

border inspection areas on either side of the United States-Canada border, was repealed by Pub. L. 108-429, title I, §1561(c), Dec. 3, 2004, 118 Stat. 2582.

§ 1630. Authority to settle claims

(a) In general

With respect to a claim that cannot be settled under chapter 171 of title 28, the Secretary may settle, for not more than \$50,000 in any one case, a claim for damage to, or loss of, privately owned property caused by an investigative or law enforcement officer (as defined in section 2680(h) of title 28) who is employed by the Customs Service and acting within the scope of his or her employment.

(b) Limitations

The Secretary may not pay a claim under subsection (a) that—

- (1) concerns commercial property;
- (2) is presented to the Secretary more than 1 year after it occurs; or
- (3) is presented by an officer or employee of the United States Government and arose within the scope of employment.

(c) Final settlement

A claim may be paid under this section only if the claimant accepts the amount of settlement in complete satisfaction of the claim.

(June 17, 1930, ch. 497, title IV, §630, as added Pub. L. 103-182, title VI, §670, Dec. 8, 1993, 107 Stat. 2216.)

Statutory Notes and Related Subsidiaries

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.

§ 1631. Use of private collection agencies

(a) In general

Notwithstanding any other provision of law, the Secretary, under such terms and conditions as the Secretary considers appropriate, shall enter into contracts and incur obligations with one or more persons for collection services to recover indebtedness arising under the customs laws and owed the United States Government, but only after the Customs Service has exhausted all administrative efforts, including all claims against applicable surety bonds, to collect the indebtedness.

(b) Contract requirements

Any contract entered into under subsection (a) shall provide that—

- (1) the Secretary retains the authority to resolve a dispute, compromise a claim, and col-

lection action, and refer a matter to the Attorney General to bring a civil action; and

- (2) the person is subject to—

(A) section 552a of title 5 to the extent provided in subsection (m) of such section; and

(B) laws and regulations of the United States Government and State governments related to debt collection practices.

(c) Payment of costs

The debtor shall be assessed and pay any and all costs associated with collection efforts pursuant to this section. Notwithstanding section 3302(b) of title 31, any sum so collected shall be used to pay the costs of debt collection services.

(June 17, 1930, ch. 497, title IV, §631, as added Pub. L. 103-182, title VI, §671, Dec. 8, 1993, 107 Stat. 2217; amended Pub. L. 104-295, §3(a)(9), Oct. 11, 1996, 110 Stat. 3516; Pub. L. 106-36, title I, §1001(b)(5)(A), June 25, 1999, 113 Stat. 132.)

Editorial Notes

AMENDMENTS

1999—Subsec. (c). Pub. L. 106-36 amended directory language of Pub. L. 104-295. See 1996 Amendment note below.

1996—Subsec. (c). Pub. L. 104-295, as amended by Pub. L. 106-36, added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-295 applicable as of Dec. 8, 1993, see section 3(b) of Pub. L. 104-295, set out as a note under section 1321 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, 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.

PART VI—MISCELLANEOUS PROVISIONS

§ 1641. Customs brokers

(a) Definitions

As used in this section:

- (1) The term “customs broker” means any person granted a customs broker’s license by the Secretary under subsection (b).

(2) The term “customs business” means those activities involving transactions with U.S. Customs and Border Protection concerning the entry and admissibility of merchandise, its classification and valuation, the payment of duties, taxes, or other charges assessed or collected by U.S. Customs and Border Protection upon merchandise by reason of its importation, or the refund, rebate, or drawback thereof. It also includes the preparation of documents or forms in any format and the

electronic transmission of documents, invoices, bills, or parts thereof, intended to be filed with U.S. Customs and Border Protection in furtherance of such activities, whether or not signed or filed by the preparer, or activities relating to such preparation, but does not include the mere electronic transmission of data received for transmission to Customs.

(3) The term "Secretary" means the Secretary of the Treasury.

