, or participating in initiating, or concluding a transaction;

(3) the term ''transaction'' includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected;

(4) the term ''financial transaction'' means (A) a transaction which in any way or degree affects interstate or foreign commerce (i) involving the movement of funds by wire or other means or (ii) involving one or more monetary instruments, or (iii) involving the transfer of title to any real property, vehicle, vessel, or aircraft, or (B) a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, interstate or foreign commerce in any way or degree;

(5) the term ''monetary instruments'' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;

(6) the term ''financial institution'' includes—

(A) any financial institution, as defined in section 5312(a)(2) of title 31, United States Code, or the regulations promulgated thereunder; and

(B) any foreign bank, as defined in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101);

(7) the term ''specified unlawful activity'' means—

(A) any act or activity constituting an offense listed in section 1961(1) of this title except an act which is indictable under subchapter II of chapter 53 of title 31;

(B) with respect to a financial transaction occurring in whole or in part in the United States, an offense against a foreign nation involving—

(i) the manufacture, importation, sale, or distribution of a controlled substance (as such term is defined for the purposes of the Controlled Substances Act);

(ii) murder, kidnapping, robbery, extortion, destruction of property by means of explosive or fire, or a crime of violence (as defined in section 16);

(iii) fraud, or any scheme or attempt to defraud, by or against a foreign bank (as defined in paragraph 7 of section 1(b) of the International Banking Act of 1978));[1]

(iv) bribery of a public official, or the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official;

(v) smuggling or export control violations involving—

(I) an item controlled on the United States Munitions List established under section 38 of the Arms Export Control Act (22 U.S.C. 2778); or

(II) an item controlled under regulations under the Export Administration Regulations (15 C.F.R. Parts 730–774);

(vi) an offense with respect to which the United States would be obligated by a multilateral treaty, either to extradite the alleged offender or to submit the case for prosecution, if the offender were found within the territory of the United States; or

(vii) trafficking in persons, selling or buying of children, sexual exploitation of children, or transporting, recruiting or harboring a person, including a child, for commercial sex acts;

(C) any act or acts constituting a continuing criminal enterprise, as that term is defined in section 408 of the Controlled Substances Act (21 U.S.C. 848);

(D) an offense under section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member), section 152 (relating to concealment of assets; false oaths and claims; bribery), section 175c (relating to the variola virus), section 215 (relating to commissions or gifts for procuring loans), section 351 (relating to congressional or Cabinet officer assassination), any of sections 500 through 503 (relating to certain counterfeiting offenses), section 513 (relating to securities of States and private entities), section 541 (relating to goods falsely classified), section 542 (relating to entry of goods by means of false statements), section 545 (relating to smuggling goods into the United States), section 549 (relating to removing goods from Customs custody), section 641 (relating to public money, property, or records), section 656 (relating to theft, embezzlement, or misapplication by bank officer or employee), section 657 (relating to lending, credit, and insurance institutions), section 658 (relating to property mortgaged or pledged to farm credit agencies), section 666 (relating to theft or bribery concerning programs receiving Federal funds), section 793, 794, or 798 (relating to espionage), section 831 (relating to prohibited transactions involving nuclear materials), section 844(f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce), section 875 (relating to interstate communications), section 922(*l*) (relating to the unlawful importation of firearms), section 924(n) (relating to firearms trafficking), section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country), section 1005 (relating to fraudulent bank entries), 1006[2] (relating to fraudulent Federal credit institution entries), 1007[2] (relating to Federal Deposit Insurance transactions), 1014[2] (relating to fraudulent loan or credit applications), section 1030 (relating to computer fraud and abuse), 1032[2] (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution), section 1111 (relating to murder), section 1114 (relating to murder of United States law enforcement officials), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons), section 1201 (relating to kidnaping), section 1203 (relating to hostage taking), section 1361 (relating to willful injury of Government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction), section 1708 (theft from the mail), section 1751 (relating to Presidential assassination), section 2113 or 2114 (relating to bank and postal robbery and theft), section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms), section 2319 (relating to copyright infringement), section 2320 (relating to trafficking in counterfeit goods and services), section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to international terrorist acts transcending national boundaries), section 2332g (relating to missile systems designed to destroy aircraft), section 2332h (relating to radiological dispersal devices), or section 2339A or 2339B (relating to providing material support to terrorists) of this title, section 46502 of title 49, United States Code, a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemi-

[1] So in original. The second closing parenthesis probably should not appear.

[2] So in original. Probably should be preceded by ''section''.

cals), section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling), section 422 of the Controlled Substances Act (relating to transportation of drug paraphernalia), section 38(c) (relating to criminal violations) of the Arms Export Control Act, section 11 (relating to violations) of the Export Administration Act of 1979, section 206 (relating to penalties) of the International Emergency Economic Powers Act, section 16 (relating to offenses and punishment) of the Trading with the Enemy Act, any felony violation of section 15 of the Food Stamp Act of 1977 (relating to food stamp fraud) involving a quantity of coupons having a value of not less than $5,000, any violation of section 543(a)(1) of the Housing Act of 1949 (relating to equity skimming), any felony violation of the Foreign Agents Registration Act of 1938, any felony violation of the Foreign Corrupt Practices Act, or section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) (relating to prohibitions governing atomic weapons)[3]

ENVIRONMENTAL CRIMES

(E) a felony violation of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Ocean Dumping Act (33 U.S.C. 1401 et seq.), the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), or the Resources Conservation and Recovery Act (42 U.S.C. 6901 et seq.); or

(F) any act or activity constituting an offense involving a Federal health care offense;

(8) the term ''State'' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(d) Nothing in this section shall supersede any provision of Federal, State, or other law imposing criminal penalties or affording civil remedies in addition to those provided for in this section.

(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Postal Service, and the Attorney General. Violations of this section involving offenses described in paragraph (c)(7)(E) may be investigated by such components of the Department of Justice as the Attorney General may direct, and the National Enforcement Investigations Center of the Environmental Protection Agency.

(f) There is extraterritorial jurisdiction over the conduct prohibited by this section if—

(1) the conduct is by a United States citizen or, in the case of a non-United States citizen, the conduct occurs in part in the United States; and

(2) the transaction or series of related transactions involves funds or monetary instruments of a value exceeding $10,000.

(g) NOTICE OF CONVICTION OF FINANCIAL INSTITUTIONS.—If any financial institution or any officer, director, or employee of any financial institution has been found guilty of an offense under this section, section 1957 or 1960 of this title, or section 5322 or 5324 of title 31, the Attorney General shall provide written notice of such fact to the appropriate regulatory agency for the financial institution.

(h) Any person who conspires to commit any offense defined in this section or section 1957 shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.

(i) VENUE.—(1) Except as provided in paragraph (2), a prosecution for an offense under this section or section 1957 may be brought in—

(A) any district in which the financial or monetary transaction is conducted; or

(B) any district where a prosecution for the underlying specified unlawful activity could be brought, if the defendant participated in the transfer of the proceeds of the specified unlawful activity from that district to the district where the financial or monetary transaction is conducted.

(2) A prosecution for an attempt or conspiracy offense under this section or section 1957 may be brought in the district where venue would lie for the completed offense under paragraph (1), or in any other district where an act in furtherance of the attempt or conspiracy took place.

(3) For purposes of this section, a transfer of funds from 1 place to another, by wire or any other means, shall constitute a single, continuing transaction. Any person who conducts (as that term is defined in subsection (c)(2)) any portion of the transaction may be charged in any district in which the transaction takes place.

(Added Pub. L. 99–570, title I, § 1352(a), Oct. 27, 1986, 100 Stat. 3207–18; amended Pub. L. 100–690, title VI, §§ 6183, 6465, 6466, 6469(a)(1), 6471(a), (b), title VII, § 7031, Nov. 18, 1988, 102 Stat. 4354, 4375, 4377, 4378, 4398; Pub. L. 101–647, title I, §§ 105–108, title XII, § 1205(j), title XIV, §§ 1402, 1404, title XXV, § 2506, title XXXV, § 3557, Nov. 29, 1990, 104 Stat. 4791, 4792, 4831, 4835, 4862, 4927; Pub. L. 102–550, title XV, §§ 1504(c), 1524, 1526(a), 1527(a), 1530, 1531, 1534, 1536, Oct. 28, 1992, 106 Stat. 4055, 4064–4067; Pub. L. 103–322, title XXXII, § 320104(b), title XXXIII, §§ 330008(2), 330011(*l*), 330012, 330019, 330021(1), Sept. 13, 1994, 108 Stat. 2111, 2142, 2145, 2146, 2149, 2150; Pub. L. 103–325, title IV, §§ 411(c)(2)(E), 413(c)(1), (d), Sept. 23, 1994, 108 Stat. 2253–2255; Pub. L. 104–132, title VII, § 726, Apr. 24, 1996, 110 Stat. 1301; Pub. L. 104–191, title II, § 246, Aug. 21, 1996, 110 Stat. 2018; Pub. L. 104–294, title VI, §§ 601(f)(6), 604(b)(38), Oct. 11, 1996, 110 Stat. 3499, 3509; Pub. L. 106–569, title VII, § 709(a), Dec. 27, 2000, 114 Stat. 3018; Pub. L. 107–56, title III, §§ 315, 317, 318, 376, title VIII, § 805(b), title X, § 1004, Oct. 26, 2001, 115 Stat. 308, 310, 311, 342, 378, 392; Pub. L. 107–273, div. B, title IV, §§ 4002(a)(11), (b)(5), (c)(2), 4005(d)(1), (e), Nov.

[3] So in original. Probably should be followed by a semicolon.

2, 2002, 116 Stat. 1807, 1809, 1812, 1813; Pub. L. 108–458, title VI, § 6909, Dec. 17, 2004, 118 Stat. 3774; Pub. L. 109–164, title I, § 103(b), Jan. 10, 2006, 119 Stat. 3563.)

REFERENCES IN TEXT

Sections 7201 and 7206 of the Internal Revenue Code of 1986, referred to in subsec. (a)(1)(A)(ii), are classified, respectively, to sections 7201 and 7206 of Title 26, Internal Revenue Code.

The Federal Rules of Civil Procedure, referred to in subsec. (b)(2), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Controlled Substances Act, referred to in subsec. (c)(7)(B)(i), (D), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§ 801 et seq.) of chapter 13 of Title 21, Food and Drugs. Section 422 of the Act is classified to section 863 of Title 21. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

The Chemical Diversion and Trafficking Act of 1988, referred to in subsec. (c)(7)(D), is subtitle A (§ 6051–6061) of title VI of Pub. L. 100–690, Nov. 18, 1988, 102 Stat. 4312. For complete classification of subtitle A to the Code, see Short Title of 1988 Amendment note set out under section 801 of Title 21, Food and Drugs, and Tables.

Section 38(c) of the Arms Export Control Act, referred to in subsec. (c)(7)(D), is classified to section 2778(c) of Title 22, Foreign Relations and Intercourse.

Section 11 of the Export Administration Act of 1979, referred to in subsec. (c)(7)(D), is classified to section 2410 of Title 50, Appendix, War and National Defense.

Section 206 of the International Emergency Economic Powers Act, referred to in subsec. (c)(7)(D), is classified to section 1705 of Title 50.

Section 16 of the Trading with the Enemy Act, referred to in subsec. (c)(7)(D), is classified to section 16 of Title 50, Appendix.

Section 15 of the Food Stamp Act of 1977, referred to in subsec. (c)(7)(D), is classified to section 2024 of Title 7, Agriculture.

Section 543(a)(1) of the Housing Act of 1949, referred to in subsec. (c)(7)(D), is classified to section 1490s(a)(1) of Title 42, The Public Health and Welfare.

The Foreign Agents Registration Act of 1938, referred to in subsec. (c)(7)(D), is act June 8, 1938, ch. 327, 52 Stat. 631, as amended, which is classified generally to subchapter II (§ 611 et seq.) of chapter 11 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 611 of Title 22 and Tables.

The Foreign Corrupt Practices Act, referred to in subsec. (c)(7)(D), probably means the Foreign Corrupt Practices Act of 1977, title I of Pub. L. 95–213, Dec. 19, 1977, 91 Stat. 1494, as amended, which enacted sections 78dd–1 to 78dd–3 of Title 15, Commerce and Trade, and amended sections 78m and 78ff of Title 15. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 78a of Title 15 and Tables.

The Federal Water Pollution Control Act, referred to in subsec. (c)(7)(E), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Ocean Dumping Act, referred to in subsec. (c)(7)(E), probably means title I of the Marine Protection, Research, and Sanctuaries Act of 1972, Pub. L. 92–532, Oct. 23, 1972, 86 Stat. 1053, as amended, which is classified generally to subchapter I (§ 1411 et seq.) of chapter 27 of Title 33. For complete classification of title I to the Code, see Tables.

The Act to Prevent Pollution from Ships, referred to in subsec. (c)(7)(E), is Pub. L. 96–478, Oct. 21, 1980, 94 Stat. 2297, as amended, which is classified principally to chapter 33 (§ 1901 et seq.) of Title 33. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of Title 33 and Tables.

The Safe Drinking Water Act, referred to in subsec. (c)(7)(E), is title XIV of act July 1, 1944, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a), 88 Stat. 1660, as amended, which is classified generally to subchapter XII (§ 300f et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The Resources Conservation and Recovery Act, referred to in subsec. (c)(7)(E), probably means the Resource Conservation and Recovery Act of 1976, Pub. L. 94–580, Oct. 21, 1976, 90 Stat. 2796, as amended, which is classified generally to chapter 82 (§ 6901 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 6901 of Title 42 and Tables.

AMENDMENTS

2006—Subsec. (c)(7)(B)(vii). Pub. L. 109–164 added cl. (vii).

2004—Subsec. (c)(7)(D). Pub. L. 108–458, § 6909(3), struck out ''or'' after ''any felony violation of the Foreign Agents Registration Act of 1938,'' and substituted '', or section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) (relating to prohibitions governing atomic weapons)'' for semicolon at end.

Pub. L. 108–458, § 6909(2), which directed the insertion of ''section 2332g (relating to missile systems designed to destroy aircraft), section 2332h (relating to radiological dispersal devices),'' after ''section 2332(b) (relating to international terrorist acts transcending national boundaries),'' was executed by making the insertion after text which contained the words ''section 2332b'' rather than ''section 2332(b)'', to reflect the probable intent of Congress.

Pub. L. 108–458, § 6909(1), inserted ''section 175c (relating to the variola virus),'' before ''section 215''.

2002—Subsec. (c)(6)(B). Pub. L. 107–273, § 4005(d)(1), substituted semicolon for period at end.

Subsec. (c)(7)(B)(ii). Pub. L. 107–273, § 4002(b)(5)(A), realigned margins.

Subsec. (c)(7)(D). Pub. L. 107–273, § 4005(e), repealed Pub. L. 107–56, § 805(b). See 2001 Amendment note below.

Pub. L. 107–273, § 4002(c)(2), substituted ''services),'' for ''services),,'' and ''Code,'' for ''Code,,''.

Pub. L. 107–273, § 4002(b)(5)(B), struck out ''or'' at end.

Pub. L. 107–273, § 4002(a)(11), made technical corrections to directory language of Pub. L. 104–132, § 726(2). See 1996 Amendment note below.

Subsec. (c)(7)(E). Pub. L. 107–273, § 4002(b)(5)(C), substituted ''; or'' for period at end.

Subsec. (c)(7)(F). Pub. L. 107–273, § 4002(b)(5)(D), substituted ''any'' for ''Any'' and semicolon for period at end.

2001—Subsec. (b). Pub. L. 107–56, § 317, inserted subsec. heading, designated existing provisions as par. (1), inserted heading and inserted '', or section 1957'' after ''or (a)(3)'' in introductory provisions, redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), realigned margins, and added pars. (2) to (4).

Subsec. (c)(6). Pub. L. 107–56, § 318, added par. (6) and struck out former par. (6) which read as follows: ''the term 'financial institution' has the definition given that term in section 5312(a)(2) of title 31, United States Code, or the regulations promulgated thereunder;''.

Subsec. (c)(7)(B). Pub. L. 107–56, § 315(1), substituted ''destruction of property by means of explosive or fire, or a crime of violence (as defined in section 16)'' for ''or destruction of property by means of explosive or fire'' in cl. (ii), inserted a closing parenthesis after ''1978'' in cl. (iii), and added cls. (iv) to (vi).

Subsec. (c)(7)(D). Pub. L. 107–56, § 376, inserted ''or 2339B'' after ''2339A''. Pub. L. 107–56, § 805(b), which amended subpar. (D) identically, was repealed by Pub. L. 107–273, § 4005(e).

Pub. L. 107–56, § 315(2), inserted ''section 541 (relating to goods falsely classified),'' before ''section 542'', ''sec-

tion 922(*l*) (relating to the unlawful importation of firearms), section 924(n) (relating to firearms trafficking),'' before ''section 956'', ''section 1030 (relating to computer fraud and abuse),'' before ''1032'', and ''any felony violation of the Foreign Agents Registration Act of 1938,'' before ''or any felony violation of the Foreign Corrupt Practices Act''.

Subsec. (i). Pub. L. 107–56, § 1004, added subsec. (i).

2000—Subsec. (c)(7)(D). Pub. L. 106–569 inserted ''any violation of section 543(a)(1) of the Housing Act of 1949 (relating to equity skimming),'' after ''coupons having a value of not less than $5,000,''.

1996—Subsec. (c)(7)(B)(ii). Pub. L. 104–132, § 726(1), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''kidnapping, robbery, or extortion; or''.

Subsec. (c)(7)(B)(iii). Pub. L. 104–294, § 601(f)(6), struck out one closing parenthesis after ''1978''.

Subsec. (c)(7)(D). Pub. L. 104–294, § 604(b)(38), amended directory language of Pub. L. 103–322, § 320104(b). See 1994 Amendment note below.

Pub. L. 104–132, § 726(2), as amended by Pub. L. 107–273, § 4002(a)(11), inserted ''section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member),'' after ''an offense under'', ''section 351 (relating to congressional or Cabinet officer assassination),'' after ''section 215 (relating to commissions or gifts for procuring loans),'', ''section 831 (relating to prohibited transactions involving nuclear materials), section 844(f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce),'' after ''798 (relating to espionage),'', ''section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country),'' after ''section 875 (relating to interstate communications),'', ''section 1111 (relating to murder), section 1114 (relating to murder of United States law enforcement officials), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons),'' after ''1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution),'', ''section 1361 (relating to willful injury of Government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),'' after ''section 1203 (relating to hostage taking),'', ''section 1751 (relating to Presidential assassination),'' after ''1708 (theft from the mail),'', ''section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),'' after ''2114 (relating to bank and postal robbery and theft),'', and substituted ''section 2320'' for ''or section 2320'' and '', section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to international terrorist acts transcending national boundaries), or section 2339A (relating to providing material support to terrorists) of this title, section 46502 of title 49, United States Code,'' for ''of this title''.

Subsec. (c)(7)(F). Pub. L. 104–191 added subpar. (F).

1994—Subsec. (a)(2). Pub. L. 103–325, § 413(c)(1)(A)(ii), substituted ''transfer'' for ''transfer.'' in concluding provisions and two times in subpar. (B).

Pub. L. 103–322, § 330019(a)(3), and Pub. L. 103–325, § 413(c)(1)(A)(i), amended par. (2) identically, inserting ''not more than'' before ''$500,000'' in concluding provisions.

Subsec. (b). Pub. L. 103–325, § 413(c)(1)(B), inserted ''or (a)(3)'' after ''(a)(1)'' and substituted ''transfer'' for ''transfer.''

Subsec. (c)(7)(B)(ii). Pub. L. 103–322, § 330021(1), substituted ''kidnapping'' for ''kidnaping''.

Subsec. (c)(7)(B)(iii). Pub. L. 103–322, § 330019(a)(1), and Pub. L. 103–325, § 413(c)(1)(C), each amended cl. (iii) by inserting a closing parenthesis after ''1978''.

Subsec. (c)(7)(D). Pub. L. 103–322, § 330019(b), and Pub. L. 103–325, § 413(c)(1)(D), amended subpar. (D) identically, substituting ''section 15 of the Food Stamp Act of 1977'' for ''section 9(c) of the Food Stamp Act of 1977''.

Pub. L. 103–322, § 330011(*l*), and Pub. L. 103–325, § 413(d), made identical amendments repealing Pub. L. 101–647, § 3557(2)(E). See 1990 Amendment note below.

Pub. L. 103–322, § 320104(b), as amended by Pub. L. 104–294, § 604(b)(38), substituted ''section 2319 (relating to copyright infringement), or section 2320 (relating to trafficking in counterfeit goods and services),'' for ''or section 2319 (relating to copyright infringement)''.

Subsec. (c)(7)(E). Pub. L. 103–322, § 330012, and Pub. L. 103–325, § 413(c)(1)(E), amended subpar. (E) identically, striking out second period at end.

Subsec. (e). Pub. L. 103–322, § 330008(2), and Pub. L. 103–325, § 413(c)(1)(F), amended subsec. (e) identically, substituting ''Environmental Protection Agency'' for ''Evironmental Protection Agency''.

Subsec. (g). Pub. L. 103–325, § 411(c)(2)(E), in subsec. (g) relating to notice of conviction of financial institutions, substituted ''section 5322 or 5324 of title 31'' for ''section 5322 of title 31''.

Pub. L. 103–322, § 330019(a)(2), and Pub. L. 103–325, § 413(c)(1)(G), made identical amendments redesignating subsec. (g) relating to penalty for money laundering conspiracies as (h).

Subsec. (h). Pub. L. 103–322, § 330019(a)(2), and Pub. L. 103–325, § 413(c)(1)(G), made identical amendments redesignating subsec. (g) relating to penalty for money laundering conspiracies as (h).

1992—Subsec. (a)(2). Pub. L. 102–550, § 1531(a), substituted ''transportation, transmission, or transfer.'' for ''transportation'' wherever appearing in subpar. (B) and concluding provisions.

Subsec. (a)(3). Pub. L. 102–550, § 1531(b), in concluding provisions, substituted ''property represented to be the proceeds'' for ''property represented by a law enforcement officer to be the proceeds''.

Subsec. (b). Pub. L. 102–550, § 1531(a), substituted ''transportation, transmission, or transfer.'' for ''transportation'' in introductory provisions.

Subsec. (c)(3). Pub. L. 102–550, § 1527(a)(2), inserted ''use of a safe deposit box,'' before ''or any other payment''.

Subsec. (c)(4)(A). Pub. L. 102–550, § 1527(a)(1), added clause (iii), struck out ''which in any way or degree affects interstate or foreign commerce,'' after ''or aircraft,'' and inserted ''which in any way or degree affects interstate or foreign commerce'' after ''(A) or transaction''.

Subsec. (c)(6). Pub. L. 102–550, § 1526(a), substituted ''or the regulations'' for ''and the regulations''.

Subsec. (c)(7)(B). Pub. L. 102–550, § 1536, designated part of existing provisions as cl. (i) and added cls. (ii) and (iii).

Subsec. (c)(7)(D). Pub. L. 102–550, §§ 1524, 1534(1), (2), struck out ''1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution, section 1344 (relating to bank fraud),'' after ''hostage taking),'', inserted ''section 1708 (theft from the mail),'' before ''section 2113'', substituted ''section 422 of the Controlled Substances Act'' for ''section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207–51; 21 U.S.C. 857)'', and struck out ''or'' before ''section 16''.

Pub. L. 102–550, § 1534(3), which directed insertion of '', any felony violation of section 9(c) of the Food Stamp Act of 1977 (relating to food stamp fraud) involving a quantity of coupons having a value of not less than $5,000, or any felony violation of the Foreign Corrupt Practices Act'' before semicolon, was executed by making insertion before semicolon at end to reflect the probable intent of Congress.

Subsec. (g). Pub. L. 102–550, § 1530, added subsec. (g) relating to penalty for money laundering conspiracies.

Pub. L. 102–550, § 1504(c), added subsec. (g) relating to notice of conviction of financial institutions.

1990—Subsec. (a)(2). Pub. L. 101–647, § 108(1), inserted at end ''For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be estab-

lished by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true.''

Subsec. (a)(3). Pub. L. 101–647, § 108(2), inserted ''and paragraph (2)'' after ''this paragraph'' in last sentence.

Subsec. (c)(1). Pub. L. 101–647, § 106, substituted ''State, Federal, or foreign'' for ''State or Federal''.

Subsec. (c)(4). Pub. L. 101–647, § 1402, inserted ''(A)'' before ''a transaction'' the first place it appears, ''(B)'' before ''a transaction'' the second place it appears, ''(i)'' before ''involving'' the first place it appears, and ''(ii)'' before ''involving'' the second place it appears.

Subsec. (c)(5). Pub. L. 101–647, § 105, amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''the term 'monetary instruments' means coin or currency of the United States or of any other country, travelers'' checks, personal checks, bank checks, money orders, investment securities in bearer form or otherwise in such form that title thereto passes upon delivery, and negotiable instruments in bearer form or otherwise in such form that title thereto passes upon delivery;''.

Subsec. (c)(7)(A). Pub. L. 101–647, § 3557(1), substituted ''subchapter II of chapter 53 of title 31'' for ''the Currency and Foreign Transactions Reporting Act''.

Subsec. (c)(7)(C). Pub. L. 101–647, § 1404(a)(1), struck out ''or'' at end.

Subsec. (c)(7)(D). Pub. L. 101–647, § 3557(2)(A)–(D), substituted ''section 2113'' for ''or section 2113'', substituted ''theft), or'' for ''theft) of this title,'', inserted ''of this title'' after ''2319 (relating to copyright infringement)'', and substituted ''paraphernalia'' for ''paraphenalia''.

Pub. L. 101–647, § 3557(2)(E), which directed the amendment of subpar. (D) by striking the final period, was repealed by Pub. L. 103–322, § 330011(*l*), and Pub. L. 103–325, § 413(d).

Pub. L. 101–647, § 2506(2), inserted ''section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution,'' after ''section 1203 (relating to hostage taking),''.

Pub. L. 101–647, § 2506(1), inserted ''section 1005 (relating to fraudulent bank entries), 1006 (relating to fraudulent Federal credit institution entries), 1007 (relating to Federal Deposit Insurance transactions), 1014 (relating to fraudulent loan or credit applications), 1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution),'' after ''section 875 (relating to interstate communications),''.

Pub. L. 101–647, § 1404(a)(2), inserted ''; or'' after ''Trading with the Enemy Act'' at end.

Pub. L. 101–647, § 107, substituted ''a felony violation of the Chemical Diversion and Trafficking Act of 1988'' for ''section 310 of the Controlled Substances Act (21 U.S.C. 830)''.

Subsec. (c)(7)(E). Pub. L. 101–647, § 1404(a)(2), amended par. (7) by inserting ''; or'' and subpar. (E) before the period.

Subsec. (c)(8). Pub. L. 101–647, § 1205(j), added par. (8).

Subsec. (e). Pub. L. 101–647, § 1404(b), inserted at end ''Violations of this section involving offenses described in paragraph (c)(7)(E) may be investigated by such components of the Department of Justice as the Attorney General may direct, and the National Enforcement Investigations Center of the Evironmental [sic] Protection Agency.''

1988—Subsec. (a)(1)(A). Pub. L. 100–690, § 6471(a), amended subpar. (A) generally, designating existing provisions as cl. (i) and adding cl. (ii).

Subsec. (a)(2). Pub. L. 100–690, § 6471(b), substituted ''transports, transmits, or transfers, or attempts to transport, transmit, or transfer'' for ''transports or attempts to transport'' in introductory provisions.

Subsec. (a)(3). Pub. L. 100–690, § 6465, added par. (3).

Subsec. (c)(7)(D). Pub. L. 100–690, § 7031, substituted ''section 513'' for ''section 511'' and ''section 545'' for ''section 543'' and inserted ''section 657 (relating to lending, credit, and insurance institutions), section 658 (relating to property mortgaged or pledged to farm credit agencies),''.

Pub. L. 100–690, § 6466, inserted ''section 542 (relating to entry of goods by means of false statements),'', ''section 549 (relating to removing goods from Customs custody),'', and ''section 2319 (relating to copyright infringement), section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals), section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling), section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207–51; 21 U.S.C. 857) (relating to transportation of drug paraphenalia [sic]),''.

Pub. L. 100–690, § 6183, substituted ''section 38(c) (relating to criminal violations) of the Arms Export Control Act, section 11 (relating to violations) of the Export Administration Act of 1979, section 206 (relating to penalties) of the International Emergency Economic Powers Act, or section 16 (relating to offenses and punishment) of the Trading with the Enemy Act.'' for ''section 38 of the Arms Export Control Act (22 U.S.C. 2778), section 2 (relating to criminal penalties) of the Export Administration Act of 1979 (50 U.S.C. App. 2401), section 203 (relating to criminal sanctions) of the International Emergency Economic Powers Act (50 U.S.C. 1702), or section 3 (relating to criminal violations) of the Trading with the Enemy Act (50 U.S.C. App. 3)''.

Subsec. (e). Pub. L. 100–690, § 6469(a)(1), substituted ''and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Postal Service, and the Attorney General.'' for ''. Such authority of the Secretary of the Treasury shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.''

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–273, div. B, title IV, § 4002(a)(11), Nov. 2, 2002, 116 Stat. 1807, provided that the amendment made by section 4002(a)(11) is effective Apr. 24, 1996.

Pub. L. 107–273, div. B, title IV, § 4005(e), Nov. 2, 2002, 116 Stat. 1813, provided that the amendment made by section 4005(e) is effective Oct. 26, 2001.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 604(b)(38) of Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

EFFECTIVE DATE OF 1994 AMENDMENTS

Section 330011(*l*) of Pub. L. 103–322 and section 413(d) of Pub. L. 103–325 provided that the repeal of section 3557(2)(E) of Pub. L. 101–647 made by those sections is effective as of the date of enactment of Pub. L. 101–647, which was approved Nov. 29, 1990.

§ 1957. Engaging in monetary transactions in property derived from specified unlawful activity

(a) Whoever, in any of the circumstances set forth in subsection (d), knowingly engages or attempts to engage in a monetary transaction in criminally derived property of a value greater than $10,000 and is derived from specified unlawful activity, shall be punished as provided in subsection (b).

(b)(1) Except as provided in paragraph (2), the punishment for an offense under this section is a fine under title 18, United States Code, or imprisonment for not more than ten years or both.

(2) The court may impose an alternate fine to that imposable under paragraph (1) of not more

than twice the amount of the criminally derived property involved in the transaction.

(c) In a prosecution for an offense under this section, the Government is not required to prove the defendant knew that the offense from which the criminally derived property was derived was specified unlawful activity.

(d) The circumstances referred to in subsection (a) are—

(1) that the offense under this section takes place in the United States or in the special maritime and territorial jurisdiction of the United States; or

(2) that the offense under this section takes place outside the United States and such special jurisdiction, but the defendant is a United States person (as defined in section 3077 of this title, but excluding the class described in paragraph (2)(D) of such section).

(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Postal Service, and the Attorney General.

(f) As used in this section—

(1) the term ''monetary transaction'' means the deposit, withdrawal, transfer, or exchange, in or affecting interstate or foreign commerce, of funds or a monetary instrument (as defined in section 1956(c)(5) of this title) by, through, or to a financial institution (as defined in section 1956 of this title), including any transaction that would be a financial transaction under section 1956(c)(4)(B) of this title, but such term does not include any transaction necessary to preserve a person's right to representation as guaranteed by the sixth amendment to the Constitution;

(2) the term ''criminally derived property'' means any property constituting, or derived from, proceeds obtained from a criminal offense; and

(3) the term ''specified unlawful activity'' has the meaning given that term in section 1956 of this title.

(Added Pub. L. 99–570, title I, § 1352(a), Oct. 27, 1986, 100 Stat. 3207–21; amended Pub. L. 100–690, title VI, §§ 6182, 6184, 6469(a)(2), Nov. 18, 1988, 102 Stat. 4354, 4377; Pub. L. 102–550, title XV, §§ 1526(b), 1527(b), Oct. 28, 1992, 106 Stat. 4065; Pub. L. 103–322, title XXXIII, § 330020, Sept. 13, 1994, 108 Stat. 2149; Pub. L. 103–325, title IV, § 413(c)(2), Sept. 23, 1994, 108 Stat. 2255.)

AMENDMENTS

1994—Subsec. (f)(1). Pub. L. 103–322, § 330020, and Pub. L. 103–325, § 413(c)(2), amended par. (1) identically, striking out second comma after ''(as defined in section 1956 of this title)''.

1992—Subsec. (f)(1). Pub. L. 102–550 substituted ''section 1956 of this title'' for ''section 5312 of title 31'' and inserted '', including any transaction that would be a financial transaction under section 1956(c)(4)(B) of this title,'' before ''but such term does not include''.

1988—Subsec. (e). Pub. L. 100–690, § 6469(a)(2), substituted ''and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Postal Service, and the Attorney General.'' for ''. Such authority of the Secretary of the Treasury shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.''

Subsec. (f)(1). Pub. L. 100–690, §§ 6182, 6184, substituted ''in section 1956(c)(5) of this title'' for ''for the purposes of subchapter II of chapter 53 of title 31'' and inserted '', but such term does not include any transaction necessary to preserve a person's right to representation as guaranteed by the sixth amendment to the Constitution''.

§ 1958. Use of interstate commerce facilities in the commission of murder-for-hire

(a) Whoever travels in or causes another (including the intended victim) to travel in interstate or foreign commerce, or uses or causes another (including the intended victim) to use the mail or any facility of interstate or foreign commerce, with intent that a murder be committed in violation of the laws of any State or the United States as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value, or who conspires to do so, shall be fined under this title or imprisoned for not more than ten years, or both; and if personal injury results, shall be fined under this title or imprisoned for not more than twenty years, or both; and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both.

(b) As used in this section and section 1959—

(1) ''anything of pecuniary value'' means anything of value in the form of money, a negotiable instrument, a commercial interest, or anything else the primary significance of which is economic advantage;

(2) ''facility of interstate or foreign commerce'' includes means of transportation and communication; and

(3) ''State'' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(Added Pub. L. 98–473, title II, § 1002(a), Oct. 12, 1984, 98 Stat. 2136, § 1952A; renumbered § 1958 and amended Pub. L. 100–690, title VII, §§ 7053(a), 7058(b), Nov. 18, 1988, 102 Stat. 4402, 4403; Pub. L. 101–647, title XII, § 1205(k), title XXXV, § 3558, Nov. 29, 1990, 104 Stat. 4831, 4927; Pub. L. 103–322, title VI, § 60003(a)(11), title XIV, § 140007(b), title XXXII, § 320105, title XXXIII, § 330016(1)(L), (N), (Q), Sept. 13, 1994, 108 Stat. 1969, 2033, 2111, 2147, 2148; Pub. L. 104–294, title VI, §§ 601(g)(3), 605(a), Oct. 11, 1996, 110 Stat. 3500, 3509; Pub. L. 108–458, title VI, § 6704, Dec. 17, 2004, 118 Stat. 3766.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–458, § 6704(1), substituted ''facility of'' for ''facility in''.

Subsec. (b)(2). Pub. L. 108–458, § 6704(2), inserted ''or foreign'' after ''interstate''.

1996—Subsec. (a). Pub. L. 104–294 substituted comma for ''or who conspires to do so'' after ''or who conspires to do so'' and substituted ''this title or imprisoned'' for

''this title and imprisoned'' before ''for not more than twenty years''.

1994—Pub. L. 103–322, § 330016(1)(Q), which directed the amendment of this section by substituting ''under this title'' for ''not more than $50,000'', could not be executed because the phrase ''not more than $50,000'' did not appear in text subsequent to amendment of subsec. (a) by Pub. L. 103–322, § 60003(a)(11). See below.

Subsec. (a). Pub. L. 103–322, § 330016(1)(N), substituted ''fined under this title'' for ''fined not more than $20,000'' after ''injury results, shall be''.

Pub. L. 103–322, § 330016(1)(L), substituted ''fined under this title'' for ''fined not more than $10,000'' before ''or imprisoned for not more than ten years''.

Pub. L. 103–322, §§ 140007(b), 320105, each amended subsec. (a) by inserting ''or who conspires to do so'' after ''anything of pecuniary value,''.

Pub. L. 103–322, § 60003(a)(11), substituted ''and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both'' for ''and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both'' before period at end.

1990—Subsec. (b). Pub. L. 101–647, § 3558, substituted ''section 1959'' for ''section 1952B'' in introductory provisions.

Subsec. (b)(3). Pub. L. 101–647, § 1205(k), added par. (3).

1988—Pub. L. 100–690, § 7053(a), renumbered section 1952A of this title as this section.

Subsec. (a). Pub. L. 100–690, § 7058(b), substituted ''ten years'' for ''five years''.

§ 1959. Violent crimes in aid of racketeering activity

(a) Whoever, as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value from an enterprise engaged in racketeering activity, or for the purpose of gaining entrance to or maintaining or increasing position in an enterprise engaged in racketeering activity, murders, kidnaps, maims, assaults with a dangerous weapon, commits assault resulting in serious bodily injury upon, or threatens to commit a crime of violence against any individual in violation of the laws of any State or the United States, or attempts or conspires so to do, shall be punished—

(1) for murder, by death or life imprisonment, or a fine under this title, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine under this title, or both;

(2) for maiming, by imprisonment for not more than thirty years or a fine under this title, or both;

(3) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than twenty years or a fine under this title, or both;

(4) for threatening to commit a crime of violence, by imprisonment for not more than five years or a fine under this title, or both;

(5) for attempting or conspiring to commit murder or kidnapping, by imprisonment for not more than ten years or a fine under this title, or both; and

(6) for attempting or conspiring to commit a crime involving maiming, assault with a dangerous weapon, or assault resulting in serious bodily injury, by imprisonment for not more than three years or a fine of[1] under this title, or both.

(b) As used in this section—

(1) ''racketeering activity'' has the meaning set forth in section 1961 of this title; and

(2) ''enterprise'' includes any partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, which is engaged in, or the activities of which affect, interstate or foreign commerce.

(Added Pub. L. 98–473, title II, § 1002(a), Oct. 12, 1984, 98 Stat. 2137, § 1952B; renumbered § 1959, Pub. L. 100–690, title VII, § 7053(b), Nov. 18, 1988, 102 Stat. 4402; Pub. L. 103–322, title VI, § 60003(a)(12), title XXXIII, §§ 330016(1)(J), (2)(C), 330021(1), Sept. 13, 1994, 108 Stat. 1969, 2147, 2148, 2150.)

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103–322, § 330016(2)(C), substituted ''fine under this title'' for ''fine of not more than $250,000'' in two places.

Pub. L. 103–322, § 60003(a)(12), amended par. (1) generally. Prior to amendment, par. (1) read as follows:

''(1) for murder or kidnaping, by imprisonment for any term of years or for life or a fine of not more than $50,000, or both;''.

Subsec. (a)(2) to (4). Pub. L. 103–322, § 330016(2)(C), substituted ''fine under this title'' for ''fine of not more than $30,000'' in par. (2), ''fine of not more than $20,000'' in par. (3), and ''fine of not more than $5,000'' in par. (4).

Subsec. (a)(5). Pub. L. 103–322, § 330021(1), substituted ''kidnapping'' for ''kidnaping''.

Pub. L. 103–322, § 330016(2)(C), substituted ''fine under this title'' for ''fine of not more than $10,000''.

Subsec. (a)(6). Pub. L. 103–322, § 330016(1)(J), substituted ''under this title'' for ''not more than $3,000'' after ''fine of''.

1988—Pub. L. 100–690 renumbered section 1952B of this title as this section.

§ 1960. Prohibition of unlicensed money transmitting businesses

(a) Whoever knowingly conducts, controls, manages, supervises, directs, or owns all or part of an unlicensed money transmitting business, shall be fined in accordance with this title or imprisoned not more than 5 years, or both.

(b) As used in this section—

(1) the term ''unlicensed money transmitting business'' means a money transmitting business which affects interstate or foreign commerce in any manner or degree and—

(A) is operated without an appropriate money transmitting license in a State where such operation is punishable as a misdemeanor or a felony under State law, whether or not the defendant knew that the operation was required to be licensed or that the operation was so punishable;

(B) fails to comply with the money transmitting business registration requirements under section 5330 of title 31, United States Code, or regulations prescribed under such section; or

(C) otherwise involves the transportation or transmission of funds that are known to the defendant to have been derived from a criminal offense or are intended to be used to promote or support unlawful activity;

(2) the term ''money transmitting'' includes transferring funds on behalf of the public by any and all means including but not limited to

[1] So in original. The word ''of'' probably should not appear.

transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier; and

(3) the term ''State'' means any State of the United States, the District of Columbia, the Northern Mariana Islands, and any commonwealth, territory, or possession of the United States.

(Added Pub. L. 102–550, title XV, § 1512(a), Oct. 28, 1992, 106 Stat. 4057; amended Pub. L. 103–325, title IV, § 408(c), Sept. 23, 1994, 108 Stat. 2252; Pub. L. 107–56, title III, § 373(a), Oct. 26, 2001, 115 Stat. 339; Pub. L. 109–162, title XI, § 1171(a)(2), Jan. 5, 2006, 119 Stat. 3123.)

AMENDMENTS

2006—Subsec. (b)(1)(C). Pub. L. 109–162 substituted ''to be used'' for ''to be used to be used''.

2001—Pub. L. 107–56 amended section catchline and text generally, substituting provisions relating to prohibition of unlicensed money transmitting businesses for similar provisions relating to prohibition of illegal money transmitting businesses.

1994—Subsec. (b)(1). Pub. L. 103–325 amended par. (1) generally. Prior to amendment, par. (1) read as follows:

''(1) the term 'illegal money transmitting business' means a money transmitting business that affects interstate or foreign commerce in any manner or degree and which is knowingly operated in a State—

''(A) without the appropriate money transmitting State license; and

''(B) where such operation is punishable as a misdemeanor or a felony under State law;''.

CHAPTER 96—RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

Sec.
1961. Definitions.
1962. Prohibited activities.
1963. Criminal penalties.
1964. Civil remedies.
1965. Venue and process.
1966. Expedition of actions.
1967. Evidence.
1968. Civil investigative demand.

AMENDMENTS

1990—Pub. L. 101–647, title XXXV, § 3559, Nov. 29, 1990, 104 Stat. 4927, struck out ''racketeering'' after ''Prohibited'' in item 1962.

1970—Pub. L. 91–452, title IX, § 901(a), Oct. 15, 1970, 84 Stat. 941, added chapter 96 and items 1961 to 1968.

§ 1961. Definitions

As used in this chapter—

(1) ''racketeering activity'' means (A) any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which is indictable under any of the following provisions of title 18, United States Code: Section 201 (relating to bribery), section 224 (relating to sports bribery), sections 471, 472, and 473 (relating to counterfeiting), section 659 (relating to theft from interstate shipment) if the act indictable under section 659 is felonious, section 664 (relating to embezzlement from pension and welfare funds), sections 891–894 (relating to extortionate credit transactions), section 1028 (relating to fraud and related activity in connection with identification documents), section 1029 (relating to fraud and related activity in connection with access devices), section 1084 (relating to the transmission of gambling information), section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1344 (relating to financial institution fraud), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), sections 1461–1465 (relating to obscene matter), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of State or local law enforcement), section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant), section 1542 (relating to false statement in application and use of passport), section 1543 (relating to forgery or false use of passport), section 1544 (relating to misuse of passport), section 1546 (relating to fraud and misuse of visas, permits, and other documents), sections 1581–1592 (relating to peonage, slavery, and trafficking in persons).,[1] section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering), section 1953 (relating to interstate transportation of wagering paraphernalia), section 1954 (relating to unlawful welfare fund payments), section 1955 (relating to the prohibition of illegal gambling businesses), section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity), section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire), sections 2251, 2251A, 2252, and 2260 (relating to sexual exploitation of children), sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles), sections 2314 and 2315 (relating to interstate transportation of stolen property), section 2318 (relating to trafficking in counterfeit labels for phonorecords, computer programs or computer program documentation or packaging and copies of motion pictures or other audiovisual works), section 2319 (relating to criminal infringement of a copyright), section 2319A (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances), section 2320 (relating to trafficking in goods or services bearing counterfeit marks), section 2321 (relating to trafficking in certain motor vehicles or motor vehicle parts), sections 2341–2346 (relating to trafficking in contraband cigarettes), sections 2421–24 (relating to white slave traffic), sections 175–178 (relating to biological weapons), sections 229–229F (relating to chemical weapons), section 831 (relating to nuclear materials), (C) any act which

[1] So in original.

is indictable under title 29, United States Code, section 186 (dealing with restrictions on payments and loans to labor organizations) or section 501(c) (relating to embezzlement from union funds), (D) any offense involving fraud connected with a case under title 11 (except a case under section 157 of this title), fraud in the sale of securities, or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), punishable under any law of the United States, (E) any act which is indictable under the Currency and Foreign Transactions Reporting Act, (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain, or (G) any act that is indictable under any provision listed in section 2332b(g)(5)(B);

(2) ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof;

(3) ''person'' includes any individual or entity capable of holding a legal or beneficial interest in property;

(4) ''enterprise'' includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity;

(5) ''pattern of racketeering activity'' requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity;

(6) ''unlawful debt'' means a debt (A) incurred or contracted in gambling activity which was in violation of the law of the United States, a State or political subdivision thereof, or which is unenforceable under State or Federal law in whole or in part as to principal or interest because of the laws relating to usury, and (B) which was incurred in connection with the business of gambling in violation of the law of the United States, a State or political subdivision thereof, or the business of lending money or a thing of value at a rate usurious under State or Federal law, where the usurious rate is at least twice the enforceable rate;

(7) ''racketeering investigator'' means any attorney or investigator so designated by the Attorney General and charged with the duty of enforcing or carrying into effect this chapter;

(8) ''racketeering investigation'' means any inquiry conducted by any racketeering investigator for the purpose of ascertaining whether any person has been involved in any violation of this chapter or of any final order, judgment, or decree of any court of the United States, duly entered in any case or proceeding arising under this chapter;

(9) ''documentary material'' includes any book, paper, document, record, recording, or other material; and

(10) ''Attorney General'' includes the Attorney General of the United States, the Deputy Attorney General of the United States, the Associate Attorney General of the United States, any Assistant Attorney General of the United States, or any employee of the Department of Justice or any employee of any department or agency of the United States so designated by the Attorney General to carry out the powers conferred on the Attorney General by this chapter. Any department or agency so designated may use in investigations authorized by this chapter either the investigative provisions of this chapter or the investigative power of such department or agency otherwise conferred by law.

(Added Pub. L. 91–452, title IX, § 901(a), Oct. 15, 1970, 84 Stat. 941; amended Pub. L. 95–575, § 3(c), Nov. 2, 1978, 92 Stat. 2465; Pub. L. 95–598, title III, § 314(g), Nov. 6, 1978, 92 Stat. 2677; Pub. L. 98–473, title II, §§ 901(g), 1020, Oct. 12, 1984, 98 Stat. 2136, 2143; Pub. L. 98–547, title II, § 205, Oct. 25, 1984, 98 Stat. 2770; Pub. L. 99–570, title I, § 1365(b), Oct. 27, 1986, 100 Stat. 3207–35; Pub. L. 99–646, § 50(a), Nov. 10, 1986, 100 Stat. 3605; Pub. L. 100–690, title VII, §§ 7013, 7020(c), 7032, 7054, 7514, Nov. 18, 1988, 102 Stat. 4395, 4396, 4398, 4402, 4489; Pub. L. 101–73, title IX, § 968, Aug. 9, 1989, 103 Stat. 506; Pub. L. 101–647, title XXXV, § 3560, Nov. 29, 1990, 104 Stat. 4927; Pub. L. 103–322, title IX, § 90104, title XVI, § 160001(f), title XXXIII, § 330021(1), Sept. 13, 1994, 108 Stat. 1987, 2037, 2150; Pub. L. 103–394, title III, § 312(b), Oct. 22, 1994, 108 Stat. 4140; Pub. L. 104–132, title IV, § 433, Apr. 24, 1996, 110 Stat. 1274; Pub. L. 104–153, § 3, July 2, 1996, 110 Stat. 1386; Pub. L. 104–208, div. C, title II, § 202, Sept. 30, 1996, 110 Stat. 3009–565; Pub. L. 104–294, title VI, §§ 601(b)(3), (i)(3), 604(b)(6), Oct. 11, 1996, 110 Stat. 3499, 3501, 3506; Pub. L. 107–56, title VIII, § 813, Oct. 26, 2001, 115 Stat. 382; Pub. L. 107–273, div. B, title IV, § 4005(f)(1), Nov. 2, 2002, 116 Stat. 1813; Pub. L. 108–193, § 5(b), Dec. 19, 2003, 117 Stat. 2879; Pub. L. 108–458, title VI, § 6802(e), Dec. 17, 2004, 118 Stat. 3767; Pub. L. 109–164, title I, § 103(c), Jan. 10, 2006, 119 Stat. 3563.)

REFERENCES IN TEXT

Section 102 of the Controlled Substances Act, referred to in par. (1)(A), (D), is classified to section 802 of Title 21, Food and Drugs.

The Currency and Foreign Transactions Reporting Act, referred to in par. (1)(E), is title II of Pub. L. 91–508, Oct. 26, 1970, 84 Stat. 1118, which was repealed and reenacted as subchapter II of chapter 53 of Title 31, Money and Finance, by Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31.

The Immigration and Nationality Act, referred to in par. (1)(F), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§ 1101 et seq.) of Title 8, Aliens and Nationality. Sections 274, 277, and 278 of the Act are classified to sections 1324, 1327, and 1328 of Title 8, respectively. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

The effective date of this chapter, referred to in par. (5), is Oct. 15, 1970.

AMENDMENTS

2006—Par. (1)(B). Pub. L. 109–164 substituted ''1581–1592'' for ''1581–1591''.

2004—Par. (1)(B). Pub. L. 108–458 inserted ''sections 175–178 (relating to biological weapons), sections 229–229F (relating to chemical weapons), section 831 (relating to nuclear materials),'' before ''(C) any act which is indictable under title 29''.

2003—Par. (1)(B). Pub. L. 108–193, which directed amendment of par. (1)(A) of this section by substituting ''sections 1581–1591 (relating to peonage, slavery, and trafficking in persons).'' for ''sections 1581–1588 (relating to peonage and slavery)'', was executed by making the substitution in par. (1)(B) to reflect the probable intent of Congress.

2002—Par. (1)(G). Pub. L. 107–273 made technical amendment to directory language of Pub. L. 107–56. See 2001 Amendment note below.

2001—Par. (1)(G). Pub. L. 107–56, as amended by Pub. L. 107–273, which directed addition of cl. (G) before period at end, was executed by making the addition before the semicolon at end to reflect the probable intent of Congress.

1996—Par. (1)(B). Pub. L. 104–294, § 604(b)(6), amended directory language of Pub. L. 103–322, § 160001(f). See 1994 Amendment note below.

Pub. L. 104–294, § 601(i)(3), substituted ''2260'' for ''2258''.

Pub. L. 104–208 struck out ''if the act indictable under section 1028 was committed for the purpose of financial gain'' before '', section 1029'', inserted ''section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers),'' after ''section 1344 (relating to financial institution fraud),'', struck out ''if the act indictable under section 1542 was committed for the purpose of financial gain'' before '', section 1543'', ''if the act indictable under section 1543 was committed for the purpose of financial gain'' before '', section 1544'', ''if the act indictable under section 1544 was committed for the purpose of financial gain'' before '', section 1546'', and ''if the act indictable under section 1546 was committed for the purpose of financial gain'' before '', sections 1581–1588''.

Pub. L. 104–153 inserted '', section 2318 (relating to trafficking in counterfeit labels for phonorecords, computer programs or computer program documentation or packaging and copies of motion pictures or other audiovisual works), section 2319 (relating to criminal infringement of a copyright), section 2319A (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances), section 2320 (relating to trafficking in goods or services bearing counterfeit marks)'' after ''sections 2314 and 2315 (relating to interstate transportation of stolen property)''.

Pub. L. 104–132, § 433(1), (2), inserted ''section 1028 (relating to fraud and related activity in connection with identification documents) if the act indictable under section 1028 was committed for the purpose of financial gain,'' before ''section 1029'' and ''section 1542 (relating to false statement in application and use of passport) if the act indictable under section 1542 was committed for the purpose of financial gain, section 1543 (relating to forgery or false use of passport) if the act indictable under section 1543 was committed for the purpose of financial gain, section 1544 (relating to misuse of passport) if the act indictable under section 1544 was committed for the purpose of financial gain, section 1546 (relating to fraud and misuse of visas, permits, and other documents) if the act indictable under section 1546 was committed for the purpose of financial gain, sections 1581–1588 (relating to peonage and slavery),'' after ''section 1513 (relating to retaliating against a witness, victim, or an informant),''.

Par. (1)(D). Pub. L. 104–294, § 601(b)(3), substituted ''section 157 of this title'' for ''section 157 of that title''.

Par. (1)(F). Pub. L. 104–132, § 433(3), (4), which directed addition of cl. (F) before period at end, was executed by making the addition before the semicolon at end to reflect the probable intent of Congress.

1994—Par. (1)(A). Pub. L. 103–322, § 330021(1), substituted ''kidnapping'' for ''kidnaping''.

Pub. L. 103–322, § 90104, substituted ''a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act)'' for ''narcotic or other dangerous drugs''.

Par. (1)(B). Pub. L. 103–322, § 160001(f), as amended by Pub. L. 104–294, § 604(b)(6), substituted ''2251, 2251A, 2252, and 2258'' for ''2251–2252''.

Par. (1)(D). Pub. L. 103–394 inserted ''(except a case under section 157 of that title)'' after ''title 11''.

Pub. L. 103–322, § 90104, substituted ''a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act)'' for ''narcotic or other dangerous drugs''.

1990—Par. (1)(B). Pub. L. 101–647 substituted ''section 1029 (relating to'' for ''section 1029 (relative to'' and struck out ''sections 2251 through 2252 (relating to sexual exploitation of children),'' before '', section 1958''.

1989—Par. (1). Pub. L. 101–73 inserted ''section 1344 (relating to financial institution fraud),'' after ''section 1343 (relating to wire fraud),''.

1988—Par. (1)(B). Pub. L. 100–690, § 7514, inserted ''sections 2251 through 2252 (relating to sexual exploitation of children),''.

Pub. L. 100–690, § 7054, inserted '', section 1029 (relative to fraud and related activity in connection with access devices)'' and '', section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire), sections 2251–2252 (relating to sexual exploitation of children)''.

Pub. L. 100–690, § 7032, substituted ''section 2321'' for ''section 2320''.

Pub. L. 100–690, § 7013, made technical amendment to directory language of Pub. L. 99–646. See 1986 Amendment note below.

Par. (10). Pub. L. 100–690, § 7020(c), inserted ''the Associate Attorney General of the United States,'' after ''Deputy Attorney General of the United States,''.

1986—Par. (1)(B). Pub. L. 99–646, as amended by Pub. L. 100–690, § 7013, inserted ''section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant),'' after ''section 1511 (relating to the obstruction of State or local law enforcement),''.

Pub. L. 99–570 inserted ''section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity),''.

1984—Par. (1)(A). Pub. L. 98–473, § 1020(1), inserted ''dealing in obscene matter,'' after ''extortion,''.

Par. (1)(B). Pub. L. 98–547 inserted ''sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles),'' and ''section 2320 (relating to trafficking in certain motor vehicles or motor vehicle parts),''.

Pub. L. 98–473, § 1020(2), inserted ''sections 1461–1465 (relating to obscene matter),''.

Par. (1)(E). Pub. L. 98–473, § 901(g), added cl. (E).

1978—Par. (1)(B). Pub. L. 95–575 inserted ''sections 2341–2346 (relating to trafficking in contraband cigarettes),''.

Par. (1)(D). Pub. L. 95–598 substituted ''fraud connected with a case under title 11'' for ''bankruptcy fraud''.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–273, div. B, title IV, § 4005(f)(1), Nov. 2, 2002, 116 Stat. 1813, provided that the amendment made by section 4005(f)(1) is effective Oct. 26, 2001.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 604(b)(6) of Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–394 effective Oct. 22, 1994, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before Oct. 22, 1994, see section 702 of Pub. L. 103–394, set out as a note under section 101 of Title 11.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95–598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

Amendment by Pub. L. 95–575 effective Nov. 2, 1978, see section 4 of Pub. L. 95–575, set out as an Effective Date note under section 2341 of this title.

SHORT TITLE OF 1984 AMENDMENT

Section 301 of chapter III (§§ 301–322) of title II of Pub. L. 98–473 provided that: ''This title [probably means this chapter, enacting sections 1589, 1600, 1613a, and 1616 of Title 19, Customs Duties and sections 853, 854, and 970 of Title 21, Food and Drugs, amending section 1963 of this title and sections 1602, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613, 1614, 1615, 1618, 1619, and 1644 of Title 19, sections 824, 848, and 881 of Title 21, and section 524 of Title 28, Judiciary and Judicial Procedure, and repealing section 7607 of Title 26, Internal Revenue Code] may be cited as the 'Comprehensive Forfeiture Act of 1984'.''

SHORT TITLE

Section 1 of Pub. L. 91–452 provided in part: ''That this Act [enacting this section, sections 841 to 848, 1511, 1623, 1955, 1962 to 1968, 3331 to 3334, 3503, 3504, 3575 to 3578, and 6001 to 6005 of this title, and section 1826 of Title 28, Judiciary and Judicial Procedure, amending sections 835, 1073, 1505, 1954, 2424, 2516, 2517, 3148, 3486, and 3500 of this title, sections 15, 87f, 135c, 499m, and 2115 of Title 7, Agriculture, section 25 of Title 11, Bankruptcy, section 1820 of Title 12, Banks and Banking, sections 49, 77v, 78u, 79r, 80a–41, 80b–9, 155, 717m, 1271, and 1714 of Title 15, Commerce and Trade, section 825f of Title 16, Conservation, section 1333 of Title 19, Customs Duties, section 373 of Title 21, Food and Drugs, section 161 of Title 29, Labor, section 506 of Title 33, Navigation and Navigable Waters, sections 405 and 2201 of Title 42, The Public Health and Welfare, sections 157 and 362 of Title 45, Railroads, section 1124 of former Title 46, Shipping, section 409 of Title 47, Telegraphs, Telephones, and Radio telegraphs, sections 9, 43, 46, 916, 1017, and 1484 of former Title 49, Transportation, section 792 of Title 50, War and National Defense, and sections 643a, 1152, 2026, and former section 2155 of Title 50, Appendix, repealing sections 837, 895, 1406, and 2514 of this title, sections 32 and 33 of Title 15; sections 4874 and 7493 of Title 26, Internal Revenue Code, section 827 of former Title 46, sections 47 and 48 of former Title 49, and sections 121 to 144 of Title 50, enacting provisions set out as notes under this section and sections 841, 1511, 1955, preceding 3331, preceding 3481, 3504, and 6001 of this title, and repealing provisions set out as a note under section 2510 of this title] may be cited as the 'Organized Crime Control Act of 1970'.''

SAVINGS PROVISION

Amendment by section 314 of Pub. L. 95–598 not to affect the application of chapter 9 (§ 151 et seq.), chapter 96 (§ 1961 et seq.), or section 2516, 3057, or 3284 of this title to any act of any person (1) committed before Oct. 1, 1979, or (2) committed after Oct. 1, 1979, in connection with a case commenced before such date, see section 403(d) of Pub. L. 95–598, set out as a note preceding section 101 of Title 11, Bankruptcy.

SEPARABILITY

Section 1301 of Pub. L. 91–452 provided that: ''If the provisions of any part of this Act [see Short Title note set out above] or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.''

CONGRESSIONAL STATEMENT OF FINDINGS AND PURPOSE

Section 1 of Pub. L. 91–452 provided in part that:

''The Congress finds that (1) organized crime in the United States is a highly sophisticated, diversified, and widespread activity that annually drains billions of dollars from America's economy by unlawful conduct and the illegal use of force, fraud, and corruption; (2) organized crime derives a major portion of its power through money obtained from such illegal endeavors as syndicated gambling, loan sharking, the theft and fencing of property, the importation and distribution of narcotics and other dangerous drugs, and other forms of social exploitation; (3) this money and power are increasingly used to infiltrate and corrupt legitimate business and labor unions and to subvert and corrupt our democratic processes; (4) organized crime activities in the United States weaken the stability of the Nation's economic system, harm innocent investors and competing organizations, interfere with free competition, seriously burden interstate and foreign commerce, threaten the domestic security, and undermine the general welfare of the Nation and its citizens; and (5) organized crime continues to grow because of defects in the evidence-gathering process of the law inhibiting the development of the legally admissible evidence necessary to bring criminal and other sanctions or remedies to bear on the unlawful activities of those engaged in organized crime and because the sanctions and remedies available to the Government are unnecessarily limited in scope and impact.

''It is the purpose of this Act [see Short Title note above] to seek the eradication of organized crime in the United States by strengthening the legal tools in the evidence-gathering process, by establishing new penal prohibitions, and by providing enhanced sanctions and new remedies to deal with the unlawful activities of those engaged in organized crime.''

LIBERAL CONSTRUCTION OF PROVISIONS; SUPERSEDURE OF FEDERAL OR STATE LAWS; AUTHORITY OF ATTORNEYS REPRESENTING UNITED STATES

Section 904 of title IX of Pub. L. 91–452 provided that:

''(a) The provisions of this title [enacting this chapter and amending sections 1505, 2516, and 2517 of this title] shall be liberally construed to effectuate its remedial purposes.

''(b) Nothing in this title shall supersede any provision of Federal, State, or other law imposing criminal penalties or affording civil remedies in addition to those provided for in this title.

''(c) Nothing contained in this title shall impair the authority of any attorney representing the United States to—

''(1) lay before any grand jury impaneled by any district court of the United States any evidence concerning any alleged racketeering violation of law;

''(2) invoke the power of any such court to compel the production of any evidence before any such grand jury; or

''(3) institute any proceeding to enforce any order or process issued in execution of such power or to punish disobedience of any such order or process by any person.''

PRESIDENT'S COMMISSION ON ORGANIZED CRIME; TAKING OF TESTIMONY AND RECEIPT OF EVIDENCE

Pub. L. 98–368, July 17, 1984, 98 Stat. 490, provided for the Commission established by Ex. Ord. No. 12435, formerly set out below, authority relating to taking of testimony, receipt of evidence, subpoena power, testimony of persons in custody, immunity, service of process, witness fees, access to other records and information, Federal protection for members and staff, closure of meetings, rules, and procedures, for the period of July 17, 1984, until the earlier of 2 years or the expiration of the Commission.

EXECUTIVE ORDER NO. 12435

Ex. Ord. No. 12435, July 28, 1983, 48 F.R. 34723, as amended Ex. Ord. No. 12507, Mar. 22, 1985, 50 F.R. 11835, which established and provided for the administration of the President's Commission on Organized Crime, was revoked by Ex. Ord. No. 12610, Sept. 30, 1987, 52 F.R. 36901, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

§ 1962. Prohibited activities

(a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this subsection if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any pattern or racketeering activity or the collection of an unlawful debt after such purchase do not amount in the aggregate to one percent of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.

(b) It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.

(c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

(d) It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section.

(Added Pub. L. 91–452, title IX, § 901(a), Oct. 15, 1970, 84 Stat. 942; amended Pub. L. 100–690, title VII, § 7033, Nov. 18, 1988, 102 Stat. 4398.)

AMENDMENTS

1988—Subsec. (d). Pub. L. 100–690 substituted ''subsection'' for ''subsections''.

§ 1963. Criminal penalties

(a) Whoever violates any provision of section 1962 of this chapter shall be fined under this title or imprisoned not more than 20 years (or for life if the violation is based on a racketeering activity for which the maximum penalty includes life imprisonment), or both, and shall forfeit to the United States, irrespective of any provision of State law—

(1) any interest the person has acquired or maintained in violation of section 1962;

(2) any—

(A) interest in;

(B) security of;

(C) claim against; or

(D) property or contractual right of any kind affording a source of influence over;

any enterprise which the person has established, operated, controlled, conducted, or participated in the conduct of, in violation of section 1962; and

(3) any property constituting, or derived from, any proceeds which the person obtained, directly or indirectly, from racketeering activity or unlawful debt collection in violation of section 1962.

The court, in imposing sentence on such person shall order, in addition to any other sentence imposed pursuant to this section, that the person forfeit to the United States all property described in this subsection. In lieu of a fine otherwise authorized by this section, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

(b) Property subject to criminal forfeiture under this section includes—

(1) real property, including things growing on, affixed to, and found in land; and

(2) tangible and intangible personal property, including rights, privileges, interests, claims, and securities.

(c) All right, title, and interest in property described in subsection (a) vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (*l*) that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

(d)(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) for forfeiture under this section—

(A) upon the filing of an indictment or information charging a violation of section 1962 of this chapter and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court,

or otherwise made unavailable for forfeiture; and

(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered:

Provided, however, That an order entered pursuant to subparagraph (B) shall be effective for not more than ninety days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

(2) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than ten days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time, and prior to the expiration of the temporary order.

(3) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

(e) Upon conviction of a person under this section, the court shall enter a judgment of forfeiture of the property to the United States and shall also authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following the entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to, or derived from, an enterprise or an interest in an enterprise which has been ordered forfeited under this section may be used to offset ordinary and necessary expenses to the enterprise which are required by law, or which are necessary to protect the interests of the United States or third parties.

(f) Following the seizure of property ordered forfeited under this section, the Attorney General shall direct the disposition of the property by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with or on behalf of the defendant be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or a person acting in concert with or on behalf of the defendant, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm or loss to him. Notwithstanding 31 U.S.C. 3302(b), the proceeds of any sale or other disposition of property forfeited under this section and any moneys forfeited shall be used to pay all proper expenses for the forfeiture and the sale, including expenses of seizure, maintenance and custody of the property pending its disposition, advertising and court costs. The Attorney General shall deposit in the Treasury any amounts of such proceeds or moneys remaining after the payment of such expenses.

(g) With respect to property ordered forfeited under this section, the Attorney General is authorized to—

(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this chapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this chapter;

(2) compromise claims arising under this section;

(3) award compensation to persons providing information resulting in a forfeiture under this section;

(4) direct the disposition by the United States of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

(h) The Attorney General may promulgate regulations with respect to—

(1) making reasonable efforts to provide notice to persons who may have an interest in property ordered forfeited under this section;

(2) granting petitions for remission or mitigation of forfeiture;

(3) the restitution of property to victims of an offense petitioning for remission or mitigation of forfeiture under this chapter;

(4) the disposition by the United States of forfeited property by public sale or other commercially feasible means;

(5) the maintenance and safekeeping of any property forfeited under this section pending its disposition; and

(6) the compromise of claims arising under this chapter.

Pending the promulgation of such regulations, all provisions of law relating to the disposition of property, or the proceeds from the sale thereof, or the remission or mitigation of forfeitures for violation of the customs laws, and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to forfeitures incurred, or alleged to

have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions hereof. Such duties as are imposed upon the Customs Service or any person with respect to the disposition of property under the customs law shall be performed under this chapter by the Attorney General.

(i) Except as provided in subsection (*l*), no party claiming an interest in property subject to forfeiture under this section may—

(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

(j) The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

(k) In order to facilitate the identification or location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under Rule 15 of the Federal Rules of Criminal Procedure.

(*l*)(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

(2) Any person, other than the defendant, asserting a legal interest in property which has been ordered forfeited to the United States pursuant to this section may, within thirty days of the final publication of notice or his receipt of notice under paragraph (1), whichever is earlier, petition the court for a hearing to adjudicate the validity of his alleged interest in the property. The hearing shall be held before the court alone, without a jury.

(3) The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property, any additional facts supporting the petitioner's claim, and the relief sought.

(4) The hearing on the petition shall, to the extent practicable and consistent with the interests of justice, be held within thirty days of the filing of the petition. The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the defendant under this subsection.

(5) At the hearing, the petitioner may testify and present evidence and witnesses on his own behalf, and cross-examine witnesses who appear at the hearing. The United States may present evidence and witnesses in rebuttal and in defense of its claim to the property and cross-examine witnesses who appear at the hearing. In addition to testimony and evidence presented at the hearing, the court shall consider the relevant portions of the record of the criminal case which resulted in the order of forfeiture.

(6) If, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that—

(A) the petitioner has a legal right, title, or interest in the property, and such right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the petitioner rather than the defendant or was superior to any right, title, or interest of the defendant at the time of the commission of the acts which gave rise to the forfeiture of the property under this section; or

(B) the petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section;

the court shall amend the order of forfeiture in accordance with its determination.

(7) Following the court's disposition of all petitions filed under this subsection, or if no such petitions are filed following the expiration of the period provided in paragraph (2) for the filing of such petitions, the United States shall have clear title to property that is the subject of the order of forfeiture and may warrant good title to any subsequent purchaser or transferee.

(m) If any of the property described in subsection (a), as a result of any act or omission of the defendant—

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third party;

(3) has been placed beyond the jurisdiction of the court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).

(Added Pub. L. 91–452, title IX, § 901(a), Oct. 15, 1970, 84 Stat. 943; amended Pub. L. 98–473, title II, §§ 302, 2301(a)–(c), Oct. 12, 1984, 98 Stat. 2040, 2192; Pub. L. 99–570, title I, § 1153(a), Oct. 27, 1986, 100 Stat. 3207–13; Pub. L. 99–646, § 23, Nov. 10, 1986, 100 Stat. 3597; Pub. L. 100–690, title VII, §§ 7034, 7058(d), Nov. 18, 1988, 102 Stat. 4398, 4403; Pub. L. 101–647, title XXXV, § 3561, Nov. 29, 1990, 104 Stat. 4927.)

REFERENCES IN TEXT

The Federal Rules of Evidence, referred to in subsec. (d)(3), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–647 substituted ''or both'' for ''or both.'' in introductory provisions.

1988—Subsec. (a). Pub. L. 100–690, § 7058(d), substituted ''shall be fined under this title or imprisoned not more than 20 years (or for life if the violation is based on a racketeering activity for which the maximum penalty includes life imprisonment), or both.'' for ''shall be fined not more than $25,000 or imprisoned not more than twenty years, or both''.

Subsecs. (m), (n). Pub. L. 100–690, § 7034, redesignated former subsec. (n) as (m) and substituted ''act or omission'' for ''act of omission''.

1986—Subsecs. (c) to (m). Pub. L. 99–646 substituted ''(*l*)'' for ''(m)'' in subsec. (c), redesignated subsecs. (e) to (m) as (d) to (*l*), respectively, and substituted ''(*l*)'' for ''(m)'' in subsec. (i) as redesignated.

Subsec. (n). Pub. L. 99–570 added subsec. (n).

1984—Subsec. (a). Pub. L. 98–473, § 2301(a), inserted ''In lieu of a fine otherwise authorized by this section, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.'' following par. (3).

Pub. L. 98–473, § 302, amended subsec. (a) generally, designating existing provisions as pars. (1) and (2), inserting par. (3), and provisions following par. (3) relating to power of the court to order forfeiture to the United States.

Subsec. (b). Pub. L. 98–473, § 302, amended subsec. (b) generally, substituting provisions relating to property subject to forfeiture, for provisions relating to jurisdiction of the district courts of the United States.

Subsec. (c). Pub. L. 98–473, § 302, amended subsec. (c) generally, substituting provisions relating to transfer of rights, etc., in property to the United States, or to other transferees, for provisions relating to seizure and transfer of property to the United States and procedures related thereto.

Subsec. (d). Pub. L. 98–473, § 2301(b), struck out subsec. (d) which provided: ''If any of the property described in subsection (a): (1) cannot be located; (2) has been transferred to, sold to, or deposited with, a third party; (3) has been placed beyond the jurisdiction of the court; (4) has been substantially diminished in value by any act or omission of the defendant; or (5) has been commingled with other property which cannot be divided without difficulty; the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).''

Pub. L. 98–473, § 302, added subsec. (d).

Subsecs. (e) to (m). Pub. L. 98–473, § 302, added subsecs. (d) to (m).

Subsec. (m)(1). Pub. L. 98–473, § 2301(c), struck out ''for at least seven successive court days'' after ''dispose of the property''.

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.

§ 1964. Civil remedies

(a) The district courts of the United States shall have jurisdiction to prevent and restrain violations of section 1962 of this chapter by issuing appropriate orders, including, but not limited to: ordering any person to divest himself of any interest, direct or indirect, in any enterprise; imposing reasonable restrictions on the future activities or investments of any person, including, but not limited to, prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect interstate or foreign commerce; or ordering dissolution or reorganization of any enterprise, making due provision for the rights of innocent persons.

(b) The Attorney General may institute proceedings under this section. Pending final determination thereof, the court may at any time enter such restraining orders or prohibitions, or take such other actions, including the acceptance of satisfactory performance bonds, as it shall deem proper.

(c) Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee, except that no person may rely upon any conduct that would have been actionable as fraud in the purchase or sale of securities to establish a violation of section 1962. The exception contained in the preceding sentence does not apply to an action against any person that is criminally convicted in connection with the fraud, in which case the statute of limitations shall start to run on the date on which the conviction becomes final.

(d) A final judgment or decree rendered in favor of the United States in any criminal proceeding brought by the United States under this chapter shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the United States.

(Added Pub. L. 91–452, title IX, § 901(a), Oct. 15, 1970, 84 Stat. 943; amended Pub. L. 98–620, title IV, § 402(24)(A), Nov. 8, 1984, 98 Stat. 3359; Pub. L. 104–67, title I, § 107, Dec. 22, 1995, 109 Stat. 758.)

AMENDMENTS

1995—Subsec. (c). Pub. L. 104–67 inserted before period at end '', except that no person may rely upon any conduct that would have been actionable as fraud in the purchase or sale of securities to establish a violation of section 1962. The exception contained in the preceding sentence does not apply to an action against any person that is criminally convicted in connection with the fraud, in which case the statute of limitations shall start to run on the date on which the conviction becomes final''.

1984—Subsec. (b). Pub. L. 98–620 struck out provision that in any action brought by the United States under this section, the court had to proceed as soon as practicable to the hearing and determination thereof.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–67 not to affect or apply to any private action arising under title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or title I of the Securities Act of 1933 (15 U.S.C. 77a et seq.), commenced before and pending on Dec. 22, 1995, see section 108 of Pub. L. 104–67, set out as a note under section 77*l* of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620,

set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

CONSTRUCTION OF 1995 AMENDMENT

Nothing in amendment by Pub. L. 104–67 to be deemed to create or ratify any implied right of action, or to prevent Securities and Exchange Commission, by rule or regulation, from restricting or otherwise regulating private actions under Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), see section 203 of Pub. L. 104–67, set out as a Construction note under section 78j–1 of Title 15, Commerce and Trade.

§ 1965. Venue and process

(a) Any civil action or proceeding under this chapter against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs.

(b) In any action under section 1964 of this chapter in any district court of the United States in which it is shown that the ends of justice require that other parties residing in any other district be brought before the court, the court may cause such parties to be summoned, and process for that purpose may be served in any judicial district of the United States by the marshal thereof.

(c) In any civil or criminal action or proceeding instituted by the United States under this chapter in the district court of the United States for any judicial district, subpenas issued by such court to compel the attendance of witnesses may be served in any other judicial district, except that in any civil action or proceeding no such subpena shall be issued for service upon any individual who resides in another district at a place more than one hundred miles from the place at which such court is held without approval given by a judge of such court upon a showing of good cause.

(d) All other process in any action or proceeding under this chapter may be served on any person in any judicial district in which such person resides, is found, has an agent, or transacts his affairs.

(Added Pub. L. 91–452, title IX, § 901(a), Oct. 15, 1970, 84 Stat. 944.)

§ 1966. Expedition of actions

In any civil action instituted under this chapter by the United States in any district court of the United States, the Attorney General may file with the clerk of such court a certificate stating that in his opinion the case is of general public importance. A copy of that certificate shall be furnished immediately by such clerk to the chief judge or in his absence to the presiding district judge of the district in which such action is pending. Upon receipt of such copy, such judge shall designate immediately a judge of that district to hear and determine action.

(Added Pub. L. 91–452, title IX, § 901(a), Oct. 15, 1970, 84 Stat. 944; amended Pub. L. 98–620, title IV, § 402(24)(B), Nov. 8, 1984, 98 Stat. 3359.)

AMENDMENTS

1984—Pub. L. 98–620 struck out provision that the judge so designated had to assign such action for hearing as soon as practicable, participate in the hearings and determination thereof, and cause such action to be expedited in every way.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

§ 1967. Evidence

In any proceeding ancillary to or in any civil action instituted by the United States under this chapter the proceedings may be open or closed to the public at the discretion of the court after consideration of the rights of affected persons.

(Added Pub. L. 91–452, title IX, § 901(a), Oct. 15, 1970, 84 Stat. 944.)

§ 1968. Civil investigative demand

(a) Whenever the Attorney General has reason to believe that any person or enterprise may be in possession, custody, or control of any documentary materials relevant to a racketeering investigation, he may, prior to the institution of a civil or criminal proceeding thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such material for examination.

(b) Each such demand shall—

(1) state the nature of the conduct constituting the alleged racketeering violation which is under investigation and the provision of law applicable thereto;

(2) describe the class or classes of documentary material produced thereunder with such definiteness and certainty as to permit such material to be fairly identified;

(3) state that the demand is returnable forthwith or prescribe a return date which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

(4) identify the custodian to whom such material shall be made available.

(c) No such demand shall—

(1) contain any requirement which would be held to be unreasonable if contained in a subpena duces tecum issued by a court of the United States in aid of a grand jury investigation of such alleged racketeering violation; or

(2) require the production of any documentary evidence which would be privileged from disclosure if demanded by a subpena duces tecum issued by a court of the United States in aid of a grand jury investigation of such alleged racketeering violation.

(d) Service of any such demand or any petition filed under this section may be made upon a person by—

(1) delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such person, or upon any individual person;

(2) delivering a duly executed copy thereof to the principal office or place of business of the person to be served; or

(3) depositing such copy in the United States mail, by registered or certified mail duly ad-

dressed to such person at its principal office or place of business.

(e) A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be prima facie proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

(f)(1) The Attorney General shall designate a racketeering investigator to serve as racketeer document custodian, and such additional racketeering investigators as he shall determine from time to time to be necessary to serve as deputies to such officer.

(2) Any person upon whom any demand issued under this section has been duly served shall make such material available for inspection and copying or reproduction to the custodian designated therein at the principal place of business of such person, or at such other place as such custodian and such person thereafter may agree and prescribe in writing or as the court may direct, pursuant to this section on the return date specified in such demand, or on such later date as such custodian may prescribe in writing. Such person may upon written agreement between such person and the custodian substitute for copies of all or any part of such material originals thereof.

(3) The custodian to whom any documentary material is so delivered shall take physical possession thereof, and shall be responsible for the use made thereof and for the return thereof pursuant to this chapter. The custodian may cause the preparation of such copies of such documentary material as may be required for official use under regulations which shall be promulgated by the Attorney General. While in the possession of the custodian, no material so produced shall be available for examination, without the consent of the person who produced such material, by any individual other than the Attorney General. Under such reasonable terms and conditions as the Attorney General shall prescribe, documentary material while in the possession of the custodian shall be available for examination by the person who produced such material or any duly authorized representatives of such person.

(4) Whenever any attorney has been designated to appear on behalf of the United States before any court or grand jury in any case or proceeding involving any alleged violation of this chapter, the custodian may deliver to such attorney such documentary material in the possession of the custodian as such attorney determines to be required for use in the presentation of such case or proceeding on behalf of the United States. Upon the conclusion of any such case or proceeding, such attorney shall return to the custodian any documentary material so withdrawn which has not passed into the control of such court or grand jury through the introduction thereof into the record of such case or proceeding.

(5) Upon the completion of—

(i) the racketeering investigation for which any documentary material was produced under this chapter, and

(ii) any case or proceeding arising from such investigation, the custodian shall return to the person who produced such material all such material other than copies thereof made by the Attorney General pursuant to this subsection which has not passed into the control of any court or grand jury through the introduction thereof into the record of such case or proceeding.

(6) When any documentary material has been produced by any person under this section for use in any racketeering investigation, and no such case or proceeding arising therefrom has been instituted within a reasonable time after completion of the examination and analysis of all evidence assembled in the course of such investigation, such person shall be entitled, upon written demand made upon the Attorney General, to the return of all documentary material other than copies thereof made pursuant to this subsection so produced by such person.

(7) In the event of the death, disability, or separation from service of the custodian of any documentary material produced under any demand issued under this section or the official relief of such custodian from responsibility for the custody and control of such material, the Attorney General shall promptly—

(i) designate another racketeering investigator to serve as custodian thereof, and

(ii) transmit notice in writing to the person who produced such material as to the identity and address of the successor so designated.

Any successor so designated shall have with regard to such materials all duties and responsibilities imposed by this section upon his predecessor in office with regard thereto, except that he shall not be held responsible for any default or dereliction which occurred before his designation as custodian.

(g) Whenever any person fails to comply with any civil investigative demand duly served upon him under this section or whenever satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the Attorney General may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this section, except that if such person transacts business in more than one such district such petition shall be filed in the district in which such person maintains his principal place of business, or in such other district in which such person transacts business as may be agreed upon by the parties to such petition.

(h) Within twenty days after the service of any such demand upon any person, or at any time before the return date specified in the demand, whichever period is shorter, such person may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon such custodian a petition for an order of such court modifying or setting aside such demand. The time allowed for compliance with the demand in whole or in part as deemed proper and ordered by the court shall not run during the pendency of such petition in the court. Such petition shall specify each ground

upon which the petitioner relies in seeking such relief, and may be based upon any failure of such demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of such person.

(i) At any time during which any custodian is in custody or control of any documentary material delivered by any person in compliance with any such demand, such person may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian a petition for an order of such court requiring the performance by such custodian of any duty imposed upon him by this section.

(j) Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this section.

(Added Pub. L. 91–452, title IX, § 901(a), Oct. 15, 1970, 84 Stat. 944.)

CHAPTER 97—RAILROADS

Sec.
1991. Entering train to commit crime.
1992. Wrecking trains.
1993. Terrorist attacks and other acts of violence against public transportation systems.

HISTORICAL AND REVISION NOTES

This chapter does not include motor busses, interstate trucking facilities or airplanes within the protection of existing law. Motor busses and trucks already carry a huge amount of interstate commerce. It is reasonable to presume that much interstate freight and express will soon be carried by air.

