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## AMENDING THE LAW RELATING TO THE ADVANCE OF FUNDS IN CONNECTION WITH THE ENFORCEMENT OF NARCOTIC LAWS AND CUSTOMS LAWS

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JULY 25, 1939.—Ordered to be printed

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Mr. GUFFEY, from the Committee on Finance, submitted the following

### REPORT

[To accompany H. R. 6555]

The Committee on Finance, to whom was referred the bill (H. R. 6555) to amend the act of March 28, 1928 (45 Stat. 374), as amended, relating to the advance of funds in connection with the enforcement of acts relating to narcotic drugs, so as to permit such advances in connection with the enforcement of the Marihuana Tax Act of 1937, and to permit advances of funds in connection with the enforcement of the customs laws, having had the same under consideration, report it to the Senate without amendment and recommend that the bill do pass.

The purpose of the proposed legislation is fully explained in the report of the Committee on Ways and Means, House of Representatives, which accompanied the bill and which is attached hereto and made a part of this report.

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[H. Rept. No. 1053, 76th Cong., 1st sess.]

The Committee on Ways and Means, to whom was referred the bill (H. R. 6555), to amend the act of March 28, 1928 (45 Stat. 374), as amended, relating to the advance of funds in connection with the enforcement of acts relating to narcotic drugs, so as to permit such advances in connection with the enforcement of the Marihuana Tax Act of 1937, and to permit advances of funds in connection with the enforcement of the customs laws, having had the same under consideration, report it back to the House without amendment and recommend that the bill do pass.

The purpose of H. R. 6555 is to fill in certain gaps in existing law authorizing the advance of funds for the purchase of information and evidence in connection with the enforcement of the narcotic and customs laws. Your committee believe that its enactment will very materially assist Government officers charged with the enforcement of these laws.

The Commissioner of Narcotics, with the approval of the Secretary of the Treasury, is now authorized under the act of March 28, 1928, as amended, to direct the advance of funds for the purchase of narcotic drugs coming within the

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purview of the act of December 17, 1914, as amended (the Harrison Narcotic Act), and the act of February 9, 1909, as amended (the Narcotic Drugs Import and Export Act), to be used as evidence, but he is not authorized to direct the advance of funds in connection with the enforcement of the Marihuana Tax Act of 1937, approved August 2, 1937 (50 Stat. 551; U. S. C., supp. IV, title 26, sec. 1399, et seq.). The reason for this gap in the Commissioner of Narcotics' authority to advance funds is, of course, because the 1928 statute was enacted prior to the Marihuana Tax Act of 1937. Enforcement officers, therefore, have to use their personal funds for the purchase of marihuana to be used as evidence, and are required to make claim for reimbursement of the personal funds so expended. This is a burden upon the officers and tends to limit the importance of the cases made both in degree and number. The bill would remedy this situation by authorizing the Commissioner of Narcotics, with the approval of the Secretary of the Treasury, to direct the advance of funds by the Division of Disbursement, Treasury Department, in connection with the enforcement of the Marihuana Tax Act of 1937.

Except as otherwise provided by law, as for example in connection with the enforcement of the narcotic laws set forth above and payments made for the Bureau of Customs in foreign countries, the advancement of funds is precluded by section 3648 of the Revised Statutes (U. S. C., title 31, sec. 529).

Under existing law there is no exception authorizing the Commissioner of Customs to direct the advance of funds for the securing of evidence in this country of violations of the customs laws. Persons having information or evidence respecting violations of the customs laws often refuse to divulge it unless concurrently paid therefor. Faced with this problem, customs officers and employees have been meeting it by making payments from personal funds and presenting claims for reimbursement. The disadvantage of such a situation is obvious. Not infrequently the customs officer or employee involved does not have sufficient funds for the required payment, and the information is lost. The bill would authorize the Division of Disbursement on requisition by the Commissioner of Customs to advance funds for the securing of evidence of violations of the customs laws. As was stated above, payments made for the Bureau of Customs in foreign countries are now excepted from the provisions of section 3648 of the Revised Statutes by the Treasury Department Appropriation Act, 1939, 52 Stat. 126 (U. S. C., Supp. IV, title 31, sec. 529b), and are therefore not included within the terms of the bill.

The proposed legislation provides that a certificate by the Commissioner of Customs or the Commissioner of Narcotics, as the case may be, stating the amount of an expenditure made from funds advanced and stating that the confidential character of the transaction involved renders it inadvisable to specify the details of such transaction, shall be a sufficient voucher for the sum expressed to have been expended. Cases involving the purchase of information or evidence are almost invariably of such a nature that it is desirable to maintain a high degree of secrecy concerning the circumstances surrounding such acquisition.