(b) Customs broker's licenses

(1) In general

No person may conduct customs business (other than solely on behalf of that person) unless that person holds a valid customs broker's license issued by the Secretary under paragraph (2) or (3).

(2) Licenses for individuals

The Secretary may grant an individual a customs broker's license only if that individual is a citizen of the United States. Before granting the license, the Secretary may require an applicant to show any facts deemed necessary to establish that the applicant is of good moral character and qualified to render valuable service to others in the conduct of customs business. In assessing the qualifications of an applicant, the Secretary may conduct an examination to determine the applicant's knowledge of customs and related laws, regulations and procedures, bookkeeping, accounting, and all other appropriate matters.

(3) Licenses for corporations, etc.

The Secretary may grant a customs broker's license to any corporation, association, or partnership that is organized or existing under the laws of any of the several States of the United States if at least one officer of the corporation or association, or one member of the partnership, holds a valid customs broker's license granted under paragraph (2).

(4) Duties

A customs broker shall exercise responsible supervision and control over the customs business that it conducts.

(5) Lapse of license

The failure of a customs broker that is licensed as a corporation, association, or partnership under paragraph (3) to have, for any continuous period of 120 days, at least one officer of the corporation or association, or at least one member of the partnership, validly licensed under paragraph (2) shall, in addition to causing the broker to be subject to any other sanction under this section (including paragraph (6)), result in the revocation by operation of law of its license.

(6) Prohibited acts

Any person who intentionally transacts customs business, other than solely on the behalf of that person, without holding a valid customs broker's license granted to that person under this subsection shall be liable to the United States for a monetary penalty not to exceed \$10,000 for each such transaction as well as for each violation of any other provision of this section. This penalty shall be assessed in

the same manner and under the same procedures as the monetary penalties provided for in subsection (d)(2)(A).

(c) Customs broker's permits

(1) In general

Each person granted a customs broker's license under subsection (b) shall be issued, in accordance with such regulations as the Secretary shall prescribe, either or both of the following:

(A) A national permit for the conduct of such customs business as the Secretary prescribes by regulation.

(B) A permit for each customs district in which that person conducts customs business and, except as provided in paragraph (2), regularly employs at least 1 individual who is licensed under subsection (b)(2) to exercise responsible supervision and control over the customs business conducted by that person in that district.

(2) Exception

If a person granted a customs broker's license under subsection (b) can demonstrate to the satisfaction of the Secretary that—

(A) he regularly employs in the region in which that district is located at least one individual who is licensed under subsection (b)(2), and

(B) that sufficient procedures exist within the company for the person employed in that region to exercise responsible supervision and control over the customs business conducted by that person in that district,

the Secretary may waive the requirement in paragraph (1)(B).

(3) Lapse of permit

The failure of a customs broker granted a permit under paragraph (1) to employ, for any continuous period of 180 days, at least one individual who is licensed under subsection (b)(2) within the district or region (if paragraph (2) applies) for which a permit was issued shall, in addition to causing the broker to be subject to any other sanction under this section (including any in subsection (d)), result in the revocation by operation of law of the permit.

(4) Appointment of subagents

Notwithstanding subsection (c)(1), upon the implementation by the Secretary under section 1413(b)(2) of this title of the component of the National Customs Automation Program referred to in section 1411(a)(2)(B) of this title, a licensed broker may appoint another licensed broker holding a permit in a customs district to act on its behalf as its subagent in that district if such activity relates to the filing of information that is permitted by law or regulation to be filed electronically. A licensed broker appointing a subagent pursuant to this paragraph shall remain liable for any and all obligations arising under bond and any and all duties, taxes, and fees, as well as any other liabilities imposed by law, and shall be precluded from delegating to a subagent such liability.