Attention is directed to the consideration of the extension of the laws now applicable only to railroads to these other interstate facilities. 80th Congress House Report No. 304.

AMENDMENTS

2005—Pub. L. 109–59, title III, § 3042(b), Aug. 10, 2005, 119 Stat. 1640, substituted ''public transportation'' for ''mass transportation'' in item 1993.

2001—Pub. L. 107–56, title VIII, § 801(f), Oct. 26, 2001, 115 Stat. 376, added item 1993.

§ 1991. Entering train to commit crime

Whoever, in any Territory or District, or within or upon any place within the exclusive jurisdiction of the United States, willfully and maliciously trespasses upon or enters upon any railroad train, railroad car, or railroad locomotive, with the intent to commit murder or robbery, shall be fined under this title or imprisoned not more than twenty years, or both.

Whoever, within such jurisdiction, willfully and maliciously trespasses upon or enters upon any railroad train, railroad car, or railroad locomotive, with intent to commit any unlawful violence upon or against any passenger on said train, or car, or upon or against any engineer, conductor, fireman, brakeman, or any officer or employee connected with said locomotive, train, or car, or upon or against any express messenger or mail agent on said train or in any car thereof, or to commit any crime or offense against any person or property thereon, shall be fined under this title or imprisoned not more than one year, or both.

Upon the trial of any person charged with any offense set forth in this section, it shall not be necessary to set forth or prove the particular person against whom it was intended to commit the offense, or that it was intended to commit such offense against any particular person.

(June 25, 1948, ch. 645, 62 Stat. 794; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–294, title VI, § 601(a)(8), Oct. 11, 1996, 110 Stat. 3498.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 522 (Mar. 4, 1909, ch. 321, § 322, 35 Stat. 1150).

After the word ''Whoever'' the following was inserted: ''in any Territory or District, or within or upon any place within the exclusive jurisdiction of the United States'' as based upon the express provisions of title 18, U.S.C., 1940 ed., § 511, wherein this section is made applicable only ''in any Territory or District, or within or upon any place within the exclusive jurisdiction of the United States.''

Words ''whoever shall counsel, aid, abet, or assist in the perpetration of any of the offenses set forth in this section shall be deemed to be a principal therein'' were omitted as unnecessary. Such persons are made principals by section 2 of this title.

Minor changes also were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''fined under this title'' for ''fined not more than $1,000'' in second par.

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in first par.

§ 1992. Wrecking trains

(a) Whoever willfully derails, disables, or wrecks any train, engine, motor unit, or car used, operated, or employed in interstate or foreign commerce by any railroad; or

Whoever willfully sets fire to, or places any explosive substance on or near, or undermines any tunnel, bridge, viaduct, trestle, track, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of any such railroad in interstate or foreign commerce, or otherwise makes any such tunnel, bridge, viaduct, trestle, track, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance unworkable or unusable or hazardous to work or use, with the intent to derail, disable, or wreck a train, engine, motor unit, or car used, operated, or employed in interstate or foreign commerce; or

Whoever willfully attempts to do any of the aforesaid acts or things—

Shall be fined under this title or imprisoned not more than twenty years, or both.

(b) Whoever is convicted of a violation of subsection (a) that has resulted in the death of any person, shall be subject also to the death penalty or to imprisonment for life.

Whoever is convicted of any such violation involving a train that, at the time the violation occurred, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12))) or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23))), shall be fined under this title and imprisoned for any term of years not less than 30, or for life.

(c) A person who conspires to commit any offense defined in this section shall be subject to the same penalties (other than the penalty of death) as the penalties prescribed for the offense, the commission of which was the object of the conspiracy.

(June 25, 1948, ch. 645, 62 Stat. 794; Pub. L. 103–322, title VI, § 60003(a)(8), title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 1969, 2147; Pub. L. 104–88, title IV, § 402(b), Dec. 29, 1995, 109 Stat. 955; Pub. L. 107–56, title VIII, § 811(e), Oct. 26, 2001, 115 Stat. 381; Pub. L. 107–273, div. B, title IV, § 4002(a)(6), Nov. 2, 2002, 116 Stat. 1807.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 412a (June 8, 1940, ch. 286, 54 Stat. 255).

First clause in second paragraph of said section 412a of title 18, U.S.C., 1940 ed., was omitted as covered by section 3231 of this title.

Words ''and on conviction thereof'' were omitted as surplusage since punishment cannot be imposed until a conviction is secured.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–273 substituted ''term of years'' for ''term or years'' in last par.

2001—Subsec. (c). Pub. L. 107–56 added subsec. (c).

1995—Pub. L. 104–88, § 402(b)(5), which directed amendment of section by inserting ''(c)'' before ''A judgment'', could not be executed because phrase ''A judgment'' did not appear subsequent to amendment by Pub. L. 103–322, § 60003(a)(8). See 1994 Amendment note below.

Pub. L. 104–88, § 402(b)(1)–(4), inserted ''(a)'' before ''Whoever willfully derails'' and ''(b)'' before ''Whoever is convicted'', substituted ''a violation of subsection (a) that'' for ''any such crime, which'', and inserted last par.

1994—Pub. L. 103–322, § 330016(1)(L), substituted ''fined under this title'' for ''fined not more than $10,000'' in fourth par.

Pub. L. 103–322, § 60003(a)(8), substituted a period for the comma after ''imprisonment for life'' in penultimate par., and struck out remainder of penultimate par. and last par. which read as follows: ''if the jury shall in its discretion so direct, or, in the case of a plea of guilty, if the court in its discretion shall so order.

''A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution hereunder for the same act or acts.''

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of Title 49, Transportation.

§ 1993. Terrorist attacks and other acts of violence against public transportation systems

(a) GENERAL PROHIBITIONS.—Whoever willfully—

(1) wrecks, derails, sets fire to, or disables a public transportation vehicle or ferry;

(2) places or causes to be placed any biological agent or toxin for use as a weapon, destructive substance, or destructive device in, upon, or near a public transportation vehicle or ferry, without previously obtaining the permission of the public transportation provider, and with intent to endanger the safety of any passenger or employee of the public transportation provider, or with a reckless disregard for the safety of human life;

(3) sets fire to, or places any biological agent or toxin for use as a weapon, destructive substance, or destructive device in, upon, or near any garage, terminal, structure, supply, or facility used in the operation of, or in support of the operation of, a public transportation vehicle or ferry, without previously obtaining the permission of the public transportation provider, and knowing or having reason to know such activity would likely derail, disable, or wreck a public transportation vehicle or ferry used, operated, or employed by the public transportation provider;

(4) removes appurtenances from, damages, or otherwise impairs the operation of a public transportation signal system, including a train control system, centralized dispatching system, or rail grade crossing warning signal without authorization from the public transportation provider;

(5) interferes with, disables, or incapacitates any dispatcher, driver, captain, or person while they are employed in dispatching, operating, controlling, or maintaining a public transportation vehicle or ferry, with intent to endanger the safety of any passenger or employee of the public transportation provider, or with a reckless disregard for the safety of human life;

(6) commits an act, including the use of a dangerous weapon, with the intent to cause death or serious bodily injury to an employee or passenger of a public transportation provider or any other person while any of the foregoing are on the property of a public transportation provider;

(7) conveys or causes to be conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this subsection; or

(8) attempts, threatens, or conspires to do any of the aforesaid acts,

shall be fined under this title or imprisoned not more than twenty years, or both, if such act is committed, or in the case of a threat or conspiracy such act would be committed, on, against, or affecting a public transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

(b) AGGRAVATED OFFENSE.—Whoever commits an offense under subsection (a) in a circumstance in which—

(1) the public transportation vehicle or ferry was carrying a passenger at the time of the offense; or

(2) the offense has resulted in the death of any person,

shall be guilty of an aggravated form of the offense and shall be fined under this title or imprisoned for a term of years or for life, or both.

(c) DEFINITIONS.—In this section—

(1) the term ''biological agent'' has the meaning given to that term in section 178(1) of this title;

(2) the term ''dangerous weapon'' has the meaning given to that term in section 930 of this title;

(3) the term ''destructive device'' has the meaning given to that term in section 921(a)(4) of this title;

(4) the term ''destructive substance'' has the meaning given to that term in section 31 of this title;

(5) the term ''public transportation'' has the meaning given to that term in section 5302(a) of title 49, except that the term shall include schoolbus, charter, and sightseeing transportation;

(6) the term ''serious bodily injury'' has the meaning given to that term in section 1365 of this title;

(7) the term ''State'' has the meaning given to that term in section 2266 of this title;

(8) the term ''toxin'' has the meaning given to that term in section 178(2) of this title; and

(9) the term ''vehicle'' means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, water, or through the air.

(Added Pub. L. 107–56, title VIII, § 801, Oct. 26, 2001, 115 Stat. 374; amended Pub. L. 108–21, title VI, § 609, Apr. 30, 2003, 117 Stat. 692; Pub. L. 109–59, title III, § 3042(a), Aug. 10, 2005, 119 Stat. 1639.)

AMENDMENTS

2005—Pub. L. 109–59, § 3042(a)(1), substituted ''public'' for ''mass'' in section catchline.

Subsec. (a). Pub. L. 109–59, § 3042(a)(2), substituted ''public'' for ''mass'' in concluding provisions.

Subsec. (a)(1) to (4). Pub. L. 109–59, § 3042(a)(2), substituted ''public'' for ''mass'' wherever appearing.

Subsec. (a)(5). Pub. L. 109–59, § 3042(a)(2), (3), inserted ''controlling,'' after ''operating,'' and substituted ''public'' for ''mass'' in two places.

Subsec. (a)(6). Pub. L. 109–59, § 3042(a)(2), substituted ''public'' for ''mass'' in two places.

Subsec. (b)(1). Pub. L. 109–59, § 3042(a)(2), substituted ''public'' for ''mass''.

Subsec. (c)(5). Pub. L. 109–59, § 3042(a)(2), (4), substituted ''public'' for ''mass'' and ''5302(a) of title 49,'' for ''5302(a)(7) of title 49, United States Code,''.

2003—Subsec. (c)(9). Pub. L. 108–21 added par. (9).

[CHAPTER 99—REPEALED]

[§§ 2031, 2032. Repealed. Pub. L. 99–646, § 87(c)(1), Nov. 10, 1986, 100 Stat. 3623; Pub. L. 99–654, § 3(a)(1), Nov. 14, 1986, 100 Stat. 3663]

Section 2031, act June 25, 1948, ch. 645, 62 Stat. 795, prescribed penalties for commission of rape within special maritime and territorial jurisdiction.

Section 2032, act June 25, 1948, ch. 645, 62 Stat. 795, prescribed penalties for carnal knowledge of female under 16 within special maritime and territorial jurisdiction.

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 99–646 and Pub. L. 99–654 effective, respectively, 30 days after Nov. 10, 1986, and 30 days after Nov. 14, 1986, see section 87 of Pub. L. 99–646 and section 4 of Pub. L. 99–654, set out as an Effective Date note under section 2241 of this title.

CHAPTER 101—RECORDS AND REPORTS

Sec.
2071. Concealment, removal, or mutilation generally.
2072. False crop reports.
2073. False entries and reports of moneys or securities.
2074. False weather reports.
2075. Officer failing to make returns or reports.
2076. Clerk of United States District Court.

§ 2071. Concealment, removal, or mutilation generally

(a) Whoever willfully and unlawfully conceals, removes, mutilates, obliterates, or destroys, or attempts to do so, or, with intent to do so takes and carries away any record, proceeding, map, book, paper, document, or other thing, filed or deposited with any clerk or officer of any court of the United States, or in any public office, or with any judicial or public officer of the United States, shall be fined under this title or imprisoned not more than three years, or both.

(b) Whoever, having the custody of any such record, proceeding, map, book, document, paper, or other thing, willfully and unlawfully conceals, removes, mutilates, obliterates, falsifies, or destroys the same, shall be fined under this title or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office under the United States. As used in this subsection, the term ''office'' does not include the office held by any person as a retired officer of the Armed Forces of the United States.

(June 25, 1948, ch. 645, 62 Stat. 795; Pub. L. 101–510, div. A, title V, § 552(a), Nov. 5, 1990, 104 Stat. 1566; 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., §§ 234, 235 (Mar. 4, 1909, ch. 321, §§ 128, 129, 35 Stat. 1111, 1112).

Section consolidates sections 234 and 235 of title 18, U.S.C., 1940 ed.

Reference in subsection (a) to intent to steal was omitted as covered by section 641 of this title.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $2,000'' in subsecs. (a) and (b).

1990—Subsec. (b). Pub. L. 101–510 inserted at end ''As used in this subsection, the term 'office' does not include the office held by any person as a retired officer of the Armed Forces of the United States.''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 552(b) of Pub. L. 101–510 provided that: ''The amendment made by subsection (a) [amending this section] shall be effective as of January 1, 1989.''

§ 2072. False crop reports

Whoever, being an officer or employee of the United States or any of its agencies, whose duties require the compilation or report of statistics or information relating to the products of the soil, knowingly compiles for issuance, or issues, any false statistics or information as a report of the United States or any of its agencies, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 795; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 215 (Mar. 4, 1909, ch. 321, § 124, 35 Stat. 1111).

Words ''or any of its agencies'' were inserted after ''United States'' so as to eliminate any possible ambiguity as to scope of section. (See definitive section 6 of this title.)

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

§ 2073. False entries and reports of moneys or securities

Whoever, being an officer, clerk, agent, or other employee of the United States or any of its agencies, charged with the duty of keeping accounts or records of any kind, with intent to deceive, mislead, injure, or defraud, makes in any such account or record any false or fictitious entry or record of any matter relating to or connected with his duties; or

Whoever, being an officer, clerk, agent, or other employee of the United States or any of its agencies, charged with the duty of receiving, holding, or paying over moneys or securities to, for, or on behalf of the United States, or of receiving or holding in trust for any person any moneys or securities, with like intent, makes a false report of such moneys or securities—

Shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 795; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 189 (Mar. 4, 1911, ch. 270, 36 Stat. 1355).

Words ''or any of its agencies'' were inserted after ''United States'' so as to eliminate any possible ambiguity as to scope of section. (See definitive section 6 of this title.)

References to persons aiding and abetting were omitted. Such persons are principals under section 2 of this title.

Minor verbal changes were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in last par.

§ 2074. False weather reports

Whoever knowingly issues or publishes any counterfeit weather forecast or warning of weather conditions falsely representing such forecast or warning to have been issued or published by the Weather Bureau, United States Signal Service, or other branch of the Government service, shall be fined under this title or imprisoned not more than ninety days, or both.

(June 25, 1948, ch. 645, 62 Stat. 795; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 117 (Mar. 4, 1909, ch. 321, § 61, 35 Stat. 1100).

Minor verbal changes were made.

REFERENCES IN TEXT

The United States Signal Service, referred to in text, is now the Signal Corps which is a branch of the Army, see section 3063 of Title 10, Armed Forces.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

TRANSFER OF FUNCTIONS

Weather Bureau of Department of Commerce consolidated with Coast and Geodetic Survey to form a new agency in Department of Commerce to be known as Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. All functions of Bureau transferred to Secretary of Commerce by the Plan.

Environmental Science Services Administration abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees, which created National Oceanic and Atmospheric Administration in Department of Commerce. By Department Organization Order 25–5A, republished 39 F.R. 27486, Secretary of Commerce delegated to NOAA his functions relating to Weather Bureau. By order of Acting Associate Administrator of NOAA, the organization name of Weather Bureau was changed to National Weather Service. For further details, see Codification note under section 311 of Title 15, Commerce and Trade.

§ 2075. Officer failing to make returns or reports

Every officer who neglects or refuses to make any return or report which he is required to make at stated times by any Act of Congress or regulation of the Department of the Treasury, other than his accounts, within the time prescribed by such Act or regulation, shall be fined under this title.

(June 25, 1948, ch. 645, 62 Stat. 796; Pub. L. 107–273, div. B, title IV, § 4002(d)(1)(C)(ii), Nov. 2, 2002, 116 Stat. 1809.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 188, (Mar. 4, 1909, ch. 321, § 101, 35 Stat. 1107).

AMENDMENTS

2002—Pub. L. 107–273 substituted ''under this title'' for ''not more than $1,000''.

§ 2076. Clerk of United States District Court

Whoever, being a clerk of a district court of the United States, willfully refuses or neglects to make or forward any report, certificate, statement, or document as required by law, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 796; Pub. L. 104–294, title VI, § 601(a)(11), Oct. 11, 1996, 110 Stat. 3498.)

HISTORICAL AND REVISION NOTES

Based on section 522 of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary (Feb. 22, 1875, ch. 95, § 6, 18 Stat. 334).

The reference to the offense as a misdemeanor was omitted as unnecessary in view of the definition of ''misdemeanor'' in section 1 of this title.

The last sentence providing that conviction should not be a condition precedent to removal from office was omitted as unnecessary.

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''fined under this title or imprisoned not more than one year, or both''

for ''fined not more than $1,000 or imprisoned not more than one year'' before period at end.

CHAPTER 102—RIOTS

Sec.
2101. Riots.
2102. Definitions.

AMENDMENTS

1968—Pub. L. 90–284, title I, § 104(a), Apr. 11, 1968, 82 Stat. 75, added chapter 102 and items 2101 and 2102.

§ 2101. Riots

(a) Whoever travels in interstate or foreign commerce or uses any facility of interstate or foreign commerce, including, but not limited to, the mail, telegraph, telephone, radio, or television, with intent—

(1) to incite a riot; or

(2) to organize, promote, encourage, participate in, or carry on a riot; or

(3) to commit any act of violence in furtherance of a riot; or

(4) to aid or abet any person in inciting or participating in or carrying on a riot or committing any act of violence in furtherance of a riot;

and who either during the course of any such travel or use or thereafter performs or attempts to perform any other overt act for any purpose specified in subparagraph (A), (B), (C), or (D) of this paragraph—[1]

Shall be fined under this title, or imprisoned not more than five years, or both.

(b) In any prosecution under this section, proof that a defendant engaged or attempted to engage in one or more of the overt acts described in subparagraph (A), (B), (C), or (D) of paragraph (1) of subsection (a)[2] and (1) has traveled in interstate or foreign commerce, or (2) has use of or used any facility of interstate or foreign commerce, including but not limited to, mail, telegraph, telephone, radio, or television, to communicate with or broadcast to any person or group of persons prior to such overt acts, such travel or use shall be admissible proof to establish that such defendant traveled in or used such facility of interstate or foreign commerce.

(c) A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution hereunder for the same act or acts.

(d) Whenever, in the opinion of the Attorney General or of the appropriate officer of the Department of Justice charged by law or under the instructions of the Attorney General with authority to act, any person shall have violated this chapter, the Department shall proceed as speedily as possible with a prosecution of such person hereunder and with any appeal which may lie from any decision adverse to the Government resulting from such prosecution.

(e) Nothing contained in this section shall be construed to make it unlawful for any person to travel in, or use any facility of, interstate or foreign commerce for the purpose of pursuing the legitimate objectives of organized labor, through orderly and lawful means.

(f) Nothing in this section shall be construed as indicating an intent on the part of Congress to prevent any State, any possession or Commonwealth of the United States, or the District of Columbia, from exercising jurisdiction over any offense over which it would have jurisdiction in the absence of this section; nor shall anything in this section be construed as depriving State and local law enforcement authorities of responsibility for prosecuting acts that may be violations of this section and that are violations of State and local law.

(Added Pub. L. 90–284, title I, § 104(a), Apr. 11, 1968, 82 Stat. 75; amended Pub. L. 99–386, title I, § 106, Aug. 22, 1986, 100 Stat. 822; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–294, title VI, § 601(f)(15), Oct. 11, 1996, 110 Stat. 3500.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–294 struck out par. (1) designation and redesignated subpars. (A) to (D) as pars. (1) to (4), respectively.

1994—Subsec. (a)(1). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

1986—Subsec. (d). Pub. L. 99–386 struck out ''; or in the alternative shall report in writing, to the respective Houses of the Congress, the Department's reason for not so proceeding'' after ''such prosecution''.

§ 2102. Definitions

(a) As used in this chapter, the term ''riot'' means a public disturbance involving (1) an act or acts of violence by one or more persons part of an assemblage of three or more persons, which act or acts shall constitute a clear and present danger of, or shall result in, damage or injury to the property of any other person or to the person of any other individual or (2) a threat or threats of the commission of an act or acts of violence by one or more persons part of an assemblage of three or more persons having, individually or collectively, the ability of immediate execution of such threat or threats, where the performance of the threatened act or acts of violence would constitute a clear and present danger of, or would result in, damage or injury to the property of any other person or to the person of any other individual.

(b) As used in this chapter, the term ''to incite a riot'', or ''to organize, promote, encourage, participate in, or carry on a riot'', includes, but is not limited to, urging or instigating other persons to riot, but shall not be deemed to mean the mere oral or written (1) advocacy of ideas or (2) expression of belief, not involving advocacy of any act or acts of violence or assertion of the rightness of, or the right to commit, any such act or acts.

(Added Pub. L. 90–284, title I, § 104(a), Apr. 11, 1968, 82 Stat. 76.)

CHAPTER 103—ROBBERY AND BURGLARY

Sec.
2111. Special maritime and territorial jurisdiction.
2112. Personal property of United States.
2113. Bank robbery and incidental crimes.
2114. Mail, money, or other property of United States.

[1] So in original. Probably should be ''paragraph (1), (2), (3), or (4) of this subsection—''.

[2] So in original. Probably should be ''paragraph (1), (2), (3), or (4) of subsection (a)''.

Sec.
2115. Post office.
2116. Railway or steamboat post office.
2117. Breaking or entering carrier facilities.
2118. Robberies and burglaries involving controlled substances.
2119. Motor vehicles.

AMENDMENTS

1992—Pub. L. 102–519, title I, § 101(c), Oct. 25, 1992, 106 Stat. 3384, added item 2119.

1984—Pub. L. 98–305, § 3, May 31, 1984, 98 Stat. 222, added item 2118.

1966—Pub. L. 89–654, § 2(d), Oct. 14, 1966, 80 Stat. 904, substituted ''Breaking or entering carrier facilities'' for ''Railroad car entered or seal broken'' in item 2117.

§ 2111. Special maritime and territorial jurisdiction

Whoever, within the special maritime and territorial jurisdiction of the United States, by force and violence, or by intimidation, takes or attempts to take from the person or presence of another anything of value, shall be imprisoned not more than fifteen years.

(June 25, 1948, ch. 645, 62 Stat. 796; Pub. L. 103–322, title XXXII, § 320903(a)(1), Sept. 13, 1994, 108 Stat. 2124.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 463 (Mar. 4, 1909, ch. 321, § 284, 35 Stat. 1144).

Words ''within the special maritime and territorial jurisdiction of the United States'' were added to restrict the place of the offense to those places described in section 451 of title 18, U.S.C., 1940 ed., now section 7 of this title.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 inserted ''or attempts to take'' after ''takes''.

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–217, § 1, Oct. 1, 1996, 110 Stat. 3020, provided that: ''This Act [amending section 2119 of this title] may be cited as the 'Carjacking Correction Act of 1996'.''

§ 2112. Personal property of United States

Whoever robs or attempts to rob another of any kind or description of personal property belonging to the United States, shall be imprisoned not more than fifteen years.

(June 25, 1948, ch. 645, 62 Stat. 796; Pub. L. 103–322, title XXXII, § 320903(a)(2), Sept. 13, 1994, 108 Stat. 2124.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 99 (Mar. 4, 1909, ch. 321, § 46, 35 Stat. 1097).

That portion of said section 99 relating to felonious taking was omitted as covered by section 641 of this title.

The punishment by fine of not more than $5,000 or imprisoned not more than 10 years, or both, was changed to harmonize with section 2111 of this title. The 15–year penalty is not excessive for an offense of this type.

Minor verbal change was made.

AMENDMENTS

1994—Pub. L. 103–322 inserted ''or attempts to rob'' after ''robs''.

§ 2113. Bank robbery and incidental crimes

(a) Whoever, by force and violence, or by intimidation, takes, or attempts to take, from the person or presence of another, or obtains or attempts to obtain by extortion any property or money or any other thing of value belonging to, or in the care, custody, control, management, or possession of, any bank, credit union, or any savings and loan association; or

Whoever enters or attempts to enter any bank, credit union, or any savings and loan association, or any building used in whole or in part as a bank, credit union, or as a savings and loan association, with intent to commit in such bank, credit union, or in such savings and loan association, or building, or part thereof, so used, any felony affecting such bank, credit union, or such savings and loan association and in violation of any statute of the United States, or any larceny—

Shall be fined under this title or imprisoned not more than twenty years, or both.

(b) Whoever takes and carries away, with intent to steal or purloin, any property or money or any other thing of value exceeding $1,000 belonging to, or in the care, custody, control, management, or possession of any bank, credit union, or any savings and loan association, shall be fined under this title or imprisoned not more than ten years, or both; or

Whoever takes and carries away, with intent to steal or purloin, any property or money or any other thing of value not exceeding $1,000 belonging to, or in the care, custody, control, management, or possession of any bank, credit union, or any savings and loan association, shall be fined under this title or imprisoned not more than one year, or both.

(c) Whoever receives, possesses, conceals, stores, barters, sells, or disposes of, any property or money or other thing of value which has been taken or stolen from a bank, credit union, or savings and loan association in violation of subsection (b), knowing the same to be property which has been stolen shall be subject to the punishment provided in subsection (b) for the taker.

(d) Whoever, in committing, or in attempting to commit, any offense defined in subsections (a) and (b) of this section, assaults any person, or puts in jeopardy the life of any person by the use of a dangerous weapon or device, shall be fined under this title or imprisoned not more than twenty-five years, or both.

(e) Whoever, in committing any offense defined in this section, or in avoiding or attempting to avoid apprehension for the commission of such offense, or in freeing himself or attempting to free himself from arrest or confinement for such offense, kills any person, or forces any person to accompany him without the consent of such person, shall be imprisoned not less than ten years, or if death results shall be punished by death or life imprisonment.

(f) As used in this section the term ''bank'' means any member bank of the Federal Reserve System, and any bank, banking association, trust company, savings bank, or other banking institution organized or operating under the laws of the United States, including a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), and any institution the deposits of which are insured by the Federal Deposit Insurance Corporation.

(g) As used in this section the term ''credit union'' means any Federal credit union and any State-chartered credit union the accounts of which are insured by the National Credit Union Administration Board, and any ''Federal credit union'' as defined in section 2 of the Federal Credit Union Act. The term ''State-chartered credit union'' includes a credit union chartered under the laws of a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(h) As used in this section, the term ''savings and loan association'' means—

(1) a Federal savings association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))) having accounts insured by the Federal Deposit Insurance Corporation; and

(2) a corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) that is operating under the laws of the United States.

(June 25, 1948, ch. 645, 62 Stat. 796; Aug. 3, 1950, ch. 516, 64 Stat. 394; Apr. 8, 1952, ch. 164, 66 Stat. 46; Pub. L. 86–354, § 2, Sept. 22, 1959, 73 Stat. 639; Pub. L. 91–468, § 8, Oct. 19, 1970, 84 Stat. 1017; Pub. L. 98–473, title II, § 1106, Oct. 12, 1984, 98 Stat. 2145; Pub. L. 99–646, § 68, Nov. 10, 1986, 100 Stat. 3616; Pub. L. 101–73, title IX, § 962(a)(7), (d), Aug. 9, 1989, 103 Stat. 502, 503; Pub. L. 101–647, title XXV, § 2597(*l*), Nov. 29, 1990, 104 Stat. 4911; Pub. L. 103–322, title VI, § 60003(a)(9), title XXXII, § 320608, title XXXIII, § 330016(1)(K), (L), Sept. 13, 1994, 108 Stat. 1969, 2120, 2147; Pub. L. 104–294, title VI, §§ 606(a), 607(d), Oct. 11, 1996, 110 Stat. 3511; Pub. L. 107–273, div. B, title IV, § 4002(d)(1)(C)(ii), Nov. 2, 2002, 116 Stat. 1809.)

HISTORICAL AND REVISION NOTES

Based on sections 588a, 588b, 588c, of title 12, U.S.C., 1940 ed., Banks and Banking (May 18, 1934, ch. 304, §§ 1, 2, 3, 48 Stat. 783; Aug. 23, 1935, ch. 614, § 333, 49 Stat. 720; Aug. 24, 1937, ch. 747, 50 Stat. 749; June 29, 1940, ch. 455, 54 Stat. 695).

Section consolidates sections 588a, 588b, and 588c of title 12, U.S.C., 1940 ed., Banks and Banking, as suggested by United States Attorney Clyde O. Eastus, of Fort Worth, Tex.

Words ''felony or larceny'' in subsection (a) were changed to ''felony affecting such bank and in violation of any statute of the United States, or any larceny''.

Use of term ''felony'' without limitation caused confusion as to whether a common law, State, or Federal felony was intended. Change conforms with *Jerome v. U.S.* (1943, 63 S. Ct. 483, 318 U.S. 101, 87 L. Ed. 640): ''§ 2(a) [§ 588b(a) of title 12, U.S.C., 1940 ed., Banks and Banking] is not deprived of vitality if it is interpreted to exclude State felonies and to include only those Federal felonies which affect banks protected by the Act.''

Minimum punishment provisions were omitted from subsection (c). (See reviser's note under section 203 of this title.) Also the provisions of subsection (b) measuring the punishment by the amount involved were extended and made applicable to the receiver as well as the thief. There seems no good reason why the thief of less than $100 should be liable to a maximum of imprisonment for one year and the receiver subject to 10 years.

The figures ''100'' were substituted for ''50'' in view of the fact that the present worth of $100 is less than the value of $50 when that sum was fixed as the dividing line between petit larceny and grand larceny.

The attention of Congress is directed to the mandatory minimum punishment provisions of sections 2113(e) and 2114 of this title. These were left unchanged because of the controversial question involved. Such legislative attempts to control the discretion of the sentencing judge are contrary to the opinions of experienced criminologists and criminal law experts. They are calculated to work manifest injustice in many cases.

Necessary minor translations of section references, and changes in phraseology, were made.

REFERENCES IN TEXT

Section 1(b) of the International Banking Act of 1978, referred to in subsec. (f), is classified to section 3101 of Title 12, Banks and Banking.

Section 2 of the Federal Credit Union Act, referred to in subsec. (g), is classified to section 1752 of Title 12.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–273 substituted ''under this title'' for ''not more than $1,000'' in last par.

1996—Subsec. (b). Pub. L. 104–294, § 606(a), substituted ''exceeding $1,000'' for ''exceeding $100'' in two places.

Subsec. (g). Pub. L. 104–294, § 607(d), inserted at end ''The term 'State-chartered credit union' includes a credit union chartered under the laws of a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.''

1994—Subsecs. (a), (b). Pub. L. 103–322, § 330016(1)(K), substituted ''fined under this title'' for ''fined not more than $5,000'' in last par. of subsec. (a) and first par. of subsec. (b).

Subsec. (d). Pub. L. 103–322, § 330016(1)(L), substituted ''fined under this title'' for ''fined not more than $10,000''.

Subsec. (e). Pub. L. 103–322, § 60003(a)(9), substituted ''or if death results shall be punished by death or life imprisonment'' for ''or punished by death if the verdict of the jury shall so direct''.

Subsec. (h). Pub. L. 103–322, § 320608, added subsec. (h).

1990—Subsec. (f). Pub. L. 101–647 inserted ''including a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978),'' after ''operating under the laws of the United States,''.

1989—Subsec. (f). Pub. L. 101–73, § 962(d)(1), substituted ''any institution the deposits of which'' for ''any bank the deposits of which''.

Subsecs. (g), (h). Pub. L. 101–73, § 962(a)(7), (d)(2), (3), redesignated subsec. (h) as (g), substituted ''National Credit Union Administration Board, and any 'Federal credit union' as defined in section 2 of the Federal Credit Union Act'' for ''Administrator of the National Credit Union Administration'', and struck out former subsec. (g) which read as follows: ''As used in this section the term 'savings and loan association' means any Federal savings and loan association and any 'insured institution' as defined in section 401 of the National Housing Act, as amended, and any 'Federal credit union' as defined in section 2 of the Federal Credit Union Act.''

1986—Subsec. (a). Pub. L. 99–646 inserted '', or obtains or attempts to obtain by extortion'' after ''presence of another'' in first par.

1984—Subsec. (c). Pub. L. 98–473 amended subsec. (c) generally, substituting ''which has been taken or stolen from a bank, credit union, or savings and loan association in violation of subsection (b), knowing the same to be property which has been stolen'' for ''knowing the same to have been taken from a bank, credit union, or a savings and loan association, in violation of subsection (b) of this section''.

1970—Subsecs. (a) to (c). Pub. L. 91–468, § 8(1), inserted reference to ''credit union'' after ''bank,'' each place it appears.

Subsec. (h). Pub. L. 91–468, § 8(2), added subsec. (h).

1959—Subsec. (g). Pub. L. 86–354 included Federal credit unions in definition of ''savings and loan association''.

1952—Subsec. (g). Act Apr. 8, 1952, broadened definition of ''savings and loan association'' by including any insured institution as defined in section 401 of the National Housing Act, as amended.

1950—Act Aug. 3, 1950, brought within section State-chartered savings and loan associations whose accounts are insured by the Federal Savings and Loan Insurance Corporation.

§ 2114. Mail, money, or other property of United States

(a) ASSAULT.—A person who assaults any person having lawful charge, control, or custody of any mail matter or of any money or other property of the United States, with intent to rob, steal, or purloin such mail matter, money, or other property of the United States, or robs or attempts to rob any such person of mail matter, or of any money, or other property of the United States, shall, for the first offense, be imprisoned not more than ten years; and if in effecting or attempting to effect such robbery he wounds the person having custody of such mail, money, or other property of the United States, or puts his life in jeopardy by the use of a dangerous weapon, or for a subsequent offense, shall be imprisoned not more than twenty-five years.

(b) RECEIPT, POSSESSION, CONCEALMENT, OR DISPOSAL OF PROPERTY.—A person who receives, possesses, conceals, or disposes of any money or other property that has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.

(June 25, 1948, ch. 645, 62 Stat. 797; Pub. L. 98–473, title II, § 223(d), Oct. 12, 1984, 98 Stat. 2028; Pub. L. 101–647, title XXXV, § 3562, Nov. 29, 1990, 104 Stat. 4927; Pub. L. 103–322, title XXXII, §§ 320602, 320903(a)(3), Sept. 13, 1994, 108 Stat. 2115, 2124; Pub. L. 104–294, title VI, § 604(b)(17), Oct. 11, 1996, 110 Stat. 3507.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 320 (Mar. 4, 1909, ch. 321, § 197, 35 Stat. 1126; Aug. 26, 1935, ch. 694, 49 Stat. 867).

The attention of Congress is directed to the mandatory minimum punishment provisions of sections 2113(e) and 2114 of this title. These were left unchanged because of the controversial question involved. Such legislative attempts to control the discretion of the sentencing judge are contrary to the opinions of experienced criminologists and criminal law experts. They are calculated to work manifest injustice in many cases.

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294 amended Pub. L. 103–322, § 320602. See 1994 Amendment note below.

1994—Pub. L. 103–322, § 320903(a)(3), inserted ''or attempts to rob'' after ''robs'' in subsec. (a).

Pub. L. 103–322, § 320602, as amended by Pub. L. 104–294, § 604(b)(17), designated existing provisions as subsec. (a), inserted heading, substituted ''A person who'' for ''Whoever'', and added subsec. (b).

1990—Pub. L. 101–647 inserted a comma after ''money'' in section catchline.

1984—Pub. L. 98–473, which directed insertion of ''not more than'' after ''imprisoned'', was executed by making the insertion after ''imprisoned'' the second time appearing.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of this title.

§ 2115. Post office

Whoever forcibly breaks into or attempts to break into any post office, or any building used in whole or in part as a post office, with intent to commit in such post office, or building or part thereof, so used, any larceny or other depredation, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 797; Pub. L. 104–294, title VI, § 601(a)(8), Oct. 11, 1996, 110 Stat. 3498.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 315 (Mar. 4, 1909, ch. 321, § 192, 335 Stat. 1125).

Mandatory punishment provisions were rephrased in the alternative.

Minor change in phraseology was made.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 2116. Railway or steamboat post office

Whoever, by violence, enters a post-office car, or any part of any car, steamboat, or vessel, assigned to the use of the mail service, or willfully or maliciously assaults or interferes with any postal clerk in the discharge of his duties in connection with such car, steamboat, vessel, or apartment thereof, shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 797; Pub. L. 104–294, title VI, § 601(a)(8), Oct. 11, 1996, 110 Stat. 3498.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 316 (Mar. 4, 1909, ch. 321, § 193, 35 Stat. 1125).

Reference to persons aiding or assisting was deleted as unnecessary because such persons are made principals by section 2 of this title.

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 2117. Breaking or entering carrier facilities

Whoever breaks the seal or lock of any railroad car, vessel, aircraft, motortruck, wagon or other vehicle or of any pipeline system, containing interstate or foreign shipments of freight or express or other property, or enters any such vehicle or pipeline system with intent in either case to commit larceny therein, shall be fined under this title or imprisoned not more than ten years, or both.

A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution under this section for the same act or acts. Nothing contained in this section shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this section operate to the exclusion of State laws on the same subject matter, nor shall any provision of this section be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this section or any provision thereof.

(June 25, 1948, ch. 645, 62 Stat. 797; May 24, 1949, ch. 139, § 44, 63 Stat. 96; Pub. L. 89–654, § 2(a)–(c), Oct. 14, 1966, 80 Stat. 904; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., § 409 (Feb. 13, 1913, ch. 50, § 1, 37 Stat. 670; Jan. 28, 1925, ch. 102, 43 Stat. 793; Jan. 21, 1933, ch. 16, 47 Stat. 773; July 24, 1946, ch. 606, 60 Stat. 656).

Other provisions of section 409 of title 18, U.S.C., 1940 ed., were incorporated in sections 659 and 660 of this title.

Minor changes were made in phraseology.

1949 ACT

This section [section 44] conforms section 2117 of title 18, U.S.C., more closely with the original law from which it was derived, and with section 659 of such title.

AMENDMENTS

1994—Pub. L. 103–322, which directed the amendment of section 2217 of this title by substituting ''under this title'' for ''not more than $5,000'', was executed by making the substitution in the first par. of this section, to reflect the probable intent of Congress, because this title does not contain a section 2217.

1966—Pub. L. 89–654 substituted ''Breaking or entering carrier facilities'' for ''Railroad car entered or seal broken'' as section catchline, inserted reference to ''pipeline system'', substituted ''freight or express or other property'' for ''freight or express'', and prohibited any construction which might indicate a Congressional intent to occupy the field or invalidate State law.

1949—Act May 24, 1949, inserted last par.

EXECUTIVE ORDER NO. 11836

Ex. Ord. No. 11836, Jan. 27, 1975, 40 F.R. 4255, which assigned responsibilities to Federal departments and agencies with respect to the National Cargo Security Program, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

§ 2118. Robberies and burglaries involving controlled substances

(a) Whoever takes or attempts to take from the person or presence of another by force or violence or by intimidation any material or compound containing any quantity of a controlled substance belonging to or in the care, custody, control, or possession of a person registered with the Drug Enforcement Administration under section 302 of the Controlled Substances Act (21 U.S.C. 822) shall, except as provided in subsection (c), be fined under this title or imprisoned not more than twenty years, or both, if (1) the replacement cost of the material or compound to the registrant was not less than $500, (2) the person who engaged in such taking or attempted such taking traveled in interstate or foreign commerce or used any facility in interstate or foreign commerce to facilitate such taking or attempt, or (3) another person was killed or suffered significant bodily injury as a result of such taking or attempt.

(b) Whoever, without authority, enters or attempts to enter, or remains in, the business premises or property of a person registered with the Drug Enforcement Administration under section 302 of the Controlled Substances Act (21 U.S.C. 822) with the intent to steal any material or compound containing any quantity of a controlled substance shall, except as provided in subsection (c), be fined under this title or imprisoned not more than twenty years, or both, if (1) the replacement cost of the controlled substance to the registrant was not less than $500, (2) the person who engaged in such entry or attempted such entry or who remained in such premises or property traveled in interstate or foreign commerce or used any facility in interstate or foreign commerce to facilitate such entry or attempt or to facilitate remaining in such premises or property, or (3) another person was killed or suffered significant bodily injury as a result of such entry or attempt.

(c)(1) Whoever in committing any offense under subsection (a) or (b) assaults any person, or puts in jeopardy the life of any person, by the use of a dangerous weapon or device shall be fined under this title and imprisoned for not more than twenty-five years.

(2) Whoever in committing any offense under subsection (a) or (b) kills any person shall be fined under this title or imprisoned for any term of years or life, or both.

(d) If two or more persons conspire to violate subsection (a) or (b) of this section and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than ten years or both.

(e) For purposes of this section—

(1) the term ''controlled substance'' has the meaning prescribed for that term by section 102 of the Controlled Substances Act;

(2) the term ''business premises or property'' includes conveyances and storage facilities; and

(3) the term ''significant bodily injury'' means bodily injury which involves a risk of death, significant physical pain, protracted and obvious disfigurement, or a protracted loss or impairment of the function of a bodily member, organ, or mental or sensory faculty.

(Added Pub. L. 98–305, § 2, May 31, 1984, 98 Stat. 221; amended Pub. L. 103–322, title XXXIII, § 330016(1)(O)–(Q), Sept. 13, 1994, 108 Stat. 2148.)

REFERENCES IN TEXT

Section 102 of the Controlled Substances Act, referred to in subsec. (e)(1), is classified to section 802 of Title 21, Food and Drugs.

AMENDMENTS

1994—Subsecs. (a), (b). Pub. L. 103–322, § 330016(1)(O), substituted ''fined under this title'' for ''fined not more than $25,000''.

Subsec. (c)(1). Pub. L. 103–322, § 330016(1)(P), substituted ''fined under this title'' for ''fined not more than $35,000''.

Subsec. (c)(2). Pub. L. 103–322, § 330016(1)(Q), substituted ''fined under this title'' for ''fined not more than $50,000''.

Subsec. (d). Pub. L. 103–322, § 330016(1)(O), substituted ''fined under this title'' for ''fined not more than $25,000''.

SHORT TITLE

Section 1 of Pub. L. 98–305 provided: ''That this Act [enacting this section and provisions set out as a note under section 522 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Controlled Substance Registrant Protection Act of 1984'.''

REPORT TO CONGRESS

Attorney General, for first three years after May 31, 1984, to submit to Congress an annual report with respect to enforcement activities relating to offenses under this section, see section 4 of Pub. L. 98–305, set out as a note under section 522 of Title 28, Judiciary and Judicial Procedure.

§ 2119. Motor vehicles

Whoever, with the intent to cause death or serious bodily harm[1] takes a motor vehicle that has been transported, shipped, or received in interstate or foreign commerce from the person or presence of another by force and violence or by intimidation, or attempts to do so, shall—

(1) be fined under this title or imprisoned not more than 15 years, or both,

(2) if serious bodily injury (as defined in section 1365 of this title, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242 of this title) results, be fined under this title or imprisoned not more than 25 years, or both, and

(3) if death results, be fined under this title or imprisoned for any number of years up to life, or both, or sentenced to death.

(Added Pub. L. 102–519, title I, § 101(a), Oct. 25, 1992, 106 Stat. 3384; amended Pub. L. 103–322, title VI, § 60003(a)(14), Sept. 13, 1994, 108 Stat. 1970; Pub. L. 104–217, § 2, Oct. 1, 1996, 110 Stat. 3020.)

AMENDMENTS

1996—Par. (2). Pub. L. 104–217 inserted '', including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242 of this title'' after ''section 1365 of this title''.

1994—Pub. L. 103–322, § 60003(a)(14), which directed the amendment of section 2119(3) of title 18 by substituting '', with the intent to cause death or serious bodily harm'' for '', possessing a firearm as defined in section 921 of this title,'', was executed by making the substitution in introductory provisions rather than in par. (3), to reflect the probable intent of Congress.

Par. (3). Pub. L. 103–322, § 60003(a)(14), inserted before period at end '', or sentenced to death''.

FEDERAL COOPERATION TO PREVENT ''CARJACKING'' AND MOTOR VEHICLE THEFT

Section 101(b) of Pub. L. 102–519 provided that: ''In view of the increase of motor vehicle theft with its growing threat to human life and to the economic well-being of the Nation, the Attorney General, acting through the Federal Bureau of Investigation and the United States Attorneys, is urged to work with State and local officials to investigate car thefts, including violations of section 2119 of title 18, United States Code, for armed carjacking, and as appropriate and consistent with prosecutorial discretion, prosecute persons who allegedly violate such law and other relevant Federal statutes.''

[1] So in original. Probably should be followed by a comma.

CHAPTER 105—SABOTAGE

Sec.
2151. Definitions.
2152. Fortifications, harbor defenses, or defensive sea areas.
2153. Destruction of war material, war premises or war utilities.[1]
2154. Production of defective war material, war premises or war utilities.[1]
2155. Destruction of national-defense materials, national-defense premises, or national-defense utilities.
2156. Production of defective national-defense material, national-defense premises, or national-defense utilities.
[2157. Repealed.]

AMENDMENTS

1996—Pub. L. 104–294, title VI, § 601(f)(11), Oct. 11, 1996, 110 Stat. 3500, substituted '', or'' for ''or'' in items 2155 and 2156.

1994—Pub. L. 103–322, title XXXIII, § 330004(13), Sept. 13, 1994, 108 Stat. 2142, struck out item 2157 ''Temporary extension of sections 2153 and 2154''.

1954—Act Sept. 3, 1954, ch. 1261, § 106, 68 Stat. 1219, amended items 2153 to 2156 generally.

1953—Act June 30, 1953, ch. 175, § 1, 67 Stat. 133, added item 2157.

§ 2151. Definitions

As used in this chapter:

The words ''war material'' include arms, armament, ammunition, livestock, forage, forest products and standing timber, stores of clothing, air, water, food, foodstuffs, fuel, supplies, munitions, and all articles, parts or ingredients, intended for, adapted to, or suitable for the use of the United States or any associate nation, in connection with the conduct of war or defense activities.

The words ''war premises'' include all buildings, grounds, mines, or other places wherein such war material is being produced, manufactured, repaired, stored, mined, extracted, distributed, loaded, unloaded, or transported, together with all machinery and appliances therein contained; and all forts, arsenals, navy yards, camps, prisons, or other installations of the Armed Forces of the United States, or any associate nation.

The words ''war utilities'' include all railroads, railways, electric lines, roads of whatever description, any railroad or railway fixture, canal, lock, dam, wharf, pier, dock, bridge, building, structure, engine, machine, mechanical contrivance, car, vehicle, boat, aircraft, airfields, air lanes, and fixtures or appurtenances thereof, or any other means of transportation whatsoever, whereon or whereby such war material or any troops of the United States, or of any associate nation, are being or may be transported either within the limits of the United States or upon the high seas or elsewhere; and all air-conditioning systems, dams, reservoirs, aqueducts, water and gas mains and pipes, struc-

[1] So in original. Does not conform to section catchline.

tures and buildings, whereby or in connection with which air, water or gas is being furnished, or may be furnished, to any war premises or to the Armed Forces of the United States, or any associate nation, and all electric light and power, steam or pneumatic power, telephone and telegraph plants, poles, wires, and fixtures, and wireless stations, and the buildings connected with the maintenance and operation thereof used to supply air, water, light, heat, power, or facilities of communication to any war premises or to the Armed Forces of the United States, or any associate nation.

The words ''associate nation'' mean any nation at war with any nation with which the United States is at war.

The words ''national-defense material'' include arms, armament, ammunition, livestock, forage, forest products and standing timber, stores of clothing, air, water, food, foodstuffs, fuel, supplies, munitions, and all other articles of whatever description and any part or ingredient thereof, intended for, adapted to, or suitable for the use of the United States in connection with the national defense or for use in or in connection with the producing, manufacturing, repairing, storing, mining, extracting, distributing, loading, unloading, or transporting of any of the materials or other articles hereinbefore mentioned or any part or ingredient thereof.

The words ''national-defense premises'' include all buildings, grounds, mines, or other places wherein such national-defense material is being produced, manufactured, repaired, stored, mined, extracted, distributed, loaded, unloaded, or transported, together with all machinery and appliances therein contained; and all forts, arsenals, navy yards, camps, prisons, or other installations of the Armed Forces of the United States.

The words ''national-defense utilities'' include all railroads, railways, electric lines, roads of whatever description, railroad or railway fixture, canal, lock, dam, wharf, pier, dock, bridge, building, structure, engine, machine, mechanical contrivance, car, vehicle, boat, aircraft, airfields, air lanes, and fixtures or appurtenances thereof, or any other means of transportation whatsoever, whereon or whereby such national-defense material, or any troops of the United States, are being or may be transported either within the limits of the United States or upon the high seas or elsewhere; and all air-conditioning systems, dams, reservoirs, aqueducts, water and gas mains and pipes, structures, and buildings, whereby or in connection with which air, water, or gas may be furnished to any national-defense premises or to the Armed Forces of the United States, and all electric light and power, steam or pneumatic power, telephone and telegraph plants, poles, wires, and fixtures and wireless stations, and the buildings connected with the maintenance and operation thereof used to supply air, water, light, heat, power, or facilities of communication to any national-defense premises or to the Armed Forces of the United States.

(June 25, 1948, ch. 645, 62 Stat. 798; June 30, 1953, ch. 175, § 2, 67 Stat. 133; Sept. 3, 1954, ch. 1261, title I, § 101, 68 Stat. 1216.)

HISTORICAL AND REVISION NOTES

Based on sections 101, 104, of title 50, U.S.C., 1940 ed., War and National Defense (Apr. 20, 1918, ch. 59, §§ 1, 4, 40 Stat. 533; Nov. 30, 1940, ch. 926, 54 Stat. 1220; Aug. 21, 1941, ch. 388, 55 Stat. 655; Dec. 24, 1942, ch. 824, 56 Stat. 1087).

Section consolidated definitive sections 101 and 104 of title 50, U.S.C., 1940 ed., War and National Defense.

Words ''As used in this chapter'' were inserted at beginning for brevity.

Definition of ''United States'', was omitted as covered by section 5 of this title.

Minor changes were made in phraseology and translations.

AMENDMENTS

1954—Act Sept. 3, 1954, redefined and enlarged definitions.

1953—Act June 30, 1953, inserted ''or defense activities'' after ''conduct of war'' in definition of ''war material''.

SHORT TITLE

Section 1 of act Sept. 3, 1954, provided that: ''This Act [amending this section and sections 794 and 2153 to 2156 of this title] may be cited as the 'Espionage and Sabotage Act of 1954'.''

REPEALS

Section 7 of act June 30, 1953, ch. 175, 67 Stat. 134, repealed Joint Res. July 3, 1952, ch. 570, § 1(a)(29), 66 Stat. 333; Joint Res. Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, formerly cited as credits to this section and also formerly set out as a note under this section.

§ 2152. Fortifications, harbor defenses, or defensive sea areas

Whoever willfully trespasses upon, injures, or destroys any of the works or property or material of any submarine mine or torpedo or fortification or harbor-defense system owned or constructed or in process of construction by the United States; or

Whoever willfully interferes with the operation or use of any such submarine mine, torpedo, fortification, or harbor-defense system; or

Whoever knowingly, willfully, or wantonly violates any duly authorized and promulgated order or regulation of the President governing persons or vessels within the limits of defensive sea areas, which the President, for purposes of national defense, may from time to time establish by executive order—

Shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 799; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 96 (Mar. 4, 1909, ch. 321, § 44, 35 Stat. 1097; Mar. 4, 1917, ch. 180, 39 Stat. 1194; May 22, 1917, ch. 20, § 19, 40 Stat. 89).

Jurisdiction and venue provisions were omitted as unnecessary and inconsistent with Rule 18 of the Federal Rules of Criminal Procedure providing for prosecution where the offense is committed, and section 3238 of this title providing that trial of offenses committed outside any district shall be in the district where the offender is found, or into which he is first brought.

Words ''on conviction thereof'' were omitted as surplusage as punishment cannot be imposed until conviction is had.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in last par.

EXECUTIVE ORDER NO. 10361

Ex. Ord. No. 10361, June 12, 1952, 17 F.R. 5357, formerly set out under this section, which established the Whittier Defensive Sea Area, Alaska, was revoked by Ex. Ord. No. 11549, July 28, 1970, 35 F.R. 12191.

§ 2153. Destruction of war material, war premises, or war utilities

(a) Whoever, when the United States is at war, or in times of national emergency as declared by the President or by the Congress, with intent to injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war or defense activities, or, with reason to believe that his act may injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war or defense activities, willfully injures, destroys, contaminates or infects, or attempts to so injure, destroy, contaminate or infect any war material, war premises, or war utilities, shall be fined under this title or imprisoned not more than thirty years, or both.

(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section.

(June 25, 1948, ch. 645, 62 Stat. 799; June 30, 1953, ch. 175, § 2, 67 Stat. 133; Sept. 3, 1954, ch. 1261, title I, § 102, 68 Stat. 1217; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 102 of title 50, U.S.C., 1940 ed., War and National Defense (Apr. 20, 1918, ch. 59, § 2, 40 Stat. 534).

''As herein defined'' was deleted as surplusage.

The conspiracy provisions are new. Their addition to the section was strongly urged by the Criminal Division of the Department of Justice, considering the gravity of the substantive offense as evidenced by the prescribed punishment therefor. The punishment provisions of the general conspiracy statute, section 371 of this title, are inadequate.

Words ''upon conviction thereof'' were omitted as unnecessary since punishment cannot be imposed until a conviction is secured.

Minor changes were made in phraseology.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

1954—Act Sept. 3, 1954, made section applicable in time of national emergency as well as war, and recognized the possibility of bacteriological warfare by making ''contamination'' a crime.

1953—Subsec. (a). Act June 30, 1953, inserted ''or defense activities'' after ''carrying on the war''.

REPEALS

Section 7 of act June 30, 1953, ch. 175, 67 Stat. 134, repealed Joint Res. July 3, 1952, ch. 570, § 1(a)(29), 66 Stat. 333; Joint Res. Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, formerly cited as credits to this section and also formerly set out as a note under this section.

§ 2154. Production of defective war material, war premises, or war utilities

(a) Whoever, when the United States is at war, or in times of national emergency as declared by the President or by the Congress, with intent to injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war or defense activities, or, with reason to believe that his act may injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war or defense activities, willfully makes, constructs, or causes to be made or constructed in a defective manner, or attempts to make, construct, or cause to be made or constructed in a defective manner any war material, war premises or war utilities, or any tool, implement, machine, utensil, or receptacle used or employed in making, producing, manufacturing, or repairing any such war material, war premises or war utilities, shall be fined under this title or imprisoned not more than thirty years, or both.

(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section.

(June 25, 1948, ch. 645, 62 Stat. 799; June 30, 1953, ch. 175, § 2, 67 Stat. 133; Sept. 3, 1954, ch. 1261, title I, § 103, 68 Stat. 1218; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 103 of title 50, U.S.C., 1940 ed., War and National Defense (Apr. 20, 1918, ch. 59, § 3, 40 Stat. 534).

The conspiracy provisions are new. Their addition to the section was strongly urged by the Criminal Division of the Department of Justice, considering the gravity of the substantive offense as evidenced by the prescribed punishment therefor. The punishment provisions of the general conspiracy statute, section 371 of this title, are inadequate.

Words ''upon conviction thereof'' were omitted as unnecessary, since punishment cannot be imposed until a conviction is secured.

Minor changes were made in phraseology.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

1954—Act Sept. 3, 1954, made section applicable in time of national emergency, and enlarged its scope by bringing ''war premises, or war utilities'' within jurisdiction of section.

1953—Subsec. (a). Act June 30, 1953, inserted ''or defense activities'' after ''carrying on the war''.

REPEALS

Section 7 of act June 30, 1953, ch. 175, 67 Stat. 134, repealed Joint Res. July 3, 1952, ch. 570, § 1(a)(29), 66 Stat. 333; Joint Res. Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, formerly cited as credits to this section and also formerly set out as a note under this section.

§ 2155. Destruction of national-defense materials, national-defense premises, or national-defense utilities

(a) Whoever, with intent to injure, interfere with, or obstruct the national defense of the

United States, willfully injures, destroys, contaminates or infects, or attempts to so injure, destroy, contaminate or infect any national-defense material, national-defense premises, or national-defense utilities, shall be fined under this title or imprisoned not more than 20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life.

(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section.

(June 25, 1948, ch. 645, 62 Stat. 799; Sept. 3, 1954, ch. 1261, title I, § 104, 68 Stat. 1218; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–294, title VI, § 601(f)(12), Oct. 11, 1996, 110 Stat. 3500; Pub. L. 107–56, title VIII, § 810(e), Oct. 26, 2001, 115 Stat. 380.)

HISTORICAL AND REVISION NOTES

Based on section 105 of title 50, U.S.C., 1940 ed., War and National Defense (Apr. 20, 1918, ch. 59, § 5, as added Nov. 30, 1940, ch. 926, 54 Stat. 1221).

Words ''upon conviction thereof'' were omitted as unnecessary, since punishment cannot be imposed until a conviction is secured.

Minor changes were made in phraseology.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–56 substituted ''20 years'' for ''ten years'' and inserted '', and, if death results to any person, shall be imprisoned for any term of years or for life'' before period at end.

1996—Pub. L. 104–294 substituted '', or'' for ''or'' in section catchline.

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

1954—Act Sept. 3, 1954, inserted conspiracy provisions.

§ 2156. Production of defective national-defense material, national-defense premises, or national-defense utilities

(a) Whoever, with intent to injure, interfere with, or obstruct the national defense of the United States, willfully makes, constructs, or attempts to make or construct in a defective manner, any national-defense material, national-defense premises or national-defense utilities, or any tool, implement, machine, utensil, or receptacle used or employed in making, producing, manufacturing, or repairing any such national-defense material, national-defense premises or national-defense utilities, shall be fined under this title or imprisoned not more than ten years, or both.

(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section.

(June 25, 1948, ch. 645, 62 Stat. 800; Sept. 3, 1954, ch. 1261, title I, § 105, 68 Stat. 1218; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–294, title VI, § 601(f)(12), Oct. 11, 1996, 110 Stat. 3500.)

HISTORICAL AND REVISION NOTES

Based on section 106 of title 50, U.S.C., 1940 ed., War and National Defense (Apr. 20, 1918, ch. 59, § 6, as added Nov. 30, 1940, ch. 926, 54 Stat. 1221).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Words ''upon conviction thereof'' were omitted as unnecessary, since punishment cannot be imposed until a conviction is secured.

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294 substituted '', or'' for ''or'' in section catchline.

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

1954—Act Sept. 3, 1954, inserted conspiracy provisions.

[§ 2157. Repealed. Pub. L. 103–322, title XXXIII, § 330004(13), Sept. 13, 1994, 108 Stat. 2142]

Section, added June 30, 1953, ch. 175, § 2, 67 Stat. 133, related to temporary extension of sections 2153 and 2154 of this title.

CHAPTER 107—SEAMEN AND STOWAWAYS

Sec.
2191. Cruelty to seamen.
2192. Incitation of seamen to revolt or mutiny.
2193. Revolt or mutiny of seamen.
2194. Shanghaiing sailors.
2195. Abandonment of sailors.
2196. Drunkenness or neglect of duty by seamen.
2197. Misuse of Federal certificate, license or document.
[2198. Repealed.]
2199. Stowaways on vessels or aircraft.

AMENDMENTS

1990—Pub. L. 101–647, title XII, § 1207(b), Nov. 29, 1990, 104 Stat. 4832, struck out item 2198 ''Seduction of female passenger''.

§ 2191. Cruelty to seamen

Whoever, being the master or officer of a vessel of the United States, on the high seas, or on any other waters within the admiralty and maritime jurisdiction of the United States, flogs, beats, wounds, or without justifiable cause, imprisons any of the crew of such vessel, or withholds from them suitable food and nourishment, or inflicts upon them any corporal or other cruel and unusual punishment, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 800; Pub. L. 104–294, title VI, § 601(a)(8), Oct. 11, 1996, 110 Stat. 3498.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 482 and section 712 of title 46, U.S.C., 1940 ed., Shipping (Dec. 21, 1898, ch. 28, § 22, 30 Stat. 761; Mar. 4, 1909, ch. 321, § 291, 35 Stat. 1145).

Section consolidates section 482 of title 18, U.S.C., 1940 ed., and the following language from section 712 of title 46, U.S.C., 1940 ed., Shipping, prohibiting flogging and corporal punishment: ''and any master or other officer thereof who shall violate the aforesaid provisions of this section, or either thereof, shall be deemed guilty of a misdemeanor, punishable by imprisonment for not less than three months nor more than two years.'' That language was the basis for the addition of the word ''flogs'' and the words ''any corporal or other'' for the word ''any.'' The punishment imposed by section 482 was adopted as that was the later statute as incorporated in 1909 Criminal Code.

Words ''shall be deemed guilty of a misdemeanor,'' contained in said section 712 of title 46, were omitted in view of definitive section 1 of this title.

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 2192. Incitation of seamen to revolt or mutiny

Whoever, being of the crew of a vessel of the United States, on the high seas, or on any other waters within the admiralty and maritime jurisdiction of the United States, endeavors to make a revolt or mutiny on board such vessel, or combines, conspires, or confederates with any other person on board to make such revolt or mutiny, or solicits, incites, or stirs up any other of the crew to disobey or resist the lawful orders of the master or other officer of such vessel, or to refuse or neglect his proper duty on board thereof, or to betray his proper trust, or assembles with others in a tumultuous and mutinous manner, or makes a riot on board thereof, or unlawfully confines the master or other commanding officer thereof, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 800; Pub. L. 104–294, title VI, § 601(a)(8), Oct. 11, 1996, 110 Stat. 3498.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 483 (Mar. 4, 1909, ch. 321, § 292, 35 Stat. 1146).

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 2193. Revolt or mutiny of seamen

Whoever, being of the crew of a vessel of the United States, on the high seas, or on any other waters within the admiralty and maritime jurisdiction of the United States, unlawfully and with force, or by fraud, or intimidation, usurps the command of such vessel from the master or other lawful officer in command thereof, or deprives him of authority and command on board, or resists or prevents him in the free and lawful exercise thereof, or transfers such authority and command to another not lawfully entitled thereto, is guilty of a revolt and mutiny, and shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 800; 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., § 484 (Mar. 4, 1909, ch. 321, § 293, 35 Stat. 1146).

Punishment provision for mandatory fine and imprisonment was rephrased in the alternative so as to vest power in the court to impose either a fine, or imprisonment, or both, in its discretion.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $2,000''.

§ 2194. Shanghaiing sailors

Whoever, with intent that any person shall perform service or labor of any kind on board of any vessel engaged in trade and commerce among the several States or with foreign nations, or on board of any vessel of the United States engaged in navigating the high seas or any navigable water of the United States, procures or induces, or attempts to procure or induce, another, by force or threats or by representations which he knows or believes to be untrue, or while the person so procured or induced is intoxicated or under the influence of any drug, to go on board of any such vessel, or to sign or in anywise enter into any agreement to go on board of any such vessel to perform service or labor thereon; or

Whoever knowingly detains on board of any such vessel any person so procured or induced to go on board, or to enter into any agreement to go on board, by any means herein defined—

Shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 800; Pub. L. 104–294, title VI, § 601(a)(8), Oct. 11, 1996, 110 Stat. 3498.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 144 (Mar. 4, 1909, ch. 321, § 82, 35 Stat. 1103).

Reference to persons aiding or abetting was omitted as unnecessary as such persons are made principals by section 2 of this title.

Minor changes were made in phraseology and arrangement.

AMENDMENTS

1996—Pub. L. 104–294 substituted ''fined under this title'' for ''fined not more than $1,000'' in last par.

§ 2195. Abandonment of sailors

Whoever, being master or commander of a vessel of the United States, while abroad, maliciously and without justifiable cause forces any officer or mariner of such vessel on shore, in order to leave him behind in any foreign port or place, or refuses to bring home again all such officers and mariners of such vessel whom he carried out with him, as are in a condition to return and willing to return, when he is ready to proceed on his homeward voyage, shall be fined under this title or imprisoned not more than six months, or both.

(June 25, 1948, ch. 645, 62 Stat. 801; Pub. L. 103–322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 486 (Mar. 4, 1909, ch. 321, § 295, 35 Stat. 1146).

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $500''.

§ 2196. Drunkenness or neglect of duty by seamen

Whoever, being a master, officer, radio operator, seaman, apprentice or other person employed on any merchant vessel, by willful breach of duty, or by reason of drunkenness, does any act tending to the immediate loss or destruction of, or serious damage to, such vessel, or tending immediately to endanger the life or limb of any

person belonging to or on board of such vessel; or, by willful breach of duty or by neglect of duty or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such vessel from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, shall be imprisoned not more than one year.

(June 25, 1948, ch. 645, 62 Stat. 801.)

HISTORICAL AND REVISION NOTES

Based on section 704 of title 46, U.S.C., 1940 ed., Shipping (R.S. § 4602).

Words ''officer, radio operator,'' and ''or other person employed on'' were inserted at beginning of section to insure clarity and scope of section. Section 701 of title 46, U.S.C., 1940 ed., Shipping, is very similar to this section as revised, and has been applied to mates [*Morris v. Cornell*, D.C. Mass. 1843, Fed. Cas. No. 9,829; *Gladding v. Constant*, D.C. Mass. 1844, Fed. Cas. No. 5,468; *Foye v. Dabney*, D.C. Mass. 1853, Fed. Cas. No. 5,022; *Foye v. Lickie*, D.C. Mass. 1853, Fed. Cas. No. 5,023; *The Sylvia De Grasse*, D.C.N.Y. 1843, Fed. Cas. No. 12,676; *The Sadie C. Sumner*, D.C. Mass. 1905, 142 F. 611], as well as engineers, assistant engineers and cooks. (See notes of decisions under section 701, of title 46, U.S.C., Shipping.)

Words ''be guilty of a misdemeanor'' were omitted as unnecessary in view of general definition of ''misdemeanor'' in section 1 of this title.

Minor changes were made in phraseology including substitution of ''one year'' for ''twelve months'' at end of section.

§ 2197. Misuse of Federal certificate, license or document

Whoever, not being lawfully entitled thereto, uses, exhibits, or attempts to use or exhibit, or, with intent unlawfully to use the same, receives or possesses any certificate, license, or document issued to vessels, or officers or seamen by any officer or employee of the United States authorized by law to issue the same; or

Whoever, without authority, alters or attempts to alter any such certificate, license, or document by addition, interpolation, deletion, or erasure; or

Whoever forges, counterfeits, or steals, or attempts to forge, counterfeit, or steal, any such certificate, license, or document; or unlawfully possesses or knowingly uses any such altered, changed, forged, counterfeit, or stolen certificate, license, or document; or

Whoever, without authority, prints or manufactures any blank form of such certificate, license, or document, or

Whoever possesses without lawful excuse, and with intent unlawfully to use the same, any blank form of such certificate, license, or document; or

Whoever, in any manner, transfers or negotiates such transfer of, any blank form of such certificate, license, or document, or any such altered, forged, counterfeit, or stolen certificate, license, or document, or any such certificate, license, or document to which the party transferring or receiving the same is not lawfully entitled—

Shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 801; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 710a of title 46, U.S.C., 1940 ed., Shipping (June 25, 1936, ch. 816, § 6, 49 Stat. 1936).

The phrase ''the Bureau of Marine Inspection and Navigation,'' identifying the agency issuing the certificate, license or document, was omitted without change of substance. The functions of the Bureau of Marine Inspection and Navigation were transferred to the Bureau of Customs and the Coast Guard by Executive Order 9083 Feb. 28, 1942, title 50, App. U.S.C., 1940 ed., following § 601. Such transfer is temporary under section 621 of title 50, App., U.S.C., 1940 ed. (First War Powers Act).

As revised the section is broad enough to embrace certificates, licenses and documents issued by the officers or employees of the Coast Guard and Customs Service, as the case may be.

Reference to persons causing, procuring, aiding or abetting was omitted as such persons are principals under section 2 of this title.

Words ''upon conviction thereof'' were omitted as unnecessary, since punishment cannot be imposed until a conviction is secured.

Changes were made in phraseology and arrangement.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000'' in last par.

[§ 2198. Repealed. Pub. L. 101–647, title XII, § 1207(b), Nov. 29, 1990, 104 Stat. 4832]

Section, act June 25, 1948, ch. 645, 62 Stat. 802, related to penalties for seducing a female passenger on an American vessel by employees of the vessel.

§ 2199. Stowaways on vessels or aircraft

Whoever, without the consent of the owner, charterer, master, or person in command of any vessel, or aircraft, with intent to obtain transportation, boards, enters or secretes himself aboard such vessel or aircraft and is thereon at the time of departure of said vessel or aircraft from a port, harbor, wharf, airport or other place within the jurisdiction of the United States; or

Whoever, with like intent, having boarded, entered or secreted himself aboard a vessel or aircraft at any place within or without the jurisdiction of the United States, remains aboard after the vessel or aircraft has left such place and is thereon at any place within the jurisdiction of the United States; or

Whoever, with intent to obtain a ride or transportation, boards or enters any aircraft owned or operated by the United States without the consent of the person in command or other duly authorized officer or agent—

Shall be fined under this title or imprisoned not more than one year, or both.

The word ''aircraft'' as used in this section includes any contrivance for navigation or flight in the air.

(June 25, 1948, ch. 645, 62 Stat. 802; Pub. L. 104–294, title VI, § 601(a)(8), Oct. 11, 1996, 110 Stat. 3498.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 469–474 (June 11, 1940, ch. 326, §§ 1–3, 54 Stat. 306; Mar. 4, 1944, ch. 82, §§ 1–4, 58 Stat. 111; Apr. 10, 1944, ch. 162, 58 Stat. 188).

Sections consolidated and rewritten with changes of phraseology and substance.

In section 469 of title 18, U.S.C., 1940 ed., the element of intent not to pay for transportation was omitted as

unnecessary since the payment of transportation will invariably remove the stowaway from the operation of the section by purchasing the master's ''consent''.

In section 472 of title 18, U.S.C., 1940 ed., the enumerations of State, Territory, Possession, District of Columbia, and The Canal Zone, was omitted as adequately covered by ''place within the jurisdiction of the United States.''

The punishment provision is the same as in sections 470, 472, and 473 of title 18, U.S.C., 1940 ed., but the fine is $500 more than the maximum fine provided by said section 469. There seemed no point, however, in preserving a differential in favor of the stowaway as against the aider and abettor of $500. The court can be trusted to exercise a wise discretion within the slightly larger limits provided by the revised section.

The provision for punishment of aiders and abettors in section 470 of title 18, U.S.C., 1940 ed., was omitted as unnecessary since they are punishable as principals by section 2 of this title.

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

AMENDMENTS

1996—Pub. L. 104–294 substituted ''fined under this title'' for ''fined not more than $1,000'' in fourth 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.
2234. Authority exceeded in executing warrant.
2235. Search warrant procured maliciously.
2236. Searches without warrant.

§ 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''.

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.
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 Attorney General[1] 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

[1] So in original. Probably should be followed by a comma.

prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General[1] 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 direction of or pursuant to a contract or agreement with the Attorney General[1] knowingly engages in a sexual act with another person who has not attained the age of 12 years, or knowingly engages in a sexual act under the circumstances described in subsections (a) and (b) with another person who has attained the age of 12 years but has not attained the age of 16 years (and is at least 4 years younger than the person so engaging), or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both. If the defendant has previously been convicted of another Federal offense under this subsection, or of a State offense that would have been an offense under either such provision had the offense occurred in a Federal prison, unless the death penalty is imposed, the defendant shall be sentenced to life in prison.

(d) STATE OF MIND PROOF REQUIREMENT.—In a prosecution under subsection (c) of this section, the Government need not prove that the defendant knew that the other person engaging in the sexual act had not attained the age of 12 years.

(Added Pub. L. 99–646, § 87(b), Nov. 10, 1986, 100 Stat. 3620, and Pub. L. 99–654, § 2, Nov. 14, 1986, 100 Stat. 3660; amended Pub. L. 103–322, title XXXIII, § 330021(1), Sept. 13, 1994, 108 Stat. 2150; Pub. L. 104–208, div. A, title I, § 101(a) [title I, § 121[7(b)]], Sept. 30, 1996, 110 Stat. 3009, 3009–26, 3009–31; Pub. L. 105–314, title III, § 301(a), Oct. 30, 1998, 112 Stat. 2978; Pub. L. 109–162, title XI, § 1177(a)(1), (2), Jan. 5, 2006, 119 Stat. 3125.)

CODIFICATION

Pub. L. 99–646 and Pub. L. 99–654 added identical sections 2241.

AMENDMENTS

2006—Subsecs. (a), (b). Pub. L. 109–162, § 1177(a)(1), inserted ''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 Attorney General'' after ''in a Federal prison,'' in introductory provisions.

Subsec. (c). Pub. L. 109–162, § 1177(a)(2), inserted ''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 Attorney General'' after ''in a Federal prison,'' in first sentence.

1998—Subsec. (c). Pub. L. 105–314 substituted ''younger than the person so engaging'' for ''younger than that person''.

1996—Subsec. (c). Pub. L. 104–208 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who has not attained the age of 12 years, or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.''

1994—Subsec. (a)(2). Pub. L. 103–322 substituted ''kidnapping'' for ''kidnaping''.

EFFECTIVE DATE

Section 87(e) of Pub. L. 99–646 and section 4 of Pub. L. 99–654 provided, respectively, that: ''This section and the amendments made by this section [see Short Title note below] shall take effect 30 days after the date of the enactment of this Act [Nov. 10, 1986].'' and ''This Act and the amendments made by this Act [see Short Title note below] shall take effect 30 days after the date of the enactment of this Act [Nov. 14, 1986].''

SHORT TITLE OF 1996 AMENDMENT

Section 101(a) [title I, § 121[7(a)]] of Pub. L. 104–208 provided that: ''This section [probably means subsec. 7 of section 121 of Pub. L. 104–208, div. A, title I, § 101(a), which amended sections 2241 and 2243 of this title] may be cited as the 'Amber Hagerman Child Protection Act of 1996'.''

SHORT TITLE

Section 87(a) of Pub. L. 99–646 and section 1 of Pub. L. 99–654 provided, respectively, that: ''This section [enacting this chapter, amending sections 113, 1111, 1153, and 3185 of this title, sections 300w–3, 300w–4, and 9511 of Title 42, The Public Health and Welfare, and section 1472 of former Title 49, Transportation, and repealing chapter 99 of this title] may be cited as the 'Sexual Abuse Act of 1986'.'' and ''This Act [enacting this chapter, amending sections 113, 1111, 1153, and 3185 of this title, sections 300w–3, 300w–4, and 9511 of Title 42, and section 1472 of former Title 49, Transportation, and repealing chapter 99 of this title] may be cited as the 'Sexual Abuse Act of 1986'.''

§ 2242. Sexual abuse

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 Attorney General[1] knowingly—

(1) causes another person to engage in a sexual act by threatening or placing that other person in fear (other than by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping); or

(2) engages in a sexual act with another person if that other person is—

(A) incapable of appraising the nature of the conduct; or

(B) physically incapable of declining participation in, or communicating unwillingness to engage in, that sexual act;

or attempts to do so, shall be fined under this title, imprisoned not more than 20 years, or both.

[1] So in original. Probably should be followed by a comma.

(Added Pub. L. 99–646, § 87(b), Nov. 10, 1986, 100 Stat. 3621, and Pub. L. 99–654, § 2, Nov. 14, 1986, 100 Stat. 3661; amended Pub. L. 103–322, title XXXIII, § 330021(1), Sept. 13, 1994, 108 Stat. 2150; Pub. L. 109–162, title XI, § 1177(a)(3), Jan. 5, 2006, 119 Stat. 3125.)

CODIFICATION

Pub. L. 99–646 and Pub. L. 99–654 added identical sections 2242.

AMENDMENTS

2006—Pub. L. 109–162 inserted ''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 Attorney General'' after ''in a Federal prison,'' in introductory provisions.

1994—Par. (1). Pub. L. 103–322 substituted ''kidnapping'' for ''kidnaping''.

§ 2243. Sexual abuse of a minor or ward

(a) OF A MINOR.—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 Attorney General[1] knowingly engages in a sexual act with another person who—

(1) has attained the age of 12 years but has not attained the age of 16 years; and

(2) is at least four years younger than the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned not more than 15 years, or both.

(b) OF A WARD.—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 Attorney General[1] knowingly engages in a sexual act with another person who is—

(1) in official detention; and

(2) under the custodial, supervisory, or disciplinary authority of the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned not more than five years, or both.

(c) DEFENSES.—(1) In a prosecution under subsection (a) of this section, it is a defense, which the defendant must establish by a preponderance of the evidence, that the defendant reasonably believed that the other person had attained the age of 16 years.

(2) In a prosecution under this section, it is a defense, which the defendant must establish by a preponderance of the evidence, that the persons engaging in the sexual act were at that time married to each other.

(d) STATE OF MIND PROOF REQUIREMENT.—In a prosecution under subsection (a) of this section, the Government need not prove that the defendant knew—

(1) the age of the other person engaging in the sexual act; or

(2) that the requisite age difference existed between the persons so engaging.

[1] So in original. Probably should be followed by a comma.

(Added Pub. L. 99–646, § 87(b), Nov. 10, 1986, 100 Stat. 3621, and Pub. L. 99–654, § 2, Nov. 14, 1986, 100 Stat. 3661; amended Pub. L. 101–647, title III, § 322, Nov. 29, 1990, 104 Stat. 4818; Pub. L. 104–208, div. A, title I, § 101(a) [title I, § 121[7(c)]], Sept. 30, 1996, 110 Stat. 3009, 3009–26, 3009–31; Pub. L. 105–314, title III, § 301(b), Oct. 30, 1998, 112 Stat. 2979; Pub. L. 109–162, title XI, § 1177(a)(4), (b)(1), Jan. 5, 2006, 119 Stat. 3125.)

CODIFICATION

Pub. L. 99–646 and Pub. L. 99–654 added identical sections 2243.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–162, § 1177(a)(4), inserted ''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 Attorney General'' after ''in a Federal prison,'' in introductory provisions.

Subsec. (b). Pub. L. 109–162, § 1177(a)(4), (b)(1), inserted ''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 Attorney General'' after ''in a Federal prison,'' in introductory provisions and substituted ''five years'' for ''one year'' in concluding provisions.

1998—Subsec. (a). Pub. L. 105–314 struck out ''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'' after ''Whoever'' in introductory provisions.

1996—Subsec. (a). Pub. L. 104–208 inserted ''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'' after ''Whoever'' in introductory provisions.

1990—Subsec. (a). Pub. L. 101–647 substituted ''15 years'' for ''five years'' in concluding provisions.

§ 2244. Abusive sexual contact

(a) SEXUAL CONDUCT IN CIRCUMSTANCES WHERE SEXUAL ACTS ARE PUNISHED BY THIS CHAPTER.—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 Attorney General[1] knowingly engages in or causes sexual contact with or by another person, if so to do would violate—

(1) section 2241 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than ten years, or both;

(2) section 2242 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than three years, or both;

(3) subsection (a) of section 2243 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than two years, or both; or

(4) subsection (b) of section 2243 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than two years, or both.

(b) IN OTHER CIRCUMSTANCES.—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 At-

[1] So in original. Probably should be followed by a comma.

torney General[1] knowingly engages in sexual contact with another person without that other person's permission shall be fined under this title, imprisoned not more than two years, or both.

(c) OFFENSES INVOLVING YOUNG CHILDREN.—If the sexual contact that violates this section is with an individual who has not attained the age of 12 years, the maximum term of imprisonment that may be imposed for the offense shall be twice that otherwise provided in this section.

(Added Pub. L. 99–646, § 87(b), Nov. 10, 1986, 100 Stat. 3622, and Pub. L. 99–654, § 2, Nov. 14, 1986, 100 Stat. 3661; amended Pub. L. 100–690, title VII, § 7058(a), Nov. 18, 1988, 102 Stat. 4403; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 105–314, title III, § 302, Oct. 30, 1998, 112 Stat. 2979; Pub. L. 109–162, title XI, § 1177(a)(5), (b)(2), Jan. 5, 2006, 119 Stat. 3125.)

CODIFICATION

Pub. L. 99–646 and Pub. L. 99–654 added identical sections 2244.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–162, § 1177(a)(5), inserted ''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 Attorney General'' after ''in a Federal prison,'' in introductory provisions.

Subsec. (a)(4). Pub. L. 109–162, § 1177(b)(2), substituted ''two years'' for ''six months''.

Subsec. (b). Pub. L. 109–162, § 1177(a)(5), (b)(2), inserted ''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 Attorney General'' after ''in a Federal prison,'' and substituted ''two years'' for ''six months''.

1998—Subsec. (c). Pub. L. 105–314 added subsec. (c).

1994—Subsecs. (a)(4), (b). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

1988—Subsec. (a). Pub. L. 100–690 substituted ''ten years'' for ''five years'' in par. (1) and ''two years'' for ''one year'' in par. (3).

§ 2245. Sexual abuse resulting in death

A person who, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.

(Added Pub. L. 103–322, title VI, § 60010(a)(2), Sept. 13, 1994, 108 Stat. 1972.)

PRIOR PROVISIONS

A prior section 2245 was renumbered section 2246 of this title.

§ 2246. Definitions for chapter

As used in this chapter—

(1) the term ''prison'' means a correctional, detention, or penal facility;

(2) the term ''sexual act'' means—

(A) contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight;

(B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;

(C) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or

(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

(3) the term ''sexual contact'' means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

(4) the term ''serious bodily injury'' means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty;

(5) the term ''official detention'' means—

(A) detention by a Federal officer or employee, or under the direction of a Federal officer or employee, following arrest for an offense; following surrender in lieu of arrest for an offense; following a charge or conviction of an offense, or an allegation or finding of juvenile delinquency; following commitment as a material witness; following civil commitment in lieu of criminal proceedings or pending resumption of criminal proceedings that are being held in abeyance, or pending extradition, deportation, or exclusion; or

(B) custody by a Federal officer or employee, or under the direction of a Federal officer or employee, for purposes incident to any detention described in subparagraph (A) of this paragraph, including transportation, medical diagnosis or treatment, court appearance, work, and recreation;

but does not include supervision or other control (other than custody during specified hours or days) after release on bail, probation, or parole, or after release following a finding of juvenile delinquency; and

(6) the term ''State'' means a State of the United States, the District of Columbia, and any commonwealth, possession, or territory of the United States.

