

AMENDMENTS

2005—Pub. L. 109-59, title XI, § 11125(b)(19)(B), Aug. 10, 2005, 119 Stat. 1956, struck out item for part V “Penalties applicable to occupational taxes”.

PART I—PENALTY, SEIZURE, AND FORFEITURE PROVISIONS APPLICABLE TO DISTILLING, RECTIFYING, AND DISTILLED AND RECTIFIED PRODUCTS

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Editorial Notes

PRIOR PROVISIONS

A prior part I consisted of sections 5601 to 5650, prior to the general revision of this chapter by Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1984—Pub. L. 98-369, div. A, title IV, § 454(c)(11)(B), (12)(C), July 18, 1984, 98 Stat. 822, struck out “stamps,” in item 5604, and substituted “closed” for “stamped” in item 5613.

§ 5601. Criminal penalties

(a) Offenses

Any person who—

(1) Unregistered stills

has in his possession or custody, or under his control, any still or distilling apparatus set up which is not registered, as required by section 5179(a); or

(2) Failure to file application

engages in the business of a distiller or processor without having filed application for and received notice of registration, as required by section 5171(c); or

(3) False or fraudulent application

engages, or intends to engage, in the business of distiller, warehouseman, or processor of distilled spirits, and files a false or fraudulent application under section 5171; or

(4) Failure or refusal of distiller, warehouseman, or processor to give bond

carries on the business of a distiller, warehouseman, or processor without having given bond as required by law; or

(5) False, forged, or fraudulent bond

engages, or intends to engage, in the business of distiller, warehouseman, or processor of distilled spirits, and gives any false, forged, or fraudulent bond, under subchapter B; or

(6) Distilling on prohibited premises

uses, or possesses with intent to use, any still, boiler, or other utensil for the purpose of producing distilled spirits, or aids or assists therein, or causes or procures the same to be done, in any dwelling house, or in any shed, yard, or inclosure connected with such dwelling house (except as authorized under section 5178(a)(1)(C)), or on board any vessel or boat, or on any premises where beer or wine is made or produced, or where liquors of any description are retailed, or on premises where any other business is carried on (except when authorized under section 5178(b)); or

(7) Unlawful production, removal, or use of material fit for production of distilled spirits

except as otherwise provided in this chapter, makes or ferments mash, wort, or wash, fit for distillation or for the production of distilled spirits, in any building or on any premises other than the designated premises of a distilled spirits plant lawfully qualified to produce distilled spirits, or removes, without authorization by the Secretary, any mash, wort, or wash, so made or fermented, from the designated premises of such lawfully qualified plant before being distilled; or

(8) Unlawful production of distilled spirits

not being a distiller authorized by law to produce distilled spirits, produces distilled spirits by distillation or any other process from any mash, wort, wash, or other material; or

(9) Unauthorized use of distilled spirits in manufacturing processes

except as otherwise provided in this chapter, uses distilled spirits in any process of manufacture unless such spirits—

(A) have been produced in the United States by a distiller authorized by law to produce distilled spirits and withdrawn in compliance with law; or

(B) have been imported (or otherwise brought into the United States) and withdrawn in compliance with law; or

(10) Unlawful processing

engages in or carries on the business of a processor—

(A) with intent to defraud the United States of any tax on the distilled spirits processed by him; or

(B) with intent to aid, abet, or assist any person or persons in defrauding the United States of the tax on any distilled spirits; or

(11) Unlawful purchase, receipt, or processing of distilled spirits

purchases, receives, or processes any distilled spirits, knowing or having reasonable grounds to believe that any tax due on such spirits has not been paid or determined as required by law; or

(12) Unlawful removal or concealment of distilled spirits

removes, other than as authorized by law, any distilled spirits on which the tax has not been paid or determined, from the place of manufacture or storage, or from any instrument of transportation, or conceals spirits so removed; or

(13) Creation of fictitious proof

adds, or causes to be added, any ingredient or substance (other than ingredients or substances authorized by law to be added) to any distilled spirits before the tax is paid thereon, or determined as provided by law, for the purpose of creating fictitious proof; or

(14) Distilling after notice of suspension

after the time fixed in the notice given under section 5221(a) to suspend operations as a distiller, carries on the business of a distiller on the premises covered by the notice of suspension, or has mash, wort, or beer on such premises, or on any premises connected therewith, or has in his possession or under his control any mash, wort, or beer, with intent to distill the same on such premises; or

(15) Unauthorized withdrawal, use, sale, or distribution of distilled spirits for fuel use

withdraws, uses, sells, or otherwise disposes of distilled spirits produced under section 5181 for other than fuel use;

shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both, for each such offense.

