

## § 162.6

### § 162.6 Search of persons, baggage, and merchandise.

All persons, baggage, and merchandise arriving in the Customs territory of the United States from places outside thereof are liable to inspection and search by a Customs officer. Port directors and special agents in charge are authorized to cause inspection, examination, and search to be made under section 467, Tariff Act of 1930, as amended (19 U.S.C. 1467), of persons, baggage, or merchandise, even though such persons, baggage, or merchandise were inspected, examined, searched, or taken on board the vessel at another port or place in the United States or the Virgin Islands, if such action is deemed necessary or appropriate.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972]

### § 162.7 Search of vehicles, persons, or beasts.

A Customs officer may stop, search, and examine any vehicle, person, or beast, or search any trunk or envelope wherever found, in accordance with section 3061 of the Revised Statutes (19 U.S.C. 482). [T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 90-34, 55 FR 17597, Apr. 26, 1990]

### § 162.8 Preclearance inspections and examinations.

In connection with inspections and examinations conducted in accordance with § 148.22(a) of this chapter, United States Customs officers stationed in a foreign country may exercise such functions and perform such duties (including inspections, examinations, searches, seizures, and arrests), as may be permitted by treaty, agreement, or law of the country in which they are stationed.

[T.D. 89-22, 54 FR 5077, Feb. 1, 1989]

## Subpart B—Search Warrants

### § 162.11 Authority to procure warrants.

Customs officers are authorized to procure search warrants under the provisions of section 595, Tariff Act of 1930, as amended (19 U.S.C. 1595). However, a Customs officer who is lawfully on any premises and is able to identify merchandise which has been imported con-

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trary to law may seize such merchandise without a warrant. If merchandise is in a building on the boundary, see § 123.71 of this chapter.

### § 162.12 Service of search warrant.

A search warrant shall be served in person by the officer to whom it is issued and addressed. In serving a search warrant, the officer shall leave a copy of the warrant with the person in charge or possession of the premises, or in the absence of any person, the copy shall be left in some conspicuous place on the premises searched.

### § 162.13 Search of rooms not described in warrant.

When a Customs officer is acting under a warrant to search the rooms in a building occupied by persons named or described in the warrant, no search shall be made of any rooms in such building which are not described in the warrant as occupied by such persons.

### § 162.15 Receipt for seized property.

A receipt for property seized under a search warrant shall be left with the person in charge or possession of the premises, or in the absence of any person, the receipt shall be left in some conspicuous place on the premises searched.

## Subpart C—Seizures

### § 162.21 Responsibility and authority for seizures.

(a) *Seizures by Customs officers.* Property may be seized, if available, by any Customs officer who has reasonable cause to believe that any law or regulation enforced by the Customs Service has been violated, by reason of which the property has become subject to seizure or forfeiture. This paragraph does not authorize seizure when seizure or forfeiture is restricted by law or regulation (see, for example, § 162.75), nor does it authorize a remedy other than seizure when seizure or forfeiture is required by law or regulation. A receipt for seized property shall be given at the time of seizure to the person from whom the property is seized.

(b) *Seizure by persons other than Customs officers.* The port director may adopt a seizure made by a person other

than a Customs officer if such port director has reasonable cause to believe that the property is subject to forfeiture under the Customs laws.

(c) *Seizure by State official.* If a duly constituted State official has seized any merchandise, vessel, aircraft, vehicle, or other conveyance under provisions of the statutes of such State, such property shall not be seized by a Customs officer unless the property is voluntarily turned over to him to be proceeded against under the Federal statutes.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 79-160, 44 FR 31956, June 4, 1979]

**§ 162.22 Seizure of conveyances.**

(a) *General applicability.* If it shall appear to any officer authorized to board conveyances and make seizures that there has been a violation of any law of the United States whereby a vessel, vehicle, aircraft, or other conveyance, or any merchandise on board of or imported by such vessel, vehicle, aircraft, or other conveyance is liable to forfeiture, the officer shall seize such conveyance and arrest any person engaged in such violation. Common carriers are exempted from seizure except under certain specified conditions as provided for in section 594, Tariff Act of 1930 (19 U.S.C. 1594).

(b) *Facilitating importation contrary to law.* Except as provided in §171.52(b), every vessel, vehicle, animal, aircraft, or other thing, which is being or has been used in, or to aid or facilitate, the importation, bringing in, unlading, landing, removal, concealing, harboring or subsequent transportation of any article which is being, or has been introduced or attempted to be introduced into the United States contrary to law, shall be seized and held subject to forfeiture. Any person who directs, assists financially or otherwise, or is in any way concerned in any such unlawful activity shall be liable to a penalty equal to the value of the article or articles involved.

(c) *Common carrier clearance.* Unless specifically authorized by law, clearance of vessels within the common carrier exception of section 594, Tariff Act of 1930 (19 U.S.C. 1594), shall not be refused for the purpose of collecting a

fine imposed upon the master or owner, unless either of them was a party to the illegal act. The Government's remedy in such cases is limited to an action against the master or owner.

(d) *Retention of vessel or vehicle pending penalty payment.* If a penalty is incurred under section 460, Tariff Act of 1930, as amended (19 U.S.C. 1460), by a person in charge of a vessel or vehicle and the vessel or vehicle is not subject to seizure, such vessel or vehicle may be held by the port director under section 594, Tariff Act of 1930, until the penalty incurred by the person in charge has been settled.

(e) *Maritime Administration vessels; exemption from penalty.* (1) When a vessel owned or chartered under bareboat charter by the Maritime Administration and operated for its account becomes liable for the payment of a penalty incurred for violation of the Customs revenue or navigation laws, clearance of the vessel shall not be withheld nor shall any proceedings be taken against the vessel itself looking to the enforcement of such liability.

(2) This exemption shall not in any way be considered to relieve the master of any such vessel or other person incurring such penalties from personal liability for payment.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 89-86, 54 FR 37602, Sept. 11, 1989]

**§ 162.23 Seizure under section 596(c), Tariff Act of 1930, as amended (19 U.S.C. 1595a(c)).**

(a) *Mandatory seizures.* The following, if introduced or attempted to be introduced into the United States contrary to law, shall be seized pursuant to section 596(c), Tariff Act of 1930, as amended (19 U.S.C. 1595a(c)):

(1) Merchandise that is stolen, smuggled, or clandestinely imported or introduced;

(2) A controlled substance, as defined in the Controlled Substance Act (21 U.S.C. 801 *et seq.*), not imported in accordance with law;

(3) A contraband article, as defined in section 1 of the Act of August 9, 1939 (49 U.S.C. 80302); or

(4) A plastic explosive, as defined in section 841(q) of title 18, United States