

(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	Repealed.]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 obstruct-

ing 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)<sup>1</sup> 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.)

<sup>1</sup> So in original. There is no subsec. (b).

## 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.

## 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 *Flip-pin 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 established 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.