

any distilled spirits, or fraudulently claims any greater allowance or drawback than the tax actually paid or determined thereon, shall forfeit and pay to the Government of the United States triple the amount wrongfully and fraudulently sought to be obtained, and shall be imprisoned not more than 5 years; and every owner, agent, or master of any vessel or other person who knowingly aids or abets in the fraudulent collection or fraudulent attempts to collect any drawback upon, or knowingly aids or permits any fraudulent change in the spirits so shipped, shall be fined not more than \$5,000, or imprisoned not more than 3 years, or both, and the ship or vessel on board of which such shipment was made or pretended to be made shall be forfeited to the United States, whether a conviction of the master or owner be had or otherwise, and proceedings may be had in admiralty by libel for such forfeiture.

(b) Unlawful relanding

Every person who, with intent to defraud the United States, relands within the jurisdiction of the United States any distilled spirits which have been shipped for exportation under the provisions of this chapter, or who receives such relanded distilled spirits, and every person who aids or abets in such relanding or receiving of such spirits, shall be fined not more than \$5,000, or imprisoned not more than 3 years, or both; and all distilled spirits so relanded, together with the vessel from which the same were relanded within the jurisdiction of the United States, and all vessels, vehicles, or aircraft used in relanding and removing such distilled spirits, shall be forfeited to the United States.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1403; amended Pub. L. 89-44, title VIII, §805(e), June 21, 1965, 79 Stat. 161.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5608, act Aug. 16, 1954, ch. 736, 68A Stat. 685, related to penalty for making or fermenting mash on unauthorized premises, illegal use of spirits, unlawful removal of vinegar, etc., prior to the general revision of this chapter by Pub. L. 85-859. See sections 5505(i), 5601(a)(7), (8), (9)(A), (12), 5615(4), and 5687 of this title.

Provisions similar to those comprising this section were contained in prior section 5648, act Aug. 16, 1954, ch. 736, 68A Stat. 694, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1965—Subsec. (b). Pub. L. 89-44 substituted “, with intent to defraud the United States,” for “intentionally” after “Every person who”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 effective July 1, 1965, see section 805(g)(1) of Pub. L. 89-44, set out as a note under section 5008 of this title.

§ 5609. Destruction of unregistered stills, distilling apparatus, equipment, and materials

(a) General

In the case of seizure elsewhere than on premises qualified under this chapter of any unregis-

tered still, distilling or fermenting equipment or apparatus, or distilling or fermenting material, for any offense involving forfeiture of the same, where it shall be impracticable to remove the same to a place of safe storage from the place where seized, the seizing officer is authorized to destroy the same. In the case of seizure, other than on premises qualified under this chapter or in transit thereto or therefrom, of any distilled spirits on which the tax has not been paid or determined, for any offense involving forfeiture of the same, the seizing officer is authorized to destroy the distilled spirits forthwith. Any destruction under this subsection shall be in the presence of at least one credible witness. The seizing officer shall make such report of said seizure and destruction and take such samples as the Secretary may require.

(b) Claims

Within 1 year after destruction made pursuant to subsection (a) the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of such property. If the claimant establishes to the satisfaction of the Secretary that—

- (1) such property had not been used in violation of law; or
- (2) any unlawful use of such property had been without his consent or knowledge,

the Secretary shall make an allowance to such claimant not exceeding the value of the property destroyed.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1403; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5609, act Aug. 16, 1954, ch. 736, 68A Stat. 685, related to penalty in connection to return of materials used in the manufacture of distilled spirits, prior to the general revision of this chapter by Pub. L. 85-859. See section 5605 of this title.

Provisions similar to those comprising this section were contained in prior section 5623, act Aug. 16, 1954, ch. 736, 68A Stat. 687, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

§ 5610. Disposal of forfeited equipment and material for distilling

All boilers, stills, or other vessels, tools and implements, used in distilling or processing, and forfeited under any of the provisions of this chapter, and all condemned material, together with any engine or other machinery connected therewith, and all empty barrels, and all grain or other material suitable for fermentation or distillation, shall be sold at public auction or otherwise disposed of as the court in which forfeiture was recovered shall in its discretion direct.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1404; amended Pub. L. 96-39, title VIII, §807(a)(54), July 26, 1979, 93 Stat. 289.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5610, act Aug. 16, 1954, ch. 736, 68A Stat. 685, related to penalty for using unregistered materials for producing spirits, prior to the general revision of this chapter by Pub. L. 85-859. See section 5603 of this title.