(d) Disciplinary proceedings**(1) General rule**

The Secretary may impose a monetary penalty in all cases with the exception of the infractions described in clause (iii) of subparagraph (B) of this subsection, or revoke or suspend a license or permit of any customs broker, if it is shown that the broker—

(A) has made or caused to be made in any application for any license or permit under this section, or report filed with U.S. Customs and Border Protection, any statement which was, at the time and in light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which was required to be stated therein;

(B) has been convicted at any time after the filing of an application for license under subsection (b) of any felony or misdemeanor which the Secretary finds—

(i) involved the importation or exportation of merchandise;

(ii) arose out of the conduct of its customs business; or

(iii) involved larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds;

(C) has violated any provision of any law enforced by U.S. Customs and Border Protection or the rules or regulations issued under any such provision;

(D) has counseled, commanded, induced, procured, or knowingly aided or abetted the violations by any other person of any provision of any law enforced by U.S. Customs and Border Protection, or the rules or regulations issued under any such provision;

(E) has knowingly employed, or continues to employ, any person who has been convicted of a felony, without written approval of such employment from the Secretary;

(F) has, in the course of its customs business, with intent to defraud, in any manner willfully and knowingly deceived, misled or threatened any client or prospective client; or

(G) has been convicted of committing or conspiring to commit an act of terrorism described in section 2332b of title 18.

(2) Procedures**(A) Monetary penalty**

Unless action has been taken under subparagraph (B), the appropriate customs officer shall serve notice in writing upon any customs broker to show cause why the broker should not be subject to a monetary penalty not to exceed \$30,000 in total for a violation or violations of this section. The notice shall advise the customs broker of the allegations or complaints against him and shall explain that the broker has a right to respond to the allegations or complaints in writing within 30 days of the date of the notice. Before imposing a monetary penalty, the customs officer shall consider the allegations or complaints and any timely response

made by the customs broker and issue a written decision. A customs broker against whom a monetary penalty has been issued under this section shall have a reasonable opportunity under section 1618 of this title to make representations seeking remission or mitigation of the monetary penalty. Following the conclusion of any proceeding under section 1618 of this title, the appropriate customs officer shall provide to the customs broker a written statement which sets forth the final determination and the findings of fact and conclusions of law on which such determination is based.

(B) Revocation or suspension

U.S. Customs and Border Protection may, for good and sufficient reason, serve notice in writing upon any customs broker to show cause why a license or permit issued under this section should not be revoked or suspended. The notice shall be in the form of a statement specifically setting forth the grounds of the complaint, and shall allow the customs broker 30 days to respond. If no response is filed, or U.S. Customs and Border Protection determines that the revocation or suspension is still warranted, it shall notify the customs broker in writing of a hearing to be held within 30 days, or at a later date if the broker requests an extension and shows good cause therefor, before an administrative law judge appointed pursuant to section 3105 of title 5 who shall serve as the hearing officer. If the customs broker waives the hearing, or the broker or his designated representative fails to appear at the appointed time and place, the hearing officer shall make findings and recommendations based on the record submitted by the parties. At the hearing, the customs broker may be represented by counsel, and all proceedings, including the proof of the charges and the response thereto shall be presented with testimony taken under oath and the right of cross-examination accorded to both parties. A transcript of the hearing shall be made and a copy will be provided to U.S. Customs and Border Protection and the customs broker; which shall thereafter be provided reasonable opportunity to file a post-hearing brief. Following the conclusion of the hearing, the hearing officer shall transmit promptly the record of the hearing along with the findings of fact and recommendations to the Secretary for decision. The Secretary will issue a written decision, based solely on the record, setting forth the findings of fact and the reasons for the decision. Such decision may provide for the sanction contained in the notice to show cause or any lesser sanction authorized by this subsection, including a monetary penalty not to exceed \$30,000, than was contained in the notice to show cause.

(3) Settlement and compromise

The Secretary may settle and compromise any disciplinary proceeding which has been instituted under this subsection according to the terms and conditions agreed to by the parties, including but not limited to the reduction of

any proposed suspension or revocation to a monetary penalty.

