

§ 1809. Reports

(a) Consolidation

To the extent practicable, the reports required under sections 903, 905, and 907 [46 App. U.S.C. 1801 note, 1802, 1803] shall be consolidated into a single document before being submitted to the Congress. Any classified material in those reports shall be submitted separately as an addendum to the consolidated report.

(b) Submission to committees

The reports required to be submitted to the Congress under this chapter shall be submitted to the Committee on Foreign Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Foreign Relations and the Committee on Commerce, Science and Transportation of the Senate.

(Pub. L. 99-399, title IX, § 913, Aug. 27, 1986, 100 Stat. 892.)

REFERENCES IN TEXT

Sections 903, 905, and 907, referred to in subsec. (a), are sections 903, 905, and 907 of Pub. L. 99-399, which enacted a provision set out as a note under section 1801 of this Appendix and sections 1802 and 1803 of this Appendix, respectively.

This chapter, referred to in subsec. (b), was in the original "this title", meaning title IX of Pub. L. 99-399, Aug. 27, 1986, 100 Stat. 889, known as the International Maritime and Port Security Act, which enacted this chapter and section 1226 of Title 33, Navigation and Navigable Waters, and enacted provisions set out as notes under section 1801 of this Appendix. For complete classification of title IX to the Code, see Short Title note set out under section 1801 of this Appendix and Tables.

CHAPTER 38—MARITIME DRUG LAW ENFORCEMENT

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§ 1901. Short title

This chapter may be cited as the "Maritime Drug Law Enforcement Act".

(Pub. L. 96-350, § 1, Sept. 15, 1980, 94 Stat. 1159; Pub. L. 99-570, title III, § 3202, Oct. 27,

1986, 100 Stat. 3207-95; Pub. L. 99-640, § 17, Nov. 10, 1986, 100 Stat. 3552.)

CODIFICATION

Section was formerly classified to section 955a of Title 21, Food and Drugs.

AMENDMENTS

1986—Pub. L. 99-570 and Pub. L. 99-640 generally amended section identically, substituting provisions relating to short title for provisions relating to manufacture, distribution, or possession with intent to manufacture or distribute controlled substances on board vessels.

SHORT TITLE OF 1986 AMENDMENT

Section 3201 of title III of Pub. L. 99-570 provided that: "This subtitle [subtitle C (§§ 3201, 3202) of title III of Pub. L. 99-570, amending this chapter] may be cited as the 'Maritime Drug Law Enforcement Prosecution Improvements Act of 1986'."

§ 1902. Congressional declaration of findings

The Congress finds and declares that trafficking in controlled substances aboard vessels is a serious international problem and is universally condemned. Moreover, such trafficking presents a specific threat to the security and societal well-being of the United States.

(Pub. L. 96-350, § 2, Sept. 15, 1980, 94 Stat. 1160; Pub. L. 99-307, § 7, May 19, 1986, 100 Stat. 447; Pub. L. 99-570, title III, § 3202, Oct. 27, 1986, 100 Stat. 3207-95; Pub. L. 99-640, § 17, Nov. 10, 1986, 100 Stat. 3552.)

CODIFICATION

Section was formerly classified to section 955b of Title 21, Food and Drugs.

AMENDMENTS

1986—Pub. L. 99-570 and Pub. L. 99-640 generally amended section identically, substituting provisions relating to Congressional declaration of findings for provisions relating to definitions.

Subsec. (a). Pub. L. 99-307 inserted provision that an event otherwise qualifying as an arrangement not lose that qualification by the fact that consent to, or the terms of, such arrangement are communicated by radio, telephone, or other similar means, or by how specific such arrangement is as to the vessel to which such arrangement applies.

INTERDICTION PROCEDURES FOR VESSELS OF FOREIGN REGISTRY

Section 2015 of Pub. L. 99-570 provided that:

"(a) FINDINGS.—The Congress finds that—

"(1) the interdiction by the United States Coast Guard of vessels suspected for carrying illicit narcotics can be a difficult procedure when the vessel is of foreign registry and is located beyond the customs waters of the United States;

"(2) before boarding and inspecting such a vessel, the Coast Guard must obtain consent from either the master of the vessel or the country of registry; and

"(3) this process, and obtaining the consent of the country of registry to further law enforcement action, may delay the interdiction of the vessel by 3 or 4 days.

"(b) NEGOTIATIONS CONCERNING INTERDICTION PROCEDURES.—

"(1) The Congress urges the Secretary of State, in consultation with the Secretary of the department in which the Coast Guard is operating, to increase efforts [sic] to negotiate with relevant countries pro-

cedures which will facilitate interdiction of vessels suspected of carrying illicit narcotics.

"(2) If a country refuses to negotiate with respect to interdiction procedures, the President shall take appropriate actions directed against that country, which may include the denial of access to United States ports to vessels registered in that country.

"(3) The Secretary of State shall submit reports to the Congress semiannually identifying those countries which have failed to negotiate with respect to interdiction procedures."

§ 1903. Manufacture, distribution, or possession with intent to manufacture or distribute controlled substances on board vessels

(a) Vessels of United States or vessels subject to jurisdiction of United States

It is unlawful for any person on board a vessel of the United States, or on board a vessel subject to the jurisdiction of the United States, to knowingly or intentionally manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

(h) "Vessel of the United States" defined

For purposes of this section, a "vessel of the United States" means—

(1) a vessel documented under chapter 121 of title 46 or a vessel numbered as provided in chapter 123 of that title;

(2) a vessel owned in whole or part by—

(A) the United States or a territory, commonwealth, or possession of the United States;

(B) a State or political subdivision thereof;

(C) a citizen or national of the United States; or

(D) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States;

unless the vessel has been granted the nationality of a foreign nation in accordance with article 5 of the 1958 Convention of the High Seas; and

(3) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

(c) "Vessel subject to the jurisdiction of the United States" and "vessel without nationality" defined; claim of nationality or registry

(1) For purposes of this section, a "vessel subject to the jurisdiction of the United States" includes—

(A) a vessel without nationality;

(B) a vessel assimilated to a vessel without nationality, in accordance with paragraph (2) of article 6 of the 1958 Convention on the High Seas;

(C) a vessel registered in a foreign nation where the flag nation has consented or waived objection to the enforcement of United States law by the United States;

(D) a vessel located within the customs waters of the United States; and

(E) a vessel located in the territorial waters of another nation, where the nation consents to the enforcement of United States law by the United States.

Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under subparagraph (C) or (E) of this paragraph may be obtained by radio, telephone, or similar oral or electronic means, and may be proved by certification of the Secretary of State or the Secretary's designee.

(2) For purposes of this section, a "vessel without nationality" includes—

(A) a vessel aboard which the master or person in charge makes a claim of registry, which claim is denied by the flag nation whose registry is claimed; and

(B) any vessel aboard which the master or person in charge fails, upon request of an officer of the United States empowered to enforce applicable provisions of United States law, to make a claim of nationality or registry for that vessel.

A claim of registry under subparagraph (A) may be verified or denied by radio, telephone, or similar oral or electronic means. The denial of such claim of registry by the claimed flag nation may be proved by certification of the Secretary of State or the Secretary's designee.

(3) For purposes of this section, a claim of nationality or registry only includes:

(A) possession on board the vessel and production of documents evidencing the vessel's nationality in accordance with article 5 of the 1958 Convention on the High Seas;

(B) flying its flag nation's ensign or flag; or

(C) a verbal claim of nationality or registry by the master or person in charge of the vessel.

(d) Claim of failure to comply with international law; jurisdiction of court

A claim of failure to comply with international law in the enforcement of this chapter may be invoked solely by a foreign nation, and a failure to comply with international law shall not divest a court of jurisdiction or otherwise constitute a defense to any proceeding under this chapter.

(e) Exception; burden of proof

This section does not apply to a common or contract carrier or an employee thereof, who possesses or distributes a controlled substance in the lawful and usual course of the carrier's business or to a public vessel of the United States, or any person on board such a vessel who possesses or distributes a controlled substance in the lawful course of such person's duties, if the controlled substance is a part of the cargo entered in the vessel's manifest and is intended to be lawfully imported into the country of destination for scientific, medical, or other legitimate purposes. It shall not be necessary for the United States to negate the exception set forth in this subsection in any complaint, information, indictment, or other pleading or in any trial or other proceeding. The burden of going forward with the evidence with

respect to this exception is upon the person claiming its benefit.

(f) Jurisdiction and venue

Any person who violates this section shall be tried in the United States district court at the point of entry where that person enters the United States, or in the United States District Court of the District of Columbia.

(g) Penalties

(1) Any person who commits an offense defined in this section shall be punished in accordance with the penalties set forth in section 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 960).

(2) Notwithstanding paragraph (1) of this subsection, any person convicted of an offense under this chapter shall be punished in accordance with the penalties set forth in section 1012 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 962) if such offense is a second or subsequent offense as defined in section 1012(b) of that Act.

(h) Extension beyond territorial jurisdiction of United States

This section is intended to reach acts of possession, manufacture, or distribution committed outside the territorial jurisdiction of the United States.

(i) Definitions of drug abuse terms

The definitions in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) apply to terms used in this chapter.

(j) Attempt or conspiracy to commit offense

Any person who attempts or conspires to commit any offense defined in this chapter is punishable by imprisonment or fine, or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(Pub. L. 96-350, § 3, Sept. 15, 1980, 94 Stat. 1160; Pub. L. 99-570, title III, § 3202, Oct. 27, 1986, 100 Stat. 3207-95; Pub. L. 99-640, § 17, Nov. 10, 1986, 100 Stat. 3552.)

REFERENCES IN TEXT

The Comprehensive Drug Abuse Prevention and Control Act of 1970, referred to in subsec. (i), is Pub.

L. 91-513, Oct. 27, 1970, 84 Stat. 1236, as amended, which is classified principally to chapter 13 (§ 801 et seq.) of Title 21, Food and Drugs. Section 802 of Title 21 contains provisions relating to definitions used in title II (21 U.S.C. 801 et seq.) of the Comprehensive Drug Abuse Prevention and Control Act of 1970. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

CODIFICATION

Section was formerly classified to section 955c of Title 21, Food and Drugs.

AMENDMENTS

1986—Pub. L. 99-570 and Pub. L. 99-640 generally amended section in substantially identical manner, substituting provisions relating to manufacture, distribution, or possession with intent to manufacture or distribute controlled substances on board vessels for provisions relating to attempt or conspiracy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 sections 924, 3142; title 28 section 994.

§ 1904. Seizure or forfeiture of property

Any property described in section 881(a) of title 21 that is used or intended for use to commit, or to facilitate the commission of, an offense under this chapter shall be subject to seizure and forfeiture in the same manner as similar property seized or forfeited under section 881 of title 21.

(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.)

CODIFICATION

Section was formerly classified to section 955d of Title 21, Food and Drugs.

Pub. L. 96-350, as amended generally by Pub. L. 99-570, contained two sections designated 3, the first of which is classified to section 1903 of this Appendix, and the second of which is classified to this section, section 4 of Pub. L. 96-350, to reflect the probable intent of Congress.

AMENDMENTS

1986—Pub. L. 99-570 and Pub. L. 99-640 generally amended section identically, substituting provisions relating to seizure or forfeiture of property for provisions of the same general subject matter.