

site or place where, and at the time when, the business of a distiller or processor was so engaged in or carried on, such presence of the defendant shall be deemed sufficient evidence to authorize conviction, unless the defendant explains such presence to the satisfaction of the jury (or of the court when tried without jury).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1398; amended Pub. L. 94-455, title XIX, §§1905(a)(22), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1820, 1834; Pub. L. 96-39, title VIII, §807(a)(52), July 26, 1979, 93 Stat. 288; Pub. L. 96-223, title II, §232(e)(2)(A), Apr. 2, 1980, 94 Stat. 280.)

PRIOR PROVISIONS

A prior section 5601, act Aug. 16, 1954, ch. 736, 68A Stat. 683, consisted of provisions similar to those comprising subsec. (a)(1) of this section, and also related to forfeiture for possession of unregistered still or distilling apparatus, prior to the general revision of this chapter by Pub. L. 85-859. See section 5615(1) of this title.

Provisions similar to those comprising subsecs. (a)(2) to (8), (9)(A), (10) to (14) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Present subd. of subsec. (a):</i>	<i>Prior sections</i>
(2)	5172, 5603.
(3)	5603.
(4)	5172, 5604, 5606.
(5)	5604.
(6)	5171, 5607.
(7)	5216(a)(1), (4), 5608(a).
(8)	5216(a)(1), 5608(a).
(9)	5216(a)(1), 5608(a).
(10)	5628, 5629.
(11)	5629.
(12)	5608(a), 5631, 5632, 5643, 5647.
(13)	5634.
(14)	5650.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 627, 640, 641, 684, 685, 689, 690, 692, 693, 695.

AMENDMENTS

1980—Subsec. (a)(15). Pub. L. 96-223 added par. (15).
 1979—Subsec. (a)(2). Pub. L. 96-39, §807(a)(52)(A), struck out “distiller or rectifier” in heading and substituted “processor” for “rectifier” and “section 5171(c)” for “section 5171(a)” in text.
 Subsec. (a)(3). Pub. L. 96-39, §807(a)(52)(B), substituted “warehouseman, or processor” for “bonded warehouseman, rectifier, or bottler”.
 Subsec. (a)(4). Pub. L. 96-39, §807(a)(52)(C), substituted “warehouseman, or processor” for “or rectifier” in heading and in text.
 Subsec. (a)(5). Pub. L. 96-39, §807(a)(52)(B), substituted “warehouseman, or processor” for “bonded warehouseman, rectifier, or bottler”.
 Subsec. (a)(10). Pub. L. 96-39, §807(a)(52)(D), substituted “processing” for “rectifying or bottling” in par. (10) heading, “processor” for “rectifier, or a bottler of distilled spirits” in text preceding subpar. (A), and “processed” for “rectified or bottled” in subpar. (A).
 Subsec. (a)(11). Pub. L. 96-39, §807(a)(52)(E), substituted “or processing” for “rectification, or bottling” in heading and “or processes” for “rectifies, or bottles” in text.
 Subsec. (b). Pub. L. 96-39, §807(a)(52)(F), substituted “processor” for “rectifier”.
 1976—Subsec. (a)(7). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.
 Subsec. (b). Pub. L. 94-455, §1905(a)(22), struck out par. (1) relating to presumptions in the matter of unregistered stills, par. (3) relating to presumptions in the matter of unlawful production, removal, or use of material fit for production of distilled spirits, and par.

(4) relating to presumptions in the matter of unlawful production of distilled spirits, and struck out the number designation “(2)” and heading for former par. (2), leaving only the text for former par. (2) relating to presumptions in the matter of failure or refusal of distiller or rectifier to give bond.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 effective on first day of first calendar month beginning more than 60 days after Apr. 2, 1980, see section 232(h)(3) of Pub. L. 96-223, set out as an Effective Date note under section 5181 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

PROSECUTION AND PUNISHMENT OF OFFENSES COMMITTED AND PENALTIES OR FORFEITURES INCURRED; SAVINGS PROVISION

Section 210(c) of title II of Pub. L. 85-859 provided that: “All offenses committed, and all penalties or forfeitures incurred, under any provision of law amended by this title [enacting sections 5849, 5854, 5855 and 7608 of this title, amending this chapter, chapter 52 of this title and sections 5801, 5811, 5814, 7272, 7301, 7224 to 7326, 7609, 7652 and 7655 of this title, and enacting notes set out under this section and sections 5001, 5006, 5025, 5064, 5175, and 5304 of this title], may be prosecuted and punished in the same manner and with the same effect as if this title had not been enacted.”

§ 5602. Penalty for tax fraud by distiller

Whenever any person engaged in or carrying on the business of a distiller defrauds, attempts to defraud, or engages in such business with intent to defraud the United States of the tax on the spirits distilled by him, or of any part thereof, he shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both. No discontinuance or nolle prosequi of any prosecution under this section shall be allowed without the permission in writing of the Attorney General.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1400.)