(b) Presumptions

Whenever on trial for violation of subsection (a)(4) the defendant is shown to have been at the site or place where, and at the time when, the business of a distiller or processor was so engaged in or carried on, such presence of the defendant shall be deemed sufficient evidence to authorize conviction, unless the defendant explains such presence to the satisfaction of the jury (or of the court when tried without jury).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1398; amended Pub. L. 94-455, title XIX, §§1905(a)(22), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1820, 1834; Pub. L. 96-39, title VIII, §807(a)(52), July 26, 1979, 93 Stat. 288; Pub. L. 96-223, title II, §232(e)(2)(A), Apr. 2, 1980, 94 Stat. 280; Pub. L. 115-141, div. U, title IV, §401(a)(248), Mar. 23, 2018, 132 Stat. 1196.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5601, act Aug. 16, 1954, ch. 736, 68A Stat. 683, consisted of provisions similar to those comprising subsec. (a)(1) of this section, and also related to forfeiture for possession of unregistered still or distilling apparatus, prior to the general revision of this chapter by Pub. L. 85-859. See section 5615(1) of this title.

Provisions similar to those comprising subsecs. (a)(2) to (8), (9)(A), (10) to (14) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Present subd. of subsec. (a):</i>	<i>Prior sections</i>
(2)	5172, 5603.

<i>Present subd. of subsec. (a):</i>	<i>Prior sections</i>
(3)	5603.
(4)	5172, 5604, 5606.
(5)	5604.
(6)	5171, 5607.
(7)	5216(a)(1), (4), 5608(a).
(8)	5216(a)(1), 5608(a).
(9)	5216(a)(1), 5608(a).
(10)	5628, 5629.
(11)	5629.
(12)	5608(a), 5631, 5632, 5643, 5647.
(13)	5634.
(14)	5650.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 627, 640, 641, 684, 685, 689, 690, 692, 693, 695.

AMENDMENTS

2018—Subsec. (a)(15). Pub. L. 115-141 substituted “withdraws,” for “Withdraws.”

1980—Subsec. (a)(15). Pub. L. 96-223 added par. (15).

1979—Subsec. (a)(2). Pub. L. 96-39, §807(a)(52)(A), struck out “distiller or rectifier” in heading and substituted “processor” for “rectifier” and “section 5171(c)” for “section 5171(a)” in text.

Subsec. (a)(3). Pub. L. 96-39, §807(a)(52)(B), substituted “warehouseman, or processor” for “bonded warehouseman, rectifier, or bottler”.

Subsec. (a)(4). Pub. L. 96-39, §807(a)(52)(C), substituted “warehouseman, or processor” for “or rectifier” in heading and in text.

Subsec. (a)(5). Pub. L. 96-39, §807(a)(52)(B), substituted “warehouseman, or processor” for “bonded warehouseman, rectifier, or bottler”.

Subsec. (a)(10). Pub. L. 96-39, §807(a)(52)(D), substituted “processing” for “rectifying or bottling” in par. (10) heading, “processor” for “rectifier, or a bottler of distilled spirits” in text preceding subpar. (A), and “processed” for “rectified or bottled” in subpar. (A).

Subsec. (a)(11). Pub. L. 96-39, §807(a)(52)(E), substituted “or processing” for “rectification, or bottling” in heading and “or processes” for “rectifies, or bottles” in text.

Subsec. (b). Pub. L. 96-39, §807(a)(52)(F), substituted “processor” for “rectifier”.

1976—Subsec. (a)(7). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (b). Pub. L. 94-455, §1905(a)(22), struck out par. (1) relating to presumptions in the matter of unregistered stills, par. (3) relating to presumptions in the matter of unlawful production, removal, or use of material fit for production of distilled spirits, and par. (4) relating to presumptions in the matter of unlawful production of distilled spirits, and struck out the number designation “(2)” and heading for former par. (2), leaving only the text for former par. (2) relating to presumptions in the matter of failure or refusal of distiller or rectifier to give bond.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 effective on first day of first calendar month beginning more than 60 days after Apr. 2, 1980, see section 232(h)(3) of Pub. L. 96-223, set out as an Effective Date note under section 5181 of this title.

