

Treasury Department
UNITED STATES CUSTOMS SERVICE
New York, N. Y.

Order No. 4.

January 11, 1938

REGULATIONS
CONTROL OF MARIHUANA
UNDER
ACT OF AUGUST 2, 1937

Harry T. Foley
Surveyor of Customs
New York, N. Y.

TREASURY DEPARTMENT
Office of the Surveyor of Customs
Port of New York

THE FOLLOWING EXTRACTS FROM
THE REGULATIONS CONCERNING THE
CONTROL OF MARIHUANA, ACT OF
AUGUST 2ND, 1927, ARE ISSUED AS

ORDER NO. 4 - 1938

OF THIS OFFICE UNDER DATE OF
JANUARY 11TH, 1938.

TREASURY DEPARTMENT
BUREAU OF NARCOTICS
WASHINGTON

LAW AND REGULATIONS

RELATING TO THE

IMPORTATION, MANUFACTURE, PRODUCTION, COMPOUNDING,
SALE, DEALING IN, DISPENSING, PRESCRIBING, ADMIN-
ISTERING, AND GIVING AWAY OF MARIHUANA.

THE LAW

(Act of August 2, 1937, Public No. 238 - 75th
Congress)

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That when used in this Act -

(b) The term "marihuana" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

Sec. 2. (a) Every person who imports, manufactures, produces, compounds, sells, deals in, dispenses, prescribes, administers, or gives away marihuana shall (1) within fifteen days after the effective date of this Act, or (2) before engaging after the expiration of

such fifteen-day period in any of the above-mentioned activities, and (3) thereafter, on or before July 1 of each year, pay the following special taxes respectively:

(1) Importers, manufacturers, and compounders of marihuana, \$24 per year.

Sec. 4. (a) It shall be unlawful for any person required to register and pay the special tax under the provisions of section 2 to import, manufacture, produce, compound, sell, deal in, dispense, distribute, prescribe, administer, or give away marihuana without having so registered and paid such tax.

Sec. 6. (a) It shall be unlawful for any person, whether or not required to pay a special tax and register under section 2, to transfer marihuana, except in pursuance of a written order of the person to whom such marihuana is transferred, on a form to be issued in blank for that purpose by the Secretary.

(b) Subject to such regulations as the Secretary may prescribe, nothing contained in this section shall apply -

(3) To the sale, exportation, shipment, or delivery of marihuana by any person within the United States, any Territory, the District of Columbia, or any of the insular possessions of the United States, to any person in any foreign country regulating the entry of marihuana if such sale, shipment, or delivery of marihuana is made in accordance with such regulations for importation into such foreign country as are prescribed by such foreign country, such regulations to be promulgated from time to time by the Secretary of State of the United States.

Sec. 9. (a) Any marihuana which has been imported, manufactured, compounded, transferred, or produced in violation of any of the provisions of this Act shall be subject to seizure and for-

feiture and, except as inconsistent with the provisions of this Act, all the provisions of internal-revenue laws relating to searches, seizures, and forfeitures are extended to include marihuana.

Sec. 12. Any person who is convicted of a violation of any provision of this Act shall be fined not more than \$2,000 or imprisoned not more than five years, or both, in the discretion of the court.

ORDER OF THE SECRETARY OF THE TREASURY - RE MARIHUANA ----- SEPTEMBER 1, 1937.

General Provisions.

The investigation and the detection, and presentation to prosecuting officers of evidence, of violations of the Marihuana Act of 1937, shall be the duty of the Commissioner of Narcotics and the assistants, agents, inspectors or employees under his direction. Except as specifically inconsistent with the terms of said Act and of this order, the Commissioner of Narcotics and the Commissioner of Internal Revenue and the assistants, agents, inspectors or employees of the Bureau of Narcotics and the Bureau of Internal Revenue, respectively, shall have the same powers and duties in safeguarding the revenue thereunder as they now have with respect to the enforcement of, and collection of the revenue under, the Act of December 17, 1914, as amended. (U.S. Code (1934 Ed.) title 26, sec. 1049.