Frequently enforcement agents are engaged upon a case for many months before they deem it expedient to make arrests. Meanwhile it is essential to the successful culmination of their efforts that no leaks develop. Moreover it is usually impossible to identify the payees in such cases other than as "John Doe" or similar fictitious names. The proposed provision is amply supported by precedent since similar provisions are contained in the annual appropriation for the Federal Bureau of Investigation (52 Stat. 259); in section 291 of the Revised Statutes, as amended (U. S. C., title 31, sec. 107), relating to the settlement of expenses of intercourse with foreign nations incurred by the State Department; and in the act of August 29, 1916 (39 Stat. 557, U. S. C., title 31, sec. 108), relating to the obtaining of information at home and abroad by the Navy Department. The Secretary of the Treasury is authorized to prescribe such rules and regulations with respect to advances made pursuant to the bill as are necessary or appropriate for the protection of the interests of the United States.

H. R. 6555 does not in any sense authorize the appropriation of any money to purchase information and evidence. Appropriations for this purpose are already provided by the annual appropriation acts and have been for many years. The only purpose of the present bill is to permit the more advantageous use of the money which Congress may otherwise appropriate for this purpose.

The enactment of H. R. 6555 is strongly recommended by the Secretary of the Treasury, the Commissioner of Customs, and the Commissioner of Narcotics. The proposed legislation is in accordance with the program of the President.

## CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the rules of the House of Representatives, changes in existing law made by the bill are shown as follows: Existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman.

"ACT OF MARCH 28, 1923, 45 STAT. 374, AS AMENDED (31 U. S. C. 529a)

"[That the Commissioner of Narcotics, with the approval of the Secretary of the Treasury, is authorized to direct the advance of funds by special disbursing agents in connection with the enforcement of the Act entitled 'An Act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon, all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes', approved December 17, 1914, as amended by the Revenue Act of 1918, and the Act entitled 'An Act to amend an Act entitled "An Act to prohibit the importation and use of opium for other than medicinal purposes," approved February 9, 1909', as amended by the Act of May 26, 1922, known as 'The Narcotic Drugs Import and Export Act.'

"Such advances in connection with the enforcement of the Acts hereinabove stated relating to narcotic drugs may be made, notwithstanding the provisions of section 3648 of the Revised Statutes of the United States (sec. 529, title 31, U. S. C.), from the appropriations available for the enforcement of such Acts and Acts amendatory thereof or supplementary thereto.]

*"That the Commissioner of Narcotics, with the approval of the Secretary of the Treasury, is authorized to direct the advance of funds by the Division of Disbursement, Treasury Department, in connection with the enforcement of the Act entitled 'An Act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon, all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes', approved December 17, 1914, as amended; the Act entitled 'An Act to amend an Act entitled "An Act to prohibit the importation and use of opium for other than medicinal purposes", approved February 9, 1909', as amended, known as the 'Narcotic Drugs Import and Export Act'; and the Act entitled 'An Act to impose an occupational excise tax upon certain dealers in marihuana, to impose a transfer tax upon certain dealings in marihuana, and to safeguard the revenue therefrom by registry and recording', approved August 2, 1937, known as the 'Marihuana Tax Act of 1937.'*

*"SEC. 2. The Commissioner of Customs, with the approval of the Secretary of the Treasury, is authorized to direct the advance of funds by the Division of Disbursement, Treasury Department, in connection with the enforcement of the customs laws.*

*"SEC. 3. A certificate by the Commissioner of Customs or the Commissioner of Narcotics, as the case may be, stating the amount of an expenditure made from funds advanced and certifying that the confidential nature of the transaction involved renders it inadvisable to specify the details thereof or impracticable to furnish the payee's receipt shall be a sufficient voucher for the sum expressed to have been expended.*

*"SEC. 4. The provisions of this Act shall not affect payments made for the Bureau of Customs in foreign countries, nor the right of any customs or narcotics officer or employee to claim reimbursement for personal funds expended in connection with the enforcement of the customs or narcotics laws.*

*"SEC. 5. Advances pursuant to this Act in connection with the enforcement of the customs or narcotics laws may be made, notwithstanding the provisions of section 3648 of the Revised Statutes of the United States (U. S. C., title 31, sec. 529), from the appropriations available for the enforcement of such laws. The Secretary of the Treasury is authorized to prescribe such rules and regulations concerning advances made pursuant to this Act as are necessary or appropriate for the protection of the interests of the United States.*

*"SEC. 6. When used in this Act, the term "narcotics laws" includes the Marihuana Tax Act of 1937."*