(4) Limitation of actions

Notwithstanding section 1621 of this title, no proceeding under this subsection or subsection (b)(6) shall be commenced unless such proceeding is instituted by the appropriate service of written notice within 5 years from the date the alleged violation was committed; except that if the alleged violation consists of fraud, the 5-year period of limitation shall commence running from the time such alleged violation was discovered.

(e) Judicial appeal

(1) In general

A customs broker, applicant, or other person directly affected may appeal any decision of the Secretary denying or revoking a license or permit under subsection (b) or (c), or revoking or suspending a license or permit or imposing a monetary penalty in lieu thereof under subsection (d)(2)(B), by filing in the Court of International Trade, within 60 days after the issuance of the decision or order, a written petition requesting that the decision or order be modified or set aside in whole or in part. A copy of the petition shall be transmitted promptly by the clerk of the court to the Secretary or his designee. In cases involving revocation or suspension of a license or permit or imposition of a monetary penalty in lieu thereof under subsection (d)(2)(B), after receipt of the petition, the Secretary shall file in court the record upon which the decision or order complained of was entered, as provided in section 2635(d) of title 28.

(2) Consideration of objections

The court shall not consider any objection to the decision or order of the Secretary, or to the introduction of evidence or testimony, unless that objection was raised before the hearing officer in suspension or revocation proceedings unless there were reasonable grounds for failure to do so.

(3) Conclusiveness of findings

The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

(4) Additional evidence

If any party applies to the court for leave to present additional evidence and the court is satisfied that the additional evidence is material and that reasonable grounds existed for the failure to present the evidence in the proceedings before the hearing officer, the court may order the additional evidence to be taken before the hearing officer and to be presented in a manner and upon the terms and conditions prescribed by the court. The Secretary may modify the findings of facts on the basis of the additional evidence presented. The Secretary shall then file with the court any new or modified findings of fact which shall be conclusive if supported by substantial evidence, together with a recommendation, if any, for the modification or setting aside of the original decision or order.

(5) Effect of proceedings

The commencement of proceedings under this subsection shall, unless specifically ordered by the court, operate as a stay of the decision of the Secretary except in the case of a denial of a license or permit.

(6) Failure to appeal

If an appeal is not filed within the time limits specified in this section, the decision by the Secretary shall be final and conclusive. In the case of a monetary penalty imposed under subsection (d)(2)(B) of this section, if the amount is not tendered within 60 days after the decision becomes final, the license shall automatically be suspended until payment is made to U.S. Customs and Border Protection.

(f) Regulations by the Secretary

The Secretary may prescribe such rules and regulations relating to the customs business of customs brokers as the Secretary considers necessary to protect importers and the revenue of the United States, and to carry out the provisions of this section, including rules and regulations governing the licensing of or issuance of permits to customs brokers, the keeping of books, accounts, and records by customs brokers, and documents and correspondence, and the furnishing by customs brokers of any other information relating to their customs business to any duly accredited officer or employee of U.S. Customs and Border Protection. The Secretary may not prohibit customs brokers from limiting their liability to other persons in the conduct of customs business. For purposes of this subsection or any other provision of this chapter pertaining to recordkeeping, all data required to be retained by a customs broker may be kept on microfilm, optical disc, magnetic tapes, disks or drums, video files or any other electrically generated medium. Pursuant to such regulations as the Secretary shall prescribe, the conversion of data to such storage medium may be accomplished at any time subsequent to the relevant customs transaction and the data may be retained in a centralized basis according to such broker's business system.

(g) Triennial reports by customs brokers

(1) In general

On February 1, 1985, and on February 1 of each third year thereafter, each person who is licensed under subsection (b) shall file with the Secretary of the Treasury a report as to—

- (A) whether such person is actively engaged in business as a customs broker; and
- (B) the name under, and the address at, which such business is being transacted.

(2) Suspension and revocation

If a person licensed under subsection (b) fails to file the required report by March 1 of the reporting year, the license is suspended, and may be thereafter revoked subject to the following procedures:

- (A) The Secretary shall transmit written notice of suspension to the licensee no later than March 31 of the reporting year.

