

ation of industrial alcohol plants or denaturing plants, was incorporated in section 3115(a) of Internal Revenue Code of 1939.

Section 86, act Oct. 28, 1919, ch. 85, title III, §16, 41 Stat. 322, related to collection of any tax on alcohol by assessment or by stamp, was incorporated in section 3112(a) of Internal Revenue Code of 1939.

Section 87, act Oct. 28, 1919, ch. 85, title III, §17, 41 Stat. 322, related to release of seized property to claimant or any intervening party at discretion of commissioner, was incorporated in section 3118 of Internal Revenue Code of 1939.

Section 88, act Oct. 28, 1919, ch. 85, title III, §18, 41 Stat. 322, related to applicability of administrative provisions of internal revenue laws, was incorporated in section 3122 of Internal Revenue Code of 1939.

Section 89, act Oct. 28, 1919, ch. 85, title III, §19, 41 Stat. 322, provided for repeal of prior laws relating to alcohol.

Section 90, act June 26, 1936, ch. 830, title III, §329(c), 49 Stat. 1957, related to extension of industrial alcohol laws to Puerto Rico and Virgin Islands, was incorporated in section 3123 of Internal Revenue Code of 1939.

Section 90a, act June 26, 1936, ch. 830, title IV, §414, 49 Stat. 1964, related to effect of act June 26, 1936, upon chapter.

CHAPTER 4—PENALTIES

§§ 91, 92. Repealed. Aug. 27, 1935, ch. 740, title I, § 1, 49 Stat. 872

Section 91, acts Mar. 2, 1929, ch. 473, §1, 45 Stat. 1446; Jan. 15, 1931, ch. 29, 46 Stat. 1036, set forth maximum penalties that could be imposed in a criminal prosecution for illegal manufacture, sale, transportation, importation, or exportation of intoxicating liquor, as defined in section 4 of this title.

Section 92, act Mar. 2, 1929, ch. 473, §2, 45 Stat. 1446, provided that section 91 of this title did not operate to repeal or eliminate any minimum penalty provided by this title for first or subsequent offense.

CHAPTER 5—PROHIBITION REORGANIZATION ACT OF 1930

§§ 101 to 108. Repealed. Aug. 27, 1935, ch. 740, title I, § 1, 49 Stat. 872

Section 101, act May 27, 1930, ch. 342, §1, 46 Stat. 427, provided that this chapter may be cited as the “Prohibition Reorganization Act of 1930”.

Section 102, act May 27, 1930, ch. 342, §2, 46 Stat. 427, established a Bureau of Prohibition in Department of Justice and authorized appointment of a Director and Assistant Director of Prohibition and designation of officers and employees.

Section 103, act May 27, 1930, ch. 342, §3, 46 Stat. 428, related to creation of an enforcement division in Bureau of Prohibition in Treasury Department.

Section 104, act May 27, 1930, ch. 342, §4, 46 Stat. 428, related to imposition of duties on Attorney General with respect to enforcement of prohibition laws.

Section 105, acts May 27, 1930, ch. 342, §5, 46 Stat. 429; Mar. 31, 1933, ch. 18, §4, 48 Stat. 24, authorized Attorney General and Secretary of the Treasury to jointly prescribe regulations relating to permits and prescriptions for liquor for medicinal purposes.

Section 106, act May 27, 1930, ch. 342, §6, 46 Stat. 429, related to filing of reports by Attorney General with Secretary of the Treasury with respect to civil liabilities for taxes and penalties and filing of reports by Secretary of the Treasury with Attorney General with respect to revocation of permits.

Section 107, act May 27, 1930, ch. 342, §7, 46 Stat. 429, related to grant, renewal, and amendment of permits.

Section 108, act May 27, 1930, ch. 342, §8, 46 Stat. 430, provided that Bureau of Prohibition shall hereafter be known as Bureau of Industrial Alcohol, and Commissioner of Prohibition shall hereafter have title of Commissioner of Industrial Alcohol.

CHAPTER 6—TRANSPORTATION IN INTERSTATE COMMERCE

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| Sec. | |
| 121. | State statutes as operative on termination of transportation; original packages. |
| 122. | Shipments into States for possession or sale in violation of State law. |
| 122a. | Injunctive relief in Federal district court. |
| 122b. | General provisions. |
| 123. | Repealed. |
| 124. | Direct shipment of wine. |

§ 121. State statutes as operative on termination of transportation; original packages

All fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory or remaining therein for use, consumption, sale, or storage therein, shall upon arrival in such State or Territory be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police powers, to the same extent and in the same manner as though such liquids or liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

(Aug. 8, 1890, ch. 728, 26 Stat. 313.)

