

**§ 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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## AMENDMENTS

2010—Pub. L. 111-154, §3(b), Mar. 31, 2010, 124 Stat. 1109, added item 1716E.

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 non-mailable", struck out ";; opening letters" after "non-mailable" 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 de-

troys 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 depositories. (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 “entrusted” 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 non-mailable.

### § 1715. Firearms as nonmailable; regulations

Pistols, revolvers, and other firearms capable of being concealed on the person are non-mailable 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, hazardous materials, 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; Pub. L. 109-435, title X, § 1008(d), Dec. 20, 2006, 120 Stat. 3261.)

#### 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

2006—Subsec. (a). Pub. L. 109-435 inserted “hazardous materials,” after “explosives.”

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 delivered 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.)

**§ 1716E. Tobacco products as nonmailable**

(a) PROHIBITION.—

(1) IN GENERAL.—All cigarettes and smokeless tobacco (as those terms are defined in section 1 of the Act of October 19, 1949, commonly referred to as the Jenkins Act) are nonmailable and shall not be deposited in or carried through the mails. The United States Postal Service shall not accept for delivery or transmit through the mails any package that it knows or has reasonable cause to believe contains any cigarettes or smokeless tobacco made nonmailable by this paragraph.

(2) REASONABLE CAUSE.—For the purposes of this subsection reasonable cause includes—

(A) a statement on a publicly available website, or an advertisement, by any person that the person will mail matter which is nonmailable under this section in return for payment; or

(B) the fact that the person is on the list created under section 2A(e) of the Jenkins Act.

(b) EXCEPTIONS.—

(1) CIGARS.—Subsection (a) shall not apply to cigars (as defined in section 5702(a) of the Internal Revenue Code of 1986).

(2) GEOGRAPHIC EXCEPTION.—Subsection (a) shall not apply to mailings within the State of Alaska or within the State of Hawaii.

(3) BUSINESS PURPOSES.—

(A) IN GENERAL.—Subsection (a) shall not apply to tobacco products mailed only—

(i) for business purposes between legally operating businesses that have all applicable State and Federal Government licenses or permits and are engaged in tobacco product manufacturing, distribution, wholesale, export, import, testing, investigation, or research; or

(ii) for regulatory purposes between any business described in clause (i) and an agency of the Federal Government or a State government.

(B) RULES.—

(i) IN GENERAL.—Not later than 180 days after the date of enactment of the Prevent All Cigarette Trafficking Act of 2009, the Postmaster General shall issue a final rule which shall establish the standards and requirements that apply to all mailings described in subparagraph (A).

(ii) CONTENTS.—The final rule issued under clause (i) shall require—

(I) the United States Postal Service to verify that any person submitting an otherwise nonmailable tobacco product into the mails as authorized under this paragraph is a business or government agency permitted to make a mailing under this paragraph;

(II) the United States Postal Service to ensure that any recipient of an otherwise nonmailable tobacco product sent through the mails under this paragraph is a business or government agency that may lawfully receive the product;

(III) that any mailing described in subparagraph (A) shall be sent through the systems of the United States Postal Service that provide for the tracking and confirmation of the delivery;

(IV) that the identity of the business or government entity submitting the mailing containing otherwise nonmailable tobacco products for delivery and the identity of the business or government entity receiving the mailing are clearly set forth on the package;

(V) the United States Postal Service to maintain identifying information described in subclause (IV) during the 3-year period beginning on the date of the mailing and make the information available to the Postal Service, the Attorney General of the United States, and to persons eligible to bring enforcement actions under section 3(d)<sup>1</sup> of the Prevent All Cigarette Trafficking Act of 2009;

(VI) that any mailing described in subparagraph (A) be marked with a United States Postal Service label or marking that makes it clear to employees of the United States Postal Service that it is a permitted mailing of otherwise nonmailable tobacco products that may be delivered only to a permitted government agency or business and may not be delivered to any residence or individual person; and

(VII) that any mailing described in subparagraph (A) be delivered only to a verified employee of the recipient business or government agency, who is not a minor and who shall be required to sign for the mailing.