- (B) If the licensee files the required report within 60 days of receipt of the notice under subparagraph (A), the license shall be reinstated.

(C) In the event the required report is not filed within the 60-day period, the license shall be revoked without prejudice to the filing of an application for a new license.

(h) Fees and charges

The Secretary may prescribe reasonable fees and charges to defray the costs of U.S. Customs and Border Protection in carrying out the provisions of this section, including, but not limited to, a fee for licenses issued under subsection (b) and fees for any test administered by him or under his direction; except that no separate fees shall be imposed to defray the costs of an individual audit or of individual disciplinary proceedings of any nature.

(i) Identification of importers

(1) In general

The Secretary shall prescribe regulations setting forth the minimum standards for customs brokers and importers, including nonresident importers, regarding the identity of the importer that shall apply in connection with the importation of merchandise into the United States.

(2) Minimum requirements

The regulations required under paragraph (1) shall, at a minimum—

(A) identify the information that an importer, including a nonresident importer, is required to submit to a broker and that a broker is required to collect in order to verify the identity of the importer;

(B) identify reasonable procedures that a broker is required to follow in order to verify the authenticity of information collected from an importer; and

(C) require a broker to maintain records of the information collected by the broker to verify the identity of an importer.

(3) Penalties

Any customs broker who fails to collect information required under the regulations prescribed under this subsection shall be liable to the United States, at the discretion of the Secretary, for a monetary penalty not to exceed \$10,000 for each violation of those regulations and shall be subject to revocation or suspension of a license or permit of the customs broker pursuant to the procedures set forth in subsection (d). This penalty shall be assessed in the same manner and under the same procedures as the monetary penalties provided for in subsection (d)(2)(A).

(4) Definitions

In this subsection:

(A) Importer

The term “importer” means one of the parties qualifying as an importer of record under section 1484(a)(2)(B) of this title.

(B) Nonresident importer

The term “nonresident importer” means an importer who is—

(i) an individual who is not a citizen of the United States or an alien lawfully admitted for permanent residence in the United States; or

(ii) a partnership, corporation, or other commercial entity that is not organized under the laws of a jurisdiction within the customs territory of the United States (as such term is defined in General Note 2 of the Harmonized Tariff Schedule of the United States) or in the Virgin Islands of the United States.

(June 17, 1930, ch. 497, title IV, § 641, 46 Stat. 759; Aug. 26, 1935, ch. 689, §§ 3–5, 49 Stat. 864, 865; Pub. L. 85–791, § 8, Aug. 28, 1958, 72 Stat. 945; Pub. L. 91–271, title III, § 301(jj), June 2, 1970, 84 Stat. 291; Pub. L. 95–410, title I, § 113, Oct. 3, 1978, 92 Stat. 898; Pub. L. 96–417, title VI, § 611, Oct. 10, 1980, 94 Stat. 1746; Pub. L. 98–573, title II, § 212(a), Oct. 30, 1984, 98 Stat. 2978; Pub. L. 99–514, title XVIII, § 1888(8), Oct. 22, 1986, 100 Stat. 2925; Pub. L. 103–182, title VI, § 648, Dec. 8, 1993, 107 Stat. 2207; Pub. L. 104–295, § 21(e)(11), Oct. 11, 1996, 110 Stat. 3531; Pub. L. 105–258, title III, § 302(b), Oct. 14, 1998, 112 Stat. 1916; Pub. L. 114–125, title I, § 116(a), title IX, § 903, Feb. 24, 2016, 130 Stat. 144, 223.)

