

Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

### § 1434. Entry; vessels

#### (a) Formal entry

Within 24 hours (or such other period of time as may be provided under subsection (c)(2)) after the arrival at any port or place in the United States of—

- (1) any vessel from a foreign port or place;
- (2) any foreign vessel from a domestic port;
- (3) any vessel of the United States having on board foreign merchandise for which entry has not been made; or
- (4) any vessel which has visited a hovering vessel or has delivered or received merchandise while outside the territorial sea;

the master of the vessel shall, unless otherwise provided by law, make formal entry at the nearest customs facility or such other place as the Secretary may prescribe by regulation.

#### (b) Preliminary entry

The Secretary may by regulation permit the master to make preliminary entry of the vessel with the Customs Service in lieu of formal entry or before formal entry is made. In permitting preliminary entry, the Customs Service shall board a sufficient number of vessels to ensure compliance with the laws it enforces.

#### (c) Regulations

The Secretary may by regulation—

- (1) prescribe the manner and format in which entry under subsection (a) or subsection (b), or both, must be made, and such regulations may provide that any such entry may be made electronically pursuant to an electronic data interchange system;

- (2) provide that—

(A) formal entry must be made within a greater or lesser time than 24 hours after arrival, but in no case more than 48 hours after arrival, and

(B) formal entry may be made before arrival; and

- (3) authorize the Customs Service to permit entry or preliminary entry of any vessel to be made at a place other than a designated port of entry, under such conditions as may be prescribed.

(June 17, 1930, ch. 497, title IV, § 434, 46 Stat. 711; Aug. 5, 1935, ch. 438, title III, § 301, 49 Stat. 527; Pub. L. 91-271, title III, § 301(b), June 2, 1970, 84 Stat. 287; Pub. L. 103-182, title VI, § 653, Dec. 8, 1993, 107 Stat. 2210; Pub. L. 106-476, title I, § 1452(a)(2), Nov. 9, 2000, 114 Stat. 2167.)

#### Editorial Notes

##### PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 434, 42 Stat. 951. That section was superseded by section 434 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions for deposit of the register and other papers previous to entry, and for their return to the master or owner of the vessel on clearance of the vessel, were contained in R.S. § 2790, which was superseded by act Sept.

21, 1922, ch. 356, title IV, § 434, 42 Stat. 951, and repealed by section 642 of that act.

R.S. § 2836, relative to the entry of vessels arriving within the districts of Petersburg or Richmond (abolished by the Plan of Reorganization of the Customs Service set forth in a note to section 1 of this title) was also repealed by section 642 of act Sept. 21, 1922, ch. 356.

Special provisions for Astoria and Portland were contained in R.S. §§ 2588-2590, which were also repealed by section 642 of the act of Sept. 21, 1922, ch. 356.

R.S. § 2835, prescribing the duties of masters of vessels bound up James River, Virginia, in regard to deposit of manifests, etc., was repealed by act Mar. 3, 1897, ch. 389, § 16, 29 Stat. 691.

Special provisions to facilitate the entry of steamships running in an established line in foreign trade, made by act June 5, 1894, ch. 92, § 1, 28 Stat. 85, and extended to steamships trading between Porto Rico and Hawaii and the United States by act May 31, 1900, ch. 600, 31 Stat. 249, were repealed by section 6 of act Feb. 13, 1911, ch. 46, the preceding sections of which act made more comprehensive provisions for preliminary entry of any vessel from a foreign port, and for the lading or unlading of such vessels at night. Sections 1 to 4 of said act of 1911, were repealed by section 643 of the act of Sept. 21, 1922, ch. 356.

#### AMENDMENTS

2000—Subsec. (a)(3). Pub. L. 106-476 struck out “bonded merchandise or” before “foreign merchandise”.

1993—Pub. L. 103-182 amended section generally. Prior to amendment, section read as follows: “Except as otherwise provided by law, and under such regulations as the Commissioner of Customs may prescribe, the master of a vessel of the United States arriving in the United States from a foreign port or place shall, within forty-eight hours after its arrival within the limits of any customs collection district, make formal entry of the vessel at the customhouse by producing and depositing with the appropriate customs officer the vessel’s crew list, its register, or document in lieu thereof, the clearance and bills of health issued to the vessel at the foreign port or ports from which it arrived, together with the original and one copy of the manifest, and shall make oath that the ownership of the vessel is as indicated in the register, or document in lieu thereof, and that the manifest was made out in accordance with section 1431 of this title.”

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector.

1935—Act Aug. 5, 1935, inserted “or document in lieu thereof” after “indicated in the register”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-476, except as otherwise provided, applicable with respect to goods entered, or withdrawn from warehouse, for consumption, on or after the 15th day after Nov. 9, 2000, see section 1471 of Pub. L. 106-476, set out as a note under section 58c of this title.

##### EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

##### TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and

Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

**§ 1435. Repealed. Pub. L. 103-182, title VI, § 690(b)(2), Dec. 8, 1993, 107 Stat. 2223**

Section, act June 17, 1930, ch. 497, title IV, § 435, 46 Stat. 711, set forth entry requirements for foreign vessels arriving within limits of any customs collection district.

