

(b) Making by a person other than a qualified manufacturer

Any firearm may be made by, or on behalf of, the United States, or any department, independent establishment, or agency thereof, without payment of the making tax imposed by section 5821.

(c) Making by a qualified manufacturer

A manufacturer qualified under this chapter to engage in such business may make the type of firearm which he is qualified to manufacture without payment of the making tax imposed by section 5821.

(d) Transfers between special (occupational) taxpayers

A firearm registered to a person qualified under this chapter to engage in business as an importer, manufacturer, or dealer may be transferred by that person without payment of the transfer tax imposed by section 5811 to any other person qualified under this chapter to manufacture, import, or deal in that type of firearm.

(e) Unserviceable firearm

An unserviceable firearm may be transferred as a curio or ornament without payment of the transfer tax imposed by section 5811, under such requirements as the Secretary may by regulations prescribe.

(f) Right to exemption

No firearm may be transferred or made exempt from tax under the provisions of this section unless the transfer or making is performed pursuant to an application in such form and manner as the Secretary may by regulations prescribe.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1233; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5852, act Aug. 16, 1954, ch. 736, 68A Stat. 728, related to removing or changing identification marks, prior to the general revision of this chapter by Pub. L. 90-618. See section 5861(g) of this title and section 922(k) of Title 18, Crimes and Criminal Procedure.

Provisions similar to those comprising this section were contained in prior section 5814, act Aug. 16, 1954, ch. 736, 68A Stat. 723, as amended by act Sept. 2, 1958, Pub. L. 85-859, title II, §203(c), 72 Stat. 1427, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1976—Subsecs. (e), (f). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

§ 5853. Transfer and making tax exemption available to certain governmental entities**(a) Transfer**

A firearm may be transferred without the payment of the transfer tax imposed by section 5811 to any State, possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations.

(b) Making

A firearm may be made without payment of the making tax imposed by section 5821 by, or on behalf of, any State, or possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations.

(c) Right to exemption

No firearm may be transferred or made exempt from tax under this section unless the transfer or making is performed pursuant to an application in such form and manner as the Secretary may by regulations prescribe.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1233; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5853, act Aug. 16, 1954, ch. 736, 68A Stat. 728, related to importing firearms illegally, prior to the general revision of this chapter by Pub. L. 90-618. See section 5861(k) of this title and section 922(a) of Title 18, Crimes and Criminal Procedure.

Provisions similar to those comprising this section were contained in prior section 5821, act Aug. 16, 1954, ch. 736, 68A Stat. 724, as amended by act Sept. 2, 1958, Pub. L. 85-859, title II, §203(d), 72 Stat. 1427, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

§ 5854. Exportation of firearms exempt from transfer tax

A firearm may be exported without payment of the transfer tax imposed under section 5811 provided that proof of the exportation is furnished in such form and manner as the Secretary may by regulations prescribe.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1234; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5854, Pub. L. 85-859, title II, §203(i)(1), Sept. 2, 1958, 72 Stat. 1428, related to failure to register and pay special tax, prior to the general revision of this chapter by Pub. L. 90-618. See section 5861(a), (d) of this title and section 923 of Title 18, Crimes and Criminal Procedure.

Provisions similar to those comprising this section were contained in prior section 5844, act Aug. 16, 1954, ch. 736, 68A Stat. 725, prior to the general revision of this chapter by Pub. L. 90-618.

A prior section 5855, Pub. L. 85-859, title II, §203(i)(1), Sept. 2, 1958, 72 Stat. 1428, made it unlawful for any person required to comply with the provisions of sections 5814, 5821, and 5841 of this title, to ship, carry or deliver any firearm in interstate commerce if such sections had not been complied with, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

Subchapter C—Prohibited Acts

Sec.
5861. Prohibited acts.¹

Editorial Notes

PRIOR PROVISIONS

A prior subchapter C consisted of sections 5851 to 5854, prior to the general revision of this chapter by Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1227.

§ 5861. Prohibited acts

It shall be unlawful for any person—

(a) to engage in business as a manufacturer or importer of, or dealer in, firearms without having paid the special (occupational) tax required by section 5801 for his business or having registered as required by section 5802; or

(b) to receive or possess a firearm transferred to him in violation of the provisions of this chapter; or

(c) to receive or possess a firearm made in violation of the provisions of this chapter; or

(d) to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record; or

(e) to transfer a firearm in violation of the provisions of this chapter; or

(f) to make a firearm in violation of the provisions of this chapter; or

(g) to obliterate, remove, change, or alter the serial number or other identification of a firearm required by this chapter; or

(h) to receive or possess a firearm having the serial number or other identification required by this chapter obliterated, removed, changed, or altered; or

(i) to receive or possess a firearm which is not identified by a serial number as required by this chapter; or

(j) to transport, deliver, or receive any firearm in interstate commerce which has not been registered as required by this chapter; or

(k) to receive or possess a firearm which has been imported or brought into the United States in violation of section 5844; or

(l) to make, or cause the making of, a false entry on any application, return, or record required by this chapter, knowing such entry to be false.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1234.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5861, act Aug. 16, 1954, ch. 736, 68A Stat. 729, relating to penalties, was omitted in the general revision of this chapter by Pub. L. 90-618.

Provisions similar to those comprising subsecs. (a), (b), (d), (g), (j), and (k) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 90-618, as follows:

<i>Present subsecs.:</i>	<i>Prior sections</i>
(a)	5854.
(b)	5851.

¹ Editorially supplied. Subchapter added by Pub. L. 90-618 without a subchapter analysis.

<i>Present subsecs.:</i>	<i>Prior sections</i>
(d)	5854.
(g)	5852.
(j)	5855.
(k)	5853.

The prior sections 5851 to 5853, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 728.

The prior sections 5854 and 5855, Pub. L. 85-859, title II, §203(i)(1), Sept. 2, 1958, are set out in 72 Stat. 1428.

A prior section 5862, act Aug. 16, 1954, ch. 736, 68A Stat. 729, relating to the forfeiture and disposal of any firearm involved in any violation of the provisions of this chapter or any regulation promulgated thereunder, was omitted in the general revision of this chapter by Pub. L. 90-618. The provisions of prior section 5862 of this title are covered by section 5872 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on first day of first month following October 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

Subchapter D—Penalties and Forfeitures

Sec.
5871. Penalties.
5872. Forfeitures.

Editorial Notes

PRIOR PROVISIONS

A prior subchapter D, consisted of sections 5861 and 5862, prior to the general revision of this chapter by Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1227.

§ 5871. Penalties

Any person who violates or fails to comply with any provision of this chapter shall, upon conviction, be fined not more than \$10,000, or be imprisoned not more than ten years, or both.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1234; amended Pub. L. 98-473, title II, §227, Oct. 12, 1984, 98 Stat. 2030.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5871, act Aug. 16, 1954, ch. 736, 68A Stat. 729, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

Provisions similar to those comprising this section were contained in prior section 5861, act Aug. 16, 1954, ch. 736, 68A Stat. 729, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1984—Pub. L. 98-473 struck out “, and shall become eligible for parole as the Board of Parole shall determine” after “or both”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-473, title II, §235(a)(1)(B)(ii)(IV), Oct. 12, 1984, 98 Stat. 2032, provided that the amendment made by section 227 of Pub. L. 98-473 is effective Oct. 12, 1984.

EFFECTIVE DATE

Section effective on first day of first month following October 1968, see section 207(a) of Pub. L. 90-618, set out as a note under section 5801 of this title.