(Added Pub. L. 99–646, § 87(b), Nov. 10, 1986, 100 Stat. 3622, § 2245, and Pub. L. 99–654, § 2, Nov. 14, 1986, 100 Stat. 3662, § 2245; renumbered § 2246 and amended Pub. L. 103–322, title IV, § 40502, title VI, § 60010(a)(1), Sept. 13, 1994, 108 Stat. 1945, 1972; Pub. L. 105–314, title III, § 301(c), Oct. 30, 1998, 112 Stat. 2979.)

CODIFICATION

Pub. L. 99–646 and Pub. L. 99–654 added identical sections.

AMENDMENTS

1998—Par. (6). Pub. L. 105–314 added par. (6).

1994—Pub. L. 103–322, § 60010(a)(1), renumbered section 2245 of this title as this section.

Par. (2)(D). Pub. L. 103–322, § 40502, added subpar. (D).

§ 2247. Repeat offenders

(a) MAXIMUM TERM OF IMPRISONMENT.—The maximum term of imprisonment for a violation of this chapter after a prior sex offense conviction shall be twice the term otherwise provided by this chapter, unless section 3559(e) applies.

(b) PRIOR SEX OFFENSE CONVICTION DEFINED.—In this section, the term ''prior sex offense conviction'' has the meaning given that term in section 2426(b).

(Added Pub. L. 103–322, title IV, § 40111(a), Sept. 13, 1994, 108 Stat. 1903; amended Pub. L. 105–314, title III, § 303, Oct. 30, 1998, 112 Stat. 2979; Pub. L. 108–21, title I, § 106(b), Apr. 30, 2003, 117 Stat. 655.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–21 inserted '', unless section 3559(e) applies'' before period at end.

1998—Pub. L. 105–314 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: ''Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact have become final, is punishable by a term of imprisonment up to twice that otherwise authorized.''

§ 2248. Mandatory restitution

(a) IN GENERAL.—Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

(b) SCOPE AND NATURE OF ORDER.—

(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (2).

(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.

(3) DEFINITION.—For purposes of this subsection, the term ''full amount of the victim's losses'' includes any costs incurred by the victim for—

(A) medical services relating to physical, psychiatric, or psychological care;

(B) physical and occupational therapy or rehabilitation;

(C) necessary transportation, temporary housing, and child care expenses;

(D) lost income;

(E) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

(F) any other losses suffered by the victim as a proximate result of the offense.

(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

(B) A court may not decline to issue an order under this section because of—

(i) the economic circumstances of the defendant; or

(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

(c) DEFINITION.—For purposes of this section, the term ''victim'' means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.

(Added Pub. L. 103–322, title IV, § 40113(a)(1), Sept. 13, 1994, 108 Stat. 1904; amended Pub. L. 104–132, title II, § 205(b), Apr. 24, 1996, 110 Stat. 1231.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–132, § 205(b)(1), inserted ''or 3663A'' after ''3663''.

Subsec. (b)(1). Pub. L. 104–132, § 205(b)(2)(A), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''The order of restitution under this section shall direct that—

''(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

''(B) the United States Attorney enforce the restitution order by all available and reasonable means.''

Subsec. (b)(2). Pub. L. 104–132, § 205(b)(2)(B), struck out ''by victim'' after ''Enforcement'' in heading and amended text generally. Prior to amendment, text read as follows: ''An order of restitution also may be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.''

Subsec. (b)(4)(C), (D). Pub. L. 104–132, § 205(b)(2)(C), struck out subpars. (C) and (D), which related to court's consideration of economic circumstances of defendant in determining schedule of payment of restitution orders, and court's entry of nominal restitution awards where economic circumstances of defendant do not allow for payment of restitution, respectively.

Subsec. (b)(5) to (10). Pub. L. 104–132, § 205(b)(2)(D), struck out pars. (5) to (10), which related, respectively, to more than 1 offender, more than 1 victim, payment schedule, setoff, effect on other sources of compensation, and condition of probation or supervised release.

Subsec. (c). Pub. L. 104–132, § 205(b)(3), (4), redesignated subsec. (f) as (c) and struck out former subsec. (c) relating to proof of claim.

Subsecs. (d), (e). Pub. L. 104–132, § 205(b)(3), struck out subsecs. (d) and (e) which read as follows:

''(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.

''(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.''

Subsec. (f). Pub. L. 104–132, § 205(b)(4), redesignated subsec. (f) as (c).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 211 of title II of Pub. L. 104–132 provided that: ''The amendments made by this subtitle [subtitle A (§§ 201–211) of title II of Pub. L. 104–132, see Short Title of 1996 Amendment note set out under section 3551 of this title] shall, to the extent constitutionally permissible, be effective for sentencing proceedings in cases in

which the defendant is convicted on or after the date of enactment of this Act [Apr. 24, 1996].''

CHAPTER 110—SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN

Sec.
2251. Sexual exploitation of children.
2251A. Selling or buying of children.
2252. Certain activities relating to material involving the sexual exploitation of minors.
2252A. Certain activities relating to material constituting or containing child pornography.
2252B. Misleading domain names on the Internet.
2253. Criminal forfeiture.
2254. Civil forfeiture.
2255. Civil remedy for personal injuries.
2256. Definitions for chapter.
2257. Record keeping requirements.
2258. Failure to report child abuse.
2259. Mandatory restitution.
2260. Production of sexually explicit depictions of a minor for importation into the United States.

AMENDMENTS

2003—Pub. L. 108–21, title V, § 521(b), Apr. 30, 2003, 117 Stat. 686, added item 2252B.

1996—Pub. L. 104–294, title VI, § 601(i)(2), Oct. 11, 1996, 110 Stat. 3501, redesignated item 2258, relating to production of sexually explicit depictions of a minor, as 2260.

Pub. L. 104–208, div. A, title I, § 101(a) [title I, § 121[3(b)]], Sept. 30, 1996, 110 Stat. 3009, 3009–26, 3009–30, added item 2252A.

1994—Pub. L. 103–322, title IV, § 40113(b)(2), title XVI, § 160001(b)(1), Sept. 13, 1994, 108 Stat. 1910, 2037, added items 2258, relating to production of sexually explicit depictions of a minor, and 2259.

1990—Pub. L. 101–647, title II, § 226(g)(2), Nov. 29, 1990, 104 Stat. 4808, inserted ''AND OTHER ABUSE'' after ''EXPLOITATION'' in chapter heading and added item 2258.

1988—Pub. L. 100–690, title VII, §§ 7512(c), 7513(b), Nov. 18, 1988, 102 Stat. 4487, 4488, added items 2251A and 2257.

1986—Pub. L. 99–500, § 101(b), [title VII, § 703(b)], Oct. 18, 1986, 100 Stat. 1783–39, 1783–75, and Pub. L. 99–591, § 101(b) [title VII, § 703(b)], Oct. 30, 1986, 100 Stat. 3341–39, 3341–75, added item 2255 and redesignated former item 2255 as 2256.

1984—Pub. L. 98–292, § 7, May 21, 1984, 98 Stat. 206, added items 2253 and 2254 and redesignated former item 2253 as 2255.

§ 2251. Sexual exploitation of children

(a) Any person who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor in interstate or foreign commerce, or in any Territory or Possession of the United States, with the intent that such minor engage in, any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, shall be punished as provided under subsection (e), if such person knows or has reason to know that such visual depiction will be transported in interstate or foreign commerce or mailed, if that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported in interstate or foreign commerce or mailed.

(b) Any parent, legal guardian, or person having custody or control of a minor who knowingly permits such minor to engage in, or to assist any other person to engage in, sexually explicit conduct for the purpose of producing any visual depiction of such conduct shall be punished as provided under subsection (e) of this section, if such parent, legal guardian, or person knows or has reason to know that such visual depiction will be transported in interstate or foreign commerce or mailed, if that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported in interstate or foreign commerce or mailed.

(c)(1) Any person who, in a circumstance described in paragraph (2), employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, any sexually explicit conduct outside of the United States, its territories or possessions, for the purpose of producing any visual depiction of such conduct, shall be punished as provided under subsection (e).

(2) The circumstance referred to in paragraph (1) is that—

(A) the person intends such visual depiction to be transported to the United States, its territories or possessions, by any means, including by computer or mail; or

(B) the person transports such visual depiction to the United States, its territories or possessions, by any means, including by computer or mail.

(d)(1) Any person who, in a circumstance described in paragraph (2), knowingly makes, prints, or publishes, or causes to be made, printed, or published, any notice or advertisement seeking or offering—

(A) to receive, exchange, buy, produce, display, distribute, or reproduce, any visual depiction, if the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct; or

(B) participation in any act of sexually explicit conduct by or with any minor for the purpose of producing a visual depiction of such conduct;

shall be punished as provided under subsection (e).

(2) The circumstance referred to in paragraph (1) is that—

(A) such person knows or has reason to know that such notice or advertisement will be transported in interstate or foreign commerce by any means including by computer or mailed; or

(B) such notice or advertisement is transported in interstate or foreign commerce by any means including by computer or mailed.

(e) Any individual who violates, or attempts or conspires to violate, this section shall be fined under this title and imprisoned not less than 15 years nor more than 30 years, but if such person has one prior conviction under this chapter, chapter 71, chapter 109A, or chapter 117, or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice), or under the laws of any State relating to the sexual exploi-

tation of children, such person shall be fined under this title and imprisoned for not less than 25 years nor more than 50 years, but if such person has 2 or more prior convictions under this chapter, chapter 71, chapter 109A, or chapter 117, or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice), or under the laws of any State relating to the sexual exploitation of children, such person shall be fined under this title and imprisoned not less than 35 years nor more than life. Any organization that violates, or attempts or conspires to violate, this section shall be fined under this title. Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.

(Added Pub. L. 95–225, § 2(a), Feb. 6, 1978, 92 Stat. 7; amended Pub. L. 98–292, § 3, May 21, 1984, 98 Stat. 204; Pub. L. 99–500, § 101(b) [title VII, § 704(a)], Oct. 18, 1986, 100 Stat. 1783–39, 1783–75, and Pub. L. 99–591, § 101(b) [title VII, § 704(a)], Oct. 30, 1986, 100 Stat. 3341–39, 3341–75; Pub. L. 99–628, §§ 2, 3, Nov. 7, 1986, 100 Stat. 3510; Pub. L. 100–690, title VII, § 7511(a), Nov. 18, 1988, 102 Stat. 4485; Pub. L. 101–647, title XXXV, § 3563, Nov. 29, 1990, 104 Stat. 4928; Pub. L. 103–322, title VI, § 60011, title XVI, § 160001(b)(2), (c), (e), title XXXIII, § 330016(1)(S)–(U), Sept. 13, 1994, 108 Stat. 1973, 2037, 2148; Pub. L. 104–208, div. A, title I, § 101(a) [title I, § 121[4]], Sept. 30, 1996, 110 Stat. 3009, 3009–26, 3009–30; Pub. L. 105–314, title II, § 201, Oct. 30, 1998, 112 Stat. 2977; Pub. L. 108–21, title I, § 103(a)(1)(A), (b)(1)(A), title V, §§ 506, 507, Apr. 30, 2003, 117 Stat. 652, 653, 683.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2003—Subsecs. (a), (b). Pub. L. 108–21, § 506(1), substituted ''subsection (e)'' for ''subsection (d)''.

Subsec. (c). Pub. L. 108–21, § 506(3), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (c)(1). Pub. L. 108–21, § 506(1), substituted ''subsection (e)'' for ''subsection (d)'' in concluding provisions.

Subsec. (d). Pub. L. 108–21, § 506(2), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Pub. L. 108–21, § 103(a)(1)(A), (b)(1)(A), substituted ''and imprisoned not less than 15'' for ''or imprisoned not less than 10'', ''30 years'' for ''20 years'', ''25 years'' for ''15 years'', ''more than 50 years'' for ''more than 30 years'', and ''35 years nor more than life'' for ''30 years nor more than life'', and struck out ''and both,'' before ''but if such person has one''.

Subsec. (e). Pub. L. 108–21, § 507, inserted ''chapter 71,'' before ''chapter 109A,'' in two places and ''or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice),'' before ''or under the laws'' in two places.

Pub. L. 108–21, § 506(2), redesignated subsec. (d) as (e).

1998—Subsec. (a). Pub. L. 105–314, § 201(a), inserted ''if that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer,'' before ''or if''.

Subsec. (b). Pub. L. 105–314, § 201(b), inserted '', if that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer,'' before ''or if''.

Subsec. (d). Pub. L. 105–314, § 201(c), substituted '', chapter 109A, or chapter 117'' for ''or chapter 109A'' in two places.

1996—Subsec. (d). Pub. L. 104–208 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''Any individual who violates, or attempts or conspires to violate, this section shall be fined under this title, imprisoned not more than 10 years, or both, but, if such individual has a prior conviction under this chapter or chapter 109A, such individual shall be fined under this title, imprisoned not less than five years nor more than 15 years, or both. Any organization which violates, or attempts or conspires to violate, this section shall be fined under this title. Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.''

1994—Pub. L. 103–322, § 330016(1)(S)–(U), which directed the amendment of this section by substituting ''under this title'' for ''not more than $100,000'', ''not more than $200,000'', and ''not more than $250,000'', could not be executed because those phrases did not appear in text subsequent to amendment of subsec. (d) by Pub. L. 103–322, § 160001(b)(2). See below.

Subsec. (d). Pub. L. 103–322, § 160001(e), inserted '', or attempts or conspires to violate,'' after ''violates'' in two places.

Pub. L. 103–322, § 160001(c), substituted ''conviction under this chapter or chapter 109A'' for ''conviction under this section''.

Pub. L. 103–322, § 160001(b)(2)(C), substituted ''fined under this title'' for ''fined not more than $250,000'' in penultimate sentence.

Pub. L. 103–322, § 160001(b)(2)(B), substituted ''fined under this title,'' for ''fined not more than $200,000, or'' before ''imprisoned not less than five years''.

Pub. L. 103–322, § 160001(b)(2)(A), substituted ''fined under this title,'' for ''fined not more than $100,000, or'' before ''imprisoned not more than 10 years''.

Pub. L. 103–322, § 60011, inserted at end ''Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.''

1990—Subsec. (a). Pub. L. 101–647 substituted ''person to engage in,'' for ''person to engage in,,''.

1988—Subsec. (c)(2)(A), (B). Pub. L. 100–690 inserted ''by any means including by computer'' after ''commerce''.

1986—Subsec. (a). Pub. L. 99–628, §§ 2(1), (3), inserted '', or who transports any minor in interstate or foreign commerce, or in any Territory or Possession of the United States, with the intent that such minor engage in,'' after ''assist any other person to engage in,'' and substituted ''subsection (d)'' for ''subsection (c)''.

Subsec. (b). Pub. L. 99–628, § 2(2), substituted ''subsection (d)'' for ''subsection (c)''.

Subsecs. (c), (d). Pub. L. 99–628, § 2(3), (4), added subsec. (c) and redesignated former subsec. (c) as (d).

Pub. L. 99–500 and Pub. L. 99–591 substituted ''five years'' for ''two years'' in subsec. (c).

1984—Subsecs. (a), (b). Pub. L. 98–292, § 3(1), (2), substituted ''visual depiction'' for ''visual or print medium'' in three places and substituted ''of'' for ''depicting'' before ''such conduct''.

Subsec. (c). Pub. L. 98–292, § 3(3)–(6), substituted ''individual'' for ''person'' in three places, ''$100,000'' for ''$10,000'', and ''$200,000'' for ''$15,000'', and inserted ''Any organization which violates this section shall be fined not more than $250,000.''

SHORT TITLE OF 1996 AMENDMENT

Section 101(a) [title I, § 121] of div. A of Pub. L. 104–208 provided in part that: ''This section [enacting section 2252A of this title, amending this section, sections 2241, 2243, 2252, and 2256 of this title, and section 2000aa of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section and section 2241 of this title] may be cited as the 'Child Pornography Prevention Act of 1996'.''

SHORT TITLE OF 1990 AMENDMENT

Section 301(a) of title III of Pub. L. 101–647 provided that: ''This title [amending sections 1460, 2243, 2252, and

2257 of this title and enacting provisions set out as notes under section 2257 of this title and section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Child Protection Restoration and Penalties Enhancement Act of 1990'.''

SHORT TITLE OF 1988 AMENDMENT

Section 7501 of title VII of Pub. L. 100–690 provided that: ''This subtitle [subtitle N (§§ 7501–7526) of title VII of Pub. L. 100–690, enacting sections 1460, 1466 to 1469, 2251A, and 2257 of this title, amending this section, sections 1465, 1961, 2252 to 2254, 2256, and 2516 of this title, section 1305 of Title 19, Customs Duties, and section 223 of Title 47, Telegraphs, Telephones, and Radiotelegraphs, and enacting provisions set out as a note under section 2257 of this title] may be cited as the 'Child Protection and Obscenity Enforcement Act of 1988'.''

SHORT TITLE OF 1986 AMENDMENTS

Section 1 of Pub. L. 99–628 provided that: ''This Act [enacting sections 2421 to 2423 of this title, amending this section and sections 2255 and 2424 of this title, and repealing former sections 2421 to 2423 of this title] may be cited as the 'Child Sexual Abuse and Pornography Act of 1986'.''

Section 101(b) [title VII, § 701] of Pub. L. 99–500 and Pub. L. 99–591 provided that: ''This title [enacting section 2255 of this title, amending this section and section 2252 of this title, redesignating former section 2255 of this title as 2256, and enacting provisions set out as notes under this section] may be cited as the 'Child Abuse Victims' Rights Act of 1986'.''

SHORT TITLE OF 1984 AMENDMENT

Section 1 of Pub. L. 98–292 provided: ''That this Act [enacting sections 2253 and 2254 of this title, amending this section and sections 2252, 2255, and 2516 of this title, and enacting provisions set out as notes under this section and section 522 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Child Protection Act of 1984'.''

SHORT TITLE

Section 1 of Pub. L. 95–225 provided: ''That this Act [enacting this chapter and amending section 2423 of this title] may be cited as the 'Protection of Children Against Sexual Exploitation Act of 1977'.''

SEVERABILITY

Section 101(a) [title I, § 121[8]] of Pub. L. 104–208 provided that: ''If any provision of this Act [probably means section 121 of Pub. L. 104–208, div. A, title I, § 101(a), see Short Title of 1996 Amendment note above], including any provision or section of the definition of the term child pornography, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, including any other provision or section of the definition of the term child pornography, the amendments made by this Act, and the application of such to any other person or circumstance shall not be affected thereby.''

Section 4 of Pub. L. 95–225 provided that: ''If any provision of this Act [see Short Title note set out above] or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.''

CONGRESSIONAL FINDINGS

Pub. L. 108–21, title V, § 501, Apr. 30, 2003, 117 Stat. 676, provided that: ''Congress finds the following:

''(1) Obscenity and child pornography are not entitled to protection under the First Amendment under Miller v. California, 413 U.S. 15 (1973) (obscenity), or New York v. Ferber, 458 U.S. 747 (1982) (child pornography) and thus may be prohibited.

''(2) The Government has a compelling state interest in protecting children from those who sexually exploit them, including both child molesters and child pornographers. 'The prevention of sexual exploitation and abuse of children constitutes a government objective of surpassing importance,' New York v. Ferber, 458 U.S. 747, 757 (1982), and this interest extends to stamping out the vice of child pornography at all levels in the distribution chain. Osborne v. Ohio, 495 U.S. 103, 110 (1990).

''(3) The Government thus has a compelling interest in ensuring that the criminal prohibitions against child pornography remain enforceable and effective. 'The most expeditious if not the only practical method of law enforcement may be to dry up the market for this material by imposing severe criminal penalties on persons selling, advertising, or otherwise promoting the product.' Ferber, 458 U.S. at 760.

''(4) In 1982, when the Supreme Court decided Ferber, the technology did not exist to—

''(A) computer generate depictions of children that are indistinguishable from depictions of real children;

''(B) use parts of images of real children to create a composite image that is unidentifiable as a particular child and in a way that prevents even an expert from concluding that parts of images of real children were used; or

''(C) disguise pictures of real children being abused by making the image look computer-generated.

''(5) Evidence submitted to the Congress, including from the National Center for Missing and Exploited Children, demonstrates that technology already exists to disguise depictions of real children to make them unidentifiable and to make depictions of real children appear computer-generated. The technology will soon exist, if it does not already, to computer generate realistic images of children.

''(6) The vast majority of child pornography prosecutions today involve images contained on computer hard drives, computer disks, and/or related media.

''(7) There is no substantial evidence that any of the child pornography images being trafficked today were made other than by the abuse of real children. Nevertheless, technological advances since Ferber have led many criminal defendants to suggest that the images of child pornography they possess are not those of real children, insisting that the government prove beyond a reasonable doubt that the images are not computer-generated. Such challenges increased significantly after the decision in Ashcroft v. Free Speech Coalition, 535 U.S. 234 (2002).

''(8) Child pornography circulating on the Internet has, by definition, been digitally uploaded or scanned into computers and has been transferred over the Internet, often in different file formats, from trafficker to trafficker. An image seized from a collector of child pornography is rarely a first-generation product, and the retransmission of images can alter the image so as to make it difficult for even an expert conclusively to opine that a particular image depicts a real child. If the original image has been scanned from a paper version into a digital format, this task can be even harder since proper forensic assessment may depend on the quality of the image scanned and the tools used to scan it.

''(9) The impact of the Free Speech Coalition decision on the Government's ability to prosecute child pornography offenders is already evident. The Ninth Circuit has seen a significant adverse effect on prosecutions since the 1999 Ninth Circuit Court of Appeals decision in Free Speech Coalition. After that decision, prosecutions generally have been brought in the Ninth Circuit only in the most clear-cut cases in which the government can specifically identify the child in the depiction or otherwise identify the origin of the image. This is a fraction of meritorious child pornography cases. The National Center for Missing and Exploited Children testified that, in light of the

Supreme Court's affirmation of the Ninth Circuit decision, prosecutors in various parts of the country have expressed concern about the continued viability of previously indicted cases as well as declined potentially meritorious prosecutions.

''(10) Since the Supreme Court's decision in Free Speech Coalition, defendants in child pornography cases have almost universally raised the contention that the images in question could be virtual, thereby requiring the government, in nearly every child pornography prosecution, to find proof that the child is real. Some of these defense efforts have already been successful. In addition, the number of prosecutions being brought has been significantly and adversely affected as the resources required to be dedicated to each child pornography case now are significantly higher than ever before.

''(11) Leading experts agree that, to the extent that the technology exists to computer generate realistic images of child pornography, the cost in terms of time, money, and expertise is—and for the foreseeable future will remain—prohibitively expensive. As a result, for the foreseeable future, it will be more cost-effective to produce child pornography using real children. It will not, however, be difficult or expensive to use readily available technology to disguise those depictions of real children to make them unidentifiable or to make them appear computer-generated.

''(12) Child pornography results from the abuse of real children by sex offenders; the production of child pornography is a byproduct of, and not the primary reason for, the sexual abuse of children. There is no evidence that the future development of easy and inexpensive means of computer generating realistic images of children would stop or even reduce the sexual abuse of real children or the practice of visually recording that abuse.

''(13) In the absence of congressional action, the difficulties in enforcing the child pornography laws will continue to grow increasingly worse. The mere prospect that the technology exists to create composite or computer-generated depictions that are indistinguishable from depictions of real children will allow defendants who possess images of real children to escape prosecution; for it threatens to create a reasonable doubt in every case of computer images even when a real child was abused. This threatens to render child pornography laws that protect real children unenforceable. Moreover, imposing an additional requirement that the Government prove beyond a reasonable doubt that the defendant knew that the image was in fact a real child—as some courts have done—threatens to result in the de facto legalization of the possession, receipt, and distribution of child pornography for all except the original producers of the material.

''(14) To avoid this grave threat to the Government's unquestioned compelling interest in effective enforcement of the child pornography laws that protect real children, a statute must be adopted that prohibits a narrowly-defined subcategory of images.

''(15) The Supreme Court's 1982 Ferber v. New York decision holding that child pornography was not protected drove child pornography off the shelves of adult bookstores. Congressional action is necessary now to ensure that open and notorious trafficking in such materials does not reappear, and even increase, on the Internet.''

Section 101(a) [title I, §121[1]] of Pub. L. 104–208 provided that: ''Congress finds that—

''(1) the use of children in the production of sexually explicit material, including photographs, films, videos, computer images, and other visual depictions, is a form of sexual abuse which can result in physical or psychological harm, or both, to the children involved;

''(2) where children are used in its production, child pornography permanently records the victim's abuse, and its continued existence causes the child victims of sexual abuse continuing harm by haunting those children in future years;

''(3) child pornography is often used as part of a method of seducing other children into sexual activity; a child who is reluctant to engage in sexual activity with an adult, or to pose for sexually explicit photographs, can sometimes be convinced by viewing depictions of other children 'having fun' participating in such activity;

''(4) child pornography is often used by pedophiles and child sexual abusers to stimulate and whet their own sexual appetites, and as a model for sexual acting out with children; such use of child pornography can desensitize the viewer to the pathology of sexual abuse or exploitation of children, so that it can become acceptable to and even preferred by the viewer;

''(5) new photographic and computer imagining [sic] technologies make it possible to produce by electronic, mechanical, or other means, visual depictions of what appear to be children engaging in sexually explicit conduct that are virtually indistinguishable to the unsuspecting viewer from unretouched photographic images of actual children engaging in sexually explicit conduct;

''(6) computers and computer imaging technology can be used to—

''(A) alter sexually explicit photographs, films, and videos in such a way as to make it virtually impossible for unsuspecting viewers to identify individuals, or to determine if the offending material was produced using children;

''(B) produce visual depictions of child sexual activity designed to satisfy the preferences of individual child molesters, pedophiles, and pornography collectors; and

''(C) alter innocent pictures of children to create visual depictions of those children engaging in sexual conduct;

''(7) the creation or distribution of child pornography which includes an image of a recognizable minor invades the child's privacy and reputational interests, since images that are created showing a child's face or other identifiable feature on a body engaging in sexually explicit conduct can haunt the minor for years to come;

''(8) the effect of visual depictions of child sexual activity on a child molester or pedophile using that material to stimulate or whet his own sexual appetites, or on a child where the material is being used as a means of seducing or breaking down the child's inhibitions to sexual abuse or exploitation, is the same whether the child pornography consists of photographic depictions of actual children or visual depictions produced wholly or in part by electronic, mechanical, or other means, including by computer, which are virtually indistinguishable to the unsuspecting viewer from photographic images of actual children;

''(9) the danger to children who are seduced and molested with the aid of child sex pictures is just as great when the child pornographer or child molester uses visual depictions of child sexual activity produced wholly or in part by electronic, mechanical, or other means, including by computer, as when the material consists of unretouched photographic images of actual children engaging in sexually explicit conduct;

''(10)(A) the existence of and traffic in child pornographic images creates the potential for many types of harm in the community and presents a clear and present danger to all children; and

''(B) it inflames the desires of child molesters, pedophiles, and child pornographers who prey on children, thereby increasing the creation and distribution of child pornography and the sexual abuse and exploitation of actual children who are victimized as a result of the existence and use of these materials;

''(11)(A) the sexualization and eroticization of minors through any form of child pornographic images has a deleterious effect on all children by encouraging a societal perception of children as sexual ob-

jects and leading to further sexual abuse and exploitation of them; and

''(B) this sexualization of minors creates an unwholesome environment which affects the psychological, mental and emotional development of children and undermines the efforts of parents and families to encourage the sound mental, moral and emotional development of children;

''(12) prohibiting the possession and viewing of child pornography will encourage the possessors of such material to rid themselves of or destroy the material, thereby helping to protect the victims of child pornography and to eliminate the market for the sexual exploitative use of children; and

''(13) the elimination of child pornography and the protection of children from sexual exploitation provide a compelling governmental interest for prohibiting the production, distribution, possession, sale, or viewing of visual depictions of children engaging in sexually explicit conduct, including both photographic images of actual children engaging in such conduct and depictions produced by computer or other means which are virtually indistinguishable to the unsuspecting viewer from photographic images of actual children engaging in such conduct.''

Section 101(b) [title VII, § 702] of Pub. L. 99–500 and Pub. L. 99–591 provided that: ''The Congress finds that—

''(1) child exploitation has become a multi-million dollar industry, infiltrated and operated by elements of organized crime, and by a nationwide network of individuals openly advertising their desire to exploit children;

''(2) Congress has recognized the physiological, psychological, and emotional harm caused by the production, distribution, and display of child pornography by strengthening laws prescribing such activity;

''(3) the Federal Government lacks sufficient enforcement tools to combat concerted efforts to exploit children prescribed by Federal law, and exploitation victims lack effective remedies under Federal law; and

''(4) current rules of evidence, criminal procedure, and civil procedure and other courtroom and investigative procedures inhibit the participation of child victims as witnesses and damage their credibility when they do testify, impairing the prosecution of child exploitation offenses.''

Section 2 of Pub. L. 98–292 provided that: ''The Congress finds that—

''(1) child pornography has developed into a highly organized, multi-million-dollar industry which operates on a nationwide scale;

''(2) thousands of children including large numbers of runaway and homeless youth are exploited in the production and distribution of pornographic materials; and

''(3) the use of children as subjects of pornographic materials is harmful to the physiological, emotional, and mental health of the individual child and to society.''

REPORT BY ATTORNEY GENERAL

Section 101(b) [title VII, § 705] of Pub. L. 99–500 and Pub. L. 99–591 required Attorney General, within one year after Oct. 18, 1986, to submit a report to Congress detailing possible changes in Federal Rules of Evidence, Federal Rules of Criminal Procedure, Federal Rules of Civil Procedure, and other Federal courtroom, prosecutorial, and investigative procedures which would facilitate the participation of child witnesses in cases involving child abuse and sexual exploitation.

ANNUAL REPORT TO CONGRESS

Attorney General to report annually to Congress on prosecutions, convictions, and forfeitures under this chapter, see section 9 of Pub. L. 98–292, set out as a note under section 522 of Title 28, Judiciary and Judicial Procedure.

§ 2251A. Selling or buying of children

(a) Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor either—

(1) with knowledge that, as a consequence of the sale or transfer, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

(2) with intent to promote either—

(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be punished by imprisonment for not less than 30 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

(b) Whoever purchases or otherwise obtains custody or control of a minor, or offers to purchase or otherwise obtain custody or control of a minor either—

(1) with knowledge that, as a consequence of the purchase or obtaining of custody, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

(2) with intent to promote either—

(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be punished by imprisonment for not less than 30 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

(c) The circumstances referred to in subsections (a) and (b) are that—

(1) in the course of the conduct described in such subsections the minor or the actor traveled in or was transported in interstate or foreign commerce;

(2) any offer described in such subsections was communicated or transported in interstate or foreign commerce by any means including by computer or mail; or

(3) the conduct described in such subsections took place in any territory or possession of the United States.

(Added Pub. L. 100–690, title VII, § 7512(a), Nov. 18, 1988, 102 Stat. 4486; amended Pub. L. 108–21, title I, § 103(b)(1)(B), Apr. 30, 2003, 117 Stat. 653.)

AMENDMENTS

2003—Subsecs. (a), (b). Pub. L. 108–21 substituted ''30 years'' for ''20 years'' in concluding provisions.

§ 2252. Certain activities relating to material involving the sexual exploitation of minors

(a) Any person who—

(1) knowingly transports or ships in interstate or foreign commerce by any means including by computer or mails, any visual depiction, if—

(A) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

(B) such visual depiction is of such conduct;

(2) knowingly receives, or distributes, any visual depiction that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which contains materials which have been mailed or so shipped or transported, by any means including by computer, or knowingly reproduces any visual depiction for distribution in interstate or foreign commerce or through the mails, if—

(A) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

(B) such visual depiction is of such conduct;

(3) either—

(A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States, or in the Indian country as defined in section 1151 of this title, knowingly sells or possesses with intent to sell any visual depiction; or

(B) knowingly sells or possesses with intent to sell any visual depiction that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported, by any means, including by computer, if—

(i) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

(ii) such visual depiction is of such conduct; or

(4) either—

(A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States, or in the Indian country as defined in section 1151 of this title, knowingly possesses 1 or more books, magazines, periodicals, films, video tapes, or other matter which contain any visual depiction; or

(B) knowingly possesses 1 or more books, magazines, periodicals, films, video tapes, or other matter which contain any visual depiction that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported, by any means including by computer, if—

(i) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

(ii) such visual depiction is of such conduct;

shall be punished as provided in subsection (b) of this section.

(b)(1) Whoever violates, or attempts or conspires to violate, paragraphs[1] (1), (2), or (3) of subsection (a) shall be fined under this title and imprisoned not less than 5 years and not more than 20 years, but if such person has a prior conviction under this chapter, chapter 71, chapter 109A, or chapter 117, or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice), or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, such person shall be fined under this title and imprisoned for not less than 15 years nor more than 40 years.

(2) Whoever violates, or attempts or conspires to violate, paragraph (4) of subsection (a) shall be fined under this title or imprisoned not more than 10 years, or both, but if such person has a prior conviction under this chapter, chapter 71, chapter 109A, or chapter 117, or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice), or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, such person shall be fined under this title and imprisoned for not less than 10 years nor more than 20 years.

(c) AFFIRMATIVE DEFENSE.—It shall be an affirmative defense to a charge of violating paragraph (4) of subsection (a) that the defendant—

(1) possessed less than three matters containing any visual depiction proscribed by that paragraph; and

(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any visual depiction or copy thereof—

(A) took reasonable steps to destroy each such visual depiction; or

(B) reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction.

(Added Pub. L. 95–225, § 2(a), Feb. 6, 1978, 92 Stat. 7; amended Pub. L. 98–292, § 4, May 21, 1984, 98 Stat. 204; Pub. L. 99–500, § 101(b) [title VII, § 704(b)], Oct. 18, 1986, 100 Stat. 1783–39, 1783–75, and Pub. L. 99–591, § 101(b) [title VII, § 704(b)], Oct. 30, 1986, 100 Stat. 3341–39, 3341–75; Pub. L. 100–690, title VII, § 7511(b), Nov. 18, 1988, 102 Stat. 4485; Pub. L. 101–647, title III, § 323(a), (b), Nov. 29, 1990, 104 Stat. 4818, 4819; Pub. L. 103–322, title XVI, § 160001(d), (e), title XXXIII, § 330010(8), Sept. 13, 1994, 108 Stat. 2037, 2143; Pub. L. 104–208, div. A, title I, § 101(a) [title I, § 121[5]], Sept. 30, 1996, 110 Stat. 3009, 3009–26, 3009–30; Pub. L. 105–314, title II, §§ 202(a), 203(a), Oct. 30, 1998, 112 Stat. 2977, 2978; Pub. L. 108–21, title I, § 103(a)(1)(B), (C), (b)(1)(C), (D), title V, § 507, Apr. 30, 2003, 117 Stat. 652, 653, 683.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

[1] So in original. Probably should be "paragraph".

AMENDMENTS

2003—Subsec. (b)(1). Pub. L. 108–21, § 507, inserted ''chapter 71,'' before ''chapter 109A,'' and ''or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice),'' before ''or under the laws''.

Pub. L. 108–21, § 103(a)(1)(B), (C), substituted ''and imprisoned not less than 5 years and'' for ''or imprisoned'', ''20 years'' for ''15 years'', ''40 years'' for ''30 years'', and ''15 years'' for ''5 years'' and struck out ''or both,'' before ''but if such person has a prior''.

Subsec. (b)(2). Pub. L. 108–21, § 507, inserted ''chapter 71,'' before ''chapter 109A,'' and ''or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice),'' before ''or under the laws''.

Pub. L. 108–21, § 103(a)(1)(C), (D), substituted ''more than 10 years'' for ''more than 5 years'', ''less than 10 years'' for ''less than 2 years'', and ''20 years'' for ''10 years''.

1998—Subsec. (a)(4)(A), (B). Pub. L. 105–314, § 203(a)(1), substituted ''1 or more'' for ''3 or more''.

Subsec. (b). Pub. L. 105–314, § 202(a), substituted '', chapter 109A, or chapter 117'' for ''or chapter 109A'' in pars. (1) and (2) and substituted ''aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography'' for ''the possession of child pornography'' in par. (2).

Subsec. (c). Pub. L. 105–314, § 203(a)(2), added subsec. (c).

1996—Subsec. (b). Pub. L. 104–208 added subsec. (b) and struck out former subsec. (b) which read as follows:

''(b)(1) Whoever violates, or attempts or conspires to violate, paragraph (1), (2), or (3) of subsection (a) shall be fined under this title or imprisoned not more than ten years, or both, but, if such person has a prior conviction under this chapter or chapter 109A, such person shall be fined under this title and imprisoned for not less than five years nor more than fifteen years.

''(2) Whoever violates, or attempts or conspires to violate, paragraph (4) of subsection (a) shall be fined under this title or imprisoned for not more than five years, or both.''

1994—Subsec. (a)(3)(B). Pub. L. 103–322, § 330010(8), substituted ''materials'' for ''materails'' in introductory provisions.

Subsec. (b)(1). Pub. L. 103–322, § 160001(d), (e), inserted '', or attempts or conspires to violate,'' after ''violates'' and substituted ''conviction under this chapter or chapter 109A'' for ''conviction under this section''.

Subsec. (b)(2). Pub. L. 103–322, § 160001(e), inserted '', or attempts or conspires to violate,'' after ''violates''.

1990—Subsec. (a). Pub. L. 101–647, § 323(a), (b), struck out ''or'' at end of par. (1), substituted ''that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which contains materials which have been mailed or so shipped or transported, by any means including by computer,'' for ''that has been transported or shipped in interstate or foreign commerce by any means including by computer or mailed'' in par. (2), struck out at end ''shall be punished as provided in subsection (b) of this section.'', and added pars. (3) and (4) and concluding provisions.

Subsec. (b). Pub. L. 101–647, § 323(a)(2), added subsec. (b) and struck out former subsec. (b) which read as follows: ''Any individual who violates this section shall be fined not more than $100,000, or imprisoned not more than 10 years, or both, but, if such individual has a prior conviction under this section, such individual shall be fined not more than $200,000, or imprisoned not less than five years nor more than 15 years, or both. Any organization which violates this section shall be fined not more than $250,000.''

1988—Subsec. (a)(1), (2). Pub. L. 100–690 inserted ''by any means including by computer'' after ''commerce'' in introductory provisions.

1986—Subsec. (b). Pub. L. 99–500 and Pub. L. 99–591 substituted ''five years'' for ''two years''.

1984—Subsec. (a)(1). Pub. L. 98–292, § 4(1), (3), (4), substituted ''any visual depiction'' for ''for the purpose of sale or distribution for sale, any obscene visual or print medium'' in provisions preceding subpar. (A).

Subsec. (a)(1)(A). Pub. L. 98–292, § 4(4), substituted ''visual depiction'' for ''visual or print medium''.

Subsec. (a)(1)(B). Pub. L. 98–292, § 4(4), (5), substituted ''visual depiction is of'' for ''visual or print medium depicts''.

Subsec. (a)(2). Pub. L. 98–292, § 4(2)–(4), (6), (7), substituted '', or distributes, any visual depiction'' for ''for the purpose of sale or distribution for sale, or knowingly sells or distributes for sale, any obscene visual or print medium'' and inserted ''or knowingly reproduces any visual depiction for distribution in interstate or foreign commerce or through the mails'' in provisions preceding subpar. (A).

Subsec. (a)(2)(A). Pub. L. 98–292, § 4(4), substituted ''visual depiction'' for ''visual or print medium''.

Subsec. (a)(2)(B). Pub. L. 98–292, § 4(4), (5), substituted ''visual depiction is of'' for ''visual or print medium depicts''.

Subsec. (b). Pub. L. 98–292, § 4(8)–(11), substituted ''individual'' for ''person'' in three places, ''$100,000'' for ''$10,000'', and ''$200,000'' for ''$15,000'', and inserted ''Any organization which violates this section shall be fined not more than $250,000.''

CONFIRMATION OF INTENT OF CONGRESS IN ENACTING SECTIONS 2252 AND 2256 OF THIS TITLE

Section 160003(a) of Pub. L. 103–322 provided that:

''(a) DECLARATION.—The Congress declares that in enacting sections 2252 and 2256 of title 18, United States Code, it was and is the intent of Congress that—

''(1) the scope of 'exhibition of the genitals or pubic area' in section 2256(2)(E), in the definition of 'sexually explicit conduct', is not limited to nude exhibitions or exhibitions in which the outlines of those areas were discernible through clothing; and

''(2) the requirements in section 2252(a)(1)(A), (2)(A), (3)(B)(i), and (4)(B)(i) that the production of a visual depiction involve the use of a minor engaging in 'sexually explicit conduct' of the kind described in section 2256(2)(E) are satisfied if a person photographs a minor in such a way as to exhibit the child in a lascivious manner.''

§ 2252A. Certain activities relating to material constituting or containing child pornography

(a) Any person who—

(1) knowingly mails, or transports or ships in interstate or foreign commerce by any means, including by computer, any child pornography;

(2) knowingly receives or distributes—

(A) any child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer; or

(B) any material that contains child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer;

(3) knowingly—

(A) reproduces any child pornography for distribution through the mails, or in interstate or foreign commerce by any means, including by computer; or

(B) advertises, promotes, presents, distributes, or solicits through the mails, or in interstate or foreign commerce by any means, including by computer, any material or purported material in a manner that reflects the belief, or that is intended to cause another to believe, that the material or purported material is, or contains—

(i) an obscene visual depiction of a minor engaging in sexually explicit conduct; or

(ii) a visual depiction of an actual minor engaging in sexually explicit conduct;

(4) either—

(A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the United States Government, or in the Indian country (as defined in section 1151), knowingly sells or possesses with the intent to sell any child pornography; or

(B) knowingly sells or possesses with the intent to sell any child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer, or that was produced using materials that have been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer;

(5) either—

(A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the United States Government, or in the Indian country (as defined in section 1151), knowingly possesses any book, magazine, periodical, film, videotape, computer disk, or any other material that contains an image of child pornography; or

(B) knowingly possesses any book, magazine, periodical, film, videotape, computer disk, or any other material that contains an image of child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer, or that was produced using materials that have been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer; or

(6) knowingly distributes, offers, sends, or provides to a minor any visual depiction, including any photograph, film, video, picture, or computer generated image or picture, whether made or produced by electronic, mechanical, or other means, where such visual depiction is, or appears to be, of a minor engaging in sexually explicit conduct—

(A) that has been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer;

(B) that was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer; or

(C) which distribution, offer, sending, or provision is accomplished using the mails or by transmitting or causing to be transmitted any wire communication in interstate or foreign commerce, including by computer,

for purposes of inducing or persuading a minor to participate in any activity that is illegal.[1]

[1] So in original.

shall be punished as provided in subsection (b).

(b)(1) Whoever violates, or attempts or conspires to violate, paragraph (1), (2), (3), (4), or (6) of subsection (a) shall be fined under this title and imprisoned not less than 5 years and not more than 20 years, but, if such person has a prior conviction under this chapter, chapter 71, chapter 109A, or chapter 117, or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice), or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, such person shall be fined under this title and imprisoned for not less than 15 years nor more than 40 years.

(2) Whoever violates, or attempts or conspires to violate, subsection (a)(5) shall be fined under this title or imprisoned not more than 10 years, or both, but, if such person has a prior conviction under this chapter, chapter 71, chapter 109A, or chapter 117, or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice), or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, such person shall be fined under this title and imprisoned for not less than 10 years nor more than 20 years.

(c) It shall be an affirmative defense to a charge of violating paragraph (1), (2), (3)(A), (4), or (5) of subsection (a) that—

(1)(A) the alleged child pornography was produced using an actual person or persons engaging in sexually explicit conduct; and

(B) each such person was an adult at the time the material was produced; or

(2) the alleged child pornography was not produced using any actual minor or minors.

No affirmative defense under subsection (c)(2) shall be available in any prosecution that involves child pornography as described in section 2256(8)(C). A defendant may not assert an affirmative defense to a charge of violating paragraph (1), (2), (3)(A), (4), or (5) of subsection (a) unless, within the time provided for filing pretrial motions or at such time prior to trial as the judge may direct, but in no event later than 10 days before the commencement of the trial, the defendant provides the court and the United States with notice of the intent to assert such defense and the substance of any expert or other specialized testimony or evidence upon which the defendant intends to rely. If the defendant fails to comply with this subsection, the court shall, absent a finding of extraordinary circumstances that prevented timely compliance, prohibit the defendant from asserting such defense to a charge of violating paragraph (1), (2), (3)(A), (4), or (5) of subsection (a) or presenting any evidence for which the defendant has failed to provide proper and timely notice.

(d) AFFIRMATIVE DEFENSE.—It shall be an affirmative defense to a charge of violating subsection (a)(5) that the defendant—

(1) possessed less than three images of child pornography; and

(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any image or copy thereof—

(A) took reasonable steps to destroy each such image; or

(B) reported the matter to a law enforcement agency and afforded that agency access to each such image.

(e) ADMISSIBILITY OF EVIDENCE.—On motion of the government, in any prosecution under this chapter or section 1466A, except for good cause shown, the name, address, social security number, or other nonphysical identifying information, other than the age or approximate age, of any minor who is depicted in any child pornography shall not be admissible and may be redacted from any otherwise admissible evidence, and the jury shall be instructed, upon request of the United States, that it can draw no inference from the absence of such evidence in deciding whether the child pornography depicts an actual minor.

(f) CIVIL REMEDIES.—

(1) IN GENERAL.—Any person aggrieved by reason of the conduct prohibited under subsection (a) or (b) or section 1466A may commence a civil action for the relief set forth in paragraph (2).

(2) RELIEF.—In any action commenced in accordance with paragraph (1), the court may award appropriate relief, including—

(A) temporary, preliminary, or permanent injunctive relief;

(B) compensatory and punitive damages; and

(C) the costs of the civil action and reasonable fees for attorneys and expert witnesses.

(Added Pub. L. 104–208, div. A, title I, § 101(a) [title I, § 121[3(a)]], Sept. 30, 1996, 110 Stat. 3009, 3009–26, 3009–28; amended Pub. L. 105–314, title II, §§ 202(b), 203(b), Oct. 30, 1998, 112 Stat. 2978; Pub. L. 107–273, div. B, title IV, § 4003(a)(5), Nov. 2, 2002, 116 Stat. 1811; Pub. L. 108–21, title I, § 103(a)(1)(D), (E), (b)(1)(E), (F), title V, §§ 502(d), 503, 505, 507, 510, Apr. 30, 2003, 117 Stat. 652, 653, 679, 680, 682–684.)

AMENDMENTS

2003—Subsec. (a)(3). Pub. L. 108–21, § 503(1)(A), added par. (3) and struck out former par. (3) which read as follows: ''knowingly reproduces any child pornography for distribution through the mails, or in interstate or foreign commerce by any means, including by computer;''.

Subsec. (a)(6). Pub. L. 108–21, § 503(1)(B)–(D), added par. (6).

Subsec. (b)(1). Pub. L. 108–21, § 507, inserted ''chapter 71,'' before ''chapter 109A,'' and ''or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice),'' before ''or under the laws''.

Pub. L. 108–21, § 503(2), which directed the substitution of ''paragraph (1), (2), (3), (4), or (6)'' for ''paragraphs (1), (2), (3), or (4)'', was executed by making the substitution for ''paragraph (1), (2), (3), or (4)'', to reflect the probable intent of Congress.

Pub. L. 108–21, § 103(a)(1)(D), (b)(1)(E), substituted ''20 years'' for ''15 years'', ''and imprisoned not less than 5 years and'' for ''or imprisoned'', ''15 years'' for ''5 years'', and ''40 years'' for ''30 years'' and struck out ''or both,'' before ''but, if such person''.

Subsec. (b)(2). Pub. L. 108–21, § 507, inserted ''chapter 71,'' before ''chapter 109A,'' and ''or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice),'' before ''or under the laws''.

Pub. L. 108–21, § 103(a)(1)(E), (F), substituted ''more than 10 years'' for ''more than 5 years'', ''less than 10 years'' for ''less than 2 years'', and ''20 years'' for ''10 years''.

Subsec. (c). Pub. L. 108–21, § 502(d), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''It shall be an affirmative defense to a charge of violating paragraph (1), (2), (3), or (4) of subsection (a) that—

''(1) the alleged child pornography was produced using an actual person or persons engaging in sexually explicit conduct;

''(2) each such person was an adult at the time the material was produced; and

''(3) the defendant did not advertise, promote, present, describe, or distribute the material in such a manner as to convey the impression that it is or contains a visual depiction of a minor engaging in sexually explicit conduct.''

Subsec. (e). Pub. L. 108–21, § 505, added subsec. (e).

Subsec. (f). Pub. L. 108–21, § 510, added subsec. (f).

2002—Subsecs. (b)(1), (c). Pub. L. 107–273 substituted ''paragraph'' for ''paragraphs''.

1998—Subsec. (a)(5)(A), (B). Pub. L. 105–314, § 203(b)(1), substituted ''an image'' for ''3 or more images''.

Subsec. (b). Pub. L. 105–314, § 202(b), substituted '', chapter 109A, or chapter 117'' for ''or chapter 109A'' in pars. (1) and (2) and substituted ''aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography'' for ''the possession of child pornography'' in par. (2).

Subsec. (d). Pub. L. 105–314, § 203(b)(2), added subsec. (d).

§ 2252B. Misleading domain names on the Internet

(a) Whoever knowingly uses a misleading domain name on the Internet with the intent to deceive a person into viewing material constituting obscenity shall be fined under this title or imprisoned not more than 2 years, or both.

(b) Whoever knowingly uses a misleading domain name on the Internet with the intent to deceive a minor into viewing material that is harmful to minors on the Internet shall be fined under this title or imprisoned not more than 4 years, or both.

(c) For the purposes of this section, a domain name that includes a word or words to indicate the sexual content of the site, such as ''sex'' or ''porn'', is not misleading.

(d) For the purposes of this section, the term ''material that is harmful to minors'' means any communication, consisting of nudity, sex, or excretion, that, taken as a whole and with reference to its context—

(1) predominantly appeals to a prurient interest of minors;

(2) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

(3) lacks serious literary, artistic, political, or scientific value for minors.

(e) For the purposes of subsection (d), the term ''sex'' means acts of masturbation, sexual intercourse, or physcial[1] contact with a person's genitals, or the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(Added Pub. L. 108–21, title V, § 521(a), Apr. 30, 2003, 117 Stat. 686.)

[1] So in original. Probably should be ''physical''.

§ 2253. Criminal forfeiture

(a) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.—A person who is convicted of an offense under this chapter involving a visual depiction described in section 2251, 2251A, 2252, 2252A, or 2260 of this chapter, or who is convicted of an offense under section 2421, 2422, or 2423 of chapter 117, shall forfeit to the United States such person's interest in—

(1) any visual depiction described in section 2251, 2251A, or 2252 of this chapter, or any book, magazine, periodical, film, videotape, or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped or received in violation of this chapter;

(2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

(3) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense.

(b) THIRD PARTY TRANSFERS.—All right, title, and interest in property described in subsection (a) of this section vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (m) of this section that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

(c) PROTECTIVE ORDERS.—(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) of this section for forfeiture under this section—

(A) upon the filing of an indictment or information charging a violation of this chapter for which criminal forfeiture may be ordered under this section and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered;

except that an order entered pursuant to subparagraph (B) shall be effective for not more than 90 days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

(2) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than 10 days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

(3) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

(d) WARRANT OF SEIZURE.—The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection (c) of this section may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property.

(e) ORDER OF FORFEITURE.—The court shall order forfeiture of property referred to in subsection (a) if the trier of fact determines, beyond a reasonable doubt, that such property is subject to forfeiture.

(f) EXECUTION.—Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property which are required by law, or which are necessary to protect the interests of the United States or third parties.

(g) DISPOSITION OF PROPERTY.—Following the seizure of property ordered forfeited under this section, the Attorney General shall destroy or retain for official use any article described in paragraph (1) of subsection (a), and shall retain

for official use or direct the disposition of any property described in paragraph (2) or (3) of subsection (a) by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with him or on his behalf be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or person acting in concert with him or on his behalf, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to him.

(h) AUTHORITY OF ATTORNEY GENERAL.—With respect to property ordered forfeited under this section, the Attorney General is authorized to—

(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this chapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this section;

(2) compromise claims arising under this section;

(3) award compensation to persons providing information resulting in a forfeiture under this section;

(4) direct the disposition by the United States, under section 616 of the Tariff Act of 1930, of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

(i) APPLICABILITY OF CIVIL FORFEITURE PROVISIONS.—Except to the extent that they are inconsistent with the provisions of this section, the provisions of section 2254(d) of this title (18 U.S.C. 2254(d)) shall apply to a criminal forfeiture under this section.

(j) BAR ON INTERVENTION.—Except as provided in subsection (m) of this section, no party claiming an interest in property subject to forfeiture under this section may—

(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

(k) JURISDICTION TO ENTER ORDERS.—The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

(*l*) DEPOSITIONS.—In order to facilitate the identification and location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States, the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under rule 15 of the Federal Rules of Criminal Procedure.

(m) THIRD PARTY INTERESTS.—(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

(2) Any person, other than the defendant, asserting a legal interest in property which has been ordered forfeited to the United States pursuant to this section may, within 30 days of the final publication of notice or his receipt of notice under paragraph (1), whichever is earlier, petition the court for a hearing to adjudicate the validity of his alleged interest in the property. The hearing shall be held before the court alone, without a jury.

(3) The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property, any additional facts supporting the petitioner's claim, and the relief sought.

(4) The hearing on the petition shall, to the extent practicable and consistent with the interests of justice, be held within 30 days of the filing of the petition. The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the defendant under this subsection.

(5) At the hearing, the petitioner may testify and present evidence and witnesses on his own behalf, and cross-examine witnesses who appear at the hearing. The United States may present evidence and witnesses in rebuttal and in defense of its claim to the property and cross-examine witnesses who appear at the hearing. In addition to testimony and evidence presented at the hearing, the court shall consider the relevant portions of the record of the criminal case which resulted in the order of forfeiture.

(6) If, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that—

(A) the petitioner has a legal right, title, or interest in the property, and such right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the petitioner rather than the defendant or was superior to

any right, title, or interest of the defendant at the time of the commission of the acts which gave rise to the forfeiture of the property under this section; or

(B) the petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section;

the court shall amend the order of forfeiture in accordance with its determination.

(7) Following the court's disposition of all petitions filed under this subsection, or if no such petitions are filed following the expiration of the period provided in paragraph (2) for the filing of such petitions, the United States shall have clear title to property that is the subject of the order of forfeiture and may warrant good title to any subsequent purchaser or transferee.

(n) CONSTRUCTION.—This section shall be liberally construed to effectuate its remedial purposes.

(*o*) SUBSTITUTE ASSETS.—If any of the property described in subsection (a), as a result of any act or omission of the defendant—

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third party;

(3) has been placed beyond the jurisdiction of the court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).

(Added Pub. L. 98–292, § 6, May 21, 1984, 98 Stat. 205; amended Pub. L. 100–690, title VII, § 7522(c), Nov. 18, 1988, 102 Stat. 4494; Pub. L. 101–647, title XXXV, § 3564, Nov. 29, 1990, 104 Stat. 4928; Pub. L. 103–322, title XXXIII, § 330011(m)(1), Sept. 13, 1994, 108 Stat. 2145; Pub. L. 105–314, title VI, § 602, Oct. 30, 1998, 112 Stat. 2982.)

REFERENCES IN TEXT

The Federal Rules of Evidence, referred to in subsec. (c)(3), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Section 616 of the Tariff Act of 1930, referred to in subsec. (h)(4), is classified to section 1616a of Title 19, Customs Duties.

The Federal Rules of Criminal Procedure, referred to in subsec. (*l*), are set out in the Appendix to this title.

PRIOR PROVISIONS

A prior section 2253 was redesignated section 2256 of this title.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–314 substituted "2252, 2252A, or 2260 of this chapter, or who is convicted of an offense under section 2421, 2422, or 2423 of chapter 117," for "or 2252 of this chapter".

1994—Subsec. (a). Pub. L. 103–322, § 330011(m)(1), amended directory language of Pub. L. 101–647, § 3564(1). See 1990 Amendment note below.

1990—Subsec. (a). Pub. L. 101–647, § 3564(1), as amended by Pub. L. 103–322, § 330011(m)(1), substituted "section 2251" for "sections 2251" in introductory provisions and in par. (1).

Subsec. (h)(4). Pub. L. 101–647, § 3564(2), substituted "under section 616 of the Tariff Act of 1930" for "in accordance with the provisions of section 1616, title 19, United States Code".

1988—Pub. L. 100–690 amended section generally, substituting subsecs. (a) to (*o*) for former subsecs. (a) to (d).

EFFECTIVE DATE OF 1994 AMENDMENT

Section 330011(m) of Pub. L. 103–322 provided that the amendment made by that section is effective as of Nov. 29, 1990.

§ 2254. Civil forfeiture

(a) PROPERTY SUBJECT TO CIVIL FORFEITURE.—The following property shall be subject to forfeiture by the United States:

(1) Any visual depiction described in section 2251, 2251A, or 2252 of this chapter, or any book, magazine, periodical, film, videotape or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped, or received in violation of this chapter.

(2) Any property, real or personal, used or intended to be used to commit or to promote the commission of an offense under this chapter involving a visual depiction described in section 2251, 2251A, 2252, 2252A, or 2260 of this chapter, or used or intended to be used to commit or to promote the commission of an offense under section 2421, 2422, or 2423 of chapter 117,.[1]

(3) Any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from a violation of this chapter involving a visual depiction described in section 2251, 2251A, 2252, 2252A, or 2260 of this chapter, or obtained from a violation of section 2421, 2422, or 2423 of chapter 117.

(b) SEIZURE PURSUANT TO SUPPLEMENTAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS.—Any property subject to forfeiture to the United States under this section may be seized by the Attorney General, the Secretary of the Treasury, or the United States Postal Service upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when the seizure is pursuant to a search under a search warrant or incident to an arrest. The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.

(c) CUSTODY OF FEDERAL OFFICIAL.—Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, Secretary of the Treasury, or the United States Postal Service subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under any of the provisions of this subchapter, the Attorney General, Secretary of the Treasury, or the United States Postal Service may—

[1] So in original.

(1) place the property under seal;

(2) remove the property to a place designated by the official or agency; or

(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

(d) OTHER LAWS AND PROCEEDINGS APPLICABLE.—All provisions of the customs laws relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, insofar as applicable and not inconsistent with the provisions of this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General, the Secretary of the Treasury, or the Postal Service, except to the extent that such duties arise from seizures and forfeitures affected by any customs officer.

(e) INAPPLICABILITY OF CERTAIN SECTIONS.—Sections 1606, 1613, 1614, 1617, and 1618 of title 19, United States Code, shall not apply with respect to any visual depiction or any matter containing a visual depiction subject to forfeiture under subsection (a)(1) of this section.

(f) DISPOSITION OF FORFEITED PROPERTY.—Whenever property is forfeited under this section the Attorney General shall destroy or retain for official use any property described in paragraph (1) of subsection (a) and, with respect to property described in paragraph (2) or (3) of subsection (a), may—

(1) retain the property for official use or transfer the custody or ownership of any forfeited property to a Federal, State, or local agency under section 616 of the Tariff Act of 1930;

(2) sell, by public sale or any other commercially feasible means, any forfeited property which is not required to be destroyed by law and which is not harmful to the public; or

(3) require that the General Services Administration take custody of the property and dispose of it in accordance with law.

The Attorney General, Secretary of the Treasury, or the United States Postal Service shall ensure the equitable transfer pursuant to paragraph (1) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by an official or agency pursuant to paragraph (1) shall not be subject to judicial review. With respect to a forfeiture conducted by the Attorney General, the Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of title 28 the proceeds from any sale under paragraph (2) and any moneys forfeited under this section. With respect to a forfeiture conducted by the Postal Service, the proceeds from any sale under paragraph (2) and any moneys forfeited under this section shall be deposited in the Postal Service Fund as required by section 2003(b)(7) of title 39.

(g) TITLE TO PROPERTY.—All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

(h) STAY OF PROCEEDINGS.—The filing of an indictment or information alleging a violation of this chapter which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

(i) VENUE.—In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.

(Added Pub. L. 98–292, § 6, May 21, 1984, 98 Stat. 205; amended Pub. L. 99–500, § 101(m) [title II, § 201(a), (c)], Oct. 18, 1986, 100 Stat. 1783–308, 1783–314, and Pub. L. 99–591, § 101(m) [title II, § 201(a), (c)], Oct. 30, 1986, 100 Stat. 3341–308, 3341–314; Pub. L. 100–690, title VII, § 7522(c), Nov. 18, 1988, 102 Stat. 4498; Pub. L. 101–647, title XX, § 2003, title XXXV, § 3565, Nov. 29, 1990, 104 Stat. 4855, 4928; Pub. L. 103–322, title XXXIII, § 330011(m)(2), Sept. 13, 1994, 108 Stat. 2145; Pub. L. 105–314, title VI, § 603, Oct. 30, 1998, 112 Stat. 2982; Pub. L. 106–185, § 2(c)(4), Apr. 25, 2000, 114 Stat. 211; Pub. L. 107–273, div. B, title IV, § 4003(a)(6), Nov. 2, 2002, 116 Stat. 1811.)

REFERENCES IN TEXT

The Supplemental Rules for Certain Admiralty and Maritime Claims, referred to in subsec. (b), are set out as part of the Federal Rules of Civil Procedure in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Federal Rules of Criminal Procedure, referred to in subsec. (b), are set out in the Appendix to this title.

The customs laws, referred to in subsec. (d), are classified generally to Title 19, Customs Duties.

Section 616 of the Tariff Act of 1930, referred to in subsec. (f)(1), is classified to section 1616a of Title 19.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2002—Subsec. (a)(3). Pub. L. 107–273 struck out comma before period at end.

2000—Subsec. (a)(2), (3). Pub. L. 106–185 struck out before period at end ‘‘, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner’’.

1998—Subsec. (a)(2). Pub. L. 105–314, § 603(1), substituted ‘‘2252, 2252A, or 2260 of this chapter, or used or intended to be used to commit or to promote the commission of an offense under section 2421, 2422, or 2423 of chapter 117,’’ for ‘‘or 2252 of this chapter’’.

Subsec. (a)(3). Pub. L. 105–314, § 603(2), substituted ''2252, 2252A, or 2260 of this chapter, or obtained from a violation of section 2421, 2422, or 2423 of chapter 117,'' for ''or 2252 of this chapter''.

1994—Subsec. (f). Pub. L. 103–322, § 330011(m)(2), amended directory language of Pub. L. 101–647, § 3565(3)(A). See 1990 Amendment note below.

1990—Subsec. (a)(1) to (3). Pub. L. 101–647, § 3565(1), substituted ''section 2251'' for ''sections 2251''.

Subsec. (e). Pub. L. 101–647, § 3565(2), inserted heading.

Subsec. (f). Pub. L. 101–647, § 3565(3)(A), as amended by Pub. L. 103–322, § 330011(m)(2), substituted ''section'' for ''subchapter'' after ''forfeited under this'' in two places in concluding provisions.

Subsec. (f)(1). Pub. L. 101–647, § 3565(3)(B), substituted ''under section 616 of the Tariff Act of 1930'' for ''pursuant to section 1616 of title 19''.

Subsec. (f)(2). Pub. L. 101–647, § 2003, inserted '', by public sale or any other commercially feasible means,'' after ''sell''.

1988—Pub. L. 100–690 amended section generally, substituting subsecs. (a) to (i) for former subsecs. (a) to (d).

1986—Pub. L. 99–500 and Pub. L. 99–591 amended section identically, inserting '', and any property, real or personal, tangible or intangible, which was used or intended to be used, in any manner or part, to facilitate a violation of this chapter'' in subsec. (a)(1), substituting ''Attorney General or the Postal Service'' for ''Attorney General'' in subsec. (b), and adding subsecs. (c) and (d).

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 1994 AMENDMENT

Section 330011(m) of Pub. L. 103–322 provided that the amendment made by that section is effective as of Nov. 29, 1990.

§ 2255. Civil remedy for personal injuries

(a) Any minor who is a victim of a violation of section 2241(c), 2242, 2243, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or 2423 of this title and who suffers personal injury as a result of such violation may sue in any appropriate United States District Court and shall recover the actual damages such minor sustains and the cost of the suit, including a reasonable attorney's fee. Any minor as described in the preceding sentence shall be deemed to have sustained damages of no less than $50,000 in value.

(b) Any action commenced under this section shall be barred unless the complaint is filed within six years after the right of action first accrues or in the case of a person under a legal disability, not later than three years after the disability.

(Added Pub. L. 99–500, § 101(b) [title VII, § 703(a)], Oct. 18, 1986, 100 Stat. 1783–39, 1783–74, and Pub. L. 99–591, § 101(b) [title VII, § 703(a)], Oct. 30, 1986, 100 Stat. 3341–39, 3341–74; amended Pub. L. 105–314, title VI, § 605, Oct. 30, 1998, 112 Stat. 2984.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

PRIOR PROVISIONS

A prior section 2255 was renumbered section 2256 of this title.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–314 substituted ''2241(c), 2242, 2243, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or 2423'' for ''2251 or 2252''.

§ 2256. Definitions for chapter

For the purposes of this chapter, the term—

(1) ''minor'' means any person under the age of eighteen years;

(2)(A) Except as provided in subparagraph (B), ''sexually explicit conduct'' means actual or simulated—

(i) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(ii) bestiality;

(iii) masturbation;

(iv) sadistic or masochistic abuse; or

(v) lascivious exhibition of the genitals or pubic area of any person;

(B) For purposes of subsection 8(B)[1] of this section, ''sexually explicit conduct'' means—

(i) graphic sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex, or lascivious simulated sexual intercourse where the genitals, breast, or pubic area of any person is exhibited;

(ii) graphic or lascivious simulated;

(I) bestiality;

(II) masturbation; or

(III) sadistic or masochistic abuse; or

(iii) graphic or simulated lascivious exhibition of the genitals or pubic area of any person;

(3) ''producing'' means producing, directing, manufacturing, issuing, publishing, or advertising;

(4) ''organization'' means a person other than an individual;

(5) ''visual depiction'' includes undeveloped film and videotape, and data stored on computer disk or by electronic means which is capable of conversion into a visual image;

(6) ''computer'' has the meaning given that term in section 1030 of this title;

(7) ''custody or control'' includes temporary supervision over or responsibility for a minor whether legally or illegally obtained;

(8) ''child pornography'' means any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where—

(A) the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct;

(B) such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaging in sexually explicit conduct; or

(C) such visual depiction has been created, adapted, or modified to appear that an iden-

[1] So in original. Probably should be ''(8)(B)''.

tifiable minor is engaging in sexually explicit conduct.

(9) ''identifiable minor''—

(A) means a person—

(i)(I) who was a minor at the time the visual depiction was created, adapted, or modified; or

(II) whose image as a minor was used in creating, adapting, or modifying the visual depiction; and

(ii) who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and

(B) shall not be construed to require proof of the actual identity of the identifiable minor.

(10) ''graphic'', when used with respect to a depiction of sexually explicit conduct, means that a viewer can observe any part of the genitals or pubic area of any depicted person or animal during any part of the time that the sexually explicit conduct is being depicted; and

(11) the term ''indistinguishable'' used with respect to a depiction, means virtually indistinguishable, in that the depiction is such that an ordinary person viewing the depiction would conclude that the depiction is of an actual minor engaged in sexually explicit conduct. This definition does not apply to depictions that are drawings, cartoons, sculptures, or paintings depicting minors or adults.

(Added Pub. L. 95–225, § 2(a), Feb. 6, 1978, 92 Stat. 8, § 2253; renumbered § 2255 and amended Pub. L. 98–292, § 5, May 21, 1984, 98 Stat. 205; renumbered § 2256, Pub. L. 99–500, § 101(b) [title VII, § 703(a)], Oct. 18, 1986, 100 Stat. 1783–39, 1783–74, and Pub. L. 99–591, § 101(b) [title VII, § 703(a)], Oct. 30, 1986, 100 Stat. 3341–39, 3341–74; Pub. L. 99–628, § 4, Nov. 7, 1986, 100 Stat. 3510; Pub. L. 100–690, title VII, §§ 7511(c), 7512(b), Nov. 18, 1988, 102 Stat. 4485, 4486; Pub. L. 104–208, div. A, title I, § 101(a) [title I, § 121[2]], Sept. 30, 1996, 110 Stat. 3009, 3009–26, 3009–27; Pub. L. 108–21, title V, § 502(a)–(c), Apr. 30, 2003, 117 Stat. 678, 679.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2003—Par. (2). Pub. L. 108–21, § 502(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''(2) 'sexually explicit conduct' means actual or simulated—

''(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

''(B) bestiality;

''(C) masturbation;

''(D) sadistic or masochistic abuse; or

''(E) lascivious exhibition of the genitals or pubic area of any person;''.

Par. (8)(B). Pub. L. 108–21, § 502(a)(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''such visual depiction is, or appears to be, of a minor engaging in sexually explicit conduct;''.

Par. (8)(C). Pub. L. 108–21, § 502(a)(2), substituted a period for ''; or'' at end.

Par. (8)(D). Pub. L. 108–21, § 502(a)(3), struck out subpar. (D) which read as follows: ''such visual depiction is advertised, promoted, presented, described, or distributed in such a manner that conveys the impression that the material is or contains a visual depiction of a minor engaging in sexually explicit conduct; and''.

Pars. (10), (11). Pub. L. 108–21, § 502(c), added pars. (10) and (11).

1996—Par. (5). Pub. L. 104–208, § 101(a) [title I, § 121[2(1)]], inserted '', and data stored on computer disk or by electronic means which is capable of conversion into a visual image'' before semicolon at end.

Pars. (8), (9). Pub. L. 104–208, § 101(a) [title I, § 121[2(2)–(4)]], added pars. (8) and (9).

1988—Par. (6). Pub. L. 100–690, § 7511(c), added par. (6).

Par. (7). Pub. L. 100–690, § 7512(b), added par. (7).

1986—Pub. L. 99–500 and Pub. L. 99–591 renumbered section 2255 of this title as this section.

Par. (5). Pub. L. 99–628, which directed that par. (5) be added to section 2255 of this title, was executed by adding par. (5) to section 2256 of this title to reflect the probable intent of Congress and the renumbering of section 2255 as 2256 by Pub. L. 99–500 and Pub. L. 99–591.

1984—Pub. L. 98–292, § 5(b), renumbered section 2253 of this title as this section.

Par. (1). Pub. L. 98–292, § 5(a)(1), substituted ''eighteen'' for ''sixteen''.

Par. (2)(D). Pub. L. 98–292, § 5(a)(2), (3), substituted ''sadistic or masochistic'' for ''sado-masochistic'' and struck out ''(for the purpose of sexual stimulation)'' after ''abuse''.

Par. (2)(E). Pub. L. 98–292, § 5(a)(4), substituted ''lascivious'' for ''lewd''.

Par. (3). Pub. L. 98–292, § 5(a)(5), struck out '', for pecuniary profit'' after ''advertising''.

Par. (4). Pub. L. 98–292, § 5(a)(6), substituted '' 'organization' means a person other than an individual'' for '' 'visual or print medium' means any film, photograph, negative, slide, book, magazine, or other visual or print medium''.

CONFIRMATION OF INTENT OF CONGRESS IN ENACTING SECTIONS 2252 AND 2256 OF THIS TITLE

For provisions declaring and confirming intent of Congress in enacting this section, see section 160003(a) of Pub. L. 103–322, set out as a note under section 2252 of this title.

§ 2257. Record keeping requirements

(a) Whoever produces any book, magazine, periodical, film, videotape, or other matter which—

(1) contains one or more visual depictions made after November 1, 1990 of actual sexually explicit conduct; and

(2) is produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce;

shall create and maintain individually identifiable records pertaining to every performer portrayed in such a visual depiction.

(b) Any person to whom subsection (a) applies shall, with respect to every performer portrayed in a visual depiction of actual sexually explicit conduct—

(1) ascertain, by examination of an identification document containing such information, the performer's name and date of birth, and require the performer to provide such other indicia of his or her identity as may be prescribed by regulations;

(2) ascertain any name, other than the performer's present and correct name, ever used by the performer including maiden name,

alias, nickname, stage, or professional name; and

(3) record in the records required by subsection (a) the information required by paragraphs (1) and (2) of this subsection and such other identifying information as may be prescribed by regulation.

(c) Any person to whom subsection (a) applies shall maintain the records required by this section at his business premises, or at such other place as the Attorney General may by regulation prescribe and shall make such records available to the Attorney General for inspection at all reasonable times.

(d)(1) No information or evidence obtained from records required to be created or maintained by this section shall, except as provided in this section, directly or indirectly, be used as evidence against any person with respect to any violation of law.

(2) Paragraph (1) of this subsection shall not preclude the use of such information or evidence in a prosecution or other action for a violation of this chapter or chapter 71, or for a violation of any applicable provision of law with respect to the furnishing of false information.

(e)(1) Any person to whom subsection (a) applies shall cause to be affixed to every copy of any matter described in paragraph (1) of subsection (a) of this section, in such manner and in such form as the Attorney General shall by regulations prescribe, a statement describing where the records required by this section with respect to all performers depicted in that copy of the matter may be located.

(2) If the person to whom subsection (a) of this section applies is an organization the statement required by this subsection shall include the name, title, and business address of the individual employed by such organization responsible for maintaining the records required by this section.

(f) It shall be unlawful—

(1) for any person to whom subsection (a) applies to fail to create or maintain the records as required by subsections (a) and (c) or by any regulation promulgated under this section;

(2) for any person to whom subsection (a) applies knowingly to make any false entry in or knowingly to fail to make an appropriate entry in, any record required by subsection (b) of this section or any regulation promulgated under this section;

(3) for any person to whom subsection (a) applies knowingly to fail to comply with the provisions of subsection (e) or any regulation promulgated pursuant to that subsection; and

(4) for any person knowingly to sell or otherwise transfer, or offer for sale or transfer, any book, magazine, periodical, film, video, or other matter, produce in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce or which is intended for shipment in interstate or foreign commerce, which—

(A) contains one or more visual depictions made after the effective date of this subsection of actual sexually explicit conduct; and

(B) is produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce;

which does not have affixed thereto, in a manner prescribed as set forth in subsection (e)(1), a statement describing where the records required by this section may be located, but such person shall have no duty to determine the accuracy of the contents of the statement or the records required to be kept.

(g) The Attorney General shall issue appropriate regulations to carry out this section.

(h) As used in this section—

(1) the term ''actual sexually explicit conduct'' means actual but not simulated conduct as defined in subparagraphs (A) through (D) of paragraph (2) of section 2256 of this title;

(2) ''identification document'' has the meaning given that term in section 1028(d) of this title;

(3) the term ''produces'' means to produce, manufacture, or publish any book, magazine, periodical, film, video tape, computer generated image, digital image, or picture, or other similar matter and includes the duplication, reproduction, or reissuing of any such matter, but does not include mere distribution or any other activity which does not involve hiring, contracting for managing, or otherwise arranging for the participation of the performers depicted; and

(4) the term ''performer'' includes any person portrayed in a visual depiction engaging in, or assisting another person to engage in, actual sexually explicit conduct.

(i) Whoever violates this section shall be imprisoned for not more than 5 years, and fined in accordance with the provisions of this title, or both. Whoever violates this section after having been convicted of a violation punishable under this section shall be imprisoned for any period of years not more than 10 years but not less than 2 years, and fined in accordance with the provisions of this title, or both.

(Added Pub. L. 100–690, title VII, § 7513(a), Nov. 18, 1988, 102 Stat. 4487; amended Pub. L. 101–647, title III, §§ 301(b), 311, Nov. 29, 1990, 104 Stat. 4816; Pub. L. 103–322, title XXXIII, § 330004(14), Sept. 13, 1994, 108 Stat. 2142; Pub. L. 108–21, title V, § 511(a), Apr. 30, 2003, 117 Stat. 684.)

REFERENCES IN TEXT

For effective date of this subsection, referred to in subsec. (f)(4)(A), see section 312 of Pub. L. 101–647, set out as an Effective Date of 1990 Amendment note below.

AMENDMENTS

2003—Subsec. (d)(2). Pub. L. 108–21, § 511(a)(1), substituted ''of this chapter or chapter 71,'' for ''of this section''.

Subsec. (h)(3). Pub. L. 108–21, § 511(a)(2), inserted '', computer generated image, digital image, or picture,'' after ''video tape''.

Subsec. (i). Pub. L. 108–21, § 511(a)(3), substituted ''not more than 5 years'' for ''not more than 2 years'' and ''10 years'' for ''5 years''.

1994—Subsecs. (f), (g). Pub. L. 103–322 struck out subsecs. (f) and (g) as enacted by Pub. L. 100–690. Subsec. (f) authorized Attorney General to issue regulations to carry out this section and subsec. (g) defined ''actual

sexually explicit conduct'', ''identification document'', ''produces'', and ''performer''.

1990—Subsec. (a)(1). Pub. L. 101–647, § 301(b), substituted ''November 1, 1990'' for ''February 6, 1978''.

Subsec. (d). Pub. L. 101–647, § 311, substituted pars. (1) and (2) for former pars. (1) and (2) which were substantially the same and struck out par. (3) which read as follows: ''In a prosecution of any person to whom subsection (a) applies for an offense in violation of subsection 2251(a) of this title which has as an element the production of a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct and in which that element is sought to be established by showing that a performer within the meaning of this section is a minor—

''(A) proof that the person failed to comply with the provisions of subsection (a) or (b) of this section concerning the creation and maintenance of records, or a regulation issued pursuant thereto, shall raise a rebuttable presumption that such performer was a minor; and

''(B) proof that the person failed to comply with the provisions of subsection (e) of this section concerning the statement required by that subsection shall raise the rebuttable presumption that every performer in the matter was a minor.''

Subsec. (e). Pub. L. 101–647, § 311, substituted pars. (1) and (2) for former pars. (1) and (2) which were substantially the same and struck out par. (3) which read as follows: ''In any prosecution of a person for an offense in violation of section 2252 of this title which has as an element the transporting, mailing, or distribution of a visual depiction involving the use of a minor engaging in sexually explicit conduct, and in which that element is sought to be established by a showing that a performer within the meaning of this section is a minor, proof that the matter in which the visual depiction is contained did not contain the statement required by this section shall raise a rebuttable presumption that such performer was a minor.''

Subsec. (f). Pub. L. 101–647, § 311, added subsec. (f) relating to unlawful acts and omissions.

Subsec. (g). Pub. L. 101–647, § 311, added subsec. (g) relating to issuance of regulations.

Subsecs. (h), (i). Pub. L. 101–647, § 311, added subsecs. (h) and (i).

EFFECTIVE DATE OF 1990 AMENDMENT

Section 312 of title III of Pub. L. 101–647 provided that: ''Subsections (d), (f), (g), (h), and (i) of section 2257 of title 18, United States Code, as added by this title shall take effect 90 days after the date of the enactment of this Act [Nov. 29, 1990] except—

''(1) the Attorney General shall prepare the initial set of regulations required or authorized by subsections (d), (f), (g), (h), and (i) of section 2257 within 60 days of the date of the enactment of this Act; and

''(2) subsection (e) of section 2257 and of any regulation issued pursuant thereto shall take effect 90 days after the date of the enactment of this Act.''

EFFECTIVE DATE

Section 7513(c) of Pub. L. 100–690 provided that: ''Section 2257 of title 18, United States Code, as added by this section shall take effect 180 days after the date of the enactment of this Act [Nov. 18, 1988] except—

''(1) the Attorney General shall prepare the initial set of regulations required or authorized by section 2257 within 90 days of the date of the enactment of this Act; and

''(2) subsection (e) of section 2257 of such title and of any regulation issued pursuant thereto shall take effect 270 days after the date of the enactment of this Act.''

REPORT

Pub. L. 108–21, title V, § 511(b), Apr. 30, 2003, 117 Stat. 685, provided that, not later than 1 year after Apr. 30, 2003, the Attorney General was to submit to Congress a report detailing the number of times since January 1993 that the Department of Justice had inspected records pursuant to this section and section 75 of title 28 of the Code of Federal Regulations, and the number of violations prosecuted as a result of those inspections.

§ 2258. Failure to report child abuse

A person who, while engaged in a professional capacity or activity described in subsection (b) of section 226 of the Victims of Child Abuse Act of 1990 on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, as defined in subsection (c) of that section, and fails to make a timely report as required by subsection (a) of that section, shall be guilty of a Class B misdemeanor.

(Added Pub. L. 101–647, title II, § 226(g)(1), Nov. 29, 1990, 104 Stat. 4808.)

REFERENCES IN TEXT

Section 226 of the Victims of Child Abuse Act of 1990, referred to in text, is classified to section 13031 of Title 42, The Public Health and Welfare.

CODIFICATION

Another section 2258 was renumbered section 2260 of this title.

§ 2259. Mandatory restitution

(a) IN GENERAL.—Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

(b) SCOPE AND NATURE OF ORDER.—

(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (2).

(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.

(3) DEFINITION.—For purposes of this subsection, the term ''full amount of the victim's losses'' includes any costs incurred by the victim for—

(A) medical services relating to physical, psychiatric, or psychological care;

(B) physical and occupational therapy or rehabilitation;

(C) necessary transportation, temporary housing, and child care expenses;

(D) lost income;

(E) attorneys' fees, as well as other costs incurred; and

(F) any other losses suffered by the victim as a proximate result of the offense.

(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

(B) A court may not decline to issue an order under this section because of—

(i) the economic circumstances of the defendant; or

(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

(c) DEFINITION.—For purposes of this section, the term ''victim'' means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.

(Added Pub. L. 103–322, title IV, § 40113(b)(1), Sept. 13, 1994, 108 Stat. 1907; amended Pub. L. 104–132, title II, § 205(c), Apr. 24, 1996, 110 Stat. 1231.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–132, § 205(c)(1), inserted ''or 3663A'' after ''3663''.