Editorial Notes

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsec. (i)(4)(B)(ii), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

PRIOR PROVISIONS

This section relates to the same subject matter as act June 10, 1910, ch. 283, §§ 1–5, 36 Stat. 464, 465 (incorporated into the Code as former sections 415 to 419 of this title); and those sections were expressly repealed by paragraph (e) of this section which read as follows: “(e) Licenses under Act of June 10, 1910.—The Act entitled ‘An Act to license customhouse brokers,’ approved June 10, 1910, is hereby repealed, except that any license issued under such Act shall continue in force and effect, subject to suspension and revocation in the same manner and upon the same conditions as licenses issued pursuant to subdivision (a) of this section.”

Act June 10, 1910, ch. 283, § 1, 36 Stat. 464, prior to its incorporation into the Code, referred to the collector or chief officer of the customs “at any port of entry or delivery.” Ports of delivery, not specifically mentioned as ports of entry, were abolished in the reorganization of the customs service by the President (see notes to section 1 of this title).

Act June 10, 1910, ch. 283, § 3, 36 Stat. 465, prior to its incorporation into the Code, referred to the United States Circuit Court instead of the District Court. Section 291 of the act of Mar. 3, 1911, provided that any reference, in any law not embraced in that act, to the Circuit Courts, or any power or duty conferred upon them, should be deemed to refer to, and to confer such power and duty upon, the District Courts.

AMENDMENTS

2016—Pub. L. 114–125, § 903(b)(1), substituted “U.S. Customs and Border Protection” for “the Customs Service” wherever appearing.

Subsec. (d)(1)(G). Pub. L. 114–125, § 903(a), added subparagraph (G).

Subsec. (d)(2)(B). Pub. L. 114–125, § 903(b)(2), substituted “U.S. Customs and Border Protection” for “The Customs Service”.

Subsec. (g)(2)(B). Pub. L. 114–125, § 903(b)(3), substituted “notice under subparagraph (A)” for “Secretary’s notice”.

Subsec. (i). Pub. L. 114–125, § 116(a), added subsec. (i).

1998—Subsec. (i). Pub. L. 105–258 struck out subsec. (i) which prohibited conference or group of two or more

ocean common carriers from denying any member the right to take independent action on any level of compensation paid to an ocean freight forwarder who was also a customs broker, and from agreeing to limit payment to such a forwarder to less than 1.25 percent of aggregate of tariff rates and charges, and set out provisions relating to administration of provisions, remedies for violations, and definitions.

1996—Subsec. (d)(2)(B). Pub. L. 104-295 substituted “the findings of fact” for “his findings of fact” in penultimate sentence.

1993—Subsec. (a)(2). Pub. L. 103-182, § 648(1), inserted at end “It also includes the preparation of documents or forms in any format and the electronic transmission of documents, invoices, bills, or parts thereof, intended to be filed with the Customs Service in furtherance of such activities, whether or not signed or filed by the preparer, or activities relating to such preparation, but does not include the mere electronic transmission of data received for transmission to Customs.”

Subsec. (c)(1). Pub. L. 103-182, § 648(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Each person granted a customs broker’s license under subsection (b) of this section shall—

“(A) be issued a permit, in accordance with regulations prescribed under this section, for each customs district in which that person conducts customs business; and

“(B) except as provided in paragraph (2), regularly employ in each customs district for which a permit is so issued at least one individual who is licensed under subsection (b)(2) of this section to exercise responsible supervision and control over the customs business conducted by that person in that district.”

Subsec. (c)(4). Pub. L. 103-182, § 648(3), added par. (4). Subsec. (d)(2)(B). Pub. L. 103-182, § 648(4), in first sentence, substituted “Customs Service” for “appropriate customs officer”, in third sentence, substituted “Customs Service” for “appropriate customs officer”, “it shall notify” for “he shall notify”, and “30” for “15”, in sixth sentence, substituted “the Customs Service and the customs broker; which” for “the appropriate customs officer and the customs broker; they”, in the seventh sentence, substituted “the findings of fact” for “his findings of fact”, and in the eighth sentence, substituted “for the decision” for “for his decision”.