(C) DEFINITION.—In this paragraph, the term “minor” means an individual who is less than the minimum age required for the legal sale or purchase of tobacco products as determined by applicable law at the place the individual is located.

(4) CERTAIN INDIVIDUALS.—

(A) IN GENERAL.—Subsection (a) shall not apply to tobacco products mailed by individuals who are not minors for noncommercial purposes, including the return of a damaged or unacceptable tobacco product to the manufacturer.

(B) RULES.—

(i) IN GENERAL.—Not later than 180 days after the date of enactment of the Prevent All Cigarette Trafficking Act of 2009, the Postmaster General shall issue a final rule which shall establish the standards and requirements that apply to all mailings described in subparagraph (A).

(ii) CONTENTS.—The final rule issued under clause (i) shall require—

<sup>1</sup> See References in Text note below.

(I) the United States Postal Service to verify that any person submitting an otherwise nonmailable tobacco product into the mails as authorized under this paragraph is the individual identified on the return address label of the package and is not a minor;

(II) for a mailing to an individual, the United States Postal Service to require the person submitting the otherwise nonmailable tobacco product into the mails as authorized by this paragraph to affirm that the recipient is not a minor;

(III) that any package mailed under this paragraph shall weigh not more than 10 ounces;

(IV) that any mailing described in subparagraph (A) shall be sent through the systems of the United States Postal Service that provide for the tracking and confirmation of the delivery;

(V) that a mailing described in subparagraph (A) shall not be delivered or placed in the possession of any individual who has not been verified as not being a minor;

(VI) for a mailing described in subparagraph (A) to an individual, that the United States Postal Service shall deliver the package only to a recipient who is verified not to be a minor at the recipient address or transfer it for delivery to an Air/Army Postal Office or Fleet Postal Office number designated in the recipient address; and

(VII) that no person may initiate more than 10 mailings described in subparagraph (A) during any 30-day period.

(C) DEFINITION.—In this paragraph, the term “minor” means an individual who is less than the minimum age required for the legal sale or purchase of tobacco products as determined by applicable law at the place the individual is located.

(5) EXCEPTION FOR MAILINGS FOR CONSUMER TESTING BY MANUFACTURERS.—

(A) IN GENERAL.—Subject to subparagraph (B), subsection (a) shall not preclude a legally operating cigarette manufacturer or a legally authorized agent of a legally operating cigarette manufacturer from using the United States Postal Service to mail cigarettes to verified<sup>2</sup> adult smoker solely for consumer testing purposes, if—

(i) the cigarette manufacturer has a permit, in good standing, issued under section 5713 of the Internal Revenue Code of 1986;

(ii) the package of cigarettes mailed under this paragraph contains not more than 12 packs of cigarettes (240 cigarettes);

(iii) the recipient does not receive more than 1 package of cigarettes from any 1 cigarette manufacturer under this paragraph during any 30-day period;

(iv) all taxes on the cigarettes mailed under this paragraph levied by the State and locality of delivery are paid to the State and locality before delivery, and tax

stamps or other tax-payment indicia are affixed to the cigarettes as required by law; and

(v) (I) the recipient has not made any payments of any kind in exchange for receiving the cigarettes;

(II) the recipient is paid a fee by the manufacturer or agent of the manufacturer for participation in consumer product tests; and

(III) the recipient, in connection with the tests, evaluates the cigarettes and provides feedback to the manufacturer or agent.

(B) LIMITATIONS.—Subparagraph (A) shall not—

(i) permit a mailing of cigarettes to an individual located in any State that prohibits the delivery or shipment of cigarettes to individuals in the State, or preempt, limit, or otherwise affect any related State laws; or

(ii) permit a manufacturer, directly or through a legally authorized agent, to mail cigarettes in any calendar year in a total amount greater than 1 percent of the total cigarette sales of the manufacturer in the United States during the calendar year before the date of the mailing.

