

# Calendar No. 1758

81st CONGRESS }  
2d Session }

SENATE

{ REPORT  
{ No. 1755

## AMENDING THE ACT OF AUGUST 9, 1939, TO REDEFINE THE TERM "CONTRABAND ARTICLE" WITH RESPECT TO NARCOTIC DRUGS

JUNE 1 (legislative day, MARCH 29), 1950.—Ordered to be printed

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

### REPORT

[To accompany S. 3380]

The Committee on Finance, to whom was referred the bill (S. 3380) to amend the act of August 9, 1939, to redefine the term "contraband article" with respect to narcotic drugs, and for other purposes, having considered the same, report favorably thereon with an amendment, and recommend that the bill do pass.

The committee amendment: Insert a comma after the word "sale" on page 1; line 10.

#### EXPLANATION OF BILL

The purpose of the proposed legislation is to expand the present definition of "contraband article," as that definition relates to narcotic drugs, thus increasing the situations in which vessels, vehicles, and aircraft used in illegal traffic in narcotic drugs may be seized and forfeited.

Subsection 1 (a) of the act of August 9, 1939, 53 Stat. 1291 (U. S. C., title 49, subsec. 781 (a)), makes it unlawful to carry or conceal any contraband article in any vessel, vehicle, or aircraft. The term "contraband article" as used in this subsection is defined, as respects narcotics, in subsection 1 (b) (1) of the act (U. S. C., title 49, subsec. 781 (b) (1)). It includes any narcotic drug intended for sale or sold in violation of any laws of the United States dealing therewith, or any drug not bearing appropriate tax-paid internal-revenue stamps. Section 2 of the act (U. S. C., title 49, sec. 782) provides, under certain conditions, for the seizure and forfeiture of vessels, vehicles, and aircraft carrying the contraband narcotics defined in subsection 1 (b) (1) in violation of subsection 1 (a).

The traffic in narcotic drugs is largely controlled by the Federal Government through its power to tax and to regulate commerce. Statutes require that persons who deal in narcotic drugs register and

pay a special occupational tax. In addition, a tax is levied on the drug itself, except marihuana. In the case of marihuana, a tax is levied upon the transfer of that drug, the tax being paid by the transferee. The original package of all narcotic drugs except marihuana is required to bear internal-revenue stamps as evidence that the tax upon the drug has been paid. The payment of the transfer tax on marihuana is evidenced by internal-revenue stamps affixed to the order form.

The seizure and forfeiture provisions of the act of August 9, 1939, have proved to be a great help in combating the unlawful traffic in narcotic drugs. However, the act makes a narcotic drug contraband only when it is involved in limited types of offenses under the narcotic laws. There are other violations of the narcotics laws which are often committed by narcotic drug traffickers, but under existing law the narcotic drug involved in these other offenses cannot be denominated a contraband article. Narcotics traffickers guilty of such other offenses are able to avoid seizure of their means of transportation for this reason.

The proposed legislation would expand the present definition of "contraband article," provided by the act of August 9, 1939, to include any narcotic drug which has been acquired or is possessed or transferred in violation of any laws of the United States dealing therewith; and any narcotic drug which has been acquired by theft, robbery, or burglary and carried or transported in interstate commerce or within areas subject to Federal jurisdiction.

Like most other violations of the narcotics laws, an unlawful acquisition, possession, or transfer of a narcotic drug usually involves a failure to register and pay the required regulatory taxes. The proposed provisions in regard to unlawful acquisition, possession, or transfer are designed particularly to aid in the suppression of the traffic in marihuana, which because it is taxed differently from other drugs and is not required to bear tax-paid stamps, frequently cannot be classified as a contraband article under the present definition of the term. For example, a gift of marihuana to one who has not paid the transfer tax is a transfer in violation of law; but a vehicle used to conceal or carry marihuana so transferred cannot be seized under the act of August 9, 1939, because there has been no sale nor offer nor intent to sell in connection with the transfer. Furthermore, as a practical matter it is often comparatively easy to prove that narcotic drugs have been acquired or are possessed unlawfully, whereas actual proof of an unlawful sale or an intent to sell or offer for sale in violation of law is frequently lacking.

In recent years there has been an increase in the number of narcotics thefts, robberies, and burglaries from drug stores, physicians' offices, and other places from which narcotic drugs are dispensed. The perpetrators of these crimes rely to a large extent on the use of high-powered automobiles to make their escape from the jurisdiction in which the crime took place. When captured, the narcotic drugs thus stolen often are found to bear the required internal-revenue stamps, and consequently seizure and forfeiture of the vehicles used is difficult to obtain, particularly when the drugs have not been sold by the thieves subsequent to the theft. The proposed legislation would attack this problem by permitting the seizure of vessels, vehicles, and aircraft used in connection with the traffic in stolen drugs, when such

drugs are carried or transported in interstate commerce, or within any Territory, possession, or the District of Columbia.

Enforcement officers of the Government have found that one of the best ways to strike at commercialized crime is through the pocket-books of the criminals who engage in it. Vessels, vehicles, and aircraft may be termed the operating tools of dope peddlers, and often represent major capital investments to criminals whose liquid assets, if any, are frequently not accessible to the Government. Seizure and forfeiture of these means of transportation provide an effective brake on the traffic in narcotic drugs. The proposed legislation is intended to provide additional means of combating this nefarious activity.

It should be pointed out that the proposed legislation would not change existing provisions of law which protect the rights of innocent persons having an interest in a vessel, vehicle, or aircraft used to carry, conceal, or transport contraband articles.

Vessels, vehicles, and aircraft, when forfeited, become available to the Government without expense for use in the apprehension of law violators. The proposed legislation would entail no additional cost.

This bill was introduced at the request of the Treasury Department. The Bureau of the Budget has no objection to its passage.

#### CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in brackets; new matter is in italic):

Section 1 (b) (1) of the Act of August 9, 1939, 53 Stat. 1291 (U. S. C., 1946 edition, title 49, sec. 781 (b) (1)).

(1) Any narcotic drug which has been or is possessed with intent to sell or offer for sale in violation of any laws or regulations of the United States dealing therewith [.] ; or which [is] *has been acquired or is possessed, sold, transferred, or offered for sale, in violation [thereof,] of any laws of the United States dealing therewith; or which has been acquired by theft, robbery, or burglary and carried or transported within any Territory, possession, or the District of Columbia, or from any State, Territory, possession, the District of Columbia, or the Canal Zone, to another State, Territory, possession, the District of Columbia, or, the Canal Zone;* or which does not bear appropriate tax-paid internal-revenue stamps as required by law or regulations;