Statutory Notes and Related Subsidiaries

SHORT TITLE

Act Aug. 8, 1890, is popularly known as the “Wilson Act” or the “Original Packages Act”.

§ 122. Shipments into States for possession or sale in violation of State law

The shipment or transportation, in any manner or by any means whatsoever, of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, which said spirituous, vinous, malted, fermented, or other intoxicating liquor is intended, by any person interested therein, to be received, possessed, sold, or in any manner used, either in the original package or otherwise, in violation of any law of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, is prohibited.

(Aug. 27, 1935, ch. 740, §202(b), 49 Stat. 877.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the act of Mar. 1, 1913, ch. 90, §1, 37 Stat. 699.

Statutory Notes and Related Subsidiaries

SHORT TITLE

Act Mar. 1, 1913, is popularly known as the “Webb-Kenyon Act”.

§ 122a. Injunctive relief in Federal district court**(a) Definitions**

In this section—

(1) the term “attorney general” means the attorney general or other chief law enforcement officer of a State or the designee thereof;

(2) the term “intoxicating liquor” means any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind;

(3) the term “person” means any individual and any partnership, corporation, company, firm, society, association, joint stock company, trust, or other entity capable of holding a legal or beneficial interest in property, but does not include a State or agency thereof; and

(4) the term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(b) Action by State attorney general

If the attorney general has reasonable cause to believe that a person is engaged in, or has engaged in, any act that would constitute a violation of a State law regulating the importation or transportation of any intoxicating liquor, the attorney general may bring a civil action in accordance with this section for injunctive relief (including a preliminary or permanent injunction) against the person, as the attorney general determines to be necessary to—

(1) restrain the person from engaging, or continuing to engage, in the violation; and

(2) enforce compliance with the State law.

(c) Federal jurisdiction**(1) In general**

The district courts of the United States shall have jurisdiction over any action brought under this section by an attorney general against any person, except one licensed or otherwise authorized to produce, sell, or store intoxicating liquor in such State.

(2) Venue

An action under this section may be brought only in accordance with section 1391 of title 28 or in the district in which the recipient of the intoxicating liquor resides or is found.

(3) Form of relief

An action under this section is limited to actions seeking injunctive relief (a preliminary and/or permanent injunction).

(4) No right to jury trial

An action under this section shall be tried before the court.

(d) Requirements for injunctions and orders**(1) In general**

In any action brought under this section, upon a proper showing by the attorney general of the State, the court may issue a preliminary or permanent injunction to restrain a violation of this section. A proper showing under this paragraph shall require that a State prove by a preponderance of the evidence that a violation of State law as described in subsection (b) has taken place or is taking place.

(2) Additional showing for preliminary injunction

No preliminary injunction may be granted except upon—

(A) evidence demonstrating the probability of irreparable injury if injunctive relief is not granted; and

(B) evidence supporting the probability of success on the merits.

(3) Notice

No preliminary or permanent injunction may be issued under paragraph (1) without notice to the adverse party and an opportunity for a hearing.

(4) Form and scope of order

Any preliminary or permanent injunction entered in an action brought under this section shall—

(A) set forth the reasons for the issuance of the order;

(B) be specific in terms;

(C) describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained; and

(D) be binding upon—

(i) the parties to the action and the officers, agents, employees, and attorneys of those parties; and

(ii) persons in active concert or participation with the parties to the action who receive actual notice of the order by personal service or otherwise.

(5) Admissibility of evidence

In a hearing on an application for a permanent injunction, any evidence previously received on an application for a preliminary injunction in connection with the same civil action and that would otherwise be admissible, may be made a part of the record of the hearing on the permanent injunction.

(e) Rules of construction

This section shall be construed only to extend the jurisdiction of Federal courts in connection with State law that is a valid exercise of power vested in the States—

(1) under the twenty-first article of amendment to the Constitution of the United States as such article of amendment is interpreted by the Supreme Court of the United States including interpretations in conjunction with other provisions of the Constitution of the United States; and

(2) under section 122 of this title as such section is interpreted by the Supreme Court of the United States; but shall not be construed to grant to States any additional power.

(f) Additional remedies**(1) In general**

A remedy under this section is in addition to any other remedies provided by law.

(2) State court proceedings

Nothing in this section may be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any State law.