(C) RULES.—

(i) IN GENERAL.—Not later than 180 days after the date of enactment of the Prevent All Cigarette Trafficking Act of 2009, the Postmaster General shall issue a final rule which shall establish the standards and requirements that apply to all mailings described in subparagraph (A).

(ii) CONTENTS.—The final rule issued under clause (i) shall require—

(I) the United States Postal Service to verify that any person submitting a tobacco product into the mails under this paragraph is a legally operating cigarette manufacturer permitted to make a mailing under this paragraph,<sup>3</sup> or an agent legally authorized by the legally operating cigarette manufacturer to submit the tobacco product into the mails on behalf of the manufacturer;

(II) the legally operating cigarette manufacturer submitting the cigarettes into the mails under this paragraph to affirm that—

(aa) the manufacturer or the legally authorized agent of the manufacturer has verified that the recipient is an adult established smoker;

(bb) the recipient has not made any payment for the cigarettes;

(cc) the recipient has signed a written statement that is in effect indicating that the recipient wishes to receive the mailings; and

(dd) the manufacturer or the legally authorized agent of the manufacturer has offered the opportunity for the recipient to withdraw the written statement described in item (cc) not less

<sup>2</sup> So in original. Probably should be preceded by “a”.

<sup>3</sup> So in original. The comma probably should not appear.

frequently than once in every 3-month period;

(III) the legally operating cigarette manufacturer or the legally authorized agent of the manufacturer submitting the cigarettes into the mails under this paragraph to affirm that any package mailed under this paragraph contains not more than 12 packs of cigarettes (240 cigarettes) on which all taxes levied on the cigarettes by the State and locality of delivery have been paid and all related State tax stamps or other tax-payment indicia have been applied;

(IV) that any mailing described in subparagraph (A) shall be sent through the systems of the United States Postal Service that provide for the tracking and confirmation of the delivery;

(V) the United States Postal Service to maintain records relating to a mailing described in subparagraph (A) during the 3-year period beginning on the date of the mailing and make the information available to persons enforcing this section;

(VI) that any mailing described in subparagraph (A) be marked with a United States Postal Service label or marking that makes it clear to employees of the United States Postal Service that it is a permitted mailing of otherwise non-mailable tobacco products that may be delivered only to the named recipient after verifying that the recipient is an adult; and

(VII) the United States Postal Service shall deliver a mailing described in subparagraph (A) only to the named recipient and only after verifying that the recipient is an adult.

(D) DEFINITIONS.—In this paragraph—

(i) the term “adult” means an individual who is not less than 21 years of age; and

(ii) the term “consumer testing” means testing limited to formal data collection and analysis for the specific purpose of evaluating the product for quality assurance and benchmarking purposes of cigarette brands or sub-brands among existing adult smokers.

(6) FEDERAL GOVERNMENT AGENCIES.—An agency of the Federal Government involved in the consumer testing of tobacco products solely for public health purposes may mail cigarettes under the same requirements, restrictions, and rules and procedures that apply to consumer testing mailings of cigarettes by manufacturers under paragraph (5), except that the agency shall not be required to pay the recipients for participating in the consumer testing.

(c) SEIZURE AND FORFEITURE.—Any cigarettes or smokeless tobacco made nonmailable by this subsection that are deposited in the mails shall be subject to seizure and forfeiture, pursuant to the procedures set forth in chapter 46 of this title. Any tobacco products seized and forfeited under this subsection shall be destroyed or re-

tained by the Federal Government for the detection or prosecution of crimes or related investigations and then destroyed.

(d) ADDITIONAL PENALTIES.—In addition to any other fines and penalties under this title for violations of this section, any person violating this section shall be subject to an additional civil penalty in the amount equal to 10 times the retail value of the nonmailable cigarettes or smokeless tobacco, including all Federal, State, and local taxes.

(e) CRIMINAL PENALTY.—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 that is nonmailable matter under this section shall be fined under this title, imprisoned not more than 1 year, or both.

