

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 Repealed.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act May 4, 1934, ch. 212, 48 Stat. 663, was transferred to section 91a of former Title 46, Shipping, and subsequently repealed by Pub.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 Repealed.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.

8, 1993, 107 Stat. 2170; Pub. L. 104–295, §21(e)(3), Oct. 11, 1996, 110 Stat. 3530; Pub. L. 115–271, title VIII, §8007, Oct. 24, 2018, 132 Stat. 4080.)

Editorial Notes

CODIFICATION

In subsec. (a)(1) to (3), “section 60105 of title 46” substituted for “section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)” on authority of Pub. L. 109–304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 60105 of Title 46, Shipping.

In subsec. (a)(3), “section 1644a(b)(1) or (c)(1) of this title” substituted for “section 1109 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1509)” on authority of Pub. L. 103–272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in R.S. §2834, as amended by act Mar. 3, 1897, ch. 389, §15, 29 Stat. 691, which was superseded by act Sept. 21, 1922, ch. 356, title IV, §436, 42 Stat. 951, and was repealed by section 642 thereof. Section 436 of the 1922 act was superseded by section 436 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

2018—Subsec. (e). Pub. L. 115–271 added subsec. (e).

1996—Subsec. (a)(2). Pub. L. 104–295 substituted “1431” for “1431(e)” and struck out “or” after semicolon at end.

1993—Pub. L. 103–182, §611(2), substituted “entry, and clearance” for “and entry” in section catchline.

Subsec. (a)(1). Pub. L. 103–182, §611(1)(A), substituted “section 1431, 1433, or 1434 of this title or section 91 of title 46, Appendix” for “section 1433 of this title”.

Subsec. (a)(2), (3). Pub. L. 103–182, §611(1)(B), (C), amended pars. (2) and (3) generally. Prior to amendment, pars. (2) and (3) read as follows:

“(2) to present any forged, altered, or false document, paper, or manifest to a customs officer under section 1433(d) of this title without revealing the facts;

“(3) to fail to make entry as required by section 1434, 1435, or 1644 of this title or section 1509 of title 49, Appendix; or”.

1986—Pub. L. 99–570 amended section generally. Prior to amendment, section read as follows: “Every master who fails to make the report or entry provided for in sections 1433, 1434, or 1435 of this title shall, for each offense, be liable to a fine of not more than \$1,000 and, if the vessel have, or be discovered to have had, on board any merchandise (sea stores excepted), the importation of which into the United States is prohibited, or any spirits, wines, or other alcoholic liquors, such master shall be subject to an additional fine of not more than \$2,000 or to imprisonment for not more than one year, or to both such fine and imprisonment.

“Every master who presents a forged, altered, or false document or paper on making entry of a vessel as required by section 1434 or 1435 of this title, knowing the same to be forged, altered, or false and without revealing the fact, shall, in addition to any forfeiture to which in consequence the vessel may be subject, be liable to a fine of not more than \$5,000 nor less than \$50 or to imprisonment for not more than two years, or to both such fine and imprisonment.”

1935—Act Aug. 5, 1935, inserted provisions relating to additional penalty for vessel carrying nonimportable merchandise or liquor and added second par.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–271, title VIII, §8009(a), Oct. 24, 2018, 132 Stat. 4081, provided that: “This subtitle [subtitle A

(§§8001–8009) of title VIII of Pub. L. 115–271, see Short Title of 2018 Amendment note set out under section 1 of this title] and the amendments made by this subtitle (other than the amendments made by section 8002 [amending section 58c of this title]) shall take effect on the date of the enactment of this Act [Oct. 24, 2018].”

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.

§ 1436a. Report on violations of arrival, reporting, entry, and clearance requirements and falsity or lack of manifest

(a) In general

The Commissioner of U.S. Customs and Border Protection shall submit to the appropriate congressional committees an annual report that contains the information described in subsection (b) with respect to each violation of section 1436 of this title, as amended by section 8007, and section 1584 of this title that occurred during the previous year.

(b) Information described

The information described in this subsection is the following:

- (1) The name and address of the violator.
- (2) The specific violation that was committed.
- (3) The location or port of entry through which the items were transported.
- (4) An inventory of the items seized, including a description of the items and the quantity seized.
- (5) The location from which the items originated.
- (6) The entity responsible for the apprehension or seizure, organized by location or port of entry.
- (7) The amount of penalties assessed by U.S. Customs and Border Protection, organized by name of the violator and location or port of entry.
- (8) The amount of penalties that U.S. Customs and Border Protection could have levied, organized by name of the violator and location or port of entry.
- (9) The rationale for negotiating lower penalties, organized by name of the violator and location or port of entry.

(c) Appropriate congressional committees defined

In this section, the term “appropriate congressional committees” means—

- (1) the Committee on Finance and the Committee on Homeland Security and Governmental Affairs of the Senate; and
- (2) the Committee on Ways and Means, the Committee on Oversight and Government Re-