

Subsec. (a)(1)(ii). Pub. L. 97-308, §1(c), inserted “or other person protected by the Secret Service” after “President”.

Subsec. (d)(1). Pub. L. 97-308, §1(d), authorized regulations for designation of the temporary residences and the temporary offices of any other person protected by the Secret Service.

Subsec. (d)(2). Pub. L. 97-308, §1(e), inserted “or other person protected by the Secret Service” after “President”.

Subsec. (f). Pub. L. 97-308, §1(f), added subsec. (f).

TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

CHAPTER 85—PRISON-MADE GOODS

Sec. 1761.	Transportation or importation.
1762.	Marking packages.

§ 1761. Transportation or importation

(a) Whoever knowingly transports in interstate commerce or from any foreign country into the United States any goods, wares, or merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners, except convicts or prisoners on parole, supervised release, or probation, or in any penal or reformatory institution, shall be fined under this title or imprisoned not more than two years, or both.

(b) This chapter shall not apply to agricultural commodities or parts for the repair of farm machinery, nor to commodities manufactured in a Federal, District of Columbia, or State institution for use by the Federal Government, or by the District of Columbia, or by any State or Political subdivision of a State or not-for-profit organizations.

(c) In addition to the exceptions set forth in subsection (b) of this section, this chapter shall not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners who—

(1) are participating in—one of not more than 50 non-Federal prison work pilot projects designated by the Director of the Bureau of Justice Assistance;

(2) have, in connection with such work, received wages at a rate which is not less than that paid for work of a similar nature in the locality in which the work was performed, except that such wages may be subject to deductions which shall not, in the aggregate, exceed 80 per centum of gross wages, and shall be limited as follows:

(A) taxes (Federal, State, local);

(B) reasonable charges for room and board, as determined by regulations issued by the chief State correctional officer, in the case of a State prisoner;

(C) allocations for support of family pursuant to State statute, court order, or agreement by the offender;

(D) contributions to any fund established by law to compensate the victims of crime of

not more than 20 per centum but not less than 5 per centum of gross wages;

(3) have not solely by their status as offenders, been deprived of the right to participate in benefits made available by the Federal or State Government to other individuals on the basis of their employment, such as workmen's compensation. However, such convicts or prisoners shall not be qualified to receive any payments for unemployment compensation while incarcerated, notwithstanding any other provision of the law to the contrary; and

(4) have participated in such employment voluntarily and have agreed in advance to the specific deductions made from gross wages pursuant to this section, and all other financial arrangements as a result of participation in such employment.

(d) For the purposes of this section, the term “State” means a State of the United States and any commonwealth, territory, or possession of the United States.

(June 25, 1948, ch. 645, 62 Stat. 785; Pub. L. 90-351, title I, §819(a), formerly §827(a), as added Pub. L. 96-157, §2, Dec. 27, 1979, 93 Stat. 1215, and renumbered Pub. L. 98-473, title II, §609B(f), Oct. 12, 1984, 98 Stat. 2093; Pub. L. 98-473, title II, §§223(c), 609K, Oct. 12, 1984, 98 Stat. 2028, 2102; Pub. L. 100-17, title I, §112(b)(3), Apr. 2, 1987, 101 Stat. 149; Pub. L. 101-647, title XXIX, §2906, Nov. 29, 1990, 104 Stat. 4914; Pub. L. 102-393, title V, §535(a), Oct. 6, 1992, 106 Stat. 1764; Pub. L. 103-322, title XXXIII, §§330010(11), 330016(1)(H), Sept. 13, 1994, 108 Stat. 2144, 2147; Pub. L. 104-134, title I, §101(b) [title I, §136], Apr. 26, 1996, 110 Stat. 1321-77, 1321-93; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 104-294, title VI, §§601(a)(7), 607(h), Oct. 11, 1996, 110 Stat. 3498, 3512.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§396a, 396b (July 24, 1935, ch. 412, §1, 49 Stat. 494; Oct. 14, 1940, ch. 872, 54 Stat. 1134; July 9, 1941, ch. 283, 55 Stat. 581).

Section consolidates sections 396a and 396b of title 18, U.S.C., 1940 ed. Each section related to the same subject matter and defined the same offense. Section 396a of title 18, U.S.C., 1940 ed., was enacted later and superseded section 396b of title 18, U.S.C., 1940 ed.

Reference to persons aiding, causing or assisting was omitted. Such persons are principals under section 2 of this title.

Reference to states, territories, specific places, etc., were omitted. This was made possible by insertion of words “interstate commerce or from any foreign country into the United States,” and by definitive section 10 of this title.

Subsection (b) was rewritten to eliminate ambiguity and uncertainty by expressly making the exceptive language apply to the entire chapter and by permitting State institutions to manufacture goods for the Federal Government and the District of Columbia and vice versa. In such subsections, the words “penal and correctional” and “penal or correctional,” preceding “institutions” and “institution,” respectively, were omitted as surplusage.

Minor changes in phraseology were made.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-294, §601(a)(7), substituted “fined under this title” for “fined not more than \$50,000”.

Subsec. (b). Pub. L. 104-134 inserted “or not-for-profit organizations” after “of a State”.

Subsec. (d). Pub. L. 104-294, §607(h), added subsec. (d). 1994—Pub. L. 103-322, §330016(1)(H), which directed the amendment of this section by substituting “under this title” for “not more than \$1,000”, could not be executed because the phrase “not more than \$1,000” did not appear in text subsequent to amendment of subsec. (a) by Pub. L. 102-393. See 1992 Amendment note below.