Subsec. (b)(1). Pub. L. 104–132, § 205(c)(2)(A), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''The order of restitution under this section shall direct that—

''(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

''(B) the United States Attorney enforce the restitution order by all available and reasonable means.''

Subsec. (b)(2). Pub. L. 104–132, § 205(c)(2)(B), struck out ''by victim'' after ''Enforcement'' in heading and amended text generally. Prior to amendment, text read as follows: ''An order of restitution may also be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.''

Subsec. (b)(4)(C), (D). Pub. L. 104–132, § 205(c)(2)(C), struck out subpars. (C) and (D), which related to court's consideration of economic circumstances of defendant in determining schedule of payment of restitution orders, and court's entry of nominal restitution awards where economic circumstances of defendant do not allow for payment of restitution, respectively.

Subsec. (b)(5) to (10). Pub. L. 104–132, § 205(c)(2)(D), struck out pars. (5) to (10), which related, respectively, to more than 1 offender, more than 1 victim, payment schedule, setoff, effect on other sources of compensation, and condition of probation or supervised release.

Subsec. (c). Pub. L. 104–132, § 205(c)(3), (4), redesignated subsec. (f) as (c) and struck out former subsec. (c) relating to proof of claim.

Subsecs. (d), (e). Pub. L. 104–132, § 205(c)(3), struck out subsecs. (d) and (e) which read as follows:

''(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.

''(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.''

Subsec. (f). Pub. L. 104–132, § 205(c)(4), redesignated subsec. (f) as (c).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–132 effective, to extent constitutionally permissible, for sentencing proceedings in cases in which defendant is convicted on or after Apr. 24, 1996, see section 211 of Pub. L. 104–132, set out as a note under section 2248 of this title.

§ 2260. Production of sexually explicit depictions of a minor for importation into the United States

(a) USE OF MINOR.—A person who, outside the United States, employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor with the intent that the minor engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, intending that the visual depiction will be imported into the United States or into waters within 12 miles of the coast of the United States, shall be punished as provided in subsection (c).

(b) USE OF VISUAL DEPICTION.—A person who, outside the United States, knowingly receives, transports, ships, distributes, sells, or possesses with intent to transport, ship, sell, or distribute any visual depiction of a minor engaging in sexually explicit conduct (if the production of the visual depiction involved the use of a minor engaging in sexually explicit conduct), intending that the visual depiction will be imported into the United States or into waters within a distance of 12 miles of the coast of the United States, shall be punished as provided in subsection (c).

(c) PENALTIES.—A person who violates subsection (a) or (b), or conspires or attempts to do so—

(1) shall be fined under this title, imprisoned not more than 10 years, or both; and

(2) if the person has a prior conviction under this chapter or chapter 109A, shall be fined under this title, imprisoned not more than 20 years, or both.

(Added Pub. L. 103–322, title XVI, § 160001(a), Sept. 13, 1994, 108 Stat. 2036, § 2258; renumbered § 2260, Pub. L. 104–294, title VI, § 601(i)(1), Oct. 11, 1996, 110 Stat. 3501.)

AMENDMENTS

1996—Pub. L. 104–294 renumbered section 2258, relating to production of sexually explicit depictions of minor, as this section.

CHAPTER 110A—DOMESTIC VIOLENCE AND STALKING

Sec.	
2261.	Interstate domestic violence.
2261A.	Interstate stalking.[1]
2262.	Interstate violation of protection order.
2263.	Pretrial release of defendant.
2264.	Restitution.
2265.	Full faith and credit given to protection orders.
2265A	Repeat offenders.[2]
2266.	Definitions.

AMENDMENTS

1996—Pub. L. 104–294, title VI, § 604(a)(1), Oct. 11, 1996, 110 Stat. 3506, amended analysis by inserting ''Sec.'' above section numbers.

Pub. L. 104–201, div. A, title X, § 1069(b)(3), (c), Sept. 23, 1996, 110 Stat. 2656, inserted ''AND STALKING'' after ''VIOLENCE'' in chapter heading and added item 2261A.

[1] Section catchline amended by Pub. L. 109–162 without corresponding amendment of chapter analysis.

[2] Editorially supplied. Section 2265A added by Pub. L. 109–162 without corresponding amendment of chapter analysis.

§ 2261. Interstate domestic violence

(a) OFFENSES.—

(1) TRAVEL OR CONDUCT OF OFFENDER.—A person who travels in interstate or foreign commerce or enters or leaves Indian country or within the special maritime and territorial jurisdiction of the United States with the intent to kill, injure, harass, or intimidate a spouse, intimate partner, or dating partner, and who, in the course of or as a result of such travel, commits or attempts to commit a crime of violence against that spouse, intimate partner, or dating partner, shall be punished as provided in subsection (b).

(2) CAUSING TRAVEL OF VICTIM.—A person who causes a spouse, intimate partner, or dating partner to travel in interstate or foreign commerce or to enter or leave Indian country by force, coercion, duress, or fraud, and who, in the course of, as a result of, or to facilitate such conduct or travel, commits or attempts to commit a crime of violence against that spouse, intimate partner, or dating partner, shall be punished as provided in subsection (b).

(b) PENALTIES.—A person who violates this section or section 2261A shall be fined under this title, imprisoned—

(1) for life or any term of years, if death of the victim results;

(2) for not more than 20 years if permanent disfigurement or life threatening bodily injury to the victim results;

(3) for not more than 10 years, if serious bodily injury to the victim results or if the offender uses a dangerous weapon during the offense;

(4) as provided for the applicable conduct under chapter 109A if the offense would constitute an offense under chapter 109A (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a Federal prison); and

(5) for not more than 5 years, in any other case,

or both fined and imprisoned.

(6) Whoever commits the crime of stalking in violation of a temporary or permanent civil or criminal injunction, restraining order, no-contact order, or other order described in section 2266 of title 18, United States Code, shall be punished by imprisonment for not less than 1 year.

(Added Pub. L. 103–322, title IV, § 40221(a), Sept. 13, 1994, 108 Stat. 1926; amended Pub. L. 104–201, div. A, title X, § 1069(b)(1), (2), Sept. 23, 1996, 110 Stat. 2656; Pub. L. 106–386, div. B, title I, § 1107(a), Oct. 28, 2000, 114 Stat. 1497; Pub. L. 109–162, title I, §§ 114(b), 116(a), 117(a), Jan. 5, 2006, 119 Stat. 2988, 2989.)

AMENDMENTS

2006—Subsec. (a)(1). Pub. L. 109–162, § 117(a), inserted ''or within the special maritime and territorial jurisdiction of the United States'' after ''Indian country''.

Pub. L. 109–162, § 116(a)(1), which directed substitution of '', intimate partner, or dating partner'' for ''or intimate partner'', was executed by making the substitution in two places to reflect the probable intent of Congress.

Subsec. (a)(2). Pub. L. 109–162, § 116(a)(2), which directed substitution of '', intimate partner, or dating partner'' for ''or intimate partner'', was executed by making the substitution in two places to reflect the probable intent of Congress.

Subsec. (b)(6). Pub. L. 109–162, § 114(b), added par. (6).

2000—Subsec. (a). Pub. L. 106–386 added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows:

''(1) CROSSING A STATE LINE.—A person who travels across a State line or enters or leaves Indian country with the intent to injure, harass, or intimidate that person's spouse or intimate partner, and who, in the course of or as a result of such travel, intentionally commits a crime of violence and thereby causes bodily injury to such spouse or intimate partner, shall be punished as provided in subsection (b).

''(2) CAUSING THE CROSSING OF A STATE LINE.—A person who causes a spouse or intimate partner to cross a State line or to enter or leave Indian country by force, coercion, duress, or fraud and, in the course or as a result of that conduct, intentionally commits a crime of violence and thereby causes bodily injury to the person's spouse or intimate partner, shall be punished as provided in subsection (b).''

1996—Subsec. (b). Pub. L. 104–201 inserted ''or section 2261A'' after ''this section'' in introductory provisions and substituted ''victim'' for ''offender's spouse or intimate partner'' in pars. (1) to (3).

§ 2261A. Stalking

Whoever—

(1) travels in interstate or foreign commerce or within the special maritime and territorial jurisdiction of the United States, or enters or leaves Indian country, with the intent to kill, injure, harass, or place under surveillance with intent to kill, injure, harass, or intimidate another person, and in the course of, or as a result of, such travel places that person in reasonable fear of the death of, or serious bodily injury to, or causes substantial emotional distress to that person, a member of the immediate family (as defined in section 115) of that person, or the spouse or intimate partner of that person; or

(2) with the intent—

(A) to kill, injure, harass, or place under surveillance with intent to kill, injure, harass, or intimidate, or cause substantial emotional distress to a person in another State or tribal jurisdiction or within the special maritime and territorial jurisdiction of the United States; or

(B) to place a person in another State or tribal jurisdiction, or within the special maritime and territorial jurisdiction of the United States, in reasonable fear of the death of, or serious bodily injury to—

(i) that person;

(ii) a member of the immediate family (as defined in section 115[1] of that person; or

(iii) a spouse or intimate partner of that person;

uses the mail, any interactive computer service, or any facility of interstate or foreign commerce to engage in a course of conduct that causes substantial emotional distress to that person or places that person in reasonable fear of the death of, or serious

[1] So in original. Probably should be followed by a closing parenthesis.

bodily injury to, any of the persons described in clauses (i) through (iii) of subparagraph (B);[2]

shall be punished as provided in section 2261(b) of this title.

(Added Pub. L. 104–201, div. A, title X, § 1069(a), Sept. 23, 1996, 110 Stat. 2655; amended Pub. L. 106–386, div. B, title I, § 1107(b)(1), Oct. 28, 2000, 114 Stat. 1498; Pub. L. 109–162, title I, § 114(a), Jan. 5, 2006, 119 Stat. 2987.)

AMENDMENTS

2006—Pub. L. 109–162 amended section catchline and text generally, revising and restating former provisions relating to stalking so as to include surveillance with intent to kill, injure, harass, or intimidate which results in substantial emotional distress to a person within the purview of the offense proscribed.

2000—Pub. L. 106–386 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: ''Whoever travels across a State line or within the special maritime and territorial jurisdiction of the United States with the intent to injure or harass another person, and in the course of, or as a result of, such travel places that person in reasonable fear of the death of, or serious bodily injury (as defined in section 1365(g)(3) of this title) to, that person or a member of that person's immediate family (as defined in section 115 of this title) shall be punished as provided in section 2261 of this title.''

§ 2262. Interstate violation of protection order

(a) OFFENSES.—

(1) TRAVEL OR CONDUCT OF OFFENDER.—A person who travels in interstate or foreign commerce, or enters or leaves Indian country or within the special maritime and territorial jurisdiction of the United States, with the intent to engage in conduct that violates the portion of a protection order that prohibits or provides protection against violence, threats, or harassment against, contact or communication with, or physical proximity to, another person, or that would violate such a portion of a protection order in the jurisdiction in which the order was issued, and subsequently engages in such conduct, shall be punished as provided in subsection (b).

(2) CAUSING TRAVEL OF VICTIM.—A person who causes another person to travel in interstate or foreign commerce or to enter or leave Indian country by force, coercion, duress, or fraud, and in the course of, as a result of, or to facilitate such conduct or travel engages in conduct that violates the portion of a protection order that prohibits or provides protection against violence, threats, or harassment against, contact or communication with, or physical proximity to, another person, or that would violate such a portion of a protection order in the jurisdiction in which the order was issued, shall be punished as provided in subsection (b).

(b) PENALTIES.—A person who violates this section shall be fined under this title, imprisoned—

(1) for life or any term of years, if death of the victim results;

(2) for not more than 20 years if permanent disfigurement or life threatening bodily injury to the victim results;

(3) for not more than 10 years, if serious bodily injury to the victim results or if the offender uses a dangerous weapon during the offense;

(4) as provided for the applicable conduct under chapter 109A if the offense would constitute an offense under chapter 109A (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a Federal prison); and

(5) for not more than 5 years, in any other case,

or both fined and imprisoned.

(Added Pub. L. 103–322, title IV, § 40221(a), Sept. 13, 1994, 108 Stat. 1927; amended Pub. L. 104–201, div. A, title X, § 1069(b)(2), Sept. 23, 1996, 110 Stat. 2656; Pub. L. 104–294, title VI, § 605(d), Oct. 11, 1996, 110 Stat. 3509; Pub. L. 106–386, div. B, title I, § 1107(c), Oct. 28, 2000, 114 Stat. 1498; Pub. L. 109–162, title I, § 117(b), Jan. 5, 2006, 119 Stat. 2989.)

AMENDMENTS

2006—Subsec. (a)(1). Pub. L. 109–162 inserted ''or within the special maritime and territorial jurisdiction of the United States'' after ''Indian country''.

2000—Subsec. (a). Pub. L. 106–386 added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows:

''(1) CROSSING A STATE LINE.—A person who travels across a State line or enters or leaves Indian country with the intent to engage in conduct that—

''(A)(i) violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued; or

''(ii) would violate this subparagraph if the conduct occurred in the jurisdiction in which the order was issued; and

''(B) subsequently engages in such conduct,

shall be punished as provided in subsection (b).

''(2) CAUSING THE CROSSING OF A STATE LINE.—A person who causes a spouse or intimate partner to cross a State line or to enter or leave Indian country by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, intentionally commits an act that injures the person's spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (b).''

1996—Subsec. (a)(1)(A)(ii). Pub. L. 104–294 substituted ''violate this subparagraph'' for ''violate subparagraph (A)''.

Subsec. (b)(1) to (3). Pub. L. 104–201 substituted ''victim'' for ''offender's spouse or intimate partner''.

§ 2263. Pretrial release of defendant

In any proceeding pursuant to section 3142 for the purpose of determining whether a defendant charged under this chapter shall be released pending trial, or for the purpose of determining conditions of such release, the alleged victim shall be given an opportunity to be heard regarding the danger posed by the defendant.

(Added Pub. L. 103–322, title IV, § 40221(a), Sept. 13, 1994, 108 Stat. 1928.)

§ 2264. Restitution

(a) IN GENERAL.—Notwithstanding section 3663 or 3663A, and in addition to any other civil or

[2] So in original. Provision probably should be set flush with par. (2).

criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

(b) SCOPE AND NATURE OF ORDER.—

(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (2).

(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.

(3) DEFINITION.—For purposes of this subsection, the term ''full amount of the victim's losses'' includes any costs incurred by the victim for—

(A) medical services relating to physical, psychiatric, or psychological care;

(B) physical and occupational therapy or rehabilitation;

(C) necessary transportation, temporary housing, and child care expenses;

(D) lost income;

(E) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

(F) any other losses suffered by the victim as a proximate result of the offense.

(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

(B) A court may not decline to issue an order under this section because of—

(i) the economic circumstances of the defendant; or

(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

(c) VICTIM DEFINED.—For purposes of this section, the term ''victim'' means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.

(Added Pub. L. 103–322, title IV, § 40221(a), Sept. 13, 1994, 108 Stat. 1928; amended Pub. L. 104–132, title II, § 205(d), Apr. 24, 1996, 110 Stat. 1231.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–132, § 205(d)(1), inserted ''or 3663A'' after ''3663''.

Subsec. (b)(1). Pub. L. 104–132, § 205(d)(2)(A), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''The order of restitution under this section shall direct that—

''(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

''(B) the United States Attorney enforce the restitution order by all available and reasonable means.''

Subsec. (b)(2). Pub. L. 104–132, § 205(d)(2)(B), struck out ''by victim'' after ''Enforcement'' in heading and amended text generally. Prior to amendment, text read as follows: ''An order of restitution also may be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.''

Subsec. (b)(4)(C), (D). Pub. L. 104–132, § 205(d)(2)(C), struck out subpars. (C) and (D), which related to court's consideration of economic circumstances of defendant in determining schedule of payment of restitution orders, and court's entry of nominal restitution awards where economic circumstances of defendant do not allow for payment of restitution, respectively.

Subsec. (b)(5) to (10). Pub. L. 104–132, § 205(d)(2)(D), struck out pars. (5) to (10), which related, respectively, to more than 1 offender, more than 1 victim, payment schedule, setoff, effect on other sources of compensation, and condition of probation or supervised release.

Subsec. (c). Pub. L. 104–132, § 205(d)(3), (4), added subsec. (c) and struck out former subsec. (c) which read as follows: ''AFFIDAVIT.—Within 60 days after conviction and, in any event, not later than 10 days before sentencing, the United States Attorney (or such Attorney's delegate), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the delegate) shall advise the victim that the victim may file a separate affidavit and assist the victim in the preparation of the affidavit.''

Subsecs. (d) to (g). Pub. L. 104–132, § 205(d)(3), struck out subsecs. (d) to (g), which related, respectively, to objection, additional documentation and testimony, final determination of losses, and restitution in addition to punishment.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–132 effective, to extent constitutionally permissible, for sentencing proceedings in cases in which defendant is convicted on or after Apr. 24, 1996, see section 211 of Pub. L. 104–132, set out as a note under section 2248 of this title.

§ 2265. Full faith and credit given to protection orders

(a) FULL FAITH AND CREDIT.—Any protection order issued that is consistent with subsection (b) of this section by the court of one State, Indian tribe, or territory (the issuing State, Indian tribe, or territory) shall be accorded full faith and credit by the court of another State, Indian tribe, or territory (the enforcing State, Indian tribe, or territory) and enforced by the court and law enforcement personnel of the other State, Indian tribal government or Territory[1] as if it were the order of the enforcing State or tribe.

(b) PROTECTION ORDER.—A protection order issued by a State, tribal, or territorial court is consistent with this subsection if—

(1) such court has jurisdiction over the parties and matter under the law of such State, Indian tribe, or territory; and

(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State, tribal, or territorial law, and in any event within a reasonable time after

[1] So in original. Probably should not be capitalized.

the order is issued, sufficient to protect the respondent's due process rights.

(c) CROSS OR COUNTER PETITION.—A protection order issued by a State, tribal, or territorial court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

(2) a cross or counter petition has been filed and the court did not make specific findings that each party was entitled to such an order.

(d) NOTIFICATION AND REGISTRATION.—

(1) NOTIFICATION.—A State, Indian tribe, or territory according full faith and credit to an order by a court of another State, Indian tribe, or territory shall not notify or require notification of the party against whom a protection order has been issued that the protection order has been registered or filed in that enforcing State, tribal, or territorial jurisdiction unless requested to do so by the party protected under such order.

(2) NO PRIOR REGISTRATION OR FILING AS PREREQUISITE FOR ENFORCEMENT.—Any protection order that is otherwise consistent with this section shall be accorded full faith and credit, notwithstanding failure to comply with any requirement that the order be registered or filed in the enforcing State, tribal, or territorial jurisdiction.

(3) LIMITS ON INTERNET PUBLICATION OF REGISTRATION INFORMATION.—A State, Indian tribe, or territory shall not make available publicly on the Internet any information regarding the registration or filing of a protection order, restraining order, or injunction in either the issuing or enforcing State, tribal or territorial jurisdiction, if such publication would be likely to publicly reveal the identity or location of the party protected under such order. A State, Indian tribe, or territory may share court-generated and law enforcement-generated information contained in secure, governmental registries for protection order enforcement purposes.

(e) TRIBAL COURT JURISDICTION.—For purposes of this section, a tribal court shall have full civil jurisdiction to enforce protection orders, including authority to enforce any orders through civil contempt proceedings, exclusion of violators from Indian lands, and other appropriate mechanisms, in matters arising within the authority of the tribe.

(Added Pub. L. 103–322, title IV, § 40221(a), Sept. 13, 1994, 108 Stat. 1930; amended Pub. L. 106–386, div. B, title I, § 1101(b)(4), Oct. 28, 2000, 114 Stat. 1493; Pub. L. 109–162, title I, § 106(a)–(c), Jan. 5, 2006, 119 Stat. 2981, 2982.)

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–162, § 106(a)(1), (b), substituted ", Indian tribe, or territory" for "or Indian tribe" wherever appearing and "and enforced by the court and law enforcement personnel of the other State, Indian tribal government or Territory as if it were" for "and enforced as if it were".

Subsec. (b). Pub. L. 109–162, § 106(a)(2), substituted "State, tribal, or territorial" for "State or tribal" in introductory provisions.

Subsec. (b)(1). Pub. L. 109–162, § 106(a)(1), substituted ", Indian tribe, or territory" for "or Indian tribe".

Subsec. (b)(2). Pub. L. 109–162, § 106(a)(2), substituted "State, tribal, or territorial" for "State or tribal".

Subsec. (c). Pub. L. 109–162, § 106(a)(2), substituted "State, tribal, or territorial" for "State or tribal" in introductory provisions.

Subsec. (d)(1). Pub. L. 109–162, § 106(a), substituted ", Indian tribe, or territory" for "or Indian tribe" in two places and "State, tribal, or territorial" for "State or tribal".

Subsec. (d)(2). Pub. L. 109–162, § 106(a)(2), substituted "State, tribal, or territorial" for "State or tribal".

Subsec. (d)(3). Pub. L. 109–162, § 106(c), added par. (3).

2000—Subsecs. (d), (e). Pub. L. 106–386 added subsecs. (d) and (e).

§ 2265A. Repeat offenders

(a) MAXIMUM TERM OF IMPRISONMENT.—The maximum term of imprisonment for a violation of this chapter after a prior domestic violence or stalking offense shall be twice the term otherwise provided under this chapter.

(b) DEFINITION.—For purposes of this section—

(1) the term "prior domestic violence or stalking offense" means a conviction for an offense—

(A) under section 2261, 2261A, or 2262 of this chapter; or

(B) under State law for an offense consisting of conduct that would have been an offense under a section referred to in subparagraph (A) if the conduct had occurred within the special maritime and territorial jurisdiction of the United States, or in interstate or foreign commerce; and

(2) the term "State" means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(Added Pub. L. 109–162, title I, § 115, Jan. 5, 2006, 119 Stat. 2988.)

§ 2266. Definitions

In this chapter:

(1) BODILY INJURY.—The term "bodily injury" means any act, except one done in self-defense, that results in physical injury or sexual abuse.

(2) COURSE OF CONDUCT.—The term "course of conduct" means a pattern of conduct composed of 2 or more acts, evidencing a continuity of purpose.

(3) ENTER OR LEAVE INDIAN COUNTRY.—The term "enter or leave Indian country" includes leaving the jurisdiction of 1 tribal government and entering the jurisdiction of another tribal government.

(4) INDIAN COUNTRY.—The term "Indian country" has the meaning stated in section 1151 of this title.

(5) PROTECTION ORDER.—The term "protection order" includes—

(A) any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence, or contact or communication with or physical proximity to, another

person, including any temporary or final order issued by a civil or criminal court whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; and

(B) any support, child custody or visitation provisions, orders, remedies or relief issued as part of a protection order, restraining order, or injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, sexual assault, dating violence, or stalking.

(6) SERIOUS BODILY INJURY.—The term ''serious bodily injury'' has the meaning stated in section 2119(2).

(7) SPOUSE OR INTIMATE PARTNER.—The term ''spouse or intimate partner'' includes—

(A) for purposes of—

(i) sections other than 2261A—

(I) a spouse or former spouse of the abuser, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited as a spouse with the abuser; or

(II) a person who is or has been in a social relationship of a romantic or intimate nature with the abuser, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship; and

(ii) section 2261A, a spouse or former spouse of the target of the stalking, a person who shares a child in common with the target of the stalking, and a person who cohabits or has cohabited as a spouse with the target of the stalking; and

(B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State or tribal jurisdiction in which the injury occurred or where the victim resides.

(8) STATE.—The term ''State'' includes a State of the United States, the District of Columbia, and a commonwealth, territory, or possession of the United States.

(9) TRAVEL IN INTERSTATE OR FOREIGN COMMERCE.—The term ''travel in interstate or foreign commerce'' does not include travel from 1 State to another by an individual who is a member of an Indian tribe and who remains at all times in the territory of the Indian tribe of which the individual is a member.

(10) DATING PARTNER.—The term ''dating partner'' refers to a person who is or has been in a social relationship of a romantic or intimate nature with the abuser and the existence of such a relationship based on a consideration of—

(A) the length of the relationship; and

(B) the type of relationship; and

(C) the frequency of interaction between the persons involved in the relationship.

(Added Pub. L. 103–322, title IV, § 40221(a), Sept. 13, 1994, 108 Stat. 1931; amended Pub. L. 106–386, div. B, title I, § 1107(d), Oct. 28, 2000, 114 Stat. 1499; Pub. L. 109–162, title I, §§ 106(d), 116(b), Jan. 5, 2006, 119 Stat. 2982, 2988.)

AMENDMENTS

2006—Par. (5). Pub. L. 109–162, § 106(d)(1), added par. (5) and struck out heading and text of former par. (5). Text read as follows: ''The term 'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil and criminal court (other than a support or child custody order issued pursuant to State divorce and child custody laws, except to the extent that such an order is entitled to full faith and credit under other Federal law) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.''

Par. (7)(A). Pub. L. 109–162, § 106(d)(2), which directed amendment of cls. (i) and (ii) by substituting ''2261A—

''(I) a spouse or former spouse of the abuser, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited as a spouse with the abuser; or

''(II) a person who is or has been in a social relationship of a romantic or intimate nature with the abuser, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship''

for ''2261A, a spouse or former spouse of the abuser, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited as a spouse with the abuser'', was executed only to cl. (i) to reflect the probable intent of Congress because the quoted language to be deleted does not appear in cl. (ii).

Par. (10). Pub. L. 109–162, § 116(b), added par. (10).

2000—Pub. L. 106–386 reenacted section catchline without change and amended text generally. Prior to amendment, text defined ''bodily injury'', ''Indian country'', ''protection order'', ''spouse or intimate partner'', ''State'', and ''travel across State lines''.

CHAPTER 111—SHIPPING

Sec.
2271. Conspiracy to destroy vessels.
2272. Destruction of vessel by owner.
2273. Destruction of vessel by nonowner.
2274. Destruction or misuse of vessel by person in charge.
2275. Firing or tampering with vessel.[1]
2276. Breaking and entering vessel.
2277. Explosives or dangerous weapons aboard vessels.
2278. Explosives on vessels carrying steerage passengers.
2279. Boarding vessels before arrival.
2280. Violence against maritime navigation.
2281. Violence against maritime fixed platforms.

AMENDMENTS

1994—Pub. L. 103–322, title VI, § 60019(b), Sept. 13, 1994, 108 Stat. 1979, added items 2280 and 2281.

1990—Pub. L. 101–647, title XXXV, § 3566, Nov. 29, 1990, 104 Stat. 4928, substituted ''vessels'' for ''vessel'' in item 2271.

§ 2271. Conspiracy to destroy vessels

Whoever, on the high seas, or within the United States, willfully and corruptly conspires, combines, and confederates with any other per-

[1] So in original. Does not conform to section catchline.

son, such other person being either within or without the United States, to cast away or otherwise destroy any vessel, with intent to injure any person that may have underwritten or may thereafter underwrite any policy of insurance thereon or on goods on board thereof, or with intent to injure any person that has lent or advanced, or may lend or advance, any money on such vessel on bottomry or respondentia; or

Whoever, within the United States, builds, or fits out any vessel to be cast away or destroyed, with like intent—

Shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 803; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 487 (Mar. 4, 1909, ch. 321, § 296, 35 Stat. 1146).

Mandatory punishment provision was rephrased in the alternative.

Reference to a person who ''aids in building or fitting out any vessel'' was omitted as unnecessary in view of section 2 making all aiders guilty as principal.

Changes in phraseology were made.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' in last par.

§ 2272. Destruction of vessel by owner

Whoever, upon the high seas or on any other waters within the admiralty and maritime jurisdiction of the United States, willfully and corruptly casts away or otherwise destroys any vessel of which he is owner, in whole or in part, with intent to injure any person that may underwrite any policy of insurance thereon, or any merchant that may have goods thereon, or any other owner of such vessel, shall be imprisoned for life or for any term of years.

(June 25, 1948, ch. 645, 62 Stat. 803.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 491 (Mar. 4, 1909, ch. 321, § 300, 35 Stat. 1147).

§ 2273. Destruction of vessel by nonowner

Whoever, not being an owner, upon the high seas or on any other waters within the admiralty and maritime jurisdiction of the United States, willfully and corruptly casts away or otherwise destroys any vessel of the United States to which he belongs, or willfully attempts the destruction thereof, shall be imprisoned not more than ten years.

(June 25, 1948, ch. 645, 62 Stat. 804.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 492 (Mar. 4, 1909, ch. 321, § 301, 35 Stat. 1147).

Words ''with intent to destroy the same, sets fire to any such vessel, or otherwise'' following ''willfully'' and preceding ''attempts'' were omitted as surplusage.

§ 2274. Destruction or misuse of vessel by person in charge

Whoever, being the owner, master or person in charge or command of any private vessel, foreign or domestic, or a member of the crew or other person, within the territorial waters of the United States, willfully causes or permits the destruction or injury of such vessel or knowingly permits said vessel to be used as a place of resort for any person conspiring with another or preparing to commit any offense against the United States, or any offense in violation of the treaties of the United States or of the obligations of the United States under the law of nations, or to defraud the United States; or knowingly permits such vessels to be used in violation of the rights and obligations of the United States under the law of nations, shall be fined under this title or imprisoned not more than ten years, or both.

In case such vessels are so used, with the knowledge of the owner or master or other person in charge or command thereof, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws.

(June 25, 1948, ch. 645, 62 Stat. 804; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 193 of title 50, U.S.C., 1940 ed., War and National Defense (June 15, 1917, ch. 30, title II, § 3, 40 Stat. 220; Mar. 28, 1940, ch. 72, § 3(b), 54 Stat. 79).

Mandatory punishment provision was rephrased in the alternative.

Minor changes were made in phraseology.

REFERENCES IN TEXT

The customs revenue laws, referred to in text, are classified generally to Title 19, Customs Duties.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' in first par.

§ 2275. Firing or tampering with vessels

Whoever sets fire to any vessel of foreign registry, or any vessel of American registry entitled to engage in commerce with foreign nations, or to any vessel of the United States, or to the cargo of the same, or tampers with the motive power of instrumentalities of navigation of such vessel, or places bombs or explosives in or upon such vessel, or does any other act to or upon such vessel while within the jurisdiction of the United States, or, if such vessel is of American registry, while she is on the high sea, with intent to injure or endanger the safety of the vessel or of her cargo, or of persons on board, whether the injury or danger is so intended to take place within the jurisdiction of the United States, or after the vessel shall have departed therefrom and whoever attempts to do so shall be fined under this title or imprisoned not more than twenty years, or both.

(June 25, 1948, ch. 645, 62 Stat. 804; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 502 (June 15, 1917, ch. 30, title III, § 1, 40 Stat. 221).

Words ''as defined in section 501 of this title,'' were omitted in view of section 9 of this title, defining vessel of the United States.

Last sentence of said section 502, defining ''United States'', was incorporated in section 5 of this title.

Provision prohibiting conspiracy was deleted as adequately covered by the general conspiracy statute, section 371 of this title.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

§ 2276. Breaking and entering vessel

Whoever, upon the high seas or on any other waters within the admiralty and maritime jurisdiction of the United States, and out of the jurisdiction of any particular State, breaks or enters any vessel with intent to commit any felony, or maliciously cuts, spoils, or destroys any cordage, cable, buoys, buoy rope, head fast, or other fast, fixed to the anchor or moorings belonging to any vessel, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 804; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 490 (Mar. 4, 1909, ch. 321, § 299, 35 Stat. 1147).

Mandatory punishment provision was rephrased in the alternative.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 2277. Explosives or dangerous weapons aboard vessels

(a) Whoever brings, carries, or possesses any dangerous weapon, instrument, or device, or any dynamite, nitroglycerin, or other explosive article or compound on board of any vessel registered, enrolled, or licensed under the laws of the United States, or any vessel purchased, requisitioned, chartered, or taken over by the United States pursuant to the provisions of Act June 6, 1941, ch. 174, 55 Stat. 242, as amended, without previously obtaining the permission of the owner or the master of such vessel; or

Whoever brings, carries, or possesses any such weapon or explosive on board of any vessel in the possession and under the control of the United States or which has been seized and forfeited by the United States or upon which a guard has been placed by the United States pursuant to the provisions of section 191 of Title 50, without previously obtaining the permission of the captain of the port in which such vessel is located, shall be fined under this title or imprisoned not more than one year, or both.

(b) This section shall not apply to the personnel of the Armed Forces of the United States or to officers or employees of the United States or of a State or of a political subdivision thereof, while acting in the performance of their duties, who are authorized by law or by rules or regulations to own or possess any such weapon or explosive.

(June 25, 1948, ch. 645, 62 Stat. 804; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 503, 504 (Dec. 31, 1941, ch. 642, §§ 1, 2, 55 Stat. 876).

Section consolidates sections 503 and 504 of title 18, U.S.C., 1940 ed.

Words ''This section'' were substituted in subsection (b) for the words ''The provisions of sections 503, 504 of this title''.

Minor changes were made in phraseology.

REFERENCES IN TEXT

Act June 6, 1941, ch. 174, 55 Stat. 242, as amended, referred to in subsec. (a), expired July 1, 1953. For provisions covering the subject matter of that Act, see sections 196 to 198 of Title 50, War and National Defense.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000'' in second par.

§ 2278. Explosives on vessels carrying steerage passengers

Whoever, being the master of a steamship or other vessel referred to in section 151 of Title 46, except as otherwise expressly provided by law, takes, carries, or has on board of any such vessel any nitroglycerin, dynamite, or any other explosive article or compound, or any vitriol or like acids, or gunpowder, except for the ship's use, or any article or number of articles, whether as a cargo or ballast, which, by reason of the nature or quantity or mode of storage thereof, shall, either singly or collectively, be likely to endanger the health or lives of the passengers or the safety of the vessel, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 805; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 171 of title 46, U.S.C., 1940 ed., Shipping (Aug. 2, 1882, ch. 374, § 8, 22 Stat. 189).

Words ''except as otherwise expressly provided by law'' were inserted to remove obvious inconsistency between sections 831–835 of this title, section 170 of title 46, U.S.C., 1940 ed., Shipping, and this section.

Words ''shall be deemed guilty of a misdemeanor and'' were omitted because designation of the offense as a misdemeanor is unnecessary in view of definitive section 1 of this title.

Mandatory punishment provision was rephrased in the alternative.

Minor changes were made in phraseology.

REFERENCES IN TEXT

Section 151 of Title 46, referred to in text, which was based on section 1 of act Aug. 2, 1882, ch. 374, 22 Stat. 186, as amended, was repealed by Pub. L. 98–89, Aug. 26, 1983, § 4(b), 97 Stat. 599.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 2279. Boarding vessels before arrival

Whoever, not being in the United States service, and not being duly authorized by law for the purpose, goes on board any vessel about to ar-

rive at the place of her destination, before her actual arrival, and before she has been completely moored, shall be fined under this title or imprisoned not more than six months, or both.

The master of such vessel may take any such person into custody, and deliver him up forthwith to any law enforcement officer, to be by him taken before any committing magistrate, to be dealt with according to law.

(June 25, 1948, ch. 645, 62 Stat. 805; Pub. L. 103–322, title XXXIII, § 330016(1)(D), Sept. 13, 1994, 108 Stat. 2146.)

HISTORICAL AND REVISION NOTES

Based on section 708 of title 46, U.S.C., 1940 ed., Shipping (R.S. § 4606).

''Law enforcement officer'' was substituted for ''constable or police officer'' and ''committing magistrate'' for ''justice of the peace.'' The phraseology used in the statute was archaic. It originated when the government had few law enforcement officers and magistrates of its own.

References to specific sections were made to read: ''according to law'' to achieve brevity.

Mandatory punishment provision was rephrased in the alternative.

The words ''without permission of the master'' were deleted to remove an inconsistency with the provisions of section 163 of title 46, U.S.C., 1940 ed., and customs regulations. Customs regulations, 1943, section 4.1c, prohibit any person ''with or without consent of the master'' from boarding vessel, with specific enumerated exceptions. Said section 163 prescribes a ''penalty of not more than $100 or imprisonment not to exceed six months, or both'' for violating regulations. The revised section increases the fine from $100 to $200 for boarding the vessel ''with the consent of the master.''

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $200'' in first par.

§ 2280. Violence against maritime navigation

(a) OFFENSES.—

(1) IN GENERAL.—A person who unlawfully and intentionally—

(A) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

(B) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

(C) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

(D) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

(E) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

(F) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

(G) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in subparagraphs (A) through (F); or

(H) attempts or conspires to do any act prohibited under subparagraphs (A) through (G),

shall be fined under this title, imprisoned not more than 20 years, or both; and if the death of any person results from conduct prohibited by this paragraph, shall be punished by death or imprisoned for any term of years or for life.

(2) THREAT TO NAVIGATION.—A person who threatens to do any act prohibited under paragraph (1)(B), (C) or (E), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title, imprisoned not more than 5 years, or both.

(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a)—

(1) in the case of a covered ship, if—

(A) such activity is committed—

(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

(ii) in the United States; or

(iii) by a national of the United States or by a stateless person whose habitual residence is in the United States;

(B) during the commission of such activity, a national of the United States is seized, threatened, injured or killed; or

(C) the offender is later found in the United States after such activity is committed;

(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

(c) BAR TO PROSECUTION.—It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term ''labor dispute'' has the meaning set forth in section 2(c)[1] of the Norris-LaGuardia Act, as amended (29 U.S.C. 113(c)).

(d) DELIVERY OF SUSPECTED OFFENDER.—The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that there is on board that ship any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the

[1] So in original. Probably should be section ''13(c)''.

United States of the alleged offense and await instructions from the Attorney General as to what action to take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of the master's intention to deliver such person and the reasons therefor. If the master delivers such person, the master shall furnish to the authorities of such country the evidence in the master's possession that pertains to the alleged offense.

(e) DEFINITIONS.—In this section—

''covered ship'' means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country.

''national of the United States'' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

''territorial sea of the United States'' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.

''ship'' means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles or any other floating craft, but does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up.

''United States'', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands and all territories and possessions of the United States.

(Added Pub. L. 103–322, title VI, § 60019(a), Sept. 13, 1994, 108 Stat. 1975; amended Pub. L. 104–132, title VII, §§ 722, 723(a)(1), Apr. 24, 1996, 110 Stat. 1299, 1300.)

AMENDMENTS

1996—Subsec. (a)(1)(H). Pub. L. 104–132, § 723(a)(1), inserted ''or conspires'' after ''attempts''.

Subsec. (b)(1)(A)(ii). Pub. L. 104–132, § 722(1), struck out ''and the activity is not prohibited as a crime by the State in which the activity takes place'' after ''the United States''.

Subsec. (b)(1)(A)(iii). Pub. L. 104–132, § 722(2), struck out ''the activity takes place on a ship flying the flag of a foreign country or outside the United States,'' before ''by a national of the United States''.

EFFECTIVE DATE

Section 60019(c) of Pub. L. 103–322 provided that: ''This section [enacting this section and section 2281 of this title] and the amendments made by this section shall take effect on the later of—

''(1) the date of the enactment of this Act [Sept. 13, 1994]; or

''(2)(A) in the case of section 2280 of title 18, United States Code, the date the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

''(B) in the case of section 2281 of title 18, United States Code, the date the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.''

[Convention and Protocol came into force Mar. 1, 1992, and entered into force with respect to the United States Mar. 6, 1995, Treaty Doc. 101–1.]

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.

§ 2281. Violence against maritime fixed platforms

(a) OFFENSES.—

(1) IN GENERAL.—A person who unlawfully and intentionally—

(A) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

(B) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

(C) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

(D) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;

(E) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in subparagraphs (A) through (D); or

(F) attempts or conspires to do anything prohibited under subparagraphs (A) through (E),

shall be fined under this title, imprisoned not more than 20 years, or both; and if death results to any person from conduct prohibited by this paragraph, shall be punished by death or imprisoned for any term of years or for life.

(2) THREAT TO SAFETY.—A person who threatens to do anything prohibited under paragraph (1)(B) or (C), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title, imprisoned not more than 5 years, or both.

(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a) if—

(1) such activity is committed against or on board a fixed platform—

(A) that is located on the continental shelf of the United States;

(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

(C) in an attempt to compel the United States to do or abstain from doing any act;

(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

(3) such activity is committed against or on board a fixed platform located outside the

United States and beyond the continental shelf of the United States and the offender is later found in the United States.

(c) BAR TO PROSECUTION.—It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term ''labor dispute'' has the meaning set forth in section 2(c)[1] of the Norris-LaGuardia Act, as amended (29 U.S.C. 113(c)), and the term ''State'' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(d) DEFINITIONS.—In this section—

''continental shelf'' means the sea-bed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea.

''fixed platform'' means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.

''national of the United States'' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

''territorial sea of the United States'' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.

''United States'', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands and all territories and possessions of the United States.

(Added Pub. L. 103–322, title VI, § 60019(a), Sept. 13, 1994, 108 Stat. 1977; amended Pub. L. 104–132, title VII, § 723(a)(1), Apr. 24, 1996, 110 Stat. 1300; Pub. L. 104–294, title VI, § 607(p), Oct. 11, 1996, 110 Stat. 3513.)

AMENDMENTS

1996—Subsec. (a)(1)(F). Pub. L. 104–132 inserted ''or conspires'' after ''attempts''.

Subsec. (c). Pub. L. 104–294 inserted before period at end '', and the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States''.

EFFECTIVE DATE

Section effective Mar. 6, 1995, see section 60019(c)(1), (2)(B) of Pub. L. 103–322, set out as a note under section 2280 of this title.

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.

CHAPTER 113—STOLEN PROPERTY

Sec.
2311. Definitions.
2312. Transportation of stolen vehicles.
2313. Sale or receipt of stolen vehicles.
2314. Transportation of stolen goods, securities, moneys, fraudulent State tax stamps, or articles used in counterfeiting.
2315. Sale or receipt of stolen goods, securities, moneys, or fraudulent State tax stamps.
2316. Transportation of livestock.
2317. Sale or receipt of livestock.
2318. Trafficking in counterfeit labels, illicit labels, or counterfeit documentation or packaging.
2319. Criminal infringement of a copyright.
2319A. Unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances.
2319B. Unauthorized recording of motion pictures in a motion picture exhibition facility.[1]
2320. Trafficking in counterfeit goods or services.
2321. Trafficking in certain motor vehicles or motor vehicle parts.
2322. Chop shops.

AMENDMENTS

2005—Pub. L. 109–9, title I, § 102(b), Apr. 27, 2005, 119 Stat. 220, added item 2319B.

2004—Pub. L. 108–482, title I, § 102(c), Dec. 23, 2004, 118 Stat. 3915, substituted ''Trafficking in counterfeit labels, illicit labels, or counterfeit documentation or packaging'' for ''Trafficking in counterfeit labels for phonorecords, copies of computer programs or computer program documentation or packaging, and copies of motion pictures or other audio visual works, and trafficking in counterfeit computer program documentation or packaging'' in item 2318.

1996—Pub. L. 104–153, § 4(b)(2), July 2, 1996, 110 Stat. 1387, substituted ''Trafficking in counterfeit labels for phonorecords, copies of computer programs or computer program documentation or packaging, and copies of motion pictures or other audio visual works, and trafficking in counterfeit computer program documentation or packaging'' for ''Trafficking in counterfeit labels for phonorecords and copies of motion pictures or other audiovisual works'' in item 2318.

1994—Pub. L. 103–465, title V, § 513(b), Dec. 8, 1994, 108 Stat. 4976, added item 2319A.

1992—Pub. L. 102–519, title I, § 105(b), Oct. 25, 1992, 106 Stat. 3386, added item 2322.

1986—Pub. L. 99–646, § 42(b), Nov. 10, 1986, 100 Stat. 3601, renumbered item 2320 relating to trafficking in certain motor vehicles or motor vehicle parts as item 2321.

1984—Pub. L. 98–547, title II, § 204(b), Oct. 25, 1984, 98 Stat. 2770, added item 2320 relating to trafficking in certain motor vehicles or motor vehicle parts.

Pub. L. 98–473, title II, §§ 1115, 1502(b), Oct. 12, 1984, 98 Stat. 2149, 2179, substituted ''livestock'' for ''cattle'' in items 2316 and 2317 and added item 2320 relating to trafficking in counterfeit goods or services.

1982—Pub. L. 97–180, § 4, May 24, 1982, 96 Stat. 92, substituted ''Trafficking in counterfeit labels for phonorecords and copies of motion pictures or other audiovisual works'' for ''Transportation, sale, or receipt of phonograph records bearing forged or counterfeit labels'' in item 2318 and added item 2319.

1962—Pub. L. 87–773, § 2, Oct. 9, 1962, 76 Stat. 775, added item 2318.

1961—Pub. L. 87–371, § 4, Oct. 4, 1961, 75 Stat. 802, inserted ''fraudulent State tax stamps,'' in item 2314, and substituted ''moneys, or fraudulent State tax stamps'' for ''or monies'' in item 2315.

§ 2311. Definitions

As used in this chapter:

''Aircraft'' means any contrivance now known or hereafter invented, used, or designed for navigation of or for flight in the air;

[1] So in original. Probably should be section ''13(c)''.

[1] So in original. Does not conform to section catchline.

''Cattle'' means one or more bulls, steers, oxen, cows, heifers, or calves, or the carcass or carcasses thereof;

''Livestock'' means any domestic animals raised for home use, consumption, or profit, such as horses, pigs, llamas, goats, fowl, sheep, buffalo, and cattle, or the carcasses thereof;

''Money'' means the legal tender of the United States or of any foreign country, or any counterfeit thereof;

''Motor vehicle'' includes an automobile, automobile truck, automobile wagon, motorcycle, or any other self-propelled vehicle designed for running on land but not on rails;

''Securities'' includes any note, stock certificate, bond, debenture, check, draft, warrant, traveler's check, letter of credit, warehouse receipt, negotiable bill of lading, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate; valid or blank motor vehicle title; certificate of interest in property, tangible or intangible; instrument or document or writing evidencing ownership of goods, wares, and merchandise, or transferring or assigning any right, title, or interest in or to goods, wares, and merchandise; or, in general, any instrument commonly known as a ''security'', or any certificate of interest or participation in, temporary or interim certificate for, receipt for, warrant, or right to subscribe to or purchase any of the foregoing, or any forged, counterfeited, or spurious representation of any of the foregoing;

''Tax stamp'' includes any tax stamp, tax token, tax meter imprint, or any other form of evidence of an obligation running to a State, or evidence of the discharge thereof;

''Value'' means the face, par, or market value, whichever is the greatest, and the aggregate value of all goods, wares, and merchandise, securities, and money referred to in a single indictment shall constitute the value thereof.

(June 25, 1948, ch. 645, 62 Stat. 805; Pub. L. 87–371, § 1, Oct. 4, 1961, 75 Stat. 802; Pub. L. 98–547, title II, § 202, Oct. 25, 1984, 98 Stat. 2770; Pub. L. 103–322, title XXXII, § 320912, Sept. 13, 1994, 108 Stat. 2128; Pub. L. 104–294, title VI, § 604(b)(20), Oct. 11, 1996, 110 Stat. 3507; Pub. L. 107–273, div. B, title IV, § 4002(b)(8), Nov. 2, 2002, 116 Stat. 1808.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 408, 414(b), (c), 417, 419a(a) (Oct. 29, 1919, ch. 89, § 2(a), 41 Stat. 324; May 22, 1934, ch. 333, §§ 2(b), (c), 5, 48 Stat. 794, 795; Aug. 3, 1939, ch. 413, § 3, 53 Stat. 1178; Aug. 18, 1941, ch. 366, § 2(a), 55 Stat. 631; Sept. 24, 1945, ch. 383, § 1, 59 Stat. 536).

The definitive provisions in each of said sections were separated therefrom and consolidated into this one section defining terms used in this chapter.

The definitions of ''interstate or foreign commerce'', contained in said section 408 and in sections 414(a) and 419a(b) of title 18, U.S.C., 1940 ed., are incorporated in section 10 of this title.

Other provisions of section 408 of title 18, U.S.C., 1940 ed., are incorporated in sections 2312 and 2313 of this title.

In the definition of ''motor vehicle'', words ''designed for running on land but not on rails'' were substituted for ''not designed for running on rails'' so as to conform with the ruling in the case of *McBoyle* v. *U.S.* (1931, 51 S. Ct. 340, 283, U. S. 25, 75 L. Ed. 816), in which the Supreme Court held that ''vehicle'' is limited to vehicles running on land and that motor vehicle does not include an airplane.

In the paragraph defining ''value'' which came from said section 417 of title 18, U.S.C., 1940 ed., words ''In the event that a defendant is charged in the same indictment with two or more violations of sections 413–419 of this title, then'' were omitted and the same meaning was preserved by the substitution of the words ''a single'' for the word ''such.''

Minor changes were made in phraseology.

AMENDMENTS

2002—Pub. L. 107–273 substituted semicolon for period at end of third par.

1996—Pub. L. 104–294 substituted ''Livestock'' for ''livestock'' in third par.

1994—Pub. L. 103–322 inserted definition of ''livestock''.

1984—Pub. L. 98–547 inserted ''valid or blank motor vehicle title;'' in definition of ''Securities''.

1961—Pub. L. 87–371 inserted definition of ''Tax stamp''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–482, title I, § 101, Dec. 23, 2004, 118 Stat. 3912, provided that: ''This title [amending section 2318 of this title and enacting provisions set out as a note under section 2318 of this title] may be cited as the 'Anti-counterfeiting Amendments Act of 2004'.''

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–147, § 1, Dec. 16, 1997, 111 Stat. 2678, provided that: ''This Act [amending sections 2319 to 2320 of this title, sections 101, 506, and 507 of Title 17, Copyrights, and section 1498 of Title 28, Judiciary and Judicial Procedure, and enacting provisions set out as a note under section 994 of Title 28] may be cited as the 'No Electronic Theft (NET) Act'.''

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–153, § 1, July 2, 1996, 110 Stat. 1386, provided that: ''This Act [amending sections 1961, 2318, and 2320 of this title, sections 1116 and 1117 of Title 15, Commerce and Trade, section 603 of Title 17, Copyrights, sections 1431, 1484, and 1526 of Title 19, Customs Duties, and section 80302 of Title 49, Transportation, and enacting provisions set out as notes under this section and section 1431 of Title 19] may be cited as the 'Anticounterfeiting Consumer Protection Act of 1996'.''

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–519, § 1, Oct. 25, 1992, 106 Stat. 3384, provided that: ''This Act [enacting sections 2119 and 2322 of this title, sections 2026a to 2026c and 2041 to 2044 of Title 15, Commerce and Trade, sections 1646b and 1646c of Title 19, Customs Duties, and sections 3750a to 3750d of Title 42, The Public Health and Welfare, amending sections 553, 981, 982, 2312, and 2313 of this title, sections 2021 to 2023, 2025, 2027, and 2034 of Title 15, and enacting provisions set out as notes under section 2119 of this title, sections 2026a, 2026b, and 2041 of Title 15, and section 1646b of Title 19] may be cited as the 'Anti Car Theft Act of 1992'.''

SHORT TITLE OF 1984 AMENDMENTS

Section 1(a) of Pub. L. 98–547 provided that: ''This Act [enacting sections 511, 512, 553, and 2320 [now 2321] of this title, sections 2021 to 2034 of Title 15, Commerce and Trade, and section 1627 of Title 19, Customs Duties,

amending this section, sections 1961 and 2313 of this title, and section 1901 of Title 15, and enacting provisions set out as a note under section 2021 of Title 15] may be cited as the 'Motor Vehicle Theft Law Enforcement Act of 1984'.''

Section 1501 of chapter XV (§§ 1501–1503) of title II of Pub. L. 98–473 provided that: ''This chapter [enacting section 2320 of this title and amending sections 1116, 1117, and 1118 of Title 15, Commerce and Trade] may be cited as the 'Trademark Counterfeiting Act of 1984'.''

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–180, § 1, May 24, 1982, 96 Stat. 91, provided: ''That this Act [enacting section 2319 of this title and amending section 2318 of this title and section 506 of Title 17, Copyrights] may be cited as the 'Piracy and Counterfeiting Amendments Act of 1982'.''

COUNTERFEITING OF TRADEMARKED AND COPYRIGHTED MERCHANDISE; CONGRESSIONAL STATEMENT OF FINDINGS

Pub. L. 104–153, § 2, July 2, 1996, 110 Stat. 1386, provided that: ''The counterfeiting of trademarked and copyrighted merchandise—

''(1) has been connected with organized crime;

''(2) deprives legitimate trademark and copyright owners of substantial revenues and consumer goodwill;

''(3) poses health and safety threats to United States consumers;

''(4) eliminates United States jobs; and

''(5) is a multibillion-dollar drain on the United States economy.''

CONGRESSIONAL DECLARATION OF PURPOSE OF 1984 AMENDMENT

Section 2 of Pub. L. 98–547 provided that: ''It is the purpose of this Act [see Short Title of 1984 Amendments note above]—

''(1) to provide for the identification of certain motor vehicles and their major replacement parts to impede motor vehicle theft;

''(2) to augment the Federal criminal penalties imposed upon persons trafficking in stolen motor vehicles;

''(3) to encourage decreases in premiums charged consumers for motor vehicle theft insurance; and

''(4) to reduce opportunities for exporting or importing stolen motor vehicles and off-highway mobile equipment.''

§ 2312. Transportation of stolen vehicles

Whoever transports in interstate or foreign commerce a motor vehicle or aircraft, knowing the same to have been stolen, shall be fined under this title or imprisoned not more than 10 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 806; Pub. L. 102–519, title I, § 103, Oct. 25, 1992, 106 Stat. 3385.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 408 (Oct. 29, 1919, ch. 89, §§ 1, 3, 5, 41 Stat. 324, 325; Sept. 24, 1945, ch. 383, §§ 2, 3, 59 Stat. 536).

The first sentence of said section 408, providing the short title ''An Act to punish the transportation of stolen motor vehicles or aircraft in interstate or foreign commerce,'' and derived from section 1 of said act of October 29, 1919, as amended, was omitted as not appropriate in a revision.

Definitions of ''aircraft,'' ''motor vehicle,'' and ''interstate or foreign commerce,'' which constituted the second sentence of said section 408 of title 18, U.S.C., 1940 ed., and were derived from section 2 of said act of October 29, 1919, as amended, are incorporated in sections 10 and 2311 of this title.

Provision relating to receiving or selling stolen aircraft or motor vehicles, which was derived from section 4 of the act of October 29, 1919, as amended, is incorporated in section 2313 of this title.

Venue provision, which was derived from section 5 of the act of October 29, 1919, was omitted as unnecessary, being covered by section 3237 of this title.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Minor changes were made in phraseology.

AMENDMENTS

1992—Pub. L. 102–519 substituted ''fined under this title or imprisoned not more than 10 years'' for ''fined not more than $5,000 or imprisoned not more than five years''.

§ 2313. Sale or receipt of stolen vehicles

(a) Whoever receives, possesses, conceals, stores, barters, sells, or disposes of any motor vehicle or aircraft, which has crossed a State or United States boundary after being stolen, knowing the same to have been stolen, shall be fined under this title or imprisoned not more than 10 years, or both.

(b) For purposes of this section, the term ''State'' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(June 25, 1948, ch. 645, 62 Stat. 806; Pub. L. 98–547, title II, § 203, Oct. 25, 1984, 98 Stat. 2770; Pub. L. 101–647, title XII, § 1205(*l*), Nov. 29, 1990, 104 Stat. 4831; Pub. L. 102–519, title I, § 103, Oct. 25, 1992, 106 Stat. 3385.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 408 (Oct. 29, 1919, ch. 89, § 4, 41 Stat. 325; Sept. 24, 1945, ch. 383, §§ 2, 3, 59 Stat. 536).

Section constitutes the fourth sentence of said section 408 of title 18, U.S.C., 1940 ed.

Definitions of ''aircraft,'' ''motor vehicle,'' and ''interstate or foreign commerce,'' which constituted the second sentence of said section 408, are incorporated in sections 10 and 2311 of this title.

The third sentence of said section 408, relating to transporting stolen aircraft or motor vehicles, is incorporated in section 2312 of this title.

The first sentence of said section 408, providing the short title, and the fifth sentence thereof, relating to venue, were omitted. (See reviser's note under section 2312 of this title.)

Minor changes were made in phraseology.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–519 substituted ''fined under this title or imprisoned not more than 10 years'' for ''fined not more than $5,000 or imprisoned not more than five years''.

1990—Pub. L. 101–647 designated existing provisions as subsec. (a) and added subsec. (b).

1984—Pub. L. 98–547 inserted ''possesses,'' after ''receives,'' and substituted ''which has crossed a State or United States boundary after being stolen,'' for ''moving as, or which is a part of, or which constitutes interstate or foreign commerce,''.

§ 2314. Transportation of stolen goods, securities, moneys, fraudulent State tax stamps, or articles used in counterfeiting

Whoever transports, transmits, or transfers in interstate or foreign commerce any goods, wares, merchandise, securities or money, of the value of $5,000 or more, knowing the same to

have been stolen, converted or taken by fraud; or

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transports or causes to be transported, or induces any person or persons to travel in, or to be transported in interstate or foreign commerce in the execution or concealment of a scheme or artifice to defraud that person or those persons of money or property having a value of $5,000 or more; or

Whoever, with unlawful or fraudulent intent, transports in interstate or foreign commerce any falsely made, forged, altered, or counterfeited securities or tax stamps, knowing the same to have been falsely made, forged, altered, or counterfeited; or

Whoever, with unlawful or fraudulent intent, transports in interstate or foreign commerce any traveler's check bearing a forged countersignature; or

Whoever, with unlawful or fraudulent intent, transports in interstate or foreign commerce, any tool, implement, or thing used or fitted to be used in falsely making, forging, altering, or counterfeiting any security or tax stamps, or any part thereof—

Shall be fined under this title or imprisoned not more than ten years, or both.

This section shall not apply to any falsely made, forged, altered, counterfeited or spurious representation of an obligation or other security of the United States, or of an obligation, bond, certificate, security, treasury note, bill, promise to pay or bank note issued by any foreign government. This section also shall not apply to any falsely made, forged, altered, counterfeited, or spurious representation of any bank note or bill issued by a bank or corporation of any foreign country which is intended by the laws or usage of such country to circulate as money.

(June 25, 1948, ch. 645, 62 Stat. 806; May 24, 1949, ch. 139, § 45, 63 Stat. 96; July 9, 1956, ch. 519, 70 Stat. 507; Pub. L. 87–371, § 2, Oct. 4, 1961, 75 Stat. 802; Pub. L. 90–535, Sept. 28, 1968, 82 Stat. 885; Pub. L. 100–690, title VII, §§ 7057, 7080, Nov. 18, 1988, 102 Stat. 4402, 4406; Pub. L. 101–647, title XII, § 1208, Nov. 29, 1990, 104 Stat. 4832; Pub. L. 103–322, title XXXIII, § 330016(1)(K), (L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., §§ 413, 415, 418, 418a, 419 (May 22, 1934, ch. 333, §§ 1, 3, 6, 48 Stat. 794, 795; May 22, 1934, ch. 333, § 7, as added Aug. 3, 1939, ch. 413, § 5, 53 Stat. 1179; May 22, 1934, ch. 333, § 7, renumbered § 8 by Aug. 3, 1939, ch. 413, § 6, 53 Stat. 1179; Aug. 3, 1939, ch. 413, §§ 1, 4, 5, 53 Stat. 1178, 1179).

Section consolidates sections 413, 415, 417, 418, 418a, and 419 of title 18, U.S.C., 1940 ed.

Words "or with intent to steal or purloin, knowing the same to have been so stolen, converted, or taken" were omitted as surplusage, since property so "taken" is "stolen," and insertion of word "knowingly" after "Whoever" at beginning of section renders such omission possible.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Section 413 of title 18, U.S.C., 1940 ed., providing the short title "National Stolen Property Act," was omitted as not appropriate in a revision.

Section 414 of title 18, U.S.C., 1940 ed., containing definitions of "interstate or foreign commerce," "securities," and "money," is incorporated in sections 10 and 2311 of this title.

Section 417 of title 18, U.S.C., 1940 ed., relating to indictments and determination of "value" of goods, wares, merchandise, securities, and money referred to in indictments, is also incorporated in section 2311 of this title.

Section 418 of title 18, U.S.C., 1940 ed., relating to venue, was omitted as completely covered by section 3237 of this title.

Section 418a of title 18, U.S.C., 1940 ed., relating to conspiracy, was omitted as covered by section 371 of this title, the general conspiracy section.

Section 419 of title 18, U.S.C., 1940 ed., providing that nothing contained in the National Stolen Property Act should be construed to repeal, modify, or amend any part of the National Motor Vehicle Theft Act, was omitted as unnecessary, in view of this revision and reenactment of the provisions of the latter act (sections 10, 2311–2313 of this title).

Changes were made in phraseology and arrangement.

1949 ACT

This amendment [see section 45] restates and clarifies the first paragraph of section 2314 of title 18, U.S.C., to conform to the original law upon which the section is based.

AMENDMENTS

1994—Pub. L. 103–322, § 330016(1)(L), substituted "fined under this title" for "fined not more than $10,000" in penultimate par.

Pub. L. 103–322, § 330016(1)(K), which directed the amendment of this section by striking "not more than $5,000" and inserting "under this title", could not be executed because the phrase "not more than $5,000" did not appear in text.

1990—Pub. L. 101–647 inserted "or foreign" after "interstate" in second par.

1988—Pub. L. 100–690, § 7057(a), substituted "transports, transmits, or transfers" for "transports" in first par.

Pub. L. 100–690, § 7080, inserted "or persons" after "any person" and "or those persons" after "that person" in second par.

Pub. L. 100–690, § 7057(b), struck out "or by a bank or corporation of any foreign country" after "foreign government" in last par. and inserted at end "This section also shall not apply to any falsely made, forged, altered, counterfeited, or spurious representation of any bank note or bill issued by a bank or corporation of any foreign country which is intended by the laws or usage of such country to circulate as money."

1968—Pub. L. 90–535 prohibited transportation with unlawful or fraudulent intent in interstate or foreign commerce of traveler's checks bearing forged countersignatures.

1961—Pub. L. 87–371 inserted "or tax stamps" after "securities" in third par. and after "security" in fourth par., and "fraudulent State tax stamps," in section catchline.

1956—Act July 9, 1956, inserted par. relating to interstate transportation of persons in schemes to defraud.

1949—Act May 24, 1949, substituted "knowing the same to have been stolen, converted or taken by fraud" for "theretofore stolen, converted, or taken by fraud" in first par.

§ 2315. Sale or receipt of stolen goods, securities, moneys, or fraudulent State tax stamps

Whoever receives, possesses, conceals, stores, barters, sells, or disposes of any goods, wares, or merchandise, securities, or money of the value

of $5,000 or more, or pledges or accepts as security for a loan any goods, wares, or merchandise, or securities, of the value of $500 or more, which have crossed a State or United States boundary after being stolen, unlawfully converted, or taken, knowing the same to have been stolen, unlawfully converted, or taken; or

Whoever receives, possesses, conceals, stores, barters, sells, or disposes of any falsely made, forged, altered, or counterfeited securities or tax stamps, or pledges or accepts as security for a loan any falsely made, forged, altered, or counterfeited securities or tax stamps, moving as, or which are a part of, or which constitute interstate or foreign commerce, knowing the same to have been so falsely made, forged, altered, or counterfeited; or

Whoever receives in interstate or foreign commerce, or conceals, stores, barters, sells, or disposes of, any tool, implement, or thing used or intended to be used in falsely making, forging, altering, or counterfeiting any security or tax stamp, or any part thereof, moving as, or which is a part of, or which constitutes interstate or foreign commerce, knowing that the same is fitted to be used, or has been used, in falsely making, forging, altering, or counterfeiting any security or tax stamp, or any part thereof—

Shall be fined under this title or imprisoned not more than ten years, or both.

This section shall not apply to any falsely made, forged, altered, counterfeited, or spurious representation of an obligation or other security of the United States or of an obligation, bond, certificate, security, treasury note, bill, promise to pay, or bank note, issued by any foreign government. This section also shall not apply to any falsely made, forged, altered, counterfeited, or spurious representation of any bank note or bill issued by a bank or corporation of any foreign country which is intended by the laws or usage of such country to circulate as money.

For purposes of this section, the term ''State'' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(June 25, 1948, ch. 645, 62 Stat. 806; Pub. L. 87–371, § 3, Oct. 4, 1961, 75 Stat. 802; Pub. L. 99–646, § 76, Nov. 10, 1986, 100 Stat. 3618; Pub. L. 100–690, title VII, §§ 7048, 7057(b), Nov. 18, 1988, 102 Stat. 4401, 4402; Pub. L. 101–647, title XII, § 1205(m), Nov. 29, 1990, 104 Stat. 4831; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 416 (May 22, 1934, ch. 333, § 4, 48 Stat. 795; Aug. 3, 1939, ch. 413, § 2, 53 Stat. 1178).

(See reviser's notes under sections 10, 2311 and 2314 of this title for explanation of consolidation or omission of other sections of title 18, U.S.C., 1940 ed., which were derived from the National Stolen Property Act.)

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' in fourth par.

1990—Pub. L. 101–647 inserted par. at end defining ''State''.

1988—Pub. L. 100–690, § 7048, substituted ''moving as, or which are a part of, or which constitute interstate or foreign commerce'' for ''which have crossed a State or United States boundary after being stolen, unlawfully converted, or taken'' in second par.

Pub. L. 100–690, § 7057(b), struck out ''or by a bank or corporation of any foreign country'' after ''foreign government'' in last par. and inserted at end ''This section also shall not apply to any falsely made, forged, altered, counterfeited, or spurious representation of any bank note or bill issued by a bank or corporation of any foreign country which is intended by the laws or usage of such country to circulate as money.''

1986—Pub. L. 99–646 substituted ''receives, possesses, conceals'' for ''receives, conceals'' and ''which have crossed a State or United States boundary after being stolen, unlawfully converted, or taken'' for ''moving as, or which are part of, or which constitute interstate or foreign commerce'' in first and second pars.

1961—Pub. L. 87–371 inserted ''or tax stamps'' after ''securities'', wherever appearing, in second par., and ''or tax stamp'' after ''security'', wherever appearing, in third par., and substituted ''moneys, or fraudulent State tax stamps'' for ''or monies'' in section catchline.

§ 2316. Transportation of livestock

Whoever transports in interstate or foreign commerce any livestock, knowing the same to have been stolen, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 807; Pub. L. 98–473, title II, § 1113, Oct. 12, 1984, 98 Stat. 2149; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 419b, 419d (Aug. 18, 1941, ch. 366, §§ 3, 5, 55 Stat. 631).

This section consolidates sections 419b and 419d of title 18, U.S.C., 1940 ed.

Definition of ''cattle'', contained in section 419a(a) of title 18, U.S.C., 1940 ed., is incorporated in section 2311 of this title.

Definition of ''interstate or foreign commerce'', constituting section 419a(b) of title 18, U.S.C., 1940 ed., is incorporated in section 10 of this title.

The venue provision of said section 419d of title 18, U.S.C., 1940 ed., was omitted as completely covered by section 3237 of this title.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of ''principal'' in section 2 of this title.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

1984—Pub. L. 98–473 substituted ''livestock'' for ''cattle'' in section catchline and text.

§ 2317. Sale or receipt of livestock

Whoever receives, conceals, stores, barters, buys, sells, or disposes of any livestock, moving in or constituting a part of interstate or foreign commerce, knowing the same to have been stolen, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 807; Pub. L. 98–473, title II, § 1114, Oct. 12, 1984, 98 Stat. 2149; Pub. L. 103–322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 419c, 419d (Aug. 18, 1941, ch. 366, §§ 4, 5, 55 Stat. 632).

Definitions of ''cattle'' and ''interstate or foreign commerce'', contained in section 419a of title 18, U.S.C., 1940 ed., are incorporated in sections 10 and 2311 of this title.

Venue provision of said section 419d of title 18, U.S.C., 1940 ed., was omitted as completely covered by section 3237 of this title.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $5,000''.

1984—Pub. L. 98–473 substituted ''livestock'' for ''cattle'' in section catchline and text.

§ 2318. Trafficking in counterfeit labels, illicit labels, or counterfeit documentation or packaging

(a) Whoever, in any of the circumstances described in subsection (c), knowingly traffics in—

(1) a counterfeit label or illicit label affixed to, enclosing, or accompanying, or designed to be affixed to, enclose, or accompany—

(A) a phonorecord;

(B) a copy of a computer program;

(C) a copy of a motion picture or other audiovisual work;

(D) a copy of a literary work;

(E) a copy of a pictorial, graphic, or sculptural work;

(F) a work of visual art; or

(G) documentation or packaging; or

(2) counterfeit documentation or packaging,

shall be fined under this title or imprisoned for not more than 5 years, or both.

(b) As used in this section—

(1) the term ''counterfeit label'' means an identifying label or container that appears to be genuine, but is not;

(2) the term ''traffic'' means to transport, transfer or otherwise dispose of, to another, as consideration for anything of value or to make or obtain control of with intent to so transport, transfer or dispose of;

(3) the terms ''copy'', ''phonorecord'', ''motion picture'', ''computer program'', ''audiovisual work'', ''literary work'', ''pictorial, graphic, or sculptural work'', ''sound recording'', ''work of visual art'', and ''copyright owner'' have, respectively, the meanings given those terms in section 101 (relating to definitions) of title 17;

(4) the term ''illicit label'' means a genuine certificate, licensing document, registration card, or similar labeling component—

(A) that is used by the copyright owner to verify that a phonorecord, a copy of a computer program, a copy of a motion picture or other audiovisual work, a copy of a literary work, a copy of a pictorial, graphic, or sculptural work, a work of visual art, or documentation or packaging is not counterfeit or infringing of any copyright; and

(B) that is, without the authorization of the copyright owner—

(i) distributed or intended for distribution not in connection with the copy, phonorecord, or work of visual art to which such labeling component was intended to be affixed by the respective copyright owner; or

(ii) in connection with a genuine certificate or licensing document, knowingly falsified in order to designate a higher number of licensed users or copies than authorized by the copyright owner, unless that certificate or document is used by the copyright owner solely for the purpose of monitoring or tracking the copyright owner's distribution channel and not for the purpose of verifying that a copy or phonorecord is noninfringing;

(5) the term ''documentation or packaging'' means documentation or packaging, in physical form, for a phonorecord, copy of a computer program, copy of a motion picture or other audiovisual work, copy of a literary work, copy of a pictorial, graphic, or sculptural work, or work of visual art; and

(6) the term ''counterfeit documentation or packaging'' means documentation or packaging that appears to be genuine, but is not.

(c) The circumstances referred to in subsection (a) of this section are—

(1) the offense is committed within the special maritime and territorial jurisdiction of the United States; or within the special aircraft jurisdiction of the United States (as defined in section 46501 of title 49);

(2) the mail or a facility of interstate or foreign commerce is used or intended to be used in the commission of the offense;

(3) the counterfeit label or illicit label is affixed to, encloses, or accompanies, or is designed to be affixed to, enclose, or accompany—

(A) a phonorecord of a copyrighted sound recording or copyrighted musical work;

(B) a copy of a copyrighted computer program;

(C) a copy of a copyrighted motion picture or other audiovisual work;

(D) a copy of a literary work;

(E) a copy of a pictorial, graphic, or sculptural work;

(F) a work of visual art; or

(G) copyrighted documentation or packaging; or

(4) the counterfeited documentation or packaging is copyrighted.

(d) When any person is convicted of any violation of subsection (a), the court in its judgment of conviction shall in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all counterfeit labels or illicit labels and all articles to which counterfeit labels or illicit labels have been affixed or which were intended to have had such labels affixed, and of any equipment, device, or material used to manufacture, reproduce, or assemble the counterfeit labels or illicit labels.

(e) Except to the extent they are inconsistent with the provisions of this title, all provisions of section 509, title 17, United States Code, are applicable to violations of subsection (a).

(f) CIVIL REMEDIES.—

(1) IN GENERAL.—Any copyright owner who is injured, or is threatened with injury, by a violation of subsection (a) may bring a civil action in an appropriate United States district court.

(2) DISCRETION OF COURT.—In any action brought under paragraph (1), the court—

(A) may grant 1 or more temporary or permanent injunctions on such terms as the

court determines to be reasonable to prevent or restrain a violation of subsection (a);

(B) at any time while the action is pending, may order the impounding, on such terms as the court determines to be reasonable, of any article that is in the custody or control of the alleged violator and that the court has reasonable cause to believe was involved in a violation of subsection (a); and

(C) may award to the injured party—

(i) reasonable attorney fees and costs; and

(ii)(I) actual damages and any additional profits of the violator, as provided in paragraph (3); or

(II) statutory damages, as provided in paragraph (4).

(3) ACTUAL DAMAGES AND PROFITS.—

(A) IN GENERAL.—The injured party is entitled to recover—

(i) the actual damages suffered by the injured party as a result of a violation of subsection (a), as provided in subparagraph (B) of this paragraph; and

(ii) any profits of the violator that are attributable to a violation of subsection (a) and are not taken into account in computing the actual damages.

(B) CALCULATION OF DAMAGES.—The court shall calculate actual damages by multiplying—

(i) the value of the phonorecords, copies, or works of visual art which are, or are intended to be, affixed with, enclosed in, or accompanied by any counterfeit labels, illicit labels, or counterfeit documentation or packaging, by

(ii) the number of phonorecords, copies, or works of visual art which are, or are intended to be, affixed with, enclosed in, or accompanied by any counterfeit labels, illicit labels, or counterfeit documentation or packaging.

(C) DEFINITION.—For purposes of this paragraph, the ''value'' of a phonorecord, copy, or work of visual art is—

(i) in the case of a copyrighted sound recording or copyrighted musical work, the retail value of an authorized phonorecord of that sound recording or musical work;

(ii) in the case of a copyrighted computer program, the retail value of an authorized copy of that computer program;

(iii) in the case of a copyrighted motion picture or other audiovisual work, the retail value of an authorized copy of that motion picture or audiovisual work;

(iv) in the case of a copyrighted literary work, the retail value of an authorized copy of that literary work;

(v) in the case of a pictorial, graphic, or sculptural work, the retail value of an authorized copy of that work; and

(vi) in the case of a work of visual art, the retail value of that work.

(4) STATUTORY DAMAGES.—The injured party may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for each violation of subsection (a) in a sum of not less than $2,500 or more than $25,000, as the court considers appropriate.

(5) SUBSEQUENT VIOLATION.—The court may increase an award of damages under this subsection by 3 times the amount that would otherwise be awarded, as the court considers appropriate, if the court finds that a person has subsequently violated subsection (a) within 3 years after a final judgment was entered against that person for a violation of that subsection.

(6) LIMITATION ON ACTIONS.—A civil action may not be commenced under section[1] unless it is commenced within 3 years after the date on which the claimant discovers the violation of subsection (a).

(Added Pub. L. 87–773, § 1, Oct. 9, 1962, 76 Stat. 775; amended Pub. L. 93–573, title I, § 103, Dec. 31, 1974, 88 Stat. 1873; Pub. L. 94–553, title I, § 111, Oct. 19, 1976, 90 Stat. 2600; Pub. L. 97–180, § 2, May 24, 1982, 96 Stat. 91; Pub. L. 101–647, title XXXV, § 3567, Nov. 29, 1990, 104 Stat. 4928; Pub. L. 103–272, § 5(e)(10), July 5, 1994, 108 Stat. 1374; Pub. L. 103–322, title XXXIII, § 330016(1)(U), Sept. 13, 1994, 108 Stat. 2148; Pub. L. 104–153, § 4(a), (b)(1), July 2, 1996, 110 Stat. 1386, 1387; Pub. L. 108–482, title I, § 102(a), (b), Dec. 23, 2004, 118 Stat. 3912, 3914.)

AMENDMENTS

2004—Pub. L. 108–482, § 102(a)(1), substituted ''Trafficking in counterfeit labels, illicit labels, or counterfeit documentation or packaging'' for ''Trafficking in counterfeit labels for phonorecords, copies of computer programs or computer program documentation or packaging, and copies of motion pictures or other audio visual works, and trafficking in counterfeit computer program documentation or packaging'' in section catchline.

Subsec. (a). Pub. L. 108–482, § 102(a)(2), added subsec. (a) and struck out former subsec. (a) which read as follows: ''Whoever, in any of the circumstances described in subsection (c) of this section, knowingly traffics in a counterfeit label affixed or designed to be affixed to a phonorecord, or a copy of a computer program or documentation or packaging for a computer program, or a copy of a motion picture or other audiovisual work, and whoever, in any of the circumstances described in subsection (c) of this section, knowingly traffics in counterfeit documentation or packaging for a computer program, shall be fined under this title or imprisoned for not more than five years, or both.''

Subsec. (b)(2). Pub. L. 108–482, § 102(a)(3)(A), struck out ''and'' after the semicolon at end.

Subsec. (b)(3). Pub. L. 108–482, § 102(a)(3)(B), substituted '' 'audiovisual work', 'literary work', 'pictorial, graphic, or sculptural work', 'sound recording', 'work of visual art', and 'copyright owner' have'' for ''and 'audiovisual work' have'' and a semicolon for the period at end.

Subsec. (b)(4) to (6). Pub. L. 108–482, § 102(a)(3)(C), added pars. (4) to (6).

Subsec. (c)(3). Pub. L. 108–482, § 102(a)(4)(A), added par. (3) and struck former par. (3) which read as follows: ''the counterfeit label is affixed to or encloses, or is designed to be affixed to or enclose, a copy of a copyrighted computer program or copyrighted documentation or packaging for a computer program, a copyrighted motion picture or other audiovisual work, or a phonorecord of a copyrighted sound recording; or''.

Subsec. (c)(4). Pub. L. 108–482, § 102(a)(4)(B), struck out ''for a computer program'' after ''packaging''.

Subsec. (d). Pub. L. 108–482, § 102(a)(5), inserted ''or illicit labels'' after ''counterfeit labels'' in two places

[1] So in original. Probably should be ''this subsection''.

and inserted ", and of any equipment, device, or material used to manufacture, reproduce, or assemble the counterfeit labels or illicit labels" before period at end.

Subsec. (f). Pub. L. 108–482, § 102(b), added subsec. (f).

1996—Pub. L. 104–153, § 4(b)(1), substituted "Trafficking in counterfeit labels for phonorecords, copies of computer programs or computer program documentation or packaging, and copies of motion pictures or other audio visual works, and trafficking in counterfeit computer program documentation or packaging" for "Trafficking in counterfeit labels for phonorecords and copies of motion pictures or other audiovisual works" in section catchline.

Subsec. (a). Pub. L. 104–153, § 4(a)(1), substituted "a computer program or documentation or packaging for a computer program, or a copy of a motion picture or other audiovisual work, and whoever, in any of the circumstances described in subsection (c) of this section, knowingly traffics in counterfeit documentation or packaging for a computer program," for "a motion picture or other audiovisual work,".

Subsec. (b)(3). Pub. L. 104–153, § 4(a)(2), inserted "'computer program'," after "'motion picture',".

Subsec. (c)(2). Pub. L. 104–153, § 4(a)(3)(A), struck out "or" at end.

Subsec. (c)(3). Pub. L. 104–153, § 4(a)(3)(B), inserted "a copy of a copyrighted computer program or copyrighted documentation or packaging for a computer program," after "enclose," and substituted "; or" for period at end.

Subsec. (c)(4). Pub. L. 104–153, § 4(a)(3)(C), added par. (4).

1994—Subsec. (a). Pub. L. 103–322 substituted "fined under this title" for "fined not more than $250,000".

Subsec. (c)(1). Pub. L. 103–272 substituted "section 46501 of title 49" for "section 101 of the Federal Aviation Act of 1958".

1990—Pub. L. 101–647 struck out comma after "phonorecords" in section catchline.

1982—Pub. L. 97–180 substituted "Trafficking in counterfeit labels for phonorecords, and copies of motion pictures or other audiovisual works" for "Transportation, sale or receipt of phonograph records bearing forged or counterfeit labels" in section catchline.

Subsec. (a). Pub. L. 97–180 substituted provision that violators of this section shall be fined not more than $250,000 or imprisoned for not more than five years or both for provision that whoever knowingly and with fraudulent intent transported, caused to be transported, received, sold, or offered for sale in interstate or foreign commerce any phonograph record, disk, wire, tape, film, or other article on which sounds were recorded, to which or upon which was stamped, pasted, or affixed any forged or counterfeited label, knowing the label to have been falsely made, forged, or counterfeited would be fined not more than $10,000 or imprisoned for not more than one year, or both, for the first such offense and would be fined not more than $25,000 or imprisoned for not more than two years, or both, for any subsequent offense.

Subsecs. (b) to (e). Pub. L. 97–180 added subsecs. (b) and (c), redesignated former subsecs. (b) and (c) as (d) and (e), respectively, and in subsec. (d) as so redesignated struck out the comma after "judgment of conviction shall".

1976—Pub. L. 94–553 designated existing provisions as subsec. (a) and substituted "$10,000" for "$25,000" and "$25,000" for "$50,000", and added subsecs. (b) and (c).

1974—Pub. L. 93–573 substituted "not more than $25,000 or imprisoned for not more than one year, or both, for the first offense and shall be fined not more than $50,000 or imprisoned not more than 2 years, or both, for any subsequent offense" for "not more than $1,000 or imprisoned not more than one year or both".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–553 effective Jan. 1, 1978, see section 102 of Pub. L. 94–553, set out as a note preceding section 101 of Title 17, Copyrights.

OTHER RIGHTS NOT AFFECTED BY ANTI-COUNTERFEITING PROVISIONS

Pub. L. 108–482, title I, § 103, Dec. 23, 2004, 118 Stat. 3915, provided that:

"(a) CHAPTERS 5 AND 12 OF TITLE 17; ELECTRONIC TRANSMISSIONS.—The amendments made by this title [amending this section]—

"(1) shall not enlarge, diminish, or otherwise affect any liability or limitations on liability under sections 512, 1201 or 1202 of title 17, United States Code; and

"(2) shall not be construed to apply—

"(A) in any case, to the electronic transmission of a genuine certificate, licensing document, registration card, similar labeling component, or documentation or packaging described in paragraph (4) or (5) of section 2318(b) of title 18, United States Code, as amended by this title; and

"(B) in the case of a civil action under section 2318(f) of title 18, United States Code, to the electronic transmission of a counterfeit label or counterfeit documentation or packaging defined in paragraph (1) or (6) of section 2318(b) of title 18, United States Code.

