

# **STOLEN CONVEYANCES AND PARTS**

## GUIDELINES FOR THE REMISSION OF FORFEITURES AND MITIGATION OF PENALTIES FOR VIOLATION OF 19 U.S.C. 1627A, FOR STOLEN CONVEYANCES AND PARTS

### I. 19 U.S.C. 1627a(a)

The provisions of 19 U.S.C. 1627a(a), prohibit the importation, exportation or attempted importation or exportation of any self-propelled vehicle, vessel, aircraft or part thereof that has been stolen or has had any identification number removed, obliterated, tampered with or altered.

#### A. Knowing violations; altered Vehicle Identification Numbers (VINs)

1. Under the provisions of title 19, United States Code, section 1627a(a), whoever knowingly imports, exports or attempts to import or export:

- a. any stolen self-propelled vehicle, vessel aircraft or part of a self-propelled vehicle, vessel or aircraft, or
- b. any self-propelled vehicle or part of a self-propelled vehicle from which the identification number has been removed, obliterated, tampered with, or altered

shall be subject to a civil penalty in an amount not to exceed \$10,000 for each violation. Each vehicle constitutes a separate violation, e.g., if a party knowingly attempts to import 6 stolen vehicles and parts of another stolen vehicle, he would be subject to \$70,000 in penalties under this statute.

2. Any violation noted above shall make the self-propelled vehicle, vessel, aircraft or part thereof subject to seizure and forfeiture.
3. Both seizure and forfeiture **and** a monetary penalty may be assessed.

#### B. Forfeiture Remission Guidelines

1. No relief from forfeiture shall be afforded any party who knowingly imported, exported or attempted to import or export any stolen self-propelled vehicle, vessel, aircraft or part or who has altered, obliterated, tampered with or removed any VIN.
2. Relief may be afforded to any claimant to the property who obtained an ownership interest in the property in good faith and

was unaware of any theft of the property or of any alteration, obliteration, removal or tampering with any VIN.

3. Any such party described in paragraph 2 found to have a good faith interest in the property will be required to pay any costs of storage and seizure and to execute a hold harmless agreement in accordance with general forfeiture remission policy.

C. Penalty mitigation guidelines

No mitigation will be afforded from any penalty incurred by any party for violation of the provisions of 19 U.S.C. 1627a(a).

**II. 19 U.S.C. 1627a(b)**

The provisions of 19 U.S.C. 1627a(b) require any person attempting to export a used self-propelled vehicle to present, pursuant to regulation, to the appropriate Customs officer, both the vehicle and documentation describing such vehicle which includes the vehicle identification number, before lading if the vehicle is to be transported by vessel or aircraft or before export if the vehicle is to be transported by rail, highway, or under its own power. Failure to comply with the regulations shall subject such person to a penalty of not more than \$500 for each violation.

- A. The regulations governing the procedures for the exportation of used self-propelled vehicles are found at 19 C.F.R. Part 192. By regulation, these penalties have been set at \$500.
- B. "Self-propelled vehicle" includes any automobile, truck, tractor, bus, motorcycle, motor home, self-propelled agricultural machinery, construction equipment, special use equipment and any other self-propelled vehicle used or designed for running on land but not on rail.
  1. Inasmuch as the documentation to be presented must include a vehicle identification number, certain vehicles which are designed for running on land which do not have vehicle identification numbers (such as go-karts, golf carts, etc.) would not be included under the Part 192 export requirements.
  2. If penalties are assessed against parties for failing to meet requirements of Part 192 regarding vehicles not falling under the jurisdiction of that Part, they shall be mitigated without payment.
- C. "Used" refers to any self-propelled vehicle the equitable or legal title to which has been transferred by a manufacturer, distributor or dealer to an ultimate purchaser.

- D. "Ultimate purchaser" means the first person, other than a dealer, who in good faith purchases a self-propelled vehicle for purposes other than resale.
- E. The provisions of 19 U.S.C. 1646c require all persons exporting used automobiles, including automobiles for personal use, by air or ship to provide to Customs at least 72 hours before export the vehicle identification number and proof of ownership of such automobile. 19 U.S.C. 1646c does not contain a penalty provision therein, but its requirements are also included in 19 C.F.R. Part 192. While there is no such statutory requirement for vehicles exported by rail, highway or under their own power, the Part 192 regulations impose such a requirement.
1. For exportation by air or ship, both the vehicle and the required documentation must be presented to Customs at least 72 hours prior to departure. See, 19 C.F.R. 192.2(c)(1).
  2. For vehicles exported by rail, highway or under their own power, the required documentation must be presented to Customs at least 72 hours prior to export, but the vehicle only must be presented to Customs at the time of exportation. See, 19 C.F.R. 192.2(c)(2).
  3. In the land border environment, if the documentation is presented to Customs less than 72 hours prior to exportation, a monetary penalty, subject to any appropriate mitigation in accordance with these guidelines, may be assessed. If Customs completes its examination and certifies that the documentation presented is authentic in less than 72 hours, the party exporting the vehicles may complete exportation. Customs need not require the vehicle to remain in the United States waiting for 72 hours if all appropriate checks have been completed.
- F. If a penalty is assessed and the violator is a non-resident or there is other reason to believe that the penalty might not be collected, the vehicle may be detained under the provisions of 19 U.S.C. 1594 to guarantee payment of any penalty. Detention is not mandatory.
- G. The penalty may be assessed against an exporter attempting to export a vehicle or an exporter who has exported a vehicle without complying with the regulations governing vehicle exportation. See, 19 C.F.R. 192.3.
- H. The \$500 penalty under this section of law shall be assessed per each vehicle, not each violation of the regulations governing the exportation of that vehicle. If a person violates two or more regulatory provisions in Part

192 regarding the exportation of a particular vehicle, the penalty would be \$500 for the vehicle, not \$500 for each regulatory breach.

I. Mitigation Guidelines

1. Personal exportation; includes any vehicle exported by a person and which is intended for his or her own individual or family use.
  - a. For failure to present appropriate documentation in a manner prescribed by regulation the penalty may be mitigated upon payment of an amount between \$50 and \$250 depending on the facts and circumstances surrounding the violation.
  - b. Authority to mitigate these penalties on-site may be delegated by the Fines, Penalties and Forfeitures Officer with the concurrence of the Port Director.
2. Commercial exportations; includes any vehicles or vehicles exported by a person or persons and which are intended for resale, commercial use or personal use by parties other than the exporting persons.
  - a. For failure to present appropriate documentation in a manner prescribed by regulation the penalty may be mitigated to an amount no less than \$250 depending on the facts and circumstances surrounding the violation.
  - b. Authority to mitigate these penalties on-site may be delegated by the Fines, Penalties and Forfeitures Officer with the concurrence of the Port Director.