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.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

PROSECUTION AND PUNISHMENT OF OFFENSES COMMITTED AND PENALTIES OR FORFEITURES INCURRED; SAVINGS PROVISION

Pub. L. 85-859, title II, §210(c), Sept. 2, 1958, 72 Stat. 1435, provided that: "All offenses committed, and all penalties or forfeitures incurred, under any provision of law amended by this title [enacting sections 5849, 5854, 5855 and 7608 of this title, amending this chapter, chapter 52 of this title and sections 5801, 5811, 5814, 7272, 7301, 7224 to 7326, 7609, 7652 and 7655 of this title, and enacting notes set out under this section and sections 5001, 5006, 5025, 5064, 5175, and 5304 of this title], may be prosecuted and punished in the same manner and with the same effect as if this title had not been enacted."

§ 5602. Penalty for tax fraud by distiller

Whenever any person engaged in or carrying on the business of a distiller defrauds, attempts to defraud, or engages in such business with intent to defraud the United States of the tax on the spirits distilled by him, or of any part thereof, he shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both. No discontinuance or nolle prosequi of any prosecution under this section shall be allowed without the permission in writing of the Attorney General.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1400.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5602, act Aug. 16, 1954, ch. 736, 68A Stat. 863, related to penalty and forfeiture for setting up still without a permit, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5615(2) and 5687 of this title.

Provisions similar to those comprising this section were contained in prior sections 5606, 5626, act Aug. 16, 1954, ch. 736, 68A Stat. 684, 688, prior to the general revision of this chapter by Pub. L. 85-859.

§ 5603. Penalty relating to records, returns, and reports**(a) Fraudulent noncompliance**

Any person required by this chapter (other than subchapters F and G) or regulations issued pursuant thereto to keep or file any record, return, report, summary, transcript, or other document, who, with intent to defraud the United States, shall—

- (1) fail to keep any such document or to make required entries therein; or
- (2) make any false entry in such document; or
- (3) cancel, alter, or obliterate any part of such document or any entry therein, or destroy any part of such document or any entry therein; or
- (4) hinder or obstruct any internal revenue officer from inspecting any such document or taking any abstracts therefrom; or
- (5) fail or refuse to preserve or produce any such document, as required by this chapter or regulations issued pursuant thereto;

or who shall, with intent to defraud the United States, cause or procure the same to be done,

shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both, for each such offense.

(b) Failure to comply

Any person required by this chapter (other than subchapters F and G) or regulations issued pursuant thereto to keep or file any record, return, report, summary, transcript, or other document, who, otherwise than with intent to defraud the United States, shall—

- (1) fail to keep any such document or to make required entries therein; or
- (2) make any false entry in such document; or
- (3) cancel, alter, or obliterate any part of such document or any entry therein, or destroy any part of such document, or any entry therein, except as provided by this title or regulations issued pursuant thereto; or
- (4) hinder or obstruct any internal revenue officer from inspecting any such document or taking any abstracts therefrom; or
- (5) fail to refuse to preserve or produce any such document, as required by this chapter or regulations issued pursuant thereto;

or who shall, otherwise than with intent to defraud the United States, cause or procure the same to be done, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both, for each such offense.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1400; amended Pub. L. 115-141, div. U, title IV, § 401(a)(249), Mar. 23, 2018, 132 Stat. 1196.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5603, act Aug. 16, 1954, ch. 736, 68A Stat. 684, related to penalty for failure or refusal of distiller or rectifier to give notice of intention to engage in such business, prior to the general revision of this chapter by Pub. L. 85-859. See section 5601(a)(2), (3) of this title.

Provisions similar to those comprising this section were contained in prior sections 5610, 5611, 5620, 5621, 5692, act Aug. 16, 1954, ch. 736, 68A Stat. 685 to 687, 703, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2018—Pub. L. 115-141 inserted comma after "returns" in section catchline.

§ 5604. Penalties relating to marks, brands, and containers**(a) In general**

Any person who shall—

- (1) transport, possess, buy, sell, or transfer any distilled spirits unless the immediate container bears the type of closure or other device required by section 5301(d),
- (2) with intent to defraud the United States, empty a container bearing the closure or other device required by section 5301(d) without breaking such closure or other device,
- (3) empty, or cause to be emptied, any distilled spirits from an immediate container bearing any mark or brand required by law without effacing and obliterating such mark or brand as required by section 5206(d),