
PROVIDING FOR SEIZURE AND FORFEITURE OF VESSELS,
VEHICLES, AND AIRCRAFT USED TO TRANSPORT NAR-
COTIC DRUGS, FIREARMS, COUNTERFEIT COINS, ETC.

JULY 25, 1939.—Ordered to be printed

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

REPORT

[To accompany H. R. 6556]

The Committee on Finance, to whom was referred the bill (H. R. 6556) to provide for the seizure and forfeiture of vessels, vehicles; and aircraft used to transport narcotic drugs, firearms, and counterfeit coins, obligations, securities, and paraphernalia, and for other purposes, having considered the same, 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.

[H. Rept. No. 1054, 76th Cong., 1st sess.]

The Committee on Ways and Means, to whom was referred the bill (H. R. 6556) to provide for the seizure and forfeiture of vessels, vehicles, and aircraft used to transport narcotic drugs, firearms, and counterfeit coins, obligations, securities, and paraphernalia, and for other purposes, having had the same under consideration, report it back to the House without amendment and recommend that the bill do pass.

H. R. 6556 represents a further step forward in a program for more effective law enforcement which your committee have vigorously pressed. In recent years your committee have considered and reported favorably numerous law-enforcement measures which have been enacted by the Congress and have produced most gratifying results. Outstanding among these measures was the Anti-smuggling Act of August 5, 1935, which played a major part in the virtually complete dissolution of "rum row." This act was to a large extent instrumental in the decrease of the loss of revenue involved in liquor smuggling from a postrepeal peak in 1935 of \$30,000,000 annually to practically nothing today. Another important law-enforcement measure initiated by your committee was the Marihuana Tax Act of August 2, 1937, which for the first time subjected to Federal control the vicious traffic in marihuana. Despite the brief time which has elapsed

since the enactment of this legislation, tremendous strides have been made under it toward wiping out this traffic.

Your committee believes that the enactment of the present bill would mark another important step forward in law enforcement in the United States.

H. R. 6556, as its title indicates, provides for the seizure and forfeiture of automobiles and other carriers used to facilitate violations of the narcotic laws, the counterfeiting laws, and the National Firearms Act (which subjects to regulation by means of the taxing power the traffic in machine guns, sawed-off shotguns, silencers, and other gangster-type weapons).

The necessity for the enactment of a statute of this character arises from the fact that when the laws referred to above were enacted no provision was made for the forfeiture of carriers used to effect violations of such laws.

It has been the experience of our enforcement officers that the best way to strike at commercialized crime is through the pocketbooks of the criminals who engage in it. By decreasing the profits which make illicit activity of this type possible, crime itself can also be decreased. Vessels, vehicles, and aircraft may be termed "the operating tools" of dope peddlers, counterfeiters, and gangsters. They represent tangible major capital investments to criminals whose liquid assets, if any, are frequently not accessible to the Government.

There is nothing either novel or unprecedented about the provisions of this bill. They merely extend to the narcotic, counterfeiting, and firearms laws existing statutory provisions for forfeiting the means of transportation used to facilitate violations of the customs and other laws. Such measures have been in use for customs and other purposes since the very beginning of our Government. See, for example, section 12 of the act of July 31, 1789 (1 Stat. 39). They have proved very effective as enforcement aids in other instances, and it is believed that they will prove no less effective in the present instance.

The importance of this type of forfeiture laws is indicated by the fact that it has been the tendency of Congress in recent years to enlarge and increase the laws relating to the forfeiture of vessels, vehicles, and aircraft. Thus, the act of June 19, 1934 (48 Stat. 1116), amended section 938 of the Revised Statutes to make discretionary with the courts the former mandatory provisions for the release under bond of vessels seized for violations of the customs laws pending judicial proceedings looking toward forfeiture. This amendment was made necessary by the fact that vessels seized for violations of the customs laws and released on bond frequently returned immediately to the smuggling traffic. Instances were not uncommon of vessels being seized three or four times for different violations and being released on bond each time before the first forfeiture proceeding came up for trial. In the Antismuggling Act, approved August 5, 1935 (49 Stat. 517), sections 3, 6, and 8 contain completely new forfeiture provisions directed against vessels and aircraft. Section 4 of the same act authorizes collectors of customs to revoke the documentation of any vessel or to refuse to document any vessel when it appears from its build or otherwise that the vessel is being, or is intended to be, employed in smuggling. Section 5 permits vessels forfeited for violations of the revenue laws to be destroyed whenever the Secretary of the Treasury is of the opinion that they are likely to be returned to the smuggling traffic if sold. Sections 204, 205, and 206 amend existing penal provisions to include additional forfeiture penalties, and sections 208, 313, and 314 enlarge previously existing forfeiture provisions. Sections 4 and 5 of the act of June 26, 1936 (49 Stat. 1939, 1940), contain further provisions for strengthening the forfeiture laws, by making discretionary with the courts (rather than mandatory), the release on bond of vessels, vehicles, and aircraft seized for violation of any law of the United States.