"(b) FAIR USE.—The amendments made by this title shall not affect the fair use, under section 107 of title 17, United States Code, of a genuine certificate, licensing document, registration card, similar labeling component, or documentation or packaging described in paragraph (4) or (5) of section 2318(b) of title 18, United States Code, as amended by this title."

§ 2319. Criminal infringement of a copyright

(a) Any person who violates section 506(a) (relating to criminal offenses) of title 17 shall be punished as provided in subsections (b), (c), and (d) and such penalties shall be in addition to any other provisions of title 17 or any other law.

(b) Any person who commits an offense under section 506(a)(1)(A) of title 17—

(1) shall be imprisoned not more than 5 years, or fined in the amount set forth in this title, or both, if the offense consists of the reproduction or distribution, including by electronic means, during any 180-day period, of at least 10 copies or phonorecords, of 1 or more copyrighted works, which have a total retail value of more than $2,500;

(2) shall be imprisoned not more than 10 years, or fined in the amount set forth in this title, or both, if the offense is a second or subsequent offense under paragraph (1); and

(3) shall be imprisoned not more than 1 year, or fined in the amount set forth in this title, or both, in any other case.

(c) Any person who commits an offense under section 506(a)(1)(B) of title 17—

(1) shall be imprisoned not more than 3 years, or fined in the amount set forth in this title, or both, if the offense consists of the reproduction or distribution of 10 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of $2,500 or more;

(2) shall be imprisoned not more than 6 years, or fined in the amount set forth in this title, or both, if the offense is a second or subsequent offense under paragraph (1); and

(3) shall be imprisoned not more than 1 year, or fined in the amount set forth in this title, or both, if the offense consists of the reproduction or distribution of 1 or more copies or phonorecords of 1 or more copyrighted works,

which have a total retail value of more than $1,000.

(d) Any person who commits an offense under section 506(a)(1)(C) of title 17—

(1) shall be imprisoned not more than 3 years, fined under this title, or both;

(2) shall be imprisoned not more than 5 years, fined under this title, or both, if the offense was committed for purposes of commercial advantage or private financial gain;

(3) shall be imprisoned not more than 6 years, fined under this title, or both, if the offense is a second or subsequent offense; and

(4) shall be imprisoned not more than 10 years, fined under this title, or both, if the offense is a second or subsequent offense under paragraph (2).

(e)(1) During preparation of the presentence report pursuant to Rule 32(c) of the Federal Rules of Criminal Procedure, victims of the offense shall be permitted to submit, and the probation officer shall receive, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

(2) Persons permitted to submit victim impact statements shall include—

(A) producers and sellers of legitimate works affected by conduct involved in the offense;

(B) holders of intellectual property rights in such works; and

(C) the legal representatives of such producers, sellers, and holders.

(f) As used in this section—

(1) the terms ''phonorecord'' and ''copies'' have, respectively, the meanings set forth in section 101 (relating to definitions) of title 17;

(2) the terms ''reproduction'' and ''distribution'' refer to the exclusive rights of a copyright owner under clauses (1) and (3) respectively of section 106 (relating to exclusive rights in copyrighted works), as limited by sections 107 through 122, of title 17;

(3) the term ''financial gain'' has the meaning given the term in section 101 of title 17; and

(4) the term ''work being prepared for commercial distribution'' has the meaning given the term in section 506(a) of title 17.

(Added Pub. L. 97–180, § 3, May 24, 1982, 96 Stat. 92; amended Pub. L. 102–561, Oct. 28, 1992, 106 Stat. 4233; Pub. L. 105–80, § 12(b)(2), Nov. 13, 1997, 111 Stat. 1536; Pub. L. 105–147, § 2(d), Dec. 16, 1997, 111 Stat. 2678; Pub. L. 107–273, div. C, title III, § 13211(a), Nov. 2, 2002, 116 Stat. 1910; Pub. L. 109–9, title I, § 103(b), Apr. 27, 2005, 119 Stat. 220.)

REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in subsec. (e)(1), are set out in the Appendix to this title.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–9, § 103(b)(1), substituted ''Any person who'' for ''Whoever'' and '', (c), and (d)'' for ''and (c) of this section''.

Subsec. (b). Pub. L. 109–9, § 103(b)(2), substituted ''section 506(a)(1)(A)'' for ''section 506(a)(1)'' in introductory provisions.

Subsec. (c). Pub. L. 109–9, § 103(b)(3), substituted ''section 506(a)(1)(B) of title 17'' for ''section 506(a)(2) of title 17, United States Code'' in introductory provisions.

Subsecs. (d), (e). Pub. L. 109–9, § 103(b)(4), (5), added subsec. (d) and redesignated former subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 109–9, § 103(b)(4), (6), redesignated subsec. (e) as (f) and added pars. (3) and (4).

2002—Subsec. (e)(2). Pub. L. 107–273 substituted ''107 through 122'' for ''107 through 120''.

1997—Subsec. (a). Pub. L. 105–147, § 2(d)(1), substituted ''subsections (b) and (c)'' for ''subsection (b)''.

Subsec. (b). Pub. L. 105–147, § 2(d)(2)(A), substituted ''section 506(a)(1) of title 17'' for ''subsection (a) of this section'' in introductory provisions.

Subsec. (b)(1). Pub. L. 105–147, § 2(d)(2)(B), inserted ''including by electronic means,'' after ''if the offense consists of the reproduction or distribution,'' and substituted ''which have a total retail value of more than $2,500'' for ''with a retail value of more than $2,500''.

Pub. L. 105–80, substituted ''at least 10 copies'' for ''at last 10 copies''.

Subsecs. (c) to (e). Pub. L. 105–147, § 2(d)(3), added subsecs. (c) and (d) and redesignated former subsec. (c) as (e).

1992—Subsec. (b). Pub. L. 102–561, § 1, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Any person who commits an offense under subsection (a) of this section—

''(1) shall be fined not more than $250,000 or imprisoned for not more than five years, or both, if the offense—

''(A) involves the reproduction or distribution, during any one-hundred-and-eighty-day period, of at least one thousand phonorecords or copies infringing the copyright in one or more sound recordings;

''(B) involves the reproduction or distribution, during any one-hundred-and-eighty-day period, of at least sixty-five copies infringing the copyright in one or more motion pictures or other audiovisual works; or

''(C) is a second or subsequent offense under either of subsection (b)(1) or (b)(2) of this section, where a prior offense involved a sound recording, or a motion picture or other audiovisual work;

''(2) shall be fined not more than $250,000 or imprisoned for not more than two years, or both, if the offense—

''(A) involves the reproduction or distribution, during any one-hundred-and-eighty-day period, of more than one hundred but less than one thousand phonorecords or copies infringing the copyright in one or more sound recordings; or

''(B) involves the reproduction or distribution, during any one-hundred-and-eighty-day period, of more than seven but less than sixty-five copies infringing the copyright in one or more motion pictures or other audiovisual works; and

''(3) shall be fined not more than $25,000 or imprisoned for not more than one year, or both, in any other case.''

Subsec. (c). Pub. L. 102–561, § 2, substituted '' 'phonorecord' '' for '' 'sound recording', 'motion picture', 'audiovisual work', 'phonorecord','' in par. (1) and ''120'' for ''118'' in par. (2).

§ 2319A. Unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances

(a) OFFENSE.—Whoever, without the consent of the performer or performers involved, knowingly and for purposes of commercial advantage or private financial gain—

(1) fixes the sounds or sounds and images of a live musical performance in a copy or phonorecord, or reproduces copies or phonorecords of such a performance from an unauthorized fixation;

(2) transmits or otherwise communicates to the public the sounds or sounds and images of a live musical performance; or

(3) distributes or offers to distribute, sells or offers to sell, rents or offers to rent, or traffics in any copy or phonorecord fixed as described in paragraph (1), regardless of whether the fixations occurred in the United States;

shall be imprisoned for not more than 5 years or fined in the amount set forth in this title, or both, or if the offense is a second or subsequent offense, shall be imprisoned for not more than 10 years or fined in the amount set forth in this title, or both.

(b) FORFEITURE AND DESTRUCTION.—When a person is convicted of a violation of subsection (a), the court shall order the forfeiture and destruction of any copies or phonorecords created in violation thereof, as well as any plates, molds, matrices, masters, tapes, and film negatives by means of which such copies or phonorecords may be made. The court may also, in its discretion, order the forfeiture and destruction of any other equipment by means of which such copies or phonorecords may be reproduced, taking into account the nature, scope, and proportionality of the use of the equipment in the offense.

(c) SEIZURE AND FORFEITURE.—If copies or phonorecords of sounds or sounds and images of a live musical performance are fixed outside of the United States without the consent of the performer or performers involved, such copies or phonorecords are subject to seizure and forfeiture in the United States in the same manner as property imported in violation of the customs laws. The Secretary of the Treasury shall, not later than 60 days after the date of the enactment of the Uruguay Round Agreements Act, issue regulations to carry out this subsection, including regulations by which any performer may, upon payment of a specified fee, be entitled to notification by the United States Customs Service of the importation of copies or phonorecords that appear to consist of unauthorized fixations of the sounds or sounds and images of a live musical performance.

(d) VICTIM IMPACT STATEMENT.—(1) During preparation of the presentence report pursuant to Rule 32(c) of the Federal Rules of Criminal Procedure, victims of the offense shall be permitted to submit, and the probation officer shall receive, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

(2) Persons permitted to submit victim impact statements shall include—

(A) producers and sellers of legitimate works affected by conduct involved in the offense;

(B) holders of intellectual property rights in such works; and

(C) the legal representatives of such producers, sellers, and holders.

(e) DEFINITIONS.—As used in this section—

(1) the terms ''copy'', ''fixed'', ''musical work'', ''phonorecord'', ''reproduce'', ''sound recordings'', and ''transmit'' mean those terms within the meaning of title 17; and

(2) the term ''traffic in'' means transport, transfer, or otherwise dispose of, to another, as consideration for anything of value, or make or obtain control of with intent to transport, transfer, or dispose of.

(f) APPLICABILITY.—This section shall apply to any Act or Acts that occur on or after the date of the enactment of the Uruguay Round Agreements Act.

(Added Pub. L. 103–465, title V, § 513(a), Dec. 8, 1994, 108 Stat. 4974; amended Pub. L. 105–147, § 2(e), Dec. 16, 1997, 111 Stat. 2679.)

REFERENCES IN TEXT

The customs laws, referred to in subsec. (c), are classified generally to Title 19, Customs Duties.

The date of the enactment of the Uruguay Round Agreements Act, referred to in subsecs. (c) and (f), is the date of enactment of Pub. L. 103–465, which was approved Dec. 8, 1994.

The Federal Rules of Criminal Procedure, referred to in subsec. (d)(1), are set out in the Appendix to this title.

AMENDMENTS

1997—Subsecs. (d) to (f). Pub. L. 105–147 added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

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.

§ 2319B. Unauthorized recording of Motion pictures in a Motion picture exhibition facility

(a) OFFENSE.—Any person who, without the authorization of the copyright owner, knowingly uses or attempts to use an audiovisual recording device to transmit or make a copy of a motion picture or other audiovisual work protected under title 17, or any part thereof, from a performance of such work in a motion picture exhibition facility, shall—

(1) be imprisoned for not more than 3 years, fined under this title, or both; or

(2) if the offense is a second or subsequent offense, be imprisoned for no more than 6 years, fined under this title, or both.

The possession by a person of an audiovisual recording device in a motion picture exhibition facility may be considered as evidence in any proceeding to determine whether that person committed an offense under this subsection, but shall not, by itself, be sufficient to support a conviction of that person for such offense.

(b) FORFEITURE AND DESTRUCTION.—When a person is convicted of a violation of subsection (a), the court in its judgment of conviction shall, in addition to any penalty provided, order the forfeiture and destruction or other disposition of all unauthorized copies of motion pictures or other audiovisual works protected under title 17, or parts thereof, and any audiovisual recording devices or other equipment used in connection with the offense.

(c) AUTHORIZED ACTIVITIES.—This section does not prevent any lawfully authorized investigative, protective, or intelligence activity by an officer, agent, or employee of the United States, a State, or a political subdivision of a State, or by a person acting under a contract with the United States, a State, or a political subdivision of a State.

(d) IMMUNITY FOR THEATERS.—With reasonable cause, the owner or lessee of a motion picture exhibition facility where a motion picture or other audiovisual work is being exhibited, the authorized agent or employee of such owner or lessee, the licensor of the motion picture or other audiovisual work being exhibited, or the agent or employee of such licensor—

(1) may detain, in a reasonable manner and for a reasonable time, any person suspected of a violation of this section with respect to that motion picture or audiovisual work for the purpose of questioning or summoning a law enforcement officer; and

(2) shall not be held liable in any civil or criminal action arising out of a detention under paragraph (1).

(e) VICTIM IMPACT STATEMENT.—

(1) IN GENERAL.—During the preparation of the presentence report under rule 32(c) of the Federal Rules of Criminal Procedure, victims of an offense under this section shall be permitted to submit to the probation officer a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

(2) CONTENTS.—A victim impact statement submitted under this subsection shall include—

(A) producers and sellers of legitimate works affected by conduct involved in the offense;

(B) holders of intellectual property rights in the works described in subparagraph (A); and

(C) the legal representatives of such producers, sellers, and holders.

(f) STATE LAW NOT PREEMPTED.—Nothing in this section may be construed to annul or limit any rights or remedies under the laws of any State.

(g) DEFINITIONS.—In this section, the following definitions shall apply:

(1) TITLE 17 DEFINITIONS.—The terms ''audiovisual work'', ''copy'', ''copyright owner'', ''motion picture'', ''motion picture exhibition facility'', and ''transmit'' have, respectively, the meanings given those terms in section 101 of title 17.

(2) AUDIOVISUAL RECORDING DEVICE.—The term ''audiovisual recording device'' means a digital or analog photographic or video camera, or any other technology or device capable of enabling the recording or transmission of a copyrighted motion picture or other audiovisual work, or any part thereof, regardless of whether audiovisual recording is the sole or primary purpose of the device.

(Added Pub. L. 109–9, title I, §102(a), Apr. 27, 2005, 119 Stat. 218.)

REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in subsec. (e)(1), are set out in the Appendix to this title.

§ 2320. Trafficking in counterfeit goods or services

(a) Whoever intentionally traffics or attempts to traffic in goods or services and knowingly uses a counterfeit mark on or in connection with such goods or services shall, if an individual, be fined not more than $2,000,000 or imprisoned not more than 10 years, or both, and, if a person other than an individual, be fined not more than $5,000,000. In the case of an offense by a person under this section that occurs after that person is convicted of another offense under this section, the person convicted, if an individual, shall be fined not more than $5,000,000 or imprisoned not more than 20 years, or both, and if other than an individual, shall be fined not more than $15,000,000.

(b) Upon a determination by a preponderance of the evidence that any articles in the possession of a defendant in a prosecution under this section bear counterfeit marks, the United States may obtain an order for the destruction of such articles.

(c) All defenses, affirmative defenses, and limitations on remedies that would be applicable in an action under the Lanham Act shall be applicable in a prosecution under this section. In a prosecution under this section, the defendant shall have the burden of proof, by a preponderance of the evidence, of any such affirmative defense.

(d)(1) During preparation of the presentence report pursuant to Rule 32(c) of the Federal Rules of Criminal Procedure, victims of the offense shall be permitted to submit, and the probation officer shall receive, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

(2) Persons permitted to submit victim impact statements shall include—

(A) producers and sellers of legitimate goods or services affected by conduct involved in the offense;

(B) holders of intellectual property rights in such goods or services; and

(C) the legal representatives of such producers, sellers, and holders.

(e) For the purposes of this section—

(1) the term ''counterfeit mark'' means—

(A) a spurious mark—

(i) that is used in connection with trafficking in goods or services;

(ii) that is identical with, or substantially indistinguishable from, a mark registered for those goods or services on the principal register in the United States Patent and Trademark Office and in use, whether or not the defendant knew such mark was so registered; and

(iii) the use of which is likely to cause confusion, to cause mistake, or to deceive; or

(B) a spurious designation that is identical with, or substantially indistinguishable from, a designation as to which the remedies of the Lanham Act are made available by reason of section 220506 of title 36;

but such term does not include any mark or designation used in connection with goods or services of which the manufacturer or producer was, at the time of the manufacture or production in question authorized to use the mark or designation for the type of goods or services so manufactured or produced, by the holder of the right to use such mark or designation;

(2) the term ''traffic'' means transport, transfer, or otherwise dispose of, to another, as consideration for anything of value, or make or obtain control of with intent so to transport, transfer, or dispose of; and

(3) the term ''Lanham Act'' means the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1051 et seq.).

(f)(1) Beginning with the first year after the date of enactment of this subsection, the Attorney General shall include in the report of the Attorney General to Congress on the business of the Department of Justice prepared pursuant to section 522 of title 28, an accounting, on a district by district basis, of the following with respect to all actions taken by the Department of Justice that involve trafficking in counterfeit labels for phonorecords, copies of computer programs or computer program documentation or packaging, copies of motion pictures or other audiovisual works (as defined in section 2318 of this title), criminal infringement of copyrights (as defined in section 2319 of this title), unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances (as defined in section 2319A of this title), or trafficking in goods or services bearing counterfeit marks (as defined in section 2320 of this title):

(A) The number of open investigations.

(B) The number of cases referred by the United States Customs Service.

(C) The number of cases referred by other agencies or sources.

(D) The number and outcome, including settlements, sentences, recoveries, and penalties, of all prosecutions brought under sections 2318, 2319, 2319A, and 2320 of this title.

(2)(A) The report under paragraph (1), with respect to criminal infringement of copyright, shall include the following:

(i) The number of infringement cases in these categories: audiovisual (videos and films); audio (sound recordings); literary works (books and musical compositions); computer programs; video games; and, others.

(ii) The number of online infringement cases.

(iii) The number and dollar amounts of fines assessed in specific categories of dollar amounts. These categories shall be: no fines ordered; fines under $500; fines from $500 to $1,000; fines from $1,000 to $5,000; fines from $5,000 to $10,000; and fines over $10,000.

(iv) The total amount of restitution ordered in all copyright infringement cases.

(B) In this paragraph, the term ''online infringement cases'' as used in paragraph (2) means those cases where the infringer—

(i) advertised or publicized the infringing work on the Internet; or

(ii) made the infringing work available on the Internet for download, reproduction, performance, or distribution by other persons.

(C) The information required under subparagraph (A) shall be submitted in the report required in fiscal year 2005 and thereafter.

(Added Pub. L. 98–473, title II, § 1502(a), Oct. 12, 1984, 98 Stat. 2178; amended Pub. L. 103–322, title XXXII, § 320104(a), title XXXIII, § 330016(1)(U), Sept. 13, 1994, 108 Stat. 2110, 2148; Pub. L. 104–153, § 5, July 2, 1996, 110 Stat. 1387; Pub. L. 105–147, § 2(f), Dec. 16, 1997, 111 Stat. 2679; Pub. L. 105–225, § 4(b), Aug. 12, 1998, 112 Stat. 1499; Pub. L. 105–354, § 2(c)(1), Nov. 3, 1998, 112 Stat. 3244; Pub. L. 107–140, § 1, Feb. 8, 2002, 116 Stat. 12; Pub. L. 107–273, div. A, title II, § 205(e), Nov. 2, 2002, 116 Stat. 1778.)

REFERENCES IN TEXT

The Lanham Act, referred to in subsecs. (c) and (e)(1)(B), (3), also known as the Trademark Act of 1946, is act July 5, 1946, ch. 540, 60 Stat. 427, as amended, which is classified generally to chapter 22 (§ 1051 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1051 of Title 15 and Tables.

The Federal Rules of Criminal Procedure, referred to in subsec. (d)(1), are set out in the Appendix to this title.

The date of enactment of this subsection, referred to in subsec. (f), is date of enactment of Pub. L. 104–153, which was approved July 2, 1996.

CODIFICATION

Another section 2320 was renumbered section 2321 of this title.

AMENDMENTS

2002—Subsec. (e)(1)(B). Pub. L. 107–140 substituted ''section 220506 of title 36'' for ''section 220706 of title 36''.

Subsec. (f). Pub. L. 107–273, § 205(e), designated existing provisions as par. (1), substituted ''this title'' for ''title 18'' wherever appearing, redesignated former pars. (1) to (4) as subpars. (A) to (D), respectively, of par. (1), and added par. (2).

1998—Subsec. (e)(1)(B). Pub. L. 105–225, § 4(b)(1), as amended by Pub. L. 105–354, § 2(c)(1), substituted ''section 220706 of title 36'' for ''section 110 of the Olympic Charter Act''.

Subsec. (e)(2). Pub. L. 105–225, § 4(b)(2), as amended by Pub. L. 105–354, § 2(c)(1), inserted ''and'' after semicolon at end.

Subsec. (e)(3). Pub. L. 105–225, § 4(b)(3), as amended by Pub. L. 105–354, § 2(c)(1), substituted a period for ''; and'' at end.

Subsec. (e)(4). Pub. L. 105–225, § 4(b)(4), as amended by Pub. L. 105–354, § 2(c)(1), struck out par. (4) which read as follows: ''the term 'Olympic Charter Act' means the Act entitled 'An Act to incorporate the United States Olympic Association', approved September 21, 1950 (36 U.S.C. 371 et seq.).''

1997—Subsecs. (d) to (f). Pub. L. 105–147 added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

1996—Subsec. (e). Pub. L. 104–153 added subsec. (e).

1994—Pub. L. 103–322, § 330016(1)(U), which directed the amendment of this section by striking ''not more than $250,000'' and inserting ''under this title'', could not be executed because the phrase ''not more than $250,000'' did not appear in text subsequent to amendment of subsec. (a) by Pub. L. 103–322, § 320104(a). See below.

Subsec. (a). Pub. L. 103–322, § 320104(a), in first sentence, substituted ''$2,000,000 or imprisoned not more than 10 years'' for ''$250,000 or imprisoned not more than five years'' and ''$5,000,000'' for ''$1,000,000'', and in second sentence, substituted ''$5,000,000 or imprisoned not more than 20 years'' for ''$1,000,000 or imprisoned not more than fifteen years'' and ''$15,000,000'' for ''$5,000,000''.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–354, § 2(c), Nov. 3, 1998, 112 Stat. 3244, provided that the amendment made by section 2(c) is effective Aug. 12, 1998.

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.

§ 2321. Trafficking in certain motor vehicles or motor vehicle parts

(a) Whoever buys, receives, possesses, or obtains control of, with intent to sell or otherwise dispose of, a motor vehicle or motor vehicle part, knowing that an identification number for such motor vehicle or part has been removed, obliterated, tampered with, or altered, shall be fined under this title or imprisoned not more than ten years, or both.

(b) Subsection (a) does not apply if the removal, obliteration, tampering, or alteration—

(1) is caused by collision or fire; or

(2) is not a violation of section 511 of this title.

(c) As used in this section, the terms ''identification number'' and ''motor vehicle'' have the meaning given those terms in section 511 of this title.

(Added Pub. L. 98–547, title II, § 204(a), Oct. 25, 1984, 98 Stat. 2770, § 2320; renumbered § 2321, Pub. L. 99–646, § 42(a), Nov. 10, 1986, 100 Stat. 3601; amended Pub. L. 103–322, title XXXIII, § 330016(1)(N), Sept. 13, 1994, 108 Stat. 2148.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $20,000''.

§ 2322. Chop shops

(a) IN GENERAL.—

(1) UNLAWFUL ACTION.—Any person who knowingly owns, operates, maintains, or controls a chop shop or conducts operations in a chop shop shall be punished by a fine under this title or by imprisonment for not more than 15 years, or both. If a conviction of a person under this paragraph is for a violation committed after the first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to any fine and imprisonment.

(2) INJUNCTIONS.—The Attorney General shall, as appropriate, in the case of any person who violates paragraph (1), commence a civil action for permanent or temporary injunction to restrain such violation.

(b) DEFINITION.—For purposes of this section, the term ''chop shop'' means any building, lot, facility, or other structure or premise where one or more persons engage in receiving, concealing, destroying, disassembling, dismantling, reassembling, or storing any passenger motor vehicle or passenger motor vehicle part which has been unlawfully obtained in order to alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity, including the vehicle identification number or derivative thereof, of such vehicle or vehicle part and to distribute, sell, or dispose of such vehicle or vehicle part in interstate or foreign commerce.

(Added Pub. L. 102–519, title I, § 105(a), Oct. 25, 1992, 106 Stat. 3385.)

CHAPTER 113A—TELEMARKETING FRAUD

Sec.
2325. Definition.
2326. Enhanced penalties.
2327. Mandatory restitution.

PRIOR PROVISIONS

A prior chapter 113A of part I of this title, consisting of section 2331 et seq. and relating to terrorism, was renumbered chapter 113B of part I of this title by Pub. L. 103–322, title XXV, § 250002(a)(1), Sept. 13, 1994, 108 Stat. 2082.

§ 2325. Definition

In this chapter, ''telemarketing''—

(1) means a plan, program, promotion, or campaign that is conducted to induce—

(A) purchases of goods or services;

(B) participation in a contest or sweepstakes; or

(C) a charitable contribution, donation, or gift of money or any other thing of value,

by use of 1 or more interstate telephone calls initiated either by a person who is conducting the plan, program, promotion, or campaign or by a prospective purchaser or contest or sweepstakes participant or charitable contributor, or donor; but

(2) does not include the solicitation of sales through the mailing of a catalog that—

(A) contains a written description or illustration of the goods or services offered for sale;

(B) includes the business address of the seller;

(C) includes multiple pages of written material or illustration; and

(D) has been issued not less frequently than once a year,

if the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls takes orders without further solicitation.

(Added Pub. L. 103–322, title XXV, § 250002(a)(2), Sept. 13, 1994, 108 Stat. 2082; amended Pub. L.

107–56, title X, § 1011(d), Oct. 26, 2001, 115 Stat. 396.)

AMENDMENTS

2001—Par. (1). Pub. L. 107–56 added subpar. (C) and inserted ''or charitable contributor, or donor'' before semicolon in concluding provisions.

SHORT TITLE

Section 250001 of title XXV of Pub. L. 103–322 provided that: ''This Act [probably should be ''title'', meaning title XXV (§§ 250001–250008) of Pub. L. 103–322, which enacted this chapter, amended sections 1029, 1341, and 3059 of this title, and enacted provisions set out as notes under this section and section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Senior Citizens Against Marketing Scams Act of 1994'.''

INFORMATION NETWORK

Section 250008 of title XXV of Pub. L. 103–322, as amended by Pub. L. 104–294, title VI, § 604(b)(29), Oct. 11, 1996, 110 Stat. 3508, provided that:

''(a) HOTLINE.—The Attorney General shall, subject to the availability of appropriations, establish a national toll-free hotline for the purpose of—

''(1) providing general information on telemarketing fraud to interested persons; and

''(2) gathering information related to possible violations of provisions of law amended by this title [see Short Title note above].

''(b) ACTION ON INFORMATION GATHERED.—The Attorney General shall work in cooperation with the Federal Trade Commission to ensure that information gathered through the hotline shall be acted on in an appropriate manner.''

§ 2326. Enhanced penalties

A person who is convicted of an offense under section 1028, 1029, 1341, 1342, 1343, or 1344, or a conspiracy to commit such an offense, in connection with the conduct of telemarketing—

(1) shall be imprisoned for a term of up to 5 years in addition to any term of imprisonment imposed under any of those sections, respectively; and

(2) in the case of an offense under any of those sections that—

(A) victimized ten or more persons over the age of 55; or

(B) targeted persons over the age of 55,

shall be imprisoned for a term of up to 10 years in addition to any term of imprisonment imposed under any of those sections, respectively.

(Added Pub. L. 103–322, title XXV, § 250002(a)(2), Sept. 13, 1994, 108 Stat. 2082; amended Pub. L. 105–184, §§ 3, 4, June 23, 1998, 112 Stat. 520.)

AMENDMENTS

1998—Pub. L. 105–184 inserted '', or a conspiracy to commit such an offense,'' after ''or 1344'' in introductory provisions and substituted ''shall'' for ''may'' in two places.

§ 2327. Mandatory restitution

(a) IN GENERAL.—Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution to all victims of any offense for which an enhanced penalty is provided under section 2326.

(b) SCOPE AND NATURE OF ORDER.—

(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (2).

(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.

(3) DEFINITION.—For purposes of this subsection, the term ''full amount of the victim's losses'' means all losses suffered by the victim as a proximate result of the offense.

(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

(B) A court may not decline to issue an order under this section because of—

(i) the economic circumstances of the defendant; or

(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

(c) VICTIM DEFINED.—In this section, the term ''victim'' has the meaning given that term in section 3663A(a)(2).

(Added Pub. L. 103–322, title XXV, § 250002(a)(2), Sept. 13, 1994, 108 Stat. 2082; amended Pub. L. 104–132, title II, § 205(e), Apr. 24, 1996, 110 Stat. 1232; Pub. L. 104–294, title VI, § 601(n), Oct. 11, 1996, 110 Stat. 3502; Pub. L. 105–184, § 5, June 23, 1998, 112 Stat. 520.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–184, § 5(1), substituted ''to all victims of any offense for which an enhanced penalty is provided under section 2326'' for ''for any offense under this chapter''.

Subsec. (c). Pub. L. 105–184, § 5(2), added subsec. (c) and struck out former subsec. (c) which read as follows:

''(c) DEFINITION.—For purposes of this section, the term 'victim' includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.''

1996—Subsec. (a). Pub. L. 104–132, § 205(e)(1), inserted ''or 3663A'' after ''3663''.

Subsec. (b)(1). Pub. L. 104–132, § 205(e)(2)(A), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''The order of restitution under this section shall direct that—

''(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

''(B) the United States Attorney enforce the restitution order by all available and reasonable means.''

Subsec. (b)(2). Pub. L. 104–132, § 205(e)(2)(B), struck out ''by victim'' after ''Enforcement'' in heading and amended text generally. Prior to amendment, text read as follows: ''An order of restitution may be enforced by a victim named in the order to receive the restitution as well as by the United States Attorney, in the same manner as a judgment in a civil action.''

Subsec. (b)(4)(C), (D). Pub. L. 104–132, § 205(e)(2)(C), struck out subpars. (C) and (D), which related to court's consideration of economic circumstances of defendant in determining schedule of payment of restitution orders, and court's entry of nominal restitution awards where economic circumstances of defendant do not allow for payment of restitution, respectively.

Subsec. (b)(5) to (10). Pub. L. 104–132, § 205(e)(2)(D), struck out pars. (5) to (10), which related, respectively, to more than 1 offender, more than 1 victim, payment schedule, setoff, effect on other sources of compensation, and condition of probation or supervised release.

Subsec. (c). Pub. L. 104–294, which directed substitution of ''designee'' for ''delegee'' wherever appearing, could not be executed because of amendment by Pub. L. 104–132, § 205(e)(3), (4). See below.

Pub. L. 104–132, § 205(e)(3), (4), redesignated subsec. (f) as (c) and struck out former subsec. (c) relating to proof of claim.

Subsecs. (d), (e). Pub. L. 104–132, § 205(e)(3), struck out subsecs. (d) and (e) which read as follows:

''(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.

''(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.''

Subsec. (f). Pub. L. 104–132, § 205(e)(4), redesignated subsec. (f) as (c).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–132 effective, to extent constitutionally permissible, for sentencing proceedings in cases in which defendant is convicted on or after Apr. 24, 1996, see section 211 of Pub. L. 104–132, set out as a note under section 2248 of this title.

CHAPTER 113B—TERRORISM

Sec.
2331. Definitions.
2332. Criminal penalties.
2332a. Use of weapons of mass destruction.
2332b. Acts of terrorism transcending national boundaries.
[2332c. Repealed.]
2332d. Financial transactions.
2332e. Requests for military assistance to enforce prohibition in certain emergencies.
2332f. Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities.
2332g. Missile systems designed to destroy aircraft.
2332h. Radiological dispersal devices.
2333. Civil remedies.
2334. Jurisdiction and venue.
2335. Limitation of actions.
2336. Other limitations.
2337. Suits against Government officials.
2338. Exclusive Federal jurisdiction.
2339. Harboring or concealing terrorists.
2339A. Providing material support to terrorists.
2339B. Providing material support or resources to designated foreign terrorist organizations.
2339C. Prohibitions against the financing of terrorism.
2339D. Receiving military-type training from a foreign terrorist organization.[1]

CODIFICATION

Pub. L. 101–519, § 132, Nov. 5, 1990, 104 Stat. 2250, known as the ''Antiterrorism Act of 1990'', amended this chapter by adding sections 2331 and 2333 to 2338 and by amending former section 2331 and renumbering it as section 2332. Pub. L. 102–27, title IV, § 402, Apr. 10, 1991, 105 Stat. 155, as amended by Pub. L. 102–136, § 126, Oct. 25, 1991, 105 Stat. 643, repealed section 132 of Pub. L. 101–519, effective Nov. 5, 1990, and provided that effective Nov. 5, 1990, this chapter is amended to read as if section 132 of Pub. L. 101–519 had not been enacted.

[1] Editorially supplied. Section 2339D added by Pub. L. 108–458 without corresponding amendment of chapter analysis.

PRIOR PROVISIONS

Another chapter 113B, consisting of sections 2340 to 2340B, was renumbered chapter 113C.

AMENDMENTS

2004—Pub. L. 108–458, title VI, § 6911(a), Dec. 17, 2004, 118 Stat. 3775, added items 2332g and 2332h.

2002—Pub. L. 107–197, title I, § 102(b), title II, § 202(b), June 25, 2002, 116 Stat. 724, 727, added items 2332f and 2339C.

2001—Pub. L. 107–56, title VIII, § 803(b), Oct. 26, 2001, 115 Stat. 377, added item 2339.

1998—Pub. L. 105–277, div. I, title II, § 201(c)(2), Oct. 21, 1998, 112 Stat. 2681–871, struck out item 2332c ''Use of chemical weapons''.

1996—Pub. L. 104–294, title VI, § 605(q), Oct. 11, 1996, 110 Stat. 3510, redesignated item 2332d, relating to requests for military assistance to enforce prohibition in certain emergencies, as item 2332e, and moved the item to follow item 2332d, relating to financial transactions.

Pub. L. 104–294, title VI, § 604(b)(5), Oct. 11, 1996, 110 Stat. 3506, amended directory language of Pub. L. 103–322, title XII, § 120005(b), Sept. 13, 1994, 108 Stat. 2023. See 1994 Amendment note below.

Pub. L. 104–201, div. A, title XIV, § 1416(c)(2)(B), Sept. 23, 1996, 110 Stat. 2723, which directed amendment of table of sections at beginning of the chapter 133B of this title, that relates to terrorism, by adding item 2332d relating to requests for military assistance to enforce prohibition in certain emergencies, after item 2332c, was executed by making the addition after item 2332c in the table of sections at the beginning of this chapter to reflect the probable intent of Congress. This title does not contain a chapter 133B.

Pub. L. 104–132, title III, §§ 303(b), 321(b), title V, § 521(c), title VII, § 702(b), Apr. 24, 1996, 110 Stat. 1253, 1254, 1287, 1294, added items 2332b to 2332d and 2339B.

1994—Pub. L. 103–322, title XII, § 120005(b), Sept. 13, 1994, 108 Stat. 2023, as amended by Pub. L. 104–294, title VI, § 604(b)(5), Oct. 11, 1996, 110 Stat. 3506, added item 2339A.

Pub. L. 103–322, title VI, § 60023(b), title XXV, § 250002(a)(1), (b)(2), Sept. 13, 1994, 108 Stat. 1981, 2082, 2085, renumbered chapter 113A as 113B, amended chapter heading generally, substituting ''113B'' for ''113A'', and added item 2332a.

1992—Pub. L. 102–572, title X, § 1003(a)(5), Oct. 29, 1992, 106 Stat. 4524, substituted ''TERRORISM'' for ''EXTRATERRITORIAL JURISDICTION OVER TERRORIST ACTS ABROAD AGAINST UNITED STATES NATIONALS'' in chapter heading and amended chapter analysis generally, substituting ''Definitions'' for ''Terrorist acts abroad against United States nationals'' in item 2331 and adding items 2332 to 2338.

1988—Pub. L. 100–690, title VII, § 7062, Nov. 18, 1988, 102 Stat. 4404, added item 2331.

§ 2331. Definitions

As used in this chapter—

(1) the term ''international terrorism'' means activities that—

(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

(B) appear to be intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and

(C) occur primarily outside the territorial jurisdiction of the United States, or tran-

scend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

(2) the term ''national of the United States'' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act;

(3) the term ''person'' means any individual or entity capable of holding a legal or beneficial interest in property;

(4) the term ''act of war'' means any act occurring in the course of—

(A) declared war;

(B) armed conflict, whether or not war has been declared, between two or more nations; or

(C) armed conflict between military forces of any origin; and

(5) the term ''domestic terrorism'' means activities that—

(A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State;

(B) appear to be intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and

(C) occur primarily within the territorial jurisdiction of the United States.

(Added Pub. L. 102–572, title X, § 1003(a)(3), Oct. 29, 1992, 106 Stat. 4521; amended Pub. L. 107–56, title VIII, § 802(a), Oct. 26, 2001, 115 Stat. 376.)

REFERENCES IN TEXT

Section 101(a)(22) of the Immigration and Nationality Act, referred to in par. (2), is classified to section 1101(a)(22) of Title 8, Aliens and Nationality.

PRIOR PROVISIONS

A prior section 2331 was renumbered 2332 of this title.

AMENDMENTS

2001—Par. (1)(B)(iii). Pub. L. 107–56, § 802(a)(1), substituted ''by mass destruction, assassination, or kidnapping'' for ''by assassination or kidnapping''.

Par. (5). Pub. L. 107–56, § 802(a)(2)–(4), added par. (5).

EFFECTIVE DATE

Section 1003(c) of Pub. L. 102–572 provided that: ''This section [enacting this section and sections 2333 to 2338 of this title, amending former section 2331 of this title, and renumbering former section 2331 of this title as 2332] and the amendments made by this section shall apply to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act [Oct. 29, 1992].''

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–458, title VI, § 6601, Dec. 17, 2004, 118 Stat. 3761, provided that: ''This subtitle [subtitle G (§§ 6601–6604) of title VI of Pub. L. 108–458, enacting section 2339D of this title, amending sections 2332b and 2339A to 2339C of this title, and enacting provisions set out as a note under section 2332b of this title] may be cited as the 'Material Support to Terrorism Prohibition Enhancement Act of 2004'.''

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–197, title I, § 101, June 25, 2002, 116 Stat. 721, provided that: ''This title [enacting section 2332f of this title and provisions set out as notes under section 2332f of this title] may be cited as the 'Terrorist Bombings Convention Implementation Act of 2002'.''

Pub. L. 107–197, title II, § 201, June 25, 2002, 116 Stat. 724, provided that: ''This title [enacting section 2339C of this title and provisions set out as notes under section 2339C of this title] may be cited as the 'Suppression of the Financing of Terrorism Convention Implementation Act of 2002'.''

§ 2332. Criminal penalties

(a) HOMICIDE.—Whoever kills a national of the United States, while such national is outside the United States, shall—

(1) if the killing is murder (as defined in section 1111(a)), be fined under this title, punished by death or imprisonment for any term of years or for life, or both;

(2) if the killing is a voluntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned not more than ten years, or both; and

(3) if the killing is an involuntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned not more than three years, or both.

(b) ATTEMPT OR CONSPIRACY WITH RESPECT TO HOMICIDE.—Whoever outside the United States attempts to kill, or engages in a conspiracy to kill, a national of the United States shall—

(1) in the case of an attempt to commit a killing that is a murder as defined in this chapter, be fined under this title or imprisoned not more than 20 years, or both; and

(2) in the case of a conspiracy by two or more persons to commit a killing that is a murder as defined in section 1111(a) of this title, if one or more of such persons do any overt act to effect the object of the conspiracy, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned.

(c) OTHER CONDUCT.—Whoever outside the United States engages in physical violence—

(1) with intent to cause serious bodily injury to a national of the United States; or

(2) with the result that serious bodily injury is caused to a national of the United States;

shall be fined under this title or imprisoned not more than ten years, or both.

(d) LIMITATION ON PROSECUTION.—No prosecution for any offense described in this section shall be undertaken by the United States except on written certification of the Attorney General or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions that, in the judgment of the certifying official, such offense was intended to coerce, intimidate, or retaliate against a government or a civilian population.

(Added Pub. L. 99–399, title XII, § 1202(a), Aug. 27, 1986, 100 Stat. 896, § 2331; amended Pub. L. 101–519, § 132(b), Nov. 5, 1990, 104 Stat. 2250; Pub. L. 102–27, title IV, § 402, Apr. 10, 1991, 105 Stat. 155; Pub. L. 102–136, § 126, Oct. 25, 1991, 105 Stat. 643; renumbered § 2332 and amended Pub. L. 102–572, title X, § 1003(a)(1), (2), Oct. 29, 1992, 106

Stat. 4521; Pub. L. 103–322, title VI, § 60022, Sept. 13, 1994, 108 Stat. 1980; Pub. L. 104–132, title VII, § 705(a)(6), Apr. 24, 1996, 110 Stat. 1295.)

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–132 substituted ''ten years'' for ''five years'' in concluding provisions.

1994—Subsec. (a)(1). Pub. L. 103–322 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''if the killing is a murder as defined in section 1111(a) of this title, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned;''.

1992—Pub. L. 102–572 renumbered section 2331 of this title as this section, substituted ''Criminal penalties'' for ''Terrorist acts abroad against United States national'' in section catchline, redesignated subsec. (e) as (d), and struck out former subsec. (d) which read as follows: ''DEFINITION.—As used in this section the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''

1991—Pub. L. 102–27, § 402, as amended by Pub. L. 102–136, § 126, repealed Pub. L. 101–519, § 132, and amended this section to read as if Pub. L. 101–519, § 132, had not been enacted, effective as of Nov. 5, 1990, the date of enactment of Pub. L. 101–519. See Codification note preceding this section.

1990—Pub. L. 101–519, § 132, which amended this section, was repealed by Pub. L. 102–27, § 402, as amended. See 1991 Amendment note above.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 applicable to any pending case or any cause of action arising on or after 4 years before Oct. 29, 1992, see section 1003(c) of Pub. L. 102–572, set out as an Effective Date note under section 2331 of this title.

§ 2332a. Use of weapons of mass destruction

(a) OFFENSE AGAINST A NATIONAL OF THE UNITED STATES OR WITHIN THE UNITED STATES.—A person who, without lawful authority, uses, threatens, or attempts or conspires to use, a weapon of mass destruction—

(1) against a national of the United States while such national is outside of the United States;

(2) against any person or property within the United States, and

(A) the mail or any facility of interstate or foreign commerce is used in furtherance of the offense;

(B) such property is used in interstate or foreign commerce or in an activity that affects interstate or foreign commerce;

(C) any perpetrator travels in or causes another to travel in interstate or foreign commerce in furtherance of the offense; or

(D) the offense, or the results of the offense, affect interstate or foreign commerce, or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce;

(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States; or

(4) against any property within the United States that is owned, leased, or used by a foreign government,

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

(b) OFFENSE BY NATIONAL OF THE UNITED STATES OUTSIDE OF THE UNITED STATES.—Any national of the United States who, without lawful authority, uses, or threatens, attempts, or conspires to use, a weapon of mass destruction outside of the United States shall be imprisoned for any term of years or for life, and if death results, shall be punished by death, or by imprisonment for any term of years or for life.

(c) DEFINITIONS.—For purposes of this section—

(1) the term ''national of the United States'' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

(2) the term ''weapon of mass destruction'' means—

(A) any destructive device as defined in section 921 of this title;

(B) any weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;

(C) any weapon involving a biological agent, toxin, or vector (as those terms are defined in section 178 of this title); or

(D) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life; and

(3) the term ''property'' includes all real and personal property.

(Added Pub. L. 103–322, title VI, § 60023(a), Sept. 13, 1994, 108 Stat. 1980; amended Pub. L. 104–132, title V, § 511(c), title VII, § 725, Apr. 24, 1996, 110 Stat. 1284, 1300; Pub. L. 104–294, title VI, § 605(m), Oct. 11, 1996, 110 Stat. 3510; Pub. L. 105–277, div. I, title II, § 201(b)(1), Oct. 21, 1998, 112 Stat. 2681–871; Pub. L. 107–188, title II, § 231(d), June 12, 2002, 116 Stat. 661; Pub. L. 108–458, title VI, § 6802(a), (b), Dec. 17, 2004, 118 Stat. 3766, 3767.)

AMENDMENTS

2004—Pub. L. 108–458, § 6802(b)(1), struck out ''certain'' before ''weapons'' in section catchline.

Subsec. (a). Pub. L. 108–458, § 6802(b)(2), struck out ''(other than a chemical weapon as that term is defined in section 229F)'' after ''mass destruction'' in introductory provisions.

Subsec. (a)(2). Pub. L. 108–458, § 6802(a)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''against any person within the United States, and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce; or''.

Subsec. (a)(4). Pub. L. 108–458, § 6802(a)(2), (3), added par. (4).

Subsec. (b). Pub. L. 108–458, § 6802(b)(3), struck out ''(other than a chemical weapon (as that term is defined in section 229F))'' after ''mass destruction''.

Subsec. (c)(3). Pub. L. 108–458, § 6802(a)(4)–(6), added par. (3).

2002—Subsec. (a). Pub. L. 107–188, § 231(d)(1), substituted ''section 229F)—'' for ''section 229F), including any biological agent, toxin, or vector (as those terms are defined in section 178)—'' in introductory provisions.

Subsec. (c)(2)(C). Pub. L. 107–188, § 231(d)(2), substituted ''a biological agent, toxin, or vector (as those terms are defined in section 178 of this title)'' for ''a disease organism''.

1998—Pub. L. 105–277, § 201(b)(1)(A), inserted ''certain'' before ''weapons'' in section catchline.

Subsec. (a). Pub. L. 105–277, § 201(b)(1)(B), inserted ''(other than a chemical weapon as that term is defined in section 229F)'' after ''weapon of mass destruction'' in introductory provisions.

Subsec. (b). Pub. L. 105–277, § 201(b)(1)(C), inserted ''(other than a chemical weapon (as that term is defined in section 229F))'' after ''weapon of mass destruction''.

1996—Subsec. (a). Pub. L. 104–132, §§ 511(c), 725(1)(A), (B), in heading, inserted ''AGAINST A NATIONAL OF THE UNITED STATES OR WITHIN THE UNITED STATES'' after ''OFFENSE'', and in introductory provisions, substituted '', without lawful authority, uses, threatens, or attempts'' for ''uses, or attempts'' and inserted '', including any biological agent, toxin, or vector (as those terms are defined in section 178)'' after ''mass destruction''.

Subsec. (a)(2). Pub. L. 104–132, § 725(1)(C), inserted before semicolon at end '', and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce''.

Subsec. (b). Pub. L. 104–132, § 725(4), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (b)(2)(B). Pub. L. 104–132, § 725(2), as amended by Pub. L. 104–294, § 605(m), added subpar. (B) and struck out former subpar. (B) which read as follows: ''poison gas;''.

Subsec. (c). Pub. L. 104–132, § 725(3), redesignated subsec. (b) as (c).

§ 2332b. Acts of terrorism transcending national boundaries

(a) PROHIBITED ACTS.—

(1) OFFENSES.—Whoever, involving conduct transcending national boundaries and in a circumstance described in subsection (b)—

(A) kills, kidnaps, maims, commits an assault resulting in serious bodily injury, or assaults with a dangerous weapon any person within the United States; or

(B) creates a substantial risk of serious bodily injury to any other person by destroying or damaging any structure, conveyance, or other real or personal property within the United States or by attempting or conspiring to destroy or damage any structure, conveyance, or other real or personal property within the United States;

in violation of the laws of any State, or the United States, shall be punished as prescribed in subsection (c).

(2) TREATMENT OF THREATS, ATTEMPTS AND CONSPIRACIES.—Whoever threatens to commit an offense under paragraph (1), or attempts or conspires to do so, shall be punished under subsection (c).

(b) JURISDICTIONAL BASES.—

(1) CIRCUMSTANCES.—The circumstances referred to in subsection (a) are—

(A) the mail or any facility of interstate or foreign commerce is used in furtherance of the offense;

(B) the offense obstructs, delays, or affects interstate or foreign commerce, or would have so obstructed, delayed, or affected interstate or foreign commerce if the offense had been consummated;

(C) the victim, or intended victim, is the United States Government, a member of the uniformed services, or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or of any department or agency, of the United States;

(D) the structure, conveyance, or other real or personal property is, in whole or in part, owned, possessed, or leased to the United States, or any department or agency of the United States;

(E) the offense is committed in the territorial sea (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) of the United States; or

(F) the offense is committed within the special maritime and territorial jurisdiction of the United States.

(2) CO-CONSPIRATORS AND ACCESSORIES AFTER THE FACT.—Jurisdiction shall exist over all principals and co-conspirators of an offense under this section, and accessories after the fact to any offense under this section, if at least one of the circumstances described in subparagraphs (A) through (F) of paragraph (1) is applicable to at least one offender.

(c) PENALTIES.—

(1) PENALTIES.—Whoever violates this section shall be punished—

(A) for a killing, or if death results to any person from any other conduct prohibited by this section, by death, or by imprisonment for any term of years or for life;

(B) for kidnapping, by imprisonment for any term of years or for life;

(C) for maiming, by imprisonment for not more than 35 years;

(D) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 30 years;

(E) for destroying or damaging any structure, conveyance, or other real or personal property, by imprisonment for not more than 25 years;

(F) for attempting or conspiring to commit an offense, for any term of years up to the maximum punishment that would have applied had the offense been completed; and

(G) for threatening to commit an offense under this section, by imprisonment for not more than 10 years.

(2) CONSECUTIVE SENTENCE.—Notwithstanding any other provision of law, the court shall not place on probation any person convicted of a violation of this section; nor shall the term of imprisonment imposed under this section run concurrently with any other term of imprisonment.

(d) PROOF REQUIREMENTS.—The following shall apply to prosecutions under this section:

(1) KNOWLEDGE.—The prosecution is not required to prove knowledge by any defendant of a jurisdictional base alleged in the indictment.

(2) STATE LAW.—In a prosecution under this section that is based upon the adoption of State law, only the elements of the offense under State law, and not any provisions pertaining to criminal procedure or evidence, are adopted.

(e) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction—

(1) over any offense under subsection (a), including any threat, attempt, or conspiracy to commit such offense; and

(2) over conduct which, under section 3, renders any person an accessory after the fact to an offense under subsection (a).

(f) INVESTIGATIVE AUTHORITY.—In addition to any other investigative authority with respect to violations of this title, the Attorney General shall have primary investigative responsibility for all Federal crimes of terrorism, and any violation of section 351(e), 844(e), 844(f)(1), 956(b), 1361, 1366(b), 1366(c), 1751(e), 2152, or 2156 of this title, and the Secretary of the Treasury shall assist the Attorney General at the request of the Attorney General. Nothing in this section shall be construed to interfere with the authority of the United States Secret Service under section 3056.

(g) DEFINITIONS.—As used in this section—

(1) the term ''conduct transcending national boundaries'' means conduct occurring outside of the United States in addition to the conduct occurring in the United States;

(2) the term ''facility of interstate or foreign commerce'' has the meaning given that term in section 1958(b)(2);

(3) the term ''serious bodily injury'' has the meaning given that term in section 1365(g)(3);[1]

(4) the term ''territorial sea of the United States'' means all waters extending seaward to 12 nautical miles from the baselines of the United States, determined in accordance with international law; and

(5) the term ''Federal crime of terrorism'' means an offense that—

(A) is calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct; and

(B) is a violation of—

(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175 or 175b (relating to biological weapons), 175c (relating to variola virus), 229 (relating to chemical weapons), subsection (a), (b), (c), or (d) of section 351 (relating to congressional, cabinet, and Supreme Court assassination and kidnaping), 831 (relating to nuclear materials), 832 (relating to participation in nuclear and weapons of mass destruction threats to the United States)[2] 842(m) or (n) (relating to plastic explosives), 844(f)(2) or (3) (relating to arson and bombing of Government property risking or causing death), 844(i) (relating to arson and bombing of property used in interstate commerce), 930(c) (relating to killing or attempted killing during an attack on a Federal facility with a dangerous weapon), 956(a)(1) (relating to conspiracy to murder, kidnap, or maim persons abroad), 1030(a)(1) (relating to protection of computers), 1030(a)(5)(A)(i) resulting in damage as defined in 1030(a)(5)(B)(ii) through (v) (relating to protection of computers), 1114 (relating to killing or attempted killing of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to government property or contracts), 1362 (relating to destruction of communication lines, stations, or systems), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366(a) (relating to destruction of an energy facility), 1751(a), (b), (c), or (d) (relating to Presidential and Presidential staff assassination and kidnaping), 1992 (relating to wrecking trains), 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems), 2155 (relating to destruction of national defense materials, premises, or utilities), 2156 (relating to national defense material, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and other violence against United States nationals occurring outside of the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2332f (relating to bombing of public places and facilities), 2332g (relating to missile systems designed to destroy aircraft), 2332h (relating to radiological dispersal devices), 2339 (relating to harboring terrorists), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), 2339C (relating to financing of terrorism,[3] or 2340A (relating to torture) of this title;

(ii) sections 92 (relating to prohibitions governing atomic weapons) or 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2122 or 2284); or

(iii) section 46502 (relating to aircraft piracy), the second sentence of section 46504 (relating to assault on a flight crew with a dangerous weapon), section 46505(b)(3) or (c) (relating to explosive or incendiary devices, or endangerment of human life by means of weapons, on aircraft), section 46506 if homicide or attempted homicide is involved (relating to application of certain criminal laws to acts on aircraft), or section 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49.

(Added Pub. L. 104–132, title VII, § 702(a), Apr. 24, 1996, 110 Stat. 1291; amended Pub. L. 104–294, title VI, § 601(s)(1), (3), Oct. 11, 1996, 110 Stat. 3502; Pub. L. 107–56, title VIII, § 808, Oct. 26, 2001, 115 Stat. 378; Pub. L. 107–197, title III, § 301(b), June 25, 2002, 116 Stat. 728; Pub. L. 108–458, title VI, §§ 6603(a)(1), 6803(c)(3), 6908, Dec. 17, 2004, 118 Stat. 3762, 3769, 3774.)

[1] See References in Text note below.

[2] So in original. Probably should be followed by a comma.

[3] Comma probably should be preceded by a closing parenthesis.

AMENDMENT OF SECTION

For termination of amendment by section 6603(g) of Pub. L. 108–458, see Termination Date of 2004 Amendment note below.

REFERENCES IN TEXT

Section 1365(g)(3), referred to in subsec. (g)(3), was redesignated section 1365(h)(3) by Pub. L. 107–307, § 2(1), Dec. 2, 2002, 116 Stat. 2445.

AMENDMENTS

2004—Subsec. (g)(5)(B)(i). Pub. L. 108–458, § 6908(1), inserted ''175c (relating to variola virus),'' after ''175 or 175b (relating to biological weapons),'' and ''2332g (relating to missile systems designed to destroy aircraft), 2332h (relating to radiological dispersal devices),'' before ''2339 (relating to harboring terrorists)''.

Pub. L. 108–458, § 6803(c)(3), inserted ''832 (relating to participation in nuclear and weapons of mass destruction threats to the United States)'' after ''831 (relating to nuclear materials),''.

Pub. L. 108–458, § 6603(a)(1), (g), temporarily inserted ''1361 (relating to government property or contracts),'' after ''1203 (relating to hostage taking),'' and ''2156 (relating to national defense material, premises, or utilities),'' after ''2155 (relating to destruction of national defense materials, premises, or utilities),''. See Termination Date of 2004 Amendment note below.

Subsec. (g)(5)(B)(ii). Pub. L. 108–458, § 6908(2), substituted ''sections 92 (relating to prohibitions governing atomic weapons) or'' for ''section'' and inserted ''2122 or'' before ''2284''.

2002—Subsec. (g)(5)(B)(i). Pub. L. 107–197 inserted ''2332f (relating to bombing of public places and facilities),'' after ''2332b (relating to acts of terrorism transcending national boundaries),'' and ''2339C (relating to financing of terrorism,'' after ''2339B (relating to providing material support to terrorist organizations),''.

2001—Subsec. (f). Pub. L. 107–56, § 808(1), inserted ''and any violation of section 351(e), 844(e), 844(f)(1), 956(b), 1361, 1366(b), 1366(c), 1751(e), 2152, or 2156 of this title,'' before ''and the Secretary''.

Subsec. (g)(5)(B)(i) to (iii). Pub. L. 107–56, § 808(2), added cls. (i) to (iii) and struck out former cls. (i) to (iii), inserting references to sections 175b, 229, 1030, 1993, and 2339 of this title and striking out references to 1361, 2152, 2156, 2332c of this title in cl. (i) and inserting references to sections 46504, 46505, and 46506 of title 49 in cl. (iii).

1996—Subsec. (b)(1)(A). Pub. L. 104–294, § 601(s)(1), struck out ''any of the offenders uses'' before ''the mail or any facility'' and inserted ''is used'' after ''foreign commerce''.

Subsec. (g)(5)(B)(i). Pub. L. 104–294, § 601(s)(3), inserted ''930(c),'' before ''956 (relating to conspiracy to injure property of a foreign government)'', ''1992,'' before ''2152 (relating to injury of fortifications, harbor defenses, or defensive sea areas)'', and ''2332c,'' before ''2339A (relating to providing material support to terrorists)''.

TERMINATION DATE OF 2004 AMENDMENT

Pub. L. 108–458, title VI, § 6603(g), Dec. 17, 2004, 118 Stat. 3764, provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), this section [amending this section and sections 2339A and 2339B of this title] and the amendments made by this section shall cease to be effective on December 31, 2006.

''(2) EXCEPTION.—This section and the amendments made by this section shall continue in effect with respect to any particular offense that—

''(A) is prohibited by this section or amendments made by this section; and

''(B) began or occurred before December 31, 2006.''

TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 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.

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.

[§ 2332c. Repealed. Pub. L. 105–277, div. I, title II, § 201(c)(1), Oct. 21, 1998, 112 Stat. 2681–871]

Section, added Pub. L. 104–132, title V, § 521(a), Apr. 24, 1996, 110 Stat. 1286, related to use of chemical weapons.

§ 2332d. Financial transactions

(a) OFFENSE.—Except as provided in regulations issued by the Secretary of the Treasury, in consultation with the Secretary of State, whoever, being a United States person, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405) as a country supporting international terrorism, engages in a financial transaction with the government of that country, shall be fined under this title, imprisoned for not more than 10 years, or both.

(b) DEFINITIONS.—As used in this section—

(1) the term ''financial transaction'' has the same meaning as in section 1956(c)(4); and

(2) the term ''United States person'' means any—

(A) United States citizen or national;

(B) permanent resident alien;

(C) juridical person organized under the laws of the United States; or

(D) any person in the United States.

(Added Pub. L. 104–132, title III, § 321(a), Apr. 24, 1996, 110 Stat. 1254; amended Pub. L. 107–273, div. B, title IV, § 4002(a)(5), Nov. 2, 2002, 116 Stat. 1806.)

CODIFICATION

Another section 2332d was renumbered section 2332e of this title.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–273 inserted ''of 1979'' after ''Export Administration Act''.

EFFECTIVE DATE

Section 321(c) of Pub. L. 104–132 provided that: ''The amendments made by this section [enacting this section] shall become effective 120 days after the date of enactment of this Act [Apr. 24, 1996].''

§ 2332e. Requests for military assistance to enforce prohibition in certain emergencies

The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 2332a of this title during an emergency situation involving a weapon of mass destruction. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.

(Added Pub. L. 104–201, title XIV, § 1416(c)(2)(A), Sept. 23, 1996, 110 Stat. 2723, § 2332d; renumbered § 2332e, Pub. L. 104–294, title VI, § 605(q), Oct. 11, 1996, 110 Stat. 3510; amended Pub. L. 107–56, title I, § 104, Oct. 26, 2001, 115 Stat. 277.)

CODIFICATION

Pub. L. 104–201, § 1416(c)(2)(A), which directed amendment of the chapter 133B of this title that relates to terrorism by adding this section, was executed by adding this section to this chapter to reflect the probable intent of Congress. This title does not contain a chapter 133B.

AMENDMENTS

2001—Pub. L. 107–56 substituted ''2332a of this title'' for ''2332c of this title'' and struck out ''chemical'' before ''weapon of''.

1996—Pub. L. 104–294 renumbered section 2332d of this title, relating to requests for military assistance to enforce prohibition in certain emergencies, as this section.

§ 2332f. Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities

(a) OFFENSES.—

(1) IN GENERAL.—Whoever unlawfully delivers, places, discharges, or detonates an explosive or other lethal device in, into, or against a place of public use, a state or government facility, a public transportation system, or an infrastructure facility—

(A) with the intent to cause death or serious bodily injury, or

(B) with the intent to cause extensive destruction of such a place, facility, or system, where such destruction results in or is likely to result in major economic loss,

shall be punished as prescribed in subsection (c).

(2) ATTEMPTS AND CONSPIRACIES.—Whoever attempts or conspires to commit an offense under paragraph (1) shall be punished as prescribed in subsection (c).

(b) JURISDICTION.—There is jurisdiction over the offenses in subsection (a) if—

(1) the offense takes place in the United States and—

(A) the offense is committed against another state or a government facility of such state, including its embassy or other diplomatic or consular premises of that state;

(B) the offense is committed in an attempt to compel another state or the United States to do or abstain from doing any act;

(C) at the time the offense is committed, it is committed—

(i) on board a vessel flying the flag of another state;

(ii) on board an aircraft which is registered under the laws of another state; or

(iii) on board an aircraft which is operated by the government of another state;

(D) a perpetrator is found outside the United States;

(E) a perpetrator is a national of another state or a stateless person; or

(F) a victim is a national of another state or a stateless person;

(2) the offense takes place outside the United States and—

(A) a perpetrator is a national of the United States or is a stateless person whose habitual residence is in the United States;

(B) a victim is a national of the United States;

(C) a perpetrator is found in the United States;

(D) the offense is committed in an attempt to compel the United States to do or abstain from doing any act;

(E) the offense is committed against a state or government facility of the United States, including an embassy or other diplomatic or consular premises of the United States;

(F) the offense is committed on board a vessel flying the flag of the United States or an aircraft which is registered under the laws of the United States at the time the offense is committed; or

(G) the offense is committed on board an aircraft which is operated by the United States.

(c) PENALTIES.—Whoever violates this section shall be punished as provided under section 2332a(a) of this title.

(d) EXEMPTIONS TO JURISDICTION.—This section does not apply to—

(1) the activities of armed forces during an armed conflict, as those terms are understood under the law of war, which are governed by that law,

(2) activities undertaken by military forces of a state in the exercise of their official duties; or

(3) offenses committed within the United States, where the alleged offender and the victims are United States citizens and the alleged offender is found in the United States, or where jurisdiction is predicated solely on the nationality of the victims or the alleged offender and the offense has no substantial effect on interstate or foreign commerce.

(e) DEFINITIONS.—As used in this section, the term—

(1) ''serious bodily injury'' has the meaning given that term in section 1365(g)(3) of this title;[1]

(2) ''national of the United States'' has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

(3) ''state or government facility'' includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a state, members of Government, the legislature or the judiciary or by officials or employees of a state or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties;

(4) ''intergovernmental organization'' includes international organization (as defined in section 1116(b)(5) of this title);

(5) ''infrastructure facility'' means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewage, energy, fuel, or communications;

[1] See References in Text note below.

(6) ''place of public use'' means those parts of any building, land, street, waterway, or other location that are accessible or open to members of the public, whether continuously, periodically, or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational, or similar place that is so accessible or open to the public;

(7) ''public transportation system'' means all facilities, conveyances, and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo;

(8) ''explosive'' has the meaning given in section 844(j) of this title insofar that it is designed, or has the capability, to cause death, serious bodily injury, or substantial material damage;

(9) ''other lethal device'' means any weapon or device that is designed or has the capability to cause death, serious bodily injury, or substantial damage to property through the release, dissemination, or impact of toxic chemicals, biological agents, or toxins (as those terms are defined in section 178 of this title) or radiation or radioactive material;

(10) ''military forces of a state'' means the armed forces of a state which are organized, trained, and equipped under its internal law for the primary purpose of national defense or security, and persons acting in support of those armed forces who are under their formal command, control, and responsibility;

(11) ''armed conflict'' does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature; and

(12) ''state'' has the same meaning as that term has under international law, and includes all political subdivisions thereof.

(Added Pub. L. 107–197, title I, § 102(a), June 25, 2002, 116 Stat. 721.)

REFERENCES IN TEXT

Section 1365(g)(3), referred to in subsec. (e)(1), was redesignated section 1365(h)(3) by Pub. L. 107–307, § 2(1), Dec. 2, 2002, 116 Stat. 2445.

EFFECTIVE DATE

Pub. L. 107–197, title I, § 103, June 25, 2002, 116 Stat. 724, provided that: ''Section 102 [enacting this section and provisions set out as a note below] shall take effect on the date that the International Convention for the Suppression of Terrorist Bombings enters into force for the United States [July 26, 2002].''

DISCLAIMER

Pub. L. 107–197, title I, § 102(c), June 25, 2002, 116 Stat. 724, provided that: ''Nothing contained in this section [enacting this section and provisions set out as a note above] is intended to affect the applicability of any other Federal or State law which might pertain to the underlying conduct.''

§ 2332g. Missile systems designed to destroy aircraft

(a) UNLAWFUL CONDUCT.—

(1) IN GENERAL.—Except as provided in paragraph (3), it shall be unlawful for any person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use—

(A) an explosive or incendiary rocket or missile that is guided by any system designed to enable the rocket or missile to—

(i) seek or proceed toward energy radiated or reflected from an aircraft or toward an image locating an aircraft; or

(ii) otherwise direct or guide the rocket or missile to an aircraft;

(B) any device designed or intended to launch or guide a rocket or missile described in subparagraph (A); or

(C) any part or combination of parts designed or redesigned for use in assembling or fabricating a rocket, missile, or device described in subparagraph (A) or (B).

(2) NONWEAPON.—Paragraph (1)(A) does not apply to any device that is neither designed nor redesigned for use as a weapon.

(3) EXCLUDED CONDUCT.—This subsection does not apply with respect to—

(A) conduct by or under the authority of the United States or any department or agency thereof or of a State or any department or agency thereof; or

(B) conduct pursuant to the terms of a contract with the United States or any department or agency thereof or with a State or any department or agency thereof.

(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

(1) the offense occurs in or affects interstate or foreign commerce;

(2) the offense occurs outside of the United States and is committed by a national of the United States;

(3) the offense is committed against a national of the United States while the national is outside the United States;

(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

(c) CRIMINAL PENALTIES.—

(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than $2,000,000 and shall be sentenced to a term of imprisonment not less than 25 years or to imprisonment for life.

(2) OTHER CIRCUMSTANCES.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than $2,000,000 and imprisoned for not less than 30 years or imprisoned for life.

(3) SPECIAL CIRCUMSTANCES.—If the death of another results from a person's violation of subsection (a), the person shall be fined not

more than $2,000,000 and punished by imprisonment for life.

(d) DEFINITION.—As used in this section, the term ''aircraft'' has the definition set forth in section 40102(a)(6) of title 49, United States Code.

(Added Pub. L. 108–458, title VI, § 6903, Dec. 17, 2004, 118 Stat. 3770.)

§ 2332h. Radiological dispersal devices

(a) UNLAWFUL CONDUCT.—

(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use—

(A) any weapon that is designed or intended to release radiation or radioactivity at a level dangerous to human life; or

(B) any device or other object that is capable of and designed or intended to endanger human life through the release of radiation or radioactivity.

(2) EXCEPTION.—This subsection does not apply with respect to—

(A) conduct by or under the authority of the United States or any department or agency thereof; or

(B) conduct pursuant to the terms of a contract with the United States or any department or agency thereof.

(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

(1) the offense occurs in or affects interstate or foreign commerce;

(2) the offense occurs outside of the United States and is committed by a national of the United States;

(3) the offense is committed against a national of the United States while the national is outside the United States;

(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

(c) CRIMINAL PENALTIES.—

(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than $2,000,000 and shall be sentenced to a term of imprisonment not less than 25 years or to imprisonment for life.

(2) OTHER CIRCUMSTANCES.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than $2,000,000 and imprisoned for not less than 30 years or imprisoned for life.

(3) SPECIAL CIRCUMSTANCES.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than $2,000,000 and punished by imprisonment for life.

(Added Pub. L. 108–458, title VI, § 6905, Dec. 17, 2004, 118 Stat. 3772.)

§ 2333. Civil remedies

(a) ACTION AND JURISDICTION.—Any national of the United States injured in his or her person, property, or business by reason of an act of international terrorism, or his or her estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he or she sustains and the cost of the suit, including attorney's fees.

(b) ESTOPPEL UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 46314, 46502, 46505, or 46506 of title 49 shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

(c) ESTOPPEL UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

(Added Pub. L. 102–572, title X, § 1003(a)(4), Oct. 29, 1992, 106 Stat. 4522; amended Pub. L. 103–429, § 2(1), Oct. 31, 1994, 108 Stat. 4377.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–429 substituted ''section 46314, 46502, 46505, or 46506 of title 49'' for ''section 902(i), (k), (*l*), (n), or (r) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(i), (k), (*l*), (n), or (r))''.

EFFECTIVE DATE

Section applicable to any pending case or any cause of action arising on or after 4 years before Oct. 29, 1992, see section 1003(c) of Pub. L. 102–572, set out as a note under section 2331 of this title.

§ 2334. Jurisdiction and venue

(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of this title, then any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

(c) SERVICE ON WITNESSES.—A witness in a civil action brought under section 2333 of this

title may be served in any other district where the defendant resides, is found, or has an agent.

(d) CONVENIENCE OF THE FORUM.—The district court shall not dismiss any action brought under section 2333 of this title on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

(2) that foreign court is significantly more convenient and appropriate; and

(3) that foreign court offers a remedy which is substantially the same as the one available in the courts of the United States.

(Added Pub. L. 102–572, title X, § 1003(a)(4), Oct. 29, 1992, 106 Stat. 4522.)

EFFECTIVE DATE

Section applicable to any pending case or any cause of action arising on or after 4 years before Oct. 29, 1992, see section 1003(c) of Pub. L. 102–572, set out as a note under section 2331 of this title.

§ 2335. Limitation of actions

(a) IN GENERAL.—Subject to subsection (b), a suit for recovery of damages under section 2333 of this title shall not be maintained unless commenced within 4 years after the date the cause of action accrued.

(b) CALCULATION OF PERIOD.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or of any concealment of the defendant's whereabouts, shall not be included in the 4-year period set forth in subsection (a).

(Added Pub. L. 102–572, title X, § 1003(a)(4), Oct. 29, 1992, 106 Stat. 4523.)

EFFECTIVE DATE

Section applicable to any pending case or any cause of action arising on or after 4 years before Oct. 29, 1992, see section 1003(c) of Pub. L. 102–572, set out as a note under section 2331 of this title.

§ 2336. Other limitations

(a) ACTS OF WAR.—No action shall be maintained under section 2333 of this title for injury or loss by reason of an act of war.

(b) LIMITATION ON DISCOVERY.—If a party to an action under section 2333 seeks to discover the investigative files of the Department of Justice, the Assistant Attorney General, Deputy Attorney General, or Attorney General may object on the ground that compliance will interfere with a criminal investigation or prosecution of the incident, or a national security operation related to the incident, which is the subject of the civil litigation. The court shall evaluate any such objections in camera and shall stay the discovery if the court finds that granting the discovery request will substantially interfere with a criminal investigation or prosecution of the incident or a national security operation related to the incident. The court shall consider the likelihood of criminal prosecution by the Government and other factors it deems to be appropriate. A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure. If the court grants a stay of discovery under this subsection, it may stay the action in the interests of justice.

(c) STAY OF ACTION FOR CIVIL REMEDIES.—(1) The Attorney General may intervene in any civil action brought under section 2333 for the purpose of seeking a stay of the civil action. A stay shall be granted if the court finds that the continuation of the civil action will substantially interfere with a criminal prosecution which involves the same subject matter and in which an indictment has been returned, or interfere with national security operations related to the terrorist incident that is the subject of the civil action. A stay may be granted for up to 6 months. The Attorney General may petition the court for an extension of the stay for additional 6-month periods until the criminal prosecution is completed or dismissed.

(2) In a proceeding under this subsection, the Attorney General may request that any order issued by the court for release to the parties and the public omit any reference to the basis on which the stay was sought.

(Added Pub. L. 102–572, title X, § 1003(a)(4), Oct. 29, 1992, 106 Stat. 4523.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section applicable to any pending case or any cause of action arising on or after 4 years before Oct. 29, 1992, see section 1003(c) of Pub. L. 102–572, set out as a note under section 2331 of this title.

§ 2337. Suits against Government officials

No action shall be maintained under section 2333 of this title against—

(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within his or her official capacity or under color of legal authority; or

(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within his or her official capacity or under color of legal authority.

(Added Pub. L. 102–572, title X, § 1003(a)(4), Oct. 29, 1992, 106 Stat. 4523.)

EFFECTIVE DATE

Section applicable to any pending case or any cause of action arising on or after 4 years before Oct. 29, 1992, see section 1003(c) of Pub. L. 102–572, set out as a note under section 2331 of this title.

§ 2338. Exclusive Federal jurisdiction

The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter.

(Added Pub. L. 102–572, title X, § 1003(a)(4), Oct. 29, 1992, 106 Stat. 4524.)

EFFECTIVE DATE

Section applicable to any pending case or any cause of action arising on or after 4 years before Oct. 29, 1992,

see section 1003(c) of Pub. L. 102–572, set out as a note under section 2331 of this title.

§ 2339. Harboring or concealing terrorists

(a) Whoever harbors or conceals any person who he knows, or has reasonable grounds to believe, has committed, or is about to commit, an offense under section 32 (relating to destruction of aircraft or aircraft facilities), section 175 (relating to biological weapons), section 229 (relating to chemical weapons), section 831 (relating to nuclear materials), paragraph (2) or (3) of section 844(f) (relating to arson and bombing of government property risking or causing injury or death), section 1366(a) (relating to the destruction of an energy facility), section 2280 (relating to violence against maritime navigation), section 2332a (relating to weapons of mass destruction), or section 2332b (relating to acts of terrorism transcending national boundaries) of this title, section 236(a) (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2284(a)), or section 46502 (relating to aircraft piracy) of title 49, shall be fined under this title or imprisoned not more than ten years, or both.

(b) A violation of this section may be prosecuted in any Federal judicial district in which the underlying offense was committed, or in any other Federal judicial district as provided by law.

(Added Pub. L. 107–56, title VIII, § 803(a), Oct. 26, 2001, 115 Stat. 376; amended Pub. L. 107–273, div. B, title IV, § 4005(d)(2), Nov. 2, 2002, 116 Stat. 1813.)

AMENDMENTS

2002—Pub. L. 107–273 made technical correction to directory language of Pub. L. 107–56, § 803(a), which enacted this section.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–273, div. B, title IV, § 4005(d)(2), Nov. 2, 2002, 116 Stat. 1813, provided that the amendment made by section 4005(d)(2) is effective Oct. 26, 2001.

§ 2339A. Providing material support to terrorists

(a) OFFENSE.—Whoever provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 32, 37, 81, 175, 229, 351, 831, 842(m) or (n), 844(f) or (i), 930(c), 956, 1114, 1116, 1203, 1361, 1362, 1363, 1366, 1751, 1992, 1993, 2155, 2156, 2280, 2281, 2332, 2332a, 2332b, 2332f, or 2340A of this title, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), section 46502 or 60123(b) of title 49, or any offense listed in section 2332b(g)(5)(B) (except for sections 2339A and 2339B) or in preparation for, or in carrying out, the concealment of an escape from the commission of any such violation, or attempts or conspires to do such an act, shall be fined under this title, imprisoned not more than 15 years, or both, and, if the death of any person results, shall be imprisoned for any term of years or for life. A violation of this section may be prosecuted in any Federal judicial district in which the underlying offense was committed, or in any other Federal judicial district as provided by law.

(b) DEFINITIONS.—As used in this section—

(1) the term ''material support or resources'' means any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials;

(2) the term ''training'' means instruction or teaching designed to impart a specific skill, as opposed to general knowledge; and

(3) the term ''expert advice or assistance'' means advice or assistance derived from scientific, technical or other specialized knowledge.

(Added Pub. L. 103–322, title XII, § 120005(a), Sept. 13, 1994, 108 Stat. 2022; amended Pub. L. 104–132, title III, § 323, Apr. 24, 1996, 110 Stat. 1255; Pub. L. 104–294, title VI, §§ 601(b)(2), (s)(2), (3), 604(b)(5), Oct. 11, 1996, 110 Stat. 3498, 3502, 3506; Pub. L. 107–56, title VIII, §§ 805(a), 810(c), 811(f), Oct. 26, 2001, 115 Stat. 377, 380, 381; Pub. L. 107–197, title III, § 301(c), June 25, 2002, 116 Stat. 728; Pub. L. 107–273, div. B, title IV, § 4002(a)(7), (c)(1), (e)(11), Nov. 2, 2002, 116 Stat. 1807, 1808, 1811; Pub. L. 108–458, title VI, § 6603(a)(2), (b), Dec. 17, 2004, 118 Stat. 3762.)

AMENDMENT OF SECTION

For termination of amendment by section 6603(g) of Pub. L. 108–458, see Termination Date of 2004 Amendment note below.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–458, § 6603(a)(2)(B), (g), which temporarily directed amendment of this section by inserting ''or any offense listed in section 2332b(g)(5)(B) (except for sections 2339A and 2339B)'' after ''section 60123(b) of title 49,'', was executed by making the insertion in subsec. (a) after ''section 46502 or 60123(b) of title 49,'' to reflect the probable intent of Congress. See Termination Date of 2004 Amendment note below.

Pub. L. 108–458, § 6603(a)(2)(A), (g), temporarily struck out ''or'' before ''section 46502''. See Termination Date of 2004 Amendment note below.

Subsec. (b). Pub. L. 108–458, § 6603(b), (g), temporarily reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''In this section, the term 'material support or resources' means currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.'' See Termination Date of 2004 Amendment note below.

2002—Subsec. (a). Pub. L. 107–273, § 4002(a)(7), (e)(11), struck out ''2332c,'' after ''2332b,'' and substituted ''of an escape'' for ''or an escape''.

Pub. L. 107–197 inserted ''2332f,'' before ''or 2340A''.

Subsec. (b). Pub. L. 107–273, § 4002(c)(1), repealed amendment by Pub. L. 104–294, § 601(b)(2). See 1996 Amendment note below.

2001—Subsec. (a). Pub. L. 107–56, § 811(f), inserted ''or attempts or conspires to do such an act,'' before ''shall be fined''.

Pub. L. 107–56, § 810(c)(1), substituted ''15 years'' for ''10 years''.

Pub. L. 107–56, § 810(c)(2), which directed substitution of '', and, if the death of any person results, shall be

imprisoned for any term of years or for life.'' for period, was executed by making the substitution for the period at end of the first sentence to reflect the probable intent of Congress and the intervening amendment by section 805(a)(1)(F) of Pub. L. 107–56. See below.

Pub. L. 107–56, § 805(a)(1)(F), inserted at end ''A violation of this section may be prosecuted in any Federal judicial district in which the underlying offense was committed, or in any other Federal judicial district as provided by law.''

Pub. L. 107–56, §§ 805(a)(1)(A)–(E), struck out '', within the United States,'' after ''Whoever'', and inserted ''229,'' after ''175,'', ''1993,'' after ''1992,'', '', section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284),'' after ''2340A of this title'', and ''or 60123(b)'' after ''section 46502''.

Subsec. (b). Pub. L. 107–56, § 805(a)(2), substituted ''or monetary instruments or financial securities'' for ''or other financial securities'' and inserted ''expert advice or assistance,'' after ''training,''.

1996—Pub. L. 104–294, § 604(b)(5), amended directory language of Pub. L. 103–322, § 120005(a), which enacted this section.

Pub. L. 104–132 amended section generally, reenacting section catchline without change and redesignating provisions which detailed what constitutes offense, formerly contained in subsec. (b), as subsec. (a), inserting references to sections 37, 81, 175, 831, 842, 956, 1362, 1366, 2155, 2156, 2332, 2332a, 2332b, and 2340A of this title, striking out references to sections 36, 2331, and 2339 of this title, redesignating provisions which define ''material support or resource'', formerly contained in subsec. (a), as subsec. (b), substituting provisions excepting medicine or religious materials from definition for provisions excepting humanitarian assistance to persons not directly involved in violations, and struck out subsec. (c) which authorized investigations into possible violations, except activities involving First Amendment rights.

Subsec. (a). Pub. L. 104–294, § 601(s)(2), (3), inserted ''930(c),'' before ''956,'', ''1992,'' before ''2155,'', ''2332c,'' before ''or 2340A of this title'', and ''or an escape'' after ''concealment''.

Subsec. (b). Pub. L. 104–294, § 601(b)(2), which directed substitution of ''2332'' for ''2331'', ''2332a'' for ''2339'', ''37'' for ''36'', and ''or an escape'' for ''of an escape'' and which could not be executed after the general amendment by Pub. L. 104–132, was repealed by Pub. L. 107–273, § 4002(c)(1). See above.

TERMINATION DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–458 to cease to be effective Dec. 31, 2006, with exception for certain offenses that began or occurred before such date, see section 6603(g) of Pub. L. 108–458, set out as a note under section 2332b of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–273, div. B, title IV, § 4002(c)(1), Nov. 2, 2002, 116 Stat. 1808, provided that the amendment made by section 4002(c)(1) is effective Oct. 11, 1996.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 604(b)(5) of Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

§ 2339B. Providing material support or resources to designated foreign terrorist organizations

(a) PROHIBITED ACTIVITIES.—

(1) UNLAWFUL CONDUCT.—Whoever knowingly provides material support or resources to a foreign terrorist organization, or attempts or conspires to do so, shall be fined under this title or imprisoned not more than 15 years, or both, and, if the death of any person results, shall be imprisoned for any term of years or for life. To violate this paragraph, a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection (g)(6)), that the organization has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).