Subsec. (c). Pub. L. 103-322, §330010(11), struck out “and” at end of par. (1), substituted semicolon for period at end of par. (2)(B), and inserted “and” at end of par. (3).

1992—Subsec. (a). Pub. L. 102-393 substituted “\$50,000” for “\$1,000” and “two years” for “one year”.

1990—Subsec. (c). Pub. L. 101-647, §2906(1), (2), substituted “In addition to the exceptions set forth in subsection (b) of this section, this chapter shall not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners who” for “In addition to the exceptions set forth in subsection (b) of this section, this chapter shall also not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners participating in a program of not more than twenty pilot projects designated by the Director of the Bureau of Justice Assistance and who” in introductory provisions, added par. (1), and redesignated former pars. (1) to (3) as (2) to (4), respectively.

Subsec. (c)(2)(B). Pub. L. 101-647, §2906(3), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “reasonable charges for room and board as determined by regulations which shall be issued by the Chief State correctional officer;”.

1987—Subsec. (d). Pub. L. 100-17 struck out subsec. (d) which read as follows: “Notwithstanding any law to the contrary, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code.”

1984—Subsec. (a). Pub. L. 98-473, §223(c), inserted “, supervised release,” after “parole”.

Subsec. (c). Pub. L. 98-473, §609K(a), substituted “twenty” for “seven” and “Director of the Bureau of Justice Assistance” for “Administrator of the Law Enforcement Assistance Administration”.

Subsec. (d). Pub. L. 98-473, §609K(b), added subsec. (d). 1979—Subsec. (c). Pub. L. 90-351 added subsec. (c).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 223(c) of Pub. L. 98-473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98-473, set out as an Effective Date note under section 3551 of this title.

TRANSFER OF FUNCTIONS

Effective Aug. 1, 2000, all functions of Director of Bureau of Justice Assistance, other than those enumerated in section 3742(3) through (6) of Title 42, The Public Health and Welfare, transferred to Assistant Attorney General for Office of Justice Programs, see section 1000(a)(1) [title I, §103(b)] of Pub. L. 106-113, set out as a note under section 3741 of Title 42.

REPORTS BY SECRETARY OF LABOR

Pub. L. 101-647, title XXIX, §2908, Nov. 29, 1990, 104 Stat. 4915, which required the Secretary of Labor to submit an annual report to Congress on compliance by State Prison Industry Enhancement Certification programs with requirements set forth in section 1761(c) of this title, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 123 of House Document No. 103-7.

EXEMPTIONS TO FEDERAL RESTRICTIONS ON MARKETABILITY OF PRISON-MADE GOODS

Pub. L. 90-351, title I, §819(c), formerly §827(c), as added Pub. L. 96-157, §2, Dec. 27, 1979, 93 Stat. 1215, renumbered and amended Pub. L. 98-473, title II, §609B(f),

(o), Oct. 12, 1984, 98 Stat. 2093, 2096, provided that: “The provisions of section 1761 of title 18, United States Code, and of the first section of the Act of June 30, 1936 (49 Stat. 2036; 41 U.S.C. 35), commonly known as the Walsh-Healey Act, creating exemptions to Federal restrictions on marketability of prison-made goods, as amended from time to time, shall not apply unless—

“(1) representatives of local union central bodies or similar labor union organizations have been consulted prior to the initiation of any project qualifying of any exemption created by this section; and

“(2) such paid inmate employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services.”

§ 1762. Marking packages

(a) All packages containing any goods, wares, or merchandise manufactured, produced, or mined wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, when shipped or transported in interstate or foreign commerce shall be plainly and clearly marked, so that the name and address of the shipper, the name and address of the consignee, the nature of the contents, and the name and location of the penal or reformatory institution where produced wholly or in part may be readily ascertained on an inspection of the outside of such package.

(b) Whoever violates this section shall be fined under this title, and any goods, wares, or merchandise transported in violation of this section or section 1761 of this title shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the seizure and forfeiture of property imported into the United States contrary to law.

(June 25, 1948, ch. 645, 62 Stat. 786; Pub. L. 102-393, title V, §535(b), Oct. 6, 1992, 106 Stat. 1764; Pub. L. 103-322, title XXXIII, §330016(1)(H), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104-294, title VI, §601(a)(7), Oct. 11, 1996, 110 Stat. 3498.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§396c, 396d, 396e (July 24, 1935, ch. 412, §§2, 3, 4, 49 Stat. 494, 495).

Section consolidates sections 396c, 396d, and 396e of title 18, U.S.C., 1940 ed.

Words “upon conviction thereof” were deleted as unnecessary, since punishment cannot be imposed until after conviction.

Words “transported in violation of this section or section 1761” were added after the word “merchandise” to continue existing law.

The provisions of said section 396e of title 18, U.S.C., 1940 ed., relating to venue, were omitted as covered by section 3237 of this title.

Minor changes were made in translations and phraseology.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104-294 substituted “fined under this title” for “fined not more than \$50,000”.

1994—Pub. L. 103-322, which directed the amendment of this section by substituting “under this title” for “not more than \$1,000”, could not be executed because the phrase “not more than \$1,000” did not appear in text subsequent to amendment of subsec. (b) by Pub. L. 102-393. See 1992 Amendment note below.

1992—Subsec. (b). Pub. L. 102-393 substituted “\$50,000” for “\$1,000”.