The present legislation is necessary because there are no laws which subject to forfeiture vessels, vehicles, and aircraft employed to facilitate violations of the counterfeiting laws or the National Firearms Act and because the statutory provisions for forfeiting vessels, vehicles, and aircraft used to facilitate violations of the narcotic laws are entirely inadequate. It is made doubly necessary, because not infrequently the means of transportation employed in violations of the laws involved in the present bill are peculiarly adapted to such type of work as, for instance, high-speed powerboats, fast cars with secret compartments, and aircraft. If such means of transportation are not forfeited, they will be readily available for future violations. Moreover, if forfeited, they will be available, without expense to the Government, for use in the apprehension of law violators.

The bill provides the same uniform manner for the seizure and forfeiture of carriers used to transport illegally possessed narcotics, firearms, and counterfeit materials as are at present used in the enforcement of the customs laws. (See principally secs. 602 to 619 of the Tariff Act of 1930.) This uniform coordination in the seizure and forfeiture aspects of law enforcement is highly desirable. The

efficacy of the statutory customs machinery relating to seizure and forfeiture (dealing with such matters as summary forfeiture of merchandise appraised at less than \$1,000 if no interested claimant appears, who desires, as is his right, to throw the matter into the courts; judicial forfeiture of merchandise over \$1,000 in value; remission and mitigation of forfeited property or the proceeds from the sale thereof; award of compensation to persons who furnish information leading to forfeitures, etc.) has frequently been recognized by Congress. Thus, section 3 of the Ashurst-Sumners Convict Act of July 24, 1935 (U. S. C., 1934 ed., Supp. IV, title 49, sec. 63), which prohibits the shipment of prison-made goods in interstate commerce if intended for use in violation of State law, makes the whole customs seizure and forfeiture machinery referred to above applicable to the forfeiture of goods shipped in violation of that act. Also section 709 of the act of May 29, 1928 (U. S. C., 1934 ed., title 26, sec. 1626), makes applicable the remission and mitigation features of the customs laws to forfeitures under the internal-revenue laws. The act of June 28, 1937 (50 Stat. 325), to enforce our recently revised North Pacific Halibut Fishery Convention with Canada, likewise makes applicable the whole customs forfeiture machinery to vessels violating its provisions.

In incorporating the customs seizure and forfeiture machinery, the bill provides the necessary flexibility by permitting the duties imposed upon collectors of customs or other persons (under the provisions referred to above) to be performed by such persons as may be designated for that purpose by the Secretary of the Treasury. Since the present bill deals with the narcotic and counterfeiting laws, it is apparent that its enforcement will in many instances more appropriately lie with narcotic officers and with Secret Service agents than with customs officers.

Special attention is called to the fact that the bill affords the same remedy for remission and mitigation of forfeitures to innocent owners (as well as innocent lienors and mortgagees) of seized vessels, vehicles, and aircraft as is now afforded them under the customs laws and that these customs provisions have been in effect ever since 1790 (act of May 26, 1790, 1 Stat. 122). In this connection it is pertinent to mention that Congress since the very beginning of our Government has (in enacting forfeiture statutes directed against means of transportation used to facilitate violations of law) proceeded on the principle that the carrier, i. e., the vessel or vehicle, is the primary offender and if unlawfully used may be subjected to forfeiture irrespective of the innocence of the owners. Vessels and vehicles of innocent owners have been subject to forfeiture under the customs laws since the first Customs Administrative Act of July 31, 1789. In *Goldsmith-Grant Co. v. United States* ((1921) 254 U. S. 505) the Supreme Court of the United States, in affirming a judgment of forfeiture against an automobile employed in the transportation of un-tax-paid liquor, notwithstanding the innocence of the conditional vendor of the vehicle, said (p. 510):

"In breaches of revenue provisions some forms of property are facilities, and therefore it may be said that Congress interposes the care and responsibility of their owners in aid of the prohibitions of the law and its punitive provisions, by ascribing to the property a certain personality, a power of complicity, and guilt in the wrong."

Throughout the whole period of enforcement no undue hardship has been charged against the customs forfeiture laws for the reason that, as in the present bill, provision is made for the remission or mitigation of forfeitures when alleviating circumstances exist.

An exception from the forfeiture provisions of the bill is made in the case of common carriers, if it does not appear that the owner or master of the vessel involved, or the owner, driver, or other person in charge of the vehicle or aircraft involved, was at the time of the alleged illegal act a consenting party or privy thereto. This limited exception to the general rule that carriers are subject to forfeiture if unlawfully employed, irrespective of the degree of innocence or guilt of their owners, has been a part of the customs laws since the enactment of section 3 of the act of July 18, 1866 (14 Stat. 178). It is virtually identical in language with the present-day customs statute on the subject, section 594 of the Tariff Act of 1930. The law can scarcely be criticized as unduly severe in its application to common carriers, since no vessel, vehicle, or aircraft operating as a common carrier has ever been forfeited under the customs laws. The provision referred to, however, has the salutary effect of holding owners of common carriers to a high degree of care in the selection of the persons who command their carriers.

A further exception from its forfeiture provisions is made by the bill in the case of stolen vessels, vehicles, and aircraft; that is to say, they cannot be forfeited by reason of their unlawful employment while in the possession of thieves.

The enactment of H. R. 6556 is strongly recommended by the Secretary of the Treasury, who is responsible for the enforcement of the statutes with which the bill deals, and also by the Commissioner of Internal Revenue, the Commissioner of Narcotics, the Commissioner of Customs, and the Chief of the Secret Service Division. The bill is in accord with the program of the President.

