

2010—Subsec. (c). Pub. L. 111-281 added subsec. (c).

§ 70507. Forfeitures

(a) IN GENERAL.—Property described in section 511(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)) that is used or intended for use to commit, or to facilitate the commission of, an offense under section 70503 or 70508 of this title may be seized and forfeited in the same manner that similar property may be seized and forfeited under section 511 of that Act (21 U.S.C. 881).

(b) PRIMA FACIE EVIDENCE OF VIOLATION.—Practices commonly recognized as smuggling tactics may provide prima facie evidence of intent to use a vessel to commit, or to facilitate the commission of, an offense under section 70503 of this title, and may support seizure and forfeiture of the vessel, even in the absence of controlled substances aboard the vessel. The following indicia, among others, may be considered, in the totality of the circumstances, to be prima facie evidence that a vessel is intended to be used to commit, or to facilitate the commission of, such an offense:

(1) The construction or adaptation of the vessel in a manner that facilitates smuggling, including—

(A) the configuration of the vessel to ride low in the water or present a low hull profile to avoid being detected visually or by radar;

(B) the presence of any compartment or equipment that is built or fitted out for smuggling, not including items such as a safe or lock-box reasonably used for the storage of personal valuables;

(C) the presence of an auxiliary tank not installed in accordance with applicable law or installed in such a manner as to enhance the vessel's smuggling capability;

(D) the presence of engines that are excessively over-powered in relation to the design and size of the vessel;

(E) the presence of materials used to reduce or alter the heat or radar signature of the vessel and avoid detection;

(F) the presence of a camouflaging paint scheme, or of materials used to camouflage the vessel, to avoid detection; or

(G) the display of false vessel registration numbers, false indicia of vessel nationality, false vessel name, or false vessel homeport.

(2) The presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel.

(3) The presence of excessive fuel, lube oil, food, water, or spare parts, inconsistent with legitimate vessel operation, inconsistent with the construction or equipment of the vessel, or inconsistent with the character of the vessel's stated purpose.

(4) The operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation and in a manner of navigation consistent with smuggling tactics used to avoid detection by law enforcement authorities.

(5) The failure of the vessel to stop or respond or heave to when hailed by government authority, especially where the vessel conducts evasive maneuvering when hailed.

(6) The declaration to government authority of apparently false information about the vessel, crew, or voyage or the failure to identify the vessel by name or country of registration when requested to do so by government authority.

(7) The presence of controlled substance residue on the vessel, on an item aboard the vessel, or on an individual aboard the vessel, of a quantity or other nature that reasonably indicates manufacturing or distribution activity.

(8) The use of petroleum products or other substances on the vessel to foil the detection of controlled substance residue.

(9) The presence of a controlled substance in the water in the vicinity of the vessel, where given the currents, weather conditions, and course and speed of the vessel, the quantity or other nature is such that it reasonably indicates manufacturing or distribution activity.

(Pub. L. 109-304, §10(2), Oct. 6, 2006, 120 Stat. 1688; Pub. L. 114-120, title III, §314(d), Feb. 8, 2016, 130 Stat. 59.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
70507	46 App.:1904.	Pub. L. 96-350, §4, Sept. 15, 1980, 94 Stat. 1160; Pub. L. 99-570, title III, §3202, Oct. 27, 1986, 100 Stat. 3207-97; Pub. L. 99-640, §17, Nov. 10, 1986, 100 Stat. 3554; Pub. L. 107-295, title IV, §418(b), Nov. 25, 2002, 116 Stat. 2123.

Editorial Notes

AMENDMENTS

2016—Subsec. (a). Pub. L. 114-120 substituted “section 70503 or 70508” for “section 70503”.

§ 70508. Operation of submersible vessel or semi-submersible vessel without nationality

(a) IN GENERAL.—An individual may not operate by any means or embark in any submersible vessel or semi-submersible vessel that is without nationality and that is navigating or has navigated into, through, or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country, with the intent to evade detection.

(b) EVIDENCE OF INTENT TO EVADE DETECTION.—In any civil enforcement proceeding for a violation of subsection (a), the presence of any of the indicia described in paragraph (1)(A), (E), (F), or (G), or in paragraph (4), (5), or (6), of section 70507(b) may be considered, in the totality of the circumstances, to be prima facie evidence of intent to evade detection.

(c) DEFENSES.—

(1) IN GENERAL.—It is a defense in any civil enforcement proceeding for a violation of subsection (a) that the submersible vessel or semi-submersible vessel involved was, at the time of the violation—

(A) a vessel of the United States or lawfully registered in a foreign nation as claimed by the master or individual in charge of the vessel when requested to make a claim by an officer of the United States