**§ 1435a. Transferred**

**Editorial Notes**

**CODIFICATION**

Section, act May 4, 1934, ch. 212, 48 Stat. 663, was transferred to section 91a of former Title 46, Shipping, and subsequently repealed by Pub. L. 103-182, title VI, § 690(c)(7), Dec. 8, 1993, 107 Stat. 2223.

**§ 1435b. Repealed. Pub. L. 103-182, title VI, § 690(c)(6), Dec. 8, 1993, 107 Stat. 2223**

Section, acts June 16, 1937, ch. 362, 50 Stat. 303; 1946 Reorg. Plan No. 3, §§101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; June 2, 1970, Pub. L. 91-271, title III, § 320, 84 Stat. 293, related to clearance of vessels arriving on Sundays, holidays, or at night.

**§ 1436. Penalties for violations of arrival, reporting, entry, and clearance requirements**

**(a) Unlawful acts**

It is unlawful—

- (1) to fail to comply with section 1431, 1433, or 1434 of this title or section 60105 of title 46;
- (2) to present or transmit, electronically or otherwise, any forged, altered, or false document, paper, information, data or manifest to the Customs Service under section 1431, 1433(d), or 1434 of this title or section 60105 of title 46 without revealing the facts;
- (3) to fail to make entry or to obtain clearance as required by section 1434 or 1644 of this title, section 60105 of title 46, or section 1644a(b)(1) or (c)(1) of this title; or
- (4) to fail to comply with, or violate, any regulation prescribed under any section referred to in any of paragraphs (1) through (3).

**(b) Civil penalty**

Any master, person in charge of a vehicle, or aircraft pilot who commits any violation listed in subsection (a) is liable for a civil penalty of \$5,000 for the first violation, and \$10,000 for each subsequent violation, and any conveyance used in connection with any such violation is subject to seizure and forfeiture.

**(c) Criminal penalty**

In addition to being liable for a civil penalty under subsection (b), any master, person in charge of a vehicle, or aircraft pilot who intentionally commits any violation listed in subsection (a) is, upon conviction, liable for a fine of not more than \$2,000 or imprisonment for 1 year, or both; except that if the conveyance has, or is discovered to have had, on board any merchandise (other than sea stores or the equivalent for conveyances other than vessels) the importation of which into the United States is pro-

hibited, such individual is liable for an additional fine of not more than \$10,000 or imprisonment for not more than 5 years, or both.

**(d) Additional civil penalty**

If any merchandise (other than sea stores or the equivalent for conveyances other than a vessel) is imported or brought into the United States in or aboard a conveyance which was not properly reported or entered, the master, person in charge of a vehicle, or aircraft pilot shall be liable for a civil penalty equal to the value of the merchandise and the merchandise may be seized and forfeited unless properly entered by the importer or consignee. If the merchandise consists of any controlled substance listed in section 1584 of this title, the master, individual in charge of a vehicle, or pilot shall be liable to the penalties prescribed in that section.

**(e) Civil penalties for postal shipments**

**(1) Civil penalty**

A civil penalty shall be imposed against the United States Postal Service if the Postal Service accepts a shipment in violation of section 1415(a)(3)(K)(vii)(I) of this title.

**(2) Modification of civil penalty**

**(A) In general**

U.S. Customs and Border Protection shall reduce or dismiss a civil penalty imposed pursuant to paragraph (1) if U.S. Customs and Border Protection determines that the United States Postal Service—

- (i) has a low error rate in compliance with section 1415(a)(3)(K) of this title;
- (ii) is cooperating with U.S. Customs and Border Protection with respect to the violation of section 1415(a)(3)(K)(vii)(I) of this title; or
- (iii) has taken remedial action to prevent future violations of section 1415(a)(3)(K)(vii)(I) of this title.

**(B) Written notification**

U.S. Customs and Border Protection shall issue a written notification to the Postal Service with respect to each exercise of the authority of subparagraph (A) to reduce or dismiss a civil penalty imposed pursuant to paragraph (1).

**(3) Ongoing lack of compliance**

If U.S. Customs and Border Protection determines that the United States Postal Service—

- (A) has repeatedly committed violations of section 1415(a)(3)(K)(vii)(I) of this title,
- (B) has failed to cooperate with U.S. Customs and Border Protection with respect to violations of section 1415(a)(3)(K)(vii)(I) of this title, and
- (C) has an increasing error rate in compliance with section 1415(a)(3)(K) of this title,

civil penalties may be imposed against the United States Postal Service until corrective action, satisfactory to U.S. Customs and Border Protection, is taken.

(June 17, 1930, ch. 497, title IV, § 436, 46 Stat. 711; Aug. 5, 1935, ch. 438, title II, § 202, 49 Stat. 521; Pub. L. 99-570, title III, § 3113(a), Oct. 27, 1986, 100 Stat. 3207-81; Pub. L. 103-182, title VI, § 611, Dec.