(c) CRIMINAL PENALTIES.—

(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than $2,000,000 and shall be sentenced to a term of imprisonment not less than 25 years or to imprisonment for life.

(2) OTHER CIRCUMSTANCES.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than $2,000,000 and imprisoned for not less than 30 years or imprisoned for life.

(3) SPECIAL CIRCUMSTANCES.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than $2,000,000 and punished by imprisonment for life.

(d) DEFINITION.—As used in this section, the term ''variola virus'' means a virus that can cause human smallpox or any derivative of the variola major virus that contains more than 85 percent of the gene sequence of the variola major virus or the variola minor virus.

(Added Pub. L. 108–458, title VI, § 6906, Dec. 17, 2004, 118 Stat. 3773.)

FINDINGS AND PURPOSE

Pub. L. 108–458, title VI, § 6902, Dec. 17, 2004, 118 Stat. 3769, provided that:

''(a) FINDINGS.—Congress makes the following findings:

''(1) The criminal use of man-portable air defense systems (referred to in this section as 'MANPADS') presents a serious threat to civil aviation worldwide, especially in the hands of terrorists or foreign states that harbor them.

''(2) Atomic weapons or weapons designed to release radiation (commonly known as 'dirty bombs') could be used by terrorists to inflict enormous loss of life and damage to property and the environment.

''(3) Variola virus is the causative agent of smallpox, an extremely serious, contagious, and sometimes fatal disease. Variola virus is classified as a Category A agent by the Centers for Disease Control and Prevention, meaning that it is believed to pose the greatest potential threat for adverse public health impact and has a moderate to high potential for large-scale dissemination. The last case of smallpox in the United States was in 1949. The last naturally occurring case in the world was in Somalia in 1977. Although smallpox has been officially eradicated after a successful worldwide vaccination program, there remain two official repositories of the variola virus for research purposes. Because it is so dangerous, the variola virus may appeal to terrorists.

''(4) The use, or even the threatened use, of MANPADS, atomic or radiological weapons, or the variola virus, against the United States, its allies, or its people, poses a grave risk to the security, foreign policy, economy, and environment of the United States. Accordingly, the United States has a compelling national security interest in preventing unlawful activities that lead to the proliferation or spread of such items, including their unauthorized production, construction, acquisition, transfer, possession, import, or export. All of these activities markedly increase the chances that such items will be obtained by terrorist organizations or rogue states, which could use them to attack the United States, its allies, or United States nationals or corporations.

''(5) There is no legitimate reason for a private individual or company, absent explicit government authorization, to produce, construct, otherwise acquire, transfer, receive, possess, import, export, or use MANPADS, atomic or radiological weapons, or the variola virus.

''(b) PURPOSE.—The purpose of this subtitle [subtitle J (§§ 6901–6911) of title VI of Pub. L. 108–458, see Short Title of 2004 Amendment note set out under section 1 of this title] is to combat the potential use of weapons that have the ability to cause widespread harm to United States persons and the United States economy (and that have no legitimate private use) and to threaten or harm the national security or foreign relations of the United States.''

§ 176. Seizure, forfeiture, and destruction

(a) IN GENERAL.—(1) Except as provided in paragraph (2), the Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the seizure of any biological agent, toxin, or delivery system that—

(A) pertains to conduct prohibited under section 175 of this title; or

(B) is of a type or in a quantity that under the circumstances has no apparent justification for prophylactic, protective, or other peaceful purposes.

(2) In exigent circumstances, seizure and destruction of any biological agent, toxin, or delivery system described in subparagraphs (A) and (B) of paragraph (1) may be made upon probable cause without the necessity for a warrant.

(b) PROCEDURE.—Property seized pursuant to subsection (a) shall be forfeited to the United States after notice to potential claimants and an opportunity for a hearing. At such hearing, the Government shall bear the burden of persuasion by a preponderance of the evidence. Except as inconsistent herewith, the same procedures and provisions of law relating to a forfeiture under the customs laws shall extend to a seizure or forfeiture under this section. The Attorney General may provide for the destruction or other appropriate disposition of any biological agent, toxin, or delivery system seized and forfeited pursuant to this section.

(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense against a forfeiture under subsection (a)(1)(B) of this section that—

(1) such biological agent, toxin, or delivery system is for a prophylactic, protective, or other peaceful purpose; and

(2) such biological agent, toxin, or delivery system, is of a type and quantity reasonable for that purpose.

(Added Pub. L. 101–298, § 3(a), May 22, 1990, 104 Stat. 202; amended Pub. L. 103–322, title XXXIII, § 330010(16), Sept. 13, 1994, 108 Stat. 2144; Pub. L. 107–188, title II, § 231(c)(3), June 12, 2002, 116 Stat. 661.)

REFERENCES IN TEXT

The customs laws, referred to in subsec. (b), are classified generally to Title 19, Customs Duties.

AMENDMENTS

2002—Subsec. (a)(1)(A). Pub. L. 107–188 substituted ''pertains to'' for ''exists by reason of''.

1994—Subsec. (b). Pub. L. 103–322 substituted ''the Government'' for ''the government''.

§ 177. Injunctions

(a) IN GENERAL.—The United States may obtain in a civil action an injunction against—