

82D CONGRESS  
1ST SESSION

# H. R. 3539

## IN THE HOUSE OF REPRESENTATIVES

APRIL 5, 1951

Mr. FOGARTY introduced the following bill; which was referred to the Committee on Ways and Means

## A BILL

To amend the penalty provisions applicable to persons convicted of violating certain narcotic laws, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

3 That section 2 (c) of the Narcotic Drugs Import and Export

4 Act, as amended (title 21, sec. 174), is amended to read:

5 as follows:

6 “(c) Whoever fraudulently or knowingly imports or

7 brings any narcotic drug into the United States or any

8 territory under its control or jurisdiction, contrary to law,

9 or receives, conceals, buys, sells, or in any manner facilitates

10 the transportation, concealment, or sale of any such narcotic

11 drug after being imported or brought in, knowing the same to

1 have been imported contrary to law, or conspires to commit  
2 any of such acts in violation of the laws of the United States,  
3 shall be fined \$5,000 and imprisoned not less than five years.  
4 For a second offense, the offender shall be fined \$10,000  
5 and imprisoned not less than ten years. For a third or sub-  
6 sequent offense, the offender shall be fined \$20,000 and  
7 imprisoned for life. Upon conviction for a second or subse-  
8 quent offense, the imposition or execution of sentence shall  
9 not be suspended and probation shall not be granted until  
10 the minimum imprisonment for a second or subsequent of-  
11 fense, as the case may be, shall have been served. For the  
12 purpose of this subdivision, an offender shall be considered a  
13 second or subsequent offender, as the case may be, if he has  
14 previously been convicted of any offense the penalty for  
15 which is provided in this subdivision or in section 2557  
16 (b) (1) of the Internal Revenue Code. After conviction,  
17 but prior to pronouncement of sentence, the court shall be  
18 advised by the United States attorney whether the convic-  
19 tion is the offender's first or a subsequent offense. If it is not  
20 a first offense, the United States attorney shall file an infor-  
21 mation setting forth the prior convictions. The offender shall  
22 have the opportunity in open court to affirm or deny that he is  
23 identical with the person previously convicted. If he denies  
24 the identity, sentence shall be postponed for such time as to  
25 permit a trial before a jury on the sole issue of the offender's

1 identity with the person previously convicted. If the of-  
2 fender is found by the jury to be the person previously con-  
3 victed, or if he acknowledges that he is such person, he shall  
4 be sentenced as prescribed in this subdivision.

5 “Whenever on trial for a violation of this subdivision the  
6 defendant is shown to have or to have had possession of the  
7 narcotic drug, such possession shall be deemed sufficient  
8 evidence to authorize conviction unless the defendant explains  
9 the possession to the satisfaction of the jury.”

10 SEC. 2. Section 2557 (b) (1) of the Internal Revenue  
11 Code is amended to read as follows:

12 “(1) Whoever commits an offense or conspires to  
13 commit an offense described in this subchapter, sub-  
14 chapter C of this chapter, or part V or VI of subchapter  
15 A of chapter 27, for which no specific penalty is other-  
16 wise provided, shall be fined \$5,000 and imprisoned not  
17 less than five years. For a second offense, the offender  
18 shall be fined \$10,000 and imprisoned not less than ten  
19 years. For a third or subsequent offense, the offender  
20 shall be fined \$20,000 and imprisoned for life. Upon  
21 conviction for a second or subsequent offense, the im-  
22 position or execution of sentence shall not be suspended  
23 and probation shall not be granted until the minimum  
24 imprisonment for a second or subsequent offense, as the  
25 case may be, shall have been served. For the purpose

1 of this paragraph, an offender shall be considered a  
2 second or subsequent offender, as the case may be, if he  
3 has previously been convicted of any offense the penalty  
4 for which is provided in this paragraph or in section 2  
5 (c) of the Narcotic Drugs Import and Export Act, as  
6 amended (U. S. C., title 21, sec. 174). After convic-  
7 tion, but prior to pronouncement of sentence, the court  
8 shall be advised by the United States attorney whether  
9 the conviction is the offender's first or a subsequent of-  
10 fense. If it is not a first offense, the United States at-  
11 torney shall file an information setting forth the prior  
12 convictions. The offender shall have the opportunity in  
13 open court to affirm or deny that he is identical with the  
14 person previously convicted. If he denies the identity,  
15 sentence shall be postponed for such time as to permit a  
16 trial before a jury on the sole issue of the offender's  
17 identity with the person previously convicted. If the  
18 offender is found by the jury to be the person previously  
19 convicted, or if he acknowledges that he is such person,  
20 he shall be sentenced as prescribed in this paragraph."

21 SEC. 3. Section 2596 of the Internal Revenue Code is  
22 amended to read as follows:

23 "SEC. 2596. PENALTIES.

24 "For penalties for violating or failing to comply with any

1 of the provisions of this subchapter, see section 2557 (b)  
2 (1).”

3 SEC. 4. Section 3235 of the Internal Revenue Code is  
4 amended to read as follows:

5 “SEC. 3235. PENALTIES.

6 “For penalties for violating or failing to comply with  
7 any of the provisions of this part, see section 2557 (b) (1).”

8 SEC. 5. There are hereby repealed—

9 (1) section 2 (f) of the Narcotic Drugs Import  
10 and Export Act, as amended (U. S. C., title 21, section  
11 174) ;

12 (2) the Act of August 12, 1937, as amended  
13 (U. S. C., title 21, secs. 200–200 (b) ) ;

14 (3) sections 2557 (b) (5), (6) and (7) of the  
15 Internal Revenue Code.

16 SEC. 6. Any rights or liabilities now existing under the  
17 laws or parts thereof repealed by this Act shall not be af-  
18 fected by such repeal.

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By Mr. FOGARTY

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