(2) FINANCIAL INSTITUTIONS.—Except as authorized by the Secretary, any financial institution that becomes aware that it has possession of, or control over, any funds in which a foreign terrorist organization, or its agent, has an interest, shall—

(A) retain possession of, or maintain control over, such funds; and

(B) report to the Secretary the existence of such funds in accordance with regulations issued by the Secretary.

(b) CIVIL PENALTY.—Any financial institution that knowingly fails to comply with subsection (a)(2) shall be subject to a civil penalty in an amount that is the greater of—

(A) $50,000 per violation; or

(B) twice the amount of which the financial institution was required under subsection (a)(2) to retain possession or control.

(c) INJUNCTION.—Whenever it appears to the Secretary or the Attorney General that any person is engaged in, or is about to engage in, any act that constitutes, or would constitute, a violation of this section, the Attorney General may initiate civil action in a district court of the United States to enjoin such violation.

(d) EXTRATERRITORIAL JURISDICTION.—

(1) IN GENERAL.—There is jurisdiction over an offense under subsection (a) if—

(A) an offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)));

(B) an offender is a stateless person whose habitual residence is in the United States;

(C) after the conduct required for the offense occurs an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States;

(D) the offense occurs in whole or in part within the United States;

(E) the offense occurs in or affects interstate or foreign commerce; or

(F) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a) or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under subsection (a).

(2) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

(e) INVESTIGATIONS.—

(1) IN GENERAL.—The Attorney General shall conduct any investigation of a possible violation of this section, or of any license, order, or regulation issued pursuant to this section.

(2) COORDINATION WITH THE DEPARTMENT OF THE TREASURY.—The Attorney General shall work in coordination with the Secretary in investigations relating to—

(A) the compliance or noncompliance by a financial institution with the requirements of subsection (a)(2); and

(B) civil penalty proceedings authorized under subsection (b).

(3) REFERRAL.—Any evidence of a criminal violation of this section arising in the course of an investigation by the Secretary or any other Federal agency shall be referred immediately to the Attorney General for further investigation. The Attorney General shall timely notify the Secretary of any action taken on referrals from the Secretary, and may refer investigations to the Secretary for remedial licensing or civil penalty action.

(f) CLASSIFIED INFORMATION IN CIVIL PROCEEDINGS BROUGHT BY THE UNITED STATES.—

(1) DISCOVERY OF CLASSIFIED INFORMATION BY DEFENDANTS.—

(A) REQUEST BY UNITED STATES.—In any civil proceeding under this section, upon request made ex parte and in writing by the United States, a court, upon a sufficient showing, may authorize the United States to—

(i) redact specified items of classified information from documents to be introduced into evidence or made available to the defendant through discovery under the Federal Rules of Civil Procedure;

(ii) substitute a summary of the information for such classified documents; or

(iii) substitute a statement admitting relevant facts that the classified information would tend to prove.

(B) ORDER GRANTING REQUEST.—If the court enters an order granting a request under this paragraph, the entire text of the documents to which the request relates shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal.

(C) DENIAL OF REQUEST.—If the court enters an order denying a request of the United States under this paragraph, the United States may take an immediate, interlocutory appeal in accordance with paragraph (5). For purposes of such an appeal, the entire text of the documents to which the request relates, together with any transcripts of arguments made ex parte to the court in connection therewith, shall be maintained under seal and delivered to the appellate court.

(2) INTRODUCTION OF CLASSIFIED INFORMATION; PRECAUTIONS BY COURT.—

(A) EXHIBITS.—To prevent unnecessary or inadvertent disclosure of classified information in a civil proceeding brought by the United States under this section, the United States may petition the court ex parte to admit, in lieu of classified writings, recordings, or photographs, one or more of the following:

(i) Copies of items from which classified information has been redacted.

(ii) Stipulations admitting relevant facts that specific classified information would tend to prove.

(iii) A declassified summary of the specific classified information.

(B) DETERMINATION BY COURT.—The court shall grant a request under this paragraph if the court finds that the redacted item, stipulation, or summary is sufficient to allow the defendant to prepare a defense.

(3) TAKING OF TRIAL TESTIMONY.—

(A) OBJECTION.—During the examination of a witness in any civil proceeding brought by the United States under this subsection, the United States may object to any question or line of inquiry that may require the witness to disclose classified information not previously found to be admissible.

(B) ACTION BY COURT.—In determining whether a response is admissible, the court shall take precautions to guard against the compromise of any classified information, including—

(i) permitting the United States to provide the court, ex parte, with a proffer of the witness's response to the question or line of inquiry; and

(ii) requiring the defendant to provide the court with a proffer of the nature of the information that the defendant seeks to elicit.

(C) OBLIGATION OF DEFENDANT.—In any civil proceeding under this section, it shall be the defendant's obligation to establish the relevance and materiality of any classified information sought to be introduced.

(4) APPEAL.—If the court enters an order denying a request of the United States under this subsection, the United States may take an immediate interlocutory appeal in accordance with paragraph (5).

(5) INTERLOCUTORY APPEAL.—

(A) SUBJECT OF APPEAL.—An interlocutory appeal by the United States shall lie to a court of appeals from a decision or order of a district court—

(i) authorizing the disclosure of classified information;

(ii) imposing sanctions for nondisclosure of classified information; or

(iii) refusing a protective order sought by the United States to prevent the disclosure of classified information.

(B) EXPEDITED CONSIDERATION.—

(i) IN GENERAL.—An appeal taken pursuant to this paragraph, either before or during trial, shall be expedited by the court of appeals.

(ii) APPEALS PRIOR TO TRIAL.—If an appeal is of an order made prior to trial, an appeal shall be taken not later than 10 days after the decision or order appealed from, and the trial shall not commence until the appeal is resolved.

(iii) APPEALS DURING TRIAL.—If an appeal is taken during trial, the trial court shall adjourn the trial until the appeal is resolved, and the court of appeals—

(I) shall hear argument on such appeal not later than 4 days after the adjournment of the trial;

(II) may dispense with written briefs other than the supporting materials previously submitted to the trial court;

(III) shall render its decision not later than 4 days after argument on appeal; and

(IV) may dispense with the issuance of a written opinion in rendering its decision.

(C) EFFECT OF RULING.—An interlocutory appeal and decision shall not affect the right of the defendant, in a subsequent appeal from a final judgment, to claim as error reversal by the trial court on remand of a ruling appealed from during trial.

(6) CONSTRUCTION.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and State secrets privilege.

(g) DEFINITIONS.—As used in this section—

(1) the term ''classified information'' has the meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.);

(2) the term ''financial institution'' has the same meaning as in section 5312(a)(2) of title 31, United States Code;

(3) the term ''funds'' includes coin or currency of the United States or any other country, traveler's checks, personal checks, bank checks, money orders, stocks, bonds, debentures, drafts, letters of credit, any other negotiable instrument, and any electronic representation of any of the foregoing;

(4) the term ''material support or resources'' has the same meaning given that term in section 2339A (including the definitions of ''training'' and ''expert advice or assistance'' in that section);

(5) the term ''Secretary'' means the Secretary of the Treasury; and

(6) the term ''terrorist organization'' means an organization designated as a terrorist organization under section 219 of the Immigration and Nationality Act.

(h) PROVISION OF PERSONNEL.—No person may be prosecuted under this section in connection with the term ''personnel'' unless that person has knowingly provided, attempted to provide, or conspired to provide a foreign terrorist organization with 1 or more individuals (who may be or include himself) to work under that terrorist organization's direction or control or to organize, manage, supervise, or otherwise direct the operation of that organization. Individuals who act entirely independently of the foreign terrorist organization to advance its goals or objectives shall not be considered to be working under the foreign terrorist organization's direction and control.

(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the First Amendment to the Constitution of the United States.

(j) EXCEPTION.—No person may be prosecuted under this section in connection with the term ''personnel'', ''training'', or ''expert advice or assistance'' if the provision of that material support or resources to a foreign terrorist organization was approved by the Secretary of State with the concurrence of the Attorney General. The Secretary of State may not approve the provision of any material support that may be used to carry out terrorist activity (as defined in section 212(a)(3)(B)(iii) of the Immigration and Nationality Act).

(Added Pub. L. 104–132, title III, § 303(a), Apr. 24, 1996, 110 Stat. 1250; amended Pub. L. 107–56, title VIII, § 810(d), Oct. 26, 2001, 115 Stat. 380; Pub. L. 108–458, title VI, § 6603(c)–(f), Dec. 17, 2004, 118 Stat. 3762, 3763.)

AMENDMENT OF SECTION

For termination of amendment by section 6603(g) of Pub. L. 108–458, see Termination Date of 2004 Amendment note below.

REFERENCES IN TEXT

Section 212(a)(3)(B) of the Immigration and Nationality Act, referred to in subsecs. (a)(1) and (j), is classified to section 1182(a)(3)(B) of Title 8, Aliens and Nationality.

Section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, referred to in subsec. (a)(1), is classified to section 2656f(d)(2) of Title 22, Foreign Relations and Intercourse.

The Federal Rules of Civil Procedure, referred to in subsec. (f)(1)(A)(i), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Section 1(a) of the Classified Information Procedures Act, referred to in subsec. (g)(1), is section 1(a) of Pub. L. 95–456, which is set out in the Appendix to this title.

Section 219 of the Immigration and Nationality Act, referred to in subsec. (g)(6), is classified to section 1189 of Title 8, Aliens and Nationality.

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108–458, § 6603(c), (g), temporarily struck out '', within the United States or subject to the jurisdiction of the United States,'' after ''Whoever'' and inserted at end ''To violate this paragraph, a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection (g)(6)), that the organization has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).'' See Termination Date of 2004 Amendment note below.

Subsec. (d). Pub. L. 108–458, § 6603(d), (g), temporarily designated existing provisions as par. (2), inserted par. (2) heading, and added par. (1). See Termination Date of 2004 Amendment note below.

Subsec. (g)(4). Pub. L. 108–458, § 6603(e), (g), temporarily amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''the term 'material support or resources' has the same meaning as in section 2339A;''. See Termination Date of 2004 Amendment note below.

Subsecs. (h) to (j). Pub. L. 108–458, § 6603(f), (g), temporarily added subsecs. (h) to (j). See Termination Date of 2004 Amendment note below.

2001—Subsec. (a)(1). Pub. L. 107–56 substituted ''15 years, or both, and, if the death of any person results, shall be imprisoned for any term of years or for life'' for ''10 years, or both''.

TERMINATION DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–458 to cease to be effective Dec. 31, 2006, with exception for certain offenses that began or occurred before such date, see section 6603(g) of Pub. L. 108–458, set out as a note under section 2332b of this title.

FINDINGS AND PURPOSE

Section 301 of title III of Pub. L. 104–132 provided that:

''(a) FINDINGS.—The Congress finds that—

''(1) international terrorism is a serious and deadly problem that threatens the vital interests of the United States;

''(2) the Constitution confers upon Congress the power to punish crimes against the law of nations and to carry out the treaty obligations of the United States, and therefore Congress may by law impose penalties relating to the provision of material support to foreign organizations engaged in terrorist activity;

''(3) the power of the United States over immigration and naturalization permits the exclusion from the United States of persons belonging to international terrorist organizations;

''(4) international terrorism affects the interstate and foreign commerce of the United States by harming international trade and market stability, and limiting international travel by United States citizens as well as foreign visitors to the United States;

''(5) international cooperation is required for an effective response to terrorism, as demonstrated by the numerous multilateral conventions in force providing universal prosecutive jurisdiction over persons involved in a variety of terrorist acts, including hostage taking, murder of an internationally protected person, and aircraft piracy and sabotage;

''(6) some foreign terrorist organizations, acting through affiliated groups or individuals, raise significant funds within the United States, or use the United States as a conduit for the receipt of funds raised in other nations; and

''(7) foreign organizations that engage in terrorist activity are so tainted by their criminal conduct that any contribution to such an organization facilitates that conduct.

''(b) PURPOSE.—The purpose of this subtitle [subtitle A (§§ 301–303) of title III of Pub. L. 104–132, enacting this section and section 1189 of Title 8, Aliens and Nationality] is to provide the Federal Government the fullest possible basis, consistent with the Constitution, to prevent persons within the United States, or subject to the jurisdiction of the United States, from providing material support or resources to foreign organizations that engage in terrorist activities.''

§ 2339C. Prohibitions against the financing of terrorism

(a) OFFENSES.—

(1) IN GENERAL.—Whoever, in a circumstance described in subsection (b), by any means, directly or indirectly, unlawfully and willfully provides or collects funds with the intention that such funds be used, or with the knowledge that such funds are to be used, in full or in part, in order to carry out—

(A) an act which constitutes an offense within the scope of a treaty specified in subsection (e)(7), as implemented by the United States, or

(B) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act,

shall be punished as prescribed in subsection (d)(1).

(2) ATTEMPTS AND CONSPIRACIES.—Whoever attempts or conspires to commit an offense under paragraph (1) shall be punished as prescribed in subsection (d)(1).

(3) RELATIONSHIP TO PREDICATE ACT.—For an act to constitute an offense set forth in this subsection, it shall not be necessary that the funds were actually used to carry out a predicate act.

(b) JURISDICTION.—There is jurisdiction over the offenses in subsection (a) in the following circumstances—

(1) the offense takes place in the United States and—

(A) a perpetrator was a national of another state or a stateless person;

(B) on board a vessel flying the flag of another state or an aircraft which is registered under the laws of another state at the time the offense is committed;

(C) on board an aircraft which is operated by the government of another state;

(D) a perpetrator is found outside the United States;

(E) was directed toward or resulted in the carrying out of a predicate act against—

(i) a national of another state; or

(ii) another state or a government facility of such state, including its embassy or other diplomatic or consular premises of that state;

(F) was directed toward or resulted in the carrying out of a predicate act committed in an attempt to compel another state or international organization to do or abstain from doing any act; or

(G) was directed toward or resulted in the carrying out of a predicate act—

(i) outside the United States; or

(ii) within the United States, and either the offense or the predicate act was conducted in, or the results thereof affected, interstate or foreign commerce;

(2) the offense takes place outside the United States and—

(A) a perpetrator is a national of the United States or is a stateless person whose habitual residence is in the United States;

(B) a perpetrator is found in the United States; or

(C) was directed toward or resulted in the carrying out of a predicate act against—

(i) any property that is owned, leased, or used by the United States or by any department or agency of the United States, including an embassy or other diplomatic or consular premises of the United States;

(ii) any person or property within the United States;

(iii) any national of the United States or the property of such national; or

(iv) any property of any legal entity organized under the laws of the United States, including any of its States, dis-

tricts, commonwealths, territories, or possessions;

(3) the offense is committed on board a vessel flying the flag of the United States or an aircraft which is registered under the laws of the United States at the time the offense is committed;

(4) the offense is committed on board an aircraft which is operated by the United States; or

(5) the offense was directed toward or resulted in the carrying out of a predicate act committed in an attempt to compel the United States to do or abstain from doing any act.

(c) CONCEALMENT.—Whoever—

(1)(A) is in the United States; or

(B) is outside the United States and is a national of the United States or a legal entity organized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions); and

(2) knowingly conceals or disguises the nature, location, source, ownership, or control of any material support or resources, or any funds or proceeds of such funds—

(A) knowing or intending that the support or resources are to be provided, or knowing that the support or resources were provided, in violation of section 2339B of this title; or

(B) knowing or intending that any such funds are to be provided or collected, or knowing that the funds were provided or collected, in violation of subsection (a),

shall be punished as prescribed in subsection (d)(2).

(d) PENALTIES.—

(1) SUBSECTION (a).—Whoever violates subsection (a) shall be fined under this title, imprisoned for not more than 20 years, or both.

(2) SUBSECTION (c).—Whoever violates subsection (c) shall be fined under this title, imprisoned for not more than 10 years, or both.

(e) DEFINITIONS.—In this section—

(1) the term ''funds'' means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including coin, currency, bank credits, travelers checks, bank checks, money orders, shares, securities, bonds, drafts, and letters of credit;

(2) the term ''government facility'' means any permanent or temporary facility or conveyance that is used or occupied by representatives of a state, members of a government, the legislature, or the judiciary, or by officials or employees of a state or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties;

(3) the term ''proceeds'' means any funds derived from or obtained, directly or indirectly, through the commission of an offense set forth in subsection (a);

(4) the term ''provides'' includes giving, donating, and transmitting;

(5) the term ''collects'' includes raising and receiving;

(6) the term ''predicate act'' means any act referred to in subparagraph (A) or (B) of subsection (a)(1);

(7) the term ''treaty'' means—

(A) the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on December 16, 1970;

(B) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on September 23, 1971;

(C) the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on December 14, 1973;

(D) the International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on December 17, 1979;

(E) the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on March 3, 1980;

(F) the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on February 24, 1988;

(G) the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on March 10, 1988;

(H) the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on March 10, 1988; or

(I) the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on December 15, 1997;

(8) the term ''intergovernmental organization'' includes international organizations;

(9) the term ''international organization'' has the same meaning as in section 1116(b)(5) of this title;

(10) the term ''armed conflict'' does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature;

(11) the term ''serious bodily injury'' has the same meaning as in section 1365(g)(3) of this title;[1]

(12) the term ''national of the United States'' has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

(13) the term ''material support or resources'' has the same meaning given that term in section 2339B(g)(4) of this title; and

(14) the term ''state'' has the same meaning as that term has under international law, and includes all political subdivisions thereof.

(f) CIVIL PENALTY.—In addition to any other criminal, civil, or administrative liability or penalty, any legal entity located within the United States or organized under the laws of the

[1] See References in Text note below.

United States, including any of the laws of its States, districts, commonwealths, territories, or possessions, shall be liable to the United States for the sum of at least $10,000, if a person responsible for the management or control of that legal entity has, in that capacity, committed an offense set forth in subsection (a).

(Added Pub. L. 107–197, title II, § 202(a), June 25, 2002, 116 Stat. 724; amended Pub. L. 107–273, div. B, title IV, § 4006, Nov. 2, 2002, 116 Stat. 1813; Pub. L. 108–458, title VI, § 6604, Dec. 17, 2004, 118 Stat. 3764.)

REFERENCES IN TEXT

Section 1365(g)(3), referred to in subsec. (e)(11), was redesignated section 1365(h)(3) by Pub. L. 107–307, § 2(1), Dec. 2, 2002, 116 Stat. 2445.

AMENDMENTS

2004—Pub. L. 108–458, § 6604, which directed certain amendments to section 2339c of this title, was executed to this section, which is section 2339C of this title, to reflect the probable intent of Congress. See below.

Subsec. (c)(2). Pub. L. 108–458, § 6604(a)(1), substituted ''or resources, or any funds or proceeds of such funds'' for '', resources, or funds'' in introductory provisions.

Subsec. (c)(2)(A). Pub. L. 108–458, § 6604(a)(2), substituted ''are to be provided, or knowing that the support or resources were provided,'' for ''were provided''.

Subsec. (c)(2)(B). Pub. L. 108–458, § 6604(a)(3), struck out ''or any proceeds of such funds'' after ''any such funds'' and substituted ''are to be provided or collected, or knowing that the funds were provided or collected,'' for ''were provided or collected''.

Subsec. (e)(13), (14). Pub. L. 108–458, § 6604(b), added par. (13) and redesignated former par. (13) as (14).

2002—Subsec. (a)(1). Pub. L. 107–273 substituted ''described in subsection (b)'' for ''described in subsection (c)''.

EFFECTIVE DATE

Pub. L. 107–197, title II, § 203, June 25, 2002, 116 Stat. 727, provided that: ''Except for paragraphs (1)(D) and (2)(B) of section 2339C(b) of title 18, United States Code, which shall become effective on the date that the International Convention for the Suppression of the Financing of Terrorism enters into force for the United States [July 26, 2002], and for the provisions of section 2339C(e)(7)(I) of title 18, United States Code, which shall become effective on the date that the International Convention for the Suppression of Terrorist Bombing enters into force for the United States [July 26, 2002], section 202 [enacting this section and provisions set out as a note below] shall take effect on the date of enactment of this Act [June 25, 2002].''

DISCLAIMER

Pub. L. 107–197, title II, § 202(c), June 25, 2002, 116 Stat. 727, provided that: ''Nothing contained in this section [enacting this section] is intended to affect the scope or applicability of any other Federal or State law.''

§ 2339D. Receiving military-type training from a foreign terrorist organization

(a) OFFENSE.—Whoever knowingly receives military-type training from or on behalf of any organization designated at the time of the training by the Secretary of State under section 219(a)(1) of the Immigration and Nationality Act as a foreign terrorist organization shall be fined under this title or imprisoned for ten years, or both. To violate this subsection, a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection (c)(4)), that the organization has engaged or engages in terrorist activity (as defined in section 212 of the Immigration and Nationality Act), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).

(b) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section. There is jurisdiction over an offense under subsection (a) if—

(1) an offender is a national of the United States (as defined in[1] 101(a)(22) of the Immigration and Nationality Act) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of the Immigration and Nationality Act);

(2) an offender is a stateless person whose habitual residence is in the United States;

(3) after the conduct required for the offense occurs an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States;

(4) the offense occurs in whole or in part within the United States;

(5) the offense occurs in or affects interstate or foreign commerce; or

(6) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a) or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under subsection (a).

(c) DEFINITIONS.—As used in this section—

(1) the term ''military-type training'' includes training in means or methods that can cause death or serious bodily injury, destroy or damage property, or disrupt services to critical infrastructure, or training on the use, storage, production, or assembly of any explosive, firearm or other weapon, including any weapon of mass destruction (as defined in section 2232a(c)(2)[2]);

(2) the term ''serious bodily injury'' has the meaning given that term in section 1365(h)(3);

(3) the term ''critical infrastructure'' means systems and assets vital to national defense, national security, economic security, public health or safety including both regional and national infrastructure. Critical infrastructure may be publicly or privately owned; examples of critical infrastructure include gas and oil production, storage, or delivery systems, water supply systems, telecommunications networks, electrical power generation or delivery systems, financing and banking systems, emergency services (including medical, police, fire, and rescue services), and transportation systems and services (including highways, mass transit, airlines, and airports); and

(4) the term ''foreign terrorist organization'' means an organization designated as a terrorist organization under section 219(a)(1) of the Immigration and Nationality Act.

(Added Pub. L. 108–458, title VI, § 6602, Dec. 17, 2004, 118 Stat. 3761.)

[1] So in original. The word ''section'' probably should appear after ''in''.

[2] So in original. Probably should be section ''2332a(c)(2)''.

REFERENCES IN TEXT

Sections 101, 212, and 219 of the Immigration and Nationality Act, referred to in subsecs. (a), (b)(1), and (c)(4), are classified to sections 1101, 1182, and 1189, respectively, of Title 8, Aliens and Nationality.

Section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, referred to in subsec. (a), is classified to section 2656f(d)(2) of Title 22, Foreign Relations and Intercourse.

CHAPTER 113C—TORTURE

Sec.
2340. Definitions.
2340A. Torture.
2340B. Exclusive remedies.

AMENDMENTS

2002—Pub. L. 107–273, div. B, title IV, § 4002(c)(1), Nov. 2, 2002, 116 Stat. 1808, repealed Pub. L. 104–294, title VI, § 601(j)(1), Oct. 11, 1996, 110 Stat. 3501. See 1996 Amendment note below.

1996—Pub. L. 104–132, title III, § 303(c)(1), Apr. 24, 1996, 110 Stat. 1253, redesignated chapter 113B as 113C. Pub. L. 104–294, title VI, § 601(j)(1), Oct. 11, 1996, 110 Stat. 3501, which made identical amendment, was repealed by Pub. L. 107–273, div. B, title IV, § 4002(c)(1), Nov. 2, 2002, 116 Stat. 1808, effective Oct. 11, 1996.

§ 2340. Definitions

As used in this chapter—

(1) ''torture'' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control;

(2) ''severe mental pain or suffering'' means the prolonged mental harm caused by or resulting from—

(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

(B) the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

(C) the threat of imminent death; or

(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality; and

(3) ''United States'' means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States.

(Added Pub. L. 103–236, title V, § 506(a), Apr. 30, 1994, 108 Stat. 463; amended Pub. L. 103–415, § 1(k), Oct. 25, 1994, 108 Stat. 4301; Pub. L. 103–429, § 2(2), Oct. 31, 1994, 108 Stat. 4377; Pub. L. 108–375, div. A, title X, § 1089, Oct. 28, 2004, 118 Stat. 2067.)

AMENDMENTS

2004—Par. (3). Pub. L. 108–375 amended par. (3) generally. Prior to amendment, par. (3) read as follows: '''United States' includes all areas under the jurisdiction of the United States including any of the places described in sections 5 and 7 of this title and section 46501(2) of title 49.''

1994—Par. (1). Pub. L. 103–415 substituted ''within his custody'' for ''with custody''.

Par. (3). Pub. L. 103–429 substituted ''section 46501(2) of title 49'' for ''section 101(38) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(38))''.

EFFECTIVE DATE

Section 506(c) of Pub. L. 103–236 provided that: ''The amendments made by this section [enacting this chapter] shall take effect on the later of—

''(1) the date of enactment of this Act [Apr. 30, 1994]; or

''(2) the date on which the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.'' [Convention entered into Force with respect to United States Nov. 20, 1994, Treaty Doc. 100–20.]

§ 2340A. Torture

(a) OFFENSE.—Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a) if—

(1) the alleged offender is a national of the United States; or

(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or alleged offender.

(c) CONSPIRACY.—A person who conspires to commit an offense under this section shall be subject to the same penalties (other than the penalty of death) as the penalties prescribed for the offense, the commission of which was the object of the conspiracy.

(Added Pub. L. 103–236, title V, § 506(a), Apr. 30, 1994, 108 Stat. 463; amended Pub. L. 103–322, title VI, § 60020, Sept. 13, 1994, 108 Stat. 1979; Pub. L. 107–56, title VIII, § 811(g), Oct. 26, 2001, 115 Stat. 381.)

AMENDMENTS

2001—Subsec. (c). Pub. L. 107–56 added subsec. (c).

1994—Subsec. (a). Pub. L. 103–322 inserted ''punished by death or'' before ''imprisoned for any term of years or for life''.

§ 2340B. Exclusive remedies

Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.

(Added Pub. L. 103–236, title V, § 506(a), Apr. 30, 1994, 108 Stat. 464.)

CHAPTER 114—TRAFFICKING IN CONTRABAND CIGARETTES

Sec.
2341. Definitions.
2342. Unlawful acts.
2343. Recordkeeping and inspection.
2344. Penalties.
2345. Effect on State law.
2346. Enforcement and regulations.

§ 2341. Definitions

As used in this chapter—

(1) the term ''cigarette'' means—

(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco; and

(B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A);

(2) the term ''contraband cigarettes'' means a quantity in excess of 60,000 cigarettes, which bear no evidence of the payment of applicable State cigarette taxes in the State where such cigarettes are found, if such State requires a stamp, impression, or other indication to be placed on packages or other containers of cigarettes to evidence payment of cigarette taxes, and which are in the possession of any person other than—

(A) a person holding a permit issued pursuant to chapter 52 of the Internal Revenue Code of 1986 as a manufacturer of tobacco products or as an export warehouse proprietor, or a person operating a customs bonded warehouse pursuant to section 311 or 555 of the Tariff Act of 1930 (19 U.S.C. 1311 or 1555) or an agent of such person;

(B) a common or contract carrier transporting the cigarettes involved under a proper bill of lading or freight bill which states the quantity, source, and destination of such cigarettes;

(C) a person—

(i) who is licensed or otherwise authorized by the State where the cigarettes are found to account for and pay cigarette taxes imposed by such State; and

(ii) who has complied with the accounting and payment requirements relating to such license or authorization with respect to the cigarettes involved; or

(D) an officer, employee, or other agent of the United States or a State, or any department, agency, or instrumentality of the United States or a State (including any political subdivision of a State) having possession of such cigarettes in connection with the performance of official duties;

(3) the term ''common or contract carrier'' means a carrier holding a certificate of convenience and necessity, a permit for contract carrier by motor vehicle, or other valid operating authority under subtitle IV of title 49, or under equivalent operating authority from a regulatory agency of the United States or of any State;

(4) the term ''State'' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands; and

(5) the term ''Attorney General'' means the Attorney General of the United States[1]

(Added Pub. L. 95–575, §1, Nov. 2, 1978, 92 Stat. 2463; amended Pub. L. 97–449, §5(c), Jan. 12, 1983, 96 Stat. 2442; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 107–296, title XI, §1112(i)(1), Nov. 25, 2002, 116 Stat. 2277.)

[1] So in original. Probably should be followed by a period.

REFERENCES IN TEXT

Chapter 52 of the Internal Revenue Code of 1986, referred to in par. (2)(A), is classified generally to chapter 52 (§5701 et seq.) of Title 26, Internal Revenue Code.

AMENDMENTS

2002—Par. (5). Pub. L. 107–296 added par. (5) and struck out former par. (5) which read as follows: ''the term 'Secretary' means the Secretary of the Treasury.''

1986—Par. (2)(A). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

1983—Par. (3). Pub. L. 97–449 substituted ''subtitle IV of title 49'' for ''the Interstate Commerce Act''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE

Section 4 of Pub. L. 95–575 provided:

''(a) Except as provided in subsection (b), this Act [enacting this chapter, amending section 1961 of this title and sections 781 and 787 of former Title 49, Transportation, and enacting provisions set out as a note under this section] shall take effect on the date of its enactment [Nov. 2, 1978].

''(b) Sections 2342(b) and 2343 of title 18, United States Code as enacted by the first section of this Act, shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act [Nov. 2, 1978].''

AUTHORIZATION OF APPROPRIATIONS

Section 5 of Pub. L. 95–575 provided that: ''There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of chapter 114 of title 18, United States Code, added by the first section of this Act.''

§ 2342. Unlawful acts

(a) It shall be unlawful for any person knowingly to ship, transport, receive, possess, sell, distribute, or purchase contraband cigarettes.

(b) It shall be unlawful for any person knowingly to make any false statement or representation with respect to the information required by this chapter to be kept in the records of any person who ships, sells, or distributes any quantity of cigarettes in excess of 60,000 in a single transaction.

(Added Pub. L. 95–575, §1, Nov. 2, 1978, 92 Stat. 2464.)

EFFECTIVE DATE

Subsec. (a) of this section effective Nov. 2, 1978, and subsec. (b) of this section effective on first day of first month beginning more than 120 days after Nov. 2, 1978, see section 4 of Pub. L. 95–575, set out as a note under section 2341 of this title.

§ 2343. Recordkeeping and inspection

(a) Any person who ships, sells, or distributes any quantity of cigarettes in excess of 60,000 in a single transaction shall maintain such information about the shipment, receipt, sale, and distribution of cigarettes as the Attorney General may prescribe by rule or regulation. The Attorney General may require such person to keep only—

(1) the name, address, destination (including street address), vehicle license number, driver's license number, signature of the person receiving such cigarettes, and the name of the purchaser;

(2) a declaration of the specific purpose of the receipt (personal use, resale, or delivery to another); and

(3) a declaration of the name and address of the recipient's principal in all cases when the recipient is acting as an agent.

Such information shall be contained on business records kept in the normal course of business. Nothing contained herein shall authorize the Attorney General to require reporting under this section.

(b) Upon the consent of any person who ships, sells, or distributes any quantity of cigarettes in excess of 60,000 in a single transaction, or pursuant to a duly issued search warrant, the Attorney General may enter the premises (including places of storage) of such person for the purpose of inspecting any records or information required to be maintained by such person under this chapter, and any cigarettes kept or stored by such person at such premises.

(Added Pub. L. 95–575, § 1, Nov. 2, 1978, 92 Stat. 2464; amended Pub. L. 107–296, title XI, § 1112(i)(2), Nov. 25, 2002, 116 Stat. 2277.)

AMENDMENTS

2002—Pub. L. 107–296 substituted ''Attorney General'' for ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE

Section effective on first day of first month beginning more than 120 days after Nov. 2, 1978, see section 4 of Pub. L. 95–575, set out as a note under section 2341 of this title.

§ 2344. Penalties

(a) Whoever knowingly violates section 2342(a) of this title shall be fined under this title or imprisoned not more than five years, or both.

(b) Whoever knowingly violates any rule or regulation promulgated under section 2343(a) or 2346 of this title or violates section 2342(b) of this title shall be fined under this title or imprisoned not more than three years, or both.

(c) Any contraband cigarettes involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1986 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of such Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.

(Added Pub. L. 95–575, § 1, Nov. 2, 1978, 92 Stat. 2464; amended Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 103–322, title XXXIII, § 330016(1)(K), (S), Sept. 13, 1994, 108 Stat. 2147, 2148.)

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (c), is classified generally to Title 26, Internal Revenue Code.

Section 5845(a) of the Internal Revenue Code of 1986, referred to in subsec. (c), is classified to section 5845(a) of Title 26.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322, § 330016(1)(S), substituted ''fined under this title'' for ''fined not more than $100,000''.

Subsec. (b). Pub. L. 103–322, § 330016(1)(K), substituted ''fined under this title'' for ''fined not more than $5,000''.

1986—Subsec. (c). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

§ 2345. Effect on State law

(a) Nothing in this chapter shall be construed to affect the concurrent jurisdiction of a State to enact and enforce cigarette tax laws, to provide for the confiscation of cigarettes and other property seized for violation of such laws, and to provide for penalties for the violation of such laws.

(b) Nothing in this chapter shall be construed to inhibit or otherwise affect any coordinated law enforcement effort by a number of States, through interstate compact or otherwise, to provide for the administration of State cigarette tax laws, to provide for the confiscation of cigarettes and other property seized in violation of such laws, and to establish cooperative programs for the administration of such laws.

(Added Pub. L. 95–575, § 1, Nov. 2, 1978, 92 Stat. 2465.)

§ 2346. Enforcement and regulations

The Attorney General, subject to the provisions of section 2343(a) of this title, shall enforce the provisions of this chapter and may prescribe such rules and regulations as he deems reasonably necessary to carry out the provisions of this chapter.

(Added Pub. L. 95–575, § 1, Nov. 2, 1978, 92 Stat. 2465; amended Pub. L. 107–296, title XI, § 1112(i)(2), Nov. 25, 2002, 116 Stat. 2277.)

AMENDMENTS

2002—Pub. L. 107–296 substituted ''Attorney General'' for ''Secretary''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

CHAPTER 115—TREASON, SEDITION, AND SUBVERSIVE ACTIVITIES

Sec.
2381. Treason.
2382. Misprision of treason.
2383. Rebellion or insurrection.
2384. Seditious conspiracy.
2385. Advocating overthrow of Government.
2386. Registration of certain organizations.
2387. Activities affecting armed forces generally.
2388. Activities affecting armed forces during war.
2389. Recruiting for service against United States.

Sec.
2390. Enlistment to serve against United States.
[2391. Repealed.]

AMENDMENTS

1994—Pub. L. 103–322, title XXXIII, § 330004(13), Sept. 13, 1994, 108 Stat. 2142, struck out item 2391 ''Temporary extension of section 2388''.

1953—Act June 30, 1953, ch. 175, § 5, 67 Stat. 134, added item 2391.

§ 2381. Treason

Whoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason and shall suffer death, or shall be imprisoned not less than five years and fined under this title but not less than $10,000; and shall be incapable of holding any office under the United States.

(June 25, 1948, ch. 645, 62 Stat. 807; Pub. L. 103–322, title XXXIII, § 330016(2)(J), Sept. 13, 1994, 108 Stat. 2148.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 1, 2 (Mar. 4, 1909, ch. 321, §§ 1, 2, 35 Stat. 1088).

Section consolidates sections 1 and 2 of title 18, U.S.C., 1940 ed.

The language referring to collection of the fine was omitted as obsolete and repugnant to the more humane policy of modern law which does not impose criminal consequences on the innocent.

The words ''every person so convicted of treason'' were omitted as redundant.

Minor change was made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 inserted ''under this title but'' before ''not less than $10,000''.

§ 2382. Misprision of treason

Whoever, owing allegiance to the United States and having knowledge of the commission of any treason against them, conceals and does not, as soon as may be, disclose and make known the same to the President or to some judge of the United States, or to the governor or to some judge or justice of a particular State, is guilty of misprision of treason and shall be fined under this title or imprisoned not more than seven years, or both.

(June 25, 1948, ch. 645, 62 Stat. 807; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 3 (Mar. 4, 1909, ch. 321, § 3, 35 Stat. 1088).

Mandatory punishment provision was rephrased in the alternative.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000''.

§ 2383. Rebellion or insurrection

Whoever incites, sets on foot, assists, or engages in any rebellion or insurrection against the authority of the United States or the laws thereof, or gives aid or comfort thereto, shall be fined under this title or imprisoned not more than ten years, or both; and shall be incapable of holding any office under the United States.

(June 25, 1948, ch. 645, 62 Stat. 808; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 4 (Mar. 4, 1909, ch. 321, § 4, 35 Stat. 1088).

Word ''moreover'' was deleted as surplusage and minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

§ 2384. Seditious conspiracy

If two or more persons in any State or Territory, or in any place subject to the jurisdiction of the United States, conspire to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, or to oppose by force the authority thereof, or by force to prevent, hinder, or delay the execution of any law of the United States, or by force to seize, take, or possess any property of the United States contrary to the authority thereof, they shall each be fined under this title or imprisoned not more than twenty years, or both.

(June 25, 1948, ch. 645, 62 Stat. 808; July 24, 1956, ch. 678, § 1, 70 Stat. 623; Pub. L. 103–322, title XXXIII, § 330016(1)(N), Sept. 13, 1994, 108 Stat. 2148.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 6 (Mar. 4, 1909, ch. 321, § 6, 35 Stat. 1089).

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $20,000''.

1956—Act July 24, 1956, substituted ''$20,000'' for ''$5,000'', and ''twenty years'' for ''six years''.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 3 of act July 24, 1956, provided that: ''The foregoing amendments [amending this section and section 2385 of this title] shall apply only with respect to offenses committed on and after the date of the enactment of this Act [July 24, 1956].''

§ 2385. Advocating overthrow of Government

Whoever knowingly or willfully advocates, abets, advises, or teaches the duty, necessity, desirability, or propriety of overthrowing or destroying the government of the United States or the government of any State, Territory, District or Possession thereof, or the government of any political subdivision therein, by force or violence, or by the assassination of any officer of any such government; or

Whoever, with intent to cause the overthrow or destruction of any such government, prints, publishes, edits, issues, circulates, sells, distributes, or publicly displays any written or printed matter advocating, advising, or teaching the duty, necessity, desirability, or propriety of overthrowing or destroying any government in the United States by force or violence, or attempts to do so; or

Whoever organizes or helps or attempts to organize any society, group, or assembly of persons who teach, advocate, or encourage the overthrow or destruction of any such government by force or violence; or becomes or is a member of, or affiliates with, any such society, group, or assembly of persons, knowing the purposes thereof—

Shall be fined under this title or imprisoned not more than twenty years, or both, and shall be ineligible for employment by the United States or any department or agency thereof, for the five years next following his conviction.

If two or more persons conspire to commit any offense named in this section, each shall be fined under this title or imprisoned not more than twenty years, or both, and shall be ineligible for employment by the United States or any department or agency thereof, for the five years next following his conviction.

As used in this section, the terms ''organizes'' and ''organize'', with respect to any society, group, or assembly of persons, include the recruiting of new members, the forming of new units, and the regrouping or expansion of existing clubs, classes, and other units of such society, group, or assembly of persons.

(June 25, 1948, ch. 645, 62 Stat. 808; July 24, 1956, ch. 678, § 2, 70 Stat. 623; Pub. L. 87–486, June 19, 1962, 76 Stat. 103; Pub. L. 103–322, title XXXIII, § 330016(1)(N), Sept. 13, 1994, 108 Stat. 2148.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 10, 11, 13 (June 28, 1940, ch. 439, title I, §§ 2, 3, 5, 54 Stat. 670, 671).

Section consolidates sections 10, 11, and 13 of title 18, U.S.C., 1940 ed. Section 13 of title 18, U.S.C., 1940 ed., which contained the punishment provisions applicable to sections 10 and 11 of title 18, U.S.C., 1940 ed., was combined with section 11 of title 18, U.S.C., 1940 ed., and added to this section.

In first paragraph, words ''the Government of the United States or the government of any State, Territory, District or possession thereof, or the government of any political subdivision therein'' were substituted for ''any government in the United States''.

In second and third paragraphs, word ''such'' was inserted after ''any'' and before ''government'', and words ''in the United States'' which followed ''government'' were omitted.

In view of these changes, the provisions of subsection (b) of section 10 of title 18, U.S.C., 1940 ed., which defined the term ''government in the United States'' were omitted as unnecessary.

Reference to conspiracy to commit any of the prohibited acts was omitted as covered by the general conspiracy provision, incorporated in section 371 of this title. (See reviser's note under that section.)

Words ''upon conviction thereof'' which preceded ''be fined'' were omitted as surplusage, as punishment cannot be imposed until a conviction is secured.

The phraseology was considerably changed to effect consolidation but without any change of substance.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $20,000'' in fourth and fifth pars.

1962—Pub. L. 87–486 defined the terms ''organizes'' and ''organize''.

1956—Act July 24, 1956, substituted ''$20,000'' for ''$10,000'', and ''twenty years'' for ''ten years'' in the paragraph prescribing penalties applicable to advocating overthrow of government and inserted provisions relating to conspiracy to commit any offense named in this section.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act July 24, 1956, as applicable only with respect to offenses committed on and after July 24, 1956, see section 3 of act July 24, 1956, set out as a note under section 2384 of this title.

§ 2386. Registration of certain organizations

(A) For the purposes of this section:

''Attorney General'' means the Attorney General of the United States;

''Organization'' means any group, club, league, society, committee, association, political party, or combination of individuals, whether incorporated or otherwise, but such term shall not include any corporation, association, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes;

''Political activity'' means any activity the purpose or aim of which, or one of the purposes or aims of which, is the control by force or overthrow of the Government of the United States or a political subdivision thereof, or any State or political subdivision thereof;

An organization is engaged in ''civilian military activity'' if:

(1) it gives instruction to, or prescribes instruction for, its members in the use of firearms or other weapons or any substitute therefor, or military or naval science; or

(2) it receives from any other organization or from any individual instruction in military or naval science; or

(3) it engages in any military or naval maneuvers or activities; or

(4) it engages, either with or without arms, in drills or parades of a military or naval character; or

(5) it engages in any other form of organized activity which in the opinion of the Attorney General constitutes preparation for military action;

An organization is ''subject to foreign control'' if:

(a) it solicits or accepts financial contributions, loans, or support of any kind, directly or indirectly, from, or is affiliated directly or indirectly with, a foreign government or a political subdivision thereof, or an agent, agency, or instrumentality of a foreign government or political subdivision thereof, or a political party in a foreign country, or an international political organization; or

(b) its policies, or any of them, are determined by or at the suggestion of, or in collaboration with, a foreign government or political subdivision thereof, or an agent, agency, or instrumentality of a foreign government or a political subdivision thereof, or a political party in a foreign country, or an international political organization.

(B)(1) The following organizations shall be required to register with the Attorney General:

Every organization subject to foreign control which engages in political activity;

Every organization which engages both in civilian military activity and in political activity;

Every organization subject to foreign control which engages in civilian military activity; and

Every organization, the purpose or aim of which, or one of the purposes or aims of which,

is the establishment, control, conduct, seizure, or overthrow of a government or subdivision thereof by the use of force, violence, military measures, or threats of any one or more of the foregoing.

Every such organization shall register by filing with the Attorney General, on such forms and in such detail as the Attorney General may by rules and regulations prescribe, a registration statement containing the information and documents prescribed in subsection (B)(3) and shall within thirty days after the expiration of each period of six months succeeding the filing of such registration statement, file with the Attorney General, on such forms and in such detail as the Attorney General may by rules and regulations prescribe, a supplemental statement containing such information and documents as may be necessary to make the information and documents previously filed under this section accurate and current with respect to such preceding six months' period. Every statement required to be filed by this section shall be subscribed, under oath, by all of the officers of the organization.

(2) This section shall not require registration or the filing of any statement with the Attorney General by:

(a) The armed forces of the United States; or

(b) The organized militia or National Guard of any State, Territory, District, or possession of the United States; or

(c) Any law-enforcement agency of the United States or of any Territory, District or possession thereof, or of any State or political subdivision of a State, or of any agency or instrumentality of one or more States; or

(d) Any duly established diplomatic mission or consular office of a foreign government which is so recognized by the Department of State; or

(e) Any nationally recognized organization of persons who are veterans of the armed forces of the United States, or affiliates of such organizations.

(3) Every registration statement required to be filed by any organization shall contain the following information and documents:

(a) The name and post-office address of the organization in the United States, and the names and addresses of all branches, chapters, and affiliates of such organization;

(b) The name, address, and nationality of each officer, and of each person who performs the functions of an officer, of the organization, and of each branch, chapter, and affiliate of the organization;

(c) The qualifications for membership in the organization;

(d) The existing and proposed aims and purposes of the organization, and all the means by which these aims or purposes are being attained or are to be attained;

(e) The address or addresses of meeting places of the organization, and of each branch, chapter, or affiliate of the organization, and the times of meetings;

(f) The name and address of each person who has contributed any money, dues, property, or other thing of value to the organization or to any branch, chapter, or affiliate of the organization;

(g) A detailed statement of the assets of the organization, and of each branch, chapter, and affiliate of the organization, the manner in which such assets were acquired, and a detailed statement of the liabilities and income of the organization and of each branch, chapter, and affiliate of the organization;

(h) A detailed description of the activities of the organization, and of each chapter, branch, and affiliate of the organization;

(i) A description of the uniforms, badges, insignia, or other means of identification prescribed by the organization, and worn or carried by its officers or members, or any of such officers or members;

(j) A copy of each book, pamphlet, leaflet, or other publication or item of written, printed, or graphic matter issued or distributed directly or indirectly by the organization, or by any chapter, branch, or affiliate of the organization, or by any of the members of the organization under its authority or within its knowledge, together with the name of its author or authors and the name and address of the publisher;

(k) A description of all firearms or other weapons owned by the organization, or by any chapter, branch, or affiliate of the organization, identified by the manufacturer's number thereon;

(*l*) In case the organization is subject to foreign control, the manner in which it is so subject;

(m) A copy of the charter, articles of association, constitution, bylaws, rules, regulations, agreements, resolutions, and all other instruments relating to the organization, powers, and purposes of the organization and to the powers of the officers of the organization and of each chapter, branch, and affiliate of the organization; and

(n) Such other information and documents pertinent to the purposes of this section as the Attorney General may from time to time require.

All statements filed under this section shall be public records and open to public examination and inspection at all reasonable hours under such rules and regulations as the Attorney General may prescribe.

(C) The Attorney General is authorized at any time to make, amend, and rescind such rules and regulations as may be necessary to carry out this section, including rules and regulations governing the statements required to be filed.

(D) Whoever violates any of the provisions of this section shall be fined under this title or imprisoned not more than five years, or both.

Whoever in a statement filed pursuant to this section willfully makes any false statement or willfully omits to state any fact which is required to be stated, or which is necessary to make the statements made not misleading, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 808; Pub. L. 103–322, title XXXIII, § 330016(1)(I), (L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 14–17 (Oct. 17, 1940, ch. 897, §§ 1–4, 54 Stat. 1201–1204).

Section consolidates sections 14–17 of title 18, U.S.C., 1940 ed., as subsections (a), (b), (c), and (d), respectively, of this section, with necessary changes of phraseology and translation of section references.

Words ''upon conviction'' which preceded ''be subject'' were omitted as surplusage, as punishment cannot otherwise be imposed.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' in penultimate par. and for ''fined not more than $2,000'' in last par.

§ 2387. Activities affecting armed forces generally

(a) Whoever, with intent to interfere with, impair, or influence the loyalty, morale, or discipline of the military or naval forces of the United States:

(1) advises, counsels, urges, or in any manner causes or attempts to cause insubordination, disloyalty, mutiny, or refusal of duty by any member of the military or naval forces of the United States; or

(2) distributes or attempts to distribute any written or printed matter which advises, counsels, or urges insubordination, disloyalty, mutiny, or refusal of duty by any member of the military or naval forces of the United States—

Shall be fined under this title or imprisoned not more than ten years, or both, and shall be ineligible for employment by the United States or any department or agency thereof, for the five years next following his conviction.

(b) For the purposes of this section, the term ''military or naval forces of the United States'' includes the Army of the United States, the Navy, Air Force, Marine Corps, Coast Guard, Navy Reserve, Marine Corps Reserve, and Coast Guard Reserve of the United States; and, when any merchant vessel is commissioned in the Navy or is in the service of the Army or the Navy, includes the master, officers, and crew of such vessel.

(June 25, 1948, ch. 645, 62 Stat. 811; May 24, 1949, ch. 139, § 46, 63 Stat. 96; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 109–163, div. A, title V, § 515(f)(2), Jan. 6, 2006, 119 Stat. 3236.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., §§ 9, 11, 13 (June 28, 1940, ch. 439, title I, §§ 1, 3, 5, 54 Stat. 670, 671).

Section consolidates sections 9, 11, and 13 of title 18, U.S.C., 1940 ed., with only such changes of phraseology as were necessary to effect consolidation.

The revised section extends the provisions so as to include the Coast Guard Reserve in its coverage.

Words ''upon conviction thereof'' were omitted as unnecessary, as punishment cannot be imposed until conviction is secured.

Reference to conspiracy to commit any of the prohibited acts was omitted as covered by the general law incorporated in section 371 of this title. (See reviser's note under that section.)

Minor changes were made in arrangement and phraseology.

1949 ACT

This section [section 46] inserts the words, ''Air Force,'' in subsection (b) of section 2387 of title 18, U.S.C., in view of the establishment in 1947 of this separate branch of the armed services.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve''.

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' in last par.

1949—Subsec. (b). Act May 24, 1949, made section applicable to the Air Force.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 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.

Coast Guard transferred to Department of Transportation and functions, powers, and duties, relating to Coast Guard, of Secretary of the Treasury and of other offices and officers of Department of the Treasury transferred to Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created Department of Transportation. See section 108 of Title 49, Transportation.

Functions of all officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26, of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. Such plan excepted from transfer functions of Coast Guard and Commandant thereof when Coast Guard is operating as a part of the Navy under section 1 and 3 of Title 14, Coast Guard.

§ 2388. Activities affecting armed forces during war

(a) Whoever, when the United States is at war, willfully makes or conveys false reports or false statements with intent to interfere with the operation or success of the military or naval forces of the United States or to promote the success of its enemies; or

Whoever, when the United States is at war, willfully causes or attempts to cause insubordination, disloyalty, mutiny, or refusal of duty, in the military or naval forces of the United States, or willfully obstructs the recruiting or enlistment service of the United States, to the injury of the service or the United States, or attempts to do so—

Shall be fined under this title or imprisoned not more than twenty years, or both.

(b) If two or more persons conspire to violate subsection (a) of this section and one or more such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in said subsection (a).

(c) Whoever harbors or conceals any person who he knows, or has reasonable grounds to believe or suspect, has committed, or is about to commit, an offense under this section, shall be fined under this title or imprisoned not more than ten years, or both.

(d) This section shall apply within the admiralty and maritime jurisdiction of the United States, and on the high seas, as well as within the United States.

(June 25, 1948, ch. 645, 62 Stat. 811; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on sections 33, 34, 35, 37 of title 50, U.S.C., 1940 ed., War and National Defense (June 15, 1917, ch. 30, title I, §§ 3, 4, 5, 8, 40 Stat. 219; Mar. 3, 1921, ch. 136, 41 Stat. 1359; Mar. 28, 1940, ch. 72, § 2, 54 Stat. 79).

Sections 33, 34, 35, and 37 of title 50, U.S.C., 1940 ed., War and National Defense, were consolidated. Sections 34, 35, and 37 of title 50, U.S.C., 1940 ed., War and National Defense, are also incorporated in sections 791, 792, and 794 of this title, to which they relate.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000'' in last par. of subsec. (a) and in subsec. (c).

REPEALS

Section 7 of act June 30, 1953, ch. 175, 67 Stat. 134, repealed Joint Res. July 3, 1952, ch. 570, § 1(a)(29), 66 Stat. 333; Joint Res. Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, which had provided that this section should continue in force until six months after the termination of the National emergency proclaimed by 1950 Proc. No. 2914 which is set out as a note preceding section 1 of Appendix to Title 50, War and National Defense.

REPEAL OF EXTENSIONS OF WAR-TIME PROVISIONS

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54, as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96. Intermediate extensions by Joint Res. June 14, 1952, ch. 437, 66 Stat. 137, and Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952, expired by their own terms.

§ 2389. Recruiting for service against United States

Whoever recruits soldiers or sailors within the United States, or in any place subject to the jurisdiction thereof, to engage in armed hostility against the same; or

Whoever opens within the United States, or in any place subject to the jurisdiction thereof, a recruiting station for the enlistment of such soldiers or sailors to serve in any manner in armed hostility against the United States—

Shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 811; Pub. L. 103–322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 7 (Mar. 4, 1909, ch. 321, § 7, 35 Stat. 1089).

Mandatory punishment provision was rephrased in the alternative.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $1,000'' in last par.

§ 2390. Enlistment to serve against United States

Whoever enlists or is engaged within the United States or in any place subject to the jurisdiction thereof, with intent to serve in armed hostility against the United States, shall be fined under this title[1] or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 812; Pub. L. 103–322, title XXXIII, § 330016(1)(B), Sept. 13, 1994, 108 Stat. 2146.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 8 (Mar. 4, 1909, ch. 321, § 8, 35 Stat. 1089).

Mandatory punishment provision was rephrased in the alternative.

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103–322, which directed the amendment of this section by striking ''fined not more than $100'' and inserting ''fined under this title'', was executed by substituting ''fined under this title'' for ''fined $100'', to reflect the probable intent of Congress.

[§ 2391. Repealed. Pub. L. 103–322, title XXXIII, § 330004(13), Sept. 13, 1994, 108 Stat. 2142]

Section, added June 30, 1953, ch. 175, § 6, 67 Stat. 134, related to temporary extension of section 2388 of this title.

CHAPTER 117—TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES

Sec.
2421. Transportation generally.
2422. Coercion and enticement.
2423. Transportation of minors.
2424. Filing factual statement about alien individual.
2425. Use of interstate facilities to transmit information about a minor.
2426. Repeat offenders.
2427. Inclusion of offenses relating to child pornography in definition of sexual activity for which any person can be charged with a criminal offense.
2428. Forfeitures.

AMENDMENTS

2006—Pub. L. 109–164, title I, § 103(d)(2), Jan. 10, 2006, 119 Stat. 3563, added item 2428.

1998—Pub. L. 105–314, title I, §§ 101(b), 104(b), 105(b), Oct. 30, 1998, 112 Stat. 2975–2977, added items 2425, 2426, and 2427.

1988—Pub. L. 100–690, title VII, § 7071, Nov. 18, 1988, 102 Stat. 4405, substituted ''individual'' for ''female'' in item 2424.

1986—Pub. L. 99–628, § 5(a)(1), (b)(2), Nov. 7, 1986, 100 Stat. 3511, substituted ''TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES'' for ''WHITE SLAVE TRAFFIC'' as chapter heading and substituted ''and enticement'' for ''or enticement of female'' in item 2422.

1978—Pub. L. 95–225, § 3(b), Feb. 6, 1978, 92 Stat. 9, substituted ''Transportation of minors'' for ''Coercion or enticement of minor female'' in item 2423.

§ 2421. Transportation generally

Whoever knowingly transports any individual in interstate or foreign commerce, or in any Territory or Possession of the United States, with intent that such individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title or imprisoned not more than 10 years, or both.

[1] See 1994 Amendment note below.

(June 25, 1948, ch. 645, 62 Stat. 812; May 24, 1949, ch. 139, § 47, 63 Stat. 96; Pub. L. 99–628, § 5(b)(1), Nov. 7, 1986, 100 Stat. 3511; Pub. L. 105–314, title I, § 106, Oct. 30, 1998, 112 Stat. 2977.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., §§ 397, 398, 401, 404 (June 25, 1910, ch. 395, §§ 1, 2, 5, 8, 36 Stat. 825–827).

Section consolidates sections 397, 398, 401, and 404 of title 18, U.S.C., 1940 ed.

Section 397 of title 18, U.S.C., 1940 ed., containing a definition of the terms ''interstate commerce'' and ''foreign commerce'' was omitted as unnecessary in view of the definition of those terms in section 10 of this title.

Section 401 of title 18, U.S.C., 1940 ed., prescribing venue was omitted as unnecessary in view of section 3237 of this title.

Section 403 of title 18, U.S.C., 1940 ed., was omitted. No definition of ''Territory'' is necessary to the revised section as it is phrased. Construction therein of ''person'' is covered by section 1 of title 1, U.S.C., 1940 ed., General Provisions, as amended. Last paragraph of said section relating to construction of this chapter was omitted as surplusage.

Words ''Possession of the United States'' were inserted in three places in view of mission of said section 403 of title 18, U.S.C., 1940 ed., and, reference in that section to the Canal Zone is covered by those words. This chapter applies to the Territory of Hawaii. (See *Sun Chong Lee v. United States*, C.C.A. Hawaii, 1942, 125 F. 2d 95.)

Section 404 of title 18, U.S.C., 1940 ed., containing the short title was omitted as not appropriate in a revision.

Reference to persons causing, procuring, aiding or assisting was deleted as unnecessary because such persons are made principals by section 2 of this title.

Words ''and upon conviction thereof'' were also deleted as surplusage since punishment cannot be imposed until a conviction is secured.

Words ''deemed guilty of a felony'' were deleted as unnecessary in view of the definition of a felony in section 1 of this title. (See reviser's note under section 550 of this title.)

Minor changes were also made in translations and phraseology.

1949 ACT

This section [section 47] corrects a typographical error in section 2421 of title 18, U.S.C.

AMENDMENTS

1998—Pub. L. 105–314 inserted ''or attempts to do so,'' before ''shall be fined'' and substituted ''10 years'' for ''five years''.

1986—Pub. L. 99–628 amended section generally. Prior to amendment, section read as follows:

''Whoever knowingly transports in interstate or foreign commerce, or in the District of Columbia or in any Territory or Possession of the United States, any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose to induce, entice, or compel such woman or girl to become a prostitute or to give herself up to debauchery, or to engage in any other immoral practice; or

''Whoever knowingly procures or obtains any ticket or tickets, or any form of transportation or evidence of the right thereto, to be used by any woman or girl in interstate or foreign commerce, or in the District of Columbia or any Territory or Possession of the United States, in going to any place for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent or purpose on the part of such person to induce, entice, or compel her to give herself up to the practice of prostitution, or to give herself up to debauchery, or any other immoral practice, whereby any such woman or girl shall be transported in interstate or foreign commerce, or in the District of Columbia or any Territory or Possession of the United States—

''Shall be fined not more than $5,000 or imprisoned not more than five years, or both.''

1949—Act May 24, 1949, corrected spelling of ''induce''.

§ 2422. Coercion and enticement

(a) Whoever knowingly persuades, induces, entices, or coerces any individual to travel in interstate or foreign commerce, or in any Territory or Possession of the United States, to engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title or imprisoned not more than 20 years, or both.

(b) Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title and imprisoned not less than 5 years and not more than 30 years.

(June 25, 1948, ch. 645, 62 Stat. 812; Pub. L. 99–628, § 5(b)(1), Nov. 7, 1986, 100 Stat. 3511; Pub. L. 100–690, title VII, § 7070, Nov. 18, 1988, 102 Stat. 4405; Pub. L. 104–104, title V, § 508, Feb. 8, 1996, 110 Stat. 137; Pub. L. 105–314, title I, § 102, Oct. 30, 1998, 112 Stat. 2975; Pub. L. 108–21, title I, § 103(a)(2)(A), (B), (b)(2)(A), Apr. 30, 2003, 117 Stat. 652, 653.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 399 (June 25, 1910, ch. 395, § 3, 36 Stat. 825).

Words ''deemed guilty of a felony'' were deleted as unnecessary in view of definition of felony in section 1 of this title. (See reviser's note under section 550 of this title.)

Words ''and on conviction thereof shall be'' were deleted as surplusage since punishment cannot be imposed until a conviction is secured.

The references to persons causing, procuring, aiding or assisting were omitted as unnecessary as such persons are made principals by section 2 of this title.

Words ''Possession of the United States'' were inserted twice. (See reviser's note under section 2421 of this title.)

Minor changes were made in phraseology.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–21, § 103(a)(2)(A), substituted ''20 years'' for ''10 years''.

Subsec. (b). Pub. L. 108–21, § 103(a)(2)(B), (b)(2)(A), substituted ''and imprisoned not less than 5 years and'' for '', imprisoned'' and ''30 years'' for ''15 years, or both''.

1998—Subsec. (a). Pub. L. 105–314, § 102(1), inserted ''or attempts to do so,'' before ''shall be fined'' and substituted ''10 years'' for ''five years''.

Subsec. (b). Pub. L. 105–314, § 102(2), added subsec. (b) and struck out former subsec. (b) which read as follows: ''Whoever, using any facility or means of interstate or foreign commerce, including the mail, or within the special maritime and territorial jurisdiction of the United States, knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years to engage in prostitution or any sexual act for which any person may be criminally prosecuted, or attempts to do so, shall be fined under this title or imprisoned not more than 10 years, or both.''

1996—Pub. L. 104–104 designated existing provisions as subsec. (a) and added subsec. (b).

1988—Pub. L. 100–690 substituted ''or'' for ''of'' before ''foreign commerce''.

1986—Pub. L. 99–628 substituted ''and enticement'' for ''or enticement of female'' in section catchline and amended text generally. Prior to amendment, text read as follows: ''Whoever knowingly persuades, induces, entices, or coerces any woman or girl to go from one place to another in interstate or foreign commerce, or in the District of Columbia or in any Territory or Possession of the United States, for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose on the part of such person that such woman or girl shall engage in the practice of prostitution or debauchery, or any other immoral practice, whether with or without her consent, and thereby knowingly causes such woman or girl to go and to be carried or transported as a passenger upon the line or route of any common carrier or carriers in interstate or foreign commerce, or in the District of Columbia or in any Territory or Possession of the United States, shall be fined not more than $5,000 or imprisoned not more than five years, or both.''

§ 2423. Transportation of minors

(a) TRANSPORTATION WITH INTENT TO ENGAGE IN CRIMINAL SEXUAL ACTIVITY.—A person who knowingly transports an individual who has not attained the age of 18 years in interstate or foreign commerce, or in any commonwealth, territory or possession of the United States, with intent that the individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be fined under this title and imprisoned not less than 5 years and not more than 30 years.

(b) TRAVEL WITH INTENT TO ENGAGE IN ILLICIT SEXUAL CONDUCT.—A person who travels in interstate commerce or travels into the United States, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, for the purpose of engaging in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 30 years, or both.

(c) ENGAGING IN ILLICIT SEXUAL CONDUCT IN FOREIGN PLACES.—Any United States citizen or alien admitted for permanent residence who travels in foreign commerce, and engages in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 30 years, or both.

(d) ANCILLARY OFFENSES.—Whoever, for the purpose of commercial advantage or private financial gain, arranges, induces, procures, or facilitates the travel of a person knowing that such a person is traveling in interstate commerce or foreign commerce for the purpose of engaging in illicit sexual conduct shall be fined under this title, imprisoned not more than 30 years, or both.

(e) ATTEMPT AND CONSPIRACY.—Whoever attempts or conspires to violate subsection (a), (b), (c), or (d) shall be punishable in the same manner as a completed violation of that subsection.

(f) DEFINITION.—As used in this section, the term ''illicit sexual conduct'' means (1) a sexual act (as defined in section 2246) with a person under 18 years of age that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States; or (2) any commercial sex act (as defined in section 1591) with a person under 18 years of age.

(g) DEFENSE.—In a prosecution under this section based on illicit sexual conduct as defined in subsection (f)(2), it is a defense, which the defendant must establish by a preponderance of the evidence, that the defendant reasonably believed that the person with whom the defendant engaged in the commercial sex act had attained the age of 18 years.

(June 25, 1948, ch. 645, 62 Stat. 812; Pub. L. 95–225, § 3(a), Feb. 6, 1978, 92 Stat. 8; Pub. L. 99–628, § 5(b)(1), Nov. 7, 1986, 100 Stat. 3511; Pub. L. 103–322, title XVI, § 160001(g), Sept. 13, 1994, 108 Stat. 2037; Pub. L. 104–71, § 5, Dec. 23, 1995, 109 Stat. 774; Pub. L. 104–294, title VI, §§ 601(b)(4), 604(b)(33), Oct. 11, 1996, 110 Stat. 3499, 3508; Pub. L. 105–314, title I, § 103, Oct. 30, 1998, 112 Stat. 2976; Pub. L. 107–273, div. B, title IV, § 4002(c)(1), Nov. 2, 2002, 116 Stat. 1808; Pub. L. 108–21, title I, §§ 103(a)(2)(C), (b)(2)(B), 105, Apr. 30, 2003, 117 Stat. 652, 653.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 400 (June 25, 1910, ch. 395, § 4, 36 Stat. 826).

Words ''deemed guilty of a felony'' were deleted as unnecessary in view of definition of felony in section 1 of this title. (See reviser's note under section 550 of this title.)

Words ''and on conviction thereof shall be'' were deleted as surplusage since punishment cannot be imposed until a conviction is secured.

Words ''Possession of the United States'' were inserted twice. (See reviser's note under section 2421 of this title.)

Minor changes were made in phraseology.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–21, § 105(b), struck out ''or attempts to do so,'' before ''shall be fined''.

Pub. L. 108–21, § 103(a)(2)(C), (b)(2)(B), substituted ''and imprisoned not less than 5 years and'' for '', imprisoned'' and ''30 years'' for ''15 years, or both''.

Subsec. (b) to (g). Pub. L. 108–21, § 105(a), added subsecs. (b) to (g) and struck out former subsec. (b) which read as follows:

''(b) TRAVEL WITH INTENT TO ENGAGE IN SEXUAL ACT WITH A JUVENILE.—A person who travels in interstate commerce, or conspires to do so, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, or conspires to do so, for the purpose of engaging in any sexual act (as defined in section 2246) with a person under 18 years of age that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States shall be fined under this title, imprisoned not more than 15 years, or both.''

2002—Subsec. (b). Pub. L. 107–273 repealed Pub. L. 104–294, § 601(b)(4). See 1996 Amendment note below.

1998—Subsec. (a). Pub. L. 105–314, § 103(1), added subsec. (a) and struck out former subsec. (a) which read as follows:

''(a) TRANSPORTATION WITH INTENT TO ENGAGE IN CRIMINAL SEXUAL ACTIVITY.—A person who knowingly transports any individual under the age of 18 years in interstate or foreign commerce, or in any Territory or Possession of the United States, with intent that such individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be fined under this title or imprisoned not more than ten years, or both.''

Subsec. (b). Pub. L. 105–314, § 103(2), substituted ''15 years'' for ''10 years''.

1996—Pub. L. 104–294, § 604(b)(33), amended directory language of Pub. L. 103–322, § 160001(g). See 1994 Amendment note below.

Subsec. (b). Pub. L. 104–294, § 601(b)(4), which made amendment identical to that made by Pub. L. 104–71, was repealed by Pub. L. 107–273. See 1995 Amendment note below.

1995—Subsec. (b). Pub. L. 104–71 substituted ''2246'' for ''2245''.

1994—Pub. L. 103–322, as amended by Pub. L. 104–294, § 604(b)(33), added subsec. (b) and substituted ''(a) TRANSPORTATION WITH INTENT TO ENGAGE IN CRIMINAL SEXUAL ACTIVITY.—A person who'' for ''Whoever''.

1986—Pub. L. 99–628 amended section generally, revising and restating as one paragraph provisions formerly contained in subsec. (a) and striking out subsec. (b) which provided definitions.

1978—Pub. L. 95–225 substituted ''Transportation of minors'' for ''Coercion or enticement of minor female'' in section catchline, designated existing provision as subsec. (a), substituted provisions relating to conduct prohibiting the transportation of minors for provisions relating to conduct prohibiting the coercion or enticement of a minor female, and added subsec. (b).

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–273, div. B, title IV, § 4002(c)(1), Nov. 2, 2002, 116 Stat. 1808, provided that the amendment made by section 4002(c)(1) is effective Oct. 11, 1996.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 604(b)(33) of Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

§ 2424. Filing factual statement about alien individual

(a) Whoever keeps, maintains, controls, supports, or harbors in any house or place for the purpose of prostitution, or for any other immoral purpose, any individual, knowing or in reckless disregard of the fact that the individual is an alien, shall file with the Commissioner of Immigration and Naturalization a statement in writing setting forth the name of such individual, the place at which that individual is kept, and all facts as to the date of that individual's entry into the United States, the port through which that individual entered, that individual's age, nationality, and parentage, and concerning that individual's procuration to come to this country within the knowledge of such person; and

Whoever fails within five business days after commencing to keep, maintain, control, support, or harbor in any house or place for the purpose of prostitution, or for any other immoral purpose, any alien individual to file such statement concerning such alien individual with the Commissioner of Immigration and Naturalization; or

Whoever knowingly and willfully states falsely or fails to disclose in such statement any fact within that person's knowledge or belief with reference to the age, nationality, or parentage of any such alien individual, or concerning that individual's procuration to come to this country—

Shall be fined under this title or imprisoned not more than 10 years, or both.

(b) In any prosecution brought under this section, if it appears that any such statement required is not on file in the office of the Commissioner of Immigration and Naturalization, the person whose duty it is to file such statement shall be presumed to have failed to file said statement, unless such person or persons shall prove otherwise. No person shall be excused from furnishing the statement, as required by this section, on the ground or for the reason that the statement so required by that person, or the information therein contained, might tend to criminate that person or subject that person to a penalty or forfeiture, but no information contained in the statement or any evidence which is directly or indirectly derived from such information may be used against any person making such statement in any criminal case, except a prosecution for perjury, giving a false statement or otherwise failing to comply with this section.

(June 25, 1948, ch. 645, 62 Stat. 813; Pub. L. 91–452, title II, § 226, Oct. 15, 1970, 84 Stat. 930; Pub. L. 99–628, § 5(c), Nov. 7, 1986, 100 Stat. 3511; Pub. L. 103–322, title XXXIII, § 330016(1)(I), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–208, div. C, title III, § 325, Sept. 30, 1996, 110 Stat. 3009–629.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 402(2), (3) (June 25, 1910, ch. 395, § 6, 36 Stat. 826).

First paragraph of section 402 of title 18, U.S.C., 1940 ed., was omitted from this section and recommended for transfer to Title 8, Aliens and Nationality.

Words ''shall be deemed guilty of a misdemeanor'' were omitted as unnecessary in view of the definition of a misdemeanor in section 1 of this title. (See reviser's note under section 212 of this title.)

Minor changes were made in phraseology.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–208, § 325(1), in first par. substituted ''individual, knowing or in reckless disregard of the fact that the individual is an alien'' for ''alien individual within three years after that individual has entered the United States from any country, party to the arrangement adopted July 25, 1902, for the suppression of the white-slave traffic'' and struck out ''alien'' after ''the name of such''.

Pub. L. 104–208, § 325(2), in second par. substituted ''five business'' for ''thirty'' and struck out ''within three years after that individual has entered the United States from any country, party to the said arrangement for the suppression of the white-slave traffic,'' after ''any alien individual''.

Pub. L. 104–208, § 325(3), substituted ''10'' for ''two'' in last par.

1994—Subsec. (a). Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $2,000'' in last par.

1986—Pub. L. 99–628, § 5(c)(1), substituted ''individual'' for ''female'' in section catchline.

Subsec. (a). Pub. L. 99–628, § 5(c)(2)–(4), (6), substituted ''individual'' for ''woman or girl'', ''that individual'' for ''she'', ''that individual's'' for ''her'', and ''that person's'' for ''his'' wherever appearing.

Subsec. (b). Pub. L. 99–628, § 5(c)(5), substituted ''that person'' for ''him'' wherever appearing.

1970—Subsec. (b). Pub. L. 91–452 substituted provisions that no information contained in the statement or any evidence directly or indirectly derived from such information be used against any person making such statement in any criminal case, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with this section, for provisions that no person be prosecuted or subjected to any penalty or forfeiture under any law of the United States for or on account of any transaction, etc., truthfully reported in his statement.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–452 effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as an Effective Date; Savings Provision note under section 6001 of this title.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

§ 2425. Use of interstate facilities to transmit information about a minor

Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, knowingly initiates the transmission of the name, address, telephone number, social security number, or electronic mail address of another individual, knowing that such other individual has not attained the age of 16 years, with the intent to entice, encourage, offer, or solicit any person to engage in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title, imprisoned not more than 5 years, or both.

(Added Pub. L. 105–314, title I, § 101(a), Oct. 30, 1998, 112 Stat. 2975.)

§ 2426. Repeat offenders

(a) MAXIMUM TERM OF IMPRISONMENT.—The maximum term of imprisonment for a violation of this chapter after a prior sex offense conviction shall be twice the term of imprisonment otherwise provided by this chapter, unless section 3559(e) applies.

(b) DEFINITIONS.—In this section—

(1) the term ''prior sex offense conviction'' means a conviction for an offense—

(A) under this chapter, chapter 109A, or chapter 110; or

(B) under State law for an offense consisting of conduct that would have been an offense under a chapter referred to in paragraph (1) if the conduct had occurred within the special maritime and territorial jurisdiction of the United States; and

(2) the term ''State'' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(Added Pub. L. 105–314, title I, § 104(a), Oct. 30, 1998, 112 Stat. 2976; amended Pub. L. 108–21, title I, § 106(b), Apr. 30, 2003, 117 Stat. 655.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–21 inserted '', unless section 3559(e) applies'' before period at end.

§ 2427. Inclusion of offenses relating to child pornography in definition of sexual activity for which any person can be charged with a criminal offense

In this chapter, the term ''sexual activity for which any person can be charged with a criminal offense'' includes the production of child pornography, as defined in section 2256(8).

(Added Pub. L. 105–314, title I, § 105(a), Oct. 30, 1998, 112 Stat. 2977.)

§ 2428. Forfeitures

(a) IN GENERAL.—The court, in imposing sentence on any person convicted of a violation of this chapter, shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that such person shall forfeit to the United States—

(1) such person's interest in any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of such violation; and

(2) any property, real or personal, constituting or derived from any proceeds that such person obtained, directly or indirectly, as a result of such violation.

(b) PROPERTY SUBJECT TO FORFEITURE.—

(1) IN GENERAL.—The following shall be subject to forfeiture to the United States and no property right shall exist in them:

(A) Any property, real or personal, used or intended to be used to commit or to facilitate the commission of any violation of this chapter.

(B) Any property, real or personal, that constitutes or is derived from proceeds traceable to any violation of this chapter.

(2) APPLICABILITY OF CHAPTER 46.—The provisions of chapter 46 of this title relating to civil forfeitures shall apply to any seizure or civil forfeiture under this subsection.

(Added Pub. L. 109–164, title I, § 103(d)(1), Jan. 10, 2006, 119 Stat. 3563.)

CHAPTER 118—WAR CRIMES

Sec.
2441. War crimes.

AMENDMENTS

1996—Pub. L. 104–294, title VI, § 605(p)(2), Oct. 11, 1996, 110 Stat. 3510, redesignated item 2401 as 2441.

§ 2441. War crimes

(a) OFFENSE.—Whoever, whether inside or outside the United States, commits a war crime, in any of the circumstances described in subsection (b), shall be fined under this title or imprisoned for life or any term of years, or both, and if death results to the victim, shall also be subject to the penalty of death.

(b) CIRCUMSTANCES.—The circumstances referred to in subsection (a) are that the person committing such war crime or the victim of such war crime is a member of the Armed Forces of the United States or a national of the United States (as defined in section 101 of the Immigration and Nationality Act).

(c) DEFINITION.—As used in this section the term ''war crime'' means any conduct—

(1) defined as a grave breach in any of the international conventions signed at Geneva 12 August 1949, or any protocol to such convention to which the United States is a party;

(2) prohibited by Article 23, 25, 27, or 28 of the Annex to the Hague Convention IV, Re-

specting the Laws and Customs of War on Land, signed 18 October 1907;

(3) which constitutes a violation of common Article 3 of the international conventions signed at Geneva, 12 August 1949, or any protocol to such convention to which the United States is a party and which deals with non-international armed conflict; or

(4) of a person who, in relation to an armed conflict and contrary to the provisions of the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended at Geneva on 3 May 1996 (Protocol II as amended on 3 May 1996), when the United States is a party to such Protocol, willfully kills or causes serious injury to civilians.

(Added Pub. L. 104–192, § 2(a), Aug. 21, 1996, 110 Stat. 2104, § 2401; renumbered § 2441, Pub. L. 104–294, title VI, § 605(p)(1), Oct. 11, 1996, 110 Stat. 3510; amended Pub. L. 105–118, title V, § 583, Nov. 26, 1997, 111 Stat. 2436; Pub. L. 107–273, div. B, title IV, § 4002(e)(7), Nov. 2, 2002, 116 Stat. 1810.)

REFERENCES IN TEXT

Section 101 of the Immigration and Nationality Act, referred to in subsec. (b), is classified to section 1101 of Title 8, Aliens and Nationality.

AMENDMENTS

2002—Subsecs. (a) to (c). Pub. L. 107–273 made technical correction to directory language of Pub. L. 105–118, § 583. See 1997 Amendment notes below.

1997—Subsec. (a). Pub. L. 105–118, § 583(1), as amended by Pub. L. 107–273, substituted ''war crime'' for ''grave breach of the Geneva Conventions''.

Subsec. (b). Pub. L. 105–118, § 583(2), as amended by Pub. L. 107–273, substituted ''war crime'' for ''breach'' in two places.

Subsec. (c). Pub. L. 105–118, § 583(3), as amended by Pub. L. 107–273, amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

''(c) DEFINITIONS.—As used in this section, the term 'grave breach of the Geneva Conventions' means conduct defined as a grave breach in any of the international conventions relating to the laws of warfare signed at Geneva 12 August 1949 or any protocol to any such convention, to which the United States is a party.''

1996—Pub. L. 104–294 renumbered section 2401 of this title as this section.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–273, div. B, title IV, § 4002(e)(7), Nov. 2, 2002, 116 Stat. 1810, provided that the amendment made by section 4002(e)(7) is effective Nov. 26, 1997.

SHORT TITLE

Section 1 of Pub. L. 104–192 provided that: ''This Act [enacting this chapter] may be cited as the 'War Crimes Act of 1996'.''

CHAPTER 119—WIRE AND ELECTRONIC COMMUNICATIONS INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS

Sec.
2510. Definitions.
2511. Interception and disclosure of wire, oral, or electronic communications prohibited.
2512. Manufacture, distribution, possession, and advertising of wire, oral, or electronic communication intercepting devices prohibited.
2513. Confiscation of wire, oral, or electronic communication intercepting devices.
[2514. Repealed.]
2515. Prohibition of use as evidence of intercepted wire or oral communications.
2516. Authorization for interception of wire, oral, or electronic communications.
2517. Authorization for disclosure and use of intercepted wire, oral, or electronic communications.
2518. Procedure for interception of wire, oral, or electronic communications.
2519. Reports concerning intercepted wire, oral, or electronic communications.
2520. Recovery of civil damages authorized.
2521. Injunction against illegal interception.
2522. Enforcement of the Communications Assistance for Law Enforcement Act.

AMENDMENTS

1994—Pub. L. 103–414, title II, § 201(b)(3), Oct. 25, 1994, 108 Stat. 4290, added item 2522.

1988—Pub. L. 100–690, title VII, § 7035, Nov. 18, 1988, 102 Stat. 4398, substituted ''wire, oral, or electronic'' for ''wire or oral'' in items 2511, 2512, 2513, 2516, 2517, 2518, and 2519.

1986—Pub. L. 99–508, title I, §§ 101(c)(2), 110(b), Oct. 21, 1986, 100 Stat. 1851, 1859, inserted ''AND ELECTRONIC COMMUNICATIONS'' in chapter heading and added item 2521.

1970—Pub. L. 91–452, title II, § 227(b), Oct. 15, 1970, 84 Stat. 930, struck out item 2514 ''Immunity of witnesses'', which section was repealed four years following the sixtieth day after Oct. 15, 1970.

1968—Pub. L. 90–351, title III, § 802, June 19, 1968, 82 Stat. 212, added chapter 119 and items 2510 to 2520.

§ 2510. Definitions

As used in this chapter—

(1) ''wire communication'' means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception (including the use of such connection in a switching station) furnished or operated by any person engaged in providing or operating such facilities for the transmission of interstate or foreign communications or communications affecting interstate or foreign commerce;

(2) ''oral communication'' means any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation, but such term does not include any electronic communication;

(3) ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

(4) ''intercept'' means the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device.[1]

(5) ''electronic, mechanical, or other device'' means any device or apparatus which can be used to intercept a wire, oral, or electronic communication other than—

(a) any telephone or telegraph instrument, equipment or facility, or any component

[1] So in original. The period probably should be a semicolon.

thereof, (i) furnished to the subscriber or user by a provider of wire or electronic communication service in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business or furnished by such subscriber or user for connection to the facilities of such service and used in the ordinary course of its business; or (ii) being used by a provider of wire or electronic communication service in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his duties;

(b) a hearing aid or similar device being used to correct subnormal hearing to not better than normal;

(6) ''person'' means any employee, or agent of the United States or any State or political subdivision thereof, and any individual, partnership, association, joint stock company, trust, or corporation;

(7) ''Investigative or law enforcement officer'' means any officer of the United States or of a State or political subdivision thereof, who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in this chapter, and any attorney authorized by law to prosecute or participate in the prosecution of such offenses;

(8) ''contents'', when used with respect to any wire, oral, or electronic communication, includes any information concerning the substance, purport, or meaning of that communication;

(9) ''Judge of competent jurisdiction'' means—

(a) a judge of a United States district court or a United States court of appeals; and

(b) a judge of any court of general criminal jurisdiction of a State who is authorized by a statute of that State to enter orders authorizing interceptions of wire, oral, or electronic communications;

(10) ''communication common carrier'' has the meaning given that term in section 3 of the Communications Act of 1934;

(11) ''aggrieved person'' means a person who was a party to any intercepted wire, oral, or electronic communication or a person against whom the interception was directed;

(12) ''electronic communication'' means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects interstate or foreign commerce, but does not include—

(A) any wire or oral communication;

(B) any communication made through a tone-only paging device;

(C) any communication from a tracking device (as defined in section 3117 of this title); or

(D) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds;

(13) ''user'' means any person or entity who—

(A) uses an electronic communication service; and

(B) is duly authorized by the provider of such service to engage in such use;

(14) ''electronic communications system'' means any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of wire or electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications;

(15) ''electronic communication service'' means any service which provides to users thereof the ability to send or receive wire or electronic communications;

(16) ''readily accessible to the general public'' means, with respect to a radio communication, that such communication is not—

(A) scrambled or encrypted;

(B) transmitted using modulation techniques whose essential parameters have been withheld from the public with the intention of preserving the privacy of such communication;

(C) carried on a subcarrier or other signal subsidiary to a radio transmission;

(D) transmitted over a communication system provided by a common carrier, unless the communication is a tone only paging system communication; or

(E) transmitted on frequencies allocated under part 25, subpart D, E, or F of part 74, or part 94 of the Rules of the Federal Communications Commission, unless, in the case of a communication transmitted on a frequency allocated under part 74 that is not exclusively allocated to broadcast auxiliary services, the communication is a two-way voice communication by radio;

(17) ''electronic storage'' means—

(A) any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and

(B) any storage of such communication by an electronic communication service for purposes of backup protection of such communication;

(18) ''aural transfer'' means a transfer containing the human voice at any point between and including the point of origin and the point of reception;

(19) ''foreign intelligence information'', for purposes of section 2517(6) of this title, means—

(A) information, whether or not concerning a United States person, that relates to the ability of the United States to protect against—

(i) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(ii) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

(iii) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

(B) information, whether or not concerning a United States person, with respect

to a foreign power or foreign territory that relates to—

(i) the national defense or the security of the United States; or

(ii) the conduct of the foreign affairs of the United States;

(20) ''protected computer'' has the meaning set forth in section 1030; and

(21) ''computer trespasser''—

(A) means a person who accesses a protected computer without authorization and thus has no reasonable expectation of privacy in any communication transmitted to, through, or from the protected computer; and

(B) does not include a person known by the owner or operator of the protected computer to have an existing contractual relationship with the owner or operator of the protected computer for access to all or part of the protected computer.

