

## Degrees of culpability under section 592(171 appendix B)

1. **Negligence:** violation results from acts done through either failure to exercise degree of reasonable care and competence
2. **Gross Negligence:** violation results from act done without knowledge of or wanton disregard for relevant facts and with indifference for offender's obligations under statute
3. **Fraud:** violation results from material false statements, omission or act in connection with transaction that was done intentionally as established by clear and convincing evidence

## Types of Factors

1. **Mitigating** – Contributing customs error, cooperation with investigation, immediate remedial action, inexperience in importing, good record, impaired communication
2. **Aggravating** - obstruction of investigation, withholding evidence, experience importer, prior violations, disrespect for legal process or authority

## Penalties under section 19 USC 1592 (162.73(a))

Culpability	Revenue loss	Non-revenue loss
Fraud	Domestic value of merchandise	Domestic value of merchandise
Gross Negligence	Lesser of domestic value of merchandise or 4x loss of duties, taxes and fees	40% of dutiable value or merchandise
Negligence	Lesser of domestic value of merchandise or 2x the loss of duties, taxes and fees	20% of the dutiable value of the merchandise

## Penalties with Prior Disclosure under section 19 USC 1592 (162.73(b))

Culpability	Revenue loss	Non-revenue loss
Fraud	1x the loss of duties, taxes and fees	10% of the dutiable value of the merchandise
Gross Negligence	None	Interest on any loss of duties, taxes and fees. Interest is computed from date of liquidation
Negligence	None	Interest of any loss of duties, taxes and fees. Interest is computed from date of liquidation

Note: There is no violation and no penalty if the falsity or omission is due solely to clerical error or mistake of fact, unless it is a pattern of negligent conduct

## Record Keeping penalties (per 19 CFR 163.6)

1. Willful failure to maintain, store or retrieve mandated records shall be subject to a penalty for each release or merchandise equal to 75% of appraised value or merchandise, or \$100,000, whichever is less. (\$100,000 is maximum)
2. Negligent failure to maintain, store or retrieve mandated records shall be subject to a penalty for each release or merchandise equal to 40%, or \$10,000, whichever is less. (\$10,000 is maximum)

**Penalties under 19 USC 1641 (171 Appendix C)**

<b>19 USC 1641 section</b>	<b>Violation</b>	<b>Penalty</b>
Section II 1641(B)(6)	Conducting Customs business without a license	Maximum: \$10,000 for any one incident Total Aggregate: \$30,000
Section III 1641(d)(1)(A)	Making false or misleading statement or omission to material fact when applying for license or permit	Single: \$5,000 Maximum: \$30,000 If license would not have been issued due to false statement: suspension or revocation of license
Section IV 1641(d)(1)(B)	Broker convicted of certain felonies or misdemeanors subsequent to filing license application	Misdemeanor: \$15,000 Felony: \$30,000 License revocation if conviction is for robbery, extortion, embezzlement, misappropriation of funds, larceny or fraudulent commencement
Section V 1641(d)(1)(C)	Violation of any Customs law enforced by regulations	Transaction: \$1,000 Maximum: \$30,000 (see below for detailed list)
Section VI 1641(d)(1)(D)	Aiding and abetting violations by another person of any Customs law	Monetary penalty equal to domestic value of property or \$30,000, whichever is less
Section VII 1641(d)(1)(E)	Employing any person convicted of a felony without written approval	\$5,000 for failing to make application with Secretary \$25,000 without seeking application \$30,000 for continuing to employ after denied application
Section VIII 1641(d)(1)(F)	Intent to de-fraud, deceive, mislead or threaten any client or prospective client	\$30,000 penalty for any violation
Section IX 1641(b)(5)	Failure of a corporation or partnership to have at least 1 licensed officer or member for a continuous period of 120 days	Revocation of license \$10,000 No mitigation
Section X 1641(c)(3)	Failure of a broker granted a permit to have at least one licensed individual working for a continuous period of 180 days	Revocation of permit No mitigation
Section XI 1641(b)(4)	Failure to exercise responsible supervision and control over customs business it conducts	\$1,000 - \$10,000 (see below for detailed list)

**Section V 1641(d)(1)(C): Violations of Customs law includes:**

1. Power of Attorney not on file: \$1,000 for each
2. Transaction without a permit: \$1,000 per transaction
3. Failure to exercise due diligence in payment, refund or deposit of monies received from clients, including failure to pay over to client: an amount equal to value of any monies or maximum of \$30,000

**Section X 1641(b)(4): Failure to exercise responsible supervision and control**

1. Continuous errors on same type of entry: \$1,000
2. Allows bond to be used in districts where he does not have a permit: \$1,000
3. Unable to produce documents related to Customs business: \$5,000
4. Unsatisfactory accounting records: \$10,000

Note: Limit for penalty assessment against a broker is \$30,000 for any violation

### **Civil fines for those involved in importation of merchandise bearing counterfeit marks (19 CFR 133.27)**

In addition to any other penalty or remedy authorized by law, CBP may impose a civil fine on any person who directs, aids or assists financially, the importation of merchandise bearing a counterfeit mark (\*NOT Trademark!)

1. **First violation:** fine will not be more than the value of the merchandise would have had if it were genuine, according to manufacturer's suggested retail price in the USA at the time of seizure
2. **Second violation:** fine will not be more than twice the value of the merchandise would have had if it were genuine, according to manufacturer's suggested retail price in the USA at the time of seizure