REGULATIONS

Art. 44. Affixing and cancelling stamps. - The "Marihuana Tax Act" stamp, evidencing the payment of the transfer tax, shall be affixed to the original order form by the collector or his representative, and the person so affixing the stamp shall cancel it by writing or stamping thereon, in

ink his initials, and the day, month, and year, or shall, by cutting with a machine or punch, affix his initials and the date as aforesaid, in such manner as to render it unfit for reuse. The cancellation shall not so deface the stamp as to prevent its denomination and genuineness from being readily determined.

Sec. 803, Revenue Act of 1926. Whoever - ***

(c) Willfully removes, or alters the cancellation or defacing marks of, or otherwise prepares, any adhesive stamp, with intent to use, or cause same to be used, after it has been already used, or knowingly or willfully buys, sells, offers for sale, or gives away, any such washed or restored stamp to any person for use, or knowingly uses the same;

(d) Knowingly and without lawful excuse (the burden of proof of such excuse being on the accused) has in possession any washed, restored, or altered stamp, which has been removed from any vellum, parchment, paper, instrument, writing, package, or article;

Is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than five years, or both, and any such reused, canceled, or counterfeit stamp and the vellum, parchment, document, paper, package, or article upon which it is placed or impressed shall be forfeited to the United States.

Art. 51. Importations. - A collector of internal revenue issuing an order form for the procurement of marihuana from a foreign country shall prepare and issue to the transferee (importer) a document reciting that an order form has been issued. The document shall show the serial number of the order form, the name and address of the transferee, the name and address of the transferer, and

the kind and quantity of marihuana covered by the order form. The transferee, in order to obtain release of the marihuana from customs' custody, shall present the document to the collector of customs at the port of entry. No importation of marihuana shall be released from customs' custody until the aforesaid document has been presented to the collector of customs. Seeds may be imported by a registered importer without payment of transfer tax or procurement of order forms. (See Section 6(b)(5) of the Act.) A registered importer desiring to import seeds without the use of the forms shall obtain from the collector of internal revenue for the district in which he is registered a certificate of registration (see Article 68), and no importation of seeds shall be released from customs' custody without evidence of issuance of an order form or presentation of a certificate of registration.

Art. 66. Exportations - Any person desiring to export marihuana to a country which regulates importations thereof shall present to the nearest collector of customs an application on Form 161a, for authorization to make such exportation, which application shall be accompanied by an import permit issued by the government of the country of destination or other evidence which shall be satisfactory to the Commissioner of Narcotics that the applicant has complied with the requirements of the laws and regulations of the country of destination with respect to such proposed exportation thereto. Such application will be forwarded by the collector of customs to the Commissioner of Narcotics who, if satisfied that the applicant has complied with such laws and regulations of the country of destination shall approve the application, which approval will authorize the collector of customs at the port of export to clear the shipment for exportation without the use of order forms or payment of the transfer tax.

Art. 98.

FORFEITURES AND PENALTIES

Sec. 9(a) Any marihuana which has been imported, manufactured, compounded, transferred, or produced in violation of any of the provisions of this Act shall be subject to seizure and forfeiture and, except as inconsistent with the provisions of this Act, all the provisions of internal-revenue laws relating to searches, seizures, and forfeitures are extended to include marihuana.

(b) Any marihuana which may be seized by the United States Government from any person or persons charged with any violation of this Act shall upon conviction of the person or persons from whom seized be confiscated by and forfeited to the United States.

(c) Any marihuana seized or coming into the possession of the United States in the enforcement of this Act, the owner or owners of which are unknown, shall be confiscated by and forfeited to the United States.

(d) The Secretary is hereby directed to destroy any marihuana confiscated by and forfeited to the United States under this section or to deliver such marihuana to any department, bureau, or other agency of the United States Government, upon proper application therefor under such regulations as may be prescribed by the Secretary.

You will be governed accordingly.

Respectfully,

(Signed) HARRY T. FOLEY,
Surveyor of Customs