(Added Pub. L. 90–351, title III, § 802, June 19, 1968, 82 Stat. 212; amended Pub. L. 99–508, title I, § 101(a), (c)(1)(A), (4), Oct. 21, 1986, 100 Stat. 1848, 1851; Pub. L. 103–414, title II, §§ 202(a), 203, Oct. 25, 1994, 108 Stat. 4290, 4291; Pub. L. 104–132, title VII, § 731, Apr. 24, 1996, 110 Stat. 1303; Pub. L. 107–56, title II, §§ 203(b)(2), 209(1), 217(1), Oct. 26, 2001, 115 Stat. 280, 283, 290; Pub. L. 107–108, title III, § 314(b), Dec. 28, 2001, 115 Stat. 1402; Pub. L. 107–273, div. B, title IV, § 4002(e)(10), Nov. 2, 2002, 116 Stat. 1810.)

AMENDMENT OF SECTION

For termination of amendment by Pub. L. 107–56, see Termination Date of 2001 Amendment note below.

REFERENCES IN TEXT

Section 3 of the Communications Act of 1934, referred to in par. (10), is classified to section 153 of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

AMENDMENTS

2002—Par. (10). Pub. L. 107–273 substituted ''has the meaning given that term in section 3 of the Communications Act of 1934;'' for ''shall have the same meaning which is given the term 'common carrier' by section 153(h) of title 47 of the United States Code;''.

2001—Par. (1). Pub. L. 107–56, §§ 209(1)(A), 224, temporarily struck out ''and such term includes any electronic storage of such communication'' before semicolon at end. See Termination Date of 2001 Amendment note below.

Par. (14). Pub. L. 107–56, §§ 209(1)(B), 224, temporarily inserted ''wire or'' after ''transmission of''. See Termination Date of 2001 Amendment note below.

Par. (19). Pub. L. 107–108 inserted '', for purposes of section 2517(6) of this title,'' before ''means'' in introductory provisions.

Pub. L. 107–56, §§ 203(b)(2), 224, temporarily added par. (19). See Termination Date of 2001 Amendment note below.

Pars. (20), (21). Pub. L. 107–56, §§ 217(1), 224, temporarily added pars. (20) and (21). See Termination Date of 2001 Amendment note below.

1996—Par. (12)(D). Pub. L. 104–132, § 731(1), added subpar. (D).

Par. (16)(F). Pub. L. 104–132, § 731(2), struck out subpar. (F) which read as follows: ''an electronic communication;''.

1994—Par. (1). Pub. L. 103–414, § 202(a)(1), struck out before semicolon at end '', but such term does not include the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit''.

Par. (12). Pub. L. 103–414, § 202(a)(2), redesignated subpars. (B) to (D) as (A) to (C), respectively, and struck out former subpar. (A) which read as follows: ''the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit;''.

Par. (16)(F). Pub. L. 103–414, § 203, added subpar. (F).

1986—Par. (1). Pub. L. 99–508, § 101(a)(1), substituted ''any aural transfer'' for ''any communication'', inserted ''(including the use of such connection in a switching station)'' after ''reception'', struck out ''as a common carrier'' after ''person engaged'', and inserted ''or communications affecting interstate or foreign commerce and such term includes any electronic storage of such communication, but such term does not include the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit'' before the semicolon at end.

Par. (2). Pub. L. 99–508, § 101(a)(2), inserted '', but such term does not include any electronic communication'' before the semicolon at end.

Par. (4). Pub. L. 99–508, § 101(a)(3), inserted ''or other'' after ''aural'' and '', electronic,'' after ''wire''.

Par. (5). Pub. L. 99–508, § 101(a)(4), (c)(1)(A), (4), substituted ''wire, oral, or electronic'' for ''wire or oral'' in introductory provisions, substituted ''provider of wire or electronic communication service'' for ''communications common carrier'' in subpars. (a)(i) and (ii), and inserted ''or furnished by such subscriber or user for connection to the facilities of such service and used in the ordinary course of its business'' before the semicolon in subpar. (a)(i).

Par. (8). Pub. L. 99–508, § 101(a)(5), (c)(1)(A), substituted ''wire, oral, or electronic'' for ''wire or oral'' and struck out ''identity of the parties to such communication or the existence,'' after ''concerning the''.

Pars. (9)(b), (11). Pub. L. 99–508, § 101(c)(1)(A), substituted ''wire, oral, or electronic'' for ''wire or oral''.

Pars. (12) to (18). Pub. L. 99–508, § 101(a)(6), added pars. (12) to (18).

TERMINATION DATE OF 2001 AMENDMENT

Pub. L. 107–56, title II, § 224, Oct. 26, 2001, 115 Stat. 295, as amended by Pub. L. 109–160, § 1, Dec. 30, 2005, 119 Stat. 2957, provided that:

''(a) IN GENERAL.—Except as provided in subsection (b), this title [enacting section 2712 of this title, section 7210 of Title 22, Foreign Relations and Intercourse, and sections 403–5d, 1861, and 1862 of Title 50, War and National Defense, amending this section, sections 2511, 2516, 2517, 2520, 2702, 2703, 2707, 2711, 3103a, 3121, 3123, 3124, and 3127 of this title, sections 7203 and 7205 of Title 22, section 551 of Title 47, Telegraphs, Telephones, and Radiotelegraphs, sections 1803 to 1805, 1823, 1824, 1842, and 1843 of Title 50, and Rules 6 and 41 of the Federal Rules of Criminal Procedure, repealing sections 1861 to 1863 of Title 50, and enacting provisions set out as notes under sections 2517, and 3124 of this title and section 532 of Title 28, Judiciary and Judicial Procedure] and the amendments made by this title (other than sections 203(a), 203(c), 205, 208, 210, 211, 213, 216, 219, 221, and 222 [amending sections 2703, 3103a, 3121, 3123, 3124, 3127 of this title, sections 7203 and 7205 of Title 22, section 551 of Title 47, section 1803 of Title 50, and Rules 6 and 41 of the Federal Rules of Criminal Procedure], and the amendments made by those sections) shall cease to have effect on February 3, 2006.

''(b) EXCEPTION.—With respect to any particular foreign intelligence investigation that began before the date on which the provisions referred to in subsection (a) cease to have effect, or with respect to any particular offense or potential offense that began or occurred before the date on which such provisions cease to have effect, such provisions shall continue in effect.''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 111 of title I of Pub. L. 99–508 provided that:

''(a) IN GENERAL.—Except as provided in subsection (b) or (c), this title and the amendments made by this title [enacting sections 2521 and 3117 of this title, amending this section and sections 2232, 2511 to 2513, and 2516 to 2520 of this title, and enacting provisions set out as notes under this section] shall take effect 90 days after the date of the enactment of this Act [Oct. 21, 1986] and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this title takes effect.

''(b) SPECIAL RULE FOR STATE AUTHORIZATIONS OF INTERCEPTIONS.—Any interception pursuant to section 2516(2) of title 18 of the United States Code which would be valid and lawful without regard to the amendments made by this title shall be valid and lawful notwithstanding such amendments if such interception occurs during the period beginning on the date such amendments take effect and ending on the earlier of—

''(1) the day before the date of the taking effect of State law conforming the applicable State statute with chapter 119 of title 18, United States Code, as so amended; or

''(2) the date two years after the date of the enactment of this Act [Oct. 21, 1986].

''(c) EFFECTIVE DATE FOR CERTAIN APPROVALS BY JUSTICE DEPARTMENT OFFICIALS.—Section 104 of this Act [amending section 2516 of this title] shall take effect on the date of enactment of this Act [Oct. 21, 1986].''

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–112, § 1, Nov. 21, 1997, 111 Stat. 2273, provided that: ''This Act [amending section 2512 of this title] may be cited as the 'Law Enforcement Technology Advertisement Clarification Act of 1997'.''

SHORT TITLE OF 1986 AMENDMENT

Section 1 of Pub. L. 99–508 provided that: ''This Act [enacting sections 1367, 2521, 2701 to 2710, 3117, and 3121 to 3126 of this title, amending sections 2232, 2511 to 2513, and 2516 to 2520 of this title, and enacting provisions set out as notes under this section and sections 2701 and 3121 of this title] may be cited as the 'Electronic Communications Privacy Act of 1986'.''

INTELLIGENCE ACTIVITIES

Section 107 of Pub. L. 99–508 provided that:

''(a) IN GENERAL.—Nothing in this Act or the amendments made by this Act [see Short Title of 1986 Amendment note above] constitutes authority for the conduct of any intelligence activity.

''(b) CERTAIN ACTIVITIES UNDER PROCEDURES APPROVED BY THE ATTORNEY GENERAL.—Nothing in chapter 119 or chapter 121 of title 18, United States Code, shall affect the conduct, by officers or employees of the United States Government in accordance with other applicable Federal law, under procedures approved by the Attorney General of activities intended to—

''(1) intercept encrypted or other official communications of United States executive branch entities or United States Government contractors for communications security purposes;

''(2) intercept radio communications transmitted between or among foreign powers or agents of a foreign power as defined by the Foreign Intelligence Surveillance Act of 1978 [50 U.S.C. 1801 et seq.]; or

''(3) access an electronic communication system used exclusively by a foreign power or agent of a foreign power as defined by the Foreign Intelligence Surveillance Act of 1978.''

CONGRESSIONAL FINDINGS

Section 801 of Pub. L. 90–351 provided that: ''On the basis of its own investigations and of published studies, the Congress makes the following findings:

''(a) Wire communications are normally conducted through the use of facilities which form part of an interstate network. The same facilities are used for interstate and intrastate communications. There has been extensive wiretapping carried on without legal sanctions, and without the consent of any of the parties to the conversation. Electronic, mechanical, and other intercepting devices are being used to overhear oral conversations made in private, without the consent of any of the parties to such communications. The contents of these communications and evidence derived therefrom are being used by public and private parties as evidence in court and administrative proceedings, and by persons whose activities affect interstate commerce. The possession, manufacture, distribution, advertising, and use of these devices are facilitated by interstate commerce.

''(b) In order to protect effectively the privacy of wire and oral communications, to protect the integrity of court and administrative proceedings, and to prevent the obstruction of interstate commerce, it is necessary for Congress to define on a uniform basis the circumstances and conditions under which the interception of wire and oral communications may be authorized, to prohibit any unauthorized interception of such communications, and the use of the contents thereof in evidence in courts and administrative proceedings.

''(c) Organized criminals make extensive use of wire and oral communications in their criminal activities. The interception of such communications to obtain evidence of the commission of crimes or to prevent their commission is an indispensable aid to law enforcement and the administration of justice.

''(d) To safeguard the privacy of innocent persons, the interception of wire or oral communications where none of the parties to the communication has consented to the interception should be allowed only when authorized by a court of competent jurisdiction and should remain under the control and supervision of the authorizing court. Interception of wire and oral communications should further be limited to certain major types of offenses and specific categories of crime with assurances that the interception is justified and that the information obtained thereby will not be misused.''

NATIONAL COMMISSION FOR THE REVIEW OF FEDERAL AND STATE LAWS RELATING TO WIRETAPPING AND ELECTRONIC SURVEILLANCE

Section 804 of Pub. L. 90–351, as amended by Pub. L. 91–452, title XII, § 1212, Oct. 15, 1970, 84 Stat. 961; Pub. L. 91–644, title VI, § 20, Jan. 2, 1971, 84 Stat. 1892; Pub. L. 93–609, §§ 1–4, Jan. 2, 1975, 88 Stat. 1972, 1973; Pub. L. 94–176, Dec. 23, 1975, 89 Stat. 1031, established a National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance, provided for its membership, Chairman, powers and functions, compensation and allowances, required the Commission to study and review the operation of the provisions of this chapter to determine their effectiveness and to submit interim reports and a final report to the President and to the Congress of its findings and recommendations on or before Apr. 30, 1976, and also provided for its termination sixty days after submission of the final report.

§ 2511. Interception and disclosure of wire, oral, or electronic communications prohibited

(1) Except as otherwise specifically provided in this chapter any person who—

(a) intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire, oral, or electronic communication;

(b) intentionally uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when—

(i) such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication; or

(ii) such device transmits communications by radio, or interferes with the transmission of such communication; or

(iii) such person knows, or has reason to know, that such device or any component thereof has been sent through the mail or transported in interstate or foreign commerce; or

(iv) such use or endeavor to use (A) takes place on the premises of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or (B) obtains or is for the purpose of obtaining information relating to the operations of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or

(v) such person acts in the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;

(c) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection;

(d) intentionally uses, or endeavors to use, the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection; or

(e)(i) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by sections 2511(2)(a)(ii), 2511(2)(b)–(c), 2511(2)(e), 2516, and 2518 of this chapter, (ii) knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, (iii) having obtained or received the information in connection with a criminal investigation, and (iv) with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation,

shall be punished as provided in subsection (4) or shall be subject to suit as provided in subsection (5).

(2)(a)(i) It shall not be unlawful under this chapter for an operator of a switchboard, or an officer, employee, or agent of a provider of wire or electronic communication service, whose facilities are used in the transmission of a wire or electronic communication, to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is a necessary incident to the rendition of his service or to the protection of the rights or property of the provider of that service, except that a provider of wire communication service to the public shall not utilize service observing or random monitoring except for mechanical or service quality control checks.

(ii) Notwithstanding any other law, providers of wire or electronic communication service, their officers, employees, and agents, landlords, custodians, or other persons, are authorized to provide information, facilities, or technical assistance to persons authorized by law to intercept wire, oral, or electronic communications or to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, if such provider, its officers, employees, or agents, landlord, custodian, or other specified person, has been provided with—

(A) a court order directing such assistance signed by the authorizing judge, or

(B) a certification in writing by a person specified in section 2518(7) of this title or the Attorney General of the United States that no warrant or court order is required by law, that all statutory requirements have been met, and that the specified assistance is required,

setting forth the period of time during which the provision of the information, facilities, or technical assistance is authorized and specifying the information, facilities, or technical assistance required. No provider of wire or electronic communication service, officer, employee, or agent thereof, or landlord, custodian, or other specified person shall disclose the existence of any interception or surveillance or the device used to accomplish the interception or surveillance with respect to which the person has been furnished a court order or certification under this chapter, except as may otherwise be required by legal process and then only after prior notification to the Attorney General or to the principal prosecuting attorney of a State or any political subdivision of a State, as may be appropriate. Any such disclosure, shall render such person liable for the civil damages provided for in section 2520. No cause of action shall lie in any court against any provider of wire or electronic communication service, its officers, employees, or agents, landlord, custodian, or other specified person for providing information, facilities, or assistance in accordance with the terms of a court order, statutory authorization, or certification under this chapter.

(b) It shall not be unlawful under this chapter for an officer, employee, or agent of the Federal Communications Commission, in the normal course of his employment and in discharge of the monitoring responsibilities exercised by the Commission in the enforcement of chapter 5 of title 47 of the United States Code, to intercept a wire or electronic communication, or oral communication transmitted by radio, or to disclose or use the information thereby obtained.

(c) It shall not be unlawful under this chapter for a person acting under color of law to intercept a wire, oral, or electronic communication, where such person is a party to the communication or one of the parties to the communication has given prior consent to such interception.

(d) It shall not be unlawful under this chapter for a person not acting under color of law to intercept a wire, oral, or electronic communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any State.

(e) Notwithstanding any other provision of this title or section 705 or 706 of the Communications Act of 1934, it shall not be unlawful for an officer, employee, or agent of the United States in the normal course of his official duty to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, as authorized by that Act.

(f) Nothing contained in this chapter or chapter 121 or 206 of this title, or section 705 of the Communications Act of 1934, shall be deemed to affect the acquisition by the United States Government of foreign intelligence information from international or foreign communications, or foreign intelligence activities conducted in accordance with otherwise applicable Federal law involving a foreign electronic communications system, utilizing a means other than electronic surveillance as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, and procedures in this chapter or chapter 121 and the Foreign Intelligence Surveillance Act of 1978 shall be the exclusive means by which electronic surveillance, as defined in section 101 of such Act, and the interception of domestic wire, oral, and electronic communications may be conducted.

(g) It shall not be unlawful under this chapter or chapter 121 of this title for any person—

(i) to intercept or access an electronic communication made through an electronic communication system that is configured so that such electronic communication is readily accessible to the general public;

(ii) to intercept any radio communication which is transmitted—

(I) by any station for the use of the general public, or that relates to ships, aircraft, vehicles, or persons in distress;

(II) by any governmental, law enforcement, civil defense, private land mobile, or public safety communications system, including police and fire, readily accessible to the general public;

(III) by a station operating on an authorized frequency within the bands allocated to the amateur, citizens band, or general mobile radio services; or

(IV) by any marine or aeronautical communications system;

(iii) to engage in any conduct which—

(I) is prohibited by section 633 of the Communications Act of 1934; or

(II) is excepted from the application of section 705(a) of the Communications Act of 1934 by section 705(b) of that Act;

(iv) to intercept any wire or electronic communication the transmission of which is causing harmful interference to any lawfully operating station or consumer electronic equipment, to the extent necessary to identify the source of such interference; or

(v) for other users of the same frequency to intercept any radio communication made through a system that utilizes frequencies monitored by individuals engaged in the provision or the use of such system, if such communication is not scrambled or encrypted.

(h) It shall not be unlawful under this chapter—

(i) to use a pen register or a trap and trace device (as those terms are defined for the purposes of chapter 206 (relating to pen registers and trap and trace devices) of this title); or

(ii) for a provider of electronic communication service to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire or electronic communication, or a user of that service, from fraudulent, unlawful or abusive use of such service.

(i) It shall not be unlawful under this chapter for a person acting under color of law to intercept the wire or electronic communications of a computer trespasser transmitted to, through, or from the protected computer, if—

(I) the owner or operator of the protected computer authorizes the interception of the computer trespasser's communications on the protected computer;

(II) the person acting under color of law is lawfully engaged in an investigation;

(III) the person acting under color of law has reasonable grounds to believe that the contents of the computer trespasser's communications will be relevant to the investigation; and

(IV) such interception does not acquire communications other than those transmitted to or from the computer trespasser.

(3)(a) Except as provided in paragraph (b) of this subsection, a person or entity providing an electronic communication service to the public shall not intentionally divulge the contents of any communication (other than one to such person or entity, or an agent thereof) while in transmission on that service to any person or entity other than an addressee or intended recipient of such communication or an agent of such addressee or intended recipient.

(b) A person or entity providing electronic communication service to the public may divulge the contents of any such communication—

(i) as otherwise authorized in section 2511(2)(a) or 2517 of this title;

(ii) with the lawful consent of the originator or any addressee or intended recipient of such communication;

(iii) to a person employed or authorized, or whose facilities are used, to forward such communication to its destination; or

(iv) which were inadvertently obtained by the service provider and which appear to pertain to the commission of a crime, if such divulgence is made to a law enforcement agency.

(4)(a) Except as provided in paragraph (b) of this subsection or in subsection (5), whoever violates subsection (1) of this section shall be fined under this title or imprisoned not more than five years, or both.

(b) Conduct otherwise an offense under this subsection that consists of or relates to the interception of a satellite transmission that is not encrypted or scrambled and that is transmitted—

(i) to a broadcasting station for purposes of retransmission to the general public; or

(ii) as an audio subcarrier intended for redistribution to facilities open to the public, but not including data transmissions or telephone calls,

is not an offense under this subsection unless the conduct is for the purposes of direct or indirect commercial advantage or private financial gain.

(5)(a)(i) If the communication is—

(A) a private satellite video communication that is not scrambled or encrypted and the conduct in violation of this chapter is the private viewing of that communication and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain; or

(B) a radio communication that is transmitted on frequencies allocated under subpart D of part 74 of the rules of the Federal Communications Commission that is not scrambled or encrypted and the conduct in violation of this chapter is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain,

then the person who engages in such conduct shall be subject to suit by the Federal Government in a court of competent jurisdiction.

(ii) In an action under this subsection—

(A) if the violation of this chapter is a first offense for the person under paragraph (a) of subsection (4) and such person has not been found liable in a civil action under section 2520 of this title, the Federal Government shall be entitled to appropriate injunctive relief; and

(B) if the violation of this chapter is a second or subsequent offense under paragraph (a) of subsection (4) or such person has been found liable in any prior civil action under section 2520, the person shall be subject to a mandatory $500 civil fine.

(b) The court may use any means within its authority to enforce an injunction issued under paragraph (ii)(A), and shall impose a civil fine of not less than $500 for each violation of such an injunction.

(Added Pub. L. 90–351, title III, § 802, June 19, 1968, 82 Stat. 213; amended Pub. L. 91–358, title II, § 211(a), July 29, 1970, 84 Stat. 654; Pub. L. 95–511, title II, § 201(a)–(c), Oct. 25, 1978, 92 Stat. 1796, 1797; Pub. L. 98–549, § 6(b)(2), Oct. 30, 1984, 98 Stat. 2804; Pub. L. 99–508, title I, §§ 101(b), (c)(1), (5), (6), (d), (f)[(1)], 102, Oct. 21, 1986, 100 Stat. 1849, 1851–1853; Pub. L. 103–322, title XXXII, § 320901, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2123, 2147; Pub. L. 103–414, title II, §§ 202(b), 204, 205, Oct. 25, 1994, 108 Stat. 4290, 4291; Pub. L. 104–294, title VI, § 604(b)(42), Oct. 11, 1996, 110 Stat. 3509; Pub. L. 107–56, title II, §§ 204, 217(2), Oct. 26, 2001, 115 Stat. 281, 291; Pub. L. 107–296, title II, § 225(h)(2), (j)(1), Nov. 25, 2002, 116 Stat. 2158.)

AMENDMENT OF SECTION

For termination of amendment by Pub. L. 107–56, see Termination Date of 2001 Amendment note below.

REFERENCES IN TEXT

The Foreign Intelligence Surveillance Act of 1978, referred to in par. (2)(e), (f), is Pub. L. 95–511, Oct. 25, 1978, 92 Stat. 1783, which is classified principally to chapter 36 (§ 1801 et seq.) of Title 50, War and National Defense. Section 101 of the Foreign Intelligence Surveillance Act of 1978, referred to in par. (2)(a)(ii), (e), and (f), is classified to section 1801 of Title 50. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 50 and Tables.

Sections 633, 705, and 706 of the Communications Act of 1934, referred to in par. (2)(e), (f), (g)(iii), are classified to sections 553, 605, and 606 of Title 47, Telegraphs, Telephones, and Radiotelegraphs, respectively.

AMENDMENTS

2002—Par. (2)(a)(ii). Pub. L. 107–296, § 225(h)(2), inserted ‘‘, statutory authorization,’’ after ‘‘terms of a court order’’ in concluding provisions.

Par. (4)(b), (c). Pub. L. 107–296, § 225(j)(1), redesignated subpar. (c) as (b) and struck out former subpar. (b) which read as follows: ‘‘If the offense is a first offense under paragraph (a) of this subsection and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain, and the wire or electronic communication with respect to which the offense under paragraph (a) is a radio communication that is not scrambled, encrypted, or transmitted using modulation techniques the essential parameters of which have been withheld from the public with the intention of preserving the privacy of such communication, then—

‘‘(i) if the communication is not the radio portion of a cellular telephone communication, a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit, a public land mobile radio service communication or a paging service communication, and the conduct is not that described in subsection (5), the offender shall be fined under this title or imprisoned not more than one year, or both; and

‘‘(ii) if the communication is the radio portion of a cellular telephone communication, a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit, a public land mobile radio service communication or a paging service communication, the offender shall be fined under this title.’’

2001—Par. (2)(f). Pub. L. 107–56, §§ 204, 224, temporarily substituted ‘‘this chapter or chapter 121 or 206 of this title, or section 705 of the Communications Act of 1934’’ for ‘‘this chapter or chapter 121, or section 705 of the Communications Act of 1934’’ and ‘‘wire, oral, and electronic communications’’ for ‘‘wire and oral communications’’. See Termination Date of 2001 Amendment note below.

Par. (2)(i). Pub. L. 107–56, §§ 217(2), 224, temporarily added subpar. (i). See Termination Date of 2001 Amendment note below.

1996—Par. (1)(e)(i). Pub. L. 104–294 substituted ‘‘sections 2511(2)(a)(ii), 2511(2)(b)–(c), 2511(2)(e), 2516, and 2518 of this chapter’’ for ‘‘sections 2511(2)(A)(ii), 2511(b)–(c), 2511(e), 2516, and 2518 of this subchapter’’.

1994—Par. (1)(e). Pub. L. 103–322, § 320901, added par. (1)(e).

Par. (2)(a)(i). Pub. L. 103–414, § 205, inserted ‘‘or electronic’’ after ‘‘transmission of a wire’’.

Par. (4)(b). Pub. L. 103–414, § 204, in introductory provisions substituted ‘‘, encrypted, or transmitted using modulation techniques the essential parameters of which have been withheld from the public with the intention of preserving the privacy of such communication, then’’ for ‘‘or encrypted, then’’.

Par. (4)(b)(i). Pub. L. 103–414, § 202(b)(1), inserted ‘‘a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit,’’ after ‘‘cellular telephone communication,’’.

Par. (4)(b)(ii). Pub. L. 103–414, § 202(b)(2), inserted ‘‘a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit,’’ after ‘‘cellular telephone communication,’’.

Pub. L. 103–322, § 330016(1)(G), substituted ‘‘fined under this title’’ for ‘‘fined not more than $500’’.

1986—Pub. L. 99–508, § 101(c)(1)(A), substituted ‘‘wire, oral, or electronic’’ for ‘‘wire or oral’’ in section catchline.

Par. (1). Pub. L. 99–508, § 101(c)(1)(A), (d)(1), (f)[(1)], substituted ''intentionally'' for ''willfully'' in subpars. (a) to (d) and ''wire, oral, or electronic' for ''wire or oral'' wherever appearing in subpars. (a), (c), and (d), and in concluding provisions substituted ''shall be punished as provided in subsection (4) or shall be subject to suit as provided in subsection (5)'' for ''shall be fined not more than $10,000 or imprisoned not more than five years, or both''.

Par. (2)(a)(i). Pub. L. 99–508, § 101(c)(5), substituted ''a provider of wire or electronic communication service'' for ''any communication common carrier'' and ''of the provider of that service, except that a provider of wire communication service to the public'' for ''of the carrier of such communication: *Provided*, That said communication common carriers''.

Par. (2)(a)(ii). Pub. L. 99–508, § 101(b)(1), (c)(1)(A), (6), substituted ''providers of wire or electronic communication service'' for ''communication common carriers'', ''wire, oral, or electronic'' for ''wire or oral'', ''if such provider'' for ''if the common carrier'', ''provider of wire or electronic communication service'' for ''communication common carrier'' wherever appearing, ''such disclosure'' for ''violation of this subparagraph by a communication common carrier or an officer, employee, or agent thereof'', ''render such person liable'' for ''render the carrier liable'', and ''a court order or certification under this chapter'' for ''an order or certification under this subparagraph'' in two places.

Par. (2)(b). Pub. L. 99–508, § 101(c)(1)(B), inserted ''or electronic'' after ''wire''.

Par. (2)(c). Pub. L. 99–508, § 101(c)(1)(A), substituted ''wire, oral, or electronic'' for ''wire or oral''.

Par. (2)(d). Pub. L. 99–508, § 101(b)(2), (c)(1)(A), substituted ''wire, oral, or electronic'' for ''wire or oral'' and struck out ''or for the purpose of committing any other injurious act'' after ''of any State''.

Par. (2)(f). Pub. L. 99–508, § 101(b)(3), inserted ''or chapter 121'' in two places and substituted ''foreign communications, or foreign intelligence activities conducted in accordance with otherwise applicable Federal law involving a foreign electronic communications system, utilizing a means'' for ''foreign communications by a means''.

Par. (2)(g), (h). Pub. L. 99–508, § 101(b)(4), added subpars. (g) and (h).

Par. (3). Pub. L. 99–508, § 102, added par. (3).

Pars. (4), (5). Pub. L. 99–508, § 101(d)(2), added pars. (4) and (5).

1984—Par. (2)(e). Pub. L. 98–549, § 6(b)(2)(A), substituted ''section 705 or 706'' for ''section 605 or 606''.

Par. (2)(f). Pub. L. 98–549, § 6(b)(2)(B), substituted ''section 705'' for ''section 605''.

1978—Par. (2)(a)(ii). Pub. L. 95–511, § 201(a), substituted provisions authorizing communication common carriers etc., to provide information to designated persons, prohibiting disclosure of intercepted information, and rendering violators civilly liable for provision exempting communication common carriers from criminality for giving information to designated officers.

Par. (2)(e), (f). Pub. L. 95–511, § 201(b), added par. (2)(e) and (f).

Par. (3). Pub. L. 95–511, § 201(c), struck out par. (3) which provided that nothing in this chapter or section 605 of title 47 limited the President's constitutional power to gather necessary intelligence to protect the national security and stated the conditions necessary for the reception into evidence and disclosure of communications intercepted by the President.

1970—Par. (2)(a). Pub. L. 91–358 designated existing provisions as cl. (i) and added cl. (ii).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

TERMINATION DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–56 to cease to have effect Feb. 3, 2006, except amendment to continue in effect with respect to any particular foreign intelligence investigation that began before Feb. 3, 2006, or with respect to any particular offense or potential offense that began or occurred before Feb. 3, 2006, see section 224 of Pub. L. 107–56, set out as a note under section 2510 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

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.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–549 effective 60 days after Oct. 30, 1984, see section 9(a) of Pub. L. 98–549, set out as an Effective Date note under section 521 of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–511 effective Oct. 25, 1978, except as specifically provided, see section 401 of Pub. L. 95–511, set out as an Effective Date note under section 1801 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–358 effective on first day of seventh calendar month which begins after July 29, 1970, see section 901(a) of Pub. L. 91–358.

§ 2512. Manufacture, distribution, possession, and advertising of wire, oral, or electronic communication intercepting devices prohibited

(1) Except as otherwise specifically provided in this chapter, any person who intentionally—

(a) sends through the mail, or sends or carries in interstate or foreign commerce, any electronic, mechanical, or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire, oral, or electronic communications;

(b) manufactures, assembles, possesses, or sells any electronic, mechanical, or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire, oral, or electronic communications, and that such device or any component thereof has been or will be sent through the mail or transported in interstate or foreign commerce; or

(c) places in any newspaper, magazine, handbill, or other publication or disseminates by electronic means any advertisement of—

(i) any electronic, mechanical, or other device knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire, oral, or electronic communications; or

(ii) any other electronic, mechanical, or other device, where such advertisement promotes the use of such device for the purpose of the surreptitious interception of wire, oral, or electronic communications,

knowing the content of the advertisement and knowing or having reason to know that such advertisement will be sent through the mail or transported in interstate or foreign commerce,

shall be fined under this title or imprisoned not more than five years, or both.

(2) It shall not be unlawful under this section for—

(a) a provider of wire or electronic communication service or an officer, agent, or employee of, or a person under contract with, such a provider, in the normal course of the business of providing that wire or electronic communication service, or

(b) an officer, agent, or employee of, or a person under contract with, the United States, a State, or a political subdivision thereof, in the normal course of the activities of the United States, a State, or a political subdivision thereof,

to send through the mail, send or carry in interstate or foreign commerce, or manufacture, assemble, possess, or sell any electronic, mechanical, or other device knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire, oral, or electronic communications.

(3) It shall not be unlawful under this section to advertise for sale a device described in subsection (1) of this section if the advertisement is mailed, sent, or carried in interstate or foreign commerce solely to a domestic provider of wire or electronic communication service or to an agency of the United States, a State, or a political subdivision thereof which is duly authorized to use such device.

(Added Pub. L. 90–351, title III, § 802, June 19, 1968, 82 Stat. 214; amended Pub. L. 99–508, title I, § 101(c)(1)(A), (7), (f)(2), Oct. 21, 1986, 100 Stat. 1851, 1853; Pub. L. 103–322, title XXXIII, §§ 330016(1)(L), 330022, Sept. 13, 1994, 108 Stat. 2147, 2150; Pub. L. 104–294, title VI, § 604(b)(45), Oct. 11, 1996, 110 Stat. 3509; Pub. L. 105–112, § 2, Nov. 21, 1997, 111 Stat. 2273; Pub. L. 107–296, title II, § 225(f), Nov. 25, 2002, 116 Stat. 2158.)

AMENDMENTS

2002—Par. (1)(c). Pub. L. 107–296, in introductory provisions, inserted ''or disseminates by electronic means'' after ''or other publication'' and, in concluding provisions, inserted ''knowing the content of the advertisement and'' before ''knowing or having reason to know''.

1997—Par. (3). Pub. L. 105–112 added par. (3).

1996—Par. (2). Pub. L. 104–294 amended directory language of Pub. L. 103–322, § 330022. See 1994 Amendment note below.

1994—Par. (1). Pub. L. 103–322, § 330016(1)(L), substituted ''fined under this title'' for ''fined not more than $10,000'' in concluding provisions.

Par. (2). Pub. L. 103–322, § 330022, as amended by Pub. L. 104–294, realigned margins of concluding provisions.

1986—Pub. L. 99–508, § 101(c)(1)(A), substituted ''wire, oral, or electronic'' for ''wire or oral'' in section catchline.

Par. (1). Pub. L. 99–508, § 101(c)(1)(A), (f)(2), substituted ''intentionally'' for ''willfully'' in introductory provision and ''wire, oral, or electronic'' for ''wire or oral'' in subpars. (a), (b), and (c)(i), (ii).

Par. (2)(a). Pub. L. 99–508, § 101(c)(7), substituted ''a provider of wire or electronic communication service or'' for ''a communications common carrier or'', ''such a provider, in'' for ''a communications common carrier, in'', and ''business of providing that wire or electronic communication service'' for ''communications common carrier's business''.

Par. (2)(b). Pub. L. 99–508, § 101(c)(1)(A), substituted ''wire, oral, or electronic'' for ''wire or oral''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

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.

§ 2513. Confiscation of wire, oral, or electronic communication intercepting devices

Any electronic, mechanical, or other device used, sent, carried, manufactured, assembled, possessed, sold, or advertised in violation of section 2511 or section 2512 of this chapter may be seized and forfeited to the United States. All provisions of law relating to (1) the seizure, summary and judicial forfeiture, and condemnation of vessels, vehicles, merchandise, and baggage for violations of the customs laws contained in title 19 of the United States Code, (2) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from the sale thereof, (3) the remission or mitigation of such forfeiture, (4) the compromise of claims, and (5) the award of compensation to informers in respect of such forfeitures, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions of this section; except that such duties as are imposed upon the collector of customs or any other person with respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the provisions of the customs laws contained in title 19 of the United States Code shall be performed with respect to seizure and forfeiture of electronic, mechanical, or other intercepting devices under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General.

(Added Pub. L. 90–351, title III, § 802, June 19, 1968, 82 Stat. 215; amended Pub. L. 99–508, title I, § 101(c)(1)(A), Oct. 21, 1986, 100 Stat. 1851.)

AMENDMENTS

1986—Pub. L. 99–508 substituted ''wire, oral, or electronic'' for ''wire or oral'' in section catchline.

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.

[§ 2514. Repealed. Pub. L. 91–452, title II, § 227(a), Oct. 15, 1970, 84 Stat. 930]

Section, Pub. L. 90–351, title II, § 802, June 19, 1968, 82 Stat. 216, provided for immunity of witnesses giving testimony or producing evidence under compulsion in Federal grand jury or court proceedings. Subject matter is covered in sections 6002 and 6003 of this title.

EFFECTIVE DATE OF REPEAL

Sections 227(a) and 260 of Pub. L. 91–452 provided for repeal of this section effective four years following sixtieth day after date of enactment of Pub. L. 91–452, which was approved Oct. 15, 1970, such repeal not affecting any immunity to which any individual was entitled under this section by reason of any testimony or other information given before such date. See section 260 of Pub. L. 91–452, set out as an Effective Date; Savings Provision note under section 6001 of this title.

§ 2515. Prohibition of use as evidence of intercepted wire or oral communications

Whenever any wire or oral communication has been intercepted, no part of the contents of such communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a State, or a political subdivision thereof if the disclosure of that information would be in violation of this chapter.

(Added Pub. L. 90–351, title III, § 802, June 19, 1968, 82 Stat. 216.)

§ 2516. Authorization for interception of wire, oral, or electronic communications

(1) The Attorney General, Deputy Attorney General, Associate Attorney General,[1] or any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General or acting Deputy Assistant Attorney General in the Criminal Division specially designated by the Attorney General, may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant in conformity with section 2518 of this chapter an order authorizing or approving the interception of wire or oral communications by the Federal Bureau of Investigation, or a Federal agency having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of—

(a) any offense punishable by death or by imprisonment for more than one year under sections 2122 and 2274 through 2277 of title 42 of the United States Code (relating to the enforcement of the Atomic Energy Act of 1954), section 2284 of title 42 of the United States Code (relating to sabotage of nuclear facilities or fuel), or under the following chapters of this title: chapter 37 (relating to espionage), chapter 55 (relating to kidnapping), chapter 90 (relating to protection of trade secrets), chapter 105 (relating to sabotage), chapter 115 (relating to treason), chapter 102 (relating to riots), chapter 65 (relating to malicious mischief), chapter 111 (relating to destruction of vessels), or chapter 81 (relating to piracy);

(b) a violation of section 186 or section 501(c) of title 29, United States Code (dealing with restrictions on payments and loans to labor organizations), or any offense which involves murder, kidnapping, robbery, or extortion, and which is punishable under this title;

(c) any offense which is punishable under the following sections of this title: section 201 (bribery of public officials and witnesses), section 215 (relating to bribery of bank officials), section 224 (bribery in sporting contests), subsection (d), (e), (f), (g), (h), or (i) of section 844 (unlawful use of explosives), section 1032 (relating to concealment of assets), section 1084 (transmission of wagering information), section 751 (relating to escape), section 1014 (relating to loans and credit applications generally; renewals and discounts), sections 1503, 1512, and 1513 (influencing or injuring an officer, juror, or witness generally), section 1510 (obstruction of criminal investigations), section 1511 (obstruction of State or local law enforcement), section 1591 (sex trafficking of children by force, fraud, or coercion), section 1751 (Presidential and Presidential staff assassination, kidnapping, and assault), section 1951 (interference with commerce by threats or violence), section 1952 (interstate and foreign travel or transportation in aid of racketeering enterprises), section 1958 (relating to use of interstate commerce facilities in the commission of murder for hire), section 1959 (relating to violent crimes in aid of racketeering activity), section 1954 (offer, acceptance, or solicitation to influence operations of employee benefit plan), section 1955 (prohibition of business enterprises of gambling), section 1956 (laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity), section 659 (theft from interstate shipment), section 664 (embezzlement from pension and welfare funds), section 1343 (fraud by wire, radio, or television), section 1344 (relating to bank fraud), sections 2251 and 2252 (sexual exploitation of children), section 2251A (selling or buying of children), section 2252A (relating to material constituting or containing child pornography), section 1466A (relating to child obscenity), section 2260 (production of sexually explicit depictions of a minor for importation into the United States), sections 2421, 2422, 2423, and 2425 (relating to transportation for illegal sexual activity and related crimes), sections 2312, 2313, 2314, and 2315 (interstate transportation of stolen property), section 2321 (relating to trafficking in certain motor vehicles or motor vehicle parts), section 1203 (relating to hostage taking), section 1029 (relating to fraud and related activity in connection with access devices), section 3146 (relating to penalty for failure to appear), section 3521(b)(3) (relating to witness relocation and assistance), section 32 (relating to destruction of aircraft or aircraft facilities), section 38 (relating to aircraft parts fraud), sec-

[1] See 1984 Amendment note below.

tion 1963 (violations with respect to racketeer influenced and corrupt organizations), section 115 (relating to threatening or retaliating against a Federal official), section 1341 (relating to mail fraud), a felony violation of section 1030 (relating to computer fraud and abuse), section 351 (violations with respect to congressional, Cabinet, or Supreme Court assassinations, kidnapping, and assault), section 831 (relating to prohibited transactions involving nuclear materials), section 33 (relating to destruction of motor vehicles or motor vehicle facilities), section 175 (relating to biological weapons), section 175c (relating to variola virus), section 1992 (relating to wrecking trains), a felony violation of section 1028 (relating to production of false identification documentation), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), section 1541 (relating to passport issuance without authority), section 1542 (relating to false statements in passport applications), section 1543 (relating to forgery or false use of passports), section 1544 (relating to misuse of passports), or section 1546 (relating to fraud and misuse of visas, permits, and other documents);

(d) any offense involving counterfeiting punishable under section 471, 472, or 473 of this title;

(e) any offense involving fraud connected with a case under title 11 or the manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in narcotic drugs, marihuana, or other dangerous drugs, punishable under any law of the United States;

(f) any offense including extortionate credit transactions under sections 892, 893, or 894 of this title;

(g) a violation of section 5322 of title 31, United States Code (dealing with the reporting of currency transactions);

(h) any felony violation of sections 2511 and 2512 (relating to interception and disclosure of certain communications and to certain intercepting devices) of this title;

(i) any felony violation of chapter 71 (relating to obscenity) of this title;

(j) any violation of section 60123(b) (relating to destruction of a natural gas pipeline) or section 46502 (relating to aircraft piracy) of title 49;

(k) any criminal violation of section 2778 of title 22 (relating to the Arms Export Control Act);

(*l*) the location of any fugitive from justice from an offense described in this section;

(m) a violation of section 274, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324, 1327, or 1328) (relating to the smuggling of aliens);

(n) any felony violation of sections 922 and 924 of title 18, United States Code (relating to firearms);

(*o*) any violation of section 5861 of the Internal Revenue Code of 1986 (relating to firearms);

(p) a felony violation of section 1028 (relating to production of false identification documents), section 1542 (relating to false statements in passport applications), section 1546 (relating to fraud and misuse of visas, permits, and other documents) of this title or a violation of section 274, 277, or 278 of the Immigration and Nationality Act (relating to the smuggling of aliens); or[2]

(q) any criminal violation of section 229 (relating to chemical weapons) or section 2332, 2332a, 2332b, 2332d, 2332f, 2332g, 2332h, 2339A, 2339B, or 2339C of this title (relating to terrorism); or

(r) any conspiracy to commit any offense described in any subparagraph of this paragraph.

(2) The principal prosecuting attorney of any State, or the principal prosecuting attorney of any political subdivision thereof, if such attorney is authorized by a statute of that State to make application to a State court judge of competent jurisdiction for an order authorizing or approving the interception of wire, oral, or electronic communications, may apply to such judge for, and such judge may grant in conformity with section 2518 of this chapter and with the applicable State statute an order authorizing, or approving the interception of wire, oral, or electronic communications by investigative or law enforcement officers having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of the commission of the offense of murder, kidnapping, gambling, robbery, bribery, extortion, or dealing in narcotic drugs, marihuana or other dangerous drugs, or other crime dangerous to life, limb, or property, and punishable by imprisonment for more than one year, designated in any applicable State statute authorizing such interception, or any conspiracy to commit any of the foregoing offenses.

(3) Any attorney for the Government (as such term is defined for the purposes of the Federal Rules of Criminal Procedure) may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant, in conformity with section 2518 of this title, an order authorizing or approving the interception of electronic communications by an investigative or law enforcement officer having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of any Federal felony.

(Added Pub. L. 90–351, title III, § 802, June 19, 1968, 82 Stat. 216; amended Pub. L. 91–452, title VIII, § 810, title IX, § 902(a), title XI, § 1103, Oct. 15, 1970, 84 Stat. 940, 947, 959; Pub. L. 91–644, title IV, § 16, Jan. 2, 1971, 84 Stat. 1891; Pub. L. 95–598, title III, § 314(h), Nov. 6, 1978, 92 Stat. 2677; Pub. L. 97–285, §§ 2(e), 4(e), Oct. 6, 1982, 96 Stat. 1220, 1221; Pub. L. 98–292, § 8, May 21, 1984, 98 Stat. 206; Pub. L. 98–473, title II, § 1203(c), Oct. 12, 1984, 98 Stat. 2152; Pub. L. 99–508, title I, §§ 101(c)(1)(A), 104, 105, Oct. 21, 1986, 100 Stat. 1851, 1855; Pub. L. 99–570, title I, § 1365(c), Oct. 27, 1986, 100 Stat. 3207–35; Pub. L. 100–690, title VI, § 6461, title VII, §§ 7036, 7053(d), 7525, Nov. 18, 1988, 102 Stat. 4374, 4399, 4402, 4502; Pub. L. 101–298, § 3(b), May 22,

[2] So in original. The word ''or'' probably should not appear.

1990, 104 Stat. 203; Pub. L. 101–647, title XXV, § 2531, title XXXV, § 3568, Nov. 29, 1990, 104 Stat. 4879, 4928; Pub. L. 103–272, § 5(e)(11), July 5, 1994, 108 Stat. 1374; Pub. L. 103–322, title XXXIII, §§ 330011(c)(1), (q)(1), (r), 330021(1), Sept. 13, 1994, 108 Stat. 2144, 2145, 2150; Pub. L. 103–414, title II, § 208, Oct. 25, 1994, 108 Stat. 4292; Pub. L. 103–429, § 7(a)(4)(A), Oct. 31, 1994, 108 Stat. 4389; Pub. L. 104–132, title IV, § 434, Apr. 24, 1996, 110 Stat. 1274; Pub. L. 104–208, div. C, title II, § 201, Sept. 30, 1996, 110 Stat. 3009–564; Pub. L. 104–287, § 6(a)(2), Oct. 11, 1996, 110 Stat. 3398; Pub. L. 104–294, title I, § 102, title VI, § 601(d), Oct. 11, 1996, 110 Stat. 3491, 3499; Pub. L. 105–318, § 6(b), Oct. 30, 1998, 112 Stat. 3011; Pub. L. 106–181, title V, § 506(c)(2)(B), Apr. 5, 2000, 114 Stat. 139; Pub. L. 107–56, title II, §§ 201, 202, Oct. 26, 2001, 115 Stat. 278; Pub. L. 107–197, title III, § 301(a), June 25, 2002, 116 Stat. 728; Pub. L. 107–273, div. B, title IV, §§ 4002(c)(1), 4005(a)(1), Nov. 2, 2002, 116 Stat. 1808, 1812; Pub. L. 108–21, title II, § 201, Apr. 30, 2003, 117 Stat. 659; Pub. L. 108–458, title VI, § 6907, Dec. 17, 2004, 118 Stat. 3774; Pub. L. 109–162, title XI, § 1171(b), Jan. 5, 2006, 119 Stat. 3123.)

AMENDMENT OF SECTION

For termination of amendment by Pub. L. 107–56, see Termination Date of 2001 Amendment note below.

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in par. (1)(a), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, and amended, which is classified generally to chapter 23 (§ 2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

The Arms Export Control Act, referred to in par. (1)(k), is Pub. L. 90–269, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§ 2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

Section 5861 of the Internal Revenue Code of 1986, referred to in par. (1)(*o*), is classified to section 5861 of Title 26, Internal Revenue Code.

The Federal Rules of Criminal Procedure, referred to in par. (3), are set out in the Appendix to this title.

AMENDMENTS

2006—Par. (1)(q). Pub. L. 109–162 struck out semicolon after ''(relating to chemical weapons)'' and substituted ''section 2332'' for ''sections 2332''.

2004—Par. (1)(a). Pub. L. 108–458, § 6907(1), inserted ''2122 and'' after ''sections''.

Par. (1)(c). Pub. L. 108–458, § 6907(2), inserted ''section 175c (relating to variola virus),'' after ''section 175 (relating to biological weapons),''.

Par. (1)(q). Pub. L. 108–458, § 6907(3), inserted ''2332g, 2332h,'' after ''2332f,''.

2003—Par. (1)(a). Pub. L. 108–21, § 201(1), inserted ''chapter 55 (relating to kidnapping),'' after ''chapter 37 (relating to espionage),''.

Par. (1)(c). Pub. L. 108–21, § 201(2), inserted ''section 1591 (sex trafficking of children by force, fraud, or coercion),'' after ''section 1511 (obstruction of State or local law enforcement),'' and ''section 2251A (selling or buying of children), section 2252A (relating to material constituting or containing child pornography), section 1466A (relating to child obscenity), section 2260 (production of sexually explicit depictions of a minor for importation into the United States), sections 2421, 2422, 2423, and 2425 (relating to transportation for illegal sexual activity and related crimes),'' after ''sections 2251 and 2252 (sexual exploitation of children),''.

2002—Par. (1)(n). Pub. L. 107–273, § 4002(c)(1), repealed Pub. L. 104–294, § 601(d)(2). See 1996 Amendment note below.

Par. (1)(q). Pub. L. 107–273, § 4005(a)(1), realigned margins.

Pub. L. 107–197 inserted ''2332f,'' after ''2332d,'' and substituted ''2339B, or 2339C'' for ''or 2339B''.

2001—Par. (1)(c). Pub. L. 107–56, §§ 202, 224, temporarily substituted ''section 1341 (relating to mail fraud), a felony violation of section 1030 (relating to computer fraud and abuse),'' for ''and section 1341 (relating to mail fraud),''. See Termination Date of 2001 Amendment note below.

Par. (1)(p). Pub. L. 107–56, §§ 201(1), 224, temporarily redesignated subpar. (p), relating to conspiracy, as (r). See Termination Date of 2001 Amendment note below.

Par. (1)(q). Pub. L. 107–56, §§ 201(2), 224, temporarily added subpar. (q). See Termination Date of 2001 Amendment note below.

Par. (1)(r). Pub. L. 107–56, §§ 201(1), 224, temporarily redesignated subpar. (p), relating to conspiracy, as (r). See Termination Date of 2001 Amendment note below.

2000—Par. (1)(c). Pub. L. 106–181 inserted ''section 38 (relating to aircraft parts fraud),'' after ''section 32 (relating to destruction of aircraft or aircraft facilities),''.

1998—Par. (1)(a). Pub. L. 105–318 inserted ''chapter 90 (relating to protection of trade secrets),'' after ''chapter 37 (relating to espionage),''.

1996—Par. (1)(c). Pub. L. 104–294, § 102, which directed amendment of par. 1(c) by inserting ''chapter 90 (relating to protection of trade secrets),'' after ''chapter 37 (relating to espionage),'', could not be executed because phrase ''chapter 37 (relating to espionage),'' did not appear.

Pub. L. 104–208, § 201(1), substituted ''section 1992 (relating to wrecking trains), a felony violation of section 1028 (relating to production of false identification documentation), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), section 1541 (relating to passport issuance without authority), section 1542 (relating to false statements in passport applications), section 1543 (relating to forgery or false use of passports), section 1544 (relating to misuse of passports), or section 1546 (relating to fraud and misuse of visas, permits, and other documents)'' for ''or section 1992 (relating to wrecking trains)'' before semicolon at end.

Par. (1)(j). Pub. L. 104–287, § 6(a)(2), amended directory language of Pub. L. 103–272, § 5(e)(11) as amended by Pub. L. 103–429, § 7(a)(4)(A). See 1994 Amendment note below.

Par. (1)(*l*). Pub. L. 104–208, § 201(2), and Pub. L. 104–294, § 601(d)(1), amended subpar. (*l*) identically, striking out ''or'' after semicolon at end.

Par. (1)(m). Pub. L. 104–208, § 201(3), (4), added subpar. (m). Former subpar. (m) redesignated (n).

Par. (1)(n). Pub. L. 104–294, § 601(d)(2), which could not be executed because of prior amendments by Pub. L. 104–132, § 434(1) and Pub. L. 104–208, § 201(3), was repealed by Pub. L. 107–273, § 4002(c)(1). See below.

Pub. L. 104–208, § 201(3), redesignated subpar. (m) as (n). Former subpar. (n) redesignated (*o*).

Pub. L. 104–132, § 434(1), struck out ''and'' at end.

Par. (1)(*o*). Pub. L. 104–208, § 201(3), redesignated subpar. (n) as (*o*). Former subpar. (*o*) redesignated (p).

Pub. L. 104–132 added subpar. (*o*) and redesignated former subpar. (*o*) as (p).

Par. (1)(p). Pub. L. 104–208, § 201(3), redesignated subpar. (*o*), relating to felony violation of section 1028, etc., as (p).

Pub. L. 104–132, § 434(2), redesignated subpar. (*o*), relating to conspiracy, as (p).

1994—Par. (1). Pub. L. 103–414 in introductory provisions inserted ''or acting Deputy Assistant Attorney General'' after ''Deputy Assistant Attorney General''.

Par. (1)(c). Pub. L. 103–322, § 330021(1), substituted ''kidnapping'' for ''kidnaping'' in two places.

Pub. L. 103–322, § 330011(c)(1), amended directory language of Pub. L. 101–298, § 3(b). See 1990 Amendment note below.

Par. (1)(j). Pub. L. 103–322, § 330011(r), amended directory language of Pub. L. 101–647, § 2531(3). See 1990 Amendment note below.

Pub. L. 103–322, § 330011(q)(1), repealed Pub. L. 101–647, § 3568. See 1990 Amendment note below.

Pub. L. 103–272, § 5(e)(11), as amended by Pub. L. 103–429, § 7(a)(4)(A); Pub. L. 104–287, § 6(a)(2), substituted ''section 60123(b) (relating to destruction of a natural gas pipeline) or section 46502 (relating to aircraft piracy) of title 49;'' for ''section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 902 of the Federal Aviation Act of 1958 (relating to aircraft piracy);''.

1990—Par. (1)(c). Pub. L. 101–647, § 2531(1), inserted ''section 215 (relating to bribery of bank officials),'' before ''section 224'', ''section 1032 (relating to concealment of assets),'' before section 1084, ''section 1014 (relating to loans and credit applications generally; renewals and discounts),'' before ''sections 1503,'' and ''section 1344 (relating to bank fraud),'' before ''sections 2251 and 2252'' and struck out ''the section in chapter 65 relating to destruction of an energy facility,'' after ''retaliating against a Federal official),''.

Pub. L. 101–298, § 3(b), as amended by Pub. L. 103–322, § 330011(c)(1), inserted ''section 175 (relating to biological weapons),'' after ''section 33 (relating to destruction of motor vehicles or motor vehicle facilities),''.

Par. (1)(j). Pub. L. 101–647, § 3568, which directed amendment of subsec. (j) by substituting ''any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) or section 902(i) or (n) of the Federal Aviation Act of 1958 (relating to aircraft piracy)'' for ''any violation of section 1679a(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code'', and which was probably intended as an amendment to par. (1)(j), was repealed by Pub. L. 103–322, § 330011(q)(1).

Pub. L. 101–647, § 2531(3), as amended by Pub. L. 103–322, § 330011(r), substituted ''any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 902 of the Federal Aviation Act of 1958 (relating to aircraft piracy)'' for ''any violation of section 1679a(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code''.

Par. (1)(m). Pub. L. 101–647, § 2531(2)(A), struck out subpar. (m) relating to conspiracy which read as follows: ''any conspiracy to commit any of the foregoing offenses.''

Par. (1)(*o*). Pub. L. 101–647, § 2531(2)(B)–(D), added subpar. (*o*).

1988—Par. (1). Pub. L. 100–690, § 7036(a)(1), inserted ''or'' after ''Associate Attorney General,'' in introductory provisions.

Par. (1)(a). Pub. L. 100–690, § 7036(c)(1), which directed the amendment of subpar. (a) by substituting ''(relating to riots),'' for ''(relating to riots);'' was executed by substituting ''(relating to riots),'' for ''(relating to riots)'' as the probable intent of Congress.

Par. (1)(c). Pub. L. 100–690, § 7053(d), which directed the amendment of section 2516(c) by substituting ''1958'' for ''1952A'' and ''1959'' for ''1952B'' was executed by making the substitutions in par. (1)(c) as the probable intent of Congress.

Pub. L. 100–690, § 7036(b), struck out ''section 2252 or 2253 (sexual exploitation of children),'' after ''wire, radio, or television),'' and substituted ''section 2321'' for ''the second section 2320''.

Pub. L. 100–690, § 7036(a)(2), which directed the amendment of par. (1) by striking the comma that follows a comma was executed to subpar. (c) by striking out the second comma after ''to mail fraud)''.

Par. (1)(i). Pub. L. 100–690, § 7525, added subpar. (i) and redesignated former subpar. (i) as (j).

Par. (1)(j). Pub. L. 100–690, § 7525, redesignated former subpar. (i) as (j). Former subpar. (j) redesignated (k).

Pub. L. 100–690, § 7036(c)(2), which directed amendment of subpar. (j) by striking ''or;'' was executed by striking ''or'' after ''Export Control Act);'' to reflect the probable intent of Congress.

Par. (1)(k). Pub. L. 100–690, § 7525, redesignated former subpar. (j) as (k). Former subpar. (k) redesignated (*l*).

Pub. L. 100–690, § 7036(c)(3), struck out ''or'' at end.

Par. (1)(*l*). Pub. L. 100–690, § 7525, redesignated former subpar. (k) as (*l*). Former subpar. (*l*) redesignated (m).

Par. (1)(m). Pub. L. 100–690, § 7525, redesignated former subpar. (*l*) relating to conspiracy as (m).

Pub. L. 100–690, § 6461, added subpar. (m) relating to sections 922 and 924.

Par. (1)(n). Pub. L. 100–690, § 6461, added subpar. (n).

1986—Pub. L. 99–508, § 101(c)(1)(A), substituted ''wire, oral, or electronic'' for ''wire or oral'' in section catchline.

Par. (1). Pub. L. 99–508, § 104, substituted ''any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General in the Criminal Division'' for ''or any Assistant Attorney General'' in introductory provisions.

Par. (1)(a). Pub. L. 99–508, § 105(a)(5), inserted ''section 2284 of title 42 of the United States Code (relating to sabotage of nuclear facilities or fuel),'' struck out ''or'' after ''(relating to treason),'' and inserted ''chapter 65 (relating to malicious mischief), chapter 111 (relating to destruction of vessels), or chapter 81 (relating to piracy)''.

Par. (1)(c). Pub. L. 99–570, which directed the amendment of subpar. (c) by inserting ''section 1956 (laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity),'' after ''section 1955 (prohibition of relating to business enterprises of gambling),'' was executed by inserting this phrase after ''section 1955 (prohibition of business enterprises of gambling),'' as the probable intent of Congress.

Pub. L. 99–508, § 105(a)(1), inserted ''section 751 (relating to escape),'' ''the second section 2320 (relating to trafficking in certain motor vehicles or motor vehicle parts), section 1203 (relating to hostage taking), section 1029 (relating to fraud and related activity in connection with access devices), section 3146 (relating to penalty for failure to appear), section 3521(b)(3) (relating to witness relocation and assistance), section 32 (relating to destruction of aircraft or aircraft facilities),'' and ''section 1952A (relating to use of interstate commerce facilities in the commission of murder for hire), section 1952B (relating to violent crimes in aid of racketeering activity),'' substituted ''2312, 2313, 2314,'' for ''2314'', inserted '', section 115 (relating to threatening or retaliating against a Federal official), the section in chapter 65 relating to destruction of an energy facility, and section 1341 (relating to mail fraud),'' substituted '', section 351'' for ''or section 351'', and inserted '', section 831 (relating to prohibited transactions involving nuclear materials), section 33 (relating to destruction of motor vehicles or motor vehicle facilities), or section 1992 (relating to wrecking trains)''.

Par. (1)(h) to (*l*). Pub. L. 99–508, § 105(a)(2)–(4), added subpars. (h) to (k) and redesignated former subpar. (h) as (*l*).

Par. (2). Pub. L. 99–508, § 101(c)(1)(A), substituted ''wire, oral, or electronic'' for ''wire or oral'' in two places.

Par. (3). Pub. L. 99–508, § 105(b), added par. (3).

1984—Par. (1). Pub. L. 98–473, § 1203(c)(4), which directed the amendment of the first par. of par. (1) by inserting ''Deputy Attorney General, Associate Attorney General,'' after ''Attorney General.'' was executed by making the insertion after the first reference to ''Attorney General,'' to reflect the probable intent of Congress.

Par. (1)(c). Pub. L. 98–473, § 1203(c)(2), inserted references to sections 1512 and 1513 after ''1503''.

Pub. L. 98–473, §1203(c)(1), inserted ''section 1343 (fraud by wire, radio, or television), section 2252 or 2253 (sexual exploitation of children),'' after ''section 664 (embezzlement from pension and welfare funds),''.

Pub. L. 98–292 inserted ''sections 2251 and 2252 (sexual exploitation of children),'' after ''section 664 (embezzlement from pension and welfare funds),''.

Par. (1)(g), (h). Pub. L. 98–473, §1203(c)(3), added par. (g) and redesignated former par. (g) as (h).

1982—Par. (1)(c). Pub. L. 97–285 substituted ''(Presidential and Presidential staff assassination, kidnaping, and assault)'' for ''(Presidential assassinations, kidnapping, and assault)'' after ''section 1751'' and substituted ''(violations with respect to congressional, Cabinet, or Supreme Court assassinations, kidnaping, and assault)'' for ''(violations with respect to congressional assassination, kidnapping, and assault)'' after ''section 351''.

1978—Par. (1)(e). Pub. L. 95–598 substituted ''fraud connected with a case under title 11'' for ''bankruptcy fraud''.

1971—Par. (1)(c). Pub. L. 91–644 inserted reference to section 351 offense (violations with respect to congressional assassination, kidnaping, and assault).

1970—Par. (1)(c). Pub. L. 91–452 inserted reference to sections 844(d), (e), (f), (g), (h), or (i), 1511, 1955, and 1963 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–273, div. B, title IV, §4002(c)(1), Nov. 2, 2002, 116 Stat. 1808, provided that the amendment made by section 4002(c)(1) is effective Oct. 11, 1996.

TERMINATION DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–56 to cease to have effect Feb. 3, 2006, except amendment to continue in effect with respect to any particular foreign intelligence investigation that began before Feb. 3, 2006, or with respect to any particular offense or potential offense that began or occurred before Feb. 3, 2006, see section 224 of Pub. L. 107–56, set out as a note under section 2510 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of Title 49, Transportation.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 6(a) of Pub. L. 104–287 provided that the amendment made by that section is effective July 5, 1994.

EFFECTIVE DATE OF 1994 AMENDMENTS

Section 7(a) of Pub. L. 103–429 provided that the amendment made by section 7(a)(4)(A) of Pub. L. 103–429 is effective July 5, 1994.

Section 330011(c)(1) of Pub. L. 103–322 provided that the amendment made by that section is effective as of the date on which section 3(b) of Pub. L. 101–298 took effect.

Section 330011(q)(1) of Pub. L. 103–322 provided that the amendment made by that section is effective as of the date on which section 3568 of Pub. L. 101–647 took effect.

Section 330011(r) of Pub. L. 103–322 provided that the amendment made by that section is effective as of the date on which section 2531(3) of Pub. L. 101–647 took effect.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by sections 101(c)(1)(A) and 105 of 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 pursuant to section 2516(2) of this title, and amendment by section 104 of Pub. L. 99–508 effective Oct. 21, 1986, see section 111 of Pub. L. 99–508, set out as a note under section 2510 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

SAVINGS PROVISION

Amendment by section 314 of Pub. L. 95–598 not to affect the application of chapter 9 (§151 et seq.), chapter 96 (§1961 et seq.), or section 2516, 3057, or 3284 of this title to any act of any person (1) committed before Oct. 1, 1979, or (2) committed after Oct. 1, 1979, in connection with a case commenced before such date, see section 403(d) of Pub. L. 95–598, set out as a note preceding section 101 of Title 11, Bankruptcy.

§ 2517. Authorization for disclosure and use of intercepted wire, oral, or electronic communications

(1) Any investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents to another investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

(2) Any investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication or evidence derived therefrom may use such contents to the extent such use is appropriate to the proper performance of his official duties.

(3) Any person who has received, by any means authorized by this chapter, any information concerning a wire, oral, or electronic communication, or evidence derived therefrom intercepted in accordance with the provisions of this chapter may disclose the contents of that communication or such derivative evidence while giving testimony under oath or affirmation in any proceeding held under the authority of the United States or of any State or political subdivision thereof.

(4) No otherwise privileged wire, oral, or electronic communication intercepted in accordance with, or in violation of, the provisions of this chapter shall lose its privileged character.

(5) When an investigative or law enforcement officer, while engaged in intercepting wire, oral, or electronic communications in the manner authorized herein, intercepts wire, oral, or electronic communications relating to offenses other than those specified in the order of authorization or approval, the contents thereof, and evidence derived therefrom, may be disclosed or used as provided in subsections (1) and (2) of this section. Such contents and any evidence derived therefrom may be used under subsection (3) of this section when authorized or approved by a judge of competent jurisdiction where such judge finds on subsequent application that the contents were otherwise intercepted in accordance with the provisions of this chapter. Such application shall be made as soon as practicable.

(6) Any investigative or law enforcement officer, or attorney for the Government, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents to any other Federal law enforcement, intelligence, protective, immigration, national defense, or national security official to the extent that such contents include foreign intelligence or counterintelligence (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)), or foreign intelligence information (as defined in subsection (19) of section 2510 of this title), to assist the official who is to receive that information in the performance of his official duties. Any Federal official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information.

(7) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to a foreign investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure, and foreign investigative or law enforcement officers may use or disclose such contents or derivative evidence to the extent such use or disclosure is appropriate to the proper performance of their official duties.

(8) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to any appropriate Federal, State, local, or foreign government official to the extent that such contents or derivative evidence reveals a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.

(Added Pub. L. 90–351, title III, § 802, June 19, 1968, 82 Stat. 217; amended Pub. L. 91–452, title IX, § 902(b), Oct. 15, 1970, 84 Stat. 947; Pub. L. 99–508, title I, § 101(c)(1)(A), Oct. 21, 1986, 100 Stat. 1851; Pub. L. 107–56, title II, § 203(b)(1), Oct. 26, 2001, 115 Stat. 280; Pub. L. 107–296, title VIII, § 896, Nov. 25, 2002, 116 Stat. 2257.)

AMENDMENT OF SECTION

For termination of amendment by Pub. L. 107–56, see Termination Date of 2001 Amendment note below.

AMENDMENTS

2002—Pars. (7), (8). Pub. L. 107–296 added pars. (7) and (8).

2001—Par. (6). Pub. L. 107–56, §§ 203(b)(1), 224, temporarily added par. (6). See Termination Date of 2001 Amendment note below.

1986—Pub. L. 99–508 substituted ''wire, oral, or electronic'' for ''wire or oral'' in section catchline and wherever appearing in text.

1970—Par. (3). Pub. L. 91–452 substituted ''proceeding held under the authority of the United States or of any State or political subdivision thereof'' for ''criminal proceeding in any court of the United States or of any State or in any Federal or State grand jury proceeding''.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of Title 50, War and National Defense.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

TERMINATION DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–56 to cease to have effect Feb. 3, 2006, except amendment to continue in effect with respect to any particular foreign intelligence investigation that began before Feb. 3, 2006, or with respect to any particular offense or potential offense that began or occurred before Feb. 3, 2006, see section 224 of Pub. L. 107–56, set out as a note under section 2510 of this title.

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.

PROCEDURES FOR DISCLOSURE OF INFORMATION

Pub. L. 107–56, title II, § 203(c), Oct. 26, 2001, 115 Stat. 280, as amended by Pub. L. 107–296, title VIII, § 897(b), Nov. 25, 2002, 116 Stat. 2258; Pub. L. 108–458, title VI, § 6501(b), Dec. 17, 2004, 118 Stat. 3760, provided that: ''The Attorney General shall establish procedures for the disclosure of information pursuant to paragraphs (6) and (8) of section 2517 of title 18, United States Code, and Rule 6(e)(3)(D) of the Federal Rules of Criminal Procedure [18 App. U.S.C.] that identifies a United States person, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) [sic].''

§ 2518. Procedure for interception of wire, oral, or electronic communications

(1) Each application for an order authorizing or approving the interception of a wire, oral, or electronic communication under this chapter shall be made in writing upon oath or affirmation to a judge of competent jurisdiction and shall state the applicant's authority to make such application. Each application shall include the following information:

(a) the identity of the investigative or law enforcement officer making the application, and the officer authorizing the application;

(b) a full and complete statement of the facts and circumstances relied upon by the applicant, to justify his belief that an order should be issued, including (i) details as to the particular offense that has been, is being, or is about to be committed, (ii) except as provided in subsection (11), a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted, (iii) a particular description of the type of communications sought to be intercepted, (iv) the identity of the person, if known, committing the offense and whose communications are to be intercepted;

(c) a full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous;

(d) a statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;

(e) a full and complete statement of the facts concerning all previous applications known to the individual authorizing and making the application, made to any judge for authorization to intercept, or for approval of interceptions of, wire, oral, or electronic communications involving any of the same persons, facilities or places specified in the application, and the action taken by the judge on each such application; and

(f) where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results.

(2) The judge may require the applicant to furnish additional testimony or documentary evidence in support of the application.

(3) Upon such application the judge may enter an ex parte order, as requested or as modified, authorizing or approving interception of wire, oral, or electronic communications within the territorial jurisdiction of the court in which the judge is sitting (and outside that jurisdiction but within the United States in the case of a mobile interception device authorized by a Federal court within such jurisdiction), if the judge determines on the basis of the facts submitted by the applicant that—

(a) there is probable cause for belief that an individual is committing, has committed, or is about to commit a particular offense enumerated in section 2516 of this chapter;

(b) there is probable cause for belief that particular communications concerning that offense will be obtained through such interception;

(c) normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous;

(d) except as provided in subsection (11), there is probable cause for belief that the facilities from which, or the place where, the wire, oral, or electronic communications are to be intercepted are being used, or are about to be used, in connection with the commission of such offense, or are leased to, listed in the name of, or commonly used by such person.

(4) Each order authorizing or approving the interception of any wire, oral, or electronic communication under this chapter shall specify—

(a) the identity of the person, if known, whose communications are to be intercepted;

(b) the nature and location of the communications facilities as to which, or the place where, authority to intercept is granted;

(c) a particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;

(d) the identity of the agency authorized to intercept the communications, and of the person authorizing the application; and

(e) the period of time during which such interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained.

An order authorizing the interception of a wire, oral, or electronic communication under this chapter shall, upon request of the applicant, direct that a provider of wire or electronic communication service, landlord, custodian or other person shall furnish the applicant forthwith all information, facilities, and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that such service provider, landlord, custodian, or person is according the person whose communications are to be intercepted. Any provider of wire or electronic communication service, landlord, custodian or other person furnishing such facilities or technical assistance shall be compensated therefor by the applicant for reasonable expenses incurred in providing such facilities or assistance. Pursuant to section 2522 of this chapter, an order may also be issued to enforce the assistance capability and capacity requirements under the Communications Assistance for Law Enforcement Act.

(5) No order entered under this section may authorize or approve the interception of any wire, oral, or electronic communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than thirty days. Such thirty-day period

begins on the earlier of the day on which the investigative or law enforcement officer first begins to conduct an interception under the order or ten days after the order is entered. Extensions of an order may be granted, but only upon application for an extension made in accordance with subsection (1) of this section and the court making the findings required by subsection (3) of this section. The period of extension shall be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for longer than thirty days. Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this chapter, and must terminate upon attainment of the authorized objective, or in any event in thirty days. In the event the intercepted communication is in a code or foreign language, and an expert in that foreign language or code is not reasonably available during the interception period, minimization may be accomplished as soon as practicable after such interception. An interception under this chapter may be conducted in whole or in part by Government personnel, or by an individual operating under a contract with the Government, acting under the supervision of an investigative or law enforcement officer authorized to conduct the interception.

(6) Whenever an order authorizing interception is entered pursuant to this chapter, the order may require reports to be made to the judge who issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Such reports shall be made at such intervals as the judge may require.

(7) Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, specially designated by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or by the principal prosecuting attorney of any State or subdivision thereof acting pursuant to a statute of that State, who reasonably determines that—

(a) an emergency situation exists that involves—

(i) immediate danger of death or serious physical injury to any person,

(ii) conspiratorial activities threatening the national security interest, or

(iii) conspiratorial activities characteristic of organized crime,

that requires a wire, oral, or electronic communication to be intercepted before an order authorizing such interception can, with due diligence, be obtained, and

(b) there are grounds upon which an order could be entered under this chapter to authorize such interception,

may intercept such wire, oral, or electronic communication if an application for an order approving the interception is made in accordance with this section within forty-eight hours after the interception has occurred, or begins to occur. In the absence of an order, such interception shall immediately terminate when the communication sought is obtained or when the application for the order is denied, whichever is earlier. In the event such application for approval is denied, or in any other case where the interception is terminated without an order having been issued, the contents of any wire, oral, or electronic communication intercepted shall be treated as having been obtained in violation of this chapter, and an inventory shall be served as provided for in subsection (d) of this section on the person named in the application.

(8)(a) The contents of any wire, oral, or electronic communication intercepted by any means authorized by this chapter shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any wire, oral, or electronic communication under this subsection shall be done in such a way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions thereof, such recordings shall be made available to the judge issuing such order and sealed under his directions. Custody of the recordings shall be wherever the judge orders. They shall not be destroyed except upon an order of the issuing or denying judge and in any event shall be kept for ten years. Duplicate recordings may be made for use or disclosure pursuant to the provisions of subsections (1) and (2) of section 2517 of this chapter for investigations. The presence of the seal provided for by this subsection, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire, oral, or electronic communication or evidence derived therefrom under subsection (3) of section 2517.

(b) Applications made and orders granted under this chapter shall be sealed by the judge. Custody of the applications and orders shall be wherever the judge directs. Such applications and orders shall be disclosed only upon a showing of good cause before a judge of competent jurisdiction and shall not be destroyed except on order of the issuing or denying judge, and in any event shall be kept for ten years.

(c) Any violation of the provisions of this subsection may be punished as contempt of the issuing or denying judge.

(d) Within a reasonable time but not later than ninety days after the filing of an application for an order of approval under section 2518(7)(b) which is denied or the termination of the period of an order or extensions thereof, the issuing or denying judge shall cause to be served, on the persons named in the order or the application, and such other parties to intercepted communications as the judge may determine in his discretion that is in the interest of justice, an inventory which shall include notice of—

(1) the fact of the entry of the order or the application;

(2) the date of the entry and the period of authorized, approved or disapproved interception, or the denial of the application; and

(3) the fact that during the period wire, oral, or electronic communications were or were not intercepted.

The judge, upon the filing of a motion, may in his discretion make available to such person or

his counsel for inspection such portions of the intercepted communications, applications and orders as the judge determines to be in the interest of justice. On an ex parte showing of good cause to a judge of competent jurisdiction the serving of the inventory required by this subsection may be postponed.

(9) The contents of any wire, oral, or electronic communication intercepted pursuant to this chapter or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in a Federal or State court unless each party, not less than ten days before the trial, hearing, or proceeding, has been furnished with a copy of the court order, and accompanying application, under which the interception was authorized or approved. This ten-day period may be waived by the judge if he finds that it was not possible to furnish the party with the above information ten days before the trial, hearing, or proceeding and that the party will not be prejudiced by the delay in receiving such information.

(10)(a) Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the contents of any wire or oral communication intercepted pursuant to this chapter, or evidence derived therefrom, on the grounds that—

(i) the communication was unlawfully intercepted;

(ii) the order of authorization or approval under which it was intercepted is insufficient on its face; or

(iii) the interception was not made in conformity with the order of authorization or approval.

Such motion shall be made before the trial, hearing, or proceeding unless there was no opportunity to make such motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire or oral communication, or evidence derived therefrom, shall be treated as having been obtained in violation of this chapter. The judge, upon the filing of such motion by the aggrieved person, may in his discretion make available to the aggrieved person or his counsel for inspection such portions of the intercepted communication or evidence derived therefrom as the judge determines to be in the interests of justice.

(b) In addition to any other right to appeal, the United States shall have the right to appeal from an order granting a motion to suppress made under paragraph (a) of this subsection, or the denial of an application for an order of approval, if the United States attorney shall certify to the judge or other official granting such motion or denying such application that the appeal is not taken for purposes of delay. Such appeal shall be taken within thirty days after the date the order was entered and shall be diligently prosecuted.

(c) The remedies and sanctions described in this chapter with respect to the interception of electronic communications are the only judicial remedies and sanctions for nonconstitutional violations of this chapter involving such communications.

(11) The requirements of subsections (1)(b)(ii) and (3)(d) of this section relating to the specification of the facilities from which, or the place where, the communication is to be intercepted do not apply if—

(a) in the case of an application with respect to the interception of an oral communication—

(i) the application is by a Federal investigative or law enforcement officer and is approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, an Assistant Attorney General, or an acting Assistant Attorney General;

(ii) the application contains a full and complete statement as to why such specification is not practical and identifies the person committing the offense and whose communications are to be intercepted; and

(iii) the judge finds that such specification is not practical; and

(b) in the case of an application with respect to a wire or electronic communication—

(i) the application is by a Federal investigative or law enforcement officer and is approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, an Assistant Attorney General, or an acting Assistant Attorney General;

(ii) the application identifies the person believed to be committing the offense and whose communications are to be intercepted and the applicant makes a showing that there is probable cause to believe that the person's actions could have the effect of thwarting interception from a specified facility;

(iii) the judge finds that such showing has been adequately made; and

(iv) the order authorizing or approving the interception is limited to interception only for such time as it is reasonable to presume that the person identified in the application is or was reasonably proximate to the instrument through which such communication will be or was transmitted.

(12) An interception of a communication under an order with respect to which the requirements of subsections (1)(b)(ii) and (3)(d) of this section do not apply by reason of subsection (11)(a) shall not begin until the place where the communication is to be intercepted is ascertained by the person implementing the interception order. A provider of wire or electronic communications service that has received an order as provided for in subsection (11)(b) may move the court to modify or quash the order on the ground that its assistance with respect to the interception cannot be performed in a timely or reasonable fashion. The court, upon notice to the government, shall decide such a motion expeditiously.

(Added Pub. L. 90–351, title III, §802, June 19, 1968, 82 Stat. 218; amended Pub. L. 91–358, title II, §211(b), July 29, 1970, 84 Stat. 654; Pub. L. 95–511, title II, §201(d)–(g), Oct. 25, 1978, 92 Stat. 1797, 1798; Pub. L. 98–473, title II, §1203(a), (b), Oct. 12, 1984, 98 Stat. 2152; Pub. L. 99–508, title I, §§101(c)(1)(A), (8), (e), 106(a)–(d)(3), Oct. 21, 1986,

100 Stat. 1851–1853, 1856, 1857; Pub. L. 103–414, title II, § 201(b)(1), Oct. 25, 1994, 108 Stat. 4290; Pub. L. 105–272, title VI, § 604, Oct. 20, 1998, 112 Stat. 2413.)

REFERENCES IN TEXT

The Communications Assistance for Law Enforcement Act, referred to in par. (4), is title I of Pub. L. 103–414, Oct. 25, 1994, 108 Stat. 4279, which is classified generally to subchapter I (§ 1001 et seq.) of chapter 9 of Title 47, Telegraphs, Telephones, and Radiotelegraphs. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 47 and Tables.

AMENDMENTS

1998—Par. (11)(b)(ii). Pub. L. 105–272, § 604(a)(1), substituted ''that there is probable cause to believe that the person's actions could have the effect of thwarting interception from a specified facility;'' for ''of a purpose, on the part of that person, to thwart interception by changing facilities; and''.

Par. (11)(b)(iii). Pub. L. 105–272, § 604(a)(2), substituted ''such showing has been adequately made; and'' for ''such purpose has been adequately shown.''

Par. (11)(b)(iv). Pub. L. 105–272, § 604(a)(3), added cl. (iv).

Par. (12). Pub. L. 105–272, § 604(b), substituted ''by reason of subsection (11)(a)'' for ''by reason of subsection (11)'', struck out ''the facilities from which, or'' after ''shall not begin until'', and struck out comma after ''the place where''.

1994—Par. (4). Pub. L. 103–414 inserted at end of concluding provisions ''Pursuant to section 2522 of this chapter, an order may also be issued to enforce the assistance capability and capacity requirements under the Communications Assistance for Law Enforcement Act.''

1986—Pub. L. 99–508, § 101(c)(1)(A), substituted ''wire, oral, or electronic'' for ''wire or oral'' in section catchline.

Par. (1). Pub. L. 99–508, § 101(c)(1)(A), substituted ''wire, oral, or electronic'' for ''wire or oral'' in introductory provisions.