PRIOR PROVISIONS

A prior section 5602, act Aug. 16, 1954, ch. 736, 68A Stat. 863, related to penalty and forfeiture for setting up still without a permit, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5615(2) and 5687 of this title.

Provisions similar to those comprising this section were contained in prior sections 5606, 5626, act Aug. 16, 1954, ch. 736, 68A Stat. 684, 688, prior to the general revision of this chapter by Pub. L. 85-859.

§ 5603. Penalty relating to records, returns and reports

(a) Fraudulent noncompliance

Any person required by this chapter (other than subchapters F and G) or regulations issued

pursuant thereto to keep or file any record, return, report, summary, transcript, or other document, who, with intent to defraud the United States, shall—

- (1) fail to keep any such document or to make required entries therein; or
- (2) make any false entry in such document; or
- (3) cancel, alter, or obliterate any part of such document or any entry therein, or destroy any part of such document or any entry therein; or
- (4) hinder or obstruct any internal revenue officer from inspecting any such document or taking any abstracts therefrom; or
- (5) fail or refuse to preserve or produce any such document, as required by this chapter or regulations issued pursuant thereto;

or who shall, with intent to defraud the United States, cause or procure the same to be done, shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both, for each such offense.

(b) Failure to comply

Any person required by this chapter (other than subchapters F and G) or regulations issued pursuant thereto to keep or file any record, return, report, summary, transcript, or other document, who, otherwise than with intent to defraud the United States, shall—

- (1) fail to keep any such document or to make required entries therein; or
- (2) make any false entry in such document; or
- (3) cancel, alter, or obliterate any part of such document or any entry therein, or destroy any part of such document, or any entry therein, except as provided by this title or regulations issued pursuant thereto; or
- (4) hinder or obstruct any internal revenue officer from inspecting any such document or taking any abstracts therefrom; or
- (5) fail to refuse to preserve or produce any such document, as required by this chapter or regulations issued pursuant thereto;

or who shall, otherwise than with intent to defraud the United States, cause or procure the same to be done, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both, for each such offense.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1400.)

PRIOR PROVISIONS

A prior section 5603, act Aug. 16, 1954, ch. 736, 68A Stat. 684, related to penalty for failure or refusal of distiller or rectifier to give notice of intention to engage in such business, prior to the general revision of this chapter by Pub. L. 85-859. See section 5601(a)(2), (3) of this title.

Provisions similar to those comprising this section were contained in prior sections 5610, 5611, 5620, 5621, 5692, act Aug. 16, 1954, ch. 736, 68A Stat. 685 to 687, 703, prior to the general revision of this chapter by Pub. L. 85-859.

§ 5604. Penalties relating to marks, brands, and containers

(a) In general

Any person who shall—

(1) transport, possess, buy, sell, or transfer any distilled spirits unless the immediate container bears the type of closure or other device required by section 5301(d),

(2) with intent to defraud the United States, empty a container bearing the closure or other device required by section 5301(d) without breaking such closure or other device,

(3) empty, or cause to be emptied, any distilled spirits from an immediate container bearing any mark or brand required by law without effacing and obliterating such mark or brand as required by section 5206(d),

(4) place any distilled spirits in any bottle, or reuse any bottle for the purpose of containing distilled spirits, which has once been filled and fitted with a closure or other device under the provisions of this chapter, without removing and destroying such closure or other device,

(5) willfully and unlawfully remove, change, or deface any mark, brand, label, or seal affixed to any case of distilled spirits, or to any bottle contained therein,

(6) with intent to defraud the United States, purchase, sell, receive with intent to transport, or transport any empty cask or package having thereon any mark or brand required by law to be affixed to any cask or package containing distilled spirits, or

(7) change or alter any mark or brand on any cask or package containing distilled spirits, or put into any cask or package spirits of greater strength than is indicated by the inspection mark thereon, or fraudulently use any cask or package having any inspection mark thereon, for the purpose of selling other spirits, or spirits of quantity or quality different from the spirits previously inspected,

shall be fined not more than \$10,000 or imprisoned not more than 5 years, or both, for each such offense.

(b) Cross references

For provisions relating to the authority of internal revenue officers to enforce provisions of this section, see sections 5203, 5557, and 7608.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1401; amended Pub. L. 96-39, title VIII, §807(a)(53), July 26, 1979, 93 Stat. 289; Pub. L. 98-369, div. A, title IV, §454(c)(11)(A), July 18, 1984, 98 Stat. 821.)

PRIOR PROVISIONS

A prior section 5604, act Aug. 16, 1954, ch. 736, 68A Stat. 684, related to penalty and forfeiture for failure or refusal of distiller to give bond, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5601(a)(4), (5) and 5615(3) of this title.

Provisions similar to those comprising this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Present subsecs.:</i>	<i>Prior sections</i>
(a)(1)	5008(b)(1), 5642.
(a)(2), (3)	5636.
(a)(4), (5)	5642, 5644.
(a)(6)	5642.
(a)(7) to (9)	5636.
(a)(10)	5642, 5644.
(a)(11)	5643.
(a)(12)	5642, 5643.
(a)(13) to (15)	5642.