Subsec. (f). Pub. L. 103-182, § 648(5), substituted “Customs Service. The Secretary may not prohibit customs brokers from limiting their liability to other persons in the conduct of customs business. For purposes of this subsection or any other provision of this Act pertaining to recordkeeping, all data required to be retained by a customs broker may be kept on microfilm, optical disc, magnetic tapes, disks or drums, video files or any other electrically generated medium. Pursuant to such regulations as the Secretary shall prescribe, the conversion of data to such storage medium may be accomplished at any time subsequent to the relevant customs transaction and the data may be retained in a centralized basis according to such broker’s business system.” for “United States Customs Service.”

1986—Subsec. (i). Pub. L. 99-514 added subsec. (i).

1984—Pub. L. 98-573 amended section generally, substituting provisions relating to customs broker’s licenses and permits for provisions relating to licensing of customhouse brokers.

1980—Subsec. (b). Pub. L. 96-417, in second par., substituted in second sentence “filing, in the Court of International Trade” for “filing, in the circuit court of appeals of the United States within any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia” and struck out penultimate sentence which read as follows: “The judgment and decree of the court affirming, modifying, or setting aside, in whole or in part, any such order of the Secretary of the Treasury shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in 1254 of title 28.”

1978—Subsec. (e). Pub. L. 95-410 added subsec. (e).

1970—Subsec. (b). Pub. L. 91-271 substituted references to appropriate officer of the customs for references to collector or chief officer of customs whenever appearing.

1958—Subsec. (b). Pub. L. 85-791 in third sentence of second par., substituted “transmitted by the clerk of the court to” for “served upon”, struck out “upon” before “any officer”, “certify and” before “file in the court”, “a transcript of” before “the record upon” and inserted “as provided in section 2112 of title 28”, and in fourth sentence of second par., substituted “petition” for “transcript”.

1935—Subsec. (a). Act Aug. 26, 1935, § 3, substituted “(c)” for “(e)” in last sentence.

Subsecs. (b) to (d). Act Aug. 26, 1935, § 4, amended subsecs. (b) to (d) generally.

Subsec. (e). Act Aug. 26, 1935, § 5, repealed subsec. (e) which related to licenses under the act of June 10, 1910.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-258, § 2, Oct. 14, 1998, 112 Stat. 1902, provided that: “Except as otherwise expressly provided in this Act [see Tables for classification], this Act and the amendments made by this Act take effect May 1, 1999.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 effective on close of 180th day following Oct. 30, 1984, with certain exceptions, except that subsec. (c)(1)(B), (2) of this section shall take effect three years after Oct. 30, 1984, see section 214(d) of Pub. L. 98-573, set out as a note under section 1304 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 applicable with respect to civil actions commenced on or after Nov. 1, 1980, see section 701(b)(2) of Pub. L. 96-417, set out as a note under section 251 of Title 28, Judiciary and Judicial Procedure.

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.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1801-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

§ 1642. Omitted**Editorial Notes****CODIFICATION**

In compliance with a request from the President on July 2, 1932, the survey authorized by this section, act June 17, 1930, ch. 497, title IV, § 642, 46 Stat. 760, was made and submitted to the President on February 28, 1933. See Tariff Commission Reports, No. 70, Second Series.

§ 1643. Application of customs reorganization act

The rights, privileges, powers, and duties vested in or imposed upon the Secretary of the Treasury by this chapter shall be subject to the provisions of subdivision (a) of section 2073 of this title.

(June 17, 1930, ch. 497, title IV, § 643, 46 Stat. 761.)

Editorial Notes**REFERENCES IN TEXT**

Subdivision (a) of section 2073 of this title, referred to in text, was repealed by act Sept. 3, 1954, ch. 1263, § 10, 68 Stat. 1229.