Par. (1)(b)(ii). Pub. L. 99–508, § 106(d)(1), inserted ''except as provided in subsection (11),''.

Par. (1)(e). Pub. L. 99–508, § 101(c)(1)(A), substituted ''wire, oral, or electronic'' for ''wire or oral''.

Par. (3). Pub. L. 99–508, §§ 101(c)(1)(A), 106(a), in introductory provisions, substituted ''wire, oral, or electronic'' for ''wire or oral'' and inserted ''(and outside that jurisdiction but within the United States in the case of a mobile interception device authorized by a Federal court within such jurisdiction)''.

Par. (3)(d). Pub. L. 99–508, §§ 101(c)(1)(A), 106(d)(2), inserted ''except as provided in subsection (11),'' and substituted ''wire, oral, or electronic'' for ''wire or oral''.

Par. (4). Pub. L. 99–508, §§ 101(c)(1)(A), (8), 106(b), substituted ''wire, oral, or electronic'' for ''wire or oral'' wherever appearing and, in closing provisions, substituted ''provider of wire or electronic communication service'' for ''communication common carrier'' wherever appearing, ''such service provider'' for ''such carrier'', and ''for reasonable expenses incurred in providing such facilities or assistance'' for ''at the prevailing rates''.

Par. (5). Pub. L. 99–508, §§ 101(c)(1)(A), 106(c), substituted ''wire, oral, or electronic'' for ''wire or oral'' and inserted provisions which related to beginning of thirty-day period, minimization where intercepted communication is in code or foreign language and expert in that code or foreign language is not immediately available, and conduct of interception by Government personnel or by individual operating under Government contract, acting under supervision of investigative or law enforcement officer authorized to conduct interception.

Pars. (7), (8)(a), (d)(3), (9). Pub. L. 99–508, § 101(c)(1)(A), substituted ''wire, oral, or electronic'' for ''wire or oral'' wherever appearing.

Par. (10)(c). Pub. L. 99–508, § 101(e), added subpar. (c).

Pars. (11), (12). Pub. L. 99–508, § 106(d)(3), added pars. (11) and (12).

1984—Par. (7). Pub. L. 98–473, § 1203(a), inserted '', the Deputy Attorney General, the Associate Attorney General,'' after ''Attorney General'' in provisions preceding subpar. (a).

Par. (7)(a). Pub. L. 98–473, § 1203(b), amended subpar. (a) generally, adding cl. (i) and designated existing provisions as cls. (ii) and (iii).

1978—Par. (1). Pub. L. 95–511, § 201(d), inserted ''under this chapter'' after ''communication''.

Par. (4). Pub. L. 95–511, § 201(e), inserted ''under this chapter'' after ''wire or oral communication'' wherever appearing.

Par. (9). Pub. L. 95–511, § 201(e), substituted ''any wire or oral communication intercepted pursuant to this chapter'' for ''any intercepted wire or oral communication''.

Par. (10). Pub. L. 95–511, § 201(g), substituted ''any wire or oral communication intercepted pursuant to this chapter,'' for ''any intercepted wire or oral communication,''.

1970—Par. (4). Pub. L. 91–358 inserted the provision that, upon the request of the applicant, an order authorizing the interception of a wire or oral communication direct that a communication common carrier, landlord, custodian, or other person furnish the applicant with all information, facilities, and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services provided.

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.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–511 effective Oct. 25, 1978, except as specifically provided, see section 401 of Pub. L. 95–511, set out as an Effective Date note under section 1801 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–358 effective on first day of seventh calendar month which begins after July 29, 1970, see section 901(a) of Pub. L. 91–358.

§ 2519. Reports concerning intercepted wire, oral, or electronic communications

(1) Within thirty days after the expiration of an order (or each extension thereof) entered under section 2518, or the denial of an order approving an interception, the issuing or denying judge shall report to the Administrative Office of the United States Courts—

(a) the fact that an order or extension was applied for;

(b) the kind of order or extension applied for (including whether or not the order was an order with respect to which the requirements of sections 2518(1)(b)(ii) and 2518(3)(d) of this title did not apply by reason of section 2518(11) of this title);

(c) the fact that the order or extension was granted as applied for, was modified, or was denied;

(d) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;

(e) the offense specified in the order or application, or extension of an order;

(f) the identity of the applying investigative or law enforcement officer and agency making the application and the person authorizing the application; and

(g) the nature of the facilities from which or the place where communications were to be intercepted.

(2) In January of each year the Attorney General, an Assistant Attorney General specially designated by the Attorney General, or the principal prosecuting attorney of a State, or the principal prosecuting attorney for any political subdivision of a State, shall report to the Administrative Office of the United States Courts—

(a) the information required by paragraphs (a) through (g) of subsection (1) of this section with respect to each application for an order or extension made during the preceding calendar year;

(b) a general description of the interceptions made under such order or extension, including (i) the approximate nature and frequency of incriminating communications intercepted, (ii) the approximate nature and frequency of other communications intercepted, (iii) the approximate number of persons whose communications were intercepted, (iv) the number of orders in which encryption was encountered and whether such encryption prevented law enforcement from obtaining the plain text of communications intercepted pursuant to such order, and (v) the approximate nature, amount, and cost of the manpower and other resources used in the interceptions;

(c) the number of arrests resulting from interceptions made under such order or extension, and the offenses for which arrests were made;

(d) the number of trials resulting from such interceptions;

(e) the number of motions to suppress made with respect to such interceptions, and the number granted or denied;

(f) the number of convictions resulting from such interceptions and the offenses for which the convictions were obtained and a general assessment of the importance of the interceptions; and

(g) the information required by paragraphs (b) through (f) of this subsection with respect to orders or extensions obtained in a preceding calendar year.

(3) In April of each year the Director of the Administrative Office of the United States Courts shall transmit to the Congress a full and complete report concerning the number of applications for orders authorizing or approving the interception of wire, oral, or electronic communications pursuant to this chapter and the number of orders and extensions granted or denied pursuant to this chapter during the preceding calendar year. Such report shall include a summary and analysis of the data required to be filed with the Administrative Office by subsections (1) and (2) of this section. The Director of the Administrative Office of the United States Courts is authorized to issue binding regulations dealing with the content and form of the reports required to be filed by subsections (1) and (2) of this section.

(Added Pub. L. 90–351, title III, §802, June 19, 1968, 82 Stat. 222; amended Pub. L. 95–511, title II, §201(h), Oct. 25, 1978, 92 Stat. 1798; Pub. L. 99–508, title I, §§101(c)(1)(A), 106(d)(4), Oct. 21, 1986, 100 Stat. 1851, 1857; Pub. L. 106–197, §2(a), May 2, 2000, 114 Stat. 247.)

AMENDMENTS

2000—Par. (2)(b)(iv), (v). Pub. L. 106–197 added cl. (iv) and redesignated former cl. (iv) as (v).

1986—Pub. L. 99–508, §101(c)(1)(A), substituted ''wire, oral, or electronic'' for ''wire or oral'' in section catchline.

Par. (1)(b). Pub. L. 99–508, §106(d)(4), inserted ''(including whether or not the order was an order with respect to which the requirements of sections 2518(1)(b)(ii) and 2518(3)(d) of this title did not apply by reason of section 2518(11) of this title)''.

Par. (3). Pub. L. 99–508, §101(c)(1)(A), substituted ''wire, oral, or electronic'' for ''wire or oral''.

1978—Par. (3). Pub. L. 95–511 inserted ''pursuant to this chapter'' after ''wire or oral communications'' and ''granted or denied''.

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.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–511 effective Oct. 25, 1978, except as specifically provided, see section 401 of Pub. L. 95–511, set out as an Effective Date note under section 1801 of Title 50, War and National Defense.

REPORT ON USE OF DCS 1000 (CARNIVORE) TO IMPLEMENT ORDERS UNDER SECTION 2518

Pub. L. 107–273, div. A, title III, §305(b), Nov. 2, 2002, 116 Stat. 1782, provided that: ''At the same time that the Attorney General, or Assistant Attorney General specially designated by the Attorney General, submits to the Administrative Office of the United States Courts the annual report required by section 2519(2) of title 18, United States Code, that is respectively next due after the end of each of the fiscal years 2002 and 2003, the Attorney General shall also submit to the Chairmen and ranking minority members of the Committees on the Judiciary of the Senate and of the House of Representatives a report, covering the same respective time period, that contains the following information with respect to those orders described in that annual report that were applied for by law enforcement agencies of the Department of Justice and whose implementation involved the use of the DCS 1000 program (or any subsequent version of such program)—

''(1) the kind of order or extension applied for (including whether or not the order was an order with respect to which the requirements of sections 2518(1)(b)(ii) and 2518(3)(d) of title 18, United States Code, did not apply by reason of section 2518 (11) of title 18);

''(2) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;

''(3) the offense specified in the order or application, or extension of an order;

''(4) the identity of the applying investigative or law enforcement officer and agency making the application and the person authorizing the application;

''(5) the nature of the facilities from which or place where communications were to be intercepted;

''(6) a general description of the interceptions made under such order or extension, including—

''(A) the approximate nature and frequency of incriminating communications intercepted;

''(B) the approximate nature and frequency of other communications intercepted;

''(C) the approximate number of persons whose communications were intercepted;

''(D) the number of orders in which encryption was encountered and whether such encryption prevented law enforcement from obtaining the plain text of communications intercepted pursuant to such order; and

''(E) the approximate nature, amount, and cost of the manpower and other resources used in the interceptions;

''(7) the number of arrests resulting from interceptions made under such order or extension, and the offenses for which arrests were made;

''(8) the number of trials resulting from such interceptions;

''(9) the number of motions to suppress made with respect to such interceptions, and the number granted or denied;

''(10) the number of convictions resulting from such interceptions and the offenses for which the convictions were obtained and a general assessment of the importance of the interceptions; and

''(11) the specific persons authorizing the use of the DCS 1000 program (or any subsequent version of such program) in the implementation of such order.''

ENCRYPTION REPORTING REQUIREMENTS

Pub. L. 106–197, § 2(b), May 2, 2000, 114 Stat. 247, provided that: ''The encryption reporting requirement in subsection (a) [amending this section] shall be effective for the report transmitted by the Director of the Administrative Office of the Courts for calendar year 2000 and in subsequent reports.''

§ 2520. Recovery of civil damages authorized

(a) IN GENERAL.—Except as provided in section 2511(2)(a)(ii), any person whose wire, oral, or electronic communication is intercepted, disclosed, or intentionally used in violation of this chapter may in a civil action recover from the person or entity, other than the United States, which engaged in that violation such relief as may be appropriate.

(b) RELIEF.—In an action under this section, appropriate relief includes—

(1) such preliminary and other equitable or declaratory relief as may be appropriate;

(2) damages under subsection (c) and punitive damages in appropriate cases; and

(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

(c) COMPUTATION OF DAMAGES.—(1) In an action under this section, if the conduct in violation of this chapter is the private viewing of a private satellite video communication that is not scrambled or encrypted or if the communication is a radio communication that is transmitted on frequencies allocated under subpart D of part 74 of the rules of the Federal Communications Commission that is not scrambled or encrypted and the conduct is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain, then the court shall assess damages as follows:

(A) If the person who engaged in that conduct has not previously been enjoined under section 2511(5) and has not been found liable in a prior civil action under this section, the court shall assess the greater of the sum of actual damages suffered by the plaintiff, or statutory damages of not less than $50 and not more than $500.

(B) If, on one prior occasion, the person who engaged in that conduct has been enjoined under section 2511(5) or has been found liable in a civil action under this section, the court shall assess the greater of the sum of actual damages suffered by the plaintiff, or statutory damages of not less than $100 and not more than $1000.

(2) In any other action under this section, the court may assess as damages whichever is the greater of—

(A) the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation; or

(B) statutory damages of whichever is the greater of $100 a day for each day of violation or $10,000.

(d) DEFENSE.—A good faith reliance on—

(1) a court warrant or order, a grand jury subpoena, a legislative authorization, or a statutory authorization;

(2) a request of an investigative or law enforcement officer under section 2518(7) of this title; or

(3) a good faith determination that section 2511(3) or 2511(2)(i) of this title permitted the conduct complained of;

is a complete defense against any civil or criminal action brought under this chapter or any other law.

(e) LIMITATION.—A civil action under this section may not be commenced later than two years after the date upon which the claimant first has a reasonable opportunity to discover the violation.

(f) ADMINISTRATIVE DISCIPLINE.—If a court or appropriate department or agency determines that the United States or any of its departments or agencies has violated any provision of this chapter, and the court or appropriate department or agency finds that the circumstances surrounding the violation raise serious questions about whether or not an officer or employee of the United States acted willfully or intentionally with respect to the violation, the department or agency shall, upon receipt of a true and correct copy of the decision and findings of the court or appropriate department or agency promptly initiate a proceeding to determine whether disciplinary action against the officer or employee is warranted. If the head of the department or agency involved determines that disciplinary action is not warranted, he or she shall notify the Inspector General with jurisdiction over the department or agency concerned and shall provide the Inspector General with the reasons for such determination.

(g) IMPROPER DISCLOSURE IS VIOLATION.—Any willful disclosure or use by an investigative or law enforcement officer or governmental entity of information beyond the extent permitted by section 2517 is a violation of this chapter for purposes of section 2520(a).

(Added Pub. L. 90–351, title III, § 802, June 19, 1968, 82 Stat. 223; amended Pub. L. 91–358, title II, § 211(c), July 29, 1970, 84 Stat. 654; Pub. L. 99–508, title I, § 103, Oct. 21, 1986, 100 Stat. 1853; Pub. L. 107–56, title II, § 223(a), Oct. 26, 2001, 115 Stat. 293; Pub. L. 107–296, title II, § 225(e), Nov. 25, 2002, 116 Stat. 2157.)

AMENDMENT OF SECTION

For termination of amendment by Pub. L. 107–56, see Termination Date of 2001 Amendment note below.

AMENDMENTS

2002—Subsec. (d)(3). Pub. L. 107–296 inserted ''or 2511(2)(i)'' after ''2511(3)''.

2001—Subsec. (a). Pub. L. 107–56, §§ 223(a)(1), 224, temporarily inserted '', other than the United States,'' after ''person or entity''. See Termination Date of 2001 Amendment note below.

Subsecs. (f), (g). Pub. L. 107–56, §§ 223(a)(2), (3), 224, temporarily added subsecs. (f) and (g). See Termination Date of 2001 Amendment note below.

1986—Pub. L. 99–508 amended section generally. Prior to amendment, section read as follows: ''Any person whose wire or oral communication is intercepted, disclosed, or used in violation of this chapter shall (1) have a civil cause of action against any person who intercepts, discloses, or uses, or procures any other person to intercept, disclose, or use such communications, and (2) be entitled to recover from any such person—

''(a) actual damages but not less than liquidated damages computed at the rate of $100 a day for each day of violation or $1,000, whichever is higher;

''(b) punitive damages; and

''(c) a reasonable attorney's fee and other litigation costs reasonably incurred.

A good faith reliance on a court order or legislative authorization shall constitute a complete defense to any civil or criminal action brought under this chapter or under any other law.''

1970—Pub. L. 91–358 substituted provisions that a good faith reliance on a court order or legislative authorization constitute a complete defense to any civil or criminal action brought under this chapter or under any other law, for provisions that a good faith reliance on a court order or on the provisions of section 2518(7) of this chapter constitute a complete defense to any civil or criminal action brought under this chapter.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

TERMINATION DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–56 to cease to have effect Feb. 3, 2006, except amendment to continue in effect with respect to any particular foreign intelligence investigation that began before Feb. 3, 2006, or with respect to any particular offense or potential offense that began or occurred before Feb. 3, 2006, see section 224 of Pub. L. 107–56, set out as a note under section 2510 of this title.

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.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–358 effective on first day of seventh calendar month which begins after July 29, 1970, see section 901(a) of Pub. L. 91–358.

§ 2521. Injunction against illegal interception

Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes or will constitute a felony violation of this chapter, the Attorney General may initiate a civil action in a district court of the United States to enjoin such violation. The court shall proceed as soon as practicable to the hearing and determination of such an action, and may, at any time before final determination, enter such a restraining order or prohibition, or take such other action, as is warranted to prevent a continuing and substantial injury to the United States or to any person or class of persons for whose protection the action is brought. A proceeding under this section is governed by the Federal Rules of Civil Procedure, except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.

(Added Pub. L. 99–508, title I, § 110(a), Oct. 21, 1986, 100 Stat. 1859.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Federal Rules of Criminal Procedure, referred to in text, are set out in the Appendix to this title.

EFFECTIVE DATE

Section 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 an Effective Date of 1986 Amendment note under section 2510 of this title.

§ 2522. Enforcement of the Communications Assistance for Law Enforcement Act

(a) ENFORCEMENT BY COURT ISSUING SURVEILLANCE ORDER.—If a court authorizing an interception under this chapter, a State statute, or the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) or authorizing use of a pen register or a trap and trace device under chapter 206 or a State statute finds that a telecommunications carrier has failed to comply with the requirements of the Communications Assistance for Law Enforcement Act, the court may, in accordance with section 108 of such Act, direct that the carrier comply forthwith and may direct that a provider of support services to the carrier or the manufacturer of the carrier's transmission or switching equipment furnish forthwith modifications necessary for the carrier to comply.

(b) ENFORCEMENT UPON APPLICATION BY ATTORNEY GENERAL.—The Attorney General may, in a civil action in the appropriate United States district court, obtain an order, in accordance with section 108 of the Communications Assistance for Law Enforcement Act, directing that a telecommunications carrier, a manufacturer of telecommunications transmission or switching equipment, or a provider of telecommunications support services comply with such Act.

(c) CIVIL PENALTY.—

(1) IN GENERAL.—A court issuing an order under this section against a telecommunications carrier, a manufacturer of telecommunications transmission or switching equipment, or a provider of telecommunications support services may impose a civil penalty of up to $10,000 per day for each day in violation after the issuance of the order or

after such future date as the court may specify.

(2) CONSIDERATIONS.—In determining whether to impose a civil penalty and in determining its amount, the court shall take into account—

(A) the nature, circumstances, and extent of the violation;

(B) the violator's ability to pay, the violator's good faith efforts to comply in a timely manner, any effect on the violator's ability to continue to do business, the degree of culpability, and the length of any delay in undertaking efforts to comply; and

(C) such other matters as justice may require.

(d) DEFINITIONS.—As used in this section, the terms defined in section 102 of the Communications Assistance for Law Enforcement Act have the meanings provided, respectively, in such section.

(Added Pub. L. 103–414, title II, § 201(a), Oct. 25, 1994, 108 Stat. 4289.)

REFERENCES IN TEXT

The Foreign Intelligence Surveillance Act of 1978, referred to in subsec. (a), 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.

The Communications Assistance for Law Enforcement Act, referred to in subsecs. (a) and (b), is title I of Pub. L. 103–414, Oct. 25, 1994, 108 Stat. 4279, which is classified generally to subchapter I (§ 1001 et seq.) of chapter 9 of Title 47, Telegraphs, Telephones, and Radiotelegraphs. Sections 102 and 108 of the Act are classified to sections 1001 and 1007, respectively, of Title 47. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 47 and Tables.

CHAPTER 121—STORED WIRE AND ELECTRONIC COMMUNICATIONS AND TRANSACTIONAL RECORDS ACCESS

Sec.
2701. Unlawful access to stored communications.
2702. Voluntary disclosure of customer communications or records.
2703. Required disclosure of customer communications or records.
2704. Backup preservation.
2705. Delayed notice.
2706. Cost reimbursement.
2707. Civil action.
2708. Exclusivity of remedies.
2709. Counterintelligence access to telephone toll and transactional records.
2710. Wrongful disclosure of video tape rental or sale records.
2711. Definitions for chapter.
2712. Civil actions against the United States.

AMENDMENTS

2002—Pub. L. 107–273, div. B, title IV, § 4005(b), Nov. 2, 2002, 116 Stat. 1812, made technical correction to directory language of Pub. L. 107–56, title II, § 223(c)(2), Oct. 26, 2001, 115 Stat. 295, effective Oct. 26, 2001. See 2001 Amendment note below.

2001—Pub. L. 107–56, title II, §§ 223(c)(2), 224, Oct. 26, 2001, 115 Stat. 295, as amended by Pub. L. 107–273, div. B, title IV, § 4005(b), Nov. 2, 2002, 116 Stat. 1812, temporarily added item 2712.

Pub. L. 107–56, title II, §§ 212(a)(2), (b)(2), 224, Oct. 26, 2001, 115 Stat. 285, 295, temporarily substituted ''Voluntary disclosure of customer communications or records'' for ''Disclosure of contents'' in item 2702 and ''Required disclosure of customer communications or records'' for ''Requirements for governmental access'' in item 2703.

1988—Pub. L. 100–690, title VII, § 7067, Nov. 18, 1988, 102 Stat. 4405, which directed amendment of item 2710 by inserting ''for chapter'' after ''Definitions'' was executed by making the insertion in item 2711 to reflect the probable intent of Congress and the intervening redesignation of item 2710 as 2711 by Pub. L. 100–618, see below.

Pub. L. 100–618, § 2(b), Nov. 5, 1988, 102 Stat. 3197, added item 2710 and redesignated former item 2710 as 2711.

§ 2701. Unlawful access to stored communications

(a) OFFENSE.—Except as provided in subsection (c) of this section whoever—

(1) intentionally accesses without authorization a facility through which an electronic communication service is provided; or

(2) intentionally exceeds an authorization to access that facility;

and thereby obtains, alters, or prevents authorized access to a wire or electronic communication while it is in electronic storage in such system shall be punished as provided in subsection (b) of this section.

(b) PUNISHMENT.—The punishment for an offense under subsection (a) of this section is—

(1) if the offense is committed for purposes of commercial advantage, malicious destruction or damage, or private commercial gain, or in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or any State—

(A) a fine under this title or imprisonment for not more than 5 years, or both, in the case of a first offense under this subparagraph; and

(B) a fine under this title or imprisonment for not more than 10 years, or both, for any subsequent offense under this subparagraph; and

(2) in any other case—

(A) a fine under this title or imprisonment for not more than 1 year or both, in the case of a first offense under this paragraph; and

(B) a fine under this title or imprisonment for not more than 5 years, or both, in the case of an offense under this subparagraph that occurs after a conviction of another offense under this section.

(c) EXCEPTIONS.—Subsection (a) of this section does not apply with respect to conduct authorized—

(1) by the person or entity providing a wire or electronic communications service;

(2) by a user of that service with respect to a communication of or intended for that user; or

(3) in section 2703, 2704 or 2518 of this title.

(Added Pub. L. 99–508, title II, § 201[(a)], Oct. 21, 1986, 100 Stat. 1860; amended Pub. L. 103–322, title XXXIII, § 330016(1)(K), (U), Sept. 13, 1994, 108 Stat. 2147, 2148; Pub. L. 104–294, title VI, § 601(a)(3), Oct. 11, 1996, 110 Stat. 3498; Pub. L. 107–296, title II, § 225(j)(2), Nov. 25, 2002, 116 Stat. 2158.)

AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107–296, § 225(j)(2)(A), in introductory provisions, inserted ‘‘, or in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or any State’’ after ‘‘commercial gain’’.

Subsec. (b)(1)(A). Pub. L. 107–296, § 225(j)(2)(B), substituted ‘‘5 years’’ for ‘‘one year’’.

Subsec. (b)(1)(B). Pub. L. 107–296, § 225(j)(2)(C), substituted ‘‘10 years’’ for ‘‘two years’’.

Subsec. (b)(2). Pub. L. 107–296, § 225(j)(2)(D), added par. (2) and struck out former par. (2) which read as follows: ‘‘a fine under this title or imprisonment for not more than six months, or both, in any other case.’’

1996—Subsec. (b)(1)(A), (2). Pub. L. 104–294 substituted ‘‘fine under this title’’ for ‘‘fine of under this title’’.

1994—Subsec. (b)(1)(A). Pub. L. 103–322, § 330016(1)(U), substituted ‘‘under this title’’ for ‘‘not more than $250,000’’.

Subsec. (b)(2). Pub. L. 103–322, § 330016(1)(K), substituted ‘‘under this title’’ for ‘‘not more than $5,000’’.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE

Section 202 of title II of Pub. L. 99–508 provided that: ‘‘This title and the amendments made by this title [enacting this chapter] shall take effect ninety days after the date of the enactment of this Act [Oct. 21, 1986] and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this title takes effect.’’

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–618, § 1, Nov. 5, 1988, 102 Stat. 3195, provided that: ‘‘This Act [enacting section 2710 of this title and renumbering former section 2710 as 2711 of this title] may be cited as the ‘Video Privacy Protection Act of 1988’.’’

§ 2702. Voluntary disclosure of customer communications or records

(a) PROHIBITIONS.—Except as provided in subsection (b)—

(1) a person or entity providing an electronic communication service to the public shall not knowingly divulge to any person or entity the contents of a communication while in electronic storage by that service; and

(2) a person or entity providing remote computing service to the public shall not knowingly divulge to any person or entity the contents of any communication which is carried or maintained on that service—

(A) on behalf of, and received by means of electronic transmission from (or created by means of computer processing of communications received by means of electronic transmission from), a subscriber or customer of such service;

(B) solely for the purpose of providing storage or computer processing services to such subscriber or customer, if the provider is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing; and

(3) a provider of remote computing service or electronic communication service to the public shall not knowingly divulge a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by paragraph (1) or (2)) to any governmental entity.

(b) EXCEPTIONS FOR DISCLOSURE OF COMMUNICATIONS.—A provider described in subsection (a) may divulge the contents of a communication—

(1) to an addressee or intended recipient of such communication or an agent of such addressee or intended recipient;

(2) as otherwise authorized in section 2517, 2511(2)(a), or 2703 of this title;

(3) with the lawful consent of the originator or an addressee or intended recipient of such communication, or the subscriber in the case of remote computing service;

(4) to a person employed or authorized or whose facilities are used to forward such communication to its destination;

(5) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service;

(6) to the National Center for Missing and Exploited Children, in connection with a report submitted thereto under section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032);

(7) to a law enforcement agency—

(A) if the contents—

(i) were inadvertently obtained by the service provider; and

(ii) appear to pertain to the commission of a crime; or

[(B) Repealed. Pub. L. 108–21, title V, § 508(b)(1)(A), Apr. 30, 2003, 117 Stat. 684]

(8) to a Federal, State, or local governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of communications relating to the emergency.

(c) EXCEPTIONS FOR DISCLOSURE OF CUSTOMER RECORDS.—A provider described in subsection (a) may divulge a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a)(1) or (a)(2))—

(1) as otherwise authorized in section 2703;

(2) with the lawful consent of the customer or subscriber;

(3) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service;

(4) to a governmental entity, if the provider reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person justifies disclosure of the information;

(5) to the National Center for Missing and Exploited Children, in connection with a report submitted thereto under section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032); or

(6) to any person other than a governmental entity.

(Added Pub. L. 99–508, title II, § 201[(a)], Oct. 21, 1986, 100 Stat. 1860; amended Pub. L. 100–690, title

VII, § 7037, Nov. 18, 1988, 102 Stat. 4399; Pub. L. 105–314, title VI, § 604(b), Oct. 30, 1998, 112 Stat. 2984; Pub. L. 107–56, title II, § 212(a)(1), Oct. 26, 2001, 115 Stat. 284; Pub. L. 107–296, title II, § 225(d)(1), Nov. 25, 2002, 116 Stat. 2157; Pub. L. 108–21, title V, § 508(b), Apr. 30, 2003, 117 Stat. 684.)

AMENDMENT OF SECTION

For termination of amendment by Pub. L. 107–56, see Termination Date of 2001 Amendment note below.

AMENDMENTS

2003—Subsec. (b)(5). Pub. L. 108–21, § 508(b)(1)(C), which directed amendment of par. (5) by striking ''or'' at the end, could not be executed because ''or'' did not appear at the end. See 2002 Amendment note below.

Subsec. (b)(6). Pub. L. 108–21, § 508(b)(1)(D), added par. (6). Former par. (6) redesignated (7).

Subsec. (b)(6)(B). Pub. L. 108–21, § 508(b)(1)(A), struck out subpar. (B) which read as follows: ''if required by section 227 of the Crime Control Act of 1990; or''.

Subsec. (b)(7), (8). Pub. L. 108–21, § 508(b)(1)(B), redesignated pars. (6) and (7) as (7) and (8), respectively.

Subsec. (c)(5), (6). Pub. L. 108–21, § 508(b)(2), added par. (5) and redesignated former par. (5) as (6).

2002—Subsec. (b)(5). Pub. L. 107–296, § 225(d)(1)(A), struck out ''or'' at end.

Subsec. (b)(6)(A). Pub. L. 107–296, § 225(d)(1)(B), inserted ''or'' at end.

Subsec. (b)(6)(C). Pub. L. 107–296, § 225(d)(1)(C), struck out subpar. (C) which read as follows: ''if the provider reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person requires disclosure of the information without delay.''

Subsec. (b)(7). Pub. L. 107–296, § 225(d)(1)(D), added par. (7).

2001—Pub. L. 107–56, §§ 212(a)(1)(A), 224, temporarily substituted ''Voluntary disclosure of customer communications or records'' for ''Disclosure of contents'' in section catchline. See Termination Date of 2001 Amendment note below.

Subsec. (a)(3). Pub. L. 107–56, §§ 212(a)(1)(B), 224, temporarily added par. (3). See Termination Date of 2001 Amendment note below.

Subsec. (b). Pub. L. 107–56, §§ 212(a)(1)(C), 224, temporarily substituted ''Exceptions for disclosure of communications'' for ''Exceptions'' in heading and ''A provider described in subsection (a)'' for ''A person or entity'' in introductory provisions. See Termination Date of 2001 Amendment note below.

Subsec. (b)(6)(C). Pub. L. 107–56, §§ 212(a)(1)(D), 224, temporarily added subpar. (C). See Termination Date of 2001 Amendment note below.

Subsec. (c). Pub. L. 107–56, §§ 212(a)(1)(E), 224, temporarily added subsec. (c). See Termination Date of 2001 Amendment note below.

1998—Subsec. (b)(6). Pub. L. 105–314 amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''to a law enforcement agency, if such contents—

''(A) were inadvertently obtained by the service provider; and

''(B) appear to pertain to the commission of a crime.''

1988—Subsec. (b)(2). Pub. L. 100–690 substituted ''2517'' for ''2516''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

TERMINATION DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–56 to cease to have effect Feb. 3, 2006, except amendment to continue in effect with respect to any particular foreign intelligence investigation that began before Feb. 3, 2006, or with respect to any particular offense or potential offense that began or occurred before Feb. 3, 2006, see section 224 of Pub. L. 107–56, set out as a note under section 2510 of this title.

§ 2703. Required disclosure of customer communications or records

(a) CONTENTS OF WIRE OR ELECTRONIC COMMUNICATIONS IN ELECTRONIC STORAGE.—A governmental entity may require the disclosure by a provider of electronic communication service of the contents of a wire or electronic communication, that is in electronic storage in an electronic communications system for one hundred and eighty days or less, only pursuant to a warrant issued using the procedures described in the Federal Rules of Criminal Procedure by a court with jurisdiction over the offense under investigation or equivalent State warrant. A governmental entity may require the disclosure by a provider of electronic communications services of the contents of a wire or electronic communication that has been in electronic storage in an electronic communications system for more than one hundred and eighty days by the means available under subsection (b) of this section.

(b) CONTENTS OF WIRE OR ELECTRONIC COMMUNICATIONS IN A REMOTE COMPUTING SERVICE.—(1) A governmental entity may require a provider of remote computing service to disclose the contents of any wire or electronic communication to which this paragraph is made applicable by paragraph (2) of this subsection—

(A) without required notice to the subscriber or customer, if the governmental entity obtains a warrant issued using the procedures described in the Federal Rules of Criminal Procedure by a court with jurisdiction over the offense under investigation or equivalent State warrant; or

(B) with prior notice from the governmental entity to the subscriber or customer if the governmental entity—

(i) uses an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury or trial subpoena; or

(ii) obtains a court order for such disclosure under subsection (d) of this section;

except that delayed notice may be given pursuant to section 2705 of this title.

(2) Paragraph (1) is applicable with respect to any wire or electronic communication that is held or maintained on that service—

(A) on behalf of, and received by means of electronic transmission from (or created by means of computer processing of communications received by means of electronic transmission from), a subscriber or customer of such remote computing service; and

(B) solely for the purpose of providing storage or computer processing services to such subscriber or customer, if the provider is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing.

(c) RECORDS CONCERNING ELECTRONIC COMMUNICATION SERVICE OR REMOTE COMPUTING SERV-

ICE.—(1) A governmental entity may require a provider of electronic communication service or remote computing service to disclose a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications) only when the governmental entity—

(A) obtains a warrant issued using the procedures described in the Federal Rules of Criminal Procedure by a court with jurisdiction over the offense under investigation or equivalent State warrant;

(B) obtains a court order for such disclosure under subsection (d) of this section;

(C) has the consent of the subscriber or customer to such disclosure;

(D) submits a formal written request relevant to a law enforcement investigation concerning telemarketing fraud for the name, address, and place of business of a subscriber or customer of such provider, which subscriber or customer is engaged in telemarketing (as such term is defined in section 2325 of this title); or

(E) seeks information under paragraph (2).

(2) A provider of electronic communication service or remote computing service shall disclose to a governmental entity the—

(A) name;

(B) address;

(C) local and long distance telephone connection records, or records of session times and durations;

(D) length of service (including start date) and types of service utilized;

(E) telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and

(F) means and source of payment for such service (including any credit card or bank account number),

of a subscriber to or customer of such service when the governmental entity uses an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury or trial subpoena or any means available under paragraph (1).

(3) A governmental entity receiving records or information under this subsection is not required to provide notice to a subscriber or customer.

(d) REQUIREMENTS FOR COURT ORDER.—A court order for disclosure under subsection (b) or (c) may be issued by any court that is a court of competent jurisdiction and shall issue only if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation. In the case of a State governmental authority, such a court order shall not issue if prohibited by the law of such State. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify such order, if the information or records requested are unusually voluminous in nature or compliance with such order otherwise would cause an undue burden on such provider.

(e) NO CAUSE OF ACTION AGAINST A PROVIDER DISCLOSING INFORMATION UNDER THIS CHAPTER.—No cause of action shall lie in any court against any provider of wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order, warrant, subpoena, statutory authorization, or certification under this chapter.

(f) REQUIREMENT TO PRESERVE EVIDENCE.—

(1) IN GENERAL.—A provider of wire or electronic communication services or a remote computing service, upon the request of a governmental entity, shall take all necessary steps to preserve records and other evidence in its possession pending the issuance of a court order or other process.

(2) PERIOD OF RETENTION.—Records referred to in paragraph (1) shall be retained for a period of 90 days, which shall be extended for an additional 90-day period upon a renewed request by the governmental entity.

(g) PRESENCE OF OFFICER NOT REQUIRED.—Notwithstanding section 3105 of this title, the presence of an officer shall not be required for service or execution of a search warrant issued in accordance with this chapter requiring disclosure by a provider of electronic communications service or remote computing service of the contents of communications or records or other information pertaining to a subscriber to or customer of such service.

(Added Pub. L. 99–508, title II, § 201[(a)], Oct. 21, 1986, 100 Stat. 1861; amended Pub. L. 100–690, title VII, §§ 7038, 7039, Nov. 18, 1988, 102 Stat. 4399; Pub. L. 103–322, title XXXIII, § 330003(b), Sept. 13, 1994, 108 Stat. 2140; Pub. L. 103–414, title II, § 207(a), Oct. 25, 1994, 108 Stat. 4292; Pub. L. 104–132, title VIII, § 804, Apr. 24, 1996, 110 Stat. 1305; Pub. L. 104–293, title VI, § 601(b), Oct. 11, 1996, 110 Stat. 3469; Pub. L. 104–294, title VI, § 605(f), Oct. 11, 1996, 110 Stat. 3510; Pub. L. 105–184, § 8, June 23, 1998, 112 Stat. 522; Pub. L. 107–56, title II, §§ 209(2), 210, 212(b)(1), 220(a)(1), (b), Oct. 26, 2001, 115 Stat. 283, 285, 291, 292; Pub. L. 107–273, div. B, title IV, § 4005(a)(2), div. C, title I, § 11010, Nov. 2, 2002, 116 Stat. 1812, 1822; Pub. L. 107–296, title II, § 225(h)(1), Nov. 25, 2002, 116 Stat. 2158; Pub. L. 109–162, title XI, § 1171(a)(1), Jan. 5, 2006, 119 Stat. 3123.)

AMENDMENT OF SECTION

For termination of amendment by sections 209(2), 212(b)(1), 220(a)(1), (b) of Pub. L. 107–56, see Termination Date of 2001 Amendment note below.

REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in subsecs. (a), (b)(1)(A), and (c)(1)(B)(i), are set out in the Appendix to this title.

AMENDMENTS

2006—Subsec. (c)(1)(C). Pub. L. 109–162 struck out ''or'' at end.

2002—Subsec. (c)(1)(E). Pub. L. 107–273, § 4005(a)(2), realigned margins.

Subsec. (e). Pub. L. 107–296 inserted '', statutory authorization'' after ''subpoena''.

Subsec. (g). Pub. L. 107–273, § 11010, added subsec. (g).

2001—Pub. L. 107–56, §§212(b)(1)(A), 224, temporarily substituted ''Required disclosure of customer communications or records'' for ''Requirements for governmental access'' in section catchline. See Termination Date of 2001 Amendment note below.

Subsec. (a). Pub. L. 107–56, §§209(2)(A), (B), 220(a)(1), 224, temporarily substituted ''Contents of Wire or Electronic'' for ''Contents of Electronic'' in heading and ''contents of a wire or electronic'' for ''contents of an electronic'' in two places and ''using the procedures described in the Federal Rules of Criminal Procedure by a court with jurisdiction over the offense under investigation'' for ''under the Federal Rules of Criminal Procedure'' in text. See Termination Date of 2001 Amendment note below.

Subsec. (b). Pub. L. 107–56, §§209(2)(A), 224, temporarily substituted ''Contents of Wire or Electronic'' for ''Contents of Electronic'' in heading. See Termination Date of 2001 Amendment note below.

Subsec. (b)(1). Pub. L. 107–56, §§209(2)(C), 220(a)(1), 224, temporarily substituted ''any wire or electronic communication'' for ''any electronic communication'' in introductory provisions and ''using the procedures described in the Federal Rules of Criminal Procedure by a court with jurisdiction over the offense under investigation'' for ''under the Federal Rules of Criminal Procedure'' in subpar. (A). See Termination Date of 2001 Amendment note below.

Subsec. (b)(2). Pub. L. 107–56, §§209(2)(C), 224, temporarily substituted ''any wire or electronic communication'' for ''any electronic communication'' in introductory provisions. See Termination Date of 2001 Amendment note below.

Subsec. (c)(1). Pub. L. 107–56, §§212(b)(1)(C), 220(a)(1), 224, temporarily designated subpar. (A) and introductory provisions of subpar. (B) as par. (1), substituted ''A governmental entity may require a provider of electronic communication service or remote computing service to'' for ''(A) Except as provided in subparagraph (B), a provider of electronic communication service or remote computing service may'' and a closing parenthesis for provisions which began with ''covered by subsection (a) or (b) of this section) to any person other than a governmental entity.'' in former subpar. (A) and ended with ''(B) A provider of electronic communication service or remote computing service shall disclose a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a) or (b) of this section) to a governmental entity'', redesignated clauses (i) to (iv) of former subpar. (B) as subpars. (A) to (D), respectively, substituted ''using the procedures described in the Federal Rules of Criminal Procedure by a court with jurisdiction over the offense under investigation'' for ''under the Federal Rules of Criminal Procedure'' in subpar. (A) and ''; or'' for period at end of subpar. (D), added subpar. (E), and redesignated former subpar. (C) as par. (2). See Termination Date of 2001 Amendment note below.

Subsec. (c)(2). Pub. L. 107–56, §210, amended par. (2), as redesignated by section 212 of Pub. L. 107–56, by substituting ''entity the—'' for ''entity the name, address, local and long distance telephone toll billing records, telephone number or other subscriber number or identity, and length of service of a subscriber'' in introductory provisions, inserting subpars. (A) to (F), striking out ''and the types of services the subscriber or customer utilized,'' before ''when the governmental entity uses an administrative subpoena'', inserting ''of a subscriber'' at beginning of concluding provisions and designating ''to or customer of such service when the governmental entity uses an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury or trial subpoena or any means available under paragraph (1).'' as remainder of concluding provisions.

Pub. L. 107–56, §§212(b)(1)(C)(iii), (D), 224, temporarily redesignated subpar. (C) of par. (1) as par. (2) and temporarily substituted ''paragraph (1)'' for ''subparagraph (B)''. See Termination Date of 2001 Amendment note below.

Pub. L. 107–56, §§212(b)(1)(B), 224, temporarily redesignated par. (2) as (3). See Termination Date of 2001 Amendment note below.

Subsec. (c)(3). Pub. L. 107–56, §§212(b)(1)(B), 224, temporarily redesignated par. (2) as (3). See Termination Date of 2001 Amendment note below.

Subsec. (d). Pub. L. 107–56, §§220(b), 224, temporarily struck out ''described in section 3127(2)(A)'' after ''court of competent jurisdiction''. See Termination Date of 2001 Amendment note below.

1998—Subsec. (c)(1)(B)(iv). Pub. L. 105–184 added cl. (iv).

1996—Subsec. (c)(1)(C). Pub. L. 104–293 inserted ''local and long distance'' after ''address,''.

Subsec. (d). Pub. L. 104–294 substituted ''in section 3127(2)(A)'' for ''in section 3126(2)(A)''.

Subsec. (f). Pub. L. 104–132 added subsec. (f).

1994—Subsec. (c)(1)(B). Pub. L. 103–414, §207(a)(1)(A), redesignated cls. (ii) to (iv) as (i) to (iii), respectively, and struck out former cl. (i) which read as follows: ''uses an administrative subpoena authorized by a Federal or State statute, or a Federal or State grand jury or trial subpoena;''.

Subsec. (c)(1)(C). Pub. L. 103–414, §207(a)(1)(B), added subpar. (C).

Subsec. (d). Pub. L. 103–414, §207(a)(2), amended first sentence generally. Prior to amendment, first sentence read as follows: ''A court order for disclosure under subsection (b) or (c) of this section may be issued by any court that is a court of competent jurisdiction set forth in section 3127(2)(A) of this title and shall issue only if the governmental entity shows that there is reason to believe the contents of a wire or electronic communication, or the records or other information sought, are relevant to a legitimate law enforcement inquiry.''

Pub. L. 103–322 substituted ''section 3127(2)(A)'' for ''section 3126(2)(A)''.

1988—Subsecs. (b)(1)(B)(i), (c)(1)(B)(i). Pub. L. 100–690, §7038, inserted ''or trial'' after ''grand jury''.

Subsec. (d). Pub. L. 100–690, §7039, inserted ''may be issued by any court that is a court of competent jurisdiction set forth in section 3126(2)(A) of this title and'' before ''shall issue''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

TERMINATION DATE OF 2001 AMENDMENT

Amendment by sections 209(2), 212(b)(1), 220(a)(1), (b) of Pub. L. 107–56 to cease to have effect Feb. 3, 2006, except amendment to continue in effect with respect to any particular foreign intelligence investigation that began before Feb. 3, 2006, or with respect to any particular offense or potential offense that began or occurred before Feb. 3, 2006, see section 224 of Pub. L. 107–56, set out as a note under section 2510 of this title.

§ 2704. Backup preservation

(a) BACKUP PRESERVATION.—(1) A governmental entity acting under section 2703(b)(2) may include in its subpoena or court order a requirement that the service provider to whom the request is directed create a backup copy of the contents of the electronic communications sought in order to preserve those communications. Without notifying the subscriber or customer of such subpoena or court order, such service provider shall create such backup copy as soon as practicable consistent with its regular business practices and shall confirm to the governmental entity that such backup copy has been made. Such backup copy shall be created within two business days after receipt by the service provider of the subpoena or court order.

(2) Notice to the subscriber or customer shall be made by the governmental entity within three days after receipt of such confirmation, unless such notice is delayed pursuant to section 2705(a).

(3) The service provider shall not destroy such backup copy until the later of—

(A) the delivery of the information; or

(B) the resolution of any proceedings (including appeals of any proceeding) concerning the government's subpoena or court order.

(4) The service provider shall release such backup copy to the requesting governmental entity no sooner than fourteen days after the governmental entity's notice to the subscriber or customer if such service provider—

(A) has not received notice from the subscriber or customer that the subscriber or customer has challenged the governmental entity's request; and

(B) has not initiated proceedings to challenge the request of the governmental entity.

(5) A governmental entity may seek to require the creation of a backup copy under subsection (a)(1) of this section if in its sole discretion such entity determines that there is reason to believe that notification under section 2703 of this title of the existence of the subpoena or court order may result in destruction of or tampering with evidence. This determination is not subject to challenge by the subscriber or customer or service provider.

(b) CUSTOMER CHALLENGES.—(1) Within fourteen days after notice by the governmental entity to the subscriber or customer under subsection (a)(2) of this section, such subscriber or customer may file a motion to quash such subpoena or vacate such court order, with copies served upon the governmental entity and with written notice of such challenge to the service provider. A motion to vacate a court order shall be filed in the court which issued such order. A motion to quash a subpoena shall be filed in the appropriate United States district court or State court. Such motion or application shall contain an affidavit or sworn statement—

(A) stating that the applicant is a customer or subscriber to the service from which the contents of electronic communications maintained for him have been sought; and

(B) stating the applicant's reasons for believing that the records sought are not relevant to a legitimate law enforcement inquiry or that there has not been substantial compliance with the provisions of this chapter in some other respect.

(2) Service shall be made under this section upon a governmental entity by delivering or mailing by registered or certified mail a copy of the papers to the person, office, or department specified in the notice which the customer has received pursuant to this chapter. For the purposes of this section, the term ''delivery'' has the meaning given that term in the Federal Rules of Civil Procedure.

(3) If the court finds that the customer has complied with paragraphs (1) and (2) of this subsection, the court shall order the governmental entity to file a sworn response, which may be filed in camera if the governmental entity includes in its response the reasons which make in camera review appropriate. If the court is unable to determine the motion or application on the basis of the parties' initial allegations and response, the court may conduct such additional proceedings as it deems appropriate. All such proceedings shall be completed and the motion or application decided as soon as practicable after the filing of the governmental entity's response.

(4) If the court finds that the applicant is not the subscriber or customer for whom the communications sought by the governmental entity are maintained, or that there is a reason to believe that the law enforcement inquiry is legitimate and that the communications sought are relevant to that inquiry, it shall deny the motion or application and order such process enforced. If the court finds that the applicant is the subscriber or customer for whom the communications sought by the governmental entity are maintained, and that there is not a reason to believe that the communications sought are relevant to a legitimate law enforcement inquiry, or that there has not been substantial compliance with the provisions of this chapter, it shall order the process quashed.

(5) A court order denying a motion or application under this section shall not be deemed a final order and no interlocutory appeal may be taken therefrom by the customer.

(Added Pub. L. 99–508, title II, § 201[(a)], Oct. 21, 1986, 100 Stat. 1863.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b)(2), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

§ 2705. Delayed notice

(a) DELAY OF NOTIFICATION.—(1) A governmental entity acting under section 2703(b) of this title may—

(A) where a court order is sought, include in the application a request, which the court shall grant, for an order delaying the notification required under section 2703(b) of this title for a period not to exceed ninety days, if the court determines that there is reason to believe that notification of the existence of the court order may have an adverse result described in paragraph (2) of this subsection; or

(B) where an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury subpoena is obtained, delay the notification required under section 2703(b) of this title for a period not to exceed ninety days upon the execution of a written certification of a supervisory official that there is reason to believe that notification of the existence of the subpoena may have an adverse result described in paragraph (2) of this subsection.

(2) An adverse result for the purposes of paragraph (1) of this subsection is—

(A) endangering the life or physical safety of an individual;

(B) flight from prosecution;

(C) destruction of or tampering with evidence;

(D) intimidation of potential witnesses; or

(E) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

(3) The governmental entity shall maintain a true copy of certification under paragraph (1)(B).

(4) Extensions of the delay of notification provided in section 2703 of up to ninety days each may be granted by the court upon application, or by certification by a governmental entity, but only in accordance with subsection (b) of this section.

(5) Upon expiration of the period of delay of notification under paragraph (1) or (4) of this subsection, the governmental entity shall serve upon, or deliver by registered or first-class mail to, the customer or subscriber a copy of the process or request together with notice that—

(A) states with reasonable specificity the nature of the law enforcement inquiry; and

(B) informs such customer or subscriber—

(i) that information maintained for such customer or subscriber by the service provider named in such process or request was supplied to or requested by that governmental authority and the date on which the supplying or request took place;

(ii) that notification of such customer or subscriber was delayed;

(iii) what governmental entity or court made the certification or determination pursuant to which that delay was made; and

(iv) which provision of this chapter allowed such delay.

(6) As used in this subsection, the term ''supervisory official'' means the investigative agent in charge or assistant investigative agent in charge or an equivalent of an investigating agency's headquarters or regional office, or the chief prosecuting attorney or the first assistant prosecuting attorney or an equivalent of a prosecuting attorney's headquarters or regional office.

(b) PRECLUSION OF NOTICE TO SUBJECT OF GOVERNMENTAL ACCESS.—A governmental entity acting under section 2703, when it is not required to notify the subscriber or customer under section 2703(b)(1), or to the extent that it may delay such notice pursuant to subsection (a) of this section, may apply to a court for an order commanding a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order. The court shall enter such an order if it determines that there is reason to believe that notification of the existence of the warrant, subpoena, or court order will result in—

(1) endangering the life or physical safety of an individual;

(2) flight from prosecution;

(3) destruction of or tampering with evidence;

(4) intimidation of potential witnesses; or

(5) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

(Added Pub. L. 99–508, title II, § 201[(a)], Oct. 21, 1986, 100 Stat. 1864.)

§ 2706. Cost reimbursement

(a) PAYMENT.—Except as otherwise provided in subsection (c), a governmental entity obtaining the contents of communications, records, or other information under section 2702, 2703, or 2704 of this title shall pay to the person or entity assembling or providing such information a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching for, assembling, reproducing, or otherwise providing such information. Such reimbursable costs shall include any costs due to necessary disruption of normal operations of any electronic communication service or remote computing service in which such information may be stored.

(b) AMOUNT.—The amount of the fee provided by subsection (a) shall be as mutually agreed by the governmental entity and the person or entity providing the information, or, in the absence of agreement, shall be as determined by the court which issued the order for production of such information (or the court before which a criminal prosecution relating to such information would be brought, if no court order was issued for production of the information).

(c) EXCEPTION.—The requirement of subsection (a) of this section does not apply with respect to records or other information maintained by a communications common carrier that relate to telephone toll records and telephone listings obtained under section 2703 of this title. The court may, however, order a payment as described in subsection (a) if the court determines the information required is unusually voluminous in nature or otherwise caused an undue burden on the provider.

(Added Pub. L. 99–508, title II, § 201[(a)], Oct. 21, 1986, 100 Stat. 1866; amended Pub. L. 100–690, title VII, § 7061, Nov. 18, 1988, 102 Stat. 4404.)

AMENDMENTS

1988—Subsec. (c). Pub. L. 100–690 inserted heading.

§ 2707. Civil action

(a) CAUSE OF ACTION.—Except as provided in section 2703(e), any provider of electronic communication service, subscriber, or other person aggrieved by any violation of this chapter in which the conduct constituting the violation is engaged in with a knowing or intentional state of mind may, in a civil action, recover from the person or entity, other than the United States, which engaged in that violation such relief as may be appropriate.

(b) RELIEF.—In a civil action under this section, appropriate relief includes—

(1) such preliminary and other equitable or declaratory relief as may be appropriate;

(2) damages under subsection (c); and

(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

(c) DAMAGES.—The court may assess as damages in a civil action under this section the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation, but in no case shall a person entitled to recover receive less than the sum of $1,000. If the violation is willful or intentional,

the court may assess punitive damages. In the case of a successful action to enforce liability under this section, the court may assess the costs of the action, together with reasonable attorney fees determined by the court.

(d) ADMINISTRATIVE DISCIPLINE.—If a court or appropriate department or agency determines that the United States or any of its departments or agencies has violated any provision of this chapter, and the court or appropriate department or agency finds that the circumstances surrounding the violation raise serious questions about whether or not an officer or employee of the United States acted willfully or intentionally with respect to the violation, the department or agency shall, upon receipt of a true and correct copy of the decision and findings of the court or appropriate department or agency promptly initiate a proceeding to determine whether disciplinary action against the officer or employee is warranted. If the head of the department or agency involved determines that disciplinary action is not warranted, he or she shall notify the Inspector General with jurisdiction over the department or agency concerned and shall provide the Inspector General with the reasons for such determination.

(e) DEFENSE.—A good faith reliance on—

(1) a court warrant or order, a grand jury subpoena, a legislative authorization, or a statutory authorization (including a request of a governmental entity under section 2703(f) of this title);

(2) a request of an investigative or law enforcement officer under section 2518(7) of this title; or

(3) a good faith determination that section 2511(3) of this title permitted the conduct complained of;

is a complete defense to any civil or criminal action brought under this chapter or any other law.

(f) LIMITATION.—A civil action under this section may not be commenced later than two years after the date upon which the claimant first discovered or had a reasonable opportunity to discover the violation.

(g) IMPROPER DISCLOSURE.—Any willful disclosure of a ''record'', as that term is defined in section 552a(a) of title 5, United States Code, obtained by an investigative or law enforcement officer, or a governmental entity, pursuant to section 2703 of this title, or from a device installed pursuant to section 3123 or 3125 of this title, that is not a disclosure made in the proper performance of the official functions of the officer or governmental entity making the disclosure, is a violation of this chapter. This provision shall not apply to information previously lawfully disclosed (prior to the commencement of any civil or administrative proceeding under this chapter) to the public by a Federal, State, or local governmental entity or by the plaintiff in a civil action under this chapter.

(Added Pub. L. 99–508, title II, § 201[(a)], Oct. 21, 1986, 100 Stat. 1866; amended Pub. L. 104–293, title VI, § 601(c), Oct. 11, 1996, 110 Stat. 3469; Pub. L. 107–56, title II, §§ 223(b), title VIII, § 815, Oct. 26, 2001, 115 Stat. 293, 384; Pub. L. 107–273, div. B, title IV, § 4005(f)(2), Nov. 2, 2002, 116 Stat. 1813.)

AMENDMENT OF SECTION

For termination of amendment by section 223(b) of Pub. L. 107–56, see Termination Date of 2001 Amendment note below.

AMENDMENTS

2002—Subsec. (e)(1). Pub. L. 107–273 made technical correction to directory language of Pub. L. 107–56, § 815. See 2001 Amendment note below.

2001—Subsec. (a). Pub. L. 107–56, §§ 223(b)(1), 224, temporarily inserted '', other than the United States,'' after ''person or entity''. See Termination Date of 2001 Amendment note below.

Subsec. (d). Pub. L. 107–56, §§ 223(b)(2), 224, temporarily added subsec. (d) and temporarily struck out heading and text of former subsec. (d). Text read as follows: ''If a court determines that any agency or department of the United States has violated this chapter and the court finds that the circumstances surrounding the violation raise the question whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department concerned shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee.'' See Termination Date of 2001 Amendment note below.

Subsec. (e)(1). Pub. L. 107–56, § 815, as amended by Pub. L. 107–273, inserted ''(including a request of a governmental entity under section 2703(f) of this title)'' after ''or a statutory authorization''.

Subsec. (g). Pub. L. 107–56, §§ 223(b)(3), 224, temporarily added subsec. (g). See Termination Date of 2001 Amendment note below.

1996—Subsec. (a). Pub. L. 104–293, § 601(c)(1), substituted ''other person'' for ''customer''.

Subsec. (c). Pub. L. 104–293, § 601(c)(2), inserted at end ''If the violation is willful or intentional, the court may assess punitive damages. In the case of a successful action to enforce liability under this section, the court may assess the costs of the action, together with reasonable attorney fees determined by the court.''

Subsecs. (d) to (f). Pub. L. 104–293, § 601(c)(3), (4), added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–273, div. B, title IV, § 4005(f)(2), Nov. 2, 2002, 116 Stat. 1813, provided that the amendment made by section 4005(f)(2) is effective Oct. 26, 2001.

TERMINATION DATE OF 2001 AMENDMENT

Amendment by section 223(b) of Pub. L. 107–56 to cease to have effect Feb. 3, 2006, except amendment to continue in effect with respect to any particular foreign intelligence investigation that began before Feb. 3, 2006, or with respect to any particular offense or potential offense that began or occurred before Feb. 3, 2006, see section 224 of Pub. L. 107–56, set out as a note under section 2510 of this title.

§ 2708. Exclusivity of remedies

The remedies and sanctions described in this chapter are the only judicial remedies and sanctions for nonconstitutional violations of this chapter.

(Added Pub. L. 99–508, title II, § 201[(a)], Oct. 21, 1986, 100 Stat. 1867.)

§ 2709. Counterintelligence access to telephone toll and transactional records

(a) DUTY TO PROVIDE.—A wire or electronic communication service provider shall comply with a request for subscriber information and toll billing records information, or electronic

communication transactional records in its custody or possession made by the Director of the Federal Bureau of Investigation under subsection (b) of this section.

(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director, may—

(1) request the name, address, length of service, and local and long distance toll billing records of a person or entity if the Director (or his designee) certifies in writing to the wire or electronic communication service provider to which the request is made that the name, address, length of service, and toll billing records sought are relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States; and

(2) request the name, address, and length of service of a person or entity if the Director (or his designee) certifies in writing to the wire or electronic communication service provider to which the request is made that the information sought is relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.

(c) PROHIBITION OF CERTAIN DISCLOSURE.—No wire or electronic communication service provider, or officer, employee, or agent thereof, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information or records under this section.

(d) DISSEMINATION BY BUREAU.—The Federal Bureau of Investigation may disseminate information and records obtained under this section only as provided in guidelines approved by the Attorney General for foreign intelligence collection and foreign counterintelligence investigations conducted by the Federal Bureau of Investigation, and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

(e) REQUIREMENT THAT CERTAIN CONGRESSIONAL BODIES BE INFORMED.—On a semiannual basis the Director of the Federal Bureau of Investigation shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate, concerning all requests made under subsection (b) of this section.

(Added Pub. L. 99–508, title II, § 201[(a)], Oct. 21, 1986, 100 Stat. 1867; amended Pub. L. 103–142, Nov. 17, 1993, 107 Stat. 1491; Pub. L. 104–293, title VI, § 601(a), Oct. 11, 1996, 110 Stat. 3469; Pub. L. 107–56, title V, § 505(a), Oct. 26, 2001, 115 Stat. 365.)

AMENDMENTS

2001—Subsec. (b). Pub. L. 107–56, § 505(a)(1), inserted ''at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director'' after ''Deputy Assistant Director'' in introductory provisions.

Subsec. (b)(1). Pub. L. 107–56, § 505(a)(2), struck out ''in a position not lower than Deputy Assistant Director'' after ''(or his designee'' and substituted ''made that the name, address, length of service, and toll billing records sought are relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States; and'' for ''made that—

''(A) the name, address, length of service, and toll billing records sought are relevant to an authorized foreign counterintelligence investigation; and

''(B) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801); and''.

Subsec. (b)(2). Pub. L. 107–56, § 505(a)(3), struck out ''in a position not lower than Deputy Assistant Director'' after ''(or his designee'' and substituted ''made that the information sought is relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.'' for ''made that—

''(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

''(B) there are specific and articulable facts giving reason to believe that communication facilities registered in the name of the person or entity have been used, through the services of such provider, in communication with—

''(i) an individual who is engaging or has engaged in international terrorism as defined in section 101(c) of the Foreign Intelligence Surveillance Act or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States; or

''(ii) a foreign power or an agent of a foreign power under circumstances giving reason to believe that the communication concerned international terrorism as defined in section 101(c) of the Foreign Intelligence Surveillance Act or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States.''

1996—Subsec. (b)(1). Pub. L. 104–293 inserted ''local and long distance'' before ''toll billing records''.

1993—Subsec. (b). Pub. L. 103–142, § 1, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation (or an individual within the Federal Bureau of Investigation designated for this purpose by the Director) may request any such information and records if the Director (or the Director's designee) certifies in writing to the wire or electronic communication service provider to which the request is made that—

''(1) the information sought is relevant to an authorized foreign counterintelligence investigation; and

''(2) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power or

an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).''

Subsec. (e). Pub. L. 103–142, § 2, inserted '', and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,'' after ''Senate''.

§ 2710. Wrongful disclosure of video tape rental or sale records

(a) DEFINITIONS.—For purposes of this section—

(1) the term ''consumer'' means any renter, purchaser, or subscriber of goods or services from a video tape service provider;

(2) the term ''ordinary course of business'' means only debt collection activities, order fulfillment, request processing, and the transfer of ownership;

(3) the term ''personally identifiable information'' includes information which identifies a person as having requested or obtained specific video materials or services from a video tape service provider; and

(4) the term ''video tape service provider'' means any person, engaged in the business, in or affecting interstate or foreign commerce, of rental, sale, or delivery of prerecorded video cassette tapes or similar audio visual materials, or any person or other entity to whom a disclosure is made under subparagraph (D) or (E) of subsection (b)(2), but only with respect to the information contained in the disclosure.

(b) VIDEO TAPE RENTAL AND SALE RECORDS.—(1) A video tape service provider who knowingly discloses, to any person, personally identifiable information concerning any consumer of such provider shall be liable to the aggrieved person for the relief provided in subsection (d).

(2) A video tape service provider may disclose personally identifiable information concerning any consumer—

(A) to the consumer;

(B) to any person with the informed, written consent of the consumer given at the time the disclosure is sought;

(C) to a law enforcement agency pursuant to a warrant issued under the Federal Rules of Criminal Procedure, an equivalent State warrant, a grand jury subpoena, or a court order;

(D) to any person if the disclosure is solely of the names and addresses of consumers and if—

(i) the video tape service provider has provided the consumer with the opportunity, in a clear and conspicuous manner, to prohibit such disclosure; and

(ii) the disclosure does not identify the title, description, or subject matter of any video tapes or other audio visual material; however, the subject matter of such materials may be disclosed if the disclosure is for the exclusive use of marketing goods and services directly to the consumer;

(E) to any person if the disclosure is incident to the ordinary course of business of the video tape service provider; or

(F) pursuant to a court order, in a civil proceeding upon a showing of compelling need for the information that cannot be accommodated by any other means, if—

(i) the consumer is given reasonable notice, by the person seeking the disclosure, of the court proceeding relevant to the issuance of the court order; and

(ii) the consumer is afforded the opportunity to appear and contest the claim of the person seeking the disclosure.

If an order is granted pursuant to subparagraph (C) or (F), the court shall impose appropriate safeguards against unauthorized disclosure.

(3) Court orders authorizing disclosure under subparagraph (C) shall issue only with prior notice to the consumer and only if the law enforcement agency shows that there is probable cause to believe that the records or other information sought are relevant to a legitimate law enforcement inquiry. In the case of a State government authority, such a court order shall not issue if prohibited by the law of such State. A court issuing an order pursuant to this section, on a motion made promptly by the video tape service provider, may quash or modify such order if the information or records requested are unreasonably voluminous in nature or if compliance with such order otherwise would cause an unreasonable burden on such provider.

(c) CIVIL ACTION.—(1) Any person aggrieved by any act of a person in violation of this section may bring a civil action in a United States district court.

(2) The court may award—

(A) actual damages but not less than liquidated damages in an amount of $2,500;

(B) punitive damages;

(C) reasonable attorneys' fees and other litigation costs reasonably incurred; and

(D) such other preliminary and equitable relief as the court determines to be appropriate.

(3) No action may be brought under this subsection unless such action is begun within 2 years from the date of the act complained of or the date of discovery.

(4) No liability shall result from lawful disclosure permitted by this section.

(d) PERSONALLY IDENTIFIABLE INFORMATION.—Personally identifiable information obtained in any manner other than as provided in this section shall not be received in evidence in any trial, hearing, arbitration, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a State, or a political subdivision of a State.

(e) DESTRUCTION OF OLD RECORDS.—A person subject to this section shall destroy personally identifiable information as soon as practicable, but no later than one year from the date the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under subsection (b)(2) or (c)(2) or pursuant to a court order.

(f) PREEMPTION.—The provisions of this section preempt only the provisions of State or local law that require disclosure prohibited by this section.

(Added Pub. L. 100–618, § 2(a)(2), Nov. 5, 1988, 102 Stat. 3195.)

REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in subsec. (b)(2)(C), are set out in the Appendix to this title.

PRIOR PROVISIONS

A prior section 2710 was renumbered section 2711 of this title.

§ 2711. Definitions for chapter

As used in this chapter—

(1) the terms defined in section 2510 of this title have, respectively, the definitions given such terms in that section;

(2) the term ''remote computing service'' means the provision to the public of computer storage or processing services by means of an electronic communications system; and

(3) the term ''court of competent jurisdiction'' has the meaning assigned by section 3127, and includes any Federal court within that definition, without geographic limitation.

(Added Pub. L. 99–508, title II, § 201[(a)], Oct. 21, 1986, 100 Stat. 1868, § 2710; renumbered § 2711, Pub. L. 100–618, § 2(a)(1), Nov. 5, 1988, 102 Stat. 3195; amended Pub. L. 107–56, title II, § 220(a)(2), Oct. 26, 2001, 115 Stat. 292.)

AMENDMENT OF SECTION

For termination of amendment by Pub. L. 107–56, see Termination Date of 2001 Amendment note below.

AMENDMENTS

2001—Par. (3). Pub. L. 107–56, §§ 220(a)(2), 224, temporarily added par. (3). See Termination Date of 2001 Amendment note below.

1988—Pub. L. 100–618 renumbered section 2710 of this title as this section.

TERMINATION DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–56 to cease to have effect Feb. 3, 2006, except amendment to continue in effect with respect to any particular foreign intelligence investigation that began before Feb. 3, 2006, or with respect to any particular offense or potential offense that began or occurred before Feb. 3, 2006, see section 224 of Pub. L. 107–56, set out as a note under section 2510 of this title.

§ 2712. Civil actions against the United States

(a) IN GENERAL.—Any person who is aggrieved by any willful violation of this chapter or of chapter 119 of this title or of sections 106(a), 305(a), or 405(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) may commence an action in United States District Court against the United States to recover money damages. In any such action, if a person who is aggrieved successfully establishes such a violation of this chapter or of chapter 119 of this title or of the above specific provisions of title 50, the Court may assess as damages—

(1) actual damages, but not less than $10,000, whichever amount is greater; and

(2) litigation costs, reasonably incurred.

(b) PROCEDURES.—(1) Any action against the United States under this section may be commenced only after a claim is presented to the appropriate department or agency under the procedures of the Federal Tort Claims Act, as set forth in title 28, United States Code.

(2) Any action against the United States under this section shall be forever barred unless it is presented in writing to the appropriate Federal agency within 2 years after such claim accrues or unless action is begun within 6 months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the agency to which it was presented. The claim shall accrue on the date upon which the claimant first has a reasonable opportunity to discover the violation.

(3) Any action under this section shall be tried to the court without a jury.

(4) Notwithstanding any other provision of law, the procedures set forth in section 106(f), 305(g), or 405(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) shall be the exclusive means by which materials governed by those sections may be reviewed.

(5) An amount equal to any award against the United States under this section shall be reimbursed by the department or agency concerned to the fund described in section 1304 of title 31, United States Code, out of any appropriation, fund, or other account (excluding any part of such appropriation, fund, or account that is available for the enforcement of any Federal law) that is available for the operating expenses of the department or agency concerned.

(c) ADMINISTRATIVE DISCIPLINE.—If a court or appropriate department or agency determines that the United States or any of its departments or agencies has violated any provision of this chapter, and the court or appropriate department or agency finds that the circumstances surrounding the violation raise serious questions about whether or not an officer or employee of the United States acted willfully or intentionally with respect to the violation, the department or agency shall, upon receipt of a true and correct copy of the decision and findings of the court or appropriate department or agency promptly initiate a proceeding to determine whether disciplinary action against the officer or employee is warranted. If the head of the department or agency involved determines that disciplinary action is not warranted, he or she shall notify the Inspector General with jurisdiction over the department or agency concerned and shall provide the Inspector General with the reasons for such determination.

(d) EXCLUSIVE REMEDY.—Any action against the United States under this subsection shall be the exclusive remedy against the United States for any claims within the purview of this section.

(e) STAY OF PROCEEDINGS.—(1) Upon the motion of the United States, the court shall stay any action commenced under this section if the court determines that civil discovery will adversely affect the ability of the Government to conduct a related investigation or the prosecution of a related criminal case. Such a stay shall toll the limitations periods of paragraph (2) of subsection (b).

(2) In this subsection, the terms ''related criminal case'' and ''related investigation'' mean an actual prosecution or investigation in progress at the time at which the request for the

stay or any subsequent motion to lift the stay is made. In determining whether an investigation or a criminal case is related to an action commenced under this section, the court shall consider the degree of similarity between the parties, witnesses, facts, and circumstances involved in the 2 proceedings, without requiring that any one or more factors be identical.

(3) In requesting a stay under paragraph (1), the Government may, in appropriate cases, submit evidence ex parte in order to avoid disclosing any matter that may adversely affect a related investigation or a related criminal case. If the Government makes such an ex parte submission, the plaintiff shall be given an opportunity to make a submission to the court, not ex parte, and the court may, in its discretion, request further information from either party.

(Added Pub. L. 107–56, title II, § 223(c)(1), Oct. 26, 2001, 115 Stat. 294.)

TERMINATION OF SECTION

For termination of section by section 224 of Pub. L. 107–56, see Termination Date of 2001 Amendment note set out under section 2510 of this title.

REFERENCES IN TEXT

Sections 106, 305, and 405 of the Foreign Intelligence Surveillance Act of 1978, referred to in subsecs. (a) and (b)(4), are classified to sections 1806, 1825, and 1845, respectively, of Title 50, War and National Defense.

The Federal Tort Claims Act, referred to in subsec. (b)(1), is classified generally to section 1346(b) and chapter 171 (§ 2671 et seq.) of Title 28, Judiciary and Judicial Procedure.

CHAPTER 123—PROHIBITION ON RELEASE AND USE OF CERTAIN PERSONAL INFORMATION FROM STATE MOTOR VEHICLE RECORDS

Sec.
2721. Prohibition on release and use of certain personal information from State motor vehicle records.
2722. Additional unlawful acts.
2723. Penalties.
2724. Civil action.
2725. Definitions.

AMENDMENTS

1996—Pub. L. 104–294, title VI, § 604(a)(3), Oct. 11, 1996, 110 Stat. 3506, added analysis.

§ 2721. Prohibition on release and use of certain personal information from State motor vehicle records

(a) IN GENERAL.—A State department of motor vehicles, and any officer, employee, or contractor thereof, shall not knowingly disclose or otherwise make available to any person or entity:

(1) personal information, as defined in 18 U.S.C. 2725(3), about any individual obtained by the department in connection with a motor vehicle record, except as provided in subsection (b) of this section; or

(2) highly restricted personal information, as defined in 18 U.S.C. 2725(4), about any individual obtained by the department in connection with a motor vehicle record, without the express consent of the person to whom such information applies, except uses permitted in subsections (b)(1), (b)(4), (b)(6), and (b)(9): *Provided*, That subsection (a)(2) shall not in any way affect the use of organ donation information on an individual's driver's license or affect the administration of organ donation initiatives in the States.

(b) PERMISSIBLE USES.—Personal information referred to in subsection (a) shall be disclosed for use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of non-owner records from the original owner records of motor vehicle manufacturers to carry out the purposes of titles I and IV of the Anti Car Theft Act of 1992, the Automobile Information Disclosure Act (15 U.S.C. 1231 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and chapters 301, 305, and 321–331 of title 49, and, subject to subsection (a)(2), may be disclosed as follows:

(1) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a Federal, State, or local agency in carrying out its functions.

(2) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; and removal of non-owner records from the original owner records of motor vehicle manufacturers.

(3) For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only—

(A) to verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

(B) if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

(4) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court.

(5) For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals.

(6) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activi-

ties, antifraud activities, rating or underwriting.

(7) For use in providing notice to the owners of towed or impounded vehicles.

(8) For use by any licensed private investigative agency or licensed security service for any purpose permitted under this subsection.

(9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under chapter 313 of title 49.

(10) For use in connection with the operation of private toll transportation facilities.

(11) For any other use in response to requests for individual motor vehicle records if the State has obtained the express consent of the person to whom such personal information pertains.

(12) For bulk distribution for surveys, marketing or solicitations if the State has obtained the express consent of the person to whom such personal information pertains.

(13) For use by any requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains.

(14) For any other use specifically authorized under the law of the State that holds the record, if such use is related to the operation of a motor vehicle or public safety.

(c) RESALE OR REDISCLOSURE.—An authorized recipient of personal information (except a recipient under subsection (b)(11) or (12)) may resell or redisclose the information only for a use permitted under subsection (b) (but not for uses under subsection (b)(11) or (12)). An authorized recipient under subsection (b)(11) may resell or redisclose personal information for any purpose. An authorized recipient under subsection (b)(12) may resell or redisclose personal information pursuant to subsection (b)(12). Any authorized recipient (except a recipient under subsection (b)(11)) that resells or rediscloses personal information covered by this chapter must keep for a period of 5 years records identifying each person or entity that receives information and the permitted purpose for which the information will be used and must make such records available to the motor vehicle department upon request.

(d) WAIVER PROCEDURES.—A State motor vehicle department may establish and carry out procedures under which the department or its agents, upon receiving a request for personal information that does not fall within one of the exceptions in subsection (b), may mail a copy of the request to the individual about whom the information was requested, informing such individual of the request, together with a statement to the effect that the information will not be released unless the individual waives such individual's right to privacy under this section.

(e) PROHIBITION ON CONDITIONS.—No State may condition or burden in any way the issuance of an individual's motor vehicle record as defined in 18 U.S.C. 2725(1) to obtain express consent. Nothing in this paragraph shall be construed to prohibit a State from charging an administrative fee for issuance of a motor vehicle record.

(Added Pub. L. 103–322, title XXX, § 300002(a), Sept. 13, 1994, 108 Stat. 2099; amended Pub. L. 104–287, § 1, Oct. 11, 1996, 110 Stat. 3388; Pub. L. 104–294, title VI, § 604(b)(46), Oct. 11, 1996, 110 Stat. 3509; Pub. L. 106–69, title III, § 350(c), (d), Oct. 9, 1999, 113 Stat. 1025; Pub. L. 106–346, § 101(a) [title III, § 309(c)–(e)], Oct. 23, 2000, 114 Stat. 1356, 1356A–24.)

REFERENCES IN TEXT

The Anti Car Theft Act of 1992, referred to in subsec. (b), is Pub. L. 102–519, Oct. 25, 1992, 106 Stat. 3384. For complete classification of titles I and IV of the Act to the Code, see Tables.

The Automobile Information Disclosure Act, referred to in subsec. (b), is Pub. L. 85–506, July 7, 1958, 72 Stat. 325, as amended, which is classified generally to chapter 28 (§ 1231 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1231 of Title 15 and Tables.

The Clean Air Act, referred to in subsec. (b), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–346, § 101(a) [title III, § 309(c)], reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "Except as provided in subsection (b), a State department of motor vehicles, and any officer, employee, or contractor, thereof, shall not knowingly disclose or otherwise make available to any person or entity personal information about any individual obtained by the department in connection with a motor vehicle record."

Subsec. (b). Pub. L. 106–346, § 101(a) [title III, § 309(d)], inserted ", subject to subsection (a)(2)," before "may be disclosed" in introductory provisions.

Subsec. (e). Pub. L. 106–346, § 101(a) [title III, § 309(e)], added subsec. (e).

1999—Subsec. (b)(11). Pub. L. 106–69, § 350(c), substituted "if the State has obtained the express consent of the person to whom such personal information pertains" for "if the motor vehicle department has provided in a clear and conspicuous manner on forms for issuance or renewal of operator's permits, titles, registrations, or identification cards, notice that personal information collected by the department may be disclosed to any business or person, and has provided in a clear and conspicuous manner on such forms an opportunity to prohibit such disclosures".

Subsec. (b)(12). Pub. L. 106–69, § 350(d), substituted "if the State has obtained the express consent of the person to whom such personal information pertains" for "if the motor vehicle department has implemented methods and procedures to ensure that—

"(A) individuals are provided an opportunity, in a clear and conspicuous manner, to prohibit such uses; and

"(B) the information will be used, rented, or sold solely for bulk distribution for surveys, marketing, and solicitations, and that surveys, marketing, and solicitations will not be directed at those individuals who have requested in a timely fashion that they not be directed at them".

1996—Subsec. (b). Pub. L. 104–287, § 1(1), in introductory provisions, substituted "titles I and IV of the Anti Car Theft Act of 1992, the Automobile Information Disclosure Act (15 U.S.C. 1231 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and chapters 301, 305, and 321–331 of title 49" for "the Automobile Information Disclosure Act, the Motor Vehicle Information and Cost Saving Act, the National Traffic and Motor Vehicle Safety Act of 1966, the Anti-Car Theft Act of 1992, and the Clean Air Act".

Subsec. (b)(9). Pub. L. 104–287, § 1(2), substituted "chapter 313 of title 49" for "the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2710 et seq.)".

Subsec. (c). Pub. L. 104–294 substituted ''covered by this chapter'' for ''covered by this title''.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–69, title III, § 350(g)(2), Oct. 9, 1999, 113 Stat. 1025, provided that: ''Subsections (b), (c), and (d) [amending this section] shall be effective on June 1, 2000, excluding the States of Arkansas, Montana, Nevada, North Dakota, Oregon, and Texas that shall be in compliance with subsections (b), (c), and (d) within 90 days of the next convening of the State legislature and excluding the States of Wisconsin, South Carolina, and Oklahoma that shall be in compliance within 90 days following the day of issuance of a final decision on Reno vs. Condon by the United States Supreme Court if the State legislature is in session, or within 90 days of the next convening of the State legislature following the issuance of such final decision if the State legislature is not in session.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

EFFECTIVE DATE

Section 300003 of Pub. L. 103–322 provided that: ''The amendments made by section 300002 [enacting this chapter] shall become effective on the date that is 3 years after the date of enactment of this Act [Sept. 13, 1994]. After the effective date, if a State has implemented a procedure under section 2721(b)(11) and (12) of title 18, United States Code, as added by section 2902 [probably should be section ''300002(a)''], for prohibiting disclosures or uses of personal information, and the procedure otherwise meets the requirements of subsection (b)(11) and (12), the State shall be in compliance with subsection (b)(11) and (12) even if the procedure is not available to individuals until they renew their license, title, registration or identification card, so long as the State provides some other procedure for individuals to contact the State on their own initiative to prohibit such uses or disclosures. Prior to the effective date, personal information covered by the amendment made by section 300002 may be released consistent with State law or practice.''

SHORT TITLE

Section 300001 of title XXX of Pub. L. 103–322 provided that: ''This title [enacting this chapter] may be cited as the 'Driver's Privacy Protection Act of 1994'.''

RELATIONSHIP TO OTHER LAW

The Consumer Credit Reporting Reform Act of 1996 [see Short Title note set out under section 1601 of Title 15, Commerce and Trade] not to be considered to supersede or otherwise affect this section with respect to motor vehicle records for surveys, marketing, or solicitations, see section 2421 of Pub. L. 104–208, set out as a note under section 1681a of Title 15.

§ 2722. Additional unlawful acts

(a) PROCUREMENT FOR UNLAWFUL PURPOSE.—It shall be unlawful for any person knowingly to obtain or disclose personal information, from a motor vehicle record, for any use not permitted under section 2721(b) of this title.

(b) FALSE REPRESENTATION.—It shall be unlawful for any person to make false representation to obtain any personal information from an individual's motor vehicle record.

(Added Pub. L. 103–322, title XXX, § 300002(a), Sept. 13, 1994, 108 Stat. 2101.)

§ 2723. Penalties

(a) CRIMINAL FINE.—A person who knowingly violates this chapter shall be fined under this title.

(b) VIOLATIONS BY STATE DEPARTMENT OF MOTOR VEHICLES.—Any State department of motor vehicles that has a policy or practice of substantial noncompliance with this chapter shall be subject to a civil penalty imposed by the Attorney General of not more than $5,000 a day for each day of substantial noncompliance.

(Added Pub. L. 103–322, title XXX, § 300002(a), Sept. 13, 1994, 108 Stat. 2101.)

§ 2724. Civil action

(a) CAUSE OF ACTION.—A person who knowingly obtains, discloses or uses personal information, from a motor vehicle record, for a purpose not permitted under this chapter shall be liable to the individual to whom the information pertains, who may bring a civil action in a United States district court.

(b) REMEDIES.—The court may award—

(1) actual damages, but not less than liquidated damages in the amount of $2,500;

(2) punitive damages upon proof of willful or reckless disregard of the law;

(3) reasonable attorneys' fees and other litigation costs reasonably incurred; and

(4) such other preliminary and equitable relief as the court determines to be appropriate.

(Added Pub. L. 103–322, title XXX, § 300002(a), Sept. 13, 1994, 108 Stat. 2101.)

§ 2725. Definitions

In this chapter—

(1) ''motor vehicle record'' means any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by a department of motor vehicles;

(2) ''person'' means an individual, organization or entity, but does not include a State or agency thereof;

(3) ''personal information'' means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver's status.[1]

(4) ''highly restricted personal information'' means an individual's photograph or image, social security number, medical or disability information; and

(5) ''express consent'' means consent in writing, including consent conveyed electronically that bears an electronic signature as defined in section 106(5) of Public Law 106–229.

(Added Pub. L. 103–322, title XXX, § 300002(a), Sept. 13, 1994, 108 Stat. 2102; amended Pub. L. 106–346, § 101(a) [title III, § 309(b)], Oct. 23, 2000, 114 Stat. 1356, 1356A–24.)

REFERENCES IN TEXT

Section 106(5) of Public Law 106–229, referred to in par. (5), is classified to section 7006(5) of Title 15, Commerce and Trade.

AMENDMENTS

2000—Pars. (4), (5). Pub. L. 106–346 added pars. (4) and (5).

[1] So in original. The period probably should be a semicolon.