(f) USE OF PENALTIES.—There is established a separate account in the Treasury, to be known as the “PACT Postal Service Fund”. Notwithstanding any other provision of law, an amount equal to 50 percent of any criminal fines, civil penalties, or other monetary penalties collected by the Federal Government in enforcing this section shall be transferred into the PACT Postal Service Fund and shall be available to the Postmaster General for the purpose of enforcing this subsection.

(g) COORDINATION OF EFFORTS.—The Postmaster General shall cooperate and coordinate efforts to enforce this section with related enforcement activities of any other Federal agency or agency of any State, local, or tribal government, whenever appropriate.

(h) ACTIONS BY STATE, LOCAL, OR TRIBAL GOVERNMENTS RELATING TO CERTAIN TOBACCO PRODUCTS.—

(1) IN GENERAL.—A State, through its attorney general, or a local government or Indian tribe that levies an excise tax on tobacco products, through its chief law enforcement officer, may in a civil action in a United States district court obtain appropriate relief with respect to a violation of this section. Appropriate relief includes injunctive and equitable relief and damages equal to the amount of unpaid taxes on tobacco products mailed in violation of this section to addressees in that State, locality, or tribal land.

(2) SOVEREIGN IMMUNITY.—Nothing in this subsection shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government or Indian tribe against any unconsented lawsuit under paragraph (1), or otherwise to restrict, expand, or modify any sovereign immunity of a State or local government or Indian tribe.

(3) ATTORNEY GENERAL REFERRAL.—A State, through its attorney general, or a local government or Indian tribe that levies an excise tax on tobacco products, through its chief law enforcement officer, may provide evidence of a violation of this section for commercial purposes by any person not subject to State, local, or tribal government enforcement actions for violations of this section to the Attorney General of the United States, who shall take appropriate actions to enforce this section.

(4) **NONEXCLUSIVITY OF REMEDIES.**—The remedies available under this subsection are in addition to any other remedies available under Federal, State, local, tribal, or other law. Nothing in this subsection shall be construed to expand, restrict, or otherwise modify any right of an authorized State, local, or tribal government official to proceed in a State, tribal, or other appropriate court, or take other enforcement actions, on the basis of an alleged violation of State, local, tribal, or other law.

(5) **OTHER ENFORCEMENT ACTIONS.**—Nothing in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of the State.

(i) **DEFINITION.**—In this section, the term “State” has the meaning given that term in section 1716(k).

(Added Pub. L. 111-154, §3(a), Mar. 31, 2010, 124 Stat. 1103.)

#### REFERENCES IN TEXT

Section 1 of the Act of October 19, 1949, commonly referred to as the Jenkins Act, referred to in subsec. (a)(1), is classified to section 375 of Title 15, Commerce and Trade.

Section 2A(e) of the Jenkins Act, referred to in subsec. (a)(2)(B), is classified to section 376a of Title 15, Commerce and Trade.

The Internal Revenue Code of 1986, referred to in subsec. (b)(1), (5)(A)(i), is classified generally to Title 26, Internal Revenue Code.

The date of enactment of the Prevent All Cigarette Trafficking Act of 2009, referred to in subsec. (b)(3)(B)(i), (4)(B)(i), (5)(C)(i), is the date of enactment of Pub. L. 111-154, which was approved Mar. 31, 2010.

Section 3(d) of the Prevent All Cigarette Trafficking Act of 2009, referred to in subsec. (b)(3)(B)(ii)(V), is unidentifiable because section 3 of that Act, Pub. L. 111-154, Mar. 31, 2010, 124 Stat. 1103, does not contain a subsec. (d).

#### EFFECTIVE DATE

Section effective on the date that is 90 days after March 31, 2010, see section 6 of Pub. L. 111-154, set out as an Effective Date of 2010 Amendment note under section 375 of Title 15, Commerce and Trade.

#### § 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. Restricted building or grounds.

#### AMENDMENTS

2006—Pub. L. 109-177, title VI, §602(b)(2), Mar. 9, 2006, 120 Stat. 252, substituted “Restricted building or grounds” for “Temporary residences and offices of the President and others” in item 1752.

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.