§ 1644. Application of the Federal Aviation Act and section 1518(d) of title 33

(a) The authority vested by section 1644a(b)(1) of this title in the Secretary of the Treasury, by regulation to provide for the application to civil air navigation of the laws and regulations relating to the administration of customs, and of the laws and regulations relating to the entry and clearance of vessels, shall extend to the application in like manner of any of the provisions of this chapter, or of the Anti-Smuggling Act of 1935 [19 U.S.C. 1701 et seq.], or of any regulations promulgated hereunder.

(b) For purposes of section 1518(d) of title 33, the term "customs laws administered by the Secretary of the Treasury" shall mean this chapter and any other provisions of law classified to this title.

(June 17, 1930, ch. 497, title IV, § 644, 46 Stat. 761; Pub. L. 96-467, § 21(2), (3), Oct. 17, 1980, 94 Stat. 2228; Pub. L. 98-473, title II, § 322, Oct. 12, 1984, 98 Stat. 2056.)

Editorial Notes**REFERENCES IN TEXT**

The Anti-Smuggling Act of 1935, referred to in subsec. (a), probably means the Anti-Smuggling Act which is act Aug. 5, 1935, ch. 438, 49 Stat. 517, as amended, which is classified principally to chapter 5 (§ 1701 et seq.) of this title. For complete classification of this Act to the Code, see section 1711 of this title and Tables.

CODIFICATION

In subsec. (a), "section 1644a(b)(1) of this title" substituted for "section 1109 of the Federal Aviation Act of 1958 (49 U.S.C. 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.

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-473 substituted reference to section 1509 of title 49, Appendix, for reference to section 177 of former title 49, struck out reference to

the Commissioner of Customs, and inserted reference to the Anti-Smuggling Act of 1935.

Subsec. (b). Pub. L. 98-473 reenacted subsec. (b) without change.

1980—Pub. L. 96-467 designated existing provisions as subsec. (a) and added subsec. (b).

§ 1644a. Ports of entry**(a) Definitions**

The definitions in section 40102(a) of title 49 apply to this section.

(b) Secretary of the Treasury

(1) The Secretary of the Treasury may—

(A) designate ports of entry in the United States for civil aircraft arriving in the United States from a place outside the United States and property transported on that aircraft;

(B) detail to ports of entry officers and employees of the United States Customs Service the Secretary considers necessary;

(C) give an officer or employee of the United States Government stationed at a port of entry (with the consent of the head of the department, agency, or instrumentality of the Government with jurisdiction over the officer or employee) duties and powers of officers or employees of the Customs Service;

(D) by regulation, apply to civil air navigation the laws and regulations on carrying out the customs laws, to the extent and under conditions the Secretary considers necessary; and

(E) by regulation, apply to civil aircraft the laws and regulations on entry and clearance of vessels, to the extent and under conditions the Secretary considers necessary.

(2) A person violating a customs regulation prescribed under paragraph (1)(A)–(D) of this subsection or a public health or customs law or regulation made applicable to aircraft by a regulation under paragraph (1)(A)–(D) is liable to the Government for a civil penalty of \$5,000 for each violation. An aircraft involved in the violation may be seized and forfeited under the customs laws. The Secretary of the Treasury may remit or mitigate a penalty and forfeiture under this paragraph.

(3) A person violating a regulation made applicable under paragraph (1)(E) of this subsection or an immigration regulation prescribed under paragraph (1)(E) is liable to the Government for a civil penalty of \$5,000 for each violation. The Secretary of the Treasury or the Attorney General may remit or mitigate a penalty under this paragraph.

(4) In addition to any other penalty, when a controlled substance described in section 1584 of this title is found on, or to have been unloaded from, an aircraft to which this subsection applies, the owner of, or individual commanding, the aircraft is liable to the Government for the penalties provided in section 1584 of this title for each violation unless the owner or individual, by a preponderance of the evidence, demonstrates that the owner or individual did not know, and by exercising the highest degree of care and diligence, could not have known, that a controlled substance was on the aircraft.

(5) If a violation under this subsection is by the owner or operator of, or individual commanding, the aircraft, the aircraft is subject to a lien for the penalty.