Provisions similar to those comprising this section were contained in prior section 5622, act Aug. 16, 1954, ch. 736, 68A Stat. 687, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Pub. L. 96-39 substituted “or processing” for “or rectifying”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

§ 5611. Release of distillery before judgment

Any distillery or distilling apparatus seized on any premises qualified under this chapter, for any violation of law, may, in the discretion of the court, be released before final judgment to a receiver appointed by the court to operate such distillery or apparatus. Such receiver shall give bond, which shall be approved in open court, with corporate surety, for the full appraised value of all the property seized, to be ascertained by three competent appraisers designated and appointed by the court. Funds obtained from such operation shall be impounded as the court shall direct pending such final judgment.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1404.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5611, act Aug. 16, 1954, ch. 736, 68A Stat. 685, related to penalty for using false weights and measures, prior to the general revision of this chapter by Pub. L. 85-859. See section 5603 of this title.

Provisions similar to those comprising this section were contained in prior section 5624, act Aug. 16, 1954, ch. 736, 68A Stat. 688, prior to the general revision of this chapter by Pub. L. 85-859.

§ 5612. Forfeiture of taxpaid distilled spirits remaining on bonded premises**(a) General**

No distilled spirits on which tax has been paid or determined shall be stored or allowed to remain on the bonded premises of any distilled spirits plant, under the penalty of forfeiture of all spirits so found.

(b) Exceptions

Subsection (a) shall not apply in the case of—

(1) distilled spirits in the process of prompt removal from bonded premises on payment or determination of the tax; or

(2) distilled spirits returned to bonded premises in accordance with the provisions of section 5215.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1404; amended Pub. L. 96-39, title VIII, §807(a)(55), July 26, 1979, 93 Stat. 289.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5612, act Aug. 16, 1954, ch. 736, 68A Stat. 685, related to penalty for using material or removing spirits without supervision, prior to the general revision of this chapter by Pub. L. 85-859. See section 5687 of this title.

Provisions similar to those comprising subsec. (a) of this section were contained in prior section 5625, act Aug. 16, 1954, ch. 736, 68A Stat. 688, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-39 redesignated subpars. (2) and (3) as (1) and (2), respectively, and struck out former subpars. (1) and (4) which excepted distilled spirits which were bottled in bond under section 5233 of this title and which were returned to bonded premises for rebottling, relabeling, or restamping in accordance with subsec. (d) of section 5233, and excepted such spirits, held on bonded premises, on which the tax had become payable by operation of law, but on which the tax had not been paid.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

SUSPENSION OF SUBSECTION (a) DURING 1980

Pub. L. 96-39, title VIII, §808(c)(1), July 26, 1979, 93 Stat. 291, set out as a note under section 5061 of this title, provided that subsec. (a) of this section was not to apply during 1980.

§ 5613. Forfeiture of distilled spirits not closed, marked, or branded as required by law**(a) Unmarked or unbranded casks or packages**

All distilled spirits found in any cask or package required by this chapter or any regulation issued pursuant thereto to bear a mark, brand, or identification, which cask or package is not marked, branded, or identified in compliance with this chapter and regulations issued pursuant thereto, shall be forfeited to the United States.

(b) Containers without closures

All distilled spirits found in any container which is required by this chapter to bear a closure or other device and which does not bear a closure or other device in compliance with this chapter shall be forfeited to the United States.

(Added Pub. L. 85-859, title II, §201, Sept. 21, 1958, 72 Stat. 1404; amended Pub. L. 98-369, div. A, title IV, §454(c)(12)(A), (B), July 18, 1984, 98 Stat. 822.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5613, act Aug. 16, 1954, ch. 736, 68A Stat. 685, related to penalty for distilling during prohibited hours, prior to the general revision of this chapter by Pub. L. 85-859. See section 5687 of this title.

Provisions similar to those comprising this section were contained in prior sections 5639 and 5640, act Aug. 16, 1954, ch. 736, 68A Stat. 691, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1984—Pub. L. 98-369, §454(c)(12)(B), substituted “closed” for “stamped” in section catchline.